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REMOVAL OF JUDGES UPON CONVICTION OF CRIME

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<p>14 REMOVAL OF JUDGES UPON CONVICTION OF CRIME. Assembly Constitutional Amendment 1. Adds section 10a to Article VI of Constitution. Provides that upon conviction of crime involving moral turpitude a justice or judge of any court of this State shall be suspended from office by Supreme Court and his salary shall also be suspended until conviction becomes final. Upon final conviction Supreme Court shall permanently disbar said justice or judge, remove him from office and salary shall cease from suspension. If conviction is reversed Supreme Court shall terminate suspension and justice or judge shall receive salary for period of suspension.</p>	YES
	NO

(For full text of measure, see page 39, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 1

At present there is no express provision in the Constitution or the laws of the State for the removal of a judge when he has been convicted of a crime. This omission was emphasized by the complications arising when a judge of one of our district courts of appeal was convicted of the crime of attempting to obstruct justice in the Federal courts and yet was able to retain his hold upon his office for more than a year and until threatened with removal by legislative action.

This proposal would add section 10a to article VI of the Constitution. It would provide for the forfeiture of his office by any judge of this State who is convicted of a crime involving moral turpitude. The amendment provides for removal upon conviction which becomes permanent when and if the judgment of conviction becomes final.

The amendment is sponsored by the State Bar of California. Its necessity is indicated by the unfortunate occurrence referred to above which should not be permitted to happen again.

Respectfully submitted.

KENT H. REDWINE,
Member of the Assembly,
Fifty-seventh District.

CHESTER F. GANNON,
Member of the Assembly,
Eighth District.

Argument Against Assembly Constitutional Amendment No. 1

Public confidence in, and respect for, our courts and justice will be shattered further, if voters will continue to permit (as will be possible if this amendment to our State Constitution is approved) any justice or judge of our courts to try a case after he has been convicted of any

felony, until his conviction is set aside or his innocence is otherwise established.

Immediately, a doubt arises as to the ability of a judge so convicted of a felony, to fairly, equally and impartially administer the law.

Our State Supreme Court has decided that a verdict of a jury, finding, or even a confession of guilt, does not alone constitute a conviction. A sentence must be imposed before the conviction becomes complete. Hence, if the sentence of a justice or judge, who has even confessed his guilt, is stayed, and the accused is granted probation, the accused would not be subject to removal under this amendment.

Why approve this defective measure, authorizing the removal of one judge convicted of one felony but not another judge also convicted of a felony; and the removal of one judge, but not another judge, guilty of the same crime, who—because of his influence or record—is able to avoid a conviction, by stay of sentence?

This measure does not provide for the removal of a justice or judge convicted of any felony not involving *moral turpitude*. Generally speaking "moral turpitude" means *moral depravity*, but even our courts and lawyers seldom agree as to the meaning of this term.

Even if a judge is convicted of the crime of murder, or manslaughter, or robbery, all felonies, this amendment would not apply, although it would apply permitting the removal of a judge, upon conviction of the crime of bigamy. Such a distinction is unwarranted and is an admitted oversight. No public official should be permitted to hold office after he has been found guilty of or has confessed to the commission of any crime, whether involving moral turpitude or not. It is unfair and discriminatory to single out only a few public officials for special punishment.

An accused person is presumed to be innocent until convicted, which means after the exhaustion of all remedies, including appeal to our highest courts from a conviction. Frequently, the conviction of an innocent person is reversed on appeal. Conviction of an inno-

cent judge of a crime involving moral turpitude, even though set aside on appeal, will, under this amendment, unfairly and unjustly deprive an innocent judge of his salary when needed and the means of having an unjust conviction based on perjury, or insufficient evidence, set aside.

No emergency exists requiring the approval of this amendment, which if passed will hinder the submission of a new measure free of admitted defects. Present laws are adequate for

the removal of judges until a desirable measure free of the admitted defects of this measure can be submitted and approved by the people in November, 1940.

Respectfully submitted.

ROBERT H. FOUKE,
Attorney at Law,
President, Young Voters
League of California.

JUDICIAL COUNCIL. Assembly Constitutional Amendment 6. Amends section 1a of Article VI of Constitution providing for a Judicial Council, and changes number and composition thereof. Requires concurrence of 15 eight members. Provides that Judicial Council shall adopt or amend rules of judicial conduct governing all judges in the State.	YES	
	NO	

(For full text of measure, see page 39, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 6

This measure has been submitted for approval upon recommendation of the State Bar of California after study by its Committee on Administration of Justice. Upon the taking of a plebiscite of members of the State Bar it was approved by more than five-sixths of those voting. The Legislature voted to submit it to the people by an unanimous vote in both the Assembly and Senate.

It increases the membership of the Judicial Council from eleven to fifteen. At present all eleven members of the council are judges. This measure would reduce the number of judges to eight and liberalize membership on the council by the addition of two laymen appointed by the Governor, three lawyers to be appointed by the Board of Governors of the State Bar, and the chairmen of the Judiciary Committees of the Senate and Assembly.

The members of the council receive no compensation for their services other than necessary expenses for travel, board and lodging incurred in the performance of their duties. *No substantial increase in expenditures will result.*

Adoption of this amendment is recommended by the present members of the Judicial Council, who believe the assistance of the augmented membership will be of substantial benefit in the discharge of its duties, which include study and supervision of all courts of the State, specifying particularly the following:

Survey the condition of business of the several courts to simplify and improve administration of justice;

Promote uniformity and expedition of court business;

Adopt rules of practice and procedure for the courts; and

Report to the Governor and Legislature recommendations for improvement in laws relating to practice and procedure.

This proposal would grant to the council the additional power to adopt rules of judicial conduct for the guidance of the judges of the State. This would provide the same character of standard for the judiciary as the rules of professional conduct prescribe for members of the bar. The proponents and all groups supporting this measure believe that this additional power in the council would create uniformity in the personal practice of members of the judiciary in the administration of their office.

The fact that the adoption of this amendment is recommended by the council members, after eleven years of experience, seems sufficient to secure its support and practically unanimous approval.

GARDINER JOHNSON,
Member of the Assembly,
Nineteenth District.

PAUL PEEK,
Member of the Assembly,
Seventy-first District.

Argument Against Assembly Constitutional Amendment No. 6

No court administering justice should be placed in a position where it is under the influence or control of any layman, politician or member of the Legislature, as will be possible if this measure is approved.