

1915

# TERM OF JUDGES FILLING VACANCIES

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**TERM OF JUDGES FILLING VACANCIES.** Senate Constitutional Amendment

4	ment 11 adding section 10½ to article VI of constitution providing that when term of office of judge of supreme court, district court of appeal or superior court expires on first Monday in January following general election person appointed by governor to fill vacancy therein shall hold for remainder of unexpired term for which such judge was elected or appointed.	YES
		NO

Senate Constitutional Amendment No. 11, a resolution to propose to the people of the State of California an amendment to the constitution of said state, by adding to article six thereof a new section to be numbered ten and one-half, relative to the length of time a person appointed to fill a vacancy in the office of justice of the supreme court, justice of the district court of appeal or judge of a superior court, shall hold office.

The legislature of the State of California, at its regular session commencing on the fourth day of January, 1915, two-thirds of the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes an amendment to the constitution of the State of California by adding to article six thereof a new section, to be numbered ten and one-half, to read as follows:

**PROPOSED AMENDMENT.**

Section 10½. Whenever the governor of the state appoints any person to fill a vacancy in the office of justice of the supreme court, justice of the district court of appeal, or judge of the superior court, and the term of office of the justice or judge, whose place is so filled by appointment, is fixed by law to expire on the first Monday in January after the next succeeding general election, then the person so appointed shall hold office for the remainder of the unexpired term for which such justice or judge was elected or appointed.

Portions of sections 3, 4 and 6, article six, constitution, which relate to terms of office of judges, read as follows:

**EXISTING PROVISIONS.**

Section 3. The chief justice and the associate justices shall be elected by the qualified electors of the state at large at the general state elections, at the time and places at which state officers are elected; 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: . . . If a vacancy occur in the office of a justice, the governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general election, and the justice so elected shall hold the office for the remainder of the unexpired term. . . .

Section 4. . . . The justices of the district courts of appeal shall be elected by the qualified electors within their respective districts at the general state elections at the times and places at which justices of the supreme court are elected. Their terms of office . . . shall be the same as those of justices of the supreme court. . . . 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 state election as aforesaid; the justice then elected shall hold the office for the unexpired term. . . .

Section 6. . . . The term of office of judges of the superior courts shall be six years from and after the first Monday of January next succeeding their election: . . . If a vacancy occur in the office of judge of a superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

Twenty-five

**ARGUMENTS IN FAVOR OF SENATE CONSTITUTIONAL AMENDMENT NO. 11.**

Whenever, for any reason, there occurs a vacancy in the office of justice of the supreme court or justice of a district court of appeal or judge of a superior court, the governor appoints a person to fill such vacancy. Under the present constitution the term of office of the person so appointed expires immediately at the next general election, which is usually held in the early part of November.

Another provision of the constitution fixes the term of office of the newly elected officer to begin on the first Monday after the first day of January. (A judge or justice, however, elected at a regular election to fill the remainder of an unexpired term, may assume office at once upon qualifying.) There is, therefore, nearly two months between the early part of November and the first Monday in January when it is not clear who should occupy the office. The term of office of the person appointed expires upon the election of the new officer, who can immediately qualify by taking the oath, but the term of office of such newly elected officer does not begin until the first Monday in January. Recently, numerous candidates have run for office for the short term of two months hereinabove indicated. Such confusion has arisen because of the election of candidates to these short terms, and their subsequent demand for the office, that judicial decisions and judicial action, during these months, have been clouded with some doubt.

The purpose of this proposed amendment is to remedy this unfortunate condition by stating definitely that the person appointed holds office until the beginning of the regular term of office of the person elected at the general election.

H. STANLEY BENEDICT,  
State Senator Thirty-fourth District.

Under the constitutional provisions as they now exist, the terms of justices of the supreme court, district courts of appeal, and judges of the superior courts, when such justices or judges are appointed by the governor to fill vacancies caused by death or resignation, expire at the "next general election," frequently leaving a fragment of a term between such election and the first Monday in January next following, at which time the justice or judge elected for the regular term at the general election in November takes office.

This situation has given rise to a great deal of confusion. Frequently persons have been elected to these high judicial offices for this short term by the mere writing in of their names by a few voters. It is quite possible for utterly unfit men to secure election by this chance.

It would seem natural and proper that the appointed justice or judge should hold office until the qualification of his successor in January, and doubtless this was the original intent of the present law, but by its peculiar reading that purpose was defeated.

The adoption of Senate Constitutional Amendment No. 11 will correct this defect and abolish the foolish and unnecessary "short term" for judges, and will cause the appointed judge to hold over until January, when his regularly elected successor will take office.

EDGAR A. LUCE,  
State Senator Fortieth District.