

1960

ADMINISTRATION OF JUSTICE

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for example, would a person seriously injured be denied payment due him because of his failure in filing his claim to comply with some obscure provision in a city charter.

Proposition 9 was placed on this ballot by the unanimous vote of the Senators and Assemblymen

present in the Legislature when the vote was taken. Vote YES on Proposition 9.

CLARK BRADLEY
Member of the Assembly
WILLIAM BIDDICK, J...
Member of the Assembly

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| 10 | ADMINISTRATION OF JUSTICE. Senate Constitutional Amendment No. 14. Provides that membership of Judicial Council besides judges shall include members of State Bar and two legislators; permits appointment of administrative director. Creates Commission on Judicial Qualifications consisting of judges, members of State Bar and citizens; provides procedure for removal of judges for misconduct or to compel retirement for disability. Declares State Bar of California is a public corporation. Changes name of Commission on Qualifications to Commission on Judicial Appointments. | YES | |
| | | NO | |

(For Full Text of Measure, See Page 8, Part II)

Analysis by the Legislative Counsel

Section 1a of Article VI provides for a Judicial Council consisting of the Chief Justice and 10 judges appointed by him. This measure would amend that section to add four members of the State Bar appointed by its Board of Governors, one member selected by each house of the Legislature, and one additional municipal court judge. The Clerk of the Supreme Court would be secretary of the Council, which would be authorized to appoint an administrative director of the courts who would hold office at its pleasure. The administrative director would perform such of the Council's duties, other than making rules of practice and procedure, as may be delegated to him. The measure would allow the Chief Justice to equalize judicial business by assigning a judge, with his consent, to a court of lower jurisdiction and a retired judge, with his consent, to any court.

The constitutional amendment would create a Commission on Judicial Qualifications by adding Section 1b to Article VI. The commission would consist of two justices of district courts of appeal, two judges of superior courts and one judge of a municipal court, selected by the Supreme Court for four year terms. The commission would also include, for four year terms, two members of the State Bar appointed by its Board of Governors and two citizens, appointed by the Governor. The citizen members could not be active or retired judges nor members of the State Bar. An existing "Commission of Qualifications," created by Section 26 of Article VI, would be renamed to be the "Commission on Judicial Appointments."

The constitutional amendment would add Section 10b to Article VI to provide for the removal of judges for willful misconduct in office, or willful and persistent failure to perform their duties, or habitual intemperance. It would also provide for involuntary retirement of judges for permanent disability. The new Commission on Judicial Qualifications may hold a hearing concerning the removal or retirement of a judge or it may request the Supreme Court to appoint three special masters to hold such a hearing on its behalf. If the commission finds good cause therefor, it must

recommend the removal or retirement of the judge to the Supreme Court. The Supreme Court is required to review the record and may take additional evidence. It may order the judge's removal or retirement, or may wholly reject the commission's recommendation. The amendment would provide other procedural requirements and it constitutes a method of removal which is an alternative to such existing procedures as impeachment, recall, removal by the Legislature and removal for conviction of a crime involving moral turpitude.

The constitutional amendment would add Section 1c to Article VI to provide that the State Bar of California is a public corporation of perpetual existence. Every person admitted and licensed to practice law in this State is required to be a member of the State Bar except while holding office as a judge of a court of record.

Argument in Favor of Senate Constitutional Amendment No. 14

This measure is designed to improve the administration of justice. It was formulated by the Joint Judiciary Committee of the California Legislature with the assistance of the Judicial Council, the State Bar and the Conference of California Judges.

It is proposed by the overwhelming vote of both Houses of the Legislature.

First, the measure proposes an effective and expeditious method for the removal of a judge who is unable or unwilling to perform his duties. Impeachment, recall and other existing methods are too cumbersome and expensive to be workable. It is only rarely that cause exists for the removal of a judge. But where such cause does exist, the removal should be fast and sure. The Conference of California Judges, by an overwhelming vote, has endorsed this measure as a protection for the competent, hardworking judges against the rare cases of incompetency and misconduct on the Bench. The People are at least equally entitled to such protection.

A commission of nine members—five judges appointed by the Supreme Court, two lawyers appointed by the Board of Governors of the State Bar, and two citizens appointed by the Governor

will receive complaints, conduct investigations, hold hearings, and make recommendations to the Supreme Court. To avoid the unfairness of publishing complaints of merely disgruntled litigants, proceedings before the commission will not be public, unless and until it recommends to the Supreme Court the removal or retirement of the judge. The record before the commission will then be a public record of the Supreme Court which will determine whether the judge in question shall be removed or retired.

