

1942

RATES OF INTEREST ON LOANS AND JUDGMENTS

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nia. Manifestly, such a situation is unfair. The members from the north can not desert their districts to come south and aid in the administration of the Los Angeles district, yet it is humanly impossible for one man to protect the interests and care for the needs of a district so populous and extensive as is the Los Angeles district.

At present the Los Angeles district includes the counties of Los Angeles, Santa Barbara, Ventura, San Bernardino, Orange, Riverside, San Diego and Imperial. This proposal makes Los Angeles County a district by itself and combines San Bernardino, Riverside, Orange, San Diego and Imperial into a new Fifth District. Santa Barbara and Ventura are attached to the First District because there is no physical contact between these counties and the five southern counties. As proposed, the districts will have the following populations:

- District No. 5,
(five southern counties) ----- 746,480,
- District No. 4,
(Los Angeles County) ----- 2,785,643,
- District No. 3,
(northern counties) ----- 415,224,
- District No. 2,
(Alameda, Sacramento, and adjacent counties) ----- 1,563,111,

District No. 1,
(San Francisco and adjacent counties) ----- 1,224,234

The Fourth and Fifth districts will still contain more than 50 per cent of the population and wealth of the State.

Under this amendment the Legislature has power to redistrict according to population when necessary. The first member from the new Fifth District will be appointed by the incoming Governor February 1, 1943. Thereafter all members will be elected from their respective districts.

This amendment will afford better administration, fairer treatment for Los Angeles and the other southern counties, greater protection to the people as a whole, and a friendlier relation throughout the entire State.

VOTE FOR THE AMENDMENT!!

ROBERT W. KENNY,
Senator, Thirty-eighth District

JOHN F. SHELLEY,
Senator, Fourteenth District.

RALPH E. SWING,
Senator, Thirty-sixth District.

RATES OF INTEREST ON LOANS AND JUDGMENTS. Assembly Constitutional Amendment 28. Amends first paragraph of section 22 of Article XX, Constitution. Declares rate of interest on loan or forbearance of any money, goods or things in action, or on accounts after demand, 7 percent per annum, but parties thereto may contract in writing for interest rate not exceeding 10 percent per annum. Declares interest rate on court judgments 5 percent per annum.

14

YES	
NO	

(For full text of measure, see page 21, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 28

Under the present provisions of our State Constitution when a judgment is rendered against an individual and entered upon the records of the county, that judgment carries 7 per cent interest per annum and continues indefinitely. Many judgments have been carried for from 20 to 30 years and the interest accumulates until it is much larger and in some instances several times more than the original principal of the judgment. These judgments do not outlaw, as do practically all other obligations, after a limited time. They are renewed every five years with added costs, and the only way out for the debtor is to go through bankruptcy in order to begin business again.

The purpose of this new amendment is to reduce the rate of interest on a judgment from 7 per cent per annum to 5 per cent per annum. When the State can borrow money for about

one-half of 1 per cent per annum, many counties and districts from 1 to 2 per cent per annum, corporations about 3 per cent per annum, and individuals usually pay about 5 per cent per annum for the use of money, it would seem very unfair to charge one who is so unfortunate as to have a judgment rendered against him such a high rate as 7 per cent per annum indefinitely. So this Constitutional Amendment simply reduces the rate of interest on a judgment, after it is entered upon the records, from 7 per cent to 5 per cent per annum, but it does permit a person to contract to pay a rate of interest not exceeding 10 per cent per annum, which is the present law. In other words this amendment simply provides for the reduction of the rate of interest to be paid by the borrower when he is in such serious trouble that a judgment has been entered against him.

There should be no objection to this amendment, and we sincerely hope it receives a

substantial majority of the votes of the people of this State approving the same.

RODNEY L. TURNER,
Member of the Assembly, Forty-first District.

DON A. ALLEN,
Member of the Assembly, Sixty-third District.

Argument Against Assembly Constitutional Amendment No. 28

The first, but wrong, impression is that this proposed change in the Constitution is a "poor man's" law. Upon analysis it appears that the disadvantages to the ordinary citizen far outweigh any advantage which might be claimed under such change. You will note that the amendment affects only the *first* paragraph of Article XX, p. 22. Numerous exceptions are recited in the *third* paragraph, which still remains unamended.

The amendment is designed to reduce the interest on judgments from 7 per cent to 5 per cent. Most judgments result from the extension of credit by honest and trusting persons without security. The person extending such credit most often does so in order to supply the wants of some one who, at that time, has no immediate ability to pay. Such transactions are a rough part of the American way of life.

They are discouraged by adverse legislation and a tendency is to force the debtor to deal with money lending firms protected by adequate security and extremely high interest rates. In most transactions where there is inability to pay the full amount of judgment and accumulated interest the judgment creditor substantially reduces the amount to release the debtor.

Ask your attorney friends how frequently even the few "pound of flesh" creditors can get full face value. The answer will surprise you.

Another serious consequence of this proposed amendment is that it encourages judgment debtors, or some third party having a contractual responsibility, to appeal cases to the higher courts where judgments are given for personal injuries arising out of negligence of the defendants. Automobile accidents are the most common cause for such judgments. The cunning, powerful judgment debtor, by such interest reduction, would have more incentive to appeal rather than pay judgments and thereby delay the plaintiff months or years in order to "wear" him down to a reduced settlement. The higher the interest rate on judgments the quicker the plaintiff, who often is crippled and without funds, will be compensated.

