

House Judiciary Cmte. meets at
7:30 p.m. on Wednesdays.

JUDICIARY

Senate Jurisprudence Cmte.
meets on Tuesday at 2 p.m. Lt. Gov's
Comm. Rm.

Support SJR 2 by Sherman, Andujar, and Gammage. Providing for the merit selection
of judges. *Introduced 1-17-73. Never came out of
Committee.*

~~January 12 - Read first time and referred to Committee on Judiciary~~
Senate Jurisprudence
Still in Committee

Support HJR 3 by Grant, Powers, and Gene Jones. Providing for the merit selection
of judges.

January 12 - Read first time and referred to Committee on Judiciary

Still in Committee *5/2 Considered in hearing.*

SJR 2 and HJR 3 are companion bills

Support SJR 4 by Herring and Gammage. Revision of Article V - Unified Judicial
System, Judicial Council, Qualifications Commission.

Proposing an amendment to the Constitution of the State of Texas
revising Article V thereof to provide for a unified judicial system
composed of a supreme court, courts of appeal, district courts and
county courts, and authorizing the legislature to prescribe juris-
diction thereof; providing for nonpartisan election and the qualifications,
tenure and retirement of judges; creating a Judicial Council and providing
for the appointment and tenure of its members and prescribing its duties;
providing for administration and financing of the judicial system, for a
Judicial Qualifications Commission, for a county commission, for the
election and duties of county officials, and for temporary continuance
of the offices of justice of the peace and constable; and providing
transitional provisions.

February 28 - Time for Action sent to LLs with members on Senate Jurisprudence
March 6 - Sent to subcommittee. (Will get subcmte. members later) Cmte.

Helen Hunter testified. See Newsletter 3 for report.

DFA to all members on Jurisprudence Cmte.

Committee Substitute passed Senate, Pending in House

HJR 9 by Hale, Grant, Powers, G. Jones and Vick. (Same as SJR 4)

January 24 - Introduced and referred to Judiciary Committee.

Before the deadline for introduction of bills, Hale introduced a
package of 8 bills in the 1400's. These are individual bills breaking
up sections of HJR 9. Due to the rush of printing bills, these were
not available yet.

Both Herring and Hale have separate bills creating the Texas Judicial
Council for continuous study of and report upon the judicial system of
the State, for gathering judicial statistics and other data, and for
devising methods for the improvement of judicial administration and
procedures; prescribing the membership of such council, prescribing its
duties and powers; providing for the payment of the necessary expenses of
the council and its members, including clerical expenses... (SB 30 and HB 174).
We have no position on these provisions.

*Apr 11/13 -
Committee Substitute
reported favorably.*

*Asked
Richie to get
in note 3-24
House Judiciary
Committee w/ HJR 9.
(Reform of lower
courts shot down.)*

JUDICIARY

Status
3/24/73

No Position SJR 20 by Gammage. Proposing an amendment to the Constitution of the State of Texas, revising Article V to provide for a unified judicial system composed of a supreme court, a court of appeals, and circuit courts; creating a judicial council; providing for nonpartisan election of judges; providing for administration and financing of the judicial system and for a judicial qualifications commission; providing transitional provisions.

March 5 - Introduced and referred to Jurisprudence Committee

(~~Explanation will be in Newsletter 3~~)

No position SJR 27 by Mengden. Proposing a constitutional amendment providing for the selection of the elective judges and justices of the courts at nonpartisan elections held in the odd-numbered years.
(FYI)

FYI HB 81 by Williams. Removal of justices of the peace by amending the definition of "incompetency" and adding an additional 20-hr. course each year for jps who are not licensed attorneys.

February 28 - Passed House on third reading by voice vote

March 1 - Introduced in Senate and referred to Jurisprudence

Our support position calls for all judges to be lawyers; however, we wouldn't oppose any additional education that may be required until such time that being a lawyer is a requirement.

Revised - Sent to Senate May 22.

HB 82 by Gammage, part of the unified judicial system

is included

The Commission on Judicial Education

was introduced along with

HB 81 by Williams. Nothing to be done

Committee to continue a confidential

study of the judicial system

and to report to the Legislature

Adopted Report

of the judicial system

JUDICIAL REFORM

Fourth in League priorities are positions on the Judiciary. As various pieces of legislation are introduced, we will restate our positions, such as those on single courts of record and selection and tenure of judges.

Lt. Governor Hobby has listed revision of the Penal Code as put forth by the State Bar Association and court reform as outlined by Chief Justice Calvert's Task Force as third in his list of priorities.

Although there are many interesting issues in the area of judicial reform, we do not have positions on many of the measures that will definitely be tackled, such as marijuana laws, abortion, bail, etc. The Penal Code Revision failed two years ago because of these controversial issues, so wisely, they have been omitted this time from the Code revision and will be taken up as separate laws.

HJR 3 by Grant, Powers, and G. Jones. A Joint Resolution proposing an amendment to the Constitution amending Article V to provide for the merit selection of Justices of the Supreme Court and Judges of the Courts of Appeals; creating a Judicial Nominating Commission; establishing terms of office for all judges; and authorizing the legislature to provide for merit selection of Judges of the District Courts and County Courts. Referred to Committee on Judiciary.

This merit selection proposal was introduced in the House on January 12 by Ben Grant, and in the Senate by Sen. Max Sherman of Amarillo, Betty Andujar of Fort Worth and Bob Gammage of Houston.

Chief Justice Calvert's Task Force for Court Improvement met on December 15 and revised its draft of a judiciary article for the Texas Constitution. The draft has been submitted to the Legislature. The Task Force proposal is being submitted as two separate amendments, one proposing a revision of the entire Article V and one proposing merit selection of judges. The League has been solicited for assistance on these amendments. Since these resolutions have not been fully analyzed by the Executive Committee we cannot take action at this time. But be prepared to act immediately when the O.K. is given.

SJR 4 by Charles Herring of Austin. Court Revision.

Senator Herring has introduced the main part of a court revamping proposed by a special chief justice's task force for court improvement, calling for a rewrite of Article V of the state constitution - the article which deals solely with the judiciary.

A companion bill in the House will be carried by Rep. L. Dewitt Hale of Corpus Christi, chairman of the House Judiciary Committee.

Because of the controversial issue of the selection of some levels of the judiciary by an appointments commission, the task force decided to submit this provision separately. Herring's bill provides for non-partisan election of all judges.

SJR 4 contains the following proposals:

SJR 4 (continued)

- Merge the court of criminal appeals and the Texas Supreme Court into a single court of last resort for both civil and criminal matters.
- Civil Appeals Court would become general appeals courts, hearing both civil and criminal cases. Their decisions would be final in most cases.
- Provide a statewide system of county-level courts, with judges who are lawyers, to replace certain specialized courts below the district level.
- Eliminate specialized district-level courts, such as domestic relations and criminal district courts, making their judges regular district judges.
- Lifetime office for justices of the peace and constables in office at the time the court reorganization passes, then eliminate the jobs entirely when they leave office because of resignation, removal or death.
- Centralized control of the entire court system, so that judges could be assigned where caseloads dictated a need.

.... If approved by the Legislature, the rewrite of Article V could go before the voters in November 1973 or could be incorporated in the new constitution to be written in 1974.

For background on action taken in the 62nd Legislature on selection and tenure of judges, refer to 1971 issues of the Legislative Newsletters.

MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY:

Hale, Chairman; Grant, Vice-Chairman

Speaker's Appointments: Baker, Bales, Coleman, Cooke, Denson, Donaldson, Evans, Garcia, Heatly, Henderson, Hudson, Jones of Harris, Maloney, Nowlin, Peveto, Rosson, Sullivant, Vecchio, Vick, Washington.

Seniority: Powers

Note to Leaguers: Legislative Interviews showed that quite a few legislators are unfamiliar with the Merit Plan for selection of judges. Please check your copy of the interview and if your legislator is not familiar with our positions, please get as much information to him as possible. It is imperative that all legislators be familiar with this subject, so we are counting on you to do some lobbying!

JUDICIAL REFORM

Evaluating judicial candidates is at best a difficult task for most voters - even the conscientious ones who try to obtain information on each candidate. How does the voter recognize the candidates who are capable, dedicated and conscientious unless he has personal acquaintance with them? To resolve this dilemma many states have turned to some form of merit plan as a means of assuring that judges will be free of political bias and possessed of proper qualities of temperament and intellect, while still retaining ultimate control of the courts in the hands of the people.

The Merit Plan

A merit plan for judicial selection and tenure originated with the American Judicature Society in 1914. The first state to adopt it in its present form for certain courts was Missouri, in 1940. As a result, the terms "Missouri plan" and "modified Missouri plan" are sometimes used to designate a merit plan for the selection and tenure of judges based on the following points:

1. Nomination of qualified candidates by a commission composed of legal and lay people.
2. Filling of judicial vacancies by governor appointment from names submitted by the nominating commission.
3. Retention of a judge in office at the end of each term only by vote of the people.

The League of Women Voters of Texas recommends that Texas adopt a merit plan incorporating all of the above points. Changing the method for filling judicial vacancies in Texas requires amending the Constitution by a vote of the people.

Opposition to the merit plan in Texas appears to be based on a reluctance to relinquish the right of the people to elect their officials. It is true that under the merit system the people would not select individuals to fill judicial vacancies. On the other hand, the people do not presently fill judicial vacancies when a new court seat is created, when a seat is vacated between elections, or when a candidate is on the ballot unopposed.

Under our present system no judicial candidate can be defeated at the polls if he is unopposed on the ballot. Under the merit system, no judge can be returned to office without the approval of the voters. The League of Women Voters contends that this feature of the merit plan, together with the provision for initial appointment from a list of qualified nominees by a governor who is himself elected by the people, would secure adequate control of the courts to the people of this state.

The League would like to see a judicial merit plan amendment on the ballot next November. Toward this end we will support legislation in the present legislative session. The League has joined with Chief Justice Calvert's Task Force to work for adoption of a judicial merit system. If the required amendment fails to reach the November ballot by way of the legislature, constitutional revision remains as a possible vehicle.

One of the measures, which was mentioned in the last Newsletter, is HJR 3 by Ben Grant of Marshall, Pike Powers of Beaumont, and Gene Jones of Houston, is being supported by the League. Its companion in the Senate is SJR 2 by Max Sherman of Amarillo, Betty Andujar of Fort Worth, and Bob Gammage of Houston.

HJR 3 by Grant, et al. Selection and Tenure of Judges

Analysis: Creates an 11-member nominating commission composed of the Chief Justice of Texas who shall be chairman, two lawyers selected by the board of directors of the state bar, two citizens who are not lawyers appointed by each of the following: governor, lieutenant governor, and the speaker of the house of representatives, and one judge of a court of appeals and one district judge appointed by the supreme court.

Sets the terms of the appointed members of the Judicial Nominating Committee at six years.

Excludes the members of the Commission from holding any other public or political office, or be appointed to state judicial office during the term to which he is appointed.

Provides that any judge holding office prior to the effective date of this amendment shall be subject to re-election at the general election preceding the expiration of his term and every sixth year thereafter.

Provides that the governor shall appoint a person to fill a vacancy. If he fails to make an appointment within 60 days of receiving the list of 3 nominees from the Judicial Nominating Commission, the chief justice shall make the appointment. The person appointed shall face re-election at the first general election held more than 10 months after his appointment and every sixth year thereafter.

District judges shall be elected for six-year terms, or if the legislature so provides, by appointment by the governor from lists of nominees of district nominating commissions.

Establishes an effective date, contingent on the approval of the amendment to Article V of the Texas Constitution.

The last section explained here was not in the original Task Force proposal. It was added later, making the amendment effective only if the amendment revising all of Article V is adopted.

Senator Nelson Wolff, one of the leading proponents of constitutional revision, is against any attempts to amend the Constitution before the Constitutional Convention in 1974. Proponents of amending the judicial article before the Convention, however, contend that they may have a chance of achieving judicial revision earlier and if the convention writes a successful new constitution, the rewrite of the judicial article could be made part of it.

Calendar: Ralph Yarborough, Chairman, Judge Barbara Culver, M.F. (Mike) Frost, Rev. Zan Holmes, Jr., L. G. Moore
Seminar: Dr. Janice May, Chairman; William C. Donnell, Dr. Peter Flawn, W. James Kronzer, Earl Lewis
Citizens Advisory Committee: Judge Andrew Jefferson, Loys D. Barbour, Dr. Cleo Garcia, Bill Hartman, Mark McLaughlin
Constitutional Revision Committees: Leon Jaworski, Chairman; Roy Barrera, Sybil Hamilton, Mark Martin, F. L. Oakes, Jr.

The seminar was suggested by Commission vice chairwoman Milburn for the next full meeting of the CFC so that the members could hear lectures from a number of different constitutional experts. Janice May, chairman of the seminar committee, announced that the seminar would be held on March 28 and 29. All ad hoc committees were asked to be prepared to report to the commission at the seminar meeting.

Some disagreement arose concerning the budgetary allotments for the commission. Former Senator Ralph Yarborough felt that each member should have his/her own staff assistant as well as the general staff established in Austin. However, after a brief meeting, the budget committee moved that individual staffs not be established. After debate, the CFC decided to let the budget and staff committees have some interaction before a decision was made. Assigning some of the general staff to specific full committees when they are established was one alternative offered which appeared to have general approval.

In the future, meetings will be held on Fridays and Saturdays if possible.

FYI HCP 11 by Hale of Corpus Christi. Creating a Joint Constitutional Convention Planning Committee. Introduced January 24, 1973; referred to Rules Com.
(SCR 2 by Wolff)

Since the members of the 63rd Legislature will convene on the second Tuesday of January 1974 as a Constitutional Convention, a certain amount of planning needs to be done so as soon as possible after the convention is called to order it may proceed smoothly to the conduct of its business. This resolution therefore creates a joint planning committee composed of five members of the Senate appointed by the Lt. Governor and five members of the House appointed by the Speaker. The Lt. Governor shall designate the chairman of the committee and the Speaker shall designate the vice-chairman. The committee shall meet from time to time during the Regular Session to consider the needs of the convention as to facilities, funds, staffing, and all other matters relating to the operation of the convention. The committee shall report its findings and recommendations to the presiding officer of each House before final adjournment of the Regular Session of the 63rd Legislature. The resolution was adopted by the House without objection March 1. It was read and adopted in the Senate on March 8.

On March 21 the Lt. Governor announced the appointment of the following senators to the Constitutional Convention Planning Committee: Wolff, Hightower, Schwartz, Meier and Harris.

FYI SB 1 by Wolff. Appropriating funds for the Constitutional Revision Commission. (HB 119 by Caldwell and Von Dohlen) Passed Senate by vote of Yeas 30, Nays 1 (Blanchard) on January 30. Passed House February 8 by vote of Yeas 127, Nays 13: Agnich, Atwell, Bailey, Barnhart, Blythe, Bowers, Calhoun, Davis, Henderson, Maloney, Reynolds, Uher, Vick. Absent-Excused: Drumburger, Hestly, McAlister, McDonald, Montoya, Russell, Spurlock, Tupper. Absent: Slack. Chair not voting.

TEXAS JUDICIARY

The following was written by Jorg. C. Uppal.

TEXAS JUDICIAL SYSTEM: TIME FOR CHANGE

- The last time any major revision of the Judiciary Article of the Texas Constitution took place was in 1891, when the population of the State was a little over two million.
- Almost eighty years later and over five times the population growth, we are still operating with the nineteenth century machinery.
- We are one of last twelve states in the country without a state court administration system.
- The judicial problems concern and effect (sic) every citizen's constitutional right to obtain fair and speedy trial in the State because the deficiencies (sic) in the judicial process directly effect (sic) everyone whether or not they (sic) are litigants in civil and criminal cases.
- According to the 1971 Annual Texas Civil Judicial Council Report, the number of cases pending on December 31, 1971, were 19 percent higher than the ten year average.
- Of the 272,341 cases pending at the end of 1971, 16 percent had been on the docket for 12 to 24 months, and 25 percent, one in every four, had been pending over 2 years.
- Delays and backlogs can have the following consequences: 1) The deterrent effect of the punishment for those who offend or are liable to offend is diminished. 2) The confidence of the public in the judicial process is undermined. 3) Delays not only mean what it says - delay, but they also result in increased dollar cost to the public. 4) It directly affects our correctional institutions and the law enforcement functions, because police have to wait for the cases to come up. 5) It affects both the parties in the dispute, civil or criminal cases. 6) Sometimes there is a heavy social and economic cost for releasing those awaiting trial, offenders considered a threat to society. 7) The witnesses and jurors suffer inconvenience and financial sacrifice. 8) The offender, too, is economically affected whether or not he is found guilty. While a person awaits his trial, taxpayers must pay for his upkeep in the jail as well as pay for the welfare assistance for his family.

JUDICIAL REFORM NOT FARING WELL - So says the caption of an article in the Austin-American of March 23, 1973. The plan for judicial reform would, among other things, abolish the justice of the peace courts and absorb their functions into a county-level court system. And therein lies the trouble. The big trouble, according to Chief Justice Robert W. Calvert, is with the abolition of the JPs and constables. He said, "The JPs made a good pitch for a 'people's court' and it has had its effect." Calvert said that in the House, the sponsor, L. Dewitt Hale of Corpus Christi, is "not entirely in sympathy" with the Task Force's proposal, so the Task Force is "letting it repose quietly in the House until we can see what we can get in the Senate." He predicted that in the Senate the only change at the district court level and above will gain approval, and the Task Force will get nothing below the district court level.

The nine presiding judges of the state's administrative districts at a meeting held March 22, at which Justice Calvert spoke, unanimously approved a resolution by Austin's 53rd District Judge Herman Jones that the group endorses the objectives of the Task Force proposals.

Because of the importance of the proposals made by Chief Justice Robert W. Calvert's Task Force for Court Improvement, because Judicial Reform is one of the League of Women Voters' top priority items for this session of the legislature, and because not only may we be voting for a constitutional amendment or amendments, but because League members should also be aware of the changes for the upcoming constitutional revision, your legislative chairman has decided to give a full explanation of the proposals of SJR 4 as introduced in the Senate by Senator Charles Herring of Austin, and the companion bill, HJR 9 in the House being carried by Rep. Dewitt Hale of Corpus Christi. In the event that the proposals do pass out of committee, League members should be prepared to be able to fully defend and explain the proposals. It will be a tough fight.

In October 1971 Chief Justice Robert W. Calvert organized the "Task Force" which is composed of voluntary members who receive no compensation and have no interest except improvement of justice in Texas. After a year of study, debate, drafting and re-drafting, they proposed a complete revision of the Judiciary Article (Article V) of the Texas Constitution. Helen Hunter of Houston, who has worked closely with a group from Houston who is also committed to judicial reform, and who was invited to testify for the reform measures at a hearing on March 6 for the League of Women Voters, has written the following summary of the proposed Article V as it was drafted December 15, 1972. Helen is a Director of the LWV of Texas and is resource chairman of the judiciary item for the League.

SUMMARY

The judicial system is unified under the supervision of the Supreme Court. Only two levels of appellate courts (Supreme Court and courts of appeals) and two levels of trial courts (district courts and county courts) are permitted. All courts are made courts of record.

Jurisdiction of all courts at the same level is made uniform and left to the legislature. Throughout the proposed article, many important matters are left to the legislature, either expressly or by silence. The article is deliberately silent on many matters that are mentioned in the present judiciary article. The intention is to give the legislature greater flexibility in adapting the judicial system to future needs.

The Court of Criminal Appeals is merged with the Supreme Court. This will temporarily increase the membership of the Supreme Court to fourteen, but the number will be gradually reduced to nine as incumbents from either court vacate their positions.

The present courts of civil appeals become courts of appeals. The legislature is empowered to give the courts of appeals criminal as well as civil jurisdiction, determine the number of civil appeals courts, and increase the membership of any court of appeals to more than three.

One district court is created in each district, with as many district judges of each court and other officials as the legislature deems necessary.

The legislature is directed to create a system of county courts to perform the judicial functions now performed by all courts below the district level, with each county court having as many judges and other officials as the legislature deems necessary.

The article contemplates that all present judicial system personnel, including judges, clerks, prosecutors and other nonjudicial personnel, will be absorbed into the new court system. Members of the Supreme Court and Court of Criminal Appeals become justices of the Supreme Court. Judges of the courts of civil appeals become judges of the courts of appeals. District judges and special domestic relations and juvenile judges become judges of the new district courts. Judges of the county courts at law become judges of the new county court system.

County judges who are not lawyers become presidents of the county commission; county judges who are lawyers have the option of accepting that position or becoming judges of the new county court.

Justices of the peace and municipal judges who are lawyers are expected to be incorporated by the legislature into the county court system. Each justice of the peace in office at the time of adoption of the article will continue to hold office until retirement, resignation or death, at which time the office of justice of the peace will cease to exist. The duties of the office of justice of the peace will then vest in the county court.

The office of constable is provided for in the same manner, except that when the office ceases to exist, its duties vest in the office of the sheriff. No judicial office may be abolished during the term of the incumbent who holds the office on the effective date of the article.

The Chief Justice supervises the administration of all courts through a system of presiding judges and court administrators. Under rules of administration approved by the Supreme Court, the Chief Justice is empowered to transfer cases between courts of appeals and assign any qualified lawyer or judge to temporary duty on any court. (Only the full Supreme Court is given power to transfer a case between levels of courts.) Presiding judges are designated by the Chief Justice. The Chief Justice may delegate administrative duties to a statewide court administrator who in turn may delegate to regional court administrators working with presiding judges. (Some judges do not approve of the provision that gives the Chief Justice the full responsibility of designating presiding judges.)

Because of the importance of the administrative duties given to the Chief Justice, provision is made for designation of an acting chief justice during vacancies and periods of temporary disability. The Chief Justice also is permitted to permanently relinquish that office but remain a member of the court.

A Judicial Council, headed by the Chief Justice, is created to promulgate rules of administration, subject to Supreme Court approval, and perform such other functions as the legislature may provide.

All judges are selected by nonpartisan election. However, at the same election at which the proposed new judiciary article is submitted, voters will be given an opportunity to provide for merit selection of appellate judges. Merit selection will be submitted as a separate constitutional amendment. If that amendment is approved, appellate judges will be appointed by the Governor from a list of qualified nominees submitted by a Judicial Nominating Commission consisting of three judges, two lawyers and six laymen. At the expiration of their terms, judges will be subject to approval or rejection by the voters. If approved, they will continue in office for another term; if rejected, the office will become vacant and will be filled by the governor from a list of nominees submitted by the Nominating Commission. (This is the merit plan that the League has a support position on.) The legislature is permitted to extend merit selection to trial judges.

All judges are required to be lawyers, are prohibited from practicing law, and lose their judicial offices if they file as candidates for nonjudicial elective offices.

The present Judicial Qualifications Commission and all major provisions of the present judicial retirement, removal, censure, and compensation system, including mandatory retirement of judges at age 75, are retained. Details of that system are removed from the Constitution and are left to the legislature.

All judicial salaries are to be paid by the state. The legislature is empowered to provide for use of fines and other revenues generated by the courts to defray this expense.

The name of the county governing board is changed from county commissioners court to county commission to make it clear that that body is nonjudicial.

Each judicial district will have a district attorney and district clerks, who will be elected. Each county will have a sheriff and a county clerk, who will also be elected. Such county attorneys as the legislature deems necessary will be elected.

Provision is made for the state to be represented in all criminal cases by a district attorney or a county attorney, except in cases of disqualification.

Detailed provisions are made for the transition to the new court system, with a section permitting these transitional provisions to be removed from the Constitution when their purpose is accomplished. When the transition is completed, the complete article will be approximately 1,000 words in length, compared with approximately 5,000 words in the present Article V.

Note to Helen: This is a beautiful analysis and makes it clearer to all of us just what it's all about. Many thanks.

AT THE SENATE JURISPRUDENCE COMMITTEE HEARING ON SJR 4 on March 6, the "battle" lines were clearly drawn with the judges testifying for the bill and the justices of the peace and local officials (constables and DAs) bitterly opposing. Judge Calvert explained the work of the Task Force and the provisions of the amendment. Judges Greenhill, Roberts, Guittard and others spoke for the amendment, testifying that delays at trial and appellate levels were "appalling," and warned of the danger of a scandal in regard to administration of criminal justice within the present system; that overhaul of the judiciary would "unshackle" the legislature and allow them to respond to changing court problems without amending the constitution each time.

Several citizens groups spoke for the amendment also, including the League of Women Voters of Texas. (Testimony presented by Helen Hunter was mailed to all local League presidents and should be reproduced in local Voters for the benefit of local League members. Anyone wishing to obtain a copy of the testimony may obtain it from the State Office.)

The JPs and local officials who were opposed to eliminating the "people's court" stated that justices of the peace have been serving the people for 600 years; they serve the people at the grass roots; the problems JPs handle are not correlated with the higher courts; that "courts of record" wipes out the little guy; that the Chief Justice would be given "dictatorial powers" and that they didn't want to protect their jobs, but want to protect the people. Unquote.

Senator Herring pointed out that the resolution was not designed to abolish the lower courts but to upgrade them.

When the League Director left the hearing at 5 p.m., the JPs and DAs were still testifying.

SJR 20 by Gammage. At the Jurisprudence Committee hearing on March 6, Senator Gammage offered a proposal that would retain the justice of the peace and municipal courts. Municipal judges and justices of the peace who are licensed to practice law become associate "circuit" or district judges (in this bill the district courts are called circuit courts). Just as in SJR 4, however, all others become "magistrates" and only those who are licensed to practice law may try contested cases.

Both SJR 4 and SJR 20 were referred to subcommittee for further study. Wouldn't it be a shame to lose the improved provisions for Article V for the higher courts over a squabble to hold on to the lower courts, most of whose judges are unlicensed lawyers?

A Time for Action was sent to all local Leagues with members on the Senate Jurisprudence Committee on February 28. To date only three Leagues have sent a report of their action.

BEFORE THE DEADLINE for introduction of bills, Rep. Dewitt Hale introduced a package of eight bills which are individual bills breaking up sections of HJR 9, the companion bill to SJR 4 by Herring. Due to the rush of printing bills, these were not available yet.

Both Herring and Hale have separate bills creating the Texas Judicial Council for continuous study of and report upon the judicial system of the State, for gathering judicial statistics and other data, and for devising methods for the improvement of judicial administration and procedures; prescribing the membership of such council, prescribing its duties and powers; providing for the payment of the necessary expenses of the council and its members, including clerical expenses. These separate provisions - SB 30 and HB 174 - are also included in the omnibus bills SJR 4 and HJR 9. We have no position on these provisions.

SJR 2 by Sherman, Andujar, and Gammage, and HJR 3 by Grant, Powers, and Gene Jones - Providing for the merit selection of judges are still in committee. These are resolutions that we support.

We shall be watching all of these resolutions collectively and separately and will alert you when and if any of the provisions come out of committee and to the floor for a vote. In the meantime, do any homework with your legislators that may be needed. If most of the provisions in SJR 4 are retained, perhaps a reproduction of the analysis by Mrs. Hunter could be sent along with your letter to the legislator for his information, noting any changes they may be made.

FYI HB 81 By Williams. Removal of justices of the peace by amending the definition of "incompetency" and adding an additional 20-hr. course each year for JPs who are not licensed attorneys.

Our support position calls for all judges to be lawyers. However, we wouldn't oppose any additional education that may be required for justices of the peace until such time that being a lawyer is a requirement. This bill passed the House on third reading on February 28 by a voice vote. On March 1 it was introduced in the Senate and referred to the Jurisprudence Committee.

FYI SJR 27 by Mengden. Proposing a constitutional amendment providing for the selection of the elective judges and justices of the courts at nonpartisan elections held in the odd-numbered years.

We have no position on the subject of this proposed amendment.

FYI The House Judiciary Committee meets at 7:30 p.m. on Wednesdays. The Senate Jurisprudence Committee meets on Tuesday at 2 p.m. in the Lt. Gov's Committee Room.

Secrecy of the Ballot

HB 620 by Kubiak--removes detachable ballot stub and stub boxes in elections where paper ballots or punch cards are used, thus deleting the requirement of signing the ballot.

Support. See Newsletter #3, p.17.)

The bill passed the House on April 19th. Senator Patman will sponsor it in the Senate

H.B. 1282 by Rodriguez--imposes penalties for intimidation of a voter after an election. Reported out of committee on April 9th. Should be on House calendar this week.

Recodification

SCR 61 by Wolff--establishing interim committee for recodification of election laws. The Senate State Affairs Committee is opposed to an interim study commission. The bill has been sent to a sub-committee and various alternatives are presently being studied. There is no indication of when the sub-committee will complete its work.

Central Election Authority

H.B. 947 by Cole--Creation of an election administration in ^{any} county. Reported out of sub-committee, incorporating H.B. 979 and H.B. 994. Passed out of committee on April 16th with one amendment.

Amendment provides that the County Commissioners Court shall decide whether or not to adopt the plan for a County Election Administrator since the county will have to finance it. The Administrator will be selected by the County Election Board composed of the County Clerk, County Judge, Sheriff, and all party chairmen.

The registration certificate (with photograph and enclosed in plastic) specified in the plan is optional.

Restoration of Voting Rights

H.B. 1119 by Garcia--This bill would restore voting rights to felons who have served their sentence, and give those reghts to "paupers supported by the county." This bill may be unconstitutional because the section of the election code which it would amend is taken directly from the Constitution, Article VI, Section 1. The felon clause is subject to modification by the legislature, so we could support that portion of the bill.

Voters Information

H.B. 1529 by Harris. Adds a new section to the Election Code providing for Voters' Information Pamphlets to be distributed before each election.

H.B. 1545 by Denton--Provides for voter information broadcasts on television, paid for by state funds.

JUDICIAL REFORM

Capitol Corps: Ricki Cole, Janice May
S.J.R. 4 by Herring--Judicial Reform. For background see Newsletter #1, p. 12, and Newsletter #3, pp4-7.

Report of Senate Jurisprudence Committee Meeting, April 12th
Senators present: Braecklein, Herring, Hightower, Gammage, Sherman, Ogg, Mauzy, Mengden, Meier, Santiesteban
Sub-committee substitute presented, which would amend rather than rewrite Article V of the Constitution
(1) Court of Criminal Appeals merged with Supreme Court and reduced by attrition to eventual size of 9 members.
(2) Confer criminal jurisdiction on courts of civil appeal.
(3) Judicial system (district court) established in each district, with as many district judges as needed. These will be courts of general jurisdiction.
(4) Convert county courts of law to circuit courts if enabling legislation is passed.
(5) The remainder of the Article is left intact. (The justices of the peace, constables, and district attorneys remain untouched. The "peoples' court" will not be eliminated.)
Committee substitute accepted 10-0 and sent to the full Senate. There was very little discussion of the changes. Herring referred to the substitute as an "art of the possible" legislation. On April 16th Senator Herring presented CSSJR 4 for the second reading. It has been placed on the calendar.

Support

M.B. 624 by Jones of Harris--Operation of Justice Courts of Record
-This bill provides that justice courts shall be courts of record
-Each justice to preside over one justice court
-Provides for transfer of cases between justice courts in the precincts in which there are two justices
-Justices of the peace to be licensed attorneys
Present JPs who are not attorneys to serve out their term and succeed themselves if, within one year, they complete a minimum 40 hour course in performance of their duties.
If no attorney files for office or was available for appointment a non-qualifies person may take office if, within one year, he completes the 40 hour minimum course.
-Justice of the peace compensation to be paid by county on a salary basis
-Justices of the peace authorized to transcribe proceedings.
Appeals from justice of the peace courts shall not be by trial de novo.
-All counties required to furnish court rooms, jury rooms, libraries, legal books, materials as commissioners court deems necessary for proper performance of duty. Formerly, only counties in excess of 1,500,000 population have been required to do so.

S.B. 30 by Herring--Creating Texas Judicial Council.

This bill is designed to update the existing Art. 23, 28A of the Texas Constitution, written in 1929, which establishes the Civil Judicial Council. Primarily, the word "civil" is removed and the article is re-written to reflect the civil-criminal duality of the law.

The bill was amended in committee to delete sections calling for training courses and handbooks for the judiciary.

The amended bill was passed unanimously out of committee on April 17th. It has passed the Senate and is now in the House Judiciary Committee. 7.7.7.

No position.

Changing name + making of Council in order that it can deal with criminal as well as civil matters.

CS SB 30 - Read second and third times on May 8. Passed by vote of 31-0 on both votes.

May 10 - Referred to House Judiciary Committee.

HSR. 96 - Hoke. Authorizing the House Judiciary Committee to continue a comprehensive study of the judicial system of the state. Introduced April 4.

ENVIRONMENTAL QUALITY

Capitol Corps: Judy Parken and Joyce Klein
Report on status of bills:

H.B. 205 by Hawkins Menefee--relates to allowing law suits to protect air, water, and natural resources from pollution. The League supported this bill and gave testimony (see Legislative Newsletter #3, p. 19). The bill was gutted by amendment proposals and officially dropped by Menefee. It is considered dead.

Support

S.B. 70 by James Wallace--This is the Senate version of HB 205 and has been reported favorably out of committee and possibly will be coming up for Senate vote next week. Environmental law suits may yet become a reality if S.B. 70 passes. Contact your Senator about this bill.

S.B. 200 by Babe Schwartz--pertains to Land Use Management and a land inventory. This bill was gutted and is considered dead.

Support

H.B. 646 by Carl Parker--deals with creating an Office of Environmental Quality as well as requiring environmental impact statements. (See Newsletter #3, p. 18). It was on the agenda for the second reading on the House floor, the Thursday before Easter. However, due to the heavy load of appropriations bills, H.B. 646 will probably be delayed until the following week. If you have not written or called your Representatives on behalf of this bill, there is still time.

S.B. 453 by Bill Braecklein--This is the Senate version of H.B. 646. It was heard in the Human Resources committee. Dr. Jared Hazleton, Economist, and Dick Shannon, Austin lawyer, spoke in favor of the bill. Opposition came from Hugh Yantis (Head of the Water Quality Board) on the grounds it would create additional expense to the agency. Oil companies also opposed it because of costly delays they claim may result. The bill was referred to subcommittee. The Senate Human Resources Committee members are: Brooks, Chairman, Meier, Vice Chairman, Andujar, Braecklein, Clower, Gammage, Harris, Kothmann, Mengden, Patman, and Schwartz.

STATE -LOCAL RELATIONS

Capitol Corps: Rose Lancaster and Peggy Gunn
Report on status of bills:

H.B. 167 by Kaster--County authority to establish building codes set subdivision standards, etc. Passed by the House on March 21, and sent to the Senate. It was referred to the Intergovernmental Relations committee and is slated to be heard on April 24th. The bill was amended to require a local option election before a county may exercise the land use standards authorized by the legislation.

H.B. 105 by Dramberger--on land use, permissive county zoning. The bill has been reported out of the House Intergovernmental Affairs



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Ronald Earle

475-2421

Call re tonight & what
happened last nite.

Wacey - 475-2896
Jenkins Office - their files to
be heard
to [unclear]
8TS 558 - Brooks 7.



only 3
responses
to SJR
TPA
Austen
there.

ROSCOE, SNYDER & PACIFIC RWY.

Hale "package"

1401 — 1406 (6)

1407 — Newlin (7)

earlier bill 725 (8)

Note sent by add to Helen -

We all need these

bills & HJR-9 to

Helen. Remind Helen
to endorse those bills
we are in accord with.
(over)

Note to Helen

3-24-73

re flyers we
talked about
at last Board
meeting to go to
L.L.S. After SPR
out of committee?

House Panel Approves Bill Widening Grand Jury Power

Associated Press

The House Criminal Jurisprudence Committee has approved a bill that would permit grand juries to investigate and report on anything they want to.

Grand juries historically have done this, but the late Atty. Gen. Crawford Martin issued an opinion last year saying the only thing grand juries can do is hand down indictments.

Martin's opinion was requested by state District Judge Jerry Woodard of El Paso, who had refused to release a grand jury report critical of the manner in which Dist. Atty. Steve Simmons' office handled a case.

Martin said the grand jury had no power to make such a report and that the judge could keep it secret.

Grand jury reports have been used in the past to alert com-

munities to problems such as the growth of illicit drug traffic.

The House bill, by Rep. Doyle Willis, D-Fort Worth, was approved Friday night by a 7-3 committee vote, with three

members voting "present."

It now goes to the House floor for debate.

An attempt to put the measure on the calendar for untested bills failed on a 3-3 vote, with six voting present.

CHARTER

The following story is true. And recent:

A man was arrested in Houston on a charge of assault. Unable to make bond he was placed in jail to await trial. Several months later he wrote the judge asking for a lawyer to defend him. The judge appointed one, but the lawyer never went to see the man. In the meantime the record of the man's being in jail was lost. After awhile, he began writing letters again, but to no avail.

There is in Houston as in most cities a holding cell for prisoners who are coming up for trial. It is midway between the jail and the courtroom — it's a kind of purgatory. Well, our man made it to purgatory a couple of times, but he never made it into the courtroom.

After almost a year he finally made it to trial. But the plaintiff, who had filed the charge against him, was nowhere to be found, so back went our defendant to purgatory and then to jail. He went to court a second time soon thereafter, but still no plaintiff, so the charge against him was dismissed.

They finally found the plaintiff. Do you know where he was? He was in jail, too.

Humorous? Maybe. But outrageous — and unnecessary.

If you are interested in improving our court system, in making it more effective in providing justice for all citizens, then write or call:

Texas Citizens for Court Improvement, Inc.
723 Main Street, Suite 200
Houston, Texas 77002
telephone: 713-222-1441

Texas Citizens for Court Improvement, Inc., was established in September, 1972, to provide support for an effective judiciary. We believe the need for justice is too great to wait any longer. We encourage your assistance, either financial or in time and energy, and we encourage you to join our membership. Contributions are tax deductible.

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FOR TEXANS: JUSTICE DENIED?

Texas Citizens for Court Improvement, Inc.

THE PROBLEM

To provide justice is the first and fundamental duty of state government. Essential to this task are fair laws, good judges and a speedy trial. We have in Texas both fair laws and good judges. But our state is failing to provide full justice because of delays in the judicial process, because of failure to ensure a speedy trial. Men ultimately judged innocent are imprisoned for years, men guilty of crime walk free pending trial, witnesses move, die or forget, and through it all the public's confidence in government erodes.

Under our present system the following is common:

DELAY in all trial courts because of court specialization. Did you know that a Justice of the Peace is prohibited by law from helping out a municipal judge one block away, even though the nature of their cases may be exactly the same? That on the same day in the same building you will see one judge weighed down with a backlog of 200 cases, and the judge next door has none? That in part because of this absurdity there were at the end of 1971, 55,329 criminal cases pending in the District Courts, 13,856 of them for more than 24 months? Two years without a trial. And things are getting worse.

DELAY in appeals from JP and Municipal Courts because neither of these courts is a court of record and all appeals from them must take the form of a new trial. All witnesses, facts, arguments and depositions must be re-assembled, re-presented, re-considered and re-judged. As if the trial courts were not already clogged enough.

DELAY in all criminal appeals because all go directly from the trial court to the highest court, the Court of Criminal Appeals. There is no intermediate criminal appeals court in Texas to lighten the burden, although we have over 525 separate trial courts which sent a total of 1328 appeals to the Court of Criminal Appeals in 1971 alone, an average of 266 cases per judge. By comparison, in 1971 the load on the civil appeals judges was only 32 cases per judge. Small wonder that in Texas, criminal cases last longer and are dealt with more hastily than civil cases. Yet, which judgments merit greater care: those that settle an estate, or those that cost a man his liberty for 20 years?

DELAY not for lack of judges, but **for lack of flexibility**. Did you know that Texas has more judges of every sort, both trial and appellate, than any other state in the nation? Yet it takes an average of 10 months to bring a man from arrest to the end of his trial, and upon appeal yet another 12 months before the case is even submitted to the Court of Criminal Appeals, and thereupon still another six before the case is finally disposed. That is an average of 28 months to resolve a criminal case which is appealed. 2-1/3 years in prison for the innocent, 2-1/3 years of freedom for the guilty. Average.

DELAY not for lack of judges, but **for lack of administrative personnel** to relieve the judges of their non-judicial functions. Did you know that less than 1/3 of 1% of the Texas state budget is spent on the judiciary? That, in fact, the state spends 3 times as much on parks, monuments and museums, and 65 times as much on welfare?

Where is there justice in this?

We were always taught that to delay justice is to deny it.

THE SOLUTION

- **Consolidate all trial courts** — JP, Municipal, County, District and others — into one state trial court of general jurisdiction with multiple, specialized divisions where necessary. Retain specialized judges but abolish specialized courts. Allow judges to transfer temporarily according to court needs, either between functional divisions (traffic, probate, criminal, etc.) or between geographic districts.
- Provide that **all courts be courts of record**.
- **Create a single Court of Appeals** to hear both civil and criminal cases. This would increase the number of judges who could hear the initial appeal of a criminal case from 5 to 42 without adding any judges to the present number.
- Unify our 2 courts of last resort into **a single Supreme Court**.
- **Establish an administrative system** for the courts, adequately funded, to relieve judges of non-judicial burdens and to help coordinate all court business.

