

League of Women Voters of Texas
OBSERVER FORM

Full Convention
COMMITTEE

June 27 p.m.
DATE

Reid
OBSERVER

Presiding Officer

Committee number present

3rd Reading Judiciary

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Judiciary article suggest Rules to take it up Hale & Sherman.

Williamson objecting

Yes 104

No 42

Rules suspended

~~A Sherman~~ Hale amendments:

1. Sec. 1 - adds No courts may be created except those provided by this article. - Hale says Com. was unanimous - Heatly says it wasn't. In favor - Spurlock adopted
Yes 1 No 21

2. Dist Clerks - Sec. 12(b) "and has such duties as provided by law." added after 1st sentence. Adopted

3. Dist Clerks - Sec. 12 - vacancies - add "in the manner prescribed by law." - to cover who does appointing when district & circuit ct. boundaries overlap. Adopted

4. Adds Chief Justice to line 10 p. 29 adopted

5. appeal from adm. action Dec. 14 (d) puts back in phrase "Notwithstanding any other provision of the Constitution"

McKerman - explains D & D position
Yes ☒ No

6. Donaldson - proposed rule - restriction on agency & Sp. Ct.
Rule making
adopted

7. Powers - Sec. 2 "other" back in
adopted

8. Hale - correction
Adoption of article: all but Dec. 14
Yes 113 No 28

OBSERVER COMMENTS

Dec. 14

Yes 92

No 54 adopted

will meet 10:30 tomorrow on

Adm Com members lounge now

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

5-23-74 2:30-5pm
DATE

John Rouse Macbeth
OBSERVER

Brie Daniels
Presiding Officer

Committee number present

Convention session - hearing on Judiciary after AM recess.
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who ~~attended~~ attended, major points made, etc. continue on back and additional sheets when necessary)

Jones Amend. on retirement funds for Judges. This is separate from the Retirement article in General Provisions, and repeats the retirement plan already in the statutes.

retirement plan already in the statute.
Compromise for Judiciary Revision noted down. 5/22 (Compromise Article is substitute.)
Bals noted motion to table substitute.
Calhoun spoke for Substitute - Motion to table failed.

Fox spoke against salubrity.

When Mr. ~~Davis~~ ^{Denson} held up in County Court for
"Right to Appeal" ^{sub.} ~~Davis~~ neighbors against other substitutes and for his
last night." (This was where the substitutes were led.)

The meeting was in the speaker's apartment.

The meeting was in the speaker's apartment. Pine Daniel
(Nagbors's Article being posted out without a signature - ~~Hebrew stops~~
the issuing of the substitute ^{Nagbors's} ^{and revised} on Nagbors's article is passed then says will have
Delegates "If Judiciary Article ^{on Nagbors's article} is passed then says will have
to be raised to pay for it. The people here today is to make the decision not
the judges, etc. And all back to Committee to be re-written. ^{admit it is dangerous}
(Evidently Balu was not at last night's meetings in speaker's apt. and is angry.)
Hall for compromise on rate. ^{admission to keep not recognized}
Here's the meeting tonight. "No!" 3 motions to keep - one till tomorrow, one till 2:30 AM
one, till 2 Tuesday - all failed.

OBSERVER COMMENTS

OBSERVER COMMENTS
into room when he returned after
exam and press ~~at~~ ^{from} ~~at~~ ^{from}
exam fail - please tell L.P. or Russ.

very few want to press now, nor tell Mon. or Tues.
ed statements concerning the treatment of Ben. Prosser.
eting, etc. Committee had most diverse political attitudes.
article & is separate, no germaneness, etc. There may be other sections
n. Return - Art & will be voted on section on a whole - unknown.
motion to Rec. till 9:30 Pm carried.

