9

THIRD AND FOURTH ANNUAL REPORTS

OF THE

ATTORNEY-GENERAL

For the Years 1881 and 1882.

REPORT.

OFFICE OF THE ATTORNEY GENERAL,
CARSON CITY, NEVADA, January 1, 1883.

HIS EXCELLENCY,

JOHN H. KINKEAD,

GOVERNOR OF THE STATE OF NEVADA:

Sir: I have the honor to submit to your Excellency the following, as my third and fourth reports of the conditions of the affairs of this department:

This report contains a concise statement of the conditions of all cases in which the State has been interested, and, from an inspection of the same, your Excellency will learn that, of the great number of cases that have come to this office, the majority are criminal. The cause which has augmented the number of appeals in this class of cases, may be found in the fact that some of the prosecuting officers, while they are ardently laboring to secure a conviction in proper cases, frequently forget that the proceedings of lower Courts may be subject to review in the Appellate Court, and in such cases they risk the case upon a technical point, which could not, in any manner, affect the verdict of the jury.

Technical objections and lengthy and ambiguous instructions seldom secure a conviction. While vigorous prosecutions are always essential to the proper enforcement of the law and a wholesome maintenance of public justice, the State does not demand that public officers shall seek and obtain improper advantages for the purpose of procuring convictions that could not be had according to the forms

of law, and convictions thus obtained will always be followed by appeal to the Supreme Court, which must result in reversals.

Since the date of my last report, the following cases have been passed upon by the Supreme Court:

The State of Nevada vs. John T. Pritchard.

Judgment affirmed.

The State of Nevada vs. Ralph Johnson and J. B. O'Brien.

The Honorable, the Judges of the Supreme Court, had this case under consideration at the making out of my last report. The judgment was reversed and cause remanded for new trial on account of error in instruction.

The State of Nevada vs. Antone Vasquez.

Judgment reversed and cause remanded for new trial on account of erroneous instructions.

The State of Nevada vs. Ah Chew.

Appealed from the Sixth Judicial District Court, in and for the county of Eureka. Convicted of selling opium. Defendant moved for a new trial, which motion was denied. Appellant claimed that the law under which he was convicted was unconstitutional, because it is in conflict with the Fourteenth Amendment of the Constitution of the United States; and, further, that our jury law under which the venire was issued to try defendant was unconstitutional and void, and in conflict with the treaty between the United States and China of July 28, 1868, in this: That the civil rights of a Mongolian or yellow person were and are identical with those of an African or black person, and are protected by the Constitutional amendments and the Acts of Congress in relation thereto, in precisely the same manner as the rights of Africans, and the discriminations of our jury law are against a person because of his race or color; therefore, Chinamen not being qualified jurors under our law, the defendant did not have a fair and impartial trial, and was deprived of certain rights guaranteed him by the Fourteenth Amendment as aforesaid, and the treaty with China as aforesaid. But the Judges of the Supreme Court did not agree with the views expressed by the attorney for the appellant, and Ah Chew is now serving out his term of imprisonment, the judgment having been affirmed.

The State of Nevada vs. Ah Gonn.

The defendant was indicted, tried and convicted of selling opium. The same questions were raised in this case as in the case of The State of Nevada vs. Ah Chew, and the judgment was affirmed.

The State of Nevada vs. Ching Gang.

The same offense was committed, the same questions were raised, and the same order made as in the cases of The State of Nevada vs. Ah Chew and Ah Gonn. Judgment affirmed.

The State of Nevada vs. Charley Hing.

Appealed from the District Court of the Fourth Judicial District, in and for the county of Humboldt. Convicted of the crime of murder; sentenced to be hanged. He appealed from the judgment, and also from the order overruling his motion for a new trial. Judgment affirmed, and the defendant was hanged on Thursday, February 9, 1882.

The State of Nevada vs. J. H. Job.

Appealed from the District Court of Humboldt county, from an order overruling a demurrer to an indictment; appeal dismissed, as there is no appeal from an order overruling demurrer to an indictment.

Ex Parte J. H. Job.

The petitioner claimed that the order of the District Court, resubmitting his case to another Grand Jury, was indefinite and he was entitled to his discharge. The petitioner was remanded to the custody of the Sheriff, and his petition was dismissed.

