

HOUSE....No. 439.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, May 25, 1866.

The Joint Special Committee on Re-districting the State, who were ordered to inquire into the expediency of amending the Constitution so as to reduce the number of the members of the house of representatives, and to provide for the election of the governor, senators and representatives, and other State officers, for a term of two or more years, have considered the same and unanimously report that, in their opinion, the public welfare requires that an amendment should be adopted, providing for the election of the governor, senators and representatives for a term of two years; and in such manner that one-half of the members of each branch should go out of office every year, and their places be supplied by annual election; but the majority of the Committee did not deem it expedient to reduce the number of the house of representatives. Reference is made to a table annexed, showing the terms of office of representatives in other States.

The Committee, therefore, report the accompanying Resolve providing for an amendment of the Constitution.

Per order,

J. DAGGETT.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-Six.

R E S O L V E

For an Amendment of the Constitution.

Resolved, By both houses, the same being agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, that it is expedient to alter the constitution of this Commonwealth by adopting the following articles of amendment, and that the same, thus agreed to, be entered on the journals of both houses with the yeas and nays thereon, and referred to the general court next to be chosen; and that the same be published, to the end that if agreed to, by the general court next to be chosen, in the manner provided in the constitution, it may be submitted to the people for their approval and ratification, in order that it may become a part of the constitution:—

ARTICLES OF AMENDMENT.

ARTICLE 1.

1 The governor and lieutenant-governor shall be
2 chosen in the manner provided by the constitution,
3 for the term of two years.

ARTICLE 2.

1 The senate shall be chosen in the manner now
2 provided by the constitution, for the term of two

3 years; and shall at the next session of the legislature
4 after the first election after the adoption of this
5 amendment, divide the members by lot into two
6 classes of twenty members each, in such manner as
7 the senate shall determine; and the seats of the mem-
8 bers of the first class shall be vacated at the end of
9 the first year, and those of the second class shall be
10 vacated at the end of the second year; and whenever
11 the Commonwealth shall be divided anew into senato-
12 rial districts, as now provided by the constitution, the
13 senate shall, at their first session after such division,
14 make a new classification of the members in the
15 manner and for the purpose above specified.

ARTICLE 3.

1 The members of the house of representatives shall
2 be chosen in the manner now provided by the consti-
3 tution, for the term of two years; and at their first
4 session after their election under this amendment, the
5 house shall divide the members, by lot, into two
6 classes of equal numbers; the seats of the first class
7 shall be vacated at the end of the first year, and those
8 of the second class shall be vacated at the end of the
9 second year; and whenever the Commonwealth shall
10 be divided anew into representative districts, as now
11 provided by the constitution, the house shall, at their
12 first session after every such division, make a new
13 classification of the members in the manner and for
14 the purpose aforesaid.

TABLE

Showing the Term of Office of the Governors, and the Number of the Senators and Representatives, and their Terms of Office in the several States.

STATES AND TERRITORIES.	GOVERNORS	SENATORS.		REPRESENTATIVES.	
	Term— Years.	Number.	Term— Years.	Number.	Term— Years.
Alabama,	2	33	4	100	2
Arkansas,	4	25	4	75	2
California,	2	16	2	36	1
Connecticut,	1	21	1	232	1
Delaware,	4	9	4	21	1
Florida,	4	19	4	40	1
Georgia,	2	52	2	150	2
Illinois,	4	25	4	75	2
Indiana,	4	50	4	100	1
Iowa,	2	30	4	59	2
Kentucky,	4	38	4	100	2
Louisiana,	4	32	4	88	2
Maine,	1	31	1	151	1
Maryland,	4	22	4	74	2
Massachusetts,	1	40	1	240	1
Michigan,	2	32	2	81	2
Minnesota,	2	21	2	42	1
Mississippi,	2	32	4	92	2
Missouri,	4	33	4	130	2
New Hampshire,	1	12	1	338	1
New Jersey,	3	21	3	60	1
New York,	2	32	2	128	1
North Carolina,	2	50	2	120	2
Ohio,	2	35	2	100	2
Oregon,	4	16	4	34	2
Pennsylvania,	3	33	3	100	1
Rhode Island,	1	32	1	72	1
South Carolina,	2	46	4	124	2
Tennessee,	2	25	2	75	2
Texas,	2	21	4	66	2
Vermont,	1	30	1	230	1
Virginia,	4	50	4	152	2
Wisconsin,	2	30	2	97	1
Kansas,	4	25	2	75	1
Nebraska,	4	18	2	26	1
New Mexico,	4	13	2	26	1
Utah,	4	13	2	26	1
Washington,	4	9	2	18	1

