

TIME TO CHANGE

Many Lawyers Favor New Constitution.

SAY IT IS OUT OF DATE

Others Oppose Calling a Constitutional Convention.

SCENT SCHEME IN MOVEMENT

Friends of Initiative and Referendum Declare It Planned to Abolish the Amendment—Views of Prominent Attorneys.

THE PRESENT CONSTITUTION. The present constitution was framed by a convention of 60 delegates chosen by the people in June, 1857. The convention met from the first Monday of August of that year to September 18. In November the constitution was ratified by the people, and went into effect February 14, 1859, when the act of Congress admitting Oregon into the Union was approved by the President.

Among those who have to treat daily with the constitution of the state in their business dealings, the proposal to call a constitutional convention for January 1906, for the purpose of either amending the present constitution or drafting another, is meeting with a great deal of interest and discussion.

So far as can be noted from the expressions gleaned here and there from men who have made a study of the constitution and what it provides, the consensus of opinion seems to be that it is desirable to call the convention, that it is necessary to change the constitution in many ways to make it conform to the changed conditions of the present time. It is held out that the constitution is out of date and rusty, that it makes it necessary to ignore its provision in legislation now needed for the government of the state and its institutions, and that its provisions are being ignored to the downfall of its force and dignity.

There are those who hold two radical views opposing one another. The first, and by the great part the majority, as it seems, is made up of those who wish the instrument altered or replaced by a new one, holding it to be out-dated and in many ways obsolete. On the other hand is the minority, who hold the position that the changes are desired at this time in order to kill the initiative and referendum clause, and thereby take away from the people in general their power over the action of the Legislature.

Delegates to Be Chosen. The supporters of the plan, however, take the stand that the bill providing for the election of delegates and the calling of the convention has been drafted in a manner which does away with all danger of unfairness to any political party, since it provides that the delegates shall be entirely the choice of the people at large. This seems to be the opinion of the majority, which is willing to concede great praise to the framers of the proposed measure.

It is also called to mind, however, that the present constitution makes no provision for calling a convention, and that under the provisions of the old instrument no convention could be called without first amending the constitution that it would be possible to provide for the convention in any course, so that it is held out, would be violation of the constitution and not according to law, it amounting in fact to a peaceable revolution in the state unless all people agreed in the wisdom of changing the document at this time.

Attorneys in Portland are almost to a man in favor of making the change. Some of them state their reasons, while others simply say from their knowledge, that they think it would be best, and in fact, necessary that the change be made at the present as the best time. To wait would make it harder to change.

Constitution Needs Revision. Senator D. J. Maharkey is very much in favor of the proposed change, and will do all in his power to bring about the passage of the bill now pending.

"There are so many respects," he said, "in which our constitution is susceptible of improvement that I think it would be wise to provide for the convention. That body might enact the same constitution now in existence, but I think after we have had one for 50 years it is time to make some changes in it. The conditions have changed and the present document does not cover the ground necessary. It should be elastic enough to meet the new conditions arising, and the old one does not do it."

"There are many reasons why such a change should be taken. It has been suggested that the jury system should be changed, at least in civil practice, so that a majority of jurors would convict, or be able to return a verdict. It has also been proposed to take the probate business away from the county courts and create the Superior Court, to take care of that work, then the County Court could attend solely to the business interests of the county. In the same way it would be easy to enumerate at least twenty reasons why the change should be made.

"The proposed bill is very fair and safeguards every avenue of danger. It takes it out of the hands of the political parties and puts the election of the delegates entirely in the hands of the people. In addition to this, 30 delegates are given to the Superior Court by appointment in order that the most capable men in the state may be chosen to help in making the constitution.

"Another thing that is mentioned for change is the system of municipal legislation. Under the present arrangement the time of the Legislature is taken up with the consideration of charter bills and other local measures which could just as well be delegated entirely to the care of those localities most interested.

"I think it would be a good idea to provide for a legislative session every two years there was to be an election of a United States Senator, the duration to be limited to 15 days, and the business limited to the election alone. If the election could not be brought about in that time let the state go unrepresented in Congress. The second legislative session would be for the law-making; and for this the Legislators could be called together every five years. This would do away with much of the present useless legislation. I think the convention should be called."

Favored by W. D. Fenton. W. D. Fenton said in answer to the question: "I have always been opposed to the calling of a convention, but I think it

would be advisable at this time if it could be arranged without too much expense. "I think the chief necessity is to provide for the salary of the state officers and to take the probate business away from the jurisdiction of the county courts and place it in the hands of a newly created Superior Court. Besides these things, there are many other changes necessary. The conditions have changed so that the constitution does not meet the requirements of the time."