Ex Parte Thomas Ryan.

The petitioner claimed that he was illegally restrained of his liberty upon the following grounds: That he was sentenced to confinement in the State Prison on the charge of prison-breaking without being proceeded against by indictment. His petition was dismissed,

as the Ormsby County Court Records show that on the 9th day of November, A. D. 1871, he was indicted for prison-breaking, and on the 7th day of March, 1872, he plead guilty to the crime charged in the indictment.

The State of Nevada vs. Dan Mahon.

Appealed from the District Court of the Second Judicial District, in and for the county of Washoe. Charged with the crime of arson. Argued and submitted.

The State of Nevada vs. G. E. McKierman.

Appealed from the Seventh Judicial District Court, in and for the county of Elko. Charged with forgery. Argued and submitted. Judgment affirmed.

The State of Nevada vs. Ah Hing and Ong Gee.

Appealed from the Fourth Judicial District Court, in and for the county of Humboldt. Charged with the crime of an assault with intent to kill. Argued and submitted.

The State of Nevada vs. George Daugherty.

Appealed from the Fourth Judicial District Court, in and for the county of Humboldt. Charged with the crime of an assault with intent to kill. Argued and submitted.

The State of Nevada vs. Samuel Collyer.

Appealed from the First Judicial District Court, in and for the county of Storey. Charged with the crime of an assault with intent to kill. The defendant claims that the Court erred in drawing the Grand Jury, their names not having been drawn from the jury list. Argued and submitted.

The State of Nevada vs. Robert St. Clair.

Appealed from the Fourth Judicial District Court, in and for the

county of Humboldt, from an order overruling motion for new trial. Argued and submitted.

Judgment of the lower Court affirmed.

The State of Nevada vs. B. H. Carrick.

Appealed from the First Judicial District Court, in and for the county of Storey. Crime, embezzlement; found guilty and sentenced to pay a fine of $21,940 41, and to be confined in the State Prison for five years. Judgment affirmed.

The State of Nevada vs. Thomas Parker.

Appealed from the Seventh Judicial District Court, in and for the county of Elko. Charged with the crime of burglary; sentenced to the State Prison for one year. Appealed from an order of the Judge in allowing the deposition of A. W. Mercer to be read as evidence, as it was not positively shown that he was out of the State at the time of trial. Judgment reversed and cause remanded for new trial.

Ex Parte J. J. Quinn vs. S. D. King, District Judge.

This was an action to relieve a party from the payment of a fine, costs and serving a term of imprisonment in the County Jail. Quinn was indicted for an assault with intent to kill, found guilty of assault, fined in the sum of five hundred ($500) dollars and costs of Court, and was committed to the County Jail until such fine should be paid —one day for each two dollars of said fine. Quinn appealed from the judgment of the Court. The appeal was dismissed upon the grounds that the judgment of the Court fixed the grade of the crime, as a misdemeanor, the Supreme Court had no jurisdiction of the offense. The defendant, Quinn, applied to the Court for a writ of certiorari, to review the proceedings of the District Court, relator contending that the District Court exceeded its jurisdiction in imposing a fine of five hundred ($500) dollars, gold coin, and costs amounting to three hundred and $\frac{50}{100}$ ($300 50) dollars. The writ was dismissed.

Ex Parte John R. Darling vs. William Garrard.

This was an application on the part of the petitioner for a writ of habeas corpus, claiming that he was illegally restrained of his lib-

erty by the Warden of the State Prison, the petitioner claiming that he was entitled to the commutation of sentence for good conduct, allowed by the Act of the Legislature of 1881. The petition was dismissed, the Court holding that it did not apply to cases where the party had been sentenced prior to the passage of the said Act.

State of Nevada vs. J. P. Flanningham.

This was an application for a mandamus to compel the Commissioners of Storey county to allow the claim of relator for the sum of $300 per month, salary as Justice of the Peace of Gold Hill Township under the *Salary Law*. The petition was dismissed, the Court holding that he should charge fees. There not being fifteen hundred (1500) votes polled at the Gold Hill Township in 1880, he was not entitled to a salary.

The State of Nevada vs. the Carson City Savings Bank.