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

5/23

DATE

Schmitt

OBSERVER

Daniel

Presiding Officer

Committee number present

Judiciary - general session 2nd Party

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Sherman motion - postpone consideration
on Jud Act. till 2 PM Tuesday Passed
if business is pending (Gen Rpt)
then Jud must wait till finished
with (Gen Rpt) unless 2/3 vote to
suspend rules.

motion adjourn 9:30 AM Friday - failed
Monday 2 PM Failed
Recess Tuesday 2 PM Failed

Damage - Y

OBSERVER COMMENTS

5/23

Boyle
Maloney
Sullivan

Substitute #1 It has right of appeal from
trial ct decision holding law unconstitutional
Supreme Ct may upon petition of state
review an appeals ct decision

jurisdiction of
county cts will remain as they are until
and unless changed by statute.
Judicial function as provided now and hereafter as provided
no law.
Sec 9 - election of Judges -

Sec 15 - St right of appeal -

Trial Ct	The judge can't appeal from Trial Ct to
Ct of Appeals	Ct of Appeals unless law of
Supreme Ct	constitutionality is involved.

Washington - against sub #1 - no compromise was
reached.

Must challenge soundness of retention system
The council Ct shall but not required in
every county.

Mengden ~~ct~~ Dist Atty of Harris C. against sub #1
Boyle - sec 17 Habeas corpus - defendant may not be tried
twice for same offence.

Boyle - circuit courts - close to people - present county - Ct at law
statutory. Against sub #1

Washington - says he has given up on bifurcated courts
wants to strike sec 5 altogether.

League of Women Voters of Texas
OBSERVER FORM

General Session
COMMITTEE

5/22
DATE

Schmitt
OBSERVER

Daniel
Presiding Officer

Committee number present

Judiciary art.
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

To adopt committee Report
Mauzy - speaks against adoption of article
It no right of appeal in criminal cases.
Sullivan speaks for will receive support of
all major organizations (LWV, Tx. Lawyers, CRC, etc.)
Bales - against articles - too many compromises re
It right of appeal. bad.
Clower - for - progressive, superior to what we
have: merged cts; abolished specialized
courts; state compensation; judges in state
retirement system; central administration;
retained district courts; optional circuit
ct system within unified system if people
want it; funds generated by these courts
will remain in county.
Adams - question - how will sec 1 + work
deliberately meddling
- against - no one satisfied with it.
Mahoney - for - Adams cross questioned

OBSERVER COMMENTS

Jones - for -
Washington - against - will wholesale justice -
will speed up but give up fairness. Hodge -
podge. No compromise in the article. also not
better than present article. Objects to St right
of appeal. puts distrust attorney in middle of politics

League of Women Voters of Texas
OBSERVER FORM

General Session

COMMITTEE

5/22

DATE

Schmitt

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better than present article. Objects to St right
of appeal. puts distrust attorney in middle of politics

Williamson - what happens to funds. Washington stays in county.

Rule - no automatic appeal in constitution. Leaves it to legislature to spell how. If leg does not act no effect authority of C. judges not changed

Fees + fines are retained by county unless leg see fit to change at some future date.

Failed - 93-81 7 PMV

Only majority needed for table and consider

5/22

Lang Amend reconsider withdrawn
Lang - Huetenbock amendment

(Huetenbock amendment ~~leg shall create~~
~~and Council an agency~~ (not ~~shall create~~ just C.)
Huetenbock amendment reconsider withdrawn
→ ~~reconsidered~~

Subst. #64 for Huetenbock - Lang amendment
no substantial changes made urged
its adoption. No discussion adopted

Motion reconsider Willie Amendment - reconsider
role of Willie Amendment sec 15

Substitute brought up 20 to appeal

It shall have right to appeal from
Appellate decisions (not trial court)

Motion to Table Mr. Alston motion reconsider
Tabled 94-59

Blanchard to reconsider the article

Complete substitute for article by Washington
new sec 3 takes appellate Supreme Ct

criminal appeals; takes criminal
appeals out of unified system. 9 member
court to sit in panels. Removes St right
of appeal. 97-67 Tabled

Blanchard reconsider art 5 to committee

Schwartz moved to table 88-77 2PNV

Sec 15 referred to Committee
ending

Sec 6 - C. Ct. ~~was~~ continue until
changed or provided by law.