Status 2/23/73

Judicial

Support HJR 3 Grant, et al. Providing for the merit selection of judges
January 12 Read first time and referred to Committee on Judiciary
STILL IN COMMITTEE 3/23/73 5/02 - Considered in Hearing
Support SJR 2 ① Sherman, Andujar, and Gammage. Providing for the merit selection of judges.
STILL IN COMMITTEE (Jurisprudence)
(Companion to HJR 3) *never came out of Committee*

~~SUPPORT~~ ~~SJR 4~~ and Gammage
Herring/ Court Revision - non-partisan election of judges
(with exception of election of judges (Unified Judicial System, Judicial Council, Qualifications Commission) (Jurisprudence)
Endorse? HJR 9 Hale, Grant, Powers, G. Jones and Vick " " " "
Jan. 24 - Introduced and referred to Judiciary Committee
~~Both still in committee.~~ *TFA sent to LLs w/members on Jurisprudence*
March 6 - Hearing. Hunter Testified (see statement)
(with exception of election of judges)? Letter of endorsement was to be sent to Judge Ronald Earle - Board decision. *Cmte. sent to subcommittee.*

No position SB 30 Herring. Creating the Texas Judicial Council for continuous study of and report upon the judicial system of the State, for gathering judicial statistics and other data, and for devising methods for the improvement of judicial administration and procedures; prescribing the membership of such council, prescribing its duties and powers; providing for the payment of the necessary expenses of the council and its members, including clerical expenses.
may 8 - first passage 31-0.
(Changing name of TJC in order that it could w/ criminal as well as civil matters)
January 22 Introduced and referred to Jurisprudence Committee
(Judicial Council as presently set up has not functioned efficiently. This is why we now have so many problems.)
May 100 - Referred to House Judiciary Committee
No position HB 174 Hale. Creating the Texas Judicial Council (same as above)
January 24 Introduced and referred to Committee on Judiciary.
February 14 Hearing scheduled

STATUS SHEET 2/23/73
3/23/73

JUDICIAL (House Judiciary meets at 7:30 p.m. on Wednesdays)
~~(Continued)~~

No position SB 34 Herring. Penal Code Reform (Helen only)

No position HB 512 Nugent, et al Enacting a new Penal Code - Feb. 19 (Criminal Jurisprudence)

Herring's
2-27-73
at 11

{	SB 99	Ogg	Establishment and Operation of Justice Courts of Record
	HB 624	Rene Jones	"
			IN subcommittee Would be taken care of by SVR-4-
{	SB 100	Ogg	Municipal courts of record
	HB 625	Rene Jones	"
			IN subcommittee

~~Referenced~~
~~EYE~~
~~course~~
notified by
visit to office
2/23/73

HB 81 Williams Removal of justices of the peace by amending the definition of "incompetency" and adding an additional 20-hr. course each year for jps who are not licensed attorneys

January 18 Introduced and referred to Judiciary Committee

February 14 Hearing scheduled - Reported out of committee

February 26 Second Reading in House

Feb. 28 Passed on Third Reading by voice vote.

March 1 Introduced in Senate & Referred to Jurisprudence.

May 22 Sent to the Governor

HB 624 - G. Jones - Making J. P. Courts Courts of record.

5/2 - Considered in public hearing

HUNTER
SO
Brownage
MAY
Cole

MEMORANDUM FROM:

League of Women Voters of Texas

DICKINSON PLAZA CENTER • DICKINSON, TEXAS 77539

Chris - DeDe

These are the bills I asked Chris about.
Can you get them for me? - According to one
account in the paper Hale will be the principle
sponsor of all the bills except one making
^{judicial} all selections non-partisan. That will be
handled by Joseph Sage & S.A. & James Nowlin.
I'd appreciate anything you find out about them.
Thanks - Helen

8-Bill Reform Plan Would Merge Civil, Criminal Courts

BY GAYLE McNUTT
Chronicle Political Editor

Austin — A complete overhaul of the state's judicial system that would merge the criminal and civil courts and place the financing of courts under the state budget is proposed by legislation introduced today in the Texas House.

Rep. L. DeWitt Hale of Corpus Christi, chairman of the House Judiciary Committee, said the eight bills introduced as a court reform package are the result of a four-year study by a House committee.

The bills would leave the justice of the peace and municipal court system much as it now exists, but would revise court organization from the county level upward.

The Texas Supreme Court and the state Court of Criminal Appeals would be merged

criminal cases. Courts of civil appeals would become intermediate courts hearing both criminal and civil cases.

There is no intermediate court of appeals for criminal cases. Those appeals go directly from district courts to criminal appeals courts.

District courts would become courts of general jurisdiction, trying those cases not tried in criminal courts, civil courts, courts of domestic relations and juvenile courts. While courts would be allowed to continue specializing in certain types of cases, any judge at the district level would have jurisdiction over any type of case assigned to his court.

The same would apply at the county court level.

A system of court administration would be established to direct the flow of cases, from the Supreme Court level

down. Administrators at the state level and in the 13 judicial districts of Texas would handle paper work and assign cases to keep the workload spread evenly and prevent backlogs.

"What are trying to do is

put the judges in the courtroom," said Hale.

He conceded his plan "will cost the state a potful of money." Precise costs have not been figured because of the many different sources of court financing now utilized,

he said, but "\$50 million is a bare bottom figure."

Hale said the costs to taxpayers would not be substantially greater, but appropriations would be transferred from local government to state government. Some

judges, such as those for courts of domestic relations and juvenile courts, as now paid entirely by the county. All court reporters and other court officers are now paid from local funds.

Under Hale's proposals, all

court officers except bailiffs would be paid from state funds. Counties would also continue to provide the office and courtroom space for the courts.

Another major change would provide that judges be elected on a nonpartisan basis, rather than by political party.

The bills provide a uniform system of pay that sets Supreme Court justice salaries at \$50,000 a year, courts of appeals judges at \$40,000, district court judges at \$30,000, and county court-at-law judges at \$24,000. Judges in the state's five largest counties would get an additional 20 percent of the base pay to compensate for higher living costs.

That would mean district judges in Harris County would be paid \$36,000 and county court-at-law judges would be

paid \$28,000.

The provisions of the bills introduced today generally follow the same recommendations of the task force for court improvement headed by former Texas Supreme Court Chief Justice Robert W. Calvert.

The major difference is the handling of justice of the peace and municipal courts. The task force study recommended that the system as it now exists be phased out and replaced by a lower level court system, with only attorneys allowed to be judges. Justices of the peace are not now required to be attorneys.

Hale said the House committee believes the justice and city courts serve a needed purpose and that since much of their work is outside the legal realm, the requirement that they be attorneys is not needed.

Feb. 7, 1973
Hunter

HJR 3 Grant

Merit selection of justice of supreme court and judges of courts of appeals and creating a Judicial Nominating Commission; establishing terms of office for all judges; and authorizing the legislature to provide for merit selection of judges to the district courts and county courts.

This is Chief Justice Calvert's Task Force Amendment and we will support. There has been something added to this bill that I don't like. This amendment will be effective only if the amendment revising the complete judiciary article is adopted. This provision was not in the Task Force proposal.

Newsletter 3 - Give Status + Support position.

Is A.J.R. 2 by Sherman, Anderson, + Gammage
identical?

March 13, 1973

The Honorable Ben Z. Grant
House of Representatives
Austin, Texas 78711

Dear Mr. Grant:

The League of Women Voters is happy to support HJR 3 which you have introduced in the House of Representatives.

The League considers the passage of this amendment top priority in providing a high quality judicial system for Texas.

Cordially,

Mrs. Darvin M. Winick, President
League of Women Voters of Texas

VW/ag

bc: Hunter, Brasher, Braunage1

Same letter sent to co-sponsors of the bill, Pike Powers & Gene Jones

March 7, 1973

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House of Representatives
Austin, Texas 78711

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The League considers the passage of this amendment top
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Sincerely yours,

Mrs. Darvin M. Winick, President
League of Women Voters of Texas

Veta: This letter should also go to Mr. Pike Powers
and Mr. Gene Jones, co-sponsors of the bill.

Court Reform Bills Introduced

Capitol Staff

Legislation has been introduced in both the Senate and the House to implement parts of a proposed reorganization of the Texas court system.

Sen. Charles Herring of Austin has introduced the main part of a court revamping proposed by a special chief justice's task force for court improvement.

Herring's bill is in the form of a joint resolution, calling for a rewrite of article V of the state constitution — the article dealing with the judiciary.

According to a court improvement task force spokesman, a companion bill in the House will be carried by Rep. L. Dewitt Hale of Corpus Christi, chairman of the House Judiciary Committee.

In submitting the bill to the legislators, the court improvement task force decided to submit separately a controversial provision calling for selection of some levels of the judiciary by an appointments commission.

Herring's bill does not carry that provision. His version provides for non-partisan election of all judges.

The merit selection proposal has been introduced in the House by Rep. Ben Grant of Marshall and in the Senate by Sen. Max Sherman of Amarillo, Betty Andujar of Fort Worth and Bob Gammage of Houston.

Sen. Herring's bill, which contains the main recommendations developed by the court task force after a year-long study spearheaded by former Texas Supreme Court Chief Justice Robert W. Calvert.

The bill Herring introduced contains such proposals as the following:

—Merge the court of criminal appeals and the Texas supreme court into a single court of last resort for both civil and criminal matters.

—Civil appeals courts would become general appeals courts, hearing both civil and criminal cases. Their decisions would be final in most cases.

—Provide a statewide system of county-level courts, with judges who are lawyers, to replace certain specialized courts below the district level.

—Eliminate specialized district-level courts, such as domestic relations and criminal district courts, making their judges regular district judges.

—Lifetime office for justices of the peace and constables in office at the time the court reorganization passes, but eliminate the jobs entirely when they leave the office because of resignation, removal or death.

—Centralized control of the entire court system, so that judges could be assigned where caseloads dictated a need.

If approved by the legislature, the rewrite of article V could go before the voters in November, 1975, or could be incorporated in a new constitution to be written in 1974.

Daniel Asks Trial-Delay Law Limit

Capitol Staff

Speaker Price Daniel Jr. Thursday asked the House to amend statutes that permit legislators to get trial delays during sessions.

Daniel said the privilege of legislative continuances in trials where a solon is either a defendant or bonafide attorney has been "subject to abuse that has reflected negatively upon this body."

"On two many occasions, a legislator has been retained principally in order to obtain continuances and thereby to delay civil and criminal suits pending in our courts," Daniel said.

In Travis County recently the privilege of legislative continuance drew fire from District Attorney Robert O. Smith when San Antonio Rep. Wayland Simmons exercised his privilege to get a delay in the theft trial of former state Rep. Hudson Moyer.

The mandatory continuance was the fourth delay in the trial.

He said his remarks were not directed at individuals or upon continuances granted in the past.

Daniel said he has asked six representatives to draw up bills that would continue to protect members who are parties to previously pending lawsuits but prohibit use of the continuance privilege in cases accepted by attorneys just before or during a session to delay a trial. He said the bill will be ready for filing next week.

FIRST PRINTING January 12, 1973 Official House Printing, 63rd. Leg.

By: Grant, et al

H. J. R. No. 3

(In the House.--Filed, January 10, 1973; January 12, 1973,
read first time and referred to Committee on Judiciary.)

1 HOUSE JOINT RESOLUTION

2 PROPOSING an amendment to the Constitution of the State
3 of Texas amending Article V thereof to provide for the merit
4 selection of justices of the supreme court and judges of the
5 courts of appeals; creating a Judicial Nominating Commission;
6 establishing terms of office for all judges; and authorizing the
7 legislature to provide for merit selection of judges of the
8 district courts and county courts.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 Section 1. That Article V of the Constitution of the
11 State of Texas be amended and revised to read as follows:

12 "Section 1. MERIT SELECTION OF JUDGES. (a) The provisions
13 of this section shall govern the selection and tenure of all
14 justices of the supreme court and judges of the courts of
15 appeals, including the chief justice of Texas and the chief
16 judges of the courts of appeals, other provisions of the
17 Constitution or statutes of the State of Texas to the contrary
18 notwithstanding, and notwithstanding the provisions of Sec. 6(a)
19 of Article V as proposed by .J.R. No. _____, 63rd Legislature,
20 Regular Session, 1973.

21 "(b) There is hereby created a Judicial Nominating
22 Commission of eleven members, one of whom shall be the chief
23 justice of Texas or acting chief justice, who shall serve as
24 chairman. The other members shall be selected as follows:
25 the board of directors of the state bar shall appoint two
26 citizens of the state who are licensed to practice law in the
27 state; the governor, lieutenant governor and speaker of the

1 house of representatives each shall appoint two citizens of the
2 state who are not licensed to practice law; and the supreme court
3 shall appoint one judge of a court of appeals and one district
4 judge.

5 "(c) Terms of office of appointed members of the Judicial
'6 Nominating Commission shall be six years, provided that the
7 initial term shall include three two-year terms and three four-
8 year terms, the holders of each to be determined by lot.
9 Vacancies in the offices of appointed members shall be filled
10 by the original appointing authority for the unexpired term.

11 "(d) No member shall hold any other nonjudicial public
12 office or office in a political party, nor be eligible for
13 appointment to a state judicial office during the term to which
14 he was appointed.

15 "(e) Each justice or judge who occupied that office on the
16 effective date of this amendment shall be subject, in the manner
17 provided by law, to approval or rejection at the general election
18 preceding the expiration of the term to which he was elected and
19 every sixth year thereafter.

20 "(f) When any office of justice or judge ceases to be held
21 by the person who held it on the effective date of this amendment,
22 a vacancy in such office shall be filled by the governor from a
23 list of three nominees presented to him by the Judicial Nominating
24 Commission. If the governor fails to make the appointment within
25 sixty days after receiving the list of nominees, the chief justice
26 of Texas shall make the appointment. A judge or justice appointed
27 pursuant to this subsection shall be subject, in the manner pro-
28 vided by law, to approval or rejection on a nonpartisan ballot at
29 the first general election held more than ten months after his
30 appointment, and every sixth year thereafter.

1 "(g) Judges of the district courts and county courts shall
2 serve six-year terms and shall be selected by nonpartisan
3 election or, if the legislature so provides, by appointment by
4 the governor from lists of nominees presented to him by district
5 nominating commissions."

6 Section 2. This proposed amendment to the Constitution of
7 the State of Texas as set forth herein shall be effective upon
8 adoption and shall become operative only and in the event the
9 amendment of Article V of the Constitution proposed by Joint
10 Resolution No. ____, of the Sixty-third Texas Legislature,
11 repealing the previously existing Article V of the Texas Constitu-
12 tion and adopting in lieu thereof a new Article V of the Constitu-
13 tion is approved by the people.

14 Section 3. The foregoing constitutional amendment shall be
15 submitted to a vote of the qualified electors of this State at an
16 election to be held on the first Tuesday after the first Monday
17 in November, 1973, at which election the ballots shall be
18 printed to provide for voting for or against the proposition:
19 "The constitutional amendment amending the Judiciary Article of
20 the Constitution to provide for merit selection of appellate
21 court judges."

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30

House Joint Resolution 3
Grant

SUBJECT: Merit Selection of Justices

PURPOSE: To provide for the selection and tenure of Supreme Court justices and judges of the Courts of Appeals.

BACKGROUND AND LEGISLATIVE HISTORY

Present law, Tex. Const., Art V, Subsections 2,4,6, and 7 provide for the election of appellate and district court judges. Appellate court judges serve six-year terms; district court judges serve four-year terms. A survey published in 1968 showed that 44.5% of Texas lawyers and 49.6% of Texas judges ranked the Missouri plan as their preference for judicial selection. Henderson and Sinclair, The Selection of Judges in Texas, 5 Houston Law Review 431 (1968). In contrast, only 30% of lawyers and 20% of judges ranked the present system first, id. at 497. Under the Missouri plan a nominating commission submits three names, from which the Governor selects one of the candidates to fill the judicial vacancy. After serving a 12-month probation period, the judge must participate in a retention election. If the vote is unfavorable, a vacancy exists, and the nominating-appointment process is invoked. R. Watson and R. Dowling, The Politics of the Bench and the Bar, 13-14 (1969). "The Missouri plan is now in use with a number of variations in some 10 states." The President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (1967). A study of the operation of the Missouri plan revealed that the selection process was not biased toward graduates of "prestige" law schools. Plan judges are older, have had more judicial experience, and are not more conservative than elective judges. The Missouri bar considers the plan to result in "better" judges than an elective system. However, the plan is criticized because it, in effect, results in life tenure for judges. Watson at 343-348.

Constitutional References: Article V, Subsections 2,4,6, and 7.

Bills introduced in previous session relating to subject:

SJR 43

Snelson

Purpose: Relating to appointment of appellate judges by Governor.

Final Action: Referred to committee.

Interim Activities:

The Chief Justice's Task Force for Court Improvement proposed a revision of Article V of the Texas Constitution.

References in Texas in Action Report:

Vol. II, No. 33, Page 22-25

Vol. II, No. 27, Page 31

ANALYSIS BY SECTION

- 1 (a) Summary
Provides that this section shall govern the selection and tenure of Supreme Court justices and judges of the Courts of Appeals, notwithstanding the provisions of Sec. 6(a) of Art. V as proposed by J.R. No. ___, 63rd Legislature, Regular Session, 1973.

ANALYSIS BY SECTION (cont.)

- (b) Creates a ^{12 member} Judicial Nominating Commission composed of the Chief Justice of Texas who shall be chairman, two lawyers selected by the board of directors of the state bar, two citizens who are not lawyers appointed by each of the following: governor, lieutenant governor, and the speaker of the house of representatives, and one judge of a court of appeals and one district judge appointed by the supreme court.
- (c) Sets the terms of the appointed members of the Judicial Nominating Committee. ^{at 6 years}
- (d) Excludes the members of the Commission from holding any other public or political office, or be appointed to state judicial office during the term to which he was appointed.
- (e) Provides that any judge holding office prior to the effective date of this amendment shall be subject to re-election at the general election preceding the expiration of his term and every 6th year thereafter.
- (f) Provides that the governor shall appoint a person to fill a vacancy. If he fails to make an appointment within 60 days of receiving the list of 3 nominees from the Judicial Nominating Commission, the chief justice shall make the appointment. The person appointed shall face re-election at the 1st general election held more than 10 months after his appointment and every 6th year thereafter.
- (g) District judges shall be elected for 6-year terms, or if the legislature so provides, by appointment by the governor from lists of nominees of district nominating commissions.
- 2 Establishes an effective date, contingent on the approval of the amendment to Article V of the Texas Constitution.
- 3 Provides for submission of the amendment to the general voting public.

1973

Judicial Reform

Legislative Interviews

What do you think of the proposed Merit Plan for selection of judges?

House: Favors: Edwards
 Hudson
 Clark
 Gene Jones
 Fox
 Reyes
 McDonald
 Davness
 McAlister
 Doyle
 L. Jones
 Murray
 Davis
 Eynum
 Poff - feels Bar Assn. should take leadership in selling this idea.
 Slack
 Caldwell
 Walt Parker
 Tupper
 Cole
 Finnell
 Agnich - suggested Texas should attempt the way Florida had found to clear up their backlog of court cases

Allred - generally favors, but wants to hear more.

Barnhart - not entirely in favor of ones being used now.

Does not Favor: Vick
 Williamson - favors election
 Fresnal " "
 Peveto " "
 Baker " "
 Ed Harris
 Maloney - appointments are too political
 Clark - fears appointment of judges will end up being political
 Coleman - fears it would be run by State Bar Assn. Active members are usually from large firms and other well qualified lawyers are left out (from small firms or towns)
 Geiger - because of accountability
 Koriath - should run on a non-partisan ballot
 Vecchio " " " " "
 Beles " " " " " - has reservations about Bar appointing judges
 Reynolds - has reservations about Bar appointing judges
 Semos - should run on a non-partisan ballot
 Koriath - " " " " "
 Laney - should be elected for six-year terms
 1 other - " " " " "

Not sure, still studying it - Fred Head, H. Adams, Heestenbach

Not familiar with Merit Plan - Mattox, Tarbox, Joe Allen, Munson, Ragsdale, Johnson

Not informed - Menefee (said he would look to another legislator for guidance)

No opinion or did not discuss - 11

COPY

cc: Hunter, May, Cole

Judicial Reform

- Legislative Interviews 1973

What do you think of the proposed Merit Plan for selection of judges?

Senate : Favors: 0

Opposed: Schwartz - Present system working adequately. Thinks lifetime appointments bad.

Herring, Hightower - favors non-partisan election of judges

Creighton, Brooks, Longoria, Moore, Clower - favors election

Harrington - favors election, but is not close-minded

Harris

Adams

Unfamiliar with Merit Plan - Blanchard (thinks part of problem is poor leadership shown by State Bar)

Did not discuss: 6

C
O
P
Y

March 20, 1973

The Honorable Max R. Sherman
The Senate
Austin, Texas 78711

Dear Sen. Sherman:

The League of Women Voters is happy to support SJR 2, which you have introduced in the Senate.

The League considers the passage of this amendment top priority in providing a high quality judicial system for Texas.

Cordially,

Mrs. Darvin M. Winick, President
League of Women Voters of Texas

VW/ag

bc: Braunagel, Brasher Hunter

Same letter sent to Betty Andjuar and R. A. Gammage

May 27, 1973

House Enacts Abortion Bill, Ups Retired-Teacher Pay

Associated Press

An abortion "conscience" bill and a measure raising retired school teachers' benefits by 10 per cent gained House passage Saturday as the legislative session ground into its last three days.

Senate approval is needed before the measures can go to the governor, and time is running out. The session must adjourn by midnight Monday.

The House drastically revised a Senate proposal to restructure the state courts system, then approved it and returned it for senators' action on changes made by representatives.

All the measure does now is enable the legislature to establish "courts of appeals" with jurisdiction over both civil and criminal matters. They would replace the present courts of civil appeals with jurisdiction over both civil and criminal matters.

Rep. Tim Van Dohlen's "conscience" bill would permit any hospital, doctor, nurse or other medical workers to refuse to perform an abortion. It would prohibit discrimination against any individual for refusing to take part in an abortion or for taking part in one.

The school teachers' retirement bill would apply to teachers who had retired by May 21, 1971, and would cost an estimated \$40 million over the next two years.

Several House-Senate conference committees worked through the day in efforts toward compromises on ethics,

lobby control, campaign finance reporting, drug law revision, public school finance and reinstatement of the death penalty.

Conferees on lobby control, probably the issue least likely to be compromised, broke up Saturday without any sign of agreement and scheduled another meeting for Sunday.

Speaker Price Daniel Jr., who had made tighter requirements to show where lobbying money comes from and how it is used part of his "reform" program, told a news conference he was "somewhat pessimistic" about the bill's future.

With a national network television crew on hand, Daniel said his ethics, lobby control and newsmen's shield bills had been "raped and pillaged" by the Senate.

Legislators completed action on a bill prohibiting lenders from discriminating on the basis of sex—usually the female sex—in granting loans or credit. The measure goes to Gov. Dolph Briscoe.

Also sent to the governor was a measure allowing restaurant customers to take partly consumed bottles of wine home with them.

Senators accepted House changes in a bill establishing a state system of five to eight regional day schools for deaf children from age 3 on up. Presently, the state has but one school for the deaf, located in Austin. The legislature already has appropriated \$1 million to start the program. The bill will become law if signed by the governor.

Briscoe's bill providing rules for state financing of political party primaries was approved by the House and returned to the Senate for action on amendments.

Another bill sent to Briscoe instructs the Texas Public Information Agency, which

advisory commission on early childhood education, to establish standards for certifying teachers for public kindergartens.

A compromise bill making Aug. 27, the birthday of the late former president Lyndon Johnson, a state holiday was approved by the House but needs Senate action.

Legislative action was completed on a bill letting persons 13 and older obtain licenses to drive motor-assisted bicycles on public highways, sending it to the governor.

Senators accepted House changes in a bill requiring insurance claims adjusters to be licensed by the State Insurance Board, sending it to the governor.

Status Of Bills

Associated Press

Here is the status of major legislation in the 63rd Texas Legislature, which must adjourn Monday night:

HB1—code of ethics for state officials and legislators, House and Senate passed, in conference committee.

HB2—regulation of lobbying activities, House and Senate passed, in conference committee.

HB4—political campaign finance reports, House and Senate passed, in conference committee.

HB10—newsmen's shield bill, House and Senate passed, in conference committee.

HB57—disposition of pollution complaints, House passed.

HB61—competitive car insurance rates, House and Senate passed, sent to governor.

HB123—central appropriations, House and Senate passed, conference report adopted, sent to governor.

**A SYMBOL
OF
QUALITY**
**HOLIDAY
HOUSE**

HOLIDAY HOUSE

...the House and returned to the Senate for action on amendments.

Another bill sent to Briscoe instructs the Texas Education Agency, with the help of a special committee, to investigate the rates, House and Senate passed, sent to governor.

HB123—general appropriations, House and Senate passed, conference report adopted, sent to governor.

HB147—five-year auto license plates, House and Senate passed, sent to governor.

HB200—restoring death penalty, House and Senate passed, in conference committee.

HB284—restricting trial delays for legislator-judges, House and Senate passed, in conference committee.

HB311—oil and gas utilization, House passed, Senate referred to consider.

HB353—bonds to guarantee sales tax payments, House and Senate passed, sent to governor.

HB447—drug law revision, House and Senate passed, in conference committee.

HB628—habitual traffic offenders, House passed.

HB750—prescription drug price posting, House and Senate passed, sent to governor.

HB946—public school financing, House and Senate passed, in conference committee.

HB1522—financial disclosure by state officials, House passed.

SB11—political primary financing, Senate passed.

SB123—18-year-old legal rights, Senate and House passed, conference committee report approved, sent to governor.

SB222—commission on reorganization of the executive branch, Senate passed.

SB283—bond bond revision, Senate and House passed, sent to governor.

SB408—limitation on new state colleges, Senate passed.

SB553—financial disclosure for appointees officials, Senate passed.

SJR4—reorganization of court system, Senate passed.

SJR8—annual legislative sessions, Senate and House passed, sent to voters, No 1974 election.

SJR12—forest—d tax exemptions for single adults, House and Senate approved, sent to voters.

SJR19—legislative salary commission, Senate passed.

SJR23—limit terms of speaker, Senate passed.

HR12—legal rights for teenagers, House passed.

HR116—additional veterans land bonds, House and Senate passed, sent to voters.

HR117—protection of single persons' homes from forced sale, House and Senate approved, sent to voters.

Senate To Face

Page 270

Drought Haunting

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Pending in
House Committee

PHONE AC 512/478-7237
704 WEST 6TH STREET
POST OFFICE BOX 987
AUSTIN, TEXAS 78767

I couldn't get anyone
to go to Judiciary Tues.
night - have been trying
to run it down by phone
& so far, know only
that HJR 9 & SJR 4 are
still in House Judiciary
Committee. All of

Herring's staff were at
Judiciary Comm. meeting
this afternoon, but will
try to get hold of them in
the morning again.

(I'm beginning to feel
Kubiak's ~~Herring's~~ staff
must sigh "Oh God, that
woman again" - I've called
there so often)

May 27, 1973

Overhaul of Court System Down the Legislative Drain

Capitol Staff

A wholesale revision of Texas judicial system went down the drain Saturday in a last ditch compromise to get some kind of court reform on the November ballot.

After the House balked at a plan to revise the court system into three tiers under a single court of last resort for both civil and criminal cases, Rep. Dewitt Hale of Corpus Christi offered a complete substitute.

The new plan, which will be submitted to voters in the form of a constitutional amendment, simply takes the load off the Court of Criminal Appeals by giving the legislature the discretion to restructure the present civil appeals court system with whatever jurisdiction they desire.

The House accepted this plan on a vote of 114-1 and sent it to

(h) Senate where Hale said it will have little problem passing, one that was two years in the making by a special chief justice's task force on judicial reform. Hale said but something has to be done to have completely overturned and

relieve the workload of the restructured the judicial system of the state has been pared down and amended several times but still received wide spread opposition.

If the proposal is adopted the legislature could set up a pair of parallel appeals courts under the two separate courts of last resort which are left unchanged by the amendment, or they could give both civil and criminal appeal rights to the existing courts, Hale said.

One of the most controversial portions of the plan was bringing county courts into the state court system. If the new proposal passes the

Senate it will be placed on the November election ballot.

The effort may however be futile since the legislature won't meet again until 1975 to enact into law any changes approved by the voters. In the meantime, the constitutional convention will be meeting and still another constitutional election will be held. That convention may come up with still another alternative.

ESI DAILY SENATE REPORT
No. 58
April 17, 1973

SECOND AND THIRD READINGS

SB 75 Consumer protection bill. Third reading and final passage by
Mauzy 23y, 6n. [Voting no: Aikin, Andujar, Creighton, Harris, McKnight, Moore]

SB 180 Administrators of childcare institutions to be licensed by Department of
Hightower Public Welfare.

(1) Second Reading

(a) Hightower amendment (corrective amendment) adopted.

(b) Committee amendment adopted.

(c) Floor amendment (delete "30" and insert "15") adopted.

Engrossed by voice vote. [Aikin voting no].

(2) Three dayrule suspended by 26y, 3n. Final passage by voice vote.
[Aikin, Creighton and Andujar voting no.]

SJR 29 Authorizing cities to levy sufficient ad valorem taxes to pay general
Traeger obligations. Third reading and final passage by 22y, 7n.

SB 821

Creighton: this is not a tax bill. It is simply a bill to cover the cost of processing certificates of titles on motor vehicles. And that is all it is. When the 46th Legislature enacted the Texas certificate of Title act, it was intended that a service fee would be charged to cover the cost of administering the act. Since that time, the state highway department's responsibilities under the act have been expanded in several ways, including the picking up of titles from junk yards to keep them out of the hands of theft rings, and to inspect titles at automobile dealers locations. Currently, the department is working with the DPS and FBI to improve methods of preventing title transfers on stolen automobiles. The service fee increase is needed to help pay for this additional responsibility.

Second, this is only the second time in 31 years that the Legislature has been asked to increase this service fee. At the present time, the state receives fifty cents for each title certificate that is processed, and the county involved receives twenty-five cents. It is now costing the state \$1.03 for each title certificate that is processed. In other words, money that should be used to cover the cost of maintaining our highways and bridges is having to be used to cover the cost of processing certificates. The counties now receive twenty-five cents for each title processed. I understand that it is costing the counties something over fifty cents per certificate to process them. SB 821 calls for a fee of two dollars for each certificate of title processed. Of that, the county would receive a dollar and the state would receive a dollar. This will not recover the entire cost for the state, but it will reduce the deficit and give the county a small cushion for increased costs in the future.

Schwartz: any bill which raises \$6 million dollars is a tax bill. It is unfortunate that the railroads are having their crossing signs paid for out of the state funds. This money ought to be spent in other ways. The railroads are not entitled to the general revenue funds. This is going to increase the transfer of auto title fees. No body has come down here and asked for this increase except the railroads. If we give them \$6 million, then they'll be back to ask for \$6 million more. This bill is giving the railroads \$3 million a year; we can't collect that much from all the railroads in taxes each year.

Meier: Senator, are you against this bill (humorously)?

Schwartz: the railroads will get you when this bill is gone. Lets keep it here.

Bill engrossed by 21y, 7n. Three day rule failed to suspend by 20y, 8n.

✓ SJR 4

Herring: this resolution attempts to revise the courts system.

This bill will not affect the county judges, nor justices of the peace. It would confer criminal jurisdiction on the courts of civil appeals. Provides one court with as many judges as necessary [district court]. Would combine the Supreme Court and the Court of Criminal Appeals. Provides that the County Court at Law could serve more than one county. There will be no change in the judicial districts or any judges.

(1) Second Reading

(a) Aikin amendment (strike sec. 23(c); to clarify as to retirement of district judges under county retirement system) adopted.

REsolution engrossed by 24y, 5n.

(2) Three day rule failed to suspend by 23y, 6n.

Ogg asked to be recorded as voting "Nay" on the adoption of the amendment.

Vote on engrossment: Yeas 24

Nays: Adams, Kothmann, Longoria, Moore and Patman.

Absent-Excused: Blanchard and Santiesteban.

Vote on suspension of 3-day rule: failed to get 4/5 vote of members present: 183

Yeas 23

Nays: Creighton, Jones, Kothmann, Longoria, Moore and Patman.

Absent-Excused: Blanchard and Santiesteban.

5/11/73

Report on Hearing of Judiciary Committee (House) on May 2, 1973 & testimony on HJR 9 by Hale (Same as SJR 4 by Herring)

The hearing was scheduled for 7:30 p.m., and since I had testified at an afternoon hearing of the Elections Committee, I decided to stay and testify at this hearing because the weather was nice. Just as I was making a phone call to Nancy from the Capitol booth just before 7:30 p.m. a woman frantically knocked on the door of the phone booth motioning for me to come out. I hurriedly hung up and people were scurrying out of the Capitol. There had been an announcement that the Capitol was being evacuated because of a bomb threat. I had not heard the announcement in the booth, so I also hurriedly made an exit! At around 8:30 it was announced that we could return at our own risk, and it was with some trepidation and some fleeting thoughts on how far my loyalty to the League stretched.....to give my life????

The hearing did not start until about 9 o'clock, the first witness for HJR 9 being Judge Guittard. (Subcommittee bills had been heard before that for about an hour, and it was utter chaos for a while, as most of the committee members had not seen any of the bills under consideration! The blame was put on the Sergeant-at-arms, who was supposed to deliver copies to all committee members. Some had received copies, and I wondered at this. We have been accused in the past of not reading the bills.....I certainly have some ammunition now! The committee was chaired by Dewitt Hale, and he was very upset with his committee.)

Among the remarks made by Judge Guittard was one that stood out, as it was used as an argument against the combining of the Supreme Court and the Court of Appeals in the legislative interviews by legislators (especially senators) who said that they thought the criminal court should be separate because judges should specialize in criminal cases. The judge did not think that this was a good argument. He said specialization is not desirable, as all judges should be generalized and objective. All cases would be reviewed on a discretionary basis. On the trial level.....should be done administratively as opposed to specialization. The courts would be administered by the Chief Justice, who would use discretion in the appointment of the judges to cases where specialization was called for.

In commenting on the individual bills by Hale he mentioned HB 1401, Sec. 4.. writ jurisdiction of the Court of Appeals should be broadened. He would also raise minimum jurisdiction from \$500 to \$1,000.

His comments on HB 1407 - non-partisan elections: He said that this would be very important in Dallas, where in political developments today, the is Republican party has become very strong. He laughed and said that it/no longer important to run as Democrats! He said no judicial candidate and no incumbent judge should be involved in partisan politics

Rep. Nowlin (San Antonio) asked if he saw any constitutional question concerning a candidate not running as a partisan candidate. The judge answered that with endorsements, there is not any question.

Next witness was President of the Jaycees, Osgood of San Antonio who testified for the resolution. He singled me out of the crowd and gave the League credit for helping passage of ~~xxxxit~~ Amendment four and mentioned the good work we had done in this and other areas. Mr. Hale asked him how he felt about annual sessions and raising legislative pay. (This, of course, was not relevant, but Hale I guess decided to put his licks in where he could.) Osgood replied that they would help pass amendments on these issues if they were put to the people, and he hoped that they could work with the League in these efforts.

Next witness was a Mr. McGraw speaking for the Concerned Citizens for Court Improvement, Houston. He said they would continue to work for improvements in all facets of the court system. He spoke for the resolution.

I testified next and Mr. Hale commented that I had been very patient in waiting so long (it was 11 o'clock at this time). I told him that I was substituting for Helen Hunter, and he asked about Nancy Holmes, so I told him that she was not able to be here and that I had consented to read the statement for her. He was exceedingly nice and mentioned all the good work we had been doing, and was the League going to work for annual sessions and higher legislative pay? I assured him we were, adding...that is, if the legislature passes the resolutions! He laughed and thanked me profusely again. (Hale is one of the top contenders for speaker of the House.)

Hale went on to apologize for the fact that most of the committee had disappeared and that there was no longer a quorum. He also commented on the fact that the court system as proposed would cost about \$65,000,000, and as we all knew, this was impossible for this session. However, if the constitutional amendment passed, it would allow enabling legislation in the next session.

The last witness was Mr. Albert L. Lee, representing the Harris County JPs. He spoke against HJR 9. He gave the "grass roots" routine again. He also mentioned that they were responsible for HB 81 by Williams (who sat with him all through the testimony.) HB 81 is the bill calling for 20 more hours of schooling for JPs without a law degree.

Hale then commented that a committee substitute is being prepared for presentation at the next hearing (which was last Tuesday night and we couldn't get anyone to attend). However, at the legislative hearing of the House members before the Constitutional Revision Commission Thursday afternoon, Hale mentioned that the judiciary reform proposals are pending in committee.

Rep. Garcia asked that the committee be recessed instead of adjourned so that important bills could be taken care of. He was afraid if the bills were delayed next Tuesday (May 9), there may not be time to hear all of the important bills, or time to get them on the calendar for a floor vote. He wanted the committee to adjourn until the next morning. However, Hale continued hearing bills, and I left at about 11:30 or 11:45. Everyone was so tired and sleepy I don't know how they could get anything out of the hearing at that late hour. Some of the hearings have been running until 2 or 3 a.m.

Chris Brasher

STATEMENT TO THE HOUSE JURISPRUDENCE COMMITTEE

Austin, Texas

May 2, 1973

by Mrs. John Hunter, Director
League of Women Voters of Texas

I am Mrs. John Hunter, Judiciary Chairman of the League of Women Voters of Texas, speaking for the more than 4,500 members in our state. We would like to thank the House Jurisprudence Committee for the opportunity to express our views.

The League of Women Voters of Texas undertook its initial study of the judicial article of the Constitution in 1959 as part of its work for general revision of the Constitution, and since that time we have worked in support of an effective judicial structure for Texas.

As a result of our study League members believe that all courts in the state should be part of a unified and coordinated system controlled by the Supreme Court; the financial needs of all state courts should be viewed as a whole under a central fiscal policy; and a unified code of procedure and practice should be established for all courts.

The Texas court system was not designed to cope with the burgeoning crime rate and clogged dockets of the seventies. The Court of Criminal Appeals is parallel to the Supreme Court, not the Court of Civil Appeals. That is, the Supreme Court has no authority or jurisdiction over matters of criminal trials. It is difficult to understand why civil cases merit two levels of appeals while criminal cases, which after all include the greater penalties, are restricted to one. Almost all other judicial systems successfully include both civil and criminal cases within the jurisdiction of a Supreme Court.

There are numerous trial courts with concurrent powers and overlapping jurisdiction, and each court is independent of the others. Aside from the Supreme Court's limited authority to supervise some rules of procedure in the lower civil courts, Texas courts are for most purposes autonomous. Thus there are wide variations in procedure, staffing, and financing of parallel courts. As a result there is duplication of effort and wasting of time and money. Basic to an effective judiciary is the principle of "Justice with a minimum of delay." The structure of the Texas Court system does not presently lend itself to this principle.

The League of Women Voters of Texas also believes that administrative directors under the supervision of the Supreme Court should manage the nonjudicial business of the Courts, including the free transferring of judges to equalize the case loads in the various judicial districts.

Administrative directors are needed in Texas to manage the nonjudicial business of the courts and for supervising a uniform code of procedure and practice for all the courts in the state. From the records kept of all court proceedings the administrative director could spot bottle necks and transfer judges according to need. Justice should be uniform throughout the state.

(continued)

Judges are trained to dispense justice; they should be able to operate within a structural framework which permits them to use this talent, not in nonjudicial administrative tasks. And no matter how simple the case, the parties involved should be served by a judge who is fully qualified to practice law in this state.

It is important to note that the quality of the judges has not been criticized. Reforms are being urged primarily because of the delays, cumbersome procedures, and numerous mistrials and reversals on technicalities. A solution is difficult as long as the structure remains decentralized with no suitable authority to whom the legislature can delegate the responsibility for minute regulations. The presence of two final courts makes centralization impossible. The effectiveness of an administrative office is dependent upon the creation of a single judicial authority.

In conclusion the League of Women Voters of Texas urges you to vote HJR 9 favorably out of committee and use your support to get it on the ballot and to a vote of the people of the state. We believe it is a most important step toward achieving a high quality judicial system for Texas.

* * * * *

ESI DAILY SENATE REPORT

No. 61

April 24, 1973

63rd Regular Session

SB 123
Gammage

Relating to the rights of eighteen year olds.

(1) Mengden Amendment: Clarifies Uniform Gifts to Minors Act.

Amendment adopted by vote of 28A, 2N.

Mengden: If you vote for this bill, you're voting to give full majority rights to eighteen-year olds. I don't think we should have this.

(2) Adams Motion to postpone consideration until 11:00 PM, Friday, failed by vote of 13A, 17N.

(3) Harris Motion to adjourn until 10:30 AM failed by vote of 11A, 18N.

(4) Traeger Motion to adjourn until 10:15 AM failed by vote of 10A, 19N.

(5) Moore Motion to recess until 2:00 PM failed by vote of 11A, 19N.

(6) Bill passed on Third Reading by vote of 18A, 11N, 1P.

✓
SJR 4

(1) Ogg Amendment: Allows county to supplement judicial retirement.

Amendment adopted.

(2) Resolution passed on Third Reading by vote of 26A,

4N. (Adams, Rothmann, Moore and Patman.)

Absent Excused: Blanchard

NJR-9
SJR-4

STATEMENT TO THE HOUSE JURISPRUDENCE COMMITTEE

Austin, Texas

May 2, 1973

by Mrs. John Hunter, Director
League of Women Voters of Texas

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(continued)

Judges are trained to dispense justice; they should be able to operate within a structural framework which permits them to use this talent, not in nonjudicial administrative tasks. And no matter how simple the case, the parties involved should be served by a judge who is fully qualified to practice law in this state.

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In conclusion the League of Women Voters of Texas urges you to vote HJR 9 favorably out of committee and use your support to get it on the ballot and to a vote of the people of the state. We believe it is a most important step toward achieving a high quality judicial system for Texas.

* * * * *

STATEMENT TO THE HOUSE JURISPRUDENCE COMMITTEE

Austin, Texas

May 2, 1973

by Mrs. John Hunter, Director
League of Women Voters of Texas

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* * * * *

CAPITOL CORPS REPORT

Reason for Visit: Senate Jurisprudence Committee Meeting

Senators Present: Braeklein, Herring, Hightower, Gammage, Sherman, Ogg, Mauzy, Mengden, Meier, Santiesteban

Subject: SJR 4

Sub-Committee substitute presented, which would amend rather than rewrite Article V of the Constitution.

- (1) Court of Criminal Appeals merged with Supreme Court and reduced by attrition to an eventual size of 9 members.
- (2) Confer criminal jurisdiction on courts of civil appeal.
- (3) Judicial system (district court) established in each district, with as many district judges as needed. These will be courts of general jurisdiction.
- (4) Convert county courts of law to circuit courts if enabling legislation is passed
- (5) The remainder of the Article is left as it is.

Action Taken: Committee substitute accepted 10-0 by the committee and sent to the full Senate. Very little discussion of the changes. Herring referred to the substitute as an "art of the possible" legislation.

