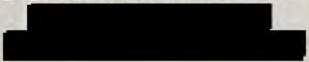




A  
League's-Eye  
View  
of

# TEXAS CONSTITUTIONAL REVISION

LEAGUE of WOMEN VOTERS of TEXAS



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The League of Women Voters of Texas is a nonpartisan organization devoted to the promotion of political responsibility through informed and active participation in government. The League never supports or opposes candidates. The League may take action on state governmental measures and policies in the public interest pursuant to the membership's selecting a topic, studying it in depth, and reaching consensus on it.

MAY, 1968  
25 Cents



## REVISION QUO VADIS?

### A League's-Eye View of Texas Constitutional Revision

#### CHRONICLE OF THE LEAGUE'S INTEREST IN TCR

Specific interest by the League of Women Voters of Texas in the state constitution began in 1948, when its membership adopted as their state current agenda item a "Know Your State" study, with emphasis on constitutional provisions. In 1952 a survey was prepared in eleven sections, covering the whole of the subject in a relatively brief and readable form. This survey was completed in 1955 and was used in schools and colleges throughout the state for many years.

In 1955 the Texas League of Women Voters published a digest of the state constitution, with some suggestions of needed reforms. More than 20,000 copies of this little booklet, which was entitled *Texas Constitutional Review*, were sold throughout Texas. In 1966, through a Sears-Roebuck Foundation grant, the booklet was revised and made available to the public without charge through the League of Women Voters of Texas Education Fund. At the present time, 62,000 copies of this edition have been distributed; it is in extensive use in high schools and colleges as a textbook on the Texas Constitution.

Since the beginning, it has been the position of the Texas League that there must be widespread citizen interest generated in the state constitution before serious proposals for specific reforms can be made to any avail by groups or individuals. The League, therefore, has used every means at its disposal to arouse public interest in the constitution. For instance, in 1955, simultaneously with the publication of *Texas Constitutional Review*, local Leagues throughout the state held community workshops on the subject of constitutional review. While a great many people had been willing to say that something needed to be done about the constitution, it was extremely gratifying to find civic leaders throughout Texas ready to participate in this first step toward starting constitutional revision. It was at this time also that the League began urging a campaign of editorials in newspapers throughout Texas—a campaign which the newspapers were and still are eager to engage in.

In the elections of 1956, one of the questions asked of candidates by the League was a direct one requesting their support for a constitutional commission to start research on the



Texas Constitution. Their response was most unusual --- about 95 percent replied in the affirmative and with great enthusiasm, and many offered specific legislative help in getting constitutional research begun.

Resolutions on the same subject were introduced in 1956 at precinct and county conventions of both parties wherever in Texas there were local Leagues, and the results were almost unanimously successful. (Similar resolutions were introduced in 1966 with equally good results. That year resolutions for constitutional revision were adopted by both parties at their state conventions, and revision by constitutional convention (CON CON) was a part of Governor Connally's recommendations to the 60th Legislature.)

With so many indications of citizen approval for a start being made toward constitutional revision, the League felt it was time for the campaign to be put in the hands of a wider cross section of Texas citizens. It was its intention to help organize a citizens' committee on the constitution, which, hopefully, would spearhead legislative action. For a number of reasons, however, the League was unable to get this committee organized and so was forced to go alone to the 55th Legislature with a resolution calling for constitutional research by the legislature. It was assumed that the legislature would wish to hold the reins on this project, since any later developments regarding revision of the constitution would require its initiative and action.

The League was able to get wide support for the resolution from individual citizens, but it did not succeed in gaining the official support of leading organizations in Texas—specifically, the State Bar Association, which decided at the last moment not to endorse the resolution, even though a majority of the leading members of the Bar did work for its passage.

The resolution, which called for thorough study of the constitution by the Texas Legislative Council (TLC) and created a Citizens' Advisory Committee, was passed by the legislature in 1957, but, as often happens, the conference committee on the appropriations bill did not include the \$150,000 that it had been estimated the start on research would cost. For lack of funds the TLC study languished, until an appropriation of \$50,000 was made by the 56th Legislature in 1959. Meanwhile, however, the Citizens' Advisory Committee, which consisted of eighteen highly dedicated citizens (including two very capable LWV members, Mrs. Horton Wayne Smith of Austin and Mrs. George C. Boller of Galveston) proceeded, completely without funds, to make a survey of the constitution. In both its interim report to the 56th Legislature and



its final report to the 57th, the committee found the constitution to be basically sound, but badly in need of both substantive and nonsubstantive revision. Because of insufficient funds and the short period of time left before a final report was to be made, the TLC decided that a thorough research job was not possible, and ended up, therefore, making a study that was far less in depth than originally specified.

In the summer of 1960, while awaiting the results of the TLC study, League members conducted an opinion survey in areas representing all of the major population centers of Texas. Nearly 75 percent of the more than 1,700 citizens interviewed said that the constitution is only partially effective in meeting present-day governmental needs. More than 60 percent of those dissatisfied with the constitution called for complete revision; and of these, over 35 percent specified the method of revision they preferred. No section other than the Bill of Rights escaped the tag of inadequacy.

When the final report of the Texas Legislative Council came out in 1961, its conclusions, contrary to the findings of the Citizens' Advisory Committee, were that no constitutional convention was needed at the time, and that the state constitution was sound and reflected the governmental philosophy of the people. But it did recommend that about 50 deadwood provisions be eliminated; that Article 17 (the amending article) be revised to allow inclusion of more than one subject in a proposed constitutional amendment; and that a study be made of Article 5, the judicial article.

By the time of the League's Sixth Biennial State Convention in 1958, it had adopted nine principles for a state constitution; the following year it added a tenth principle and published two new tools, *A Brief Case for Revision of the Texas Constitution* and *How to Revise the Constitution*. These accomplishments coupled with eleven years of action, study, and research, it was felt, gave the League the background for support of specific positions. So in 1960 League members reached consensus on what would constitute an effective judicial structure in Texas, and in 1962 they voted in favor of CON CON as the best method for constitutional revision.

In a new approach to creating wider citizen interest in the subject of constitutional revision, the League in 1961 began a TCR Library Project, which involved sending TCR materials to selected Texas libraries in non-League towns for display during Texas Historical Week. In 1967 League members cooperated with the



Junior Chamber of Commerce in obtaining signatures on petitions calling for a CON CON. While the effort came too near the end of the legislative session to be carried out effectively, such cooperation opens new avenues of citizen involvement in constitutional revision in Texas.

But the history of TCR work by the League is really just beginning. The wheel has turned once more. On July 13, 1967, Dr. Janice May, an instructor in government at the University of Texas and a League member, was appointed by Governor John Connally to serve on the Constitutional Revision Commission created by HSR 429, which is authorized to prepare a new constitution, or a lesser revision, for submission to the 61st Legislature. In spite of the lack of adequate funds, this commission is meeting—and the meetings are *open*, in compliance with the open meetings bill passed by the legislature in 1967.

### CULMINATION IN CONSENSUS

Since completing its initial survey of the Texas government in 1955, the League has unquestionably supported general revision of the state constitution, preceded by thorough review and adequate research. The League recognizes that in order to achieve these review and revision goals, it must work to make the public aware of the deficiencies of the Texas Constitution and to build public opinion *for* revision. Subsequently, League members from 1957 to 1959 studied “yardsticks” by which to judge a state constitution, a study that resulted in member agreement on “*ten principles*.” A study of the state judicial structure was made in 1959, resulting in positions which the LWV regards as essential to the principle: “justice with a minimum of delay.” In 1964 the judicial principles and positions were placed under Texas Constitutional Revision (TCR) on the League’s state program. These constitutional principles and judicial positions are enumerated on the inside back cover of this booklet.

In 1962 League members reached consensus on support for a constitutional convention preceded by qualified research as the best method for general revision. The consensus reports (from 31 of the 35 local Leagues in the state) on “How to Revise the Texas Constitution” \*reveal the following conclusions:

Of the methods of revision, the constitutional-convention method was preferred by 95 percent of those reaching consensus. Those indicating the least preferable method ranked the single amendment as being least desirable, and the state

\* Summarized in a memo to the Texas Leagues from Mrs. Herbert C. Martin, dated March 26, 1962.



legislature's serving as a constitutional convention as the next least desirable.

In answer to such questions as "What would make the least preferable method more desirable?" several conclusions were indicated. A citizens' advisory committee would enhance the prospect of the legislature's serving as a constitutional convention, and the single-amendment process could be used to remove deadwood. In any event, League members felt adequate research to be the paramount concern.

Other suggestions made stressed the need for more citizen education and the desirability of a constitutional commission for research in the interim preceding CON CON.

One of the interesting points revealed by these consensus reports is that a majority of local Leagues desired flexibility for League support of alternate revision proposals, within the League's principles, in the event of legislation being passed that specified some method of revision other than that preferred by the League.

#### OPUS '68 — OR WHY TCR IS STILL NEEDED

Texas needs to revise its state constitution because the current document is over-complicated, unorganized, all-inclusive, inflexible, ambiguous, and unending.

The present constitution is over-complicated. A good constitution should be more than a statement of law. It should be the symbol of the public's highest political ideals; as such, it should be easily read and understood, for constitutions are not written for lawyers alone. The Texas Constitution should be a statement of the fundamental laws of the state, by the people and for the people; if they are to respect and take an interest in their government, *they* must understand it.

The national constitution with its broad grants of authority and its avoidance of legislative detail was made flexible enough to stand the test of time; in this regard, it is far superior to the 1876 Texas Constitution, which was drawn up during a period of suspicion and distrust of government, and which is so restrictive in its detail that it is now burdened with 184 amendments. A needlessly complicated structure not only hampers majority rule—an essential ingredient of the democratic way of life—but may well establish rule by entrenched minorities. (It is often from this quarter that the most strenuous opposition comes when revision is



considered.) Having a disintegrated executive branch diffuses control and makes difficult proper supervision of its activities. A complicated legislative process can defy the majority will. There are multiple steps in the Texas legislative process, with over a dozen points at which decisions are made affecting the course of a bill. If legislation is to be passed, the majority must win at every step; the minority has to control only one to block all action. Hindering provisions impede those legislators who are trying to do an effective and responsible job, and diminish the stature of the legislature in the eyes of the public.

The present constitution is unorganized. A glance at an index to the Texas Constitution should be sufficient to indicate that rearrangement and codification of its contents are sorely needed.

The Texas Constitution is all-inclusive. There has been no distinction made between the monumental amendment and the purely statutory provision, between the general and the specific, between the perennial and the passing. It contains them all.

The present state constitution is inflexible. So much administrative detail and so many limitations were written into the document that it has been necessary time and time again to alter the fundamental law just to keep abreast of the times. Its rigid restrictions on county and municipal government, which seriously obstruct home rule, have forced the people to turn to the state and federal levels of government for help with local problems. Even grants of power are often so limited by prohibitions and restrictions that their original intent is nullified.

The Texas Constitution contains many ambiguities. The county home-rule amendment is a prime example. Although the passage of the amendment in 1933 was hailed as the beginning of a new era in Texas county government, nothing has come of it, for the wording is so vague and so confusing that it acts as an effective barrier to any attempts to change county government.

Finally, the Texas Constitution is unending. It has now been amended 184 times, and 14 more amendments will be presented to the voters November 5, 1968. The constitution has become a legislative dumping ground for statutory detail. Legislators often abdicate their own responsibilities on unpopular issues simply by submitting purely statutory matters to popular referendum—at an appalling cost.

While length and age do not of themselves make the Texas Constitution bad, neither do they automatically endow it with



sanctity and wisdom. The Constitution of the United States is more than twice as old, yet it has been amended just over two dozen times. The authors of the Texas Constitution were good men, but the simple fact that they lived in 1876 does not mean that they were more capable or more inspired, or that they had more confidence in the present or in the future, than the citizens of Texas TODAY.



### METHODS OF REVISION

Constitutional changes take many forms. Often overlooked are the evolutionary day-to-day changes made by interpretation. A constitution is never completely rewritten by this means, but the culminative effect of many individual interpretations—by the courts, the state legislature, and the people through custom and usage—does cause considerable change.

It has long been the inalienable right of the people of Texas to alter, reform, or abolish their government in such a manner as they may think expedient—so long as they retain a republican form of government. There are two fundamental means of revision:

1. *By constitutional convention*
2. *By the state legislature itself*

In both of these methods the role of the legislature is of vital importance:

*The state legislature must initiate any action on constitutional revision.*

1. In order to hold a CON CON, both houses of the legislature must approve by a two-thirds vote the ballot proposal by

which voters could authorize the convention. (The new document prepared by CON CON delegates would go to the voters automatically, without further legislative action.)

2. In order for the state legislature itself to revise the constitution, both houses would have to approve the revision by the same two-thirds vote before it could appear on the ballot. (And it would be prudent, say most authorities, for the legislature to get the prior approval of the voters before making a general revision.)

There is only one method by which constitutional changes can be ratified:

*Voters must approve new amendments or  
a new document at the polls.*

### *The Constitutional Commission*

An auxiliary device in the process of constitutional revision is the constitutional commission. It does not have the power to propose constitutional changes directly, but it can serve as an advisory and research body for a legislature considering piecemeal change, as well as a planning and research body for a constitutional convention. It is invaluable in identifying issues and informing the public.

According to the journal *State Government*, the value of constitutional commissions for proposing general revision is not clearly established. Commissions with limited mandates have been more successful than those authorized to study the entire constitutional system. The recommendations of the latter often become embroiled in political controversy, with resultant modifications that frequently make them unrecognizable and sometimes even contrary to the original proposals.

The commission device has the advantage of relieving busy legislators of the burden of exhaustive research, and it can function at a much lower cost than CON CON, which is more representative and publicized, but also more cumbersome and expensive. Use of a commission means that the legislature, without giving up its jealously guarded amendment and revision prerogative, can exert influence on its work by hand-picking the commissioners. It can also, if desired, "pass the buck" on controversial issues while responding to insistent demands by powerful interest groups for constitutional revision.



## *Revision by Legislative Amendment*

Constitutional revision by legislative amendment can take several forms:

1. Revision can be piecemeal by amendment. The lamentable but completely human tendency to use this method has resulted in 184 patches on the Texas Constitution, with 14 proposals in the offing to be voted on. Needless to say, all the amendments do not deal with basic fundamental law. The tendency is to proliferate statutory detail. And the cost to the citizens of Texas is tremendous—it has been estimated that the cost of submitting amendments to the voters between 1957 and 1966 alone was well over one and a half million dollars. Yet without the means of easy amendment, the legislature could not begin to meet the legitimate needs of the twentieth century.

2. Revision by separate coordinated amendments has been used by a number of states with varying degrees of success. It seems to work best where preparation is thorough and change is not too extensive. It is an excellent method for clarification, codification, and removal of deadwood. Its most glaring drawback is that key legislation may be defeated.

3. The legislature can submit a completely new document as one amendment. (A variation of this method is to submit the controversial issues in separate proposals.) There has been disagreement as to whether a new constitution could be presented in a single amendment under the present amendment article in the Texas Constitution. While the Citizens' Advisory Committee (1957-1961), in its interim report to the 56th Legislature, felt this method could be used, the House of Representatives in the 60th Legislature evidently felt some doubt.

This method could, with proper research, produce a more coordinated document, but it could also perpetuate the power of the dominant political party. Because of the limited time available to legislators, an outside research commission would be a necessity. The inalienable right of the people to alter their own government would be limited, as an unfortunate consequence, to the veto power.

## *The Constitutional Convention*

A constitutional convention provides the method by which the people themselves review and revise their fundamental law. Delegates are elected directly by the people for this single purpose. Once convened, a CON CON is an autonomous and sovereign body,



neither superior nor subordinate to the legislature, but deriving its power from the people and responsible only to them. The document it writes is sent directly back to the people for their approval.

Because the Texas Constitution contains no provisions for holding a CON CON, Texans are free to conduct such an assembly as they choose, *providing that*:

1. The legislature decides there will be a CON CON.
2. The legislature submits a ballot proposal to the people for authorization.
3. The legislature appropriates money for convention expenses.
4. The legislature provides for apportionment of delegates, names the time and place for convening, etc., through implementing legislation.

Legislative reapportionment has tended to generate efforts in a number of states directed toward overhauling the basic framework of their state government. (This development may be more important in the long run in increasing the responsiveness of state government to twentieth-century needs than the mere numerical realignment of urban and rural representation.) Certainly, malapportionment has, in the past, been a major factor in Texas and elsewhere in legislative resistance to calling a CON CON. Its cost and cumbersome size, the time required for authorization and assembly, the opposition of vested interests, and popular inertia are generally cited as other deterrents. However, the facts that member interest is focused on a single purpose and that a CON CON is more likely to attract and hold public attention could make it worth the extra effort and expense.



#### FOLLOWING REVISION AROUND THE NATION

Conventions to rewrite state constitutions were convened in several states last year (1967). Their assignments have ranged from the complete rewriting of their present document to the relatively



limited job of bringing their state constitution into conformity with the demands for legislative apportionment based on equality of representation.

New York's CON CON was in session from April until September of 1967, but the state's voters rejected the proposed constitution by a three-to-one margin on November 7. It seems generally agreed that the cause of the defeat was the submission of the proposed constitution as a single package, including the highly controversial church-state issue. Opposition included many large daily newspapers, civic and religious leaders, most Republican Party leaders, and the New York League of Women Voters (who had long worked for revision).

Rhode Island's CON CON supposedly finished its work in 1967 after three years of meetings. The new constitution was to have been voted on in a special November 7 election, but the convention hurried back into session to reconsider the proposed document, when the press, civic organizations, and other groups greeted it with a chorus of condemnation. The new "new" proposed constitution is to be submitted at a special election April 16, 1968.

Reform groups in Massachusetts are seeking to call a CON CON by initiative petition. Other states in various phases of constitutional revision by convention, either in the planning stage or in session, are Kansas, Arkansas, Illinois, Hawaii, and West Virginia.

In May 1967, Pennsylvania voters approved seven amendments that revised more than half of their constitution, and also approved a call for a limited CON CON. A group called A Modern Constitution for Pennsylvania Inc. sponsored a seminar in October 1967 at the Middletown campus of Penn State to discuss the four areas approved for revision by the CON CON (legislative apportionment, the judiciary, local government, and taxation and state finance). Election of 163 delegates took place in November. The convention began meeting December 1, 1967, and completed its work 79 minutes before its adjournment deadline of midnight, February 29, 1968.

The Pennsylvania CON CON agreed to submit five proposals to the voters in a statewide referendum at the primary elections in April. Legislative apportionment, local government, and the judiciary will each be covered in single proposals. The area of finance and state taxation was split into two proposals. The five amendments include the following provisions: a centrally administered statewide court system is to be established; the number of justices of the peace is to be reduced from 4,500 to 1,000; all judges, justices, and



justices of the peace are to be salaried and to devote full time to their duties; all units of local government, including counties, are to be eligible for home-rule charters; and the Commonwealth's 120-year-old prohibition against state debt is replaced by a proposal authorizing the General Assembly to borrow, for capital projects only, up to 175 percent of the state's average tax revenues. Although there was considerable sentiment for cutting the size of the legislature, the final plan calls for retention of the present 50-member Senate and 203-member House.

Maryland's CON CON convened on September 12, 1967, and the proposed new constitution was signed by 140 of the 142 delegates on January 10, 1968. It goes to the people in a May 14, 1968, referendum. Constitutional authorities call it the best prepared convention in history, due to excellent basic educational materials prepared for the delegates, a three-day school for delegates, and a one-day organizational session, which was successful in eliminating the usual days of parliamentary maneuvering.

The discouraging performance in Rhode Island and the debacle in New York have raised serious doubts concerning the efficacy of CON CON for constitutional change, but Maryland's experience suggests that the method still has great potential. Yet a word of caution seems in order for those advocating reform by this device. Maryland's *total* experience should be studied for guidelines, not just its experience since September 1967.

#### AND OF COURSE THERE IS TEXAS

The House of Representatives of the 60th Texas Legislature (1967), by simple House resolution, established a Constitutional Revision Commission to make a revision of the Texas Constitution, after careful and impartial research and thoughtful and responsible study of its provisions. The resolution provided for a 25-member commission—five members of the state Senate appointed by the lieutenant governor, five members of the House appointed by the speaker, ten persons appointed by the governor, and five appointed by the chief justice of the Supreme Court. However, Lt. Governor Preston Smith refused to make any appointments to the commission, because the Senate had taken no part in creating it, so the last five members were named by the other twenty appointees. The commission members are:

A. M. Aiken, Jr., state senator, Paris  
W. R. Archer, Jr., state representative, Houston  
William Braecklein, state representative, Dallas



H. S. (Hank) Brown, president of the Texas AFL-CIO  
 Ira Butler, Fort Worth attorney; former chairman of the  
 Texas State Board of Law Examiners  
 Judge T. C. Chadick, chief justice of the Texarkana Court  
 of Civil Appeals  
 R. H. (Dick) Cory, state representative, Victoria  
 Dr. Carey Croneis, chancellor of Rice University  
 Henry C. Grover, state senator, Houston  
 James P. Hart, Austin attorney; former associate justice  
 of the state Supreme Court and former chancellor of the  
 University of Texas  
 Grady Hazelwood, state senator, Amarillo  
 Alonzo W. Jamison, Jr., state representative, Denton  
 Don Kennard, state senator, Fort Worth  
 Dr. Janice May, instructor in government at the University  
 of Texas  
 Walter W. McAllister, mayor of San Antonio  
 Felix R. McKnight, editor and co-publisher of the *Dallas  
 Times-Herald*  
 Peter O'Donnell, Jr., state chairman of the Republican  
 Party  
 R. G. (Randy) Pendleton, state representative, Andrews  
 Robert Storey, Dallas attorney and member of the Uni-  
 versity of Texas Board of Regents  
 \*Larry Temple, executive assistant to Governor Connally  
 Kenneth S. Tollett, dean of Texas Southern University  
 Law School  
 \*Jerre Williams, professor of constitutional law at the  
 University of Texas  
 George Wilson, president and chairman of the board of  
 Lone Star Steel  
 J. P. Word, state senator, Meridian  
 Steele Wright, president of Texas Farm Products Company

In a partly open, partly closed first session of the commission  
 in September 1967, eight subcommittees were named to probe  
 specific sections of the existing constitution. They are composed of:

*Political Subdivisions:* McAllister, chairman; Williams,  
 Jamison, Word, and Chadick

*Bill of Rights:* Butler, chairman; Aikin, Tollett, Brown, and  
 McKnight

\* Mr. Williams and Mr. Temple have subsequently resigned from the  
 commission; they have been replaced by Francis A. Miskell and Judge  
 Carlos C. Cadena.

*Executive Branch:* O'Donnell, chairman; Hazelwood, Wright, Pendleton, and Temple

*Judicial Branch:* Hart, chairman; Word, Chadick, McKnight, and Archer

*Legislative Branch:* Cory, chairman; Aikin, Pendleton, Braecklein, Wilson, and Brown

*Education:* Croneis, chairman; May, Grover, Archer, and Tollett

*Revenue and Taxation:* Wilson, chairman; Kennard, Cory, Braecklein, and Wright

*Drafting:* Temple, chairman\*; Williams and Hart

Since that time work has been done by the executive committee (composed of commission chairman Robert G. Storey, vice-chairman Walter McAllister, and the subcommittee chairmen), by subcommittees, and by individual members. The commission has accepted the Texas Legislative Council's offer of help, and plans to seek the aid of universities in furnishing resources for research and ideas.

The second meeting of the full commission was held January 30, 1968; monthly meetings of the entire panel in Austin were set for the fourth Tuesday of each month through May 28, 1968, to resume again in August. The group must present its final report on proposed revisions to the 61st Legislature thirty days prior to the convening of the legislature in January 1969. It has been agreed by the commission that it will submit a new document, rather than piecemeal recommendations for changes.



#### QUESTIONS TO PONDER

1. What are the arguments for and against revision of the Texas Constitution?
2. What are the main steps required in any form of revision of the Texas Constitution?

\* After Mr. Temple's resignation, Mr. McKnight agreed to be chairman of the drafting subcommittee.



3. What is the role of a constitutional revision commission in constitutional revision? What are its advantages and disadvantages?
4. What are the different forms of revision by legislative amendment?
5. What are the advantages and disadvantages of revision by legislative amendment?
6. What legislative steps are necessary before a CON CON can be convened?
7. What are the advantages and disadvantages of a CON CON?
8. What method of revision would probably produce:  
     The most ideal document? Why?  
     The document most likely to reflect the will of the citizens of Texas? Why?  
     The document most likely to receive legislative support? Why?
9. In your opinion, do the League's ten principles of what a good constitution should contain, and its consensus position for support of CON CON as the best method for general revision, still reflect the thinking of the LWV today? Why or why not?

### SUGGESTED READING

From the League of Women Voters of Texas (1841 Bingle Road, Houston, Texas 77055):

*Texas Constitutional Review.* Designed for all Texas citizens; presents a clear objective study of the Texas Constitution. Revised 1966. 15¢ to cover the cost of handling and mailing.

*TCR Digest, 1962.* Condensation of information on the need for general revision of the Texas Constitution and history of revision efforts. 15¢

*TCR Digest, 1964.* Supplement to *TCR Digest, 1962.* 8¢  
*What You Should Know about the Facts of Life in Texas.*

Flyer on why and how to revise the Texas Constitution. 1965. Out of print.

See LWV of Texas *Publications Catalog* for additional material.

For background on the use of a constitutional revision commission as a tool for revision in Texas:

Citizens' Advisory Committee. *Interim Report* (1959) and *Final Report* (1961). A report to the Texas legislature and to the citizens of Texas on revision of the Constitution of



the State of Texas. (Copy mailed to each local League in April 1961.)

Gantt, Fred, Jr., Irving Dawson, and Luther Hagard, Jr. (eds.). *Governing Texas: Documents and Readings*. New York: Crowell. 1966.

Smith, Dick. "Constitutional Revision in Texas, 1876-1961." *Public Affairs Comment*. Austin: Institute of Public Affairs, The University of Texas. September 1961.

*Texas Legislative Council Report to the 57th Legislature*. 3 volumes: March, May, and August, 1961. (Available only on loan from legislators.)

Periodicals published by the National Municipal League (47 East 68th Street, New York, New York 10021):

*National Civic Review*. Each monthly issue has a regular feature, "City, State and Nation," which discusses current constitutional revision efforts.

*State Legislatures Progress Reporter*. A periodic newsletter reporting problems and progress.

For research and reference:

Committee for Economic Development (711 Fifth Avenue, New York, New York 10022). *Modernizing State Government: A Statement on National Policy* by the Research and Policy Committee. 1967. \$1.00.

Friedman, Robert S. *The Michigan Constitutional Convention and Administrative Organization*. Ann Arbor: University of Michigan Press. 1963.

Graves, W. Brooke (ed.). *Major Problems in State Constitutional Revision*. Chicago: Public Administration Service. 1960.

*Modernizing State Government: The New York Constitutional Convention of 1967*. New York: Academy of Political Science, Columbia University. 1967.

Sturm, Albert L. *Constitution-Making in Michigan, 1961-1962*. Ann Arbor: University of Michigan Press. 1963.

A series of publications by the National Municipal League (47 East 68th Street, New York, New York 10021):

Baker, Gordon E. *State Constitutions: Reapportionment*. 1960.

Dishman, Robert B. *State Constitutions: The Shape of the Document*. 1960.

Heady, Ferrel. *State Constitutions: The Structure of Administration*. 1961.



Rankin, Robert S. *State Constitutions: Bill of Rights*. 1960.  
Rich, Bennett M. *State Constitutions: The Governor*. 1960.  
Wheeler, John P. (ed.). *Salient Issues of Constitutional Revision*. 1960.

TEXAS CONSTITUTIONAL REVISION: Support of measures to promote revision of the Texas Constitution.

League members agree that a good state constitution should contain certain principles:

- A framework of basic law.
- A clear separation of powers with responsibility definitely assigned.
- Provisions for justice with a minimum of delay.
- Qualifications for voter eligibility and guarantees of fair elections.
- A coordinated finance structure capable of flexibility.
- Maximum home rule for municipal and county government with coordination of overlapping functions.
- Provisions for support of public education.
- Provisions for support of public health and welfare services.
- Provisions for amendment and revision.
- Basic policies regarding state employee selection, retention, and promotion.

Specifically, the League supports an effective judicial structure for Texas. This would require:

- A single system of centrally administered statewide courts with a uniform fiscal policy.
- A uniform code of civil and criminal procedure formulated by the Supreme Court, with legislative approval.
- Assignment of judges according to special training and docket needs.
- A full-time judiciary whose members qualify to practice law in Texas.
- Integration of justice of the peace court functions in courts of record.
- Modification of the present appellate judge system to provide for: selection by a combination of commission nomination, executive appointment, and noncompetitive and nonpartisan elections; compulsory retirement; and new and effective removal procedures.







LEAGUE OF WOMEN VOTERS OF TEXAS  
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September 1968

STATEMENT TO THE DEMOCRATIC  
STATE PLATFORM COMMITTEE by

MRS. FRANCIS B. MAY, DIRECTOR  
LEAGUE OF WOMEN VOTERS OF TEXAS

on

Texas Constitutional Revision  
Voter Registration  
Texas Legislature  
State-Local Relations  
Water Resources

I am Mrs. Francis B. May, a member of the Board of Directors of the League of Women Voters of Texas. I speak on behalf of approximately 4,000 members who are organized in 35 local Leagues, two provisional Leagues and one regional League.

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The League of Women Voters has taken positions in five general areas of concern to state government in Texas, which we would like to discuss with you today. We are hopeful that the Democratic Party of Texas will consider and will include our views in the state platform.

TEXAS CONSTITUTIONAL REVISION.

Revision of the Texas Constitution is very close to the hearts of League members, who have urged revision for almost 20 years. We are convinced that many basic problems of state and local government are compounded, if not made insoluble, by our 90-year old Constitution designed for another era. The League heartily approved of the statement in the 1966 Democratic Party Platform calling for constitutional revision by a constitutional convention.

The Texas Constitution will contain a grand total of 198 amendments if the voters approve all fourteen proposed amendments on the ballot in November. This points up the basic fact that the issue in Texas is not constitutional change but how the change should come about. We are convinced that the amendment-by-amendment method, as it has been used to date, is excessively costly, time-consuming, often confusing, utterly lacking in broad perspective, unsuccessful in removing the "deadwood" that constitutes about one third of the present Constitution, and very unlikely to yield the kind of Constitutional structure necessary for the most effective and responsive government in Texas.

The League has been following closely the progress of the Texas Constitutional Revision Commission, which was created by House Simple Resolution 429 in 1967. The League will reserve judgment on this effort until the final report is signed by the Commission. At this time we urge the Democratic Party to continue to support and to recognize in its platform the deep significance of constitutional revision for effective Texas government.



## VOTER REGISTRATION.

As we said two years ago before this committee, next to paying taxes probably no area of government is so close to the citizen as his right to vote and the means by which he does it. The League of Women Voters, concerned since its beginning with election law improvements, supports improved procedures for the registration of voters in Texas. We were gratified to see some progress made during the past two years toward our positions. An example is the Constitutional amendment liberalizing residence requirements for voting, supported by the Democratic Party in 1966.

The League will continue its efforts toward a modern voter registration system for Texas by working for such improvements as year-round registration and re-registration by voting. Texas is almost the only state yet to retain the annual registration system, which we oppose, and is the only state to force voters to register as early as January 31 every year. We hope that the Democratic Party will give serious consideration to these matters and work toward a registration system that is both administratively sound and insures maximum voter participation in our democratic system of self-government. Texas has been too long near the bottom of the list of states in terms of voter participation; we need to take steps in voter registration procedures to raise our status.

## THE TEXAS LEGISLATURE.

As a result of a study of the Texas Legislature just completed, the League of Women Voters of Texas supports annual sessions, adequate compensation and various other measures to make the Texas Legislature more responsive to modern needs. The League will support and urges the Democratic Party to support in November Amendment #5, which authorizes the Legislature to increase annual salaries for members from \$4800 to \$8400 and extends the per diem allowance to the full 140 days of the Regular Session.

## STATE-LOCAL RELATIONS.

The League continues to recommend the strengthening of local government by such means as removing rigid constitutional restrictions upon our counties and our cities which hamper them in cooperating with one another or otherwise solving areawide and local problems. The League continues to support comprehensive state and regional planning. During the last year the League adopted a new position in support of the formation of Councils of Governments. Despite their recent birth (all since 1966), these voluntary associations of governments have already proven their worth.

## WATER RESOURCES.

The League has a strong national position on comprehensive long-range planning of water resources and is particularly concerned about pollution abatement.

## CONCLUSION.

Members of the League of Women Voters believe that the vital and important issues we have discussed with you today are deserving of statesmanlike leadership and attention by the Democratic Party.

We wish to thank you for this opportunity to present League views on these matters of vital concern to all of us.

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LEAGUE OF WOMEN VOTERS OF TEXAS  
1841 BINGLE ROAD  
HOUSTON, TEXAS 77055

September 1968

STATEMENT TO THE REPUBLICAN  
STATE PLATFORM COMMITTEE by

MRS. RALPH MCKINLAY, DIRECTOR  
LEAGUE OF WOMEN VOTERS OF TEXAS

on

Texas Constitutional Revision  
Voter Registration  
Texas Legislature  
State-Local Relations  
Water Resources

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T File Pres. Council

TEXAS CONSTITUTIONAL REVISION  
Presentation by Mrs. Ralph McKinlay  
Eleventh Biennial Presidents Council

LWV of Texas  
March 1969

A President of the United States once reminded the nation that government is of the people, by the people, and for the people. You and I cannot forget it and we must not let anyone else forget it. For twenty-one years we have probed and studied and analyzed and opposed and defended the existing structural strengths and weaknesses of the Texas Constitution. In recent years much effort and enthusiasm have gone into prodding for reform of our state government by re-writing our state constitution.

Many people of Texas are only vaguely aware and surely not yet persuaded, of the need for revision of our state constitution. A sea of suspicion surrounds every move to reform. Confusion is evident in the minds of many state leaders who rely on the status quo for their strength, never realizing that their status is going down the drain of unresponsive government. Let's face the fact that we have simply not gotten through to Mr. and Mrs. Average Texan. What are we going to do about it? How can we present the issues to the voters in a fashion which will stir the thinking needed to grasp the problems and force realistic solutions?

The Texas Observer in the January 10th issue states that, "Most lawmakers agree that a revised state constitution is necessary." Further that, "A sufficient number of legislators expressed reservations about the commission approach to revision to seemingly assure that a new way will have to be tried, probably a constitutional convention whose delegates would be elected by either senatorial or house districts."

Governor Smith reiterated in his message to the 61st Legislature, "I have said time and again that our constitution ought to be revised, the deadwood cut out, the turgid language cleared up and the obsolescent provisions modernized."

The February 17th Temple Telegram quotes Lieutenant Governor Ben Barnes as saying, "I am not going to change my support of constitutional revision. I think a majority of the Senate would like to see constitutional revision but I don't know if they can agree on the manner."

For the first time since 1876 the Constitution has been rewritten. The revised constitution recommended by the interim Constitutional Revision Commission, is now pending consideration of the 61st Legislature. Although it cannot be said that a change in real relationships of power has been proposed, at least the groundwork has been laid for basic substantive reform.

What can you and I do in our state and our counties and our cities and towns and communities and way-stations to encourage the trend that has at long last surfaced in our halls of state? How can we demonstrate the relationship between governmental structure and the capacity to meet physical needs? Can we focus repeated attention on day to day problems as they relate to major governmental reform? Can we relate high but still inadequate taxes to overlapping single purpose special districts? Do we reacquaint Texans with the value of representative government? Do we relate simplicity and directness of governmental structure to genuine responsiveness? Or do we try a new tack and do a quick study of initiative by the people so the League would be in a position to initiate legislation for a Constitutional Convention?

Our task of reform is still in the construction stage but we will persist until, not if but how revision can be accomplished, is the primary concern of all Texans.



Taken from "General Principles for a Good State Constitution"  
League of Women Voters of Dallas  
April 3, 1958

House Concurrent Resolution 13 passed by the 1957 Texas Legislature directs research toward constitutional revision by the Texas Legislative Council and calls for appointment of a Citizens' Advisory Committee.

To prepare ourselves to give thoughtful consideration to the reports of the Council we must first formulate a set of constitutional principles. Such principles are, of course, far too numerous to be covered in one unit meeting; therefore, four of these principles which seem most basic to a good state constitution have been selected for discussion at this meeting. The material presented here is from various standard sources and is put forth to promote thoughts and discussion on the part of the unit members. Each principle is designated by a Roman numeral.

## I. A FRAMEWORK OF BASIC LAW

### Bill of Rights

Discussion of this principle should begin with some definitions of the terms involved:

1. A constitution is a written instrument of government which embodies the fundamental law of a nation or state, creates governmental machinery, makes general grants of power or restrictions of power, and establishes general principles upon which the government is to operate.
2. Statutes are enactments by the legislature to carry out its grants of power through specific provisions.
3. A Bill of Rights sets forth specific privileges and immunities which establish the relation that shall exist between the governors and the governed.

No bill of rights is designed to cover all of the natural rights of the people; it has its basis, rather, in history. Rights set forth in this manner are those which at one time or another have been denied the people, or have been threatened. They are included in a bill of rights so that questions regarding them will have a constitutional basis for their guarantee.

Our Bill of Rights has its origin in the long struggle of the English people against arbitrary government, and its statements offer specific protection against tyranny as well as guarantees to the right to "life, liberty, and the pursuit of happiness."

A bill of rights is a declaration of the dignity of the individual as a member of a state and permits individuals to develop their full potentialities as human beings without fear of arbitrary encroachment on their basic rights.

The first ten amendments to the U.S. Constitution meet the demands of various states for a bill of rights. Most state constitutions simply list states'



rights already acknowledged by the federal constitution, rather than risk the chance that those rights retained by every state in the Union might sometime not be recognized.

#### Constitutional vs. Statutory Law

The question here is whether the proper function of a constitution is to set general principles to be followed by the legislature, or if the constitution itself should be specific in its provisions so as to amount to legislative enactment. In other words, how much of our law should be covered by constitutional provision, and how much by statute?

By definition a constitution is a body of fundamental law; its provisions are more permanent, more stable, and less subject to the need for frequent change than are the provisions of statutory law. Statutory law, on the other hand, is regarded as being more or less transitory in character, as being more concerned with current policies and practices, and less with those "eternal verities" of government which have been handed down generation after generation, from the past. A constitution is supposed to represent an attempt at stating the accumulated wisdom of the ages on the subject of government, while statutes are a contemporary effort to deal with problems of a current nature.

Drawing the line wisely between constitutional provision and statutory law can do much toward bringing order and efficiency into government operation. Since statutory provisions can be amended more readily as needs arise, functional and operational needs should be dealt with in this manner. Fundamental provisions for structure, organization, and procedure, as well as definitions of the powers of the various branches of the government should appear as constitutional provisions.

