

## PROPOSED AMENDMENTS TO THE STATE CONSTITUTION OF WASHINGTON

Since statehood a total of one hundred and sixty-four bills proposing amendments have been introduced in the legislature. Of these bills eighty-one originated in the House of Representatives and seventy-three in the Senate. Of these one hundred and sixty-four bills, only fifteen were passed by the legislature and submitted to the people. Of the fifteen submitted to the people, five have been rejected and ten adopted.

In order to amend the constitution of Washington, it is necessary, first, that the bill providing for the amendment pass both houses of the legislature by a two-thirds vote of the members elected, and, second, that the amendment be approved and ratified by a majority of the electors of the state voting thereon. If more than one amendment is submitted at the same time, they must be submitted so as to permit the people to vote separately upon them. The proposed amendments must be published for at least three months preceding the election in some weekly newspaper in every county in the state.

The constitution can also be amended or revised by a constitutional convention called for that purpose. Two-thirds of the members elected to each house of the legislature can submit to the people the question of whether or not the convention shall be called. If a majority of the electors vote to call the convention, the next legislature must provide for calling the same. The convention must have at least as many members as the House of Representatives. Before the amendments or new constitution adopted by the constitutional convention become valid they must be submitted to and adopted by the people.

Several of the proposed amendments consist of complete laws on the subjects covered in the amendments. In fact, the tendency has been to embody as much of the law of the state as possible in the constitution. The original constitution itself is much more than a mere outline of principles and contains very many provisions that could have been very well left to the legislature. If all of the proposed amendments had been adopted, the constitution would more resemble a code than a constitution. In some cases the amendments proposed were not even contrary to existing provisions in the constitution, but dealt with subjects of ordinary legislation. Later, laws were passed by the legislature putting into force some of the same measures.

I did not find any record of amendments proposed at the first and

second sessions of the legislature in 1889 and 1891, but at every one of the subsequent sessions a considerable number of bills were introduced providing for constitutional amendments. I shall consider together all of the amendments bearing on the same sections and subjects.

#### *Amendments to Article I.*

At the session of the legislature in 1903, Senator W. R. Reser introduced in the Senate a bill providing for the amendment of Section 11 of Article I. Among other things, this section provides that "no public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or the support of any religious establishment." The amendment sought to change this section by adding a proviso to the above words to the effect that "this article shall not be so construed as to forbid the employment by the state of a chaplain for the state penitentiary and for such of the state reformatories as in the discretion of the legislature may seem justified." This amendment passed the Senate by a unanimous vote of all members present and passed the House by a vote of 77 to 3. It was approved by the people in 1904 by a vote of 17,060 to 11,371.

In 1909 another attempt was made to amend this section. This amendment, proposed by Representative Alex. N. Sayre in the House, provided that the hospitals for the insane or feeble-minded and such other state charitable and reformatory institutions as the legislators may designate, as well as the state penitentiary, shall be permitted to employ a chaplain. The committee on constitutional revision, to which the bill was referred, recommended its passage, but no action was taken.

The next section of Article I. to which amendments have been proposed is section 16, relating to eminent domain. This section says: "Private property shall not be taken for private use, except for private ways of necessity, and for drains, flumes, or ditches on or across the lands of others for agricultural, domestic, or sanitary purposes." The section then sets forth the manner of determining the compensation for taking property for public and private use, etc. A bill proposing an amendment to this section was introduced in 1905 by Senator John T. Welsh. Its purpose was to define private ways of necessity. According to the amendment, "a private way of necessity shall be held to include a right-of-way over the lands of others, whether the title to the same be or be not derived from a common grantor, for the purpose of conveniently removing any saw logs, shingle bolts, timber, lumber, stone, crops, and other agricultural products, or the product of any mine" to a convenient point from which the commodities could reach the market. The private way might be taken for a year or a term of years or permanently. The main object of this amendment was to

give the logging companies a way of getting their logs, shingle bolts, etc., across the lands of others to a convenient place for transportation. The bill was never reported out of the hands of the committee.

Twenty days later Senator Welsh introduced another bill for an amendment to the same section, which was probably intended as a substitute for the first bill. This amendment provided that the use of property for rights-of-way for agricultural, mining, milling, manufacturing, irrigation, domestic, lumbering or sanitary purposes, or for the removal of timber or timber products, is a *public use*, even though the benefit may inure to a private individual or corporation. At the end of the original section is this provision: "Whenever an attempt is made to take private property for the use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such, without regard to any legislative assertion that the use is public." This second amendment added these words: "except as to the uses which are herein declared to be public." The reason for this addition is obvious—to remove the power from the courts of declaring that the private uses enumerated were not public uses—to make it easier to secure the desired right-of-way. This bill passed the Senate by a vote of 33 to 1, but was never voted on by the House.

At the same session (1905) in the House, Representative Joseph Irving introduced a bill amending Section 16 of Article I. by including in the list of private uses for which private property may be taken a right-of-way for the removal of timber products.

A few weeks later he introduced another bill, which was identical with Senator Welsh's second bill. This bill was slightly amended, passed the House 85 to 1 and the Senate 39 to 1 and was approved by the governor. It was voted on by the people in November, 1906, and was rejected by a vote of 15,257 for the amendment, 20,984 against the amendment.