Linnet Trow
April 12, 1973

cc: Brasher ✓
Hunter
Legislative Office

April 10, 1973

Calvert Says Reforms Hit By Hatchet

Capitol Staff

The former chief justice of the Texas Supreme Court has lashed out at local officials he said had done "a pretty good hatchet job" on proposals for court reform.

Judge Robert W. Calvert, in a Corpus Christi speech Monday, called groups of lower court judges and county-level officials "both unreasonable and unreasoning" in their opposition to a court reorganization plan produced by a task force he had headed.

The Calvert task force plan was attacked by district and county attorneys, justices of the peace, constables and some county judges—most of whom would have lost the constitutional - guaranteed status of their jobs under the proposal.

Calvert, who now chairs the Constitutional Revision Commission, said that body will have trouble "if the effort to rewrite one small segment of the Constitution can bring on opposition from self-interest groups which cower legislators into submission."

March 8, 1973

SJR-4 HJR 9 -

Herring
Gammage

Hale
Cant
Powers
B. Jones
Vick

To: Brasher
From: Hunter
Re: Chief Justice's Task Force on Court Improvement

In October 1971 Chief Justice Robert W. Calvert organized "The Chief Justice's Task Force for Court Improvement". The organization is composed of voluntary members who receive no compensation and have no interest except improvement of justice in Texas. After a year of study, debate, drafting and re-drafting they proposed a complete revision of the Judiciary Article (Art. V) of the Texas Constitution.

Senator Herring has introduced the proposal in the Senate (SJR 4) and the companion bill in the House is being carried by Rep. Dewitt Hale (HJR 9).

SUMMARY

Proposed Article V of the Texas Constitution Draft of December 15, 1972

The judicial system is unified under the supervision of the Supreme Court. Only two levels of appellate courts (Supreme Court and courts of appeals) and two levels of trial courts (district courts and county courts) are permitted. All courts are made courts of record.

Jurisdiction of all courts at the same level is made uniform and left to the Legislature. Throughout the proposed article, many important matters are left to the Legislature, either expressly or by silence. The article is deliberately silent on many matters that are mentioned in the present judiciary article. The intention is to give the Legislature greater flexibility in adapting the judicial system to future needs.

The Court of Criminal Appeals is merged with the Supreme Court. This will temporarily increase the membership of the Supreme Court to fourteen, but the number will be gradually reduced to nine as incumbents from either court vacate their positions.

The present courts of civil appeals become courts of appeals. The Legislature is empowered to give the courts of appeals criminal as well as civil jurisdiction, determine the number of civil appeals courts, and increase the membership of any court of appeals to more than three.

One district court is created in each district, with as many district judges of each court and other officials as the Legislature deems necessary.

The Legislature is directed to create a system of county courts to perform the judicial functions now performed by all courts below the district level, with each county court having as many judges and other officials as the Legislature deems necessary.

The article contemplates that all present judicial system personnel, including judges, clerks, prosecutors and other nonjudicial personnel, will be absorbed into the new court system. Members of the Supreme Court and Court of Criminal Appeals become justices of the Supreme Court. Judges of the courts of civil appeals become judges of the courts of appeals. District judges and special domestic relations and juvenile judges become judges of the new district courts. Judges of the county courts at law become judges of the new county court system. County judges who are not lawyers become presidents of the county commission; county judges who are lawyers have the option of accepting that position or becoming judges of the new county court. Justices of the peace and municipal judges who are lawyers are

are expected to be incorporated by the Legislature into the county court system. Each justice of the peace in office at the time of adoption of the article will continue to hold office until retirement, resignation or death, at which time the office of justice of the peace will cease to exist. The duties of the office of justice of the peace will then vest in the county court. (The office of constable is provided for in the same manner, except that when the office ceases to exist, its duties vest in the office of sheriff.) No judicial office may be abolished during the term of the incumbent who holds the office on the effective date of the article.

The Chief Justice supervises the administration of all courts through a system of presiding judges and court administrators. Under rules of administration approved by the Supreme Court, the Chief Justice is empowered to transfer cases between courts of appeals (only the full Supreme Court is given power to transfer a case between levels of courts) and assign any qualified lawyer or judge to temporary duty on any court. Presiding judges are designated by the Chief Justice. The Chief Justice may delegate administrative duties to a statewide court administrator who in turn may delegate to regional court administrators working with presiding judges.

Because of the importance of the administrative duties given to the Chief Justice, provision is made for designation of an acting chief justice during vacancies and periods of temporary disability. The Chief Justice also is permitted to permanently relinquish that office but remain a member of the court.

A Judicial Council, headed by the Chief Justice, is created to promulgate rules of administration, subject to Supreme Court approval, and perform such other functions as the Legislature may provide.

All judges are selected by nonpartisan election. However, at the same election at which the proposed new judiciary article is submitted, voters will be given an opportunity to provide for merit selection of appellate judges. Merit selection will be submitted as a separate constitutional amendment. If that amendment is approved, appellate judges will be appointed by the Governor from a list of qualified nominees submitted by a Judicial Nominating Commission consisting of three judges, two lawyers and six laymen. At the expiration of their terms, judges will be subject to approval or rejection by the voters; if approved, they will continue in office for another term; if rejected, the office will become vacant and will be filled by the Governor from a list of nominees submitted ~~extended~~ by the Nominating Commission. The Legislature is permitted to extend merit selection to trial judges.

All judges are required to be lawyers, are prohibited from practicing law, and lose their judicial offices if they file as candidates for nonjudicial elective offices.

The present Judicial Qualifications Commission and all major provisions of the present judicial retirement, removal, censure, and compensation system, including mandatory retirement of judges at age 75, are retained. Details of that system are removed from the Constitution and left to the Legislature.

/ All judicial salaries are to be paid by the state. The Legislature is empowered to provide for use of fines and other revenues generated by the courts to defray this expense.

The name of county governing board is changed from county commissioners court to county commission to make it clear that that body is nonjudicial.

Each judicial district will have a district attorney and district clerks, who will be elected. Each county will have a sheriff and a county clerk, who will also be elected. Such county attorneys as the Legislature deems necessary will be elected.

Provision is made for the state to be represented in all criminal cases by a district attorney or a county attorney, except in cases of disqualification.

Detailed provisions are made for the transition to the new court system, with a section permitting these transitional provisions to be removed from the Constitution when their purpose is accomplished. When the transition is completed, the complete article will be approximately 1,000 words in length, compared with approximately 5,000 words in present Article V.

March 7, 1973

To: Brasher
From: Hunter
Re: Senate Jurisprudence Committee hearing on SJR 4

Dear Chris:

At the Senate Jurisprudence Committee Hearing on SJR 4 the "battle" lines were clearly drawn with the judges testifying for the bill and the justices of the peace and local officials (constables and DA's) bitterly opposing.

Judge Calvert explained the work of the Task Force and the provisions of the amendment. Judges Greenhill, Roberts, Guittard and others spoke for the amendment testifying that delays at trial and appellate levels were "appalling"; warned of danger of a scandal in regard to administration of Criminal Justice within present system; that court reforms are impossible under present system; that overhaul of the judiciary would "unshackle" the legislature and allow them to respond to changing court problems without amending the constitution each time.

Several citizens groups spoke for the amendment (including LWV).

The J.P.'s and local officials were opposed to eliminating the "people's court"; JPs have been serving the people for 600 years; serve people at grass roots; problem of jps not correlated with higher courts; "courts of record wipes out little guy"; Chief Justice would be given "dictatorial powers"; and that they didn't want to protect their jobs, but want to protect the people.

Senator Herring pointed out that the bill was not designed to abolish the lower courts but to upgrade them.

Senator Gammage offered a proposal that would eliminate all courts below district court level. Both proposals were sent to the civil matters subcommittee.

Committee members appeared to favor the amendment. *(Herring's original)*
SJR-4

Chris;

We left before the hearing ended. That was 5:00 PM. and the JP & DAs were still testifying and I don't know how long it lasted. It was very interesting tho.

STATEMENT TO THE SENATE JURISPRUDENCE COMMITTEE

Austin, Texas

March 6, 1973

by Mrs. John Hunter, Director
League of Women Voters of Texas

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(over)

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Report on Times For Action:

Re: S.J.B. 4 Herring Our League member Gertrude Cherry called Senator Adams.

✓ Re: HEW regulations affecting Social Services under welfare
Enclosed are copies of letters I sent.

✓ Re: Hearing by the House Education Committee
Enclosed is a copy of the Letter I sent to Committee member Rep. Adams.

Mrs. Donald M. Gleason

Mrs. Donald M. Gleason
Legislative Chairman
Beaumont LWV
945 Lockwood Dr.
Beaumont, Texas 77706

DEAR Mrs. BRASHER:

MARCH 5, 1973

I received your TFA in the mail today. MARIANNE ERNNART, the BAYTOWN league president called Senator Menader's office regarding S.T.R. Yasa a representative of the league. I called as an individual.

After listening to the lobbyists at LOBBY SCHOOL, we are not going to waste anymore money on telegrams.

The BAYTOWN LEAGUE ALSO HAS A FEW MEMBERS IN SENATE DISTRICT 6, WALLACE'S AND LEGISLATIVE DISTRICT 96, WILLIAMS. THERE IS A NORTHSORE UNIT OF THE HOUSTON LEAGUE WHICH HAS MET TWICE AND WOULD BE CLOSER TO MR. WILLIAMS (HIS NEIGHBORS).

I found the LOBBY SCHOOL/LEGISLATIVE DAY ENLIGHTENING AND ENTERTAINING.

VERY TRULY YOURS,

MRS. VIRGINIA CARNEY
LEGISLATIVE CHAIRMAN
BAYTOWN LEAGUE

Note
3-24-73



MEMO
FROM
HOUSE OF REPRESENTATIVES

FROM THE DESK OF
JIM CLARK

March 2, 1973

Dear Chris:

I surely enjoyed the Legislative-Lobby School - except - as usual = there is never enough time. I think we should have one day devoted ONLY to attending the legislature and seeing our legislators. Ruth Jobes and I went up Sunday and got down to the capitol at 8:30 Monday and went by 21 senator and reps. offices and I saw a lot of them also in the corridors - went by governors offices and saw some friends who are lobbyists (of course I know a lot of them up there from over the years) and still could not spend enough time in the House and Senate.

Thanks for everything.

note
3-24-73

Wilma Green Hines



Mrs. CHRIS BRASHER



[REDACTED]

Dear Chris,

Talked to Bettye P., our president, about your Time For Action on Herring's bill SJR 4 and our duty to contact Senator Meier. Bettye feels Meier already knows our League's position on a unified court system well, as she spent some time with him about that issue at Lobby -Legislative Day. So I guess we are covered for action - this is just to keep you posted.

Sincerely,
Kay Taebel

Note 3-24-73

Kay

K. C. Thebel



John Hanson

Patriot



U.S. Postage 6¢

League of Women Voters
Legislative Office



C O P Y

SJR-4

LEAGUE OF WOMEN VOTERS
OF PASADENA
Post Office Box 523
Pasadena, Texas 77501

March 2, 1973

Senator Robert A. Gammage
Capitol Station
Austin, Texas 78711

Dear Senator Gammage:

I was sorry you were not in when Mrs. Ruth Jobes and I stopped by your office last Monday at the capitol but it was good to see you later in the corridor for a moment.

The League of Women Voters are supporting Senator Herring's SJR 4 on Court Revision and, since it is to come up for hearing next Tuesday, March 6 in the Jurisprudence Committee, of which you are a member, we urge your vote for this bill and ask that you use your influence to see that it passes in the Senate.

I have discussed this matter personally today with Senator Chet Brooks.

Sincerely,

Wilma Green Hines
Legislative Chairman

cc Senator Charles Herring

bcc Mrs. Ruth Jobes
bcc Mrs. Chris Brasher

7
SAME LETTER (except for first paragraph) also sent to Sen. Mengden

Time For

League of Women Voters of Texas

ACTION

Legislative Office

February 28, 1973

To: Leagues of Senate Jurisprudence Committee members

From: Holmes for Brasher

Re: S.J.R. 4 Herring

S.J.R. 4 by Senator Charles Herring of Austin will be discussed at a hearing before the Senate Jurisprudence Committee on Tuesday, March 6th at 2 pm in the Lieutenant Governor's Committee Room on the second floor of the Capitol (behind the Senate Chamber).

Helen Hunter will be testifying on behalf of the League of Women Voters of Texas.

Information on the bill can be found in the January Newsletter, Pages 12 & 13.

Please contact Senator _____

before Tuesday.

Let him know of your League's support for a unified court system and urge him to consider the bill favorably.

these ^{committee} members of non-League areas contacted?
This should be done by C. Corp.
only Don Adams (Beaumont)

Senate Jurisprudence Committee

Herring, Chairman
Harris, Vice, chrm.
Adams
Bracklin
Gammage

McKnight
Mauzy
Meier
Menden
Ogg
Santies Tehan
Sherman

Wallace

JUDICIAL REFORM

Fourth in League priorities are positions on the Judiciary. As various pieces of legislation are introduced, we will restate our positions, such as those on single courts of record and selection and tenure of judges.

Lt. Governor Hobby has listed revision of the Penal Code as put forth by the State Bar Association and court reform as outlined by Chief Justice Calvert's Task Force as third in his list of priorities.

Although there are many interesting issues in the area of judicial reform, we do not have positions on many of the measures that will definitely be tackled, such as marijuana laws, abortion, bail, etc. The Penal Code Revision failed two years ago because of these controversial issues, so wisely, they have been omitted this time from the Code revision and will be taken up as separate laws.

HJR 3 by Grant, Powers, and G. Jones. A Joint Resolution proposing an amendment to the Constitution amending Article V to provide for the merit selection of Justices of the Supreme Court and Judges of the Courts of Appeals; creating a Judicial Nominating Commission; establishing terms of office for all judges; and authorizing the legislature to provide for merit selection of Judges of the District Courts and County Courts. Referred to Committee on Judiciary.

This merit selection proposal was introduced in the House on January 12 by Ben Grant, and in the Senate by Sen. Max Sherman of Amarillo, Betty Andujar of Fort Worth and Bob Gammage of Houston.

Chief Justice Calvert's Task Force for Court Improvement met on December 15 and revised its draft of a judiciary article for the Texas Constitution. The draft has been submitted to the Legislature. The Task Force proposal is being submitted as two separate amendments, one proposing a revision of the entire Article V and one proposing merit selection of judges. The League has been solicited for assistance on these amendments. Since these resolutions have not been fully analyzed by the Executive Committee we cannot take action at this time. But be prepared to act immediately when the O.K. is given.

SJR 4 by Charles Herring of Austin. Court Revision.

Senator Herring has introduced the main part of a court revamping proposed by a special chief justice's task force for court improvement, calling for a rewrite of Article V of the state constitution - the article which deals solely with the judiciary.

A companion bill in the House will be carried by Rep. L. Dewitt Hale of Corpus Christi, chairman of the House Judiciary Committee.

Because of the controversial issue of the selection of some levels of the judiciary by an appointments commission, the task force decided to submit this provision separately. Herring's bill provides for non-partisan election of all judges.

SJR 4 contains the following proposals:

SJR 1 (continued)

Unified Ct. System

- Merge the court of criminal appeals and the Texas Supreme Court into a single court of last resort for both civil and criminal matters.
- Civil Appeals Court would become general appeals courts, hearing both civil and criminal cases. Their decisions would be final in most cases.
- Provide a statewide system of county-level courts, with judges who are lawyers, to replace certain specialized courts below the district level.
- Eliminate specialized district-level courts, such as domestic relations and criminal district courts, making their judges regular district judges.
- Lifetime office for justices of the peace and constables in office at the time the court reorganization passes, then eliminate the jobs entirely when they leave office because of resignation, removal or death.
- Centralized control of the entire court system, so that judges could be assigned where caseloads dictated a need.

If approved by the Legislature, the rewrite of Article V could go before the voters in November 1973 or could be incorporated in the new constitution to be written in 1974.

For background on action taken in the 62nd Legislature on selection and tenure of judges, refer to 1971 issues of the Legislative Newsletters.

MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY:

Hale, Chairman; Grant, Vice-Chairman

Speaker's Appointments: Baker, Bales, Coleman, Cooke, Denson, Donaldson, Evans, Garcia, Heatly, Henderson, Hudson, Jones of Harris, Maloney, Nowlin, Peveto, Rosson, Sullivant, Vecchio, Vick, Washington.

Seniority: Powers

Note to Leaguers: Legislative Interviews showed that quite a few legislators are unfamiliar with the Merit Plan for selection of judges. Please check your copy of the interview and if your legislator is not familiar with our positions, please get as much information to him as possible. It is imperative that all legislators be familiar with this subject, so we are counting on you to do some lobbying!

Chris
Ronnie Earle called me at Home To Talk
about Hearing, before the Senate Jurisprudence Comm.
Tues - Mar 6 at 2:00 - in St. Ger. Common Room
on 2nd floor behind the Senate Chambers
on Article V -

He wants Helen Hunter To ~~come~~ up to
Testify + will pay transportation for her.

He also wants L.W.V. people to fill the hall
outside the Room - which holds only 37 peo -
(I have contacted Ricki to get some Austin L.W.V. peo
there)

He also wants us to contact Leagues of Senators
on the Jurisprudence Comm and have them urge their
Senators to consider it seriously - (T.F.A.)

Wouldn't a short note (T.F.A) referring the
Leagues to Newsletter⁴, page 12 - do it? S.J.R.4

Norm

degree to which pub is
interested - J.C. - Pub. form.
Houston -

Helen Hunter -
Contract ment of jurisprudence

Renna Earle -

Tues - Mar. 6 - 2 P.M.

Article V - Senat Jurisprud.
Lt Gov. Comm. Pub. & Nat. Hon

behind Senate Chambers -

Need per - + someone to testify Briefly -

Copy to Hunter, May

Senate Joint Resolution 4
Herring

SUBJECT: Unified Judicial System, Judicial Council, Qualifications Commission

PURPOSE: To amend Texas Constitution Art. 5 to provide for a uniform judicial system, creating a judicial council and a Judicial Qualifications Commission, for a county commission, for elections of judges and transitional provisions.

BACKGROUND AND LEGISLATIVE HISTORY

Constitutional References: Texas Constitution Article 5.

Analysis. This Amendment would abolish the court of criminal appeals, justice of the peace courts, the office of constable and create a unified judicial system consisting of a supreme court, courts of appeals, district courts and county courts.

ANALYSIS BY SECTION

1 To amend Article 5, Tex. Const. as follows:

Section 1. Judicial Power of the state is vested in a unified judicial system composed of a supreme court, courts of appeals, district courts, and county courts. All courts shall be courts of record. Jurisdiction of courts of the same level shall be uniform throughout the state.

Section 2. Supreme Court

(a) The supreme court shall consist of the chief justice of Texas and eight other justices. It may sit in sections of not less than three justices.

(b) The supreme court has the duty and authority to administer the just operation of the judicial system. It may transfer cases from one court to any other court of a different level.

(c) The supreme court has power to prescribe rules of procedure. Any such rule expressly disapproved by the Legislature shall have no effect. The supreme court may prescribe other rules as provided by law.

Section 3. Courts of appeals shall exist in such number (one or more) as provided by law. Each shall consist of a chief judge and two or more judges, of whom not less than three shall sit in any one case.

Section 4. Trial Courts

(a) The state shall be divided by law or by an agency acting under law into geographical judicial districts. There shall be one district court in each district with one or more district judges and other officials as provided by this article or by law.

(b) The legislature shall create county courts. No county shall have more than one county court, but one county court may serve two or more counties. Each county court shall be staffed with judges and other officials as provided by law.

ANALYSIS BY SECTION (cont.)

Section 5. Administration

(a) The chief justice is the administrative head of the judicial system. Pursuant to administration rules prescribed by the Judicial Council, he may transfer cases from any court of appeals to any other, delegate administrative powers to active or retired judges, and temporarily assign to any court any judge or lawyer who meets the qualifications for a judge of that court. The membership of that court may be temporarily increased by such assignments.

(b) If the office of chief justice is vacant or if the supreme court determines that the chief justice is temporarily disabled, the supreme court shall designate another justice as acting chief justice and chairman of the Judicial Council until the vacancy is filled or the disability ends. The chief justice may relinquish that office but remain a member of the supreme court, and the supreme court shall designate another of its members to serve as chief justice for the remainder of the term.

(c) There is hereby created a Judicial Council which consists of the chief justice as chairman and the following members, each of whom shall serve a two-year term: two judges of the courts of appeals, three trial judges and one district clerk, each appointed by the Supreme Court; four members of the State Bar appointed by its board of directors; two members of each house of the legislature as provided by that house.

(d) The Judicial Council shall prescribe rules of administration for all courts effective upon approval by the supreme court, and shall perform other functions as provided by law.

Section 6. Selection and Tenure of Judges

(a) All judges and justices shall be elected on a nonpartisan ballot for six-year terms.

(b) Each judge or justice shall be a citizen of this state, shall be licensed to practice law in this state, and shall have other qualifications as provided by law.

(c) No active judge or justice may engage in the practice of law. If any judge or justice files as a candidate for any elective non-judicial office, his judicial office shall immediately become vacant.

(d) The legislature shall provide retirement and death benefits for judges and justices.

(e) Mandatory retirement at age 75 or such earlier age as may be provided by law.

(f) Any judge or justice may be removed from office, suspended or

ANALYSIS BY SECTION (cont.)

censured by the supreme court for willful or persistent conduct clearly inconsistent with proper performance of his duties or which casts public discredit upon the judiciary or the administration of justice. Any judge or justice may be involuntarily retired by the supreme court for serious disability interfering with the performance of his duties, which is or is likely to become permanent.

(g) There is hereby established a Judicial Qualifications Commission to consist of two judges of the court of appeals and two district judges chosen by the supreme court, two members of the state bar chosen by the board of directors and three citizens not licensed to practice law appointed by the Governor. The term of office shall be six years. The commission shall operate under rules promulgated by the supreme court and shall have power to censure and to recommend suspension or retirement.

Section 7. Financing shall be provided by the state. Reimbursement to the state for all or part of the such expense may by law be provided from funds collected by the courts.

Section 8. County Commission. The voters of each county shall elect a president of the county commission. One county commissioner shall be elected from each of four commissioner precincts created within each county. The term of office shall be four years.

Section 9. Other Officials

(a) The Legislature shall provide for the election and duties of a district attorney, two district clerks in each judicial district, and for the election and duties of a sheriff and county clerk in each county. The Legislature shall provide for elections and duties of such county attorneys as it deems necessary.

(b) Except in cases of disqualification, the state shall be represented in all criminal cases by a district attorney or county attorney.

Section 10. Transitional Provisions.

(a) On the effective date of this Article, the chief justice of the supreme court shall become the chief justice of Texas. The presiding judge and other judges of the court of criminal appeals and the associate judges of the supreme court shall become justices of the supreme court. Each commissioner of the court of criminal appeals shall become a commissioner of the supreme court, but that office shall cease to exist when he ceases to hold that office. The offices of the first five justices, other than the chief justice, who leave that office after the effective date of this Article shall cease to exist.

(b) Chief justices of the courts of civil appeals shall become

ANALYSIS BY SECTION (cont.)

chief judges of the courts of appeals; justices of the civil appeals courts shall become judges of the courts of appeals. Each district judge or judge of a criminal district court, domestic relations court, or special juvenile court shall become a judge of a district court. Each judge of a county court at law, county civil court at law, county court for criminal cases, county probate court, county criminal court or county court of criminal appeals shall become a judge of a county court.

(c) Participants in a county retirement, disability and death compensation fund who become district or county judges pursuant to Subsection (b) shall have the option of continuing his participation in such fund or transferring to the state judicial retirement system.

(d) Judges of county courts shall become presidents of the county commission, however any county judge licensed to practice law may elect to remain a county court judge and the office of county commissioner president shall be filled by the commission until the next election.

(e) No judicial office shall be abolished by adoption of this Article until the expiration of the term of the person who held the office on the effective date of this Article or until that person ceases to hold office, whichever occurs first.

(f) Subject to the power of the county commission to reduce the number of existing justice precincts to four, all offices of justice of the peace and constable shall remain until his or her resignation, retirement, or death, at which time the particular office shall cease to exist. At such time the duties of the office of justice of the peace shall be vested in the county courts and the duties of the office of constable shall unless otherwise provided by law, vest in the office of sheriff.

(g) All courts, except those authorized by this Article, are hereby abolished and all matters pending therein shall be transferred to the courts created by or pursuant to this Article. These courts shall succeed to all records and property of the courts abolished.

(h) Unless inconsistent with the provisions of this Article, all laws and rules of court in force on the effective date of this Article shall continue in effect until superseded as authorized by law.

(i) The supreme court shall by rule provide for any orderly transfer or transition not provided for by this Article.

(j) Members of the Judicial Qualifications Commission on the effective date of this Article shall become members of the Commission created by this Article.

ANALYSIS BY SECTION (cont.)

(k) When any subsection of these transitional provisions has been executed, the supreme court shall certify that fact to the secretary of state and thereafter that subsection shall no longer be part of this constitution.

(l) The Legislature shall adopt enabling legislation at the first regular session following the adoption of this Article.

2 This amendment shall be submitted to a vote at an election to be held the first Tuesday after the first Monday of November, 1973.

JUDICIAL REFORM

Fourth in League priorities are positions on the Judiciary. As various pieces of legislation are introduced, we will restate our positions, such as those on single courts of record and selection and tenure of judges.

Lt. Governor Hobby has listed revision of the Penal Code as put forth by the State Bar Association and court reform as outlined by Chief Justice Calvert's Task Force as third in his list of priorities.

Although there are many interesting issues in the area of judicial reform, we do not have positions on many of the measures that will definitely be tackled, such as marijuana laws, abortion, bail, etc. The Penal Code Revision failed two years ago because of these controversial issues, so wisely, they have been omitted this time from the Code revision and will be taken up as separate laws.

HJR 3 by Grant, Powers, and G. Jones. A Joint Resolution proposing an amendment to the Constitution amending Article V to provide for the merit selection of Justices of the Supreme Court and Judges of the Courts of Appeals; creating a Judicial Nominating Commission; establishing terms of office for all judges; and authorizing the legislature to provide for merit selection of Judges of the District Courts and County Courts. Referred to Committee on Judiciary.

This merit selection proposal was introduced in the House on January 12 by Ben Grant, and in the Senate by Sen. Max Sherman of Amarillo, Betty Andujar of Fort Worth and Bob Gammage of Houston.

Chief Justice Calvert's Task Force for Court Improvement met on December 15 and revised its draft of a judiciary article for the Texas Constitution. The draft has been submitted to the Legislature. The Task Force proposal is being submitted as two separate amendments, one proposing a revision of the entire Article V and one proposing merit selection of judges. The League has been solicited for assistance on these amendments. Since these resolutions have not been fully analyzed by the Executive Committee we cannot take action at this time. But be prepared to act immediately when the O.K. is given.

✓ SJR 4 by Charles Herring of Austin. Court Revision.

Senator Herring has introduced the main part of a court revamping proposed by a special chief justice's task force for court improvement, calling for a rewrite of Article V of the state constitution - the article which deals solely with the judiciary.

A companion bill in the House will be carried by Rep. L. Dewitt Hale of Corpus Christi, chairman of the House Judiciary Committee.

Because of the controversial issue of the selection of some levels of the judiciary by an appointments commission, the task force decided to submit this provision separately. Herring's bill provides for non-partisan election of all judges.

SJR 4 contains the following proposals:

SJR 4 (continued)

- Merge the court of criminal appeals and the Texas Supreme Court into a single court of last resort for both civil and criminal matters.
- Civil Appeals Court would become general appeals courts, hearing both civil and criminal cases. Their decisions would be final in most cases.
- Provide a statewide system of county-level courts, with judges who are lawyers, to replace certain specialized courts below the district level.
- Eliminate specialized district-level courts, such as domestic relations and criminal district courts, making their judges regular district judges.
- Lifetime office for justices of the peace and constables in office at the time the court reorganization passes, then eliminate the jobs entirely when they leave office because of resignation, removal or death.
- Centralized control of the entire court system, so that judges could be assigned where caseloads dictated a need.
- If approved by the Legislature, the rewrite of Article V could go before the voters in November 1973 or could be incorporated in the new constitution to be written in 1974.

For background on action taken in the 62nd Legislature on selection and tenure of judges, refer to 1971 issues of the Legislative Newsletters.

MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY:

Hale, Chairman; Grant, Vice-Chairman

Speaker's Appointments: Baker, Bales, Coleman, Cooke, Denson, Donaldson, Evans, Garcia, Heatly, Henderson, Hudson, Jones of Harris, Maloney, Nowlin, Peveto, Rosson, Sullivant, Vecchio, Vick, Washington.

Seniority: Powers

Note to Leaguers: Legislative Interviews showed that quite a few legislators are unfamiliar with the Merit Plan for selection of judges. Please check your copy of the interview and if your legislator is not familiar with our positions, please get as much information to him as possible. It is imperative that all legislators be familiar with this subject, so we are counting on you to do some lobbying!

Judicial Reform Urged With Haste

SV 12-4

A blue-ribbon Houston citizens group says that reform of the Texas judiciary must precede revision of the state constitution.

The Texas Citizens for Court Improvement Inc. (TCCI), formed last year, said Tuesday it does not want court reform "tarnished by the horse-trading, special interest and political manipulation" it says may mark the 1974 constitutional convention.

The group endorses the reform of the Texas court system proposed by former Chief Justice Robert W. Calvert.

The Calvert proposal, already introduced in bill form in the state legislature, would streamline the Texas judiciary by eliminating many low-

er courts and unifying the current civil and criminal courts.

Calvert also called for so-called merit selection of judges by the governor rather than by partisan election.

E. Clyde McGraw, TCCI president and chairman of the board of Transcontinental Gas Pipeline Co., said he hopes the legislature sends the Calvert proposals to Texas voters in November.

McGraw said he has "no indication" the legislature will delay action on the Calvert reform bills while a 37-person constitutional commission meets to frame proposals to be considered by the 1974 convention.

The commission member

ship currently is being studied by the governor, attorney general and other top officeholders. Members of the legislature will form the constitutional convention.

TCCI urges McGraw be named to the 37-member panel and has submitted the names of three other TCCI members for possible appointment.

* * * * *

Rewrite Opposed. Before Convention

Capitol Staff
One of the leading legislative proponents of Constitutional revision says he will oppose any attempts to amend Texas' governing document before the Constitutional Convention in 1974. Saying in effect they didn't want to put their eggs in the Constitutional Convention's basket, the task force has found Sen. Nelson Wolff of San Antonio, in a speech on the Senate floor, singled out its revision effort and is pushing proposed rewrite of the constitutional article dealing with the Texas court system. They argue that if the product of the Constitutional Convention is rejected by voters, at least they may have a chance of achieving judicial revision; and if the convention writes a successful new constitution, the rewrite of the judicial article could be made part of it.

Wolff said Monday the Constitutional Convention will begin in 11 months. He called the idea of submitting other amendments in the meantime "haphazard," and said it is a high cost approach.

He said each of the 18 amendments offered to voters last November represented about \$60,000 in election costs.

Armstrong Claims Texas Entering 'Era of Progress'

By DICK WILLIAMSON
Staff Writer

State Land Commissioner Rob Armstrong told the Jaycees Saturday night that Texas is entering the "dawning of an era of progress."

Speaking at a banquet at the Villa Capri, Armstrong emphasized the need to instill faith in an innovative government.

The banquet was part of a weekend legislative seminar sponsored by the Texas Jaycees.

Armstrong praised new state legislators recently sworn in as "people who are not going to be purchased" by interest groups and said they "should not be afraid to try new things in government."

He said he feels solutions to environmental problems will be found in technology and planning and added that Texas has had a good deal of "interagency cooperation" in coping with pollution problems in the past.

Armstrong said legislation should be only for the benefit of people and said the "first duty" of a legislator should be to "give the voters faith in government."

"The House did more with its recent rules changes to instill confidence in government than anything that has occurred in the past decade in Texas," Armstrong said.

Armstrong said two things — full financial disclosure and public candor — are most important in establishing public trust in the legislature.

"The least a man can do is show what he's doing financially," Armstrong said, adding that legislators should "have a candor which transcends public relations."

"If things aren't good in government, a politician ought

to say things aren't good. During campaign time for re-election a politician will say things are super, but later on we find out things really aren't super. This undermines trust in our government," Armstrong said.

Armstrong appeared optimistic about the new legislature and said their most important job is "returning government to the people."

"I think things are changing — and I think they are changing happily," he said.

Earlier, at the Capitol, Lt. Gov.-Elect Bill Hobby told the Jaycees that the new legislature faces a challenging year as it deals with the state's problems.

He said that finding new ways to finance public education is one of the most difficult and important problems the legislature will consider.

Hobby also told the approximately 300 persons attending that he thinks the marijuana penalties in Texas should be reduced and that he believes judicial reform will be considered this session. He said he expects some controversy on whether judges should be elected or appointed.

After Hobby's address, the Jaycees convened into "house" and senate committee and began considering a number of bills.

The Jaycees are simulating actual legislative and policy-making functions of the Texas government.

During the course of their meetings, they are considering

12 "bills," dealing with topics including judicial reform, marijuana, abortion, budget execution, conference committee limitations, capital punishment and a press shield law.

These are among the same topics the legislature will be dealing with this session.

Sunday morning Rep. Fred Head, a "Dirty 30" member from Troup, will address a "lobbyist" breakfast at the Jaycee Seminar. He will speak at 7:30 a.m. at the Ramada Gondolier Motor-Hotel. The Jaycees will then reconvene for closing sessions at the Capitol.

Reg. George Willis (part sent)
needs to be noticed on
fraternal columns & progress
in course of their plan -

Also General Murray

(opposed to making Japanese card)

See list for others.
& et. of European (yours)

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Do you approve of Court of Criminal Appeals and Supreme Court of Texas being merged into a single court for both civil and criminal matters?

House: Yes :

Baker	Eynum
Gene Jones	Poff
Vick	Slack
Clark	Vecchio
Head	Ed Harris
Cavness	Joe Allen
McAlister	Murray
Munson	Bales
Tarbox	Reynolds
Laney	Walt Parker (need for better distribution of workload among justices)
Doyle	Geiger
Peveto	Fagsdale
Powers	Agnich
Davis	Cole
Coleman	L. Jones
	Tupper (with increase of Supreme Court justices to perhaps 15 members)

No:

- Williamson
- McDonald
- Finnell
- Hoestenbach (because of workload on courts)
- Caldwell
- Hudson (because of present workload)
- Maloney (criminal law is a specialty)
- Johnson (" " " ")

Possibly - Semos (Biggest need is for redistricting of judicial districts. Will work toward that end)

Wanted to study matter further before commenting on a merger of courts - Presnal, H. Adams

Undecided - Allred

No Opinion - Edwards, Foreman, Hawn

Unfamiliar with subject - 2

1 thought there were too many district judges.

Did not discuss - 15

Senate: Yes:

- Herring
- Harrington
- Moore
- Clower
- Harris - but right now is bad time because of large caseloads.

No:

- Adams
- Hightower
- Longoria - Thinks criminal law should be dealt with by specialists
- Creighton - " " " " " " " "
- Would prefer increasing size of courts if necessary.
- Blanchard - Thinks merger would slow things up more
- Schwartz - Dual courts more productive
- Brooks - open to idea though.

Not discussed: Wallace, Sherman and four others

Solons Scrutinize Revamping Courts

By CHRIS HARTE
Associated Press Writer

Texas' highest ranking judges have been trying to get the legislature to reform the state court system for several years, and this year the message seems to have gotten through.

Most state senators and representatives responding to an Associated Press survey on issues confronting the 63rd legislature said they would vote for court modernization this year.

The proposals they are most likely to see come before them will come from the recommendations of a task force appointed by the recently retired chief justice of the Texas Supreme Court, Robert W. Calvert.

Among the sweeping changes

proposed by Calvert's task force were

—combining the civil and criminal court systems into a single unified system, with a nine-member Supreme Court doing the work now done by both the Supreme Court and the Court of Criminal Appeals,

—Giving the courts of civil appeals jurisdiction over criminal as well as civil cases, and removing the word "civil" from their titles.

—Empowering the chief justice and the presiding judges in multi-judge district courts to move judges or cases to cope with backlogs in other parts of the court system.

Almost 75 per cent of the legislators responding to AP's sur-

vey were strongly in favor of making at least some of the changes recommended by the former Chief Justice.

Sen.-elect Nelson Wolff of San Antonio said the legislature

should "provide for a unitary court system as advocated by Justice Calvert S. Task Force." Pasadena Sen. Chet Brooks said he thought "judicial reorganization of caseloads" were the most needed improvements in the judicial system.

Freshman Republican Rep. Milton E. Fox of Houston expressed his "general agreement" with Justice Calvert's proposals.

But Rep. Doyle Willis of Fort Worth said he hadn't made up his mind yet. "I'm not sold on this at present," he said.

Sen. Oscar Mauzy of Dallas said he "would oppose combining the Supreme Court and the Court of Criminal Appeals."



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Judiciary

Copy for Hester, Veta, His, Me + Office

Helen will contact Ronald Early re League action on selection + tenure + Court revision. Letter of endorsement from Veta. (copy to Janice + me)
Was this done? I did not get copy.

MRS. FRANCIS B. MAY

6504 AUBURNHILL DRIVE, AUSTIN, TEXAS 78723

Sunday-Jan. 21

Dear Nancy,

I am enclosing a letter from Ronald Earle re the judicial reform proposals -

I am engaged in a graduate seminar at the LBJ School which will be meeting Tuesday, the 23rd, all morning. In fact, I am due to state at 10:00 - so must miss the meeting of the Capitol Corps -

I am interested in seeing the office and getting hold of bills, etc. Should I go at any particular time? - That is, is the secretary part or full time?

It would be well for someone
(over)

to be assigned to the election
bills in addition to myself -

I will do all I can but my
time is at a premium - and
I am facing a series of deadlines
on a book - In short, I need a
back up.

You might ask Chris
if I'm supposed to be following
judicial reform. ~~He~~ I had
assumed so - but maybe the
plans have been changed -
I have been with former C.J.
Calvert on several occasions -
this has helped keep track of
developments -

I'm also following TCR
for several ~~purpo~~ reasons -
as ever,
Jamie

HB 167 (Kaster) - counties to approve subdivision
plates in areas outside corporate
limits of cities.
?



TEXAS CIVIL JUDICIAL COUNCIL

P. O. BOX 12066

AUSTIN, TEXAS 78711

MARYBELL DISMUKE
EXECUTIVE SECRETARY

BG-3 SUPREME COURT BLDG.
A.C. 512, 475-2036

January 15, 1973

RONALD EARLE

~~DAVID A. ANDERSON~~
CHIEF COUNSEL
JIM HUTCHESON
ASSISTANT COUNSEL

312 BOLM BUILDING
308 W. 15TH STREET
A.C. 512, 475-6272

Dr. Janice May
Department of Government
University of Texas at Austin
Austin, Texas 78712

Dear Dr. May:

The Chief Justice's Task Force for Court Improvement met on December 15 and revised its draft of a judiciary article for the Texas Constitution. I am enclosing a copy of that draft, which has been submitted to the Legislature.

The Task Force proposal, which includes a separate amendment concerning merit selection of judges, is being submitted as two separate amendments, one proposing a revision of the entire Article V and one proposing merit selection of judges. I do not yet have the numbers of these amendments, but when I get them I shall forward the information to you.

→ Judge Calvert has asked me to solicit the assistance of the League of Women Voters in contacting members of the Legislature. If there is any information you think should be sent to members of the League, I offer my assistance in doing so.

Yours very truly,

Ronald Earle

Ronald Earle
Chief Counsel

RE: lmp

Enclosures

SJR-4 - Henry
HJR-9 - Hale

HJR-3 by Ben Grant

ordered

SJR-2 by Max Sherman

*League alerted in Newsletter, should
we get out a TFA when report out.
Phone for her recommendation.*

SJR 20 Gammage

TO: Brasher, Braunager, 50, May
FROM: HUNTER

3-19-73

*Along the
downstream*

This is the amendment to SJR 4 that retains the justice of the peace and municipal courts. Municipal and jps who are licensed to practice law become associate "circuit" or district judges; (in this bill the district courts are called "circuit courts") just as in SJR 4 however, all others become "magistrates and only those who are licensed to practice law may try contested cases. This bill was discussed at the Senate Jurisprudence Committee hearing I attended and both bills SJR 4 and SJR 20 were referred to sub-committee for further study. Let's see what comes out of committee.

Very strong opposition to this bill is coming from the JPs. Although this doesn't meet our full consensus it does make the provision that JPs who try contested cases be lawyers. This is an improvement on what we now have. I'd hate to lose all the improvements in the revised Article V because of this one section.

DeWitt Hale has introduced this revision in 8 separate bills. We haven't seen them yet but it may be easier to get these changes section by section rather than in one package.

Lets watch all of these judicial bills and see what happens.

Judicial

cc, May, 50

Brammigel, Brasher

From Hunter

- March 7, 1973

HJR 20 Hawn, Hilliard Notaries Public

To provide for the appointment by the Secretary of State of notaries public with statewide jurisdiction for terms of four years.

We have no position.

SB 215 Schwartz Assistants for County Judges

To provide for an assistant or assistants to help the county judge perform duties formerly performed by the county superintendent and to provide salary and office and travel expenses for such assistant or assistants. We have no position.

SB 100 Ogg Municipal Courts and Judges

To provide for the establishment and operation of municipal courts to provide for the appointment of municipal judges to preside over these courts. We have no position except on making these courts courts of record. However this provides for the duties of judges, salaries, operation of court, personnel, etc. This goes beyond our support position.

Chris: I'm sending copies of the letter of intent to support HJR 3 that I have sent to Veta for her signature. I do not have a copy of SJR 2 so I don't know if they are the same or not. If you will get me a copy of the bill I will see that copies go out to Sherman, et al. (we all need copies)

We all need copies of HJR-9, including Helen.

Brasher

FIRST PRINTING March 21, 1973

Official House Printing, 63rd. Leg.