When detailed provisions which are rightfully of a statutory nature have crept into our constitution, they can be altered only by the cumbersome process of constitutional amendment. It is believed by many, also, that legislators, who make statutory changes, more nearly represent the entire citizenry than the pitifully small number of voters who usually take the trouble to vote on constitutional amendments.

#### Fair Representation

To approximate fair representation of the people in the affairs of government a system must be provided in the constitution for the electing of representatives to the legislature which will maintain a proper and equitable balance between urban and rural areas.

Basing the apportionment of representatives on population alone, with no limitations, favors the large cities where population is concentrated. Apportionment on the basis of an equal number of representatives for each governmental unit (as a county), places the advantage with the rural areas, making their influence exceed the proportion of the population included in their districts.

A system of checks and limitations is necessary in any such apportionment to assure fair representation. For example, Texas is divided into electoral districts, and apportionment for the House of Representatives is made on the basis of population with the following limitations:



No county may have more than seven representatives, and no district may be created which would allow for more than seven except when the county had more than 700,000 population in the last census. In this case, it may have one additional representative for every 100,000 population over 700,000.

For the Senate the state is divided into senatorial districts of contiguous territory based on the number of qualified electors. No one county may have more than one senator, and each district shall have one senator.

The problem of fair representation is one that plagues all of the states in the U.S. In Texas, for instance, there is feeling that the method for electing senators favors the rural areas and that the limitations on the large cities in the election of representatives puts them at a further disadvantage.

Needless to say, in such a changing and fluctuating system provision should be made in the constitution empowering the legislature to meet the reapportionment needs of the state as they arise.

## II. A CLEAR SEPARATION OF POWER

### Effective Balance of Power - Assumption of Full Responsibilities

The framers of the first state constitutions aimed to preclude a recurrence of despotism. They believed that the most effective way to prevent the abuse of power was to divide it into so many parts, and scatter it among so many officials that no one man could possibly obtain enough authority to make himself master. They established the governor as a somewhat feeble check upon the legislature, and the legislature as a very effective check upon the governor. The judiciary was designed to restrain all the other branches of government. Every official was supposed to curb every other official, so that a proper balance might be maintained. Had this creed been carried to its logical extreme, the immediate result probably would have been a complete deadlock.

During the last century and a half Americans have gradually been learning that they must concentrate authority in order to prevent the diffusion of responsibility. They have rejected many of the implications of the doctrine of the separation of powers, especially in the more progressive states. However, this doctrine has a very prominent place (see Article II) in our Texas constitution.

### Stronger Executive

The Texas constitution is similar to other early state constitutions of the U.S. in that it gives the governor little power. This precaution was taken because of the state's unhappy experiences during the period of reconstruction. The governor is called the head of the state, but he is surrounded by a group of officers whom he did not choose and whom he cannot remove. Some feel that control over state administration should be concentrated in the hands of the governor. Then he would be in a position to produce results, and if he should fail, he could not shift the blame to others. Concentration of authority makes possible concentration of responsibility. Others feel that concentration of power leads naturally to a abuse of power. They feel that one-man control is inherently dangerous, and it is especially dangerous when the administrative activities of an entire state are involved.



### The Short Ballot

In Texas we use a variation of the "Australian" ballot upon which the candidates are listed in a single column by groups under each office. Here, as in many states, the voter is asked to choose a horde of state officers. Concerning a few outstanding candidates he may have very definite views; the other names on the ballot are meaningless to him.

One remedy for the long lists of candidates now appearing is the short ballot -- a ballot which contains only the names of aspirants for major public offices. Other offices must then be filled by appointment. In state government, only the governor, the lieutenant governor and the members of the legislature should retain their elective status. If this were the case, the electorate could exercise greater discrimination in the selection of their representatives.

Though few states have shortened their ballots, the short ballot has been adopted by a considerable number of metropolitan centers and by hundred of smaller communities. It has received the support of many leading citizens -- statesmen, publicists and scholars.

### Annual Sessions of the Legislature

In 38 states, including Texas, the legislature meets in regular session at two-year intervals; in the other 10 states the legislature holds annual sessions. Our session is limited in time to the extent that pay is stopped after the first 120 days. Although it has been possible to limit the number of days in a session, it has proved totally impossible to restrict the number of matters requiring legislative action. Since our legislators are elected for a two-year term, this means that a new legislator attends only one session and then is through for the term. It takes almost a full session of the legislature for a new member to learn his job. Many advocates of annual sessions feel that they would alleviate hasty and ill-considered legislation.

An amendment to the Texas constitution calling for annual sessions of the legislature will be voted on in November of 1958.

### III. MAXIMUM HOME RULE FOR MUNICIPAL AND COUNTY GOVERNMENTS

There is great variety among the 254 counties of Texas. Population ranges from 227 in Loving County to 802,102 in Harris County (1950 census). Area varies from 147 square miles in Rockwall County to 6,208 square miles in Brewster County. Property values in Harris County are 500 times those in Real County.

Yet all county governments in Texas are organized in the same way, as prescribed by the state constitution. Only minor variations are allowed. A 1933 constitutional amendment allowing county home rule is so complex and unworkable that no county has been able to comply with its provisions.

Thus, each county is governed by a commissioners' court, composed of the county judge and four commissioners elected from precincts, and by other elected county officials: sheriff, attorney, treasurer, surveyor, clerks, school superintendent, school trustees, constables, judges, and justices of the peace. The county is little more than an agent of the state, its functions and sources of revenue being set out in detail by the state constitution and laws.



More effective county government is urgently needed:

1. A more flexible structure is needed to allow for different local conditions.
2. Administrative authority should be fixed, either in an elected chief executive or in an appointed county manager. This administrator would appoint and supervise all administrative personnel. Elected commissioners, or councilmen, would have policy-making powers only. For Dallas County, one recommendation is for eight appointed department heads, as follows: County Clerk, Sheriff, Prosecuting Attorney, and the directors of the departments of Finance, Health, Personnel, Public Works, and Welfare.
3. A merit system should be used for all appointive positions.
4. In areas of the state where counties have small populations, mergers should be effected to provide adequate services.
5. In counties which are largely urban, a consolidation of numerous city and county services is desirable to make possible county-wide planning and more efficient administration.
6. The scope of county self-government should be broadened so as to eliminate the necessity for the numerous "special laws" passed by the legislature concerning local matters.

Today the principal interest in revision of county government is in the metropolitan areas. Last year Harris County conducted an extensive study of its local governmental agencies and published a report suggesting that the 1959 legislature be called upon to submit a new county home rule amendment. The San Antonio Research and Planning Council is currently conducting a vigorous campaign to develop interest in county home rule.

A glance at governmental units within our own county will indicate the need for some method of over-all planning and administration. There are 73, as follows:

- 1 County government
- 29 Incorporated municipalities
- 1 Hospital district
- 4 Commissioners' precincts
- 20 School districts
- 4 Water control and improvement districts
- 4 Fresh water service districts
- 16 Levee districts

Developing through the years as needs arose, many of these units overlap and are uneconomic in size and shape. Where they are inadequate, the problem will become more serious as population increases. Improvement, whether through a strengthened county government or through other coordinating agencies, will require action at the state level.

(Note: this material was prepared 10 years ago prior to consensus-taking meetings on General Principles for a Good State Constitution)



Proposed changes in Texas Constitution  
(Prepared by LWV of Texas)

## ARTICLE I. BILL OF RIGHTS

The theory that certain rights are so vital to the people that they must be protected from infringement by their government is engrained in our nation's political tradition.

A bill or declaration of rights is contained in every state constitution. Many of the provisions found in these enumerated rights in state constitutions impose restrictions upon state governments that are identical to the limitations imposed upon the states by the United States Constitution. Nevertheless a state Bill of Rights remains an essential bulwark of the people's fundamental liberties.

While many of the sections of our present Bill of Rights are merely statements of general political theory and many could be more clearly and briefly expressed, the present Bill of Rights provides adequate protection to the individual and is responsive to the present and future needs of our modern society.

Hence the only changes made in Article I are: To substitute the word "person" or "persons" for "man" or "men" in Sections 3, 6, and 8 of Article I.

## ARTICLE II. THE POWERS OF GOVERNMENT\*

This Article expresses the doctrine of separation of powers and it is recommended that it be retained in its present form.

However, for the reasons set forth in the Note thereunder, it is recommended that a proviso clause be added to this present Section 1 which would permit the Legislature to provide for de novo trial of orders of administrative agencies notwithstanding the separation of powers doctrine.

\* See Footnote 1.

## ARTICLE III. LEGISLATIVE DEPARTMENT

In general, the provisions of the present Constitution relating to the Legislative Department are retained but with rearrangement of sections and deletion of obsolete provisions.

The major substantive changes made are:

(1) The requirement that the sessions of each House shall be open is extended to Executive sessions of the Senate by deletion of that exception.

(2) Substitution of a provision allowing the Legislature to fix its salaries and allowances for the present provision specifying such amounts.

(3) A new provision on Legislative Districts replacing present provisions which are in violation of the United States Constitution under the "one man - one vote" rule.



- (4) Deletion of requirements for "emergency clause" in bills.

#### ARTICLE IV. EXECUTIVE DEPARTMENT

While a number of major changes in this Article have been considered, it has been concluded that the present provisions should be retained with the following substantive changes:

(1) The term of the Governor is extended from two to four years and limited to one continuous term. In other words, a Governor serving a four year term is not eligible to succeed himself until the expiration of an intervening four year term.

(2) Elections of all the constitutional officers of the Executive Department shall be during non-presidential election years.

(3) A new provision is added giving the Governor the power of removal of appointive officers of the Executive Department.

(4) If a Governor-elect is unable for any reason to assume office during the entire first year of his elective term, the office becomes vacant and the Lieutenant Governor succeeds to it.

(5) The terms of the Secretary of State, Comptroller of Public Accounts, Treasurer, Commissioner of the General Land Office, and Attorney General are extended from two to four years.

#### ARTICLE V. JUDICIAL DEPARTMENT\*

A number of suggested changes for judicial reform were considered, including a unified judicial system under broad constitutional powers with the Supreme Court as the head of the judicial system and having administrative control over all lower courts.

However, it was concluded that present Article V, as amended, in the main has served the people of Texas well and establishes a sufficiently elastic judicial system to enable the Legislature to adapt the judicial system to changing conditions and meet the needs of the State which might develop in its future growth.

Therefore, the only major substantive changes made in this Article are:

(1) A new provision for a merit plan for the selection and tenure of the Justices of the Supreme Court and Judges of the Court of Criminal Appeals and deletion of present provisions requiring their election. Authority is given the Legislature to extend this method of selection to the Judges of all courts.

(2) In addition to its present powers and jurisdiction, authorizing the Court of Criminal Appeals to issue writs of mandamus in criminal cases under such regulations as may be prescribed by law.

(3) In addition to their present powers and jurisdiction authorizing the Courts of Civil Appeals to issue writs of habeas corpus in civil cases under such regulations as may be prescribed by law.

(4) A new provision requiring the Legislature to judicially redistrict after each decennial census but authorizing it to create and delegate this authority and responsibility to a Judicial Redistricting Board.

(5) A new provision permitting the Legislature to authorize more than one Judge for the same district court without having to create a new judicial district whenever more District Judges are needed.

(6) The Legislature is given the authority to increase the jurisdictional amounts presently specified for the District, County, and Justice Courts.

(7) Deletion of the requirement that there must be two Justices of the Peace in any precinct in which there may be a city of 8,000 or more inhabitants.

\* See Footnote 2



## ARTICLE VI SUFFRAGE\*

The substantive changes made in the present provisions of this Article are:

- (1) To delete the present disqualification of "paupers supported by any county".
- (2) To substitute for the present absolute disqualification of "idiots and lunatics" (terminology changed to "persons suffering from mental illness"), and felons, authority in legislature to establish disqualifications for voting for such persons.
- (3) To require the vote shall be by secret ballot and to delete the specific requirement for "numbering of tickets".

\* See Footnote 3.

## ARTICLE VII. EDUCATION\*

In general, the provisions of the present Constitution pertaining to Education are retained with some reorganization of sections; clarification of language; deletion of obsolete or unnecessary provisions; elimination of detailed provisions for authorized investments of the various school funds and substitution therefor of authority in the Legislature to prescribe the authorized investments.

A major substantive change is the deletion of the present Constitutional limit of 85 million dollars and interest rate of 4% on the Texas College Student Loan Bonds.

\* See Footnote 4.

## ARTICLE VIII. TAXATION AND REVENUE\*

The present system of taxation and revenue appears to be adequate and satisfactory. Hence all effective provisions of present Article VIII of the 1876 Constitution, as amended, are retained but combined with clarifying changes in language where necessary and deletion of obsolete and repetitious provisions. Provision is made herein for inclusion in the appropriate section of the proposed amendments on this subject to be voted on November 5, 1968, in the event such changes are adopted.

The substantive changes made in existing provisions are:

(1) The present provision authorizing the Legislature to "tax income of both natural persons and corporations other than municipal" is changed to read "The Legislature may also tax incomes of either natural persons or corporations other than municipal, or both."

(2) A new provision is added to provide for more effective resort to the courts by an aggrieved taxpayer claiming unequal assessment on his property.

(3) Present provisions limiting the State tax on property exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, to Thirty-Five Cents (35¢) on the One Hundred Dollars (\$100) valuation, have been eliminated.

(4) Provisions in the present Article on Education providing for taxes for the public schools, Confederate and Ranger pensions, the State Building Fund, and the College Building Fund, have been incorporated in this Article. The only major change is to provide that the fixed Ten Cents (10¢) rate for the College Building Fund shall be "not less than Ten Cents (10¢)".

\*See Footnote 5



## ARTICLE IX. LOCAL GOVERNMENT

While retaining the present Constitutional framework of political subdivisions in Texas, recognition has been given to the need for substantial consolidation, revisions, and enlargement of present provisions to permit the achievement of efficient local government.

This is particularly necessary in the case of counties whose present governmental structure, from the largest to the smallest, is, in general form, frozen into the Constitution. This inflexibility has made the problem acute under modern conditions and needs and our expanding urban population. On the other hand, the present Constitutional provision relating to our municipalities have proven generally to be satisfactory and studies have not indicated need for any drastic revision of these provisions. The present city home rule provisions of our Constitution is regarded as one of the most liberal and best written in the Nation.

Present Articles IX. Counties and XI. Municipal Corporations are combined in this revised Article IX. Local Government.

The major substantive changes made in existing provisions are:

(1) The Legislature is authorized, subject to electoral approval, to change and alter boundaries of counties.

(2) Only one justice precinct is required in each county instead of the present four.

(3) The present governmental organization and powers of counties are retained but the Legislature is authorized, subject to electoral approval, to provide for optional plans of county government or home rule charters.

(4) The Legislature is authorized, subject to electoral approval, to provide for the consolidation of counties and political subdivisions and functions in a county.

(5) The Legislature is authorized to provide for contracts between local governmental bodies for the transfer and administration of powers.

(6) The Legislature is authorized, subject to electoral approval, to provide for the creation of special districts and authorities composed of one or more contiguous counties or all or any part of one or more counties.

(7) The present limitation on the tax rate of home rule cities for operating expenses is removed. The limitation on the tax rate for indebtedness is changed from two and one-half percent ( $2\frac{1}{2}\%$ ) of the taxable property to any such city to ten percent (10%) of the assessed valuation of the city's taxable property.

Consideration was given to a provision for Regional Governments including two or more counties but it was concluded that the authorization for consolidation of counties and of local government offices and functions should be sufficient to provide the flexibility to meet future needs and problems of local governments.

## ARTICLE X. RETIREMENT, DISABILITY AND DEATH BENEFITS\*

This new Article includes all present Constitutional provisions relating to retirement, disability and death benefits for teachers and other employees of the State, county, municipalities, and other political subdivisions, and social security coverage. Because of their importance and highly technical nature it is believed logical and a more orderly arrangement to have all of these provisions included in one Article on the subject.



While there is an unusual amount of statutory detail in some of these Sections, it appears that they were purposely drawn and adopted in this form to provide assurance of stability in the systems to the participating employees and in administration.

Consideration has been given to substituting a general authorization to the Legislature to provide for these benefits, leaving the specificity to legislative enactments. However, it appears that the Legislature now has this authority, since these provisions do not enable what otherwise would be prohibited by other sections of the Constitution. The principal function actually performed by the present provisions is limiting and, as stated, to provide assurance of stability in the system to the participants and in administration.

While there is provision in the present sections for transfers of credits between the teachers and state employees retirement systems, such interchangeability is not provided for other public employees. Many career public servants work at times for different units of the government and their credits and benefits earned under one system should be transferable to another system. To correct this inequity, a new provision has been added authorizing the Legislature to provide for the transfer of credits and benefits between systems by all classes of employees who are paid in whole or in part by the State or any of its political subdivisions.

Consideration was given to a proposal that there should be a general prohibition against an employee receiving benefits from more than one public retirement fund. This was rejected.

\* See Footnote 6.

#### ARTICLE XI. IMPEACHMENT\*

This is present Article XV which is renumbered XI in this revised Constitution.

The only changes made in the present provisions of this Article are to substitute the word "Justices" for "Judges" where the reference is to the Supreme Court and the words "Court of Criminal Appeals, Court of Civil Appeals" for "court of Appeal" to conform to the present designation and court system. With these minor textual changes, the present sections are retained.

\* See Footnote 7.

#### ARTICLE XII. GENERAL PROVISIONS\*

This is present Article XVI which has been renumbered XII in this revised Constitution.

In addition to deletion of numerous obsolete and unnecessary present provisions of this Article (listed in Chapter \_\_\_\_ hereof titled Deleted Provisions of Present Constitution), there has been considerable rearrangement of sections retained and by transfer to other Articles of the revised Constitution and transfer to this Article of retained sections from other Articles. (See Chapter \_\_\_\_ hereof titled Cross Reference Table.)

The major substantive changes made in the present sections retained in this Article are in revised Section 7 (present Section 30) fixing the maximum duration

\* See Footnote 8.



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of all offices not otherwise fixed by this Constitution at four years instead of two; and in revised Section 14 (present Section 51) dealing with the amount and value of the homestead, the change being to add a provision authorizing the Legislature to fix the total value of the land and improvements which is exempt as a rural or urban homestead.

#### ARTICLE XIII. AMENDMENT OR REVISION OF CONSTITUTION\*

This is present Article XVII of the Constitution and is renumbered XIII in this revised Constitution.

The substantive changes made in this Article are to authorize the submission by the Legislature of a complete or substantial revision of the Constitution in addition to the present "separate Amendment" submission; to provide that such proposals may be made at any session of the Legislature; and to provide that publication may be in a "daily" as well as in a "weekly" newspaper.

\* See Footnote 9.

#### DELETED PROVISIONS OF PRESENT CONSTITUTION

These sections are deleted because they are either (a) obsolete due to the passage of time; (b) have been held invalid by the courts; (c) are unnecessary or repetitious; or (d) the subject matter can be left to legislative enactment. A list (seven (7) pages) of deleted sections is included in the full report.

A full discussion of most of these provisions (as they existed in 1960) will be found in the Report on Constitutional Revision to the 57th Legislature by the Texas Legislative Council.

#### FOOTNOTES

Footnote 1. Constitutional Revision Report to the 57th Legislature by the Texas Legislative Council. Volume II, pages 84-107.

Footnote 2. Ibid. Volume II, pages 372-438.

" 3. " " III, " 1-35.

" 4. " " " 36-97.

" 5. " " " 98-142.

" 6. " " II " 222-234 and Volume III, page 325.

" 7. " " III " 198-215.

" 8. " " " 216-325.

" 9. " " I " 31-34.



# FLASH

LWV of Texas  
Standing Order  
October 1968

THE CONSTITUTIONAL REVISION COMMISSION HAS APPROVED INCLUDING IN THE PROPOSED NEW CONSTITUTION, A NEW PROVISION PERMITTING AMENDMENT OR REVISION BY CON CON!!

## ARTICLE XIII, Section 2.

(a) The Legislature, at any session, by a vote of two-thirds of all the members elected to each House, to be entered by yeas and nays on the journals, may submit to the voters of the State the question of calling a Constitutional Convention to amend or revise the Constitution in whole or in part.

(b) If approved by affirmative vote of a majority of the qualified electors voting thereon, the Legislature shall provide by law for the election of delegates, the filling of vacancies in the position of delegate, the assembling and temporary organization of the convention, and the appropriation of sufficient funds for the work of the convention. The convention shall adopt its own rules of procedure.

While the Legislature probably has the inherent power to convene a Constitutional Convention at any time, it is believed desirable to give specific recognition in the Constitution to the valuable prerogative of the people to have the question of calling a CON CON submitted to a vote of the people and to include the convention procedure as an additional method of Constitutional amendment or revision.

HOW DOES THAT GRAB YOU CON CON LOVERS?





Letter to each individual member of the Texas Constitutional Revision  
Commission from Mrs. W. E. Jocr, president of the League of Women Voters of Texas

LEAGUE OF WOMEN VOTERS OF TEXAS  
1841 Bingle Road  
Houston, Texas 77055

August 21, 1968

Mr. Robert G. Storey  
Southwestern Legal Foundation  
Post Office Box 8017  
Dallas, Texas 75202

Dear Mr. Storey:

The League of Women Voters of Texas has long recognized the need for abbreviation, clarification, codification and modernization of the present Texas Constitution. The proposed new constitution answers this need to an admirable degree. The League feels that adequate revision also requires certain substantive changes and offers the following comments:

#### POLITICAL SUBDIVISIONS

We support the following sections under Article IX, Local Government:

- Section 3. Structure of county government; optional plans; county charter; powers.
- Section 4. Consolidation of governmental offices and functions in counties.
- Section 5. Contracts for performance of governmental functions.
- Section 6. Special Districts and Authorities.

These sections agree with the League position that there should be a single article in the Texas Constitution encompassing provisions for units of local government expressed in broad and permissive principles, and provide flexibility and adequate powers at the local level necessary to meet the needs of our expanding metropolitan areas.

#### JUDICIAL BRANCH

We are gratified that a unified judicial system has been considered by members of the Commission, even though it is not among the reforms recommended. We believe that the judicial department could administer justice more swiftly and economically if it were given a unified organization under a single administrative head. Perhaps authorization of more than one judge for the same district court (Article V, Section 8-b) is a beginning toward unification.

The new provision for a merit plan for the selection and tenure of the justices of the Supreme Court and judges of the Court of Criminal Appeals (Article V, Section 6) is in harmony with the League position and has the full support of the League. The proposal has a realistic answer to the need for change.

Since incumbent judges, faced with increasing case-loads, must devote time to political campaigning, they have become in practice part-time judges. However, the most potentially dangerous aspect of our present system is the



necessity to raise campaign expenses. Expense reports reveal donations from businesses and individuals who might be litigants in the courts of these candidates. Since the judiciary should be beyond suspicion, the merit system of judicial selection would eliminate this problem. A substantial number of states have abolished the partisan elective system for the more enlightened and less expensive merit system. Many able judges are attracted to the bench who would not have subjected themselves to partisan political campaigns.

When the merit system is accepted by the people of Texas, it is our hope that the legislature will exercise its authority, as proposed in Article V, Section 6-i, to extend the merit system to include the Courts of Civil Appeals.

#### LEGISLATIVE BRANCH

The League supports measures that provide for changes in the Texas Legislature which will make it more effective in solving the problems of our complex society. We think that annual sessions are necessary to give them this effectiveness. Many other states with growth comparable to the state of Texas are adopting some forms of annual sessions to meet the demands on state government. Article III, Section 4, calling for sessions every two years will restrict future flexibility in the legislative process. If the proposed Section 4 is adopted, legislators will be dependent upon the incumbent governor for calling a Special Session if yearly appropriations or other yearly business requires their attention.

#### SUFFRAGE

For a number of years we have worked for measures to promote full participation by all Texans in the election process. Many of the measures we have supported are now a part of the Texas Election Code. We applaud the progress made. We are particularly pleased that the subcommittee has seen fit to recommend retention of the present Section 2-a of Article VI as Section 3 of the proposed revision.

However, we feel that further improvement in the conduct of the elections is impeded by the existing requirement for annual voter registration, which was recommended for retention. Removal of the annual registration requirement will enable the legislature to consider adoption of measures which will provide greater voter convenience, ease of administration and safeguards against fraud. For this reason we urge that the word "annually" following the phrase "shall have registered" be deleted from Section 2-b of the proposed revision.

Sincerely yours,

(Signed) Mrs. William E. Joor



TO: Local League Presidents, Program Vice-Presidents and TCR Chairmen

FROM: Mrs. Ralph McKinlay, TCR Chairman

RE: Report on Constitutional Revision Commission      LWV of Texas  
April 30, 1968 meeting      May 1968

The Texas Constitutional Revision Commission in their April 30th meeting in Austin tentatively adopted changes recommended by the Revenue and Taxation, and the Drafting sub-committees, and received two drafts of recommendations from the sub-committee on Education. Reports were also heard from the Judicial Branch, Legislative Branch, Executive Branch, and Political Subdivisions sub-committee. All approval of recommendations at this stage of the drawing-up of the new document is considered tentative.

Chairman of Revenue and Taxation, George Wilson, explained the process by which this committee arrived at its recommendations. They first went through the entire Constitution and marked all sections pertaining to taxation, described each section (whether sound, obsolete, repetitive, etc.), studied recommendations of the Texas Legislative Council Report of 1960, and of the Texas State Bar Association and then pruned all obsolete and repetitious sections. After that they agreed on these principles: to preserve and retain all presently effective and operating sections. There are no radical changes from the existing articles. They have continued the principle of "thou shalt not" but have condensed words and clarified existing language. They have strengthened language in a few places but nothing is new with one exception.

By a vote of 9-6, the committee agreed to a proposal allowing aggrieved taxpayers to seek court determination of whether an assessment by a county tax assessor-collector meets the constitutional requirement of being equal.

Under current constitutional provisions, a citizen must prove before a court that the tax assessor acted arbitrarily, or that fraud was involved, to have the court order a reassessment. The proposal of the committee, calls for the judge to put the assessment on an equal basis if he finds it unequal. No showing of arbitrariness is required.

When opponents of the proposal argued that the provision would bring a flood of court cases and allow judges to become tax assessors, Wilson said the arguments amounted to saying "nothing but that the assessor is God almighty -- that in determining valuations that are unequal you can't get him to court." Failure to provide such easier access to courts for taxpayers, Wilson said, would "nullify all of the good language in here that assessments must be uniform." (Quotes taken from the Dallas Times Herald report.)

Objection was voiced by Tollett to the retention of the Confederate widows' pension fund but Wilson said there are still several women receiving the pension. Pendleton pointed out that the 2¢ per \$100 evaluation raised some \$2 million annually most of which went into the State Building Fund.

The commission also adopted a report by the drafting committee, headed by Felix McKnight. Several dozen sections were deleted including such outmoded topics as dueling and establishment of the Texas Centennial in 1936. The only rejection of the deadwood removing proposals was a decision to retain a section allowing the Legislature to pass laws setting out qualifications of doctors and punishment for malpractice. Although the Legislature's power to pass these laws does not need constitutional authorization, commission members felt the section should be retained until a definite reason for its removal is given. (OVER)



Tentatively approved for deletion were:

Article X, sections 1 through 9

Article XII, sections 1 through 7

Article XIII, sections 1 through 7 (Here, McKnight observed, we are really getting into the valley of obsolescence)

Article XIV, sections 1 through 8

Article XVI, sections: 4, 21, 22, 23, 24, 34, 35, 42, 43, 45, 55, 56 and 60

These were mostly sections recommended for deletion in 1960 by the Texas Legislative Council.

Dr. Carey Croneis, reporting for the committee on Education, submitted two drafts for the education section, a short one patterned on the model constitution and a long one based on our present form. The committee prefers the short draft and hopes this one will be adopted when it is considered at the May 28th meeting. He heaped praise on his research director, Hank Hudspeth and his committee members Grover, Archer, Tollett and May with special accolades for Dr. May the only woman on the commission.

Mayor Walter McAllister (to whom a chorus of Happy Birthday was sung by the Commission members on this his 79th birthday) reported that the committee on Political Subdivisions was trying to liberalize and modernize while eliminating the conflicts as found in the County Home Rule section. He emphasizes that this problem has to be solved. At present there is one layer of bonded indebtedness piled on the next, special districts overlapping special districts. The committee will present its recommendations at the May 28th meeting.

Judge James Hart announced that the Judicial Branch report will be presented at the May 28th meeting. The committee, he said, has suggested no drastic changes; about the only controversial item is the recommendation of the Missouri Plan of Judicial Selection and Tenure for Appellate judges.

It was also announced that the State Bar Association of Texas now supports revision of the entire document. (Texas Constitution)

The Executive Branch committee will also present its recommendations at the May 28th meeting as will the Legislative Branch Committee. Mr. Dick Cory reported that the draft of the Legislative Branch report will be ready one week after Primary elections. (There are four members of the Legislature on this sub-committee.)

At this point Robert Story asked that all members of the commission come prepared to stay for two days (May 28, 29). Completing this phase is imperative so that the new document can be drawn up over the summer and be ready for discussion and final approval next fall.

Mr. Robert Derby then distributed copies of a list of LWV support positions to the members of the commission. (He had earlier assured me that all sections of the Constitution have been assigned and will be covered.) And Hank Brown distributed a statement of the views of Texas AFL-CIO opposing the Missouri Plan of Judicial Selection and Tenure.

Just as I left the Capitol Building a member of the Legislature stopped his car and momentarily delayed the flow of traffic in order to tell me how much he and many other legislators appreciate the work and interest of the League of Women Voters. He said that many times when they work and fight for legislation they feel will be beneficial to the people of Texas they almost appear to be operating in a vacuum. Very few people seem to know or care what really goes on in their own government. Lobbyist or special interest groups who have an axe to grind have a narrow kind of knowledge, but the LWV is the only group he knows that have a broad knowledge of what is going on in government and a genuine interest in all of the people. He just wanted us to know that our efforts are appreciated.

After that it seems that the very least League members can do is to turn up in droves for that May 28-29 meeting of the Constitutional Revision Commission. It is in Austin at the Capitol Building in the speaker's Conference room beginning at 9:30 a.m. See you there!

\* \* \* \* \*



LEAGUE OF WOMEN VOTERS OF TEXAS  
1841 BINGLE ROAD  
HOUSTON, TEXAS 77055

*Standing Order*  
*May 1968*

"REVISION QUO VADIS"

REVISION QUO VADIS has been prepared in answer to member request for review of Texas Constitutional Revision. This is an attempt to present the complicated subject in brief, clear and simple form.

Included in this pamphlet are:

- A brief chronicle of LWV activity in promoting revision
- Why we need revision
- Methods of revision
- Culmination to consensus
- Review of progress of revision across the nation
- Bibliography
- Discussion questions

While REVISION QUO VADIS was designed primarily as a membership tool, to arouse "new member" interest and "revive" the old, it is hoped that the pamphlet will prove equally stimulating to all persons interested in re-writing our State Constitution. We do take the occasion to "blow our own horn", but this may be what is needed to acquaint the general public and and new or prospective members with the length and the depth of League involvement in efforts to revise the Texas Constitution.

Published: May 1968

Price: 25 cents





LEAGUE OF WOMEN VOTERS OF TEXAS  
1841 BINGLE ROAD  
HOUSTON, TEXAS 77055

Presidents Mailing  
4 copies  
May 1968

LEAGUE OF \_\_\_\_\_

CONSENSUS QUESTIONS for review of CON CON position  
CONSENSUS DEADLINE - POSTMARKED DECEMBER 15, 1968  
Please return three copies to state office

During first and second round Program Making and at the League of Women Voters Convention in San Antonio, League members requested a review not only of TCR in general but of our CON CON consensus specifically. In view of League interest in the modernization of all areas of state government, it is appropriate and timely that we, as League members, make sure our own revision house is in order.

With these ideas in mind, it is suggested after review and discussion of League TCR publications, reliable outside publications, and a look at what is happening now, both in Texas and in other states, that local Leagues consider the following points:

Number of meetings held \_\_\_\_\_ Number of members participating \_\_\_\_\_

Types of meetings held \_\_\_\_\_

1. Of the methods of approach to revision, do you still consider CON CON preceded by a constitutional commission to complete and evaluate research basic to its success, the best method for revision \_\_\_\_\_.

Answer one of the following:

- a. If the answer is yes, do you consider this the only satisfactory method for revision? \_\_\_\_\_
- b. If the answer is no, what method do you prefer? \_\_\_\_\_  
\_\_\_\_\_. Do you consider your choice the only satisfactory method of revision? \_\_\_\_\_

2. Do you believe the League should be in a position to support alternate methods within League principles? \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_





*Ref. to Catherine File TCR*

LEAGUE OF WOMEN VOTERS OF TEXAS  
1841 BINGLE ROAD  
HOUSTON, TEXAS 77055

*Presidents Mailing  
April 1968*

LEGISLATIVE AND CONSTITUTIONAL REVISION COMMISSION REPORT AT SAN ANTONIO

A summary of the state legislative activities of the League of Women Voters of Texas from October 1966 to the present appears on pages 12-13 of Convention Workbook II. The summary describes what we did before the Regular Session of the 60th Texas Legislature, which convened on January 10, 1967; what we did during the session; and what we did following the session. Also, there are a few comments about the Special Session which will be held this year and the 61st Texas Legislature, which will convene this coming January.

Although the summary is comprehensive, it is nonetheless incomplete. It does not tell us the effect upon the Legislature of a certain phone call, a certain letter, a certain interview, a certain speech, a certain conversation, a certain friendship, a certain article in the newspaper, a certain radio or TV program, or a certain breakfast meeting. It also fails to tell us the effect of that certain phone call that was not made or that certain interview that was not conducted, and so on.

Our legislative effectiveness is made up of all these things -- seemingly little, perhaps, but very important because they are cumulative. In a sense all League members contribute to legislative effectiveness or ineffectiveness by all the little things they do as League members, regardless of their interest in legislation. A basic reason for this is that all League work is interrelated.

Let us take membership, for example. Membership concerns are legislative concerns. The size of our membership makes a difference when presenting our case before the Texas Legislature. Legislators ask us how many members we have; they want to know how many votes we represent in the state and back home. Of even more importance is the quality of our membership. Informed, active and dedicated members in Leagues all over the state contribute to League effectiveness, regardless of what they do, but particularly if they help with our legislative action program.

Let us take finance as another example. The state budget committee has been concerned with improving the lobbying techniques we use at the state capitol. But almost all the suggestions involve money, sometimes lots of it. Without money we must carry on a limited operation, relying very heavily on the voluntary labors of members in Austin and on the state Board. Also, Finance Drives in the community are very important to the effectiveness of League legislative program. Finance Drives are educational drives -- the public and contributors are informed about the League and its work, including program. A good image of the League in the community works wonders at the state capitol. Communities send Representatives and Senators to the capitol, and they respond to community pressures.

The Legislative Report in Workbook II omits two activities, commented upon elsewhere in the Workbooks but which should be mentioned here because they concern legislation. First, we testified before both the Republican and Democratic State Convention Platform Committees in September 1966. We presented our views on state legislation, hoping that the party platforms would reflect our views. It turned



out that both platforms did conform with our views in some respects, most notably in constitutional revision. Second, many League members participated in a drive initiated by the Junior Chamber of Commerce of Texas to collect signatures for petitions calling for a state constitutional convention -- that is, getting the legislature to ask the people to approve the call for a convention. The drive, as you know, was too little and too late; but the League did cooperate with the JayCeers. We certainly want to thank all of you who participated.

As for the future, we must continue to appreciate how the entire League program and other activity affects legislative success. The State Legislative Committee will experiment with new techniques at the capitol, budget permitting. We urge all local Leagues to fulfill their legislative interview assignments following the November election. These reports coming from local Leagues throughout the state are invaluable; we only wish we had more. State Board members having responsibility for various phases of program -- Texas Constitutional Revision, Voter Registration, State-Local Relations, and the Legislature -- will be working closely with the Legislative Committee before and during the 61st Session.

\* \* \* \* \*

I have been asked to say a few words about the Texas Constitutional Revision Commission of which I am a member. This, I am happy to do because it has been a unique experience for me to be on the Commission, and I know how interested League members are in the progress of constitutional revision in Texas.

I mentioned that this is a unique experience for me. This is the first time at the state level that I have been on the inside looking out rather than on the outside looking in. Witnesses appear before me to give testimony, for example. This is quite a change from my experience as League representative when I give testimony before legislative committees or other government agencies. Now, I can ask questions rather than being grilled by the committee.

Being on the inside has also given me a new understanding of the position of our legislators, who are under constant pressure of time and yet are expected to be experts on all phases of state government. Also, I am in a much better position to write an essay on "Why the Texas Constitution Has Not Been Revised".

I will not burden you with details about the formation, composition or work of the Constitutional Revision Commission. Mrs. Ralph McKinlay, State TCR Chairman, has kept you informed. Instead, I thought I would simply express a few thoughts that come to mind.

1. The League of Women Voters was mentioned at the very first meeting of the Commission on September 18. I referred to Texas Constitutional Review; it was highly praised by the Governor's Executive Assistant who offered to get copies for all members. All members have copies, and some bring them to meetings. The League has been mentioned most recently in connection with testimony before subcommittees.

2. In January one member of the Constitutional Revision Commission and several state officials or employees were flown by chartered plane to Harrisburg, Pennsylvania by IBM to look at the IBM compilation of data on all 50 state constitutions. IBM has computerized all 50 state constitutions, and the machines can print out any item from any state constitution at any time.



Legislative and Constitutional Revision Commission Report at San Antonio (continued)

3. As far as I can tell, financing of the Commission, which includes the expenses of members, salaries or fees for the Research Director and Secretary and the five research assistants, comes mainly from the House of Representatives contingency fund. The question of financing was discussed at the first meeting of the Commission but laid aside. My suggestion that we investigate the possibility of getting federal funds provided for in the Model Cities Act of 1966 was rejected. The Commission as a whole has not examined financing since.

4. There are several conflicts in approach among the Commission members. A few members want Texas to have an ideal constitution, a model for all states; others want to concentrate on changes that they believe the Legislature will accept. There is a more serious conflict between those who desire very little change in the present constitution and those who would like some basic changes -- a new constitution. Two members have expressed a dislike for the Model State Constitution prepared by the National Municipal League. (Copies of the Model State Constitution have been provided all Commission members.) It is clear that some members are opposed to changes in specific articles of the constitution.

5. There are those on the Commission who feel the whole enterprise is an exercise in futility. The Legislature, as you know, can do what it pleases with our product. The Commission is kind of a study committee for the House of Representatives, which established it by a simple resolution. The Senate did not take part. Also, Governor Connally who spearheaded constitutional revision will not be Governor in 1969. Further, there has been no public groundswell for revision. Volunteers to work (students and professors), a few interested witnesses before subcommittees, a few letters and postcards -- this is the sum total of public interest expressed so far.

