

OFFICIAL JOURNAL of the CONSTITUTIONAL CONVENTION of the STATE OF TEXAS

SIXTH DAY
(Wednesday, January 16, 1974)

CONSTITUTIONAL CONVENTION PROPOSALS AND RESOLUTION REFERRED

The following Constitutional Convention Proposals and Resolution were referred to the Committee indicated:

CONSTITUTIONAL CONVENTION PROPOSAL 7

By Delegates Baker and Harris:

To Committee on General Provisions.

C.C.P. 7, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to access to state-owned beaches.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That a section be included in Article X to read as follows:

Section ____ ACCESS TO STATE-OWNED BEACHES. It is hereby declared and affirmed to be the public policy of this State that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, or such larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico, in the event the public has acquired a right of use or easement to or over such area by prescription or dedication, or has retained a right by virtue of continuous right in the public.

CONSTITUTIONAL CONVENTION PROPOSAL 8

By Delegate Hale:

To Committee on the Judiciary.

C.C.P. 8, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Providing for a complete revision of the judiciary of Texas and the suggested text for language for an Article V of the new Constitution of Texas.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

Section 1. That the following sections of Article V of the Constitution of the State of Texas, as amended, be repealed: Section

1, Section 1a, Section 2, Section 3, Section 3a, Section 3b, Section 4, Section 5, Section 6, Section 7, Section 8, Section 10, Section 11, Section 12, Section 13, Section 14, Section 22, Section 25, Section 26, Section 27.

Sec. 2. That the following sections of Article V of the Constitution of the State of Texas, as amended, be renumbered as follows:

Current Section Number	New Section Number
9	15
15	7
16	8
17	9
18	10
19	11
20	16
21	17
23	18
24	19
28	20
29	21
30	22

Sec. 3. That Article V of the Constitution of the State of Texas, as amended, be amended by adding the following sections:

"Section 1. JUDICIAL POWER. The judicial power of the state is vested in one supreme court, courts of appeals, district courts, county courts, circuit courts, justice courts, and in such other courts of limited jurisdiction inferior to the district courts as exist on the effective date of this article. The jurisdiction of all courts shall be as provided by law, notwithstanding any other provision in this constitution. Jurisdiction of all courts of the same level shall be uniform throughout the state.

"Section 2. SUPREME COURT. (a) The supreme court shall consist of the chief justice of Texas and eight other justices. It may sit in sections of not less than three justices.

"(b) The supreme court shall be the highest court of the state. It shall have the duty and authority to provide for the efficient and just operation of the judicial system. It may transfer cases from one court to any other court of a different level.

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

"Section 3. COURTS OF APPEALS. There shall be one or more courts of appeals as provided by law, each consisting of a chief judge and two or more judges, of whom not less than three shall sit in any case.

"Section 4. DISTRICT COURTS. The state shall be divided by law, or by an agency acting under authority of law, into geographical judicial districts. In each district there shall be one district court with one or more district judges and such other officials as provided in this article or by law.

"Section 5. CIRCUIT COURTS. The legislature shall create circuit courts, and one circuit court may serve two or more counties. Each circuit court shall be staffed with judges and such other officials

Wednesday, January 16, 1974

as provided by law.

"Section 6. SELECTION AND TENURE OF JUSTICES AND JUDGES OF THE SUPREME COURT, COURTS OF APPEALS, DISTRICT COURTS, AND CIRCUIT COURTS. (a) This section shall apply to the chief justice of Texas, justices of the supreme court, chief judge and judges of the courts of appeals, judges of the district courts, and judges of the circuit courts.

"(b) Justices and judges shall be elected for six-year terms.

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

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

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

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

"Section 12. ADMINISTRATION. (a) The chief justice of Texas is the administrative head of the judicial system. Pursuant to rules of administration prescribed by the judicial council, he may transfer cases from any court of appeals to any other court of appeals, delegate administrative powers to active or retired judges appointed by him as presiding judges, and temporarily assign to any court any judge or lawyer who meets the qualifications established for a judge of that court. By such assignments, the membership of any court may be temporarily increased.

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

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

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

functions as provided by law.

"Section 13. JUDICIAL MISCONDUCT. (a) Any justice or judge of any court in the state may be removed from office, suspended, or censured by the supreme court for willful or persistent conduct which is clearly inconsistent with the proper performance of his duties or which casts public discredit upon the judiciary or the administration of justice. Any justice or judge may be involuntarily retired by the supreme court for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

"(b) There is hereby established a judicial qualifications commission to consist of four judges, including two judges of the courts of appeals and two district judges, chosen by the supreme court; two members of the State Bar of Texas chosen by the board of directors of the state bar under regulations prescribed by the supreme court; and three citizens not licensed to practice law appointed by the governor. The term of office of a commissioner shall be six years. The commission shall operate under rules promulgated by the supreme court and shall have the power to issue a private reprimand or an order of public censure and to recommend to the supreme court suspension, removal, or retirement of any justice, judge, or other judicial officer.

"(c) All papers filed with and proceedings before the commission shall be confidential, and the filing of papers with, and the giving of testimony before, the commission or the supreme court shall be privileged; provided that upon being filed in the supreme court the record loses its confidential character.

"Section 14. FINANCING. The state shall pay the salaries of the chief justice of Texas, justices of the supreme court, chief judges and judges of the courts of appeals, judges of the district court, and judges of the circuit courts, and such other expenses of the judicial system as provided by law. The legislature may by law provide for reimbursement to the state for all or part of such expense from funds collected by courts.

"Section 23. TRANSITIONAL PROVISIONS. (a) On the effective date of this article, the chief justice of the supreme court shall become the chief justice of Texas. The presiding judge and other judges of the court of criminal appeals and associate justices of the supreme court shall become justices of the supreme court. Each commissioner of the court of criminal appeals shall become a commissioner of the supreme court, but when he ceases to hold that position, it shall cease to exist. The offices of the first five justices, other than the chief justice, who cease to be members of the supreme court after the effective date of this article shall cease to exist.

"(b) Chief justices of the courts of civil appeals shall become chief judges of the courts of appeals; justices of the courts of civil appeals shall become judges of the courts of appeals; each district judge or judge of a criminal district court, domestic relations court, or special juvenile court, shall become a judge of a district court; each judge of a county court at law, county civil court at law, county court for criminal

Wednesday, January 16, 1974

cases, county criminal court, county court for criminal appeals, and county probate court shall become a judge of a circuit court.

"(c) Any participant in a county retirement, disability and death compensation fund who becomes a district or circuit judge pursuant to Subsection (b) of this section shall have the option of continuing his participation in the county fund or transferring his membership, service credit, and contributions to the state judicial retirement system under such regulations as provided by law. Notwithstanding anything to the contrary herein, any judge or justice who receives supplementary compensation from a political subdivision of the State of Texas in addition to his compensation from the State of Texas, may participate in any applicable retirement or pension system for the employees of such political subdivision, to the extent of such supplementary compensation, as well as, and in addition to, participating in the Judicial Retirement System of Texas to the extent of the salary paid to him by the State of Texas.

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

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

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

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

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

"(i) Until otherwise provided by law, or unless otherwise expressly provided in this amendment, the jurisdiction of all courts, and the qualifications, selection and tenure of judges of all courts and of other officials will be the same as provided by law prior to the effective date of this amendment.

"(j) When any subsection of these transitional provisions has been executed,

the supreme court shall certify that fact to the secretary of state and thereafter that subsection shall no longer be part of this constitution.

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

CONSTITUTIONAL CONVENTION PROPOSAL 9

By Delegate Hale:

To Committee on the Judiciary.

C.C.P. 9, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Providing for a complete revision of the judiciary of Texas and the suggested text for language for an Article V of the new Constitution of Texas.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

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

"Section 1. JUDICIAL POWER. (a) The judicial power of the state shall be vested in a unified judicial system, which shall include one supreme court, courts of appeals, district courts, circuit courts, and such other courts as authorized by this article. No other courts may be established by the state, any political subdivision, or any municipality. All courts in the judicial system shall have jurisdiction as provided by general law.

"(b) The jurisdiction of the courts within each level of the system shall be uniform throughout the state. Except for the supreme court and courts of appeals, all courts may be divided into geographic divisions and functional subdivisions as provided by law not inconsistent with this article or by judicial rules not inconsistent with law.

"Section 2. SUPREME COURT. The supreme court shall be the highest court of the state. The court shall consist of the chief justice of Texas and eight other justices. It may sit in sections of not less than three justices.

"Section 3. COURT ADMINISTRATION. (a) The supreme court shall have the duty and authority to provide for the efficient and just operation of the judicial system. With the approval of the supreme court the chief justice shall appoint an administrative director of the courts and such deputies and assistants as authorized by law. In accordance with rules of administration, the court may supervise and direct the transfer of cases and assignment of active or retired judges from one court or division thereof to another in order to facilitate the prompt disposition of judicial business. By the assignment of judges, the membership of any court may be temporarily increased.

"(b) The administrative director shall assist the supreme court in the performance of its administrative duties and shall serve as director of the judicial council and judicial qualifications commission.

"(c) There is hereby created a judicial council, which shall have such membership as

Wednesday, January 16, 1974

provided by law. The council shall promulgate rules of administration, which become effective upon approval by the supreme court. The council shall perform such other duties as provided by law.

"Section 4. JUDICIAL CONDUCT. (a) All justices and judges shall devote full time to judicial duties. They shall not, while in office, engage in the practice of law or other gainful employment. They shall not hold any other public office under the United States, this state, or a subdivision thereof. If any justice or judge files as a candidate for any elective nonjudicial office, his judicial office shall immediately become vacant. No justice or judge may, directly or indirectly, make any contribution to, or hold any office in, a political party or organization.

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

"(c) There is hereby established a judicial qualifications commission, which shall have such membership as provided by law. The commission shall operate under rules promulgated by the supreme court and shall have the power to issue a private reprimand or an order of public censure and to recommend to the supreme court suspension, removal, or retirement of any justice, judge, or other judicial officer.

"(d) All papers filed with and proceedings before the commission shall be confidential, and the filing of papers with, and the giving of testimony before, the commission or the supreme court shall be privileged. Upon being filed in the supreme court, the record shall lose its confidential character.

"Section 5. PROCEDURAL RULES. The supreme court may prescribe rules of procedure not inconsistent with this article or the laws of this state. Any rule of procedure expressly disapproved by either house of the legislature shall have no effect. Under regulations which shall be provided by law, no rule of procedure may take effect until the legislature has the opportunity to disapprove it.

"Section 6. JUDICIAL DISTRICTS. The state shall be divided by law, or by an agency acting under the authority of law, into geographical judicial districts consisting of one or more counties. Each county may be included in only one district. Within each district, there shall be one court of appeals, one district court, and one circuit court.

"Section 7. COURTS OF APPEALS. Each court of appeals shall consist of three or more judges, elected within the respective judicial district, of whom not less than three shall sit in any case. The chief justice of Texas shall designate the chief

judge of each court from among the elected members of the court.

"Section 8. TRIAL COURT DIVISIONS. Each judicial district shall be divided by law, or by an agency acting under authority of law, into trial court divisions consisting of one or more counties. Each county may be included in only one division. Within each division, there shall be elected one or more circuit court judges and one or more district court judges, as provided by law.

"Section 9. SELECTION AND TENURE OF JUSTICES AND JUDGES. (a) Each justice of the supreme court and each judge of the courts of appeals shall be elected for a six-year term.

"(b) Each judge of a district court or a circuit court shall be elected for a four-year term.

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

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

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

"(f) Any vacancy in the office of a justice or judge shall be filled by appointment of the governor until the next general election.

"Section 10. PROSECUTING ATTORNEYS. (a) With such exceptions as may be provided by law, a county attorney shall be elected by the qualified voters of each county. Each county attorney shall be commissioned by the governor and hold his office for a term of four years. In case of vacancy, the county commission of the county shall have the power to appoint a county attorney until the next general election. The county attorneys shall represent the state in all cases in the district and inferior courts in their respective counties; but if any county is included in a trial court division in which there is a district attorney, the respective duties of district attorneys and county attorneys in such counties shall be regulated by the legislature.

"(b) The legislature may provide for the election of district attorneys in such trial court divisions as may be deemed necessary and make provision for the compensation of district attorneys and county attorneys. District attorneys shall hold office for a term of four years and until their successors have qualified.

"Section 11. DISTRICT CLERKS. There shall be a district clerk of the circuit court and district court of each county. The clerk shall be elected by the qualified voters for state and county officers. The clerk shall hold office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the judges of the district court and circuit court in the division in which the county is located shall have power to appoint a clerk to serve until the next general election. Each clerk shall have such deputies and other personnel as authorized by law.

Wednesday, January 16, 1974

"Section 12. FINANCING. The state shall pay the salaries of the justices, judges, and other personnel of the supreme court, courts of appeals, district courts, and circuit courts. Those officials and employees shall be paid exclusively by the state and may receive no other compensation from any political subdivision or municipality. The state shall pay such other expenses of the judicial system as provided by law, and the legislature may provide for reimbursement to the state for all or part of such expense from funds collected by courts.

"Section 13. COUNTY GOVERNMENT. (a) The qualified voters of each county shall elect a chairman of the county commission, who may be directed by general law to perform magisterial functions under the supervision of the circuit court. Each county shall be divided into four commissioners precincts, and the qualified voters of each precinct shall elect one county commissioner. The chairman and the four commissioners shall compose the county commission, which shall exercise such powers and jurisdiction over all county business as conferred by the constitution and laws of this state. The chairman and commissioners shall hold office for four years and until their successors are elected and qualified.

