

1940

APPELLATE COURTS

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rights will be lost, because those having them will be unable to sustain them for lack of money to employ legal counsel. Others will lose their rights through the delay caused by numerous trials and appeals. Under this amendment, many will be compelled to forego their rights in order to avoid prohibitive costs and endless trouble.

Many vocations and professions adversely affected.

What is said above applies with equal force to the many vocations and professions which now have their own governing boards. Some of these are:

- | | |
|---------------|-------------------|
| accountants | funeral directors |
| architects | nurses |
| barbers | optometrists |
| chiropractors | osteopaths |
| contractors | pharmacists |
| dentists | pilots |
| doctors | veterinarians |
| engineers | |

Who will profit.

The only persons to profit by this amendment will be the wealthy man or corporation and the lawyers. Government will be put at the mercy of predatory wealth. The common people will lose many of the rights at present protected by boards and commissions and will pay increased taxes to support an enlarged judicial system through which that loss will be effected.

Claim of enabling act misleading.

Finally, do not be misled by any claim that this amendment is merely an enabling act, for if it is approved, the Legislature will assume it to be a mandate from the people to pass further legislation to put it into full force and effect.

Vote "NO" and keep your rights while helping to hold down taxes.

GEORGE D. COLLINS, JR.
Member of the Assembly,
Twenty-second District.

<p>APPELLATE COURTS. Assembly Constitutional Amendment 32. Amends Constitution, Article VI, sections 1a to 4c, inclusive, 5, 11, 15, 17, 21, 25 and 26; adds section 4d. Increases supervisory powers of judicial council. Prohibits temporary assignment of trial judges to appellate courts.</p> <p>7 Limits jurisdiction of Supreme Court. Increases jurisdiction of district courts of appeal and authorizes Legislature to provide additional divisions and districts thereof. Permits transfer of cases by Supreme Court. Permits certification of questions by superior courts and district courts of appeal to Supreme Court. Guarantees oral argument.</p>	YES
	NO

(For full text of measure, see page 6, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 32

Persons having lawsuits are entitled to receive final decisions from our courts without unnecessary delays. Lawyers know that our State appellate courts have not been able to prevent most of the existing delays. The reason for this condition is largely due to the fact that our appellate court system was not created to meet the great amount of work thrown upon it with the continued growth of California.

For five years a committee of the State Bar has studied ways and means of remedying this evil. It had on it fifteen of the most able lawyers in the State. The qualifications of the committeemen show their right to make suggestions on this subject: two were former Supreme Court Justices, one a present District Court Justice, three are professors in our leading law schools, one the present Attorney General, two were former legislators, and seven of them former members of the Board of Governors of the State Bar.

The constitutional amendment that they drafted rewrites that part of our Constitution dealing with appellate courts. Specifically it will do the following things: Send a tremendous volume of litigation to the district courts rather than to the Supreme Court. This will place our Supreme Court in the same position in our State system as the United States Supreme Court has in the Federal system.

The district courts will be made more flexible. Provisions now frozen in the Constitution are removed so that the Legislature may provide district courts capable of meeting existing needs.

A way is provided for harmonizing the opinions of the appellate departments of the superior court. At present conflicting opinions are written by these courts and no way exists for getting a final decision from a higher court. The average person who goes to court gets into either the municipal court or the police or justice's court. This fact shows the importance of the decisions of the appellate department of the superior court which is the only court of appeal for these inferior courts.

Because of the unworkable methods under which our courts of appeal have been operating there has been no practical opportunity for reasonable oral argument of the merits of cases presented. The amendment will remove these causes.

The amendment is a complete revision of the appeals system. Its features are so varied that it is impossible to discuss them here. The public has always said that the lawyers should stop unnecessary delays in the law. The lawyers of California are answering that public demand with this proposal. California certainly should accept the benefit that it can receive from the expert advice and suggestions that the lawyers are making to it.

ALFRED W. ROBERTSON,
Member of the Assembly,
Thirty-ninth District.

JOHN H. O'DONNELL,
Member of the Assembly,
Third District.

Argument Against Assembly Constitutional Amendment No. 32

Assembly Constitutional Amendment No. 32, the so-called judicial council provision, was introduced January 18th as an economy and progressive measure.

A persistent lobby maneuvered over five (5) months and finally squeezed it through on the last day of the session.