Appealed from the Second Judicial District Court, in and for the county of Ormsby.

This suit was commenced to recover from the defendant a certain amount due the State and county for taxes. The defendant claimed that money at interest secured by mortgages was exempt from taxation under the statutes of 1877, p. 175, and 1879, p. 111.

The Court held that money at interest secured by mortgages was taxable and the judgment of the lower Court was affirmed.

State of Nevada vs. the Central Pacific Railroad Company.

Appealed from the Fifth Judicial District Court, in and for the county of Lander. The action was commenced to recover from the defendant the taxes due the State and county for the year 1881. Argued and submitted.

The State of Nevada vs. the Meadow Valley Mining Company, et. al.

This action was commenced in the Sixth Judicial District Court, in and for the county of Lincoln, to recover the taxes due the State and county from the defendant for the year 1881. The defendant demurred to the complaint and at the same time filed its petition and bond, and asked that the cause be transferred to the United States Circuit Court, in and for the Ninth Circuit of Nevada, upon the ground that the defendant was a citizen of another and different State from the plaintiff.

I filed my objections to the hearing of the case in the United States Circuit Court upon the grounds that the Court had no jurisdiction of the parties to the action or of the subject matter involved in the controversy. The case was argued before Judge Field in September, 1882, and he decided that the Circuit Court had no jurisdiction of the cause or subject matter in controversy.

The case was returned from whence it came and the defendant paid its taxes.

The State of Nevada vs. the Consolidated Virginia Mining Company.

This case was commenced in the year 1877 to recover taxes and penalties due the State and county from the proceeds of the mines. The defendant demurred to the complaint. Judgment was rendered in favor of the plaintiff for the amount of taxes less the penalties. The plaintiff appealed. After the case had been argued in the Supreme Court, and before an opinion had been written, the Legislature during the session of 1879 passed a law releasing the defendant from the payment of the penalties due for the non-payment of its taxes. Immediately after the adjournment of that session of 1879 I asked that the case might be reopened for argument to test the constitutionality of sections one and three of that Act. After reargument the case was resubmitted, and the Supreme Court held the sections in question to be unconstitutional and ordered the case to be returned to the District Court of the First Judicial District, in and for the county of Storey, with permission to the defendant to answer said complaint. After the case had been returned to the District Court the defendant refused to answer, claiming that under sections two and four of the Act of the Legislature of 1879 it was released from the payment of the penalties. Judgment was rendered in the District Court in favor of the State. Defendant appealed. After argument in the Supreme Court sections two and four were declared to be unconstitutional and the judgment of the Court below was affiirmed.

The State of Nevada vs. the California Mining Company.

The same questions were involved, the same proceedings had and the same orders made as in the case of the State vs. the Con. Virginia Mining Company. In the month of April, 1882, the companies paid into the County Treasury of Storey county the sum of $72,568 99, being the amount due from them as penalties. Thus ended a long and tedious litigation; one in which certain corporations endeavored to relieve themselves of paying their just proportion of taxation.

The State of Nevada ex rel. W. R. King vs. J. F. Hallock.

This was an application for mandamus to compel J. F. Hallock, as State Controller, to draw his warrant for the sum of $120 as additional pay for acting as President *pro tem.* of the Senate. The relator was a State Senator, and represented the county of Lyon in the Senate during the session of 1881. At the commencement of the session he was elected President *pro tem.* of the same and acted as such whenever requested by the President of the Senate. At the close of the session the Legislature passed an Act directing the State Controller to draw his warrant in favor of relator for payment of his services as such President *pro tem.* The Controller refused to comply with the law in question for the reason that it undertakes to increase the compensation of a member of the Legislature during the term for which he was elected, contrary to the limitations of the Constitution, and the Court so held, saying that "The President *pro tem.* of the Senate was not entitled to any additional pay during the term for which he was elected." Petition dismissed.

The State of Nevada ex rel. M. A. Murphy, Attorney General, vs. J. B. Overton et al., Trustees of the Nevada Benevolent Association.

This was an information in the nature of a *quo warranto*, filed by me to test the constitutionality of an Act of the Legislature of 1881, entitled "An Act to aid the Nevada Benevolent Association in aiding in providing means for the care and maintenance of the insane of this State and for other charitable purposes."