The same amendment was proposed in 1907 by Representative E. M. Stephens, was passed almost unanimously, approved by the governor and again rejected by the people in 1908 by the following vote: for the amendment 26,849, against the amendment 52,721.

At the session of 1895 Representative Nelson proposed an amendment to Section 21 of Article I., relating to trial by jury and providing that the legislature may provide for a verdict by ten or more jurors in criminal cases in courts of record. The bill was indefinitely postponed.

In 1899 Representative G. B. Gunderson proposed the following amendment to the same section: "In courts of general jurisdiction, except in capital cases, a jury shall consist of eight jurors. In courts of inferior

jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict." The bill was indefinitely postponed.

Practically the same bill was introduced four years later (1903) by Representative C. D. King. There was the further provision that a grand jury shall consist of twelve jurors. This amendment passed the House by a vote of 64 to 11, but was never voted on by the Senate.

The same bill was introduced at the 1905 session by Representative E. L. Minard, and indefinitely postponed.

In 1907 Senator George U. Piper proposed to change the section relating to trial by jury so as to read: "Trial by jury in all criminal and civil cases is hereby abolished. The legislature shall provide that all criminal and civil cases shall be heard and determined by judges, and the legislature shall further provide a system of procedure to carry this provision into effect." No action was ever taken on this bill.

Section 26 of Article I. provides that "no grand jury shall be drawn or summoned in any county, except the superior court thereof shall so order." Senator George Cotterill in 1909 submitted an amendment to this section, providing that a grand jury shall be drawn in each county at least once a year. The bill was placed on the general file, but was never voted upon.

Senator Daniel Landon introduced in the Senate in 1911 the first bill that was ever introduced in the legislature providing for the recall. This bill provided for the adding of two sections, 33 and 34, to Article I., to contain substantially the following: Every elective officer in the state is subject to recall and discharge by the voters of the state or smaller subdivisions. The recall petition must contain the reasons for the demand and be signed by not less than 25 per cent of the voters of the state or subdivision. Upon the filing of the required petition a special election is held and the result determined, as provided by the general election laws. No action was taken on this bill, but the House bill containing the same provisions, except that judicial officers were specifically exempt, was introduced by Messrs. Govnor Teats and Hugh Todd and passed by the House 74 to 6 and by the Senate 29 to 7. The amendment was voted on by the people at the November election, 1912, and approved.

#### *Amendments to Article II.*

Section 1 of Article II. provides that "The legislative powers shall be vested in a senate and house of representatives, which shall be called the legislature of the State of Washington." As early as 1895 an attempt was made to amend this section by providing for the initiative and

referendum. The bill was introduced by Representative L. E. Rader, and provided that the legislative power of the state shall also be vested in the electors of the state, and that the legislative power of any municipal division of the state (such as county, city, town, township, etc.) shall be exercised by the legislative body thereof, and by the senate and house of representatives and by the qualified electors in such division. To propose a measure requires 5 per cent of the qualified electors of the state if the measure affects the whole state, and 5 per cent of the electors of the municipal division if the measure affects less than the whole state. The legislature may provide that measures for the immediate preservation of the public peace, health and safety shall take effect immediately. No other measure shall go into effect until the expiration of a specified period, during which petitions calling for a vote on the measure may be filed. Five per cent of the electors may require the submission of a law passed by the legislature to the popular vote.

The committee to which this amendment was referred recommended its indefinite postponement. No action was taken.

In 1897 Representative C. P. Bush proposed an amendment similar in nearly every respect to the preceding amendment. This bill passed the House by a vote of 63 to 12. It failed to pass the Senate. The vote was: Yeas 15, nays 7, absent 12.

The next amendment providing for the initiative and referendum was proposed in 1901 in the House by Representative T. C. Miles. The initiative or referendum could be invoked by 10 per cent of the qualified electors of the state. Laws necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions were not subject to the referendum. The veto power could not be exercised as to measures referred to the people. Also the initiative might be used as to future amendments to the constitution. The bill proposing this amendment was indefinitely postponed.

Senator L. C. Crow introduced the same measure in the Senate, and it was likewise disposed of there.

In 1903 the attempt of Representative J. J. Cameron to get a similar bill through the House failed.

Senator George Cotterill in 1907 introduced a long bill providing for an elaborate plan for the initiative and referendum. The amendment provided for both a state and local initiative and referendum. For the state initiative 8 per cent of the legal voters was required and for the local initiative for all local, special, and municipal legislation, 15 per cent; the state referendum, 8 per cent, the local referendum, 10 per cent. Amendments to the constitution could be proposed by the initiative as ordinary bills.

A two-thirds vote of the House and Senate was necessary to declare that the law was of immediate necessity and should take effect at once. The legislature could reject any measure proposed by the initiative and propose a different one for the same purpose, in which case both measures were to be submitted to the people and the one receiving the highest number of votes was to become law. All initiative petitions must contain the full text of the proposed bill. No veto was allowed on measures submitted to the people. This amendment was in the form of a complete law covering the initiative and referendum, and it provided that it was self-executing, although the legislature might pass laws to facilitate its operation. The bill never came to a final vote, although a majority of the committee to which it was referred recommended its passage.

The Cotterill amendment was introduced at the same session in the House by Representative Glenn N. Ranck. It passed the House by a vote of 66 to 26, but was indefinitely postponed by the Senate, only twelve voting against postponement.