This measure comprises 13 "unlucky" pages and over 5,600 words of judicial provisions upon which even the lawyers placed varied interpretations.

Some provisions provide:

That Supreme Court Judges, Appellate Court Judges, Superior Court Judges, and Municipal Court Judges shall be reelected without opponent's name on the ballot.

That each of these judges may retire at the age of 70, receiving an annual pension equaling 50 per cent of his highest year's salary, which in some cases may be \$6,000 annually, but the measure fixes no limit. In 1938 the people of California defeated a similar judge pension scheme by a majority of 285,000 votes.

That, should a judge retire on pension or for private practice, or to accept a bigger salaried job, the Governor would nominate a candidate as his successor and only his

name would be printed on the ballot, but the people may vote "Yes" or "No."

The enactment of this measure would permanently freeze into office every judge who desired reelection regardless of qualifications, and would prevent the people from electing to the judiciary any other lawyer whether he be able or popular. In other words we would shut the door of advancement in our courts and allow them to fossilize while all professions and business would be progressing.

This fossilization would naturally follow when old judges would choose to succeed themselves and no other name could appear on the ballot, or should any Governor nominate the successor to suit his political whims.

It is generally known that our State Constitution is voluminous and cumbersome because of its numerous statutory provisions, and the proposal to write this statutory judge bill into the Constitution is in itself justification for its overwhelming defeat.

However, the greatest menace in this proposal would be the surrender of democracy. California was one of the first states to provide that the people may nominate candidates for all offices, but this act would repeal that provision pertaining to judges, and becomes the camel's nose under the tent.

The caucus and convention which we abolished at least gave the people opposing candidates but this dangerous experiment would give the judge the sole right to have his name on the ballot or the Governor could nominate his successor candidate.

If this were simply a statutory provision of law, it might be amended by the Legislature; but it is a proposed change in the Constitution which becomes fixed if adopted, therefore the people should think seriously before surrendering to this dangerous dictatorship affecting our courts.

We Californians love our freedom and liberty where every man and every woman through the ballot may promote good government.

We need no dictator, we want no communistic or Hitleristic provisions in our Constitution to dominate Californians.

I urge Californians to kill this vicious experiment. Vote "NO."

S. L. HEISINGER, Farmer,
Member of the Assembly,
Fresno County.

APPELLATE COURTS. Assembly Constitutional Amendment 32.

7 Amends Constitution, Article VI, sections 1a to 4c, inclusive, 5, 11, 15, 17, 21, 25 and 26; adds section 4d. Increases supervisory powers of judicial council. Prohibits temporary assignment of trial judges to appellate courts. Limits jurisdiction of Supreme Court. Increases jurisdiction of district courts of appeal and authorizes Legislature to provide additional divisions and districts thereof. Permits transfer of cases by Supreme Court. Permits certification of questions by superior courts and district courts of appeal to Supreme Court. Guarantees oral argument.

YES

NO

Assembly Constitutional Amendment No. 32—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by amending sections 1a, 2, 3, 4, 4a, 4b, 4c, 5, 11, 15, 17, 21, 25 and 26 of Article VI, and by adding a new section 4d to Article VI, relating to the Judicial Department.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its regular session commencing on the second day of January, 1939, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes, to the people of the State of California the following amendments to the Constitution of the State of California:

(This proposed amendment expressly amends existing sections of and adds a new section to the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

First, that section 1a of Article VI of the Constitution of the State of California be amended to read as follows:

SEC. 1a. There shall be a Judicial Council. It shall consist of the Chief Justice or Acting Chief Justice, and of one associate justice of the Supreme Court, three justices of district courts of appeal, four judges of superior courts, one judge of a police or municipal court, and one judge of an inferior court, assigned by the Chief Justice to sit thereon for terms of two years; provided, that if any judge so assigned shall cease to be a judge of the court from which he is assigned, his term shall forthwith terminate. The Chief Justice or Acting Chief Justice shall be chairman. No act of the council shall be valid unless concurred in by six members.