NOTE.—From the foregoing table it appears that the senate is elected for a term of two years or more in all the States except those of New England; that in the States and Territories included in the table, eighteen out of the whole number elect their representatives for a term of two years. The average number of representatives in all those States, outside of Massachusetts, is 129; outside of New England, is 113. The above table does not include several of the new States, whose constitutions have been recently formed, but the above average would not be materially varied.

MINORITY REPORT.

The minority of said Committee concurring with the majority as to the amendment reported, beg leave to recommend to further amendment diminishing the number of members of the house of representatives to one hundred and sixty.

The expense of making the laws of the Commonwealth has become no inconsiderable part of the entire expense of legitimately carrying on her government, and in the opinion of the Committee, the inquiry, in connection with other matters upon which they have already reported, was properly before them, whether they may not be an effectual method of diminishing this expense of legislation, without detriment to the Commonwealth or prejudice to any of her citizens. The most obvious and feasible methods of accomplishing this, are, in the opinion of the Committee, by diminishing the number of members of the house of representatives; and by making their election biennial in such a manner as that at each regular session of the general court, one-half of the members of the house shall be of those who composed the house at the previous session.

Your Committee believe that the complaint of "too much legislation" is not wholly unfounded. They are supported in that belief by the fact that a great number of laws are passed by every successive legislature, only to be repealed by the succeeding one, or other laws passed taking their places. These again in turn to give way to others. These laws are so numerous, and of such a character, many of them, as that they can only be regarded as *experiments* constituting a class of legislation which is impolitic and unwise. Sir Francis Bacon said, "that nothing could be more dangerous to civil liberty, than to experiment with the people in matters of government;" in which may be included transient and temporary laws for special cases, and for expedients, and not resting upon permanent, general principles.

"As the king so the people," and "As the priest so the church," are old maxims. Traits of a policy of government

will stamp themselves upon the governed. The passing, year after year, of numerous laws and Acts, which are never executed, or imperfectly so, and which are soon repealed, betraying instability, want of foresight and caution in the legislature, will and must have an injurious effect upon the people. They will and can but regard it as experimenting and tampering with their rights, and nothing but a love of country, for which they will sacrifice everything else, will make them submit to it. Such legislation diminishes confidence, loosens the ties of attachment between the government and the governed, unsettles what before was fixed, increases intricacies and confusion, begets differences of opinion and construction, and promotes uncertainty and litigation.

“ Bound up like threatening twigs of birch,
Only to stick it in the children’s sight,
For terror, not for use ; in time, the rod
Becomes more mocked than feared. So our decrees,
Dead to infliction, to themselves are dead ;
And liberty plucks justice by the nose.”

It is plain, that by as much as you increase the number of members of any deliberative body, by so much you increase the number and variety of opinions and judgments upon any given subject or measure ; and of course follows a corresponding increase of time occupied in their expression, which increase, beyond a certain limit, is not attended with corresponding benefits. It is also plain, that as you increase the number of any such body when private interests may be promoted, you increase the probabilities of the occurrence of private schemes and matters which we have called legislation for special cases. What shall or ought to be the exact number for such a body is of course impossible to determine. Mr. Madison, in the “*Federalist*,” in writing as to the number of such a body, with reference to the then proposed lower branch of the congress of the United States, said, “*Hardly any political problem is less susceptible of precise solution.*”