~~Rules constitution~~

91 - 72 tabled ~~off~~ ~~and~~ ~~will~~

Unified Court

Ed. D. P.

County home rule

#68 Noestenboch passed - changes Transition Schedule
to delete Jud. C.

#69 Ct of Appeals to sit in sections Von Kahlen
amendment - adopted voice vote.

#70 District + C. Clerk all existing
laws remain in effect until changed
by law Agreeable to committee
Adopted no discussion

#71 Substitute - Williamson - bifurcated
courts again Maury amendment
again. Williamson demands unified
system with specialization.

Tabled 95-59

Von Kahlen Reconsider sec 3 ~~tabled~~ prevailed.
Amendment withdrawn

#72 Coleman - Leg. may authorize Ct of App to sit
adopted voice no discussion

League of Women Voters of Texas
OBSERVER FORM

Plenary Session
COMMITTEE

May 22, 1974
DATE

Nancy Bené
OBSERVER

Ogg absent because of transportation difficulties

Presiding Officer

Jadecary
Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Delegate replacing Monrofe sworn in as delegate (District 84)

Consideration of Baker amendment

Reynolds spoke against - urged a no vote

Baker substitutes those who appoint.

Gov. L. H. - Speaking House to appoint a committee to appoint judges.

Basic question of merit system -

Mr. Sullivan questioned Reynolds -

Reynolds moved to table the amendment

Mr. Baker spoke for the amendment

Amend would apply only to appellate judges

95% of appellate judges app. anyway -

merit retention plan - 56% of people agree with plan

feel that minority people cannot run for judgeship

that they must have the opportunity of being appointed

wants to permit people vote on system (Cited LWR as for)

To table amendment - Yes - 105

No - 35

3 motions to reconsider amendment

Mr. Maloney moved for reconsideration of Larey Amendment

presented a substitute amendment to Larey + Hoestenbach

amendments - passed last week (Monday + Friday)

judicial agency - preserve the right of judiciary to

have an agency for administration - the legislature

to have final say on the actions of agency.

*Supremat
has check over
agency*

OBSERVER COMMENTS

*Larey amendment withdrawn in favor of the
substitute amendment.*

*Hoestenbach moved to reconsider the Hoestenbach amendment
in favor of the substitution - (Same meaning - Consolidation of
the 2 Amend.)*

~~motion~~
~~substitute~~ prevailed
amendment - 64. passed

M^cAllister moved to amend the Willis Amendment (adopted earlier)
- right of state appeal - ~~amendment~~ Sullivan

Mr. Doyle spoke in favor of M^cAllister's motion
Mr. Reynolds asked the motion be reduced to writing
Sect. 15 Art 5

provides that state has right of appeal for statute
substitute says state has ~~no~~ right of appeal in
appellate decisions

Mr. Willis heatedly objected to Mr. Doyle's explanation

Mr. Spurbach spoke against Mr. Doyle's amendment
rights of state should be preserved for appellate
moved to table M^cAllister amendment

Vote for table motion - 94 - 58 - tabled

A complete substitute article submitted by Mr. Washington
added new Sect 3 -

I member of 3 added new Sect 3 -
criminal appeal
puts back in
the bifurcated
system
I. ~~complete appellate process~~
one level of appeal in
criminal cases
II. ~~deleted right of appeal~~ - feels that ~~criminal~~
appellate court would give the state the
right of appeals.