The Judicial Council shall from time to time:

(1) Meet at the call of the chairman or as otherwise provided by it ;

(2) Survey the condition of business in the several courts with a view to simplifying and improving the administration of justice ;

(3) Submit such suggestions to the several courts as may seem in the interest of uniformity and the expedition of business ;

(4) Report to the Governor and Legislature at the commencement of each regular session with such recommendations as it may deem proper ;

(5) Adopt or amend general rules of practice and procedure for the several courts not inconsistent with laws that are now or that may hereafter be in force, but this shall not deprive a court of power to adopt rules of practice or procedure not inconsistent with such general rules ; and the council shall submit to the Legislature, at each regular session thereof, its recommendations with reference to amendments of, or changes in, existing laws relating to practice and procedure ;

(6) Exercise such other functions as may be provided by law.

It shall be the duty of the chairman ~~shall seek to expedite judicial business and to equalize the work of the judges, and shall provide for the assignment of all of the courts.~~ He shall have power to assign any judge or justice to another court of a like or higher jurisdiction to assist a court or judge whose calendar act as a judge or justice of a court the calendar of which is congested, to act for a judge or justice who is absent, or disqualified or unable to act, or to sit and hold court where a vacancy in the office of judge or justice has occurred, but no judge of a superior, municipal or inferior court shall be assigned to act as a Justice of the Supreme Court or of a district court of appeal. The chairman is authorized to assign temporarily a justice or justices from a division of a district court of appeal to another division either of the same court or of another district court of appeal. The chairman is authorized to create by such assignment a temporary division of any district court of appeal. The chairman also is authorized to order any cause pending before a division of a district court of appeal and not submitted for decision to be transferred for

hearing and decision to another division, either of same court or of another district court of appeal.

The clerk of the Supreme Court shall act as secretary of the council.

The several judges and justices shall cooperate with the council, shall sit and hold court as assigned, and shall report to the chairman at such times and in such manner as he shall request respecting the condition, and manner of disposal, of judicial business in their respective courts.

No member of the council shall receive any compensation for his services as such, but shall be allowed his necessary expenses for travel, board and lodging incurred in the performance of his duties as such. Any judge or justice assigned to a court wherein a judge's or justice's compensation is greater than his own shall receive while sitting therein the compensation of a judge or justice thereof. The extra compensation shall be paid in such manner as may be provided by law. Any judge or justice assigned to a court in a county other than that in which he regularly sits shall be allowed his necessary expenses for travel, board and lodging incurred in the discharge of the assignment.

Second, that section 2 of Article VI of the Constitution of the State of California be amended to read as follows:

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The court may sit in departments and shall sit in bank, and always shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at Chambers; and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the Court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two Associate Justices,

and if so made it shall have the effect to vacate and set aside the judgment. Any four Justices may, either before or after judgment by a department, order a case to be heard in bank. If the order is not made within the time above limited the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the court in bank at any time, and shall be the presiding justice of the court when so convened. The concurrence of four justices present at the argument shall be necessary to pronounce a judgment in bank; but if four justices, so present, do not concur in a judgment, then all the justices qualified to sit in the cause shall hear the arguments; but to render a judgment a concurrence of four judges shall be necessary. Four members of the court shall constitute a quorum, and the concurrence of four shall be necessary to a decision. In the determination of causes, all decisions of the court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting; but the justices assigned to each department shall select one of their number as presiding justice. In case of the absence of the Chief Justice from the place at which the court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

Third, that section 3 of Article VI of the Constitution of the State of California be amended to read as follows:

SEC. 3. The Chief Justice and the Associate Justices of the Supreme Court shall be elected by the qualified electors of the State at large at the general elections, at the time and places at which State officers are elected, except as provided by section 21 of Article II of this constitution, and the justices of the district courts of appeal shall be elected by the qualified electors within their respective districts, as provided by section 26 of this article, and the term of office shall be twelve years from and after the first Monday after the first day of January next succeeding their election, except as otherwise provided in this article. If a vacancy occurs in the office of a justice, the Governor, subject to the provisions of section 26 of this article, shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy; which. Such election shall take place at the next succeeding general State or primary election after the first day of April next succeeding election after the occurrence of such vacancy, except as provided in section 26; the justice then elected shall

hold office for the unexpired term; provided, that whenever the term of office of the justice whose place is filled by appointment is fixed by law to expire on the first Monday after the first day of January after the next or such succeeding general election, then the person so appointed to fill the vacancy shall hold office for the remainder of such unexpired term.