The case was argued and submitted. The judgment of the Court was that the respondents have no right, liberty or franchise, by virtue of any law, to advertise, print, circulate, or sell any tickets in the scheme or enterprise within this State, or do any of the acts specified in the statute, as the same was unconstitutional.

Jacob Klein vs. John H. Kinkead, Governor; J. F. Hallock, State Controller, and L. L. Crockett, State Treasurer.

Appealed from the Second Judicial District Court in and for the county of Ormsby. This action was commenced by the appellant to restrain the respondents from taking moneys from the State School Fund and putting bonds in its place, as they were directed to do by an Act of the Legislature of 1881, approved February 24, 1881, entitled "An Act to provide for the taking care of the insane of the State of Nevada." The appellant claiming the eleventh and twelfth sections of the Act to be unconstitutional, upon the ground that the

Act does not comply with Section 17 of Article IV. of the State Constitution. The Court held the Act to be constitutional and refused to restrain the respondents from proceeding. The judgment of the lower Court was affirmed.

S. F. Hoole vs. John H. Kinkead, Governor, et al., constituting the Board of Commissioners for the Taking Care of the Insane.

This was an application for a writ of mandamus by the plaintiff to compel the respondents to review their action, as such Board, in awarding certain contracts for the building of an Insane Asylum, and award him the contract, he claiming to be the lowest responsible bidder, and therefore ought to be awarded the contract.

The writ was dismissed, the Court holding that the Board had acted in the premises and accepted what they considered the lowest and most responsible bid, and they having so acted, the Court will not compel them to review their proceedings.

The State of Nevada ex rel. Nevada Orphan Asylum vs. J. F. Hallock, State Controller.

This was an application for a writ of mandamus to compel the respondent to audit an account for $1,279 79, and to issue his warrant on the State Treasurer for the same in favor of the petitioner, it being the first quarter-yearly installment due the petitioner, as it claimed, under the provisions of an Act of the Legislature entitled "An Act to appropriate funds for the relief of the several orphan asylums of this State," approved March 3, 1881, Statutes 1881, p. 122.

The respondent refused to audit said account or to draw his warrant upon the State Treasurer therefor, upon the ground that the Nevada Orphan Asylum is a sectarian institution, and that under Section 10 of Article XXI. of the Constitution of this State he was forbidden to audit any account or draw any warrant upon the State Treasurer for the support of any institution of a sectarian character. I did not claim in my argument to the Court that the Act itself was unconstitutional, but that the Nevada Orphan Asylum was a sectarian institution and was not entitled to receive State aid, and the Court so held and the mandamus was denied.

During the last session of the Legislature several amendments were made to our civil and criminal practice Acts, and I have the pleasure of notifying your Excellency that they have met with general approval throughout the State by the legal profession.

There are other amendments that ought to be made to our criminal practice Act, and I call the attention of the Legislature, through

your Excellency, to Section 1,960 of our Compiled Laws, wherein the defendant is given double the number of peremptory challenges that are allowed to the State. I know of no good reason why the State should not have an equal number of peremptory challenges with the defendant in a criminal trial. I would therefore recommend that peremptory challenges be made equal. If the Legislature sees fit let it reduce the number, but by all means give to the State the same number as it does to the defendant.

In my last report to your Excellency I called attention to the fact that no claims had ever been made by the State of Nevada for unsold lands under the Act of Congress of March 3, 1857, and set apart as reservations for the various tribes of Indians, for Indian war claims, and for expenses incurred by the State of Nevada in enlisting and equipping soldiers during the late rebellion. I corresponded with Captain John Mullan and learned from him that it would require a considerable outlay of money and time before the claims could be put into proper shape to be presented to the proper department. The Board of Examiners had no power to employ an attorney at Washington, D. C., to prosecute the claims against the Government.

At the session of the Legislature of 1881 an Act was passed empowering the Board of Examiners to employ one or more attorneys at Washington to present the claims of the State, and the said attorneys are entitled to retain fifteen (15) per cent. of all moneys collected from said sources, to be in full payment for attorney fees and expenses of litigation. Captain John Mullan has been employed by the Board to attend to these matters. The Controller has furnished him with a list of all claims of the State, and I have no doubt but what Congress will fully reimburse the State for all moneys paid out for the aforementioned purposes.