In 1909 a bill identical with the Cotterill bill was introduced by Senator R. A. Hutchinson. The bill never came to a vote.

Messrs. Hugh Todd and George L. Denman introduced the same bill in the House, but on motion the bill was indefinitely postponed.

It is unnecessary to discuss fully the bills which were introduced at the 1911 session of the legislature which led to the final passage of our present initiative and referendum amendment. It is sufficient to enumerate them and to give the substance of the one which was passed and which is now a part of our constitution.

Representatives Hugh Todd and Governor Teats, in the House, and Senator Dan Landon, in the Senate, introduced identical bills. About the same time Representatives Denman, Phipps and Halsey introduced a bill the same in all essential features, except it provided also for the local initiative and referendum. All of these bills were indefinitely postponed and a new bill prepared by Messrs. Teats, Todd, Buchanan, Denman, Phipps, Halsey and Wright, was submitted to the House. It was approved by the House by a vote of 79 to 12 and by the Senate by a vote of 32 to 7. It was submitted to the people in November, 1912, and was approved by an overwhelming majority.

The initiative and referendum amendment of our constitution provides for a state initiative and referendum only. The initiative may be invoked by not less than 10 per cent of the qualified voters, but in any case not more than 50,000. The petition must include the full text of the measure and must be filed with the Secretary of State not less than four months before the election, at which it is to be voted on, or not less than ten days

before any regular session of the legislature. If filed four months before the election at which they are to be voted on the Secretary of State must submit the same to the people at the election. If filed not less than ten days before the session of the legislature, the bills so proposed shall take precedence over other bills except appropriation bills, and must be rejected or enacted without change. If enacted, they shall be subject to the referendum or they may be referred to the people by the legislature. If rejected or if no action is taken, they shall be submitted at the next general election. The legislature may propose a substitute, in which case the people vote, first, as between either or neither, and, second, as between one and the other. The referendum applies to all measures passed by the legislature except "such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions." It is instituted either by the legislature, or by 6 per cent of the voters, but in no case more than 30,000. No act approved by the electors can be amended or repealed within two years after enactment. There can be no veto of measures approved by the people. The vote on all measures referred to the people must equal one-third of the total vote cast at such election. The number of electors voting for governor at the preceding election. The number of electors voting for governor at the preceding election is the basis for determining the number necessary to invoke the initiative or referendum.

Section 2 of Article II. provides that "The house of representatives shall be composed of not less than 63 nor more than 99 members. The number of senators shall not be more than one-half nor less than one-third of the number of members of the house. \* \* \* \*"

Two attempts to amend this section have been made. Representative C. J. Moore in 1897 proposed to reduce the number of representatives to not less than 40 nor more than 60. Senators H. A. Espey and A. W. Anderson in 1911 proposed that the "Senate shall be composed of as many senators as there are counties in the state, one senator being elected from each county." Both amendments were indefinitely postponed.

In 1911 Representative E. A. Sims proposed to change Sections 5 and 12 of Article II. so as to require quadriennial elections for members of the house of representatives instead of biennial, as theretofore. The majority of the committee on constitutional revision recommended the passage of the bill, but no action was taken.

Section 12 of Article II. provides in part that "Sessions of the legislature shall be held biennially unless specially convened by the governor, but the times of meeting of subsequent sessions may be changed by the legislature. After the first legislature the session shall not be more than

60 days." Senator Jesse Huxtable's bill, introduced in 1911, proposed to amend this by leaving out the clause limiting the legislative session to 60 days and by changing the date of meeting from the first Wednesday after the first Monday in January to the second Monday in January. The bill was indefinitely postponed.

Under the constitution, Section 23 of Article 2, "Each member of the legislature shall receive for his services five dollars for each day's attendance during the session, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the legislature, on the most usual route." Attempts have been made to increase and to decrease this allowance. In 1895 Messrs. G. M. Witt and J. B. Laing in the House of Representatives proposed to cut the per diem salary to four dollars and the mileage to five cents per mile. This failed to get the necessary two-thirds vote, although a majority voted for it.

Senator Andrew Hemrich in 1901 proposed to limit the compensation to not more than \$200 for per diem allowance. His bill was indefinitely postponed.

In 1911 Senator Jesse Huxtable proposed to give each member of the legislature an annual salary of \$1,000. This would make his salary for each session \$2,000. The bill was indefinitely postponed.

Senator Harry Rosenhaupt at the same session introduced a bill to allow each member fifteen dollars for each day's attendance during the session and five cents for every mile traveled; "but such pay shall not exceed in the aggregate \$600 per diem allowance for a general session," nor more than \$300 for a special session. This bill was never voted on.

In the House at this session Representative E. A. Sims proposed to give each member \$10 for each day's attendance. The committee reported favorably, but the amendment never came to a vote.

One of the first attempts to amend the constitution was directed at Section 33 of Article II. This section prohibits the ownership of lands by aliens or by corporations, the majority of whose capital stock is owned by aliens, except where obtained in certain cases, such as by inheritance, under mortgage, or in the collection of debts. Senator John R. Kinnear, in 1893, proposed to amend this section so as to permit aliens to own land within any incorporated city or town in the state. His bill was not voted on.

The same bill, introduced in the house by Representative L. C. Gilman, received a vote of 39 yeas, 22 nays with 17 absent. The bill, therefore, failed to receive the constitutional majority.

