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ABSENCE OF JUDICIAL OFFICERS FROM
STATE. AUTHORIZING LEGISLATURE TO
CHANGE NUMBER OF SUPERIOR JUDGES

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American principles of home rule and citizen participation in state affairs the rights of the people must be amply defined and arbitrary action of officials circumscribed. The only way which this can be done is by ample constitutional provisions, and giving each citizen a fair, open and unlimited opportunity to consider every new change proposed. The Constitution, therefore, should be amended only part by part,

subject by subject, and never by any method that subjects the future welfare and fortunes of the people to the hazards of a constitutional convention, composed of a limited number of persons, each one working for his own interest and willing to take a gambler's chance upon the outcome.

THOMAS A. MALONEY,
State Senator, Twenty-third District.

ABSENCE OF JUDICIAL OFFICERS FROM STATE. AUTHORIZING LEGISLATURE TO CHANGE NUMBER OF SUPERIOR JUDGES.

24

Assembly Constitutional Amendment 27. Amends Section 9, Article VI, of Constitution. Prohibits Legislature from granting leave of absence to any judicial officer; declares any such officer who absents himself from State for more than sixty consecutive days forfeits his office, but Governor may, on terms fixed by him, extend said period. Authorizes Legislature, by two-thirds vote of each house, to increase or diminish number of Superior Court judges in any county or city and county, but any reduction shall not affect elected judge.

YES

NO

(For full text of Measure, see page 33, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 27

The Assembly Constitutional Amendment No. 27, seeking to amend Section 9 of Article VI of the State Constitution by vesting the Governor with the power and authority to extend the period of absence from the state of judicial officers beyond the sixty-day limitation, has received the unanimous concurrence and approval of all persons familiar with the administration of justice and court procedure in this state.

The present limitation, with the resultant forfeiture of office in the case of an absence for a greater period, has been conceded by all those familiar with the present conditions to be too stringent and to have become particularly unnecessary with the advent of the Judicial Council.

While the inhibitions might have been salutary and necessary in the past, when we had but one Appellate tribunal in this State, and but too few judges in the courts of original jurisdiction of the several counties, the reasons for the law have manifestly ceased to exist now, for the Judicial Council may, in order to expedite the business of the several courts of original and Appellate jurisdiction, assign judges from one court to another of like or higher jurisdiction.

That the present restriction may operate as a deterrent for some able and efficient man to seek judicial office, or forcing those holding such office to relinquish same by reason thereof under certain compelling circumstances, is so plainly obvious that it requires no argument.

Judges have in the past by reason of the said restriction been forced to forego necessary vacations where health absolutely demanded it, and others, after long, faithful and arduous services, been thereby deprived of merited vacations.

Likewise have judges thus been prevented from making personal survey or investigation of procedure and administration of justice in other states, much less in other countries.

The case of Judge Hollzer, of the Superior Court of Los Angeles County, and Research Secretary for the Judicial Council, might well illustrate the necessity of the amendment. His investigations for the Judicial Council have upon numerous occasions taken him beyond the boundaries of the state for extensive periods.

A leave of absence for a longer period can only be granted by the Governor, and upon terms which he in his discretion may impose. and he, naturally, will not grant an extension unless the circumstances should warrant and justify it, and not unless suitable provisions could be made for the handling of the judicial business of the absentee.

The amendment is but one of the many steps recently taken in the direction of making judicial office more attractive to our most eminent and capable jurists. It will eliminate an archaic provision of the Constitution, the reasons for which have ceased to exist.

We should apply the time honored maxim that when the reason for a law ceases to exist the law itself must likewise cease.

An affirmative vote will be a vote for progress, efficiency and justice.

HARRY LYONS,
Assemblyman, Sixty-fourth District.

ERNEST C. CROWLEY,
Assemblyman, Tenth District.

Argument Against Assembly Constitutional Amendment No. 27

The Constitution provides that any judicial officer absenting himself from the State for more

[Twenty-nine]

than sixty consecutive days shall be deemed to have forfeited his office. The proposed amendment provides that the Governor of the State may, at his discretion and on such terms as he may fix, extend this period.

There are few occasions that require a judicial officer to absent himself from the State for more than sixty days. With the overflow of judicial business confronting the courts, there should be fewer of these occasions. Vacations are liberal enough, more so than in any other profession or business.

The effect of extensions of the term of absence, where necessary, may be arrived at without any change in the Constitution. The Governor may reappoint the judicial officer upon his return to the State and to his duties. This, it would seem, should provide the machinery to prevent any injustice being done without further amending the Constitution with a provision that would permit extended absenteeism.

Under the amendment, extensions of leave over long periods of time would be passed up to the Governor. It would inevitably result

in opening up charges of favoritism and would force upon the Governor the necessity for decisions that might affect his political fortunes. Moreover, there is the danger always present when a precedent is set, that once such a precedent is established every judicial official would deem it his right to have an extension similar to that granted an associate. As the law now stands, the parity of all is made plain in the Constitution, and no judge may feel unjustly treated by comparison with others.