"(b) There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for a term of four years, whose duties and perquisites and fees of office shall be prescribed by the legislature. Vacancies in the office of sheriff shall be filled by the county commission until the next general election.

"(c) There shall be elected for each county, by the qualified voters, a county clerk, who shall hold office for a term of four years. The county clerk shall be clerk of the county commission and recorder of the county. The duties, perquisites, and fees of the office shall be prescribed by the legislature. A vacancy in the office of county clerk shall be filled by the county commission until the next general election. The legislature may authorize combining the offices of county clerk and district clerk in all counties having less than a certain population level as fixed by law.

"(d) The county commission of each county, from time to time, may divide the county into one or more precincts for the election of justices of the peace and constables. In each precinct there shall be elected one or more justices of the peace and one or more constables, each of whom shall hold his office for a term of four years and until a successor is elected and qualified.

"(e) Justices of the peace shall have such jurisdiction as provided by general law. They shall be ex officio notaries public and shall hold their courts at such times and places as may be provided by law. With such exceptions as may be provided by law, they shall be subject to the provisions of Section 4 of this Article.

"(f) The officers enumerated in this section may be removed from office for such causes and in such manner as may be provided by law.

"Section 14. MUNICIPAL COURTS. By general law, the legislature may authorize

municipal corporations to establish and maintain municipal courts having jurisdiction throughout the corporate limits of the municipality. The courts shall have jurisdiction prescribed by general law. The judges of the courts shall be elected for terms equal to the term of the chief executive officer of the municipal corporation. Vacancies in the office of municipal judge shall be filled by the governing body of the municipal corporation until the next regular election. With such exceptions as may be provided by law, the judges shall be subject to the provisions of Section 4 of this article.

"Section 15. TRANSITIONAL PROVISIONS. (a) The transitional provisions enumerated in this section shall take effect on the dates specified in Subsection (1).

"(b) The chief justice of the supreme court shall become the chief justice of Texas. The presiding judge and other judges of the court of criminal appeals and associate justices of the supreme court shall become justices of the supreme court. Each commissioner of the court of criminal appeals shall become a commissioner of the supreme court, but when he ceases to hold that position, it shall cease to exist. The offices of the first five justices, other than the chief justice, who cease to be members of the supreme court by reason of death, removal, resignation, or retirement after the effective date of this article shall cease to exist; provided, however, the death, removal, resignation, or retirement of an incumbent after having been defeated at a primary or general election shall not terminate the office.

"(c) Chief justices of the courts of civil appeals shall become chief judges of the courts of appeals for the remainder of the terms for which elected; justices of the courts of civil appeals shall become judges of the courts of appeals for the remainder of the terms for which elected; each district judge or judge of a criminal district court, domestic relations court, or special juvenile court shall become a judge of a district court for the remainder of the term for which elected; each judge of a county court at law, county civil court at law, county court for criminal cases, county criminal court, county court for criminal appeals, and county probate court shall become a judge of a circuit court for the remainder of the term for which elected.

"(d) Any participant in a county retirement, disability and death compensation fund who becomes a circuit court or district court judge pursuant to Subsection (c) of this section shall have the option of continuing his participation in the county fund or transferring his membership, service credit, and contributions to the state judicial retirement system. Any other participant in a county retirement, disability and death compensation fund who becomes a state official or employee, receiving a salary from the state, shall have the option of continuing his participation in the county fund or transferring his membership, service credit, and contributions to the state employees retirement system.

"(e) Each judge of a county court shall become chairman of the respective county commission for the remainder of the term for

Wednesday, January 16, 1974

which elected, except that a county judge licensed to practice law may elect to become a judge of the circuit court in the trial court division in which he resides, under regulations provided by law. In the event of such an election, the office of chairman of the county commission shall be vacant and shall be filled by the commission until the next succeeding general election.

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

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

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

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

"(j) Until otherwise provided by law, or unless otherwise expressly provided in this article, the jurisdiction of all courts, and the qualifications, selection, and tenure of judges of all courts and of other officials shall be the same as provided by law prior to the effective date of this article.

"(k) Notwithstanding any other provision of this article, the initial trial court divisions of the state shall be the judicial districts in effect on the effective date of this article, and the initial judicial districts of the state shall be the supreme judicial districts in effect on the effective date of this article. These divisions and districts shall remain in effect until otherwise provided by law.

"(1) (1) The legislature shall adopt legislation implementing the provisions of this article to take effect on September 1, 1975. Legislation enacted in anticipation of the adoption of this amendment shall not be invalid by reason of its anticipatory nature.

"(2) Except for the provisions of this subsection, which take effect upon adoption of this amendment, this article shall take effect on September 1, 1975.

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

CONSTITUTIONAL CONVENTION PROPOSAL 10

By Delegates Temple, Head, Hoestenbach, Munson, Mengden, Miller, Blythe, Jones of El Paso, Nugent, Waters, Wilson, Salem, Bigham, and McDonald of Dallas.

To Committee on the Legislative.

C.C.P. 10, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Reserving the power of initiative in the people.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article III:

Section ____ INITIATIVE. (a) The people reserve to themselves the power to propose laws and constitutional amendments and to enact the same at the polls independently of the legislature. This power is known as the initiative.

(b) An initiative petition shall contain the full text of the measure proposed and, to be valid, shall be signed by qualified voters equal in number to at least 10 percent of the total vote cast for Governor in the last preceding gubernatorial election. Before a petition is circulated, the attorney general shall determine whether the petition is of constitutional stature or more appropriately statutory in form. The attorney general's opinion shall be rendered within 20 days after receipt of the petition. The opinion is subject to judicial review by the Supreme Court and the petition shall conform to the final decision.

(c) Initiative petitions containing the required number of signatures shall be filed with the Secretary of State, who shall put the question on the ballot at the first general state election held not less than 90 days after the petition is filed. Each initiative measure shall be submitted by a ballot proposition which shall be descriptive, but not argumentative or prejudicial.

(d) An initiative measure is adopted if it is approved by a majority of those voting on the question. An adopted measure becomes a law or becomes a part of the Constitution, as the case may be, 90 days after the final canvass and declaration of the results of the election. The veto power of the Governor shall not extend to initiative measures.

(e) The initiative provisions of this Constitution are self-executing and shall be treated as mandatory. Laws may be enacted to facilitate their operation, but no law shall be enacted to hamper, restrict, or impair the exercise of the power herein reserved to the people.

CONSTITUTIONAL CONVENTION PROPOSAL 11

By Delegates Temple, Head, Hoestenbach, Mengden, Miller, Munson, Blythe, Jones of El Paso, Nugent, Waters, Salem, Wilson, McDonald of Dallas, Bigham and Spurlock.

To Committee on the Legislative.

C.C.P. 11, A PROPOSAL FOR INCORPORATION

Wednesday, January 16, 1974

IN THE CONSTITUTION OF TEXAS

Reserving the power of referendum in the people.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article III.

Section _____. REFERENDUM. (a) The people reserve to themselves the power to approve or reject at the polls any act passed by the legislature. This power is known as the referendum.

(b) A referendum petition shall be signed by qualified voters equal in number to at least 10 percent of the total vote cast for Governor in the preceding gubernatorial election. The petition shall be filed with the Secretary of State within 90 days after the subject legislation becomes a law. The Secretary of State shall order an election to be held on the referendum measure not less than 90 days nor more than 120 days after the petition is filed.

(c) A referendum may be ordered upon any act or part of an act except taxes or appropriations. When a valid referendum petition is filed upon an act or any part of an act, it shall suspend the operation thereof until such act or part is approved by a majority of those voting on the question. If not approved, the act or part shall be deemed repealed. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of the act from becoming operative.

(d) Each referendum measure shall be submitted by ballot proposition which shall be descriptive, but not argumentative or prejudicial.

(e) The referendum provisions of this Constitution are self-executing and shall be treated as mandatory. Laws may be enacted to facilitate their operation, but no law shall be enacted to hamper, restrict, or impair the exercise of the power herein reserved to the people.

CONSTITUTIONAL CONVENTION PROPOSAL 12

By Delegate Heatly:

To Committee on the Judiciary.

C.C.P. 12, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Providing an article on the Judicial Department.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article V read as follows:

Article V. JUDICIAL DEPARTMENT

Section 1. JUDICIAL POWER; COURTS IN WHICH VESTED. The judicial power of this State shall be vested in one Supreme Court, in Courts of Civil Appeals, in a Court of Criminal Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Sec. 1-a. RETIREMENT, CENSURE, AND REMOVAL OF JUSTICES AND JUDGES; STATE JUDICIAL QUALIFICATIONS COMMISSION. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant when the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe; but, in the case of an incumbent whose term of office includes the effective date of this Amendment, this provision shall not prevent him from serving the remainder of said term nor be applicable to him before his period or periods of judicial service shall have reached a total of ten (10) years.

(2) There is hereby created the State Judicial Qualifications Commission, to consist of nine (9) members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) three (3) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, and those of class (iiii) by appointment of the Governor with advice and consent of the Senate.

(3) The regular term of office of Commissioners shall be six (6) years; but the initial members of each of classes (i), (ii) and (iii) shall respectively be chosen for terms of four (4) and six (6) years, and the initial members of class (iiii) for respective terms of two (2), four (4) and six (6) years. Interim vacancies shall be filled in the same manner as vacancies due to expiration of a full term, but only for the unexpired portion of the term in question. Commissioners may succeed themselves in office only if having served less than three (3) consecutive years.

(4) Commissioners shall receive no compensation for their services as such. The Legislature shall provide for the payment of the necessary expense for the operation of the Commission.

Wednesday, January 16, 1974

Associate Justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this state, and unless he shall have attained the age of thirty-five years, and shall have been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this Constitution takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified.

Sec. 3. JURISDICTION OF SUPREME COURT; WRITS; SESSIONS; CLERK. The Supreme Court shall have appellate jurisdiction only except as herein specified, which shall be co-extensive with the limits of the State. Its appellate jurisdiction shall extend to questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such restrictions and regulations as the Legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide.

Sec. 3a. SESSIONS OF COURT. The Supreme Court may sit at any time during the year at the seat of government for the transaction of business and each term thereof

shall begin and end with each calendar year.

Sec. 3-b. APPEAL FROM ORDER GRANTING OR DENYING INJUNCTION. The Legislature shall have the power to provide by law, for an appeal direct to the Supreme Court of this State from an order of any trial court granting or denying an interlocutory or permanent injunction on the grounds of the constitutionality or unconstitutionality of any statute of this State, or on the validity or invalidity of any administrative order issued by any state agency under any statute of this State.

Sec. 4. COURT OF CRIMINAL APPEALS; JUDGES. The Court of Criminal Appeals shall consist of five Judges, one of whom shall be Presiding Judge, a majority of whom shall constitute a quorum, and the concurrence of three Judges shall be necessary to a decision of said court. Said Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court. They shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

The Judges of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall become Judges of the Court of Criminal Appeals and continue in office until the expiration of the term of office for which each has been elected or appointed under the present Constitution and laws of this state, and until his successor shall have been elected and qualified.

Sec. 5. JURISDICTION OF COURT OF CRIMINAL APPEALS; TERMS OF COURT; CLERK. The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law.

The Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The Court of Criminal Appeals shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

The Court of Criminal Appeals may sit for the transaction of business at any time from the first Monday in October to the last Saturday in September in each year, at the State Capitol. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

The Clerk of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall continue in office for the term of his appointment.

Sec. 6. COURTS OF CIVIL APPEALS; TRANSFER OF CASES; TERMS OF JUDGES. The

Wednesday, January 16, 1974

Legislature shall divide the State into such Supreme judicial districts as the increase of population and business may require, and shall establish a Court of Civil Appeals in each of said districts, which shall consist of a Chief Justice and two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. Said Court of Civil Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all civil cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error.

Each of said Courts of Civil Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years and shall receive for their services the sum provided by law. Said courts shall have such other jurisdiction, original and appellate as may be prescribed by law. Each Court of Civil Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court which clerk shall receive such compensation as may be fixed by law.

Sec. 7. JUDICIAL DISTRICTS; DISTRICT JUDGES; TERMS OR SESSIONS; ABSENCE, DISABILITY OR DISQUALIFICATION OF JUDGE. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a General Election, a Judge, who shall be a citizen of the United States and of this State, who shall be licensed to practice law in this State and shall have been a practicing lawyer or a Judge of a Court in this State, or both combined, for four (4) years next preceding his election, who shall have resided in the district in which he was elected for two (2) years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period of four (4) years, and shall receive for his services an annual salary to be fixed by the Legislature. The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. He shall hold the regular terms of his Court at the County Seat of each County in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each Court as it may deem necessary.

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

The District Judges who may be in office when this Constitution takes effect shall hold their offices until their respective

terms shall expire under their present election or appointment.

Sec. 8. JURISDICTION OF DISTRICT COURT. The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections, and said court and the judges thereof, shall have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all writs necessary to enforce their jurisdiction.

The District Court shall have appellate jurisdiction and general control in probate matters, over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors under such regulations as may be prescribed by law. The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

The district court, concurrently with the county court, shall have the general jurisdiction of a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law. In any proceeding involving the general jurisdiction of a probate court, including such specified proceedings, the district court shall also have all other jurisdiction conferred upon the district court by law. The legislature, however, shall have the power, by local or general law, Section 16 of Article V of this Constitution notwithstanding, to increase, diminish or eliminate the jurisdiction of either the district court or the county court in probate matters, and in cases of any such change of jurisdiction, the legislature shall

Wednesday, January 16, 1974

also conform the jurisdiction of the other courts to such change. The legislature shall have power to adopt rules governing the filing, distribution and transfer of all such cases and proceedings as between district courts, county courts, and other courts having jurisdiction thereof, and may provide that all appeals in such matters shall be to the courts of (civil) appeals.

