

1936

COURT OF CRIMINAL APPEALS

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of University Women and other organizations which are strongly in favor of a fair teacher tenure law, are just as strongly opposed to this proposed amendment.

If this proposal were simply to place in the Constitution only the principle that teachers be employed and dismissed solely on merit, it would be wise and just, but as submitted it is both unnecessary and undesirable.

Unnecessary, because California already has a tenure law, enacted by the Legislature, which is regarded as a model throughout the United States.

Undesirable, primarily, because it is unwise to freeze a mass of experimental administrative detail into the Constitution, subject to amendment, even in the most minute detail, only at a general election.

Furthermore:

1. Its provision for a special court or tenure board, comprised of teachers, paid by teachers, to decide controversies between teachers and school boards, is discriminatory and undemocratic.

2. Its requirement that the teachers constituting such Court must be certificated to teach in elementary schools and high schools and junior colleges, disqualifying all those certificated in one, but not in all types of schools, discriminates even among teachers.

3. Its provision that election of members of such board shall be "conducted as are elections of Justices of the Supreme Court" is misleading. Justices of the State Supreme Court are not in fact, "elected." They are appointed.

4. Its requirement that such board members shall be elected at the 1936 election, at which time the amendment is to be voted on, is obviously an absurdity.

5. Its denial to local school boards, elected by the people, of the right to determine which

teachers shall be permanently employed, and the transfer of this power to a politically appointed state board, invades the right of local self-government.

6. Its proposal to establish expensive courts, after previous hearings before school and tenure boards, thus restoring the plan which caused widespread dissatisfaction under the original tenure law, and which the 1935 Legislature abolished at the request of the teachers, is unwise. Providing such retrial in cases involving incompetency, unfitness and insubordination, but not on charges of immorality, is manifestly illogical and unjust.

7. Its delegation to county superintendents of the power to transfer teachers in small districts to other districts without the consent of either the teacher or the district to which the teacher is transferred, is un-American.

8. No board of three members, in a vast State, comprising approximately three thousand school districts, could perform the duties imposed upon it, within the time limits provided. Injustice would result, both to trustees and teachers; evasion would be encouraged, and the schools disrupted.

No law, fundamentally unfair, can endure. This proposal dooms itself. It is unjust. It is unworkable. It is unsound. It should not be written into the Constitution. For the best interests of schools, we urge all citizens to vote "No."

JOHN F. BRADY,
Vice President,
California Teachers Association.

E. B. COUCH,
Chairman State Tenure Committee,
California Teachers Association.

RAY C. EBERHARD,
Attorney for Affiliated Teacher
Organizations of Los Angeles.

COURT OF CRIMINAL APPEALS. Senate Constitutional Amendment 13.

Amends specified sections of Articles IV and VI. Adds new sections to Article VI. Creates Court of Criminal Appeals consisting of a Chief and four Associate Justices (twelve-year terms, salaries same as Supreme Court Justices) to succeed to jurisdiction of Supreme Court in death penalty cases and criminal jurisdiction of District Courts of Appeal. Governor appoints first Justices of Court of Criminal Appeals for specified terms, thereafter offices are elective. Grants Supreme Court limited appellate power to pass on validity of a law after decision thereon by Court of Criminal Appeals.

12

YES

NO

(For full text of measure, see page 25, Part II)

Argument in Favor of Senate Constitutional Amendment No. 13

Constitutional amendment number 13 is in response to public demand that the administration of our criminal law be speeded up to meet current conditions.

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It is proposed to create a statewide Court of Criminal Appeals, of five judges, to which all appeals in criminal matters will be made. This court will handle only criminal cases and our Supreme Court and other appellate courts will handle only civil cases.

This proposal will modernize appellate court procedure by the twentieth century method of specialization.

The Supreme Court now functions in those criminal appeals where the death penalty has been imposed—all other criminal appeals go to the six different state Appellate Courts which now define, construe and apply our criminal laws. None of those courts are bound to follow the decisions of the others.

Decisions in criminal cases, therefore, are inevitably in conflict. If but one court—the proposed Court of Criminal Appeals—were to pass upon all appeals in criminal cases there would be no conflict in its decisions and we would have uniform law furnishing a safe guide to trial judges, prosecutors, lawyers, and others. Everyone is entitled to know with certainty what the law is.

Uniformity of decision in criminal cases would decrease appeals. Most criminal appeals in California result from uncertainty in the decisions. If the decisions on the criminal laws are uniform and well settled, appeals will be discouraged. If we have one Appellate Court devoted exclusively to criminal appeals, delays will be eliminated. "Justice delayed is justice denied".