I will again most earnestly call the attention of the Legislature, through your Excellency, to the necessity of enacting a law to create a State Board of Equalization, for until we have such a law it is impossible to have an equal and just valuation of certain property within this State.

There were bills introduced to create such a Board during the sessions of 1879 and again in 1881, but they failed to pass, for some cause unknown to myself.

For the year 1881 the main track of the Central Pacific Railroad Company was entered upon the assessment rolls of the different counties through which it runs at the following figures by the Assessors, viz :

Washoe county	$15,000 per mile
Lyon county	6,000 per mile
Churchill county	6,000 per mile
Humboldt county	6,000 per mile
Lander county	16,000 per mile
Eureka county	9,000 per mile
Elko county	6,000 per mile

With an average valuation upon its side tracks of $5,960 and a valuation upon its personal property of about one-third of its real value.

In the month of September, 1881, J. F. Hallock, State Controller, and myself visited the Boards of Equalization of the above named counties and entered complaints, asking that the assessable valuation of the property of the Central Pacific Railroad Company be raised, asking that the main track be raised to $16,000 per mile, side tracks to $7,000 per mile and the personal property in proportion; but the Boards refused to comply with our requests and finally fixed the valuation of the property as follows:

Washoe county	$12,000 per mile
Lyon county	10,000 per mile
Churchill county	6,000 per mile
Humboldt county	9,000 per mile
Lander county	10,000 per mile
Eureka county	9,000 per mile
Elko county	6,000 per mile

This was an unjust and unequal valuation of the property. It was unjust, because it was not assessed at a fair valuation in proportion to other property within the State. It was unequal, because if the main track was worth $12,000 per mile in Washoe county, it was worth equally as much in Elko and the other counties. Whose fault was this? The Assessors and Boards of Equalization, or was it the fault of the law? I think it was the fault of the Assessors and Boards of Equalization.

In the Spring of 1882, and before the property of the Central Pacific Railroad Company had been assessed, Mr. Hallock and myself concluded we would make another effort to have the property of that company assessed at a fair valuation, so we submitted a proposition to the Commissioners and Assessor of Washoe county to assess the main track of said road at $10,000 per mile, side tracks at $7,000 per mile, telegraph line $100 per mile, and increase the valuation of the improvements and personal propoperty above former years fifty per cent. By so doing, we would increase the valuation of the property over former years one million eight hundred thousand dollars in the State; but they again refused to comply with our request, giving as their reason that the property would be assessed for more than double what we had suggested, but they failed to so assess it. The result is that in Washoe county the main track is assessed at $16,000 per mile and side track $6,000 per mile; in Lander county, the main track $12,000 per mile; and in all the other counties the main track is assessed at $9,000 per mile, with side tracks at $6,000 per mile, with the improvements along the line of the road, telegraph line and personal property taken in, at a less valuation than placed upon it by Mr. Hallock and myself. This assessment may be all right for Washoe county, but it is death on the State, because the difference between the valuation, as placed

upon the property by the Boards of Equalization and the valuation as proposed by the State Controller and myself, would be several hundred thousand dollars in favor of the State, if they had adopted our estimate. It was no part of the duties of Mr. Hallock or myself, enjoined upon us by law as Controller and Attorney-General, to pursue the course we have taken in this matter; but we did what we considered to be our duties, as private citizens, to compel this company to pay a just proportion of taxes upon the value of its property within our State. And to Mr. Hallock is due the honor, more than any other man in the State of Nevada, of compelling that company to place an assessable valuation of one million five hundred thousand dollars more upon its property within this State than had ever been placed thereon prior to the year 1879.

While upon the subject of retrenchment, I would recommend to our incoming Legislature the advisability or feasibility of consolidating some of our county governments.

Could not Douglas be attached to Ormsby, and Churchill to Lyon? By so doing it would save the expense of running these two county governments.

At the meeting of both political parties in September, 1882, they introduced resolutions in their platforms recommending the calling of a Constitutional Convention

Since the introduction of such resolutions I have given the matter a great deal of thoughtful study, and I cannot see any good to be derived from the calling of a convention, while I can see a great deal of injury that may result therefrom.