Fourth, that section 4 of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 4. The Supreme Court shall have appellate jurisdiction on appeal from the superior courts in all cases in equity, except such as arise in municipal or justices' courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine also; in all such probate matters as may be provided by law; also, on questions of law alone; in all criminal cases where judgment of death has been rendered; the said court shall also have appellate jurisdiction in all cases, matters and proceedings pending before a district court of appeal, which shall be ordered by the Supreme Court to be transferred to itself for hearing and decision, as hereinafter provided. The said court Supreme Court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. In passing upon applications for original writs the Supreme Court may make the writ, the alternative writ, or the order to show cause returnable before itself, or before any district court of appeal, or division thereof, or before any superior court in the State. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court or before any district court of appeal, or before any justice thereof, or before any superior court in the State, or before any judge thereof.

The Supreme Court shall have such other jurisdiction as is conferred upon it by this Constitution.

Fifth, that section 4a of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 4a. The State is hereby divided into three four appellate districts, in each of which there shall be a district court of appeal, consisting of such number of divisions having not less than three nor more than five justices each as the Legislature shall determine; and until so determined otherwise, the courts of appeal for the first and second appellate districts shall each consist of two divisions and the court of the third appellate district shall consist of one division; constituency of the existing appellate courts shall be continued as heretofore established by law.

The Legislature may from time to time increase the number of justices in any division of a district

court of appeal to not more than five justices, or decrease the number of justices in any division of a district court of appeal to not less than three justices, but any such decrease shall not affect the term of office of any incumbent justice.

The Legislature may from time to time create and establish additional district courts of appeal and divisions thereof, consisting of such number of divisions having not less than three nor more than five justices each as the Legislature shall determine, and may add a division or divisions having not less than three nor more than five justices each to any existing district court of appeal, and may fix the places at which the regular sessions thereof shall be held and may provide for the maintenance and operation thereof. For that purpose the Legislature may redivide the State into appellate districts, subject to the power of the Supreme Court to remove one or more counties from one appellate district to another as in this section provided.

Each of such divisions shall have and exercise all of the powers of the a district court of appeal.

The district court of appeal as existing immediately prior to the approval and ratification of this amendment by the people shall not be affected thereby as to the officers or terms of office of the justices thereof.

Upon the creation of any additional division of the district court of appeal or additional division of such court by the Legislature as herein provided, the Governor, in accordance with the provisions of sections 3 and 26 of this article, shall appoint three persons such number of justices as shall be provided by the Legislature to serve as justices thereof until the first Monday after the first day of January after the next general election next following their appointment; provided, however, that if such positions are not filled until after September 1st of any year in which a general election is held, and are filled before the date of such general election, such incumbents shall hold office by virtue of their appointments until the first Monday after the first day of January following the second general election next after their appointments, or until the qualification of any nominee who may have been elected to said office prior to that time. The successors to the persons so appointed shall be elected at such general election. The justices of said any division elected at such general election shall so classify themselves by lot that one of them shall go out of office at the end of four years, one of them at the end of eight years, and one of them the remaining justice or justices at the end of twelve years, and entry of such classification shall be made in the minutes of said division, signed by the three justices thereof, and a duplicate thereof filed in the office of the Secretary of State. Upon the increase in the number of justices of any district court of appeal or division thereof by the Legislature as herein provided, the Governor, in accord

[Eight]

ance with the provisions of sections 3 and 26 of this article, shall appoint such number of justices as shall be provided by the Legislature to serve as justices of the peace until the first Monday after the first day of January after the next general election; provided, however, that if such positions are not filled until after September 1st of any year in which a general election is held, and are filled before the date of such general election, such incumbents shall hold office by virtue of their appointments until the first Monday after the first day of January following the second general election next after their appointments, or until the qualification of any nominee who may have been elected to said office prior to that time. The successors to the persons so appointed shall be elected at such election for full terms of twelve years commencing with such first Monday after the first day of January.

The justices of the district courts of appeal shall be elected by the qualified electors within their respective districts at the general State elections except as provided in section 27 of Article II; and the term of office of said justices shall be twelve years from and after the first day of January next succeeding their election.

If any vacancy occur in the office of a justice of the district courts of appeal, the Governor shall appoint a person to hold office until the election and qualification of a justice to fill the vacancy. Such election shall take place at the next succeeding general or primary election after the first day of April next succeeding the occurrence of such vacancy; the justice then elected shall hold office for the unexpired term; provided, that whenever the term of office of the justice whose place is filled by appointment is fixed by law to expire on the first day of January after the next or such succeeding general election, then the person so appointed to fill the vacancy shall hold office for the remainder of such unexpired term.