Sec. 9. CLERK OF DISTRICT COURT. There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

Sec. 10. TRIAL BY JURY. In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

Sec. 11. DISQUALIFICATION OF JUDGES; EXCHANGE OF DISTRICTS; HOLDING COURT FOR OTHER JUDGES. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals, or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes. When a judge of the District Court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

And the District Judges may exchange districts, or hold courts for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied and vacancies in their offices filled as may be prescribed by law.

Sec. 12. JUDGES TO BE CONSERVATORS OF THE PEACE; STYLE OF WRITS AND PROCESS; PROSECUTIONS IN NAME OF STATE; CONCLUSION. All judges of courts of this State, by virtue of their office, be conservators of the peace throughout the State. The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: "Against the peace and dignity of the State."

Sec. 13. NUMBER OF GRAND AND PETIT

JURORS; NUMBER CONCURRING. Grand and petit juries in the District Courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the District Courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

Sec. 14. JUDICIAL DISTRICTS AND TIME OF HOLDING COURT FIXED BY ORDINANCE. The Judicial Districts in this State and the time of holding the Courts therein are fixed by ordinance forming part of this Constitution, until otherwise provided by law.

Sec. 15. COUNTY COURT; COUNTY JUDGE. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law.

Sec. 16. COUNTY COURTS; JURISDICTION; APPEALS TO COURT OF CIVIL APPEALS AND COURT OF CRIMINAL APPEALS; DISQUALIFICATION OF JUDGE. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have exclusive jurisdiction in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction of civil appeals in civil cases to the Court of Civil Appeals and in such criminal cases to the Court of Criminal Appeals, with such exceptions and under such regulations as may be prescribed by law.

The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis

Wednesday, January 16, 1974

and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court to the Court of Criminal Appeals. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law.

Sec. 17. TERMS OF COUNTY COURT; PROSECUTIONS; JURIES. The County Court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation as may be provided by law, and said court shall hold a term for criminal business once in every month as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall enquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled to try a civil case unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

Sec. 18. DIVISION OF COUNTIES INTO PRECINCTS; ELECTION OF CONSTABLE AND JUSTICE OF THE PEACE; COUNTY COMMISSIONERS AND COUNTY COMMISSIONERS COURT. Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. Divisions shall be made by the Commissioners Court provided for by this Constitution. In

each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of 8,000 or more inhabitants, there shall be elected two Justices of the Peace. Each county shall in like manner be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

Sec. 19. JUSTICES OF THE PEACE; JURISDICTION; APPEALS; EX OFFICIO NOTARIES PUBLIC; TIMES AND PLACES OF HOLDING COURT. Justices of the Peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the District or County Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs; and in all criminal cases under such regulations as may be prescribed by law. And the justices of the peace shall be ex officio notaries public. And they shall hold their courts at such times and places as may be provided by law.

Sec. 20. COUNTY CLERK. There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall be clerk of the County and Commissioners Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided, that in counties having a population of less than 8,000 persons there may be an election of a single Clerk, who shall perform the duties of District and County Clerks.

Sec. 21. COUNTY ATTORNEYS; DISTRICT ATTORNEYS. A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there

Wednesday, January 16, 1974

shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

Sec. 22. CHANGING JURISDICTION OF COUNTY COURTS. The Legislature shall have power, by local or general law, to increase, diminish or change the civil and criminal jurisdiction of County Courts; and in cases of any such change of jurisdiction, the Legislature shall also conform the jurisdiction of the other courts to such change.

Sec. 23. SHERIFFS. There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

Sec. 24. REMOVAL OF COUNTY OFFICERS. County Judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers, may be removed by the Judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

Sec. 25. RULES OF COURT. The Supreme Court shall have power to make and establish rules of procedure not inconsistent with the laws of the State for the government of said court and the other courts of this State to expedite the dispatch of business therein.

Sec. 26. CRIMINAL CASES; NO APPEAL BY STATE. The State shall have no right of appeal in criminal cases.

Sec. 27. VACANCIES IN JUDICIAL OFFICES. Vacancies in the office of judges of the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals and the District Courts shall be filled by the Governor until the next succeeding General Election; and vacancies in the office of County Judge and Justices of the Peace shall be filled by the Commissioners Court until the next succeeding General Election.

Sec. 28. COUNTY COURT; TERMS OF COURT; PROBATE BUSINESS; COMMENCEMENT OF PROSECUTIONS; JURY. The County Court shall hold at least four terms for both civil and criminal business annually, as may be provided by the Legislature, or by the Commissioners Court of the county under authority of law, and such other terms each year as may be fixed by the Commissioners Court; provided, the Commissioners Court of any county having fixed the times and number of terms of the County Court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time or vacation, under such regulation as may be prescribed by law. Prosecutions may be

commenced in said courts in such manner as is or may be provided by law, and a jury therein shall consist of six men.

Sec. 29. JUDGES OF COURTS OF COUNTY-WIDE JURISDICTION; CRIMINAL DISTRICT ATTORNEYS. The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, and all Criminal District Attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified.

CONSTITUTIONAL CONVENTION PROPOSAL 13

By Delegates Bailey and Menefee:

To Committee on Finance.

C.C.P. 13, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to highway-user revenues.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article VIII, Section 3, read as follows:

Section 3. HIGHWAY-USER REVENUES. Subject to legislative appropriation, allocation, and direction, all net revenues from motor vehicle registration fees and three-fourths of net revenues from all taxes on fuels and lubricants used to propel motor vehicles over public roadways, except gross production and ad valorem taxes, shall be deposited in the State Highway Fund. Such revenues shall be used solely for acquiring rights-of-way, constructing and maintaining a State highway system and mass transit systems necessary for the public convenience; for policing public roadways; and for administering laws pertaining to the supervision of traffic and safety on public roadways. Not more than one-fourth of the State Highway Fund may be expended on mass transit systems. One-fourth of net revenues from these taxes shall be allocated to the Available School Fund. The net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each county, or less than the percentage allowed to be retained, under the laws in effect at the time of adoption of this Constitution.

CONSTITUTIONAL CONVENTION PROPOSAL 14

By Delegate Heatly:

To Committee on the Judiciary.

C.C.P. 14, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Providing an article on the Judicial Department.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article V read as follows:

Article V. JUDICIAL DEPARTMENT
Section 1. JUDICIAL POWER; COURTS IN

Wednesday, January 16, 1974

WHICH VESTED. The judicial power of this State shall be vested in one Supreme Court, in Courts of Civil Appeals, in a Supreme Court of Criminal Appeals, in Intermediate Courts of Criminal Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Sec. 1-a. RETIREMENT, CENSURE, AND REMOVAL OF JUSTICES AND JUDGES; STATE JUDICIAL QUALIFICATIONS COMMISSION. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant when the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe; but, in the case of an incumbent whose term of office includes the effective date of this Constitution, this provision shall not prevent him from serving the remainder of said term nor be applicable to him before his period or periods of judicial service shall have reached a total of ten (10) years.

(2) There is hereby created the State Judicial Qualifications Commission, to consist of nine (9) members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) three (3) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, and those of class (iiii) by appointment of the Governor with advice and consent of the Senate.

(3) The regular term of office of Commissioners shall be six (6) years; but the initial members of each of classes (i), (ii) and (iii) shall respectively be chosen for terms of four (4) and six (6) years, and the initial members of class (iiii) for respective terms of two (2), four (4) and six (6) years. Interim vacancies shall be filled

in the same manner as vacancies due to expiration of a full term, but only for the unexpired portion of the term in question. Commissioners may succeed themselves in office only if having served less than three (3) consecutive years.

(4) Commissioners shall receive no compensation for their services as such. The Legislature shall provide for the payment of the necessary expense for the operation of the Commission.

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least five (5) members.

(6)A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, and any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature.

B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private reprimand, or if the Commission determines that the situation merits such action, it may order a hearing to be held before it concerning the removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of

Wednesday, January 16, 1974

this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, and the filing of papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged; provided that upon being filed in the Supreme Court the record loses its confidential character.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.

(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution.

Sec. 2. SUPREME COURT; JUSTICES; SECTIONS; ELIGIBILITY; ELECTION; VACANCIES.

The Supreme Court shall consist of a Chief Justice and eight Associate Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to the office of Chief Justice or Associate Justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this state, and unless he shall have attained the age of thirty-five years, and shall have been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this Constitution takes effect shall continue in office until the expiration of their term of office and until their successors are elected and qualified.

Sec. 3. JURISDICTION OF SUPREME COURT; WRITS; SESSIONS; CLERK. The Supreme Court shall have appellate jurisdiction only except as herein specified, which shall be co-extensive with the limits of the State. Its appellate jurisdiction shall extend to questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such restrictions and regulations as the Legislature may prescribe. Unless otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he

Wednesday, January 16, 1974

may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide.

Sec. 3a. SESSIONS OF COURT. The Supreme Court may sit at any time during the year at the seat of government for the transaction of business and each term thereof shall begin and end with each calendar year.

Sec. 3-b. APPEAL FROM ORDER GRANTING OR DENYING INJUNCTION. The Legislature shall have the power to provide by law, for an appeal direct to the Supreme Court of this State from an order of any trial court granting or denying an interlocutory or permanent injunction on the grounds of the constitutionality or unconstitutionality of any statute of this State, or on the validity or invalidity of any administrative order issued by any state agency under any statute of this State.

Sec. 4. SUPREME COURT OF CRIMINAL APPEALS; JUDGES. The Supreme Court of Criminal Appeals shall consist of five Judges, one of whom shall be Presiding Judge, a majority of whom shall constitute a quorum, and the concurrence of three Judges shall be necessary to a decision of said court. Said Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court. They shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Supreme Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

The Judges of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall become Judges of the Supreme Court of Criminal Appeals and continue in office until the expiration of the term of office for which each has been elected or appointed and until his successor shall have been elected and qualified.

Sec. 5. JURISDICTION OF SUPREME COURT OF CRIMINAL APPEALS; TERMS OF COURT; CLERK. The Supreme Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law, and shall have jurisdiction to review the decisions of the Intermediate Courts of Criminal Appeals, under such regulations as may be provided by law or be prescribed by rules adopted by the Supreme Court of Criminal Appeals.

The Supreme Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and such court shall have power to issue writs of mandamus, prohibition, procedendo, and certiorari, and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The Supreme Court of Criminal Appeals shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its

jurisdiction.

The Supreme Court of Criminal Appeals may sit for the transaction of business at any time from the first Monday in October to the last Saturday in September in each year, at the State Capitol. The Supreme Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

The Clerk of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall continue in office for the term of his appointment.

Sec. 6. COURTS OF CIVIL APPEALS; TRANSFER OF CASES; TERMS OF JUDGES. The Legislature shall divide the State into such Supreme judicial districts as the increase of population and business may require, and shall establish a Court of Civil Appeals in each of said districts, which shall consist of a Chief Justice and two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. Said Court of Civil Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all civil cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error.

Each of said Courts of Civil Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a [a] term of six years and shall receive for their services such compensation as may be provided by law. Said courts shall have such other jurisdiction, original and appellate as may be prescribed by law. Each Court of Civil Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court which clerk shall receive such compensation as may be fixed by law.

Sec. 6a. INTERMEDIATE COURTS OF CRIMINAL APPEALS. The Legislature shall divide the State into four judicial districts with each of the cities of Fort Worth, Dallas, San Antonio, and Houston in a separate district, and shall establish an Intermediate Court of Criminal Appeals in each of the districts, which shall consist of a Chief Justice and two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. The Intermediate Court of Criminal Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all criminal cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. The decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error.

Wednesday, January 16, 1974

The Intermediate Courts of Criminal Appeals shall hold their sessions in the cities of Fort Worth, Dallas, San Antonio, and Houston, and at such time as may be prescribed by law. The Justices shall be elected by the qualified voters of their respective districts at a general election for a term of six years and shall receive for their services such compensation as may be provided by law. The courts shall have such other jurisdiction as may be prescribed by law. Each Intermediate Court of Criminal Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court, which clerk shall receive such compensation as may be fixed by law.

All criminal cases which may be pending in the Court of Criminal Appeals shall as soon as practicable after the organization of the Intermediate Courts of Criminal Appeals be certified to, and the records thereof transmitted to the proper Intermediate Courts of Criminal Appeals to be decided by said courts.

On the effective date of the enabling legislation to establish an Intermediate Court of Criminal Appeals in each of four judicial districts, the governor, with the advice and consent of the Senate, shall appoint for each court a Chief Justice and two Associate Justices to serve until the next general election. The Chief Justice and Associate Justices first elected after this Constitution goes into effect hold office as follows: one shall serve two years, one shall serve four years, and one shall serve six years. Their terms shall be decided by lot immediately after they shall have qualified, and one Justice shall be elected every two years thereafter. In case of vacancy in said office, the governor shall fill the vacancy by appointment until the next general election.

Sec. 7. JUDICIAL DISTRICTS; DISTRICT JUDGES; TERMS OR SESSIONS; ABSENCE, DISABILITY OR DISQUALIFICATION OF JUDGE. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a General Election, a Judge, who shall be a citizen of the United States and of this State, who shall be licensed to practice law in this State and shall have been a practicing lawyer or a Judge of a Court in this State, or both combined, for four (4) years next preceding his election, who shall have resided in the district in which he was elected for two (2) years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period of four (4) years, and shall receive for his services an annual salary to be fixed by the Legislature. The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. He shall hold the regular terms of his Court at the County Seat of each County in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each

Court as it may deem necessary.