The new court will have power to adopt rules for criminal appeals. It can provide for simple and non-technical procedure whereby an appeal can be heard within a fraction of the time now consumed. Its diligence will not be divided between civil and criminal matters. The judges, handling only questions in criminal cases, will become so familiar with the fundamental rules and prior decisions in criminal cases, that law points which are now extensively briefed and require industrious research by our civil appellate judges, can be disposed of speedily under a specialized procedure and the judges in our civil appellate courts could then devote much more time to civil cases.

The creation of a Court of Criminal Appeals will therefore expedite all appeals in civil as well as in criminal cases, it will prevent the miscarriage of justice by making sure the punishment of the guilty and the release of the innocent. It will eliminate the necessity of superior court judges sitting temporarily in appellate courts, when such judges should be disposing of the business of their own courts, it will result in uniformity of decision in criminal cases and it will give new speed and vigor to the enforcement of the criminal laws of this state.

W. P. RICH,
Senator, Tenth District.
WALTER MCGOVERN,
Senator, Fourteenth District.

**Argument Against Senate Constitutional
Amendment No. 13**

Senate Constitutional Amendment No. 13 proposes to set up a new court to be known as the Court of Criminal Appeals

The new court if created would have jurisdiction in all criminal appeals and habeas corpus matters now handled by the Supreme Court and the four District Courts of Appeal.

It is claimed by the proponents of the amendment that this new court is needed in order to permit more careful and speedy consideration of criminal appeals. The records show that the Appellate Courts as now constituted are adequately handling the problem of criminal appeals and neither the volume of cases nor the time used in their consideration justifies the creation of an entirely new court.

This amendment bears all the aspects of "personal" legislation. No opportunity was given to the justices of the Supreme Court or of the District Courts of Appeal to express their views that it is unnecessary, or to explain that the amendment as drafted does not fit into existing constitutional provisions affecting the courts.

I would particularly like to call to the attention of the voters the last section of the proposed amendment which amends Art. 4, Section 19, of the Constitution so as to permit members of the Legislature to be appointed to positions on this court which they propose to have the people create. This section was added in the closing hours of the Legislature and escaped the attention of many members of the Senate and Assembly. This is very definitely bad legislative practice and contrary to both the letter and the spirit of our Constitution.

The facts presented by the Judicial Council in Part One of their Sixth Report, recommending rejection of this amendment, clearly indicate that the proposed court is unnecessary and would place a new and permanent tax burden, approximately \$100,000 per year, upon the State.

So far as appears, the only benefit from the creation of this court would be to the persons appointed to and employed by it.

The Governors of the State Bar of California have, upon unanimous recommendation of their Committee on Administration of Justice, passed a resolution opposing creation of a court of criminal appeals.

It would be entirely independent of the unified court system, including the Judicial Council and the Supreme Court. By the amendment, the Supreme Court Justices would be deprived of the power to issue writs of habeas corpus in criminal matters, confining their powers to civil cases and contempt proceedings. The existing constitutional limitations affecting appointments to the court are excepted from this proposal. The court as proposed could sit any where in the State at its discretion, and would be less accessible to lawyers and litigants than are the present permanently located courts, and finally, and most important, it is not needed.

Vote NO on Senate Constitutional Amendment No. 13.

THOMAS P. SCOLLAN,
Senator, Nineteenth District.

(Footnote 1)

COURT OF CRIMINAL APPEALS. Senate Constitutional Amendment

12

13. Amends specified sections of Articles IV and VI. Adds new sections to Article VI. Creates Court of Criminal Appeals consisting of a Chief and four Associate Justices (twelve-year terms, salaries same as Supreme Court Justices) to succeed to jurisdiction of Supreme Court in death penalty cases and criminal jurisdiction of District Courts of Appeal. Governor appoints first Justices of Court of Criminal Appeals for specified terms, thereafter offices are elective. Grants Supreme Court limited appellate power to pass on validity of a law after decision thereon by Court of Criminal Appeals.

YES	
NO	

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by amending sections 1, 4, 4b, 4c, 10, 18, 23, and 24 of Article VI and by adding sections 4d, 4e, and 4f to said Article VI and amending section 19 of Article IV of the Constitution, relating to the judicial power of the State.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its fifty-first session, commencing on the seventh day of January, 1935, two-thirds of all 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 sections 1, 4, 4b, 4c, 10, 23 and 24 of Article VI of the Constitution be amended, and sections 4d, 4e and 4f be added to said Article VI, to read as follows:

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

PROPOSED AMENDMENT TO THE CONSTITUTION.