(I didn't understand what the article said - the ~~amendment~~
Mr. Eule gave me his copy -

Mr. Denson spoke against substitute

Mr. McDonald " " " - moved to table ~~amendment~~

Vote to table amendment - 97 - 67

~~amendment~~ + tabled
Mr. Blanchard moved that Article II be resubmitted to
Judiciary Committee

Mr. Caldwell spoke against Blanchard's motion

Mr. Maugy for tabled - expressed feeling that article will fool
And committee will resubmit a favorable
document

Mr. Melney against motion

Mr. Wickham for motion - "this is a bad article" "I couldn't be any
worse"
"Changed for the sake of change"

Mr. Swartz - against - hinted at complete substitute to be offered
after lunch - ~~amendment~~ state right to appeal

Vote to table the Blanchard motion - Yes 85 No 78

Blanchard's motion voted down

Judiciary - general session

5/21

Williamson - Secy of Sup Ct locked in

(Tabled) by wording sec 2 9 members
Calhoun against

Tabled Williamson - Cts of Appeal - 15 cts limit
Williamson - Top of Administration cts

Failed Olson amendment - no lateral movement
of judges

3 amendments by Hale still left
2 separate submissions
also motion to reconsider

Hale amendment

1 for body of article; 2 for Transition schedule
try to meet objections of C. judges

① Court costs - delete sentence
on court costs - make it same as
we have now (sec 19)

Funds collected by counties in court
system would remain as county

Article would remain silent, no funds
taken leaves Leg to decide about supplemental
revenues

Committee finds amend. acceptable

Hallamend County Courts to remain
same as now until big changes (County judges
administrative heads of county Commission)

Transition schedule will remain in effect
until leg. acts. Transition schedule
is part of new const.

See p. 11 of Committee report.

This is part of committee report will be
subject to $\frac{2}{3}$ vote for amend. in 3rd Reading

Sub & Trans. Report is not amendable
S & D will submit transition schedule
for each article for 3rd reading.

Circuit Courts optional. not mandatory -
passed last week

Hall Amend - to reorganize judges
to table - failed

Amendment passed voice vote

Hall amendment - transfer of retirement
funds - Passed

~~Substitute~~ - to table

Nale - ~~see~~ Change Transition

and Ct. on which such judges preside
is the same until changed by law

Sec 15 - 91-72 tabled St right of appeal
as substituted

Williamson. separate upper courts Tabled
95-59

Van Dohlen - remainder Hale's amendment
Tabled

Van Dohlen Exp. Ct. to sit in sections Voice vote
Passed.



LEGISLATIVE NEWSLETTER

LEAGUE OF WOMEN VOTERS OF TEXAS
LEGISLATIVE DIVISION

603 West 13th Street, Room 111, Austin, Texas 78701, 512/474-4126



Barbara Vackar
May 20, 1974

< 11. A (4) > Judiciary

3:00 Convention at ease } Tues
3:15 Speaker
Recess until Wed.

The convention will work up until 3:00

Sub. Sec. 3

Amend. 50 - Judicial Council ^{not in the Const.} ~~would be statutory~~
_{the const. com. wants it in.}

Ogg spoke against - wants tabled
W-Y failed

D-N

F-Y

E-Y

Earle wants Judicial Council in Const.

Hale wants a No vote

D-N

E-N

W - ~~No vote~~ Y

F-N

B-Y

84 - yes

~~69~~ 72 - No

Sec. 15 - The state may not appeal in criminal cases.

Willis Amend. - state may appeal on question
of law To Table

D Y

68 - yes

W N

85 - No

F Y

B N

E N

Barbara Vackar
May 20, 1974

< 11. A (4) > Judiciary

3:00 Convention at ease

3:05 Speaker

Recess until Wed.

The convention will work up until 3:00

Sub. Sec. 3

Amend. 50 - Judicial Council ^{not in the Cont.} ~~should be statutory~~
_{the Jud. com. wants it in.}

Ogg spoke against - wants tabled
W - Y failed

D - N

F - Y

E - Y

Earle wants Judicial Council in Cont.

Hale wants a No vote

D - N

84 - yes

E - N

~~69~~
72 - No

W - ~~No vote~~ Y

F - N

B - Y

Sec. 15 - The state may not appeal in criminal cases.

