

Article one of the Declaration of Rights, which we are now considering, reads thus: "That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole; and they have at all times the inalienable right to alter, reform or abolish their form of government, in such manner as they may deem expedient."

As we have gone through this bill of rights, I voted for the latter portion of that first article, instead of the provision as it stands in the present Constitution. And I did so upon this theory, that the people of one generation, in forming a Constitution for themselves, have no right by that Constitution to tie up the sovereign rights of the people of another generation, or of any other period. I contend that the people have at all times the right to change their form of government, independent of any constitutional provisions which tie them down to a certain mode of amendment. They have that right, and you cannot take it from them. It is asserted as an unalienable right—this right of revolution, whether it is by force, or under the forms of law, or in the mode prescribed by the Constitution.

Now, the difficulty which has always arisen, in reference to the exercise of this power upon the part of the people of this State—the difficulty which existed in 1850; the difficulty which existed in regard to the calling together of this Convention—in my mind, the difficulty was this; not that the people had not the right to change their Constitution whenever they choose to do so; but it was that the Constitution prescribed that this Constitution shall not be altered, changed, or abolished, except in the manner therein prescribed and directed. Now, does that establish the law to the people of a subsequent generation, the people of a subsequent date? In my humble opinion it does not. I think that any people in the formation of any Constitution has no right to tie up the action of people of a succeeding generation, or to interfere with this unalienable right of a people.

The true difficulty has been that it is the Legislature that has violated its duty; for it was the Legislature that you could thus tie up, and this article of the present Constitution, properly construed, goes to the power of the Legislature to call a Convention together. I contended, in the last Legislature, that as article 43 of the bill of rights of the present Constitution, provided that the Constitution should not be changed except in the manner prescribed therein; and as article eleven of the Constitution provided the mode in which the Constitution should be amended; and as members of the Legislature had taken an oath to support that Constitution, their action was prohibited upon that subject; that is, they could not provide for the assembling

of a Convention, until the people had first decided whether they would have a Convention or not. It was a question which affected, not the power of the people, but the power of the Legislature, and hence, as I said in my argument on this first article, when that article was under consideration, the Convention of 1850, as well as the present Convention, were not constitutional Conventions. But so soon as the people decided they would have a Convention, and elected delegates to it, they represented the people, and was not constitutional or unconstitutional, so far as the body assembled was concerned, or so far as they derived their powers, because they derived their powers from the people. It was the Legislature which acted unconstitutionally, in calling the Convention before the people had voted upon the question of having a Convention. The Legislature had no right to do that; and the Legislature in so doing so far violated their oaths. But when the people go to the polls, and say by their votes that they will have a Convention, and will elect delegates to it, then it makes no difference how it was called, whether the Legislature called it constitutionally or not. The Convention is then called by the power of the people.

The amendment I have offered carries out the idea, that we do not pretend to tie up the action of a people of a succeeding generation. But we say to the Legislature, whose powers are meted out to them and defined under this Constitution—"you members of the Legislature shall not provide in any shape or form for the change, alteration, or abolishment of this Constitution, except in the mode and manner prescribed in this Constitution, and which your oaths of office force you to obey and carry out." I think that by the adoption of a provision of this kind, you bring directly home to the members of the Legislature the performance of their duties under the Constitution. You confine the mode of change by Legislature to that which is provided in the Constitution. But in my humble opinion you do not interfere at all with that great fundamental principle, the unalienable right of the people, to alter, reform, or abolish their form of government in such manner as they deem expedient; which right lies at the basis of the American system of government, and which you may attempt to tie up as you please in the Constitution; but all such restrictions will be in vain, and not worth the paper upon which they are written; for it is but an attempt by one people at one time to tie up the rights of another people at another period, which rights are just as unalienable as the rights of the people of this generation.

Mr. JONES, of Somerset. I think the Legislature ought to have the right of passing a law to take the sense of the people, upon the propriety of assembling a constitutional Con-