This proposal will assure real protection against incompetency, misconduct or non-performance of duty on the Bench.

The amendment also strengthens the Judicial Council, which makes the rules of court procedure, by enlarging its membership to include two legislators and four lawyers, and authorizes it to appoint a Court Administrator to supervise the administrative work of the courts. Some 18 other States and the Federal Government have learned that such a Court Administrator performs an important function in increasing the efficiency of the courts and equalizing the workload of the judges.

Inasmuch as the measure provides that the State Bar shall appoint the four lawyer members

of the Judicial Council and the two lawyer members of the Commission on Judicial Qualifications, both of which are created by the State Constitution, it is thought advisable to include a provision giving the State Bar, which is now a statutory entity, the status of a constitutional body too. The Legislature, however, will continue to have power to regulate the administration of the State Bar by statute as it now does.

Finally, the amendment changes the name of the existing Commission on Qualifications, which is concerned with approving or rejecting the Governor's appointments of appellate judges, and with voluntary retirement of judges, to the more appropriate one of the "Commission on Judicial Appointments." This will prevent confusing it with the proposed new Commission.

This constitutional amendment should have your Yes vote.

EDWIN J. REGAN
Senator, 5th District
Trinity and Shasta Counties

JOSEPH A. RATTIGAN
Senator, 12th District
Sonoma County

VETERANS' TAX EXEMPTION. Senate Constitutional Amendment No. 13. Provides that residency requirement for veterans' tax exemption of \$1,000 means those who were residents at time of entry into armed forces or operative date of this amendment; survivor to be entitled to exemption must be survivor of qualified veteran and also resident at time of application. Extends exemption to widowers as well as widows; exemption denied to survivor owning property of value of \$10,000. Permits totally disabled veteran entitled to \$5,000 exemption on a home to transfer it to subsequently acquired home.

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| YES | |
| NO | |

(For Full Text of Measure, See Page 10, Part II)

Analysis by the Legislative Counsel

This constitutional amendment would amend Section 1¼ of Article XIII. It would extend the present coverage of the veterans' tax exemption to include veterans of the Armed Forces of the United States, rather than merely those of the Army, Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service.

It would restrict the present exemption by making it applicable only to those veterans who were residents of this State at the time of their entry into the Armed Forces or who are residents on November 8, 1960, which will be the effective date of the amendment if it is adopted. Under the present constitutional provision a veteran need only be a resident of California at the time he makes application for the exemption.

In addition, the proposed amendment would use the word "spouse" instead of "wife" or "widow," thus extending the exemption to husbands and widowers. The measure would provide that a surviving spouse, father or mother of a deceased veteran may not own property of the value of \$10,000 or more, rather than \$5,000 or more, if they are to qualify for the exemption.

It would also restrict the exemption granted to a surviving spouse or parent of a veteran to situations in which such spouse or parent resided in

State and the deceased veteran was eligible for an exemption at the time of his death.

The proposed constitutional amendment also restates the last paragraph of Section 1¼ in the form of a new Section 1¼a. Under the present provisions of that paragraph the Legislature has authority to exempt from property taxes the homes of veterans of this State who are permanently and totally disabled due to the loss, or loss of use, of both lower extremities from specified causes. Present authority is limited, however, to exempting homes acquired with the assistance of the Federal Government. This constitutional amendment would extend the exemption to any home acquired and occupied by such a totally disabled veteran after disposing of the home acquired with Federal assistance, whether or not the new home is acquired with such assistance.

Proposition No. 3 also would amend Section 1¼ of Article XIII and would add a Section 1¼a to that article. The two measures are therefore in conflict and in the event that both are adopted by the voters, the one receiving the higher vote will prevail.

Argument in Favor of Senate Constitutional Amendment No. 13

This proposition relates to the Veterans Tax Exemption. There are five changes contained in Proposition 11:

1. Eligibility for exemption is limited to:

ernor, in his discretion, prior to such general election, in the same manner that a constitutional amendment proposed by the Legislature would be submitted, and all of the provisions of law relative to submission of such constitutional amendments to the electors and to matters incidental

thereto shall apply to the submission of Sections 1 and 2 of this act, except as otherwise provided in this section or as such provisions may be clearly inapplicable for the submission of amendment to an initiative measure pursuant Section 1b of Article IV of the State Constitution...