By: Hale

H. B. No. 1401

(In the House.--Filed March 9, 1973; March 20, 1973, read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

1 relating to the Supreme Court and Courts of Appeals of Texas;
2 prescribing the organization, jurisdiction, writ authority,
3 rule-making power, and authorized personnel of those courts;
4 relating to the qualifications and selection and tenure of the
5 justices and judges of those courts; prescribing an effective
6 date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 PART I. SUPREME COURT

10 Section 1. SUPREME COURT: ORGANIZATION. There shall be
11 one Supreme Court which shall be the highest court of the state.
12 The Court consists of the chief justice of Texas and eight other
13 justices. In accordance with rules adopted by the Court, it may
14 sit in sections of not less than three justices, designated by the
15 Chief Justice. The concurrence of the majority of a section is
16 necessary to a decision of the Court.

17 Section 2. QUALIFICATIONS: SELECTION AND TENURE. No person
18 may serve as a justice of the Supreme Court unless, at the time of
19 his election, he is

20 (1) at least 35 years old;

21 (2) a citizen of the United States and a resident of this
22 State; and

23 (3) a licensed attorney who has been a practicing lawyer,
24 a judge of a court of record in this State, or a combination of
25 both for at least seven years.

26 (b) Three justices shall be elected, on a non-partisan

1 ballot, at each general election for six-year terms. A vacancy on
2 the Court shall be filled by appointment of the Governor until the
3 next general election and until a successor is elected and has
4 qualified.

5 Section 3. JURISDICTION. (a) The Supreme Court shall
6 have final appellate jurisdiction, coextensive with the limits of
7 the state, extending to all questions of law arising in cases
8 brought to the courts of appeals.

9 (b) Under rules adopted by the Court, it may review and
10 decide any case or controversy decided in the courts of appeals:

11 (1) if the matter was tried originally in a district
12 court;

13 (2) if the matter was tried originally in a county
14 court at law and the appeal of the matter results in the court of
15 appeals holding differently from a prior decision of another court
16 of appeals or of the Supreme Court, upon any question of law mater-
17 ial to a decision of the case or controversy.

18 (c) Under rules adopted by it, the Supreme Court may transfer
19 to its docket and review and decide any case or controversy tried in
20 any court of the state, if the Court decides the matter is of suffi-
21 cient importance to the jurisprudence of the state to require immediate
22 final disposition by the state's highest court.

23 (d) The Supreme Court shall review and decide a direct appeal
24 from any order of a trial court granting or denying an interlocutory
25 or permanent injunction on the ground of the constitutionality or
26 unconstitutionality of any statute of this state.

27 Section 4. WRIT AUTHORITY. The Supreme Court or any justice
28 thereof may issue writs of mandamus, procedendo, certiorari, quo
29 warrants, and habeas corpus, and all other writs necessary or proper
30 to the complete exercise of the Court's jurisdiction.

1 Section 5. RULE-MAKING POWER. The Supreme Court may from
2 time to time make and amend rules of practice and procedure for
3 civil cases. Such rules may not abridge, enlarge, or modify the
4 substantive rights of any litigant. After promulgation by the
5 Supreme Court, the rules shall be filed with the Chief Clerk of the
6 House of Representatives and the Secretary of the Senate, and a copy
7 mailed to each member of the Legislature. The rules shall become
8 effective, unless disapproved by either House of the Legislature,
9 within 60 days after the beginning of the next Regular Session of
10 the Legislature following adoption by the Court.

11 Section 6. PERSONNEL. The Supreme Court may appoint such
12 clerks, deputy clerks, and other necessary personnel as authorized
13 by legislative appropriation.

14 PART II. COURTS OF APPEALS

15 Section 1. (a) There shall be such number of courts of
16 appeals, each having jurisdiction within its respective district,
17 as otherwise provided by law.

18 (b) Each court of appeals consists of at least three judges
19 and as many additional judges as authorized by law. Under rules
20 adopted by it, a court may sit in sections of not less than three
21 judges, designated by the Chief Judge. The concurrence of the
22 majority of a section is necessary to a decision of a court.

23 (c) The Chief Justice of Texas shall designate one of the
24 judges of each court of appeals as the chief judge of that court.
25 Once designated as Chief Judge, the person selected shall continue
26 to serve in that capacity as long as he remains a member of that
27 court of appeals, unless he voluntarily resigns as chief judge.

28 Section 2. QUALIFICATIONS; SELECTION AND TENURE.

29 (a) No person may serve as a judge of a court of appeals
30 unless, at the time of his election, he is:

- 1 (1) at least 30 years old;
- 2 (2) a citizen of the United States and a resident of
- 3 the district from which elected; and
- 4 (3) a licensed attorney who has been a practicing
- 5 lawyer, a judge of a court of record in this State, or a combination
- 6 of both for at least seven years.

7 (b) Each judge of a court of appeals shall be elected, on a
8 nonpartisan ballot, for a six-year term. A vacancy on a court shall
9 be filled by appointment of the governor until the next general
10 election and until a successor is elected and has qualified.

11 Section 3. JURISDICTION. (a) Except as provided in Section
12 3(d) of Part I, each court of appeals shall have full appellate
13 jurisdiction, coextensive with the limits of its district, extending
14 to all civil cases in which the amount in controversy or judgment
15 rendered exceeds \$100, exclusive of interest and costs.

16 (b) Except as provided in Section 3(d) of Part I, each court
17 of appeals shall have full appellate jurisdiction, coextensive with
18 the limits of its district, extending to all criminal cases in which
19 punishment, by confinement or a fine exceeding \$100, has been imposed.

20 (c) If within the appellate jurisdiction of the courts of
21 appeals enumerated in Subsections (a) and (b) of this section, an
22 appeal from a final judgment of a trial court to the respective court
23 of appeals is a matter of right.

24 Section 4. WRIT AUTHORITY. In accordance with rules adopted
25 by the Supreme Court, each court of appeals or any judge thereof may
26 issue any writs necessary or proper to the complete exercise of the
27 court's jurisdiction.

28 Section 5. PERSONNEL. Each court of appeals may appoint
29 such clerks, deputy clerks, and other necessary personnel as author-
30 ized by legislative appropriation.

PART III. MISCELLANEOUS PROVISIONS

Section 1. This Act takes effect only if the constitutional amendment proposed by H. J. R. No. 9 is adopted. If H. J. R. No. 9 is adopted, this Act takes effect on September 1 following adoption of the amendment.

Section 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

March 5

Introduced and referred to Jurisprudence Committee

By

Stanger

S.J.R. No. 20

A JOINT RESOLUTION

proposing an amendment to the Constitution of the State of Texas, as amended, revising Article V thereof to provide for a unified judicial system composed of a supreme court, a court of appeals, and circuit courts, and authorizing the legislature to prescribe jurisdiction thereof; creating a judicial council and providing for the appointment and tenure of its members and prescribing its duties; providing for nonpartisan election and the qualifications, tenure, and retirement of judges; providing for administration and financing of the judicial system and for a judicial qualifications commission; and providing transitional provisions.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Article V of the Constitution of the State of Texas be amended and revised to read as follows:

"Section 1. JUDICIAL POWER. The judicial power of the state shall be vested in a unified judicial system composed of a supreme court, a court of appeals, and circuit courts. No other courts may be established by the state, any political subdivision, or any municipality. Commissions established by law, or administrative bodies may be granted quasi-judicial power in matters connected with the function of their offices. Jurisdiction of the various courts shall be established by law.

"Sec. 2. SUPREME COURT. (a) The supreme court shall be the highest court of the State with final appellate jurisdiction. It shall consist of the chief justice of Texas and eight justices.

It may sit in sections of not less than three justices.

"(b) General administrative and supervisory authority of the judicial system shall be vested in the supreme court and shall be exercised by the chief justice of Texas in accordance with its rules. It may transfer cases from one court to any other court of the same or different level.

"(c) The supreme court shall have power to prescribe rules of procedure, provided that any rule of procedure expressly disapproved by act of the legislature shall have no effect. The supreme court may prescribe such other rules as provided by law.

"Sec. 3. COURT OF APPEALS. (a) There shall be one court of appeals which shall be the intermediate appellate court of the state, and which shall sit in divisions as provided by law, each consisting of a chief judge and two or more judges, of whom not less than three shall sit in any case.

"(b) The state shall be divided by law, or by an agency acting under authority of law, into appellate judicial districts, of substantially equal population, each of which shall be compact and composed of contiguous counties. In each such appellate judicial district there shall be one or more divisions of the court of appeals.

"Sec. 4. CIRCUIT COURTS. (a) The trial court of original general jurisdiction of the State shall be the circuit court.

"(b) Each appellate judicial district shall be divided by law, or by an agency acting under the authority of law, into judicial circuits of substantially equal population, each of which shall be compact and composed of contiguous counties.

"(c) In each such circuit there shall be one circuit court with one or more circuit judges, associate circuit judges, and magistrates to be selected as provided in this Constitution, as the supreme court deems necessary for the proper operation of such circuit court. In each such circuit there shall also be such

circuit clerks, a circuit attorney, and such other non-judicial officials as the legislature deems necessary, to be selected as provided by law.

"Sec. 5. ADMINISTRATION. (a) The chief justice of Texas is the administrative head of the judicial system. Pursuant to rules of administration, he may transfer cases from any court to any other court of the same level, delegate administrative powers to court administrators and active or retired judges appointed by him as presiding judges, and temporarily assign to any court any judge or lawyer who meets the qualifications established for a judge of that court. By such assignments, the membership of any court may be temporarily increased.

"(b) If the office of chief justice of Texas is vacant, or if the supreme court determines that the chief justice is temporarily disabled, the supreme court shall designate another justice who shall serve temporarily as acting chief justice and chairman of the judicial council until the vacancy is filled or the disability ends. If the chief justice wishes to relinquish that office but remain a member of the supreme court, he may do so and the supreme court shall designate another of its members to serve as chief justice for the remainder of the term.

"(c) There is hereby created a judicial council, which shall consist of the chief justice of Texas as chairman, and the following members, each of whom shall serve a two-year term: two judges of the court of appeals and three trial judges, each appointed by the chief justice of Texas; four members of the State Bar appointed by its board of directors; two members of each house of the legislature appointed as provided by that house. Vacancies shall be filled by the appointing authority for the remainder of the term.

"(d) The judicial council shall prescribe rules of administration for all courts to become effective upon approval by the supreme court, and shall perform other functions as provided by law.

"Sec. 6. SELECTION AND TENURE OF JUDGES. (a) Justices, judges, and associate judges of all courts, including the chief justice of Texas and the chief judge of the court of appeals, shall be elected on a nonpartisan ballot for six-year terms. Magistrates shall be appointed by the chief justice for six-year terms.

"(b) Each justice, judge, associate judge, or magistrate shall be a citizen of this State, shall be licensed to practice law in this State, and shall have such other qualifications as provided by law.

"(c) No active justice, judge, associate judge, or magistrate may engage in the practice of law, and if any justice or judge, associate judge, or magistrate files as a candidate for any elective non-judicial office, his judicial office shall immediately become vacant.

"(d) The legislature shall provide benefits for retired justices, judges, associate judges, and magistrates, and may provide for the payment for benefits upon the death of active or retired justices, judges, associate judges, and magistrates.

"(e) The office of any justice, judge, associate judge, or magistrate shall become vacant when he reaches the age of seventy years or such earlier age as may be provided by law.

"(f) Any justice, judge, associate judge, or magistrate may be removed from office, suspended, or censured by the supreme court for willful or persistent conduct which is clearly inconsistent with the proper performance of his duties or which casts public discredit upon the judiciary or the administration of justice. Any justice, judge, associate judge, or magistrate may be involuntarily retired by the supreme court for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

"(g) There is hereby established a judicial qualifications commission to consist of six judges, including two judges of the court of appeals, two circuit judges, and two associate circuit

judges chosen by the supreme court; three members of the state bar chosen by the board of directors of the state bar under regulations prescribed by the supreme court and six citizens not licensed to practice law, two of whom shall be appointed by the Governor, two by the Lieutenant Governor, and two by the Speaker of the House of Representatives. The term of office of a commissioner shall be six years. The commission shall operate under rules promulgated by the supreme court and shall have the power to issue an order of public censure and to recommend to the supreme court suspension, removal, or retirement of any justice, judge, or other judicial officer.

"Sec. 7. FINANCING. The state shall pay the salaries of all justices, judges, associate judges, and magistrates and such other expenses of the judicial system as provided by law. The legislature may by law provide for reimbursement to the State for all or part of such expense from funds collected by the courts.

"Sec. 8. TRANSITIONAL PROVISIONS. (a) On the effective date of this article, the chief justice of the supreme court shall become the chief justice of Texas. The presiding judge and other judges of the court of criminal appeals and associate justices of the supreme court shall become justices of the supreme court. The offices of the first five justices, other than the chief justice, who cease to be members of the supreme court after the effective date of this article, shall cease to exist.

"(b) Chief justices of the court of civil appeals shall become chief judges of the court of appeals; justices of the courts of civil appeals shall become judges of the court of appeals; each district judge or judge of a criminal district court, domestic relations court, or special juvenile court, shall become a judge of a circuit court; and each judge of a county court at law, county civil court at law, county court for criminal cases, county probate court, county criminal court, or county court of criminal appeals, and any municipal judge and justice of the peace who are licensed

to practice law in this state and who have served as such on a full-time basis for a minimum of six years, shall become associate circuit judges; all other municipal judges and justices of the peace shall become magistrates of the district court provided that only those who are licensed to practice law shall try contested cases.

"(c) Any participant in a county or municipal retirement, disability and death compensation fund who becomes a circuit judge, associate circuit judge or magistrate pursuant to subsection (b) of this section shall have the option of continuing his participation in the county or municipal fund or transferring his membership, service credit, and contributions to the state judicial retirement system under such regulations as provided by law.

"(d) Judges of the county courts shall become presidents of the county commission; provided, however, that any judge of a county court who is licensed to practice law may, by written notice to the governor within 30 days from the effective date of this article, elect to become an associate circuit judge, and if he does so, the office of president of the county commission shall be vacant and shall be filled by the commission until the next general election.

"(e) No judicial office shall be abolished by the adoption of this article until the expiration of the term of the person who held the office on the effective date of this article or until that person ceases to hold the office, whichever occurs first.

"(f) All courts, except those authorized by this article, are hereby abolished, and all matters pending therein shall be transferred to the courts created by or pursuant to this article. The courts into which such matters pending therein shall be transferred to the courts created by or pursuant to this article. The courts into which such matters are transferred shall assume full jurisdiction of such matters and shall have full power and authority to dispose of them and to execute or otherwise to give effect to all orders, judgments, and decrees issued by the predecessor

courts. The courts created pursuant to this article shall succeed to all records and property of the courts abolished hereby.

"(g) Except to the extent inconsistent with the provisions of this article, all laws and rules of court in force on the effective date of this article shall continue in effect until superseded as authorized by law.

"(h) In the event a transfer or transition has not been provided for by this article or by law, the supreme court shall by rule provide for the orderly transfer or transition.

"(i) Members of the judicial qualifications commission on the effective date of this article shall become members of the judicial qualifications commission created by this article, and the latter commission shall succeed to all the functions, powers, duties, and property of its predecessor.

"(j) When any subsection of these transitional provisions has been executed, the supreme court shall certify that fact to the secretary of state and thereafter that subsection shall no longer be part of this constitution.

"(k) The legislature shall adopt enabling legislation at the first regular session following the adoption of this article."

Section 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this State at an election to be held on November 6, 1973, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment revising the judiciary article of the constitution."

March 19, 1973

To: Brasher, Braunagel, SO, May
From: Hunter
Re: Bills on Judiciary

SJR 27 Mengden
Provides for election of judges at non-partisan election in odd-numbered years. Changing from partisan to non-partisan elections in odd-numbered years does not come under our position on Merit Selection & Tenure. I suggest we neither support or oppose. FYI

Introduced March 8 - Referred to State Affairs

By Mengden

S. J. R. No 27

A JOINT RESOLUTION

1 proposing a constitutional amendment providing for the selection
2 of the elective judges and justices of the courts of this state,
3 with certain exceptions, at nonpartisan elections held in the
4 odd-numbered years.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 Section 1. That Article V, Constitution of the State of
7 Texas, be amended by adding Section 1-c, to read as follows:

8 "Section 1-c. (a) Notwithstanding any other provision of
9 this Constitution, all elective judges and justices of courts
10 created by or under this Constitution, except justices of the
11 peace and judges of municipal courts, shall be elected at
12 nonpartisan general elections held on the first Tuesday after the
13 first Monday in November in odd-numbered years. Election shall
14 be by majority vote, and a runoff election shall be held on the
15 first Tuesday after the first Monday in December following the
16 general election in the event there is any office voted on for
17 which no candidate receives a majority of the votes cast for that
18 office at the general election. The regular terms of offices
19 filled at the elections shall commence on the following January
20 1.

21 "(b) Current terms of office for all offices coming within
22 Subsection (a) of this Section at the time of its adoption shall
23 expire one year earlier than they otherwise would expire.

24 "(c) When a new office is created for a court having any

1 of the original jurisdiction given to district courts by this
2 Constitution, or for courts of higher jurisdiction, the first
3 regular full term shall commence on January 1 following the first
4 judicial nonpartisan election held after the effective date of
5 the statute creating the office. When a new court of lesser
6 jurisdiction than a district court is created, the first regular
7 full term of office shall commence concurrently with the terms
8 of judges of courts of similar rank which were in existence in
9 1954, when Article XVI, Section 65, of this Constitution, was
10 adopted. The terms of judges of other existing courts of similar
11 jurisdiction which were created after 1954 shall also conform to
12 those existing in 1954. For any such judge whose term is not in
13 conformity, the first election held under this section shall be
14 for a two-year term instead of a four-year term, and thereafter
15 the elections shall be for regular four-year terms.

16 "(d) The first election under Subsection (a) of this Section
17 shall be held in the year 1975 for the purpose of filling, for
18 the full regular term, those offices for which the term expires
19 on December 31, 1975, and for filling unexpired terms in the
20 offices in which a vacancy has occurred since the general election
21 in 1974. In the year 1977 and thereafter, the elections shall
22 be for filling the full terms which commence on the following
23 January 1 and the unexpired terms which have occurred since the
24 last general judicial election.

25 "(e) The Legislature shall enact such laws as may be
26 necessary to implement this Section.

27 "(f) The office of justice of the peace shall continue to

1 be filled at the general election held in the even-numbered years.
2 Judges of municipal courts shall be selected in the manner provided
3 by the applicable statute, charter provision, or ordinance."

4 Sec. 2. The foregoing constitutional amendment shall be
5 submitted to a vote of the qualified electors of this state at
6 an election to be held on the first Tuesday after the first Monday
7 in November, 1974, at which election the ballots shall be printed
8 to provide for voting for or against the proposition: "The
9 constitutional amendment providing for judicial nonpartisan
10 elections held in odd-numbered years."

House Bill 74
Korioth

SUBJECT: Municipal Courts

PURPOSE: To amend the jurisdiction of the municipal courts.

BACKGROUND AND LEGISLATIVE HISTORY

This bill would amend art. 1195, Tex. Rev. Civ. Stat. Ann. and art. 4.14, Texas Code of Criminal Procedure by providing that municipal courts would have jurisdiction only in suits where the punishment was by fine only and restricting jurisdiction to those cases where the fine does not exceed a specified maximum. At the present time municipal courts have jurisdiction of all criminal cases arising under the ordinances of the city, town, or village; this bill would limit such jurisdiction to those cases where the punishment is by fine only and where the maximum of such fine may not exceed five hundred dollars. Municipal courts at present have concurrent jurisdiction with justice of the peace courts in criminal cases arising under the laws of this state where the maximum punishment is a \$200 fine; this bill would not change that aspect of municipal court jurisdiction. It would provide though for the municipal court to have concurrent jurisdiction with the County Court in criminal cases arising under the laws of this state where the maximum punishment is a \$500 fine. Thus this bill would limit the jurisdiction of municipal courts to cases where the offense is punishable by fine only and would then further limit those cases to those where the fine does not exceed a maximum.

ANALYSIS BY SECTION

- 1 Amends Art. 1195, Tex. Rev. Civ. Stat. Ann. so as to provide that:
 - 1) municipal courts shall have jurisdiction over criminal cases arising under the ordinances of the city, town, or village in which punishment is by a fine only and such fine may not exceed five hundred dollars;
 - 2) municipal courts have concurrent jurisdiction with any justice of the peace in any precinct in which the city is situated in criminal cases arising under the laws of the State in which punishment is by fine only and such fine may not exceed \$200; and,
 - 3) municipal courts have concurrent jurisdiction with County Courts in criminal cases arising under the laws of the State and the punishment is by fine only and where such fine may not exceed five hundred dollars.
- 2 Amends Art. 4.14, Code of Criminal Procedure to bring it in conformity with the proposed amending of art. 1195, Tex. Rev. Civ. Stat. Ann. discussed in Section 1 above.
- 3 Emergency Clause.

H.B. 81
Williams

PURPOSE: Removal of justices of the peace by amending the definition of the word "incompetency".

January 18 Bill introduced and referred to Judiciary Committee.
February 21 Bill has previously been reported out of committee.
February 27 Bill on second reading: Bill engrossed by voice vote.
February 28 Bill on third reading: Bill passed on third reading by voice vote.
March 1 Referred to Senate Jurisprudence Committee

May 22 Sent to Governor

Judicial

Feb. 7, 1973
Hunter

HB 74 Koriath
Relating to jurisdiction of the municipal courts. We have no position.

Rm.
147B

HB 81 Williams

Adding a 20 hour course each year ~~to~~ in performance of duties of Justices of Peace. I think we should do nothing about this bill. Our support position calls for all judges to be lawyers, however, we wouldn't oppose any additional education that may be required until that time.

cc: Hunter, Cole

House Bill 81
Williams

SUBJECT: Justices of the Peace

PURPOSE: To amend the definition of "incompetency" in Vernon's Ann. Civ. Stat., Art. 5972(b) relating to the removal of justices of the peace.

BACKGROUND AND LEGISLATIVE HISTORY

Vernon's Ann. Civ. Stat., Art. 5972(b) requires a justice of the peace who is not an attorney to complete a 40-hour course within a year.

ANALYSIS BY SECTION

- 1 Vernon's Ann. Civ. Stat. Art. 5972(b) is amended by adding a requirement for a 20-hour course each year.
- 2 Emergency Clause.

By William

B. No. 81

A BILL TO BE ENTITLED

AN ACT

relating to the removal of justices of the peace by amending the definition of "incompetency"; amending Subsection (b), Article 5972, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (b), Article 5972, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(b) In the case of a justice of the peace who is not a licensed attorney, 'incompetency' also includes the failure to successfully complete within one year from the date he is first elected, or if he is in office on the effective date of this Act, one year from the effective date of this Act, a forty-hour course in the performance of his duties and a twenty-hour course each year thereafter; said course to be completed in any accredited statesupported school of higher education."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Hunter, et al
1/27/71

Introduced by Williams

Referred to Committee on Judiciary

H. B. 168

A BILL TO BE ENTITLED

AN ACT

relating to the removal of justices of the peace; amending Article 5972, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Article 5972, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 5972. 'Incompetency.' (a) By 'incompetency' as used herein is meant gross ignorance of official duties, or gross carelessness in the discharge of them; or an officer may be found to be incompetent when, by reason of some serious physical or mental defect, not existing at the time of his election, he has become unfit or unable to discharge promptly and properly the duties of his office.

"(b) In the case of a justice of the peace who is not a licensed attorney, 'incompetency' also includes the failure to successfully complete within one year from the date he is first elected, or if he is in office on the effective date of this Act, one year from the effective date of this Act, a forty-hour course in the performance of his duties. Said course to be completed in any accredited state-supported school of higher education."

Section 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

C
O
P
Y

January 21, 1973

To: Hunter cc: SO, Braunagel - *Nancy, Janice*
From: Brasher
Re: Background for Action -- Judiciary

Helen, in regard to your note attached to your background paper.....

I know nothing about the 1969 statute relating to instruction for future non-lawyer jp's....there is nothing in my files about this.

You should have a copy of H.B. 168 by Lindon Williams in your files, as per correspondence with Ann Bury when she was chairman of Judiciary. She had to analyze the bill and send a statement, which I have in my file. Since I have only one copy in my file, I will just copy the bill as it is written (fortunately, it is short -- attached).

However, as I see it, there is no enforcement of this statute. Perhaps I shall visit Mr. Williams about this and find out what the 1969 legislation did and whether this was an improvement on itand whether this also needs improvement!

Monday and Tuesday will be filled up for me....but as I plan now, I am going to devote all day Thursday to visiting legislators and lobbying.....I have a dental appointment Wednesday that I cannot break as it was postponed from Jan. 11.....

I shall try to find out what I can before Board meeting.

See ya'.

C
O
P
Y

May 3, 1971
1408 Highland Drive
San Marcos, Texas 78666

To: Margaret Lecznar, President LMV of San Antonio
From: Chris Brasher, Legislative Chairman

Re: Letter of April 29, 1971

In re: HJR 61 (Wolff et al) on constitutional revision

As per our telephone conversation, Janice May will make a statement on the League position on Texas Constitutional Revision at the hearing tomorrow night, Tuesday, May 4. I also plan to be there, and it is fine to get a crowd at a hearing any time!

In re: HB 168 (Williams) on JP qualifications

The bill requires JPs to have 40 hours of law instruction in a state-supported college or university. It does not apply to lawyers, as obviously they have already had 40 hours or more of law instruction, regardless where they got it.

For those JPs who have no law instruction whatsoever, there will probably be a course set up at one of the state-supported schools to which all JPs will come, sort of like a workshop, as this will not be a continuous course at any particular school, but a special course. Incidentally, I called Mr. Williams off the floor today so I could talk to him before I left (the House was still in session at 5 p.m.). He said the bill did not have any trouble in the House, but it has now gone to the Senate Jurisprudence Committee and may run into trouble in the Senate. Mr. Williams' office will notify me when this is set for a hearing, so I may have to get out a TFA on it. Chet Brooks is carrying the bill in the Senate. Also called at his office and talked to his aide as he was not in. I offered our support in the event they need it.

In re: SJR 14 (Bernal) & HJR 69 (Floyd)

We will help you in any way that we can. If it gets on the ballot, then of course we will recruit aid from other local leagues to support its passage. Let us know of any developments after your meeting with Judge Reeves.

Margaret, on the way to Mr. Williams' office today, I was flagged down by your Mr. Johnson, invited into his office for a cup of coffee, and he presented me with a blown-up photo of Jack and Bobby Kennedy. It was hard for me to keep my partisanship from showing! I think his conscience hurts about his remarks to me about the League! Anyway, do write him a nice note sometime.....

cc: SO, Lancaster, Corner

*Being heard at 2 p.m. in Senate Jurisprudence
May 11.*

January 21, 1973

To: Hunter cc: SO, Braunagel
From: Brasher
Re: Background for Action -- Judiciary

Helen, in regard to your note attached to your background paper.....

I know nothing about the 1969 statute relating to instruction for future non-lawyer jp's....there is nothing in my files about this.

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I shall try to find out what I can before Board meeting.

See ya'.

C
O
P
Y

JP Education Law Moves

The House tentatively approved Tuesday a bill which would require justices of the peace to have at least 40 hours of law instruction in a state-supported college of university.

The vote on the measure (HB 168) was 75-51. It was introduced by Rep. Linden Williams of Houston.

Representatives adopted on voice vote an amendment by Rep. Oscar Carillo of Benavides which would exempt from the provision justices of the peace who have served at least two terms.

There are now no special requirements for the office of justice of the peace.

April 21, 1971

March 6, 1971

To: Bury cc: Bubis, Winick
From: Brasher

An enclosing bill received...don't think this applies to League. Talked to Janice Thursday, and she said it would be impossible for her to follow or testify on Judicial bills. We are in hopes that we need not. However, I was happy to get the info on H.B. 168 just in case, as I could probably do this if the need arose.

If you would like, I could call on Rep. Williams just to say we support his bill, and he could call on us if our support is needed.

Committee Report favorable 3/18/71. *approve tentatively by House on April 21. Vote 75-54.*
Passed to third reading. 4/20/71. One floor amendment adopted. - by Cavillo, which would exempt JPs who have served 2 yrs. adopted by voice vote. Bill requires JPs to have 40 hours law instruction.
Passed to Senate Jurisprudence Committee April 22.

Talked to Mr. Williams May 3 (Monday) and he said he may need help in the Senate Cmte.

Chet Brooks is carrying bill in Senate.

League Testimony for HB 168 Removal of Justices of the Peace

League Position: The LWVT supports an effective judicial structure for Texas including a full-time judiciary whose members qualify to practice law in Texas.

This means that all judges and justices should be licensed to practice law in Texas.

One of the greatest drawbacks of our judicial system is the inadequacy of the judges of the lower courts. It might have been necessary in the frontier days, where lawyers were few, to delegate the administration of justice to men who were not trained in the law. It is not necessary, and not defensible, today. It is a fallacy to argue that because a case involves only a small sum of money, or only a charge of misdemeanor, it is proper to try it before a judge without training or experience in the administration of justice. A large part of the community has no contact with the law except in these "minor" courts, and it is all-important to the state that these contacts be such as to inspire trust and respect.

Unfortunately the Justice of the Peace Courts have become less than admired ambassadors of justice. The very question of law and order and respect for administration of justice is frequently mocked in the Justice Court where the JP, in order to be elected, does not need to have any definite qualifications or specialized training.

The League of Women Voters of Texas believes that all judges and justices should be trained not only in law in general, but also that each be adequately trained in Texas law. HB 168 provides that a JP may be removed for incompetency, and if he is not a licensed attorney, that that incompetency also includes failure to successfully complete a college level course in the performance of his duties. Under this revised civil statute, a JP would not have to be a licensed attorney, but he would have to take specialized training concerning his duties. This would help to improve the JP courts in the state of Texas.

Mrs. Richard Bury
TCR Chairman
2-23-71

League Testimony for HB 168 Removal of Justices of the Peace

League Position: The LWVT supports an effective judicial structure for Texas including a full-time judiciary whose members qualify to practice law in Texas.

This means that all judges and justices should be licensed to practice law in Texas.

One of the greatest drawbacks of our judicial system is the inadequacy of the judges of the lower courts. It might have been necessary in the frontier days, where lawyers were few, to delegate the administration of justice, to men who were not trained in the law. It is not necessary, and not defensible, today. It is a fallacy to argue that because a case involves only a small sum of money, or only a charge of misdemeanor, it is proper to try it before a judge without training or experience in the administration of justice. A large part of the community has no contact with the law except in these "minor" courts, and it is all-important to the state that these contacts be such as to inspire trust and respect.

Unfortunately the Justice of the Peace Courts have become less than admired ambassadors of justice. The very question of law and order and respect for administration of justice is frequently mocked in the Justice Court where the JP, in order to be elected, does not need to have any definite qualifications or specialized training.

The League of Women Voters of Texas believes that all judges and justices should be trained not only in law in general, but also that each be adequately trained in Texas law. HB 168 provides that a JP may be removed for incompetency, and if he is not a licensed attorney, that that incompetency also includes failure to successfully complete a college level course in the performance of his duties. Under this revised civil statute, a JP would not have to be a licensed attorney, but he would have to take specialized training concerning his duties. This would help to improve the JP courts in the state of Texas.

Mrs. Richard Bury
TCR Chairman
2-23-71

Feb. 14, 1971

To: Bury cc: May, Bubis, SO, Holmes
From: Brasher

H.B.

Since we have a support position on 168 by Williams, I thought you might like to know that there will be a hearing on this bill Tuesday afternoon, Feb. 16, at 2:30 p.m. Perhaps someone should go just to observe, if possible. I will check tomorrow. Ann, in the event we do decide to testify sometime...if the bill runs into trouble, perhaps...you should prepare some sort of testimony, and outline our positions on this. Perhaps the Leagues could be notified to write to their legislators giving our position....a sort of limited action.

NO COPY POSITION
H. B. ~~168~~ ²⁷¹ by Lemmon, re jurisdiction of County Courts at Law, which slipped by me, is also up at this hearing. Do we have a position in this respect?

(letter 2/22 under SCR 1)

This is something that could be written up in the Newsletter, which I am trying desperately to get to within the next day or two.

I will be at the office tying up loose ends for Leg. Day tomorrow, and would like to attend the Environmental Education Conference on Wednesday.

C
O
P
Y

February 2, 1971

To: Brasher, SO, Bubis, May

From: Bury

Re: Analyses of Legis. bills H.B. 168, ~~H.B. 12~~, and ~~SB 70~~

H.B. 168 Removal of justices of the peace

I believe that our judicial position concerning judges qualified to practice law in Texas applies to justices of the peace, so the League certainly could support this bill. Also the intent of the bill seems very much in line with the League's judicial aims.

However, the legislative load is very heavy, and I feel the board gave the judicial legislation the least priority. Perhaps we should see whether this bill progresses well without our help.

Hearing Tues. 2/16/71 - 2:30 P.M.

1/27/71

Introduced by Williams

Referred to Committee on

Judiciary

8-9--180

A BILL TO BE ENTITLED

AN ACT

relating to the removal of justices of the peace; amending
Article 5972, Revised Civil Statutes of Texas, 1925; and declar-
ing an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Article 5972, Revised Civil Statutes of Texas,
1925, is amended to read as follows:

"Article 5972. 'Incompetency.' (a) By 'incompetency' as
used herein is meant gross ignorance of official duties, or gross
carelessness in the discharge of them; or an officer may be found
to be incompetent when, by reason of some serious physical or
mental defect, not existing at the time of his election, he has
become unfit or unable to discharge promptly and properly the
duties of his office.

"(b) In the case of a justice of the peace who is not a
licensed attorney, 'incompetency' also includes the failure to
successfully complete within one year from the date he is first
elected, or if he is in office on the effective date of this Act,
one year from the effective date of this Act, a forty-hour course
in the performance of his duties. Said course to be completed in
any accredited state-supported school of higher education."

Sec. 2. The importance of this legislation and the crowded
condition of the calendars in both houses create an emergency and
an imperative public necessity that the Constitutional Rule
requiring bills to be read on three several days in each house be
suspended, and this Rule is hereby suspended, and that this Act
take effect and be in force from and after its passage, and it is
so enacted.

ESI DAILY HOUSE REPORT

No. 59

April 13, 1973

- HB 1135
Vale Relating to the supplementary compensation of district judges in Bexar County.
(1) Committee amendment (makes bill permissive) adopted.
(2) Committee amendment (expands to include Tarrant County) adopted.
Engrossed. [Further action shown at bottom of this page]
- HB 1137
Parker, W. Relating to the appointment and compensation of bailiffs for certain district courts.
(1) Committee amendment adopted.
Engrossed. Final passage.
- HB 1070
Cole Creating the office of bailiff of the 196th district court.
Engrossed. Final passage.
- HB 915
Hawn Establishing a petty cash fund for the Sheriff's department in certain counties.
(1) Committee amendment (remove word shall and inserts may) adopted.
(2) Committee amendment (adds words "also to investigate") adopted.
(3) Committee amendment (fund not to exceed \$5,000) adopted.
Engrossed. Final passage by 128y, 0n.
- HB 1134
Adams Relating to the compensation of Juvenile Boards of Hardin and Tyler counties.
Adams motion to lay on table subject to call adopted.
- HB 932
Adams Relating to the compensation of the district attorney of the 88th Judicial District and the compensation of his stenographer. Adams motion to lay on table subject to call adopted.
- HB 1107
Canales Relating to the creating, administration, powers, duties and financing of the Starr County Hospital District of Starr County. Engrossed. Final passage by 128y, 0n.
- HB 1361
Allen, J. Creating the Gregg County Juvenile Board and the compensation of its members. Engrossed. Final passage by 128y, 0n.
- HB 1481
Hall, A. Amending Harris County Road Law.
Engrossed. Final passage by 128y, 0n.

-
- ✓ HB 174
Hale Creating Texas Judicial Council. Bock motion to postpone consideration until April 18th adopted. *(On April 18 the Appropriations bill consideration started, which lasted a week. HB 174 never came up for consideration again.)*
- HB 361
Semos Relating to exemptions from the property tax and from the franchise tax for certain nonprofit corporations providing homes for the handicapped and elderly. Semos motion to concur in Senate amendments adopted.
- HB 1158
Short Authorizing commissioners court to adopt a county manager plan of government.
(1) Short (make bill local option) adopted.
Final Passage.
- HB 1135
Vale Relating to the supplementary compensation of district judges in Bexar County.
(1) Amendment (deleting Tarrant County) adopted.
Final passage.

PURPOSE: Creating the Texas Judicial Council, providing for its responsibilities and operation.

January 24

Bill introduced and referred to Judiciary Committee.

2-18-73
HUNTER

Creating Texas Judicial Council

I haven't seen the bill presented on the Chief Justice's proposals for Article V. I thought Hale presented it. Did he make changes in the proposal. The Task Force proposal creates a Judicial Council headed by the Chief Justice. This one still assumes that there will be two higher courts. Is this a substitute bill? We should keep an eye on this because first we will be supporting the Task Force proposal on the complete revision of Article V. As second choice we could support this bill.

Same as S.B. 30 - Hering

Note to Helen 3-3-73 explaining that this is evidently extension of presently inefficient Texas Judicial Council.

I do not think this fits into our consensus on judicial reform.

House Bill 174

Similar Bill: SB 30 Herring

Author: Hale

Subject: Texas Judicial Council

Purpose: to create the Texas Judicial Council which would undertake a continuous study of the operation of the Texas judicial system and would report on the work accomplished by and improvements needed in that system.

Background and Legislative History: Tex. Civ. Stat. Ann., art. 2328a (1971) provided for Texas Civil Judicial Council whose purpose was to study the civil judicial system and make recommendations for its improvements. SB 30 repeals art. 2328a, and the major changes provided by it are: (1) The Council's authority is extended to the entire judicial system and is not limited to the civil system; (2) all power of the governor to appoint people to the Council has been removed and placed in the hands of other people; (3) the Council is required to make an annual report of its findings; and (4) the willful failure of an official to supply the Council with requested information may subject him to charges of official misconduct and possible removal from office.

Note: According to Attorney General's Opinion, No. M-505, 1969, the ex-officio members of the Council do not hold separate and distinct offices and therefore their terms are not governed by the provisions of Tex. Const., art. 16, section 30 or section 30a.

Analysis by Section:

Section:	Sub-Sec.:	Summary:
1		Creates the Texas Judicial Council for the above purpose.
2		There will be two classes of members on the Council—i.e., ex-officio appointive.
3	(a)	Enumerates the group that will constitute the 12 ex-officio members.
	(b)	The Chief Justice of the Supreme Court and the presiding judge of the Court of Criminal appeals may designate others to sit in their stead.
	(c)	Retired judges are eligible to serve.
	(d)	Intent of Legislative that two members of the Senate and four members of the House always be members of the Council. Cessation of membership in the Legislature does not terminate membership on the Council.
	(e)	Ex-officio members shall be treated in all respects as full members.
4	(a)	Nine citizens will be appointed members for overlapping six-year terms.
	(b)	The appointive members shall always include at least two persons not licensed to practice law.
	(c)	The Chief Justice of the Supreme Court shall appoint 4 members with staggered terms.
	(d)	The presiding judge of the Court of Criminal Appeals shall appoint 5 members with staggered terms.
	(e)	Successors to the initial appointees shall serve 6 year terms.
	(f)	Vacancies shall be filled in the same manner as the original appointment and only for the un-expired term.
	(g)	A member forfeits his office if he fails to attend three consecutive meetings without excuse.

MAIL GRAM TO OUR MEMBERS OF THE HOUSE JUDICIARY COMMITTEE

WOODY DENSON DON HENDERSON GENE JONES LARRY VICK CRAIG WASHINGTON

The League of Women Voters of Houston is very much in favor of HB 624, which would make JP courts courts of record. This is a change which the League has long felt to be needed.

We encourage you to do everything possible to secure passage of this bill in this session of the Legislature. . If this proves impossible in the rush of the closing days, we hope some one will introduce a similar bill next time.

Sincerely,

Laura Keever, President

League of Women Voters of Houston

Bill No. HB624

Author: Jones of Harris

SUBJECT: Operation of Justice Courts of Record

PURPOSE: Making Justice Courts, courts of Record and providing justices of the Peace to preside over them by amendment of existing statutes.

BACKGROUND AND LEGISLATIVE HISTORY

Subdivision 1 Art. 2351 R.C.S. of Texas, 1925. Section 1, Chapter 291 Acts of 60th legislature, reg. session 1967 Arts. 2375, 2376 R.C.S. of Texas 1925 Art. 2383 R.C.S. of Texas 1925. Art. 4.12 Code of Criminal Procedure 1965. Art. 45.22 Code of Criminal Procedure 1965. Section 1 Chapter 421 Acts of 60th legislature reg. session 1967 Title 45 R.C.S. of Texas, 1925, Art. 53.07 Code of Criminal Procedure. Section 1 Chapter 278 Acts of 58th legislature reg. session as amended.

ANALYSIS BY SECTION

- 1 Subdivision 1, Art. 2351, R.C.S. of Texas 1925 is amended by directing the justice courts shall be of record and deletes a provision that establishes justice precincts and courts in unorganized counties.
- 2 Section 1, Chapter 291, Acts of 60th legislature regular session 1967 (Art. 2373 VTCS) is amended by providing each Justice shall preside over one justice Court which shall be a court of record.
- 3 Art. 2375 Revised Civil Statutes of Texas 1925 dealing with Justice precincts is amended by providing each Justice shall preside over one justice court which shall be a court of record in such precinct.
- 4 Art. 2376 Revised Civil Statutes of Texas 1925 Justice of the Peace commissioned seal of justice court. Subsection b is added to the article it provides a seal and description of the seal to be provided each justice at County expense and requires it to be affixed to authenticate all official acts of the Justice.
- 5 Art. 2383 Revised Civil Statutes of Texas 1925. The Article is retitled Justice court records subsection a) Provides permanent presentation of records and inspection of them by interested parties. Subsection b is added to the article and requires the justices to index their judgements in the manner prescribed by law for county clerks in cases arising in county courts. Subsection C is also totally new and provides Justices may use microfilm in instances where law provides this medium available to county clerks and their records.
- 6 Art. 412, Code of Criminal Procedure, 1965 - former Art. declared unconstitutional by OP. Atty. Gen. 1966, No C-602. Proposed Art. reads:

ANALYSIS BY SECTION

Venue for misdemeanor cases is one of the following precincts if there is a qualified Justice holding office in that precinct 1) Precinct in which offense was committed, 2) Precinct of any defendant, 3) any Precinct in county upon written consent of State and each defendant or his attorney.