First. Section 1 of Article VI is hereby amended to read as follows:

Section 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, in a Supreme Court, **Court of Criminal Appeals**, District Courts of Appeal, superior courts, such municipal courts as may be established in any city or city and county, and such inferior courts as the Legislature may establish in any incorporated city or town, township, county or city and county.

Second. Section 4 of Article VI is hereby 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, wherein an appeal has been taken to said Supreme Court prior to the forty-fifth day after the adoption by the people of this section by amendment; 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 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. 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, other than being held in custody pursuant to any writ, warrant, or process in a criminal case or action or for a violation of a criminal statute of this State, 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.

Third. Section 4b of Article VI is hereby 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, wherein an appeal has been taken to a District Court of Appeal prior to the forty-fifth day

after the adoption by the people of this section by amendment.

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 to a District Court of Appeal for hearing and decision. 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. 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.

Fourth. Section 4c of Article VI is hereby amended to read as follows:

Sec. 4c. The Supreme Court shall have power to order any cause pending before the Supreme Court to be heard and determined by a District Court of Appeal, 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 judgment of the District Courts of Appeal shall become final therein upon the expiration of fifteen days in criminal cases, or thirty days in all other cases, after the same shall have been pronounced. **Provided, that in any criminal case where a judgment has been pronounced by a District Court of Appeal after this section has been adopted by the people by amendment such criminal cause shall not be transferred for hearing to the Supreme Court but the Court of Criminal Appeals shall have power, in such instances, to order such cause to be transferred to the Court of Criminal Appeals for hearing and determination within thirty days after such judgment shall have become final in such District Court of Appeal.**

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. **In any case decided by the Court of Criminal Appeals wherein the Court of Criminal Appeals has directly passed upon the validity of any law or statute of this State, the Supreme Court shall have power to order such cause to be heard and determined by the Supreme Court.** The order last mentioned may only be made within fifteen days after the judgment of the Court of Criminal Appeals has become final pursuant to the rules of said Court of

Criminal Appeals. In any cause so transferred to the Supreme Court from the Court of Criminal Appeals, the Supreme Court shall only have power to pass upon the validity of such law or statute of this State and shall not determine any other question.

Fifth. A new section to be numbered 4d of Article VI is hereby added to said Constitution to read as follows:

Sec. 4d. The Court of Criminal Appeals shall consist of a chief justice and four associate justices. The court shall always be open for the transaction of business. The presence of three justices shall be necessary to transact any business, except such as may be done at chambers and the concurrence of three justices shall be necessary to pronounce a judgment. The chief justice may convene the court at any time and shall be the presiding justice of the court when so convened. The concurrence of three justices present at the argument shall be necessary to pronounce a judgment; but if three justices so present do not concur in a judgment then all the justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of three justices shall be necessary; provided, however, that if less than the five justices shall sit at the argument of any cause and it be stipulated that the absent justices may participate in the decision then and in that event the concurrence of three justices shall be sufficient to render a judgment irrespective of whether any one or more of such justices was not present at the argument. In determination of causes all decisions of the court shall be given in writing and grounds of decision shall be stated. 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. Upon the adoption by the people of this section the Governor shall forthwith appoint one person to act as chief justice and four persons to act as associate justices of the Court of Criminal Appeals.

The term of office of each justice of the Court of Criminal Appeals shall be twelve years from and after the first Monday after the first day of January next succeeding their election or selection; provided, that the term of office of the chief justice of said court first appointed by the Governor hereunder shall be and shall continue until the first Monday after the first day of January following the sixth general election next after his appointment and the term of office of two of said associate justices first appointed by the Governor hereunder shall be and continue until the first Monday after the first day of January following the second general election next after their appointment and the term of office of the remaining two associate justices hereunder shall be and continue until the first Monday after the first day of January following the fourth general

election next after their appointment. After the appointment of the first chief justice and the first four associate justices of the Court of Criminal Appeals by the Governor and the qualifying of such appointees, vacancies thereafter occurring in the office of justice of the Court of Criminal Appeals shall be filled and successors to such justices so first appointed shall be selected and elected, including the right of any justice to succeed himself, in the manner now provided by section 26 of Article VI of this Constitution for the selection and election of justices of the Supreme Court and filling of vacancies in the office of justice of the Supreme Court.

The salary of the chief justice of the Court of Criminal Appeals and the salaries of the associate justices of the Court of Criminal Appeals shall at all times be the same as the respective salaries of the chief justice and the associate justices of the Supreme Court. Whenever any justice of the Court of Criminal Appeals is for any reason disqualified or unable to act in a cause pending before it, the remaining justices may select one of the justices of a District Court of Appeal to act pro tempore in the place of the justice so disqualified or unable to act.