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

The District Judges who may be in office when this Constitution takes effect shall hold their offices until their respective terms shall expire under their present election or appointment.

Sec. 8. JURISDICTION OF DISTRICT COURT. The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections, and said court and the judges thereof, shall have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all writs necessary to enforce their jurisdiction.

The District Court shall have appellate jurisdiction and general control in probate matters, over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors under such regulations as may be prescribed by law. The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

The district court, concurrently with the county court, shall have the general jurisdiction of a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law. In any proceeding involving the general jurisdiction of a probate court, including such specified proceedings, the district court shall also have all other jurisdiction conferred upon

Wednesday, January 16, 1974

the district court by law. The legislature, however, shall have the power, by local or general law, Section 16 of Article V of this Constitution notwithstanding, to increase, diminish or eliminate the jurisdiction of either the district court or the county court in probate matters, and in cases of any such change of jurisdiction, the legislature shall also conform the jurisdiction of the other courts to such change. The legislature shall have power to adopt rules governing the filing, distribution and transfer of all such cases and proceedings as between district courts, county courts, and other courts having jurisdiction thereof, and may provide that all appeals in such matters shall be to the courts of (civil) appeals.

Sec. 9. CLERK OF DISTRICT COURT. There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

Sec. 10. TRIAL BY JURY. In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

Sec. 11. DISQUALIFICATION OF JUDGES; EXCHANGE OF DISTRICTS; HOLDING COURT FOR OTHER JUDGES. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the Supreme Court, the Supreme Court of Criminal Appeals, the Court of Civil Appeals, the Intermediate Court of Criminal Appeals, or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes. When a judge of the District Court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

And the District Judges may exchange districts, or hold courts for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied and vacancies in their offices filled as may be prescribed by law.

Sec. 12. JUDGES TO BE CONSERVATORS OF THE PEACE; STYLE OF WRITS AND PROCESS; PROSECUTIONS IN NAME OF STATE; CONCLUSION.

All judges of courts of this State, by virtue of their office, be conservators of the peace throughout the State. The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: "Against the peace and dignity of the State."

Sec. 13. NUMBER OF GRAND AND PETIT JURORS; NUMBER CONCURRING. Grand and petit juries in the District Courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the District Courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

Sec. 14. JUDICIAL DISTRICTS AND TIME OF HOLDING COURT FIXED BY ORDINANCE. The Judicial Districts in this State and the time of holding the Courts therein are fixed by ordinance forming part of this Constitution, until otherwise provided by law.

Sec. 15. COUNTY COURT; COUNTY JUDGE. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law.

Sec. 16. COUNTY COURTS; JURISDICTION; APPEALS TO COURT OF CIVIL APPEALS AND COURT OF CRIMINAL APPEALS; DISQUALIFICATION OF JUDGE. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have exclusive jurisdiction in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original

Wednesday, January 16, 1974

jurisdiction of civil appeals in civil cases to the Court of Civil Appeals and in such criminal cases to the Intermediate Court of Criminal Appeals, with such exceptions and under such regulations as may be prescribed by law.

The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court to the Intermediate Court of Criminal Appeals. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law.

Sec. 17. TERMS OF COUNTY COURT; PROSECUTIONS; JURIES. The County Court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation as may be provided by law, and said court shall hold a term for criminal business once in every month as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall inquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled to try a civil case unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

Sec. 18. DIVISION OF COUNTIES INTO PRECINCTS; ELECTION OF CONSTABLE AND JUSTICE OF THE PEACE; COUNTY COMMISSIONERS AND COUNTY COMMISSIONERS COURT. Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. Divisions shall be made by the Commissioners Court provided for by this Constitution. In each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of 8,000 or more inhabitants, there shall be elected two Justices of the Peace. Each county shall in like manner be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

Sec. 19. JUSTICES OF THE PEACE; JURISDICTION; APPEALS; EX OFFICIO NOTARIES PUBLIC; TIMES AND PLACES OF HOLDING COURT. Justices of the Peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the District or County Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs; and in all criminal cases under such regulations as may be prescribed by law. And the justices of the peace shall be ex officio notaries public. And they shall hold their courts at such times and places as may be provided by law.

Sec. 20. COUNTY CLERK. There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall be clerk of the County and Commissioners Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided, that in counties having a population of less than 8,000 persons there may be an election of a single Clerk, who shall perform the duties of District and County Clerks.

Sec. 21. COUNTY ATTORNEYS; DISTRICT ATTORNEYS. A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be

Wednesday, January 16, 1974

commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

Sec. 22. CHANGING JURISDICTION OF COUNTY COURTS. The Legislature shall have power, by local or general law, to increase, diminish or change the civil and criminal jurisdiction of County Courts; and in cases of any such change of jurisdiction, the Legislature shall also conform the jurisdiction of the other courts to such change.

Sec. 23. SHERIFFS. There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

Sec. 24. REMOVAL OF COUNTY OFFICERS. County Judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers, may be removed by the Judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

Sec. 25. RULES OF COURT. The Supreme Court shall have power to make and establish rules of procedure not inconsistent with the laws of the State for the government of said court and the other courts of this State to expedite the dispatch of business therein.

Sec. 26. CRIMINAL CASES; NO APPEAL BY STATE. The State shall have no right of appeal in criminal cases.

Sec. 27. VACANCIES IN JUDICIAL OFFICES. Vacancies in the office of judges of the Supreme Court, the Supreme Court of Criminal Appeals, the Court of Civil Appeals, the Intermediate Court of Criminal Appeals, and the District Courts shall be filled by the Governor until the next succeeding General Election; and vacancies in the office of County Judge and Justices of the Peace shall be filled by the Commissioners Court until the next succeeding General Election.

Sec. 28. COUNTY COURT; TERMS OF COURT; PROBATE BUSINESS; COMMENCEMENT OF PROSECUTIONS; JURY. The County Court shall hold at least four terms for both civil and criminal business annually, as may be provided by the Legislature, or by the

Commissioners' Court of the county under authority of law, and such other terms each year as may be fixed by the Commissioners' Court; provided, the Commissioners' Court of any county having fixed the times and number of terms of the County Court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time or vacation, under such regulation as may be prescribed by law. Prosecutions may be commenced in said courts in such manner as is or may be provided by law, and a jury therein shall consist of six men.

Sec. 29. JUDGES OF COURTS OF COUNTY-WIDE JURISDICTION; CRIMINAL DISTRICT ATTORNEYS. The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, and all Criminal District Attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified.

CONSTITUTIONAL CONVENTION PROPOSAL 15

By Delegates Schwartz and Caldwell:

To Committee on General Provisions.

C.C.P. 15, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to corporations with banking and discounting privileges.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the section on corporations with banking and discounting privileges read as follows:

Section _____. CORPORATIONS WITH BANKING AND DISCOUNTING PRIVILEGES. No corporate body with banking and discounting privileges may engage in business at more than one place, which shall be designated in its charter. No foreign corporation, other than the national banks of the United States, may exercise banking or discounting privileges in this State.

CONSTITUTIONAL CONVENTION PROPOSAL 16

By Delegate Hutchison:

To Committee on Finance.

C.C.P. 16, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS:

Proposing that The Legislature Be Authorized to Consolidate Bond Issuing and Debt Creation Functions of State Boards, Agencies, Commissions, Officers and Officials.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the Constitution of Texas Include the following:

"The Legislature shall be authorized to transfer all bond issuing and/or debt creating powers vested by this Constitution in a specified State board, agency,

Wednesday, January 16, 1974

commission, officer or official to another or different State board, agency, officer, commission or official, and/or it shall be further authorized to consolidate any or all of such powers into one or more single State boards, agencies, commissions, officers or officials, and, in any event, to regulate and prescribe the powers, rights, duties and obligations of any such State Board, Agency, Commission, Officer or Official, and to prescribe the terms, provisions, and conditions of any such bonds or debt."

CONSTITUTIONAL CONVENTION PROPOSAL 17

By Delegates Sage and Nowlin:

To Committee on Finance.

C.C.P. 17, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS:

Relating to state taxes on personal income.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article VIII, Section 4, read as follows:

Section 4. The Legislature shall not approve any act authorizing the levying of taxes on personal income.

CONSTITUTIONAL CONVENTION PROPOSAL 18

By Delegate Denson:

To Committee on Rights and Suffrage.

C.C.P. 18, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to juvenile rights.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article I:

Section _____. The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this Constitution unless specifically precluded by law which enhances the protection of such persons.

CONSTITUTIONAL CONVENTION PROPOSAL 19

By Delegate Denson:

To Committee on Local Government.

C.C.P. 19, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to local government.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article IX, Section 10 read as follows:

Section 10. Within the calendar year following that in which each federal

decennial census is published, and at such other times as the governing body of any political subdivision may deem necessary, each governing body shall divide its geographical area into districts for the election of those representatives to the governing body. The districts shall be composed of contiguous territory and shall be as compact and as nearly equal in population as practicable.

CONSTITUTIONAL CONVENTION PROPOSAL 20

By Delegate Denson:

To Committee on Education.

C.C.P. 20, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to public fund support of religious schools.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article VII, Section 3 read as follows:

Section 3. Public funds shall not be used for support of religious, church-affiliated, or proprietary schools.

CONSTITUTIONAL CONVENTION PROPOSAL 21

By Delegate Denson:

To Committee on Rights and Suffrage.

C.C.P. 21, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to a right to privacy.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article I:

Section _____. The people's right to privacy, in their communications and otherwise, shall not be violated by the State or private persons. Neither the State nor private persons shall intercept any communication by the use of any electronic, mechanical or artificial device without the request of at least one party to the communication. Evidence obtained in or by reason of violation of this section shall not be received or used for any purpose in any proceeding.

CONSTITUTIONAL CONVENTION PROPOSAL 22

By Delegate Miller:

To Committee on General Provisions.

C.C.P. 22, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to homesteads.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the section on homesteads read as follows:

Wednesday, January 16, 1974

Section 1. HOMESTEADS. (a) The homestead of a family or of a single adult is protected from forced sale for the payment of all debts, except for purchase money therefor, taxes due thereon, and work and material used in constructing improvements thereon if the work and material are contracted for in writing by the owner and if, in the case of married persons, both spouses consent to the contract in the manner required for sale of a homestead. A homestead of married persons may be sold only with the consent of both spouses, except that when the homestead is the community property or the separate property of the spouse desiring to sell, it may be sold as provided by law without consent of the other spouse if the latter is incompetent, has disappeared, or has deserted the spouse desiring to sell. A homestead of married persons may be abandoned only with the consent of both spouses, except that it may be abandoned as provided by law without consent of one spouse if that spouse is incompetent, has disappeared, or has deserted the spouse desiring to abandon the homestead. No mortgage, trust deed, or other lien on a residential homestead may be valid except for the purchase money therefor or improvements made thereon, contracted for as provided above. Liens may be created on nonresidential homesteads but only in the manner required for conveyances thereof. All pretended sales of a homestead involving any condition of defeasance shall be void.

(b) The homestead not in a city, town, or village consists of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon. Of the two hundred acres, only fifty acres on which the home is located may be classified as residential, and the rest shall be classified as nonresidential. The homestead in a city, town, or village consists of land valued at the time of establishment thereof, without reference to the value of any improvements thereon, at not more than ten thousand dollars or any larger sum as may be provided by law. A homestead in a city, town, or village may be a residential homestead if used as a home and a nonresidential homestead if used as a place for the exercise of the calling or business of the homestead claimant, whether a single adult or the head of a family. A house temporarily rented does not lose its status as a homestead so long as no other homestead is acquired.

(c) The homestead of married persons shall descend and vest as does any other real property, except that the homestead may not be partitioned so long as it is used and occupied as a home either by the surviving spouse, or by minor children if the use and occupancy have been granted by an appropriate court.

CONSTITUTIONAL CONVENTION RESOLUTION 10

By Delegate Hale:

To Committee on Rules.

C.C.R. 10, BE IT RESOLVED by the Constitutional Convention of Texas, That Rule XV, Section 2, of the Rules of Procedure is amended to read as follows:

Section 2. Five copies of each amendment, identical in text, shall be filed with the President. When the amendment is read, all copies filed with the President shall go to the Secretary. No amendment offered from the floor shall be in order unless and until the sponsoring Delegate has complied with the provisions of this section with respect to copies of such amendment. If the amendment exceeds one page in length, the sponsoring Delegate must provide to the Secretary a minimum of fifteen copies to be available for distribution to Delegates requesting copies of such amendment. If the amendment is only one page in length or less, the Secretary will immediately proceed to have additional copies made and available for those Delegates requesting copies of such amendment. The provisions of this section with respect to extra copies shall not apply to committee reports or to amendments which do nothing more than delete material from the proposal or resolution.

OFFICIAL JOURNAL of the CONSTITUTIONAL CONVENTION of the STATE OF TEXAS

SIXTH DAY
(Wednesday, January 16, 1974)

CONSTITUTIONAL CONVENTION PROPOSALS AND RESOLUTION REFERRED

The following Constitutional Convention Proposals and Resolution were referred to the Committee indicated:

CONSTITUTIONAL CONVENTION PROPOSAL 7

By Delegates Baker and Harris:

To Committee on General Provisions.

C.C.P. 7, A PROPOSAL FOR INCORPORATION
IN THE CONSTITUTION OF TEXAS

Relating to access to state-owned
beaches.

