OFFICIAL JOURNAL of the CONSTITUTIONAL CONVENTION of the STATE OF TEXAS

SIXTY-FIRST DAY
(Tuesday, May 7, 1974)

AFTER RECESS

The Convention met at 9:30 o'clock a.m., pursuant to recess, and was called to order by the President.

(Delegate Salem in Chair)

The roll was called and the following were recorded present: 151 Present, 5 Absent-excused, 24 Absent. (Record 1, Appendix)

Reverend Thomas L. Sneed, Pastor, Rising Star Baptist Church, Austin, Texas, offered the invocation as follows:

Almighty God, hear us this day as we turn our hearts to Thee in quiet prayer. We give thanks to Thee for this great country, which has been more richly blessed by Thee than any other nation on earth. Let us be aware of the high trust and keenly alive to the great responsibility imposed on us by our privileged position. Stir us up to be interested citizens, so that we may exert ourselves to promote the common good, raise the standard of morality, uphold the law, and be examples of righteousness, responsibility, and integrity, among all with whom we live. Bless our land, O Lord, that we may not lose our liberty nor fail to deal honorably with other nations. And teach Thy church to be a light to the world. For Jesus' sake. Amen.

LEAVES OF ABSENCE

Delegate Thompson was granted leave of absence for the balance of the week on account of illness on motion of Delegate Sutton.

Delegate McKinnon was granted leave of absence for today on account of important business on motion of Delegate Newton.

Delegate Vale was granted leave of absence for today on account of important business on motion of Delegate Harris of Galveston.

Delegate Donaldson was granted leave of absence for today on account of important business on motion of Delegate Kaster.

Delegate Bales was granted leave of absence for today on account of important business on motion of Delegate Grant.

(President in Chair)

ARTICLE III ON SECOND READING

The President laid before the Convention as unfinished business Article III.

Question: Shall Article III be adopted?

Delegate Geiger explained Section 12 of Article III.

Delegate Hale offered the following amendment to Section 12 of Article III:

Amend Article III, Section 12, by deleting the last sentence in Subsection (a).

The amendment was read.

Delegate Geiger moved to table the amendment.

The motion to table was lost by the following vote: 53 Yeas, 81 Nays, 1 Present-Not Voting, 45 Not Voting. (Record 2, Appendix)

DELEGATES PRESENT

Delegates Reyes, Adams of Hardin, Hernandez, Moore, Wyatt and Rodriguez, who had previously been recorded as "Absent" were announced "Present".

(Poerner in Chair)

Question recurring on the adoption of the amendment.

The amendment failed of adoption by the following vote: 73 Yeas, 74 Nays, 1 Present-Not Voting, 32 Not Voting. (Record 3, Appendix)

(President in Chair)

Delegate Nugent offered the following amendment to Section 12 of Article III:

Amend Article III by inserting a sentence following the first sentence of Subsection (b) of Section 12 to read as follows:

The legislature may enact local laws to regulate the taking of wildlife resources.

NUGENT
NABERS
AGNICH

The amendment was read and was adopted by a non-record vote.

DELEGATE PRESENT

Delegate Bryant who had previously been recorded as "Absent" was announced "Present".

Delegate Hale offered the following amendment to Section 12 of Article III:

Amend Article III, Section 12, by adding thereto a new Subsection (c) to read as follows:

(c) Each local law and each special law must identify the area to which it applies by the name or other official designation of such area, and no such law may be enacted

which determines the area of application by the use of population figures or other statistical data.

The amendment was read and was adopted by a non-record vote.

DELEGATES PRESENT

Delegates Washington, Semos and Simmons who had previously been recorded as "Absent-excused" were announced "Present".

Delegate Hale offered the following amendment to Section 12 of Article III:

Amend Article III, Section 12 by adding thereto a new Subsection (d) immediately following Subsection (c) and by re-designating all subsequent subsections accordingly, such new Subsection (d) to read as follows:

(d) No bill shall be considered and no law shall be enacted which limits or defines the area to which it applies by the use of population figures or other statistical data.

The amendment was read.

On motion of Delegate Hale and by unanimous consent, the amendment was withdrawn.

Delegate Hale offered the following amendment to Section 12 of Article III:

Amend Article III, Section 12 by adding thereto a new Subsection (d) immediately following Subsection (c) and by re-designating all subsequent subsections accordingly, such new Subsection (d) to read as follows:

(d) No bill shall be considered and no law shall be enacted which limits or defines the area to which it applies by the use of population figures or other statistical data, except bills having statewide application wherein all counties are classified on the basis of population.

The amendment was read and was adopted by a non-record vote.

VOTE RECORDED

Delegate Kaster requested to be recorded as voting "Nay" on Hale Amendment.

Delegate Hutchison offered the following amendment to Section 12 of Article III:

Amend Legislative Committee Section 12 by deleting the first sentence of Subsection (b) and adding a new first sentence as follows:

The legislature may enact local laws granting discretionary powers to cities, counties and other political subdivisions when not in conflict with a duly adopted home rule charter or, additionally in the case of counties, when not in conflict with any county ordinance adopted pursuant to a voted power to adopt ordinances under this constitution.

The amendment was read.

(Delegate Creighton in Chair)

DELEGATES PRESENT

Delegate Bales who had previously been recorded as "Absent-excused" was announced "Present".

Delegate Head who had previously been recorded as "Absent" was announced "Present".

(President in Chair)

VOTE RECORDED

Delegate Green of Harris requested to be recorded as voting "Nay" on Brooks amendment deleting Section 10, Subsection (e) on May 6, 1974.

Question: Shall the amendment be adopted?

RECESS

On motion of Delegate Willis the Convention at 11:53 o'clock a.m. took recess until 1:30 o'clock p.m. today.

AFTER RECESS

The Convention met at 1:30 o'clock p.m., pursuant to recess and was called to order by the President.

LEAVES OF ABSENCE

Delegate Mauzy was granted leave of absence for the remainder of today on account of illness on motion of Delegate Bryant.

Delegate Hendricks was granted leave of absence for the remainder of today on account of important business on motion of Delegate Munson.

Delegate Blanchard was granted leave of absence for the remainder of today on account of illness on motion of Delegate McKnight.

Delegate Parker of Denton was granted leave of absence for the remainder of today on account of important business on motion of Delegate Preston.

Delegate Ogg was granted leave of absence for the remainder of today on account of important business on motion of Delegate Green of Navarro.

Delegate Snelson was granted leave of absence for the remainder of today on account of state business on motion of Delegate Sherman of Potter.

DELEGATES PRESENT

Delegates Heatly and Jones of El Paso who had previously been recorded as "Absent" were announced "Present".

ARTICLE III ON SECOND READING

The President laid before the Convention as unfinished business Article III with an

amendment by Delegate Hutchison pending.

Question: Shall the amendment be adopted?

On motion of Delegate Hutchison and by unanimous consent the amendment was withdrawn.

Delegate Schwartz offered the following amendment to Section 12 of Article III:

Complete Substitute for the Hutchinson amendment:

Strike all of the first sentence in Section 12(b) and add the word "Local" between the words "No" and "Bill" in the second sentence and change the word "Subsection" to "Section" therein.

SCHWARTZ
HUTCHISON

The amendment was read and was adopted by the following vote: 74 Yeas, 44 Nays, 4 Present-Not Voting, 58 Not Voting. (Record 4, Appendix)

Delegate Hernandez explained Section 13 of Article III.

Delegate Geiger for Delegate Ragsdale offered the following amendment to Section 13 of Article III:

Amend Section 13, Subsection (b) to read as follows:

(b) An officer against whom articles of impeachment have been preferred shall be suspended from the exercise of the duties of the office during the pendency of the impeachment. The governor may make a temporary appointment to fill the vacancy occasioned by the suspension of the officer until the decision on the impeachment, except in the case of the impeachment of a governor, in which case the lieutenant governor shall serve as governor during the pendency of the impeachment.

The amendment was read and was adopted by a non-record vote.

Delegate Geiger for Delegate Ragsdale offered the following amendment to Section 13 of Article III:

Amend Section 13, Subsection (d) to read as follows:

(d) Upon conviction by the Senate, the office becomes vacant; however, a judgment of conviction by the Senate shall not extend beyond removal from office and disqualification to hold any office of honor, trust, or profit of this state. An impeached person, whether convicted or acquitted, shall be amenable to prosecution, trial, judgment, and punishment according to law.

The amendment was read and was adopted by a non-record vote.

Delegate Geiger explained Section 14 of Article III.

Delegate Brooks offered the following amendment to Section 14 of Article III:

Amend Article III by deleting Section 14 and substituting the following:

Section 14. ADVICE AND CONSENT OF THE SENATE. A vote of two-thirds of the membership constitutes consent to any appointment which this constitution requires to be with the advice and consent of the Senate. If an appointment requiring consent fails to be voted upon by the legislative session to which the appointment is submitted, a vacancy in office will occur as of the day of sine die adjournment. The legislature may provide by law for interim appointments made when the Senate is not in session.

On motion of Delegate Brooks and by unanimous consent the amendment was withdrawn.

Delegate Brooks offered the following amendment to Section 14 of Article III:

Amend Article III by deleting Section 14 and substituting the following:

Section 14. ADVICE AND CONSENT OF THE SENATE. An affirmative vote of two-thirds of the membership present constitutes consent to any appointment which this constitution requires to be with the advice and consent of the Senate. If an appointment requiring consent fails to be voted upon by the legislative session to which the appointment is submitted, a vacancy in office will occur as of the day of sine die adjournment. The legislature may provide by law for interim appointments made when the Senate is not in session.

The amendment was read.

Delegate Hall of Harris moved to table the amendment. The motion to table was lost by a non-record vote.

Question recurring on the adoption of the amendment.

The amendment was adopted by a non-record vote.

VOTE RECORDED

Delegate Hall of Harris requested to be recorded as voting "Nay" on Brooks amendment.

(Delegate Olson in Chair)

DELEGATE PRESENT

Delegate Hudson who had previously been recorded as "Absent" was announced "Present".

Delegate Patman explained Section 15 of Article III.

(President in Chair)

LEAVES OF ABSENCE

Delegate Calhoun was granted leave of absence for the remainder of today on account of illness on motion of Delegate Doran.

Delegate Schieffer was granted leave of absence for the remainder of today on account of doctor's appointment on motion of Delegate Olson.

Delegate Maloney offered the following amendment to Section 15 of Article III:

Amend Article III, Section 15 by deleting it in its entirety.

The amendment was read.

Delegate Patman moved to table the amendment. The motion to table was lost by the following vote: 56 Yeas, 79 Nays, 1 Present-Not Voting, 34 Not Voting. (Record 5, Appendix)

Question recurring on the adoption of the amendment.

The amendment failed of adoption by the following vote: 75 Yeas, 75 Nays.

Delegate Maloney requested a verification of Record 6. The verification was ordered and reflected the following: 76 Yeas, 75 Nays, 29 Not Voting. (Record 6, Appendix)

Accordingly the amendment was adopted.

DELEGATE PRESENT

Delegate Lee who had previously been recorded as "Absent" was announced "Present".

LEAVE OF ABSENCE

Delegate Madla was granted leave of absence for the remainder of today on account of important business on motion of Delegate Bird.

Delegate Whitehead offered the following amendment to Article III:

Amend Article III by adding a new Section ___ to read as follows:

Section ___. MENTAL HEALTH AND MENTAL RETARDATION FUND.

(a) At the first regular session of the legislature following the adoption of this constitution, the legislature shall establish the Mental Health and Mental Retardation Fund which shall consist of revenue collected from a tax on distilled spirits.

(b) The legislature shall provide by law for the levy and collection of an additional tax on distilled spirits sold in this state in an amount of fifty (50) cents on each gallon of distilled spirits.

(c) Subject to legislative appropriation, allocation, and direction, the money in the fund shall be spent for the operation of facilities for care of mentally deficient and mentally ill persons.

WHITEHEAD
DENTON
CATES
GREEN OF NAVARRO
RUSSELL
FINNELL

The amendment was read.

Delegate Maloney moved to table the amendment.

The motion to table prevailed by the following vote: 87 Yeas, 51 Nays, 2 Present-Not Voting, 40 Not Voting. (Record 7, Appendix)

Delegate Whitehead offered the following amendment to Article III:

Amend Article III by adding a new section to read as follows:

Section ___. MENTAL HEALTH AND MENTAL RETARDATION FUND. (a) At the first regular session of the legislature following the adoption of this constitution, the legislature shall establish the Mental Health and Mental Retardation Fund which shall consist of revenue collected from a tax on distilled spirits.

(b) The legislature shall provide by law that $1 of the state tax on each gallon of distilled spirits sold in this state shall be deposited in that fund.

(c) Subject to legislative appropriation, allocation, and direction, the money in the fund shall be spent for the operation of facilities for care of mentally deficient and mentally ill persons.

The amendment was read.

Delegate Maloney moved to table the amendment. The motion to table prevailed by the following vote: 86 Yeas, 50 Nays, 2 Present-Not Voting, 42 Not Voting. (Record 8, Appendix)

Delegate Waters offered the following amendment to Article III:

That the Legislative Committee Report, Article III be amended by including the following as a new section:

Section ___. GENERAL AUTHORITY OF THE LEGISLATURE

The legislature shall have the authority to make all laws which shall be necessary and proper for carrying into execution the powers vested by this Constitution in the government of the State of Texas, or in any department or officer thereof.

Delegate Geiger moved to table the amendment. The motion to table prevailed by a non-record vote.

LEAVE OF ABSENCE

Delegate Vick was granted leave of absence for the remainder of today on account of important business on motion of Delegate Jones of Taylor.

Delegate Nugent offered the following amendment to Article III:

Add a new section to Article III properly numbered.

Section 15. The legislature shall have the authority to classify loans and lenders, define interest and fix maximum rates of

interest that shall not exceed 10 per centum per annum.

In the absence of legislation fixing maximum rates of interest, all contracts for a greater rate of interest than ten per centum (10%) per annum shall be deemed usurious.

In contracts where no rate of interest is agreed upon, the rate shall not exceed six per centum (6%) per annum.

The powers of the legislature to classify loans and lenders, define interest and fix maximum rates of interest shall not be subject to delegation by the legislature to any board or governmental agency.

NUGENT
WASHINGTON
BALES

The amendment was read.

On motion of Delegate Nugent and by unanimous consent the amendment was withdrawn.

Delegate Davis offered the following amendment to Article III:

Amend Article III, Section 1, by designating the first sentence of the committee report "subsection (a)" and by adding the following new subsection:

(b) The people reserve to themselves the power to propose laws by petition and to enact the same at the polls independently of the legislature. This power is known as the initiative and shall be excercised in the manner provided for by law.

DAVIS
TEMPLE
CLOWER
SCHWARTZ
MILLER

The amendment was read.

(Delegate Doyle in Chair)

LEAVE OF ABSENCE

Delegate Bales was granted leave of absence for the remainder of today on account of important business on motion of Delegate Jones of El Paso.

DELEGATE PRESENT

Delegate Ogg who had previously been recorded as "Absent-excused" was announced "Present".

(President in Chair)

Delegate Bynum moved to table the amendment. The motion to table prevailed by the following vote: 75 Yeas, 68 Nays, 1 Present-Not Voting, 36 Not Voting. (Record 9, Appendix)

Delegate Denton offered the following amendment to Article III:

Amend the Legislative Committee Report, Article III, Sections 1-5 by: Deleting and substituting the following:

Section 1. LEGISLATIVE POWER. The legislative power of the state is vested in "The Legislature of the State of Texas."

Section 2. COMPOSITION. The legislature is composed of one hundred and eighty-one legislators. The legislators decide at the beginning of each session, by lot, which will serve in the senate and which will serve in the house of representatives.

Section 3. QUALIFICATION OF MEMBERS. (a) A person is eligible for election to the legislature if a qualified voter, 21 years of age, a resident of the state for two years, and of the representative district for one year.

(b) A member may not hold any other office or position of trust under this state, the United States, or any foreign government.

Section 4. ELECTION AND TERMS OF MEMBERS. (a) Legislators are elected at the general election.

(b) Each legislator serves a term of two years.

(c) No legislator may succeed themself for more than three consecutive terms.

(d) Vacancies in the Legislature are filled by special election as provided by law.

Section 5. REDISTRICTING. (a) Following the publication of each federal decennial census, the legislature by law will divide the state into one hundred and eighty representative districts.

(b) All representative districts contain, within a five percent deviation, an equal number of inhabitants. All districts are composed of compact and contiguous territory.

(c) If the supreme court of Texas or a federal court finds a redistricting plan invalid, the legislature as provided by law, will consider the enactment of a new redistricting plan. If the second redistricting plan is found invalid by the courts, the supreme court of Texas will redistrict the state.

The amendment was read and failed of adoption by the following vote: 18 Yeas, 119 Nays, 1 Present-Not Voting, 42 Not Voting. (Record 10, Appendix)

Question: Shall Article III, as amended, be adopted?

REPORT OF THE COMMITTEE
ON THE JUDICIARY

May 7, 1974

The Honorable Price Daniel, Jr.
President, Texas Constitutional Convention

Sir:

The Committee on the Judiciary submits herewith its report. The report contains recommended text, with commentary, for a wholly new Article V. It also contains minority statements on courts of appeals (Section 3) and promulgation of rules of procedure (Section 11).

In the process of its deliberations, the committee met 49 times, heard nearly 100 witnesses, and had over 75 record votes.

May 7, 1974

Utilizing Constitutional Convention Proposal Number 1-d as a working model, the committee first compiled a "tentative draft" of the proposed article. Section-by-section amendments to the semifinal draft and a detailed transition schedule and commentary were adopted.