7 Art. 45.22 Code of Criminal Procedure is repealed.

8 Section 1 Chapter 421 Acts of 60th legislature regular session Art. 2393 (a) V.T.C.S. dealing with exchange of benches and transfers of cases is amended by addition of:

"In precincts in which there are 2 justices they may after mutual consent transfer cases between justice courts in the precinct. Any of these transfers shall be valid and binding on parties cases, and proceedings affected by such Acts."

9 Title 45 Revised Civil Statutes is amended by addition of new Art. 2375 a, concerning qualifications for justices of the Peace each shall be a licensed attorney in good standing in this State. Present J.P.'s who are not attorneys may serve out their terms and succeed themselves if within a year of the date of this act they successfully complete a minimum 40 hour course in performance of their duties at a state supported school of higher education if no attorney filed for election or was available for appointment a nonqualified person may take office if within a year he successfully completes the 40 hour minimum course.

10 Section (A) of Art. 53.07 Code of Criminal Procedure concerning compensation for Justices of the Peace is amended by addition of every J.P. is entitled to compensation at county expense on a salary basis. The salary may not be diminished during the justices term of office. The salary is not to be based directly or indirectly on the fines the justice is to collect by law. The Commissioners Court shall determine the salary at least 2 weeks before deadline for filing for election or prior to the appointment of a justice of the Peace.

11 Title 45 Revised Civil Statutes of Texas is amended by addition of new Art. 2379(A) concerning Justice court clerk and personnel. The Commissioners Court shall furnish each justice with personnel including a clerk and bailiffs as they deem necessary for the performance of the Justice in the duties of his office. This personnel shall be under the direction of the J.P. and Commissioners Court will determine their salary. The clerk shall maintain all dockets and records of proceedings that a justice of the Peace is

ANALYSIS BY SECTION

required by law to keep. The clerk shall post the same bond required of J.P.'s except no additional bond is required for a Justice who serves as is own clerk.

- 12 Title 45, Revised Civil Statutes of Texas is amended by addition of new Art. 2379(b) Court Reporters - J.P.'s when laws provide appeals from J.P. courts shall not be by trial de novo, will be authorized to appoint court reporters for these cases to transcribe trial proceedings. A reporter may be appointed at the request of either defendant or State prior to the trial. Reporters will be compensated by the County in manner determined by Commissioners Court.

- 13 Section 1, Chapter 278 Acts of 58th Legislature regular session 1963 Art. 3899b Section 1a.

Section 1a - formerly required only counties in excess of 1,500,000 population to furnish court rooms at the expense of the county. Now all counties are required to do this and in addition jury rooms, libraries, legal books, materials as the commissioners court deem necessary for proper performance of the Justices of the Peace. Constables may also be furnished as necessary.

- 14 Date Act Effective. This Act is effective beginning January 1, 1974.
- 15 Repealer Clause
- 16 Severability Clause
- 17 Emergency Clause

By: Hale, Craddick

H. B. No. 725

(In the House.--Filed February 26, 1973; March 1, 1973, read first time and referred to Committee on Judiciary; April 3, 1973, reported favorably, as amended, by record vote of 13 ayes, 0 nays, 0 present, not voting, 9 absent, sent to Printer.)

FISCAL NOTE
March 27, 1973

Honorable L. DeWitt Hale, Chairman
Committee on the Judiciary
House of Representatives
Austin, Texas 78701

In Re: House Bill No. 725
By: Hale

Sir:

In response to your request and pursuant to House Rule VIII, Section 27, this office finds the fiscal implications and probable cost of House Bill No. 725 (providing for the administration of family law) to be as follows:

1. The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Cost</u>
1974	\$ 644,000
1975	658,000
1976	672,000
1977	686,000
1978	700,000

2. Similar annual costs will continue as long as the provisions of the bill are in effect.
3. Section 1.08 of H. B. No. 725 allows the judges of the family district courts the option of joining the Judicial Retirement System. Data are not available as to the estimated cost of this provision.
4. H. B. No. 725 is dependent upon the adoption of H. J. R. No. 9 (constitutional revision of Art V).

THOMAS M. KEEL
Legislative Budget Director

(REFER TO FIRST PRINTING FOR ORIGINAL TEXT THEREOF)

A BILL TO BE ENTITLED

AN ACT

providing for the administration of family law by replacing the special juvenile courts of Harris and Dallas counties and all functioning domestic relations courts with district courts of general jurisdiction, to be called family district courts; providing for these courts' jurisdiction, terms, personnel, facilities, and administration; restructuring existing juvenile boards in certain counties and providing for the future creation and organization of juvenile boards in other counties; repealing the laws creating and providing for the replaced courts; repealing the laws providing for creation of domestic relations courts in Lubbock and Starr counties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SUBCHAPTER A. GENERAL PROVISIONS

Section 1.01. SHORT TITLE. This Act may be cited as the Family District Court Act.

Sec. 1.02. PURPOSE. (a) This Act substitutes district courts of general jurisdiction, to be called family district courts, for the existing domestic relations courts and special juvenile courts. It also restructures existing juvenile boards in certain counties and provides for the future creation and organization of juvenile boards in other counties. Subchapter A contains general provisions applicable to all family district courts, now or later created; and Subchapter B creates the new

1 family district courts. Subchapter C contains temporary
2 provisions.

3 (b) This Act is designed so that future legislatures may
4 create new family district courts by adding a section to
5 Subchapter B without repeating the general provisions of
6 Subchapter A relating to jurisdiction, terms, personnel,
7 facilities, and administration of all family district courts.

8 Sec. 1.03. JURISDICTION. (a) A family district court has
9 the jurisdiction and power provided for district courts by the
10 constitution and laws of this state. Its jurisdiction is
11 concurrent with that of other district courts in the county in
12 which it is located.

13 (b) A family district court shall give preference to cases
14 involving family law matters. These matters include:

- 15 (1) adoptions;
16 (2) birth records;
17 (3) divorce and marriage annulment; and
18 (4) child welfare, custody, support and reciprocal
19 support, dependency, neglect, and delinquency.

20 (c) This Act does not limit the jurisdiction of other
21 district courts nor relieve them of responsibility for handling
22 cases involving family law matters.

23 Sec. 1.04. TERMS OF COURT. The terms of a family district
24 court begin on the first Monday in January and the first Monday
25 in July of each year. Each term of court continues until the
26 next succeeding term begins.

27 Sec. 1.05. JUDGE. (a) A family district court judge's

1 qualifications and term of office are the same as those
2 prescribed by the constitution and laws of this state for district
3 judges. A family district court judge is elected in the same
4 manner as a district judge.

5 (b) A family district court judge is entitled to the same
6 compensation and allowances provided by the state and county for
7 the other district judges in his county.

8 Sec. 1.06. COURT OFFICIALS, PERSONNEL, AND FACILITIES.

9 (a) Each family district court judge may appoint an official
10 court reporter. The reporter must have the qualifications
11 prescribed by law for that office and is entitled to the same
12 compensation, fees, and allowances provided by law for other
13 official court reporters in the county.

14 (b) The district attorney, criminal district attorney, or
15 county attorney, and the sheriff and district clerk, shall serve
16 each family district court in his county in the same manner he
17 serves the district court or courts of his county.

18 (c) The commissioners court of the county in which a
19 family district court is located shall provide the physical
20 facilities and the deputy clerks, bailiffs, and other personnel
21 necessary to operate the family district court.

22 Sec. 1.07. COUNTY JUVENILE BOARD. (a) Except as otherwise
23 provided in this section, when a family district court is
24 created in a county, that county's juvenile board is composed of
25 the county judge, the family district court judge or judges,
26 and the district judge or judges whose jurisdiction includes the
27 county. The members of the juvenile board shall select a family

1 district court judge to serve as chairman of the board. The
2 juvenile board has the powers and duties prescribed by law.

3 (b) The juvenile board shall appoint a chief juvenile
4 probation officer who shall serve as the chief administrative
5 officer of the family district court at the pleasure of the
6 juvenile board. Subject to approval of the juvenile board, the
7 chief juvenile probation officer shall select as many assistant
8 probation officers and other personnel as are necessary to
9 perform the duties assigned him by the juvenile board.

10 (c) The commissioners court may compensate juvenile board
11 members for their duties performed on the juvenile board, and
12 this compensation is in addition to all other compensation paid
13 by the state or county to district, family district, and county
14 judges. On recommendation of the juvenile board, the
15 commissioners court shall also:

16 (1) fix the compensation of the chief juvenile probation
17 officer and the members of his staff; and

18 (2) provide the physical facilities necessary to operate
19 the juvenile board.

20 (d) The creation of a family district court in a county
21 also creates a juvenile board in that county if one does not
22 exist.

23 (e) This Act does not affect the composition or
24 organization of any juvenile board existing on the effective date
25 of the Act, except that the judges of the courts of domestic
26 relations and of the juvenile courts are replaced by the family
27 district court judges.

1 Sec. 1.08. JUDICIAL RETIREMENT. (a) Each Judge, initially
2 serving on a family district court created herein, who served
3 immediately prior to the creation of the court on the respective
4 special juvenile or domestic relations court which is replaced,
5 is eligible for judicial retirement benefits as provided in
6 Subsection (b).

7 (b) Each Judge described in Subsection (a) is eligible
8 for judicial retirement benefits as provided in the Texas
9 Constitution and all legislation applicable to other district
10 courts of general jurisdiction. At his option, each Judge may pay
11 into the State Treasury five percent of his salary for each
12 year of service as a special juvenile or domestic relations court
13 Judge. Upon that payment, each Judge shall be given full
14 credit, for state judicial retirement eligibility purposes, for his
15 tenure as a special juvenile or domestic relations court Judge.

16 SUBCHAPTER B. CREATING FAMILY DISTRICT COURTS

17 Section 2.01. 203RD DISTRICT COURT. On the effective date
18 specified in Section 3.02 of this Act, the 203rd Judicial District
19 is created. Its boundaries are coextensive with the boundaries
20 of El Paso County and its court, which replaces the Court of
21 Domestic Relations for El Paso County, is the 203rd District Court.

22 Sec. 2.02. 204TH DISTRICT COURT. On the effective
23 date specified in Section 3.02 of this Act, the 204th Judicial
24 District is created. Its boundaries are coextensive with the
25 boundaries of Brazoria County and its court, which replaces the
26 Court of Domestic Relations for Brazoria County, is the
27

1 204th District Court. The 204th District Court may be called the
2 Family District Court for the 204th Judicial District.

3 Sec. 2.03. 205TH DISTRICT COURT. On the effective
4 date specified in Section 3.02 of this Act, the 205th Judicial
5 District is created. Its boundaries are coextensive with the
6 boundaries of Dallas County and its court, which replaces the
7 Court of Domestic Relations for Dallas County, is the 205th
8 District Court. The 205th District Court may be called the
9 Family District Court for the 205th Judicial District.

10 Sec. 2.04. 206TH DISTRICT COURT. On the effective date
11 specified in Section 3.02 of this Act, the 206th Judicial District
12 is created. Its boundaries are coextensive with the
13 boundaries of Dallas County and its court, which replaces the
14 Court of Domestic Relations No. 2 for Dallas County, is the
15 206th District Court. The 206th District Court may be called
16 the Family District Court for the 206th Judicial District.

17 Sec. 2.05. 207TH DISTRICT COURT. On the effective date
18 specified in Section 3.02 of this Act, the 207th Judicial
19 District is created. Its boundaries are coextensive with the
20 boundaries of Dallas County and its court, which replaces the
21 Court of Domestic Relations No. 3 for Dallas County, is the
22 207th District Court. The 207th District Court may be called
23 the Family District Court for the 207th Judicial District.

24 Sec. 2.06. 208TH DISTRICT COURT. On the effective date
25 specified in Section 3.02 of this Act, the 208th Judicial
26 District is created. Its boundaries are coextensive with the
27

1 boundaries of Dallas County and its court, which replaces the
2 Juvenile Court of Dallas County, is the 208th District Court.
3 The 208th District Court may be called the Family District
4 Court for the 208th Judicial District.

5 Sec. 2.07. 209TH DISTRICT COURT. On the effective date
6 specified in Section 3.02 of this Act, the 209th Judicial
7 District is created. Its boundaries are coextensive with the
8 boundaries of Dallas County and its court, which replaces the
9 Juvenile Court No. 2 of Dallas County, is the 209th District
10 Court. The 209th District Court may be called the Family
11 District Court for the 209th Judicial District.

12 Sec. 2.08. 210TH DISTRICT COURT. On the effective date
13 specified in Section 3.02 of this Act, the 210th Judicial
14 District is created. Its boundaries are coextensive with the
15 boundaries of Galveston County and its court, which replaces the
16 Court of Domestic Relations for Galveston County, is the
17 210th District Court. The 210th District Court may be called
18 the Family District Court for the 210th Judicial District.

19 Sec. 2.09. 211TH DISTRICT COURT. On the effective date
20 specified in Section 3.02 of this Act, the 211th Judicial
21 District is created. Its boundaries are coextensive with the
22 boundaries of Gregg County and its court, which replaces the
23 Court of Domestic Relations for Gregg County, is the 211th
24 District Court. The 211th District Court may be called the Family
25 District Court for the 211th Judicial District.

26 Sec. 2.10. 212TH DISTRICT COURT. On the effective date
27

1 specified in Section 3.02 of this Act, the 212th Judicial
2 District is created. Its boundaries are coextensive with the
3 boundaries of Harris County and its court, which replaces the
4 Court of Domestic Relations for Harris County, is the 212th
5 District Court. The 212th District Court may be called the Family
6 District Court for the 212th Judicial District.

7 Sec. 2.11. 213TH DISTRICT COURT. On the effective date
8 specified in Section 3.02 of this Act, the 213th Judicial
9 District is created. Its boundaries are coextensive with the
10 boundaries of Harris County and its court, which replaces the
11 Court of Domestic Relations No. 2 for Harris County, is the
12 213th District Court. The 213th District Court may be called
13 the Family District Court for the 213th Judicial District.

14 Sec. 2.12. 214TH DISTRICT COURT. On the effective date
15 specified in Section 3.02 of this Act, the 214th Judicial
16 District is created. Its boundaries are coextensive with the
17 boundaries of Harris County and its court, which replaces the
18 Court of Domestic Relations No. 3 for Harris County, is the
19 214th District Court. The 214th District Court may be called
20 the Family District Court for the 214th Judicial District.

21 Sec. 2.13. 215TH DISTRICT COURT. On the effective date
22 specified in Section 3.02 of this Act, the 215th Judicial
23 District is created. Its boundaries are coextensive with the
24 boundaries of Harris County and its court, which replaces the
25 Court of Domestic Relations No. 4 for Harris County, is the
26 215th District Court. The 215th District Court may be called
27 the Family District Court for the 215th Judicial District.

1 Sec. 2.14. 216TH DISTRICT COURT. On the effective date
2 specified in Section 3.02 of this Act, the 216th Judicial
3 District is created. Its boundaries are coextensive with the
4 boundaries of Harris County and its court, which replaces the
5 Court of Domestic Relations No. 5 for Harris County, is the
6 216th District Court. The 216th District Court may be called
7 the Family District Court for the 216th Judicial District.

8 Sec. 2.15. 217TH DISTRICT COURT. On the effective date
9 specified in Section 3.02 of this Act, the 217th Judicial
10 District is created. Its boundaries are coextensive with the
11 boundaries of Harris County and its court, which replaces the
12 Juvenile Court for Harris County, is the 217th District Court.
13 The 217th District Court may be called the Family District Court
14 for the 217th Judicial District.

15 Sec. 2.16. 218TH DISTRICT COURT. On the effective date
16 specified in Section 3.02 of this Act, the 218th Judicial
17 District is created. Its boundaries are coextensive with the
18 boundaries of Harris County and its court, which replaces the
19 Juvenile Court No. 2 for Harris County, is the 218th District
20 Court. The 218th District Court may be called the Family
21 District Court for the 218th Judicial District.

22 Sec. 2.17. 219TH DISTRICT COURT. On the effective date
23 specified in Section 3.02 of this Act, the 219th Judicial
24 District is created. Its boundaries are coextensive with the
25 boundaries of Harris County and its court, which replaces the
26 Juvenile Court No. 3 for Harris County, is the 219th District
27 Court. The 219th District Court may be called the Family

1 District Court for the 219th Judicial District.

2 Sec. 2.18. 220TH DISTRICT COURT. On the effective date
3 specified in Section 3.02 of this Act, the 220th Judicial
4 District is created. Its boundaries are coextensive with the
5 boundaries of Hutchinson County and its court, which replaces
6 the Court of Domestic Relations for Hutchinson County, is the
7 220th District Court. The 220th District Court may be called the
8 Family District Court for the 220th Judicial District.

9 Sec. 2.19. 221ST DISTRICT COURT. On the effective date
10 specified in Section 3.02 of this Act, the 221st Judicial
11 District is created. Its boundaries are coextensive with the
12 boundaries of Jefferson County and its court, which replaces the
13 Court of Domestic Relations for Jefferson County, is the
14 221st District Court. The 221st District Court may be called the
15 Family District Court for the 221st Judicial District.

16 Sec. 2.20. 222ND DISTRICT COURT. On the effective date
17 specified in Section 3.02 of this Act, the 222nd Judicial
18 District is created. Its boundaries are coextensive with the
19 boundaries of Midland County and its court, which replaces the
20 Court of Domestic Relations for Midland County, is the 222nd
21 District Court. The 222nd District Court may be called the Family
22 District Court for the 222nd Judicial District.

23 Sec. 2.21. 223RD DISTRICT COURT. On the effective date
24 specified in Section 3.02 of this Act, the 223rd Judicial
25 District is created. Its boundaries are coextensive with the
26 boundaries of Nueces County and its court, which replaces the
27 Court of Domestic Relations for Nueces County, is the 223rd

1 District Court. The 223rd District Court may be called the Family
2 District Court for the 223rd Judicial District.

3 Sec. 2.22. 224TH DISTRICT COURT. On the effective date
4 specified in Section 3.02 of this Act, the 224th Judicial
5 District is created. Its boundaries are coextensive with the
6 boundaries of Potter County and its court, which replaces the
7 Court of Domestic Relations for Potter County, is the 224th
8 District Court. The 224th District Court may be called the Family
9 District Court for the 224th Judicial District.

10 Sec. 2.23. 225TH DISTRICT COURT. On the effective date
11 specified in Section 3.02 of this Act, the 225th Judicial
12 District is created. Its boundaries are coextensive with the
13 boundaries of Smith County and its court, which replaces the
14 Court of Domestic Relations for Smith County, is the 225th
15 District Court. The 225th District Court may be called the Family
16 District Court for the 225th Judicial District.

17 Sec. 2.24. 226TH DISTRICT COURT. On the effective date
18 specified in Section 3.02 of this Act, the 226th Judicial
19 District is created. Its boundaries are coextensive with the
20 boundaries of Tarrant County and its court, which replaces the
21 Court of Domestic Relations No. 1 for Tarrant County, is the
22 226th District Court. The 226th District Court may be called
23 the Family District Court for the 226th Judicial District.

24 Sec. 2.25. 227TH DISTRICT COURT. On the effective date
25 specified in Section 3.02 of this Act, the 227th Judicial
26 District is created. Its boundaries are coextensive with the
27 boundaries of Tarrant County and its court, which replaces the

By: Hale

H. B. No. 1401

(In the House.--Filed March 9, 1973; March 20, 1973, read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the Supreme Court and Courts of Appeals of Texas;
3 prescribing the organization, jurisdiction, writ authority,
4 rule-making power, and authorized personnel of those courts;
5 relating to the qualifications and selection and tenure of the
6 justices and judges of those courts; prescribing an effective
7 date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 PART I. SUPREME COURT

10 Section 1. SUPREME COURT: ORGANIZATION. There shall be
11 one Supreme Court which shall be the highest court of the state.
12 The Court consists of the chief justice of Texas and eight other
13 justices. In accordance with rules adopted by the Court, it may
14 sit in sections of not less than three justices, designated by the
15 Chief Justice. The concurrence of the majority of a section is
16 necessary to a decision of the Court.

17 Section 2. QUALIFICATIONS: SELECTION AND TENURE. No person
18 may serve as a justice of the Supreme Court unless, at the time of
19 his election, he is

20 (1) at least 35 years old;

21 (2) a citizen of the United States and a resident of this
22 State; and

23 (3) a licensed attorney who has been a practicing lawyer,
24 a judge of a court of record in this State, or a combination of
25 both for at least seven years.

26 (b) Three justices shall be elected, on a non-partisan

1 ballot, at each general election for six-year terms. A vacancy on
2 the Court shall be filled by appointment of the Governor until the
3 next general election and until a successor is elected and has
4 qualified.

5 Section 3. JURISDICTION. (a) The Supreme Court shall
6 have final appellate jurisdiction, coextensive with the limits of
7 the state, extending to all questions of law arising in cases
8 brought to the courts of appeals.

9 (b) Under rules adopted by the Court, it may review and
10 decide any case or controversy decided in the courts of appeals:

11 (1) if the matter was tried originally in a district
12 court;

13 (2) if the matter was tried originally in a county
14 court at law and the appeal of the matter results in the court of
15 appeals holding differently from a prior decision of another court
16 of appeals or of the Supreme Court, upon any question of law mater-
17 ial to a decision of the case or controversy.

18 (c) Under rules adopted by it, the Supreme Court may transfer
19 to its docket and review and decide any case or controversy tried in
20 any court of the state, if the Court decides the matter is of suffi-
21 cient importance to the jurisprudence of the state to require immediate
22 final disposition by the state's highest court.

23 (d) The Supreme Court shall review and decide a direct appeal
24 from any order of a trial court granting or denying an interlocutory
25 or permanent injunction on the ground of the constitutionality or
26 unconstitutionality of any statute of this state.

27 Section 4. WRIT AUTHORITY. The Supreme Court or any justice
28 thereof may issue writs of mandamus, procedendo, certiorari, quo
29 warrants, and habeas corpus, and all other writs necessary or proper
30 to the complete exercise of the Court's jurisdiction.

1 Section 5. RULE-MAKING POWER. The Supreme Court may from
2 time to time make and amend rules of practice and procedure for
3 civil cases. Such rules may not abridge, enlarge, or modify the
4 substantive rights of any litigant. After promulgation by the
5 Supreme Court, the rules shall be filed with the Chief Clerk of the
6 House of Representatives and the Secretary of the Senate, and a copy
7 mailed to each member of the Legislature. The rules shall become
8 effective, unless disapproved by either House of the Legislature,
9 within 60 days after the beginning of the next Regular Session of
10 the Legislature following adoption by the Court.

11 Section 6. PERSONNEL. The Supreme Court may appoint such
12 clerks, deputy clerks, and other necessary personnel as authorized
13 by legislative appropriation.

14 PART II. COURTS OF APPEALS

15 Section 1. (a) There shall be such number of courts of
16 appeals, each having jurisdiction within its respective district,
17 as otherwise provided by law.

18 (b) Each court of appeals consists of at least three judges
19 and as many additional judges as authorized by law. Under rules
20 adopted by it, a court may sit in sections of not less than three
21 judges, designated by the Chief Judge. The concurrence of the
22 majority of a section is necessary to a decision of a court.

23 (c) The Chief Justice of Texas shall designate one of the
24 judges of each court of appeals as the chief judge of that court.
25 Once designated as Chief Judge, the person selected shall continue
26 to serve in that capacity as long as he remains a member of that
27 court of appeals, unless he voluntarily resigns as chief judge.

28 Section 2. QUALIFICATIONS; SELECTION AND TENURE.

29 (a) No person may serve as a judge of a court of appeals
30 unless, at the time of his election, he is:

- 1 (1) at least 30 years old;
- 2 (2) a citizen of the United States and a resident of
- 3 the district from which elected; and
- 4 (3) a licensed attorney who has been a practicing
- 5 lawyer, a judge of a court of record in this State, or a combination
- 6 of both for at least seven years.

7 (b) Each judge of a court of appeals shall be elected, on a
8 nonpartisan ballot, for a six-year term. A vacancy on a court shall
9 be filled by appointment of the governor until the next general
10 election and until a successor is elected and has qualified.

11 Section 3. JURISDICTION. (a) Except as provided in Section
12 3(d) of Part I, each court of appeals shall have full appellate
13 jurisdiction, coextensive with the limits of its district, extending
14 to all civil cases in which the amount in controversy or judgment
15 rendered exceeds \$100, exclusive of interest and costs.

16 (b) Except as provided in Section 3(d) of Part I, each court
17 of appeals shall have full appellate jurisdiction, coextensive with
18 the limits of its district, extending to all criminal cases in which
19 punishment, by confinement or a fine exceeding \$100, has been imposed.

20 (c) If within the appellate jurisdiction of the courts of
21 appeals enumerated in Subsections (a) and (b) of this section, an
22 appeal from a final judgment of a trial court to the respective court
23 of appeals is a matter of right.

24 Section 4. WRIT AUTHORITY. In accordance with rules adopted
25 by the Supreme Court, each court of appeals or any judge thereof may
26 issue any writs necessary or proper to the complete exercise of the
27 court's jurisdiction.

28 Section 5. PERSONNEL. Each court of appeals may appoint
29 such clerks, deputy clerks, and other necessary personnel as author-
30 ized by legislative appropriation.

PART III. MISCELLANEOUS PROVISIONS

Section 1. This Act takes effect only if the constitutional amendment proposed by H. J. R. No. 9 is adopted. If H. J. R. No. 9 is adopted, this Act takes effect on September 1 following adoption of the amendment.

Section 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

Bracken

By: Hale

H. B. No. 1402

(In the House.--Filed March 9, 1973; March 20, 1973,
read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

relating to judicial administration and the creation of the Office
of Court Management, composed of an administrative division,
judicial council, and qualifications commission; creating trial
court administrative districts and authorizing urban trial court
administration; providing certain transitional provisions and an
effective date; amending Article 1738, Revised Civil Statutes of
Texas, 1925, as amended; repealing Chapter 156, Acts of the 40th
Legislature, Regular Session, 1927, as amended (Article 200a,
Vernon's Texas Civil Statutes), Chapter 19, Acts of the 41st
Legislature, 1st Called Session, 1929, as amended (Article 2329a,
Vernon's Texas Civil Statutes), Chapter 516, Acts of the 60th
Legislature, Regular Session, 1967, as amended (Article 5966a,
Vernon's Texas Civil Statutes), and Chapter 376, Acts of the 62nd
Legislature, Regular Session, 1971 (Article 200b, Vernon's Texas
Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SUBCHAPTER A. ORGANIZATION AND PURPOSE.

Section 1.001. SHORT TITLE. This Act may be cited as the
Judicial Administration Act.

Sec. 1.002. PURPOSE. The purpose of this Act is to provide
for the administration of the judicial system proposed by H.J.R.
No. 9.

Sec. 1.003. SUBCHAPTERS. (a) The provisions of Subchapter

1 B of this Act create the Office of Court Management, composed of
2 an administrative division, judicial council, and qualifications
3 commission.

4 (b) The provisions of Subchapter C establish the
5 administrative division and provide for the organization, powers,
6 and duties of that office.

7 (c) The provisions of Subchapter D establish the judicial
8 council for the continuous study of the organization, rules,
9 procedure, and practice of the judicial system.

10 (d) The provisions of Subchapter E establish the
11 Qualifications Commission for the purpose of investigating
12 complaints relating to the conduct of certain judicial officials.

13 (e) The provisions of Subchapter F create a system of trial
14 court administration by districts, with officials and personnel
15 responsible to the Chief Justice of Texas.

16 (f) The provisions of Subchapter G authorize independent
17 administration of urban area trial court systems.

18 (g) The provisions of Subchapter H amend certain prior
19 legislation to conform it to the new pattern of court
20 administration.

21 (h) The provisions of Subchapter I are transitional
22 provisions to govern the orderly transfer of functions and
23 resources from existing institutions and officials to those created
24 or designated by this Act.

25 (i) The provisions of Subchapter J govern certain
26 miscellaneous matters, such as the funding and effective date of
27 the institutions created by this Act and the repeal of legislation

1 replaced by this Act.

2 SUBCHAPTER B. OFFICE OF COURT MANAGEMENT.

3 Section 2.001. CREATION. (a) The Office of Court
4 Management is created.

5 (b) The Office of Court Management consists of the:

6 (1) Administrative Division;

7 (2) Judicial Council; and

8 (3) Judicial Qualifications Commission.

9 Sec. 2.002. DIRECTOR. (a) The chief administrative officer
10 of the Office of Court Management is the Administrative Director
11 of the Courts.

12 (b) The administrative director is appointed by and serves
13 at the pleasure of the Chief Justice of Texas.

14 (c) The administrative director shall devote full time to
15 his official duties to the exclusion of engagement in any business
16 or profession for profit. He shall receive a salary to be fixed
17 by legislative appropriation in an amount not to exceed the minimum
18 salary paid by the state to a district judge.

19 (d) The qualifications for the office of administrative
20 director shall be fixed by rule adopted by the supreme court.

21 Sec. 2.003. PERSONNEL. (a) With the approval of a majority
22 of the supreme court, the administrative director shall appoint
23 assistants and other personnel necessary for the operation of all
24 divisions of the Office of Court Management.

25 (b) All personnel employed under authority of Subsection
26 (a) of this section shall receive a salary as fixed by legislative
27 appropriation. They shall be reimbursed for actual necessary

1 travel expenses incurred in the performance of their duties, under
2 procedures and restrictions otherwise provided by law.

3 SUBCHAPTER C. ADMINISTRATIVE DIVISION.

4 Section 3.001. CREATION. The administrative division of
5 the Office of Court Management is created.

6 Sec. 3.002. POWERS AND DUTIES. Under the direction and
7 supervision of the Administrative Director of the Courts, the
8 administrative division shall:

9 (1) examine the administrative and business methods and
10 systems employed in the offices of the clerk of courts and other
11 offices related to and serving the courts and make recommendations
12 for necessary improvement;

13 (2) prepare and submit budget estimates of state
14 appropriations necessary for the maintenance, operation, and
15 management of the judicial branch;

16 (3) approve all vouchers for the expenditure of state funds
17 appropriated for the judicial branch;

18 (4) secure and maintain accommodations supported by state
19 appropriations and purchase, exchange, and distribute equipment
20 and supplies for the judges, clerks, and other offices, officers,
21 and employees of the courts supported by state appropriation;

22 (5) collect and compile statistical data and other
23 information on the expenditures and receipts of the courts and
24 related offices and publish periodic reports;

25 (6) consult with and assist the clerks of court and other
26 officers and employees of the courts and of offices related to
27 and serving the courts;

1 by legislative appropriation.

2 Sec. 3.004. COOPERATION OF OTHER OFFICIALS. All judges,
3 deputy court administrators, clerks of courts, and other officers
4 or employees of the courts and of offices related to and serving
5 the courts shall comply with all requests made by the
6 administrative director for information and statistical data
7 relative to the work of the courts and of such offices and relative
8 to the expenditure of public moneys for their maintenance and
9 operation.

10 SUBCHAPTER D. JUDICIAL COUNCIL

11 Section 4.001. CREATION; PURPOSES. (a) The Texas Judicial
12 Council is created as a division of the Office of Court Management.

13 (b) The council shall engage in the continuous study of
14 the organization, rules, procedure, and practice of the judicial
15 system of the State of Texas. It shall study the work accomplished
16 and results produced by that system and shall make statistical
17 and other investigations as required under authority of this
18 subchapter.

19 Sec. 4.002. MEMBERSHIP. (a) The Chief Justice of Texas
20 shall serve as chairman of the council.

21 (b) The chief justice shall appoint to council membership:

22 (1) two active or retired judges of the courts of appeals;

23 (2) three active or retired trial court judges; and

24 (3) one district clerk.

25 (c) The board of directors of the State Bar of Texas shall
26 appoint to council membership four members of the State Bar.

27 (d) The presiding officer of each house of the legislature

1 shall appoint to council membership two of the members of the
2 respective house, or the members to serve may be designated
3 otherwise as provided by the respective house.

4 (e) Each council member shall serve for a two-year term
5 beginning on January 1 following the effective date of this Act.
6 Each member shall serve until his successor is appointed and has
7 qualified. Vacancies in office shall be filled by the original
8 appointing authority for the unexpired portion of the term.

9 Sec. 4.003. ORGANIZATION. (a) Together with the chairman,
10 any seven members of the council shall constitute a quorum for
11 the conduct of business. Any business may be conducted by the
12 majority of a quorum.

13 (b) The Administrative Director of the Courts shall serve
14 as the secretary of the council but shall not be a voting member
15 thereof.

16 (c) The chairman may appoint committees from among the
17 council membership and charge those committees with such duties
18 and delegate to them such powers as the chairman deems proper.

19 (d) The chairman may appoint advisory committees, composed
20 of council members, nonmembers, or both, to undertake studies and
21 make recommendations in specialized fields.

22 (e) The chairman shall order at least one meeting of the
23 full council each calendar year and such other meetings as he
24 deems necessary. Any meeting may be convened at a time and place
25 designated by the chairman.

26 (f) The council may make rules and regulations deemed
27 necessary for the governing of its activities.

1 Sec. 4.004. COMPENSATION; TRAVEL EXPENSES. (a) The members
2 of the council shall not receive any compensation for their
3 services as members, but each council member and each member of
4 an advisory committee shall be reimbursed for necessary expenses
5 incurred in the performance of duties for travel, board, and
6 lodging.

7 (b) The council may receive and expend funds from sources
8 other than the state.

9 Sec. 4.005. DUTIES. (a) Under the direction of the
10 Administrative Director of the Courts, the council shall:

11 (1) make a continuous study of the organization of the
12 courts, of the rules and methods of procedure and practice of the
13 judicial system of the state, and of the work accomplished by all
14 Texas courts;

15 (2) formulate methods for simplifying judicial procedure,
16 expediting the transaction of judicial business, and correcting
17 faults in the administration of justice;

18 (3) recommend to the legislature constitutional and
19 statutory changes deemed necessary for expediting court business
20 and improving the administration of justice;

21 (4) gather judicial statistics and other pertinent data
22 from the several judges and other court officials of the state;

23 (5) make a complete report annually to the governor, supreme
24 court, and each member of the legislature of all council
25 proceedings and suggestions and recommendations, together with
26 supplemental reports submitted from time to time as the council
27 deems advisable;

1 (6) make investigations and reports upon such matters
2 touching the administration of justice as may be referred to the
3 council by the legislature or the supreme court; and

4 (7) perform the functions in regard to rulemaking as
5 prescribed in Subsection (b) of this section.

6 (b) The council shall promulgate all rules of procedure
7 and administration, which the supreme court is empowered to adopt.
8 The rules shall become effective only upon adoption by the supreme
9 court, as otherwise provided by law. The court may decline to
10 adopt any rule proposed for adoption by the council.

11 Sec. 4.006. MEETINGS AND HEARINGS. (a) Through committees
12 of three or more of its members, the council may conduct public
13 meetings or hearings and require production of books and documents
14 and reports from the several courts of the state and the clerks
15 of those courts, including courts not of record. In the conduct
16 of meetings or hearings, the council may administer oaths and
17 take testimony.

18 (b) Any council officer in advance of a hearing, or any
19 member or officer in the course of a hearing, may issue under his
20 official signature and cause to be served upon a prospective
21 witness a subpoena or like appropriate order. Service may be by
22 registered or certified mail or by any adult person.

23 (c) On the failure of a witness to testify or to appear
24 and produce books and documents as ordered, any district judge
25 of the county of residence of the witness may compel such testimony
26 or appearance. On written motion by or on behalf of the council
27 or the committee conducting the hearing, a proper district judge

1 shall compel the appearance or testimony by the same means,
2 including attachment and penalties, whereby the judge may compel
3 testimony and appearance of witnesses in the trial of a cause
4 pending in his own court.

5 Sec. 4.007. OTHER POWERS. (a) In addition to other powers
6 granted by this subchapter to the council to enable the performance
7 of duties assigned to it, the council may:

8 (1) prepare, print, and distribute drafts of rules and
9 legislative bills and resolutions intended to implement
10 recommendations of the council; and

11 (2) require the supplying of statistical data and other
12 information pertaining to the amount and character of all business
13 transacted by the courts of this state and other information
14 pertaining to their conduct and operation.

15 (b) In the exercise of the power granted by Subsection
16 (a) (2) of this section, the council may prescribe procedures and
17 forms for the supplying of statistical data and other information.

18 Sec. 4.008. COOPERATION OF OTHER OFFICIALS. (a) The
19 provisions of this section apply to:

20 (1) every justice, judge, clerk, and other court officers
21 of every state court; and

22 (2) similar officers of any other entity exercising judicial
23 functions, including courts of municipal corporations and all
24 subdivisions of the state.

25 (b) As an official duty, any officer included in Subsection
26 (a) of this section shall comply with the reasonable requirements
27 of the council for the supplying of information within the scope

1 of functions of the council. Any failure to supply data or
2 information within a reasonable time after a request shall be
3 presumptively deemed a willful refusal to supply the data or
4 information.

5 (c) Due performance of the duty to supply data and
6 information shall be enforceable by writ of mandamus. Jurisdiction
7 of such an action shall lie:

8 (1) in a district court of the county of residence of the
9 respondent, if the respondent is a district clerk or a clerk,
10 judge, or other officer of any judicial body other than a district
11 court, court of appeals, or the supreme court;

12 (2) in the court of appeals having jurisdiction in the
13 county of residence of the respondent, if the respondent is a
14 district judge or clerk of a court of appeals; and

15 (3) in the supreme court, in all circumstances not
16 enumerated in Subdivisions (1) and (2) of this section.

17 (d) On written request signed by the chairman of the
18 council, the attorney general shall:

19 (1) file and prosecute an action authorized by this section;
20 or

21 (2) decline to file and certify in writing his opinion
22 that the matter is without merit.

23 SUBCHAPTER E. JUDICIAL QUALIFICATIONS COMMISSION

24 Sec. 5.001. CREATION. The State Judicial Qualifications
25 Commission is created as a division of the Office of Court
26 Management.

27 Sec. 5.002. MEMBERSHIP. (a) With the consent of the

1 senate, the supreme court shall appoint to membership on the
2 commission:

3 (1) two judges of the courts of appeals; and

4 (2) two district judges.

5 (b) Under regulations prescribed by the supreme court with
6 advice and consent of the senate, the board of directors of the
7 State Bar shall appoint to membership on the commission two members
8 of the State Bar. To be eligible for appointment under authority
9 of this subsection, a person shall have practiced law as a member
10 of the State Bar of Texas for more than 10 consecutive years
11 preceding appointment.

12 (c) With the consent of the senate, the governor shall
13 appoint to membership on the commission three citizens, at least
14 30 years of age, who are neither licensed to practice law nor
15 holders of any salaried public office or employment.

16 (d) Each commission member shall serve for a term of six
17 years and until his successor is appointed and has qualified.
18 Vacancies in office shall be filled by the original appointing
19 authority for the unexpired portion of the term. No member may
20 succeed himself in office unless he has served less than three
21 consecutive years at the time of reappointment.

22 (e) No person may serve as a member of the commission:

23 (1) unless he maintains his residence within the state;

24 (2) if he resides or holds a judgeship in the same judicial
25 district as another member; or

26 (3) if he has ceased to retain the qualifications specified
27 for his membership.

1 Sec. 5.003. ORGANIZATION. (a) The commission shall elect
2 annually one of its members as chairman.

3 (b) A quorum for the conduct of business by the commission
4 shall consist of five members. Proceedings shall be conducted
5 by a majority vote of those present, except that recommendations
6 for retirement, censure, or removal of any person holding an
7 office enumerated in Section 5.004 (a) of this Act shall be by
8 affirmative vote of at least five members.

9 (c) The commission shall meet at Austin at least once each
10 year and may hold other meetings, hearings, and proceedings at
11 such times and places as it determines.

12 (d) Members of the commission shall receive no compensation
13 for their services. Each member of the commission and each master
14 shall be allowed necessary expenses for travel, board, and lodging
15 incurred in the performance of his duties.

16 (e) The commission may:

17 (1) arrange for and compensate medical and other experts
18 and reporters;

19 (2) arrange for attendance of witnesses, including witnesses
20 not subject to subpoena;

21 (3) pay from funds available to it all expenses reasonably
22 necessary for effectuating its purposes;

23 (4) employ a seal of such form as it determines; and

24 (5) employ special counsel from time to time as considered
25 necessary.

26 Sec. 5.004. DUTIES; PROCEEDINGS. (a) In accordance with
27 procedures established by this Act, any person holding an office

1 or position enumerated in this subsection may be reprimanded,
2 censured, or removed from office. The application of this Act
3 extends to persons holding the office of justice, judge, or
4 magistrate of the:

- 5 (1) supreme court;
- 6 (2) courts of appeals;
- 7 (3) district courts;
- 8 (4) county courts at law;
- 9 (5) municipal courts; and
- 10 (6) justice of the peace courts.

11 (b) The commission shall keep itself informed of
12 circumstances relating to the misconduct or disability of
13 particular persons holding an office enumerated in Subsection (a)
14 of this section. It shall receive complaints or reports, formal
15 or informal, from any source in regard to such misconduct or
16 disability and make preliminary investigations as it determines
17 to be necessary.

18 (c) Any person holding an office enumerated in Subsection
19 (a) of this section may be removed from office or censured for
20 willful or persistent conduct:

- 21 (1) which is clearly inconsistent with the proper
22 performance of his duties; or
- 23 (2) which casts public discredit on the judiciary or
24 administration of justice.

25 (d) Because of disability seriously interfering with the
26 performance of his duties which is or is likely to become permanent
27 in nature, any judicial official enumerated in Subsection (a) of

1 this section may be:

2 (1) involuntarily retired, if eligible for retirement
3 benefits under the laws of this state providing for judicial
4 retirement; or

5 (2) removed from office, if not eligible for such benefits.