BE IT PROPOSED BY THE CONSTITUTIONAL
CONVENTION OF TEXAS:

That a section be included in Article X
to read as follows:

Section ____ ACCESS TO STATE-OWNED
BEACHES. It is hereby declared and affirmed
to be the public policy of this State that
the public, individually and collectively,
shall have the free and unrestricted right of
ingress and egress to and from the
state-owned beaches bordering on the seaward
shore of the Gulf of Mexico, or such larger
area extending from the line of mean low tide
to the line of vegetation bordering on the
Gulf of Mexico, in the event the public has
acquired a right of use or easement to or
over such area by prescription or dedication,
or has retained a right by virtue of
continuous right in the public.

CONSTITUTIONAL CONVENTION PROPOSAL 8

By Delegate Hale:

To Committee on the Judiciary.

C.C.P. 8, A PROPOSAL FOR INCORPORATION
IN THE CONSTITUTION OF TEXAS

Providing for a complete revision of the
Judiciary of Texas and the suggested text for
language for an Article V of the new
Constitution of Texas.

BE IT PROPOSED BY THE CONSTITUTIONAL
CONVENTION OF TEXAS:

Section 1. That the following sections
of Article V of the Constitution of the State
of Texas, as amended, be repealed: Section

1, Section 1a, Section 2, Section 3, Section
3a, Section 3b, Section 4, Section 5, Section
6, Section 7, Section 8, Section 10, Section
11, Section 12, Section 13, Section 14,
Section 22, Section 25, Section 26, Section
27.

Sec. 2. That the following sections of
Article V of the Constitution of the State of
Texas, as amended, be renumbered as follows:

Current Section Number	New Section Number
9	15
15	7
16	8
17	9
18	10
19	11
20	16
21	17
23	18
24	19
28	20
29	21
30	22

Sec. 3. That Article V of the
Constitution of the State of Texas, as
amended, be amended by adding the following
sections:

"Section 1. JUDICIAL POWER. The
judicial power of the state is vested in one
supreme court, courts of appeals, district
courts, county courts, circuit courts,
justice courts, and in such other courts of
limited jurisdiction inferior to the district
courts as exist on the effective date of this
article. The jurisdiction of all courts
shall be as provided by law, notwithstanding
any other provision in this constitution.
Jurisdiction of all courts of the same level
shall be uniform throughout the state.

"Section 2. SUPREME COURT. (a) The
supreme court shall consist of the chief
justice of Texas and eight other justices.
It may sit in sections of not less than three
justices.

"(b) The supreme court shall be the
highest court of the state. It shall have
the duty and authority to provide for the
efficient and just operation of the judicial
system. It may transfer cases from one court
to any other court of a different level.

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

"Section 3. COURTS OF APPEALS. There
shall be one or more courts of appeals as
provided by law, each consisting of a chief
judge and two or more judges, of whom not
less than three shall sit in any case.

"Section 4. DISTRICT COURTS. The state
shall be divided by law, or by an agency
acting under authority of law, into
geographical judicial districts. In each
district there shall be one district court
with one or more district judges and such
other officials as provided in this article
or by law.

"Section 5. CIRCUIT COURTS. The
legislature shall create circuit courts, and
one circuit court may serve two or more
counties. Each circuit court shall be
staffed with judges and such other officials

Wednesday, January 16, 1974

as provided by law.

"Section 6. SELECTION AND TENURE OF JUSTICES AND JUDGES OF THE SUPREME COURT, COURTS OF APPEALS, DISTRICT COURTS, AND CIRCUIT COURTS. (a) This section shall apply to the chief justice of Texas, justices of the supreme court, chief judge and judges of the courts of appeals, judges of the district courts, and judges of the circuit courts.

"(b) Justices and judges shall be elected for six-year terms.

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

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

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

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

"Section 12. ADMINISTRATION. (a) The chief justice of Texas is the administrative head of the judicial system. Pursuant to rules of administration prescribed by the judicial council, he may transfer cases from any court of appeals to any other court of appeals, delegate administrative powers to active or retired judges appointed by him as presiding judges, and temporarily assign to any court any judge or lawyer who meets the qualifications established for a judge of that court. By such assignments, the membership of any court may be temporarily increased.

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

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

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

functions as provided by law.

"Section 13. JUDICIAL MISCONDUCT. (a) Any justice or judge of any court in the state may be removed from office, suspended, or censured by the supreme court for willful or persistent conduct which is clearly inconsistent with the proper performance of his duties or which casts public discredit upon the judiciary or the administration of justice. Any justice or judge may be involuntarily retired by the supreme court for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

"(b) There is hereby established a judicial qualifications commission to consist of four judges, including two judges of the courts of appeals and two district judges, chosen by the supreme court; two members of the State Bar of Texas chosen by the board of directors of the state bar under regulations prescribed by the supreme court; and three citizens not licensed to practice law appointed by the governor. The term of office of a commissioner shall be six years. The commission shall operate under rules promulgated by the supreme court and shall have the power to issue a private reprimand or an order of public censure and to recommend to the supreme court suspension, removal, or retirement of any justice, judge, or other judicial officer.

"(c) All papers filed with and proceedings before the commission shall be confidential, and the filing of papers with, and the giving of testimony before, the commission or the supreme court shall be privileged; provided that upon being filed in the supreme court the record loses its confidential character.

"Section 14. FINANCING. The state shall pay the salaries of the chief justice of Texas, justices of the supreme court, chief judges and judges of the courts of appeals, judges of the district court, and judges of the circuit courts, and such other expenses of the judicial system as provided by law. The legislature may by law provide for reimbursement to the state for all or part of such expense from funds collected by courts.

"Section 23. TRANSITIONAL PROVISIONS. (a) On the effective date of this article, the chief justice of the supreme court shall become the chief justice of Texas. The presiding judge and other judges of the court of criminal appeals and associate justices of the supreme court shall become justices of the supreme court. Each commissioner of the court of criminal appeals shall become a commissioner of the supreme court, but when he ceases to hold that position, it shall cease to exist. The offices of the first five justices, other than the chief justice, who cease to be members of the supreme court after the effective date of this article shall cease to exist.

"(b) Chief justices of the courts of civil appeals shall become chief judges of the courts of appeals; justices of the courts of civil appeals shall become judges of the courts of appeals; each district judge or judge of a criminal district court, domestic relations court, or special juvenile court, shall become a judge of a district court; each judge of a county court at law, county civil court at law, county court for criminal

Wednesday, January 16, 1974

cases, county criminal court, county court for criminal appeals, and county probate court shall become a judge of a circuit court.

"(c) Any participant in a county retirement, disability and death compensation fund who becomes a district or circuit judge pursuant to Subsection (b) of this section shall have the option of continuing his participation in the county fund or transferring his membership, service credit, and contributions to the state judicial retirement system under such regulations as provided by law. Notwithstanding anything to the contrary herein, any judge or justice who receives supplementary compensation from a political subdivision of the State of Texas in addition to his compensation from the State of Texas, may participate in any applicable retirement or pension system for the employees of such political subdivision, to the extent of such supplementary compensation, as well as, and in addition to, participating in the Judicial Retirement System of Texas to the extent of the salary paid to him by the State of Texas.

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

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

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

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

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

"(i) Until otherwise provided by law, or unless otherwise expressly provided in this amendment, the jurisdiction of all courts, and the qualifications, selection and tenure of judges of all courts and of other officials will be the same as provided by law prior to the effective date of this amendment.

"(j) When any subsection of these transitional provisions has been executed,

the supreme court shall certify that fact to the secretary of state and thereafter that subsection shall no longer be part of this constitution.

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

CONSTITUTIONAL CONVENTION PROPOSAL 9

By Delegate Hale:

To Committee on the Judiciary.

C.C.P. 9, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Providing for a complete revision of the judiciary of Texas and the suggested text for language for an Article V of the new Constitution of Texas.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

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

"Section 1. JUDICIAL POWER. (a) The judicial power of the state shall be vested in a unified judicial system, which shall include one supreme court, courts of appeals, district courts, circuit courts, and such other courts as authorized by this article. No other courts may be established by the state, any political subdivision, or any municipality. All courts in the judicial system shall have jurisdiction as provided by general law.

"(b) The jurisdiction of the courts within each level of the system shall be uniform throughout the state. Except for the supreme court and courts of appeals, all courts may be divided into geographic divisions and functional subdivisions as provided by law not inconsistent with this article or by judicial rules not inconsistent with law.

"Section 2. SUPREME COURT. The supreme court shall be the highest court of the state. The court shall consist of the chief justice of Texas and eight other justices. It may sit in sections of not less than three justices.

"Section 3. COURT ADMINISTRATION. (a) The supreme court shall have the duty and authority to provide for the efficient and just operation of the judicial system. With the approval of the supreme court the chief justice shall appoint an administrative director of the courts and such deputies and assistants as authorized by law. In accordance with rules of administration, the court may supervise and direct the transfer of cases and assignment of active or retired judges from one court or division thereof to another in order to facilitate the prompt disposition of judicial business. By the assignment of judges, the membership of any court may be temporarily increased.

"(b) The administrative director shall assist the supreme court in the performance of its administrative duties and shall serve as director of the judicial council and judicial qualifications commission.

"(c) There is hereby created a judicial council, which shall have such membership as

Wednesday, January 16, 1974

provided by law. The council shall promulgate rules of administration, which become effective upon approval by the supreme court. The council shall perform such other duties as provided by law.

"Section 4. JUDICIAL CONDUCT. (a) All justices and judges shall devote full time to judicial duties. They shall not, while in office, engage in the practice of law or other gainful employment. They shall not hold any other public office under the United States, this state, or a subdivision thereof. If any justice or judge files as a candidate for any elective nonjudicial office, his judicial office shall immediately become vacant. No justice or judge may, directly or indirectly, make any contribution to, or hold any office in, a political party or organization.

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

"(c) There is hereby established a judicial qualifications commission, which shall have such membership as provided by law. The commission shall operate under rules promulgated by the supreme court and shall have the power to issue a private reprimand or an order of public censure and to recommend to the supreme court suspension, removal, or retirement of any justice, judge, or other judicial officer.

"(d) All papers filed with and proceedings before the commission shall be confidential, and the filing of papers with, and the giving of testimony before, the commission or the supreme court shall be privileged. Upon being filed in the supreme court, the record shall lose its confidential character.

"Section 5. PROCEDURAL RULES. The supreme court may prescribe rules of procedure not inconsistent with this article or the laws of this state. Any rule of procedure expressly disapproved by either house of the legislature shall have no effect. Under regulations which shall be provided by law, no rule of procedure may take effect until the legislature has the opportunity to disapprove it.

"Section 6. JUDICIAL DISTRICTS. The state shall be divided by law, or by an agency acting under the authority of law, into geographical judicial districts consisting of one or more counties. Each county may be included in only one district. Within each district, there shall be one court of appeals, one district court, and one circuit court.

"Section 7. COURTS OF APPEALS. Each court of appeals shall consist of three or more judges, elected within the respective judicial district, of whom not less than three shall sit in any case. The chief justice of Texas shall designate the chief

judge of each court from among the elected members of the court.

"Section 8. TRIAL COURT DIVISIONS. Each judicial district shall be divided by law, or by an agency acting under authority of law, into trial court divisions consisting of one or more counties. Each county may be included in only one division. Within each division, there shall be elected one or more circuit court judges and one or more district court judges, as provided by law.

"Section 9. SELECTION AND TENURE OF JUSTICES AND JUDGES. (a) Each justice of the supreme court and each judge of the courts of appeals shall be elected for a six-year term.

"(b) Each judge of a district court or a circuit court shall be elected for a four-year term.

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

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

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

"(f) Any vacancy in the office of a justice or judge shall be filled by appointment of the governor until the next general election.

"Section 10. PROSECUTING ATTORNEYS. (a) With such exceptions as may be provided by law, a county attorney shall be elected by the qualified voters of each county. Each county attorney shall be commissioned by the governor and hold his office for a term of four years. In case of vacancy, the county commission of the county shall have the power to appoint a county attorney until the next general election. The county attorneys shall represent the state in all cases in the district and inferior courts in their respective counties; but if any county is included in a trial court division in which there is a district attorney, the respective duties of district attorneys and county attorneys in such counties shall be regulated by the legislature.

"(b) The legislature may provide for the election of district attorneys in such trial court divisions as may be deemed necessary and make provision for the compensation of district attorneys and county attorneys. District attorneys shall hold office for a term of four years and until their successors have qualified.

"Section 11. DISTRICT CLERKS. There shall be a district clerk of the circuit court and district court of each county. The clerk shall be elected by the qualified voters for state and county officers. The clerk shall hold office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the judges of the district court and circuit court in the division in which the county is located shall have power to appoint a clerk to serve until the next general election. Each clerk shall have such deputies and other personnel as authorized by law.

Wednesday, January 16, 1974

"Section 12. FINANCING. The state shall pay the salaries of the justices, judges, and other personnel of the supreme court, courts of appeals, district courts, and circuit courts. Those officials and employees shall be paid exclusively by the state and may receive no other compensation from any political subdivision or municipality. The state shall pay such other expenses of the judicial system as provided by law, and the legislature may provide for reimbursement to the state for all or part of such expense from funds collected by courts.

"Section 13. COUNTY GOVERNMENT. (a) The qualified voters of each county shall elect a chairman of the county commission, who may be directed by general law to perform magisterial functions under the supervision of the circuit court. Each county shall be divided into four commissioners precincts, and the qualified voters of each precinct shall elect one county commissioner. The chairman and the four commissioners shall compose the county commission, which shall exercise such powers and jurisdiction over all county business as conferred by the constitution and laws of this state. The chairman and commissioners shall hold office for four years and until their successors are elected and qualified.

