1922

JUDGES PRO TEMPORE

The act does not prevent real estate agents, bankers, notaries public or other persons from drawing deeds, mortgages, options, leases, notes, escrows or any ordinary business instruments. Statements to the contrary are false and misleading, as any person can see by reading the act.

The act does prohibit disbarred attorneys, trust companies and other unauthorized persons from imposing upon the public by carrying on the practice of law as a business.

Similar laws in force in twenty-four states, including New York, Massachusetts, Illinois, Iowa and Missouri, have met with public approval.

Vote "Yes."

MAURICE E. HARRISON,
Dean of Hastings College of the Law.

ARGUMENT AGAINST THE LAWYERS' BILL.

This act, commonly known as The Lawyers' Bill, was not proposed in response to any public demand or for the purpose of purifying the bar, but solely in the interest of lawyers, sponsored only by a group of lawyers.

It is part of a national campaign by lawyers to compel people to patronize them.

It creates a monopoly of the law for lawyers.

This act makes it a crime for any person not a licensed lawyer to practice law or to make it a practice to furnish legal advice or service. A new crime is created but is not defined, because the proposed law does not state what is meant by the words "to practice law."

For generations the exclusive functions and privileges of licensed attorneys at law have been recognized by the public and protected by courts. No additional legislation is necessary.

Until recently it was never claimed that lawyers possessed exclusive knowledge of the law and the sole right to give legal advice. Men and women have been free to consult their chosen advisers on any subject and no man committed a crime when, out of his knowledge and experience of a particular subject, he answered questions relating thereto.

The test has been and should be a knowledge of the subject.

Tax money is used to print law books, maintain law libraries, and afford legal instruction in the schools, yet this Lawyers' Bill would forbid any one not a licensed lawyer to communicate his knowledge of law to anyone—and a knowledge of the law is the only knowledge which every man is presumed to possess.

Many men, not lawyers, possess a good working knowledge of some branch of law—realtors of real estate law, insurance men of the laws of insurance, architects of building law, credit men of the laws of credits and bankruptcy, bankers of commercial law. Attorneys of trust companies are well versed in the laws of trusts, and many public accountants are expert in income tax law.

If this Lawyers' Bill is approved by the voters, none of these business men will be permitted to give the public the benefit of their experience and knowledge of certain kinds of law, and what is now done well and at no cost to the public will, of necessity, be done only by lawyers and at a considerable cost. It is preferable to receive freely, from one you know and trust, the simple legal advice you want rather than to be forced by this bill to pay a fee to some lawyer who may not be so well posted as your business friend, upon the particular law in which you are interested.

It is true certain exemptions are placed in the act, but they are misleading.

As originally drawn the act was all-inclusive in its prohibitions. No one except a licensed lawyer could draw a simple mortgage or collect a bad account, but so much opposition developed that the lawyer advocates of the bill in the legislature were forced to make some exemptions, more apparent than real. Among these exemptions it is provided that any one may prepare "ordinary business agreements and conveyances," and give advice incidental to the preparation thereof; hence no advice may be given unless an agreement or conveyance is actually prepared. In most cases where simple legal advice is sought, no agreement or conveyance is prepared or contemplated. There is no definition of what constitutes "ordinary business agreements and conveyances," and even lawyers can not agree as to what the act means or how it might be construed by courts.

Do the people want to give a monopoly to a special class, or muzzle well-informed business men, or place a burden of useless expense upon the public, or make of simple service a crime?

Then vote "No" on Proposition No. 24.

SYLVESTER L. WEAVER,
Los Angeles, California.

JUDGES PRO TEMPORE. Senate Constitutional Amendment 34. Amends Section 8 of Article VI of Constitution by requiring that though the parties **25** to any cause in the Superior Court, or their attorneys of record, may agree upon any member of the bar to try their cause as judge pro tempore, such judge must be first approved by the Superior Court in which he acts.

YES ☐

NO ☐

Senate Constitutional Amendment No. 34—Relative to judges pro tempore.

Resolved by the senate, the assembly concurring, That the legislature of the State of California at its forty-fourth regular session, two-thirds of all the members elected to each of the houses thereof voting in favor hereof, proposes to the people of the State of California to amend section eight of article six of the state constitution, to read as follows:

PROPOSED AMENDMENT.

(Proposed additional provision is printed in black-faced type.)

Sec. 8. A judge of any superior court may hold a superior court in any county, at the request of a judge of the superior court thereof, and upon the request of the governor it shall be his duty so to do. But a cause in the superior court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause, and the person so selected shall be empowered to act in such capacity in all further proceedings in any suit or proceedings tried before him until the final determination thereof. There may be as many sessions of a superior court at the same time as there are judges thereof, including any judge or judges acting upon request, or any judge or judges pro tempore. The judgments, orders, acts and proceedings of any session of any superior court held by one or more judges acting upon request, or judge or judges pro tempore, shall be equally effective as if the judge or all of the judges of such court presided at such session.

EXISTING PROVISIONS.