Mr. Harry Rosenhaupt in 1899 in the House proposed to limit the ownership of land by aliens to 320 acres by one alien. His bill passed the House 61 to 10, but failed in the Senate: Yeas 16, nays 8, absent 10.

In the Senate, Senator Herman D. Crow introduced a bill making the limit 640 acres for each alien. No action was taken on this bill.

In 1901 Representative Harry Rosenhaupt introduced a bill similar to Senator Crow's bill, but it was indefinitely postponed.

In 1905, at the instance of Senator M. E. Stansell, a bill was introduced which proposed to add the following words to Section 33: The provisions of this section shall not "apply to lands conveying water for beneficial purposes; nor apply to land or waters acquired or used for mining, **smelting**, refining, transportation, or manufacturing purposes; nor apply to the ownership of lands or waters by corporations, the majority of the capital stock of which is owned by aliens." This amendment passed the Senate 31 to 5, but failed in the House. Yeas 34, nays 32, absent 28.

At the 1911 session Senator Josiah Collins again proposed the amendment permitting the ownership by aliens of city or town property. The Senate passed the bill 29 to 9, but no action was taken in the House.

Section 39 of Article II. provides that "It shall not be lawful for any person holding public office in this state to accept or use a pass or to purchase transportation from any railroad or other corporation, other than as the same may be purchased by the general public, and the legislature shall pass laws to enforce this provision." This provision has been the occasion of considerable worry on the part of some members of the legislature and other state officials who were in the habit of riding on passes furnished by the railroad companies in the early days and even in some cases collecting mileage from the state in addition. It is not strange, therefore, that several attempts have been made to get the obnoxious section out of the constitution. Senator Belknap, in 1895, introduced a bill providing that this section be stricken out. The bill was reported from the committee on constitutional revision without recommendation, but it was never voted on.

In 1897 Senator John McReavy proposed "That it shall not be lawful for any person holding public office in this state to demand or receive mileage or compensation in lieu thereof during the time such person shall hold and use a pass or other free transportation from a railroad or other corporation," as a substitute for Section 39. The bill was never acted on.

Representative A. J. Falknor in 1899 proposed to amend Section 20 of Article 12, which provides that the railroads shall not grant passes to public officers (essentially the same as Section 39 of Article II.), so as to read: "Every railroad or other transportation company shall grant free passes upon application therefor to every member of the legislature and to every person holding any public office within this state." This bill was indefinitely postponed.

In 1903 Representative Samuel A. Wells introduced an amendment to Section 39 essentially the same as the preceding, but also providing that no mileage shall be allowed to or paid to, any officer so traveling free. The committee recommended that it be placed on second reading, but it stopped there.

Senator M. E. Stansell in 1905 proposed a similar amendment to Section 20 of Article XII., relating to transportation of public officials, so as to compel all railroad or other transportation companies to grant free passes over its lines in Washington to all state officials, county officials and members of the legislature. No action was taken on this amendment.

#### *Amendments to Article III.*

Turning to Article III., we find that in 1911 Representative Edgar J. Wright proposed to amend Sections 1 and 3 so as to render the governor ineligible for re-election for the term succeeding that for which he was elected and to provide that the secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands and other state officers as may be provided by the legislature shall be appointed by the governor subject to the approval of the Senate and may be removed from office at any time by the governor upon good cause. The legislature shall provide general laws for the recall of the governor and lieutenant governor. This proposed amendment was indefinitely postponed.

The state constitution does not provide any method of filling the office of governor in case the governor, lieutenant-governor and secretary of state die, resign, or for any other reason are incapable of acting as governor. To remedy this defect, attention to which was probably called by the death of Governor Samuel G. Cosgrove, and the succession of Lieutenant Governor Hay, Representative Hugh Todd proposed an amendment in 1909 providing that the following state officers shall succeed to the duties of governor, and in the order named, to-wit: Secretary of state, treasurer, auditor, attorney general, superintendent of public instruction and commissioner of public lands. This bill passed the House 85 to 1 and the Senate 38 to 0. It was approved by the people in 1910 by a vote of 51,257 to 14,186.

Under Section 12 of Article III., it requires a two-thirds vote of the members present in both houses of the legislature to pass a bill over the governor's veto. Senator Hill in 1899 proposed to require only a majority of the members present to pass a bill over the veto. No action was taken.

Frequent attempts have been made to amend Sections 14 to 22 of Article III. and Section 14 of Article IV., relating to the salaries of state officers. Under the constitution, the schedule of salaries is as follows:

Governor, \$4,000 and never more than \$6,000.

Lieutenant-governor, \$1,000 and never more than \$2,000.

Secretary of state, \$2,500 and never more than \$3,000.

Treasurer, \$2,000 and never more than \$4,000.

Auditor, \$2,000 and never more than \$3,000.

Attorney general, \$2,500 and never more than \$3,500.

Superintendent of public instruction, \$2,500 and never more than \$4,000.

Supreme judges, \$4,000, but may be increased.

Superior judges, \$3,000, but may be increased.

Eleven bills were introduced providing for amendments lowering the salaries of the state officers. Some of the amendments reduce the amounts in the constitution \$500 or \$1,000. Others practically cut them down by half, in some cases fixing some of the salaries for such officers as attorney general, auditor and treasurer at \$1,500 per year. None of the bills passed both houses, and none was introduced after 1897.