Willis' Amend. - state may appeal on question
of law To Table

D Y

68 - yes

W N

85 - No

F Y

B N

E N

Amend. 52 - Sullivan

~~But~~ have the right of appeal as provided by the leg.

The leg. defines the points of law that the courts can appeal on.

~~Adopt~~ Adopt. Amend.

~~D-Y~~ Adopted

Ogg - against amendment

Wants the state to be able to appeal

Spurlock - in favor of giving the state an opportunity to appeal.

D	N	76 - yes
W	N	75 - No
F	Y	
B	Y	
E	N	

League of Women Voters of Texas
OBSERVER FORM

General Session
COMMITTEE

5/16/74
DATE

Lindsey
OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

2.P.M. Article V - Sec 5

Benson? Amend - County Judge
lawyer-judge - does not touch qualification
Circuit Courts optional (may instead of shall)
Sec 5 & 4 in conflict?

Spurlock - vote to table motion Aye 59 Nay 79

Amend 44 - Dale - back to C.R.C. lang.
"Leg shall provide by law for circuit etc"

Pt of order - withdrawn

Sutherland - would it be part of unified?

Repetoe

Adams

Sullivan - in favor

Bussell

Blanchard - against

Benson -

motion to table Dale Amend Aye 56 Nay 78
Adopt of Dale sub 60 80

Aye 77

Nay 61

OBSERVER COMMENTS

Adopt Bentz as substituted Aye 75 Nay 60

Amend 45 Amended by Willis Sec 7A

Willis for wants more than one J.P. court per co — ?!

over 100,000 divide into at least 4

Spindloch - against

motion to table prevails

Amend 46 { Jarboe } & Washington

pt of order - ^{subj.} already debated - pt withdrawn

Mr Washington - for so arrogant and a wee bit stupid maybe?

Sec 9E on election of Municipal judges

motion to table withdrawn

Mr Jones - it interferes with home rule concept

Mr Baker - for it

Mr McAllister - for it

Sen Patton - doesn't think people will run for Municipal.
hard to get people to take it by appt.

Castor - against inconsistencies moved to table + withdrawn

Mr Wash - for

vote on motion to table

— he struck + Daniel showed
out his own record with the
gavel

Amend 47

Sec 11 subsec 3

Mr Bostenbacher - ~~that~~ heavens he makes sense

Sub may for shall would really like to delete feels

Judicial Council should be statutory not constitutional

7th project of Mr Mayo?

Benson

Earle - against moved to table

motion to table

verification

Aye 68
64

no 62

#

League of Women Voters of Texas
OBSERVER FORM

General Session
COMMITTEE

May 16
DATE

Lindzey
OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Amend 48 - Author unknown - Lory

Sec 11 Subsec 4 New

something to do with Leg. making rules for judiciary
would all assignment of judges

Mr Grant - against interfere with internal affairs of
judiciary - violates separation of powers

Adams

Neighbors

motion to table Aye 44 No 91

Kale - against adoption of Amend.

Mr Davis -

Mr. Ogg - against adoption - wrongful encroachment

Aye 86 Nay

OBSERVER COMMENTS

Dear Grace - I quit!
I can take just so much

A.

when necessary
major points made, etc. continue on back and additional sheets
RECORD OF ACTIVITY (Record all votes, resolutions, who attended
committee meetings (Include minutes, etc.)