Constitution Should Be Elastic. R. A. Leiter is also of the opinion that some change should be made: "I am in favor of calling a convention," he said, "for I think it is necessary to regulate the salaries of the state officers and for many other reasons. Because a constitution was once adopted is no sign that it cannot be amended or bettered. It should be elastic enough to meet the changing conditions of the state, which is not now the case.

"There is, of course, a danger that the cracks might widen a lot of undesirable things on the new instrument, but I think the convention could be controlled by the sober-minded men of the state and that there would be no trouble."

Constitution Now Ignored. Frederick V. Holman said: "I think there should be a convention called, though I have always been opposed to such procedure in the past. There is a danger of incorporating some crazy in the new measure, such as the initiative and referendum, but that would not be a serious objection, as it is now being ignored."

"We will have to have a new constitution in a few years at the latest, and now is a good time to commence to provide for the work of the Legislature. I do not believe in treating the constitution with contempt, as is being done by the Legislature of today. Measures are offered at each Legislature which ignore the call of the constitution, and I believe in living up to the letter of the general and main law.

"I think the salary question should be settled and the fee system abolished. There is no provision in the constitution providing for the call of a convention, and I have held that the first thing to be done would be to provide an amendment to the constitution authorizing the call of the convention, that is not done and a convention is called, it will amount in fact to a peaceable revolution in the state.

"In my opinion, it would be a good thing to have a convention, though conventions are dangerous, if they fall into wrong hands."

Governor Oberlin to Conviction. Governor Chamberlain is the only man in the list who does not have a decided opinion on the question. "I have not read the bill carefully," he said, "and I do not like to make any definite statement until I have done so, and have listened to the arguments both for and against. As a general proposition I have not been in favor of it, for I do not think it is necessary to have a convention, capable of being changed in my opinion by argument, and if the arguments are sufficient I might think it to be necessary, and a good thing to call the convention."

Favored by Judge George. Judge George said: "I am in favor of a constitutional convention. "I think a constitutional convention should be held," said John Van Zante. "As it is now, we have a well-arranged code, but many antiquated laws. If we revise the constitution we can have up-to-date laws. For instance, we have a County Court for probate matters, and in most states probate business is transacted in the District or Circuit Court, but under the Oregon constitution we are compelled to have a County Court."

Let Well Enough Alone. "I don't see why we should have a constitutional convention," said George W. Joseph. "I think the present instrument is well enough alone, and I believe in letting it alone." Alex Bernstein said: "A new constitution is not a necessity. Matters in the present instrument could in many respects be improved upon. The question of salaries for state officers; increased number of Judges for the Supreme Court and kindred subjects could be treated and the instrument in such respects made more certain and flexible. In trials by jury in civil cases a provision to reach a verdict

by a less than unanimous number would be generally approved. While it is a grave question, still, in view of the present temperament of our people, there would be little danger and opportunity for many improvements.

Judge H. H. Northrup takes the conservative view: "In some respects it would be desirable to have the constitution of the state changed, but on the whole, it is a most admirable document. It has stood the test of nearly 50 years of state government, giving good government to the people of the state. I am naturally conservative by nature and fear that the errors and extreme measures which would crop into a new constitution would work far greater evil to the people than the few defects from which we now suffer. I am most decidedly against a constitutional convention. In fact, I believe if the meetings of the Legislative Assembly were limited to four years, it would be a great blessing. At every meeting of the Legislative Assembly there is an attempt made to increase the salaries of the members of the Legislature to the hundred thousand dollars, and it is usually successful. It is high time that the people stopped creating public debts, and set themselves to the work of trying to pay some of the bills already being treated. This debt-creating business is appalling."

"Nothing is More Needed." "Nothing is more needed than a constitutional convention," said John F. Logan. "The present constitution puts the Supreme Judges in the ridiculous position of receiving only \$500 per year salary, and the Legislature, in the meantime, has to whip the devil around the stump by giving them \$3000 expense money per year to go to Portland and hold a short session of court there. The same judges are supposed to pass upon the constitutionality of laws, when they themselves are breaking the law in this way. There are inadequate provisions in the constitution with reference to corporations. The inhibition against erecting public buildings except at Salem is another thing. Negroes are not permitted to live in Oregon under our constitution, and Chinese cannot legally hold property. Cities should be classified so that laws can be passed for cities according to their requirements. As it is now, all laws have to be general. There is the flat-salary bill covering the offices of Governor and Secretary of State. That is unconstitutional under the present instrument. We have a State Printer and what more need is there for a State Printer than for a state horsehoeer? The courts should be rearranged so that probate and all other matters should be handled by one court. Our constitution will not permit this change. Last, but not least, a constitutional convention ought to be held to get rid of the initiative and referendum amendment."

Archaic Features Need Correction. R. T. Flatt said: "The extreme difficulty of getting salutary amendments enacted whenever there is any powerful opposition from any source leads me to believe that any change in the constitution should be corrected by a constitutional convention."