The recommended article provides for a supreme court and intermediate courts of appeals, both having general jurisdiction. A state-financed, two-level system of district courts and circuit courts is provided. County judges may be given judicial functions, and justices of the peace and municipal judges are retained. A system of court administration, under control of the supreme court and judicial council, is established.

The proposed article eliminates much of the detail of the present Judiciary Article and thus enhances legislative flexibility to respond to changing problems in judicial administration. This new article is organized into 20 sections and reduces a text of 8,037 words to 1,762 words.

There were considerable divisions of opinion among committee members on several issues, including retention of dual criminal and civil appellate court systems. These were debated extensively throughout the preparation of the three drafts of the committee report. It is the belief of the committee that its proposal provides for a much improved constitutional framework for the judicial branch of government. The committee urges its adoption by the convention.

During its work the committee utilized the services of the following staff members: Robert Strauser, chief counsel; David Frederick, counsel; Carnegie Mims, research associate; Shirley Hejl, secretary; Kirk Kimball, intern; and Cal Varner, clerk. The committee also wishes to express its appreciation for assistance given it by: Scott Henderson, administrative assistant to Senator Oscar Mauzy; Jim Hutcheson, counsel to the Civil Judicial Council; Nancy Sutton, Legislative Council staff attorney; Lawrence Wells, counsel to the House Criminal Jurisprudence Committee; and Jean Woodmansee, administrative assistant to the chairman.

/s/
L. DEWITT HALE
Chairman

BE IT PROPOSED BY THE COMMITTEE ON THE JUDICIARY,

That there be a new article on the judiciary to read as follows:

ARTICLE V
THE JUDICIARY

Sec. 1. JUDICIAL POWER. The judicial power of the state is vested in the judicial branch. The state unified judicial system is composed of a supreme court, courts of appeals, district courts, and circuit courts. All courts have jurisdiction as provided by law, but jurisdiction of courts of the same level must be uniform throughout the state.

Sec. 2. SUPREME COURT. (a) The supreme court shall be the highest court of the state and shall consist of the Chief Justice of Texas and at least eight other justices, of whom a majority shall be necessary to decide a case. It shall have such jurisdiction and administrative and rule-making authority as provided in this article or by law.

(b) The legislature may grant jurisdiction to the supreme court to receive and answer questions of state law certified from federal courts.

Sec. 3. COURTS OF APPEALS. There shall be one or more courts of appeals as provided by law, each consisting of a chief judge and at least two other judges, of whom a majority shall be necessary to decide a case.

Sec. 4. DISTRICT COURTS. The state shall be divided into judicial districts as now or hereafter provided by law. In each district there shall be one district court with one or more district judges.

Sec. 5. CIRCUIT COURTS. The legislature shall establish in each judicial district, now or hereafter provided by law, a circuit court with one or more judges. A circuit court may serve one or more counties, but no county shall have more than one circuit court.

Sec. 6. COUNTY JUDGE. The county judge provided for in Article IX, Section 3(a) of this constitution has judicial functions as now or hereafter provided by law.

Sec. 7. OTHER COURTS. (a) The county commission in each county shall divide the county from time to time into justice precincts, not less than four nor more than eight.

(b) The county commission in each county shall establish and maintain one or more justice courts in the county with each court to exercise jurisdiction in one or more precincts in the manner provided by law.

(c) Municipal courts may be established by law or by charter as authorized by law and shall have such jurisdiction as provided by law.

Sec. 8. QUALIFICATIONS OF JUDGES. No person may serve as a justice, judge, or justice of the peace unless the person is a United States citizen and a resident of this state and has other qualifications prescribed by law. No person may serve as justice or judge in the unified judicial system unless licensed to practice law in this state.

Sec. 9. ELECTION OF JUDGES. (a) The Chief Justice of Texas and other justices of the supreme court are elected by the qualified voters of the state every six years in the manner provided by law. Judges of the courts of appeals are elected by the qualified voters of their respective districts every six years in the manner provided by law.

(b) District and circuit judges are elected by the qualified voters of their respective districts every four years in the manner provided by law.

(c) Vacancies in the offices of justices of the supreme court and judges of the courts of appeals, district courts, and circuit courts are filled by the governor, with the advice and consent of the senate, until the next succeeding general election.

(d) Justices of the peace are elected

by the qualified voters of the county or precinct every four years in the manner provided by law. Vacancies in the office of justice of the peace are filled by the county commission until the next succeeding general election.

(e) Municipal judges are selected in the manner provided by law.

Sec. 10. QUALIFICATIONS COMMISSION; REMOVAL OF JUDGES. (a) There shall be a judicial qualifications commission with such authority and functions as provided by law.

(b) A justice of the supreme court may be removed by the governor on the address of two-thirds of each house of the legislature for willful neglect of duty, incompetency, oppression in office, or other reasonable cause not a sufficient ground for impeachment.

(c) Any justice of the supreme court or any judge or other judicial officer may be removed, suspended, or censured as provided by law.

Sec. 11. COURT ADMINISTRATION. (a) (1) The supreme court shall provide for the efficient operation of the judicial system. The court may direct the transfer of cases from one court to another within each level of the judicial system and may assign judges within or between levels. The court may delegate responsibility for administration to the chief justice and administrative judges provided for in Subsection (a)(2) of this section.

(2) Each court of appeals district within the state constitutes an administrative district for purposes of trial court management. Within each district, the Chief Justice of Texas, with the advice and consent of the senate, shall designate a judge to serve as administrative judge of the district.

(3) There shall be a judicial council having such membership as provided by law which shall prescribe rules of administration for the unified judicial system and perform such other duties as shall be provided by law. Rules of administration shall not become effective until approved by the supreme court.

(b) The supreme court may prescribe rules of civil procedure not inconsistent with this article or the laws of this state for the government of the courts. Any rule of procedure expressly disapproved by resolution of either house of the legislature is thereby repealed. No rule of procedure may take effect until the legislature has the opportunity to disapprove it at a regular session.

Sec. 12. DISTRICT CLERKS; COUNTY CLERKS. (a) A district clerk, who serves as clerk of the district and circuit courts of the county, is elected by the qualified voters of each county for a term of four years. The clerk may be removed from office upon a jury finding of incompetence, official misconduct, or other cause defined by law. Vacancies in the office of district clerk shall be filled by the judges of the district and circuit courts in the county until the next general election. Each clerk may have a deputy or deputies and other personnel authorized by law.

(b) The county clerk, who serves as clerk of the county commission and recorder of the county, is elected by the qualified voters of each county for a term of four years. The legislature shall prescribe the duties, perquisites, and fees of the office. A vacancy in the office shall be filled by the county commission until the next general election.

(c) The legislature may authorize counties with populations below a level prescribed by law to elect a single clerk to serve as district and county clerk.

Sec. 13. JURIES. (a) A grand jury in the district court consists of 12 persons, of whom nine constitute a quorum and must concur in a bill of indictment.

(b) The legislature shall provide by law for trial juries.

(c) A party has the right to a jury trial upon demand made in the manner prescribed by law.

(d) Jury verdicts must be unanimous, except that the legislature, or the supreme court pursuant to its rule-making authority, may authorize jury verdicts in civil cases rendered by not less than three-fourths of the jurors sitting in a case.

(e) The legislature may provide by law for alternate jurors.

Sec. 14. SENTENCING AND PROBATION. Courts having original jurisdiction of criminal cases shall have power to suspend the imposition or execution of sentence and place a defendant on probation; and shall have further power to modify, set aside, or reimpose sentence, subject to regulation by law.

Sec. 15. APPEAL BY STATE. The state may not appeal in criminal cases.

Sec. 16. APPEAL BY ACCUSED. (a) The accused shall have the right of appeal to the appellate court having jurisdiction, specifically including the right of appeal granted by Article I, Section 11a of this constitution.

(b) Appeal to the supreme court shall be at the discretion of the court, unless otherwise provided by law.

Sec. 17. APPEALS FROM ADMINISTRATIVE ACTION. Notwithstanding any other provision of the constitution, the legislature may provide by law for the method of appeal to the courts from actions, rulings, or decisions of administrative agencies and executive departments of the state or any of its subdivisions.

Sec. 18. DISTRICT ATTORNEYS; COUNTY ATTORNEYS. (a) The state shall be represented in each county by a district attorney as now or hereafter provided by law. The district attorneys shall be elected by the qualified voters of their respective districts, and shall serve for a term of four years and until their successors have qualified. The state shall provide for the compensation of district attorneys.

(b) With such exceptions as now or hereafter provided by law, county attorneys shall be elected by the qualified voters of each county and shall hold office for a term of four years and until their successors have qualified.

(c) Each district and county attorney shall be licensed to practice law in this state. Other qualifications, duties, and functions of district and county attorneys and the grounds and procedure for

disqualification, suspension, removal, and filling of vacancies shall be as provided by law.

Sec. 19. COMPENSATION. The state shall pay the basic salaries of all justices and judges of the unified judicial system and shall pay such other expenses of the system as provided by law. Funds collected by the courts may not be used to support the unified judicial system except to the extent of reimbursement of salaries and other expenses.

Sec. 20. JUDICIAL RETIREMENT. (a) The legislature may prescribe by law the mandatory retirement age of a justice or judge in the unified judicial system.

(b) Notwithstanding any other provision of this constitution, the system of retirement, disability, and survivors' benefits established in the constitution or by law for justices, judges, and commissioners of the appellate courts and judges of the district and criminal district courts and in effect at the time of adoption hereof shall be continued. The legislature shall provide for inclusion in the system of judges of all courts in the unified judicial system and such other elected state officials as now or hereafter provided by law.

(c) General administration of the Judicial Retirement System of Texas shall be by the Board of Trustees of the Employees Retirement System of Texas under such regulations as may be provided by law.

TRANSITION SCHEDULE

(a) SUPREME COURT; COURT OF CRIMINAL APPEALS. On the effective date of Article V, the chief justice of the supreme court becomes the Chief Justice of Texas. The presiding judge and the other judges of the court of criminal appeals and associate justices of the supreme court become justices of the supreme court. Each commissioner of the court of criminal appeals becomes a commissioner of the supreme court, but that position exists only as long as it continues to be held by the commissioner in office on the effective date of Article V. Except for the office of chief justice, the offices of the first five justices who cease to be members of the supreme court by reason of death, removal, resignation, or retirement after the effective date of Article V cease to exist. The death, removal, resignation, or retirement of an incumbent justice after having been defeated at a primary or general election does not terminate the office.

(b) SUPREME COURT DIVISIONS. After the effective date of Article V and before the total membership of the supreme court is reduced to nine or such other number as provided by law, the court may sit in civil and criminal divisions. Notwithstanding the provisions of Article V, Section 2(a), the concurrence of a majority of a division is necessary to decide a case.

(c) COURTS OF APPEALS JUSTICES. Chief justices of the courts of civil appeals become chief judges of courts of appeals. Justices of courts of civil appeals become judges of courts of appeals.

(d) DISTRICT AND CIRCUIT JUDGES. Each district judge or judge of a criminal district court, domestic relations court, special juvenile court, or special probate court becomes a district court judge. Each judge of a county court at law, county civil court at law, county criminal court, county criminal court at law, county criminal court of appeals, or other county court created by statute becomes a judge of a circuit court. Until otherwise provided by law, municipal court judges and justices of the peace remain as they exist at the time of adoption of Article V.

(e) JUDICIAL DISTRICTS. Until otherwise provided by law, the judicial districts of the state remain the judicial districts authorized at the time of adoption of Article V, including any judicial districts authorized by law taking effect after the date of adoption of Article V.

(f) COUNTY COURT JUDGES. Judges of the county court elected pursuant to Article V, Section 15 of the Constitution of 1876, as amended, remain as presiding officers of the county commission as provided in Article IX, Section 3(a) of this constitution. However, a judge of the county court who is licensed to practice law, by written notice to the governor filed with the secretary of state within 30 days after the effective date of Article V, may elect instead to become a judge of the circuit court established pursuant to Article V, Section 5, in the event there is no circuit court judge provided for such district under the provisions of Subsection (d) above. In the latter event, the office of county judge becomes vacant and is filled by the county commission until the next general election. Should more than one judge of the county court within the same circuit court district file such written notice, the governor shall select the one to become judge of the circuit court.

(g) TRANSFER OF PROCEEDINGS AND RECORDS. All courts, except those authorized by Article V, are abolished and all matters pending before them are transferred to the appropriate successor courts authorized by Article V. The courts into which the matters are transferred assume full jurisdiction of the matters and have full authority to dispose of them and to execute or otherwise give effect to all orders, judgments, and decrees issued by their predecessor courts. Courts authorized by Article V succeed to all records and property of courts abolished by this subsection.

(h) JUDICIAL OFFICE TRANSITION. No judicial office is abolished until the expiration of the term of the person who held the office on the effective date of Article V, or until that person ceases to hold the office, whichever occurs first.

(i) INITIAL JUDICIAL TERMS. The initial justices, judges, and justices of the peace in the judicial branch established by Article V serve for the remainder of the terms for which elected and thereafter serve for the terms provided in Article V.

(j) LAWS AND RULES CONTINUED. Except to the extent inconsistent with the provisions of Article V, all laws and rules of court in force on the effective date of Article V continue in effect until superseded as authorized by law.

(k) TRANSFERS FROM COURT OF CRIMINAL APPEALS. All matters filed in or docketed, but not heard, by the court of criminal

appeals on the effective date of Article V are transferred to the court of appeals to which the matters would have been docketed were they civil in nature and the court of appeals still a court of civil appeals. Until the legislature or supreme court makes provisions for the appeal of criminal cases from the courts of appeals, the rules presently in force for appeals from courts of civil appeals also apply to the appeal of criminal cases.

(l) QUALIFICATIONS COMMISSION. Members of the judicial qualifications commission shall continue in office and perform the duties of the commission established by Article V, Section 1-a(2) of the 1876 Constitution, as amended, until a commission is established pursuant to Article V, Section 10(a) of this constitution.

(m) JUDICIAL COUNCIL. Until otherwise provided by law, the judicial council provided for in Article V, Section 11(a)(3) is composed of the following members, each of whom serves a two-year term: the Chief Justice of Texas, who serves as chairman; 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 of Texas, each appointed by its board of directors; and two members of each house of the legislature, each appointed by their respective houses.

(n) PROSECUTORS. All laws pertaining to the office of district attorney, criminal district attorney, or county attorney which are in effect on the effective date of Article V remain in effect until changed by law.

(o) RETIREMENT FUND TRANSFERS. Any participant in a county retirement, disability, and death compensation fund who becomes, pursuant to Article V or this transition schedule, a judge of a district or circuit court has the option of continuing to participate in the county fund or of transferring membership and accrued service credit and contributions to the state judicial retirement system under such regulations as provided by law.

(p) OTHER PROVISIONS. In the event a transfer or transition has not been provided for by this section or by law, the supreme court shall provide by rule for the orderly transfer or transition.

(q) EFFECTIVE DATE. Article V of this constitution takes effect January 1, 1976.

SECTION-BY-SECTION ANALYSIS OF COMMITTEE REPORT

A. Introduction

(1) Summary of committee action

The committee began its work by hearing extensive witness testimony concerning introduced proposals and the issues to be considered in court reorganization. After hearing this testimony and studying the proposals, the committee proceeded to compile a preliminary draft of the proposed judiciary article. Utilizing Constitutional Convention Proposal Number 1 as an organizational model, a section-by-section comparison of proposals was prepared, and the committee voted its preference among proposals for each section to arrive at a working draft.

On review of this draft, there was extensive intracommittee discussion and the presentation of section-by-section amendments. The work product of this process was the "semifinal draft" of the proposed Article V, which was forwarded to the staff of the Style and Drafting Committee for further study.

In the preparation of the final draft of the article, section-by-section amendments were again offered, and record votes were taken. Numerous stylistic changes and some structural modifications resulted from this process.

Section 1 vests the judicial power of the state, defines the unified judicial system, and provides for uniform jurisdiction of courts of the same level.

Section 2 creates the supreme court and permits the legislature to grant power to the court to answer certified questions from federal courts.

Section 3 provides for intermediate courts of appeals.

Section 4 creates district courts and provides for their organization.

Section 5 directs the establishment of a lower-level trial court system.

Section 6 permits county judges to be given judicial functions.

Section 7 provides for justice courts and precincts and authorizes municipal courts.

Section 8 makes provision for judicial qualifications.

Section 9 provides for the election and terms of office of judges and the filling of vacancies.

Section 10 directs the creation of a qualifications commission and provides for the removal of judges.

Section 11 establishes a system of court administration, directs the creation of a judicial council, and provides for judicial rule-making.

Section 12 provides for district and county clerks.

Section 13 provides for juries.

Section 14 governs judicial power in regard to sentence suspension and probation.

Section 15 denies the state a right of appeal in criminal cases.

Section 16 makes provision for the accused's right of appeal and gives the supreme court discretionary authority to hear appeals.

Section 17 authorizes the legislature to prescribe the method of appeal from administrative action.

Section 18 provides for district and county attorneys.

Section 19 provides for state financing of the unified judicial system.

Section 20 provides for judicial retirement.

(2) Historical background

The pattern of judicial institutions in Texas has evolved through six separate constitutions, culminating in the 1876 version of Article V. The first attempt to make major revisions in this structure occurred less than two years after its adoption and was unsuccessful. In 1891, the article was substantially revised. An attempt was made in that revision to relieve overcrowding of the supreme court docket by creating intermediate courts of civil appeals

to hear most civil appeals and by creating the first specialized criminal appellate court in the state's history. Another important aspect of the 1891 amendment was the authorization for the legislature to create courts other than those specifically named in the constitution.

