1956

INFERIOR COURT JUDGES

The first of these obsolete sections repealed in this measure is Section 17 of Article VI. This section has long since ceased to have any operation or effect. As amended in 1906, it set the salaries of justices and judges of the Supreme Court, the district courts of appeal, and the superior courts. However, since 1924 the Legislature has been authorized, under a provision added to Section 11 of Article VI in that year, to fix the salaries of the justices and judges of all courts of record; and from time to time the Legislature has done so. The 1924 amendment to Section 11 superseded Section 17 in entirety. An express repeal of this obsolete Section 17, as provided in this measure, is long overdue.

The second obsolete section repealed in this measure is Section 25 of Article VI. This section was added in 1904. It refers to a Supreme Court Commission. This Commission was created by statute around the turn of this Century. It consisted of from three to five Commissioners to aid the Supreme Court in research and other work. In 1904 the district courts of appeal were created to relieve the pressure of business upon the Supreme Court. With the establishment of these intermediate appellate courts, the Supreme Court Commission was abolished in this Section 25. There should no longer be any mention of this long defunct b in our Constitution. An express repeal of this o lete Section 25, as provided in this measure, wil delete all such reference to it.

The presence of this type of "deadwood" in the State Constitution is confusing and undesirable. This measure is a step in the right direction towards a shortening and other modernization of our Constitution. It was introduced at the request of the Judicial Council of California, and it is endorsed by that body. It passed the Legislature by a unanimous vote in each house.

I urge your "Yes" vote on this constitutional amendment.

CLARK L. BRADLEY
Member of Assembly, Twenty-eighth District, Santa Clara County

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18 **INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 63.** Makes judge of a justice court eligible for office as judge of a superseding municipal court established before January 1, 1960, even though he is not an attorney, where he has served as inferior court judge continuously since November 7, 1945.

YES	
NO	

(For Full Text of Measure, See Page 49, Part II)

Analysis by the Legislative Counsel

Article VI, Section 23, of the Constitution now restricts eligibility for municipal court judgeships to persons who have been admitted to the practice of law for at least five years. The inferior court reorganization plan, which was adopted by the electors on November 7, 1950, contemplated that some justice's courts and other inferior courts, whose judges were not required to be lawyers, would be superseded by new municipal courts. To protect the status of non-lawyer judges whose courts were superseded by new municipal courts, an exception to the requirement of admission to the practice of law was made so that any person who was an elected judge or justice of a court existing on November 7, 1950, and who had served as such for five years prior to that date, was eligible to be a judge of the new municipal court which superseded such court. This exception does not protect a non-lawyer judge in the case where his court was superseded under the 1950 reorganization, either by a justice court or by a municipal court of which he continued to be judge, if such justice or municipal court is in turn subsequently superseded by a new municipal court. Such non-lawyer judge would not be eligible to continue as judge of the new municipal court.

This amendment to Section 23 would provide continued eligibility for any person who has served as judge or justice of the peace, since November 7, 1945, of a court superseded either by a justice court or a municipal court under the 1950 reorganization. Such a person would be eligible to become judge of any new municipal court which, in turn, supersedes the court created under the 1950 reorganization if (a) he has continuously served as judge of the reorganized court until it is superseded, and (b) it is so superseded before January 1, 1960.

Argument in Favor of Assembly Constitution Amendment No. 63

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 the judge of such municipal court 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 rendered an opinion that the term "existing court" applied only to the court that existed at the time of the adoption of the Reorganization Act in 1950, and that from and after that time no Judge of a Justice Court would be eligible to succeed to a Municipal Court which superseded his Court unless he was an attorney. This construction was contrary to the intent of the Legislature in proposing the 1950 Constitutional Amendment.

In order to clarify the interpretation of the t "existing court" and to preserve the spirit intent of the Legislature to permit experienced incumbent Judges of Justice Courts to continue

in office, even though their Courts were changed to Municipal Courts, the 1955 Legislature proposed this present amendment to be submitted to the voters by eliminating the phrase "existing court."

By adopting the present amendment, the people 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. When a Justice has been in office for many years, he has met with approval at the hands of the people, and through the experience gained is qualified to serve as Municipal Court Judge.

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.

ALLEN MILLER
Assemblyman, 41st District

Argument Against Assembly Constitutional Amendment No. 63

This proposed constitutional amendment should be defeated because it represents a very definite backward step in the continuing efforts of citizens from all walks of life to improve the administration of justice in our courts.