I consider our present Constitution about as near perfect as an instrument of that kind can well be. Its different provisions have been selected from the Constitutions of other States after they had been experimented upon and found to answer the purposes for which they were intended. It was framed by as able a body of men as ever lived in the State of Nevada, the majority of whom were old and experienced lawyers, who were selected by the people because of their ability and integrity, and they were not controlled by any personal or corrupt motives, but met for the purpose of framing an instrument of which the people might feel proud, and they in after years might say: "*I was a member of that Constitutional Convention.*" It is the fundamental law under which we have labored and prospered for eighteen years. True, we have added amendments, but the Constitution of the United States was not framed at one nor two sessions, but when the emergency would arise the parties to whom were delegated the power to offer amendments did so, and the people, if they thought that the exigency of the case required such amendments as were proposed, they by their voice adopted them.

Most every article and section of our Constitution has at different times been subject to review by the Court of last resort of this State, and they have not been found wanting.

What portion of our present Constitution is defective or does not meet the requirements of the people and business of this State, that

cannot be made to meet the wants of the people by amendments? I know of none. Some of the advocates of a Constitutional Convention say it is to amend Section 1 of Article X. to secure equal and uniform taxation. I do not think that Article can be improved upon, and if we do not have an equal, uniform and just valuation of all property within this State, it is the fault of the revenue officers and not of the Constitution.

The provision in relation to the assessment of the proceeds of the mines I consider to be a masterpiece of work, and it is the only way you can assess property of that character. You cannot assess a mining claim as real estate because no man can determine the value thereof; it may be worth millions and it may not be worth one dollar, except for the improvements placed thereon. You cannot assess the capital stock and have a uniform rule of taxation; if you should, you will assess the stock of the company who are paying assessments to develop the mine the same as the stock of the companies that are declaring dividends each and every month. If the law should be so amended as to assess the capital stock of a mining company at its market value, let us see how that would work. The law being so amended, the Assessor of Storey county goes to the office of one of the companies on the first day of July, 1883. The stock is selling in the San Francisco Board for $100 per share. He enters the stock of the company at these figures. On the second day of July that stock may not be selling for more than five dollars, or it may be selling for five hundred. Now, how are we going to act? If the stock is selling for five dollars, it would be unjust to make the holder thereof pay on one hundred dollars, and if it is selling for five hundred dollars, it would be unequal taxation to allow him to pay on but one hundred dollars when in reality his share of stock is worth five hundred dollars. Mining stock shares are of such a fluctuating valuation that it is impossible for the owner thereof or the Assessor to place a fair or just valuation thereon.

If the intention is to amend our fundamental law so as to exempt the proceeds of the mines from taxation, then I am opposed to that. I think the net proceeds of the mines should be assessed, because those who own the stock, as a general rule, are non-residents, and the only taxes they do pay is on whatever profit they derive from the mines.

The rancher is assessed for the full value of his land, also, for whatever improvements he may have placed thereon. If he has a stack of hay he is assessed for that, also; or if he happens to have a few bushels of grain in his granary he must pay taxes on them. Then why should not the non-resident who is deriving profits from our mines pay a tax upon that profit? If he is not realizing a profit he does not have to pay the tax.

If it is for the purpose of regulating freights and fares, the Legislature has that power now, under Article VIII. of the Constitution.

The Legislature of the State of Illinois, in 1873, passed an Act to prevent extortion and unjust discrimination in the rates charged for

the transportation of passengers and freight on railroads in that State, whether chartered by that State or another. A suit was brought by the Attorney General against the Wabash, St. Louis and Pacific Railroad Company to sustain the State law against discrimination in railroad freights and fares. The company contended that, as they were engaged in running trains from and to other States through Illinois, they were exempt from State control, and were subject only to such laws as Congress might pass in the exercise of its powers to regulate commerce among the States. The Supreme Court of the State held that this was not a good defense, on the grounds that prescribing just rates of compensation affects commerce only incidentally, that the law in question only professed to control fares and freights for transportation within the State, which is a matter of domestic concerns, and that until Congress shall enact some anti-discrimination law any State desirous to do so must be allowed to protect her own people against extortion and oppression within her territory by transportation companies crossing it, even though her enactments for the purpose may incidentally affect persons and interests beyond her boundaries. This far can the Legislature of our State go under the Constitution as it now stands, and I am satisfied the appellate Court would uphold such an Act the same as the Supreme Court of the State of Illinois has done, and no further.