Since 1876, a total of 21 amendments have been proposed to the judiciary article, and 13 have been adopted. As a result of these changes, the present judicial branch consists of two courts of last resort, the supreme court and the court of criminal appeals. There are 14 intermediate courts of civil appeals, having three justices each; 227 district courts; 10 criminal district courts; 254 county courts (with the county judge also serving as presiding officer of the commissioners court); 26 special domestic relations courts; 6 special juvenile courts exercising parts of district court jurisdiction; 6 special probate courts; 62 other variants of "county courts at law" exercising parts of county court and district court jurisdiction; approximately 925 justice of the peace courts; and approximately 1,000 municipal courts. Funding for these courts and supporting staff comes from a variety of federal, state, county, and municipal sources.

Since 1905, repeated proposals have been made to implement a unified judicial system in Texas. Although these measures have varied widely, the essence of each is the creation of a state-financed, simplified court structure amenable to a coordinated management effort. Those proposals are extensively reviewed in the report of the Texas House Judiciary Committee entitled Streamlining the Texas Judiciary: Continuity With Change, a copy of which has been given to each delegate.

The proposed judiciary article, in common with the Constitutional Revision Commission proposal, creates one supreme court and directs the creation of one or more intermediate courts of appeals, both having jurisdiction as provided by law. A two-level trial court system including district and circuit courts completes the state-financed "unified system." Outside of this system, county judges presiding over the county commissions may be given judicial functions. Justices of the peace (one or more per county) are required, and municipal courts may be created. Both types of courts are outside the unified system. Election of all justices and judges is retained, as in the present constitution.

B. Section-by-Section Analysis

Sec. 1. JUDICIAL POWER. The judicial power of the state is vested in the judicial branch. The state unified judicial system is composed of a supreme court, courts of appeals, district courts, and circuit courts. All courts have jurisdiction as provided by law, but jurisdiction of courts of the same level must be uniform throughout the state.

COMMENTS

(1) Explanation

Section 1 implements the separation of powers directive to be included in Article II, Section 1, by vesting the judicial power of the state in the judicial branch of government. All courts within the judicial branch have jurisdiction as provided by the legislature, subject only to the limitation that "jurisdiction of courts of the same level must be uniform throughout the state." The specific authorization to create other courts, contained in Article V, Section 1 of the 1876 Constitution, has been deleted.

The state unified judicial system consists of the supreme court, courts of appeals, district courts, and circuit courts. The organization and administration of the system is provided for in subsequent sections.

Within the unified system, the court of criminal appeals is merged with the supreme court to form a single court of last resort with both criminal and civil jurisdiction. Rather than creating a new system of intermediate criminal appellate courts, the proposal anticipates the vesting of criminal jurisdiction in the existing system of courts of civil appeals, designated as courts of appeals.

The trial courts included within the unified system include a system of courts of general jurisdiction, district courts, and a system of courts of limited jurisdiction, circuit courts.

Present statutory courts are abolished. Judges of district, criminal district, domestic relations, special juvenile, and probate courts will become judges of district courts. The various county-level statutory court judges will become circuit judges. Lawyers serving as judges of the former constitutional county courts could elect to become circuit judges or remain the presiding officers of the county commissions. Nonlawyer judges would have judicial duties as provided by law.

(2) Existing law

The form of the existing judicial system is summarized in part (2) of the introduction and in Figure 1.

(3) Committee deliberations

The preliminary committee draft of Section 1 vested jurisdiction in a supreme court, courts of appeals, district courts, "and no others." The semifinal draft added circuit courts and removed the "and no others" phrase. On final adoption, the committee voted 10-9-1 for the language in the report. It failed to reinsert the phrase "and no others" by vote of 9-10-1.

(4) Commentary

The premise underlying court unification is that only through management of judicial resources can speedy and fair administration of justice be attained. The achievement of this end requires implementation of a court system amenable to management.

At the trial court level, unification demands elimination of overlapping jurisdiction, establishment of uniform jurisdiction for all courts at each level, and state financing of all costs of operating a unified judicial system. Local financing of trial courts has resulted from a failure of the state to meet its financial obligations, and the consequence has been a hodgepodge of special courts at the trial level with varying limitations on jurisdiction.

Outside the unified judicial system, the committee report provides specifically for justices of the peace and municipal courts. Provision is made for these courts in Section

7. In addition, the constitutional county judge, who continues to preside over the county commission, has judicial functions as provided by law.

Sec. 2. SUPREME COURT. (a) The supreme court shall be the highest court of the state and shall consist of the Chief Justice of Texas and at least eight other justices, of whom a majority shall be necessary to decide a case. It shall have such jurisdiction and administrative and rule-making authority as provided in this article or by law.

(b) The legislature may grant jurisdiction to the supreme court to receive and answer questions of state law certified from federal courts.

COMMENTS

(1) Explanation

Section 2 carries forward many of the provisions of Article V, Section 2 of the 1876 Constitution. The supreme court is instituted as the highest court of the state with both civil and criminal jurisdiction. Because of the possibility that the addition of criminal jurisdiction may necessitate more than the present nine justices, the court can be expanded above that number to the size necessary to conduct its business.

The election and terms of supreme court justices are governed by Section 9 of the new article. Qualifications of justices are covered by Section 8, and removal is the subject of Section 10. Administrative and rule-making authority is delineated in Section 11.

The detailed jurisdictional provisions of the present Article V are not retained, nor are provisions relating to court sessions and the court clerk. Although reference to court sections (presently authorized but not utilized) is deleted, the requirement that a majority of the court decide a case is retained.

Section 2 further authorizes the court to answer questions of state law certified by federal courts hearing matters of state law in the exercise of diversity jurisdiction, if the legislature authorizes this jurisdiction. The provision effectively overrules the decision of the Texas Supreme Court in United Service Life Insurance Co. v. Delaney, 396 S.W.2d 855 (Tex. 1965). That decision held that utilizing a declaratory judgment proceeding for the purpose of advising a federal court on Texas law was an advisory proceeding and beyond the constitutional power of Texas courts. To date, nine states have adopted a procedure similar to that recommended in Section 2. See 60 A.B.A.J. 336 (March, 1974) and testimony of Circuit Judge John R. Brown before the committee.

(2) Existing law

The present supreme court has been expanded from three to nine members since 1876. The court may sit in sections, but the concurrence of five members is necessary to decide a case. Since 1891, the court has had appellate jurisdiction of appeals from the courts of civil appeals, as presently delineated in Article 1728, Vernon's Texas Civil Statutes. It may hear certain injunction cases appealed directly from trial courts, as provided in Section 3-b of Article V of the present constitution. Provision is made in the present judiciary article for the court's jurisdiction to issue writs of quo warranto, mandamus, and habeas corpus. Section 3 of the present article also vests writ authority necessary for the enforcement of the court's jurisdiction.

Sections 4 and 5 of the present Article V establish the present court of criminal appeals. The court now consists of five judges. It has jurisdiction as provided by law in criminal matters. Millican v. State, 145 Tex. Crim. 195, 167 S.W.2d 188 (1942).

(3) Committee deliberations

The preliminary committee draft established the supreme court as the high court of the state and set its size at a minimum of nine justices. All other aspects of the court were left to law. The semifinal draft added a majority requirement for the decision of a case and certified question authority. The committee adopted Section 2 of the final report by vote of 14-6.

(4) Commentary

There are several reasons for merger of the two courts of last resort. Most importantly, the essence of a unified judicial system is internal management, and the retention of two courts of last resort frustrates that goal. Stated most simply, a system of trial courts cannot serve two masters, each having parallel but independent administrative hierarchies. In recognition of this reality, Oklahoma, the only other jurisdiction having bifurcated courts of last resort, has made its court of criminal appeals the administrative inferior of the supreme court. Such an alteration, however, proceeds in the unwholesome direction of making the criminal law the stepchild of the bar.

Another reason is the work load of the Texas Court of Criminal Appeals, although that can be alleviated in part by intermediate review of criminal matters. Another reason is opposition to criminal case review by specialized judges in the court of last resort. Although some areas of the law may require specialization, nevertheless a majority of trial court judges hear both civil and criminal matters.

Sec. 3. COURTS OF APPEALS. There shall be one or more courts of appeals as provided by law, each consisting of a chief judge and at least two other judges, of whom a majority shall be necessary to decide a case.

COMMENTS

(1) Explanation

Section 3 establishes the state's intermediate appellate court system, mandates three or more judges per court, and requires a majority of the court for the decision of a case.

(2) Existing law

In common with most populous jurisdictions, Texas has long utilized intermediate appellate courts. Since 1891, a network of regional courts of civil appeals has handled civil case review in the state. They are constitutionally restricted in size to three judges. Presently, 14 of these courts are organized in 13 geographic districts. (The district including Harris County constitutes both the First and Fourteenth Courts of Civil Appeals.) The judgments of these courts are final in some instances, while in others a writ application may be made to the supreme court.

While the courts of civil appeals operate largely as autonomous courts within their respective districts, the supreme court does exercise statutory authority to equalize the work load of the 14 courts. Justices of the court to which a proceeding is transferred travel to the district in which the appeal is filed in order to hear the matter. In 1972, the average number of written opinions per justice was 32. This compared with an average of 210 opinions per judge on the court of criminal appeals.

(3) Committee deliberations

As adopted in the preliminary committee draft, Section 3 mandated courts of appeals, each having three or more judges; a majority of a court was required for a decision. Minor style changes were adopted in the semifinal draft, and the same language was adopted for the committee report by a vote of 17-2.

(4) Commentary

With the adoption of Section 3, the committee is continuing the system of intermediate appellate review in civil matters and extending it to criminal cases. While separate courts could have been created for this purpose, it was felt that the better course was to utilize the existing framework of courts of civil appeals and place criminal jurisdiction in that system.

With 56 state appellate judges, Texas already has by far the largest number of any jurisdiction. Testimony from civil appeals justices appearing before the committee indicated that the additional criminal work which would be vested in the 42-judge intermediate appellate system could be absorbed. By removal of the size limitation on the courts, they may be expanded, if needed, for the additional work. In addition, the provisions of Section 11 permit the temporary assignment of additional judges to the courts.

The concern was expressed in committee hearings that during the transition phase of the new system, civil law specialists would have difficulty adjusting to the highly specialized criminal law field. Three mitigating factors should help allay this concern.

First of all, the proposed court administration system permits trial and appellate judges, many of whom have extensive criminal law experience, to be assigned temporarily to the courts of appeals. Second, some civil appeals judges are currently being utilized by the present court of criminal appeals as commissioners and are thereby gaining experience in criminal case review. Finally, decisions of the courts of appeals will be subject to supreme court review and, during the transition phase, the high court will include all the criminal law specialists currently serving on the court of criminal appeals. If deemed expedient during the transition, the court is authorized to sit in criminal and civil divisions.

Sec. 4. DISTRICT COURTS. The state shall be divided into judicial districts as now or hereafter provided by law. In each district there shall be one district court with one or more district judges.

COMMENTS

(1) Explanation

Section 4 establishes the state's system of general jurisdiction trial courts. Within each judicial district, there will be one court with one or more judges. The initial judicial districts will be those existing prior to the adoption of the new constitution, and they will remain the judicial districts of the state until altered by law. Under the provisions of Section 1, all district courts will have the same jurisdiction.

(2) Existing law

Organized into semiautonomous geographic units with one judge per court, district courts have existed in Texas largely unchanged since the Constitution of the Republic. In Wheeler v. Wheeler, 76 Tex. 489, 13 S.W. 305 (1890), the supreme court held that more than one district court could have jurisdiction over the same territory. Since that date, a pattern of multicourt urban counties and overlapping districts has evolved.

The jurisdiction of district courts was detailed at length in the 1876 Constitution. In 1891, the legislature was authorized to create "other courts" than those enumerated in the constitution. The result has been the creation of locally financed courts having concurrent jurisdiction with the district court in specialized areas. Examples of these are special domestic relations and juvenile courts. County courts at law also exercise concurrent jurisdiction with district courts in eminent domain, probate, and cases where the amount in controversy is between $500 and $5,000 (and in some instances to $10,000).

(3) Committee deliberations

The wording of Section 4 was identical in the preliminary committee draft and the semifinal draft. Only minor word changes were made in the final language, and it was adopted by voice vote. The phrase, "as now or hereafter provided by law," was inserted to reflect the committee's intention to leave judicial districts as presently constituted until altered by statute.

(4) Commentary

The present organization of district courts and specialized district courts evidences jurisdictional rigidity in the present constitution and the failure of the state to create adequate numbers of district courts.

The proposed Section 4 avoids the one judge per court straitjacket and jurisdictional inflexibility. Existing district, criminal district, domestic relations, juvenile, and probate courts will become full district courts within the unified system. Specialization may well be retained within this system but will be an administrative device rather than a jurisdictional barrier.

Sec. 5. CIRCUIT COURTS. The legislature shall establish in each judicial district, now or hereafter provided by law, a circuit court with one or more judges. A circuit court may serve one or more counties, but no county shall have more than one circuit court.

COMMENTS

(1) Explanation

Section 5 directs the creation of a lower-level trial court system as a part of the state unified judiciary. The legislature

is directed to create one circuit court in each judicial district and staff it with one or more judges. Under the provisions of Section 8, judges of this court are required to be lawyers. This system of courts would absorb existing county court and county court at law jurisdiction, presently exercised by 254 county judges and 62 judges of county courts at law. Judges of the county courts at law would become circuit judges, and a lawyer-judge of a constitutional county court could elect to become a circuit judge or remain as presiding officer of the county commission.

(2) Existing law

Presently, there are 254 county courts and 62 variants of county courts at law. All of these courts are financed at the county level. County courts are created constitutionally, and county courts at law are created legislatively on authority of Article V, Section 1 of the 1876 Constitution, as amended. County courts have probate jurisdiction, appellate jurisdiction from justice of the peace and municipal courts, and original civil jurisdiction from $200 to $1,000. Since 1971, county courts at law, in addition to county court jurisdiction, have had additional jurisdiction in civil matters from $1,000 to $5,000 (and in some instances to $10,000).

(3) Committee deliberations

As adopted in the preliminary committee draft, Section 5 was identical to the county court provision of the Constitutional Revision Commission. In the semifinal draft, the court was not altered, but the name was changed to "circuit court." In the final committee proposal, circuit courts are organized within judicial districts. The final version was adopted by vote of 12-5.

(4) Commentary

Under the 1876 Constitution, each county is entitled to a county court, but only one judge may sit on a court. Section 5 permits greater flexibility by permitting a lower-level trial court to serve more than one county and to have more than one judge. The multicounty concept should be useful for rural areas having too few lawyers or too little litigation to warrant one court per county; the multijudge provision is designed for urban court administration where litigation demands more than one judge.

The committee proposal for a lower-level trial court system does not differ substantially from the Constitutional Revision Commission's "county court" system. Because of the decision to retain the title "county judge" in Article IX for the presiding officer of the county commission, the term "circuit court" was chosen for the second trial court in the unified system to avoid confusion.

Sec. 6. COUNTY JUDGE. The county judge provided for in Article IX, Section 3(a) of this constitution has judicial functions as now or hereafter provided by law.

COMMENTS

(1) Explanation

Section 6 authorizes the legislature to give judicial functions "as now or hereafter provided by law" to county judges created in Article IX, Section 3(a).

(2) Existing law

County judges presently preside over the commissioners court and the county court. The jurisdiction of the county court, discussed in the commentary to Section 5, has been detailed constitutionally in Section 16 of Article V. Section 15 requires that each judge be "well informed in the law of the State."

(3) Committee deliberations

The provisions of Section 6 appeared for the first time in the semifinal committee draft. Only style changes were adopted in the final draft, except for the addition of the phrase "as now or hereafter provided by law." Section 6 was finally adopted by vote of 11-7.

(4) Commentary

Changes in the social and economic structure of the state during the past 140 years have severely undermined the rationale for our present county court system. This system had its genesis in the agrarian Texas of the 1830s. At that time, various factors--sparse population, transportation difficulties, and a marginal economy--probably justified the use of a local executive official in a judicial capacity. All state constitutions since 1836 have provided for this arrangement, and the present one provides for it in great detail.

However, not only have the original justifications largely vanished in contemporary Texas, but countervailing considerations have also appeared. The sophisticated problems of today's local government require more than part-time attention from the principal county official. Likewise, the number and complexity of judicial issues confronting a county judge have greatly escalated since the 1830s.

This section acknowledges the desirability of substantial change in the judicial role of county judges. It is anticipated that circuit courts in rural areas, and circuit and/or district courts in urban areas, will handle the bulk of the matters presently handled by county courts. Present county judges who are licensed to practice law (66 of the 254) may elect to become circuit judges. The remaining county judges, and all future ones, can be given judicial authority to handle truly local matters of which summary disposition is possible (as, for example, probate matters, pleas of guilty, lunacy hearings, and other uncontested matters).

Sec. 7. OTHER COURTS. (a) The county commission in each county shall divide the county from time to time into justice precincts, not less than four nor more than eight.

(b) The county commission in each county shall establish and maintain one or more justice courts in the county with each court to exercise jurisdiction in one or more precincts in the manner provided by law.

(c) Municipal courts may be established by law or by charter as authorized by law and shall have such jurisdiction as provided by law.

COMMENTS

(1) Explanation

Section 7 recognizes courts outside the state unified judicial system. It acknowledges the possibility of municipal courts, but leaves all details of their operation to the discretion of the

legislature. It requires each county commission to establish at least one justice court in the county, and further requires each county commission to divide the county into not fewer than four nor more than eight justice precincts.

(2) Existing law

No mention is made of municipal courts in the 1876 Constitution. Article V, Section 18 requires four to eight precincts in each county with one justice court in each, except that precincts including municipalities of 8,000 or more population have two justices of the peace. By directive of Article V, Section 19, justice courts have civil and criminal jurisdiction up to $200.

