

Legislature has exercised the power of taking the popular vote upon questions, for the simple reason that unless a legal form was thus given to the utterance of public opinion, it could never have any definite and intelligible expression. Exactly the same principles which permits the Legislature to forestall the necessity for revolution by learning, in the most certain manner the public will, justifies it in convoking and clothing with legal forms an assembly delegated by the people, whose labors will effectually check, by their formal and regular expression, all discontent, or revolutionary movement. The undersigned think that the Legislature would not in fact, did it pass the bill presented as a part of this report go in any degree beyond the authority which it has heretofore exercised in taking the popular sense upon any proposal to change the constitution. The difference is not in the principle, but in the result and extent of its application.

In the case of biennial sessions, when the popular vote was recorded in favor of the change, the duty of the Legislature, as we have said before, became ministerial only. So far as the principle of the constitutional doctrine is concerned, what difference does it make whether the Legislature refers one, or fifty, points to the determination of the people? And since this reference is a submission of legislative power to the direction of the majority, the two houses reserving to themselves only the ministerial act of confirmation, the undersigned would inquire whether the Legislature has not, by so doing, conceded to the people of the State the right to control and modify the constitution by a popular vote thereon.

It is not enough to say that such votes are for *information* only. It is strange that delegates returned by their respective constituencies, are not able to say what those constituencies desire. There is always time enough to gain the required information; because an election takes place in the interval; and it is natural to conclude that a proposal to change the constitution, would have its influence in the selection of delegates and senators. If such information is not to be relied on, unless it takes the authentic form of a vote, and this vote is to be mandatory in its character upon the legislature, the undersigned see no reason for interposing the forms of a legislative sanction, between the popular will and its expression as a law. It is at best an idle ceremony, serving only to reduce the high and sovereign pretensions of that body, to an empty show of state and power.

If the undersigned are correct, in their conclusions, it would appear that there is ample reason for asserting that a vote may be constitutionally taken, upon the propriety of holding a convention, in the manner prescribed by the bill submitted to the House. It would, also, seem that the legislature may as legally direct that a convention shall be assembled to form a new constitution, as that a popular vote shall be taken upon the propriety of introducing a new feature into that instrument; since a new constitution is but the replacing of a number of old provisions by others, before unknown in the system. The single difference consists in the right to origi-