#### *Amendments to Article IV.*

An amendment providing for a non-partisan supreme court was introduced in 1901 by Senator Herman D. Crow, now one of the judges of the supreme court. His bill provided that judges of the supreme court shall be elected by the electors at large at judicial elections when none but candidates for judicial positions shall be voted for. The amendment provided for an eight-year term, instead of the six-year term, as in the constitution. Elections were to be held every four years and the judges so elected that there would never be an entirely new court. The election could not be held within sixty days of any general state or county election or any municipal election in a city of over 10,000 population. No party symbol or designation was to be placed on the ticket. Any person eligible to the office could become a candidate by filing in the office of the secretary of state sixty days before the election a petition that his name be placed on the ballot as a candidate, signed by not less than 1,000 qualified electors of the state at large. Any person who knowingly received and did not decline the nomination or endorsement of any party convention was not entitled to continue as a candidate and be voted on. No action was taken on this bill.

As a part of the same bill, Senator Crow proposed a similar amendment affecting the superior court judges. In this case only 250 electors of the county in which the judge was a candidate were required for the nominating petitions. This bill applied to Sections 3 and 5 of Article IV.

Only one attempt has been made to make the supreme court judges appointive instead of elective. In 1911 Representative Charles R. Larne

proposed to amend Section 3 of Article IV. so as to require the appointment of all the supreme court judges by the governor. He further proposed to make the term of office twelve years and that not more than one appointment shall be made in any one year. The bill proposing the amendment was indefinitely postponed.

Representative J. P. de Mattos in 1897 proposed to add the following words to Section 4 of Article IV.: "The supreme court shall give its opinion upon important questions upon solemn occasions when required by the governor, the Senate, or the House of Representatives, and all such opinions shall be published in connection with the reported decisions of the supreme court." This amendment passed the House by a vote of 57 to 12., but it was never acted on by the Senate.

Two attempts have been made to require that no person shall hold the office of judge or justice of any court in the state longer than until the second Monday of January next after he shall be seventy years. This amendment was proposed in 1893 and in 1895, but no action was taken at either time.

In 1895 Representative W. H. Ham introduced an amendment to Section 5, which involved the following important changes and additions: "The legislature shall have power to change the number of superior court judges and rearrange the districts when it shall deem it wise so to do: Provided, That no rearrangement shall ever be made whereby any or groups of counties having less than 20,000 population shall be allowed a superior judge, and no county or group of counties shall be allowed an additional judge unless the population shall be at least 15,000 for each judge, in addition to the first 20,000 of population." This amendment was indefinitely postponed.

Under the constitution, Section 6 of Article IV., the jurisdiction of justices of the peace extends to controversies under \$100. It has been thought by many that if the jurisdiction were raised to \$300, much of the congestion in the superior courts of the state would be relieved. Accordingly in 1893, 1895, and 1909 attempts were made to make this change or to leave the question to the legislature. They were unsuccessful. In 1895 an amendment was proposed by Representative Nelson to Section 10 of Article IV. requiring, in addition, that justices of the peace in cities having more than 5,000 inhabitants be admitted to the bar.

In 1895 Senator Frank P. Lewis submitted an amendment to Section 17, relating to justices of the peace. It proposed to leave out of the original section the following provisions: "Provided, That such jurisdiction granted by the legislature shall not touch upon the jurisdiction of superior or other courts of record, except that justices of the peace may

be made police justices of incorporated cities and towns having more than 5,000 inhabitants, the justices of the peace shall receive such salary as may be provided by law, and shall receive no fees for their own use." The amendment provided that the term of office, powers, duties, jurisdiction and compensation of justices shall be prescribed by the legislature. It was indefinitely postponed.

In 1907 Senator Booth proposed to add another section to Article IV. to be Section 29, and to provide that the term of office of supreme court judges shall be eight years and superior court judges six years, and that the judicial election be held at a different time than the general or county election. No action.

Senator Ralph Metcalf in 1911 introduced a bill providing that Section 29 read as follows: "All judges of the supreme and superior courts of the State of Washington shall be nominated at direct primaries, and the legislature shall pass laws to carry this amendment into effect." No action was taken.

A third amendment, to be known as Section 29, was introduced by Representative Edgar J. Wright. It provided that in counties having more than 100,000 inhabitants, the judges of the superior court may be paid such salary in addition to that provided by the legislature as the county commissioners may determine. No action was taken.

Mr. J. E. Campbell, in the House in 1911, proposed to include as Section 29 the following: "No act or proceeding of the legislature, or part of any act or proceeding, shall be set aside or declared unconstitutional by any justice, judge or court whatsoever. The will of the people, as expressed by enactment of the legislature or by the people, shall be the supreme law." Only five of a total of 94 members had the temerity to vote for this amendment.

#### *Amendments to Article V.*

The present law governing impeachment proceedings is set forth in Section 1 Article V. and is substantially as follows: The House of Representatives shall have the sole power of impeachment, a majority of all members being required for impeachment. The Senate shall try all impeachments. If the governor or lieutenant-governor is on trial, the chief justice of the supreme court shall preside. A two-thirds vote is necessary to convict.