Practically all of the present high interest rates now being paid come under the exceptions and are not affected to any degree by the proposed amendment. Rates of 2 per cent and 2½ per cent *per month* will still be in effect. Thus, where secured loans are made on furniture and automobiles, the lending firm still receives 24 per cent and 30 per cent per annum on its money and risks little, as it usually has ample security for its payment.

Among others still not restricted by this amendment are building and loan associations, credit unions, pawn brokers, banks and certain nonprofit cooperative agricultural associations. Their fees, bonuses, commissions and discounts still may be fixed by the Legislature.

A "no" vote on this amendment is a vote for equal justice.

FRANKLIN J. POTTER,
Member of the Assembly,
Fifty-seventh District.

SUPREME AND APPELLATE COURT PROCEDURE. Assembly Constitutional Amendment 55. Amends section 4c, adds sections 4d and 5a, Article VI, Constitution. Empowers Supreme Court to transfer to itself cause pending before District Court of Appeal; to retransfer cause pending before itself to division of District Court of Appeal from which received; and to extend, within prescribed limits, the time for granting or denying a hearing in such cases. Empowers District Courts of Appeal, and appellate department of Superior Court, to certify questions of law to Supreme Court, but permits latter to return same without determination.

15

YES

NO

(For full text of measure, see page 22, Part II)

Argument Against Assembly Constitutional Amendment No. 55 (Submitted by persons appointed to write argument in favor of amendment)

This amendment proposes to change Section 4 of Article VI of the present Constitution dealing with the jurisdiction of the Supreme and appellate courts and to add to Article VI additional sections known as 4d and 5a. The ob-

ject of the amendment was to expedite appeals. Unfortunately, in Section 4c, the word "retransfer" was inadvertently used instead of the word "transfer." This has raised a doubt in the minds of the bar and the authors of the resolution as to whether it takes from the Supreme Court its present power to transfer cases pending before it to the District Courts of Appeal for decision. It was not intended to have that effect, and probably would not be so con-

[Nineteen]

credits, above its face value. The State Board of Equalization is hereby authorized and empowered to make such rules as may be prescribed to increase or lower the entire assessment roll of any county.

(c) The State is hereby divided into five equalization districts defined and constituted as follows:

1. First District. The counties of San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, Ventura and the City and County of San Francisco shall constitute the first equalization district.

2. Second District. The counties of Alameda, Contra Costa, San Joaquin, Sacramento, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern, Inyo, Mono, Mariposa, Tuolumne, Calaveras, Amador and Alpine shall constitute the second equalization district.

3. Third District. The counties of Del Norte, Siskiyou, Modoc, Lassen, Shasta, Trinity, Humboldt, Mendocino, Sierra, Tehama, Plumas, Butte, Glenn, Lake, Colusa, Sutter, Yuba, Nevada, Placer, El Dorado, Yolo, Solano, Napa, Sonoma and Marin shall constitute the third equalization district.

4. Fourth District. The County of Los Angeles shall constitute the fourth equalization district.

5. Fifth District. The counties of San Diego, Imperial, Riverside, Orange and San Bernardino shall constitute the fifth equalization district.

(d) The terms of office of the members of the State Board of Equalization shall be for four years,

commencing on the first Monday after the first day of January following their election, and shall continue until their successors have qualified. The members of the present State Board of Equalization representing the four equalization districts existing when this section becomes operative shall continue in office until their successors, as herein provided for, shall be elected and shall qualify the end of their terms. On or after the date when this section becomes operative, the Governor shall appoint a board member from the fifth district who shall hold office until the first Monday after the first day of January in 1947, and until his successor has qualified. In the event a vacancy occurs in the State Board of Equalization, the Governor shall appoint a board member from the equalization district in which the vacancy occurs. Any member so appointed shall hold office for the remainder of the unexpired term as prescribed herein.

(e) All of the provisions of this section are self-executing. The Legislature shall have power to redistrict the State into four districts as nearly equal in population as practical, two-thirds of all of the members elected to each of the two houses voting in favor thereof, may redefine the five equalization districts defined herein, and to provide for the elections of members of said Board of Equalization.

(f) The provisions of this section shall become operative on February 1, 1943.

RATES OF INTEREST ON LOANS AND JUDGMENTS. Assembly Constitutional Amendment 28. Amends first paragraph of section 22 of Article XX, Constitution. Declares rate of interest on loan or forbearance of any money, goods or things in action, or on accounts after demand, 7 percent per annum, but parties thereto may contract in writing for interest rate not exceeding 10 percent per annum. Declares interest rate on court judgments 5 percent per annum.

14

YES	
NO	

Assembly Constitutional Amendment No. 28—A resolution to propose to the people of the State of California an amendment to the first paragraph of Section 22 of Article XX of the Constitution of the State, relating to the legal rate of interest on loans.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its Fifty-fourth Regular Session, commencing on the sixth day of January, 1941, two-thirds of all of the members of the Legislature voting in favor thereof, hereby proposes to the people of the State of California that the first paragraph of that Section 22 of Article XX of the Constitution of said State which relates to the legal rate of interest 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. 22. The rate of interest upon the loan or forbearance of any money, goods or things in action, or on accounts after demand ~~or judgment rendered in any court of the State~~, shall be 7 per cent per annum, and upon any judgment rendered in any court of this State shall be 5 per cent per annum; but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest not exceeding 10 per cent per annum.

[Twenty-one]