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| 8 | ELIGIBILITY TO VOTE. Assembly Constitutional Amendment No. 5. Changes prohibitions of eligibility to vote from those convicted of infamous crime to those convicted of felony during punishment therefor and those convicted of treason. | YES | |
| | | NO | |

(This proposed amendment expressly amends an existing section of the Constitution; therefore **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

the purpose of such election be deemed to be a resident and qualified elector of the precinct or county from which he so removed until after such election; provided, further, no alien ineligible to citizenship, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of felony, while paying the penalties imposed by law therefor, including any period of probation or parole, no person convicted of treason, the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State; provided, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requirements, nor to any person who had the right to vote on October 10, 1911, nor to any person who was 60 years of age and upwards on October 10, 1911; provided, further, that the Legislature may, by general law, provide for the casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein reason of physical disability, on the day on which any election is held.

PROPOSED AMENDMENT TO ARTICLE II

SECTION 1. Every native citizen of the United States of America, every person who shall have acquired the rights of citizenship under and by virtue of the Treaty of Querétaro, and every naturalized citizen thereof, who shall have become such 90 days prior to any election, of the age of 21 years, who shall have been a resident of the State one year next preceding the day of the election, and of the county in which he or she claims his or her vote 90 days, and in the election precinct 54 days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within 54 days, or any person duly registered as an elector in any county in California and removing therefrom to another county in California within 90 days prior to an election, shall for

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| 9 | CLAIMS AGAINST CHARTERED CITIES AND COUNTIES. Assembly Constitutional Amendment No. 16. Permits Legislature to prescribe procedures governing claims against chartered counties, cities and counties, and cities, or against officers, agents and employees thereof. | YES | |
| | | NO | |

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in **BLACK-FACED TYPE** to indicate that they are **NEW**.)

cedures governing the presentation, consideration and enforcement of claims against chartered counties, chartered cities and counties, and chartered cities, or against officers, agents and employees thereof.

PROPOSED AMENDMENT TO ARTICLE XI

Sec. 10. No provision of this article shall limit the power of the Legislature to prescribe pro-

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| 10 | ADMINISTRATION OF JUSTICE. Senate Constitutional Amendment No. 14. Provides that membership of Judicial Council besides judges shall include members of State Bar and two legislators; permits appointment of administrative director. Creates Commission on Judicial Qualifications consisting of judges, members of State Bar and citizens; provides procedure for removal of judges for misconduct or to compel retirement for disability. Declares State Bar of California is a public corporation. Changes name of Commission on Qualifications to Commission on Judicial Appointments. | YES | |
| | | NO | |

(This proposed amendment expressly amends an existing section of the Constitution, and adds new sections thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in

STRIKEOUT TYPE, and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BLACK-FACED TYPE**.)

PROPOSED AMENDMENTS TO ARTICLE VI

First—That Section 1a of Article VI is amended to read:

c. 1a. There shall be a Judicial Council. It shall consist of: (i) the Chief Justice or Acting Chief Justice; and of; (ii) 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 justice court, assigned designated by the Chief Justice to sit thereon for terms of two years; (iii) four members of the State Bar of California appointed by the Board of Governors of the State Bar for terms of two years, two of the first such appointees to be appointed for one year and two for two years; and (iv) one member of each house of the Legislature designated as provided by the respective house, provided, that if any judge so assigned designated shall cease to be a judge of the court from which he is assigned selected, his term designation shall forthwith terminate. If any member of the State Bar so appointed shall cease to be a member of the State Bar, his appointment shall forthwith terminate, and the Board of Governors of the State Bar shall fill the vacancy in his unexpired term. If any member of the Legislature so designated shall cease to be a member of the house from which designated, his designation shall forthwith terminate, and a new designation shall be made in the manner provided by the respective house. The Chief Justice or Acting Chief Justice shall be chairman and the Clerk of the Supreme Court shall serve as secretary. The council may elect an administrative director of the courts, who shall hold office at its pleasure and shall perform such of the duties of the council and of its chairman, other than to adopt or amend rules of practice and procedure, as may be delegated to him. No act of the council shall be valid unless concurred in by six a majority of its 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) Submit to the Legislature, at each general session thereof, its recommendations with reference to amendments of, or changes in, existing laws relating to practice and procedure.
- (6) Adopt or amend rules of practice and procedure for the several courts not inconsistent with laws that are now or that may hereafter be in force; 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.
- (7) Exercise such other functions as may be provided by law.

The chairman shall seek to expedite judicial business and to equalize the work of the judges, and shall provide for the assignment of any judge to another court of a like or higher jurisdiction to assist a court or judge whose calendar is congested, to act for a judge who is disqualified or unable to act, or to sit and hold court where a vacancy in the office of judge has occurred. A judge may likewise be assigned with his consent to a court of lower jurisdiction, and a retired judge may similarly be assigned with his consent to any court.

The clerk of the supreme court shall act as secretary of the council.