(3) Committee deliberations

The preliminary committee draft included the Constitutional Revision Commission justice court provision mandating one or more courts per county. The semifinal draft permitted one or more justice of the peace courts per county but did not require them; the recognition of municipal courts became Subsection (c) of the section. On final adoption, the permissive approach for justice courts was tabled by vote of 9-8, and the final form of the section was adopted by vote of 13-3-2.

(4) Commentary

There are widely differing views as to what form the local trial court level in the state should take. In part, this is because the citizenry of the state live in areas which range from very rural to very urban in character, and any system is strained to meet the needs of citizens at either extreme.

The present justice court system originated in the 1830s and has continued to the present with only slight modification. The municipal court system, though of more recent development, is similar and exhibits the same strengths and weaknesses. These courts are generally a community asset. They are accessible and are presided over by judges familiar with community needs. They are therefore able to perform a number of desirable quasi-judicial functions, such as informal counselling in domestic relations disputes. The procedures in the courts are sufficiently informal that litigants are not intimidated as they might be in other forums. Costs of litigation in these courts are low, making them attractive to litigants with small claims.

There are obvious disadvantages to the present system. Texas has only one municipal court and no justice courts which are courts of record. The absence of a record in justice and municipal courts means that appeal must be by trial de novo. Litigants who appeal are faced with significant delay and expense. Further, justices of the peace and municipal court judges need not be attorneys under the present system. While this is a definite advantage to those areas in which no attorney lives, it also means that the presiding officer of the only court most litigants ever see is likely to lack formal legal training. The use of part-time judges in these courts leads to potential conflicts of interest and otherwise undermines the dignity of the office.

The Texas Justices of the Peace and Constables Association inaugurated a legal education program, with statutory authorization, in 1971, for the benefit of justices of the peace and municipal court judges. While the impact of this program is not yet clear, it could have a very desirable effect on the quality of justice in those courts.

Section 7 is flexible enough to allow the continuance of inexpensive local courts in an enhanced posture. Two significant changes are made regarding justice courts. First, their jurisdiction is not frozen in the constitution, which will allow the legislature to upgrade their jurisdiction and, hence, the dignity of the office. Second, the present one court per precinct requirement is removed. Each county commission will now be able to regulate the number of courts and the number of judges per court to meet the needs of the county. These two changes should decrease the number of part-time justices of the peace and also make the office more attractive to people with legal training.

Clearly, the legislature will have the authority under the proposed article to prescribe the qualifications of justices of the peace, authority on which the present constitution is silent.

Municipal courts are given constitutional status as a matter of consistency. Jurisdiction and method of operation of such courts will continue to be determined by general law.

No change was made in the present justice precinct structure because the precincts have developed considerable significance as units for local-option liquor elections. (See Article XVI, Section 20 of the Constitution of 1876 and Article X, Section 17 of the Constitutional Revision Commission draft.)

Sec. 8. QUALIFICATIONS OF JUDGES. No person may serve as a justice, judge, or justice of the peace unless the person is a United States citizen and a resident of this state and has other qualifications prescribed by law. No person may serve as justice or judge in the unified judicial system unless licensed to practice law in this state.

COMMENTS

(1) Explanation

Section 8 provides the qualifications to be required for justices and judges of the courts of the state.

(2) Existing law

Qualifications for judicial office, frequently detailed in nature, are found in Sections 2, 6, 7, and 15 of the 1876 Constitution. Often the courts have given a narrow construction to these detailed prescriptions and held that the legislature may make no alteration in them. See Dickson v. Strickland, 114 Tex. 176, 265 S.W. 1012 (1924). No qualifications are prescribed in the 1876 Constitution for justices of the peace and municipal judges. County judges are required only to be "well informed in the law."

(3) Committee deliberations

Only stylistic changes were made in the text of Section 8 after its inclusion in the preliminary draft. The final language was adopted by vote of 14-3.

(4) Commentary

Except for citizenship and residency in the state, the proposed Section 8 leaves the

prescription of general qualifications for judicial office to legislation. Justices and judges within the unified system, however, are required to be licensed to practice law in the state.

With the exception of residence and legal training, the committee feels there are no universal principles of enduring quality associated with qualifications for judicial office. Detailed constitutional directives concerning this matter thus are not included.

The principal departure from existing law in the proposed Section 8 is the making available of a lawyer-judge of a lower-level trial court for all citizens of the state. Presently, such judges with legal training are generally available only in urban areas having locally financed county courts at law.

Sec. 9. ELECTION OF JUDGES. (a) The Chief Justice of Texas and other justices of the supreme court are elected by the qualified voters of the state every six years in the manner provided by law. Judges of the courts of appeals are elected by the qualified voters of their respective districts every six years in the manner provided by law.

(b) District and circuit judges are elected by the qualified voters of their respective districts every four years in the manner provided by law.

(c) Vacancies in the offices of justices of the supreme court and judges of the courts of appeals, district courts, and circuit courts are filled by the governor, with the advice and consent of the senate, until the next succeeding general election.

(d) Justices of the peace are elected by the qualified voters of the county or precinct every four years in the manner provided by law. Vacancies in the office of justice of the peace are filled by the county commission until the next succeeding general election.

(e) Municipal judges are selected in the manner provided by law.

COMMENTS

(1) Explanation

Section 9 provides for the election of appellate justices and judges for six-year terms and for the election of district and circuit judges for four-year terms. Selection may be by either partisan or nonpartisan election, as provided by law. Vacancies within the unified system are filled by the governor with advice and consent of the senate, until the next general election.

Justices of the peace are elected for four-year terms, and vacancies are filled until the next general election by the county commission. Municipal judges are to be selected in the manner provided by law.

(2) Existing law

Section 9 represents no basic change in present constitutional and statutory law. The selection of municipal judges is not governed by the present constitution. In home-rule cities, municipal judges are now appointed or elected as provided by charter, and in "general law" cities, the elected mayor serves as ex officio municipal judge.

(3) Committee deliberations

The section adopted in the preliminary draft governed only the justices and judges in the unified system. The semifinal draft retained the same form but provided for regional election districts for supreme court justices. On final adoption, regional election was tabled by a vote of 10-8, and the final language was adopted by the same vote.

(4) Commentary

Basically, the terms and manner of selection of judges remain as presently provided. The expression "elected...in the manner provided by law" is intended to permit broad statutory flexibility in prescribing the manner of election and should permit the legislature to prescribe either partisan or nonpartisan elections. The selection of municipal judges, not mentioned in the 1876 Constitution, is wholly within legislative discretion.

The selection of judges by popular election first gained national favor over 120 years ago. From 1846 until 1958, all states entering the Union came with an elective judiciary, and four of the original states changed from appointment to election of judges. In 1971, 25 states retained the elective method as the dominant selection process. Fifteen of these, including Texas, had partisan elections at that time.

The committee believes that the interest of citizens in their courts should be encouraged by retention of the elective system. A judge who desires extended tenure and who must periodically face the electorate must be even-handed and careful of his record, desirable traits for any public official. In Texas, qualified judges are normally reelected without difficulty, usually without opposition, and no drastic change in the system need be instituted to assure a high retention ratio.

The committee is aware that elective judges, in either a partisan or nonpartisan elective system, face a campaign problem in communicating with their electorate about the issues in a judicial race. Among appellate judges, whose work is more distant from and less intelligible to the general public, the problem is even more acute. In addition, the necessity for extensive campaign financing may at times threaten the independence of the judicial decision-making process. These problems are not peculiar to the judiciary, however, but are shared by elected officials in other branches of government. The committee feels that such burdens are part of the price we must pay in order to keep our judiciary close to the people and responsive to their needs.

While judges are not advocates for a constituency in the same manner as the other two branches of government, the committee feels that the judiciary should be broadly representative of the citizens it serves. No system better assures this end than the continued election of judges.

Rather than removing judges from politics, an appointive or "merit" system merely exchanges one type of politics for another. While a "merit" system of selection and retention sounds appealing, it is hardly consistent with democratic tradition to take from the people their ultimate right to determine those persons who are to exercise governmental power.

Sec. 10. QUALIFICATIONS COMMISSION; REMOVAL OF JUDGES. (a) There shall be a

judicial qualifications commission with such authority and functions as provided by law.

(b) A justice of the supreme court may be removed by the governor on the address of two-thirds of each house of the legislature for willful neglect of duty, incompetency, oppression in office, or other reasonable cause not a sufficient ground for impeachment.

(c) Any justice of the supreme court or any judge or other judicial officer may be removed, suspended, or censured as provided by law.

COMMENTS

(1) Explanation

Section 10 mandates a judicial qualifications commission and prescribes a method for the removal of supreme court justices for less than impeachable offenses. It also empowers the legislature to provide by law for the removal, suspension, or censure of all justices, judges, and other officers in the judicial branch.

(2) Existing law

Article V, Section 1-a was added to the present constitution by an amendment in 1965. It established a judicial qualifications commission composed of nine members (four judges, two attorneys, and three laymen) which was empowered to investigate complaints directed against appellate and district judges. If the commission found merit in a complaint, it recommended to the supreme court that the judge in question be removed from office. The supreme court could accept or reject the commission's recommendation but had no authority to mete out intermediate forms of punishment, such as suspension, censure, or reprimand.

The 1965 version of the judicial disciplinary machinery had two significant weaknesses. First, the qualifications commission had no jurisdiction over trial court judges other than those at the district court level. Second, there was only one possible sanction for all degrees of judicial misconduct, and this sanction was so harsh that it did not act as a credible deterrent to "minor" offenses.

A 1970 constitutional amendment, under which the present qualifications commission functions, corrected the obvious shortcomings of the judicial disciplinary machinery. The judicial qualifications commission now has jurisdiction over all judges and justices in the state. It may, after a hearing, publicly or privately censure or suspend the justice or judge in question. If, after the hearing, the qualifications commission decides removal is the proper sanction, it refers the case to the supreme court. The supreme court reviews the hearing record and decides whether to dismiss the case, or to censure or remove the judge or justice in question.

In addition to Section 1-a of the present constitution, there are several constitutional means of removing judges. The "address" method in Subsection (b) is presently in Article XV, Section 8; impeachment of supreme court and court of appeals justices and district judges is authorized in Article XV, Section 2 (retained in the new legislative article for supreme court justices only); Article V, Section 24 presently authorizes district judges to remove county judges; and Article XV, Section 6 authorizes the supreme court to remove any justice or judge.

(3) Committee deliberations

In the preliminary draft, the committee adopted the removal provisions (Section 11) of the Constitutional Revision Commission draft. The semifinal draft mandated a qualifications commission and nothing more. On final adoption, the Constitutional Revision Commission proposal (with style changes) was tabled by vote of 10-5, and the final section was adopted by vote of 14-0.

(4) Commentary

Because of the doctrine of separation of powers, it is prudent to include in the constitution a well-defined method, short of impeachment, for the removal of the highest members of the judiciary. Section 10 accomplishes this and also permits the legislature to devise, if necessary, additional methods.

The legislature may provide by law for the methods of removal, suspension, or censure of all justices and judges. The judicial disciplinary machinery established by Article V, Section 1-a of the present constitution will be preserved in statutory form under this section.

Sec. 11. COURT ADMINISTRATION. (a)(1) The supreme court shall provide for the efficient operation of the judicial system. The court may direct the transfer of cases from one court to another within each level of the judicial system and may assign judges within or between levels. The court may delegate responsibility for administration to the chief justice and administrative judges provided for in Subsection (a)(2) of this section.

(2) Each court of appeals district within the state constitutes an administrative district for purposes of trial court management. Within each district, the Chief Justice of Texas, with the advice and consent of the senate, shall designate a judge to serve as administrative judge of the district.

(3) There shall be a judicial council having such membership as provided by law which shall prescribe rules of administration for the unified judicial system and perform such other duties as shall be provided by law. Rules of administration shall not become effective until approved by the supreme court.

(b) The supreme court may prescribe rules of civil procedure not inconsistent with this article or the laws of this state for the government of the courts. Any rule of procedure expressly disapproved by resolution of either house of the legislature is thereby repealed. No rule of procedure may take effect until the legislature has the opportunity to disapprove it at a regular session.

COMMENTS

(1) Explanation

Section 11 provides for a system of court administration and rule-making authority for the judicial branch of government. Subsection (a)(1) places a duty on the supreme court to provide for the efficient operation of the judiciary and authorizes it to transfer cases within each level of the system. The court may assign judges within or between levels of the

system. While the responsibility for management is vested in the supreme court, this may be delegated to the chief justice or administrative judges.

Subsection (a)(2) designates court of appeals districts as administrative units within the state. With senate approval, the chief justice designates an administrative judge in each district. Subsection (a)(3) mandates a judicial council to prescribe rules of administration, subject to supreme court approval, and perform other assigned duties.

Subsection (b) vests in the supreme court procedural rule-making power in civil matters. Rules may not conflict with the constitution or laws of this state, and no rule can take effect if "vetoed" by either house of the legislature.

(2) Existing law

There is no parallel in existing law for the administrative duty vested by Subsection (a)(1) in the supreme court. Since 1927 the chief justice has been authorized to assign district judges between courts under authority of Article 200a, Vernon's Texas Civil Statutes. That article further divides the state into administrative districts, as is provided in Subsection (a)(2). Administrative judges, however, are now appointed by the governor rather than the chief justice.

Although Article 2328a, Vernon's Texas Civil Statutes, has provided for an advisory civil judicial council since 1929, that body is only roughly comparable to the council mandated in Subsection (a)(3). The current council is responsible for the collection of judicial statistics and the conduct of continuing studies of the judicial system. It does not have constitutional stature and does not have the central court administration role anticipated in Section 11.

Subsection (b) alters the current provisions of Article V, Section 25 of the constitution. As originally enacted in 1876, Section 25 authorized the court to enact rules governing itself and the other courts of the state. In 1891, the section was amended to require that rules not be inconsistent with law. In 1939, the legislature delegated rule-making power to the supreme court in civil cases and authorized the court to repeal conflicting statutes. Pursuant thereto, the Texas Rules of Civil Procedure were adopted by the supreme court. Rules remain in effect until disapproved by the legislature. Subsection (b) limits rule-making power constitutionally to civil rules, permits either house of the legislature to veto a rule, and mandates that a rule not go into effect until the legislature has an opportunity to reject it.

(3) Committee deliberations

In its preliminary draft, the committee left administrative and rule-making authority of the judiciary entirely to legislation. The semifinal draft included a section substantially like Section 11 in the final report. With stylistic changes, the section was finally adopted by vote of 12-6.

(4) Commentary

As evidenced by the court administration activities summarized in Figure 4, there is considerable recognition in Texas of the need for management of judicial resources. Despite this recognition, there is no coordination of the management effort. Internal administration of judicial business, coordinated from the top of the system, is the principal tenet of court unification.

Within the framework provided by Section 11, those instrumentalities of government charged with administering judicial institutions and personnel are brought together and enabled to pursue a common goal under unified direction. Only through such a course of action can future piecemeal government-by-crisis in the management of the courts be avoided.

Sec. 12. DISTRICT CLERKS; COUNTY CLERKS. (a) A district clerk, who serves as clerk of the district and circuit courts of the county, is elected by the qualified voters of each county for a term of four years. The clerk may be removed from office upon a jury finding of incompetence, official misconduct, or other cause defined by law. Vacancies in the office of district clerk shall be filled by the judges of the district and circuit courts in the county until the next general election. Each clerk may have a deputy or deputies and other personnel authorized by law.

(b) The county clerk, who serves as clerk of the county commission and recorder of the county, is elected by the qualified voters of each county for a term of four years. The legislature shall prescribe the duties, perquisites, and fees of the office. A vacancy in the office shall be filled by the county commission until the next general election.

(c) The legislature may authorize counties with populations below a level prescribed by law to elect a single clerk to serve as district and county clerk.

COMMENTS

(1) Explanation

Section 12 provides for district clerks and county clerks, and authorizes one clerk to fill both offices in certain counties. The district clerk would serve the trial courts in the unified judicial system, and the county clerk would serve as county recorder and clerk of the county commission. Both officers are elected for four-year terms. The section further speaks to the removal of district clerks and the filling of vacancies in both offices.

(2) Existing law

Present law concerning these officials is found in Sections 9 and 20 of the 1876 Article V, and their removal is governed generally by Section 24 of that article. Presently, a district clerk serves the district courts in each county, and a county clerk serves the county court and commissioners court in each county. In regard to statutory courts, the legislation creating each court directs which clerk will serve the respective court.

By a 1954 amendment to Section 20, counties with a population of less than 8,000 persons may elect to have a single clerk to serve as both district and county clerk. The essence of this provision is retained, although the population figure is removed; the legislature could fix any population level and authorize all counties below that level to combine the two offices.

(3) Committee deliberations

The committee preliminary draft was carried forward in the semifinal draft. With stylistic changes, the section was finally adopted by vote of 10-7.

(4) Commentary

Trial court clerks provide valuable administrative assistance to trial judges and compile and report data on court activity essential for judicial management decisions. With the institution of a unified court system and professional management, it will become increasingly necessary to have accurate reports from all courts to guide administrators in assessing the week-to-week need for judges throughout the state.

The principal departure from existing law in the proposed section is provision for a single clerk for the trial courts within the unified judicial system in each county. The office of clerk is "unified" in order to permit greater economy and standardization in preparing data input necessary for effective court management. Such unification will facilitate the implementation of the administrative system under Section 11(a)(1).

Sec. 13. JURIES. (a) A grand jury in the district court consists of 12 persons, of whom nine constitute a quorum and must concur in a bill of indictment.

(b) The legislature shall provide by law for trial juries.

(c) A party has the right to a jury trial upon demand made in the manner prescribed by law.

(d) Jury verdicts must be unanimous, except that the legislature, or the supreme court pursuant to its rule-making authority, may authorize jury verdicts in civil cases rendered by not less than three-fourths of the jurors sitting in a case.