It is, however, obvious that a certain number is necessary to secure the benefit of discussion, to guard against corruption, and to get a fair expression of the popular will ; and that the representatives should have such a knowledge of the interests

and circumstances of their constituents as to consult and act judiciously in respect to them. But beyond a certain number, all assemblies and bodies of men have a *tendency* to become mobbish. Mr. Madison said in connection with the subject above mentioned: "In all very numerous assemblies, of whatever characters composed, passion never fails to wrest the sceptre from reason. Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob." In another place he said: "Nothing can be more fallacious than to found our political calculations on arithmetical principles. Sixty or seventy men may be more properly trusted with given degrees of power, than six or seven. But it does not follow that six or seven hundred would be proportionably a better depository. And if we carry on the proposition to six or seven thousand, the whole reasoning ought to be reversed."

May it not be asked if our observation and experience does not teach us that the feelings of personal responsibility and care do not diminish in proportion as the number in such a body increases? And whether the combined care and prudence of the many indifferent is ever equal to the vigilant watchfulness of the few? Whether reliance for safety, founded on numbers merely, is not as fallacious as the political calculation founded on arithmetical principles alluded to by Mr. Madison. What this exact number is which for the house of representatives shall possess the requisite qualifications of knowledge, patriotism, prudence, and other virtues essential to statesmanship, with freedom from suspicion of partiality or corruption, is impossible of course to state, but your Committee venture the opinion that beyond the number of one hundred and sixty members of the house of representatives, the chances of benefit and advantage are not proportionate to the expense and possibility of positive detriment.

Your Committee are of opinion that the election of members for two years instead of one in such a manner as that each house shall be constituted one-half of new members and one half of those who were members of the previous house, could but prove beneficial. Such constitution of the house would certainly expedite organization at the commencement of the session. It would give it the benefit, not inconsiderable, of at least one year's experience of one-half its members. Said Sir

Francis Buchanan in his preface to a life of Cicero, "As there was of old time no royal road to mathematics, so there was no royal road to the science of politics." The house so constituted, would have more than now the character of a continuing and permanent body; it would be less changeful and less inconsistent; it would pass less conflicting and inconsistent laws; it would look backward to what had been done, and look forward to what might be required to be done, as well as to the demands of the present. It would have more dignity and independence. Its tendency would plainly be to more caution. The business of that branch of the legislature would be carried forward from one session to the next with less abrupt stops and breaks in method and changes in spirit. The old members would have had the benefit of the discussions of all measures brought before the house at the previous session. And so the Commonwealth would receive and have in addition to the other virtues and qualifications of her representatives the benefit of experienced legislators.

Your Committee are not unconscious that there are objections to a change—which must be in the constitution—following these suggestions. But they remember that two changes in that instrument have been made, both diminishing the number of members of the house of representatives with satisfactory results. No plan or system is or can be perfect. And they submit these opinions, having only in view what the illustrious Roman senator declared to be the true end of a statesman,—“to make the citizens happy; to make them firm in power, rich in wealth, splendid in glory and eminent in virtue,—which is the greatest and best of all the works of men;”—and report the accompanying article of amendment as a substitute for the third article of the Committee.

J. B. RICHARDSON,

For the Minority.

ARTICLE 3.

1 The house of representatives shall consist of one
2 hundred and sixty members, who shall be chosen in
3 the manner now provided by the constitution, for the

4 term of two years; and at the first session of the
5 legislature, after the election under this amendment,
6 the house shall divide the members by lot into two
7 classes of eighty members each; the seats of the first
8 class shall be vacated at the end of the first year, and
9 those of the second class shall be vacated at the end
10 of the second year; and whenever the Commonwealth
11 shall be divided anew into representative districts, as
12 now provided by the constitution, the house shall at
13 their first session after every such division, make a
14 new classification of the members in the manner and
15 for the purpose aforesaid.