Representative Solon T. Williams in 1895 proposed to change this section so as to give the House of Representatives power to impeach only judges of the supreme court, and the Senate to try such cases, as under the original provision. It further provided that all other officers liable to im-

peachment shall be tried before the supreme court, and the manner of procedure shall be such as may be prescribed by rule by the supreme court. This bill passed the House by a vote of 62 to 3, but was indefinitely postponed in the Senate, the senators probably being reluctant to give up the power of acting as a court of impeachment.

Senator C. W. Dorr in 1895 proposed to strike Sections 1, 2 and 3 of Article V. and to rewrite the entire article. The only important change which his amendment contemplated was to give the supreme court power and to make it its duty to suspend or remove any judges of the superior court, or of any other inferior court of record of this state, for any high crime, or misdemeanor, or misfeasance or malfeasance in office. The amendment failed to pass the Senate by the following vote: Yeas 20, nays 12, absent 2.

Representative Charles R. Larne in 1911 proposed an amendment to this article by adding a section providing for a recall of all public officers (except judicial officers) by 35 per cent of the voters. As the recall amendment which was adopted was to Article I. it is unnecessary to consider this amendment further.

#### *Amendments to Article VI.*

Section 1 of Article VI., relative to qualifications of electors, has had an interesting history. As early as 1893, Senator B. F. Shaw (by request) introduced an amendment to this article granting a limited suffrage to women. His bill provided that "All female citizens of the United States, native born or naturalized, who can read and write the English language; who pay taxes upon real estate recorded in the county auditor's office and who otherwise conform to provisions of Article VI., shall be entitled to vote at all elections; Provided, They shall not have been convicted of any crime or misdemeanor within the ten years next preceding any election at which they offer to vote." This last provision is rather amusing in view of the fact that no such restriction is imposed by the constitution on male voters.

In 1895 three bills were introduced granting suffrage to women on the same basis as men, but none was passed.

In 1897, however, the suffrage amendment was passed by a vote of 24 to 10 in the Senate, 54 to 15 in the House. At the election in 1898 the people rejected it at the polls by a vote of 20,658 for equal suffrage, 30,540 against equal suffrage.

In 1901 Representative J. B. Gunderson attempted to amend Section 1 by adding: "Provided, That there shall be no denial of the elective franchise on account of sex at any election for the purpose of electing a

county superintendent of common schools." The bill was indefinitely postponed.

It was not until 1909 that the woman's suffrage question was again opened. At this session the legislature by a vote of 70 to 18 in the House, 30 to 9 in the Senate, passed an amendment granting equal suffrage to women. In 1910 the amendment was approved by the people: 52,299 for the amendment, 29,676 against the amendment.

Section 1 of Article VI. was also amended by inserting an educational test for all voters. Representative O. B. Nelson in 1895 introduced the bill. It provided that the electors of the state shall be able to read and speak the English language. The legislature shall enact laws defining the manner of ascertaining the qualifications of voters as to their ability to read and speak the English language. The amendment was approved in 1896 by a popular vote of 28,019 to 11,983.

In 1901 Senator J. J. Smith proposed to require that in order to be qualified voters naturalized citizens must have become citizens at least six months prior to the election at which they desire to vote. This amendment passed the Senate by a vote of 24 to 6, but was never voted on by the House.

Other similar amendments were proposed to Sections 1, 4 and 9 of Article VI. An unimportant amendment was proposed to Section 8.

#### *Amendments to Article VII.*

Article VII. relates to revenue and taxation. A number of attempts have been made to amend it, but none of the amendments was approved by the people. One of these amendments, introduced in 1907, provided that Sections 1, 2, 3, 4, and 5 of Article VII., relating to the annual state tax, uniformity and equality of taxation, assessment of corporate property, etc., be stricken and the following section substituted: "The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes." The essential provisions that would have been abolished under this amendment may be summarized as follows: "All property in the state not exempt under the laws of the United States or under this constitution, shall be taxed according to its value. For the purpose of paying the state debt, if there be any, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and principal of such debt within twenty years. The legislature shall provide a uniform and equal rate of assessment and taxation on all property in the state, according to its value in money; Provided, That a deduction of debts from credits may be authorized; provided, further, That the property of the United States, and of the state, counties, school districts, and

other municipal corporations, and such other property as the legislature may by general laws provide, shall be exempt from taxation. The legislature shall provide by general law for the assessing and levying of taxes on all corporation property, as near as may be by the same methods as are provided for the assessing, and levying of taxes on individual property.\* \*\*” The probable purpose of the amendment was to give the state more freedom in selecting sources of revenue, such as a corporation tax and a single tax.

The amendment striking these provisions and substituting the above clause was voted down by the people in 1908 by a vote of 60,244 to 23,371.

In 1909 Senator Charles E. Myers proposed to strike Sections 1, 2, 3, and 4 and to substitute an amendment in substance as follows: The amendment follows the words of last amendment discussed and further provides “that property used for public burying grounds, public schools, public hospitals, academies, colleges, universities, and all seminaries of learning, property used by all religious organizations or associations, as parsonages, or houses of religious worship, by young men’s and young women’s Christian associations, and by all institutions of purely public charity, and all public property used exclusively for public purposes, shall be exempt from taxation.” This amendment failed to pass the Senate.