(e) The legislature may provide by law for alternate jurors.

COMMENTS

(1) Explanation

Section 13 requires 12-member grand juries and demands the concurrence of nine of those members in the issuance of a bill of indictment. The section preserves a party's right to jury trial upon demand, but leaves the jury size and the manner of demand to the discretion of the legislature. The section also permits a civil verdict based on the concurrence of three-fourths of the participating jurors and allows the legislature to provide by law for alternate jurors.

(2) Existing law

Jury provisions are found in Sections 10, 13, 17, and 29 of Article V of the present constitution. Juries in the district court consist of 12 persons, while county court juries consist of six persons. Verdicts may be returned in civil cases in the district court by vote of 10-2.

Ostensibly, the right to trial by jury is guaranteed in Article I, Section 15 of the 1876 Constitution. However, the cases of White v. White, 108 Tex. 570, 196 S.W. 508 (1917) and Hickman v. Smith, 238 S.W.2d 838 (Tex. Civ. App.--Austin 1951, writ ref'd) have held that the right of trial by jury guaranteed in the Bill of Rights is limited to the right as it existed at common law or as provided for by statutes when the constitution was adopted in 1876.

On the other hand, the cases of Tolle v. Tolle, 101 Tex. 33, 104 S.W. 1049 (1907) and Hatten v. City of Houston, 373 S.W.2d 525 (Tex. Civ. App.--Houston 1963, writ ref'd n.r.e.) have held that the right of trial by jury guaranteed in Article V, Section 10 of the 1876 Constitution is not dependent on the existence of the right at the time the constitution was adopted in 1876. The guarantee extends to any "cause" instituted in the district court. A "cause" is defined as a suit or action concerning any question, civil or criminal, contested before a court of justice.

(3) Committee deliberations

The language adopted originally by the committee was carried forward without change in the semifinal draft. On final adoption, minor style changes were made, the phrase "sitting in a case" was added at the end of Subsection (d), and Subsection (e) on alternate jurors was added. The section was adopted by vote of 14-4.

(4) Commentary

Although Subsection (a) in no way changes the present constitutional posture of grand juries, it does clarify the requirement that nine members concur in any indictment issued by the grand jury. The direction of grand juries remains in the province of the district courts.

Subsection (b) represents a significant change from the present constitutional limits on the size of trial juries. Unless one or more jurors are dismissed because of a disability, 12-person juries are presently required in district court cases and six-person juries in county court cases. Some states permit six-person juries in all civil and misdemeanor cases. Florida, Louisiana, and Utah use six-person juries in felony cases, and the United States Supreme Court has sanctioned this practice. Williams v. Florida, 399 U.S. 78 (1970).

Various speakers before the committee, notably retired United States Supreme Court Justice Tom Clark, advocated smaller juries and expressed the belief that 12-person juries are not required by the dictates of justice. Subsection (b) does not change the present law, but it does allow the legislature to do so in whatever manner it deems prudent.

The only change made by Subsection (c) is to remove from the constitution the procedural details of making a demand for jury trial.

Subsection (d) allows continuance of the present rule on nonunanimous jury verdicts in civil cases. The subsection applies to juries of fewer than 12 persons. The present constitution would allow a 9-3 verdict in civil cases in the district court, although 10-2 is the current provision. Subsection (d) does make one change in present verdict requirements, at least in the district courts, in that three-fourths of the jurors who actually participate in the decision may render the verdict. This provision is directed to the situation where one or more jurors become disabled or otherwise incompetent before the verdict is rendered.

Felony and misdemeanor cases must be decided by a unanimous jury under Subsection (d). This is a continuance of the present status as to felony verdicts, but represents

a departure from present constitutional, but not statutory, requirements in misdemeanor cases.

Subsection (e) makes express the legislature's authority to provide for alternate jurors. This subsection gives the legislature greater flexibility in providing for trial juries.

Section 13 attempts to strike a balance between assurance of right to trial by jury and permitting legislative flexibility in administration of that right. Unanimous verdicts are required in all criminal matters, since no rational linedrawing can be accomplished in distinguishing serious misdemeanors and less serious felonies.

Sec. 14. SENTENCING AND PROBATION. Courts having original jurisdiction of criminal cases shall have power to suspend the imposition or execution of sentence and place a defendant on probation; and shall have further power to modify, set aside, or reimpose sentence, subject to regulation by law.

COMMENTS

(1) Explanation

This section rewords and expands the authority of the courts to suspend the imposition or execution of sentence after conviction.

(2) Existing law

Section 14 is based on Article IV, Section 11A of the 1876 Constitution, as added in 1935. In 1911, the legislature enacted a Suspended Sentence Act which was declared unconstitutional as an invasion of executive power to pardon and commute sentence. Snodgrass v. State, 67 Tex. Crim. 615, 150 S.W. 162 (1912). Subsequently, Section 11A was adopted. In State ex rel. Smith v. Blackwell, 500 S.W.2d 97 (Tex. Crim. 1973), a statutory provision permitting resentencing of convicted drug offenders was declared unconstitutional as an infringement of the executive power to pardon and commute sentences granted in Article IV, Section 11.

(3) Committee deliberations

Section 14 remained substantially unchanged through all three committee drafts. Before final passage, the caption was altered from "SUSPENSION OF SENTENCE AND PROBATION" to "SENTENCING AND PROBATION," to reflect the committee's action in giving broad judicial authority, in part concurrent with executive power, in this area and effectively overruling the Blackwell decision. The final language was adopted by unanimous voice vote.

(4) Commentary

The power of the courts to suspend the imposition or execution of sentence, after conviction, is assured by Section 14. In addition, by inclusion of the phrase "modify, set aside, or reimpose" in the text of the section, the restraint imposed by the Blackwell decision over judicial power to pardon and commute sentences is eliminated.

Sec. 15. APPEAL BY STATE. The state may not appeal in criminal cases.

COMMENTS

(1) Explanation

The provisions of this section deny the prosecution any right of appeal in criminal cases.

(2) Existing law

Article IV, Section 3 of the 1845 Constitution permitted the legislature to grant the state a limited right of appeal in criminal cases, which it did in 1856. However, Article V, Section 26 of the 1876 Constitution expressly denied this right. Only Texas, among the 51 American jurisdictions (including all states and the United States), absolutely denies the state a right of appeal.

(3) Committee deliberations

All three committee drafts included substantially the same provision denying the right of appeal to the state. On final adoption by voice vote, the committee made minor style changes in the section. Prior to adoption, an amendment granting a limited appeal was tabled by vote of 13-4. Another amendment authorizing the legislature to grant a limited right of appeal was tabled by vote of 12-4-1.

(4) Commentary

The continued prohibition to the state of a right of appeal in criminal cases reflects the committee's view that such appeals may impose economic hardship upon defendants and may be used as an instrument of oppression.

Sec. 16. APPEAL BY ACCUSED. (a) The accused shall have the right of appeal to the appellate court having jurisdiction, specifically including the right of appeal granted by Article I, Section 11a of this constitution.

(b) Appeal to the supreme court shall be at the discretion of the court, unless otherwise provided by law.

COMMENTS

(1) Explanationn

Section 16(a) guarantees an accused at least one appeal. An appeal of a twice-convicted felon from an order denying him bail upon subsequent arrest is authorized by Article I, Section 11a of the 1876 Constitution and is directed by this section to the appropriate appellate court.

Section 16(b) provides for direct appeal to the supreme court. Direct appeal is discretionary with the court, unless otherwise provided by law.

(2) Existing law

Only the defendant in a criminal case can appeal. The state is prohibited from appealing by Article V, Section 26 of the 1876 Constitution. Presently, the accused has the right to appeal to the court of criminal appeals. However, not all criminal cases are appealable to that court. Article 4.03 of the Code of Criminal Procedure vests appellate jurisdiction in the court of criminal appeals of all criminal cases except misdemeanors which nave been appealed to a county court, a county criminal court, or a county court at law, in which the fine imposed does not exceed $100.

Section 11a of Article I of the 1876 Constitution, added in 1956, also confers appellate jurisdiction in the court of criminal appeals to review orders denying bail to an accused convicted twice before of a felony.

Civil appeals are usually to the intermediate courts of civil appeals. However, Section 3-b of Article V of the present constitution authorizes direct appeal to the supreme court from a trial court order which grants or denies an interlocutory or permanent injunction on the basis that a

statute or administrative order is valid or invalid. See Article 1731a, Vernon's Texas Civil Statutes.

(3) Committee deliberations

The preliminary committee draft and the semifinal draft were concerned only with the right of an accused to appeal an order of the trial court denying bail, presently authorized in Section 11a, Article I of the 1876 Constitution. The language finally adopted appeared for the first time at the time of adoption of the final version of Section 16. The committee adopted the section by vote of 15-2.

(4) Commentary

The present constitutional provision which grants an accused the right to appeal an order denying bail is ambiguous because the provision specifically confers jurisdiction in the court of criminal appeals, the only court which can presently review such an appeal. It is not known whether the provision grants the accused only a right to appeal or whether it grants an additional right to appeal to the highest court. To resolve such ambiguity, the committee has granted the supreme court discretionary authority to hear direct appeals until the legislature provides otherwise. The Constitutional Revision Commission recommended the appeal be made direct to the supreme court.

Since the new judiciary article does not enumerate jurisdiction of the courts as the present constitution does, the committee recognizes in Section 16 the traditional and fundamental right of a defendant in a criminal case to have the right to at least one appeal. For that reason, Section 16 was expanded on final adoption.

Sec. 17. APPEALS FROM ADMINISTRATIVE ACTION. Notwithstanding any other provision of the constitution, the legislature may provide by law for the method of appeal to the courts from actions, rulings, or decisions of administrative agencies and executive departments of the state or any of its subdivisions.

COMMENTS

(1) Explanation

Section 17 authorizes the legislature to prescribe the method of judicial review from actions of administrative agencies and executive departments of the state or its subdivisions.

(2) Existing law

Statutes directing appeals to the courts from actions of administrative agencies to be by complete new trial (trial de novo) have not found favor with the Texas Supreme Court. Such statutes have been held to empower the courts to determine legislative questions, and hence such review is violative of the separation of powers provision in Article II, Section 1 of the 1876 Constitution. See, e.g., Southern Canal Co. v. State Board of Water Engineers, 159 Tex. 227, 318 S.W.2d 619 (Tex. 1958); Davis v. City of Lubbock, 160 Tex. 38, 326 S.W.2d 699 (Tex. 1959). H.J.R. No. 32, 57th Legislature, Regular Session (1961) proposed that the legislature could prescribe the manner of appeal to the courts, including de novo appeal. The resolution was not approved by the voters.

(3) Committee deliberations

The preliminary draft of the committee included a section identical to H.J.R. No. 32. That version was shortened in the semifinal draft merely to permit the legislature to prescribe any method of appeal (de novo was not specifically enumerated). On final adoption, the restriction that the legislature act only by general law was removed, and the section was adopted by voice vote.

(4) Commentary

Section 17 is not self-enacting but merely permits legislative flexibility in determining the manner of appeal from administrative action. Conceivably de novo appeal might be prescribed in some instances as a judicial check on abuse of power by an administrative agency. Because of decisions of the Texas Supreme Court, if this flexibility is to lie with the legislature, specific constitutional authority is necessary.

Sec. 18. DISTRICT ATTORNEYS; COUNTY ATTORNEYS. (a) The state shall be represented in each county by a district attorney as now or hereafter provided by law. The district attorneys shall be elected by the qualified voters of their respective districts, and shall serve for a term of four years and until their successors have qualified. The state shall provide for the compensation of district attorneys.

(b) With such exceptions as now or hereafter provided by law, county attorneys shall be elected by the qualified voters of each county and shall hold office for a term of four years and until their successors have qualified.

(c) Each district and county attorney shall be licensed to practice law in this state. Other qualifications, duties, and functions of district and county attorneys and the grounds and procedure for disqualification, suspension, removal, and filling of vacancies shall be as provided by law.

COMMENTS

(1) Explanation

Section 18 provides for county and district attorneys. District attorneys serve four-year terms, and they are elected by the qualified voters of their respective districts. County attorneys serve four-year terms, and they are elected by the qualified voters of each county. Each county and district attorney must be licensed to practice law in this state. The legislature is authorized to prescribe other qualifications and duties of each office, including procedures for disqualification, suspension, removal, and filling of vacancies. Each county shall be served by a district attorney.

(2) Existing law

Section 21 of Article V of the 1876 Constitution requires the election of county attorneys and assumes the existence of district and criminal district attorneys. Section 21 of the present constitution requires a county attorney "for counties in which there is not a resident Criminal District Attorney." Although the office of criminal district attorney served the criminal district courts in Harris and Galveston Counties before these courts were abolished, the office has also been established to serve general jurisdiction

district courts in approximately twenty-three counties. In those counties there is no county attorney and the criminal district attorney also serves as county attorney. Article 321, Vernon's Texas Civil Statutes, et seq.; Neal v. Shepherd, 209 S.W.2d 388 (Tex. Civ. App.—Texarkana 1948, writ ref'd).

Sections 21 and 30 of Article V of the 1876 Constitution provide four-year terms for district attorneys, criminal district attorneys, and county attorneys. Section 21 authorizes the legislature to provide for the compensation of district and county attorneys. The state pays the basic salaries of the district attorneys and of six criminal district attorneys. Several counties supplement the salaries paid by the state. See Article 321, Vernon's Texas Civil Statutes, et seq. The county pays the basic salaries of county attorneys and those criminal district attorneys not paid by the state. The state reimburses the county pro rata for the time the county attorney represents the state. Section 13(b), Chapter 465, Acts of the 44th Legislature, 2nd Called Session and Chapter 398, Acts of the 60th Legislature, Regular Session.

Section 21 also provides that the county attorney shall represent the state in all cases in the district and inferior courts in each county; but if any county is represented by a district attorney, then the respective duties of district and county attorneys shall be prescribed by law for each county. The legislature has provided that the district attorney shall represent the state in criminal cases in the district courts, and the county attorney shall represent the state in criminal cases in courts below the district level. County attorneys also represent the county in civil matters. Article 332, Vernon's Texas Civil Statutes requires county and district attorneys to be licensed to practice law.

(3) Committee deliberations

Section 18 was placed in the preliminary draft in its present form. The section was finally adopted, without change, by voice vote.

(4) Commentary

The district attorney has been provided for in the judiciary article in every constitution since 1836. The county attorney has been provided for since 1866. The committee decided early during its deliberations to continue that tradition. As officers of the courts, county and district attorneys play a very important role in the jurisprudence of this state. The state relies on these public prosecutors to determine criminal violations and to prosecute the guilty.

Sec. 19. COMPENSATION. The state shall pay the basic salaries of all justices and judges of the unified judicial system and shall pay such other expenses of the system as provided by law. Funds collected by the courts may not be used to support the unified judicial system except to the extent of reimbursement of salaries and other expenses.

COMMENTS

(1) Explanation

Section 19 continues the state's responsibility to pay basic salaries of justices and judges of the supreme court, courts of appeals, and district courts. The section neither prohibits nor authorizes counties to continue the practice of supplementing salaries of judges. Since circuit courts are included in the unified court system, Section 19 also requires the state to pay the salaries of circuit judges.

Section 19 further requires the state to pay the expenses of the unified court system. The legislature will determine what expenses the state will assume; the section places a limitation of the legislature's right to retain funds collected by the courts. The state is entitled to be reimbursed only for actual expenses of the courts.

(2) Existing law

For the fiscal year ending August 31, 1974, justices and judges of the state court system receive from the state the following salaries:

1. Supreme Court
   Chief Justice, $40,500
   8 Associate Justices, $40,000
2. Court of Criminal Appeals
   Presiding Judge, $40,500
   4 Judges, $40,000
   2 Commissioners, $40,000
3. Courts of Civil Appeals
   14 Chief Justices, $35,500
   28 Justices, $35,000
4. District and Criminal District Courts
   217 District Judges, $25,000

In addition to the basic salaries received from the state, several justices and judges of the courts of civil appeals and district courts receive salary supplements from counties within their judicial districts. In 1972, these salary supplements for judges of courts of civil appeals ranged from $5,000, the highest (1st, 5th, and 14th Supreme Judicial Districts), to $1,193.07, the lowest (13th Supreme Judicial District); for district judges, the salary supplements ranged from $12,000, the highest (Harris and Dallas Counties), to $300, the lowest (Austin, Fayette, Waller). The appropriations bill adopted by the 63rd Legislature provided that total salaries received by district judges could not exceed $1,000 less than the salary received by civil appeals justices in each respective district. Similarly, civil appeals justices cannot receive more than $1,000 less than the salary paid to supreme court justices.

(3) Committee deliberations

The impetus for adding a finance provision was to compel the state to finance the operation of its court system. Salary supplementation was prohibited in the preliminary draft, but such provision was deleted in the semifinal draft. Section 19, as finally adopted on voice vote, is silent on salary supplementation.

(4) Commentary

The committee realizes that the legislature can finance the court system without constitutional authorization. However, the committee feels that reform of the judicial system is incomplete without specific direction in the new article for the state to assume the costs of the unified court system.

The proposed section does not disturb the way courts below the circuit courts are financed. Counties will retain the responsibility to provide for justice courts,

and incorporated cities will retain the responsibility of providing for municipal courts.

Since the constitutional county courts and all the statutory courts will be merged into the unified court system, the county commissions are relieved of the responsibility of providing for the various county courts at law, special district courts, and the constitutional county courts.

Presently, fees and fines collected by the state and county level trial courts are retained by the counties burdened with the expense of that court. The legislature has permitted the practice to continue. Since the expenses of these courts will be borne by the state, the funds should logically be placed in the state treasury. But the committee did not want the state to view courts as revenue-generating agencies. For that reason, Section 19 specifically limits the state's use of the funds to reimbursement for the expenses of these courts.