6. Then there is the conflict over statutory material in the Texas Constitution. Some of the members believe that statutory material must be retained in the Constitution primarily because the Legislature cannot be trusted. Or, as expressed by some members, the Legislature needs the protection from pressures by placing the material in the Constitution. A case in point is the Teachers Retirement System. It is essentially statutory. Why not place it in the statutes? An answer is that in at least one state the Legislature raided the Teachers Retirement System Fund in a desperate search for money to pay state bills. Another case in point is the college building bond program which takes up several pages in the Constitution and is clearly statutory. It is argued that the bond market prefers bond issues protected in state constitutions. The state pays lower interest rates when the issues are so protected; one-half of one percent was a figure mentioned in connection with the college bond issue. Another case in point is the University Permanent Fund, which provides earmarked income for the University of Texas at Austin and Texas A&M University. The University Fund was described by one witness as a key reason why the University of Texas has reached standards of excellence. Keep the Fund in the Constitution is the message.

7. We have had a little discussion about constitutional conventions. I suggested that we consider a convention both in the amending article and as a possible recommendation from the Commission should we find it impossible to accomplish much. This has not been seriously considered by the Commission, but what exactly is our mission as spelled out in HSR 429 has been discussed. At the January meeting it was decided that our mission was to prepare and to submit to the 61st Legislature a draft of a complete constitution in one document, together with explanatory comment. Articles or sections which we do not change would be incorporated in the single document. There was some discussion also at the January



meeting about whether the Constitution should be completely revised or only changed in part. This discussion was partly resolved by deciding that any change, however minor, would be regarded as a revision of the Texas Constitution, a fulfillment of our mission under HSR 429.

8. The press has been well represented at the Commission meetings and less well represented at subcommittee meetings. One newspaper complained of our secret meetings. The full committee went into executive session to consider the appointment of five Senators to the Commission at the first meeting and the Executive Committee of the Commission went into executive session to consider the appointment of Robert Derby as Research Director. There have been no other secret meetings, but the notices of the subcommittee meetings were not widely distributed until January. The Capitol Press now gets notices of these subcommittee meetings which are frequently held at the Capitol. Felix McKnight, Commission member and Editor and Co-Publisher of the Dallas Times Herald, has suggested that the Commission prepare regular progress reports to be distributed to the press.

9. Seven study subcommittees have been set up by the Commission. They are assigned to study the Legislative, the Executive, the Judiciary, State-Local Relations (Political Subdivisions), Revenue and Taxation, Education, and the Bill of Rights. So far no effort has been made to study such important areas as Elections and Suffrage and Constitutional Amendment and a host of miscellaneous provisions dealing with conservation, etc. (The Drafting Committee will consider some of these noncontroversial areas.) Since no reports have yet been made by any subcommittee and our schedule calls for drafting to begin this summer, there is a question whether we can get to the entire Constitution. Meetings are scheduled for every month through May and beginning again in August and continuing to November. But considerable time must be allowed for drafting.

Conclusion. In closing my report I would like to say that the Commission has yet to come to grips with any controversial policy problem. We expect to receive recommendations from the Judiciary and the Revenue and Taxation subcommittees next month. This leaves May, unless special meetings are called, to consider the remaining five study committee reports, all of which will undoubtedly contain controversial recommendations before the summer deadline for drafting. If you are a dedicated Commission watcher, the next two months are the critical months to watch.

\* \* \* \* \*



March 1968

LEAGUE OF WOMEN VOTERS OF TEXAS "REVISION ROAD" CHART

With a Texas Constitutional Revision Commission now meeting to write a new Constitution, it is important for League members to know exactly how far along "the Revision Road" we have come over the years. The MODEL CONSTITUTION outline is used here only as a yardstick to assess the total picture of TCR work in the League.

(p) indicates a LWV principle of a good Constitution

MODEL STATE CONSTITUTION National Municipal League -- 1963	POSITIONS AND PRINCIPLES OF THE League of Women Voters of Texas
ARTICLE I, THE BILL OF RIGHTS	
ARTICLE II, POWERS OF THE STATE	(p) A framework of basic law, embodying a clear separation of powers with responsibility definitely assigned.
ARTICLE III, SUFFRAGE AND ELECTIONS	(p) Qualifications for voter eligibility and guarantees of fair elections. Sixteen support positions
ARTICLE IV, THE LEGISLATURE	A two year study with emerging consensus.
ARTICLE V, THE EXECUTIVE	
ARTICLE VI, THE JUDICIARY	(p) Provision for justice with a minimum of delay. Support for an effective judicial structure for Texas with six specific positions.
ARTICLE VII, FINANCE	(p) A coordinated finance structure capable of flexibility.
ARTICLE VIII, LOCAL GOVERNMENT	(p) Maximum home rule for municipal and county government with coordination of overlapping functions. Five support positions
ARTICLE IX, PUBLIC EDUCATION	(p) Provisions for support of public education.
ARTICLE X, CIVIL SERVICE	(p) Basic policies regarding state employee selection, retention, and promotion.
ARTICLE XI, INTERGOVERNMENTAL RELATIONSHIPS	(p) Coordination of overlapping functions. Two support positions under SLR.
ARTICLE XII, CONSTITUTIONAL REVISION	(p) Provision for amendment and revision. Support for CON CON and ten principles
ARTICLE XIII, SCHEDULE	
	(p) Provisions for support of public health and welfare service.



TEXAS CONSTITUTIONAL REVISION  
Presentation by Mrs. Ralph McKinlay  
Eleventh Biennial State Convention

Presidents Mailing  
LWV of Texas  
March 1968

Only in America is it assumed that indirection is to be preferred to directness and that confusion is more desirable than simplicity.

Is it possible to formulate principles in the framing of a Constitution, in the planning of the political machinery of a people? Is it possible to lay down axiom's of politics?

Should public opinion be compelled to square itself with the opinions and phrases of generations long since dead; should the opinion of today be called upon to convince in turn varying groups of elective officials and appointive ones as well?

Should every presumption be against change and in favor of status quo?

The Constitution should reflect changing social conditions and changing needs. It should mirror the seasoned convictions of the nation, rather than lag many years behind them. It should have more permanence than a legislative act.

The underlying motive of the foregoing philosophy is fluidity, responsiveness, freedom; freedom of society in its collective capacity to develop its own political life, freedom to evolve, to grow by change.

Do these symptoms of an ailing Constitution sound like contemporary Texas and the ideas and ideals expressed sound a bit too heady to incorporate into the creaking machinery of our state government as it is today? These are actually excerpts from an article by Dr. Frederic C. Howe written about the State of New York back in 1914. It is as apropos here and now as it was there and then.

Is it possible that at long last we are about to break loose from the mistrust and suspicion that cemented our generation to the aftermath of the Civil War? The Constitutional Revision Commission could be the rainbow over a golden opportunity or simply a new mirage over the desert of our status quo. We cannot know for sure.

Recognizing the political "facts of life" in regard to constitutional revision in Texas, a few of you have asked for further study of this complicated subject. Several of you have expressly asked for a restudy of revision methods. As one League so succinctly put it, "Are we supporting a constitutional convention or constitutional revision? To continue support for a convention may not be practical."

Actually we are supporting both. One is not complete without the other. Let's not be caught by the same criticism leveled at CED's marvelous booklet MODERNIZING STATE GOVERNMENT, that the significance of the report is in what it does not say -- for it says little about the methods by which its sweeping recommendations can be implemented.

If you do want a restudy of revision methods, you must understand that this might possibly result in new consensus. It might be the same or it might be different, but if there is a study, there must inevitably be some agreement on position.

To study or not to study. To review What and How Much? Would you like to be able to support any acceptable document, no matter what the method? It is up to YOU. This is a part of your freedom as a League member. This freedom is the source of our ingenuity, our resourcefulness and our strength.

Let us know Thursday, exactly where and how-far YOU would like to go. (R)



STATE PROGRAM -- ITEM I

I. TEXAS CONSTITUTIONAL REVISION: Support of measures to promote revision of the Texas Constitution.

It was about this time last year that constitutional revision in Texas came off the dusty shelf to which politics had assigned it and began once more to expand the dreams of the League of Women Voters. The Constitutional Revision Commission had the first of its working meetings in January and the dream caught up revision protagonists to such a degree that at the 1968 Convention Texas Constitutional Revision surged to the top of the League Program list as the number one action item.

QUO VADIS was published, TEXAS CONSTITUTIONAL REVIEW was restudied, and many bulletins, reports and memos later, new consensus was reached at almost the exact time that the final Commission recommendation was given to members of the 61st Legislature.

Now we are on new ground. We are supporting the Constitutional Revision Commission's Report as a first step toward revision. Never before in League history have members of the Texas Leagues had the exhilarating experience of actually taking action on a proposed revision of the Texas Constitution. Much soul searching and agonizing have gone into these first tentative steps out of theory and into relevancy. We are discovering that many of our ideals are not practical in the political climate of Texas today, but we are also discovering surprising numbers of legislators who share our ideals. What the outcome of this nudging of the status quo will be remains to be seen, but every surge in the direction of change penetrates a little deeper.

The question now before us is: what do we do when the legislators have used up their allotted 140 days, put away their legislative hats and returned home? If the document is assigned to committee and dies in committee, if it fails to get approval of the House, Senate or Governor, what would be our next step? Much of the ground work for real substantive revision has been laid in that document. If the document is cut up into Articles, rewritten and doled out amendment by amendment, what is our course of action? If, miracle of miracles, it should be assigned to a Constitutional Convention, many new avenues of League action and service to the public will be open to us. In every situation that can arise out of consideration of the document by the 61st Legislature, where do we go and what do we do?

Dream high, dream well, but make your dreams into something practical and effective when you are called on to discuss your ideas for action at Presidents Council.



File

Standing Order  
LWV of Texas  
April 1969

THE STATE OF REVISION ---- MIXED BLESSINGS

After 93 years of patching a rigidly restrictive Texas State Constitution, there are now not one but TWO completely revised constitutions pending in the House Constitutional Amendments Committee. The Archer resolution, HJR 64, which is the Constitutional Revision Commission revised constitution, we support as a first step toward revision. Our support of the Commission recommended revision has been marginal from the beginning because the changes recommended fall far short of League goals for revision, but it is a definite improvement over the present constitution. (See accompanying comparison chart.)

The Cory resolution, HJR 60, we do not feel we can support because among other changes from the Constitutional Revision Commission recommendation, it removes two provisions which are at the heart of League positions on revision: the merit system for selection and tenure of judges, and provisions for calling a Constitutional Convention. (See chart.) We will not oppose it however, because in no instance where we have a League position is HJR 60 less effective than our present constitution. The clarification, codification, and removal of deadwood do lay the groundwork for a more substantive revision.

(OVER)





# COMPARATIVE ANALYSIS OF THE REVISED CONSTITUTIONS

AS PROPOSED BY

HJR 60, CORY-----AND-----HJR 64, ARCHER (The Constitutional Revision  
Commission recommendation)

League of Women Voters of Texas

## PRINCIPLES OF A GOOD STATE CONSTITUTION

	Less effective than present constitution	Little or no change from present constitution	More effective than present constitution
"C" indicates effectiveness of HJR 60, Cory			
"A" indicates effectiveness of HJR 64, Archer			
A framework of basic law		A C	
Qualifications for voter eligibility and fair elections		A C	
Justice with a minimum delay		C	A
A clear separation of powers		A C	
Flexible finance structure		A C	
Maximum Home Rule			A C
Provisions for support of public education			A C
Provisions for amendment and revision		C	A
Provisions for support of public health and welfare		A C	
Basic policies for state employee selection, retention, and promotion		A C	
League of Women Voters of Texas POSITIONS			
Legislative Branch		A C	
Voter Registration		A C	
Judicial Branch		C	A
State-Local Relations			A C
TEXAS CONSTITUTIONAL REVISION			
Executive Branch--No positions yet		C	A



## Time For

*League of Women Voters of Texas*

## ACTION

May 7, 1969

TO: Local League Presidents, Program Vice Presidents, TCR Chairmen, and Legislative Chairmen

FROM: Mrs. William E. Joor, President; Mrs. Ralph McKinlay, TCR Chairman; and Mrs. Francis B. May, Legislative Chairman

RE: Special Report and Time for Action on HJR 64, a new Texas Constitution

A hearing on HJR 60 by Cory and HJR 64 by Archer was held on April 29 before the House Constitutional Amendments Committee. Nothing could convey better the hopelessness of a new Constitution for Texas this year than the fact that virtually no one attended the hearing except the witnesses, a handful of committee members (most of the time there was no quorum), House employees, and a reporter or two. It was like a funeral without mourners.

Representative Dick Cory led things off with a lengthy and spirited defense of his Constitution and an attack on the other, which he referred to as a "Republican" document. (Representative Bill Archer of Houston is one of the few Republicans in the House.) Among other points, Mr. Cory said that his philosophy was that a new Constitution ought to contain nothing new that is controversial. Controversial matters should be disposed of by separate amendments. He also said that the proposed Constitution of the Texas Constitutional Revision Commission alienated so many groups that it could not possibly pass--labor unions (merit plan); farmers (homestead); doctors (removal of clause requiring expressly equal treatment of practitioners of medicine); lawyers (merit plan); and businessmen (urban homestead).

Following Mr. Cory's presentation, Representative Bill Archer defended briefly the Constitution of the Texas Constitutional Revision Commission (HJR 64) and presented members of the Commission to testify. They were Dean Robert Storey, chairman of the Commission; Mayor Walter McAllister, vice chairman; James P. Hart, chairman of the judiciary subcommittee; and Mrs. Francis B. May, vice chairman of the education subcommittee. Dean Storey commented that revision of a constitution is bound to be controversial and that the Legislature could correct the mistakes of the Commission, if there were any. Mrs. May pointed out that the issue was not revision but the method of revision. We could continue with our costly piecemeal revision or do a comprehensive job such as that performed by the Commission.

Mrs. Ralph McKinlay testified for the League in support of HJR 64.

Both HJR 60 and HJR 64 were sent to a subcommittee of which Carl Parker is chairman and Price, Doran, Schulle, and Traeger, members. Only Parker and Schulle are from League communities.

(OVER)



TFA on HJR 64, New Texas Constitution(continued)

We encourage you to write letters in favor of HJR 64 to members of the House Constitutional Amendments Committee. Our real task, of course, is to build up support back in the community.

Members of the House Constitutional Amendments Committee are as follows:  
(\*denotes from League community)

Traeger, chairman  
Doran, vice chairman  
\*Braun  
\*Farenthold  
\*Hubenak  
\*Grant Jones  
\*Kothmann  
\*Lee  
Ligarde  
\*Griffith Moore

\*Niland  
\*Nowlin  
\*Carl Parker  
Pickett  
Price  
\*Ratcliff  
\*Schulle  
\*Joe Shannon  
\*Swanson  
\*Thomas  
Uher

Special materials on HJR 60 and HJR 64 have been prepared and will be mailed to you.

\* \* \* \* \*



## PRESIDENT'S FILE

LWV of Texas  
May 1972

To: Local League Presidents & TCR Chairmen  
From: Mrs. R. E. Conner

Re: CONSTITUTIONAL REVISION CAMPAIGN

If a majority of the County and Senatorial District Conventions pass the resolution supporting Amendment No. 4, I would like to have a statewide press release, plus the local PR that each League will do. Please send the results of both the Democratic and Republican Convention to me as soon as possible, deadline May 23. Don't pass up this opportunity to get some news out on revision.

When we are thinking about opportunities, remember the great one that the state office has for you--free copies of the two campaign leaflets, "B for 4" and "Patches" are still available. Order them now for use during the summer with your Speakers Bureau and have a supply ready when the all-out campaign begins in the fall.

The state Texas Constitutional Revision Committee is working on material to help you form citizens groups in your local community, and we hope to have it ready in the near future. If I can be of any help to you now with suggestions or to answer questions, please write.

Needed: Names and addresses of local citizens that you would like to have the state League contact in regards to supporting Amendment No. 4 and being a member of a local Citizens for Texas group that would help in the Revision Campaign.

Deadline, May 31.

Mail this list to me: 5005 Woodrow, Galveston, Texas 77550

\* \* \* \* \*



## PRESIDENT'S FILE

TCR

LWV of Texas  
May 4, 1972

To: Texas Constitutional Revision Chairmen  
From: Mrs. R. E. Conner  
Re: Precinct and County Conventions

The question has been raised concerning the Constitutional Revision Commission mentioned in amendment 4. This commission will be appointed by joint resolution of both Houses when the legislature convenes in January, 1973. The method of appointing members of the commission and the number of members to be appointed will be decided by the legislature at that time. After the November election, League members can lobby with their legislators about people to be on the commission, input into the commission, etc.

If there is more than one League in a county, please coordinate your efforts in presenting the TCR resolution at the County Conventions on May 13.

Be sure that this is done.

\* \* \* \* \*





LWV of Texas  
October 1972

To: Local League Presidents & TCR Chairmen  
From: Mrs. R. E. Conner  
Re: Ads for the Newspapers, Handouts

Newspaper ads are an effective method of campaigning for Amendment 4. The following are suggested wordings for ads.

1. Confused about the many amendements on the ballot every election?  
A workable Constitution would make this unnecessary. Vote for Amendment 4.
2. Texans need a great constitution.  
Amendment 4 would allow us a choice.  
Vote for Amendment 4.
3. Have you ever read the Texas Constitution?  
Did you understand it?  
Don't you think Texans deserve a clear, concise document with which to govern themselves.  
Vote for Amendment 4 for a new start.
4. The following people (or organizations) support the passage of Amendment 4. List names of supporters.  
(This type of ad is very effective, but be sure that the people or organizations are contacted and their permission given for their name to be used. It is customary for the people or organizations whose names appear to help pay for the ad.)
5. The Federal Constitution adopted in 1776 has only 21 amendments.  
The Texas Constitution adopted in 1876 has 201 amendments.  
Isn't it time for a change?  
Vote for Amendment 4.  
Contact the League of Women Voters for further information.
6. The Amendments to end all amendments.  
It is now costing you \$17,700 just for the printing costs for each Amendment to the Texas Constitution. It has been amended 201 times.  
Vote for Amendment 4. (Some \$ signs around the border of this ad might help call attention to it.)

If possible have other organizations pay for some of the ads so that the public will realize that a broad segment of people in their city supports Amendment 4.

If you are using figures in an ad, use the numerals instead of words. This catches the eye of the reader quickly.

Have you asked League contributors who puts ads in the paper or on the radio for their businesses to include with their advertisements a slogan type ad for Amendment 4. Has the contributor or supporter of Amendment 4 who has a marquee type sign been asked to put a message on it concerning Amendment 4? Try one of the following:

Let's be wise. Vote to revise. The Texas Constitution. Vote for Amendment 4.  
or just - Vote for Amendment 4.

Included are samples that can be used as copy for newspaper ads or for each League to mimeograph if they want flyers to distribute in shopping malls, grocery stores. Add reason why the constitution needs revising that fit your local situation.



To: Local League Presidents & TCR Chairmen  
From: Betty Conner, TCR Chairman  
RE: Analysis of Resolution sponsored by Nelson Wolff  
concerning the Revision Commission

LWV of Texas  
January 1973  
(1 copy direct  
to president  
1 copy direct  
to TCR chm.)

CONCURRENT RESOLUTION

1. The commission shall be composed of 36 members representative of the people of Texas.
2. No elected officer who is paid by the state may serve on the commission.
3. The commission members shall be appointed by a committee composed of the governor, the lieutenant governor, the attorney general, the speaker of the house, the chief justice of the Supreme Court, and the presiding judge of the court of criminal appeals. The governor shall be chairman of the committee and call the meetings of the committee.
4. Members of the commission shall hold office until the second Tuesday in January, 1974, when the convention shall be convened.
5. Each member of the commission will be paid \$100 for each day he spends attending to the business of the commission, including time spent in traveling and will be reimbursed for actual and necessary travel and other expenses incurred while attending to the business of the commission.
6. The commission shall employ and fix the salary of an executive director and the director shall employ and fix the salary of staff and consultant.
7. The commission will study the need for constitutional change and report its recommendations to the legislature not later than November 1, 1973.
8. The commission shall hold public hearings at various locations in the state and shall issue publications of its findings and recommendations from time to time.
9. Copies of the final report will be made available to the citizens of Texas, including distribution to all public libraries.
10. In addition to appropriations made by the legislature for the operations of the commission, the commission may apply for, contract for, receive, and expend gifts, grants, and donations from any source.

-----  
The Advisory Committee on Intergovernmental Relations, headed by Tom Vandergriff supports this proposal and has suggested an appropriation of one million dollars. Citizens for Texas will also probably give its support.

Price Daniel has suggested revision of Wolff's resolution by adding the Attorney General to the committee that appoints the revision commission members. Also, Daniel proposed that this committee name the 36 members cooperatively, rather than let each name his own six.



To: Local League Presidents & TCR Chairmen  
From: Betty Conner, TCR Chairman  
Re: Lobbying with your legislators regarding the  
Revision Commission

LWV of Texas  
November 1972  
Presidents Mailing  
(2 copies direct  
to president)

Once again my thanks to everyone for a great effort in the Amendment No. 4 campaign. Hope you enjoyed the brief rest period, because now the work will really begin. Our first concern is the Revision Commission which the legislature must appoint as the first step in the constitutional revision process. Each League is asked to immediately lobby with their legislators on the following four points:

1. The League of Women Voters of Texas suggests three people to be appointed to the Commission. Dr. Janice May, former state Board member who had been TCR Chairman and Legislative Chairman and is presently an instructor of government at the University of Texas, Austin. She is the author of articles on the need for revision in studies published by the Texas Urban Development Commission. Mrs. Darwin M. Winick, president of the LWV of Texas, former TCR Chairman on the state Board, a member of the Board of Directors of Citizens for Texas, a statewide organization which supported the passage of Amendment No. 4, and a member of the Speakers Advisory Committee. Mrs. Martin Braunagel, Program Vice President of the LWV of Texas and former staff consultant. Mrs. Braunagel has been actively involved in constitutional revision for the last twenty years.
2. That the Revision Commission be appointed immediately so that they will have sufficient time to do a thorough research and study.
3. Composition of Commission. That it be composed of interested and qualified private citizens who have experience or knowledge of state constitutions, the functioning of state government, the legislative process.
4. Size of Commission - 25 to 30 people. This is a sufficient number to do the required work, with the addition of a staff which was provided for in the wording of the amendment.

If your local League has a person in your community that you would like to suggest as a member of the Commission, add their name to the ones already suggested. It is extremely important that some League members be a part of this Commission. Do not miss any opportunity to use the techniques and experience you gained from the Lobby School and legislative session as you talk to your legislator...during the legislative interview, at your League's holiday party, over the phone, an official League letter, etc.

It certainly is a lot of fun to be successful!

# # # # #



## PRESIDENT'S FILE

LWV of Texas

January 1972

Presidents Mailing

To: Local League Presidents & Texas Constitutional Revision Chairmen (2 copies)

From: Mrs. R. E. Conner, Texas Constitutional Revision Chairman

Re: Statewide Coalitions Supporting Amendment No. 4

I am sure that some of you have read the Press Release concerning the "Citizens for Texas" and their campaign for passage of Amendment No. 4. The state League has had representatives (Veta Winick and Betty Conner) at all of their meetings and will continue to work with this group during the Revision Campaign.

We request that to avoid confusion and duplication of effort while working for passage of Constitutional Amendment No. 4 that you advise the state office of your local Leagues plans and involvement with "Citizens for Texas" group or any other coalition concerned with Constitutional Revision

\* \* \* \* \*



MAR 12 1971



"Practical means of achieving some kind of budget execution that would assure accomplishing program objectives at less than appropriated amounts wherever feasible . . . might be useful to our present search for economies in Texas State Government . . ."

Governor Preston Smith



Summary of a Report

to GOVERNOR PRESTON SMITH and  
the Texas Legislature

by the

**TEXAS RESEARCH LEAGUE**



## The Money-Management Cycle in State Government

"Budget Execution" is the process by which a central authority in government supervises the implementation of a spending plan approved by the legislative branch. In state government, budget execution usually is vested in the Governor's Office or in a Department of Administration headed by the Governor's appointee. However, in some states, budget execution is entrusted to a staff responsible to a joint commission composed of the Governor (or his representative) and legislative leaders. *In all of the 33 states which practice some form of budget execution, the process is an integral part of a comprehensive money-management cycle, including (1) budget preparation, (2) appropriation of funds, (3) expenditure approval (budget execution), and (4) post-audit of expenditures. In a few states, an additional phase of "fiscal review" to determine program effectiveness has been initiated.*

*Texas is the only major state which has not incorporated budget execution into its money-management cycle. It is the only state which divides budget-preparation responsibility between the Governor and a legislative board, acting separately and independently.*

## Development of the Texas Budget System

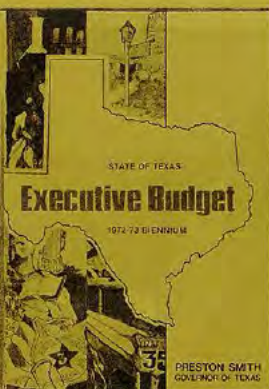
Before 1949, Texas had no budget "system." State agency spending proposals were compiled by the State Board of Control and forwarded to the Governor and the Legislature with no effort to develop a rational state spending plan. The Legislative Budget Board was established in 1949, composed of the Lt. Governor, the Speaker of the House of Representatives, the chairmen of the tax and appropriation committees in each House, and two additional Legislators from each House appointed by the Lt. Governor and Speaker, respectively.

In 1951, the Legislature passed a bill designating the Governor as the "Chief Budget Officer" of the State and giving him a staff. Since that time, both the Governor and the Legislative Budget Board have submitted separate budget proposals for legislative consideration. *No other significant changes have been made in two decades while the total state budget has spiraled from approximately \$500 million a year to around \$4 billion a year.*





LEGISLATIVE BUDGET ESTIMATES



## Efforts to Establish Budget Execution in Texas

Immediately after the Texas budget-making structure was completed in 1951, the Legislature attempted to vest budget-execution responsibility in the Legislative Budget Board through a rider to the general appropriation bill. This attempt was declared unconstitutional by the Attorney General that same year on the theory that budget execution is an executive function which may not be delegated to a legislative board.

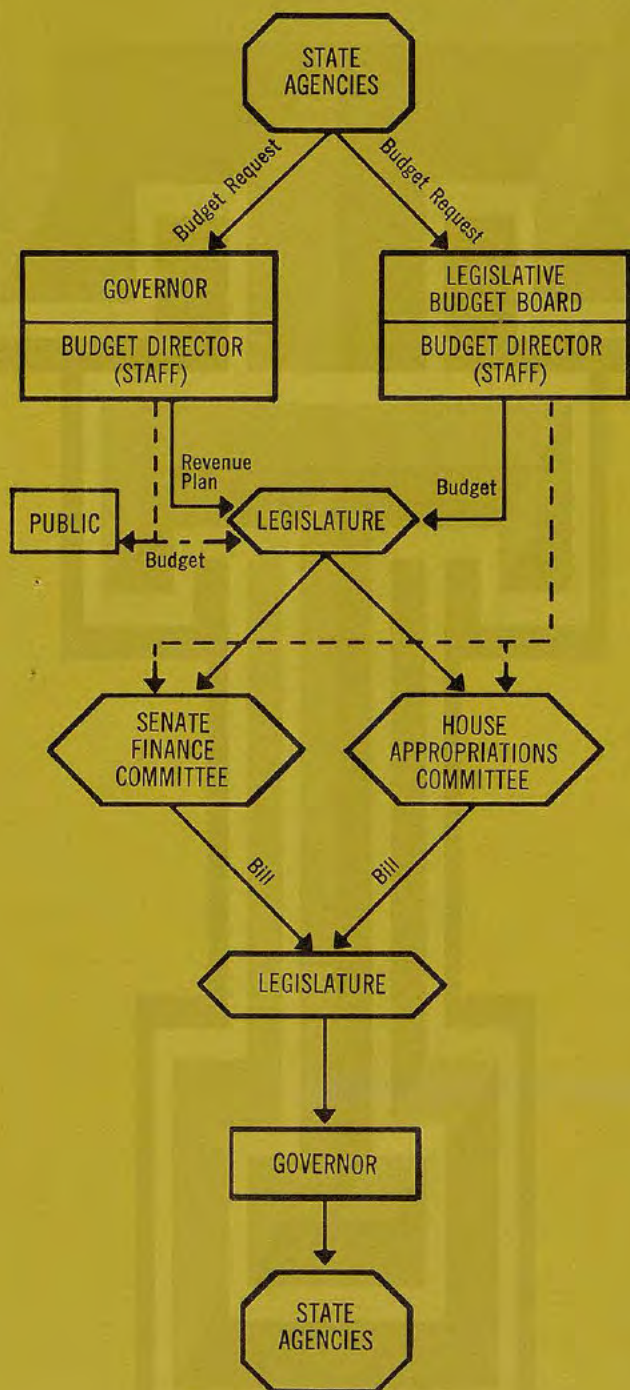
In 1962, the Texas Research League completed a study of the overall Texas budget system made at the joint request of Governor Price Daniel and the Legislative Budget Board. The study concluded that adoption of budget execution would be impractical under the dual budget-preparation pattern, and suggested consideration of the joint Executive-Legislative Commission approach developing in several other states. The League's report was never published because the study was completed during a period of transition in the offices of both the Governor and the Lt. Governor.

The Legislative Budget Board, in the preface to its 1963 budget proposals, recommended "that the Governor be authorized to use a method for assuring that appropriated funds are efficiently expended and that legislative intent is fulfilled." Similar proposals were made repeatedly by Governor Connally and by the Senate Interim Committee on Economy in State Government (in 1969). Governor Smith has several times suggested the need for budget-execution authority, but no general authorization has been granted.

Every appropriation bill in the past decade, at least, has made the Governor responsible for overseeing expenditures for *selected* new programs or agencies—often requiring him to seek the advice of the Legislative Budget Board. Precedent thus has been established on a selective basis for a limited time span.



# The Texas Budget System . . . .





## • • • • And Its Problems

Texas has made considerable progress in fiscal management during the past two decades, and the State continues to enjoy the most economical government among the major states. The dual budget-making system permits participation by both the Governor and the legislative leadership in the examination of state services and programs and the planning of expenditures.

But the dual budget-making process also produces two separate expenditure plans. Most of the time in the past 20 years, the Governor's plan has been largely ignored in the legislative appropriation process except on a few specific issues where the Governor has taken a strong personal stand. The only general appropriations bill introduced is the one drafted by the Legislative Budget Board staff. It tracks the LBB budget proposals and usually provides only a minimum projection of existing programs and services. It invites every state agency, every organized interest group and every individual member of the Legislature to compete for expanded spending authority in their own areas of concern. The final appropriations bill is almost always completed in a "free conference" committee near the end of a legislative session. During most sessions in the past two decades, a tax bill had to be completed in a few hectic days *after the final outlines of the spending program had been determined.*

The present Texas system almost guarantees:

1. That the spending package will be built in more or less unrelated increments without the guidance of a rational plan of priorities; and
2. That the supporting tax bill will be hastily drawn without full consideration of its long-range effect on the economy of the State or its long-term ability to support state services.

These conditions contribute to Texas' recurrent biennial fiscal crises. In addition, the absence of central supervision over expenditures by independent agencies and institutions prevents the implementation of operating economies to help meet these crises.

Without budget-execution authority, it is virtually impossible for the Governor or the Legislature to know whether or not appropriated funds are expended for approved program objectives—or whether those objectives are attained. Yet it is virtually certain that the agencies and institutions will expend the appropriated funds rather than permit them to lapse at the end of the fiscal period.



## Obstacles to Budget Execution in Texas

Despite the obvious need for budget-execution authority in Texas government, grafting such authority onto the present dual budget-making system might cause as many problems as it could cure.

In every state that employs budget execution, the responsibility is vested in the same professional staff that prepares the single budget proposal presented to the Legislature. In other words, this staff helps to implement a budget which it helped draft in the first place.

The states which operate under a joint executive-legislative budget commission have a further advantage in budget execution. The staff which prepares the budget also serves the legislative appropriations committees during the hearing process. With this background, the staff may be expected to fulfill budget-execution responsibilities with reasonable confidence in their understanding of program objectives and legislative policies. Where there is a question, it can be resolved by the Governor and legislative leaders serving as members of the state budget commission during the interim period between legislative sessions.

If the Governor of Texas alone were charged with budget-execution responsibilities, his staff would enjoy none of these advantages. His staff members do not participate in drafting the basic appropriation bill or the legislative budget from which it is taken, and they usually are not present during committee deliberations when legislative policy is spelled out in expanded spending authority. These functions are all fulfilled by the Legislative Budget Board staff, making this group the more logical repository of budget-execution responsibility. But the Attorney General has already ruled this approach to be illegal.

## Costly Staff Duplication

	Governor's Office	Budget Board
Professional Staff	11	10
Estimated Total Biennial Budget:	\$935,000*	

\* Does not include cost of Governor's planning staff members who participate in budget-making process.





By duplicating the budget-preparation process, the present Texas system effectively wastes perhaps a quarter of a million dollars a year. Yet, neither the Governor's staff nor the Legislative Budget Board staff, alone, is large enough to do a comprehensive job of budget request analysis. The Governor's staff would not be large enough to handle adequately the budget-execution function—even on a selective basis—while maintaining its responsibility for preparing the budget proposals for the following fiscal period.

In combination, the Legislative and Executive Budget staffs could do a much more effective job of budget request analysis and still undertake budget-execution responsibilities. If the staff were responsible to a joint Executive-Legislative Commission, it could fulfill the full range of budget-making and execution responsibilities under a logical system designed to achieve program objectives efficiently and economically.



# A Proposed Budget System for Texas

The Texas Research League recommends that Texas take the next logical steps in the development of a co-ordinated state money-management system with balanced executive and legislative participation.

## STRUCTURE

A State Budget Commission should be established including the members of the present Legislative Budget Board, with the Governor as Chairman. The present executive and legislative budget staffs should be combined under a Director appointed by the Governor for a two-year term with consent of the other members of the State Budget Commission.

## BUDGET PREPARATION

A single proposed state budget should be prepared by the State Budget Commission staff following procedures and policies prescribed by the Commission. The staff would issue instructions to state agencies and institutions for making budget requests and would hold hearings on those requests. Commission members might participate in the hearings, at least on a selective basis.

*The Governor should be authorized to propose amendments to the Commission-approved budget recommendations, and these proposals should be included in the Commission's budget document.* The Commission staff would prepare an appropriation bill to be submitted to the Legislature based on the Commission budget, with alternative attachments designed to implement the Governor's amendments. The Governor would continue to exercise his responsibility for recommending any revenue measures which might be required.

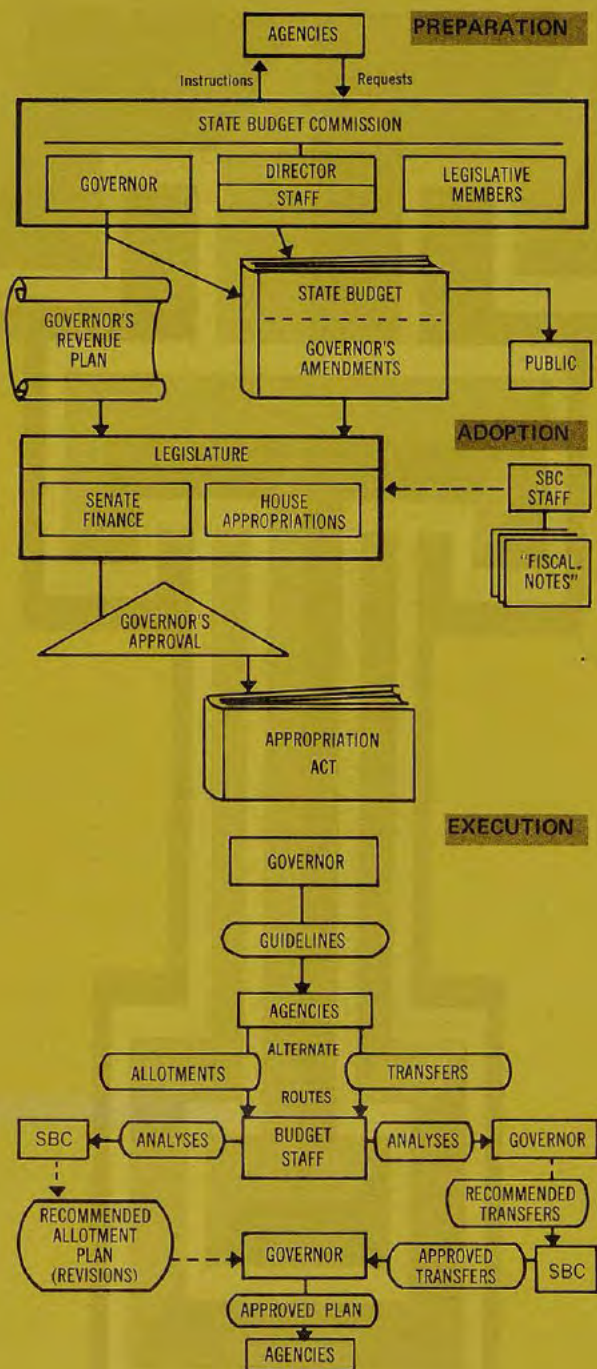
## BUDGET ADOPTION

The State Budget Commission staff should serve the Appropriations Committees of the two Houses of the Legislature during the session. They would perform the functions now handled by Legislative Budget Board staff members. In addition, the State Budget Commission staff should prepare "fiscal notes" on proposals for changes in the recommended appropriations and on major spending bills not included in the General Appropriations Bill. This "price tagging" service should provide a more realistic appraisal of the cost of prospective program changes while those changes are under consideration.

In addition to the services of the State Budget Commission staff, a "fiscal assistant" might be assigned to each Appropriations Committee from the offices of the Lt. Governor and Speaker, respectively, to schedule hearings, to keep records of Committee actions and to perform such special functions as might be delegated to them by the Committee Chairmen.



# Proposed Budget System





## BUDGET EXECUTION

After adoption of the Appropriations Bill, the State Budget Commission staff would issue instructions to state agencies and institutions for submission of operating budgets to be approved by the Governor with advice of the Commission. Approval might be on an annual, semiannual or quarterly basis and should be used on a selective basis to ensure achievement of major program objectives as efficiently and economically as possible.

Where economies can be effected, the Governor should have authority to reduce proposed operating budgets, with advice of the other members of the State Budget Commission—particularly on large reductions.

Where funds saved by economies in one program are needed for another purpose other than that approved in the Appropriations Bill, transfers should be proposed by the Governor, but should be made only with the approval of the State Budget Commission as a whole. Such transfers would represent a change in legislative policy which is not an executive function.

State agencies and institutions should be required to report their expenditures to the State Budget Commission and to establish accounting procedures required by the budget-execution process.