6 (e) After such investigation as it deems necessary into
7 circumstances arising under Subsection (c) or (d) of this section,
8 the commission may:

9 (1) issue a private reprimand;

10 (2) order a hearing to be held before it concerning removal
11 or retirement; or

12 (3) request the supreme court to appoint a master to hear
13 and take evidence in the matter and report to the commission.

14 (f) After hearing or consideration of the record and report
15 of a master, the commission, based upon a finding of good cause
16 for the action, may:

17 (1) issue an order of public censure; or

18 (2) recommend to the supreme court the removal or
19 retirement, as the case may be, of the person in question and
20 then file with the clerk of the supreme court the entire record
21 before the commission.

22 (g) The supreme court shall review the record of proceedings
23 filed with it on the law and facts. For good cause shown, the
24 court may permit the introduction of additional evidence. As it
25 finds just and proper, the court shall order public censure,
26 retirement or removal, or shall wholly reject the recommendation.

27 (h) Upon an order for involuntary retirement for disability

1 or an order for removal, the office in question shall become
2 vacant. The rights of an incumbent so retired to retirement
3 benefits shall be the same as if his retirement had been voluntary.

4 (i) All papers filed with and proceedings before the
5 commission or a master shall be confidential. The filing of
6 papers with and the giving of testimony before the commission,
7 master, or supreme court shall be privileged. On being filed in
8 the supreme court, the record loses its confidential character.

9 (j) No person holding an office enumerated in Subsection
10 (a) of this section may sit as a member of the commission or
11 supreme court in any proceeding involving his own retirement or
12 removal.

13 (k) The supreme court shall by rule provide for the
14 procedure before the commission, masters, and the supreme court.
15 The rule shall afford due process of law to any person holding
16 an office enumerated in Subsection (a) of this section against
17 whom a proceeding is instituted to cause his retirement or removal.
18 Due process of law shall be afforded in the procedure before the
19 commission, masters, and the supreme court in the same manner
20 that any person whose property rights are in jeopardy in an
21 adjudicatory proceeding is entitled to due process of law,
22 regardless of whether or not the interest in remaining in active
23 status of the person holding the office is considered to be a
24 right or a privilege. Due process shall include the right to
25 notice, counsel, hearing, confrontation of his accusers, and all
26 such other incidents of due process as are ordinarily available
27 in proceedings, whether or not misfeasance is charged, upon proof

1 of which is a penalty may be imposed.

2 Sec. 5.005. POWERS. (a) In the conduct of investigations
3 and formal proceedings, any member of the commission or the master
4 may:

5 (1) administer oaths;

6 (2) order and otherwise provide for the inspection of books
7 and records;

8 (3) issue subpoenas for the attendance of witnesses and
9 the production of papers, books, accounts, documents, and testimony
10 relevant to any such investigation or formal proceeding.

11 (b) In any investigation or formal proceeding in any part
12 of the state, the process issued under authority of this section
13 extends to all parts of the state.

14 (c) (1) If any person, other than the judge, refuses to
15 attend, testify, or produce any writings or things required by
16 any subpoena issued under authority of this section, the commission
17 or the master may petition any district court for any order
18 compelling the person to attend and testify or produce the writings
19 or things required by the subpoena before the commission or the
20 master. The court shall order the person to appear before it at
21 a specified time and place and then and there show cause why he
22 has not attended, testified, or produced the writings or things
23 as required. A copy of the order shall be served upon him. If
24 it appears to the court that the subpoena was regularly issued,
25 the court shall order the person to appear before the commission
26 or master at the time and place fixed in the order and testify
27 or produce the required writings or things. On failure to obey

1 the order, the person shall be dealt with as for contempt of
2 court.

3 (2) Any person, other than the judge, who refuses to
4 testify, give testimony, or produce documents or things in any
5 proceeding, or produce documents or things in any proceeding or
6 deposition in connection with any proceeding before the commission
7 upon the ground that his testifying, his testimony, or the
8 production of the document or thing may tend to incriminate him,
9 may be required to testify and to produce the document or thing.
10 When required to do so under authority of Subdivision (1) of this
11 subsection, over his proper claim of privilege against
12 self-incrimination or his right not to testify, the person shall
13 not be subject to indictment or prosecution for any transaction,
14 matter, or thing concerning which he truthfully testified or
15 produced evidence, documentary or otherwise.

16 (d) In any pending investigation or formal proceeding, the
17 commission or the master may order the deposition of a person
18 residing inside or outside the state to be taken in such form and
19 subject to such limitations as may be prescribed in the order.
20 If the judge and counsel for the commission do not stipulate as
21 to the manner of taking the deposition, either the judge or counsel
22 may file in any district court a petition entitled "In the Matter
23 of Proceeding of State Judicial Qualifications Commission No. _____
24 (state number)," and stating generally, without identifying the
25 judge, the nature of the pending matter, the name and residence
26 of the person whose testimony is desired, and directions, if any,
27 of the commission or master, asking that an order be made requiring

1 the person to appear and testify before a designated officer.
2 On the filing of the petition, the court may make an order
3 requiring the person to appear and testify. A subpoena for the
4 deposition shall be issued by the clerk and the deposition shall
5 be taken and returned, in the manner prescribed by law for
6 depositions in civil actions. If the deposition is that of a
7 person residing or present within this state, the petition shall
8 be filed in the district court of the county in which the person
9 resides or is present. Otherwise, the petition shall be filed
10 in the district court of any county in which the commission
11 maintains an office. On the failure to obey the subpoena or any
12 order issued in connection therewith, the person shall be dealt
13 with as for contempt of court.

14 (e) If a proceeding before the commission involves the
15 question of the involuntary retirement of a judge because of
16 physical or mental incapacity to discharge his duties, the
17 commission may require a physical and mental examination at its
18 own expense and by physicians selected by it. Any examination
19 or examinations may be had upon 10 days' written notice to the
20 judge specifying the name of the examining physician and the date,
21 time, and place it is to be made. The examination may be made
22 at a place in the city, town, or village where the judge either
23 permanently or temporarily resides. With his consent, the judge
24 may be examined elsewhere within this state. The examining
25 physician shall make his written report to the commission. The
26 commission shall furnish the judge a copy of the report upon the
27 written request of the judge or his attorney. The report shall

1 be received as evidence without further formality, subject to the
2 right of the commission to require oral or deposition testimony
3 of any reporting physician, for purposes of cross-examination or
4 otherwise, in regard to the content of the report. The judge
5 shall have the same right, if duly demanded by or for him in
6 writing.

7 (f) Each witness, other than an officer or employee of the
8 state or a political subdivision or an officer or employee of a
9 court of this state, shall receive for his attendance the same
10 fees and all witnesses shall receive the same mileage allowance
11 allowed by law to a witness in civil cases. The amounts shall
12 be paid by the commission from funds appropriated to it.

13 (g) No award of costs shall be made in any proceeding
14 before the commission, master, or district court.

15 Sec. 5.006. MASTERS. (a) A master appointed under
16 authority of this Act shall be an active or retired district judge
17 or judge of a court of appeals.

18 (b) Any active judge appointed to act as master shall
19 receive his regular compensation as judge while in the performance
20 of his duties as master and shall be reimbursed for actual travel
21 and living expenses incurred in the performance of his duties as
22 master.

23 (c) Any retired judge appointed to act as master shall
24 receive, while in the performance of his duties as master, an
25 amount representing the difference between all the retirement
26 benefits of the judge as a retired judge and the compensation
27 received from the state by active judges of his respective court

1 level. The retirement allowances shall continue to be paid by
2 the same source as in the instance of a retired judge not assigned
3 duties.

4 (d) Payments of additional amounts and expenses provided
5 for by this section shall be made upon certificates of approval
6 by the commission.

7 Sec. 5.007. COOPERATION OF OTHER OFFICIALS. (a) State
8 and local public bodies and departments, the officers and employees
9 thereof, and the officials and attaches of the courts of this
10 state shall cooperate with and give reasonable assistance and
11 information to the commission and its authorized representatives
12 in connection with any investigations or proceedings within the
13 jurisdiction of the commission.

14 (b) On request of the commission, any member thereof, or
15 any master or authorized representative, sheriffs and constables
16 in the several counties of the state shall serve process and
17 execute all lawful orders of the commission. Such process and
18 orders may be served by any other person designated by the
19 commission, any member thereof, or any master or authorized
20 representative of the commission.

21 (c) If requested by the commission, the attorney general
22 shall act as its counsel generally or in any particular
23 investigation or proceeding.

24 SUBCHAPTER F. ADMINISTRATIVE DISTRICTS

25 Section 6.001. CREATION OF DISTRICTS; ADMINISTRATIVE JUDGES.

26 (a) The 13 judicial districts of the state are hereby designated
27 as administrative districts for purposes of judicial

1 administration. In each of the administrative districts, the
2 Chief Justice of Texas, with the consent of a majority of the
3 membership of the supreme court, shall designate a district court
4 administrative judge and a county court at law administrative
5 judge.

6 (b) Each administrative judge shall be either a regularly
7 elected judge of one of the courts he is to administer or a retired
8 judge having served within the level of courts he is to administer,
9 residing inside the district, who voluntarily retired from office
10 and who has certified his willingness to serve.

11 (c) Adequate quarters shall be provided for each
12 administrative judge in the courthouse of the county in which he
13 resides.

14 (d) An administrative judge shall serve for a term of four
15 years from the date of appointment and until his successor is
16 appointed and has qualified. Vacancies in the office shall be
17 filled for the unexpired term in the same manner as provided in
18 Subsection (a) of this section.

19 Sec. 6.002. DEPUTY COURT ADMINISTRATORS. (a) Within each
20 judicial district, the two administrative judges shall be assisted
21 by the deputy court administrator designated for the district
22 under authority of Subchapter C.

23 (b) In addition to other duties, the deputy court
24 administrator shall:

25 (1) keep a record of all proceedings of the administrative
26 district for both county courts at law and district courts and
27 a complete record of all cases pending in those courts within the

1 district, together with a record of the final dispositions of
2 those cases; and

3 (2) make an annual report and special reports as directed
4 by the administrative judges to the attorney general, provided
5 that this report, as required by Article 2.23, Code of Criminal
6 Procedure, 1965, shall be combined as soon as practicable with
7 the required annual report to the Texas Judicial Council.

8 (c) In order to carry out the duties imposed by this
9 subchapter each deputy administrator may purchase necessary office
10 equipment and supplies and employ additional personnel, as provided
11 by legislative appropriation.

12 (d) Adequate quarters shall be provided for each deputy
13 administrator in the courthouse of the county in which he is
14 directed to work.

15 Sec. 6.003. JUDICIAL CONFERENCE. (a) The Chief Justice
16 of Texas shall call and preside over at least one combined meeting
17 each year of the administrative judges. The chief justice may
18 call such additional meetings as he deems necessary for the
19 promotion of the orderly and efficient administration of justice.

20 (b) At meetings convened under authority of Subsection (a)
21 of this section, the participants shall:

22 (1) study the statistics reflecting the condition of the
23 dockets of the various courts of the state for the purpose of
24 determining the need for the assignment of judges under this
25 subchapter;

26 (2) compare the local rules of court in force throughout
27 the state for the purpose of working toward uniformity of the

1 rules;

2 (3) consider means to achieve uniformity in the
3 administration of this subchapter in the various administrative
4 districts; and

5 (4) promote more effective administration of justice through
6 the use of this subchapter.

7 Sec. 6.004. DISTRICT CONFERENCES. (a) At least once each
8 year, the two administrative judges of each judicial district
9 shall each convene a conference of the judges of the courts they
10 administer for the purpose of consultation concerning the state
11 of business in the several courts within the district and arranging
12 for the disposition of pending business. At the conference, each
13 judge shall present a list of all cases pending in his court and
14 the exact status of his docket. Each judge shall present such
15 other information as required by the rules and regulations of the
16 conference.

17 (b) At meetings convened under authority of Subsection (a)
18 of this section, subject to rules of administration adopted by
19 the supreme court, the judges may adopt:

20 (1) rules governing the assignment of judges from one court
21 to another and between levels of courts and governing the keeping
22 of records of such assignments;

23 (2) rules regulating and facilitating the order of trials;
24 and

25 (3) other rules necessary for the enforcement of this
26 subchapter.

27 Sec. 6.005. ASSIGNMENT OF JUDGES. (a) Judges may be

1 assigned in the manner provided by Subsections (b) and (c) of
2 this section:

3 (1) for the purpose of holding court when the regular judge
4 is absent, disabled, or disqualified;

5 (2) for the disposition of judicial business in instances
6 where the regular judge remains present and trying cases; or

7 (3) when the office of the regular judge is vacant.

8 (b) In accordance with supreme court rules of administration
9 and rules adopted pursuant to this subchapter an administrative
10 judge may assign any of the judges of his level within the district
11 to hold special or regular terms of that court in any county of
12 the district to dispose of accumulated business. The
13 administrative judge may assign any retired judge of his level
14 who consents to assignment to any court of that level within the
15 district.

16 (c) In accordance with supreme court rules of administration
17 and rules adopted pursuant to this subchapter the administrative
18 director of the courts may assign:

19 (1) any of the regular judges of the county courts at law
20 and district courts to courts within the same trial court level
21 outside their administrative districts;

22 (2) any retired judges, consenting to assignment, of the
23 county courts at law and district judges to courts of the same
24 trial court level outside the administrative district in which
25 they reside; and

26 (3) any of the retired judges, consenting to assignment,
27 or regular judges of either trial court level to preside in a

1 court of the other level in any county court at law or district
2 court in the state.

3 (d) The administrative director shall exercise the authority
4 granted in Subsection (c) of this section when he deems assignments
5 outside of administrative districts or between trial court levels
6 to be necessary for the prompt and efficient administration of
7 justice. He shall exercise the authority by direction to the
8 appropriate administrative judge to execute the assignment order.

9 Sec. 6.006. EXTENSION OF COURT TERMS. (a) When necessary
10 to carry out the purposes of this subchapter and dispose of pending
11 litigation, a county court at law or district judge shall extend
12 the regular terms of his court and call special sessions.

13 (b) If a term is extended as provided in Subsection (a)
14 of this section, no other term of the respective court shall fail
15 because of the extension. Such other terms may be opened and
16 held as usual.

17 (c) For the trial of cases, entry of orders, and disposition
18 of other necessary business, the regular presiding judge or any
19 presiding judge while assigned may convene, by entering an order
20 on the minutes, a special term of the court for the disposition
21 of the business coming before the court.

22 Sec. 6.007. RELIEF FROM ASSIGNMENT. (a) When a judge has
23 been assigned under authority of Section 6.005, he shall serve
24 as directed unless relieved under the provisions of Subsection
25 (b) of this section.

26 (b) A judge who has been assigned under authority of Section
27 6.005 (b) may present in writing to his administrative judge a

1 statement declining assignment for good cause shown. If the
2 administrative judge refuses to relieve the judge of the
3 assignment, he may petition the Chief Justice of Texas, within
4 five days of the refusal, for relief from the assignment. The
5 chief justice may grant or refuse the petition. A judge who has
6 been assigned under authority of Section 6.005 (c) shall petition
7 the chief justice, within five days of the assignment, if he
8 desires to be relieved. The chief justice may grant or refuse
9 the petition.

10 (c) The administrative director of the courts, in approving
11 salary vouchers under authority of Section 3.002(3) of Subchapter
12 C, may consider an unexcused failure to execute a lawful assignment
13 as grounds for delaying or denying approval of a voucher.

14 Sec. 6.008. COMPENSATION OF ADMINISTRATIVE JUDGES. (a)
15 In addition to all other compensation provided by law,
16 administrative judges shall receive annual compensation within
17 limits prescribed by legislative appropriation.

18 (b) Compensation to be paid under authority of Subsection
19 (a) of this section shall be fixed individually for each
20 administrative judge by the Texas Judicial Council. In fixing
21 the amount for each administrative judge, the council shall
22 consider whether the judge is active in administrative duties,
23 performs part-time, or is retired from the bench.

24 Sec. 6.009. EXPENSES DURING ASSIGNMENT. (a) Each active
25 judge assigned under the provisions of this subchapter to preside
26 over a court outside the division in which he normally presides,
27 during the period of assignment shall continue to receive his

1 normal emoluments of office and in addition shall receive from
2 the state:

3 (1) actual expenses in going to and returning from
4 assignments; and

5 (2) actual living expenses while in the performance of
6 duties under assignment.

7 (b) Each retired judge assigned under the provisions of
8 this subchapter to preside over a court, during the period of
9 assignment, shall continue to receive his normal retirement
10 benefits and in addition shall receive from the state:

11 (1) an amount equal to the difference between all the
12 retirement benefits of the judge and the compensation normally
13 paid to the judge of the court to which the retired judge is
14 assigned, determined pro rata for the period of assignment;

15 (2) actual expenses in going to and returning from
16 assignments; and

17 (3) actual living expenses while in the performance of
18 duties under assignment, if the assignment requires the judge to
19 live away from his normal place of residence.

20 SUBCHAPTER G. COURT ADMINISTRATION IN URBAN COUNTIES

21 Section 7.001. APPLICATION. This subchapter shall apply
22 to any county in which there are two or more county courts at law
23 judges or two or more district court judges.

24 Sec. 7.002. AUTHORITY OF JUDGE. In any county governed
25 by this subchapter, any judge of the county court at law or judge
26 of the district court, each within his respective trial court
27 level, may hear and determine any matter pending before any other

1 judge of that trial court in the county, whether the matter is
2 preliminary, final, or after judgment. The judge may sign any
3 judgment or order in any matter pending before any other judge
4 within his trial court level in the county, with or without having
5 the case transferred. Any such judgment, order, or actions shall
6 be valid and binding to the same extent as if the case were pending
7 before the judge so acting. This authority extends to any active
8 or retired county court at law or district judge assigned to
9 preside within the county under the provisions of Subchapter F,
10 or under the provisions of Chapter 99, Acts of the 51st
11 Legislature, Regular Session, 1949, as amended (Article 6228b,
12 Vernon's Texas Civil Statutes).

13 Sec. 7.003. RULEMAKING POWER. (a) The judges of either
14 or both of the two trial court levels in a county governed by
15 this subchapter may, by majority vote, make and amend rules
16 consistent with rules of administration adopted by the supreme
17 court and adopted under authority of Subchapter F.

18 (b) The judges may make and amend rules of practice and
19 procedure in their respective court level in the county. The
20 rules may not be inconsistent with the statutes of this state and
21 not inconsistent with the rules of procedure adopted by the Supreme
22 Court of Texas.

23 Sec. 7.004. COUNTY PRESIDING JUDGE. (a) The judges of
24 either trial court level, if there are three or more judges in
25 that level, may elect by majority vote a county presiding judge
26 for that level. The presiding judge may be one of their number
27 or a retired judge of that court level, residing within the county,

1 who voluntarily retired from office and who has certified his
2 willingness to serve.

3 (b) A county presiding judge shall serve for a term of two
4 years from the date of election and until his successor is elected
5 and has qualified. Vacancies in the office shall be filled for
6 the unexpired term in the same manner as provided for initial
7 selection.

8 (c) A county presiding judge shall receive from the state
9 such additional compensation for the performance of his
10 administrative duties as may be fixed by legislative appropriation.

11 Sec. 7.005. COUNTY COURT COORDINATOR. (a) In each county
12 in which a presiding judge is elected, the office of county court
13 coordinator may be established. He shall be employed by the
14 presiding judge or judges in the county.

15 (b) The coordinator shall have the same qualifications as
16 provided by supreme court rule for deputy court administrators.

17 (c) Together with necessary staff and clerical assistance,
18 the coordinator shall assist the presiding judge or judges in the
19 performance of the administrative duties imposed by this
20 subchapter.

21 (d) The coordinator and his staff and clerical personnel
22 shall receive such compensation as provided by legislative
23 appropriation.

24 Sec. 7.006. POWERS AND DUTIES. (a) Under the rules adopted
25 by authority of Section 7.003, the presiding judge may:

26 (1) direct the manner in which cases shall be filed and
27 docketed in the trial court level he administers;

1 (2) transfer any case or proceeding pending before any of
2 the judges to any other of the judges in the trial court level
3 he administers; and

4 (3) assign any judge within his trial court level to try
5 any case or hear any proceeding pending before another judge in
6 that level.

7 (b) The district clerk of the county shall file, docket,
8 transfer, and assign all cases as directed by the presiding judge
9 in accordance with the rules adopted under authority of Section
10 7.003.

11 Sec. 7.007. SUBJECT MATTER ADMINISTRATION. The county
12 presiding judge may appoint and remove, from time to time,
13 presiding judges for courts assigned to any specified class of
14 cases, such as civil, criminal, family, or probate cases. Such
15 presiding judges shall exercise the same authority, within his
16 area of specialization, as the county presiding judge may exercise
17 generally under rules adopted pursuant to Section 7.003.

18 Sec. 7.008. COORDINATION WITH DISTRICT ADMINISTRATORS.

19 (a) County presiding judges and court coordinators shall utilize
20 the administrative officers and procedures established in
21 Subchapter F in granting and requesting the assistance of assigned
22 judicial personnel. All administrative directives issued to
23 county court at law and district court judges by officials and
24 personnel established under authority of Subchapter F shall be
25 issued through the county-level administrative officers.

26 (b) If county presiding judges or court coordinators are
27 not selected in a county in which they are authorized, the

1 authority granted in this Subchapter F to these officials may be
2 exercised by the respective administrative officers and personnel,
3 established under authority of Subchapter F of the district in
4 which the county is located.

5 SUBCHAPTER H. CONFORMING AMENDMENTS

6 Section 8.001. Article 1738, Revised Civil Statutes of
7 Texas, 1925, as amended, is amended to read as follows:

8 "Article 1738. Transfer of causes and judges

9 "(a) The Supreme Court may, at any time, order cases
10 transferred from one Court of [~~Civil~~] Appeals to another, when,
11 in the opinion of the Supreme Court, there is good cause for such
12 transfer. The [~~And the~~] Courts of [~~Civil~~] Appeals to which such
13 cases shall be transferred shall have jurisdiction over all such
14 cases so transferred, without regard to the District in which the
15 cases were originally tried and returnable upon appeal. The
16 Judges [~~Provided that the Justices~~] of the Court to which such
17 cases are transferred shall, after due notice to the parties or
18 their counsel, hear oral argument on such cases at the place from
19 which the cases have been originally transferred. There [~~Provided~~
20 ~~further, that there~~] shall be but one sitting for oral argument
21 at the place from which cases are transferred for each
22 equalization, and all cases so transferred at any one equalization
23 must be orally argued at such sitting, or at the regular place
24 of sitting of the Court to which said cases are transferred. All
25 opinions, orders and decisions in such transferred cases shall
26 be delivered, entered and rendered at the place to which such
27 cases are transferred regularly sits as the law provides. The

1 actual and necessary travelling and living expenses of the Judges
2 [~~Justices~~] of said Courts in hearing oral arguments at the place
3 from which such cases are transferred shall be borne by the state,
4 and for payment thereof the Legislature shall make appropriation.

5 "(b) The Supreme Court may, at any time, order the temporary
6 assignment of Judges onto an appellate court when, in the opinion
7 of the Supreme Court, there is good cause for the assignment.
8 An assignment order may be entered to transfer temporarily a
9 Judge:

10 "(1) onto a Court of Appeals, if the assigned Judge is a
11 retired or active District or Court of Appeals Judge; or

12 "(2) onto the Supreme Court, if the assigned Judge is a
13 retired or active Court of Appeals Judge or a retired Supreme
14 Court Justice.

15 "(c) The number of assigned Judges participating in the
16 decision of any Court or panel of a Court under authority of
17 Subsection (b) may not exceed a ratio of one assigned judge per
18 two regular Judges.

19 "(d) The administrative director of the Courts shall furnish
20 such assistance as requested by the Supreme Court for
21 implementation of this Article."

22 SUBCHAPTER I. TRANSITIONAL PROVISIONS

23 Section 9.001. JUDICIAL COUNCIL. The Texas Judicial Council
24 created in Subchapter D shall succeed to all the property of the
25 Texas Civil Judicial Council.

26 Sec. 9.002. QUALIFICATIONS COMMISSION. (a) Members of
27 the Judicial Qualifications Commission in office on the effective

1 date of this Act shall continue in office as members of the
2 Judicial Qualifications Commission created in Subchapter E for
3 the remainder of the terms for which appointed. The continuity
4 of succession in office, appointing authorities, and dates of
5 terms of the membership of the Judicial Qualifications Commission
6 in effect on the effective date of this Act shall not be altered
7 by the adoption of Subchapter E.

8 (b) Except as specifically altered by Subchapter E, the
9 commission created by that subchapter shall succeed to all the
10 functions, powers, duties, and property of its predecessor. All
11 commission investigations and proceedings pending or in progress
12 on the effective date of this Act shall proceed without
13 interruption under authority of Subchapter E.

14 Sec. 9.003. ADMINISTRATIVE JUDGES. In making the initial
15 appointments to the offices of administrative judges created by
16 Subchapter F, the chief justice shall select, where possible,
17 persons holding the offices of administrative judicial district
18 judges on the effective date of this Act.

19 Sec. 9.004. RULES. Except to the extent inconsistent with
20 the provisions of this Act, any rules of court or rules adopted
21 by an agency or instrumentality which is the predecessor of an
22 agency, division or instrumentality created by this Act, shall
23 continue in effect until superceded in accordance with the
24 provisions of this Act.

25 Sec. 9.005. OTHER TRANSITIONAL MATTERS. In the event a
26 transfer or transition has not been provided for by this Act, the
27 supreme court may by rule provide for the orderly transfer or

1 transition.

2 SUBCHAPTER J. MISCELLANEOUS PROVISIONS

3 Section 10.001. OTHER PERSONNEL. The authority of the
4 courts to appoint administrative or clerical personnel is not
5 limited by any provisions of this Act.

6 Sec. 10.002. FINANCING. The legislature shall, by
7 appropriation of state funds, provide for the salaries and other
8 necessary expenses of all administrative officers and personnel
9 authorized by this Act.

10 Sec. 10.003. REPEALER. On the effective date of this Act,
11 the following Acts are repealed:

12 (1) Chapter 156, Acts of the 40th Legislature, Regular
13 Session, 1927, as amended (Article 200a, Vernon's Texas Civil
14 Statutes);

15 (2) Chapter 19, Acts of the 41st Legislature, 1st Called
16 Session, 1929, as amended (Article 2328a, Vernon's Texas Civil
17 Statutes);

18 (3) Chapter 516, Acts of the 60th Legislature, Regular
19 Session, 1967, as amended (Article 5966a, Vernon's Texas Civil
20 Statutes); and

21 (4) Chapter 376, Acts of the 62nd Legislature, Regular
22 Session, 1971 (Article 200b, Vernon's Texas Civil Statutes).

23 Sec. 10.004. EFFECTIVE DATE. This Act takes effect only
24 if the constitutional amendment proposed by H.J.R. No. 9 is
25 adopted. If H.J.R. No. 9 is adopted, this Act takes effect on
26 September 1 following the adoption of the amendment.

27 Sec. 10.005. EMERGENCY. The importance of this legislation

1 and the crowded condition of the calendars in both houses create
2 an emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended,
5 and that this Act take effect and be in force from and after its
6 passage, and it is so enacted.

By: Hale

H. B. No. 1403

(In the House.--Filed March 9, 1973; March 20, 1973, read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

relating to the creation of judicial districts for courts of appeals and the creation of trial court divisions within those districts; relating to the creation and organization of a judicial districts board; providing effective dates; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

PART I. JUDICIAL DISTRICTS AND DIVISIONS.

Section 1. JUDICIAL DISTRICTS: TRIAL COURT DIVISIONS.

(a) The State shall be divided, by law or agency acting under authority of law, into one or more judicial districts.

(b) In each judicial district, there shall be one court of appeals, one district court, and one county court at law.

(c) The district court and county court at law in each judicial district may be divided by law or agency acting under authority of law, into territorial divisions. Elected officials and personnel of the district court and county court at law shall be selected by the electorate of their respective division.

Section 2. OVERLAPPING OF DISTRICTS AND DIVISIONS. The boundaries of judicial districts and of trial court divisions within districts may not overlap. Trial court divisions shall lie wholly within one district.

Section 3. MULTI-JUDGE DIVISIONS. In each county in which more than one district judge and one county court at law judge exercise jurisdiction exclusively within that county, the county shall constitute a single division within the respective

1 judicial district. The district judges and county court at law
2 judges in the county shall all be judges within that single
3 division of the respective court.

4 PART II. JUDICIAL DISTRICTS BOARD.

5 Section 1. JUDICIAL DISTRICTS BOARD. (a) The Judicial
6 Districts Board is hereby created to reapportion the judicial
7 districts of the state and divisions thereof. The Board shall
8 have as members the Chief Justice of the Supreme Court as
9 chairman, the Presiding Judge of the Court of Criminal Appeals,
10 one member appointed by the Governor, one member appointed by
11 the Lieutenant Governor, and one member appointed by the Speaker
12 of the House of Representatives.

13 (b) Initially, the Board shall designate existing Supreme
14 Judicial Districts as the judicial districts of the state.
15 Existing judicial districts shall be designated as the territorial
16 trial court divisions of the districts.

17 Section 2. REAPPORTIONMENT ORDER. (a) The Judicial Districts
18 Board shall reapportion the several judicial districts and trial
19 court divisions of the state, as enumerated in Section 1(b)
20 of this Part, by redesignating in one reapportionment order the
21 counties which will thereafter comprise the judicial districts
22 and trial court divisions of the state.

23 (b) In the preparation of the final apportionment order,
24 the Board shall implement the directives included in Sections 2
25 and 3 of Part I of this Act. The Board may not abolish the
26 office of any court of appeals or district judge; but the Board
27 may combine or divide judicial districts and divisions and
28 thereby alter the size of court of appeals panels, the number
29 of trial judges in a division, or the territorial scope of
30 jurisdiction of either.

1 Section 3. EFFECT OF ORDER. The Board shall be appointed
2 and convened as soon as practicable following the effective
3 date of this Part. The reapportionment order of the Board shall
4 be filed with the Secretary of State no later than March 15
5 preceding the effective date of Part I of this Act, and the
6 Board shall then cease to exist. The order filed with the
7 Secretary of State shall have the force and effect of law
8 and shall take effect on September 1 following filing. After
9 filing, the order may be amended by legislative enactment,
10 both before and after its effective date.

11 PART III. MISCELLANEOUS PROVISIONS

12 Section 1. (a) Part I of this Act takes effect only if
13 the constitutional amendment proposed by H.J.R. No. 9 is
14 adopted. If H.J.R. No. 9 is adopted, Part I of this Act
15 takes effect on September 1 following adoption of this Amendment.

16 (b) Part II of this Act takes effect only if the constitu-
17 tional amendment proposed by H.J.R. No. 9 is adopted. If
18 H.J.R. No. 9 is adopted, Part II of this Act takes effect
19 immediately.

20 Section 2. The importance of this legislation and the
21 crowded condition of the calendars in both houses create an
22 emergency and an imperative public necessity that the Consti-
23 tutional Rule requiring bills to be read on three several
24 days in each house be suspended, and this Rule is hereby
25 suspended.

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By: Hale

H. B. No. 1404

(In the House.--Filed March 9, 1973; March 20, 1973, read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of a statewide system of county courts
3 at law; relating to abolishing constitutional county courts and
4 certain statutory county-level courts and changing the name of
5 the offices of commissioners court and county judge; relating to
6 the designation of magistrates for probate administration;
7 providing an effective date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 PART I. COUNTY COURT AT LAW SYSTEM

10 Section 1. COURTS CREATED: DIVISIONS. (a) On the effec-
11 tive date of this Act, there is created in each judicial district
12 of this state a county court at law. Each county court at law
13 shall be organized into territorial trial court divisions as
14 otherwise provided by law.

15 (b) In each trial court division, there shall be such
16 number of county court at law judges as provided by law. Initially,
17 there shall be a number of county court at law judges in each
18 division equal to the number of district court judges authorized
19 for the division.

20 Section 2. ORGANIZATION. (a) Within each county of the
21 state the county commission shall provide necessary physical and
22 other facilities for the operation of the county court at law in
23 that county.

24 (b) Within each trial court division, the jurisdiction of
25 the judge or judges authorized for the division is concurrent
26 and coextensive with the division limits. Subject to administrative

1 procedures otherwise provided or authorized by law judges may
2 exercise exclusively certain designated subject matter speciali-
3 zation within the division and may be assigned temporarily to
4 preside outside the division.

5 (c) The judge or judges within each division of a county
6 court at law shall regularly sit at the county seat within each
7 county in the division and at such other locations within the
8 division as designated by authorized administrative officers.

9 Section 3. JURISDICTION. (a) The county court at law
10 shall have original jurisdiction of:

11 (1) the trial of all civil matters when the amount in
12 controversy, exclusive of interest and costs, is equal in value
13 to more than \$500 but does not exceed \$5,000;

14 (2) probate matters;

15 (3) all cases appealing from an award of special commis-
16 sioners in eminent domain proceedings;

17 (4) matters ancillary to the jurisdiction conferred in
18 Subdivisions (2) and (3) of this subsection, including juris-
19 diction to litigate land titles; and

20 (5) all misdemeanors punishable by confinement or a fine
21 in excess of \$500.

22 (b) The county court at law shall have appellate juris-
23 diction:

24 (1) in all civil cases tried originally in the justice of
25 the peace and small claims courts where the judgment, exclusive
26 of interest and costs, exceeds \$100; and

27 (2) in all criminal cases tried originally in the justice
28 of the peace and municipal courts where the fine imposed exceeds
29 \$100.

30 (c) Except for cases appealed from municipal courts of

1 record, the appellate jurisdiction conferred by Subsection (b)
2 shall be exercised by trial de novo.

3 Section 4. APPEALS; APPEAL BOND. (a) Except as otherwise
4 provided by law and subject to the jurisdictional limits of the
5 courts of appeals, any appeal from a judgment of a county court
6 at law, entered in original proceedings or after appeal from a
7 lower court, shall be taken on the record perfected in the county
8 court at law to the court of appeals in the judicial district in
9 which the county is located.

10 (b) In appeals in criminal proceedings, the court may
11 require the posting of an appeal bond payable to the state.
12 The bond may be secured by either property or cash. Any for-
13 feiture, penalty, or recovery, not including court costs, shall
14 be paid into the state treasury.

15 Section 5. PROCEDURE. (a) In all civil proceedings, the
16 county court at law shall be governed by the Texas Rules of
17 Civil Procedure. In criminal proceedings, the court shall be
18 governed by the Texas Code of Criminal Procedure.

19 (b) A jury in a county court at law shall consist of six
20 persons.

21 Section 6. TERMS. In each trial court division, the county
22 court at law shall hold, within each county in the division,
23 continuous terms commencing on the first Monday in January and
24 the first Monday in July of each year. Each term of court
25 continues until the next succeeding term begins.

26 Section 7. PROSECUTING ATTORNEY. As otherwise prescribed
27 by law, in all proceedings in the county court at law in which
28 the state is a party, the state shall be represented by either
29 the respective district attorney or county attorney.

30 Section 8. CLERK: REPORTER: BAILIFF. (a) The district

1 clerk shall be the clerk of the county court at law in the county
2 in which he serves. He shall provide the necessary clerical
3 personnel, acceptable to the judge or judges served, for the
4 operations of the court in that county.

5 (b) In each trial court division, the judge or judges of
6 the county court at law may employ necessary court reporters.
7 Each reporter shall be compensated by the state at a rate equal
8 to that paid the reporter of the district court in the respective
9 trial court division. The reporter shall have the same qualifica-
10 tions as required by law for the district court reporter. He
11 shall be a sworn officer of the court and shall hold his office
12 at the pleasure of the judge or judges he serves.

13 (c) The sheriff in each county of the state shall, in
14 person or by a deputy acceptable to the county court at law
15 judge or judges served, attend each session of the county court
16 at law in the county and serve as the court bailiff under the
17 direction of the respective judge.

18 Section 9. JUDGES: QUALIFICATIONS; SELECTION AND TENURE;
19 VACANCIES; REMOVAL. (a) A judge of a county court at law shall
20 be a citizen of the state and a resident of the trial court
21 division in which he serves.

22 (b) Each county court at law judge shall be elected, on
23 a nonpartisan ballot, for a four-year term by the qualified
24 voters in his respective division.

25 (c) Vacancies in the office of judge of the county court
26 at law shall be filled by appointment of the governor until the
27 next general election and until a successor is elected and has
28 qualified.

29 (d) A judge of a county court at law shall be subject to
30 removal from office in the same manner and for the same reasons

1 as provided by law for the removal of district judges.

2 Section 10. POWERS. In addition to the power to preside
3 over the county court at law and perform necessary functions
4 incidental thereto, each judge of the court may:

5 (1) issue statutory warnings and search and arrest warrants;

6 (2) enforce all processes of the court and punish witnesses
7 for failing to obey subpoenas;

8 (3) compel the attendance of witnesses by process of
9 attachment;

10 (4) punish for contempt of court by fine, confinement, or
11 both in the same manner as authorized for a district judge;

12 (5) issue writs of habeas corpus and grant injunctions
13 in all cases within the jurisdiction of the court;

14 (6) require of all persons arrested for criminal offenses
15 a personal, cash, or property bond or bonds;

16 (7) administer official oaths and affirmations, give
17 certificates thereof, and perform marriages; and

18 (8) perform all other functions necessary to the office
19 of judge of the county court at law.

20 Section 11. BOND AND OATH. Each judge of a county court
21 at law shall execute a bond and take the oath of office required
22 by law for district judges.

23 Section 12. SALARY: PRIVATE PRACTICE. (a) Each judge
24 of the county court at law shall receive a salary, as otherwise
25 fixed by statute, paid exclusively by the state. The salary
26 of a judge may not be diminished during his term of office.
27 Each judge shall participate in the state judicial retirement
28 system.

29 (b) During his tenure in office, each judge shall devote
30 himself exclusively to the duties of his office and may not

1 engage in the private practice of law.

2 PART II. TRANSITIONAL PROVISIONS

3 Section 1. COUNTY JUDGE: COMMISSIONERS COURT; NAME CHANGE.

4 (a) The office of county judge is renamed the office of
5 county supervisor. All statutory reference to "county judge" or
6 "judge of the county court" shall be construed to mean "county
7 supervisor."

8 (b) The county commissioners court is renamed the county
9 commission. All statutory references to "county commissioners
10 court" or "commissioners court" shall be construed to mean
11 "county commission."

12 Section 2. COUNTY COURT; JUDGES. (a) From and after
13 the effective date of this Act, the county court in each county
14 of the state is abolished.

15 (b) Unless he elects otherwise under the provisions of
16 Subsection (c) of this section, each county judge in office
17 on the effective date of this Act shall serve as county
18 supervisor for the remainder of the term for which elected.

19 (c) Any person licensed to practice law in this state
20 who is serving as county judge on the effective date of this
21 Act, on that date or within two weeks thereafter, may elect to
22 become a judge of a county court at law created in Part I of
23 this Act. Notice of such election shall be given to the
24 Secretary of State.

25 (d) Upon receipt of the notice required by Subsection
26 (c), the Secretary of State shall commission the person as
27 a county court at law judge in the respective trial court
28 division and shall certify to the respective county commission
29 that a vacancy exists in the office of county supervisor. The
30 vacancy shall be filled as otherwise provided by law. A

1 county court at law judge commissioned under authority of this
2 section shall serve for the remainder of the term for which
3 elected and until a successor is elected and has qualified.

4 Section 3. COUNTY-LEVEL COURTS. (a) On the effective
5 date of this Act, each person serving as a judge of a court
6 abolished in Section 1 of Part III shall become a judge of a
7 county court at law created in Part I, in the respective
8 division in which he then serves.

9 (b) The Secretary of State shall commission each person
10 qualifying under the provisions of Subsection (a) as a county
11 court at law judge in the respective trial court division. A
12 county court at law judge commissioned under authority of this
13 section shall serve for the remainder of the term for which
14 elected and until a successor is elected and has qualified.

15 (c) Each person commissioned under authority of this
16 section who was serving as the judge of a county probate court
17 on the effective date of this Act is directed to give preference
18 to probate matters within the county court at law division in
19 which he serves.

20 Section 4. COUNTY SUPERVISOR; PROBATE ADMINISTRATION.

21 (a) In each county of the state, the county supervisor shall
22 serve, within his county, as a magistrate of the respective
23 county court at law division for purposes of probate administration.

24 (b) All matters within the general jurisdiction of a
25 probate court may be filed directly with the district clerk and
26 disposed of by the county court at law. If uncontested, such
27 matters may be filed with the county clerk and disposed of by
28 the county supervisor.

29 (c) In the exercise of the powers granted and duties imposed
30 by this section, the county supervisor shall act under the authority

1 and supervision of the judge or judges of the county court at law
2 division exercising probate jurisdiction in the county.

3 Section 5. TRANSFERS. (a) All matters pending in the
4 courts abolished by this Act shall be transferred to the successor
5 courts created by this Act or otherwise designated by law. Where
6 this Act operates to remove jurisdiction of a case from one court
7 and place it in another, the case shall be transferred to the
8 successor court designated by this Act or otherwise designated
9 by law.

10 (b) The courts into which matters are transferred under
11 authority of Subsection (a) shall assume full jurisdiction of
12 such matters and shall have full power and authority to dispose
13 of them and to execute or otherwise to give effect to all orders,
14 judgments, and decrees issued by the predecessor courts. The
15 successor courts shall succeed to all records of their predeces-
16 sors in regard to the jurisdiction transferred.

17 (c) In the event a transfer or transition has not been
18 provided for by this Act, the Supreme Court shall by rule
19 provide for the orderly transfer or transition.

20 PART III. MISCELLANEOUS PROVISIONS

21 Section 1. COUNTY-LEVEL COURTS ABOLISHED. On the
22 effective date of this Act, the following statutory courts
23 are abolished:

- 24 (1) county courts at law;
- 25 (2) county civil courts at law;
- 26 (3) county courts for criminal cases;
- 27 (4) county criminal courts;
- 28 (5) county courts of criminal appeals;
- 29 (6) county probate courts; and
- 30 (7) all other county-level, statutory courts of the

1 type enumerated in Subdivisions (1) - (6), except special domestic
2 relations and juvenile courts.