Similar bills to the above were introduced in 1909 and 1911. In all, seven bills were introduced at different times exempting the personal property of individuals or heads of families to an amount not exceeding \$300. In 1899 such an amendment was passed by the legislature and approved by the people in 1900 by a vote of 35,398 to 8,975. The clause reads: “And provided further, That the legislature shall have power, by appropriate legislation, to exempt personal property to the amount of \$300 for each head of a family liable to assessment and taxation under the provisions of the laws of this state, of which the individual is the actual bona fide owner.”

Senator Ralph Nichols (by request) introduced a long amendment in 1909 striking Sections 1, 2, and 3 of Article VII. and inserting in lieu thereof Sections 1 to 6, embodying the following essential changes: In Section 1, the period during which times the state must provide for the payment of interest and principal on a state debt was changed from 20 to 25 years. There were provisions exempting charitable institutions, etc., and to heads of families, personal property to the amount of \$300.

“The legislative power shall provide a uniform and equal rate of assessment and levy upon all real property in the state according to its full value in money.

“Taxes upon all personal property shall be assessed to and levied upon the owner thereof upon the basis of the yearly income and proceeds received therefrom. \* \* \* \* Provided, That the assessment and levy of taxes upon the personal property of all companies and corporations doing business on any railroad or steamboat in the state and companies and corporations having no personal property to assess shall be made upon the basis of their receipts”; and Provided, That all insurance companies doing business in this state shall pay a tax on their gross premiums, less the amount of losses actually paid.

“The legislative power shall have authority to provide for the levy of state, county or municipality, of license, franchise, gross revenue, excise, collateral and direct inheritance, legacy, succession, graduated collateral and direct inheritance, legacy and succession taxes; upon the basis of value or revenue.

“Taxes may be assessed and levied by the state upon the personal property of all public or quasi-public service corporations and companies doing an inter-county business upon the basis of income or proceeds received from said business. \* \* \* \*”

No action was ever taken on this amendment.

In 1897 the following proviso was submitted as an amendment to Section 2 of Article VII.: “Provided, That it shall be optional with each municipal corporation in the state to fix and determine by a majority vote of such municipal corporations the class or classes of property upon which taxes for municipal purposes shall be levied, which tax shall be uniform as to persons and class.” This amendment was designed to give counties and cities in the state some freedom in providing for their own revenues. The bill passed both houses, but was voted down by the people in 1898: For the amendment 15,986, against it 33,850.

Senator T. B. Sumner in 1907 proposed to add the following proviso to Section 2: “Provided, That provision may be made for the payment of specific taxes on certain classes of personal property, and that public service property may be taxed by such methods and for such purposes as may be fixed by general law. The bill was not voted on.

In 1903 the following proviso was suggested for Section 3 relating to the assessment of corporate property: “Provided, That the legislature may provide for the levy, assessment and collection of taxes for state, county and municipal purposes, upon the franchises and intangible property of all corporations or individuals.” The bill was indefinitely postponed.

Section 6 of Article VII. provides that all taxes shall be paid in money. An amendment was proposed in 1895 permitting their payment in money or state warrants. The bill failed to pass, as did similar bills in 1897.

Two attempts have been made to limit the rate of taxation by constitutional amendment. In 1903 Representative Joseph B. Lindsley proposed to add Section 10 to Article VII., limiting the rate to 3 mills on each dollar of valuation. If the taxable property in the state shall exceed \$100,000,000, the rate should not exceed 2½ mills; \$300,000,000, 1½ mills. The committee recommended indefinite postponement.

In 1909 Representative E. B. Palmer proposed that the rate for state purposes shall not exceed 5 mills; for county purposes, 5 mills; for municipal purposes, 5 mills; for township, road district, or school district purposes, 5 mills. No action was taken.

#### *Amendments to Article VIII.*

The only amendment ever proposed to Article VIII. was offered by Representative Edward L. French in 1911. It provided: "Section 4. All bills providing for the appropriation of money shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills." The committee recommended the passage of this amendment, but no action was taken.

#### *Amendments to Article XI.*

Section 2 of Article XI. provides that a county seat shall not be removed unless three-fifths of the electors vote for it at a general election. An amendment proposed in 1895 provided that the vote be had at a special election to be held not less than 90 days before or after a general election. The committee recommended that the bill do not pass for the reason that there is not sufficient change sought to be effected to warrant the necessary expense. The report was adopted.

In 1907 Senator Peter McGregor proposed to amend Section 3 of Article XI., relating to the establishment of new counties by raising the required population for the creating of a new county from two to ten thousand and also that new counties may be created out of an existing county or counties, provided a majority in the county or counties affected vote for the new county or counties. The bill passed the Senate 33 to 0, but failed in the House. Yeas 23, nays 48, absent 24.

Senator McGregor introduced the same amendment at the next session in 1909, but it never came to a vote.

Two amendments were introduced in 1905 and 1911, respectively, to remedy a clause in Section 4 of Article XI. The clause reads: "The legislature shall, by general laws, provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine." It was

proposed to amend it so as to permit township organization if a majority of those voting on the question of township organization shall favor it. Neither amendment was passed.