## BENEFITS OF A BALANCED SYSTEM

- Legislative policy deliberations would begin with a single comprehensive spending plan with logical priorities and supporting revenue proposals (when needed).
- Waste of funds on duplication of staff work would be avoided. After participating in budget preparation and adoption, the staff would be well equipped to carry out policy decisions in budget execution.
- "Price tagging" major spending proposals would provide an accurate estimate of state commitments and revenue needs.
- Significant economies could be achieved without sacrificing programs or services. For example:
  1. Welfare program changes (direct payment to vendors for drugs and self-declaration of need by welfare applicants) might save upward of \$20 million compared with the original budget request. Authority to reallocate funds thus saved to other purposes could reduce overall welfare costs.



2. Actual enrollments of state institutions may vary widely from estimates made two or three years in advance, thus changing appropriation requirements. In 1970, the Texas Youth Council had 1,153 fewer students than the estimated population of 3,632. The difference between actual and budgeted costs (at the approved rate per student day) was \$1.7 million. Variations at institutions of higher education can have a far greater impact on budget needs.
3. Estimated revenues from outside sources help determine state appropriations, and estimates often fall short of actual receipts. During the current biennium, state colleges and universities will spend \$18 million more from outside sources than was estimated; patient income at two state university hospital units will be \$8 million above projections; and federal aid for vocational education will be \$17 million more than expected. The Legislature appropriated \$40 million more for these three purposes than might have been required with more exact estimates of outside income. Precise estimates cannot be made so far in advance, but budget-execution authority could make appropriate corrections.

*Through fiscal corrections such as the examples cited, North Carolina (with a budget about half that of Texas) expects to save \$50 million from appropriations for the current biennium.*

*A balanced, coordinated money-management system, with a rational plan of spending priorities coupled with efficient budget execution, can give Texas better state services at lower cost and help avoid future fiscal crises.*

## **Fiscal Policy Review**

Several states have now established an independent fiscal policy review authority charged with the objective, in-depth examination of basic state program objectives and evaluation of their results. The potential benefits of this additional phase in the money-management system might be considered in Texas' continuing search for efficiency and economy in state government.



THE TEXAS RESEARCH LEAGUE is a nonprofit educational corporation engaged in objective analyses of the operations, programs and problems of Texas government. The League makes no charge for its services which are financed by public-spirited citizens through annual contributions.

February 1971

Box 12456  
Austin, Texas 78711





TIPS  
ON  
TEXAS  
CONSTITUTIONAL  
REVISION  
TALKS

LEAGUE OF WOMEN VOTERS OF TEXAS





TIPS ON TEXAS CONSTITUTIONAL REVISION TALKS  
For Community Organizations, Television and Radio Audiences

TIPS INSTEAD OF OUTLINES Has your Speakers Bureau had fewer calls for TCR topics than for other subjects? Have you had trouble finding League members willing to make speeches on revision of the Texas Constitution? Do those you approach with high hopes because of their own lively response to Texas' problems turn you down because they do not feel competent to deal with this complex subject? Is your Board wondering if your League actually can take effective action on TCR through the Speakers Bureau?

The experiences of a number of you seem to say YES to these questions. Rather than offer you speech outlines which would inevitably require hours of individual work before your speech emerged, we bring you suggestions on a variety of factors involved in talking about TCR in the community. We hope some of these, skimmed from the evaluations and recommendations of many League people like yourselves, will assist you to increase and strengthen your League's promotion of Texas constitutional revision by talks to community groups and to television and radio audiences.

PLAY THROUGH STRENGTH Planning for TCR speeches must allow for a challenging combination of 1) complex subject, 2) too few League members admittedly thoroughly familiar with the subject and ready to speak on it, 3) large numbers of enthusiastic League "non-experts" on TCR, 4) countless clubs and civic groups in the market for short programs, 5) their hundreds of members ill-informed and uninterested in matters of state government.

What advantage can the League pluck from this bundle of seemingly contradictory factors? A close look reveals a potentially valuable resource if 1), 3), and 4) above are matched with care. Why not combine a greatly increased roster of League "talkers" (not speechmakers) with the expanding market for short talks on one or two facets only of the constitutional kaleidoscope? The willingness of many members to take on limited jobs is a strength the League can utilize to fill the urgent need for speakers.

Leagues will, of course, continue, as they can, to develop speakers who are equipped to answer the rare calls for full presentations on TCR. You will notice that some of the tips apply to such speeches rather than to the brief, informal talks this memo features.

GETTING "TALKERS" Start where you are in Board or committee meeting. Although these women, already responsible for a full load of work, do not have time for elaborate preparation, they all know something about TCR, are acquainted with source materials, and respond strongly to one or more inadequacies of the Texas Constitution. Enlist them to talk very informally for no more than ten minutes to a small group likely to agree with League position. Women who are not free to prepare and present full speeches will often accept a simpler assignment and enjoy the experience.

Take this enlistment a step further into unit meetings on TCR. A dialogue or panel of three persons (no more) will often interest an audience more than will one person. Panel members lend each other courage; such a team can appear comfortably before a larger group than can the single neophyte. Consider taking a later step to a workshop--on speaker training or action in the community on Texas constitutional revision.



Enrich the roster with outside speakers, men and women who have knowledge of the subject and are willing to stress the League approach of good research. You may also find an expert from a nearby League willing to accept calls. Leagues geographically close can cooperate to good effect in building this section of the roster.

GETTING AUDIENCES Try for attention-getting (but not tabloid) titles to include in the list your Speakers Bureau sends annually to club program chairmen. Ask your public relations chairman, who keeps in close touch with the community, to help prepare a list of people whom you can approach on the basis of special interest. Then telephone them to offer the TCR talk that you think will match their program goals. Advance information about a League statewide press release on TCR could be the signal for similar calls to selected groups. Also, holidays and important dates in Texas history will suggest adaptations of the TCR subject that will tailor it for particular groups.

Encourage all League members to volunteer to talk for ten minutes in a neighborhood coffee hour, sewing group, garden or bridge club - in sum, in any small, informal gathering where a person-to-person approach is natural and easy. Practice of this sort, while fostering assurance and perceptiveness in the talkers, may be able to develop a new category of groups interested to listen to and talk about issues of concern to the League.

ORGANIZING A TALK The League member will want first to establish rapport with her listeners. For this, she will draw upon her knowledge of them in choosing an opening. What will best capture attention and arouse curiosity without antagonizing the group? Will it be a "Did you know..." question? Or a "shocker" from the long list of the Constitution's inadequacies? Perhaps a capsule explanation of why the 1876 document was written as it was will have the most direct appeal for some. Others might respond best to an opening statement of the theme or goal of the talk.

Experienced speakers agree that, whatever is chosen for an opening, the theme should be made clear very early in the talk. The development easiest for audiences to grasp continues with the story of the 1876 Constitution, giving full credit to the earnest men who wrote this protective document. Next come examples of today's acute problems stemming from basic law designed for 1876. The examples selected and their number will depend on the speaker's evaluation of the audiences, on the total time available, and on the amplification she can add or thinks suitable. A ten minute talk may, without need for apology, be limited to the opening, the abbreviated history, and a summary of the effects on Texans today of one or two provisions of the Constitution.

The conclusion should embrace brief reference to the League's role in revision --brief, since non-League audiences care little about this. Emphasis should fall instead on how changes can be brought about (research, methods of revision) and what the listeners themselves can do. The ten minute talk can leave the "how" and "what" to be brought out by questions and discussion. In fact, even longer speeches might hold back a striking point or proposal for release during the discussion period.



Few League members are ready to be quizzed on the Constitution. Therefore, the average speaker should make clear her amateur role and invite discussion of shared problems rather than questions on legal minutiae. This is one way she could find a new basis of rapport with the audience. Restating the principal points of the theme clarifies what has been said and sharpens impressions the audience takes home. This summation usually comes in the closing section of a talk but might follow the open discussion.

Since the League's purpose is to stimulate wide-spread interest in the Constitution and serious concern for its revision, every talk or speech on TCR should allow time at the end for audience participation. The discussion period is an integral part of the plan. A lively give and take provides members of the audience greater stimulus, more satisfaction, than simply listening and going home. Its favorable climate nourishes the tiny seeds of interest that grow into action.

TCR'S LIVELY ISSUES These change very little from one year to the next. If the selection of specific problems for the body of the talk is not made easy by the particular interests of audience and speaker, the following are recommended as having some priority today:

- 1) Large number of amendments submitted biennially. (A basic framework of law would not require such frequent amending.)
- 2) Lack of power of the governor. (Without power to appoint key officials responsible to him, his only tools for carrying out his ideas in a sprawling administrative organization are his prestige and his powers of persuasion.)
- 3) Financial problems. (Earmarked funds, numerous financial agencies, but no central office of finance result in a complex, uneconomic financial administration.)
- 4) Ineffective judicial system. (Overloaded dockets, anomaly of two final appellate courts, uncoordinated and related court administration, all are characteristic.)
- 5) Limiting aspects of the Constitution. (For example, it provides an identical pattern of government for all counties regardless of their population.)

KEEPING YOUR AUDIENCE WITH YOU Assuming that most audiences a League member addresses have little if any initial interest in or practical information about TCR, time is a vital factor. Experienced speakers concur in saying that twenty minutes is the maximum time allowance for a successful talk and that good discussion runs from ten to twenty minutes. They observe that this is ample time to arouse the appetite for information. More would satiate it. For the rare audience of already informed people seeking discussion in depth, this would not apply. Send or recommend an expert.

Visual aids, something to look at, help immeasurably to hold audience attention, we all agree. But the aids must be well done--easy to see, easy to understand, and attractive (no amateurish printing). Otherwise, the audience will, perhaps unconsciously, write off the League as inept. The simple act of changing signs, charts, pictures, or slides helps focus attention. This is true too of picking up and later posting in full view a sheet of neatly mounted editorials and news stories from which you quote a sentence or two. To help an audience



remember key points or topics, a blackboard or butcher paper, plus a grease pencil can be used by the speaker to write down a few words that will pinpoint each topic as she introduces it. Main topics should be limited in number.

Many people, faced with a complex and difficult problem, quite naturally and unconsciously seek refuge from any demand to think or act by setting up weightless arguments (such as, the Constitution is a "sacred" document and untouchable). Cutting off for examination a single piece of such a huge, confusing subject as constitutional revision reduces it to manageable size less likely to frighten new audiences and new speakers alike. Consideration of one part of the problem and one safe step towards correction having proved bearable, timid or very busy people will be encouraged to take a longer look another day.

TELEVISION AND RADIO PROGRAMS Availability of program time differs widely from city to city. During a preliminary interview with the program director of the station, you will not only strive to interest him in your ideas for a program. He will acquaint you with the station's policies governing subject, types of programs, free broadcast time, and so on - useful information to have on file.

First, what is the policy of the station on "slanted" programs? If the policy is one of approval of League positions on TCR, one obstacle is eliminated. If the policy is neutral, the station will accept the League program only if several views are expressed. In the latter case, an interview or panel program using prominent local persons as participants will be most likely to gain acceptance by the station. Moreover, the appearance of well-known citizens on a League-sponsored program attracts listeners and earns prestige.

If the League is granted more than a few minutes for TCR or is given free rein for something other than an interview conducted by a staff person, the League will wish to enlist its best speaker for the occasion. A 1958 memo from the national League office says: "Openings - The opening of a radio or television program is extremely important. If it does not catch the attention of the audience, the station may be turned out. On the other hand, the opening should give some idea of what is to follow so that it doesn't mislead the audience into thinking it is something it isn't."

The program director who plans to have League representatives interviewed on constitutional revision will probably expect the League to suggest questions on the subject. General agreement as to what will be said and what will be displayed is usually reached in advance. Careful preparation in terms of the station's limitations will assure the League a good production and a welcome the next time it has a program to offer. In areas where more than one League is served by a station, cooperation between Leagues (exchange of information about program plans, occasional joint effort) is a necessity to prevent loss of good will arising from frequent separate requests for program time.

RESOURCES The state PUBLICATIONS CATALOG is your first resource. Next is the every-member tool, TEXAS CONSTITUTIONAL REVIEW, revised 1966, and its Bibliography. FACTS OF LIFE IN TEXAS will be invaluable to beginners organizing the capsule-type talk. TEXAS LAW REVIEW for October 1957, and the current TEXAS ALMANAC supply details for those wishing to document or elaborate on points.



The C.E.D. digest of MODERNIZING STATE GOVERNMENT, 1967, has nation-wide application. These are probably in your local League files.

Exploration of the files will undoubtedly turn up treasures - speeches, and speech outlines from previous years, reprints of articles and editorials. None of these is really out-of-date. However, up-to-date pertinent articles and editorails from local papers are powerful aids to local League speakers.

The best resources are the powers of imagination, perception, intelligence, and good judgment of League members. Exercised fully, they will kindle and direct numerous ideas for ways to lead through strength and notable increase the effectiveness of Texas constitutional revision.

\* \* \* \* \*

Reprinted 1971





SAMPLE SPEECH - TEXAS CONSTITUTIONAL REVISION

WHEN THE DEDICATED TEXANS WHO WERE TO BE THE AUTHORS OF OUR STATE CONSTITUTION SAT DOWN TO HAMMER OUT THAT DOCUMENT, THEY OBVIOUSLY DID NOT TRY TO TELL EACH OTHER OR ANYONE ELSE THAT THEIR CONSTITUTION WAS TO LAST FOR ALL ETERNITY. AS A MATTER OF FACT, BY THE TIME THE PRESENT TEXAS CONSTITUTION WAS ADOPTED IN 1876, TEXANS HAD LIVED UNDER SIX DIFFERENT "CONSTITUTIONS."

THE SECOND OF THOSE, THAT OF 1845, LASTED THE LONGEST - ALL OF 16 YEARS.

WITH A TRACK RECORD LIKE THAT, IT WOULD BE SAFE TO SAY THAT MOST OF THE WRITERS OF THE PRESENT TEXAS CONSTITUTION PROBABLY FELT RELIEVED, IF NOT A LITTLE SMUG, THAT THE WHOLE DOCUMENT WAS NOT REPLACED DURING THEIR OWN LIFETIMES.

THERE IS EVIDENCE IN THE CONSTITUTION OF THE AUTHORS' AWARENESS OF THE TRANSIENT QUALITY THAT TEXAS CONSTITUTIONS SEEMED TO CARRY WITH THEM. THE SECOND SECTION OF ARTICLE I - THE BASIC TEXAS BILL OF RIGHTS - IS DEVOTED TO THE GRANTING OF POLITICAL POWER TO THE PEOPLE OF THE STATE. THE SECTION ENDS WITH THE STATEMENT "... , THEY HAVE AT ALL TIMES THE INALIENABLE RIGHT TO ALTER, REFORM OR ABOLISH THEIR GOVERNMENT IN SUCH MANNER AS THEY MAY THINK EXPEDIENT." THIS MUST, OF COURSE, BE INTERPRETED AS SUBJECT TO THE LIMITATION OF PRESERVING A REPUBLICAN FORM OF GOVERNMENT.

SUCCESSIVE STATE LEGISLATURES, AS WELL AS TEXAS VOTERS, HAVE NOT CONSIDERED IT SACRED OR IMMUTABLE. AS A MATTER OF FACT, AS OF 1971, THE 1876 CONSTITUTION HAD BECOME A PATCHWORK QUILT OF THE ORIGINAL DOCUMENT WITH 201 AMENDMENTS. FOURTEEN MORE PATCHES, OR AMENDMENTS, IF YOU WILL, ARE TO BE ON THE BALLOT IN NOVEMBER 1972.

OUR CONSTITUTION WAS ADEQUATE FOR THE TIME IN WHICH IT WAS CONCEIVED AND HAS SERVED THE STATE FOR 96 YEARS. NOW, IT IS LOADED DOWN WITH TOO MANY AMENDMENTS



AND WITH PAGES AND PAGES OF STATUTORY DETAIL. THE TASK OF TRYING TO DO BUSINESS IN THE EXPLOSIVELY EXPANDING, INCREASINGLY COMPLEX SOCIAL, ECONOMIC, INDUSTRIAL SOCIETY OF OUR STATE HAS BECOME NEARLY IMPOSSIBLE UNDER THIS CONSTITUTION.

THIS YEAR, 1972, IS THE YEAR WE CAN START STATE MACHINERY MOVING TOWARD A NEW, CONCISE AND WORKABLE TEXAS CONSTITUTION. ON NOVEMBER 7, YOU WILL GO TO THE POLLS TO VOTE ON A FULL SLATE OF STATE OFFICIALS HEADER, OF COURSE, BY CANDIDATES FOR THE OFFICE OF GOVERNOR OF THE STATE. MAKING YOUR SELECTION IS ALWAYS IMPORTANT. IN THIS ELECTION IT IS DOUBLY SO.

IN ADDITION TO THE CANDIDATES, YOU WILL BE ASKED TO EXPRESS YOUR APPROVAL OR DISAPPROVAL OF 14 CONSTITUTIONAL AMENDMENTS.

THE CANDIDATES ELECTED TO THE 63rd STATE LEGISLATURE WILL, IF AMENDMENT NUMBER 4 IS APPROVED, ALSO SERVE AS MEMBERS OF A CONSTITUTIONAL CONVENTION TO MEET IN JANUARY 1974. AMENDMENT NO. 4 ALSO PROVIDES FOR A CONSTITUTIONAL COMMISSION TO MAKE A STUDY AND SUBMIT ITS REPORT WITH RECOMMENDATIONS ON A REVISED DOCUMENT DURING 1973. IT PROVIDES FURTHER, THAT THE PRESENT BILL OF RIGHTS, A SHORT BUT VERY IMPORTANT PART OF THE WHOLE, BE RETAINED IN FULL.

AMENDMENT NO. 4 ADDS A MOST SIGNIFICANT FACET TO THE NOVEMBER 7 ELECTION. THE MEN AND WOMEN WHOM YOU ELECT AS YOUR SENATORS AND REPRESENTATIVES FOR THE 1973 LEGISLATURE WILL BE THE PEOPLE WHO WILL DRAW UP A NEW CONSTITUTION FOR THIS GREAT STATE OF TEXAS IN 1974.

WE'VE BEEN TOSSING AROUND THE WORD "CONSTITUTION" A LOT IN THE LAST FEW MINUTES. LET'S DEFINE THE TERM. WHEN MOST PEOPLE HEAR THE WORD, THEY USUALLY THINK OF THE CONSTITUTION OF THE UNITED STATES. IT IS A MODEL OF



SOUND ORGANIZATION, ELEGANT DRAFTSMANSHIP, BREVITY, CONTINUING FLEXIBILITY AND A CLEAR STATEMENT OF OUR BELIEFS AS TO THE PURPOSE OF GOVERNMENT AND PEOPLE'S RIGHTS. MANY EARLY STATE CONSTITUTIONS WERE PATTERNED AFTER THE FEDERAL ONE. BUT IN THE 19TH CENTURY, MANY OF THESE EARLY DOCUMENTS WERE SUPPLANTED BY NEW ONES, SUCH AS THE TEXAS CONSTITUTION, FULL OF RESTRICTIVE STATUTORY DETAIL AND VICTORIAN VERBOSITY.

HOWEVER, A STATE CONSTITUTION -- IF IT IS TO BE EFFECTIVE -- SHOULD ESTABLISH, NOT RULES FOR THE MOMENT, BUT PRINCIPLES FOR AN EXPANDING FUTURE. AND IT SHOULD DO THIS BRIEFLY.

IT SHOULD PROTECT THE PEOPLE -- THEIR CIVIL LIBERTIES AND PROPERTY. IT SHOULD DEFINE THE POWERS OF THE GOVERNMENT AND ESTABLISH THE PERMANENT GOVERNMENTAL INSTITUTIONS -- LEGISLATIVE, EXECUTIVE AND JUDICIAL. AND, OF COURSE, IT SHOULD PROVIDE A METHOD FOR CHANGING, IF NECESSARY, THE FUNDAMENTAL LAW EXPRESSED WITHIN THE CONSTITUTION.

IT SHOULD MAKE A DISTINCTION BETWEEN THE TWO *TYPES* OF LAW -- "FUNDAMENTAL LAW," OR THAT BROAD FRAMEWORK OF PRINCIPLES EXPRESSED WITHIN THE DOCUMENT, AND "STATUTORY LAW," OR THOSE LAWS MADE TO DEAL WITH SPECIFIC PROBLEM AND CIRCUMSTANCES, WHICH ARE THE RESPONSIBILITY OF THE LEGISLATIVE BODY.

IT SHOULD BE CONSISTENT BOTH -- BOTH WITHIN AND WITHOUT -- CONTRADICTING NEITHER ITSELF NOR THE U.S. CONSTITUTION. AND IT SHOULD BE WRITTEN SO THAT IT MAY BE EASILY UNDERSTOOD BY THE PEOPLE WHOSE CHARTER IT IS.

HOW DOES THE PRESENT TEXAS CONSTITUTION MEASURE UP TO THESE STANDARDS AND WHERE HAS IT GOTTEN US INTO TROUBLE?

FIRST OF ALL, IT IS VERY, *VERY LONG* -- MORE THAN 40 PAGES OF ULTRA-FINE PRINT



IN THE TEXAS ALMANAC. IT IS FILLED WITH STATUTORY DETAIL, WHICH, WHEN INCORPORATED INTO THE CONSTITUTION, BECOMES DIFFICULT TO ALTER, DUE TO THE LONG, EXPENSIVE AND COMPLICATED PROCESS OF AMENDMENT. WE'VE COME TO THE POINT WHERE WE'RE AMENDING THE AMENDMENTS, IN MANY CASES. FURTHER, THIS USE OF THE CONSTITUTION AS A CATCHALL FOR STATUTORY PROVISIONS OFFERS AN EASY OUT FOR LEGISLATORS WHO DO NOT WANT TO TAKE AN UNPOPULAR STAND. IF THE LAW IS OFFERED AS A CONSTITUTIONAL AMENDMENT, THE CITIZENS OF TEXAS FOOT THE BILL, AS WELL AS DECIDE A MATTER WHICH WAS ACTUALLY THE LEGISLATORS' RESPONSIBILITY. AND IF LOBBYISTS FOR A PRIVATE SPECIAL INTEREST GROUP CAN GET THEIR FAVORED LEGISLATION ONTO THE AMENDMENT BALLOT, THEY STAND TO GAIN A RELATIVELY PERMANENT ADVANTAGE IF THE AMENDMENT PASSES.

OUR CONSTITUTION, WRITTEN AS IT WAS JUST AFTER THE CARPETBAGGER ERA IN TEXAS, SHOWS A STRONG, THOUGH UNDERSTANDABLE, REACTION AGAINST ANY KIND OF CENTRALIZED GOVERNMENT OR SINGLE POWERFUL FIGURE OF AUTHORITY.

THEREFORE THE GOVERNOR, THOUGH DESIGNATED "CHIEF EXECUTIVE OFFICER OF THE STATE," HAS HIS AUTHORITY LIMITED IN MANY WAYS. HE CANNOT APPOINT OR REMOVE KEY ADMINISTRATIVE OFFICERS. THE SIX OTHER ELECTED EXECUTIVES, INCLUDING THE LIEUTENANT GOVERNOR, RUN FOR ELECTION INDEPENDENTLY OF THE GOVERNOR AND ADMINISTER THEIR RESPECTIVE OFFICES WITHOUT EXECUTIVE SUPERVISION. IN MANY CASES, THE OTHER ELECTED OFFICERS, THOUGH OF THE SAME PARTY, ARE AVOWED POLITICAL RIVALS OF THE GOVERNOR, RATHER THAN STRICTLY COOPERATIVE PUBLIC SERVANTS.

A WELTER OF STATE AGENCIES -- MORE THAN A HUNDRED, MANY WITH OVERLAPPING INTERESTS AND DUTIES -- ARE RESPONSIBLE FOR ADMINISTERING MOST OF THE LAWS IN TEXAS.

AND THERE IS NO PROVISION FOR SUCCESSION TO THE OFFICE OF GOVERNOR SHOULD THE



GOVERNOR BECOME UNABLE TO PERFORM THE DUTIES OF HIS OFFICE.

IN MANY INSTANCES, THE CONSTITUTION WAS WRITTEN TO RESTRICT THE GOVERNMENT, RATHER THAN TO GUIDE IT. FOR INSTANCE, TWO BUDGETS ARE PRESENTED TO THE LEGISLATURE -- ONE BY THE GOVERNOR AND ONE BY THE LEGISLATURE ITSELF. GUESS WHICH ONE GETS PREFERENCE!

BIENNIAL SESSIONS OF THE LEGISLATURE, SUFFICIENT FOR THE LATE 19th AND EARLY 20th CENTURIES, WERE PROVIDED FOR IN THE CONSTITUTION. WITH THE BUSINESS OF RUNNING THE HUGE, PROSPEROUS, GROWING STATE OF TEXAS BECOMING MORE COMPLEX EACH YEAR, THE JOB OF LEGISLATOR HAS BECOME A FULL-TIME ONE AND SHOULD BE SO TREATED. AND THE LEGISLATORS MUST BE DULY AND FAIRLY COMPENSATED, AS WELL, IF WE ARE EVER TO HAVE A FIRST-CLASS GOVERNMENT.

THE GREATEST NUMBER BY FAR OF CONSTITUTIONAL PROVISIONS RELATING TO THE CONDUCT OF THE LEGISLATURE ARE OF A RESTRICTIVE OR LIMITING NATURE, REFLECTING A DISTRUST OF LEGISLATORS BY THOSE WHO WROTE THE CONSTITUTION OF 1876.

THE WRITERS TOOK AN UNUSUAL TACK IN SETTING UP THE COURT SYSTEM IN TEXAS, GIVING THE STATE TWO "HIGHEST" COURTS. THERE IS THE SO-CALLED "SUPREME" COURT OF TEXAS, WHICH HEARS ONLY CIVIL CASES, AS WELL AS THE TEXAS COURT OF CRIMINAL APPEALS. THIS CREATES SOME CONFUSION AND OVERLAPPING OF POWERS IN THE COURTS. ALL JUDGES, EXCEPTING SOME AT THE MUNICIPAL LEVEL, ARE ELECTED. NO LEGAL TRAINING IS REQUIRED FOR JUDGES OF THE CONSTITUTIONAL COUNTY COURTS, AND BEFORE 1971, NONE WAS REQUIRED FOR JUSTICES OF THE PEACE.

THE CONSTITUTION SETS OUT IN FINE DETAIL THE ORGANIZATION OF A COUNTY GOVERNMENT. THE TYPES AND NUMBERS OF OFFICIALS, GOVERNMENTAL FUNCTIONS AND THE LIKE ARE SPECIFIED WITH NO REGARD FOR COUNTIES WITH LARGE METROPOLITAN POPULATIONS OR THOSE COUNTIES WHERE THE POPULATION IS SO SPARSE THAT VERY



FEW OFFICIALS ARE NEEDED. THE SAME RIGID STRUCTURE APPLIES TO ALL. IT LIMITS THE SIZE OF THE GENERAL STATE DEBT TO \$200,000. TO GET AROUND THIS PROVISION, THE VOTERS HAVE APPROVED NUMEROUS DEBT AUTHORIZATION AMENDMENTS. THIS IN EFFECT CONTRADICTS THE CONSTITUTION'S ORIGINAL INTENT AND SERVES TO FOSTER DISRESPECT FOR STATE LAW IN GENERAL.

THERE HAVE BEEN REPEATED ATTEMPTS TO REVISE AND STREAMLINE THE TEXAS CONSTITUTION, THE MOST RECENT OF WHICH, IN 1969, PRESENTED A REVAMPED CONSTITUTION, WRITTEN BY A 25-MEMBER COMMISSION, TO THE LEGISLATURE. THERE IT FAILED TO WIN THE APPROVAL OF 2/3 OF BOTH HOUSES.

HOWEVER, MEMBERS OF THE 62nd LEGISLATURE WERE WILLING TO STICK THEIR NECKS OUT AGAIN IN 1971 BY PASSING THE RESOLUTION TO REVISE THE CONSTITUTION IN 1974. THIS RESOLUTION IS THE AMENDMENT NO. 4 ON WHICH YOU WILL VOTE NOV. 7.

THAT THE LEGISLATURE WAS WILLING TO TRY AGAIN ON THIS ISSUE WOULD SEEM TO INDICATE THE SERIOUSNESS OF THE NEED FOR CHANGE. OUR ELECTED REPRESENTATIVES ARE THE ONES WHO MUST WORK WITH THE CONSTITUTION AND TRY TO *MAKE IT WORK* TO MEET THE DEMANDS OF A CHANGING SOCIETY. THEY'RE THE ONES WHO KNOW THE PROBLEM FIRSTHAND.

THE TEXAS LEAGUE OF WOMEN VOTERS HAS BEEN ACTIVE IN EFFORTS TO UPDATE OUR CONSTITUTION SINCE 1955. DURING THIS TIME, THROUGH CAREFUL STUDY AND DISCUSSION OF TEXAS GOVERNMENT AND THE CONSTITUTION, THE LEAGUE HAS REACHED CERTAIN SUPPORT POSITIONS CONCERNING REVISION.

THE LEAGUE SUPPORTS AMENDMENT NO. 4 BECAUSE IT MEETS VARIOUS LEAGUE STANDARDS FOR PURSUING CONSTITUTIONAL REVISION. WITHOUT IT'S PASSAGE, THE STATE WOULD BE RIGHT BACK WHERE IT STARTED, WITH A "HORSE AND BUGGY" DOCUMENT WHICH MUST SOMEHOW BE STRETCHED TO MEET THE NEEDS OF THE SPACE AGE.



THE ELIMINATION OF SEVERAL ELECTIVE OFFICES IS FAVORED -- SPECIFICALLY, THOSE OF SECRETARY OF STATE, TREASURER, COMPTROLLER AND COMMISSIONER OF THE GENERAL LAND OFFICE. THESE OFFICIALS WOULD BE APPOINTED BY THE GOVERNOR TO FORM A CABINET-TYPE STATE GOVERNMENT. THE GOVERNOR AND LIEUTENANT GOVERNOR WOULD RUN AS A TEAM AND THE ATTORNEY GENERAL WOULD BE THE ONLY OTHER ELECTED STATE EXECUTIVE.

THE GOVERNOR SHOULD BE GIVEN THE POWER, WITHIN REASONABLE LIMITS, TO REMOVE APPOINTIVE OFFICIALS OF THE EXECUTIVE DEPARTMENT AND APPOINTEES TO BOARDS AND COMMISSIONS.

ANNUAL SESSIONS OF THE LEGISLATURE SHOULD BE PROVIDED FOR, WITH ADEQUATE COMPENSATION FOR LEGISLATORS AS AN ADJUNCT TO THIS.

THE ESTABLISHMENT OF A SINGLE SYSTEM OF CENTRALLY ADMINISTERED STATEWIDE COURTS WITH A UNIFORM FISCAL POLICY ARE OBVIOUS IMPROVEMENTS OVER THE PRESENT JUDICIAL SYSTEM. A UNIFORM CODE OF CRIMINAL AND CIVIL PROCEDURE, FORMULATED BY THE SUPREME COURT WITH LEGISLATIVE APPROVAL, IS RECOMMENDED. A FULL-TIME JUDICIARY WHOSE MEMBERS QUALIFY TO PRACTICE LAW IN TEXAS AND ASSIGNMENT OF JUDGES ACCORDING TO SPECIAL TRAINING AND DOCKET NEEDS ARE CALLED FOR.

MODIFICATION OF THE PRESENT APPELLATE JUDGE SYSTEM TO PROVIDE FOR SELECTION BY A COMBINATION OF COMMISSION NOMINATION, EXECUTIVE APPOINTMENT AND NON-COMPETITIVE AND NON-PARTISAN ELECTIONS; COMPULSORY RETIREMENT AND NEW, EFFECTIVE REMOVAL PROCEDURES FOR JUDGES ARE RECOMMENDED.

THESE ARE ONLY A FEW EXAMPLES OF LEAGUE RECOMMENDATIONS CONCERNING THE CONSTITUTION.

THE LEAGUE HAS ALSO ESTABLISHED A LIST OF CRITERIA WHICH IT FEELS SHOULD BE USED AS GUIDELINES FOR MAKING JUDGMENTS CONCERNING ANY CONSTITUTIONAL CHANGES



AND FOR THE EVALUATION OF THE PRESENT CONSTITUTION.

THE PARTICULARS A GOOD STATE CONSTITUTION MUST INCLUDE ARE A BILL OF RIGHTS; A FRAMEWORK OF BASIC LAW; A CLEAR SEPARATION OF POWERS WITH RESPONSIBILITY DEFINITELY ASSIGNED; QUALIFICATIONS FOR VOTER ELIGIBILITY AND GUARANTEES OF FAIR ELECTIONS, AND PROVISIONS FOR JUSTICE WITH A MINIMUM OF DELAY. FURTHER, IT SHOULD INCLUDE A COORDINATED FINANCE STRUCTURE CAPABLE OF FLEXIBILITY; AND MAXIMUM HOME RULE FOR MUNICIPAL AND COUNTY GOVERNMENTS, WITH COORDINATION OF OVERLAPPING FUNCTIONS.

OTHER ARTICLES SHOULD MAKE PROVISION FOR SUPPORT OF PUBLIC EDUCATION; SUPPORT OF PUBLIC HEALTH AND WELFARE SERVICES; AND FOR CONSTITUTIONAL AMENDMENT AND REVISION. IT SHOULD SET FORTH BASIC POLICIES REGARDING STATE EMPLOYEE SELECTION, RETENTION AND PROMOTION.

BUT NOW YOU'RE ASKING, "WHAT CAN I DO TO HELP MAKE THIS DREAM A REALITY -- OR AT LEAST A POSSIBILITY?"

YOU CAN ATTEND YOUR PARTY'S PRECINCT CONVENTION AND HELP MAKE SURE THAT A PLANK FAVORING AMENDMENT OF THE CONSTITUTION IS INCLUDED IN THE PARTY PLATFORM. MAKE SURE YOU CHECK IN ADVANCE WITH THE CONVENTION CHAIRMAN TO ASSURE YOURSELF, OR SOMEONE ELSE WHO FAVORS THIS PROPOSAL, TIME ON THE AGENDA.

QUESTION YOUR LEGISLATIVE CANDIDATES ON THEIR VIEWS AS TO HOW THE CONSTITUTION SHOULD BE REVISED OR REWRITTEN -- OR IF THEY THINK IT SHOULD BE REVISED. AFTER THE ELECTION, KEEP TABS ON YOUR SENATOR AND REPRESENTATIVES, ESPECIALLY DURING THE LEGISLATIVE SESSION. LET THEM KNOW HOW YOU FEEL CONCERNING APPROPRIATIONS FOR THE CONSTITUTIONAL COMMISSION'S STUDY, AS WELL AS ABOUT THE SPECIFIC PROPOSALS YOU FAVOR FOR THE REVISION.

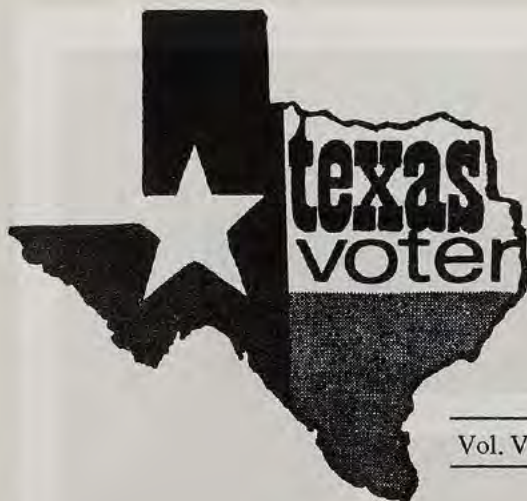


CAST YOUR VOTE FOR STATE OFFICIALS AND LEGISLATORS WITH THE GREATEST CARE.  
EVEN IF THE REVISION AMENDMENT PASSES, A LUKEWARM GOVERNOR, LIEUTENANT  
GOVERNOR OR LEGISLATURE COULD WEAKEN OR EVEN DESTROY THE FINAL RESULT OF  
THE COMMISSION'S AND THE CONVENTION'S WORK.

AND LASTLY, BUT ABOVE ALL, CAST A *YES* VOTE FOR AMENDMENT NO. 4 ON  
NOVEMBER 7!

\* \* \* \* \*





League of Women Voters of Texas  
Dickinson Plaza Center  
Dickinson, Texas 77539

Vol. VII No. 1

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## NO MORE TCR!

# It's Constitutional Revision Time

By Betty Conner

Did you get that certain feeling on Sept. 7, 1971? Does the mere mention of Nov. 7, 1972, make your eyes light up? I hope so, for these two dates will go down in League history.

On Sept. 7 the state Board decided to support HJR 61, a proposed constitutional amendment, and on Nov. 7, 1972, with the help and hard work of all League members, the voters of Texas will vote "Yes" and the long-awaited dream of a constitutional convention will become a reality.

Our League consensus calls for a constitutional convention preceded by a commission to do study and research. If the HJR 61 amendment passes, a commission will be appointed by the 63rd Legislature when it convenes in January, 1973. The commission will make its report not later than Nov. 1, 1973. The 63rd Legislature will then sit as a constitutional convention beginning at noon on the second Tuesday in January, 1974. The results of this convention will be presented to the voters of the state for their approval.

So action is the name of the game. November, 1972, may seem a long way off. Here you are, happily thinking, "It's only November of '71." But with less than 12 months to go, *today* is not too soon to start your local all-out campaign for passage of this amendment.

Why start so soon? Why an all-out campaign? If this proposal fails, it may be at least 20 years before Texas voters will get another chance to authorize a rewriting of

the state constitution. There will be some "aginners," perhaps a lot of them, both individuals and special interest groups. By starting now we will have time to turn their doubts and attacks to our advantage.

Are you getting excited? Are those long-cherished, almost-forgotten dreams of revision stirring again? What an opportunity we have, and we are not going to pass it up. Constitutional revision will be our number-one priority for the next 12 months. Not just for the state Board, but every local League member.

As the League's Texas Constitutional Revision chairman, I'll be asking local Leagues to 1) appoint a local action chairman, 2) budget in 1972 money for local action on revision, and 3) talk in terms of constitutional revision both within and without the League. Our old lingo standby, "TCR," simply does not mean

anything to anybody outside the League. (And, I might add, I have had more than a few Leaguers—new and old—stop me in mid-sentence with "What's TCR?")

This will be a four-way campaign: 1) member update, 2) candidate involvement, 3) local community campaigns, and 4) state-wide campaign. A strategy action committee has already been meeting for several weeks at the state office to help get you started on the action.

Some of us will soon be in your part of the state for a workshop to help you get it all together. A schedule of election dates and other related events, a plan of action, a kit filled with information on every aspect of this essential campaign—all these will be offered at workshops. We plan to do candidates interviews, offer resolutions at the precinct, county, and state conventions of both political parties, and have speakers bureaus.

League members understand the need for revision. We must make this need clear to the public—for our biggest enemy of all could be voter apathy.