Inadequate in Some Particulars. Judge Charles H. Carey is another one who thinks that there should be some change in the constitution. In speaking of the matter he said: "I am very heartily in favor of it, for there are many changes needed. I have been very slow in making up my mind that the convention should be called, but during the past two or three years many things have impressed themselves upon me until I feel that even the most conservative citizen will admit the necessity of adapting it to the present needs of our people."

"I think the constitution can be revised by such a convention without radically changing it in any of its parts. The constitution in the main is an excellent instrument, while totally inadequate in some particulars."

C. E. S. Wood Opposed. C. E. S. Wood sounded the battle cry of those who are not in favor of the convention in a few short sentences. "My idea," he said, "is that we have waited so many years to reform the constitution, now that we have got a process for changing it through the initiative and referendum, it would not be wise to call the convention to undo this work. I do not see any reason for a convention unless they intend to do away with the initiative and referendum clause, or have a new one. The object of changing the constitution and reforming it. The old constitution undoubtedly needed amendment, for it attempted to do the work of two legislatures, but it is curious that they want to amend it now when we have a means of amending it put in our hands."

Save the Initiative and Referendum. Judge Thomas O'Day was a follower of Mr. Wood in his idea on the subject. He feels deeply concerning the contemplated movement and was glad to have an opportunity to express himself on the question. "Matters in the present instrument could in many respects be improved upon. The question of salaries for state officers; increased number of Judges for the Supreme Court and kindred subjects could be treated and the instrument in such respects made more certain and flexible. In trials by jury in civil cases a provision to reach a verdict

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by the slow process of the initiative and referendum or by the quicker method of a convention. The extremes on either side fear that the other power will gain the ascendancy in the convention and control it. If, however, it is called in good faith it would prove of great benefit, and I would be heartily in favor of it.

Revision is Now Needed. "I would consider the convention to be more or less proper, but essential," said W. M. Calkins. "My judgment would be that it would be admissible. I regard the constitution very highly and think it should be considered in all legislation and not ignored. Conditions are much different now than they were 50 years ago and the constitution should be changed to meet the change in them. Its dignity should be preserved and upheld and recognized, and therefore I think that a convention should be called to revise it or amend it so that it would be possible to hold it above all other laws in the state."

Actor Takes Fall Into Basement. Cousin of Clyde Fitch Confined to Good Samaritan Hospital in Serious Condition.

THOMAS FITCH, cousin of Clyde Fitch, the well-known dramatist, is in room 21, Good Samaritan Hospital, in a delirious condition and seriously injured about the head and body, due to injuries received by his having fallen through the open door of the elevator and down the elevator shaft at the Alisky building.

Third and Morrison, last Wednesday afternoon, Thomas Fitch, who is married, engaged, and is leading man of the Julie Romaine Company, presenting his play, "Reaping the Harvest."

The members of the company came here from Sacramento last Wednesday, and, having a few hours to spare before they took the train for Spokane, several of them went on shopping expeditions. Miss Romaine had to make a business call at the Alisky building, and Mr. Fitch was just drawing toward dusky when Mr. Fitch thought he would see if Miss Romaine had concluded her visit to one of the upstairs rooms and, as he supposed, the elevator cage standing on a level with the street, he stepped through the open door toward the elevator and fell to the basement.

When the injured man was picked up, he was insensible, and it was seen he was seriously hurt. On being conveyed to the hospital, he was taken care of by Dr. Louis Buck, and otherwise cared for by the Portland Lodge of Eagles, of which organization he is a member. It will be some time before Mr. Fitch is sufficiently recovered to leave the hospital.

DISCUSS SCHOOL EXHIBIT. County Committee Holds Business Session and Prepares to Act.

The county school exhibit committee met yesterday in the office of County School Superintendent Robinson. A. F. Hironaka, chairman, presided. The session occupied the entire day.

After thoroughly discussing the county exhibit plan it was decided to send copies to every teacher in the county, and to circulate a letter of the educational exhibit department of the state. This, in the opinion of the committee, will result in an aggressive movement in all school districts of the county. School officers and patrons will be requested to co-operate with the teachers in common effort to make the Multnomah County exhibit as thorough as possible.

But little over two months remain in which to build and assemble the county exhibit. All it is thought, will be usually active during that period. The exhibit will be assembled in the office of the County Superintendent and arranged under the direction of the county exhibit committee. The Teachers' Progress Club and the Principals' Association will devote their entire energies to the educational districts during the next three months and aid the forming of the exhibit in every manner. A great deal of interest is being taken in the exhibit in most of the county schools, and this will probably be intensified from now on.

The exhibit will be so arranged as to exemplify the course of study. It is not the intention of the committee to make a large exhibit, but rather to select that which will show their plans to the best advantage and materially contribute to the educational cause in the Northwest.

