

1954

INFERIOR COURT JUDGES

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19 **INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 57.** Makes judge of a justice court eligible for office as judge of a superseding municipal court though he is not an attorney, where he has served as justice of the peace for five years preceding November 7, 1950, and as judge of the justice court continuously thereafter.

YES

NO

(For Full Text of Measure, See Page 12, Part II)

Analysis by the Legislative Counsel

Article VI, Section 23, of the Constitution at present requires a municipal judge to have been admitted to practice law before the State Supreme Court for at least five years immediately preceding his election or appointment to such office. When the inferior court reorganization plan was approved by the electors on November 7, 1950, an exception to this requirement was made for an elected judge or justice who had served for 5 years prior to that date. Such a judge, although not admitted to practice law, was made eligible to become the judge of any municipal court which superseded the then-existing court of which he was judge.

This amendment would permit a non-lawyer judge who had served for 5 years prior to November 7, 1950, and who has served continuously since that date as judge of a superseding justice court, to become the judge of a municipal court whenever such a court supersedes his justice court.

Argument in Favor of Assembly Constitutional Amendment No. 57

The voters of California at the 1950 general election adopted a constitutional amendment providing for the reorganization of the inferior courts of this State and reducing the number of such courts to two classes known as municipal courts and justice courts. The Constitution then required admission to practice law before the Supreme Court for at least five years before a person is eligible to be a municipal court judge. The 1950 amendment made any elective judge or justice of an existing court superseded by a municipal court eligible to become judge if he had served in his present capacity for five consecutive years immediately preceding the effective date of the amendment. It was the intent and spirit of the amendment that experienced incumbent Justices of the Peace would be permitted to continue in office, even though their courts were changed to municipal courts without requiring that they be lawyers.

The Attorney General of California last year gave an opinion that the present Justices who are not attorneys would not be eligible to become the judges of municipal courts when such a court succeeds their justice courts.

Following the opinion of the Attorney General, both houses of the Legislature unanimously voted to submit the present amendment to the Constitution, for the reason that it was the consensus of the

Legislature that incumbent Justices who qualify as to consecutive years of service should not be ineligible to continue as municipal court judges because they are not attorneys.

By adopting the present amendment, the people will remove any doubt as to the status of incumbent Justices who are not attorneys and they will be eligible to become municipal judges upon the conversion of their courts if they were eligible to do so in 1950.

There should be nothing in the administration of justice in municipal courts which requires men who have had long experience as judges to be attorneys. The Justices of the Peace have always been close to the people and responsive to their needs in matters over which they have jurisdiction, and it is felt that when a Justice has been in office for many years, he has met with approval at the hands of the people, even though he is not an attorney.

This amendment merits the approval of the people for the reasons herein set forth, in order to protect incumbent Justices as to their eligibility for office, even though they are not attorneys.

J. B. COOKE
State Assemblyman 37th Dist.

Argument Against Assembly Constitutional Amendment No. 57

The important effect of this proposed amendment will be to deprive many voters of the privilege of voting for Judge candidates who have been awarded certificates of fitness for office by the Judicial Council of the State of California.

There are many qualities that a voter wants in his judge. For example: it is important that Judges in the lower court be willing to give ample time to each case, no matter how 'small.' In some cases the voters may be more satisfied to elect a person who has passed the Judicial Council's examination for this specific judicial position.

The proposed amendment encourages Judicial District reorganization throughout the state. The Inferior Courts were modernized in 1952 and there is no need for a change in districts at this time.

EDWARD H. LAUER, JR.
Certificate Holder (February 1952)
Judge of the Justice Court
Candidate

June 23, 1954

INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 57. Makes judge of a justice court eligible for office as judge of a superseding municipal court though he is not an attorney, where he has served as justice of the peace for five years preceding November 7, 1950, and as judge of the justice court continuously thereafter.

YES

NO

(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 ARTICLE VI

Sec. 23. No person shall be eligible to the office of a justice of the Supreme Court, 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; provided, however, that any elected judge or justice of an existing court who has served in that

capacity by election or appointment as such judge or justice of a court superseded by a justice or municipal court for five consecutive years immediately preceding the effective date of this amendment November 7, 1950, and has served continuously as a judge of such superseding court after said date until the establishment of a municipal court, shall be eligible to become the judge of a municipal court by which supersedes the existing court of which he is judge is superseded upon the establishment of said municipal court or at the first election of judges thereto and for any consecutive terms thereafter for which he may be re-elected. The requirement of consecutive years of judicial service shall be deemed to have been met even though interrupted by service in the armed forces of the United States during the period of war.

20 **FRAMING COUNTY CHARTERS. Senate Constitutional Amendment No. 27.** Extends time for preparation of proposed county charter by board of freeholders from present 120 days to six months. Alters requirements for nominating candidates for freeholder.

YES

NO

(This proposed amendment expressly amends the first paragraph of 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 ARTICLE XI

Sec. 7½. Any county may frame a charter for its own government consistent with and subject to the Constitution (or, having framed such a charter, may frame a new one,) and relating to matters authorized by provisions of the Constitution, by causing a board of 15 freeholders, who have been for at least five years qualified electors thereof, to be elected by the qualified electors of said county, at a general or special election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by the vote of three-fifths of all the members of the board of supervisors of such county, declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said county, or in pursuance of a petition of qualified electors of said county as hereinafter provided. Such petition, signed by 15 per centum of the qualified electors of said county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of 15 freeholders to prepare and propose a charter for said county, may be filed in the office of the county clerk. It shall be the duty of said county clerk, within 20 days after the filing of said petition, to examine the same, and to ascertain from the record of the registration of electors of the county, whether said petition is signed by the requisite number of qualified electors. Required by said clerk, the board of supervisors shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination, said clerk shall

forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at its next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said board of supervisors shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than 20 days nor more than 60 days after the adoption of the ordinance aforesaid or the presentation of said petition to said board of supervisors; provided, that if a general election shall occur in said county not less than 20 days nor more than 60 days after the adoption of the ordinance aforesaid, or such presentation of said petition to said board of supervisors, said board of freeholders may be elected at such general election. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general law for the nomination of candidates for county offices, to be voted for at general elections. It shall be the duty of said board of freeholders, within one hundred and twenty days six months after the result of such election shall have been declared by said board of supervisors, to prepare and propose a charter for said county, which shall be signed in duplicate by the members of said board of freeholders, or a majority of them, and be filed, one copy in the office of the county clerk of said county and the other in the office of the county recorder thereof. Said board of supervisors shall thereupon cause said proposed charter to be published for at least 10 times in a daily newspaper of general circulation, printed, published and circulated in said county; provided, that in any county where no such daily newspaper is printed, published and circulated, such proposed charter shall be pub-