One of the justices of each of the district courts of appeal, and of each division of said courts, shall be the presiding justice thereof, and as such shall be appointed or elected, as the case may be.

In cases wherein the presiding justice is not acting, the other justices shall designate one of their number to perform the duties and exercise the powers of presiding justice.

The presence of two justices in any division of a district court of appeal having but three justices, and the presence of three justices in any division of a district court of appeal having four or more justices shall be necessary for the transaction of any business by such court except such as may be done at chambers; and in either event the concurrence of two justices shall be necessary to pronounce a judgment, order or decision. Not more than three justices shall participate in the rendition of any judgment, order or decision. In passing on petitions

for rehearing the justices who participated in the consideration of the appeal or original proceeding, so far as practicable shall pass on such petition.

No appeal taken to the Supreme Court or to a district court of appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein as if regularly appealed thereto.

All statutes now in force allowing, providing for or regulating appeals to the Supreme Court shall apply to appeals to the district courts of appeal so far as such statutes are not inconsistent with this article and until the Legislature shall otherwise provide.

The first district shall embrace the following counties: San Francisco, Marin, Contra Costa, Alameda, San Mateo, Santa Clara, Fresno, Santa Cruz, Monterey and San Benito.

The second district shall embrace the following counties: Tulare, Kings, San Luis Obispo, Kern, Inyo, Santa Barbara, Ventura, and Los Angeles; San Bernardino, Orange, Riverside, San Diego and Imperial.

The third district shall embrace the following counties: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Lake, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Sonoma, Napa, Yolo, Placer, Solano, Sacramento, El Dorado, San Joaquin, Amador, Calaveras, Stanislaus, Mariposa, Madera, Merced, Tuolumne, Alpine and Mono.

The fourth district shall embrace the following counties: Fresno, Tulare, Kings, Kern, Inyo, San Bernardino, Riverside, Orange, San Diego and Imperial.

The Supreme Court, by orders entered in its minutes, may from time to time remove one or more counties from one appellate district to another, but no county not contiguous to another county of a district shall be added to such district.

Said district courts of appeal shall hold their regular sessions respectively at San Francisco, Los Angeles and Sacramento, and they shall always be open for the transaction of business.

The district courts of appeal always shall be open for the transaction of business. Until otherwise provided by statute they shall hold their regular sessions respectively as follows: The first appellate district at San Francisco; the second appellate district at Los Angeles; the third appellate district at Sacramento; and the fourth appellate district, at Fresno during the months of February, March, April and May, at San Diego during the months of June, July, August and September, and at San Bernardino during the months of October, November, December and January.

Sixth, that section 4b of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 4b. The district courts of appeal shall have appellate jurisdiction on appeal from the superior courts (except in cases in which appellate jurisdiction is given to the supreme court) in all cases at law in which the superior courts are given original jurisdiction; also, in all cases of forcible or unlawful entry or detainer (except such as arise in municipal, or in justices' or other inferior courts); in proceedings in insolvency; in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, prohibition, usurpation of office, removal from office, contesting elections, eminent domain, and in such other special proceedings as may be provided by law; also, on questions of law alone; in all criminal cases prosecuted by indictment or information, except where judgment of death has been rendered.

Sec. 4b. Except in cases in which original appellate jurisdiction is given to the Supreme Court the district courts of appeal shall have appellate jurisdiction on appeal from the superior courts in all actions, matters and proceedings of any kind or nature, civil or criminal of which the superior courts have original jurisdiction and in which an appeal is now or hereafter may be provided by law, and shall have such other jurisdiction as is conferred upon them by this Constitution.

The said courts shall also have appellate jurisdiction in all cases, matters, and proceedings pending before the Supreme Court which shall be ordered by the Supreme Court to be transferred retransferred to a district court of appeal for hearing and decision further consideration. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. In passing upon applications for original writs a district court of appeal may make the writ, the alternative writ or the order to show cause returnable before itself, or before any superior court in its district. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the district court of appeal of his district, or before any superior court within his district, or before any judge thereof. All appeals pending in but not submitted to the Supreme Court on the operative date of this amendment, except causes in which the Supreme Court has original appellate jurisdiction pursuant to the terms of this amendment and causes transferred from the district courts of appeal to the Supreme Court on its order, and cases on rehearing in the Supreme Court, shall thereupon become pending in the respective district courts of appeal without further filing fee,

the same as if appealed to said last mentioned courts, and all records in such appeals shall become records of said district courts of appeal.