Takes Mizell's Pulpit. ORBION CITY, Or., Jan. 25.—(Special.)—Rev. Mr. Landborough, of Southern Oregon, has accepted a call to the pastorate of the First Presbyterian Church, of this city, and will assume his duties about February 1. The new pastor is

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PETTIT'S PILLS. A valuable remedy for constipation, 25c, 50c.

COUGH AND CROUP DROPS. Greatest homeopathic remedy for coughs, croup, etc., per bottle, 25c.

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aged about 35 years, and has a family. Rev. F. H. Mizell, ex-pastor of the local Presbyterian Church, is now stationed at South Bend, Wash.

ANOTHER FOR PORTLAND. Costly Pianola Piano Selected by the Management of the Hobart Curtis.

A most beautiful quarter-sawn English oak Pianola-Piano of the latest type has just been installed by Eilers Piano House at the Hobart-Curtis, this being the sixth of these valuable instruments to be placed in Portland alone since the first of the year, and making altogether 17 of the Pianola-Pianos sold since January 1 by the Eilers House in the Pacific Northwest. Only last week Mr. Bruce, manager of the Aeolian department, returned from Spokane, where he succeeded in supplying four of the wealthiest homes there with one each of the regular 4000 styles of the beautiful Weber Pianola-Pianos. Sales of the Metrostyle Pianola also continue surprisingly large, and another \$500 Orchestral was sold in Seattle yesterday.

Money for Burbank's Experiments. NEW YORK, Jan. 25.—It has been announced that the sum of \$20,000 allotted by the trustees of the Carnegie Institute to Luther Burbank, the California agriculturist, will be paid to him in annual installments of \$10,000. This sum will enable Burbank to devote his entire attention for that period to experiments with new grasses and vegetables, and it is expected that he will relinquish, temporarily, his business interests. Many important discoveries have been made by the Californian at his home in Santa Rosa during the past 25 years. He has worked along the line of seeking imperfect products in fruits, flowers, etc., in order to make them of full value. He claims there "is no weed which will not grow or later respond liberally to good cultivation and persistent selection."

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PROVISIONS OF THE BILL FOR A CONSTITUTIONAL CONVENTION.

The substitute bill for a constitutional convention, reported favorably by the Judiciary Committee of the State Senate, provides that the constitutional convention shall be held at Salem, January 8, and that it shall consist of 90 members, 30 of whom from the state at large, chosen by the Supreme Court, and 60 by the electors of the state. The 60 candidates are to be nominated only by petition, and the election is to be held June 5, this year. Of the 20 delegates, not more than two-thirds are to be members of one political party.

The appointment of the 60 is to be as follows: Baker ..... Lane ..... 2 Benton ..... Lincoln ..... 1 Clackamas ..... Linn ..... 2 Clatsop ..... Marion ..... 3 Columbia ..... Mason, and Coos ..... Clarkamas ..... 1 Crook ..... Morrow ..... 2 Curry and Coos ..... Multnomah ..... 11 Douglas ..... Polk ..... 2 Gilliam ..... Sherman ..... 1 Gilliam, Sher- man, Wheeler ..... Umatilla ..... 2 Grant ..... Union ..... 1 Harney ..... Wallowa ..... 1 Malheur ..... Wasco ..... 2 Jackson ..... Washington ..... 2 Josephine ..... Yamhill ..... 2 Klamath, Lake 1

A constitution as drafted by the convention is to be submitted to the people for ratification or rejection at an election to be held June 4, 1906, and the convention is to prescribe the form of the questions that are to be submitted. The bill appropriates \$50,000 for defraying the expenses of the convention. The delegates are to receive \$1 a day, but such compensation shall not exceed \$300 for any delegate. They shall also receive \$3 for every 20 miles traveled in going to and returning from the convention.

By a less than unanimous number would be generally approved. While it is a grave question, still, in view of the present temperament of our people, there would be little danger and opportunity for many improvements.

Judge H. H. Northrup takes the conservative view: "In some respects it would be desirable to have the constitution of the state changed, but on the whole, it is a most admirable document. It has stood the test of nearly 50 years of state government, giving good government to the people of the state. I am naturally conservative by nature and fear that the errors and extreme measures which would crop into a new constitution would work far greater evil to the people than the few defects from which we now suffer. I am most decidedly against a constitutional convention. In fact, I believe if the meetings of the Legislative Assembly were limited to four years, it would be a great blessing. At every meeting of the Legislative Assembly there is an attempt made to increase the salaries of the members of the Legislature to the hundred thousand dollars, and it is usually successful. It is high time that the people stopped creating public debts, and set themselves to the work of trying to pay some of the bills already being treated. This debt-creating business is appalling."

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