Committee member present

Presiding officer

OBSEVABLE



OBSEVABLE FORM

League of Women Voters of Texas

COMMITTEE

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

May 16 '74

DATE

Peggy Odam

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

26. Gov. Comm. Rm. - news conference on Envt. Sect. of Gen. Prov.
Burgess Rosenbach (plus 2 Sierra Club members) See
attachment for text. Have begun lobbying activities to get news
heard. Prefer to see all of minor. Report in consti. but
would settle for Public Trust statement. Sen. Gammage
voted against Lewis wording. Will be exploring possibility
of Gammage's support for their proposal. Bombing people
being overly cautious therefore have silly wording.
Why wait so long to get action? Ans. by Rosenbach - "we have
no paid lobbyists & it's difficult to get people to take
their time." Sierra Club members have known since Feb.
LWV has also been alerted & have taken a stand. district
Judicial Art. Sect. 19 - discussion of discrepancy in judges'
salaries in rich & poor areas of st. Amend. offered by Rep. Sullivan
to equalize salaries & also ^{equalize} the case loads between judges
in areas of heavy litigation & lesser ~~high~~ litigation.
Massey speaking for Sullivan Amend. Washington speaking
against - moves to table. 90 age 54/10

Sect. 20 - Maury (new sect. 21) amendment. Was in first 2
drafts. (1) Gen. chrg. in all ^{wrongful death} cases (2) Parent to
recover damages for mental anguish & loss of minor
(3) To sue a real party in interest. (Insur. co. should be named
as party)
~~reduce~~ (1) Would save time & money

Garcia
says
Maury
amend.
does this
& is good

OBSERVER COMMENTS

(2) Now ment. ang. not compensable
(3) Real parties revealed to jury

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

May 16 '74

DATE

Peggy Odam

OBSERVER

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Judicial Art. Sect. 19 - discussion of discrepancy in judges' salaries in rich & poor areas of St. Amend. offered by Rep. Sullivan to equalize salaries & also ^{equalize} the case loads between judges in areas of heavy litigation & lesser ~~high~~ litigation. Massey speaking for Sullivan amend. Washington speaking against - moves to table. 90 aye 54 no

Sect. 20 - Maury (new sect. 21) amendment. Was in first 2 drafts. (1) Gen. chrg. in all ^{wrongful death} cases (2) Parent to recover damages for mental anguish & loss of minor (3) To sue a real party in interest. (Would drastically Insur. co. should be named as party) ~~reduce~~ (1) Would save time & money

Garcia says Maury amend. does this & is good
OBSERVER COMMENTS
(2) Now ment. ang. not compensable
(3) Real parties revealed to jury

Judiciary Article

Art. 20

Caldwell speaking against Nauy amendment. Agrees with all 3 but thinks are statutory. Moves to table. 88 yes 52 no

Washington amendment. to sect. 1. Strike everything after 1st sent. | Sect. 2 would then address itself to ^{Crim. Ct. of Appeals} Sup. Ct. | ^{Sec. 3} Propose 4 intermediate cts. of appeal to remove load from ~~Sup. Ct.~~ present ct. & appeals.

Doesn't want ct. consolidation of h. cts.

Williamson in support.

Speaking against } Hale against. Moves to table.

Green against.

G. Jones against

85 yes 58 no

& recess until 1

Discussion of amendments this afternoon,

Power Separation in Government Underlies Judiciary Article Battle

By WAYNE JACKSON
Staff Writer

Concern for the separation of powers between branches of government — a basic constitutional question — was at the heart of Constitutional Convention debate Wednesday on the judiciary article for a new state charter.

The issue arose on a question which some thought would interest only lawyers: the rulemaking power of the supreme court.

Rules, or procedures under which litigation is handled, provided the backdrop for the separation of powers issues, with presentation of a Judiciary Committee report

providing that no rule of the supreme court could become effective until the legislature had the chance to disapprove the rule.

Disapproval by either house would kill the rule, the majority report said.

The battle was joined with presentation of a minority committee report keeping the present law: both houses of the legislature together may disapprove a rule of the court.

The legislature would be stepping across constitutional lines into the domain of the judiciary by adoption of the majority report, said Rep. Pike Powers of Beaumont. Not so, countered Rep.

DeWitt Hale of Corpus Christi, who brought up another constitutional axiom. Adoption of the majority report would merely strengthen the system

Analysis

of checks and balances, he said.

Powers said checks and balances were preserved by present law — what the minority report sought to retain.