Section eight, article six, proposed to be amended, now reads as follows:

Sec. 8. A judge of any superior court may hold a superior court in any county, at the request of a judge of the superior court thereof, and upon the request of the governor it shall be his duty so to do. But a cause in the superior court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, and sworn to try the cause, and the person so selected shall be empowered to act in such capacity in all further proceedings in any

suit or proceedings tried before him until the final determination thereof. There may be as many sessions of a superior court at the same time as there are judges thereof, including any judge or judges acting upon request, or any judge or judges pro tempore. The judgments, orders, acts and proceedings of any session of any superior court held by one or more judges acting upon request, or judge or judges pro tempore, shall be equally effective as if the judge or all of the judges of such court presided at such session.

ARGUMENT IN FAVOR OF SENATE CONSTITUTIONAL AMENDMENT NO. 34.

Senate Constitutional Amendment No. 34 proposes to amend the present constitution providing for the appointment of judges pro tempore in the superior courts of the State of California and prescribing the powers and duties conferred upon said pro tempore judges. It is proposed to amend the constitution by providing that the appointment of judges pro tempore shall be made "with the approval" of the regularly constituted judge or judges of the particular court in which they are to sit. The proposed amendment merely adds to the present constitution the following four words: "approved by the court." This provision was formerly in the constitution but the words sought now to be reinserted have in some manner been amended out.

Without the proposed words, "approved by the court," it can readily be seen that a great temptation is held out to bring about collusion whereby the ends of justice might be defeated. Collusion in divorce proceedings is the one evil which our statutory laws attempt to make impossible. The necessity of this amendment was strongly shown sometime since when in two or more counties of the state a number of divorce cases were tried, adjudicated and decrees granted by judges pro tempore without the knowledge of the regular judge by whom such cases are regularly determined and without said judge being advised of what was transpiring. Much discussion and indignation was aroused throughout the state, and it was the general feeling that the amendment now proposed was absolutely imperative.

The proposed amendment readily passed both houses of the last legislature and has received the endorsements of high authorities of the law, the church and citizenry of California. Such able jurists as former Chief Justice Angellotti, Appellate Justices Albert G. Burnett, W. H. Waste, ex-Justice Warren Olney, Superior Court Judges Emmet Seawell, R. L. Thompson, F. V. Wood, E. A. Luce, J. E. Prewett and many other jurists of high standing all agree that this amendment is necessary and is calculated to safeguard the home and property rights. Surely there can be no reasonable objection to again restoring the protective provision that a judge pro tempore, after selection by the parties litigant, should be "approved by the court," especially in divorce where the welfare of children and property rights are frequently at stake. This would bring the matter directly to the attention of the regular judge of the court and would give notice to the public that such proceedings are in progress.

In addition to the endorsements given to the proposed amendment by the judges of the various courts of this state and ecclesiastical authorities, many organizations and individuals have written the author urging strongly the passage of the amendment. They take the view that nothing should be left undone to prevent a further abuse of the practice that at one time seemed likey to become general in the disposition of divorce cases and which, if continued, would have surely scandalized judicial proceedings.

The present amendment does not seek to abolish judges pro tempore but is merely regulatory of their appointment. In short, it gives to the judges, whom the people have elected and whom the laws have charged with judicial duties, reasonable supervision over grave judicial decisions.

It would indeed be difficult, if not wholly impossible, to present a sound argument against the adoption of the proposed amendment.

We submit that in the interest of the material and moral welfare of the people of the state you should vote "Yes" on Senate Constitutional Amendment No. 34.

HERBERT W. SLATER,
State Senator Eighth Senatorial District.
J. M. INMAN,
State Senator Seventh Senatorial District.

SCHOOL DISTRICTS. Senate Constitutional Amendment 32, adding Section 6½ to Article IX of Constitution. Declares nothing in Constitution shall forbid formation of school districts situated in more than one county or issuance of bonds by such districts under general laws; authorizes officers

26 mentioned in such laws to levy and assess such taxes and perform all such other acts as may be prescribed therein for purpose of paying such bonds and carrying out other powers conferred upon such districts; all such bonds to be issued subject to limitations prescribed in Section 18 of same article.

YES	
NO	

Senate 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 adding a new section to article nine thereof, to be known as section six and one-half, relating to the formation of school districts situated in more than one county, and the issuance and payment of bonds of such districts.

Resolved by the senate, the assembly concurring, that the legislature of the State of California, at its regular session, commencing on the third day of January, one thousand nine hundred twenty-one, 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 that a new section be added to article nine of the constitution of said state, to be known as section six and one-half, and to read as follows:

PROPOSED AMENDMENT.

Sec. 6½. Nothing in this constitution contained shall forbid the formation of districts for school purposes situate in more than one county or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; provided, that all such bonds shall be issued subject to the limitations prescribed in section eighteen of article eleven hereof.

PROVISION REFERRED TO.

Section eighteen, article eleven, to which reference is made in the proposed new section six and one-half, reads as follows:

Sec. 18. No county, city, town, township, board of education, or school district, shall incur