Sixth. A new section to be numbered 4e of Article VI is hereby added to said Constitution to read as follows:

Sec. 4e. The Court of Criminal Appeals shall have appellate jurisdiction on appeal from the superior courts, on questions of law alone, in all criminal cases prosecuted by indictment or information, wherein an appeal has been taken on or after the forty-fifth day from the adoption by the people of this section. The said court shall also have power to issue, in aid of its appellate jurisdiction, writs of mandamus, certiorari, prohibition and habeas corpus and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. 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 pursuant to any writ, warrant, or process in a criminal case or action or for a violation of a criminal statute of this State, and may make such writs returnable before himself or the Court of Criminal Appeals or before any District Court of Appeal or before any judge thereof or before any superior court in the State or before any judge thereof. Said court shall have the power to adopt rules for the regulation of the procedure before said court and for the manner in which appeals may be taken and perfected to said court, provided that until the adoption of such rules appeals may be taken to said court in the same manner that appeals in criminal cases are now taken to the Supreme Court. In all matters arising under the provisions of section 1506 of the Penal Code where an appeal in habeas corpus proceedings is allowed to the Supreme Court or an application for hearing in the Supreme Court is

allowed such appeal shall be taken to and such application for hearing shall be made in the Court of Criminal Appeals instead of said Supreme Court. The Court of Criminal Appeals shall hold regular sessions for the hearing of causes at the Capitol of the State, at the City and County of San Francisco, at the city of Los Angeles, and at the city of Fresno, the times to be fixed by an order of said court and special sessions at either of the above named places or at any other place in the State of California as the interest of justice may require at such times as may be prescribed by the justices thereof. The Court of Criminal Appeals shall be a court of record.

The Court of Criminal Appeals shall have appellate jurisdiction on appeal from the judgments of appellate departments of the superior courts in criminal cases where the validity of any law or statute of the State, or any municipal, county or city and county ordinance is directly involved and for a violation of which the case was originally instituted; provided, the validity of such law, statute or ordinance was raised before the appellate department of the superior court and further provided that on such appeal the Court of Criminal Appeals shall not determine any other question except the validity of such law, statute or ordinance.

It shall be the duty of the justices of the Court of Criminal Appeals to report to the Legislature at the opening of each regular session any conflicts between or inconsistencies in the laws relating to crimes, the punishment of crimes, procedure or evidence in criminal cases, that has come to their attention, and also any proposed changes in such laws which, in their opinion, should be made in the interests of justice.

In any case where the defendant has been convicted of a crime which by law is divided into degrees or which has necessarily included within such crime one or more lesser or other crimes of which the defendant could have been convicted upon his trial the Court of Criminal Appeals, if no other reversible error appears in the record, and if it determines that the evidence was insufficient to justify the conviction and further determines that the evidence was sufficient to justify a conviction of said crime in a lesser degree or to justify a conviction of a lesser or other crime necessarily included within the one the defendant was convicted of committing and for which he could have been convicted upon his trial, may modify the judgment by reducing the conviction to such crime in a lesser degree or to such lesser or other crime. In such event, the judgment shall be affirmed as modified and no new trial shall be had of the cause.

Seventh. A new section to be numbered 4f of Article VI is hereby added to said Constitution to read as follows:

Sec. 4f. The salaries of the justices of the Court of Criminal Appeals shall be paid by the State at

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the times and in the manner that the salaries of the justices of the Supreme Court are paid.

The clerk of the Supreme Court, the chief deputy clerk of the Supreme Court, and the deputy clerks of the Supreme Court shall respectively be the clerk of the Court of Criminal Appeals, the chief deputy clerk of the Court of Criminal Appeals and the deputy clerks of the Court of Criminal Appeals. The clerk of the Court of Criminal Appeals must perform such duties as are now prescribed by law to be performed by the clerk of the Supreme Court and such additional duties as may be required of him by the rules and practice of the Court of Criminal Appeals. The Legislature shall provide for the speedy publication of such opinions of the Court of Criminal Appeals as such court may deem expedient, and all opinions shall be free for publication by any person. The reporter and assistant reporters of the decisions of the Supreme Court shall be the reporter and assistant reporters of the decisions of the Court of Criminal Appeals. All reports of decisions of the Court of Criminal Appeals shall be published in the same manner and under the same conditions as the reports of the decisions of the Supreme Court, and all provisions of law relative to the publication of the reports of the Supreme Court now in effect or hereinafter adopted shall apply to the publication of the reports of the Court of Criminal Appeals. The Supreme Court and the Court of Criminal Appeals shall each have power and authority to appoint and employ during its pleasure such phonographic reporters, assistants, secretaries, and other employees as it may deem necessary for the performance of the duties and exercise of the powers conferred by law upon each of said courts and the members thereof and to determine the duties and fix and pay the compensation of all such officers and employees. Each of the District Courts of Appeal shall have power and authority to appoint and employ during its pleasure a clerk, as provided in section 21 of this article, and such deputy clerks, phonographic reporters and bailiffs and at the salaries as shall be provided by law; and each of the District Courts of Appeal shall have power and authority to appoint and employ during its pleasure such other officers and employees as it may deem necessary for the performance of the duties and exercise of the powers conferred by law upon the said courts and the members thereof and to determine the duties and fix and pay the compensation of all such other officers and employees. All salaries and expenses so fixed and incurred by the Supreme Court or by the Court of Criminal Appeals or by any District Court of Appeal, under the provisions of this section, shall be paid from the funds appropriated for the use of said court when approved by the order or orders of said court and audited by the Board of Control. The State shall supply proper rooms in which to hold the Court of Criminal Appeals and for the accommodation of the officers thereof together with furniture, fuel, lights, and stationery suitable and suffi-