Seventh, that section 4c of Article VI of the Constitution of the State of California be amended to read as follows:

SEC. 4c. The Supreme Court of its own motion shall have power to order retransfer any cause pending before the Supreme Court to be heard and determined by it for further consideration by the division of the district court of appeal from which it was received, and to order any cause pending before a district court of appeal to be heard and determined by the Supreme Court. The order last mentioned may be made before judgment has been pronounced by a district court of appeal, or within fifteen days in criminal cases, or thirty days in all other cases, after such judgment shall have become final therein. The Supreme Court, however, shall have the power to extend, on its own motion, by order duly made prior to the expiration of the jurisdictional time limits herein fixed, the period within which the order granting or denying a hearing in any case may be made, for additional periods of ten days each, but in any case not to exceed thirty additional days.

In denying a hearing, the Supreme Court, in its discretion, may modify the order of the appellate court, or may strike from the opinion of the appellate court any portion or portions thereof. The judgment of the district courts of appeal shall become final therein upon the expiration of fifteen days in criminal case, or thirty days in all other cases, after the same shall have been pronounced.

The supreme court shall have power to order causes pending before a district court of appeal for one district to be transferred to the district court of appeal for another district, or from one division thereof, to another, for hearing and decision.

Each district court of appeal or division thereof shall have the power to certify to the Supreme Court questions of law involved in causes pending before it. The Supreme Court may either certify to the district court of appeal its determination upon such questions of law so certified to it, or may order such questions returned to the district court of appeal without determination.

Eighth, that Article VI of the Constitution be amended by adding section 4d thereto, to read as follows:

Sec. 4d. All parties to an appeal in either the Supreme Court or the district courts of appeal shall be afforded a reasonable opportunity for oral presentation of their cause, and the Judicial Council shall provide for and regulate the same by rule. The Supreme Court and the district courts of appeal shall so arrange their calendars and the conduct of their business as to afford the right of reasonable oral presentation herein provided.

Ninth, that section 5 of Article VI of the Constitution of the State of California be amended to read as follows:

SEC. 5. The superior courts shall have original jurisdiction in all civil cases and proceedings except as in this article otherwise provided, and except, also cases and proceedings in which jurisdiction is or shall be given by law to municipal or to justices' or other inferior courts; in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; and of all such special cases and proceedings as are not otherwise provided for; and said court shall have the power of naturalization and to issue papers therefor.

The superior court shall have appellate jurisdiction in such cases arising in municipal and in justices' and other inferior courts in their respective counties or cities and counties as may be prescribed by law. The Legislature may, in addition to any other appellate jurisdiction of the superior courts, also provide for the establishment of appellate departments of the superior court in any county or city and county wherein any municipal court is established, and for the constitution, regulation, jurisdiction, government and procedure of such appellate departments. **An appellate department of a superior court shall have power, upon the concurrence of all the judges of said department, to certify to the Supreme Court questions of law involved in causes pending before it. The Supreme**

ourt may either certify to the appellate department of the superior court its determination upon such questions of law so certified to it, or may order such questions returned to the appellate department of the superior court without determination. Superior courts, municipal courts and justices' courts in cities having a population of more than forty thousand inhabitants shall always be open, legal holidays and nonjudicial days excepted. The process of superior courts shall extend to all parts of the State; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said superior courts, and their judges shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and nonjudicial days. The process of any municipal court shall extend to all parts of the county or city and county in which the city is situated where such court is established, and to such other parts of the State as may be provided by law, and such process may be executed or

enforced in such manner as the Legislature shall provide.

Upon stipulation of the parties litigant or their attorneys of record a cause in a superior court or in a municipal court may be tried by a judge pro tempore who must be a member of the bar sworn to try the cause, and who shall be empowered to act in such capacity in the cause tried before him until the final determination thereof. The selection of such judge pro tempore shall be subject to the approval and order of the court in which said cause is pending and shall also be subject to such regulations and orders as may be prescribed by the Judicial Council.