"We are not relinquishing any power we have," Powers told his colleagues. But to extend the legislative veto power over court rules so that one house of the legislature could kill a rule would be a "drastic and very serious departure from the present law," he said.

But the issue was further complicated by introduction of an amendment by Sen. Oscar Mauzy of Dallas who wanted to make sure the supreme court wrote only rules of civil procedure and left criminal rule-making to the legislature.

Rep. Billy Williamson of Tyler agreed with Mauzy, saying reserving criminal rule-making to the legislature would "keep procedural due process close to the people where it ought to be." After procedural votes on the minority report delegates accepted the Mauzy amendment that the supreme court could write only civil rules, then approved the minority report. By so doing the delegates who are members of the legislature in the off-convention season — said the legislature should not intrude too far into judicial matters but concluded that the legislature should continue to write criminal procedure rules for the supreme court.

Minority Report Wins in Court Rules Debate

By RICK FISH
Capitol Staff

Dissident factions of the Constitutional Convention's Judiciary Committee slugged it out Wednesday over who should have the power to write the rules for trying court cases.

In the end, the minority report of the committee won with a little compromise — reserving to the legislature the authority to write criminal rules of procedure and allowing the Texas Supreme Court to write civil rules subject to legislative review.

As amended, the minority report triumphed 103-24 over a majority opinion of the

committee that would have allowed either house of the legislature to veto a rule of procedure and would have required legislative review before a rule could go into effect.

The minority version is similar to the present authority of the Supreme Court to determine how cases will be conducted.

Sen. Jack Ogg of Houston said the majority version would have "crippled" the authority of the judiciary as a separate branch of government.

The committee's proposals regarding jury trials came in for repeated attempts at modification.

The proposed right to trial by jury was

specifically detailed as the right of a defendant to "demand" his right to a jury of his peers as "prescribed by law."

That wording worried Reps. John Hoestenback of Odessa and Billy Williamson of Tyler.

"I think the right should be there . . . it should not have to be demanded," said Hoestenback. He warned that the committee wording was a "great mistake" and suggested a provision setting up an "inviolable" right to trial by jury. Delegates disagreed: tabling his plan 69-55.

Several amendments attempted to provide for less-than-unanimous verdicts for conviction by criminal trial juries.

Rep. Forest Green of Corsicana proposed a 10-man verdict to prevent the jury being "hung by one individual who is out of step with society and certainly with 11 other people."

He said his amendment would "prevent the obstruction of justice by one person insisting upon his will." Delegates tabled his proposal, 96-43.

Sen. Grant Jones of Abilene tried again with a provision that would allow the legislature to provide for less-than-unanimous verdicts if it ever decided it was needed.

Rep. Ben Grant of Marshall called Jones the "worst yet," and delegates responded by

tabling it 109-34.

Members of the convention, at least half of whom are lawyers, argued heatedly over plans to give the state the right to appeal decisions of the court.

Most proposals were for limited appeals: from procedural decisions of trial courts.

Rep. Andrew Z. Baker of Galveston came closest to winning adoption with a limited appeal right for the prosecution in criminal cases.

He succeeded in avoiding outright tabling of his plan on a narrow vote, but when he admitted that he had "some doubts" about how well the right to appeal would be administered, delegates voted down his plan.

32 ayes to 92 noes.

Delegates are now three-quarters of the way through consideration of the judicial article.

If they tentatively vote to adopt it Thursday, and "get their feet wet" on non-controversial sections of the upcoming general provisions article, convention President Price Daniel Jr. says he would favor taking a recess for the weekend at the end of the day, Thursday.

But he told delegates Wednesday afternoon to be prepared to spend a five-day week in debate next week on the controversial sections of the catch-all general provisions article.