For years we have talked about revision. Now we are taking action on revision. It will take a lot of time and a lot of money. The doubters and the skeptics do not think it can be done. But it can and will be done. Passage of the amendment in November is the first step toward our ultimate goal: A good constitution for the State of Texas.

No one can match the League in knowledge, know how, will power, and womanpower.

**WE CAN DO IT! LET'S GO!!!**

## BIG D IS BIG WINNER

Congratulations to the LWV of Dallas for being one of the two top winners in the *Dallas Times Herald's* annual Club of the Year contest.

The Dallas League won a \$100 initiative and originality award for its two entries — a school desegregation study and a survey of appointed board and commissions.



# Book Review

## SURVEY EXAMINES STATE LEGISLATURE

*The Sometime Governments: A Critical Study of the 50 American Legislatures*, by the Citizens Conference on State Legislatures. Written by John Burns, Bantam, August 1971—\$1.95 (paperback).

If you feel you need a tonic as an active Leaguer—beg, borrow, or buy a copy of *The Sometime Governments*. It represents the first comprehensive study of the procedures and operations of the legislatures in the 50 states.

Reading this book will pep up the Leaguer who agrees with John Gardner when he states in the foreword, "State government is reputedly a dull subject. But the issue of how men govern themselves is never really dull."

*The Sometime Governments* describes the conditions of the state legislatures measured against criteria developed by the Citizens Conference on State Legislatures, thus making comparisons and ratings among the states possible. Functional, Accountable, Informed, Independent, and Representative are the five yardsticks and their development and application are explained in detail. Under this FAIR system, for example, Texas ranked 17th in Representative, 36th in Accountable, 43rd in Information and 45th in Independence, giving the state an over-all rating of 38th.

As important as the legislative evaluation is, it was not the goal of the conference, but a tool developed so that recommendations for improvement in the legislative processes could be made. State by state suggestions are detailed and explained. The suggestion on salaries states flatly that no legislator should be paid less than \$10,000 a year. The recommended amount for a Texas legislator is \$15,000.

Readable without being anecdotal, solidly researched without being obscure, this book is intended for the general public as well as being a must for anyone interested in government. Recognizing the urgent need for reform in the state legislatures, the Citizens Conference realizes that reform cannot be achieved unless it is backed by a "significant segment of the enlightened public."

—Harriet Litras



League records are presented to Dr. Doris Blaisdell of the Southwest Collection by Rose Lancaster, program vice president, as state Board member Betty Anderson looks on.

—Tech Photo

## TFW NEWS

### SALUTES

## Tarrant County

Imagination + money = community service. Drawing on an account established with the Texas Education Fund, the LWV of Tarrant County has opened a new chapter in community service. With an unprecedented 50th Anniversary Campaign gift, tax-deductible and restricted to use in Tarrant County, that local League has begun all those projects so long deferred for lack of money.

First was the publication of both English and Spanish versions of the Voter's Guide for the May constitutional amendments election. Production of a striking red, white and blue guide to the elected officials of *all* of Tarrant County was the second project underwritten by the grant. This guide covers the 35 municipalities, 15 independent school districts, and all federal, state and county branches of government located in Tarrant County.

A third project is a compilation of League and non-League citizen information publications into packets for use in the high schools of the county. Called Government Resource Material packets, they include publications on city, state, and federal subjects. Ten packets are being prepared with the hope that a demand for more will be generated.

This gift has also opened up many new possibilities for a newly-created Community Service-in-Action Committee of the LWV of Tarrant County. And imagi-

native use of the money might well guarantee future gifts from both this source and others.

MEANWHILE, at the state level.... Four projects of the LWV of Texas are presently being funded by TEF. In addition to previously announced funding for the League's legislative committee and the election laws study, TEF is underwriting the publication of 15,000 copies of *A Voter's Key to 1972* and three editions of the *Human Resources News-Letter*. Due to limited funds, a small charge will be made for the *Key* to recoup its cost and to fund additional printings if necessary.

Size of the TEF Board of Trustees has been increased to 13 to handle the ever-growing workload. Trustees meet four times a year in Austin. The next meeting is Jan. 14, 1972.

Project requests should reach the chairman two weeks prior to a trustees meeting to assure consideration at that meeting.

Three memorial contributions have been received since the July TEF News-Letter was mailed. Techniques for encouraging these and other gifts are under consideration by the trustees. In the meantime, don't forget TEF when you wish to make a tax-deductible gift or bequest. Put the Texas Education Fund in *your* will.

—Dorothy Brown



# Texas Tech Gets League History

Fifty-two years of Texas social and political history recorded in detail by the Texas League of Women Voters was opened to historians for the first time Oct. 7 in the Southwest Collection at Texas Tech University.

The League deposited its state records in the regional repository 52 years, to the month, after the organization began in San Antonio.

The League's first item of business in 1919 was to get women to pay their poll taxes so they could vote in the 1920 election. Voter registration and education are still prime targets for the League's efforts, but there are shelves of historical interests in between.

Dr. Doris Blaisdell, associate archivist for the Southwest Collection, received the latest League items from Mrs. James Lancaster, first vice president of the state League, when she visited Lubbock to conduct a program workshop for local Leagues in the area.

The LWV collection is interesting sociologically and politically, Dr. Blaisdell said.

"The whole sociology of voluntarism is of great interest," she said, "and the League is a very efficient volunteer citizen organization. How it functions would be of great sociological interest to any study of voluntarism."

One of the earliest items in the collection is a 1922 scrapbook from the El Paso LWV, one of the first Leagues in Texas.

Mrs. S. J. Fennell of El Paso, who was state chairman of the Texas suffragists, told El Paso women in 1920 that the League was to be "absolutely non-partisan, non-militant, and non-sectarian."

## NEW ENVIRONMENTAL GROUP

The Texas Advisory Council on Environmental Education (TACEE) operates on a grant from HEW to plan and execute programs that will upgrade and expand environmental knowledge for all citizens. One thrust — Environmental Education Week (March 27-31, 1972) — is under the chairmanship of the Texas League's representative, Ginger Bremberg. Of course all Leaguers will be leading participants in this celebration. After all, who knows more and can do more than the LWV? MORE TO COME!!!

When the El Paso League began its scrapbook, League members worked for action in the areas of public education, financial responsibility for children of divorced parents, establishment of juvenile courts, homes for delinquent girls, women's wages, and provision of public restrooms for women.

In 1921 the League was working for reorganization of the Texas prison system. Texas constitutional revision records date back to 1935. Ecology studies, in conservation and pollution, begin with 1948 material. The League's collection of federal water programs and policies started in 1949 in Texas. Jury service for women was a League issue of concern almost from the organization's start.

Not content with recording only minutes and League activity, LWV material

held in the Texas Tech repository includes all the data gathered by League members on each of the issues studied.

Because the League appears to be tireless in data gathering," Dr. Blaisdell said, "the records are a valuable source of background material on some of the most important political considerations of the period."

She said the collection on water was a particularly valuable acquisition for the Southwest Collection which has broad holdings on this particular subject.

These are gaps in the LWV collection, she said, and the Southwest Collection will try to discover if local Leagues have used other repositories for their records. "When we know this," she said, "we can refer researchers to material held in other parts of the state."

—Texas Tech News

## Ginger in Questionnaireland

*Editor's note: When the state EQ chairman sent out her questionnaire on local anti-pollution procedures, she never dreamed she'd get the responses she did. Here are her reactions to them.*

By Ginger Bremberg

"Please, Feds, we'd rather do it ourselves!" "Only way to go—all Federal control!" "No one listens to anyone but the polluters." "Wonderfully responsive officials."

Now I know why the job of an analyzer is so much fun! WOWEE!!!! From stem to stern, from border to border—it is abundantly apparent that no two cities agree on anything, except that maybe there is pollution.

Some have neat, tidy, effective divisions of responsibility; no answer as to how they work out, but they look great on paper. Some have a sort of half-hearted line of responsibility, and some just pray that the problem will go away.

To our everlasting shame, some League members missed the whole point of the questionnaire. Some obviously didn't read it carefully. And some even asked why the 1889 law was being used. My, oh my.....tsk, tsk and shame!

Did you know that the police department of Baytown handles noise pollution? Wonder if they ever use their sirens. Were you aware that all cities are hoping for pie-in-the-sky funds from Uncle

Sam—whether or not they like the Feds? Lucky Irving has a public works director who hasn't heard of the 1899 law. Austin's problem is not industrial—rather septic tanks and urban run-off.

So it goes. Some like it clean, others don't care and just wish those eco-cuts would go away, and others have already gone.....! Not all officials have even seen the attorney general's book on pollution enforcement procedures. (He'll be happy to know that, now that the revision is about finished.)

Dallas has the most responsive city officials (at least communication-wise) and Texas City the least. Harlingen and Edinburg have little, if any, pollution while Houston is wallowing in it. Perhaps we should change Texas' slogan to "Land of Contrasting Pollution and Enforcement."

I was extremely disappointed that many Leaguers felt compelled to be beligerent about the questions. They were just about long-standing League positions on water quality and anti-pollution enforcement provisions of existing laws.

The gold stars earned by the EQ chairmen will be firmly pasted on foreheads at Council. In the meantime, I suggest that everyone review LWV-US consensus and positions on water.

If no other agreement comes from this experience, the fact that local officials know we care, do want something done, and are watch-dogging is a large step forward!



## Ten Texas Leagues In Voting Survey

A Ford Foundation grant has given the League of Women Voters Education Fund and the National Municipal League the opportunity to investigate laws and procedures that keep citizens from voting.

Three hundred local Leagues have been invited to participate in a comprehensive survey to collect information about the political and sociological characteristics of their communities, registration and voting practices, and factors that affect the ease or difficulty with which citizens can register and vote.

The following Texas Leagues were selected to participate in the comprehensive survey: Brazos County, Corpus Christi, Dallas, Dickinson, El Paso, Houston, Lubbock, San Antonio Area, South Jefferson County, and Tarrant County.

The remaining Leagues will be invited to complete a mini survey that will provide a statistical base for the data gathered by the comprehensive survey.

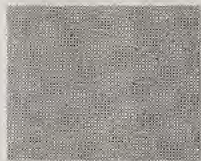
STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION		SEE INSTRUCTIONS PAGE 10, REVERSE
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BRASHER



BREMBERG



CONNER

# State Board Memo

FROM: Mrs. Thomas Brasher  
Mrs. B. E. Bremberg  
Mrs. R. E. Conner

CHRIS BRASHER: It is heartening to see the increased action in all areas of League program indicated in your VOTERS, your inquiries, and groundwork being laid by resource chairmen. The real meaning of study and action is going into effect.

Aims for '72 are high. The outlook for increased activity in the regular session of the 63rd Legislature indicates an active participation on all League items. Uppermost will be our number-one state priority, constitutional revision. But, as the last Texas VOTER pointed out, the forecast of things to come promises almost as much activity on all fronts as in the past legislative session.

The work done in the 62nd Legislature paved the way to go all out for those objectives that were shunted aside in the last hectic days of the session. We will concentrate on those most important issues that we feel will have a chance.

The interim period will be one of watching, waiting, and influencing. Then — TIME FOR ACTION in '73!

GINGER BREMBERG: "We've come a long way, Baby!" Instead of being a lonely voice crying out against "dirty water," we have become the leaders of a parade that extends coast to coast. My, but it's nice to be able to look through 29 or so pieces of mail every day and realize that at long last the LWV is needed, wanted, and listened to in the EQ field!

Almost 17 years ago, while wading in the Mississippi River near the Pig's Eye Island Sewage Plant, I certainly had no idea what a long path lay ahead. But I wouldn't have missed one smelly minute of the whole fight. Don't want anyone to think the fight is over, but it surely has become easier to gain access to legislative hearings, etc., since EQ has become a respectable subject . . . so respectable, in fact, that stronger reading glasses are needed for the abundance of printed matter on the subject. Too bad it takes so many trees to make all that paper. And so it goes . . . I'm never satisfied! POUNCE ON POLLUTERS! ! ! !

BETTY CONNER: Texas Constitutional Revision and Foreign Policy are strange bedfellows, but they are my labors of love on the state Board. But for now, I want to talk to you about revision only — to share my anticipation and enthusiasm.

The League has stopped studying, hoping, thinking about revision — this is our year for action! At last the opportunity is before us: A proposed constitutional convention to revise our present antiquated document. What a difference a modern, efficient, constitution would make to the people of Texas! What a change it would make in our state government!

You, the 4,000-plus members of the Texas League of Women Voters have the privilege of working for a constitution that will work for the people of Texas. This is my goal. Will you make it yours also?

## THE TEXAS VOTER

Vol. VII No. 1 November, 1971

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Mrs. Darwin M. Winick, President  
Mrs. C. J. Leabo, Editor

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ANALYSIS OF HJR 61

Proposing an amendment to article XVII of the Constitution, to provide that the 63rd Legislature act as a constitutional convention to propose a revised constitution to the voters of Texas, retaining the present bill of rights.

When the legislature convenes in 1973, it shall provide by concurrent resolution for a constitution revision commission. Will appropriate money to provide an adequate staff, office space, equipment, and supplies for the commissio..

Commission shall study the need for constitutional change and report to the legislature not later than November 1, 1973.

The 63rd Legislature shall convene as a constitutional convention in January, 1974. Lt. Governor shall preside until a chairman is elected.

Members of the convention shall receive compensation, mileage, per diem as determined by a 5 member committee, composed of the Governor, Lt. Gov., Speaker of the House, Chief Justice of the Supreme Court, and Chief Justice of the Court of Criminal Appeals. Convention may provide for expenses of members and for the employment of a staff for the convention, and for these purposes may by resolution appropriate money from the general revenue fund.

The convention, by resolution of at least two thirds of its members, may submit for a vote to the voters of Texas a new constitution which may contain alternative articles or sections, or may submit revisions of the existing constitution which may contain alternative articles or sections. Each resolution shall specify the date of the election and the method of publicizing the proposals to be voted on. To be effective, each proposal must receive a majority of the votes cast on it at the election. To be adopted, each proposal must receive the favorable vote of the majority of those cast on the proposal.

The convention may be dissolved by resolution adopted on the vote of at least two thirds of its members, but it is automatically dissolved at 11:59 p.m. on May 31, 1974, unless its duration is extended for a period not to exceed 60 days by resolution adopted on the vote of at least two thirds of its members.

This amendment shall be submitted to the voters at the general election, in November, 1972. The proposal to read "The constitutional amendment providing for a constitutional revision commission which precedes the convening of the members of the 63rd legislature as a constitutional convention in January, 1974, for the purpose of submitting to the voters a new constitution or revisions of the existing state constitution."

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## HISTORICAL BACKGROUND

Texas was formerly a part of Mexico and subject to the laws of Spain, but the entire territory was also claimed by France as a part of her American possessions. In 1803 France ceded to the United States all her territories bordering on Texas, and in 1819 the Sabine and Red Rivers were, under a treaty between the United States and Spain, established as the eastern boundary of Mexico.

In 1821, after many years of unsuccessful revolt, Mexico succeeded in breaking its bonds with Spain, and in 1824 the Republic of Mexico adopted a Constitution which along with defining the powers of the Federal Government, recognized Coahuila and Texas as a single state. This was supposed to be temporary.

Because of widespread objections to the government under the Constitution of Coahuila and Texas, a Convention of Texans met in April 1833 to take measures to secure a separate state constitution. This Constitution was drawn up and submitted to the Mexican Congress for approval. Stephen F. Austin's mission to Mexico City to bear the petitions of the Convention and proposed Constitution resulted in his imprisonment and was a significant development in the chain of events which led to the Texas Revolution.

In 1834 the Constitutional government of Mexico was overthrown; Santa Anna was proclaimed dictator and Mexico fell into a state of civil war. Uncertainty of government, resentment of corrupt military rulers and repudiation of the Mexican Constitution caused increased dissatisfaction on the part of Texans and in 1836 Texas declared its independence, established the Republic of Texas and adopted the constitution of 1836.

In 1845 the man who was President of the Republic of Texas, Anson Jones, called the Texas Congress to meet on June 16, and at the same time called a Convention to meet on July 4, to discuss offers by the United States to annex the Republic of Texas as a state. Both Congress and the Convention voted for annexation. A State Constitution, drawn up by the Convention, was ratified by the voters in October of 1845 and accepted by the United States Congress on December 29, 1845, date of Texas' legal entry into the Union. Transfer of authority from the Republic to the State was not made until February 16, 1846.

The new Constitution was almost twice as long as the Constitution of the Republic of Texas. The framers used the Constitution of 1836 as a working model but drew heavily on the newly adopted Constitution of Louisiana; the Constitutions of other Southern states, and on the proposed Constitution for the State of Texas drawn up in 1833.

The longest division of the Constitution was the Article on General Provisions. Most of its thirty-six sections were limitations on the legislature. Creation of banks was prohibited; the legislature was forbidden to authorize individuals to issue bills, checks, promissory notes or other paper to circulate as money and the state debt was limited to \$100,000 except in case of war, insurrection or invasion.

When Texas seceded from the Union on the eve of the War Between the States, the Constitution of 1861 (a modification of the Constitution of 1845 to conform with



Texas' membership in the Confederate States of America) went into effect. A few substantive changes were made giving slavery greater emphasis and protection.

At the close of the War Between the States, Andrew Jackson Hamilton, Provisional Governor of Texas, issued a proclamation calling a Constitutional Convention to meet in Austin on February 7. The result of its deliberations was the Constitution of 1866. Though four required points concerning secession, abolition of slavery, status of freed men and repudiation of war debts were incorporated and the new Constitution ratified, Republican Congressional leaders invalidated the document and over the President's veto military governments were established throughout the South.

The Congressional Reconstruction Act of 1867 required that there be framed and ratified, new constitutions granting Negro suffrage and ratification of the fourteenth Amendment. This produced the longest and most unsatisfactory of Texas Constitutions. The Convention assembled in 1868 and delegates gave much time to matters over which they had no jurisdiction such as dividing Texas into two or three states; hearing complaints of lawlessness and chartering railroads. Ten days prior to adjournment, the delegates got down to the business of writing the Constitution, and broke up in confusion on February 8, 1869, having obtained only 45 of the 96 delegates' signatures on the partially assembled Constitution. The Convention work was gathered up under orders of the military officers and published as the Constitution of 1869.

The governing regime was one of oppression, corruption, graft and blackmail. It sought to centralize the government, and vested extraordinary powers in the Governor. Both militia and police were under the control of the Governor. This might not have been so bad except that some of the worst desperados in the state were accepted by the force.

When the voices of moderation finally prevailed, and Texas was given the opportunity to oust the carpetbag regime, the delegates to the Constitutional Convention of 1875 determined to include in the state's basic instrument as many safeguards as possible to prevent the recurrence of such widespread and flagrant abuse of power.

Thus when the Constitutional Convention of 1875 drew up the new Constitution, the Constitution of 1845, rather than 1869, was used as a working model.

In the earlier Texas Constitutions, as in the Federal Constitution, the writ of habeas corpus was subject to suspension in case of rebellion, invasion, or when public safety might require. In view of their experiences, the framers of the 1876 document provided that in Texas the writ of habeas corpus may never be suspended. Furthermore, they stipulated that military power would always be subordinate to civil authority and the Bill of Rights was inviolate.

The Convention was determined to cut the governor's power to prevent a future renewal of executive despotic control. It decentralized executive authority by vesting power in other executive officers, most of whom were to be elected. It reduced his term from four to two years, debarred him from holding other office or commission and prohibited him from practicing any profession for profit while in office. It also reduced his salary and limited his powers by setting forth his duty in great detail.



To reduce the cost of government, the new Constitution provided for biennial sessions of the Legislature. The salary of the legislators was reduced from \$8 to \$5 a day for the first 60 days of the regular session and to discourage long sessions provided that it be reduced to \$2 a day for the remainder of the session. To prevent, insofar as possible, personal gain and profit by members of the legislature as a result of the office they hold, it was provided that no member may be interested in a contract with the state or county, authorized by a law passed during his elected term.

Matters formerly left to the discretion of the legislature were now carefully spelled out including many rules of legislative procedure.

The authors of the present Constitution connected centralization with increased financial expenditures and wishing to reverse this trend, they set forth the major items for which taxes could be raised. What actually happened over the years was the exact opposite. As the state grew, the legislature responded to the peoples' demand for additional governmental services to meet the state's economic and social needs. New agencies were created or new functions attached to existing agencies often poorly adapted to handle them. With haphazard growth came haphazard financing, and taxation in Texas today is a far cry from "revenue sufficient for the economical administration of the government" envisioned by the Convention of 1875.

The judiciary had also been subjected to severe criticism. Since the 1869 Constitution had given the governor the power to appoint the judges, the 1876 Constitution provided that all judges were to be elected by popular vote with terms from two to six years, and reduced their salaries. A more essential change was the return of the county courts.

Taken as a whole, the 1876 Constitution satisfied the majority of the people of Texas. It was an extremely human document which reflected both national and state history. Its writers were not preoccupied with ideas of perfection. The issues facing them were great and perplexing; and the method of their solution was not to seek a constitutional document which itemized man's highest aspirations but rather to find practical answers to meet the challenge of the times.

The authors of the Constitution were experienced enough, shrewd enough and disillusioned enough to recognize no government could be based on the theory of generosity or goodness of men. Therefore they wrote into the Constitution as many limitations on potential temptations toward evil and selfish ends as they deemed necessary to maintain a reasonable amount of honesty and justice and a moderate amount of efficiency in state government. The main effort of the Constitutional Convention in 1875, without question, was devoted to the restraining of individuals in government positions from wrong doing.

Although the final document was exceedingly detailed, lengthy, and somewhat repetitive, it provided a fairly adequate government at the time of its adoption. But as the population and industries of Texas began to grow, bringing with them changing economic and social conditions, it was found that the governmental machinery was not adequate to meet situations unimagined by the framers of the 1876 instrument. So much administrative detail had been incorporated into that document it was necessary to alter time and again, the fundamental law in order to keep abreast of the times. Fortunately, the Constitution makers had provided a rather simple method of amendment. Nevertheless, the fact that 201 amendments



have been approved (with more to be voted on in November 1972) would indicate the time has indeed arrived for a complete review of the Constitution of 1876.

In 1957 under the auspices of Governor Beauford Jester, a revision attempt was made utilizing the services of the Texas Legislative Council with a group of dedicated citizens as an advisory committee. Two members of the state Board of the League of Women Voters of that time, were among those serving. The Citizens Advisory Committee entirely without compensation spent four years studying each section of the Constitution and recommended both substantive and non-substantive revision. The Texas Legislative Council, entirely without funds until 1959 when the 56th Legislature appropriated \$50,000 for research did not start extensive revision work until 1960. Because of insufficient funds and the short period of time left before a final report was to be made, the Texas Legislative Council decided that a thorough research job was not possible. Therefore a simplified format was employed. The final report recommended that no Constitutional Convention was needed at that time; that the document was sound and reflected the governmental philosophy of the people; that 50 deadwood provisions be eliminated and that a study be made of the judicial article.

The 57th Legislature was not favorably disposed toward constitutional revision so there the matter lay until the House of Representatives of the 60th Legislature by simple House Resolution, established a Constitutional Revision Commission to make a revision of the Texas Constitution. However, the completed document, which was supported by the Texas League of Women Voters, failed to win 2/3 approval of both houses in the 1969 Legislature.

In 1971, the 62nd Legislature passed HJR61, a constitutional amendment which if passed by the voters, would set up the 63rd Legislature as a Constitutional Convention. This body would convene in January, 1974, after comprehensive study and report by a Constitutional Revision Commission, which would meet in 1973. This amendment, which will be No. 4 on the ballot, is the one Texas will vote on November 7, 1972.

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## SHALL WE REVISE THE TEXAS CONSTITUTION?

## WHAT IS A CONSTITUTION?

When a citizen is asked what he thinks of when he hears the word "constitution," he will probably refer to the Constitution of the United States. Such a response is an indication of the vitality, application and permanence of the basic values contained in the 176-year-old document which expresses the highest political ideals of this country. It is not surprising that the federal Constitution has stood as the best example, the model, of all effective constitutions. It exemplifies by its sound organization, elegant draftsmanship, brevity, continuing flexibility and, above all, the clear statement of our beliefs as to purpose of government and people's rights, those qualities desirable in a modern constitution. In the 18th century, it served as a model for most state constitutions, but by the latter half of the 19th century, many early state constitutions were supplanted by new documents full of restrictive detail and victorian verbosity.

## WHAT DOES A CONSTITUTION DO?

A constitution exists to protect the people--their civil liberties and their property. It defines the powers of the government. It establishes the permanent governmental institutions--legislative, executive and judicial. It provides a method for changing, if necessary, the fundamental law expressed within the constitution.

These functions reflect the convictions of the majority of people regarding the kind of political system they want and the powers they wish the government to have. These functions make up "fundamental law," the essential framework of orderly government. In contrast to fundamental law is "statutory law," the enactments of the legislative branch of government as it deals with specific social, economic and political problems. This distinction is important, since a primary weakness of many state constitutions is the excessive statutory detail they contain. State constitutions are not legal codes and should not be burdened with the legalistic terminology more appropriate to a compilation of statutory laws.

## WHAT ARE SOME QUALITIES OF A GOOD STATE CONSTITUTION?

A state constitution, then, should establish, not rules for the passing hour, but principles for an expanding future. It should do this briefly. It should outline a framework of governmental order in which changes can be made without endangering stability. Brevity is generally considered the first essential of a sound constitution. With brevity go simplicity and readability. The constitution should be written in modern English, free of needless verbiage and sermonizing.

Unnecessary detail should be avoided, since it leads to rigidity and interferes with the state and local capacity for dynamic self-government. Too many specifics concerning governmental institutions reduce responsibility for the conduct of government by the appropriate agents. Excessive detail creates a constant need for constitutional amendment--and amendments beget more amendments, as Texas voters know. It confuses the public and lessens the confidence and respect which a document establishing first principles should command.



Consistency is also required of a good constitution; it should contradict neither itself nor the United States Constitution. It should have a logical arrangement and a well-organized and attractive format which can be easily understood by the people whose charter it is. The state constitution should reflect the best in current thinking regarding traditional problems of government, and it should also make some provisions for the emerging and future problems of an increasingly complex state.

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## MEMBER UPDATE ON TEXAS CONSTITUTIONAL REVISION

## Brief Resume of Constitution

Texas has had six Constitutions, all the products of Constitutional Conventions.

The first Constitution was adopted in 1836 when Texas was a Republic. The next in 1845, was in anticipation of annexation to the United States. The third in 1861, after Texas seceded to join the Confederacy, then in 1866, when Texas rejoined the Union. In 1869, under the military rule of the reconstruction period the fifth Constitution was adopted. The present Constitution was written in 1876, and reflects the political environment at that time. In the turbulent post-Civil War Reconstruction period, Texas was ruled by people, who, unlike the majority of Texans had not supported the Confederacy. When the supporters of Confederate ideals regained power, they drafted a new constitution with strong safeguards against what they considered abuse of power. The Constitution of 1876 was designed to prevent the state from governing - in contrast to the U.S. Constitution which permits governing.

Let's take a brief look at the provisions of the Texas Constitution:

Bill of Rights: Differing very little in purpose from the bills of rights of the federal and other state constitutions, the Texas Bill of Rights nevertheless reflects the very special determination of the Constitutional Convention of 1875, that the natural rights of Texans would never be violated. There are 29 sections in the Bill of Rights. They include such important provisions as Section 2 - "The people have at all times the...right to alter, reform or abolish their government in such a manner as they may think expedient," subject only to the limitation of preserving a republican form of government; Section 3 - "All free men, when they form a social compact, have equal rights...."; Section 8 - "Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege...."; Section 18 - "No person shall ever be imprisoned for debt."; Section 19 - "No citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land."; Section 27 - guarantees the people the right to assemble peaceably, and the right to apply to the government for the redress of grievances or other purposes.

The Texas Constitution provides for the traditional separation of powers among the three branches: the legislative, the executive, and the judicial. Article II declares that the powers of government in Texas must be divided into three distinct departments, each with its own separate capacity. Article III contains most of the basic provisions covering the Legislative Department of the state government.

The legislature is composed of a Senate and a House of Representatives. The Senate consists of 31 members; the House of not more than 150. Representation in each house shall be reapportioned after each federal census. A 1948 Constitutional Amendment created the Legislative Redistricting Board (composed of the Lieutenant Governor, Speaker of the House, Attorney General, Comptroller and Commissioner of the General Land Office) which must reapportion the state senatorial and representative districts if the legislature refuses to do so. The actions of this Board have been in the headlines during the summer and fall of 1971, with several suits contesting their decisions. The Constitution provides that the legislature shall meet every two years and at other times when convened by the Governor. The method of procedure of business is provided:



bills shall be introduced during the first 30 days, committee hearings shall be held during the second 30 days, and the final 60 days shall be spent in legislative action on the bills and resolutions which are pending. Each house may alter these rules by a four-fifths vote of its membership.

Throughout the Constitution are found specific requirements or limitations for almost every conceivable act of the legislature. Though some sixty sections of the Constitution contain obligatory directions to the legislature, most are qualified in some way with exceptions. Sample mandatory provisions: The legislature shall provide by law for compensation of officers. It shall pass laws to give courts power to change venue. It shall enact vagrant laws; it shall prohibit lotteries. By far the greatest number of constitutional provisions relating to the conduct of the legislature are restrictive or limiting in nature, a reflection of the distrust of the legislature held by the framers of the Constitution of 1876. Sample restrictive provisions: The legislature is restricted in the conduct of its own proceedings. It is limited by a long list of purposes for which taxes may or may not be levied. It shall not pass local or special laws on a long list of subjects. It shall not appropriate funds nor pledge the credit of the state for any private purpose.

Legislative Reforms - The Council of State Governments, an organization founded and supported by the states, has established committees to study the procedures and functioning of state legislatures. Some of the recommendations of the Committee on Legislative Processes and Procedures, with comparative features of the Texas Legislative, follow:

1. Undue limitations and restrictions upon the length and subject matter of legislative sessions should be removed.

THE TEXAS CONSTITUTION specifies a biennial regular session that may not exceed 140 days; special sessions may be called only by the governor.

2. Annual salaries sufficient to permit competent persons to serve without financial sacrifice should be provided by statute and not fixed in the constitution.

THE TEXAS CONSTITUTION provides for annual salaries not to exceed \$4,800 per annum. Per diem is provided for the first 120 days of a regular session and for the 30 days of any special session.

3. Skilled and essential full-time legislative employees should be appointed on the basis of merit and competence.

THE TEXAS CONSTITUTION makes no mention of such employees.

4. Legislative committees should be reduced in number and organized with regard to related subject matter, equalization of work, and cooperation between legislative houses. Committee meetings should be scheduled and announced, and a public record of committee action kept.

THE TEXAS CONSTITUTION does not give direction on this subject other than the provision that all bills and resolutions must be submitted to committees before floor action. Specifically, it does not provide for a record of committee action. (The most important work of the state legislature is conducted by committees yet the citizen has no way of finding out what



happens there to legislation in which he is interested, nor how his representative or senator voted. The Texas House of Representatives has 43 standing committees; the Senate has 38: there are no joint standing committees.)

5. Legislative councils and interim committees, reference, research, bill-drafting and statutory revision services should be strengthened.

THE TEXAS CONSTITUTION does not mention such councils, committees or or services. The Texas Legislature has established some facilities, such as the Texas Legislative Council, and shows continued concern for improved services.

Executive Department - The Texas Constitution provides for no single head of the state, but for an Executive Department of seven officials: the governor, lieutenant governor, secretary of state, comptroller of public accounts, treasurer, commissioner of the general land office, and attorney general. Each of these is elected, except the secretary of state who is appointed by the governor with the consent of the Senate.

As the "chief executive officer of the state" the governor is given the responsibility for execution of the laws, but the constitution gives him little authority to carry out this mandate. He makes appointments to numerous Boards and agencies, but these are subject to approval of two-thirds of the Senate, and he has no legal power to remove any appointees. The other executive officers are not responsible to him, nor are other elected or appointed heads of state departments. His constitutional right to request information and reports from executive and administrative departments gives him, therefore, little actual power of administration.

The governor can call special sessions of the legislature. At the beginning of each regular session, he must make a report on the condition of the state, recommend needed legislation, and give a financial statement and an estimate of the taxes that will be needed for the next two years. But his recommendations do not receive priority, as is the practice in some states, and he must rely on his political power to get favorable attention by the legislature for his proposals. Unlike some parts of the constitution, article IV, which provides for the Executive Department, is relatively clear as to intent, is not often repetitious, and contains most of the provisions relating to the subject. Sections setting forth the duties of the governor and other executive officers remain exactly as written in 1876, for the most part.

Judicial Department - Article V of the Texas Constitution provides for the Judicial Department. Section 1 vests the judicial power in a Supreme Court, Courts of Civil Appeals, a Court of Criminal Appeals, District Courts, County Courts, Commissioners Courts, and Courts of Justices of the Peace. Section 1 also authorizes the legislature to establish such courts as "it may deem necessary."

Suffrage and Elections - The Texas Constitution provides for suffrage in Article VI. Section 1 lists persons not allowed to vote; idiots and lunatics, paupers supported by any county; persons convicted of any felony, subject to such exceptions as the legislature may make.



State Finance - The Texas Legislature has the power to tax, to spend, and to incur debt subject to limitations in the Texas and U.S. Constitutions. Two general statements of principle in the Texas Constitution govern taxation: Taxation shall be equal and uniform. Taxes shall be levied for public purposes only. The constitution expressly permits the legislature to levy three types of taxes - property, occupation and income. But the legislature has authority to levy other kinds if it wishes, as it did in 1961 with the passage of the general sales tax law. There are four general limitations on expenditures: 1. Appropriations are limited to estimated revenue. (This was provided for by the so-called "Pay as you go amendment" of 1942.) 2. No money shall be drawn from the treasury except by specific appropriation. 3. No appropriation may be made for a period longer than two years. 4. No grant of public money shall be made to individuals or to municipal or private corporations. The fourth limitation on expenditures has led to additional amendments as the people of Texas have voted to adopt programs which provide for payments of state money to individuals such as the needy aged, the needy blind, and dependent children. The Texas Constitution contains a rigid debt limitation in Section 49 of Article III. This provision restricts the creation of general debt to certain purposes such as suppressing insurrection, and it limits the size of the general debt to \$200,000. To get around this provision, the voters have approved a number of debt authorization amendments such as the water development program in 1957, and the college student loan fund in 1965. The Constitution does not establish a central fiscal office, but divides responsibility for the conduct of the state's fiscal affairs among the governor, the legislature, the comptroller of public accounts and the treasurer. The constitution also provides for several special funds or accounts supported by earmarked or dedicated revenues. An example is Section 7a of Article VIII. By this provision revenues derived from motor vehicle registration fees and motor fuel and lubricant taxes are earmarked for the Highway Fund and the Available School Fund. The constitution also prohibits the legislature from borrowing or in any way diverting money from the special funds.

State-Local Relations - The Texas Constitution treats the subject of local government with a mass of detailed provisions. Every grant of power is limited by prohibitions and restrictions. These basic provisions are scattered throughout the constitution. Two articles are titled "Counties" and "Municipal Corporations," but many of the most important restrictions are to be found in the legislative, judicial, and taxation and revenue articles. The 1933 constitutional amendment for county home rule provides that a county may adopt its own charter, with such organization and officials as it deems best for its needs. However, 3,000 words in the constitutional provision and a 12 page enabling act have failed to clarify the powers and limitations of this home rule provision, and no county in Texas has adopted its own charter. The consequence is that all 254 counties are bound to the same rigid structure, from the largest (6,208 square miles) to the smallest (147 square miles), from the most populous to the least populous.

Cities and towns in Texas are given more latitude by the constitution in selecting the form and type of their government. There are two general types; Home Rule cities and General Law cities and towns. Under the home rule amendment for cities, any city of more than 5,000 population may adopt its own charter which gives it the power to have the form of government it desires and to amend or repeal its charter. But the charters adopted cannot contravene either the constitution or general laws, which means the legislature is still dominant. Towns and villages under 5,000 are chartered by general laws and may select from three different types of government which are specified by the legislature.



The powers of local governments are limited to those delegated through the constitution and the legislature. County government is regulated by some 56 sections in the constitution. Various sources of county revenue are listed in the constitution, most with accompanying restrictions as to their use. For example, the commissioners may levy a property tax not to exceed 80¢ per \$100 valuation, and the constitution specifies how much of this tax may be spent for what purposes; and additional 30¢ ad valorem tax may be levied, under certain conditions, to be used only for farm-to-market roads or flood control. Cities and towns operate under an immense number of constitutional limitations. Home rule cities (those with more than 5,000 population) may tax up to \$2.50 per \$100 valuation, general law cities may tax up to \$1.50 per \$100 valuation. No debt may be created unless provision is made to collect taxes for interest and to provide a sinking fund on the debt. Various types of taxes are permitted, but detailed restrictions are made as to the amount and purposes for which the revenues may be used.

Special districts are so diverse that it is not an easy task to classify them. They are much more independent of state or local supervision in financing and administration of services than the general local governmental units. Many have no legal tax or debt limits. Therefore, their continued formation to perform services may completely negate the constitutionally imposed tax and debt limits on the other local government units.

General Welfare - The fields of government which might fall within the category of 'General Welfare' are those of education, health, public welfare, and conservation. Of these, on these, only education is included as a separate article of the constitution.

Education - The constitution of the state of Texas provides for public education in Article VII, section 1 through 8 for the public free schools and Section 10 through 18 for universities and colleges. Section 1 makes it the duty of the legislature to establish and make suitable provision for the support and maintenance of an efficient system of public free schools. Section 2 provides for a permanent school fund which now amounts to over one-half billion dollars and can be (larger than that now, this is a 1966 figure) invested in government and school bonds and corporate stocks and bonds. Section 8 provides for a state board of education which until the Gilmer-Aiken Laws of 1949 was appointive but is now elective.

In the field of higher education the constitution provides that the legislature shall establish, organize and provide for the maintenance, support and direction of the University of Texas. The Agricultural and Mechanical College was made a branch of the University. A permanent university fund was established through lands set apart for this purpose, and the investment of proceeds from these lands is prescribed in detail: in bonds of the United States, the state of Texas, counties or cities of the state, school bonds of municipalities, or bonds issued under the Federal Farm Loan Act of 1916. Only the interest on these investments may be appropriated by the legislature for the support of the University and its branches. In 1947, another constitutional amendment established a college building fund for twelve other state colleges not in the University or A&M systems and provided explicitly for financial details of bond transactions, taxes levied, the distribution of this income to each college for successive ten-year periods, etc. State colleges created since 1947 could not participate in this college building fund, since only those listed in the constitution might use the earmarked funds.



Health - The Texas Constitution recognizes the duty of the state toward its citizen's health in one section: "The Legislature may provide by law for the establishment of a Board of Health and Vital Statistics, under such rules and regulations as it may deem proper." Another section provides that the qualifications of physicians may be prescribed by the legislature.