Tenth, that section 11 of Article VI of the Constitution of the State of California be amended to read as follows:

SEC. 11. In any city or city and county which is governed under a charter framed and adopted under the authority of this Constitution containing a population of more than forty thousand inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States, a municipal court may be established as in this article provided, anything in this Constitution to the contrary notwithstanding. For each such municipal court at least one judge with such additional judges as may be determined by the Legislature, shall be elected by the qualified electors of the city or city and county at the general municipal election. In any city, or city and county, in which such municipal court shall be established for which there shall be more than one judge the judges of such court may hold as many sessions thereof at the same time as there are judges thereof, and the business thereof shall be apportioned among such judges in the manner prescribed by law.

The Legislature shall provide by general law for the establishment of such municipal courts in cities or cities and counties in this section specified, and for the constitution, regulation, government, procedure and jurisdiction thereof.

The manner in which, the time at which, the term for which the judges, clerks and other attaches of municipal courts shall be elected or appointed, the number and qualifications of said judges and of the clerks and other attaches, except as such matters are otherwise provided in this article, shall be prescribed by the Legislature.

In any city or city and county where such municipal court has been established, and in townships situated in whole or in part in such city or city and county, there shall be no other court inferior to the superior court, except that the Legislature may provide for the establishment of such inferior courts.

Pending actions, trials, and all pending business of inferior courts within a city or city and county or

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township, upon the establishment of any such municipal court therein, shall, unless otherwise provided by law, be transferred to and become pending in such municipal court, and all records of such inferior courts shall be transferred to, and thereafter be and become records of, such municipal court.

Upon the establishment of any such municipal court, and until the first election and the qualification of the judge or judges thereof, and the first appointment and the qualification of the clerks and other attaches thereof, the judges or justices, and the clerks and other attaches, of any existing inferior courts in such city, city and county, or township shall become and act as the judges, clerks and attaches respectively of such municipal court. Whenever any city having a municipal court is formed into a consolidated city and county with the combined powers of a city and county, under proceedings therefor as elsewhere in this Constitution provided, such municipal court shall thereupon and thereby be and become the municipal court of such city and county.

The compensation of the justices and judges of all courts of record shall be fixed and the payment prescribed, by the Legislature.

Eleventh, that section 15 of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 15. No judicial officer, except court commissioners, shall receive to his own use any fees or perquisites of office. ~~It is provided, that justices of the peace now holding office shall receive to their own use such fees as are now allowed by law during the terms for which they have been elected.~~

Twelfth, that section 17 of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 17. The compensation of the justices or judges of all courts of record shall be fixed, and the payment thereof prescribed, by the Legislature.

Upon the adoption of this amendment the salaries then established by law shall be paid uniformly to the justices and judges then in office. The salaries of the Justices of the Supreme Court and of the district courts of appeal shall be paid by the State. The salary of each superior court judge shall be paid by the State and by the county for which he is elected in such proportion as is now, or hereafter shall be, provided by the Legislature.

The justices of the supreme court and of the district courts of appeal, and the judges of the superior courts, shall severally, at stated times during their continuance in office, receive for their service such compensation as is or shall be provided by law. The salaries of the judges of the superior court, in all counties having but one judge, and in all counties in which the terms of the judges of the superior court expire at the same time, shall not hereafter be in-

creased or diminished after their election, nor during the term for which they shall have been elected. Upon the adoption of this amendment the salaries then established by law shall be paid uniformly to the justices and judges then in office. The salaries of the justices of the supreme court and of the district courts of appeal shall be paid by the State. One-half of the salary of each superior court judge shall be paid by the State, and the other half thereof shall be paid by the county for which he is elected. On and after the first day of January, A. D. one thousand nine hundred and seven, the justices of the supreme court shall each receive an annual salary of eight thousand dollars, and the justices of the several district courts of appeal shall each receive an annual salary of seven thousand dollars; the said salaries to be payable monthly.

Thirteenth, that section 21 of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 21. The Supreme Court shall appoint a clerk of the Supreme Court; provided, however, that any person elected to the office of Clerk of the Supreme Court before the adoption hereof, shall continue to hold such office until the expiration of the term for which he may have been elected and such other officers and employees as are necessary. Said court may also appoint a reporter and not more than 3 assistant reporters of the decisions of the Supreme Court and of the district courts of appeal and such assistant reporters as the court may deem necessary.