"(b) There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for a term of four years, whose duties and perquisites and fees of office shall be prescribed by the legislature. Vacancies in the office of sheriff shall be filled by the county commission until the next general election.

"(c) There shall be elected for each county, by the qualified voters, a county clerk, who shall hold office for a term of four years. The county clerk shall be clerk of the county commission and recorder of the county. The duties, perquisites, and fees of the office shall be prescribed by the legislature. A vacancy in the office of county clerk shall be filled by the county commission until the next general election. The legislature may authorize combining the offices of county clerk and district clerk in all counties having less than a certain population level as fixed by law.

"(d) The county commission of each county, from time to time, may divide the county into one or more precincts for the election of justices of the peace and constables. In each precinct there shall be elected one or more justices of the peace and one or more constables, each of whom shall hold his office for a term of four years and until a successor is elected and qualified.

"(e) Justices of the peace shall have such jurisdiction as provided by general law. They shall be ex officio notaries public and shall hold their courts at such times and places as may be provided by law. With such exceptions as may be provided by law, they shall be subject to the provisions of Section 4 of this Article.

"(f) The officers enumerated in this section may be removed from office for such causes and in such manner as may be provided by law.

"Section 14. MUNICIPAL COURTS. By general law, the legislature may authorize

municipal corporations to establish and maintain municipal courts having jurisdiction throughout the corporate limits of the municipality. The courts shall have jurisdiction prescribed by general law. The judges of the courts shall be elected for terms equal to the term of the chief executive officer of the municipal corporation. Vacancies in the office of municipal judge shall be filled by the governing body of the municipal corporation until the next regular election. With such exceptions as may be provided by law, the judges shall be subject to the provisions of Section 4 of this article.

"Section 15. TRANSITIONAL PROVISIONS. (a) The transitional provisions enumerated in this section shall take effect on the dates specified in Subsection (1).

"(b) The chief justice of the supreme court shall become the chief justice of Texas. The presiding judge and other judges of the court of criminal appeals and associate justices of the supreme court shall become justices of the supreme court. Each commissioner of the court of criminal appeals shall become a commissioner of the supreme court, but when he ceases to hold that position, it shall cease to exist. The offices of the first five justices, other than the chief justice, who cease to be members of the supreme court by reason of death, removal, resignation, or retirement after the effective date of this article shall cease to exist; provided, however, the death, removal, resignation, or retirement of an incumbent after having been defeated at a primary or general election shall not terminate the office.

"(c) Chief justices of the courts of civil appeals shall become chief judges of the courts of appeals for the remainder of the terms for which elected; justices of the courts of civil appeals shall become judges of the courts of appeals for the remainder of the terms for which elected; each district judge or judge of a criminal district court, domestic relations court, or special juvenile court shall become a judge of a district court for the remainder of the term for which elected; each judge of a county court at law, county civil court at law, county court for criminal cases, county criminal court, county court for criminal appeals, and county probate court shall become a judge of a circuit court for the remainder of the term for which elected.

"(d) Any participant in a county retirement, disability and death compensation fund who becomes a circuit court or district court judge pursuant to Subsection (c) of this section shall have the option of continuing his participation in the county fund or transferring his membership, service credit, and contributions to the state judicial retirement system. Any other participant in a county retirement, disability and death compensation fund who becomes a state official or employee, receiving a salary from the state, shall have the option of continuing his participation in the county fund or transferring his membership, service credit, and contributions to the state employees retirement system.

"(e) Each judge of a county court shall become chairman of the respective county commission for the remainder of the term for

Wednesday, January 16, 1974

which elected, except that a county judge licensed to practice law may elect to become a judge of the circuit court in the trial court division in which he resides, under regulations provided by law. In the event of such an election, the office of chairman of the county commission shall be vacant and shall be filled by the commission until the next succeeding general election.

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

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

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

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

"(j) Until otherwise provided by law, or unless otherwise expressly provided in this article, the jurisdiction of all courts, and the qualifications, selection, and tenure of judges of all courts and of other officials shall be the same as provided by law prior to the effective date of this article.

"(k) Notwithstanding any other provision of this article, the initial trial court divisions of the state shall be the judicial districts in effect on the effective date of this article, and the initial judicial districts of the state shall be the supreme judicial districts in effect on the effective date of this article. These divisions and districts shall remain in effect until otherwise provided by law.

"(1) (1) The legislature shall adopt legislation implementing the provisions of this article to take effect on September 1, 1975. Legislation enacted in anticipation of the adoption of this amendment shall not be invalid by reason of its anticipatory nature.

"(2) Except for the provisions of this subsection, which take effect upon adoption of this amendment, this article shall take effect on September 1, 1975.

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

CONSTITUTIONAL CONVENTION PROPOSAL 10

By Delegates Temple, Head, Hoestenbach, Munson, Mengden, Miller, Blythe, Jones of El Paso, Nugent, Waters, Wilson, Salem, Bigham, and McDonald of Dallas.

To Committee on the Legislative.

C.C.P. 10, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Reserving the power of initiative in the people.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article III:

Section _____. INITIATIVE. (a) The people reserve to themselves the power to propose laws and constitutional amendments and to enact the same at the polls independently of the legislature. This power is known as the initiative.

(b) An initiative petition shall contain the full text of the measure proposed and, to be valid, shall be signed by qualified voters equal in number to at least 10 percent of the total vote cast for Governor in the last preceding gubernatorial election. Before a petition is circulated, the attorney general shall determine whether the petition is of constitutional stature or more appropriately statutory in form. The attorney general's opinion shall be rendered within 20 days after receipt of the petition. The opinion is subject to judicial review by the Supreme Court and the petition shall conform to the final decision.

(c) Initiative petitions containing the required number of signatures shall be filed with the Secretary of State, who shall put the question on the ballot at the first general state election held not less than 90 days after the petition is filed. Each initiative measure shall be submitted by a ballot proposition which shall be descriptive, but not argumentative or prejudicial.

(d) An initiative measure is adopted if it is approved by a majority of those voting on the question. An adopted measure becomes a law or becomes a part of the Constitution, as the case may be, 90 days after the final canvass and declaration of the results of the election. The veto power of the Governor shall not extend to initiative measures.

(e) The initiative provisions of this Constitution are self-executing and shall be treated as mandatory. Laws may be enacted to facilitate their operation, but no law shall be enacted to hamper, restrict, or impair the exercise of the power herein reserved to the people.

CONSTITUTIONAL CONVENTION PROPOSAL 11

By Delegates Temple, Head, Hoestenbach, Mengden, Miller, Munson, Blythe, Jones of El Paso, Nugent, Waters, Salem, Wilson, McDonald of Dallas, Bigham and Spurlock.

To Committee on the Legislative.

C.C.P. 11, A PROPOSAL FOR INCORPORATION

Wednesday, January 16, 1974

IN THE CONSTITUTION OF TEXAS

Reserving the power of referendum in the people.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article III.

Section _____. REFERENDUM. (a) The people reserve to themselves the power to approve or reject at the polls any act passed by the legislature. This power is known as the referendum.

(b) A referendum petition shall be signed by qualified voters equal in number to at least 10 percent of the total vote cast for Governor in the preceding gubernatorial election. The petition shall be filed with the Secretary of State within 90 days after the subject legislation becomes a law. The Secretary of State shall order an election to be held on the referendum measure not less than 90 days nor more than 120 days after the petition is filed.

(c) A referendum may be ordered upon any act or part of an act except taxes or appropriations. When a valid referendum petition is filed upon an act or any part of an act, it shall suspend the operation thereof until such act or part is approved by a majority of those voting on the question. If not approved, the act or part shall be deemed repealed. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of the act from becoming operative.

(d) Each referendum measure shall be submitted by ballot proposition which shall be descriptive, but not argumentative or prejudicial.

(e) The referendum provisions of this Constitution are self-executing and shall be treated as mandatory. Laws may be enacted to facilitate their operation, but no law shall be enacted to hamper, restrict, or impair the exercise of the power herein reserved to the people.

CONSTITUTIONAL CONVENTION PROPOSAL 12

By Delegate Heatly:

To Committee on the Judiciary.

C.C.P. 12, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Providing an article on the Judicial Department.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article V read as follows:

Article V. JUDICIAL DEPARTMENT

Section 1. JUDICIAL POWER; COURTS IN WHICH VESTED. The judicial power of this State shall be vested in one Supreme Court, in Courts of Civil Appeals, in a Court of Criminal Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Sec. 1-a. RETIREMENT, CENSURE, AND REMOVAL OF JUSTICES AND JUDGES; STATE JUDICIAL QUALIFICATIONS COMMISSION. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant when the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe; but, in the case of an incumbent whose term of office includes the effective date of this Amendment, this provision shall not prevent him from serving the remainder of said term nor be applicable to him before his period or periods of judicial service shall have reached a total of ten (10) years.

(2) There is hereby created the State Judicial Qualifications Commission, to consist of nine (9) members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) three (3) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, and those of class (iiii) by appointment of the Governor with advice and consent of the Senate.

(3) The regular term of office of Commissioners shall be six (6) years; but the initial members of each of classes (i), (ii) and (iii) shall respectively be chosen for terms of four (4) and six (6) years, and the initial members of class (iiii) for respective terms of two (2), four (4) and six (6) years. Interim vacancies shall be filled in the same manner as vacancies due to expiration of a full term, but only for the unexpired portion of the term in question. Commissioners may succeed themselves in office only if having served less than three (3) consecutive years.

(4) Commissioners shall receive no compensation for their services as such. The Legislature shall provide for the payment of the necessary expense for the operation of the Commission.

Wednesday, January 16, 1974

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least five (5) members.

(6)A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, and any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature.

B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private reprimand, or if the Commission determines that the situation merits such action, it may order a hearing to be held before it concerning the removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an

order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, and the filing of papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged; provided that upon being filed in the Supreme Court the record loses its confidential character.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.

(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution.

Sec. 2. SUPREME COURT; JUSTICES; SECTIONS; ELIGIBILITY; ELECTION; VACANCIES. The Supreme Court shall consist of a Chief Justice and eight Associate Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to the office of Chief Justice or

Wednesday, January 16, 1974

Associate Justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this state, and unless he shall have attained the age of thirty-five years, and shall have been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this Constitution takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified.

Sec. 3. JURISDICTION OF SUPREME COURT; WRITS; SESSIONS; CLERK. The Supreme Court shall have appellate jurisdiction only except as herein specified, which shall be co-extensive with the limits of the State. Its appellate jurisdiction shall extend to questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such restrictions and regulations as the Legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide.

Sec. 3a. SESSIONS OF COURT. The Supreme Court may sit at any time during the year at the seat of government for the transaction of business and each term thereof

shall begin and end with each calendar year.

Sec. 3-b. APPEAL FROM ORDER GRANTING OR DENYING INJUNCTION. The Legislature shall have the power to provide by law, for an appeal direct to the Supreme Court of this State from an order of any trial court granting or denying an interlocutory or permanent injunction on the grounds of the constitutionality or unconstitutionality of any statute of this State, or on the validity or invalidity of any administrative order issued by any state agency under any statute of this State.

Sec. 4. COURT OF CRIMINAL APPEALS; JUDGES. The Court of Criminal Appeals shall consist of five Judges, one of whom shall be Presiding Judge, a majority of whom shall constitute a quorum, and the concurrence of three Judges shall be necessary to a decision of said court. Said Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court. They shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

The Judges of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall become Judges of the Court of Criminal Appeals and continue in office until the expiration of the term of office for which each has been elected or appointed under the present Constitution and laws of this state, and until his successor shall have been elected and qualified.

Sec. 5. JURISDICTION OF COURT OF CRIMINAL APPEALS; TERMS OF COURT; CLERK. The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law.

The Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The Court of Criminal Appeals shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

The Court of Criminal Appeals may sit for the transaction of business at any time from the first Monday in October to the last Saturday in September in each year, at the State Capitol. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

The Clerk of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall continue in office for the term of his appointment.

Sec. 6. COURTS OF CIVIL APPEALS; TRANSFER OF CASES; TERMS OF JUDGES. The

Wednesday, January 16, 1974

Legislature shall divide the State into such Supreme judicial districts as the increase of population and business may require, and shall establish a Court of Civil Appeals in each of said districts, which shall consist of a Chief Justice and two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. Said Court of Civil Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all civil cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error.

Each of said Courts of Civil Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years and shall receive for their services the sum provided by law. Said courts shall have such other jurisdiction, original and appellate as may be prescribed by law. Each Court of Civil Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court which clerk shall receive such compensation as may be fixed by law.

Sec. 7. JUDICIAL DISTRICTS; DISTRICT JUDGES; TERMS OR SESSIONS; ABSENCE, DISABILITY OR DISQUALIFICATION OF JUDGE. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a General Election, a Judge, who shall be a citizen of the United States and of this State, who shall be licensed to practice law in this State and shall have been a practicing lawyer or a Judge of a Court in this State, or both combined, for four (4) years next preceding his election, who shall have resided in the district in which he was elected for two (2) years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period of four (4) years, and shall receive for his services an annual salary to be fixed by the Legislature. The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. He shall hold the regular terms of his Court at the County Seat of each County in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each Court as it may deem necessary.

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

The District Judges who may be in office when this Constitution takes effect shall hold their offices until their respective

terms shall expire under their present election or appointment.

Sec. 8. JURISDICTION OF DISTRICT COURT. The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections, and said court and the judges thereof, shall have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all writs necessary to enforce their jurisdiction.