It would have the absurd effect of permitting non-lawyers to decide controversies without a demonstrated knowledge of the rules and principles of law which they are constitutionally bound to apply. If the public interest is best served by requiring lawyers to pass an exacting test of their qualifications to practice, how much more does this same public interest demand that the presiding officers of our courts be required to demonstrate at least as much knowledge of the law as those who merely practice before them?

If failure to pass this amendment would work a hardship on a considerable number of inferior court judges one might be inclined to sacrifice efficiency for reasons of sympathy This however is not the case. At most, only one or two courts may ultimately be affected. There is no immediate need for the amendment and no hardship will be brought on any one if it fails of adoption. On the other hand a dangerous precedent will be continued if it should be adopted.

JOHN A. O'CONNELL
Assemblyman, 23rd District

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19 **STATE BOUNDARIES. Senate Constitutional Amendment No. 13.** Empowers Legislature to change, alter and redefine California's state boundaries in cooperation with adjoining states and subject to approval of Congress. Authorizes legislation to adjust property taxes as required by such boundary changes.

YES	
NO	

(For Full Text of Measure, See Page 49, Part II)

Analysis by the Legislative Counsel

This measure would empower the Legislature to change, alter, and redefine the boundaries of the State as now set forth in the State Constitution.

These powers could only be exercised by the Legislature in cooperation with the properly constituted authority of any adjoining state, and the change may only become effective upon approval of the United States Congress.

The Legislature would be authorized, in connection with such change, to provide for all matters involving property taxation affected by the change.

Argument in Favor of Senate Constitutional Amendment No. 13

The present boundary between California and Arizona is down the mid-channel of the Colorado River. The meandering of this river has created problems of boundary control and uncertainties as to the true boundary location since the adoption of the Constitution in 1850. With the admission of Arizona to statehood in 1912, this meandering assumed inter-state importance and has seriously hindered proper governmental administration along the Colorado River. Without a clearly defined State boundary, County Assessors are uncertain as to what property to include on their assessment rolls; the detection, prevention and prosecution of criminal acts is hindered by the uncertainty of jurisdiction of law enforcement agencies; administration of fish and game laws and of health and sanitation ordinances is complicated; State subventions for educational purposes cannot be properly made; for certain transportation facilities such as roads and bridges the apportioned costs thereof are not known to be legitimate expenses by County and State agencies; uncertainties are encountered in the administration of water rights; and uncertainty arises in the registration of voters and establishment of polling places.

Arizona has the same problems as those encountered in California, an identical constitutional amendment now being before the people of that State. A definite boundary line not continuously moving with the meandering of the river has been recommended by the Colorado River Boundary Commissions of the respective states. This recommended boundary line may be adopted by the Legislatures of the adjoining states with the approval of the Congress of the United States, and, if conditions warrant, may be changed by cooperative legislative action and Congressional approval, thus providing an interstate boundary in keeping with the needs, growth and change of conditions as may develop in the future.

JAMES E. CUNNINGHAM, SR.
State Senator

ROBERT I. McCARTHY
State Senator

INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 63. Makes judge of a justice court eligible for office as judge of a superseding municipal court established before January 1, 1960, even though he is not an attorney, where he has served as inferior court judge continuously since November 7, 1945.

18

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 ~~for five consecutive years immediately preceding the effective date of this amendment~~ **since November 7, 1945, as such judge or as a justice of the peace of a court superseded by a justice or municipal court and has served continuously as a judge of such superseding court after such date until the establishment, prior to January 1, 1960, of a municipal court,** shall be eligible to become the judge of a municipal court ~~by which the existing court is superseded~~ **which supersedes the court of which he is judge** 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.

STATE BOUNDARIES. Senate Constitutional Amendment No. 13. Empowers Legislature to change, alter and redefine California's state boundaries in cooperation with adjoining states and subject to approval of Congress. Authorizes legislation to adjust property taxes as required by such boundary changes.

19

YES	
NO	

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in **BLACK-FACED TYPE** to indicate that they are **NEW.**)

PROPOSED AMENDMENT TO ARTICLE XXI

Sec. 2. The Legislature, in cooperation with the properly constituted authority of any adjoining state, is empowered to change, alter, and redefine the state boundaries, such change, alteration and redefinition to become effective upon approval of the Congress of the United States. The Legislature, in connection with such change, alteration or redefinition of boundaries may provide for and deal with all matters involving the taxation or the exemption from taxation of any real or personal property involved in, or affected by, such change, alteration or redefinition of boundaries.