Public Welfare - Article III, Section 51, of the state constitution provides that the legislature shall have no power to make any grant of public money to any individual, except for pensions to confederate veterans and their widows. Authorizations for various public welfare expenditures have been put into the constitution as amendments to this section. One such amendment covers payment of categorical assistance - aid to the needy aged, the needy blind, and dependent children. This section provides for the acceptance of federal funds and for the enactment of laws to make lists of recipients available for inspection; gives the detailed specifications of eligibility for assistance in each category; and freezes into the constitution the maximum number of dollars which may be provided in individual assistance payments and the maximum total which may be expended from state funds for such assistance. A new amendment must be passed each time it is necessary to change these amounts. The constitution since 1876 has stated that each county may provide "a manual labor poorhouse and farm, for taking care of, managing, employing and supplying the wants of its indigent and poor inhabitants," a provision which is the basis for legal determination that only the county may dispense direct relief to the needy in Texas.

One other constitutional provision relating to public welfare is of special interest: in 1935 the Bill of Rights was amended to provide that mentally ill persons might be committed for observation or treatment without the necessity of a trial by jury, for a period not to exceed ninety days. The inclusion of so much minutiae on a subject which is generally considered an inherent responsibility of the state would seem to indicate that the Texas Constitution has here departed entirely from the concept of a constitution as fundamental law.

Conservation - A constitutional amendment adopted in 1917 declares that "The conservation and development of all the natural resources of this state, including the control, storing, preservation and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forests, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the state are each and all hereby declared public rights and duties...." The creation of conservation and reclamation districts is authorized and the legislature may authorize "all such indebtedness as may be necessary...." In 1964 an amendment was adopted requiring 30-90 days notice by publication prior to introduction of such legislation.

Railroads: Private Corporations - These two articles of the state constitution reflect the fear of big business which was prevalent throughout the nation in 1876. Though these provisions have historical interest, it is doubtful that such details have a rightful place in the fundamental law of the land.



Impeachment - The details of impeachment proceedings are given. The power of impeachment proceedings are given. The power of impeachment is given to the House of Representatives, with trial by the Senate, but the causes for impeachment of any state official are not prescribed. The details of the method of removal of judges are also found in this article. The legislature is made responsible for providing by law for the trial and removal of other state officers where the mode of their removal is not provided by the constitution.

General Provisions - Article XVI contains 66 sections on a vast number of subjects, some of great importance, some of seemingly little consequence, many of which are added or restated details of the powers and limitations of the legislature. For instance: The legislature must make provisions for fines and costs to be discharged by manual labor, and for utilizing convict labor for working on public roads. The legislature may provide for a Commissions of Insurance, Statistics and History; for state supervision of banks for the management and control of the prison system; for the custody and maintenance of indigent lunatics and for organizing and disciplining the militia of the state. Several sections concern civil rights and the protection of the individual: laborers on public works are protected against failure of contractors to pay justly due wages, usurious interest is defined (generally not more than 10% unless the legislature establishes a higher rate) and prohibited. The homestead is defined, and its preservation, descent, and exemption from taxation are prescribed. The rights of women are protected by a provision regarding the women's separate property, and community property rights are defined. One section reading "The legislature shall prescribe by law the qualifications of grand and petit jurors" was amended in 1954 by an explicit provision that this right and duty should not be denied by reason of sex. An amendment adopted in 1958 gives the legislature the power to appropriate money and to establish a procedure to develop information about Texas and to inform people and corporations of other states of the resources of the state of Texas through advertising in periodicals of national circulation.

Provisions not found in the Texas Constitution - Two subjects which have received recognition in many constitutions, but which are omitted from the Texas Constitution, are those relating to personnel policies and to the privilege of the initiative and referendum.

Civil Service - Recently revised constitutions invariably have provisions for basic policies regarding employee selection and retention, usually a merit system based on competitive examinations, as far as practicable, such as the New York and Missouri Constitutions. The New Jersey Constitution also provides that political subdivisions of the state shall be subject to civil service regulations.

Initiative and Referendum - The subject of the initiative and referendum - the power of the people to initiate or vote directly on laws or amendments - is not a new one, and there is considerable variation among the many state constitutions containing such provisions. This technique for direct action by the voters is not intended to replace legislative action, but to supplement it when the legislature fails to act according to the wishes of a majority of the people. The power to initiate statutes or constitutional amendments is not given to the people of Texas, but the state constitution does provide for a referendum vote on proposed constitutional amendments.



## LEAGUE POSITION AND STUDY ON TEXAS CONSTITUTIONAL REVISION

Interest in Texas Constitutional Revision grew out of a 1948 League "Know Your State Survey". The last half of this project was devoted almost exclusively to a section by section study of the constitution. By 1954, the League had reached consensus supporting general revision of the constitution, to be preceded by thorough review and adequate research. By 1959, the Texas League had adopted eleven principles - yardstick - for a good constitution. These principles are not positions but criteria to use for consideration of revision. They are:

- a bill of rights
- a framework of basic law
- a clear separation of powers with responsibility definitely assigned
- qualifications for voter eligibility and guarantees of fair elections
- provisions for justice with a minimum of delay
- a coordinate finance structure capable of flexibility
- maximum home rule for municipal and county government with coordination of overlapping functions;
- provision for support of public education;
- provisions for support of public health and welfare services
- provisions for amendment and revision
- basic policies regarding state employee selection, retention and promotion

League members had agreed in 1962 that a constitutional convention preceded by qualified research is the most desirable method for general revision. One of the interesting points revealed by this consensus report is that a majority of local Leagues desired flexibility for League support of alternate revision proposals, within the League's principles, in the event of legislation being passed that specified some method of revision other than that preferred by the League.

When a Constitutional Revision Commission was appointed in 1967; League members, fearing they would be unable to support the commission's revised constitution, agreed on a new position early in 1969:

- support for revision of the Texas Constitution within League principles and standards, preferably by constitutional convention, although alternate methods can be supported.

The House of Representatives of the 60th Texas Legislature (1967), by simple House resolution, established a Constitutional Revision Commission to make a revision of the Texas Constitution, after careful and impartial research and thoughtful and responsible study of its provisions. The resolution provided for a 25 member commission - five members of the state Senate appointed by the lieutenant governor, five members of the House appointed by the speaker, ten persons appointed by the governor, and five appointed by the chief justice of the Supreme Court. However, Lt. Governor Preston Smith refused to make any appointments to the commission, because the Senate had taken no part in creating it, so the last five members were named by the other twenty appointees. The commission agreed that it would submit a new document, rather than piecemeal recommendations for changes. The completed document was submitted to the legislature in 1969, but failed to win the approval of two-thirds of both houses.



The League supported this document because it was more logically arranged, shorter, and more understandable, and obsolete sections had been removed.

At the 1971 state convention, Texas Constitutional Revision was given the priority spot in state programming, emphasizing the desire of League members for action on this item and the urgent need for revision.

League action on revision began with the publishing of Texas Constitutional Revision in 1955. It has been used by high school and college students as a textbook on revision, and the booklet has been so successful that revision and reprinting were necessary in 1966. The League has published other materials to inform the public about the need for constitutional revision. A flyer, A Brief Case for Revision of the Texas Constitution, was printed in 1960. It tells what is wrong with the constitution and what to do about it. Revision Quo Vadis, was published in 1968 as a chronicle of League interest in Revision.

To arouse public interest in revision, League members have undertaken various citizen projects during the past years, such as holding community workshops, urging newspaper editorial campaigns on the subject, conducting an opinion survey in which 1,730 Texans were interviewed, and promoting displays of revision materials in libraries and at city and county fairs.

Legislative action began in 1956 when League members introduced resolutions at precinct and county conventions supporting a constitutional commission to begin research on revision. The next year the League persuaded the legislature to pass a joint resolution calling for a four-year constitutional research program by the Texas Legislative Council. The resolution also called for the creation of a Citizens Advisory Committee. Both of these groups were hampered by inadequate funds, and their recommendations were ignored by the legislature. During the next few years, all the bills the League supported concerning revision died in committee.

Revision action in 1969-70 centered on supporting three proposed constitutional amendments. Voter approval of the amendment to remove obsolete, superfluous, and unnecessary sections of the constitution was a happy occasion for the League.

\* \* \* \* \*



LEAGUE OF WOMEN VOTERS OF TEXAS  
DICKINSON PLAZA CENTER  
DICKINSON, TEXAS 7739

February 1972

A CONDENSATION OF TEXAS CONSTITUTIONAL REVISION FOR TALKS WITH

C A N D I D A T E S.

WHAT WE WANT TO TELL THE CANDIDATES -

- .... that our purpose is to let him know about an important goal of the League -- the long-time campaign to revise the Texas Constitution.
- .... what the League believes regarding constitutional revision.
- .... how the governmental issues of his campaign are ones (probably) that could be solved by constitutional revision.
- .... solicit his inclusion of revision in his summer platform.

WHAT WE BELIEVE -

- .... after more than TWO DECADES of consideration and study, the League firmly believes the Texas Constitution should be rewritten.
- .... some constitutional faults found are: provisions that are long, repetitious or contradictory; many that are obsolete, having long fulfilled the purpose intended; scattered provisions on the same subject and many that should be in statutory law.
- .... numerous constitutional changes are needed to affect a more effective judicial structure, e.g., integration of justice of the peace courts into courts of record and a full-time judiciary whose members are qualified to practice law in Texas.
- .... the document limits and restricts both state and local governments and prevents efforts to cope with problems presented by increased population, growth of urban centers and economic changes in industry and agriculture.
- .... extensive and competent research should precede the final writing of a new constitution.

WHAT WE PLAN TO DO AND WHEN -

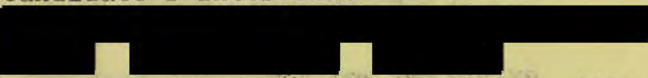
- .... we are supporting passage of Amendment #4 to convene the 63rd Legislature as a Constitutional Convention in January, 1974, to draft and propose to the voters a new Constitution for Texas. The current Constitution was adopted in 1876.



- .... February - interview all candidates for legislature as to their views on revision. Interview forms will be sent to local Leagues in Action Kit. Filing date for candidates is February 7. By February 10, local Leagues must send names of all candidates to state office. If there is more than one League in a representative or senatorial district the different Leagues will be assigned specific people to interview.
- .... March - deadline of March 15 for all interviews to be returned to state office. I see great possibilities in these interviews. Don't forget to use them in your Voters Guides. We have the candidates on record as to their stand on revision. There should be good PR headlines as a result of the Candidate's Interviews.
- .... Be sure that you have an extra copy of the Candidate's Questionnaire or Interview so that the candidate may keep a copy for his file. Equal and mutual confidence and trust is important in obtaining cogent answers.
- .... Mrs. W. W. Kemmerer, Jr. (Flo) Chairman, Candidates Interviews, will acknowledge each questionnaire received by writing a thank you letter to the candidate on behalf of the state office and local League.
- .... PLEASE MARK YOUR CALENDAR FOR THESE DATES:
- .... February 7th - Filing date for candidates.
- .... February 10th - Names of all candidates must be sent into state office.
- .... March 15th - DEADLINE for ALL INTERVIEWS to be returned to STATE OFFICE.

Thank you for your cooperation and your time and efforts. Each of YOU is VITAL in the LINK of SUCCESS. We are all going to be a part of a really great, effective team to accomplish our goal and enthusiastically and successfully accomplish our mission -- obtaining the interviews and getting them in on time. If you NEED me for anything - large or small - please contact me, and I shall be glad to help.

Mrs. W. W. Kemmerer, Jr. (Flo)  
Candidate's Interviews





# CONSTITUTIONAL REVISION ACTION CALENDAR

LWV of Texas

<p><u>NOVEMBER 1971</u></p> <p>Rev. Workshops 10:30 - 2 p.m.  Austin - November 22  Dallas - November 15  Houston - November 30</p> <p>Bring as many members as you would like.</p>	<p><u>DECEMBER 1971</u></p> <p>Local planning committee meets, prepares plans, forms citizens revision committee to help in action campaign.</p>	<p><u>JANUARY 1972</u></p> <p>Preparation of Kit to send to candidates? (tentative)</p>
<p><u>FEBRUARY - MARCH 1972</u></p> <p>Question on revision submitted to candidates in local Voters Guides</p>	<p><u>APRIL 1972</u></p> <p>Distribution of local and state Voters Guides</p> <p>Council in Waco - theme Constitutional Revision</p>	<p><u>MAY 1972</u></p> <p>Primary, May 6 - Resolutions introduced at precinct conventions asking parties to have revision as one of their platform planks. Each League must have member at every precinct convention of Democratic and Republican Parties.</p> <p>May 13 - resolutions presented at county conventions by local Leagues.</p>
<p><u>JUNE 1972</u></p> <p>Run-off Primary, June 3  June 15 - begin concentrated campaign for passage of amendment.  Have 20 weeks to do this.</p>	<p><u>SEPTEMBER 1972</u></p> <p>State party convention will be held on September 19. Someone from Strategy Action Committee or state Board will present resolution on revision to conventions.</p>	<p><u>NOVEMBER 1972</u></p> <p>Election - November 7</p>



file

## A CONSTITUTION CAROL

### CHARACTERS:

STORYTELLER: Dressed as much like an old English character as possible. Speaks with a British accent.

EBENEEZER: Wears old fashioned nightshirt and nightcap. Character patterned after Ebenezer Scrooge -- an old man with a British accent.

GHOST OF CONSTITUTIONS PAST: Dressed in old tattered and patched sheet. Lots of powder on face and in hair. Dark circles around eyes. Sort of a "blithe spirit." Also speaks with British accent.

PRESENT CONSTITUTION: Very old and very, very fat. Dressed in blue jeans or overalls with ten gallon hat and boots. Speaks with a decided Texas drawl.

SCENE: Two living room chairs with table between. On table decanter and 3 glasses.

STORYTELLER (to audience): Good morning (afternoon). I am your League of Women Voters storyteller. I am here today to bring you a story entitled: A CONSTITUTION CAROL...or...THE DICKENS WITH CONSTITUTIONAL REVISION! (Pause) The Texas Constitution has deadwood, to begin with. There is no doubt whatever about that. Some portions of the constitution are as dead as a doornail. Mind! I don't mean to say that I know of my own knowledge what there is particularly dead about a doornail. But the wisdom of our ancestors is in the simile; and my unhallowed hands shall not disturb it. You will, therefore, permit me to repeat that there are portions of our state constitution that are as dead as a doornail. This must be distinctly understood, or nothing wonderful can come of the story we are about to relate.

Once upon a time, early in 1972, old Ebenezer Texan sat reading his newspaper. (Turns and watches story unfold)...

EBENEEZER: (takes a drink from one of the glasses on table and then proceeds to read aloud from his newspaper) A statewide organization called "Citizens for Texas" has been formed to work for adoption of a constitution revision amendment. Arlington Mayor Tom Vandergriff has been appointed as chairman of the committee. (Throws paper down) Bah! Humbug! Who needs it? Somebody's always tampering with the things we hold most sacred. I'd like to know what's the matter with the constitution we already have!

(Enter Ghost of Constitutions Past)

GHOST: (Laughs eerily) It's been around too long.

(Ebenezer jumps to his feet. Both characters freeze as storyteller says):

STORYTELLER: To say that Ebenezer was not startled, or that his blood was not conscious of a terrible sensation to which it had been a stranger since infancy would be untrue. But he handled his fright very well...

EBENEEZER: Who are you? How did you get in?

GHOST: Ask me who I WAS.



EBENEEZER: All right. Who WERE you?

GHOST: In life I was all your past constitutions. I am THE GHOST OF CONSTITUTIONS PAST.

EBENEEZER: Will you...CAN you sit down?

GHOST: I can.

EBENEEZER: Do it, then. (They both freeze)

STORYTELLER: Ebenezer asked the question, because he didn't know whether a ghost might find himself in a condition to take a chair; and felt that in the event of its being impossible, it might involve the necessity of an embarrassing explanation. But the Ghost sat down as if he were quite used to it.

(Both sit down)

GHOST: (Accusingly) You don't believe in me.

EBENEEZER: I don't. I thought Texas had always had the same constitution.

GHOST: Ha! My good fellow. By the time your present constitution was adopted in 1876, you Texans had lived under SIX constitutions. How do you think I got so tattered and torn? I was changed six times in 52 years!

EBENEEZER: (Pointing finger at Ghost) Uh-huh...Uh-huh...That's exactly what I mean! Somebody's always wanting to change things.

GHOST: ALL change isn't bad, you know. I'll admit you overdid it with me, but that's no reason to go too far the other way. (Sings to tune of ON TOP OF OLD SMOKEY)

Your state constitution  
Is old and it's gray.  
For 96 years, Love,  
It's been the same way.

Your state has progressed, Love,  
There's been lots of change;  
You ride on the highways  
And not on the range.

'Twas a good constitution  
The day it was done;  
But now its amendments  
Are two hundred and one.

Come all you good Texans  
Vote "yes" in the fall.  
Let's update state government  
Once and for all.

(Both freeze)

STORYTELLER: Ebenezer was not a man to be swayed by a song.





EBENEZER: It's humbug still! So what if the constitution IS 96 years old? If I'm still around at 96, you gonna do away with me??

GHOST: No. But I assume when you are 96, you won't be making decisions that affect the lives of everyone in the State of Texas!

(There is a knock at the door)

EBENEZER: (Walking toward door) Now who in blazes could that be at this time of the night?

(Opens door and in walks present state constitution. Can hardly walk; carries two very heavy buckets.)

EBENEZER: Well...What can I do for you?

CONSTITUTION: Yew kin offer me a chair...THAT'S what you can do.

EBENEZER: Who are you?

CONSTITUTION: I'm your Texas State Constitution.

EBENEZER: Well, what a coincidence. I was just talking to your predecessor here.

CONSTITUTION: (To Ghost) Howdy. (Plops down in chair) I'm so tired! (Sighs) It's not being 96 years old that gets me so much. It's lugging around all these amendments everywhere I go...TWO HUNDRED AND ONE of 'em...and I hear they're thinking of adding more this year.

EBENEZER: I guess YOU'RE going to make a pitch for change, too. You'd think a document your age would have learned to cherish tradition.

CONSTITUTION: (Rising and shaking finger at Ebenezer) Listen, Ebenezer, if you had been kicked around as much as I have, you'd be wanting a few changes, yourself. And, of course, I've gained so much weight over the years...Do you know I take up more than 40 pages in the Texas Almanac? Why I've been amended so many times (pats himself on the behind as if that's where the amendments are) THEY'RE AMENDING MY AMENDMENTS!

EBENEZER: (Looking where Constitution is patting) Well, ahem, I suppose you could use some relief. But what do you fellows want ME to do?

GHOST: (Sings to tune of THERE'LL BE SOME CHANGES MADE)

We need to change our constitution  
And include a bill of rights;  
Home rule for governments without any fights.  
Our courts should be different,  
Our finance structure, too.  
The list is so long,  
I can't relate them all to you.  
We need support of education,  
Public health and welfare, too,  
And if you're asking what a citizen can do.  
Well nobody needs you when you're old and passe.  
We need some changes made today;  
Vote for these changes today.



CONSTITUTION: What can you do? You can vote for Amendment 4...that's what you can do.

EBENEEZER: I don't know anything about Amendment 4.

GHOST: That's the amendment which Citizens for Texas is supporting. It calls for the senators and representatives elected in November, 1972, to convene in January, 1974 as a Constitution Convention.

EBENEEZER: Yes, but when you start changing the constitution, what's to prevent throwing out some of the good things with the bad?

(Ghost and Constitution gang up on Ebenezer. As they talk they get closer and closer and he begins to back off)

GHOST: The recommendations of the Constitutional Convention will be submitted to the voters for approval...

CONSTITUTION: Besides, our elected representatives are the ones who must work with the Constitution.

GHOST: They're the ones who know the problem first hand.

EBENEEZER: Well, you've just about convinced me. Not that I like the idea of changing everything...but I suppose once a fellow has been around as long as you have, it's time to let him retire. You know, this is the first time in twenty years I've changed my mind about anything. That calls for a celebration. Will you join me in a toast? (EBENEEZER pours 3 drinks from pitcher sitting on table. They all drink, then lift glasses and sing, tune of VIVE LA COMPAGNIE)

Let every good Texan come join in the vote;

VIVA AMENDMENT 4!

Do all that you can TCR to promote;

VIVA AMENDMENT 4!

On November 7, '72

Do what every good Texan should do;

Get out and get your neighbors out to

VOTE FOR AMENDMENT 4!

(All three freeze while Storyteller speaks)

STORYTELLER: Ebenezer had no further intercourse with Spirits and Documents, but lived upon the Total Abstinence Principle ever afterwards; and it was always said of him that he knew when to vote for change, if any man alive possessed the knowledge. May that be truly said of us, and all of us! And so, GOD BLESS US, EVERY ONE!

GHOST: (to audience) Now, everybody sing. (All repeat song)



file

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GHOST: That's the amendment which Citizens for Texas is supporting. It calls for the senators and representatives elected in November, 1972, to convene in January, 1974 as a Constitution Convention.

EBENEEZER: Yes, but when you start changing the constitution, what's to prevent throwing out some of the good things with the bad?

(Ghost and Constitution gang up on Ebenezer. As they talk they get closer and closer and he begins to back off)

GHOST: The recommendations of the Constitutional Convention will be submitted to the voters for approval...

CONSTITUTION: Besides, our elected representatives are the ones who must work with the Constitution.

GHOST: They're the ones who know the problem first hand.

EBENEEZER: Well, you've just about convinced me. Not that I like the idea of changing everything...but I suppose once a fellow has been around as long as you have, it's time to let him retire. You know, this is the first time in twenty years I've changed my mind about anything. That calls for a celebration. Will you join me in a toast? (EBENEEZER pours 3 drinks from pitcher sitting on table. They all drink, then lift glasses and sing, tune of VIVE LA COMPAGNIE)

Let every good Texan come join in the vote;

VIVA AMENDMENT 4!

Do all that you can TCR to promote;

VIVA AMENDMENT 4!

On November 7, '72

Do what every good Texan should do;

Get out and get your neighbors out to

VOTE FOR AMENDMENT 4!

(All three freeze while Storyteller speaks)

STORYTELLER: Ebenezer had no further intercourse with Spirits and Documents, but lived upon the Total Abstinence Principle ever afterwards; and it was always said of him that he knew when to vote for change, if any man alive possessed the knowledge. May that be truly said of us, and all of us! And so, GOD BLESS US, EVERY ONE!

GHOST: (to audience) Now, everybody sing. (All repeat song)



LEAGUE OF WOMEN VOTERS OF DALLAS  
2626 West Mockingbird Lane  
Dallas, Texas 75235

TCR RESOLUTION FOR PRECINCT CONVENTIONS

Volunteer to introduce the resolution in your precinct. Please take your assignment enthusiastically and make your contacts early. You may be the only League member living in your precinct, therefore the only person who can either introduce this resolution or contact an introducer at one of your Precinct Conventions. At the risk of insulting "older and better" heads, here is a step-by-step technique for YOU, the individual member:

1. Choose a party (you join by voting in its primary). Find out who is precinct chairman for your precinct and your party. (The county clerk's office has a list of chairmen).
2. By early April, contact the precinct chairman of your party and ask procedure for introducing a resolution at convention. Also check the time and place. (This information can also be found in the county clerk's office). Ask the chairman about possible inclusion at a caucus. Contact your neighbors and friends who are politically active. Inform them about Constitutional Revision. Don't talk TCR. Talk Revision. Ideally, YOU convince them of the needs for reform. Explain the provisions of HJR 61. Discuss the resolution and solicit support.
3. By April 30, have three copies of the resolution filled out. If you have been able to attend a caucus and know who the resolutions committee chairman will be, make a personal contact and provide a copy of the resolution, soliciting his support.
4. Line up other members of your party to attend the precinct convention with you.
5. On primary election day, vote before the hour of the precinct convention. Arrive at the convention holding proof that you have voted that day. Arrive early with ALL of your supporters. Provide the elected convention precinct chairman and/or the precinct chairman (this could be one person) with a copy of the Resolution and let him know that you plan to present from the floor if the resolutions committee does not do so. Furnish your copy to the elected convention precinct chairman who is elected by the convention after the Resolution is presented. Answer any question concerning needs for revision. Push this Resolution, not as a League item but as YOUR item. Attempt to be elected a delegate to the county convention.
6. Be at your county convention, if only as an observer. You may be the one to inform a delegate on the floor and sway his vote in favor of this resolution at the county level.
7. After convention, report to your local League TCR chairman your results.

If enough counties pass this resolution, it will be discussed at state convention and likely be a part of party platform. This is our objective! Our goal is passage of Amendment No. 4 by ALL the people in November, 1972.

Local TCR Chairman: Mrs. D. C. Presnall - 231-8978  
717 Laguna Drive, Richardson, Texas 78080



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STATE OF TEXAS

DATE \_\_\_\_\_

PRECINCT NO. \_\_\_\_\_

WHEREAS, the 1876 Texas Constitution was adopted in an era when there was great fear and distrust of state government and before the complex problems of an increasingly urban and industrial society had to be solved, and,

WHEREAS, in the subsequent 96 years such Constitution has been amended 201 times, and,

WHEREAS, citizens in increasing numbers are responding to polls, questionnaires and surveys to their belief that the basic problem of state government is the need for constitutional reform, and,

WHEREAS, the 62nd Legislature passed legislation proposing an amendment to Article XVII of the Texas Constitution providing for the 63rd Legislature to convene in January, 1974 as a Constitutional Convention;

NOW, THEREFORE, BE IT RESOLVED by the precinct convention of the \_\_\_\_\_ party of Texas held in the \_\_\_\_\_ precinct of \_\_\_\_\_ County, Texas on \_\_\_\_\_, 1972, that the delegates from this convention to the \_\_\_\_\_ county convention be pledged to submit and support the following:

The \_\_\_\_\_ party of Texas believes that revision of the Texas Constitution is essential to improved state government and urges the voters of the State of Texas to support Amendment #4 at the polls, November 7, 1972, which will provide for a Constitutional Revision Commission which precedes the convening of members of the 63rd Legislature as a Constitutional Convention in January, 1974, for the purpose of submitting to the voters a new constitution or revisions of the existing State Constitution.





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file  
TCR

October 22, 1971

TO: Mrs. R. E. Connor - State TCR Chairman  
Presidents of Corsicana, Denton, Hunt County, Irving, Lamar County,  
Longview, Richardson, Tarrant County, Tyler, Waco, Garland, Dallas

FROM: Mrs. Winthrop A. Clark, Organization VP, Dallas

RE: TCR Area Workshop, Monday, November 15, 1971

The Dallas area TCR workshop has been rescheduled for Monday, November 15, 10:30 - 2:00. The meeting room is at the Coca Cola Bottling Company, 6011 Lemmon Avenue, Dallas. Free Coke drinks are available; coffee will be a nickel a cup, bring your own sandwich.

DIRECTIONS FOR REACHING THE BOTTLING COMPANY. (BEWARE) At the corner of Mockingbird Lane and Lemmon Avenue is a large Coca Cola sign and a building which is the syrup plant. This is NOT the place. The BOTTLING plant is roughly three blocks south on Lemmon Avenue. The map on the reverse side of this memo gives parking information.

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From the North, Northeast, and Southeast: Highway 75 (North Central Expressway) to Mockingbird Lane Exit. West on Mockingbird to sign "Lemmon South". Left turn to Lemmon to Bottling Plant.

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file  
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8-16-71

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FILE

## LEAGUE OF WOMEN VOTERS OF DALLAS

The Texas Executive - State Boards and Commissions - VOTER insert, December 1970

### PUBLIC UTILITIES IN TEXAS

After the adoption of a continued study of Boards and Commissions under the Executive Study at the League of Women Voters State Convention in the spring of 1970, considerable interest was expressed in knowing more about a State Board that Texas did not have - one to regulate Public Utilities on a state-wide basis. Senator Charles Wilson of Lufkin had introduced a bill creating such a commission in the previous legislature but it had died in sub-committee. An interim study committee was authorized, however, and Senator Wilson has indicated that he will introduce a new bill for state-wide regulation of Telephone Companies. The Democratic party platform has called for the creation of a Public Utilities Commission.

#### WHAT IS A PUBLIC UTILITY?

There are innumerable definitions of what constitutes a public utility. "Public utilities are industries, properties, or corporations that furnish recognized public services through private business organizations. Their public character results from two basic conditions: they are essential to practically all industry, business, and community life, and their monopoly positions; normally any particular service within a given territory is provided through a single business agency without direct competition.

Utility monopoly has resulted from two characteristics - one physical and one financial. As a physical matter, having two or more gas or water mains, telephone and electric services covering identical areas would be impractical and chaotic. From the financial standpoint, in the development of an individual utility concern or system, the large investment necessary for plant and equipment makes it advantageous to include as large a service area as possible in one organization. <sup>1</sup>

Four duties are common to public utility industries: 1. the duty to serve all comers, 2. the duty to render adequate service, 3. the duty to serve at regular rates, and 4. the duty to serve without discrimination. The right of entry into the industry is controlled by public authority by means of a franchise. <sup>2</sup>

In Texas, the legislature has dealt with the subject in three areas - statutes on public utilities, statutes authorizing municipal regulation of public utilities and statutes on taxation and franchise. The statutes define "public utilities" including telegraph, telephone, water gas, electricity, sewerage, and sometimes transportation facilities as those "relied on by the public essential to present day society." <sup>3</sup> For our purposes, we will concentrate on those utilities providing telephone, gas, and electricity services.

TELEPHONE In 1960 there were 5 major companies operating in Texas and 125 smaller ones. Of these, 22 were cooperatives.\* Some companies have as few as 46 phone connections. These can be overlapping service areas. Some residents in the Houston area must subscribe to three different companies to avoid long distance calls to their neighbors. All privately owned companies are regulated by the Federal Communications System on interstate calls and by individual municipalities on services within the cities. <sup>4</sup>

\*Cooperatives are defined as a corporation operating on a non profit basis for the mutual benefit of its members and patrons. Art. 528c Vernons Anno. Civ. Stat.



NATURAL GAS There were 76 gas companies in Texas in 1960. Production is regulated by the Texas Railroad Commission. The Federal Power Commission regulates transmission across state lines and sales for resale in interstate commerce. The Railroad Commission has jurisdiction over transmission at the intrastate level and original jurisdiction over rates in unincorporated areas and at the city gate. Local municipalities have powers to regulate rates, services, and distribution within the city and to grant franchises to gas companies.<sup>5</sup>

ELECTRICITY In contrast to the large number of telephone and gas companies, there are only 15 privately owned electric companies operating within the state and several of these are owned by a holding company.<sup>6</sup> There are also 50 publicly owned plants, mostly municipally owned plus 84 rural electric cooperatives. The electrical industry in Texas is regulated on two governmental levels. The Federal Power Commission on all interstate transmission, and by local cities for production, transmission and sale within city limits. Cooperatives are subject to Article 1528b Vernons Anno. Civ. Stat. to serve members only, to operate on a non-profit basis, and rates set to cover expenses etc.<sup>7</sup>

#### THE REGULATION OF PUBLIC UTILITIES

For Texas as well as for other states and the Federal Government, the regulation of public utilities is a perpetual problem, the most difficult of which is the setting of rates for services rendered. The standards to be used in rate setting are extremely important. Profit allowed is usually computed as a percentage of the worth of the company's physical plant used in providing the service. Different regulatory bodies use various methods to determine this worth which is called the "rate base". Most state regulatory commissions take what the companies originally paid for their equipment, and then subtract part of that for depreciation. This method is called "original cost less depreciation" rate base. About a dozen states use the "fair value" rate base which computes the company's physical plant - not on what it cost, but on what it is supposed to be worth. Texas statutes say cities that regulate utilities must not set rates "which will yield more than a fair return upon the fair value of the property used and useful in rendering its service to the public, but which return in no event shall ever exceed 8 percent per annum."<sup>8</sup> The key questions in determining rates are what is the "fair value" of the equipment, what is a fair return on it, and what rates will it take to produce that return. Also, each locality must determine what portion of the physical plant is used for local service.<sup>9</sup>

Texas is one of the few states that has no state-wide regulatory body for public utilities. Here, each municipality, whether of 500 or 500,000 people, must award individual franchises for each utility and is responsible for rates and degrees of service. In practice, some municipalities such as Highland and University Park<sup>15</sup> accept whatever rate is approved by Dallas. This is not necessarily true of other suburban communities, necessitating expenses by each community and each utility. Irving, Garland, and Carrollton in the Dallas area, are served by companies other than Southwestern Bell.

Texas Power & Light Co. does not serve the city of Dallas but does serve many surrounding towns - DeSoto, Farmers' Branch, Garland, Irving, Mesquite, etc.



PUBLIC UTILITY REGULATION IN DALLAS

Dallas is fortunate in having the resources to provide for a comprehensive department to supervise utilities. The City Charter gives the local government the right under state law to issue franchises to private companies to provide general services including heat, light, power, telephone service, etc. At present, franchises are in effect for electricity, gas, and telephone service plus taxi service. The Charter also provides for a Supervisor of Public Utilities to determine and regulate rates and fares and to prescribe the kinds and degree of service to be provided. The final determination of franchises to be issued and rates to be charged rests with the City Council.

Under the usual utility franchise, the Supervisor authorizes all construction, audits accounts regularly, and approves major contracts for industrial service, among other things. The governing body and the Supervisor have full power to examine all books and records and to take testimony. At present, the Supervisor has a staff of 15 to provide continuing analysis and control of the franchises and may request from the City Manager outside consultants on rate matters.

When a utility requests a change in rates or services, the Supervisor investigates all pertinent records and evaluates the information before submitting recommendations to the City Manager, who, in turn, passes them on together with his comments and recommendations to the City Council. The Council holds public hearings before making the final decisions.<sup>10</sup>

The City Charter requires franchise holders to pay not less than 4 percent of gross receipts earned for service rendered in the city in addition to all ad valorem taxes upon the value of the franchise and other property. The franchise holders are also required to pay all expenses in connection with the maintenance and operation of the office of the Supervisor on a pro-rata basis based on preceeding calendar year gross receipts.

SUGGESTIONS FOR CHANGE

Because the standards are unclear and because of the many technical aspects, rate making for public utilities has become one of the most complex tasks of government demanding the best engineering, accounting, financial, and legal talent available. Many experts feel that cities in Texas both large and small do not have the financial resources, nor the time available, to attempt stringent regulations and are therefore at a disadvantage in dealing fairly between their constituents and the utility companies. The Mayor of Nacogdoches in testimony before Senator Wilson's Committee said "This is a field in which the state can do a better job than we can locally. We want to keep at home those things we can do at home, but we can't handle this."<sup>11</sup> However, there is some opposition to a state-wide regulatory commission. Southwestern Bell Telephone Co. testified before the Senate State Affairs Committee in 1969..."What I have shown is that telephone rates and service compare...favorably with...other states having statewide regulatory agencies and that...municipalities in Texas have done a good job of regulating the telephone industry in the state. The end result ...has been good service...at rates which are as low or lower than those in many other states...why should the taxpayer be burdened...with another regulatory agency"<sup>12</sup>



A small town newspaper, the Rankin (Tex.) News, feels that they know more about their own requirements and service, that they are closer to their own councilmen, and that the utility companies are sensitive to the attitudes of the local people.

Senators Blanchard of Lubbock and Word of Meridian have pointed out that having a state commission does not necessarily result in lower rates. <sup>13</sup>

WHAT WOULD BE AN IDEAL REGULATORY BODY?

John Bauer, a long time expert in the field of public utility affairs, feels that many existing State Regulatory Bodies should be modernized, in fact should have been many years ago. He feels every state system is outdated, not suited to either the conservation and promotion of the public interest, or for clear and consistent protection of the private interests. He suggests that an ideal body would 1. Fix the returns to investors, 2. establish continuous supervision, 3. maintain accounting checks, 4. promote efficiency and economy within the individual companies, 5. pass on company annual budgets, 6. survey annually for rate adjustments, 7. revise rate schedules, 8. provide for outside participation. (The state should have a regular survey agency to keep under constant study the effectiveness of all the state government departments.)

Along with the substance of regulation, the new legislation should provide for better constituted commissions. Appointments should be based on qualifications rather than on political considerations; they should be full time with adequate salaries and an adequate budget to retain the necessary technical staff and organization to do the work. <sup>14</sup>



Footnotes

1. John Bauer, Transforming Public Utility Regulation
2. Eli Winston Clemens, Economics and Public Utilities  
as quoted in Public Utilities in Texas, Report #57-10, Texas Legislative  
Council, December, 1962, pgs. 2-3.
3. Article 1108-Ch.10, Title 28,32  
Articles 1416 through 1439  
Article 1446a section 2  
Vernon's Annotated Civil Statutes
4. Public Utilities in Texas Op cit..pg. 12
5. Ibid, pg. 13
6. Lee Metcalf and Vic Reinemer, Overcharge, David McKay Co., Inc. New York  
1967, pg. 22
7. Public Utilities in Texas op cit. pg. 14
8. Articles 1124 and 1119, Vernon's Annotated Civil Statutes
9. Dave McNeely, Carolyn Barta, Complexities Cloud Bell's Bid for Rate  
Hike, Dallas Morning News, Sunday August 30, 1970, pg 33A
10. Dallas City Charter, Chapter XX sections 134, 137, 138, 139  
City Code of Ordinances, section 2-13
11. Michael V. Adams, Wilson Concentrating on Ma Bell, The Texas Observer,  
July 24, 1970
12. Clifton McCleskey, The Government and Politics of Texas, 2nd Edition pg.399
13. Bob Bain, Regulation No Assurance of Rate Cut, Ft. Worth Star Telegram,  
Sunday, June 21, 1970
14. John Bauer, Ph. D., Updating Public Utility Regulation, Public Administra-  
tion Service, Chicago, Ill., 1966, pgs. 181-196
15. LWV of Dallas - A Survey of Highland Park, University Park and Highland  
Park I.S.D. - 1969, pgs. 9, 27



LEAGUE OF WOMEN VOTERS OF DALLAS

December 1970

Consensus Report Form - Texas Executive - Boards and Commissions.

Please return to: Mrs. Lee Johnson, Program Vice-President

By: January 15, 1970

Unit \_\_\_\_\_ Person reporting \_\_\_\_\_

No. attending \_\_\_\_\_ Date \_\_\_\_\_

#1. Should State boards and commissions in Texas be reorganized?

If so, how?

#2. What are your suggestions concerning the number and inter-relationships of natural resources agencies in Texas?

#3. Do you have suggestions for other changes in state boards and commissions?

Please answer as fully as possible. You may use additional sheets if necessary.