Moreover, there seems to be no real demand for this change. The writer has not heard the judicial officers of the State join in a demand for further leeway than the considerable time allowance already granted.

It appears that this amendment is unnecessary; and unless there is obvious need for a change in the Constitution, it is unwise to further clutter up the Constitution with amendments that do not serve the public good.

RAY C. DEYOE,

Assemblyman, Forty-eighth District.

<p>SUFFRAGE. Senate Constitutional Amendment 33. Amends Section 1 of Article II of Constitution. Requires forty days residence in precinct, instead of thirty days, as a qualification to vote; declares person removing within forty days of election from precinct wherein registered to another precinct in same county shall for that election be deemed elector of former precinct and may vote therein; authorizes Legislature to provide, by general law, for casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein, by reason of physical disability, on election day.</p>	YES	
	NO	

(For full text of Measure, see page 34, Part II)

Argument in Favor of Senate Constitutional Amendment No. 33

This proposed Amendment to our Constitution, if adopted, will permit the extension of the period between the closing of registration and the election from thirty to forty days, and it will also give the Legislature authority to broaden the provisions of law relative to absent voters.

Increasing numbers of voters each year, particularly in the more populous centers, such as Los Angeles, San Francisco and Oakland, have made inadequate the thirty-day interim now given county clerks and registrars of voters to prepare for election. A forty-day period, which will be permitted by this Amendment, will remove the danger of an eventual breakdown in the election machinery in some of these offices and will also effect a saving in public funds which are now used in employing a great number of extra clerks. In addition, the voter will receive his sample ballot, pamphlets, and arguments at an earlier date and therefore will have more time to study and consider the issues presented to him.

[Thirty]

The Amendment also strikes out of the Constitution all the detailed provisions of law relative to absent voters, and gives the Legislature broad power to provide for extending the voting privilege to all registered voters who will be absent from their precincts on election day and who are unable to vote on account of physical disability. Minor changes in the absent voters' law have necessitated a resort to the machinery of amending the Constitution twice in the last four years. Under this Amendment necessary changes in the details of the absent voters' law may be made by the simpler and less expensive process of legislative enactment.

We believe that the changes proposed by this Amendment will make for greater economy and efficiency in connection with the administration of the subject matter discussed and that this Amendment should therefore receive the support of every voter in this state.

Vote "YES."

FRANK C. WELLER,
State Senator, Thirty-sixth District.

BERT A. CASSIDY,
State Senator, Third District.

transmitted. The secretary of state shall have authority and it shall be his duty to compel the making and transmission of such returns, and, when the same have been received by him, he shall forthwith prepare and present to the governor a complete abstract of the whole number of votes cast in favor of the new constitution and of the whole number of votes cast against the new constitution. If it shall appear from such returns that a majority of the electors voting at such special election on the ques-

tion of the adoption or rejection of such proposed new constitution shall have voted in favor of its adoption, the governor shall forthwith issue his proclamation declaring the result of said election and proclaiming such new constitution, thus ratified by the people as aforesaid, to be the constitution of the State of California, and the same shall thereupon become and be, subject only to the constitution of the United States of America, the supreme law and constitution of the State of California.

ABSENCE OF JUDICIAL OFFICERS FROM STATE. AUTHORIZING LEGISLATURE TO CHANGE NUMBER OF SUPERIOR JUDGES.

24 **Assembly Constitutional Amendment 27.** Amends Section 9, Article VI, of Constitution. Prohibits Legislature from granting leave of absence to any judicial officer; declares any such officer who absents himself from State for more than sixty consecutive days forfeits his office, but Governor may, on terms fixed by him, extend said period. Authorizes Legislature, by two-thirds vote of each house, to increase or diminish number of Superior Court judges in any county or city and county, but any reduction shall not affect elected judge.

YES	
NO	

Assembly Constitutional Amendment No. 27—A resolution to propose to the people of the State of California an amendment to the constitution of the State of California by amending section 9 of article six, relating to absence of judicial officers from the state.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its forty-eighth regular session commencing on the seventh day of January, 1929, two-thirds of all the 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 section 9 of article six of the constitution of this state be amended to read as follows:

(This proposed amendment expressly amends an existing section of the constitution; therefore **EXISTING PROVISIONS** proposed to be

DELETED, if any, 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. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office; **provided, however, that the governor of the state may in his discretion and on such terms as he may fix, extend said period.** The Legislature of the state may, at any time, two-thirds of the members of the Senate and two-thirds of the members of the Assembly voting therefor, increase or diminish the number of judges of the superior court in any county, or city and county, in the state; provided, that no such reduction shall affect any judge who has been elected.