The several judges shall co-operate 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 assigned to a court wherein a judge's compensation is greater than his own shall receive while sitting therein the compensation of a judge thereof. The extra compensation shall be paid in such manner as may be provided by law. Any judge 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 1b is added to Article VI, to read:

Sec. 1b. There shall be a Commission on Judicial Qualifications. It shall consist of: (i) Two justices of district courts of appeal, two judges of superior courts, and one judge of a municipal court, each selected by the Supreme Court for a four-year term; (ii) two members of the State Bar, who shall have practiced law in this State for at least 10 years and who shall be appointed by the Board of Governors of the State Bar for a four-year term; and (iii) two citizens, neither of whom shall be a justice or judge of any court, active or retired, nor a member of the State Bar, and who shall be appointed by the Governor for a four-year term. Every appointment made by the Governor to the commission shall be subject to the advice and consent of a majority of members elected to the Senate, except that if a vacancy occurs when the Legislature is not in session, the Governor may issue an interim commission which shall expire on the last day of the next regular or special session of the Legislature. Whenever a member selected under subdivision (i) ceases to be a member of the commission or a justice or judge of the court from which he was selected, his membership shall forthwith terminate and the Supreme Court shall select a successor for a four-year term; and whenever a member appointed under subdivision (ii) ceases to be a member of the commission or of the State Bar, his membership shall forthwith terminate and the Board of Governors of the State Bar shall appoint a successor for a four-year term; and whenever a member appointed under

subdivision (iii) ceases to be a member of the commission or becomes a justice or judge of any court or a member of the State Bar, his membership shall forthwith terminate and the Governor shall appoint a successor for a four-year term. No member of the commission 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.

No act of the commission shall be valid unless concurred in by a majority of its members. The commission shall select one of its members to serve as chairman.

Third—That Section 1c is added to Article VI, to read:

Sec. 1c. The State Bar of California is a public corporation with perpetual existence and succession. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a justice or judge of a court of record.

Fourth—That Section 10b is added to Article VI, to read:

Sec. 10b. A justice or judge of any court of this State, in accordance with the procedure prescribed in this section, may be removed for willful misconduct in office or willful and persistent failure to perform his duties or habitual intemperance, or he may be retired for disability seriously interfering with the performance of his duties, which is, or is likely to become, of a permanent character. The Commission on Judicial Qualifications may, after such investigation as the commission deems necessary, order a hearing to be held before it concerning the removal or retirement of a justice or a judge, or the commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the commission. If, after hearing, or after considering the record and report of the masters, the commission finds good cause therefor, it shall recommend to the Supreme Court the removal or

retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in discretion may permit the introduction of additional evidence and shall order removal or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to statute. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and proceedings before the Commission on Judicial Qualifications or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the commission or the masters shall be privileged; but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the commission in the Supreme Court continues privileged and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the commission or the masters does not lose such privilege by such filing. The Judicial Council shall by rule provide for procedure under this section before the Commission on Judicial Qualifications, the masters, and the Supreme Court. A justice or judge who is a member of the commission or Supreme Court shall not participate in any proceedings involving his own removal or retirement.

This section is alternative to, and cumulated with, the methods of removal of justices and judges provided in Sections 10 and 10a of this article, Sections 17 and 18 of Article IV, and Article XXIII, of this Constitution.

Fifth—That Section 26a is added to Article VI, to read:

Sec. 26a. The "Commission on Qualifications" created by Section 26 of this article is renamed and henceforth shall be known as the "Commission on Judicial Appointments."

VETERANS' TAX EXEMPTION. Senate Constitutional Amendment No. 13. Provides that residency requirement for veterans' tax exemption of \$1,000 means those who were residents at time of entry into armed forces or operative date of this amendment; survivor to be entitled to exemption must be survivor of qualified veteran and also resident at time of application. Extends exemption to widowers as well as widows; exemption denied to survivor owning property of value of \$10,000. Permits totally disabled veteran entitled to \$5,000 exemption on a home to transfer it to subsequently acquired home.

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| YES | |
| NO | |

(This proposed amendment expressly amends an existing section of the Constitution, and adds a new section thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**, and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BLACK-FACED TYPE**.)

PROPOSED AMENDMENTS TO ARTICLE XIII

First—That Section 1¼ of Article XIII be amended to read:

Sec. 1¼. (a) The property to the amount of one thousand dollars (\$1,000) of every resident of this State who has served in the ~~Army, Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service~~ **Armed Forces** of the United States (1) in time of war, or (2) in time of peace, in a campaign or expedition for service in which a medal has been issued by, or under the authority of, the Congress of the United States and in either case has received an honorable charge therefrom, or who after such service of the