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NATURAL GAS There were 76 gas companies in Texas in 1960. Production is regulated by the Texas Railroad Commission. The Federal Power Commission regulates transmission across state lines and sales for resale in interstate commerce. The Railroad Commission has jurisdiction over transmission at the intrastate level and original jurisdiction over rates in unincorporated areas and at the city gate. Local municipalities have powers to regulate rates, services, and distribution within the city and to grant franchises to gas companies.<sup>5</sup>

ELECTRICITY In contrast to the large number of telephone and gas companies, there are only 15 privately owned electric companies operating within the state and several of these are owned by a holding company.<sup>6</sup> There are also 50 publicly owned plants, mostly municipally owned plus 84 rural electric cooperatives. The electrical industry in Texas is regulated on two governmental levels. The Federal Power Commission on all interstate transmission, and by local cities for production, transmission and sale within city limits. Cooperatives are subject to Article 1528b Vernons Anno. Civ. Stat. to serve members only, to operate on a non-profit basis, and rates set to cover expenses etc.<sup>7</sup>

#### THE REGULATION OF PUBLIC UTILITIES

For Texas as well as for other states and the Federal Government, the regulation of public utilities is a perpetual problem, the most difficult of which is the setting of rates for services rendered. The standards to be used in rate setting are extremely important. Profit allowed is usually computed as a percentage of the worth of the company's physical plant used in providing the service. Different regulatory bodies use various methods to determine this worth which is called the "rate base". Most state regulatory commissions take what the companies originally paid for their equipment, and then subtract part of that for depreciation. This method is called "original cost less depreciation" rate base. About a dozen states use the "fair value" rate base which computes the company's physical plant - not on what it cost, but on what it is supposed to be worth. Texas statutes say cities that regulate utilities must not set rates "which will yield more than a fair return upon the fair value of the property used and useful in rendering its service to the public, but which return in no event shall ever exceed 8 percent per annum."<sup>8</sup> The key questions in determining rates are what is the "fair value" of the equipment, what is a fair return on it, and what rates will it take to produce that return. Also, each locality must determine what portion of the physical plant is used for local service.<sup>9</sup>

Texas is one of the few states that has no state-wide regulatory body for public utilities. Here, each municipality, whether of 500 or 500,000 people, must award individual franchises for each utility and is responsible for rates and degrees of service. In practice, some municipalities such as Highland and University Park<sup>15</sup> accept whatever rate is approved by Dallas. This is not necessarily true of other suburban communities, necessitating expenses by each community and each utility. Irving, Garland, and Carrollton in the Dallas area, are served by companies other than Southwestern Bell.

Texas Power & Light Co. does not serve the city of Dallas but does serve many surrounding towns - DeSoto, Farmers' Branch, Garland, Irving, Mesquite, etc.



#### PUBLIC UTILITY REGULATION IN DALLAS

Dallas is fortunate in having the resources to provide for a comprehensive department to supervise utilities. The City Charter gives the local government the right under state law to issue franchises to private companies to provide general services including heat, light, power, telephone service, etc. At present, franchises are in effect for electricity, gas, and telephone service plus taxi service. The Charter also provides for a Supervisor of Public Utilities to determine and regulate rates and fares and to prescribe the kinds and degree of service to be provided. The final determination of franchises to be issued and rates to be charged rests with the City Council.

Under the usual utility franchise, the Supervisor authorizes all construction, audits accounts regularly, and approves major contracts for industrial service, among other things. The governing body and the Supervisor have full power to examine all books and records and to take testimony. At present, the Supervisor has a staff of 15 to provide continuing analysis and control of the franchises and may request from the City Manager outside consultants on rate matters.

When a utility requests a change in rates or services, the Supervisor investigates all pertinent records and evaluates the information before submitting recommendations to the City Manager, who, in turn, passes them on together with his comments and recommendations to the City Council. The Council holds public hearings before making the final decisions.<sup>10</sup>

The City Charter requires franchise holders to pay not less than 4 percent of gross receipts earned for service rendered in the city in addition to all ad valorem taxes upon the value of the franchise and other property. The franchise holders are also required to pay all expenses in connection with the maintenance and operation of the office of the Supervisor on a pro-rata basis based on preceeding calendar year gross receipts.

#### SUGGESTIONS FOR CHANGE

Because the standards are unclear and because of the many technical aspects, rate making for public utilities has become one of the most complex tasks of government demanding the best engineering, accounting, financial, and legal talent available. Many experts feel that cities in Texas both large and small do not have the financial resources, nor the time available, to attempt stringent regulations and are therefore at a disadvantage in dealing fairly between their constituents and the utility companies. The Mayor of Nacogdoches in testimony before Senator Wilson's Committee said "This is a field in which the state can do a better job than we can locally. We want to keep at home those things we can do at home, but we can't handle this."<sup>11</sup> However, there is some opposition to a state-wide regulatory commission. Southwestern Bell Telephone Co. testified before the Senate State Affairs Committee in 1969..."What I have shown is that telephone rates and service compare...favorably with...other states having statewide regulatory agencies and that...municipalities in Texas have done a good job of regulating the telephone industry in the state. The end result ...has been good service...at rates which are as low or lower than those in many other states...why should the taxpayer be burdened...with another regulatory agency"<sup>12</sup>



A small town newspaper, the Rankin (Tex.) News, feels that they know more about their own requirements and service, that they are closer to their own councilmen, and that the utility companies are sensitive to the attitudes of the local people.

Senators Blanchard of Lubbock and Word of Meridian have pointed out that having a state commission does not necessarily result in lower rates. <sup>13</sup>

#### WHAT WOULD BE AN IDEAL REGULATORY BODY?

John Bauer, a long time expert in the field of public utility affairs, feels that many existing State Regulatory Bodies should be modernized, in fact should have been many years ago. He feels every state system is outdated, not suited to either the conservation and promotion of the public interest, or for clear and consistent protection of the private interests. He suggests that an ideal body would 1. Fix the returns to investors, 2. establish continuous supervision, 3. maintain accounting checks, 4. promote efficiency and economy within the individual companies, 5. pass on company annual budgets, 6. survey annually for rate adjustments, 7. revise rate schedules, 8. provide for outside participation. (The state should have a regular survey agency to keep under constant study the effectiveness of all the state government departments.)

Along with the substance of regulation, the new legislation should provide for better constituted commissions. Appointments should be based on qualifications rather than on political considerations: they should be full time with adequate salaries and an adequate budget to retain the necessary technical staff and organization to do the work. <sup>14</sup>



Footnotes

1. John Bauer, Transforming Public Utility Regulation
2. Eli Winston Clemens, Economics and Public Utilities  
as quoted in Public Utilities in Texas, Report #57-10, Texas Legislative  
Council, December, 1962, pgs. 2-3.
3. Article 1108-Ch.10, Title 28,32  
Articles 1416 through 1439  
Article 1446a section 2  
Vernon's Annotated Civil Statutes
4. Public Utilities in Texas Op cit.,pg. 12
5. Ibid, pg. 13
6. Lee Metcalf and Vic Reinemer, Overcharge, David McKay Co., Inc. New York  
1967, pg. 22
7. Public Utilities in Texas op cit. pg. 14
8. Articles 1124 and 1119, Vernon's Annotated Civil Statutes
9. Dave McNeely, Carolyn Barta, Complexities Cloud Bell's Bid for Rate  
Hike, Dallas Morning News, Sunday August 30, 1970, pg 33A
10. Dallas City Charter, Chapter XX sections 134, 137, 138, 139  
City Code of Ordinances, section 2-13
11. Michael V. Adams, Wilson Concentrating on Ma Bell, The Texas Observer,  
July 24, 1970
12. Clifton McCleskey, The Government and Politics of Texas, 2nd Edition pg.399
13. Bob Bain, Regulation No Assurance of Rate Cut, Ft. Worth Star Telegram,  
Sunday, June 21, 1970
14. John Bauer, Ph. D., Updating Public Utility Regulation, Public Administra-  
tion Service, Chicago, Ill., 1966, pgs. 181-196
15. LWV of Dallas - A Survey of Highland Park, University Park and Highland  
Park I.S.D. - 1969, pgs. 9, 27



First Unit meeting outline, The Texas Executive - Boards and Commissions  
December 9-10

## 1. Introduction - Unit Leader.

- A. Three years ago the LWV of Texas adopted a study item, 'The Evaluation of the Organization and Functioning of the Executive Department of the State Government.' After a two year review of executive powers and duties in Texas as compared with those in other states, the League consensus was expressed as "Support of measures to increase the effectiveness of the Executive Dept. of State government" and includes a number of support positions. (Make a list to hang on wall.) Although these were adopted in 1970 it was felt that not enough was known about how boards and commissions function within the Executive Department. We say they 1) should be reorganized to promote greater efficiency but we know little about duties of specific boards; 2) we are in favor of a cabinet-type executive department but we do not know if duties and powers of some of the boards (or all of them) should come logically under a cabinet dept. and 3) the Governor to have, within reasonable safeguards prescribed by law, power to remove appointive officers of the executive department and appointees to boards & commissions. Therefore although action will be taken on the support positions, a continued evaluation of the boards was also adopted at the Convention.

At the request of the National Governors' Conference, the Council of State Governments has compiled a guide to recent developments in executive reform. The report observes that recent plans have recommended more consolidation of agencies than in the past. It attributes this to the "ecology" of increasingly complex programs, which require better organization and coordination, particularly if a planning, programming, and budgeting system is employed.

The report continues "attention must be given to relationship among functions as the state undertakes new activities and perceives new relationships among old activities. ...Reorganization is a continuous process...Constant study and action are needed to maintain the ability of the states successfully to plan and administer programs addressed to current problems." Could it be because states have not kept refining their processes, that the Federal government has has to play such an important role in meeting needs of everyone?

- B. Show posters of model state executive branch; the executive branch of Texas. You might emphasize that the Texas executive actually is much worse than it looks by drawing colored boxes of the number of boards relating to each subject heading with lines going thru the main connecting line to show their independence from each other and the Governor.
- C. Make a very short statement of the most obvious pros and cons concerning reform, or ask the members to mention them. Point out that we are only dealing with those boards coming under the Inter-agency planning council for Natural Resources.



First Unit Meeting outline, Texas Ex. - Boards & Commissions, Dec. 9-10, page 2

Ask the members what they already know about boards & commissions.

(What they should know is listed below but it would be more interesting if they told you instead of you telling them!)

(What we should already know: 1) there are about 130-140 different boards of various kinds; 2) two boards have independently elected heads - the Railroad Commission 3) members elected for 6 year overlapping terms and the State Board of Education - 21 members, elected for 6 year overlapping terms from separate districts having the same boundaries as congressional districts existing in 1949; 3) the Governor appoints board members with the consent of the Senate; 4) the Governor has no power to remove a board member; the Governor usually has to serve two terms before his appointees are in the majority; 5) there has been interest in administrative reorganization since the legislature authorized a study in 1931, (page 3, Alternatives for Texas, LWV of Texas 1969) but no bills have passed. Various governors have called for modernization.)

II. Discussion

A. 1. Present information - Resource person

Give a bit of historical background

Administrative organization, pg. 4, LWV of Texas

2. What we have now (130 plus ) Point to list you have made of natural resources agencies and give a few sentences about each about their main functions. Point out overlapping functions if any and also point out where some members of one board are required to be a member of another such as the Water Quality Board having the Commissioner of Health and the executive director of Water Development Board and the chairman of the Railroad Commission. Mention that at least 2 of the independently elected state officials deal with some aspects of natural resources - the Commissioner of General Land Office and the Commissioner of Agriculture.
3. Mention some complicating factors - conflicting interest groups, less patronage, etc. (Kit - pages 4 & 5, F & I, pg. 4)

B. Questions for Discussion - Unit Leader

1. Do you see any areas where our boards & commissions concerned with natural resources have overlapping responsibilities?
2. Do you see advantages in keeping agencies independent?
3. Do you see any reasons why the members of the Railroad Commission should be appointed rather than elected?
4. Do you see any areas in the protection and development of our natural resources that the State Government is not adequately covering?

C. Efforts for Coordination in Texas - Resource person

1. Give, in your own words, information on page 3, F&I about PACT, interagency councils, etc.
2. Senate Bill 84. (See supplemental resource material)  
Use notes taken on Representatives Orr's remarks at briefing



Questions for Discussion - Unit Leader

1. Do you feel Texas has made any progress in the reform of natural resource agencies?
2. Do you think the creation of the Planning Coordination Division eliminates the need for a major overhaul?
3. Can you anticipate any logistic problems in the administration of a large overall natural resources department?

III. Summary- Unit Leader

1. Restate purpose
2. Highlights of pros and cons
3. Mention agreements reached
4. Collect any further questions to be referred to study committee.
5. Mention that the next meeting will be a look at natural resource agency reorganization in other states and consensus questions about how we want to reorganize our own state agencies.



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FILE

Second Unit Meeting, The Texas Executive - State Boards & Commissions

Introduction - Unit Leader

1. Review of previous meeting purpose and what was learned. You might do this with the following quiz if enough members present have attended the first meeting.
  1. Approximately how many boards & commissions are there in Texas?
  2. Are members generally appointed or elected?
  3. What is the Division of Planning Coordination?

The purpose of this meeting is to compare reorganization in other states with possibilities in Texas and to try to come to consensus.  
(Make poster listing the three consensus questions.)

Reiterate that the Governor and the public have little control over state boards & commissions.

Discussion - Resource person

Show a chart of the other state you have chosen from the kit and give information briefly about it. (see also the September TEXAS VOTER)

Look at Model Executive Chart and Texas chart and review remarks from previous meeting.

Consensus Questions - Unit Leader

- Discussion questions that might help in answering main questions.
1. What obstacles do you see in reorganizing these boards?
  2. Do you see any particular agencies that might have trouble functioning as a part of a larger department?
  3. Try to give two pros and two cons to reform or consolidation
  4. Can you think of any of the natural resource agencies that should obviously be merged?
  5. How would you operate the responsibilities of the agency if it were not independent?

If you have any time left, it would be interesting to discuss the pros and cons of having a State Public Utility Commission using the December VOTER insert.





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Resource material - The Texas Executive - State Boards &amp; Commissions

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SENATE CONCURRENT RESOLUTION # 84 - Connolly

This resolution passed both houses of the Texas Legislature at the last session - 1969.

In essence, this resolution calls for the creation of a Natural Resources Study Commission of nine Texas citizens, three appointed by the Governor to include one ecologist, one member of a state-wide all-resource conservation organization, and one attorney; three members of the Senate, appointed by the Lt. Governor; and three members of the House, appointed by the Speaker, all of whom shall serve for four years from the time the appointments are completed. The first meeting will be held at the call of the Governor.

The duties of this commission will be: make a comprehensive study of the organization, coordination and interrelationship of all agencies charged with the planning, regulation, and management of natural resources. It should consider the possibilities of reorganizing, unifying, consolidating, or coordinating the functions and operations of such agencies in Texas and its subdivisions. The commission may receive grants or matching funds from public or private agencies for operating expenses after it has prepared a budget and had it approved by the Contingent Expense Committee of the Senate. The Legislative Council is asked to assist the Commission in its study. The resolution recognizes



recognizes that functions in the Natural Resource field in Texas are divided among numerous agencies, that budgets are often inadequate, that many of the agencies were created at a time when advances in science and technology were less noticable. It recognizes that the efficiency of agencies with overlapping planning and management responsibilities is increased by consolidation or unification of common or competing operations. The resolution also calls for an interim report to be ready by December 1, 1970 and a final report to be made on 1 December 1972.

To date: The Commission has not even been appointed!

#### THE STATE HEALTH DEPARTMENT

The Health department is not included in our Facts & Issues because for some reason it is not included in the Interagency Planning council division for Natural Resources.

There is a 9 member board appointed by the Governor for 6 year overlapping terms paid only expenses and a per diem. A Commissioner of Health is also appointed by the Governor for a two year term at a full-time salary of \$20,000 per year. The Health Department is in charge of administering many different aspects of health matters in the State. Public Health programs including meat inspection, Tuberculosis Control, Occupational Safety programs, Crippled Children services, & inspection and regulation of out-of-state milk imported into the state. Of particular interest to Natural Resources study is its responsibilities in the Air Pollution field. It maintains an active program for the correction and prevention of air pollution by the establishment of regional offices. Also of interest, the Health Dept. assimilates data on drinking water supplies and it is required to develop solid waste programs together with the Water Quality Board and local authorities.

#### TEXAS WATER RIGHTS COMMISSION

Additions to material in Facts & Issues. Inspections in 1969 found 250 water-use violations in highway construction projects. It is not known (by me) the results of these complaints. It would be interesting to find out who adjudicates such disputes? Does one agency's rules prevail over another? Are compromises made? How? Who enforces the final decisions? Perhaps someone in your unit will know the answers.

#### TEXAS WATER DEVELOPMENT BOARD - Additions to material in Facts & Issues.

This agency also administers the \$200-million Water Development Bond Fund, which may be used to make loans to local units of Government for water supply etc. It conducts a year-round program of basic research into water problems, in cooperation with the US Geological Survey and local water agencies. As a part of the statutory directive for coordination with the Texas Water Quality Board, it conducts investigations of ground water contamination. If this contamination results from oil wells, investigation results are referred to the Railroad Commission for investigation. It cooperates with the Railroad Commission in recommending depths to which fresh water should be protected in drilling activities for petroleum products.

#### HAPPENINGS ON THE FEDERAL LEVEL FOR NATURAL RESOURCES COORDINATION

President Nixon has appointed William Ruckelshaus as chief of the Environmental Protection agency. "Time" magazine says this is the nation's most powerful and best-funded agency. (1.4 billion) After December 2, 1970, it will take over 15 component parts of five different and often confliction agencies. It will control the Federal Water Quality Administration and the National Air pollution



Control Administration. Mr. Ruckelshaus will carry out policies set by the new Council of Environmental Quality whose chairman is Russell Train.

#### SOME DEFINITIONS

Commission - 3 man governing body, usually full time in charge of a department. OR - a quasi-judicial body or independent regulatory agency

Board - a part time body functioning as the policy making unit of an agency.

Examining Board - a part-time body which sets standards of professional competence etc.; sets examinations, issues licenses, investigates complaints.

Council - a part time body appointed to function on a continuing bases to study a specific problem, recommend a solution or policy alternative. Usually intended to terminate on the completion of its assignment.

#### ADDITIONAL INFORMATION TO BE USED WITH COMPARISON OF OTHER STATES

Delaware - Functions of the Secretary - he may establish, consolidate or abolish such divisions and offices within the Department with the written approval of the Governor. The Secretary must make an annual report to the Governor. The Chairman of the Councils must make annual reports to the Secretary. The Secretary serves at the pleasure of the Governor. (He can be fired by the Gov.) Contrasts to Texas include the firing of the Sec'y. and that in Texas, only the legislature may change the functions and structure of the various boards, unless it is set into the Constitution, in which case it would take an amendment to change. (See TEXAS VOTER, Sept. 1970, for other information about Delaware. Chart is in Kit.)

Wisconsin - It took two and a half years to work out the plan. The state constitution did not have to be amended. The plan was carried out by the legislature. 84 separate units were reorganized into 14 major administrative agencies, 4 offices continued and 14 independent agencies remained. Among other duties of the Board of Natural Resources: they are required to make a continuing study of the problems and recommend over-all policies of natural resources management for the guidance of all state agencies, and review all proposed programs by the agencies. An interesting feature is the provision for a "Public intervenor". He must be notified of all changes or hearings for changes having to do with Natural Resources. He may participate on his own initiative or by formal request of the Legislature in proceedings to protect "public rights." He has full power to present evidence, subpoena and cross examine witnesses, etc. The Attorney General is elected in Wisconsin and appoints a member of his staff as "intervenor". (See TEXAS VOTER, Sept. 1970 Chart is in Kit.)



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recognizes that functions in the Natural Resource field in Texas are divided among numerous agencies, that budgets are often inadequate, that many of the agencies were created at a time when advances in science and technology were less noticable. It recognizes that the efficiency of agencies with overlapping planning and management responsibilities is increased by consolidation or unification of common or competing operations. The resolution also calls for an interim report to be ready by December 1, 1970 and a final report to be made on 1 December 1972.

To date: The Commission has not even been appointed!

#### THE STATE HEALTH DEPARTMENT

The Health department is not included in our Facts & Issues because for some reason it is not included in the Interagency Planning council division for Natural Resources.

There is a 9 member board appointed by the Governor for 6 year overlapping terms paid only expenses and a per diem. A Commissioner of Health is also appointed by the Governor for a two year term at a full-time salary of \$20,000 per year. The Health Department is in charge of administering many different aspects of health matters in the State. Public Health programs including meat inspection, Tuberculosis Control, Occupational Safety programs, Crippled Children services, & inspection and regulation of out-of-state milk imported into the state. Of particular interest to Natural Resources study is its responsibilities in the Air Pollution field. It maintains an active program for the correction and prevention of air pollution by the establishment of regional offices. Also of interest, the Health Dept. assimilates data on drinking water supplies and it is required to develop solid waste programs together with the Water Quality Board and local authorities.

#### TEXAS WATER RIGHTS COMMISSION

Additions to material in Facts & Issues. Inspections in 1969 found 250 water-use violations in highway construction projects. It is not known (by me) the results of these complaints. It would be interesting to find out who adjudicates such disputes? Does one agency's rules prevail over another? Are compromises made? How? Who enforces the final decisions? Perhaps someone in your unit will know the answers.

#### TEXAS WATER DEVELOPMENT BOARD - Additions to material in Facts & Issues.

This agency also administers the \$200-million Water Development Bond Fund, which may be used to make loans to local units of Government for water supply etc. It conducts a year-round program of basic research into water problems, in cooperation with the US Geological Survey and local water agencies. As a part of the statutory directive for coordination with the Texas Water Quality Board, it conducts investigations of ground water contamination. If this contamination results from oil wells, investigation results are referred to the Railroad Commission for investigation. It cooperates with the Railroad Commission in recommending depths to which fresh water should be protected in drilling activities for petroleum products.

#### HAPPENINGS ON THE FEDERAL LEVEL FOR NATURAL RESOURCES COORDINATION

President Nixon has appointed William Ruckelshaus as chief of the Environmental Protection agency. "Time" magazine says this is the nation's most powerful and best-funded agency. (1.4 billion) After December 2, 1970, it will take over 15 component parts of five different and often confliction agencies. It will control the Federal Water Quality Administration and the National Air pollution



Control Administration. Mr. Ruckelshaus will carry out policies set by the new Council of Environmental Quality whose chairman is Russell Train.

#### SOME DEFINITIONS

Commission - 3 man governing body, usually full time in charge of a department. OR - a quasi-judicial body or independent regulatory agency

Board - a part time body functioning as the policy making unit of an agency.

Examining Board - a part-time body which sets standards of professional competence etc.; sets examinations, issues licenses, investigates complaints.

Council - a part time body appointed to function on a continuing bases to study a specific problem, recommend a solution or policy alternative. Usually intended to terminate on the completion of its assignment.

#### ADDITIONAL INFORMATION TO BE USED WITH COMPARISON OF OTHER STATES

Delaware - Functions of the Secretary - he may establish, consolidate or abolish such divisions and offices within the Department with the written approval of the Governor. The Secretary must make an annual report to the Governor. The Chairman of the Councils must make annual reports to the Secretary. The Secretary serves at the pleasure of the Governor. (He can be fired by the Gov.) Contrasts to Texas include the firing of the Sec'y. and that in Texas, only the legislature may change the functions and structure of the various boards, unless it is set into the Constitution, in which case it would take an amendment to change. (See TEXAS VOTER, Sept. 1970, for other information about Delaware. Chart is in Kit.)

Wisconsin - It took two and a half years to work out the plan. The state constitution did not have to be amended. The plan was carried out by the legislature. 84 separate units were reorganized into 14 major administrative agencies, 4 offices continued and 14 independent agencies remained. Among other duties of the Board of Natural Resources: they are required to make a continuing study of the problems and recommend over-all policies of natural resources management for the guidance of all state agencies, and review all proposed programs by the agencies. An interesting feature is the provision for a "Public intervenor". He must be notified of all changes or hearings for changes having to do with Natural Resources. He may participate on his own initiative or by formal request of the Legislature in proceedings to protect "public rights." He has full power to present evidence, subpoena and cross examine witnesses, etc. The Attorney General is elected in Wisconsin and appoints a member of his staff as "intervenor". (See TEXAS VOTER, Sept. 1970 Chart is in Kit.)





## Times Have Changed

### TODAY THERE IS NO NEED

- for restrictions against dueling at dawn
- for provisions prohibiting consolidation of railroads with a foreign road
- for a complete Article dealing with Spanish and Mexican land grants and titles

Such provisions are obsolete. Decades of judicial decisions have invalidated many more. Such deadwood comprises over one-third of the Texas Constitution. Now is the time to begin to bring the constitution up to date. Amendment No. 1 is a simple housekeeping amendment.

## Not Enough Time



### TODAY THERE IS TOO LITTLE TIME

- for deciding how to spend almost \$6 billion in one session
- for passing laws that concern ten million people
- for considering 2500 bills and resolutions in a regular session

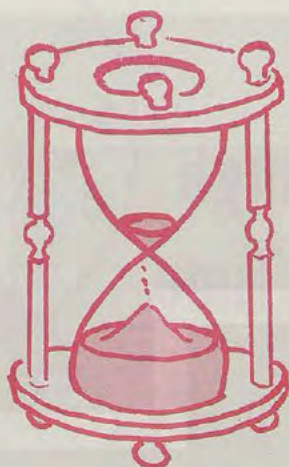
Minutes tick away all too soon for our part time legislature. Vital legislation often is postponed for two years. Amendment No. 9 adds a 60 day session in even numbered years for budgeting and emergencies. Give the Texas legislature more time.

## V O T E F O R

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**AMENDMENT NO. 1 and AMENDMENT NO. 9**  
**REMOVAL OF DEADWOOD      ANNUAL SESSIONS**





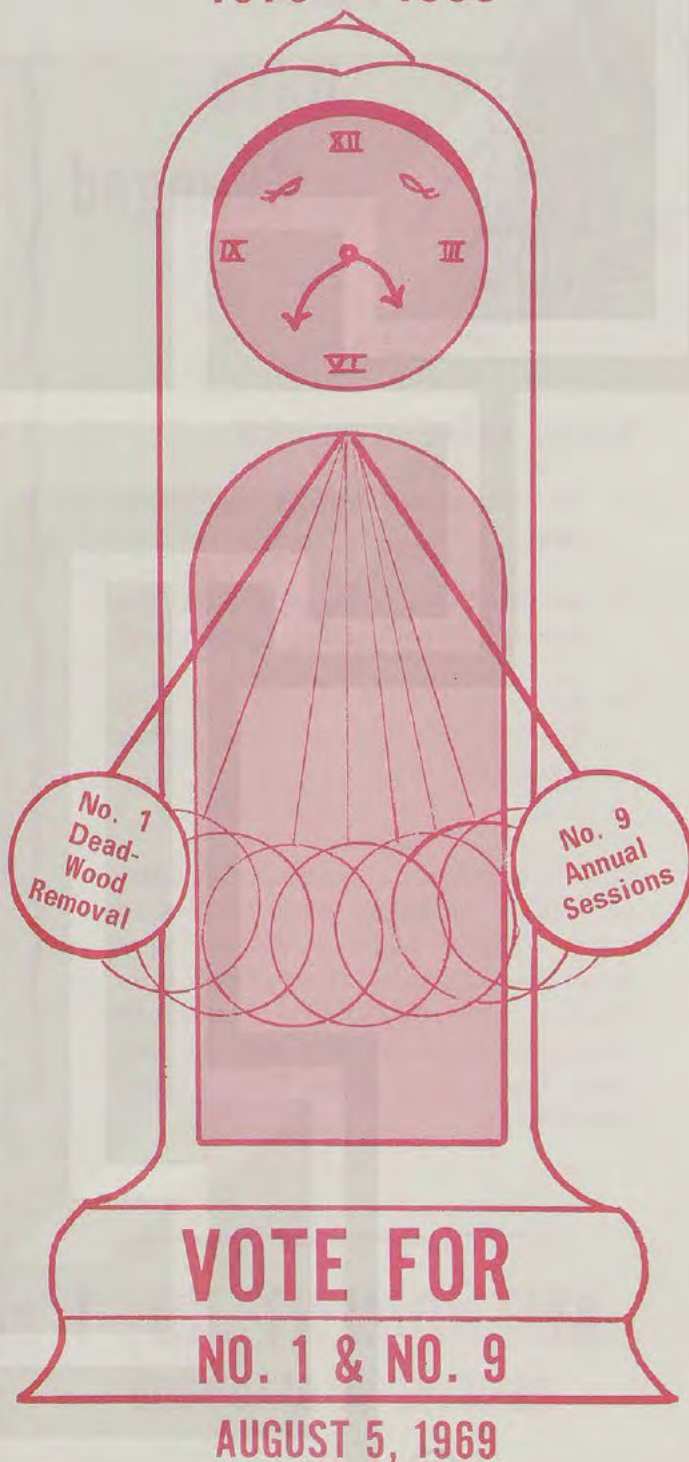
## TIME IS RUNNING OUT

for modernizing state government. Legislators cannot be responsive to the needs of Texans in this changing world while handicapped by an unwieldy constitution and an inadequate amount of time. Your vote is needed on **August 5** for two important amendments. Vote **FOR** the first and last amendments.

## VOTE FOR AMENDMENTS NO. 1 and NO. 9

LEAGUE OF WOMEN VOTERS  
OF TEXAS  
1841 Bingle Road  
Houston, Texas 77055

## Too Much Time Has Passed 1876 — 1969





Unit Meetings Oct. 9 and 10, 1968Resource and Unit Leader's Discussion Guide on  
Texas Constitutional Revision

Materials Resource committee members and unit leaders will have

1. Quo Vadis
2. General Principles for a Good State Constitution - 1958
3. Constitutional changes approved in August 1968 by Constitutional Revision Commission
4. Graham letter on Maryland
5. Consensus questions plus list of principles

Each member will receive 1 (when purchased), 3, and 5 above.

General Format The Unit Leader will conduct the discussion, asking questions of the resource committee member. The leader may allow floor questions, but she should control the time allowed in order to keep the discussion moving.

The greatest danger is that the discussion might get bogged down on the contents of the Constitution which need revision. The purpose of this meeting is to consider methods of revision only with only nominal attention directed towards the recommended changes by the current commission.

BEWARE! Keep on the track!

<u>Time schedule</u>	Announcements	15 minutes
	Discussion	1 hour and 5 minutes
	Consensus-taking	20 minutes

Leader: When did the LWV start its interest in Constitutional Revision?

Resource: 1948, Know Your State Survey, dissatisfactions began appearing (Quo Vadis, page 1)

LEADER: What positions have League members arrived at relating to the state constitution?

Resource: Principles of a good state constitution (Quo Vadis, page 17); revision of the Judicial Section (QV, page 17); others emerging as result of study of legislature and the executive department; revision by the Constitutional Convention method, preceded by qualified research (QV, page 4)

Leader: What steps have been taken in the past to bring the LWV's position to the attention of the general public?

Resource: Publishing of TCR, Public Opinion Survey, introduction of resolutions at precinct and state conventions, adoption by state convention, part of Connally's recommendations to 60th Legislature, petitions circulated with Junior Chamber of Commerce (QV, pages 2-4)



DISCUSSION GUIDE FOR TCR/PAGE 2

Leader: Has the State responded to these activities in any way?

Resource: 1957 Citizens Advisory Committee and results (QV, page 2)  
1967 Constitutional Revision Commission and recommendations (Commission recommendations)

We want to emphasize that a study of the revision of the Texas Constitution divides itself into two parts:

1. A study of the sections of the constitution indicates defects that should be corrected. Such a ~~study~~ in depth is essential to arousing public opinion in favor of revision in order that substantive improvement can be made.
2. A study of the methods of revision is the subject for our discussion today. We will not concern ourselves with the various sections of the Constitution that our studies indicate need revision (i.e., the Judicial). We are concerned with the article dealing with the amendment procedure.

Leader: As of today, how is the Texas Constitution amended?

Resource: Evolutionary day-to-day by interpretation (QV, page 7)  
Vote of the Legislature, submitted to the people in general election (QV, page 9)

Leader: Have the amendment procedures been changed by the study groups appointed to look at the Constitution?

Resource: Yes. Texas Legislative Council in 1961 -- allowed inclusion of more than one subject in a proposed constitutional amendment, 3

1968 Commission -- the Legislature may submit to the electorate a complete or substantial revision of the Constitution in addition to the separate amendment submission. Too, such proposals may be made at any session of the Legislature (1968 Commission results)

Leader: To bring our discussion into focus, our present consensus position arrived at in 1962 is to support as the best method of general revision of the state constitution a constitutional convention, preceded by qualified research.

We ask ourselves today, then (read consensus questions)

What methods can be used for a general revision of the Constitution?

Resource: Two fundamental methods -- constitutional convention and state legislature.

In each case the legislature must initiate any action taken, and

in each case the voters must approve new amendments or a new document at the polls.

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## DISCUSSION GUIDE FOR TCR/PAGE 3

Leader: What role does a constitutional commission play?

Resource: Serve as advisory and research body for a legislature considering piecemeal change; planning and research body for a constitutional convention; serves to identify issues and to inform the public. (QV, page 8)

Leader: How can the Legislature revise the Constitution?

Resource: 1. Piecemeal by amendment. Advantages: easy method. Disadvantages: all amendments do not deal with basic law; tendency to proliferate statutory detail; excessive cost -  $1\frac{1}{2}$  million between 1957 and 1966.

2. Separate coordinated amendments. Advantages: works best where preparation is thorough and changes not too extensive; excellent for clarification, codification and removal of deadwood. Disadvantages: Key legislation may be defeated in defeat of the whole.

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Resource: People themselves review and revise their functional law; delegates are elected directly by the people, it is an autonomous and sovereign body; the document is sent directly back to the people for their approval.

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Resource: The Legislature: votes to hold one, submits a ballot proposal to the people for authorization, appropriates money for convention expense, provides for apportionment of delegates, names the time and place for convening. (QV, page 10)

Leader: What has held it back in the past?

Resource: Malapportionment, cost and cumbersome size, opposition of vested interests, popular inertia. (QV, page 10)

Leader: Are other states involved in constitutional revision?

Resource: The very latest edition of the Book of the States (1968-69) reports that during the 1966-67 biennium 22 states were engaged in or committed to engage in constitutional revision and that Governors or other official bodies in 12 additional states had strongly urged revision. In all, about two-thirds of the states were involved in revision.



DISCUSSION GUIDE FOR TCR/PAGE 4

Resource: At least 11 Constitutional Revision Commissions are in existence in 1968. The Hawaii Constitutional Convention was convened in July. Voters will vote on the question of calling a constitutional convention in November in Arkansas, Illinois and New Mexico, and possibly in Washington State.

Leader: What is causing this overwhelming interest in State Government?

Resource: The states are responding to a new problems -- pollution of the air, new energy sources, rapid urbanization -- and old problems made more acute by modern conditions. The states are taxing, spending, incurring debt and hiring at a much greater rate than before -- at a greater rate than that of the U.S. government.

Too, the states are losing out in the race for trained manpower to Washington. The glamour in government service is on the Potomac, not in Austin or Baton Rouge or Oklahoma City.

Leader: With the limited time available, can you tell us about the experience of at least one state in the area of Constitutional revision?

Resource: (Maryland is ideal, excellent preparation, methods of financing, public information campaign, analysis of failure, etc.) (Graham letter)

When the voters are asked to approve the total document, then those who oppose one section only must vote against the entire package. In New York, the church-state issue caused the defeat of the entire constitution.

Perhaps it would be best, as was done in the Dallas Crossroads Election, to vote by sections. The advantage: those who opposed only one section could vote against that section and for the rest of the document. The against votes then would be spread among several sections, reducing the chance that any one section would be defeated. The disadvantage: if one or more sections were defeated, the basic law of the state, the Constitution, would be incomplete until revised, substitute sections could be submitted to and approved by the voters.

Leader: (Read consensus procedure from Local Leader's Handbook)

(Read consensus questions)

(Ask this additional question) Do you believe that the proposals to be voted on should be submitted to the voters singly or in a package?

(Lead discussion of each question with resource member answering questions where possible, or recording questions to be answered by the resource committee at a later time.)

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[REDACTED] [REDACTED]



LEAGUE OF WOMAN VOICES OF TEXAS

October  
1968  
August 1968

TO: Local League Presidents and TCR Chairmen

FROM: Mrs. Ralph McKinlay, TCR Chairman

RE: An interview by Mrs. John Graham with Mr. H. Vernon Eney on the failure of the Maryland Constitutional Modernization effort.

Mrs. John Graham is the Board member responsible for the TCR, the Executive, and the Legislature studies for the Dallas League. On a recent visit to Maryland she had the fortunate opportunity of talking with Mr. H. Vernon Eney, President of both the Maryland Commission and the Maryland Constitutional Convention. For a whole hour in his office he spoke of the failure of his brainchild into which he had invested four years of blood, sweat, toil and tears. He volunteered that he was still very close to the surprise and shock of what happened at the polls but he tried to evaluate some of the causes of the defeat of Maryland's Constitutional revision.

Because the success or failure of any revision attempt can directly affect our own revision efforts in Texas, as well as the outcome of the League's TCR study, it is obvious that this poignant, vital, timely interview should be of great value to local Leagues in Texas. The following is taken from Mrs. Graham's report with only minor deletions and added explanations.

First, Mr. Eney told of all the materials they had used to educate the people -- the 28 minute movie THE MIGHTY OAK and four slide programs now deposited with the Archivist, Dr. Radoff, Hall of Records, Annapolis, Maryland -- documents and educational flyers from the Extension Service, University of Maryland, community seminars and TV educational programs. Mrs. Graham asked if they had hired a PR firm to campaign for the revised Constitution. He said that the convention could not work for it, but limited themselves by their own decision to a public information service only. They had a director who was loaned to them by a PR firm.

Mr. Eney was instrumental in forming an independent citizens committee for the proposed Constitution. They raised 60 to 70 thousand dollars to conduct a full scale campaign in Baltimore City. Mr. Eney handpicked 25 businessmen, the President of the LWV of Maryland and many similar people, got them all together and persuaded them to raise the money and get the message across (these things are 'nt self generating"). They hired an executive director, a young man from Senator Tydings' office; Milton Eisenhower and Clarence Miles co-chaired the Baltimore City Committee. Similar committees were formed elsewhere in the state. They ran announcements every day on radio, etc. The TV industry in Maryland decided to work on a policy of equal time pro and con, give away time as a public service, and neither side could buy TV time to campaign for one side. At first it was difficult to find anyone who would take the "con" side. Radio on the other hand sold time, and toward the end the opposition flooded the airwaves with "preposterous" misinformation.