3 Section 2. CERTIFICATION OF VACANCIES; APPOINTMENTS.

4 (a) As soon as practicable following the effective date of
5 this Act, the Secretary of State shall certify to the Governor
6 the number of county court at law judges authorized in each trial
7 court division of the state. The Secretary shall certify the
8 number of vacancies remaining among the authorized county court
9 at law judge positions after the issuance of commissions under
10 authority of Sections 2 and 3 of Part II. Thereafter, the Governor
11 shall fill the vacancies by the appointment of qualified persons.

12 (b) Each judge appointed under authority of Subsection (a)
13 shall serve until the next general election and until a successor
14 is elected and has qualified.

15 Section 3. EFFECTIVE DATE. This Act takes effect only if
16 the constitutional amendment proposed by H. J. R. No. 9 is adopted.
17 If H. J. R. No. 9 is adopted, this Act takes effect on September 1,
18 following the adoption of the amendment.

19 Section 4. EMERGENCY. The importance of this legislation
20 and the crowded condition of the calendars in both houses create
21 an emergency and an imperative public necessity that the consti-
22 tutional rule requiring bills to be read on three several days
23 in each house be suspended, and this rule is hereby suspended.

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By: Hale

H. B. No. 1405

(In the House.--Filed March 9, 1973; March 20, 1973, read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

relating to the offices of district clerk and county clerk; reenacting and amending Articles 1894, 1895, 1896, 1935, 1940-1942, and 1945, Revised Civil Statutes of Texas, 1925, as amended; repealing Articles 1936, 1943, 1944, and 1946-1948, Revised Civil Statutes of Texas, 1925, as amended; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Articles 1894, as amended, 1895, and 1896, Revised Civil Statutes of Texas, 1925, are amended to read as follows:

"Article 1894. ELECTION AND POWER. A district clerk to serve [of] the district court and county court at law of each county shall be elected by the qualified voters for state and county officers in the county [~~at each general election for a term of two years~~]. He shall serve for a term of four years. Each such clerk shall have power to administer oaths and affirmations required in the discharge of their official duties, to take the depositions of witnesses, and generally to perform all such duties as are or may be imposed upon them by law.

"Article 1895. VACANCY. Whenever a vacancy occurs in the office of district clerk, it shall be filled by the judges of the district court and county court at law of the county. Such [~~the district judge of such county, and such~~] appointee shall give

1 bond and qualify and may hold his office until the next general
2 election. ~~If [Where a vacancy occurs in a county having two or~~
3 ~~more district courts, the vacancy shall be filled by the judges~~
4 ~~of such courts and if]~~ they fail to agree, the Governor, upon
5 the certificate of such judges, shall order a special election
6 to fill such vacancy.

7 "Article 1896. CLERK PRO TEM. Where a district clerk is
8 a party to any pending or proposed suit, motion or proceeding in
9 a [his] court he serves, the ~~[district]~~ judge in whose court the
10 same may be pending or proposed, shall, on application of any
11 person interested, or on his own motion, appoint a clerk pro
12 tempore for the purposes of such suit, motion or proceeding.
13 Such temporary clerk shall take an oath to faithfully and
14 impartially perform the duties of such appointment, and shall
15 also enter into bond, payable to the State of Texas, in an amount
16 to be fixed by the judge and to be approved by him, conditioned
17 for the faithful performance of his duties under such appointment.
18 Such appointee shall perform each duty required by law of the
19 clerk in the particular suit, motion or proceeding in which he
20 may be appointed."

21 Sec. 2. Article 1935, Revised Civil Statutes of Texas,
22 1925, as amended, is amended to read as follows:

23 "Article 1935. ELECTION AND POWER. ~~Except as provided in~~
24 ~~Article 1903, a county clerk [A clerk of the county court of each~~
25 ~~county]~~ shall be elected in each county [at each general election]
26 for a term of four ~~[two]~~ years. Each such clerk shall be
27 authorized to issue all marriage licenses, to administer all oaths

1 and affirmations, and to take affidavits and depositions to be
2 used as provided by law in any of the courts."

3 Sec. 3. Article 1940, Revised Civil Statutes of Texas,
4 1925, is amended to read as follows:

5 "Article 1940. CLERK OF COUNTY COMMISSION [~~COMMISSIONERS~~
6 ~~COURT~~]. Each county clerk shall serve as clerk of the county
7 commission [~~They shall be ex-officio clerks of the commissioners~~
8 ~~court~~]."

9 Sec. 4. Articles 1941 and 1942, as repealed to the extent
10 of conflict by Article 1941(a), Revised Civil Statutes of Texas,
11 1925, as amended, are reenacted and amended to read as follows:

12 "Article 1941. RECORDERS. Each county clerk [~~They~~] shall
13 be the recorder for his respective county, [~~ex-officio recorders~~
14 ~~for their several counties,~~] and as such, consistent with the
15 provisions of Article 1941(a), shall record in suitable books to
16 be procured for that purpose all deeds, mortgages and other
17 instruments required or permitted by law to be recorded. He [~~+~~
18 ~~they~~] shall be the keeper [~~keepers~~] of such record books, and
19 shall keep the same properly indexed, arranged and preserved.

20 "Article 1942. CUSTODY OF RECORDS.

21 "Consistent with the provisions of Article 1941(a), each
22 county clerk [~~They~~] shall be the keeper [~~keepers~~] of the records,
23 books, and papers [~~and proceedings of their respective courts in~~
24 ~~civil and criminal cases and~~] in matters of probate filed with
25 the chairman of the county commission, and see that the same are
26 properly indexed, arranged and preserved, and shall perform such
27 other duties in that behalf as may be by law imposed on him

1 [them]."

2 Sec. 5. Article 1945, as repealed to the extent of conflict
3 by Article 1941(a), Revised Civil Statutes of Texas, 1925, as
4 amended, is reenacted and amended to read as follows:

5 "Article 1945. OTHER BOOKS AND INDEXES. [~~DOCKETS-INDEXES,~~
6 ~~ETC.~~] Consistent with the provisions of Article 1941(a), the
7 county [The] clerk shall keep such other [~~dockets~~] books and
8 indexes as may be required by law; and all books, records and
9 filed papers belonging to the office of county clerks shall at
10 all reasonable times be open to the inspection and examination
11 of any citizen, who shall have the right to make copies of the
12 same."

13 Sec. 6. Each district clerk, his deputies, and other
14 personnel shall receive from the state a salary to be fixed by
15 legislative appropriation.

16 Sec. 7. Articles 1936, 1943, 1944, and 1946-1948, Revised
17 Civil Statutes of Texas, 1925, are repealed.

18 Sec. 8. This Act takes effect only if the constitutional
19 amendment proposed by H.J.R. No. 9 is adopted. If H.J.R. No. 9
20 is adopted, this Act takes effect on September 1 following adoption
21 of the amendment.

22 Sec. 9. The importance of this legislation and the crowded
23 condition of the calendars in both houses create an emergency and
24 an imperative public necessity that the constitutional rule
25 requiring bills to be read on three several days in each house
26 be suspended, and this rule is hereby suspended, and that this
27 Act take effect and be in force from and after its passage, and

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it is so enacted.

FIRST PRINTING March 21, 1973 Official House Printing, 63rd. Leg.

By: Hale

H. B. No. 1406

(In the House.--Filed March 9, 1973; March 20, 1973, read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

relating to the compensation of county court at law judges, district court judges, courts of appeals justices, and supreme court justices; amending Sections 1 and 2, Chapter 46, Acts of the 59th Legislature, Regular Session, 1965 (Article 6813b, Vernon's Texas Civil Statutes); amending Article 6819, Revised Civil Statutes of Texas, 1925; repealing Subsection (4), Section 2a, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as added (Article 200a, Vernon's Texas Civil Statutes); providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Sections 1 and 2, Chapter 46, Acts of the 59th Legislature, Regular Session, 1965 (Article 6813b, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 1. Except as provided by Article 6819, Revised Civil Statutes of Texas, 1925, as amended, and as otherwise provided by this Act, from [From] and after the effective date of this Act, all salaries of all State officers and State employees, including the salaries paid any individual out of the General Revenue Fund, shall be in such sums or amounts as may be provided for by the Legislature in the biennial Appropriations Act. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid

1 to the clerks and other employees of the Courts of [~~Civil~~]
2 Appeals[7] and the Supreme Court. [~~and-the-Court-of-Criminal~~
3 ~~Appeals~~7] It is further provided that in instances where the
4 biennial Appropriations Act does not specify or regulate the
5 salaries or compensation of a State official or employee, the law
6 specifying or regulating the salary or compensation of such
7 official or employee is not suspended by this Act.

8 "Section 2. All laws and parts of laws fixing the salaries
9 of all State officers and employees, saving only the exceptions
10 [~~exception~~] specified in Section 1 of this Act and the Position
11 Classification Act of 1961 (Chapter 123, Acts 1961, Fifty-seventh
12 Legislature, Regular Session), are hereby specifically suspended
13 insofar as they are in conflict with this Act. It is specifically
14 declared to be one of the intents hereof that any and all laws
15 authorizing payment of supplemental salaries from court receipts
16 and fees to clerks and other employees of the Courts of [~~Civil~~]
17 Appeals[7] and the Supreme Court[~~7-and-the-Court-of-Criminal~~
18 ~~Appeals~~7] are suspended insofar as they are in conflict with this
19 Act."

20 Sec. 2. Article 6819, Revised Civil Statutes of Texas,
21 1925, is amended to read as follows:

22 "Article 6819. COURTS.

23 "Section 1. All laws and parts of laws fixing the salaries
24 of judges of the County Courts at Law, judges of the District
25 Courts, justices of the Courts of Appeals, and justices of the
26 Supreme Court are repealed. All laws and parts of laws authorizing
27 or directing any county commissioners court to supplement the

1 salary of a judge of a District Court or a justice of a Court of
2 Appeals are repealed. All judicial officers enumerated in this
3 section shall receive the compensation provided for in this article
4 and may receive no other compensation from the State or any
5 political subdivision of the State.

6 "Section 2. (a) Except as provided in Subsection (e),
7 each judge of a County Court at Law shall receive an annual salary
8 of \$24,000.

9 "(b) Except as provided in Subsection (e), each judge of
10 a District Court shall receive an annual salary of \$30,000.

11 "(c) Each justice of a Court of Appeals shall receive an
12 annual salary of \$40,000.

13 "(d) Each justice of the Supreme Court shall receive an
14 annual salary of \$50,000.

15 "(e) In addition to the base salary provided in Subsections
16 (a) and (b) for judges of the County Courts at Law and District
17 Courts, the judges of those courts elected in counties having a
18 population of 500,000 or more inhabitants, according to the last
19 preceding federal census, shall receive from the State additional
20 compensation equal to 20 per cent of the base salary.

21 "(f) The salaries authorized in Subsections (a) through
22 (e) of this section shall be paid from the State Treasury in equal
23 monthly installments.

24 ~~[The Judges of the Supreme Court, Commission of Appeals,~~
25 ~~and the Court of Criminal Appeals shall each be paid an annual~~
26 ~~salary of \$6,500.00.--The judges of the several Courts of Civil~~
27 ~~appeals shall each be paid an annual salary of \$5,000.00.--The~~

Judges-of-the-District-Courts-shall-each-be-paid-an-annual-salary
of-\$4,000.00.--The-clerks-of-the-Courts-of-Civil-Appeals-shall
each-receive-an-annual-salary-of-\$3,000.00-and-may-employ-a
deputy-at-an-annual-salary-of-\$1,500.00.--Each-stenographer-to
each-Court-of-Civil-Appeals-shall-receive-\$1,500.00-per-annum.
The-reporter-of-the-Supreme-Court-and-the-reporter-and-the-clerk
of-the-Court-of-Criminal-Appeals-shall-each-receive-an-annual
salary-of-\$3,000.00.] "

Sec. 3. Subsection (4), Section 2a, Chapter 156, Acts of
the 40th Legislature, Regular Session, 1927, as added by Section
1, Chapter 423, Acts of the 57th Legislature, Regular Session,
1961 (Article 200a, Vernon's Texas Civil Statutes), is repealed.

Sec. 4. This Act takes effect only if and when the
constitutional amendment proposed by __J.R. No. __ is adopted and
takes effect.

Sec. 5. The importance of this legislation and the crowded
condition of the calendars in both houses create an emergency and
an imperative public necessity that the constitutional rule
requiring bills to be read on three several days in each house
be suspended, and this rule is hereby suspended, and that this
Act take effect and be in force from and after its passage, and
it is so enacted.

By: Nowlin, et al

H. B. No. 1407

(In the House.--Filed March 9, 1973; March 20, 1973, read first time and referred to Committee on Judiciary.)

A BILL TO BE ENTITLED

AN ACT

relating to the nonpartisan nomination and election of certain judicial officers and the procedures for their nomination and election; amending the Texas Election Code as follows: adding Section 229a, and amending Section 61, as amended (Article 6.05, Vernon's Texas Election Code), Subdivision 3, Section 61c, as amended (Article 6.05c), Section 180 (Article 13.02), Section 187, as amended (Article 13.09), and Section 222, as amended (Article 13.45); containing criminal penalties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The Texas Election Code is amended by adding Section 229a, to read as follows:

"229a. Nonpartisan nomination and election of judicial officers

"Subdivision 1. Offices to which applicable.

Notwithstanding any other provision of this code, candidates for the judicial offices defined in this subdivision shall be nominated and elected as nonpartisan candidates in accordance with the provisions of this section. Nominations for these offices by political parties are prohibited. The filing procedure for nonpartisan candidates outlined in Sections 227, 228, and 229 of this code does not apply to these offices.

"This section applies to the offices of judge or justice

1 (or a magistrate by whatever other title he may be known) of all
2 trial and appellate courts which are regularly filled at the
3 general election for state and county offices, other than the
4 constitutional office of county judge. These offices include,
5 without limitation, the elective judges and justices of the supreme
6 court, the court of criminal appeals, courts of civil appeals,
7 district courts, criminal district courts, juvenile courts,
8 domestic relations courts, county courts at law, county criminal
9 courts, statutory county probate courts, justice of the peace
10 courts, and all other similar courts existing at the time of
11 enactment of this section or thereafter created, except the county
12 courts created by the constitution.

13 "As used in this section, the term 'judicial office' or
14 'judicial officer' means an office or officer coming within the
15 provisions of this subdivision.

16 "Subdivision 2. Nomination in nonpartisan primary held
17 jointly with primaries of political parties.

18 "(a) Nominations for full terms and certain unexpired
19 terms. Except as otherwise provided in this subdivision,
20 nominations for all regular full terms of judicial offices (other
21 than full terms for new offices created on or after the 30th day
22 preceding the day of the general primary election) and for all
23 unexpired terms to fill vacancies arising before the 30th day
24 preceding the day of the general primary election, shall be made
25 at a nonpartisan primary election held on the general primary
26 election day in conjunction with the primaries of the political
parties which make nominations for other offices by primary

1 elections.

2 "(b) Application for place on primary ballot; filing
3 procedure. A candidate for a statewide office or for a district
4 office which is filled by the choice of voters residing in more
5 than one county shall file his application with the secretary of
6 state. A candidate for a county or precinct office or for a
7 district office which is filled by the choice of voters residing
8 in only one county or part of one county shall file his application
9 with the county clerk. The application shall contain the same
10 information as the information required on the application of a
11 candidate in a primary election, except that the candidate applies
12 for a place on the nonpartisan judicial ballot instead of a place
13 on a party primary ballot, and any reference to the candidate's
14 affiliation with a political party is omitted.

15 "(c) Filing fee or petition of voters to accompany
16 application. The candidate's application shall be accompanied
17 with a filing fee or a petition of voters, under the same
18 conditions that govern candidacy in a party primary election,
19 except that all voters eligible to vote on the office are eligible
20 to sign the petition of a candidate for a judicial office. The
21 amount of the filing fee or the number of signatures required on
22 the petition of voters is as follows: for a statewide office,
23 the same as for the office of attorney general; for a district
24 office, the same as for the office of district attorney in a
25 district of similar population; for a county office, the same as
26 for the office of county attorney in a county of similar
27 population; and for a precinct office, the same as for the office

1 of constable in that precinct. Filing fees received by the
2 secretary of state shall be deposited in the general revenue fund
3 of the state, and filing fees received by the county clerk shall
4 be deposited in the general fund of the county. Filing fees are
5 refundable under the same rules that apply to refund of filing
6 fees in a partisan primary election.

7 "(d) Filing deadline; extension of deadline by death,
8 withdrawal, or ineligibility of filed candidate. The filing
9 deadline for a place on a judicial nonpartisan primary ballot is
10 the same as for a place on a party primary ballot under similar
11 conditions. All other provisions relating to the applications
12 of candidates in party primaries also apply to candidates for
13 judicial offices insofar as they can be made applicable consistent
14 with other provisions of this section. If a filed candidate dies,
15 withdraws, or is declared ineligible under circumstances which
16 would cause an extension of the regular deadline in a party
17 primary, the deadline for filing in the judicial nonpartisan
18 primary is extended in the same manner.

19 "(e) Determination of primary nomination; holding of primary
20 for a particular office dependent on number of filed candidates.
21 Where candidates for a judicial office are required to file in
22 the nonpartisan primary, the office title and the names of the
23 candidates shall be placed on the election ballots in accordance
24 with the following rules:

25 "(1) If only one candidate qualifies for a particular
26 office, the candidate's name shall not be placed on the primary
27 ballot but shall be placed on the ballot for the general election.

1 "(2) If only two candidates qualify for a particular office,
2 the names of the candidates shall not be placed on the primary
3 ballot but shall be placed on the ballot for the general election.

4 "(3) If three or more candidates qualify for a particular
5 office, the names of the candidates shall be placed on the primary
6 ballot. If a candidate receives a majority of the votes cast in
7 the primary, his name shall be placed on the ballot for the general
8 election. If no candidate receives a majority of the votes in
9 the primary, the names of the two candidates who receive the
10 highest and second highest number of votes in the primary shall
11 be placed on the ballot for the general election.

12 "(4) Notwithstanding Rule No. 3 above, if a candidate whose
13 name appears on the primary ballot dies before the day of the
14 election, the votes cast for him shall be counted, and if he
15 receives a majority of the votes, all filings for that office in
16 the primary become void, and the general election shall be held
17 under the rules stated in Subdivision 3 of this section that would
18 govern an election for an unexpired term to fill a vacancy
19 occurring on the date of the final canvass of the results of the
20 primary for the office involved. If no candidate receives a
21 majority in the primary and the deceased candidate is one of the
22 two highest candidates, the names of the two candidates who receive
23 the highest and the second highest number of votes, other than
24 the deceased candidate, shall be placed on the ballot for the
25 general election.

26 "(f) Right of withdrawal; name of withdrawn, deceased, or
27 ineligible candidate not printed on ballot. A filed candidate

1 may withdraw at any time except during the 20 days preceding the
2 date of the first primary election and during the 20 days preceding
3 the date of the general election. He may not withdraw during
4 these 20-day periods. The name of a candidate who withdraws, or
5 who dies or is declared ineligible at any time except during the
6 20 days preceding the date of the first primary or during the 20
7 days preceding the date of the general election shall not appear
8 on the ballot. If the ballots for the election have already been
9 printed, the name or names to be removed may be removed by any
10 authorized method under this code. Rules on the death of a
11 candidate during the 20-day period preceding an election at which
12 his name appears on the ballot are stated in Rule No. 4 of
13 Paragraph (e) of this subdivision, in Paragraph (d), Subdivision
14 3, and in Paragraph (b), Subdivision 6 of this section.

15 "(q) Death, withdrawal, or ineligibility of primary
16 candidate too late for extension of filing deadline. If a
17 candidate dies, withdraws, or is declared ineligible to hold the
18 office between the 30th day and the 21st day preceding the first
19 primary, both dates included, the rule stated in Paragraph (e)
20 of this subdivision for the remaining number of candidates shall
21 be followed.

22 "(h) Certification of candidates for nonpartisan primary
23 ballot. Within the time set by this code for certification of
24 the names of the statewide candidates for party nominations to
25 the appropriate county authorities to be placed on the ballot in
26 the party's general primary, the secretary of state shall certify
27 to the county clerk of each county the names of the candidates

1 for statewide offices and for district offices covering more than
2 one county which are to be placed on the judicial nonpartisan
3 primary ballot in that county. Within the time for making up the
4 party primary ballots for a county, the county clerk shall make
5 up the official nonpartisan primary ballot for each justice of
6 the peace precinct in the county, in accordance with the rules
7 stated in Subdivision 5 of this section, and shall certify the
8 ballot forms to the authority charged with the responsibility of
9 making up the primary ballot for each political party which is
10 holding a primary election in the county. At the same time the
11 county clerk shall certify the number of separate nonpartisan
12 ballots which are to be printed for each precinct, as provided
13 in Paragraph (i) of this subdivision.

14 "(i) Partisan and nonpartisan primary ballots. The primary
15 ballots prepared for the voters of each political party shall
16 contain, following the office titles and candidates for the
17 partisan offices, the judicial nonpartisan primary ballot certified
18 by the county clerk. There shall also be provided a sufficient
19 number of separate ballots, listing only the judicial nonpartisan
20 offices and candidates, for the use of voters who wish to vote
21 in the nonpartisan primary but who do not wish to vote in the
22 party primary. The ballots shall be procured and paid for in the
23 same manner as the regular party ballots.

24 "(j) Voting procedures in primary; canvass; certification
25 of candidates for the general election. Every qualified voter
26 is eligible to vote in the judicial nonpartisan primary, whether
27 or not he desires to vote in the primary of a political party.

1 The poll lists for the election shall be kept in a way to indicate
2 the voters who vote in a party primary and those who vote only
3 in the nonpartisan primary. The secretary of state shall issue
4 instructions for keeping the poll lists and the lists of registered
5 voters used at the election, and shall prescribe the forms for
6 tally lists, returns, and other necessary forms for recording and
7 reporting the votes cast for the nonpartisan judicial candidates.
8 Except as otherwise provided in this section, all other voting
9 procedures for the party primary election also apply to the
10 judicial nonpartisan primary. After the precinct returns are
11 canvassed, the number of votes cast for each candidate for a
12 county or precinct judicial office shall be certified to the
13 county clerk, and the number of votes cast for each candidate for
14 a statewide or judicial office shall be certified to the secretary
15 of state, within the same time provided for certifying the results
16 of the election for the state and district partisan offices. The
17 state canvassing board shall make the final canvass for the state
18 and district offices, on the day specified by this code for the
19 final canvass of partisan state and district offices. If two or
20 more political parties are holding separate primaries, the county
21 clerk shall make the final canvass for the county and precinct
22 offices, from the results certified to him for each of the parties.

23 "Subdivision 3. Election for unexpired term arising too
24 late for primary nomination.

25 "(a) Terms to which applicable; filing procedure for place
26 on general election ballot. If a vacancy in a judicial office
27 occurs on or after the 30th day preceding the day of the general

1 primary election and more than 20 days before the day of the
2 general election, a candidate may qualify to have his name placed
3 on the judicial nonpartisan ballot for the general election by
4 complying with the filing procedure outlined in Subdivision 2 of
5 this section for a place on a nonpartisan primary ballot, including
6 the accompaniment of the application with the filing fee or
7 petition of voters specified in that subdivision, within the time
8 prescribed for an independent candidate to file for an unexpired
9 term to fill a vacancy occurring on the same date under Section
10 190a of this code. The right of a filed candidate to withdraw
11 is governed by Paragraph (f), Subdivision 2, of this section.
12 Filing fees are refundable under the same rules that apply to a
13 nonpartisan primary election.

14 "(b) Accelerated canvass for state and district offices.
15 Whenever a state or district judicial office is to be filled under
16 this subdivision, the secretary of state shall furnish a separate
17 return form to the county clerks in the counties involved, for
18 forwarding the county returns for that office to the secretary
19 of state, and the state board of canvassers shall canvass the
20 county returns not later than the 10th day after the general
21 election.

22 "(c) Majority vote required for election; runoff election.
23 For an office which is being filled under this subdivision, a
24 candidate who receives a majority of the votes in the general
25 election shall be declared elected. If no candidate receives a
26 majority of the votes, a runoff election shall be held on the
27 first Tuesday after the first Monday in December following the

1 general election between the two candidates receiving the highest
2 and the second highest number of votes in the general election,
3 and the candidate receiving the highest number of votes in the
4 runoff election shall be declared elected. The runoff election
5 shall be called by the governor in the case of a state or district
6 office, and by the county judge in the case of a county or precinct
7 office. The secretary of state shall certify to the county clerks
8 the names of the candidates, if any, which are to be placed on
9 the ballot for state and district offices, immediately after the
10 canvass of those offices in the general election. The period for
11 absentee voting by personal appearance in the runoff election
12 shall begin on the eighth day preceding the election; absentee
13 ballots to be voted by mail may be mailed to the voters as soon
14 as they are available. In other respects, the runoff election
15 shall be conducted under the rules which applied to the general
16 election for that office, including the date of canvass for state
17 and district offices, insofar as those rules can be made
18 applicable.

19 "(d) Votes cast for deceased candidate. For an office
20 which is being filled under this subdivision, if a deceased
21 candidate receives a majority of the votes in the general election,
22 the vacancy shall be filled as in case of a vacancy occurring
23 after the election. If no candidate receives a majority and a
24 deceased candidate is one of the two highest candidates, a runoff
25 election shall be held between the two highest living candidates.

26 "Subdivision 4. Death, withdrawal, or ineligibility of
27 candidate in general election; extension of filing deadline. The

1 filing deadline for a full term or for an unexpired term arising
2 before the 30th day preceding the date of the general primary
3 shall be extended, and the election shall be held, under the same
4 rules which apply to unexpired terms arising on or after the 30th
5 day preceding the date of the primary, as stated in Subdivision
6 3 of this section, in the following circumstances:

7 "(1) Where a primary is not held for the office involved,
8 if any candidate whose name is to be placed on the general election
9 ballot dies or is declared ineligible, or if the only candidate
10 whose name is to be placed on the general election ballot
11 withdraws, on or after the 30th day preceding the date of the
12 primary and before the 21st day preceding the general election.

13 "(2) Where a primary is held for the office involved, if
14 any candidate whose name is to be placed on the general election
15 ballot dies or is declared ineligible, or if the only candidate
16 whose name is to be placed on the general election ballot
17 withdraws, after the date of the primary and before the 21st day
18 preceding the general election.

19 "Subdivision 5. Form of the ballot; order of names on the
20 ballot.

21 "(a) Order of offices and names. The titles of the offices
22 listed on a judicial nonpartisan ballot shall be arranged in the
23 order prescribed in Subdivision 1, Section 61c, of this code.
24 In all elections, whether a primary, a general election, or a
25 runoff election, the name of the incumbent candidate, if there
26 is one, shall appear first under the office title, with the
27 parenthetical word '(Incumbent)' printed on the same line

1 immediately after the candidate's name. If there is no incumbent
2 candidate, and after the name of the incumbent if there is one,
3 the names of the other qualifying candidates shall be listed in
4 the alphabetical order of the candidates' surnames.

5 "(b) Write-in voting. In a general election, provision
6 shall be made to permit the voter to write in the name of a person
7 not printed on the ballot, in the manner specified in this code
8 for a nonpartisan ballot. Write-in votes are not permitted in
9 a primary election or a runoff election.

10 "(c) Ballot form. In a general election, the judicial
11 nonpartisan offices and candidates shall be listed as a part of
12 the general election ballot, but separately from and following
13 after the partisan offices, under the heading 'Judicial Nonpartisan
14 Offices.' This shall also be the manner of preparing the primary
15 ballots which are to be used by the voters who are voting in a
16 party primary. The separate judicial ballots prepared for
17 nonpartisan voters in a primary election, as provided in Paragraph
18 (i), Subdivision 2, of this section, shall conform to the
19 provisions of Section 61 of this code governing the form of
20 nonpartisan ballots.

21 "Subdivision 6. Procedure in the general election.

22 "(a) Conduct of the voting; canvass of returns. Except
23 as otherwise provided in this section, the general election for
24 judicial nonpartisan offices shall be conducted and the votes
25 shall be canvassed in the same manner as for partisan offices in
26 the election.

27 "(b) Vote necessary for election; certificates of election.

1 Except where a majority vote is required under Subdivisions 3 and
2 4 and Rule No. 4 of Subdivision 2 of this section, the candidate
3 for each judicial office who receives the highest number of votes
4 in the general election shall be declared elected. If a deceased
5 candidate receives the necessary vote for election, the vacancy
6 shall be filled as in case of a vacancy occurring after the
7 election. Certificates of election shall be issued to the winning
8 candidates in the same manner as provided for candidates elected
9 to partisan offices.

10 "Subdivision 7. Limitations on political activities of
11 judicial nonpartisan candidate.

12 "(a) Prohibited activities. A candidate for judicial
13 office shall not participate in any partisan political party
14 activities; endorse any candidate; make political speeches other
15 than in his own behalf; make contributions to political party
16 funds; solicit contributions to political party funds; accept
17 political party funds; attend or participate in political party
18 meetings, rallies, or conventions; or accept or retain a place
19 on any political party committee. A candidate for judicial office
20 shall not, by the use of any news media, campaign literature or
21 paraphernalia, or in public appearances, identify himself or any
22 opponent as presently or formerly a member of any political party.

23 "(b) Penalty. Any candidate for judicial office who is
24 found to have violated any provision of this subdivision, in an
25 appropriate judicial proceeding brought by any elector in the
26 district court of the county in which the candidate resides, shall
27 be declared ineligible to hold the office sought for the term for

1 which he is a candidate.

2 "Subdivision 8. Limitations on political activities in
3 behalf of judicial nonpartisan candidate. No political party or
4 partisan political organization may endorse, support, or assist
5 any candidate in a campaign for election to a judicial office,
6 through either a convention, a committee, or an officer of the
7 party acting or purporting to act in his official capacity. Any
8 person in his capacity as an officer or a member of a political
9 party or partisan political organization who violates or
10 participates in a violation of the provisions of this subdivision
11 is guilty of a misdemeanor and upon conviction shall be fined not
12 more than \$200 or confined in the county jail for not more than
13 60 days, or both.

14 "Subdivision 9. Campaign contributions and expenditures.
15 Candidates for judicial office are subject to the provisions of
16 Chapter 14 of this code, and they shall keep a record of their
17 contributions and expenditures and shall file statements thereof
18 on the same basis as required of other candidates for state and
19 county offices."

20 Sec. 2. Section 61, Texas Election Code, as amended (Article
21 6.05, Vernon's Texas Election Code), is amended by adding
22 Subdivision 3a, to read as follows:

23 "Subdivision 3a. When judicial officers are to be elected
24 in a nonpartisan election, as provided in Section 229a of this
25 code, the ballot for the general election shall be prepared in
26 the manner described in Subdivision 5 of that section."

27 Sec. 3. Subdivision 3, Section 61c, Texas Election Code,

1 as amended (Article 6.05c, Vernon's Texas Election Code), is
2 amended by adding Paragraph (c), to read as follows:

3 "(c) Notwithstanding any other provision in this
4 subdivision, the names of the candidates on a judicial nonpartisan
5 ballot shall be printed in the order prescribed in Subdivision
6 5, Section 229a, of this code."

7 Sec. 4. Section 180, Texas Election Code (Article 13.02,
8 Vernon's Texas Election Code), is amended to read as follows:

9 "180. Nominated at Primary

10 "On primary election day in 1974 [~~1952~~] and every two [~~42~~]
11 years thereafter, candidates [~~for Governor and~~] for all [~~other~~]
12 State offices to be chosen by vote of the entire State, and
13 candidates for Congress and all district offices to be chosen by
14 the vote of any district comprising more than one [~~44~~] county,
15 to be nominated by each organized political party that cast two
16 hundred thousand (200,000) votes or more for governor at the last
17 general election, [~~shall~~] together with all candidates for offices
18 to be filled by the voters of a county, or of a portion of a
19 county, except the judicial offices defined in Subdivision 1,
20 Section 229a, of this code, shall be nominated in primary elections
21 by the qualified voters of such party."

22 Sec. 5. Section 187, Texas Election Code, as amended
23 (Article 13.09, Vernon's Texas Election Code), is amended by
24 adding Subsection (e), to read as follows:

25 "(e) Whenever candidates for judicial offices are to be
26 nominated at a nonpartisan primary election held in conjunction
27 with the primary election of a political party, as provided in

1 Section 229a of this code, the ballot for the primary election
2 shall be prepared in the manner prescribed in Subdivision 2 of
3 Section 229a."

4 Sec. 6. Section 222, Texas Election Code, as amended
5 (Article 13.45, Vernon's Texas Election Code), is amended by
6 adding Subdivision 3, to read as follows:

7 "Subdivision 3. Party nominations for certain judicial
8 offices prohibited. Notwithstanding any other provision of this
9 section, no political party may make a nomination for any judicial
10 office for which nonpartisan nomination and election is required
11 by Section 229a of this code."

12 Sec. 7. This Act supersedes all other laws which are in
13 conflict with it, to the extent of the conflict. If any other
14 Act is passed at the regular session of the 63rd Legislature which
15 amends any section of the Texas Election Code which is amended
16 in this Act, or which in any other manner conflicts with any
17 provision of this Act, the provisions of this Act control to the
18 extent of any conflict, regardless of the relative order of the
19 dates of final passage or approval of the Acts.

20 Sec. 8. If any provision of this Act or the application
21 thereof to any person or circumstance is held invalid, such
22 invalidity shall not affect other provisions or applications of
23 the Act which can be given effect without the invalid provision
24 or application, and to this end the provisions of this Act are
25 declared to be severable.

26 Sec. 9. The importance of this legislation and the crowded
27 condition of the calendars in both houses create an emergency and

1 an imperative public necessity that the constitutional rule
2 requiring bills to be read on three several days in each house
3 be suspended, and this rule is hereby suspended.

Beasler

Senate Bill 96
Ogg

SUBJECT: Appellate Procedure from Justice and Municipal Courts

PURPOSE: To amend the procedures for appeals from justice and municipal courts and prohibit a trial de novo in the appellate court.

BACKGROUND AND LEGISLATIVE HISTORY

Chapter 44 of the Code of Criminal Procedure governs the appeal and writ of error. The articles repealed by this bill concern appeal bonds and require a de novo trial on appeal to the county court. Article 1200aa Vernon's Texas Civil Statutes concerns the creation and function of municipal courts in Wichita Falls. The sections repealed by this bill would be to make the rules governing appeals from the justice and municipal courts similar to the rules governing appeals from other courts.

ANALYSIS BY SECTION

- 1 Chapter 44 of the Code of Criminal Procedure, 1965, is amended by adding a new article 44.45 as follows:
 - Art. 44.45. Appeals in criminal cases from justice and municipal courts.
 - Sec. 1. Purpose. This article shall govern procedure for appeals in criminal cases from justice and municipal courts.
 - Sec. 2. Definitions. "Appellate court," "Prosecuting attorney," "Justice or municipal court clerk"
 - Sec. 3. Appeals on the Record; no de novo appeals. Appeals shall be determined solely on the basis of errors presented in the transcript statement of facts.
 - Sec. 4. Notice of Appeal and Appeal Bond.
 - (a) Timely notice of appeal may be given either orally or in writing.
 - (b) Notice shall be given within ten days after the following last occurring event: (1) overruling of a motion for new trial; or (2) entry of judgment and sentence; or (3) entry of order granting probation.
 - (c) The court may permit late notice of appeal.
 - Sec. 5. Record on Appeal. The record shall consist of a transcript and, where necessary, a statement of facts.

Sec. 6. Contents of Transcript

(a) The transcript shall include the following: (1) the complaint, (2) material docket entries, (3) the jury charge and verdict, (4) the judgment, (5) the notice of appeal, (6) all written motions, please, and orders of the court, and (7) bills of exception.

(b) Additional portions of the proceedings may be included if requested by either party.

Sec. 7. Bills of Exception. Either party may include bills of exception in the transcript subject to applicable provisions in the Code of Criminal Procedure within sixty days after giving notice of appeal.

Sec. 8. Statement of Facts; Agree Statement; Designated Items and Payment.

(a) A statement of facts shall consist of (1) a transcription of court proceedings before, during, or after the trial if requested by a part or judge; or (2) a statement of facts proven at the trial, as agreed to by the defense and prosecution; (3) a partial transcription and the agreed statement of facts proven at the trial.

(b) When requested by either party or the judge, the reporter shall transcribe in duplicate any portion of his notes. The defendant shall bear the cost unless unable to pay or give security.

Sec. 9. Filing of Transcript And Statement Of Facts; Time Limits; Fee; Completion And Approval Of Record; Transfer Of Record To Clerk Of Appellate Court.

(a) Within sixty days of notice, the parties shall file with the justice or municipal court clerk (1) the statement of facts; (2) a written designation of all additional matter to be included in the transcript; and (3) any matter to be included that is not in the custody of the clerk.

(b) The time limit may be extended.

(c) The defendant shall pay a record preparation fee of \$10, to be refunded if the case is reversed.

(d) The clerk shall notify the parties when the record is completed and the judge shall approve the record.

(e) Upon approval the clerk shall forward the record to the appellate court.

Sec. 10. Brief On Appeal: Contents and Filing

(a) Appellate briefs shall present points of error as required by the Court of Criminal Appeals.

(b) Defendant shall file his brief within fifteen days, and the prosecuting attorney shall file his within fifteen days after that. Briefs shall be exchanged and the filing times may be extended.

Sec. 11. Procedure On Appeal; Review of Error

(a) Appeals shall be heard at the earliest time it may be done and no decision shall be based on preparation and filing errors. The appellate court may determine rules for oral arguments are not mandatory.

(b) All grounds of error and arguments of defendant's brief shall be reviewed and any unassigned error may be reviewed.

Sec. 12. Disposition On Appeal; Presumptions; Decision

(a) The appellate court may affirm, reverse, remand for a new trial, dismiss, reform or correct the lower court judgment.

(b) The appellate court shall presume (1) proper venue below, (2) proper jury impanelling; (3) that defendant was arraigned and pleaded to the complaint; (4) that the court's charge was certified unless such matters were in issue or affirmatively appear contrary on the transcript.

(c) In each case decided by the appellate court, a written opinion shall be delivered.

Sec. 13. Certificate Of Appellate Proceedings; Filing Of Record; Enforcement of Judgment. The appellate court shall mail the certificate of final judgment to the lower court to be filed and noted upon the docket. Where judgment was affirmed no proceeding is necessary for enforcement except to forfeit defendant's bond, to issue a writ for the defendant, or issue an execution against his property.

Sec. 14. New Trial. Where a new trial is granted the cause shall stand as if the lower court had granted the new trial.

ANALYSIS BY SECTION

Sec. 15. Appeals To The Court of Criminal Appeals; Applicability Of Code Of Criminal Procedure; Record. Appeals from the appellate court shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts except that (1) the record and briefs filed in the appellate court, plus "appellate court transcript shall be the record and briefs on appeal to the court of Criminal Appeals.

(2) such record and brief shall be filed directly.

- 2 Article 45.10, Code of Criminal Procedure, is amended as follows:
Exclusive initial appellate jurisdiction is vested in the district court.
- 3 Article 44.17, Code of Criminal Procedure, 1965, is repealed.
- 4 Article 44.18, Code of Criminal Procedure, 1965, is repealed.
- 5 Article 44.19, Code of Criminal Procedure, 1965, is repealed.
- 6 Article 44.13, Code of Criminal Procedure, 1965, is repealed.
- 7 Article 44.14, Code of Criminal Procedure, 1965, is repealed.
- 8 Article 44.16, Code of Criminal Procedure, 1965, is repealed.
- 9 Article 44.20, Code of Criminal Procedure, 1965, is repealed.
- 10 Article 45.48, Code of Criminal Procedure, 1965, is repealed.
- 11 Article 44.04, Code of Criminal Procedure is amended as follows:
(a) no changes
(b) no changes
(c) This section is deleted and section (d) becomes section (c). The requirement that the misdemeanor must be one appealable to the court of criminal appeals is deleted.
(d) replaced by section (e)
(e) replaced by section (f)
(f) replaced by section (g)
(g) replaced by section (h)
- 12 Article 4.03, Code of Criminal Procedure, 1965, is amended as follows:

ANALYSIS BY SECTION

The Court of Criminal Appeals shall have appellate jurisdiction in all criminal cases except those tried in justice or municipal courts in which the fine imposed is not over \$100.

- 13 Sections 18 through 40, inclusive, Chapter 762, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 1200aa, Sections 18-40, Vernon's Texas Civil Statutes) are repealed
- 14 Effective Date: January 1, 1964.
- 15 Repealer Clause.
- 16 Severability Clause.
- 17 Emergency Clause.

MEMORANDUM FROM:

League of Women Voters of Texas

DICKINSON PLAZA CENTER • DICKINSON, TEXAS 77539

2-23-73

Chris:

Re SB100 by Ogg;

I really don't believe we can take a definite stand on Municipal Courts.

The Chief Justice's proposal eliminates the Municipal Courts and if the bill came out of Legislation ⁱⁿ any manner near this proposal the League should support it. So I think we should ignore this bill for the time being

Helen

Brasher

Senate Bill 100
Ogg

SUBJECT: Municipal Courts and Judges

PURPOSE: To provide for the establishment and operation of municipal courts and to provide for the appointment of municipal judges to preside over these courts.

BACKGROUND AND LEGISLATIVE HISTORY

At the present time the law concerning the establishment and operation of municipal courts is Art. 1194-1200d, Tex. Rev. Civ. Stat. Ann. This bill would change the present law by more clearly providing for the establishment and operation of municipal courts. Among other things which this bill would provide for are 1) the election of and qualifications for election of judges, 2) the duties of the judges, 3) the salaries of judges, 4) the operation of municipal courts in terms of personnel and facilities, and 5) the filling of vacancies of municipal judges. The bill would also repeal several laws presently in operation concerned with municipal courts, including among those repealed those dealing with municipal judges in home rule cities. The general effect of this bill would seem to be that it fills in the gaps of existing legislation by more clearly providing criteria and requirements for the operation of municipal courts in incorporated cities, towns, and villages in Texas.

Existing Texas Statutes:

Articles 1194-1200, Tex. Rev. Civ. Stat. Ann.