The Constitutional Revision Commission constitutionally authorized salary supplementation. The present constitution is silent on the subject. As noted, the original committee draft specifically prohibited such supplements. Rather than freeze the prohibition in the constitution or authorize the practice in the charter, the committee has left a decision in this regard to the legislature.

Sec. 20. JUDICIAL RETIREMENT. (a) The legislature may prescribe by law the mandatory retirement age of a justice or judge in the unified judicial system.

(b) Notwithstanding any other provision of this constitution, the system of retirement, disability, and survivors' benefits established in the constitution or by law for justices, judges, and commissioners of the appellate courts and judges of the district and criminal district courts and in effect at the time of adoption hereof shall be continued. The legislature shall provide for inclusion in the system of judges of all courts in the unified judicial system and such other elected state officials as now or hereafter provided by law.

(c) General administration of the Judicial Retirement System of Texas shall be by the Board of Trustees of the Employees Retirement System of Texas under such regulations as may be provided by law.

COMMENTS

(1) Explanation

The provisions of this section permit the legislature to establish a mandatory retirement age. The section continues the system of retirement, disability, and survivors' benefits presently existing for justices and judges paid by the state.

(2) Existing law

Article V, Section 1-a of the present constitution, added in 1948, directs the legislature to provide for a retirement system for state judges. The amendment was necessary because Article III, Section 51 of the 1876 Constitution forbade the granting of public money to individuals. Article 6228b, Vernon's Texas Civil Statutes establishes the retirement system.

(3) Committee deliberations

Neither the preliminary draft nor the semifinal draft of the committee included a provision on judicial retirement, although the provisions of Subsection (a) on mandatory retirement did appear in both drafts. The language in the final draft was adopted by voice vote.

(4) Commentary

The committee felt that the retention of the present mandatory retirement prescription of Article V, Section 1-a (75 years of age or an earlier age, not less than 70, as prescribed by law) was unwise. Constitutional silence on the subject, however, might well tie the hands of the legislature and prevent any mandatory retirement age because of the principle of separation of powers.

In regard to a system of retirement, disability, and survivors' benefits, there is no dispute as to the constitutional propriety of this subject. Current officeholders and retired judges rightly expect a continuation of the system of retirement compensation promised as an inducement for their service. Without the continuation of such a system Texas cannot expect to continue attracting from the private practice of law the quality of judicial talent desired and needed for the effective administration of justice.

Minority Report Number 1

BE IT PROPOSED,

That the following be substituted for Article V, Section 11(b) of the majority proposal:

(b) The supreme court may promulgate rules of procedure not inconsistent with the laws of the state, for all courts, to expedite the dispatch of business therein. Any rule of procedure expressly disapproved by the legislature shall have no effect thereafter.

EXPLANATION

Subsection (b) of Section 11 of the majority proposal restricts the supreme court to civil rule-making power, provides that no rule may take effect until the legislature has the opportunity to reject it, and further provides that either house of the legislature may reject a rule.

This minority proposal, on the other hand, would retain the present provisions of Article V, Section 25 of the constitution. The supreme court could promulgate procedural rules not inconsistent with laws. The legislature could expressly disapprove a rule, authority now included in Article 1731a, Vernon's Texas Civil Statutes.

COMMENTS

The majority report restricts the long-standing, general rule-making power presently granted the supreme court in Article V, Section 25. It does so at the same time the administrative power of the court is being strengthened and the jurisdiction of the court is being broadened.

Between 1891 and 1939, procedural rules were written by the legislature. Judicially promulgated rules could not conflict with statutes, and the court could not act since the legislature "occupied the field" with procedural codes.

In 1939, the legislature relinquished civil rule-making initiative to the court;

This would defeat the purpose of the wise provision for enlarging some of the courts of appeals. It would be unnecessary, uneconomic, and inefficient in use of judicial manpower, would serve no useful purpose, and would be less desirable than creation of additional three-judge courts.

With each increase of the membership of the court, the number of dispositive opinions written by each judge would be substantially reduced, as more time would necessarily be spent in reviewing the work of other judges, in internal conferences, and in writing dissenting and concurring opinions. Thus a greater number of judges would be required to decide the same volume of appeals, and additional appropriation of tax funds would be required for the salaries of judges and supporting personnel and court facilities. In short, with no sacrifice in the quality of decisions, greater efficiency, economy, and flexibility of the appellate court system can be achieved by a relatively small number of intermediate courts, each with as many judges as needed, but these advantages would be nullified by requiring a majority of each court to decide each case.

Minority Report Number 3

BE IT PROPOSED,

That the following be substituted for Article V, Section 9(a) of the majority proposal:

Sec. 9(a). The legislature shall divide the state into judicial election districts equal in number to the number of justices on the supreme court. Each district must be composed of compact and contiguous territory and contain as nearly as practicable an equal number of inhabitants. One justice of the supreme court is elected every six years by the qualified voters of each judicial election district. The Chief Justice of Texas is elected every six years by the qualified voters of the state.

EXPLANATION

Under the majority proposal, justices of the supreme court are selected in statewide elections. Under this proposal, justices are elected from regional election districts, and the chief justice is elected statewide.

COMMENTS

The minority proposal would assure that the state's high court would be composed of judges from the various geographical regions of the state, thereby assuring a variety of opinion and philosophy on the court and representation of all areas of the state. At the same time, election costs of justices would be reduced dramatically.

Regional election has proven very workable and has enjoyed wide public support in several jurisdictions. For example, Louisiana carried over this system from its old constitution to the one adopted in April of this year. The system brings closer to the electorate the "third branch of government" and thereby makes it more intelligible and responsive to the citizens of Texas.

UNANIMOUS CONSENT TO RECORD VOTES

The following delegates requested this was not a grant of new authority, since the court possessed authority to write rules not inconsistent with laws before the 1939 statute. Rather, the action was a statutory accommodation between the legislature and judiciary concerning power constitutionally granted to both branches. Since the legislature retained authority to pass laws inconsistent with rules or to reject a court-passed rule, the action was a relinquishment of initiative and not of authority. See Few v. Charter Oak Fire Insurance Co., 463 S.W.2d 424 (Tex. 1971). Presently, this accommodation could be extended to criminal rules, but it has not been so extended by the legislature. The minority proposal preserves this status quo and provides an express method in the constitution for direct legislative rejection of a rule.

On the other hand, the majority proposal departs from this status quo by removing from the legislature the flexibility to place criminal rule-making authority in the high court. Another important departure of the majority proposal is that it permits one legislative house to overrule another branch of government. This latter change is offensive to the principle of separation of powers.

Proponents of the majority position assert that rule-making is essentially a legislative activity and that if the court is writing statutes, its work product should meet the approval of each legislative house. This position lays aside the long-standing Texas tradition that judicial rules are not purely a legislative concern and should not be, if judicial self-management is to be effective. If the Texas Senate or the Texas House of Representatives, acting alone, is the superior of the judicial branch of government in this important aspect of judicial administration, then the principle of separation of powers has indeed been severely eroded.

Minority Report Number 2

BE IT PROPOSED,

That the following be substituted for Article V, Section 3 of the majority proposal;

Sec. 3. COURTS OF APPEALS. There shall be one or more courts of appeals as provided by law, each consisting of a chief judge and at least two other judges. Not fewer than three judges shall sit in any case.

EXPLANATION

Section 3 of the majority proposal provides that courts of appeals have three or more judges and requires a majority of a court for the decision of a case. The minority proposal retains the language on court size, removes the majority requirement, and adds a new sentence requiring at least three judges to sit in any case.

COMMENTS

The requirement of concurrence of a majority of a court to a decision would have the effect of requiring the entire court to sit in each case because each judge would have to vote on the disposition of the case.

unanimous consent to be recorded as voting on the following record votes. There was no objection:

Delegate Aikin requested to be recorded as voting "Nay" on Record Vote 5.

Delegate Allen of Gregg requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Atwell requested to be recorded as voting "Yea" on Record Vote 2.

Delegate Allred requested to be recorded as voting "Yea" on Record Vote 3.

Delegate Allred requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Allred requested to be recorded as voting "Nay" on Record Votes 5, 9 and 10.

Delegate Bock requested to be recorded as voting "Yea" on Record Vote 5.

Delegate Bowers requested to be recorded as voting "Yea" on Record Votes 4 and 5.

Delegate Bowers requested to be recorded as voting "Nay" on Record Vote 6.

Delegate Brooks requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Cates requested to be recorded as voting "Nay" on Record Vote 3.

Delegate Clower requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Cobb requested to be recorded as voting "Yea" on Record Votes 4 and 9.

Delegate Cobb requested to be recorded as voting "Nay" on Record Vote 10.

Delegate Coody requested to be recorded as voting "Nay" on Record Votes 7, 8 and 10.

Delegate Craddick requested to be recorded as voting "Nay" on Record Vote 2.

Delegate Doggett requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Evans requested to be recorded as voting "Yea" on Record Votes 7 and 8.

Delegate Hernandez requested to be recorded as voting "Nay" on Record Vote 2.

Delegate Hoestenbach requested to be recorded as voting "Yea" on Record Votes 4, 7 and 8.

Delegate Korioth requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Kubiak requested to be recorded as voting "Yea" on Record Vote 5.

Delegate Lee requested to be recorded as voting "Nay" on Record Votes 7 and 8.

Delegate Martin requested to be recorded as voting "Yea" on Record Vote 5.

Delegate Massey requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Meier requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Mengden requested to be recorded as voting "Yea" on Record Vote 4.

Delegate Pentony requested to be recorded as voting "Nay" on Record Votes 7 and 8.

Delegate Rodriguez requested to be recorded as voting "Nay" on Record Vote 2.

Delegate Scoggins requested to be recorded as voting "Yea" on Record Votes 2 and 8.

Delegate Spurlock requested to be recorded as voting "Nay" on Record Vote 4.

Delegate Tupper requested to be recorded as voting "Nay" on Record Vote 5.

Delegate Wallace requested to be recorded as voting "Yea" on Record Votes 4 and 5.

Delegate Weddington requested to be recorded as voting "Yea" on Record Votes 4 and 5.

Delegate Wyatt requested to be recorded as voting "Yea" on Record Vote 4.

RECESS

On motion of Delegate Maloney the Convention at 4:45 o'clock p.m. took recess until 9:30 o'clock a.m. tomorrow.

TEXAS CONSTITUTIONAL CONVENTION

1046 1974

	YEA	N-V	NAY
Mr. President			
Adams, D.			
Adams, H.			
Agnich			
Aikin			
Allen, Joe			
Allen, John			
Allred			
Andujar			
Atwell			
Bailey			
Baker			
Bales			X
Barnhart			
Bigham			
Bird			
Blake			
Blanchard			
Blythe			
Bock			
Boone			
Bowers			
Braecklein			
Brooks			
Bynum			
Caldwell			
Calhoun			
Canales			
Cates			
Clark			
Clayton			
Clower			
Cobb			
Cole			
Coleman			
Coody			
Cooke			
Craddick			
Creighton			
Daniel			
Davis			
Denson			
Denton			
Doggett			
Donaldson			X
Doran			
Doyle			
Dramberger			
Earle			
Edwards			
Evans			
Finnell			
Finney			
Foreman			
Fox			
Gammage			
Garcia			
Gaston			
Geiger			
Grant			
Green, F.			
Green, R.			
Hale			
Hall, A.			
Hall, W.			
Hanna			
Harrington			
Harris, E.			
Harris, O.		✓	
Head			
Heatly			
Henderson			
Hendricks			
Hernandez			
Hightower			
Hilliard			
Hoestenbach			
Hollowell			
Howard			
Hubenak			
Hudson			
Hutchison			
Johnson			
Jones, Gene			
Jones, Grant			
Jones, L.			
Kaster			
Korioth			
Kothmann			
Kubiak			
Laney			
Lary			
Lee			
Leland			
Lewis			
Lombardino			
Longoria			
McAlister			
McDonald, F.			
McDonald, T.			
McKinnon			X
McKnight			
Madla			
Maloney			
Martin			
Massey			
Mattox			
Mauzy			
Meier			
Menefee			
Mengden			
Miller			
Montoya			
Moore			
Munson			
Murray			
Nabers			
Newton			
Nichols			
Nowlin			
Nugent			
Ogg			
Olson			
Parker, C.			
Parker, W.			
Patman			
Pentony			
Peveto			
Poerner			
Poff			
Powers			
Presnal			
Preston			
Ragsdale			
Reyes			
Reynolds			
Rodriguez			
Rosson			
Russell			
Sage			
Salem			
Sanchez			
Santiesteban			
Schieffer			
Schwartz			
Scoggins			
Semos			
Sherman, M.			
Sherman, W.			
Short			
Simmons			
Slack			
Snelson			
Spurlock			
Sullivant			
Sutton			
Tarbox			
Temple			
Thompson			X
Traeger			
Truan			
Tupper			
Uher			
Vale			X
Vecchio			
Vick			
Von Dohlen			
Wallace			
Washington			
Waters			
Watson			
Weddington			
Whitehead			
Whitmire			
Wieting			
Williams			
Williamson			
Willis			
Wilson			
Wolff			
Wyatt			
Bryant			

X-EXCUSED ABSENCE

RECORD #1 ROLL CALL

YEA-151 TOTALS NAY-29 N-V-0

YEA		N-V		NAY	
100-200		100-200		100-200	
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1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

	ARTICLE		SECTION	
Comm.	10			
Rep.	20			
Subs.	1		10	1
Amm.	2		20	2
Quo.	3		30	3
3 R	4		40	4
Subm.	5		50	5
Mino.	6		60	6
Mot.	7		70	7
Alt.	8		80	8
Sep.	9		90	9
2 R	0		00	0

DATE:	1
JAN	2
FEB	8
MAR	1
APR	2
MAY	3
JUN	4
JUL	5
AUG	6
SEP	7
OCT	8
NOV	9
DEC	0

TEXAS CONSTITUTIONAL CONVENTION

1974

1047

	YEA	N-V	NAY
Mr. President			
Adams, D.			●
Adams, L.			
● Agnich			
Aikin			●
Allen, Jo[illegible]			
● Allen, John			
Allred			●
Andujar			●
Atwell			
● Bailey			
Baker			●
Bales			X
● Barnhart			
Bigham			●
● Bird			
● Blake			
Blanchard			
Blythe			●
Bock			●
Boone			●
● Bowers			
Braecklein			●
● Brooks			
● Bynum			
Caldwell			●
Calhoun			
Canales			
Cates			
Clark			●
● Clayton			
Clower			●
● Cobb			
Cole			
Coleman			●
Coody			●
Cooke			●
Craddick			
● Creighton			
Daniel			
● Davis			
Denson			●
Denton			●
Doggett			●
Donaldso[illegible]			X
Doran			●
Doyle			
Dramberger			●
Earle			●
Edwards			●
● Evans			
● Finnell			
Finney			
● Foreman			
● Fox			
Gammage			●
Garcia			●
● Gaston			
● Geiger			
Grant			●
Green, F.			●
● Green, R.			
Hale			●
Hall, A.			●
● Hall, W.			
Hanna			●
Harrington			●
Harris, E.			●
Harris, O.			●
Head			
Heatly			
● Henderson			
Hendricks			
Hernandez			
● Hightower			
● Hilliard			
Hoestenbach			●
Hollowell			●
● Howard			
● Hubenak			
Hudson			
Hutchison			●
Johnson			●
Jones, Gene			●
Jones, Grant			●
Jones, L.			
● Kaster			
● Korioth			
Kothmann			●
● Kubiak			
● Laney			
Lary			●
Lee			
Leland			●
● Lewis			
Lombardino			●
Longoria			●
McAlister			●
McDonald, F.			●
McDonald, T.			●
McKinno..			X
McKnight			●
● Madla			
● Maloney			
● Martin			
Massey			●
Mattox			●
Mauzy			
● Meier			
Menefee			
Mengden			●
Miller			●
Montoya			
Moore			
● Munson			
Murray			●
Nabers			●
● Newton			
Nichols			●
Nowlin			●
● Nugent			
Ogg			
Olson			●
● Parker, C.			
Parker, W.			
Patman			●
Pentony			●
● Peveto			
Poerner			●
● Poff			
Powers			●
● Presnal			
● Preston			
Ragsdale			
Reyes			
Reynolds			●
Rodrigue..			
Rosson			●
Russell			
Sage			●
Salem			●
Sanchez			
● Santiesteban			
● Schieffer			
Schwartz			●
Scoggins			
Semos			
● Sherman, M.			
Sherman, W.			
● Short			
Simmons			
Slack			
Snelson			●
● Spurlock			
Sullivant			●
Sutton			●
● Tarbox			
Temple			●
Thompson			X
Traeger			●
Truan			●
● Tupper			
Uher			
Vale			X
Vecchio			●
● Vick			
● Von Dohlen			
Wallace			●
Washing.on			
Waters			●
Watson			●
Weddington			●
Whitehead			
● Whitmire			
Wieting			●
Williams			●
Williamson			
Willis			●
Wilson			●
Wolff			
Wyat			
Bryant			

X-Excused Absence

#2 Motion to Table Hale Amendment to Art III, Sec 12.