Each of the district courts of appeal shall appoint its own clerk and such other officers and employees as are necessary. All the officers and employees herein mentioned shall hold office and be removable at the pleasure of the courts by which they are severally appointed, and they shall receive such compensation as is or shall be prescribed by law, and discharge such duties as shall be prescribed by law, or by the rules or orders of the courts by which they are severally appointed.

Fourteenth, that section 25 of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 25. The present supreme court commission shall be abolished at the expiration of its present term of office, and no supreme court commission shall be created or provided for after January 1st, A. D. 1905. Neither the Supreme Court nor the Legislature shall have the power to create or provide for a Supreme Court Commission.

Fifteenth, that section 26 of Article VI of the Constitution of the State of California be amended to read as follows:

Sec. 26. Within thirty days before the sixteenth day of August next preceding the expiration of his term, any Justice of the Supreme Court, justice of a district court of appeal, or judge of a superior

court in any county the electors of which have adopted the provisions of this section as applicable the judge or judges of the superior court of each county in the manner hereinafter provided, may file with the officer charged with the duty of certifying nominations for publication in the official ballot a declaration of candidacy for election to succeed himself. If he does not file such declaration the Governor must nominate a suitable person for the office before the sixteenth day of September, by filing such nomination with the officer charged with said duty of certifying nominations.

In either event, the name of such candidate shall be placed upon the ballot for the ensuing general election in November in substantially the following form:

For ----- (title of office)	Yes
Shall ----- (name)	No
be elected to the office for the term expiring January ----- (year)	

No name shall be placed upon the ballot as a candidate for any of said judicial offices except that of a person so declaring or so nominated. If a majority of the electors voting upon such candidacy vote "yes," such person shall be elected to said office. If a majority of those voting thereon vote "no," he shall not be elected, and may not thereafter be appointed to fill any vacancy in that court, but may be nominated and elected thereto as hereinabove provided.

Whenever a vacancy shall occur in any judicial office above named, by reason of the failure of a candidate to be elected or otherwise, the Governor shall appoint a suitable person to fill the vacancy. An incumbent of any such judicial office serving a term by appointment of the Governor shall hold office until the first Monday after the first day of January following the general election next after his appointment, or until the qualification of any nominee who may have been elected to said office prior to that time; provided, however, that if such vacancy is not filled until after September 1st of any year in which a general election is held, and is filled before the date of such general election, such incumbent shall hold office by virtue of his appointment until the first Monday after the first day of Janu-

ary following the second general election next after his appointment, or until the election and qualification of any nominee who may have been elected to said office prior to that time.

No such nomination or appointment by the Governor shall be effective unless there be filed with the Secretary of State a written confirmation of such nomination or appointment signed by a majority of the three officials herein designated as the commission on qualifications. The commission on qualifications shall consist of (1) the Chief Justice of the Supreme Court, or, if such office be vacant, the Acting Chief Justice; (2) the presiding justice of the district court of appeal of the district in which a justice of a district court of appeal or a judge of a superior court is to serve, or, if there be two such presiding justices more than one presiding justice, the one who has served the longer longest as such; or, in the case of the nomination or appointment of a Justice of the Supreme Court, the presiding justice who has served longest as such upon any of the district courts of appeal; and (3) the Attorney General. If two or more presiding justices above designated shall have served terms of equal length, they shall choose the one who is to be a member of the commission on qualifications by lot, whenever occasion for action arises. The Legislature shall provide by general law for the retirement, with reasonable retirement allowance, of such justices and judges for age or disability.

In addition to the methods of removal by the Legislature provided by sections 17 and 18 of Article IV and by section 10 of this article, the provisions of Article XXIII, relative to the recall of elective public officers shall be applicable to justices and judges elected and appointed pursuant to the provisions of this section so far as the same relate to removal from office.

The provisions of this section except the provisions with reference to retirement shall not apply to the judge or judges of the superior court of any county until a majority of the electors of such county voting on the question of the adoption of such provisions, in a manner to be provided for by the Legislature, shall vote in favor thereof.

If the Legislature diminishes the number of judges of the superior court in any county or city and county, the offices which first become vacant, to the number of judges diminished, shall be deemed to be abolished.