[The rest of the page]

cient for the transaction of business and if such things are not provided by the State the court, or any three justices thereof, may direct the clerk of the Court of Criminal Appeals to provide rooms, furniture, fuel, lights, and stationery. The expenses thereof certified by any three justices to be correct shall be paid out of the State treasury for which expenses a sufficient sum shall be annually appropriated out of any funds in the State treasury not otherwise appropriated.

Eighth. Section 19 of Article VI is hereby amended to read as follows:

Sec. 10. Justices of the Supreme Court, and justices of the Court of Criminal Appeals, and of the District Courts of Appeal, and judges of the superior courts may be removed by concurrent resolution of both houses of the Legislature adopted by a two-thirds vote of each house. All other judicial officers, except justices of the peace, may be removed by the Senate on the recommendation of the Governor; but no removal shall be made by virtue of this section unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the journal.

Ninth. Section 18 of Article VI is hereby amended to read as follows:

Sec. 18. The justices of the Supreme Court or of the Court of Criminal Appeals, and of the District Courts of Appeal, and the judges of the superior courts and the municipal courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected or appointed, and no justice or judge of a court of record shall practice law in or out of court during his continuance in office; provided, however, that a judge of the superior court or of a municipal court shall be eligible to election or appointment to a public office during the time for which he may be elected, and the acceptance of any other office shall be deemed to be a resignation from the office held by said judge.

Tenth. Section 19 of Article IV is hereby amended to read as follows:

Sec. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, hold or accept any office, trust, or employment under this State; provided, that this provision shall not apply to any elective office nor to any office which may be filled by election by the people.

Eleventh. Section 23 of Article VI is hereby amended to read as follows:

Sec. 23. No person shall be eligible to the office of a justice of the Supreme Court, or of the Court of Criminal Appeals, or of a District Court of Appeal, or of a judge of a superior court, or of a municipal

court, unless he shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office.

Twelfth. Section 24 of Article VI is hereby amended to read as follows:

Sec. 24. No justice of the Supreme Court, nor of the Court of Criminal Appeals, nor of a District Court of Appeal, nor any judge of a superior court,

nor of a municipal court shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the Supreme Court, of the Court of Criminal Appeals and of the District Courts of Appeal shall be given in writing, and the grounds of the decision shall be stated.

EMINENT DOMAIN. Assembly Constitutional Amendment 77. Amends section 14 of Article I of Constitution. Grants power of eminent domain to State agency or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value has been authorized by the constitution of this State. Authorizes in eminent domain proceedings the taking of immediate possession of right of way, property, or lands acquired for public use upon deposit in court of money to pay subsequent award of compensation.

13

YES	
NO	

Assembly Constitutional Amendment No. 77—A resolution to propose to the people of the State of California an amendment to section 14 of Article I of the Constitution of said State, relating to the rights of private property.

Resolved by the Assembly, the Senate concurring, that the Legislature of the State of California, at fifty-first regular session, commencing on the seventh day of January, 1935, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California that section 14 of Article I of the Constitution be amended to read as follows:

(This proposed amendment expressly amends an existing section of 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.

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or ~~similar~~ public corporation or district or State agency until full compensation therefor be first made in money or ascertained and paid into court for the owner,

irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law, provided, that in any proceeding in eminent domain brought by the State, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or ~~similar~~ public corporation or district or State agency, or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value have been authorized by the Constitution or laws of this State, the aforesaid State or municipality or county or public corporation or district or State agency or corporation aforesaid may take immediate possession and use of any right of way or property or lands to be used for reservoir purposes, required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the