The District Court shall have appellate jurisdiction and general control in probate matters, over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors under such regulations as may be prescribed by law. The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

The district court, concurrently with the county court, shall have the general jurisdiction of a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law. In any proceeding involving the general jurisdiction of a probate court, including such specified proceedings, the district court shall also have all other jurisdiction conferred upon the district court by law. The legislature, however, shall have the power, by local or general law, Section 16 of Article V of this Constitution notwithstanding, to increase, diminish or eliminate the jurisdiction of either the district court or the county court in probate matters, and in cases of any such change of jurisdiction, the legislature shall

Wednesday, January 16, 1974

also conform the jurisdiction of the other courts to such change. The legislature shall have power to adopt rules governing the filing, distribution and transfer of all such cases and proceedings as between district courts, county courts, and other courts having jurisdiction thereof, and may provide that all appeals in such matters shall be to the courts of (civil) appeals.

Sec. 9. CLERK OF DISTRICT COURT. There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

Sec. 10. TRIAL BY JURY. In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

Sec. 11. DISQUALIFICATION OF JUDGES; EXCHANGE OF DISTRICTS; HOLDING COURT FOR OTHER JUDGES. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals, or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes. When a judge of the District Court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

And the District Judges may exchange districts, or hold courts for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied and vacancies in their offices filled as may be prescribed by law.

Sec. 12. JUDGES TO BE CONSERVATORS OF THE PEACE; STYLE OF WRITS AND PROCESS; PROSECUTIONS IN NAME OF STATE; CONCLUSION. All judges of courts of this State, by virtue of their office, be conservators of the peace throughout the State. The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: "Against the peace and dignity of the State."

Sec. 13. NUMBER OF GRAND AND PETIT

JURORS; NUMBER CONCURRING. Grand and petit juries in the District Courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the District Courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

Sec. 14. JUDICIAL DISTRICTS AND TIME OF HOLDING COURT FIXED BY ORDINANCE. The Judicial Districts in this State and the time of holding the Courts therein are fixed by ordinance forming part of this Constitution, until otherwise provided by law.

Sec. 15. COUNTY COURT; COUNTY JUDGE. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law.

Sec. 16. COUNTY COURTS; JURISDICTION; APPEALS TO COURT OF CIVIL APPEALS AND COURT OF CRIMINAL APPEALS; DISQUALIFICATION OF JUDGE. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have exclusive jurisdiction in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction of civil appeals in civil cases to the Court of Civil Appeals and in such criminal cases to the Court of Criminal Appeals, with such exceptions and under such regulations as may be prescribed by law.

The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis

Wednesday, January 16, 1974

and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court to the Court of Criminal Appeals. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law.

Sec. 17. TERMS OF COUNTY COURT; PROSECUTIONS; JURIES. The County Court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation, as may be provided by law, and said court shall hold a term for criminal business once in every month as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall enquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled to try a civil case unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

Sec. 18. DIVISION OF COUNTIES INTO PRECINCTS; ELECTION OF CONSTABLE AND JUSTICE OF THE PEACE; COUNTY COMMISSIONERS AND COUNTY COMMISSIONERS COURT. Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. Divisions shall be made by the Commissioners Court provided for by this Constitution. In

each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of 8,000 or more inhabitants, there shall be elected two Justices of the Peace. Each county shall in like manner be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

Sec. 19. JUSTICES OF THE PEACE; JURISDICTION; APPEALS; EX OFFICIO NOTARIES PUBLIC; TIMES AND PLACES OF HOLDING COURT. Justices of the Peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the District or County Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs; and in all criminal cases under such regulations as may be prescribed by law. And the justices of the peace shall be ex officio notaries public. And they shall hold their courts at such times and places as may be provided by law.

Sec. 20. COUNTY CLERK. There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall be clerk of the County and Commissioners Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided, that in counties having a population of less than 8,000 persons there may be an election of a single Clerk, who shall perform the duties of District and County Clerks.

Sec. 21. COUNTY ATTORNEYS; DISTRICT ATTORNEYS. A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there

Wednesday, January 16, 1974

shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

Sec. 22. CHANGING JURISDICTION OF COUNTY COURTS. The Legislature shall have power, by local or general law, to increase, diminish or change the civil and criminal jurisdiction of County Courts; and in cases of any such change of jurisdiction, the Legislature shall also conform the jurisdiction of the other courts to such change.

Sec. 23. SHERIFFS. There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

Sec. 24. REMOVAL OF COUNTY OFFICERS. County Judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers, may be removed by the Judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

Sec. 25. RULES OF COURT. The Supreme Court shall have power to make and establish rules of procedure not inconsistent with the laws of the State for the government of said court and the other courts of this State to expedite the dispatch of business therein.

Sec. 26. CRIMINAL CASES; NO APPEAL BY STATE. The State shall have no right of appeal in criminal cases.

Sec. 27. VACANCIES IN JUDICIAL OFFICES. Vacancies in the office of judges of the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals and the District Courts shall be filled by the Governor until the next succeeding General Election; and vacancies in the office of County Judge and Justices of the Peace shall be filled by the Commissioners Court until the next succeeding General Election.

Sec. 28. COUNTY COURT; TERMS OF COURT; PROBATE BUSINESS; COMMENCEMENT OF PROSECUTIONS; JURY. The County Court shall hold at least four terms for both civil and criminal business annually, as may be provided by the Legislature, or by the Commissioners Court of the county under authority of law, and such other terms each year as may be fixed by the Commissioners Court; provided, the Commissioners Court of any county having fixed the times and number of terms of the County Court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time or vacation, under such regulation as may be prescribed by law. Prosecutions may be

commenced in said courts in such manner as is or may be provided by law, and a jury therein shall consist of six men.

Sec. 29. JUDGES OF COURTS OF COUNTY-WIDE JURISDICTION; CRIMINAL DISTRICT ATTORNEYS. The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, and all Criminal District Attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified.

CONSTITUTIONAL CONVENTION PROPOSAL 13

By Delegates Bailey and Menefee:

To Committee on Finance.

C.C.P. 13, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to highway-user revenues.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article VIII, Section 3, read as follows:

Section 3. HIGHWAY-USER REVENUES. Subject to legislative appropriation, allocation, and direction, all net revenues from motor vehicle registration fees and three-fourths of net revenues from all taxes on fuels and lubricants used to propel motor vehicles over public roadways, except gross production and ad valorem taxes, shall be deposited in the State Highway Fund. Such revenues shall be used solely for acquiring rights-of-way, constructing and maintaining a State highway system and mass transit systems necessary for the public convenience; for policing public roadways; and for administering laws pertaining to the supervision of traffic and safety on public roadways. Not more than one-fourth of the State Highway Fund may be expended on mass transit systems. One-fourth of net revenues from these taxes shall be allocated to the Available School Fund. The net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each county, or less than the percentage allowed to be retained, under the laws in effect at the time of adoption of this Constitution.

CONSTITUTIONAL CONVENTION PROPOSAL 14

By Delegate Heatly:

To Committee on the Judiciary.

C.C.P. 14, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Providing an article on the Judicial Department.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article V read as follows:

Article V. JUDICIAL DEPARTMENT

Section 1. JUDICIAL POWER; COURTS IN

Wednesday, January 16, 1974

WHICH VESTED. The judicial power of this State shall be vested in one Supreme Court, in Courts of Civil Appeals, in a Supreme Court of Criminal Appeals, in Intermediate Courts of Criminal Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Sec. 1-a. RETIREMENT, CENSURE, AND REMOVAL OF JUSTICES AND JUDGES; STATE JUDICIAL QUALIFICATIONS COMMISSION. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant when the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe; but, in the case of an incumbent whose term of office includes the effective date of this Constitution, this provision shall not prevent him from serving the remainder of said term nor be applicable to him before his period or periods of judicial service shall have reached a total of ten (10) years.

(2) There is hereby created the State Judicial Qualifications Commission, to consist of nine (9) members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) three (3) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, and those of class (iiii) by appointment of the Governor with advice and consent of the Senate.

(3) The regular term of office of Commissioners shall be six (6) years; but the initial members of each of classes (i), (ii) and (iii) shall respectively be chosen for terms of four (4) and six (6) years, and the initial members of class (iiii) for respective terms of two (2), four (4) and six (6) years. Interim vacancies shall be filled

in the same manner as vacancies due to expiration of a full term, but only for the unexpired portion of the term in question. Commissioners may succeed themselves in office only if having served less than three (3) consecutive years.

(4) Commissioners shall receive no compensation for their services as such. The Legislature shall provide for the payment of the necessary expense for the operation of the Commission.

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least five (5) members.

(6)A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, and any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature.

B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private reprimand, or if the Commission determines that the situation merits such action, it may order a hearing to be held before it concerning the removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of

Wednesday, January 16, 1974

this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, and the filing of papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged; provided that upon being filed in the Supreme Court the record loses its confidential character.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.

(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution.

Sec. 2. SUPREME COURT; JUSTICES; SECTIONS; ELIGIBILITY; ELECTION; VACANCIES.

The Supreme Court shall consist of a Chief Justice and eight Associate Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to the office of Chief Justice or Associate Justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this state, and unless he shall have attained the age of thirty-five years, and shall have been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this Constitution takes effect shall continue in office until the expiration of their term of office and until their successors are elected and qualified.

Sec. 3. JURISDICTION OF SUPREME COURT; WRITS; SESSIONS; CLERK. The Supreme Court shall have appellate jurisdiction only except as herein specified, which shall be co-extensive with the limits of the State. Its appellate jurisdiction shall extend to questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such restrictions and regulations as the Legislature may prescribe. Unless otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he

Wednesday, January 16, 1974

may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide.

Sec. 3a. SESSIONS OF COURT. The Supreme Court may sit at any time during the year at the seat of government for the transaction of business and each term thereof shall begin and end with each calendar year.

Sec. 3-b. APPEAL FROM ORDER GRANTING OR DENYING INJUNCTION. The Legislature shall have the power to provide by law, for an appeal direct to the Supreme Court of this State from an order of any trial court granting or denying an interlocutory or permanent injunction on the grounds of the constitutionality or unconstitutionality of any statute of this State, or on the validity or invalidity of any administrative order issued by any state agency under any statute of this State.

Sec. 4. SUPREME COURT OF CRIMINAL APPEALS; JUDGES. The Supreme Court of Criminal Appeals shall consist of five Judges, one of whom shall be Presiding Judge, a majority of whom shall constitute a quorum, and the concurrence of three Judges shall be necessary to a decision of said court. Said Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court. They shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Supreme Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

The Judges of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall become Judges of the Supreme Court of Criminal Appeals and continue in office until the expiration of the term of office for which each has been elected or appointed and until his successor shall have been elected and qualified.

Sec. 5. JURISDICTION OF SUPREME COURT OF CRIMINAL APPEALS; TERMS OF COURT; CLERK. The Supreme Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law, and shall have jurisdiction to review the decisions of the Intermediate Courts of Criminal Appeals, under such regulations as may be provided by law or be prescribed by rules adopted by the Supreme Court of Criminal Appeals.

The Supreme Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and such court shall have power to issue writs of mandamus, prohibition, procedendo, and certiorari, and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The Supreme Court of Criminal Appeals shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its

jurisdiction.

The Supreme Court of Criminal Appeals may sit for the transaction of business at any time from the first Monday in October to the last Saturday in September in each year, at the State Capitol. The Supreme Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

The Clerk of the Court of Criminal Appeals who may be in office at the time when this Constitution takes effect shall continue in office for the term of his appointment.

Sec. 6. COURTS OF CIVIL APPEALS; TRANSFER OF CASES; TERMS OF JUDGES. The Legislature shall divide the State into such Supreme judicial districts as the increase of population and business may require, and shall establish a Court of Civil Appeals in each of said districts, which shall consist of a Chief Justice and two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. Said Court of Civil Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all civil cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error.

Each of said Courts of Civil Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years and shall receive for their services such compensation as may be provided by law. Said courts shall have such other jurisdiction, original and appellate as may be prescribed by law. Each Court of Civil Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court which clerk shall receive such compensation as may be fixed by law.

Sec. 6a. INTERMEDIATE COURTS OF CRIMINAL APPEALS. The Legislature shall divide the State into four judicial districts with each of the cities of Fort Worth, Dallas, San Antonio, and Houston in a separate district, and shall establish an Intermediate Court of Criminal Appeals in each of the districts, which shall consist of a Chief Justice and two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. The Intermediate Court of Criminal Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all criminal cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. The decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error.

Wednesday, January 16, 1974

The Intermediate Courts of Criminal Appeals shall hold their sessions in the cities of Fort Worth, Dallas, San Antonio, and Houston, and at such time as may be prescribed by law. The Justices shall be elected by the qualified voters of their respective districts at a general election for a term of six years and shall receive for their services such compensation as may be provided by law. The courts shall have such other jurisdiction as may be prescribed by law. Each Intermediate Court of Criminal Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court, which clerk shall receive such compensation as may be fixed by law.

All criminal cases which may be pending in the Court of Criminal Appeals shall as soon as practicable after the organization of the Intermediate Courts of Criminal Appeals be certified to, and the records thereof transmitted to the proper Intermediate Courts of Criminal Appeals to be decided by said courts.

On the effective date of the enabling legislation to establish an Intermediate Court of Criminal Appeals in each of four judicial districts, the governor, with the advice and consent of the Senate, shall appoint for each court a Chief Justice and two Associate Justices to serve until the next general election. The Chief Justice and Associate Justices first elected after this Constitution goes into effect hold office as follows: one shall serve two years, one shall serve four years, and one shall serve six years. Their terms shall be decided by lot immediately after they shall have qualified, and one Justice shall be elected every two years thereafter. In case of vacancy in said office, the governor shall fill the vacancy by appointment until the next general election.