Yea - 53 TOTALS Nay - 81 PNV - 1 NV - 45

YEA		N-V		NAY	
100-200		100-200		100-200	
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2 ●	2	2
3	3	3	3	3	3
● 4	4	4	4	4	4
5	5 ●	● 5	5	5	5
6	6	6	6	● 6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9 ●

ARTICLE	
● Comm.	10
● Rep.	20
Subs.	1
● Amm.	2
Quo.	● 3
3 R	4
Subm.	5
Mino.	6
● Mot.	7
Alt.	8
Sep.	9
● 2 R	0

SECTION	
● 10	1
20	2 ●
30	3
40	4
50	5
60	6
70	7
80	8
90	9
00	0

DATE:	1
JAN	2
FEB	3
MAR	1
APR	2
● MAY	3
JUN	4
JUL	5
AUG	6
SEP	7 ●
OCT	8
NOV	9
DEC	0

TEXAS CONSTITUTIONAL CONVENTION

1974

1048

	YEA	N-V	NAY
	Mr. President		
●	Adams, D.		
●	Adams, H.		
	Agnich		●
	Aikin		●
●	Allen, Joe		
	Allen, John		●
	Allred		
	Andujar		●
	Atwell		●
	Bailey		●
●	Baker		
	Bales		X
	Barnhart		●
●	Bigham		
●	Bird		
	Blake		●
	Blanchar '		
	Blythe		●
	Bock		●
	Boone		●
	Bowers		●
	Braecklein		●
	Brooks		●
	Bynum		●
	Caldwell		
●	Calhoun		
	Canales		
	Cates		
●	Clark		
●	Clayton		
●	Clower		
	Cobb		●
	Cole		
●	Coleman		
●	Coody		
●	Cooke		
	Craddick		●
	Creighton		●
	Daniel		
	Davis		●
●	Denson		
●	Denton		
	Doggett		●
	Donaldsc :		X
●	Doran		

	YEA	N-V	NAY
	Doyle		
●	Dramberger		
	Earle		●
	Edwards		●
	Evans		●
	Finnell		●
	Finney		
	Foreman		●
	Fox		●
●	Gammage		
●	Garcia		
	Gaston		●
	Geiger		●
●	Grant		
●	Green, F.		
	Green, R.		●
●	Hale		
●	Hall, A.		
●	Hall, W.		
●	Hanna		
●	Harrington		
●	Harris, E.		
●	Harris, O.		
	Head		
	Heatly		
	Henderson		●
	Hendricks		
●	Hernandez		
	Hightower		●
	Hilliard		●
●	Hoestenbach		
●	Hollowell		
	Howard		●
	Hubenak		●
	Hudson		
	Hutchison		●
●	Johnson		
●	Jones, Gene		
●	Jones, Grant		
	Jones, L.		
	Kaster		●
	Korioth		●
●	Kothmann		
	Kubiak		●
	Laney		●
●	Lary		

	YEA	N-V	NAY
	Lee		
●	Leland		
	Lewis		●
	Lombardino		●
●	Longoria		
	McAlister		●
●	McDonald, F.		
●	McDonald, T.		
	McKinnon		X
	McKnight		●
●	Madla		
	Maloney		●
	Martin		●
●	Massey		
●	Mattox		
	Mauzy		
●	Meier		
	Menefee		
	Mengden		●
●	Miller		
	Montoya		
	Moore		●
	Munson		●
	Murray		●
	Nabers		●
	Newton		●
●	Nichols		
●	Nowlin		
	Nugent		●
	Ogg		●
●	Olson		
	Parker, C.		●
	Parker, W.		
	Patman		●
●	Pentony		
	Peveto		●
●	Poerner		
	Poff		●
●	Powers		
	Presnal		●
	Preston		●
	Ragsdale		
●	Reyes		
	Reynolds		●
●	Rodriguez		
●	Rosson		

	YEA	N-V	NAY
	Russell		
●	Sage		
●	Salem		
	Sanchez		●
●	Santiesteban		
	Schieffer		●
●	Schwartz		
	Scoggins		●
	Semos		
	Sherman, M.		●
	Sherman, W.		●
	Short		●
	Simmons		
	Slack		
●	Snelson		
	Spurlock		●
●	Sullivant		
●	Sutton		
	Tarbox		●
	Temple		●
	Thompson		X
●	Traeger		
●	Truan		
	Tupper		●
●	Uher		
	Vale		X
●	Vecchio		
	Vick		●
	Von Dohlen		●
●	Wallace		
	Washington		
●	Waters		
●	Watson		
	Weddington		●
	Whitehead		●
●	Whitmire		
●	Wieting		
●	Williams		
	Williamson		
●	Willis		
●	Wilson		
	Wolff		
●	Wyatt		
	Bryant		

X-Excused Absence

#3 Adoption of the Hale Amendment, Failed. Art III, Sec 12.

Yea - 74 TOTALS Nay - 74 PNV-INV-32

YEA 100-200		N-V 100-200		NAY 100-200	
0	0	0	0	0	0
1	1	1	1	1	●
2	2	●	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
●	6	6	6	6	6
7	●	7	7	●	7
8	8	8	8	8	8
9	9	9	●	9	9

	ARTICLE
● Comm.	10
● Rep.	20
Subs.	1
● Amm.	2
Quo.	● 3
3 R	4
Subm.	5
Mino.	6
Mot.	7
Alt.	8
Sep.	9
● 2 R	0

SECTION	
● 10	1
20	2 ●
30	3
40	4
50	5
60	6
70	7
80	8
90	9
00	0

DATE:	1
JAN	2
FEB	3
MAR	1
APR	2
● MAY	3
JUN	4
JUL	5
AUG	6
SEP	7 ●
OCT	8
NOV	9
DEC	0

TEXAS CONSTITUTIONAL CONVENTION

1974

1049

YEA	N-V	NAY
Mr. President		
● Adams, D.		
● Adams, H.		
Agnich		●
● Aikin		
● Allen, Joe		
Allen, John		
Allred		
Andujar		
● Atwell		
● Bailey		
● Baker		
Bales		●
● Barnhart		
● Bigham		
● Bird		
● Blake		
Blanchard		X
● Blythe		
Bock		
● Boone		
Bowers		
● Braecklein		
Brooks		
● Bynum		
● Caldwell		
Calhoun		●
Canales		
● Cates		
Clark		●
● Clayton		
Clower		
Cobb		
● Cole		
Coleman		●
Coody		●
Cooke		●
● Craddick		
Creighton		
Daniel		
Davis		●
Denson		●
Denton		●
Doggett		
Donaldson		X
Doran		
Doyle		
● Dramberger		
Earle		●
● Edwards		
● Evans		
● Finnell		
Finney		
Foreman		●
● Fox		
Gammage		
Garcia		
Gaston		●
● Geiger		
● Grant		
● Green, F.		
Green, R.		●
Hale		
Hall, A.		●
Hall, W.		●
● Hanna		
● Harrington		
Harris, E.		●
Harris, C.		
Head		
Heatly		●
● Henderson		
Hendricks		X
Hernandez		●
● Hightower		
Hilliard		●
Hoestenbach		
● Hollowell		
● Howard		
● Hubenak		
Hudson		
● Hutchison		
Johnson		●
Jones, Gene		●
● Jones, Grant		
Jones, L.		
● Kaster		
Korioth		
Kothmann		●
● Kubiak		
● Laney		
Lary		●
Lee		
Leland		●
Lewis		
● Lombardino		
● Longoria		
● McAlister		
McDonald, F.		●
McDonald, T.		
McKinnon		X
● McKnight		
● Madla		
● Maloney		
● Martin		
Massey		
● Mattox		
Mauzy		X
Meier		
Menefee		
Mengden		
Miller		●
Montoya		
Moore		
● Munson		
● Murray		
Nabers		●
● Newton		
Nichols		●
● Nowlin		
Nugent		●
Ogg		X
● Olson		
● Parker, C.		
Parker, W.		X
Patman		●
Pentony		●
● Peveto		
Poerner		
● Poff		
● Powers		
● Presnal		
● Preston		
Ragsdale		
Reyes		●
● Reynolds		
Rodriguez		
● Rosson		
Russell		●
● Sage		
Salem		●
Sanchez		
Santiesteban		●
● Schieffer		
● Schwartz		
● Scoggins		
● Semos		
Sherman, M.		●
Sherman, W.		
● Short		
Simmons		
Slack		
Snelson		X
Spurlock		
● Sullivant		
Sutton		●
Tarbox		●
Temple		
Thompson		X
Traeger		
Truan		●
● Tupper		
● Uher		
Vale		X
Vecchio		
● Vick		
Von Dohlen		
Wallace		●
Washington		
Waters		●
Watson		●
Weddington		
Whitehead		●
● Whitmire		
Wieting		●
Williams		●
Williamson		
Willis		●
● Wilson		
Wolff		
Wyatt		
● Bryant		

X-Excused Absence

#4 Adoption of the Schwartz Amendment to Art III, Sec 12.

Yea - 74 TOTALS Nay - 44 PNV - 4 NV - 58

YEA	N-V	NAY
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1●	1 1
2 2	2 2	2 2
3 3●	3 3	3 3●
4 4	4 4	●4 4
5 5	5 5	5 5
6 6	●6 6	6 6
●7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

	ARTICLE
● Comm.	10
● Rep.	20
Subs.	1
● Amm.	2
Quo.	● 3
3 R	4
Subm.	5
Mino.	6
Mot.	7
Alt.	8
Sep.	9
● 2 R	0

SECTION	
● 10	1
20	2●
30	3
40	4
50	5
60	6
70	7
80	8
90	9
00	0

DATE:	1
JAN	2
FEB	3
MAR	1
APR	2
● MAY	3
JUN	4
JUL	5
AUG	6
SEP	7●
OCT	8
NOV	9
DEC	0

TEXAS CONSTITUTIONAL CONVENTION

1974

1050

	YEA	N-V	NAY
Mr. President			
Adams, D.			
Adams, H.	●		
Agnich			●
Aikin			
Allen, Jo			
Allen, John			●
Allred			
Andujar			●
Atwell			●
Bailey			●
Baker	●		
Bales	●		
Barnhart			●
Bigham	●		
Bird			●
Blake	●		
Blanchar'			X
Blythe	●		
Bock			
Boone			●
Bowers			
Braecklein	●		
Brooks			●
Bynum	●		
Caldwell	●		
Calhoun			X
Canales			
Cates			●
Clark			●
Clayton			●
Clower	●		
Cobb			●
Cole			
Coleman			●
Coody	●		
Cooke			●
Craddick			
Creighton			●
Daniel			
Davis			●
Denson	●		
Denton	●		
Doggett	●		
Donaldso..			X
Doran			●
Doyle			
Dramberger	●		
Earle	●		
Edwards	●		
Evans			●
Finnell			●
Finney			
Foreman			●
Fox			●
Gammage			●
Garcia			
Gaston			●
Geiger			●
Grant			●
Green, F.			●
Green, R.	●		
Hale			●
Hall, A.	●		
Hall, W.			●
Hanna	●		
Harrington			●
Harris, E.	●		
Harris, O.			●
Head			
Heatly	●		
Henderson	●		
Hendrick.			X
Hernandez	●		
Hightower			●
Hilliard			
Hoestenbach			●
Hollowell			●
Howard			●
Hubenak			
Hudson			
Hutchison			●
Johnson	●		
Jones, Gene			●
Jones, Grant	●		
Jones, L.			●
Kaster			●
Korioth			●
Kothmann			●
Kubiak			
Laney			●
Lary	●		
Lee			
Leland	●		
Lewis			●
Lombardino			●
Longoria			●
McAlister			●
McDonald, F.	●		
McDonald, T.			●
McKinno.			X
McKnight	●		
Madla			●
Maloney			●
Martin			●
Massey			●
Mattox	●		
Mauzy			X
Meier	●		
Menefee			
Mengden			●
Miller	●		
Montoya			
Moore	●		
Munson			●
Murray			●
Nabers			●
Newton			●
Nichols	●		
Nowlin			●
Nugent	●		
Ogg			X
Olson			●
Parker, C.			●
Parker, W.			X
Patman	●		
Pentony			●
Peveto			●
Poerner	●		
Poff	●		
Powers			●
Presnal			●
Preston			●
Ragsdale			
Reyes	●		
Reynolds	●		
Rodrigue..			
Rosson	●		
Russell			●
Sage			●
Salem			●
Sanchez			
Santiesteban			●
Schieffer	●		
Schwartz	●		
Scoggins			●
Semos			●
Sherman, M.			●
Sherman, W.			
Short			●
Simmons			
Slack			
Snelson			X
Spurlock			
Sullivant			●
Sutton	●		
Tarbox	●		
Temple			●
Thompson			X
Traeger			
Truan	●		
Tupper			
Uher	●		
Vale			X
Vecchio			
Vick			●
Von Dohlen			●
Wallace			
Washington	●		
Waters	●		
Watson	●		
Weddington			
Whitehead			●
Whitmire	●		
Wieting			●
Williams			●
Williamson			
Willis	●		
Wilson	●		
Wolff			
Wyatt	●		
Bryant	●		

X - Excused Absence

#5 Motion to Table Maloney Amendment to Art III, Sec 15.

Yea - 56 TOTALS Nay - 79 PNV-1 NV-34

YEA		N-V		NAY	
100-200		100-200		100-200	
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4 ●	● 4	4	4	4
● 5	5	5	5 ●	5	5
6	6	6	6	6	6
7	7	7	7	● 7	7 ●
8	8	8	8	8	8
9	9	9	9	9	9

ARTICLE	
● Comm.	10
● Rep.	20
Subs.	1
● Amm.	2
Quo.	● 3
3 R	4
Subm.	5
Mino.	6
● Mot.	7
Alt.	8
Sep.	9
● 2 R	0

SECTION	
● 10	1
20	2
30	3
40	4
50	5 ●
60	6
70	7
80	8
90	9
00	0

DATE:	
JAN	1
FEB	2
MAR	3
APR	1
● MAY	2
JUN	3
JUL	4
AUG	5
SEP	6
OCT	7 ●
NOV	8
DEC	9
	0

TEXAS CONSTITUTIONAL CONVENTION

1974

1051

	YEA	N-V	NAY
Mr. President	●		
Adams, D.			●
Adams, H.			●
Agnich	●		
Aikin	●		
Allen, Joe	●		
Allen, John	●		
Allred			●
Andujar	●		
Atwell	●		
Bailey	●		
Baker			●
Bales			●
Barnhart	●		
Bigham			●
Bird	●		
Blake			●
Blanchard		X	
Blythe			●
Bock			●
Boone			●
Bowers			
Braecklein	●		
Brooks			●
Bynum			●
Caldwell			●
Calhoun		X	
Canales			
Cates	●		
Clark	●		
Clayton	●		
Clower			●
Cobb	●		
Cole			
Coleman			●
Coody			●
Cooke	●		
Craddick			
Creighton	●		
Daniel			
Davis	●		
Denson			●
Denton			●
Doggett			●
Donaldson		X	
Doran	●		
Doyle			
Dramberger			●
Earle			●
Edwards			●
Evans			●
Finnell	●		
Finney			
Foreman	●		
Fox	●		
Gammage	●		
Garcia			●
Gaston			●
Geiger	●		
Grant			●
Green, F.	●		
Green, R.			●
Hale	●		
Hall, A.			●
Hall, W.			●
Hanna			●
Harrington	●		
Harris, E.			●
Harris, C.	●		
Head			
Heatly			●
Henderson			●
Hendrick		X	
Hernandez			●
Hightower	●		
Hilliard	●		
Hoestenbach	●		
Hollowell	●		
Howard	●		
Hubenak	●		
Hudson			●
Hutchison	●		
Johnson			●
Jones, Gene	●		
Jones, Grant			●
Jones, L.	●		
Kaster	●		
Korioth	●		
Kothmann	●		
Kubiak			●
Laney	●		
Lary			●
Lee			
Leland			●
Lewis	●		
Lombardino	●		
Longoria	●		
McAlister			●
McDonald, F.			●
McDonald, T.	●		
McKinnon		X	
McKnight			●
Madla	●		
Maloney	●		
Martin			●
Massey	●		
Mattox			●
Mauzy		X	
Meier			●
Menefee			
Mengden	●		
Miller			●
Montoya	●		
Moore			●
Munson	●		
Murray	●		
Nabers			●
Newton	●		
Nichols			●
Nowlin	●		
Nugent			●
Ogg		X	
Olson	●		
Parker, C.	●		
Parker, V.		X	
Patman			●
Pentony	●		
Peveto	●		
Poerner	●		
Poff			●
Powers	●		
Presnal			●
Preston	●		
Ragsdale			
Reyes			●
Reynolds			●
Rodriguez			
Rosson			●
Russell	●		
Sage	●		
Salem			●
Sanchez			
Santiesteban	●		
Schieffer			X
Schwartz			●
Scoggins			●
Semos	●		
Sherman, M.	●		
Sherman, W.			
Short	●		
Simmons			
Slack			
Snelson			X
Spurlock			●
Sullivant	●		
Sutton			●
Tarbox			●
Temple			●
Thompson			X
Traeger			●
Truan			●
Tupper	●		
Uher			●
Vale			X
Vecchio	●		
Vick	●		
Von Dohlen	●		
Wallace			●
Washington			●
Waters			●
Watson			●
Weddington			
Whitehead	●		
Whitmire	●		
Wieting	●		
Williams	●		
Williamson			
Willis			●
Wilson			●
Wolff			
Wyatt			●
Bryant			●

X-Excused Absence

#6 Adoption of the Maloney Amendment to Art III, Sec 15.