ANALYSIS BY SECTION

1 Amends Article 1194, Tex. Rev. Civ. Stat. Ann. to read as follows:

Art. 1194. Creation of municipal courts of record; vacation of additional municipal courts.

(a) Provides that a municipal court of record is created by operation of law upon the incorporation of any city, town, or village.

(b) Provides for the creation of additional municipal courts of record by the action of the governing body of the city, town, or village. Municipal courts in existence on the effective date of this Article shall, if properly created, continue operation under the authority of this Article.

(c) Provides for the vacating of some of the offices of additional municipal judges if the governing body of the city determines they are not needed.

2 Amends Article 1195, Tex. Rev. Civ. Stat. Ann. to read as follows:

Art. 1195. Jurisdiction. Provides that municipal courts shall have jurisdiction within the limits of the city, town, or village, in all criminal cases arising under the ordinances of the city and concurrent jurisdiction with any justice of the peace in any city precinct, in all criminal cases arising under the laws of the State, where the maximum punishment is a fine of two hundred dollars.

ANALYSIS BY SECTION (cont.)

3 Amends Article 1196, Texas Rev. Civ. Stat. Ann. to read as follows:

Art. 1196. Municipal judges; additional judges; presiding judges.

(a) Provides that judges known as 'municipal judges' shall preside over municipal courts.

(b) Each city, town, or village shall provide for selection of municipal judges who shall be selected for a definite term of two to four years, as described by charter or ordinance or as prescribed by Art. XI, Section 11 of the Texas Constitution. A municipal judge now serving shall serve no longer than four years from the effective date of this Act.

(c) Where a city, town, or village has more than one municipal judge, these judges shall constitute an administrative conference which shall elect annually one of its members to be presiding judge of the city, town, or village. Failure to elect a presiding judge will result in one being designated by the governing body of the city. If the city has only one judge such judge shall be the presiding judge.

(d) The presiding judge, with the advice of the administrative conference, shall: 1) maintain a central docket, 2) provide for distribution of cases to individual judges, 3) temporarily interchange judges to expedite the business of the court, 4) cause the proper records to be kept and available to the proper parties, 5) cause to be maintained an index of municipal court judgments as required by law, and 6) where necessary, provide for the micro-filming of records.

4 Repeals Art. 1196(a), Tex. Rev. Civ. Stat. Ann.

5 Repeals Art. 1197, Tex. Rev. Civ. Stat. Ann.

6 Repeals Art. 1197(a), Tex. Rev. Civ. Stat. Ann.

7 Repeals Art. 1198, Tex. Rev. Civ. Stat. Ann.

8 Amends Title 28, Tex. Rev. Civ. Stat. Ann. to read as follows:

Art. 1198a. Municipal judge qualifications.

(a) Provides that each municipal judge shall be a licensed attorney in good standing in this state.

(b) Provides that a municipal judge who, on the effective date of this Article, is in office, shall not be prohibited from completing his term or from succeeding himself in office if he has completed, or within one year completes, a 40 hour minimum course in the performance of his duties that must be conducted at a state-supported school of higher education.

ANALYSIS BY SECTION (cont.)

(c) Provides that if no qualified attorney files for or is available for appointment as a municipal judge, any other person may file for such office if he has completed or does complete a course in the performance of his duties.

(d) No person may hold the office of municipal judge while holding another office of the city, town, or village.

- 9 Amends Title 28, Tex. Rev. Civ. Stat. Ann. by adding Article 1198b.

Art. 1198b. Municipal judges salary---provides that a municipal judge shall be paid on a salary basis, such salary to be determined by the governing body of the city, not to be diminished during his term of office, and such salary not to be based on fines, fees, costs, etc. The salary shall be determined prior to his appointment or at least two weeks prior to the deadline for filing for election.

- 10 Amends Art. 1199, Tex. Rev. Civ. Stat. Ann. to read as follows:

Art. 1199. Vacancies; temporary replacements; removal.

(a) Provides for the filling of vacancies of office of municipal judge by a qualified person to be appointed by the governing body of the city.

(b) Provides for the appointment of temporary judges when necessary.

(c) Provides that a municipal judge may be removed only by the procedures outlined in Section 1-a, Article V of the Texas Constitution.

- 11 Amends Title 28, Tex. Rev. Civ. Stat. Ann. by adding Art. 1199a.

Art. 1199a. Municipal court facilities---provides that the city, town, or village shall provide appropriate facilities necessary for the operation of the municipal court.

- 12 Amends Title 28, Tex. Rev. Civ. Stat. Ann. by adding Art. 1199b.

Art. 1199b. Court reporters---provides for the appointment, by municipal judges, of court reporters in cases where it is necessary to maintain a transcript and other records.

- 13 Amends Art. 1200, Tex. Rev. Civ. Stat. Ann. to read as follows:

Art. 1200. Municipal court clerk; clerk's duties; other personnel.

(a) Provides that the city, town, or village shall supply, if necessary, a court clerk who shall work under the supervision of the municipal judge.

ANALYSIS BY SECTION (cont.)

(b) Provides for the duties of the clerk.

(c) Provides that the city, town, or village shall provide other personnel, if necessary, to work under the supervision of the municipal judge.

14 Repeals Art. 1200(a), Tex. Rev. Civ. Stat. Ann.

15 Repeals Art. 1200(b), Tex. Rev. Civ. Stat. Ann.

16 Repeals Art. 1200(c), Tex. Rev. Civ. Stat. Ann.

17 Repeals Art. 1200(d), Tex. Rev. Civ. Stat. Ann.

- 18 Amends Art. 45.02, Texas Code of Criminal Procedure to read as follows:

Art. 45.02. Seal of Municipal Court---provides that the city, town, or village shall furnish the municipal court with a proper seal, to be used on all papers, except subpoenas, issuing out of the municipal court.

19 Provides that the effective date of this Act is Jan. 1, 1974.

20 Provides for the repeal of all laws in conflict with this Act.

21 Severability Clause.

22 Emergency Clause.

SUBJECT: Municipal Justice Courts, Code of Criminal Procedure

PURPOSE: To provide for selection and qualification of municipal judges and to amend rules of practice and procedure in courts.

BACKGROUND AND LEGISLATIVE HISTORY

Present Law: Chapter 45 of the Code of Criminal Procedure, Articles 45.01, 45.02, 45.03, 45.04, 45.05, 45.06, 45.07, 45.08, 45.09, 45.10, 45.11, 45.12, 45.13, 45.23, 45.24, 45.25, 45.27, 45.28, 45.32, 45.34, 45.36, 45.37, 45.39, 45.40, 45.41, 45.44, 45.51, 45.53.

Amend these existing Articles, and add the following new Articles: 45.011, 45.012, 45.021, 45.032, 45.061, 45.311, 45.391, 45.54, 45.55.

ANALYSIS BY SECTION

- 1 Change the title of Chapter 45 to "Justice and Municipal Courts."
- 2 Amend Article 45.01 to prevent the recorder from charging the jury, and to require oaths to be sworn before a judge. Complaints shall be prepared under the state attorney's direction.
- 3 Article 45.011 is added to require any municipal judge that is not an attorney to complete 40 hours of law school courses within one year after taking office.
- 4 Article 45.012 is added to insure full power to judges to enable them to take lawful action that is necessary to dispose of all their court cases.
- 5 Article 45.02 is amended to allow each municipal court an official seal of Texas. As long as this seal is discernible as the official seal of the court it will comply with the provisions of this Article.
- 6 Article 45.021 is added to provide that the procedure in municipal and justice courts will be as prescribed by this code.
- 7 Article 45.03 is amended to provide for municipal courts and to only allow dismissal of suits if approved by the judge.
- 8 Article 45.032 is added to provide for clerks, bailiffs and other necessary court personnel.
- 9 Article 45.04 is amended to provide for process issued out of a municipal court. A policeman or marshall may serve process anywhere in the county in which the city or town is located.
- 10 Article 45.05 is amended to read municipal court rather than corporation court.

ANALYSIS BY SECTION (cont.)

- 25 Article 45.311 is added to the section to provide for jeopardy to attach after both sides have declared they are ready for trial.
- 26 Article 45.32 is amended to allow that in all cases in municipal or justice courts the defendant may enter a special plea of former acquittal or conviction for the same offense.
- 27 Article 45.34 is amended to provide that pleas of guilty or nolo contendere will only be accepted by the court when it is plain that the defendant is sane and uninfluenced by fear or undue prompting.
- 28 Article 45.36 is amended to allow the judge to either continue or dismiss the cases on the absence of a state prosecuting attorney.
- 29 Article 45.37 is amended to require one lead state attorney and one for the defense made known at the beginning of the trial. The state attorney shall conclude the argument.
- 30 Article 45.39 is amended to prescribe rules for jury deliberation and communication with the jury.
- 31 Article 45.391 is added to allow for the jury to separate before reaching a verdict.
- 32 Article 45.40 is amended to provide that an adjournment of up to 30 days may be made before a new jury is empaneled.
- 33 Article 45.41 is amended to allow the defendant to be released during adjournment on his personal recognizance.
- 34 Article 45.44 is amended to require that the judge altering the verdict is the judge that heard the case.
- 35 Amend Article 45.51 to add that a capias may be issued for arrest if the judgment is not satisfied or notice of appeal is not given, and that the police chief may bring the defendant before the court.
- 36 Article 45.53 is amended to allow judges or justices the powers and requirements of the section.
- 37 Article 45.54 is added to allow an indigent defendant to pay his fine in installments with default making the whole balance due at once and a capias issued for his arrest.
- 38 Article 45.55 is added to allow the judge who heard the case to release the defendant from jail, rescind the unpaid portion of the fine or credit the defendant for time served.

ANALYSIS BY SECTION (cont.)

39	Repealer Clause.
40	Severability Clause.
41	Emergency Clause.

TEXAS JUDICIAL SYSTEM: TIME FOR CHANGE

- The last time any major revision of the Judiciary Article of the Texas Constitution took place was in 1891, when the population of the State was a little over two million.
- Almost eighty years later and over five times the population growth, we are still operating with the nineteenth century machinery.
- We are one of last twelve states in the country without a state court administration system.
- The judicial problems concern and effect every citizen's constitutional right to obtain fair and speedy trial in the State because the deficiencies in the judicial process directly effect everyone whether or not they are litigants in civil and criminal cases.
- According to the 1971 Annual Texas Civil Judicial Council Report, the number of cases pending on December 31, 1971, were 19 percent higher than the ten-year average.
- Of the 272,341 cases pending at the end of 1971, 16 percent had been on the docket for 12 to 24 months, and 25 percent, one in every four, had been pending over two years.

Of the personal injury cases pending, 24 percent had been on the docket for 12 to 24 months and 22 percent over two years.

- Delays and backlogs can have the following consequences:
 1. The deterrent effect of the punishment for those

who offend or are liable to offend is diminished.

2. The confidence of the public in the judicial process is undermined.
3. Delays not only mean what it says - delay, but they also result in increased dollar cost to the public.
4. It directly affects our correctional institutions and the law enforcement functions, because police have to wait for the cases to come up.
5. It affects both the parties in the dispute, civil or criminal cases.
6. Sometimes there is a heavy social and economic cost for releasing those awaiting trial, offenders considered a threat to society.
7. The witnesses and jurors suffer inconvenience and financial sacrifice.
8. The offender, too, is economically affected whether or not he is found guilty. While a person awaits his trial, taxpayers must pay for his upkeep in the jail as well as pay for the welfare assistance for his family.

Written by Jaz. C. Uppal.

January, 1973

#47

To: Brasher cc. Braunagel, SO, *Capital Corps*
From: Hunter
Re: Background for Action--Judiciary

The Texas Judiciary: Support of an effective judicial structure for Texas.

The League of Women Voters of Texas undertook its initial study of the judicial article of the Constitution in 1959 as part of its work for general revision of the constitution.

Provisions for the Texas judiciary, unlike those for the other two branches of the state government, are neatly set out in one article (Article V) in the Texas Constitution. Basically unaltered since 1891, they define the scope & form of the state's judicial system in great detail.

As a result of their study, League members agreed to support an effective judicial structure for Texas. Specifically we support:

- (A) A single system of centrally administered statewide courts with a uniform fiscal policy;
- (B) A uniform code of criminal & civil procedure formulated by the Supreme Court, with legislative approval;

Texas is one of the two states in the Union (the other being Oklahoma) having 2 separate courts of final resort--the Supreme Court of Texas, which makes the final state determination in civil matters and the Texas Court of Criminal Appeals.

At present Texas has 14 intermediate courts of Civil Appeals, and 196 state trial courts of general jurisdiction known as district courts. District courts in large metropolitan areas are divided into courts having solely civil jurisdiction and others having solely criminal jurisdiction.

In addition to state courts, Texas law provides for a county court in each county and also confers certain judicial powers in the county commissioners court.

Justice of the Peace courts handle minor civil and criminal matters and municipal courts in each incorporated city for minor criminal offenses.

To relieve the calendar congestion of the single county court in counties having a large population, the legislature has provided for probate courts and county courts at law.

There are numerous trial courts with concurrent powers and overlapping jurisdiction, and each court is independent of the others.

As a result there are duplication of effort and wasting of time and money; the system does not provide prompt, economical, and equal justice for all.

A frequently discussed aspect of the Texas judiciary is the lack of coordinated planning for both rules of procedure and for the actual details of administrative operation. Aside from the Supreme Court's limited authority (granted by the legislature) to supervise some rules of procedure in the lower civil courts, Texas courts are for most purposes autonomous. Thus there are wide variations in procedure, staffing, and financing of parallel courts.

Much more responsibility for supervising and regulating details of judicial procedure and of administrative operation should be assigned to the judicial system itself. Many such specific details are presently uncoordinated and unsupervised except as covered by statutory or Constitutional provisions.

Background for Action-Judiciary 2

League members believe that all courts in the state should be part of a single unified & coordinated system; that the financial needs of all state courts should be viewed as a whole under a central fiscal policy; and that administrative directors, under the supervision of the Supreme Court should manage the non-judicial business of the courts. Administrative responsibility for the entire Texas court system should rest with the Supreme Court; that there should be a uniform code of procedure and practice for all courts; and that the Supreme Court and the Legislature should have responsibility for establishing this code of procedure.

- (C) Assignment of judges according to special training and needs;
- (D) A full-time judiciary whose members qualify to practice law in Texas;

The present system of trial courts in Texas is designed to meet the needs of a pioneer rural community where a man had to travel over bad roads with a team and wagon to get justice. For a small case, civil or criminal, there were justices of the peace; for a larger case he had to go to the county seat and try his case in the county court.

No legal training is required of the judges of the constitutional county courts, and previous to the 1971 legislative session, none was required for justices of the peace. ** see attachment*

The one-judge, one-court idea appropriate for the pioneer community was applied in the cities, and with the growth of population and of business the only expedient was the addition of judges and with each judge a new court.

The present law provides only limited transfer of judges to assist in reducing crowded dockets.

The constitution provides for a judge to be elected for a specific court by the voters of the area served by that court, and transfer of judges is usually voluntary.

The LWV believes that all judges should be freely transferable at the direction of the Supreme Court and all judges should be licensed to practice law in Texas, and that the position should be a full-time with commensurate pay.

- (E) Integration of Justice of the Peace Court into courts of record.

Because of the autonomy of these courts, there are few statistics available on a state-wide basis. Of the more than 1,000 justices of the peace, fewer than 50 are lawyers. There are no educational or law training requirements of candidates for this office. However, the 1969 legislature did enact a statute requiring "40 hours of instruction" for future non-lawyer justices of the peace. ** see attachment*

Appeals from justice courts in all criminal cases and in the civil cases where judgment is for more than \$20, is to the county court on trial de novo (new trial), as justice courts are not courts of record.

Unprofessional court atmosphere and lack of record keeping in the lower courts have bred a disrespect for trials. When a defendant appeals his case, the higher court begins the case anew because the previous hearing was not recorded. Many of these cases die due to crowded dockets, lack of cooperation between city & county officials, lack of ~~evidence~~ prosecution or lack of evidence due to long delay. Justice of the peace courts should either become courts of record with upgraded status through uniform procedures or their functions absorbed into higher or parallel courts of record.

January, 1973

To: Brasher--Statement and background for action ~~xxx~~ page 3
Judiciary

- (F) Modification of the present appellate judge system to provide for: selection by a combination of commission nomination, executive appointment, and noncompetitive and nonpartisan elections; compulsory retirement; and new and effective removal procedures.

The citizen's first concern with the judicial system is, or should be, the judges--their qualifications, the method of their selection, and the degree of their independence, that is, the length of their terms of office.

The Texas Constitution now provides that selection of judges be by popular election and of course tenure is limited to the number of times a man can be elected. Vacancies are filled through appointment by the governor (the governor must get the consent of the Senate in filling the vacancies unless (a) the legislature is not in session and (b) an election is held to fill the vacancies before the legislature meets).

Selection by direct popular vote is a reflection of the times--the 1876 Reconstruction Period--in which the present Texas Constitution was written. Texas had a rural, agriculture economy and the mood of the people was one of rebellion against Reconstruction abuses. In the judicial area it had been the corruption of justice through judicial gubernatorial appointments that made the framers of the 1876 Constitution determined to place control of the judiciary in the hands of the people.

The judges of the two top courts and the intermediate appellate courts are elected for six year terms. Each judge must be 35 years old and have been a practicing lawyer or judge or both for at least 10 years. In the case of the civil appellate courts, there are 14 such districts with three judges elected in each district. Judges are usually not opposed for reelection which means that in practice judges can serve for life. A great many judges die, resign, or retire during their term, therefore their successor is appointed by the governor. These appointments are good until the next general election, but since most of these judges run unopposed they remain in office. About 2/3 of the judges originally went onto the bench by appointment.

The League supports selection of Supreme and Appellate judges by a combination of nomination by commission, executive appointment, and non-competitive, non-partisan election. This system combines the best features of appointment and control by the people through the election process. It provides for: a nominating commission to submit names of qualified candidates for judicial appointments to the governor; gubernatorial appointment of judges from the names submitted; non-partisan elections in which the voter may cast a yes or no vote on the question of retaining the appointees of office for a full term. Under this system there would be no party label, and no opponents. Two main drawbacks of direct election of judges now used are: time required in campaigning if the judge has an opponent, (that could better be spent on dispensing justice), and voter apathy toward judgeship races.

There is a bewildering collection of removal powers scattered all over the Constitution.

The present constitutional provision for removal of appellate judges include impeachment ("for High crimes & misdemeanors," and Address (for lesser defaults). Impeachment involves trial by the Senate upon prosecution by the House of Representatives, with a 2/3 Senate vote necessary for conviction. Address requires the removal of judges by the governor upon request of 2/3 of both houses. Neither Impeachment nor Address has been used against a judge.

Jan., 1973

Background for Action--Judiciary 4

All justices of appellate courts and judges of trial courts in Texas are under the supervision of the State Judicial Qualifications Commission which was created by an amendment to the state constitution adopted in 1965 and expanded in application to the lower trial courts by an amendment ratified just two years ago. Under these provisions justices and judges can be retired for disability or can be publicly censured or, in more flagrant cases, removed for improper conduct by the Supreme Court of Texas on the recommendation of the commission. The commission itself is empowered to censure justices and judges in private in less serious cases.

This table sets forth the many constitutional removal provisions:
Any judge-----Removal by State Judicial Qualifications Commission
 pursuant to Section 1-a of Article V

Appellate and
district judges.. Impeachment and conviction

or

By vote of 2/3 of each house of legislature (Article XV,
Section 8)

District judges.. By the Supreme Court
 (Article XV, Section 6)

County judges
Justices of the

Peace.....By district judges (Article V, Section 24)

By the establishment of a program for the removal or retirement of those judges who fail to measure up to required standards, the independence of the judiciary will be full protected and at the same time the public assured of the service of capable, efficient & conscientious judges.

The LWV favors the principle of compulsory retirement, however, there is no agreement on the age at which retirement could be compulsory.

Jan., 1973

Attachment-Judiciary

Chris;

I need some help on this. As you know my files have huge gaps & I can't seem to find the answers to all the legal training requirements.

I assume that the 1969 Legislature statute required "40 hours of instruction" for Future non-lawyer justices of the peace and the 1971 statute HB 168 by Williams requires all justices of the peace to have 40 hours training.

The only thing I have on this is the statement in Study and Action and the analysis of HB 168 in the Legislative Newsletter of May 13, 1971- Relating to the removal of justices of the peace for incompetency.

I do not have a copy of the bill and I'm not sure just what the provisions are. Is there a course or workshop set up? How can the JPs be removed if they do not comply? Has the law been enforced?

Copy in office book & copy to Hunter.

ADDENDUM

The following comments are both corrective and instructive in nature and are meant to supplement the first draft of ESI Analysis Penal Code - 731 (S.B. 34) Titles I, II, and III.

Page 7. Section 6.01, line 2: substitute possession for conduct.

Section 6.02 (a) add "except as provided from in (b)"

Page 9. Section 7.02 (a) (1). change "irresponsible" to "nonresponsible".

Section 7.22. Note that wherever "corporation" is used in this section, "Association" should be included. See line 1 and page 10, line 4.

Page 10.

7.23. Replace this entire statute with the following:

Person Acting for a Corporation or Association. (a) A person acting on behalf of a corporation or association is criminally responsible as if he were acting on his own behalf. (b) Where law imposes a duty to act on a corporation or association, the agent so charged with the responsibility for performing such acts is criminally responsible as if the law had charged him directly. (c) A person convicted of an offense performed on behalf of a corporation or association is subject to the same punishment of an individual convicted of that offense.

Background: (a) Clears up doubt as to persons punishable under 7.22 (b) the proposal looks behind seemingly corporate acts to the real actors and penalizes them as individuals (c) this section, because of the inclusion of the word "associations" applies to all governmental subdivisions and agencies.

Page 12

8.07 ADD (d) No person under 17 shall be punished by death.

Page 14

Section 9.31. Background. Add to Background the following:
The use of the phrase "threatening or using force" is based on Section 9.04 which allows for threats wherever force is justified.

9.34. Background. The use of the word threaten is based on Section 9.04.

Page 16

Section 9.41. Delete "non deadly." Add on the Background the following:
This section would seemingly allow the use of deadly force despite Section 9.42. which specifically governs the use of deadly force in certain nighttime situations. The word "threatening" is based on Section 9.04.

Sec. 9.43, Background, add on: The use of the word "threaten" is based on Sec. 9.04.

Page 18

Sec. 9.52 Background. The use of the word threatening is Sec. 9.51 and 9.52 is based on Sec. 9.04.

Addendum
Page 2

Page 19

12.03 Background. Replace present background with: Under 12.43, only Class A and Class B misdemeanors may be enhanced. However, Class C misdemeanors are still adjudications of guilt on record and may well bring a stiffer penalty than that normally given a first time offender.

ANALYSIS BY SECTION (cont.)

- 11 Article 45.06 is amended to increase the maximum fine and expense in 17.04 to \$10.00 to be paid into the city treasury. The governing body of each incorporated town no longer possesses the power to set up rules for procedure in the municipal court.
- 12 Article 45.061 is added to allow the municipal court judge to adopt rules for procedure for the court.
- 13 Amend Article 45.07 to allow that jury fees and court costs be provided by and collected by the city.
- 14 Amend Article 45.08 to use the term municipal court.
- 15 Amend Article 45.09 to allow each city to prescribe the compensation for judge, city attorney, city secretary, and other offices of the court.
- 16 Amend Article 45.10 to provide that exclusive, initial appellate jurisdiction of criminal cases heard in justice and municipal courts shall be vested in the county district court. Appeals shall be perfected on the record in the city courts and shall be heard separate from the trial dockets.
- 17 Amend Article 45.11 to refer to municipal courts.
- 18 Amend Article 45.12 to provide that city courts may fine up to \$200, or confine in jail up to 20 days, or both, as punishment for contempt of court. The judge will have power to admit to bail or forfeit bonds.
- 19 Amend Article 45.13 to require that each judge keep a docket of trials held before him to show required data.
- 20 Amend Article 45.23 to provide for postponement of the trial up to 30 days or up to 10 days if the defendant is in jail.
- 21 Amending Article 45.24 allows for a jury trial of six jurors without undue delay in municipal and justice courts.
- 22 Article 45.25 shall be changed to require a random selection of jurors. Failure to attend may cost the person up to \$50 rather than \$20 as a fine for contempt of court. A person may be excused from jury duty for showing a good cause.
- 23 Article 45.27 is changed to require the judge to quash, dismiss, or dismiss with prejudice when there is a material defect in the allegation.
- 24 Article 45.28 is amended to provide for municipal courts and judges in the article.

1 (7) perform administrative duties delineated in Subchapter
2 F of this Act;

3 (8) perform such additional duties as may be assigned by
4 rule of the supreme court; and

5 (9) prepare and publish an annual report on the activities
6 of the division.

7 Sec. 3.003. DEPUTY ADMINISTRATORS. (a) With the approval
8 of the two administrative judges, appointed under authority of
9 Subchapter F, in each respective judicial district, the
10 Administrative Director of the Courts shall designate one deputy
11 court administrator to serve each district. Each deputy
12 administrator shall be an officer of the administrative division
13 and shall serve at the pleasure of the administrative director.

14 (b) Each deputy administrator shall devote full time to
15 his official duties to the exclusion of engagement in any other
16 business or profession for profit. He shall receive a salary to
17 be fixed by legislative appropriation.

18 (c) The qualifications for the office of deputy court
19 administrator shall be fixed by rule of the supreme court.

20 (d) Each deputy administrator shall reside during his term
21 of employment within the judicial district he serves at a location
22 designated by the administrative director. He shall perform such
23 duties as may be imposed upon him by the administrative judges,
24 the administrative director, and as otherwise may be provided by
25 law.

26 (e) Each deputy administrator shall have necessary staff
27 and clerical personnel who shall receive such salary as authorized

1 Court of Domestic Relations No. 2 for Tarrant County, is the
2 227th District Court. The 227th District Court may be called
3 the Family District Court for the 227th Judicial District.

4 Sec. 2.26. 228TH DISTRICT COURT. On the effective date
5 specified in Section 3.02 of this Act, the 228th Judicial
6 District is created. Its boundaries are coextensive with the
7 boundaries of Tarrant County and its court, which replaces the
8 Court of Domestic Relations No. 3 for Tarrant County, is the
9 228th District Court. The 228th District Court may be called
10 the Family District Court for the 228th Judicial District.

11 Sec. 2.27. 230TH DISTRICT COURT. On the effective date
12 specified in Section 3.02 of this Act, the 230th Judicial
13 District is created. Its boundaries are coextensive with the
14 boundaries of Tarrant County and its court, which replaces the
15 Court of Domestic Relations No. 4 for Tarrant County, is the
16 230th District Court. The 230th District Court may be called
17 the Family District Court for the 230th Judicial District.

18 Sec. 2.28. 231ST DISTRICT COURT. On the effective date
19 specified in Section 3.02 of this Act, the 231st Judicial
20 District is created. Its boundaries are coextensive with the
21 boundaries of Taylor County and its court, which replaces the
22 Court of Domestic Relations for Taylor County, is the 231st
23 District Court. The 231st District Court may be called the Family
24 District Court for the 231st Judicial District.

25 SUBCHAPTER C. TEMPORARY PROVISIONS

26 Section 3.01. FIRST ELECTION OF FAMILY DISTRICT COURT
27 JUDGES. On the effective date of this Act, the judge of each

1 replaced juvenile and domestic relations court becomes a judge of
2 the respective family district court. Each judge shall serve,
3 for the remainder of the term for which he was elected, as judge
4 of the respective family district court. Thereafter, the office
5 shall be filled by election for the regular term of office
6 otherwise provided by the constitution and laws of the state.

7 Sec. 3.02. EFFECTIVE DATE. This Act takes effect only if
8 the constitutional amendment proposed by H.J.R. No. 9 is adopted.
9 If H.J.R. No. 9 is adopted, this Act takes effect on September 1
10 following adoption of the amendment.

11 Sec. 3.03. TRANSFER OF PENDING CASES, PROCESS, AND WRITS.
12 When a family district court is created:

13 (1) all cases pending in the replaced court are
14 transferred to the family district court which replaces it; and

15 (2) all process and writs pending in or issued by the
16 replaced court are transferred to the family district court
17 which replaces it and are returnable to that family district
18 court.

19 Sec. 3.04. REPEALER. (a) The following Acts are repealed
20 on the effective date of this Act:

21 (1) Chapter 426, Acts of the 51st Legislature, Regular
22 Session, 1949, as amended (Article 2338-3, Vernon's Texas Civil
23 Statutes);

24 (2) Chapter 23, Acts of the 55th Legislature, 1st Called
25 Session, 1957, as amended (Article 2338-3a, Vernon's Texas Civil
26 Statutes);

27 (3) Chapter 325, Acts of the 53rd Legislature, Regular

1 Session, 1953, as amended (Article 2338-5, Vernon's Texas Civil
2 Statutes);

3 (4) Chapter 49, Acts of the 54th Legislature, 1955, as
4 amended (Article 2338-7, Vernon's Texas Civil Statutes);

5 (5) Chapter 157, Acts of the 55th Legislature, Regular
6 Session, 1957 (Article 2338-7a, Vernon's Texas Civil Statutes);

7 (6) Chapter 16, Acts of the 55th Legislature, Regular
8 Session, 1957, as amended (Article 2338-8, Vernon's Texas Civil
9 Statutes);

10 (7) Chapter 511, Acts of the 55th Legislature, Regular
11 Session, 1957, as amended (Article 2338-9, Vernon's Texas Civil
12 Statutes);

13 (8) Chapter 13, Acts of the 56th Legislature, 3rd Called
14 Session, 1959, as amended (Article 2338-9a, Vernon's Texas
15 Civil Statutes);

16 (9) Chapter 31, Acts of the 56th Legislature, Regular
17 Session, 1959, as amended (Article 2338-10, Vernon's Texas Civil
18 Statutes);

19 (10) Chapter 242, Acts of the 56th Legislature, Regular
20 Session, 1959, as amended (Article 2338-11, Vernon's Texas Civil
21 Statutes);

22 (11) Chapter 299, Acts of the 58th Legislature, 1963,
23 as amended (Article 2338-11a, Vernon's Texas Civil Statutes);

24 (12) Chapter 443, Acts of the 56th Legislature, Regular
25 Session, 1959, as amended (Article 2338-13, Vernon's Texas Civil
26 Statutes);

27 (13) Chapter 159, Acts of the 57th Legislature, Regular

1 Session, 1961, as amended (Article 2338-14, Vernon's Texas Civil
2 Statutes);

3 (14) Section 2, Chapter 212, Acts of the 59th Legislature,
4 Regular Session, 1965 (Section 2, Article 6819a-39, Vernon's
5 Texas Civil Statutes);

6 (15) Chapter 6, Acts of the 57th Legislature, 3rd Called
7 Session, 1962, as amended (Article 2338-15, Vernon's Texas Civil
8 Statutes);

9 (16) Chapter 278, Acts of the 59th Legislature, Regular
10 Session, 1965, as amended (Article 2338-15a, Vernon's Texas Civil
11 Statutes);

12 (17) Chapter 64, Acts of the 57th Legislature, 3rd Called
13 Session, 1962, as amended (Article 2338-16, Vernon's Texas Civil
14 Statutes);

15 (18) Chapter 44, Acts of the 58th Legislature, 1963, as
16 amended (Article 2338-17, Vernon's Texas Civil Statutes);

17 (19) Chapter 289, Acts of the 59th Legislature, Regular
18 Session, 1965 (Article 2338-18, Vernon's Texas Civil Statutes);

19 (20) Chapter 307, Acts of the 59th Legislature, Regular
20 Session, 1965 (Article 2338-19, Vernon's Texas Civil Statutes);

21 (21) Chapter 537, Acts of the 59th Legislature, Regular
22 Session, 1965 (Article 2338-20, Vernon's Texas Civil Statutes);

23 (22) Chapter 780, Acts of the 60th Legislature, Regular
24 Session, 1967 (Article 2339-9b, Vernon's Texas Civil Statutes);

25 (23) Chapter 781, Acts of the 60th Legislature, Regular
26 Session, 1967 (Article 2338-15b, Vernon's Texas Civil Statutes);

27 (24) Chapter 465, Acts of the 61st Legislature, Regular

1 Session, 1969 (Article 2338-11b, Vernon's Texas Civil Statutes);

2 (25) Chapter 761, Acts of the 61st Legislature, Regular
3 Session, 1969 (Article 2338-15c, Vernon's Texas Civil Statutes);

4 (26) Chapter 786, Acts of the 61st Legislature, Regular
5 Session, 1969 (Article 2338-9c, Vernon's Texas Civil Statutes);

6 (27) Chapter 673, Acts of the 61st Legislature, Regular
7 Session, 1969 (Article 2338-18a, Vernon's Texas Civil Statutes);

8 and

9 (28) Chapter 844, Acts of the 62nd Legislature, Regular
10 Session, 1971 (Article 2338-21, Vernon's Texas Civil Statutes).

11 (b) Chapter 393, Acts of the 52nd Legislature, 1951
12 (Article 2338-4, Vernon's Texas Civil Statutes), and Chapter 434,
13 Acts of the 53rd Legislature, Regular Session, 1953
14 (Article 2338-6, Vernon's Texas Civil Statutes), are repealed.

15 Sec. 3.05. EMERGENCY. The importance of this legislation
16 and the crowded condition of the calendars in both houses create
17 an emergency and an imperative public necessity that the
18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby
20 suspended.

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COMMITTEE AMENDMENT NO. 1

1 Amend H. B. No. 725, First Printing, by:

2 (1) striking Sections 3.01 and 3.02 and substituting the
3 following:

4 "Section 3.01. FIRST ELECTION OF FAMILY DISTRICT COURT
5 JUDGES. The first judge of a family district court is elected at
6 the general election immediately preceding the date on which that
7 court is created.

8 "Sec. 3.02. EFFECTIVE DATE. Sections 2.01-2.28 of this Act
9 take effect severally when the term of office of the person
10 serving as judge of the replaced court on June 1, 1973, expires.";
11 and

12 (2) striking lines 19 and 20 on page 13 and substituting
13 the following:

14 "Sec. 3.04. REPEALER. (a) Each Act creating or providing
15 for a court replaced by a family district court under this Act is
16 repealed on the date the family district court is created.

17 "(b) The following Acts are repealed on the dates pro-
18 vided in Subsection (a) of this section:"; and

19 (3) redesignating Subsection (b) of Section 3.04, on
20 page 16, as Subsection (c). Evans

COMMITTEE REPORT

COMMITTEE ROOM
Austin, Texas, April 3, 1973

Hon. Price Daniel, Jr., Speaker of the House of Representatives.

Sir: We, your Committee on Judiciary, to whom was referred
H. B. No. 725, have had the same under consideration and beg to re-
port back with recommendation that it do pass, as amended.
The measure was reported from Committee by the following record vote:
13 ayes, 0 nays, 0 present, not voting, 9 absent.
This measure proposes new law.

L. DeWitt Hale, Chairman

BILL ANALYSIS1. BACKGROUND

The existing 28 special juvenile and domestic relations courts are financed by the counties in which they have been created. Because the courts lack plenary jurisdiction to dispose of all the family law matters they hear and because of the inefficiency inherent in creating locally financed, specialized forums, the judicial section of the State Bar in 1971 recommended converting these courts into full district courts. Attorney General's Opinion M-830, however, held that an equitable adjustment of retirement benefits for incumbent judges was not constitutionally permissible.

2. PURPOSE

The purpose of the bill is to convert statutory domestic relations and juvenile courts into district courts directed to give preference to family law matters.

3. SECTION BY SECTION

Section 1.01: Short title.

Section 1.02: Purpose clause.

Section 1.03: (a) Provides that the family courts are full jurisdiction district courts.

(b) Enumerates the matters to which the courts are to give preference.

(c) Provides that other district courts retain jurisdiction of family law matters.

Section 1.04: Provides for two terms of court annually.

Section 1.05: (a) Provides same qualifications, terms, and election of family court judges as for other district courts.

(b) Gives same compensation to family court judges as other district judges in the county.

Section 1.06: (a) Judge may appoint court reporter.

(b) Prosecutors, sheriff, and district clerk shall serve court.

(c) County provides facilities and personnel for the courts.

Section 1.07: (a) Family district court judges added to county juvenile boards and one of them is to serve as board chairman.

(b) Provides for appointment of chief juvenile probation officer and other personnel.

(c) Provides for juvenile board and probation office compensation and facilities.

(d) Juvenile board created, if one does not exist in each county having family district court.

(e) Existing juvenile boards exempted from effect of bill, except for addition of family district court judges.

Section 1.08: (a) Incumbent judges of converted county-level courts may participate in state judicial retirement.

(b) Incumbent judges electing to participate in state judicial retirement must contribute to the state for years of service.

Section 2.01: Creates 203rd District Court in El Paso County.

Section 2.02: Creates 204th District Court in Brazoria County.

Section 2.03: Creates 205th District Court in Dallas County.

Section 2.04: Creates 206th District Court in Dallas County.

Section 2.05: Creates 207th District Court in Dallas County.

Section 2.06: Creates 208th District Court in Dallas County.

Section 2.07: Creates 209th District Court in Dallas County.

Section 2.08: Creates 210th District Court in Galveston County.

Section 2.09: Creates 211th District Court in Gregg County.

Section 2.10: Creates 212th District Court in Harris County.

Section 2.11: Creates 213th District Court in Harris County.

Section 2.12: Creates 214th District Court in Harris County.

Section 2.13: Creates 215th District Court in Harris County.

Section 2.14: Creates 216th District Court in Harris County.

Section 2.15: Creates 217th District Court in Harris County.

Section 2.16: Creates 218th District Court in Harris County.

Section 2.17: Creates 219th District Court in Harris County.

Section 2.18: Creates 220th District Court in Hutchinson County.

Section 2.19: Creates 221st District Court in Jefferson County.

Section 2.20: Creates 222nd District Court in Midland County.

Section 2.21: Creates 223rd District Court in Nueces County.

Section 2.22: Creates 224th District Court in Potter County.

- Section 2.23: Creates 225th District Court in Smith County.
- Section 2.24: Creates 226th District Court in Tarrant County.
- Section 2.25: Creates 227th District Court in Tarrant County.
- Section 2.26: Creates 228th District Court in Tarrant County.
- Section 2.27: Creates 230th District Court in Tarrant County.
- Section 2.28: Creates 231st District Court in Taylor County.
- Section 3.01: Provides for election of judges of the new courts.
- Section 3.02: Provides that bill takes effect on the expiration of the terms of the existing judges.
- Section 3.03: Provides for transfer of cases, process, and writs.
- Section 3.04: (a) Repeals each Act creating the courts replaced by this bill.
- (b) Repeals two courts of domestic relations which are authorized but not organized.
- Section 3.05: Emergency clause.

4. Summary of Committee Action:

The Judiciary Committee heard H. B. 725 in a public hearing held on April 3, 1973 and voted in a record vote of 13 ayes and 0 nay to report the Bill to the House with the recommendation that it do pass as amended. This bill proposes new law.

Reform Bill Testimony Due Today

Capitol Staff

The House Judiciary Committee will hear testimony Tuesday and Wednesday on a package of eight judicial reform bills.

The central bill, H.B. 1402, creates an office of court management under the Supreme Court chief justice and makes him the executive officer of the state court system. *Support*

It gives the chief justice authority to equalize dockets of appeals courts and meet workload crises by assigning judges temporarily among the courts.

Other bills in the package would:

—Merge the Supreme Court and the Court of Criminal Appeals and give the existing courts of civil appeals authority to review criminal cases (H.B. 1401). *Support*

—Reorganize district courts into 13 equal judicial districts (H.B. 1403). *Support*

—Create a state-financed county court at law system. Presently, such courts are locally financed and administered (H.B. 1404).

—Unify the judicial clerks (H.B. 1405).

—Stop the practice of salary supplements for district judges by setting salaries (H.B. 1406).

✓ Provide nonpartisan election of judges (H.B. 1407).

✓ Create a new small claims court system made up of municipal judges and justices of the peace (H.B. 1600).

The eight-bill package will be heard along with a companion measure recommended by a separate study, the revision of the Constitution's judicial article as proposed by the Chief Justice's Task Force for Court Improvement.

The committee will meet at 7:30 p.m. in the Old Supreme Court Room on the third floor of the Capitol.

To: Brasher cc, SO, Braunagel, May

From: Hunter

Re: "Package of Reform" bills for Judiciary

These are the first 6 of a "package of 8 bills presented as enabling legislation for HJR 9. They would take effect only if HJR 9 is adopted.

From newspaper accounts (we haven't seen the other two) the other two propose a new system of courts on municipal, justice of peace levels that would maintain the JPs. Judge Calvert is very much opposed to these changes and wants the legislature to put them in as amendments rather than substitutes for Article V so that the constitutional convention commission can act on the articles.

HB 1401 Hale

This bill provides for the Supreme Court and Courts of Appeals; prescribes the organization, jurisdiction, rule-making powers, and personnel of these courts. It also provides for non-partisan election of judges.

HB 1402 Hale Judicial Administration ACT

This act provides for the creation of the office of court management, composed of an administrative division, judicial council, qualifications commission; creates trial court administrative districts, and authorizes urban trial court administration & ~~approx~~ provides for transitional provisions. Support

HB 1403 Hale

Creates judicial districts for courts of appeals and creates trial court divisions within those districts. SUPPORT

1404 Hale

Creates a statewide system of county courts at law, abolishes constitutional county courts and certain statutory county-level courts and changes the name of the office of commissioners court and county judges and designates magistrates for probate administration.

SJR 4 and the Task Force proposal provides that the county courts be created by the legislature and the county courts to be staffed with judges and other officials as provided by law. This proposal creates-or rather leaves the county courts in the constitution. What about our position on "a framework of basic law"

1405 Hale

Provides for the election and powers of district clerks and county clerks.
~~I would oppose this bill for the same reason as the above. This~~
~~should not be in the Constitution.~~ No Position

HB 1406 Hale

~~Set~~ Provides for the compensation of county court at law judges, district court judges, court of appeals justices, and supreme court justices. No Position

5/3/73 Reported favorably.