Sections 5, 6, 7, and 8 of Article XI. provide for the election and compensation of county officers, that all vacancies shall be filled by the county commissioners, that no county officer shall be eligible to hold his office more than two terms in succession, and that the legislature shall fix the salaries of all county officers. Representative Edgar J. Wright in 1911 proposed to strike these sections and to insert in lieu thereof sections containing the following innovations: The sheriff, clerk, treasurer, auditor and assessor shall constitute the board of county commissioners, and such board shall have power to appoint such other county officers as are necessary, regulate their salaries and duties and fix their terms of office, not exceeding their own term of office. The section limiting county officers to two terms in succession was omitted. All elective county officers were to be recalled by the electors of their county under general laws to be provided by the legislature. The proposed amendment was indefinitely postponed.

Several other attempts have been made to exclude certain county officers from the provision limiting officers from two terms in succession. In 1901 Representative G. B. Gunderson proposed to exempt county superintendents from this section. In 1903 Senator E. B. Palmer proposed to allow the county assessor to hold office more than two terms in succession. In 1909 Senator Evan C. Davis proposed to allow all but county treasurers to hold office more than two terms in succession. The last amendment was passed in 1911 and rejected by the people in 1912.

The original provision in Section 6 of Article XI. provides that county officers appointed to fill vacancies shall hold office "till the next general election, and until their successors are elected and qualified." Amendments introduced in 1893 and 1895 change this provision so as to read: "Officers thus appointed shall hold office until the second Monday of January next succeeding the general election and until their successors are elected and qualified." Both bills were killed.

An amendment to Section 8 of Article XI. was introduced in 1895 providing for the following changes: The county commissioners and not the legislature shall fix the salaries of county officers, except county commissioners; provided, however, the total cost of conducting the offices of county sheriff, auditor, and clerk shall not exceed in any one year the earning of their respective offices, and that the expenses of the treasurer's office shall not exceed 2 per centum of all the moneys received and paid out by him during such year. The amendment was indefinitely postponed.

Section 10 of Article 11 relates to the incorporation of municipalities. Section 11 provides that any county, city, town or municipality may make and enforce within its limits all such local, police, sanitary and other regulations as are not in conflict with the general laws.

In 1895 Senator C. W. Ide tried to amend Section 10 by striking out most of the matter setting forth the steps necessary in incorporating a municipality, and thus leaving such details to the legislature. His bill passed the senate and was reported favorably, but never voted on, in the House.

In 1911 Representative William Wray of Seattle proposed to leave all matters of purely local concern in cities of 10,000 inhabitants or over to those cities to the exclusion of the authority of the state government and state laws. No action was taken.

Representative George W. Hoff in 1903 introduced an amendment adding the following words to Section 12 of Article XI.: Provided, That the legislature shall have power to impose taxes upon the property, privileges, and franchises of railroads, and other intangible property of all corporations or individuals, and to provide means for the collection and apportionment of such taxes to counties and the several municipal corporations or divisions of the state." The committee recommended its indefinite postponement.

#### *Amendments to Article XII.*

Senator Warburton's amendment to Section 18 of Article XII. in 1903 is a complete law providing for a railway commission. The bill provided for a commission of three members to be chosen for a term of six years and receive an annual salary of \$5,000 per year. The commission was to have power to fix reasonable maximum rates, prevent discrimination and extortion, fine for contempt, etc. An appeal from its decisions could be taken to the supreme court. The bill was never reported back by the committee.

#### *Amendments to Article XVI.*

In 1893 an amendment to Section 5 of Article XVI. was passed by the legislature and approved by the people by a vote of 18,884 to 5,598, providing that the permanent school fund of the state may be invested in national, state, county, municipal or school district bonds.

#### *Amendments to Article XIX.*

Section 1 of Article XIX. provides: "The legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families."

Representative John R. Rogers in 1895 proposed to substitute the following provision: Real estate and improvements to the extent of \$2,500

held, used and occupied as a homestead by a citizen of the state is forever exempted from all taxation. No action was taken. The same bill in 1897 met a similar fate.

*Amendments to Article XXI.*

Section 1 of Article 21 reads: "The use of the waters of this state for irrigation, mining, and manufacturing purposes shall be deemed a public use."

In 1905 Representative E. L. Minard proposed to extend this provision to cover the use of waters for the removal of timber products. The amendment was passed, but was defeated by the people in 1906. The vote was: for the amendment 18,462, against it 20,258. The same amendment was introduced in 1907 and indefinitely postponed.

*Amendments to Article XXIII.*

In 1897 and 1899 amendments were proposed cutting down the two-thirds majority required for the passage of constitutional amendments by the legislature to a mere majority, and in one amendment to a three-fifths majority. None received the approval of the legislature.

Representative John Catlin in 1895 proposed an amendment to Section 4 of this article substantially as follows: On a demand of 10 per cent of the electors or of 20 per cent of either house, any article or section of the constitution shall be submitted to the people at the next general election for amendment, substitution or abolition. The committee recommended that the bill be indefinitely postponed.

Senators Dan Landon and Henry M. White and Representatives Govnor Teats and Hugh Todd at the 1911 session of the legislature proposed an amendment providing for the initiative for amendments to the constitution. Their bill provided that the people reserve to themselves the power to propose, independent of the legislature, any amendment by petition setting forth the full text of the amendment signed by 8 per cent, but in any case not over 50,000, of the legal voters of the state. The amendment so proposed was to be voted on at the next general election and approved or rejected in the usual manner. This amendment passed the House by a vote of 77 to 15, but it was never voted on by the Senate.

LEO JONES.