Yea - 76 TOTALS Nay - 75 PNV - 0 NV - 29

YEA		N-V		NAY	
100-200		100-200		100-200	
0	0	0	0	0	0
1	1 ●	1	1	1	1
2	2	2	2	2	2
3	3	3 ●	3 ●	3	3
4	4	4	4	4	4 ●
5	5	5	5	5	5
6	6	6	6	6	6
7 ●	7	7	7	7 ●	7
8	8	8	8	8	8
9	9	9	9	9	9

	ARTICLE
Comm. ●	10
Rep. ●	20
Subs.	1
Amm. ●	2
Quo.	3 ●
3 R	4
Subm.	5
Mino.	6
Mot.	7
Alt.	8
Sep.	9
2 R ●	0

SECTION	
10 ●	1
20	2
30	3
40	4
50	5 ●
60	6
70	7
80	8
90	9
00	0

DATE:	
JAN	1
FEB	2
MAR	3
APR	1
MAY	2
JUN	3 ●
JUL	4
AUG	5
SEP	6
OCT	7 ●
NOV	8
DEC	9

TEXAS CONSTITUTIONAL CONVENTION

1974

1052

	YEA	N-V	NAY
Mr. President			
Adams, D.			●
Adams, H.			●
Agnich	●		
Aikin			●
Allen, Joe	●		
Allen, John	●		
Allred			●
Andujar	●		
Atwell			
Bailey	●		
Baker	●		
Bales		●	
Barnhart	●		
Bigham			●
Bird	●		
Blake			●
Blanchard			X
Blythe	●		
Bock	●		
Boone	●		
Bowers	●		
Braecklein	●		
Brooks	●		
Bynum	●		
Caldwell	●		
Calhoun			X
Canales			
Cates			●
Clark	●		
Clayton			
Clower			●
Cobb	●		
Cole			
Coleman	●		
Coody			
Cooke			●
Craddick			
Creighton	●		
Daniel			
Davis	●		
Denson			●
Denton			●
Doggett	●		
Donaldson			X
Doran	●		
Doyle			
Dramberger	●		
Earle	●		
Edwards			●
Evans			
Finnell			●
Finney			
Foreman			●
Fox	●		
Gammage	●		
Garcia			●
Gaston	●		
Geiger			●
Grant			●
Green, F.			●
Green, R.			●
Hale	●		
Hall, A.	●		
Hall, W.	●		
Hanna			●
Harrington	●		
Harris, E.			
Harris, O.	●		
Head			●
Heatly	●		
Henderson	●		
Hendrick			X
Hernandez			
Hightower	●		
Hilliard			
Hoestenbach			
Hollowell			●
Howard	●		
Hubenak	●		
Hudson			●
Hutchison	●		
Johnson			●
Jones, Gene	●		
Jones, Grant	●		
Jones, L.			●
Kaster			●
Korioth	●		
Kothmann	●		
Kubiak			●
Laney	●		
Lary	●		
Lee			
Leland			●
Lewis	●		
Lombardino	●		
Longoria	●		
McAlister			●
McDonald, F.	●		
McDonald, T.			●
McKinno			X
McKnight	●		
Madla			X
Maloney	●		
Martin			●
Massey	●		
Mattox			●
Mauzy			X
Meier	●		
Menefee			
Mengden	●		
Miller	●		
Montoya	●		
Moore	●		
Munson			●
Murray	●		
Nabers			●
Newton			
Nichols			●
Nowlin	●		
Nugent	●		
Ogg			X
Olson	●		
Parker, C.	●		
Parker, W.			X
Patman	●		
Pentony			
Peveto	●		
Poerner	●		
Poff	●		
Powers	●		
Presnal			
Preston			●
Ragsdale			
Reyes			●
Reynolds	●		
Rodriguez			
Rosson	●		
Russell			●
Sage	●		
Salem			●
Sanchez			
Santiesteban	●		
Schieffer			X
Schwartz	●		
Scoggins			
Semos	●		
Sherman, M.	●		
Sherman, W.			
Short			●
Simmons			
Slack			
Snelson			X
Spurlock	●		
Sullivant			●
Sutton			●
Tarbox	●		
Temple			●
Thompson			X
Traeger	●		
Truan	●		
Tupper	●		
Uher	●		
Vale			X
Vecchio	●		
Vick	●		
Von Dohlen	●		
Wallace	●		
Washington			●
Waters			●
Watson	●		
Weddington	●		
Whitehead			●
Whitmire			●
Wieting			●
Williams			●
Williamson			
Willis			●
Wilson			
Wolff			
Wyatt	●		
Bryant			●

K - Excused Absence

#7 Motion to Table Whitehead Amendment to Art III.

Yea - 97 TOTALS Nay - 51 PNV - 2 NV - 40

YEA		N-V		NAY	
100	200	100	200	100	200
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4 ●	4 ●	4	4 ●	4
5	5	5	5	5	5
6	6	6	6 ●	6	6
7	7	7	7	7	7
8 ●	8	8	8	8	8 ●
9	9	9	9	9	9

	ARTICLE		SECTION		DATE:	
● Comm.	10					
● Rep.	20				JAN	2
Subs.	1		10	1	FEB	3
● Amm.	2		20	2	MAR	1
Quo.	● 3		30	3	APR	2
3 R	4		40	4	● MAY	3
Subm.	5		50	5	JUN	4
Mino.	6		60	6	JUL	5
● Mot.	7		70	7	AUG	6
Alt.	8		80	8	SEP	7 ●
Sep.	9		90	9	OCT	8
● 2 R	0		00	0	NOV	9
					DEC	0

TEXAS CONSTITUTIONAL CONVENTION

1053 1974

	YEA	N-V	NAY
Mr. President			
Adams, D.			●
Adams, H.			●
Agnich	●		
Aikin			●
Allen, Joe	●		
Allen, John	●		
Allred			●
Andujar	●		
Atwell			
Bailey	●		
Baker	●		
Bales		●	
Barnhart	●		
Bigham			●
Bird	●		
Blake			●
Blanchard			X
Blythe	●		
Bock	●		
Boone	●		
Bowers			
Braecklein	●		
Brooks	●		
Bynum	●		
Caldwell	●		
Calhoun			X
Canales			
Cates			●
Clark			●
Clayton			
Clower			●
Cobb	●		
Cole			
Coleman	●		
Coody			
Cooke			●
Craddick	●		
Creighton	●		
Daniel			
Davis	●		
Denson			●
Denton			●
Doggett	●		
Donaldson			X
Doran	●		
Doyle			
Dramberger	●		
Earle	●		
Edwards			●
Evans			
Finnell			●
Finney			
Foreman			●
Fox	●		
Gammage	●		
Garcia			●
Gaston	●		
Geiger	●		
Grant			●
Green, F.	●		
Green, R.	●		
Hale	●		
Hall, A.	●		
Hall, W.	●		
Hanna			●
Harrington	●		
Harris, E.	●		
Harris, C.			
Head			●
Heatly	●		
Henderson	●		
Hendrick			X
Hernandez			
Hightower	●		
Hilliard	●		
Hoestenbach			
Hollowell			●
Howard	●		
Hubenak	●		
Hudson			●
Hutchison	●		
Johnson			●
Jones, Gene	●		
Jones, Grant	●		
Jones, L.			●
Kaster			●
Korioth	●		
Kothmann	●		
Kubiak			●
Laney	●		
Lary	●		
Lee			
Leland			●
Lewis			●
Lombardino	●		
Longoria	●		
McAlister	●		
McDonald, F.	●		
McDonald, T.			●
McKinno			X
McKnight	●		
Madla			X
Maloney	●		
Martin			●
Massey	●		
Mattox			●
Mauzy			X
Meier	●		
Menefee			
Mengden	●		
Miller			
Montoya	●		
Moore	●		
Munson			●
Murray	●		
Nabers			●
Newton			
Nichols			●
Nowlin	●		
Nugent	●		
Ogg			X
Olson	●		
Parker, C.	●		
Parker, W.			X
Patman			●
Pentony			
Peveto	●		
Poerner	●		
Poff	●		
Powers	●		
Presnal			
Preston			●
Ragsdale			
Reyes			●
Reynolds	●		
Rodriguez			
Rosson	●		
Russell			
Sage	●		
Salem			●
Sanchez			
Santiesteban	●		
Schieffer			X
Schwartz	●		
Scoggins			
Semos	●		
Sherman, M.	●		
Sherman, W.			
Short			●
Simmons			
Slack			
Snelson			X
Spurlock	●		
Sullivant			
Sutton			●
Tarbox			●
Temple			●
Thompson			X
Traeger	●		
Truan	●		
Tupper	●		
Uher	●		
Vale			X
Vecchio	●		
Vick	●		
Von Dohlen	●		
Wallace	●		
Washington			●
Waters			●
Watson			●
Weddington	●		
Whitehead			●
Whitmire			●
Wieting			●
Williams			●
Williamson	●		
Willis			●
Wilson	●		
Wolff	●		
Wyatt	●		
Bryant			●

X-Excused Absence

#8 Motion to Table Whitehead Amendment to Art III.

Yea - 86 TOTALS Nay - 50 PNV - 2 NV - 42

YEA	N-V	NAY
100-200	100-200	100-200
0 0	0 0	0 0
1 1 ●	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	● 4 4	● 4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
● 8 8	8 8 ●	8 8 ●
9 9	9 9	9 9

ARTICLE		SECTION		DATE:	
● Comm.	10				
● Rep.	20			JAN	2
Subs.	1			FEB	3
● Amm.	2			MAR	1
Quo.	● 3	10	1	APR	2
3 R	4	20	2	● MAY	3
Subm.	5	30	3	JUN	4
Mino.	6	40	4	JUL	5
● Mot.	7	50	5	AUG	6
Alt.	8	60	6	SEP	7 ●
Sep.	9	70	7	OCT	8
● 2 R	0	80	8	NOV	9
		90	9	DEC	0
		00	0		

TEXAS CONSTITUTIONAL CONVENTION

1055 1974

	YEA	N-V	NAY
Mr. President			
Adams, D.			●
Adams, H.	●		
Agnich	●		
Aikin	●		
Allen, Joe			●
Allen, John	●		
Allred			
Andujar	●		
Atwell			
Bailey			●
Baker	●		
Bales		X	
Barnhart			●
Bigham	●		
Bird			●
Blake			
Blanchar		X	
Blythe			●
Bock	●		
Boone	●		
Bowers			●
Braecklein			●
Brooks			●
Bynum	●		
Caldwell	●		
Calhoun		X	
Canales			
Cates	●		
Clark			●
Clayton	●		
Clower			●
Cobb			
Cole			
Coleman			●
Coody			
Cooke			●
Craddick	●		
Creighton	●		
Daniel			
Davis			●
Denson			●
Denton			●
Doggett			●
Donaldsc		X	
Doran			
Doyle	●		
Dramberger			●
Earle			●
Edwards			●
Evans			●
Finnell	●		
Finney			
Foreman	●		
Fox	●		
Gammage	●		
Garcia			●
Gaston	●		
Geiger			
Grant			●
Green, F.			●
Green, R.			●
Hale	●		
Hall, A.	●		
Hall, W.			●
Hanna	●		
Harrington			●
Harris, E.	●		
Harris, C.			
Head			●
Heatly	●		
Henderson	●		
Hendrick		X	
Hernandez			●
Hightower	●		
Hilliard	●		
Hoestenbach			●
Hollowell			●
Howard	●		
Hubenak	●		
Hudson	●		
Hutchison			●
Johnson	●		
Jones, Gene	●		
Jones, Grant	●		
Jones, L.			●
Kaster	●		
Korioth	●		
Kothmann			●
Kubiak			●
Laney	●		
Lary	●		
Lee	●		
Leland	●		
Lewis			●
Lombardino			●
Longoria	●		
McAlister	●		
McDonald, F.	●		
McDonald, T.			●
McKinno		X	
McKnight			
Madla		X	
Maloney			●
Martin	●		
Massey	●		
Mattox			●
Mauzy		X	
Meier	●		
Menefee			
Mengden			●
Miller			●
Montoya			●
Moore			
Munson			●
Murray	●		
Nabers	●		
Newton			●
Nichols			●
Nowlin			●
Nugent			●
Ogg	●		
Olson			●
Parker, C.	●		
Parker, W.		X	
Patman			●
Pentony			●
Peveto	●		
Poerner	●		
Poff			●
Powers			●
Presnal	●		
Preston	●		
Ragsdale			
Reyes			
Reynolds			●
Rodrigue			
Rosson	●		
Russell	●		
Sage	●		
Salem			●
Sanchez			
Santiesteban	●		
Schieffer			X
Schwartz			●
Scoggins			●
Semos			●
Sherman, M.	●		
Sherman, W.			
Short	●		
Simmons	●		
Slack			
Snelson			X
Spurlock	●		
Sullivant	●		
Sutton			●
Tarbox	●		
Temple			●
Thompson			X
Traeger	●		
Truan			●
Tupper	●		
Uher	●		
Vale			X
Vecchio			●
Vick			X
Von Dohlen	●		
Wallace	●		
Washington	●		
Waters			
Watson			●
Weddington			●
Whitehead			●
Whitmire			●
Wieting	●		
Williams	●		
Williamson			
Willis			●
Wilson			●
Wolff			
Wyatt	●		
Bryant	●		

X-Excused Absence

#9 Motion to Table the Temple-Davis Amendment to Art III.

Yea-75 TOTALS Nay-68 PNV-1 NV-36

YEA	N-V	NAY
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1	1 1
2 2	2 2	2 2
3 3 ●	● 3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	● 6 6
● 7 7	7 ● 7	7 ● 7
8 8	8 8	8 8
9 9	9 9	9 9

ARTICLE		SECTION	
● Comm.	10		
● Rep.	20		
Subs.	1	● 10	1
● Amm.	2	20	2
Quo.	● 3	30	3
3 R	4	40	4
Subm.	5	50	5
Mino.	6	60	6
● Mot.	7	70	7
Alt.	8	80	8
Sep.	9	90	9
● 2 R	0	00	0

DATE:	
JAN	2
FEB	3
MAR	1
APR	2
● MAY	3
JUN	4
JUL	5
AUG	6
SEP	7 ●
OCT	8
NOV	9
DEC	0

TEXAS CONSTITUTIONAL CONVENTION

1974

1054

YEA	N-V	NAY
Mr. President		
Adams, D.		●
Adams, H.		●
Agnich		●
Aikin		●
Allen, Joe		●
Allen, John		
Allred		
Andujar		●
Atwell		
Bailey		●
● Baker		
Bales		X
Barnhart		●
Bigham		●
Bird		●
Blake		●
Blanchard		X
Blythe		●
Bock		●
Boone		●
Bowers		●
Braecklein		●
Brooks		●
Bynum		●
Caldwell		●
Calhoun		X
Canales		
Cates		●
Clark		●
Clayton		
Clower		●
Cobb		
Cole		●
Coleman		●
Coody		
Cooke		●
Craddick		●
Creighton		●
Daniel		
Davis		●
Denson		●
Denton		
Doggett		●
Donaldson		X
Doran		●
Doyle		●
Dramberger		●
Earle		●
Edwards		●
Evans		●
Finnell		●
Finney		
Foreman		●
Fox		●
Gammage		●
Garcia		●
Gaston		●
Geiger		●
Grant		●
Green, F.		●
Green, R.		●
Hale		
Hall, A.		●
Hall, W.		●
Hanna		●
● Harrington		
● Harris, E.		
Harris, C.		
Head		
Heatly		●
Henderson		●
Hendrick		X
● Hernandez		
Hightower		●
Hilliard		
Hoestenbach		●
Hollowell		●
Howard		●
Hubenak		●
Hudson		●
Hutchison		●
Johnson		●
Jones, Gene		●
Jones, Grant		●
Jones, L.		●
Kaster		●
Korioth		●
Kothmann		●
Kubiak		
Laney		●
Lary		●
Lee		●
● Leland		
Lewis		●
Lombardino		●
Longoria		●
McAlister		
McDonald, F.		●
McDonald, T.		●
McKinnon		X
McKnight		●
Madla		X
Maloney		●
Martin		●
Massey		●
● Mattox		
Mauzy		X
Meier		●
Menefee		
Mengden		●
Miller		●
Montoya		
Moore		
Munson		●
Murray		●
● Nabers		
Newton		●
● Nichols		
Nowlin		●
Nugent		●
Ogg		●
Olson		●
Parker, C.		●
Parker, W.		X
Patman		●
● Pentony		
Peveto		●
Poerner		●
● Poff		
● Powers		
Presnal		●
Preston		
Ragsdale		
● Reyes		
Reynolds		●
Rodriguez		
Rosson		●
Russell		
Sage		●
Salem		●
Sanchez		
Santiesteban		●
Schieffer		X
● Schwartz		
Scoggins		●
Semos		●
Sherman, M.		●
Sherman, W.		
Short		●
Simmons		●
Slack		
Snelson		X
Spurlock		●
Sullivant		●
● Sutton		
Tarbox		●
Temple		●
Thompson		X
Traeger		●
Truan		●
Tupper		●
Uher		●
Vale		X
Vecchio		●
Vick		X
Von Dohlen		●
Wallace		●
● Washington		
Waters		
Watson		●
Weddington		●
Whitehead		●
● Whitmire		
Wieting		●
Williams		●
Williamson		
Willis		●
Wilson		●
Wolff		
Wyatt		●
● Bryant		

X- Excused Absence

#10 Adoption of the Denton Amendment to Art III.

Yea-18 TOTALS Nay-19 PNV-1 NV-42

YEA		N-V		NAY	
100-200		100-200		100-200	
0	0	0	0	● 0	0
1	● 1	1	1	● 1	1
● 2	2	2	● 2	2	● 2
3	3	3	3	3	3
4	4	● 4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

ARTICLE	
● Comm.	10
● Rep.	20
Subs.	1
● Amm.	2
Quo.	● 3
3 R	4
Subm.	5
Mino.	6
Mot.	7
Alt.	8
Sep.	9
● 2 R	0

SECTION	
● 10	1
20	2
30	3
40	4
50	5
60	6
70	7
80	8
90	9
00	0

DATE:	1
JAN	2
FEB	3
MAR	1
APR	2
● MAY	3
JUN	4
JUL	5
AUG	6
SEP	● 7
OCT	8
NOV	9
DEC	0