But I care not what the wording of the fundamental law of a State may be, it cannot delegate the power to a legislative body to regulate fares and freights without its territorial limits.

I would suggest that if it is for the purpose of reducing expenses by dispensing with unnecessary State and county officials it can be done much cheaper and just as quickly by the incoming Legislature proposing the amendments, entering them upon their respective journals, and referring them to the next Legislature. If that body should approve of the amendments let them submit them to a vote of the people at an election to be called for that purpose, and if the people should approve and ratify such amendments, then there will be no necessity to elect the officers whose services have been dispensed with four years hence.

It would not be policy to amend the Constitution or enact any law that will deprive the newly elected officers entering upon the discharge of their respective duties and drawing their salaries during the term for which they have been elected.

I would recommend the amending of Sections 2, 3 and 4 of Article IV. of the Constitution so as to make the sessions of the Legislature once in every four years, instead of biennial. If such an amendment was made it would save the State $25,000 or $30,000 a year, and a session every four years would be sufficient to meet the requirements of the people and business of the State. If an emergency should arise the Governor has the power to call a special session at any time.

By the calling of a Convention to frame a *new Constitution* it will necessarily entail an expense upon the State of at least one hundred

thousand ($100,000) dollars, and perhaps more, without the prospect of any benefit being derived therefrom, for we must take into consideration that that instrument must be submitted to the people for their approval, and we take the chances of having the work of the Convention rejected. Then why not pursue the same course we have heretofore? If any amendments are proposed, let the incoming Legislature of 1883 propose them, have them entered upon their journals and referred to the next Legislature in 1885, and have the the notice published as required by Section 1 of Article XVI. of our Constitution. If the Legislature of 1885 should agree to such amendments as were proposed at the session of 1883 then let them call a special election to be held in the month of April, May or June, 1885, and if approved and ratified by the people they then become, and are a part and parcel of the fundamental law of the State, and without any additional expense to the State whatever, and in less time than you can call a Constitutional Convention and have the acts of that Convention ratified by the people.

If a Convention is to be called, the Legislature of 1883 must determine that it is necessary to cause a revision of the entire Constitution; they must recommend to the electors at the next election, which will be in November, 1884, to vote for or against the calling of a Convention. If the people should be in favor of calling a Convention, the Legislature of 1885 shall fix a time within six months for holding the same. At the time of the enacting of the law to hold the Convention, the Legislature must determine the number of delegates, which cannot be less than that of both branches of the Legislature; they must also provide by law for the holding of a special election for the purpose of electing delegates to attend the Convention. That body of men will be in session thirty or sixty days, if not longer. They will have to provide for the calling of another special election, to submit the proposed Constitution for the approval of the people. If they do not call the special election to submit the question to the people, then it will have to be submitted to them at the general election of 1886.

If the amendments are proposed as I suggest, we save from six to eighteen months' time, and $100,000 in money, which is quite an item in our present financial condition, and one which should be taken into consideration by the incoming Legislature.

With the submission of this report to your Excellency, I will sever my connection with the office of the Attorney-General. During my term of office I have advocated the passage and enforcement of laws, such as I deemed to be beneficial to the interests of the people of this State, and opposed those that I believed to be detrimental and injurious; and after such Acts had been passed and placed upon our statute book, I did not hesitate to attack them, and I have the pleasure of saying that every Act of the Legislature that I opposed and afterwards called to the attention of the Supreme Court, that honorable body held my position to be correct. I have not opposed or attacked any Act of the Legislature through malice or ill will

towards those in whose interests they were passed, but in the discharge of every public duty I have been actuated by no other motive than that of doing my duty, faithfully, honestly and conscientiously, and to the best interests of the people of the State.

Hoping that peace, prosperity and happiness may attend you and yours, and the people of the State of Nevada, I have the honor to subscribe myself, your obedient servant,

M. A. MURPHY,
Attorney-General.