It seemed that all the influential organizations were in favor of the new Constitution, business, labor, church groups, Governors past and present, legislators, the Bar Association, women's groups, educators, etc. -- and adoption of the new Constitution seemed assured. Nevertheless, Mr. Eney had always feared the "amalgamation of the minorities", the court clerks who feared domination by the Judiciary and who had always been the center of courthouse political power, the registrars of wills, people holding political sinecures whose positions were abolished in the new Constitution and sheriffs, who knew how to get elected but were afraid of the appointment system. "Change disturbs the established and people in an established system fear change". The only sheriff in Maryland to endorse the proposed Constitution was the one in Baltimore City.

The convention delegates thought hard about the optimum time interval between publishing the proposed document and holding the special election. Michigan squeaked through their new Constitution in 1962 by 0.4% after a 10-month interval because a battle built up between labor and management. Some urged only 30 days time, preferring not to bring out a large vote, but hoping the more sophisticated voters would push it through. Others wanted plenty of time for an educational program to bring along all the citizens. They eventually decided on four months. They launched an active educational program; delegates served on the speakers



bureau and gave over a thousand talks with debates and explanatory comments, -- "You would work your heart out over setting up a meeting and get maybe 25 people there." Finally they discovered the thing to do was to get part of the time of a regularly scheduled meeting, LNW, AAUW, Rotaries, etc. instead of separate meetings. This led to a tremendous response from people.

The convention delegates realized they faced a real problem in submitting a complete document in one fell swoop. It is easier to stir up people against anything than for it. It seems to be a psychological fact that the anti people are more excited and active while the pros sit back and expect things to come out right without their support. They set out to combat this, to exert every effort to get out the vote. (There was a 46% turnout.) Also, it is much easier to pick one flaw to criticize or one item with which to take issue than it is to defend the whole package.

Mr. Eney felt that they were defeated more by the times than any other thing and this they could not have predicted. They lowered the voting age to 19 and then Columbia students took over the University, -- and strengthened civil rights and Dr. Martin Luther King was assassinated and Baltimore rioted for three days. There was a real breakdown of law and order, -- armed troops were in the streets, fires everywhere, busloads of prisoners brought to the courthouse -- some recent Supreme Court decisions seemingly heightened this sense of the breakdown in law and order, the general frustration over Viet Nam, both for those violently opposed to pursuing it and those strongly supporting getting it over with by escalation. He concluded that people now are just as afraid of "government" as they were 100 years ago, that they just don't understand it.

If he had it to do over he would submit voting age as a separate issue but he does not believe you can write a good Constitution piecemeal and submit it article by article, -- they are too interdependent.

He was baffled by the fact that the things they anticipated as controversial issues were not and vice-versa. There was no kick about raising the legislators' or Governor's salary, the longer sessions, the civil rights section of the Bill of Rights, the reorganization of the judicial section except for the abolition of lower courts and clerks, etc. On the other hand, the present Constitution does not even mention regional government at all, and the convention felt that the legislature's unrestricted power in this area should have certain limits, so they wrote in a section on it. The opposition jumped on this, mentioning that the old document has nothing about regional government and the new one will be the death of small municipalities. The people misunderstood the purpose of this section completely. The opposition also told the public that when the State took over the cost of all the judiciary no local supplementary money could go to judges' salaries, etc., -- that they would be taxed for 24 new county courthouses, -- this of course was not true. The opposition did not want to strengthen the executive with all those new appointive instead of elective offices. But the people couldn't seem to understand that the new Constitution would reduce his political power by decreasing agencies to 20 instead of 240, abolishing all the plums of the lower courts and creating a nominating commission in the judiciary. It would increase, rightly, his administrative power so that his authority would be commensurate with his responsibility.

When Mr. Eney was asked if they would try to make minor changes and re-submit the package at a more favorable time, he said no. The effort to get going on revision is tremendous, -- it was reapportionment that gave them the opportunity. Twenty-seven men and women put their hearts and souls into the commission's work with two and three day sessions a month since the summer of 1966 and held 143 sub-committee meetings in between. For six weeks Mr. Eney spent three-fourths of his time in Annapolis getting bills through the Legislature and then came the long campaign. These people wrote the best instrument they could conceive and they couldn't be expected to go through this whole thing again. It will be a long time before anything constructive comes of it all.

Mr. Eney suggested a committee to consider amendments, but the approach of this committee seems to be to take the old Constitution and re-massage it. Mr. Eney accepted the job as President of the Commission on one major understanding, -- that if all they were going to do was either to reword the old Constitution or give the public what they were sure the voters would accept, he wouldn't take it, but with a free hand to really revise it and try to bring the public along to realize the value of a good state government framework he would give it a try. He gave it a great try. He is a wonderful, heart-broken man right now. Mrs. Graham found it very difficult to express the depth of her admiration and respect for Mr. H. Vernon Eney.



Lynn

LEAGUE OF WOMEN VOTERS OF TEXAS  
1814 BINGLE ROAD  
HOUSTON, TEXAS 77055

October 1968  
Respect

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Mrs. John Graham is the Board member responsible for the TCR, the Executive, and the Legislature studies for the Dallas League. On a recent visit to Maryland she had the fortunate opportunity of talking with Mr. H. Vernon Eney, President of both the Maryland Commission and the Maryland Constitutional Convention. For a whole hour in his office he spoke of the failure of his brainchild into which he had invested four years of blood, sweat, toil and tears. He volunteered that he was still very close to the surprise and shock of what happened at the polls but he tried to evaluate some of the causes of the defeat of Maryland's Constitutional revision.

Because the success or failure of any revision attempt can directly affect our own revision efforts in Texas, as well as the outcome of the League's TCR study, it is obvious that this poignant, vital, timely interview should be of great value to local Leagues in Texas. The following is taken from Mrs. Graham's report with only minor deletions and added explanations.

First, Mr. Eney told of all the materials they had used to educate the people -- the 28 minute movie THE MIGHTY OAK and four slide programs now deposited with the Archivist, Dr. Radoff, Hall of Records, Annapolis, Maryland -- documents and educational flyers from the Extension Service, University of Maryland, community seminars and TV educational programs. Mrs. Graham asked if they had hired a PR firm to campaign for the revised Constitution. He said that the convention could not work for it, but limited themselves by their own decision to a public information service only. They had a director who was loaned to them by a PR firm.

Mr. Eney was instrumental in forming an independent citizens committee for the proposed Constitution. They raised 60 to 70 thousand dollars to conduct a full scale campaign in Baltimore City. Mr. Eney handpicked 25 businessmen, the President of the LWV of Maryland and many similar people, got them all together and persuaded them to raise the money and get the message across (these things are 'nt self generating"). They hired an executive director, a young man from Senator Tydings' office; Milton Eisenhower and Clarence Miles co-chaired the Baltimore City Committee. Similar committees were formed elsewhere in the state. They ran announcements every day on radio, etc. The TV industry in Maryland decided to work on a policy of equal time pro and con, give away time as a public service, and neither side could buy TV time to campaign for one side. At first it was difficult to find anyone who would take the "con" side. Radio on the other hand sold time, and toward the end the opposition flooded the airwaves with "preposterous" misinformation.

It seemed that all the influential organizations were in favor of the new Constitution, business, labor, church groups, Governors past and present, legislators, the Bar Association, women's groups, educators, etc. -- and adoption of the new Constitution seemed assured. Nevertheless, Mr. Eney had always feared the "amalgamation of the minorities", the court clerks who feared domination by the Judiciary and who had always been the center of courthouse political power, the registrars of wills, people holding political sinecures whose positions were abolished in the new Constitution and sheriffs, who knew how to get elected but were afraid of the appointment system. "Change disturbs the established and people in an established system fear change". The only sheriff in Maryland to endorse the proposed Constitution was the one in Baltimore City.

The convention delegates thought hard about the optimum time interval between publishing the proposed document and holding the special election. Michigan squeaked through their new Constitution in 1962 by 0.4% after a 10-month interval because a battle built up between labor and management. Some urged only 30 days time, preferring not to bring out a large vote, but hoping the more sophisticated voters would push it through. Others wanted plenty of time for an educational program to bring along all the citizens. They eventually decided on four months. They launched an active educational program; delegates served on the speakers



bureau and gave over a thousand talks with debates and explanatory comments, -- "You would work your heart out over setting up a meeting and get maybe 25 people there." Finally they discovered the thing to do was to get part of the time of a regularly scheduled meeting, L&V, AAUW, Rotaries, etc. instead of separate meetings. This led to a tremendous response from people.

The convention delegates realized they faced a real problem in submitting a complete document in one fell swoop. It is easier to stir up people against anything than for it. It seems to be a psychological fact that the anti people are more excited and active while the pros sit back and expect things to come out right without their support. They set out to combat this, to exert every effort to get out the vote. (There was a 46% turnout.) Also, it is much easier to pick one flaw to criticize or one item with which to take issue than it is to defend the whole package.

Mr. Eney felt that they were defeated more by the times than any other thing and this they could not have predicted. They lowered the voting age to 19 and then Columbia students took over the University, -- and strengthened civil rights and Dr. Martin Luther King was assassinated and Baltimore rioted for three days. There was a real breakdown of law and order, -- armed troops were in the streets, fires everywhere, busloads of prisoners brought to the courthouse -- some recent Supreme Court decisions seemingly heightened this sense of the breakdown in law and order, the general frustration over Viet Nam, both for those violently opposed to pursuing it and those strongly supporting getting it over with by escalation. He concluded that people now are just as afraid of "government" as they were 100 years ago, that they just don't understand it.

If he had it to do over he would submit voting age as a separate issue but he does not believe you can write a good Constitution piecemeal and submit it article by article, -- they are too interdependent.

He was baffled by the fact that the things they anticipated as controversial issues were not and vice-versa. There was no kick about raising the legislators' or Governor's salary, the longer sessions, the civil rights section of the Bill of Rights, the reorganization of the judicial section except for the abolition of lower courts and clerks, etc. On the other hand, the present Constitution does not even mention regional government at all, and the convention felt that the legislature's unrestricted power in this area should have certain limits, so they wrote in a section on it. The opposition jumped on this, mentioning that the old document has nothing about regional government and the new one will be the death of small municipalities. The people misunderstood the purpose of this section completely. The opposition also told the public that when the State took over the cost of all the judiciary no local supplementary money could go to judges' salaries, etc., -- that they would be taxed for 24 new county courthouses, -- this of course was not true. The opposition did not want to strengthen the executive with all those new appointive instead of elective offices. But the people couldn't seem to understand that the new Constitution would reduce his political power by decreasing agencies to 20 instead of 240, abolishing all the plums of the lower courts and creating a nominating commission in the judiciary. It would increase, rightly, his administrative power so that his authority would be commensurate with his responsibility.

When Mr. Eney was asked if they would try to make minor changes and re-submit the package at a more favorable time, he said no. The effort to get going on revision is tremendous, -- it was reapportionment that gave them the opportunity. Twenty-seven men and women put their hearts and souls into the commission's work with two and three day sessions a month since the summer of 1966 and held 143 sub-committee meetings in between. For six weeks Mr. Eney spent three-fourths of his time in Annapolis getting bills through the Legislature and then came the long campaign. These people wrote the best instrument they could conceive and they couldn't be expected to go through this whole thing again. It will be a long time before anything constructive comes of it all.

Mr. Eney suggested a committee to consider amendments, but the approach of this committee seems to be to take the old Constitution and re-massage it. Mr. Eney accepted the job as President of the Commission on one major understanding, -- that if all they were going to do was either to reword the old Constitution or give the public what they were sure the voters would accept, he wouldn't take it, but with a free hand to really revise it and try to bring the public along to realize the value of a good state government framework he would give it a try. He gave it a great try. He is a wonderful, heart-broken man right now. Mrs. Graham found it very difficult to express the depth of her admiration and respect for Mr. H. Vernon Eney.



Taken from "General Principles for a Good State Constitution"  
League of Women Voters of Dallas  
April 3, 1958

House Concurrent Resolution 13 passed by the 1957 Texas Legislature directs research toward constitutional revision by the Texas Legislative Council and calls for appointment of a Citizens' Advisory Committee.

To prepare ourselves to give thoughtful consideration to the reports of the Council we must first formulate a set of constitutional principles. Such principles are, of course, far too numerous to be covered in one unit meeting; therefore, four of these principles which seem most basic to a good state constitution have been selected for discussion at this meeting. The material presented here is from various standard sources and is put forth to promote thoughts and discussion on the part of the unit members. Each principle is designated by a Roman numeral.

# I. A FRAMEWORK OF BASIC LAW

## Bill of Rights

Discussion of this principle should begin with some definitions of the terms involved:

1. A constitution is a written instrument of government which embodies the fundamental law of a nation or state, creates governmental machinery, makes general grants of power or restrictions of power, and establishes general principles upon which the government is to operate.
2. Statutes are enactments by the legislature to carry out its grants of power through specific provisions.
3. A Bill of Rights sets forth specific privileges and immunities which establish the relation that shall exist between the governors and the governed.

No bill of rights is designed to cover all of the natural rights of the people; it has its basis, rather, in history. Rights set forth in this manner are those which at one time or another have been denied the people, or have been threatened. They are included in a bill of rights so that questions regarding them will have a constitutional basis for their guarantee.

Our Bill of Rights has its origin in the long struggle of the English people against arbitrary government, and its statements offer specific protection against tyranny as well as guarantees to the right to "life, liberty, and the pursuit of happiness."

A bill of rights is a declaration of the dignity of the individual as a member of a state and permits individuals to develop their full potentialities as human beings without fear of arbitrary encroachment on their basic rights.

The first ten amendments to the U.S. Constitution meet the demands of various states for a bill of rights. Most state constitutions simply list states'



rights already acknowledged by the federal constitution, rather than risk the chance that those rights retained by every state in the Union might sometime not be recognized.

#### Constitutional vs. Statutory Law

The question here is whether the proper function of a constitution is to set general principles to be followed by the legislature, or if the constitution itself should be specific in its provisions so as to amount to legislative enactment. In other words, how much of our law should be covered by constitutional provision, and how much by statute?

By definition a constitution is a body of fundamental law; its provisions are more permanent, more stable, and less subject to the need for frequent change than are the provisions of statutory law. Statutory law, on the other hand, is regarded as being more or less transitory in character, as being more concerned with current policies and practices, and less with those "eternal verities" of government which have been handed down generation after generation, from the past. A constitution is supposed to represent an attempt at stating the accumulated wisdom of the ages on the subject of government, while statutes are a contemporary effort to deal with problems of a current nature.

Drawing the line wisely between constitutional provision and statutory law can do much toward bringing order and efficiency into government operation. Since statutory provisions can be amended more readily as needs arise, functional and operational needs should be dealt with in this manner. Fundamental provisions for structure, organization, and procedure, as well as definitions of the powers of the various branches of the government should appear as constitutional provisions.

When detailed provisions which are rightfully of a statutory nature have crept into our constitution, they can be altered only by the cumbersome process of constitutional amendment. It is believed by many, also, that legislators, who make statutory changes, more nearly represent the entire citizenry than the pitifully small number of voters who usually take the trouble to vote on constitutional amendments.

#### Fair Representation

To approximate fair representation of the people in the affairs of government a system must be provided in the constitution for the electing of representatives to the legislature which will maintain a proper and equitable balance between urban and rural areas.

Basing the apportionment of representatives on population alone, with no limitations, favors the large cities where population is concentrated. Apportionment on the basis of an equal number of representatives for each governmental unit (as a county), places the advantage with the rural areas, making their influence exceed the proportion of the population included in their districts.

A system of checks and limitations is necessary in any such apportionment to assure fair representation. For example, Texas is divided into electoral districts, and apportionment for the House of Representatives is made on the basis of population with the following limitations:



No county may have more than seven representatives, and no district may be created which would allow for more than seven except when the county had more than 700,000 population in the last census. In this case, it may have one additional representative for every 100,000 population over 700,000.

For the Senate the state is divided into senatorial districts of contiguous territory based on the number of qualified electors. No one county may have more than one senator, and each district shall have one senator.

The problem of fair representation is one that plagues all of the states in the U.S. In Texas, for instance, there is feeling that the method for electing senators favors the rural areas and that the limitations on the large cities in the election of representatives puts them at a further disadvantage.

Needless to say, in such a changing and fluctuating system provision should be made in the constitution empowering the legislature to meet the reapportionment needs of the state as they arise.

## II. A CLEAR SEPARATION OF POWER

### Effective Balance of Power - Assumption of Full Responsibilities

The framers of the first state constitutions aimed to preclude a recurrence of despotism. They believed that the most effective way to prevent the abuse of power was to divide it into so many parts, and scatter it among so many officials that no one man could possibly obtain enough authority to make himself master. They established the governor as a somewhat feeble check upon the legislature, and the legislature as a very effective check upon the governor. The judiciary was designed to restrain all the other branches of government. Every official was supposed to curb every other official, so that a proper balance might be maintained. Had this creed been carried to its logical extreme, the immediate result probably would have been a complete deadlock.

During the last century and a half Americans have gradually been learning that they must concentrate authority in order to prevent the diffusion of responsibility. They have rejected many of the implications of the doctrine of the separation of powers, especially in the more progressive states. However, this doctrine has a very prominent place (see Article II) in our Texas constitution.

### Stronger Executive

The Texas constitution is similar to other early state constitutions of the U.S. in that it gives the governor little power. This precaution was taken because of the state's unhappy experiences during the period of reconstruction. The governor is called the head of the state, but he is surrounded by a group of officers whom he did not choose and whom he cannot remove. Some feel that control over state administration should be concentrated in the hands of the governor. Then he would be in a position to produce results, and if he should fail, he could not shift the blame to others. Concentration of authority makes possible concentration of responsibility. Others feel that concentration of power leads naturally to a abuse of power. They feel that one-man control is inherently dangerous, and it is especially dangerous when the administrative activities of an entire state are involved.



### The Short Ballot

In Texas we use a variation of the "Australian" ballot upon which the candidates are listed in a single column by groups under each office. Here, as in many states, the voter is asked to choose a horde of state officers. Concerning a few outstanding candidates he may have very definite views; the other names on the ballot are meaningless to him.

One remedy for the long lists of candidates now appearing is the short ballot -- a ballot which contains only the names of aspirants for major public offices. Other offices must then be filled by appointment. In state government, only the governor, the lieutenant governor and the members of the legislature should retain their elective status. If this were the case, the electorate could exercise greater discrimination in the selection of their representatives.

Though few states have shortened their ballots, the short ballot has been adopted by a considerable number of metropolitan centers and by hundred of smaller communities. It has received the support of many leading citizens -- statesmen, publicists and scholars.

### Annual Sessions of the Legislature

In 38 states, including Texas, the legislature meets in regular session at two-year intervals; in the other 10 states the legislature holds annual sessions. Our session is limited in time to the extent that pay is stopped after the first 120 days. Although it has been possible to limit the number of days in a session, it has proved totally impossible to restrict the number of matters requiring legislative action. Since our legislators are elected for a two-year term, this means that a new legislator attends only one session and then is through for the term. It takes almost a full session of the legislature for a new member to learn his job. Many advocates of annual sessions feel that they would alleviate hasty and ill-considered legislation.

An amendment to the Texas constitution calling for annual sessions of the legislature will be voted on in November of 1958.

### III. MAXIMUM HOME RULE FOR MUNICIPAL AND COUNTY GOVERNMENTS

There is great variety among the 254 counties of Texas. Population ranges from 227 in Loving County to 802,102 in Harris County (1950 census). Area varies from 147 square miles in Rockwall County to 6,208 square miles in Brewster County. Property values in Harris County are 500 times those in Real County.

Yet all county governments in Texas are organized in the same way, as prescribed by the state constitution. Only minor variations are allowed. A 1933 constitutional amendment allowing county home rule is so complex and unworkable that no county has been able to comply with its provisions.

Thus, each county is governed by a commissioners' court, composed of the county judge and four commissioners elected from precincts, and by other elected county officials: sheriff, attorney, treasurer, surveyor, clerks, school superintendent, school trustees, constables, judges, and justices of the peace. The county is little more than an agent of the state, its functions and sources of revenue being set out in detail by the state constitution and laws.



More effective county government is urgently needed:

1. A more flexible structure is needed to allow for different local conditions.
2. Administrative authority should be fixed, either in an elected chief executive or in an appointed county manager. This administrator would appoint and supervise all administrative personnel. Elected commissioners, or councilmen, would have policy-making powers only. For Dallas County, one recommendation is for eight appointed department heads, as follows: County Clerk, Sheriff, Prosecuting Attorney, and the directors of the departments of Finance, Health, Personnel, Public Works, and Welfare.
3. A merit system should be used for all appointive positions.
4. In areas of the state where counties have small populations, mergers should be effected to provide adequate services.
5. In counties which are largely urban, a consolidation of numerous city and county services is desirable to make possible county-wide planning and more efficient administration.
6. The scope of county self-government should be broadened so as to eliminate the necessity for the numerous "special laws" passed by the legislature concerning local matters.

Today the principal interest in revision of county government is in the metropolitan areas. Last year Harris County conducted an extensive study of its local governmental agencies and published a report suggesting that the 1959 legislature be called upon to submit a new county home rule amendment. The San Antonio Research and Planning Council is currently conducting a vigorous campaign to develop interest in county home rule.

A glance at governmental units within our own county will indicate the need for some method of over-all planning and administration. There are 73, as follows:

- 1 County government
- 29 Incorporated municipalities
- 1 Hospital district
- 4 Commissioners' precincts
- 20 School districts
- 4 Water control and improvement districts
- 4 Fresh water service districts
- 16 Levee districts

Developing through the years as needs arose, many of these units overlap and are uneconomic in size and shape. Where they are inadequate, the problem will become more serious as population increases. Improvement, whether through a strengthened county government or through other coordinating agencies, will require action at the state level.

(Note: this material was prepared 10 years ago prior to consensus-taking meetings on General Principles for a Good State Constitution)



Reserve

LEAGUE OF WOMEN VOTERS OF DALLAS

OCTOBER 1968

Proposed changes in Texas Constitution  
(Prepared by LWV of Texas)

#### ARTICLE I. BILL OF RIGHTS

The theory that certain rights are so vital to the people that they must be protected from infringement by their government is engrained in our nation's political tradition.

A bill or declaration of rights is contained in every state constitution. Many of the provisions found in these enumerated rights in state constitutions impose restrictions upon state governments that are identical to the limitations imposed upon the states by the United States Constitution. Nevertheless a state Bill of Rights remains an essential bulwark of the people's fundamental liberties.

While many of the sections of our present Bill of Rights are merely statements of general political theory and many could be more clearly and briefly expressed, the present Bill of Rights provides adequate protection to the individual and is responsive to the present and future needs of our modern society.

Hence the only changes made in Article I are: To substitute the word "person" or "persons" for "man" or "men" in Sections 3, 6, and 8 of Article I.

#### ARTICLE II. THE POWERS OF GOVERNMENT\*

This Article expresses the doctrine of separation of powers and it is recommended that it be retained in its present form.

However, for the reasons set forth in the Note thereunder, it is recommended that a proviso clause be added to this present Section 1 which would permit the Legislature to provide for de novo trial of orders of administrative agencies notwithstanding the separation of powers doctrine.

\* See Footnote 1.

#### ARTICLE III. LEGISLATIVE DEPARTMENT

In general, the provisions of the present Constitution relating to the Legislative Department are retained but with rearrangement of sections and deletion of obsolete provisions.

The major substantive changes made are:

(1) The requirement that the sessions of each House shall be open is extended to Executive sessions of the Senate by deletion of that exception.

(2) Substitution of a provision allowing the Legislature to fix its salaries and allowances for the present provision specifying such amounts.

(3) A new provision on Legislative Districts replacing present provisions which are in violation of the United States Constitution under the "one man - one vote" rule.



- (4) Deletion of requirements for "emergency clause" in bills.

#### ARTICLE IV. EXECUTIVE DEPARTMENT

While a number of major changes in this Article have been considered, it has been concluded that the present provisions should be retained with the following substantive changes:

(1) The term of the Governor is extended from two to four years and limited to one continuous term. In other words, a Governor serving a four year term is not eligible to succeed himself until the expiration of an intervening four year term.

(2) Elections of all the constitutional officers of the Executive Department shall be during non-presidential election years.

(3) A new provision is added giving the Governor the power of removal of appointive officers of the Executive Department.

(4) If a Governor-elect is unable for any reason to assume office during the entire first year of his elective term, the office becomes vacant and the Lieutenant Governor succeeds to it.

(5) The terms of the Secretary of State, Comptroller of Public Accounts, Treasurer, Commissioner of the General Land Office, and Attorney General are extended from two to four years.

#### ARTICLE V. JUDICIAL DEPARTMENT\*

A number of suggested changes for judicial reform were considered, including a unified judicial system under broad constitutional powers with the Supreme Court as the head of the judicial system and having administrative control over all lower courts.

However, it was concluded that present Article V, as amended, in the main has served the people of Texas well and establishes a sufficiently elastic judicial system to enable the Legislature to adapt the judicial system to changing conditions and meet the needs of the State which might develop in its future growth.

Therefore, the only major substantive changes made in this Article are:

(1) A new provision for a merit plan for the selection and tenure of the Justices of the Supreme Court and Judges of the Court of Criminal Appeals and deletion of present provisions requiring their election. Authority is given the Legislature to extend this method of selection to the Judges of all courts.

(2) In addition to its present powers and jurisdiction, authorizing the Court of Criminal Appeals to issue writs of mandamus in criminal cases under such regulations as may be prescribed by law.

(3) In addition to their present powers and jurisdiction authorizing the Courts of Civil Appeals to issue writs of habeas corpus in civil cases under such regulations as may be prescribed by law.

(4) A new provision requiring the Legislature to judicially redistrict after each decennial census but authorizing it to create and delegate this authority and responsibility to a Judicial Redistricting Board.

(5) A new provision permitting the Legislature to authorize more than one Judge for the same district court without having to create a new judicial district whenever more District Judges are needed.

(6) The Legislature is given the authority to increase the jurisdictional amounts presently specified for the District, County, and Justice Courts.

(7) Deletion of the requirement that there must be two Justices of the Peace in any precinct in which there may be a city of 8,000 or more inhabitants.

\* See Footnote 2



## ARTICLE VI SUFFRAGE\*

The substantive changes made in the present provisions of this Article are:

(1) To delete the present disqualification of "paupers supported by any county".

(2) To substitute for the present absolute disqualification of "idiots and lunatics" (terminology changed to "persons suffering from mental illness"), and felons, authority in legislature to establish disqualifications for voting for such persons.

(3) To require the vote shall be by secret ballot and to delete the specific requirement for "numbering of tickets".

\* See Footnote 3.

## ARTICLE VII. EDUCATION\*

In general, the provisions of the present Constitution pertaining to Education are retained with some reorganization of sections; clarification of language; deletion of obsolete or unnecessary provisions; elimination of detailed provisions for authorized investments of the various school funds and substitution therefor of authority in the Legislature to prescribe the authorized investments.

A major substantive change is the deletion of the present Constitutional limit of 85 million dollars and interest rate of 4% on the Texas College Student Loan Bonds.

\* See Footnote 4.

## ARTICLE VIII. TAXATION AND REVENUE\*

The present system of taxation and revenue appears to be adequate and satisfactory. Hence all effective provisions of present Article VIII of the 1876 Constitution, as amended, are retained but combined with clarifying changes in language where necessary and deletion of obsolete and repetitious provisions. Provision is made herein for inclusion in the appropriate section of the proposed amendments on this subject to be voted on November 5, 1968, in the event such changes are adopted.

The substantive changes made in existing provisions are:

(1) The present provision authorizing the Legislature to "tax income of both natural persons and corporations other than municipal" is changed to read "The Legislature may also tax incomes of either natural persons or corporations other than municipal, or both."

(2) A new provision is added to provide for more effective resort to the courts by an aggrieved taxpayer claiming unequal assessment on his property.

(3) Present provisions limiting the State tax on property exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, to Thirty-Five Cents (35¢) on the One Hundred Dollars (\$100) valuation, have been eliminated.

(4) Provisions in the present Article on Education providing for taxes for the public schools, Confederate and Ranger pensions, the State Building Fund, and the College Building Fund, have been incorporated in this Article. The only major change is to provide that the fixed Ten Cents (10¢) rate for the College Building Fund shall be "not less than Ten Cents (10¢)".

\*See Footnote 5



## ARTICLE IX. LOCAL GOVERNMENT

While retaining the present Constitutional framework of political subdivisions in Texas, recognition has been given to the need for substantial consolidation, revisions, and enlargement of present provisions to permit the achievement of efficient local government.

This is particularly necessary in the case of counties whose present governmental structure, from the largest to the smallest, is, in general form, frozen into the Constitution. This inflexibility has made the problem acute under modern conditions and needs and our expanding urban population. On the other hand, the present Constitutional provision relating to our municipalities have proven generally to be satisfactory and studies have not indicated need for any drastic revision of these provisions. The present city home rule provisions of our Constitution is regarded as one of the most liberal and best written in the Nation.

Present Articles IX. Counties and XI. Municipal Corporations are combined in this revised Article IX. Local Government.

The major substantive changes made in existing provisions are:

(1) The Legislature is authorized, subject to electoral approval, to change and alter boundaries of counties.

(2) Only one justice precinct is required in each county instead of the present four.

(3) The present governmental organization and powers of counties are retained but the Legislature is authorized, subject to electoral approval, to provide for optional plans of county government or home rule charters.

(4) The Legislature is authorized, subject to electoral approval, to provide for the consolidation of counties and political subdivisions and functions in a county.

(5) The Legislature is authorized to provide for contracts between local governmental bodies for the transfer and administration of powers.

(6) The Legislature is authorized, subject to electoral approval, to provide for the creation of special districts and authorities composed of one or more contiguous counties or all or any part of one or more counties.

(7) The present limitation on the tax rate of home rule cities for operating expenses is removed. The limitation on the tax rate for indebtedness is changed from two and one-half percent ( $2\frac{1}{2}\%$ ) of the taxable property to any such city to ten percent (10%) of the assessed valuation of the city's taxable property.

Consideration was given to a provision for Regional Governments including two or more counties but it was concluded that the authorization for consolidation of counties and of local government offices and functions should be sufficient to provide the flexibility to meet future needs and problems of local governments.

## ARTICLE X. RETIREMENT, DISABILITY AND DEATH BENEFITS\*

This new Article includes all present Constitutional provisions relating to retirement, disability and death benefits for teachers and other employees of the State, county, municipalities, and other political subdivisions, and social security coverage. Because of their importance and highly technical nature it is believed logical and a more orderly arrangement to have all of these provisions included in one Article on the subject.



While there is an unusual amount of statutory detail in some of these Sections, it appears that they were purposely drawn and adopted in this form to provide assurance of stability in the systems to the participating employees and in administration.

Consideration has been given to substituting a general authorization to the Legislature to provide for these benefits, leaving the specificity to legislative enactments. However, it appears that the Legislature now has this authority, since these provisions do not enable what otherwise would be prohibited by other sections of the Constitution. The principal function actually performed by the present provisions is limiting and, as stated, to provide assurance of stability in the system to the participants and in administration.

While there is provision in the present sections for transfers of credits between the teachers and state employees retirement systems, such interchangeability is not provided for other public employees. Many career public servants work at times for different units of the government and their credits and benefits earned under one system should be transferable to another system. To correct this inequity, a new provision has been added authorizing the Legislature to provide for the transfer of credits and benefits between systems by all classes of employees who are paid in whole or in part by the State or any of its political subdivisions.

Consideration was given to a proposal that there should be a general prohibition against an employee receiving benefits from more than one public retirement fund. This was rejected.

\* See Footnote 6.

#### ARTICLE XI. IMPEACHMENT\*

This is present Article XV which is renumbered XI in this revised Constitution.

The only changes made in the present provisions of this Article are to substitute the word "Justices" for "Judges" where the reference is to the Supreme Court and the words "Court of Criminal Appeals, Court of Civil Appeals" for "court of Appeal" to conform to the present designation and court system. With these minor textual changes, the present sections are retained.

\* See Footnote 7.

#### ARTICLE XII. GENERAL PROVISIONS\*

This is present Article XVI which has been renumbered XII in this revised Constitution.

In addition to deletion of numerous obsolete and unnecessary present provisions of this Article (listed in Chapter \_\_\_\_ hereof titled Deleted Provisions of Present Constitution), there has been considerable rearrangement of sections retained and by transfer to other Articles of the revised Constitution and transfer to this Article of retained sections from other Articles. (See Chapter \_\_\_\_ hereof titled Cross Reference Table.)

The major substantive changes made in the present sections retained in this Article are in revised Section 7 (present Section 30) fixing the maximum duration

\* See Footnote 8.



of all offices not otherwise fixed by this Constitution at four years instead of two; and in revised Section 14 (present Section 51) dealing with the amount and value of the homestead, the change being to add a provision authorizing the Legislature to fix the total value of the land and improvements which is exempt as a rural or urban homestead.

#### ARTICLE XIII. AMENDMENT OR REVISION OF CONSTITUTION\*

This is present Article XVII of the Constitution and is renumbered XIII in this revised Constitution.

The substantive changes made in this Article are to authorize the submission by the Legislature of a complete or substantial revision of the Constitution in addition to the present "separate Amendment" submission; to provide that such proposals may be made at any session of the Legislature; and to provide that publication may be in a "daily" as well as in a "weekly" newspaper.

\* See Footnote 9.

#### DELETED PROVISIONS OF PRESENT CONSTITUTION

These sections are deleted because they are either (a) obsolete due to the passage of time; (b) have been held invalid by the courts; (c) are unnecessary or repetitious; or (d) the subject matter can be left to legislative enactment. A list (seven (7) pages) of deleted sections is included in the full report.

A full discussion of most of these provisions (as they existed in 1960) will be found in the Report on Constitutional Revision to the 57th Legislature by the Texas Legislative Council.

#### FOOTNOTES

Footnote 1. Constitutional Revision Report to the 57th Legislature by the Texas Legislative Council. Volume II, pages 84-107.

Footnote 2. Ibid. Volume II, pages 372-438.

" 3. " " III, " 1-35.

" 4. " " " " 36-97.

" 5. " " " " 98-142

" 6. " " II " 222-234 and Volume III, page 325.

" 7. " " III " 198-215.

" 8. " " " " 216-325.

" 9. " " I " 31-34.



TCR

October, 1968  
Resource

CONSENSUS QUESTIONS for review of CON CON position

1. Of the methods of approach to revision, do you still consider Constitutional Convention preceded by a constitutional commission to complete and evaluate research basic to its success, the best method for revision?
  - a. If the answer is yes, do you consider this the only satisfactory method for revision?
  - b. If the answer is no, what method do you prefer? Do you consider your choice the only satisfactory method of revision?
2. Do you believe the League should be in a position to support alternate methods within League principles?

LEAGUE PRINCIPLES

- ...A framework of basic law
  - ...A clear separation of powers with responsibility definitely assigned
  - ...Provisions for justice with a minimum of delay
  - ...Qualifications for voter eligibility and guarantee of fair elections
  - ...A coordinate finance structure capable of flexibility
  - ...Maximum home rule for municipal and county government with coordination of overlapping functions
  - ...Provisions for support of public education
  - ...Provisions for support of public health and welfare services
  - ...Provisions for amendment and revision
  - ...Basic policies regarding state employee selection, retention, and promotion
3. Do you believe that the proposals to be voted on should be submitted to the voters singly or in a package?



TCK

Oct. 1968 Voter INSERT

Letter to each individual member of the Texas Constitutional Revision  
Commission from Mrs. W. E. Jocr, president of the League of Women Voters of Texas

LEAGUE OF WOMEN VOTERS OF TEXAS  
1841 Bingle Road  
Houston, Texas 77055

August 21, 1968

Mr. Robert G. Storey  
Southwestern Legal Foundation  
Post Office Box 8017  
Dallas, Texas 75202

Dear Mr. Storey:

The League of Women Voters of Texas has long recognized the need for abbreviation, clarification, codification and modernization of the present Texas Constitution. The proposed new constitution answers this need to an admirable degree. The League feels that adequate revision also requires certain substantive changes and offers the following comments:

#### POLITICAL SUBDIVISIONS

We support the following sections under Article IX, Local Government:

- Section 3. Structure of county government; optional plans; county charter; powers.
- Section 4. Consolidation of governmental offices and functions in counties.
- Section 5. Contracts for performance of governmental functions.
- Section 6. Special Districts and Authorities.

These sections agree with the League position that there should be a single article in the Texas Constitution encompassing provisions for units of local government expressed in broad and permissive principles, and provide flexibility and adequate powers at the local level necessary to meet the needs of our expanding metropolitan areas.

#### JUDICIAL BRANCH

We are gratified that a unified judicial system has been considered by members of the Commission, even though it is not among the reforms recommended. We believe that the judicial department could administer justice more swiftly and economically if it were given a unified organization under a single administrative head. Perhaps authorization of more than one judge for the same district court (Article V, Section 8-b) is a beginning toward unification.

The new provision for a merit plan for the selection and tenure of the justices of the Supreme Court and judges of the Court of Criminal Appeals (Article V, Section 6) is in harmony with the League position and has the full support of the League. The proposal has a realistic answer to the need for change.

Since incumbent judges, faced with increasing case-loads, must devote time to political campaigning, they have become in practice part-time judges. However, the most potentially dangerous aspect of our present system is the



necessity to raise campaign expenses. Expense reports reveal donations from businesses and individuals who might be litigants in the courts of these candidates. Since the judiciary should be beyond suspicion, the merit system of judicial selection would eliminate this problem. A substantial number of states have abolished the partisan elective system for the more enlightened and less expensive merit system. Many able judges are attracted to the bench who would not have subjected themselves to partisan political campaigns.

When the merit system is accepted by the people of Texas, it is our hope that the legislature will exercise its authority, as proposed in Article V, Section 6-i, to extend the merit system to include the Courts of Civil Appeals.

#### LEGISLATIVE BRANCH

The League supports measures that provide for changes in the Texas Legislature which will make it more effective in solving the problems of our complex society. We think that annual sessions are necessary to give them this effectiveness. Many other states with growth comparable to the state of Texas are adopting some forms of annual sessions to meet the demands on state government. Article III, Section 4, calling for sessions every two years will restrict future flexibility in the legislative process. If the proposed Section 4 is adopted, legislators will be dependent upon the incumbent governor for calling a Special Session if yearly appropriations or other yearly business requires their attention.

#### SUFFRAGE

For a number of years we have worked for measures to promote full participation by all Texans in the election process. Many of the measures we have supported are now a part of the Texas Election Code. We applaud the progress made. We are particularly pleased that the subcommittee has seen fit to recommend retention of the present Section 2-a of Article VI as Section 3 of the proposed revision.

However, we feel that further improvement in the conduct of the elections is impeded by the existing requirement for annual voter registration, which was recommended for retention. Removal of the annual registration requirement will enable the legislature to consider adoption of measures which will provide greater voter convenience, ease of administration and safeguards against fraud. For this reason we urge that the word "annually" following the phrase "shall have registered" be deleted from Section 2-b of the proposed revision.

Sincerely yours,

(Signed) Mrs. William E. Joor



TOR  
Q-4, 1968  
Insert  
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