Sec. 7. JUDICIAL DISTRICTS; DISTRICT JUDGES; TERMS OR SESSIONS; ABSENCE, DISABILITY OR DISQUALIFICATION OF JUDGE. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a General Election, a Judge, who shall be a citizen of the United States and of this State, who shall be licensed to practice law in this State and shall have been a practicing lawyer or a Judge of a Court in this State, or both combined, for four (4) years next preceding his election, who shall have resided in the district in which he was elected for two (2) years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period of four (4) years, and shall receive for his services an annual salary to be fixed by the Legislature. The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. He shall hold the regular terms of his Court at the County Seat of each County in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each

Court as it may deem necessary.

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

The District Judges who may be in office when this Constitution takes effect shall hold their offices until their respective terms shall expire under their present election or appointment.

Sec. 8. JURISDICTION OF DISTRICT COURT. The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections, and said court and the judges thereof, shall have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all writs necessary to enforce their jurisdiction.

The District Court shall have appellate jurisdiction and general control in probate matters, over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors under such regulations as may be prescribed by law. The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

The district court, concurrently with the county court, shall have the general jurisdiction of a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law. In any proceeding involving the general jurisdiction of a probate court, including such specified proceedings, the district court shall also have all other jurisdiction conferred upon

Wednesday, January 16, 1974

the district court by law. The legislature, however, shall have the power, by local or general law, Section 16 of Article V of this Constitution notwithstanding, to increase, diminish or eliminate the jurisdiction of either the district court or the county court in probate matters, and in cases of any such change of jurisdiction, the legislature shall also conform the jurisdiction of the other courts to such change. The legislature shall have power to adopt rules governing the filing, distribution and transfer of all such cases and proceedings as between district courts, county courts, and other courts having jurisdiction thereof, and may provide that all appeals in such matters shall be to the courts of (civil) appeals.

Sec. 9. CLERK OF DISTRICT COURT. There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

Sec. 10. TRIAL BY JURY. In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

Sec. 11. DISQUALIFICATION OF JUDGES; EXCHANGE OF DISTRICTS; HOLDING COURT FOR OTHER JUDGES. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the Supreme Court, the Supreme Court of Criminal Appeals, the Court of Civil Appeals, the Intermediate Court of Criminal Appeals, or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes. When a judge of the District Court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

And the District Judges may exchange districts, or hold courts for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied and vacancies in their offices filled as may be prescribed by law.

Sec. 12. JUDGES TO BE CONSERVATORS OF THE PEACE; STYLE OF WRITS AND PROCESS; PROSECUTIONS IN NAME OF STATE; CONCLUSION.

All judges of courts of this State, by virtue of their office, be conservators of the peace throughout the State. The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: "Against the peace and dignity of the State."

Sec. 13. NUMBER OF GRAND AND PETIT JURORS; NUMBER CONCURRING. Grand and petit juries in the District Courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the District Courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

Sec. 14. JUDICIAL DISTRICTS AND TIME OF HOLDING COURT FIXED BY ORDINANCE. The Judicial Districts in this State and the time of holding the Courts therein are fixed by ordinance forming part of this Constitution, until otherwise provided by law.

Sec. 15. COUNTY COURT; COUNTY JUDGE. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law.

Sec. 16. COUNTY COURTS; JURISDICTION; APPEALS TO COURT OF CIVIL APPEALS AND COURT OF CRIMINAL APPEALS; DISQUALIFICATION OF JUDGE. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have exclusive jurisdiction in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original

Wednesday, January 16, 1974

jurisdiction of civil appeals in civil cases to the Court of Civil Appeals and in such criminal cases to the Intermediate Court of Criminal Appeals, with such exceptions and under such regulations as may be prescribed by law.

The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court to the Intermediate Court of Criminal Appeals. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law.

Sec. 17. TERMS OF COUNTY COURT; PROSECUTIONS; JURIES. The County Court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation as may be provided by law, and said court shall hold a term for criminal business once in every month as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall inquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled to try a civil case unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

Sec. 18. DIVISION OF COUNTIES INTO PRECINCTS; ELECTION OF CONSTABLE AND JUSTICE OF THE PEACE; COUNTY COMMISSIONERS AND COUNTY COMMISSIONERS COURT. Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. Divisions shall be made by the Commissioners Court provided for by this Constitution. In each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of 8,000 or more inhabitants, there shall be elected two Justices of the Peace. Each county shall in like manner be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

Sec. 19. JUSTICES OF THE PEACE; JURISDICTION; APPEALS; EX OFFICIO NOTARIES PUBLIC; TIMES AND PLACES OF HOLDING COURT. Justices of the Peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the District or County Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs; and in all criminal cases under such regulations as may be prescribed by law. And the justices of the peace shall be ex officio notaries public. And they shall hold their courts at such times and places as may be provided by law.

Sec. 20. COUNTY CLERK. There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall be clerk of the County and Commissioners Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided, that in counties having a population of less than 8,000 persons there may be an election of a single Clerk, who shall perform the duties of District and County Clerks.

Sec. 21. COUNTY ATTORNEYS; DISTRICT ATTORNEYS. A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be

Wednesday, January 16, 1974

commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

Sec. 22. CHANGING JURISDICTION OF COUNTY COURTS. The Legislature shall have power, by local or general law, to increase, diminish or change the civil and criminal jurisdiction of County Courts; and in cases of any such change of jurisdiction, the Legislature shall also conform the jurisdiction of the other courts to such change.

Sec. 23. SHERIFFS. There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

Sec. 24. REMOVAL OF COUNTY OFFICERS. County Judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers, may be removed by the Judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

Sec. 25. RULES OF COURT. The Supreme Court shall have power to make and establish rules of procedure not inconsistent with the laws of the State for the government of said court and the other courts of this State to expedite the dispatch of business therein.

Sec. 26. CRIMINAL CASES; NO APPEAL BY STATE. The State shall have no right of appeal in criminal cases.

Sec. 27. VACANCIES IN JUDICIAL OFFICES. Vacancies in the office of judges of the Supreme Court, the Supreme Court of Criminal Appeals, the Court of Civil Appeals, the Intermediate Court of Criminal Appeals, and the District Courts shall be filled by the Governor until the next succeeding General Election; and vacancies in the office of County Judge and Justices of the Peace shall be filled by the Commissioners Court until the next succeeding General Election.

Sec. 28. COUNTY COURT; TERMS OF COURT; PROBATE BUSINESS; COMMENCEMENT OF PROSECUTIONS; JURY. The County Court shall hold at least four terms for both civil and criminal business annually, as may be provided by the Legislature, or by the

Commissioners' Court of the county under authority of law, and such other terms each year as may be fixed by the Commissioners' Court; provided, the Commissioners' Court of any county having fixed the times and number of terms of the County Court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time or vacation, under such regulation as may be prescribed by law. Prosecutions may be commenced in said courts in such manner as is or may be provided by law, and a jury therein shall consist of six men.

Sec. 29. JUDGES OF COURTS OF COUNTY-WIDE JURISDICTION; CRIMINAL DISTRICT ATTORNEYS. The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, and all Criminal District Attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified.

CONSTITUTIONAL CONVENTION PROPOSAL 15

By Delegates Schwartz and Caldwell:

To Committee on General Provisions.

C.C.P. 15, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to corporations with banking and discounting privileges.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the section on corporations with banking and discounting privileges read as follows:

Section _____. CORPORATIONS WITH BANKING AND DISCOUNTING PRIVILEGES. No corporate body with banking and discounting privileges may engage in business at more than one place, which shall be designated in its charter. No foreign corporation, other than the national banks of the United States, may exercise banking or discounting privileges in this State.

CONSTITUTIONAL CONVENTION PROPOSAL 16

By Delegate Hutchison:

To Committee on Finance.

C.C.P. 16, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS:

Proposing that The Legislature Be Authorized to Consolidate Bond Issuing and Debt Creation Functions of State Boards, Agencies, Commissions, Officers and Officials.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the Constitution of Texas Include the following:

"The Legislature shall be authorized to transfer all bond issuing and/or debt creating powers vested by this Constitution in a specified State board, agency,

Wednesday, January 16, 1974

commission, officer or official to another or different State board, agency, officer, commission or official, and/or it shall be further authorized to consolidate any or all of such powers into one or more single State boards, agencies, commissions, officers or officials, and, in any event, to regulate and prescribe the powers, rights, duties and obligations of any such State Board, Agency, Commission, Officer or Official, and to prescribe the terms, provisions, and conditions of any such bonds or debt."

CONSTITUTIONAL CONVENTION PROPOSAL 17

By Delegates Sage and Nowlin:

To Committee on Finance.

C.C.P. 17, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS:

Relating to state taxes on personal income.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article VIII, Section 4, read as follows:

Section 4. The Legislature shall not approve any act authorizing the levying of taxes on personal income.

CONSTITUTIONAL CONVENTION PROPOSAL 18

By Delegate Denson:

To Committee on Rights and Suffrage.

C.C.P. 18, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to juvenile rights.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article I:

Section _____. The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this Constitution unless specifically precluded by law which enhances the protection of such persons.

CONSTITUTIONAL CONVENTION PROPOSAL 19

By Delegate Denson:

To Committee on Local Government.

C.C.P. 19, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to local government.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article IX, Section 10 read as follows:

Section 10. Within the calendar year following that in which each federal

decennial census is published, and at such other times as the governing body of any political subdivision may deem necessary, each governing body shall divide its geographical area into districts for the election of those representatives to the governing body. The districts shall be composed of contiguous territory and shall be as compact and as nearly equal in population as practicable.

CONSTITUTIONAL CONVENTION PROPOSAL 20

By Delegate Denson:

To Committee on Education.

C.C.P. 20, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to public fund support of religious schools.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That Article VII, Section 3 read as follows:

Section 3. Public funds shall not be used for support of religious, church-affiliated, or proprietary schools.

CONSTITUTIONAL CONVENTION PROPOSAL 21

By Delegate Denson:

To Committee on Rights and Suffrage.

C.C.P. 21, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to a right to privacy.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the following section be included in Article I:

Section _____. The people's right to privacy, in their communications and otherwise, shall not be violated by the State or private persons. Neither the State nor private persons shall intercept any communication by the use of any electronic, mechanical or artificial device without the request of at least one party to the communication. Evidence obtained in or by reason of violation of this section shall not be received or used for any purpose in any proceeding.

CONSTITUTIONAL CONVENTION PROPOSAL 22

By Delegate Miller:

To Committee on General Provisions.

C.C.P. 22, A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

Relating to homesteads.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

That the section on homesteads read as follows:

Wednesday, January 16, 1974

Section ____ HOMESTEADS. (a) The homestead of a family or of a single adult is protected from forced sale for the payment of all debts, except for purchase money therefor, taxes due thereon, and work and material used in constructing improvements thereon if the work and material are contracted for in writing by the owner and if, in the case of married persons, both spouses consent to the contract in the manner required for sale of a homestead. A homestead of married persons may be sold only with the consent of both spouses, except that when the homestead is the community property or the separate property of the spouse desiring to sell, it may be sold as provided by law without consent of the other spouse if the latter is incompetent, has disappeared, or has deserted the spouse desiring to sell. A homestead of married persons may be abandoned only with the consent of both spouses, except that it may be abandoned as provided by law without consent of one spouse if that spouse is incompetent, has disappeared, or has deserted the spouse desiring to abandon the homestead. No mortgage, trust deed, or other lien on a residential homestead may be valid except for the purchase money therefor or improvements made thereon, contracted for as provided above. Liens may be created on nonresidential homesteads but only in the manner required for conveyances thereof. All pretended sales of a homestead involving any condition of defeasance shall be void.

(b) The homestead not in a city, town, or village consists of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon. Of the two hundred acres, only fifty acres on which the home is located may be classified as residential, and the rest shall be classified as nonresidential. The homestead in a city, town, or village consists of land valued at the time of establishment thereof, without reference to the value of any improvements thereon, at not more than ten thousand dollars or any larger sum as may be provided by law. A homestead in a city, town, or village may be a residential homestead if used as a home and a nonresidential homestead if used as a place for the exercise of the calling or business of the homestead claimant, whether a single adult or the head of a family. A house temporarily rented does not lose its status as a homestead so long as no other homestead is acquired.

(c) The homestead of married persons shall descend and vest as does any other real property, except that the homestead may not be partitioned so long as it is used and occupied as a home either by the surviving spouse, or by minor children if the use and occupancy have been granted by an appropriate court.

CONSTITUTIONAL CONVENTION RESOLUTION 10

By Delegate Hale:

To Committee on Rules.

C.C.R. 10, BE IT RESOLVED by the Constitutional Convention of Texas, That Rule XV, Section 2, of the Rules of Procedure is amended to read as follows:

Section 2. Five copies of each amendment, identical in text, shall be filed with the President. When the amendment is read, all copies filed with the President shall go to the Secretary. No amendment offered from the floor shall be in order unless and until the sponsoring Delegate has complied with the provisions of this section with respect to copies of such amendment. If the amendment exceeds one page in length, the sponsoring Delegate must provide to the Secretary a minimum of fifteen copies to be available for distribution to Delegates requesting copies of such amendment. If the amendment is only one page in length or less, the Secretary will immediately proceed to have additional copies made and available for those Delegates requesting copies of such amendment. The provisions of this section with respect to extra copies shall not apply to committee reports or to amendments which do nothing more than delete material from the proposal or resolution.