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

15 May 1974

DATE

Geri Cook

OBSERVER

Presiding Officer

Committee number present

Judiciary Article # V

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Minority report #1 - Substitution for Article V
Section 11(b) was adopted 103-24.
Amendment #25 by Reynolds to strike section 12
as having been adopted in Local Government
Article IX and was unnecessary duplication.
Referred to election, term, qualification and
removal of county + district clerk. However,
Article IX does not allow choice of having both
county + city clerk without popular vote which
this article does and so this amendment
was tabled - Vote not understood.
Section #13(c) - amendment by Hertenbach of Odessa
offered amendment that trial by jury should be
"inviolate" - Tabled
(d) - Amendments offered to make less
than unanimous but were tabled after debate
right of
Section #15 - Amendments offered for limited appeal
by the state were offered but rejected

OBSERVER COMMENTS

after debate.
For some reason this debate & vote seemed
difficult to record or I just couldn't
concentrate. Please overlook inadequacy.
Geri Cook

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

15 May 1974
DATE

Geri Cook
OBSERVER

Presiding Officer

Committee number present

Judicial Article # V
Committee activity (public hearing, etc.)

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Section #13(c) - amendment by Hertenbach of Odessa
offered amendment that trial by jury should be
"immediate" - Tabled
(d) - Amendments offered to make less
than unanimous but were tabled after debate
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Section #15 - Amendments offered for limited appeal
by the state were offered but rejected

OBSERVER COMMENTS

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For some reason this debate & vote seemed
difficult to record or I just couldn't
concentrate. Please overlook inadequacy.
Geri Cook

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Minority report #1 - substituted for Article V
Section 11(b) was adopted 103-24.
Amendment #25 by Reynolds to strike section 12
as having been adopted in Local Government
Article IX was unnecessary duplication
Referred to section, Term, qualification and
Removal of county & district clerk. However
Article IX does not allow choice of having both
county & city clerk without popular vote which
this article does and so this amendment
was tabled - vote not understood
Section #13(c) - amendment by Hertenbach of Oden
offered, amendment that trial by jury should be
"immediate" - Tabled
(d) - Amendments offered to make less
than unanimous but were tabled after debate
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by the state were offered but rejected

OBSERVER COMMENTS

after debate.

For some reason this debate & vote seemed
difficult to record or I just couldn't
concentrate. Please overlook inadequacy.

G. Cook

OBSERVER COMMENTS

GRACE Schmitt

method. Points made, etc. continue on back and additional sheets
RECORD OF ACTIVITY (legally attested, resolutions, who assembled,
Committee activities (public meeting, etc.)

Committee member present

Presiding Officer

OBSERVER

DATE

OBSERVER FORM
League of Women Voters of Texas

COMMITTEE

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

Convention
14 May 1974

DATE

Wanda Allen

OBSERVER

Presiding Officer

Quorum present - 9:50

Committee number present

see attached green sheet

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

May 21, 1974, 10:00 a.m. will address convention
Sec. 5 -

MacDonald

mentioned ^{legislature} article (today's) Dallas Morning
post, summary hearing ^{News}
continue to be held by Co. judge

Amendment by Denson of Houston
strike out Circuit Ct's - ^{Supreme}
one trial ct. level as ^{appeal}

Rebuttal by MacDonald - ^{trial} ^{cts}

too confusing
not right for Texas
district judges won't like it
too idealistic i.e. radical

Questioned by Langaria -
Co. judge: (if not a lawyer)
non-contested matters
probate
juvenile

OBSERVER COMMENTS

Co. judge: if a lawyer may
serve as circuit judge

(over)

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE Convention

14 May 1974

DATE

Wanda Allen

OBSERVER

Presiding Officer

Quorum present - 9:50

Committee number present

see attached green sheet

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

May 21, Las. of La. will address convention
Sec. 5 -

MacDonald ^{testimony}

mentioned article (today's) Dallas Morning
probate, summary hearings ^{News}
continue to be held by Co. judge

Amendment by Benson of Houston

strike out Circuit etc -

one trial et. level

[Supreme]
[appeal]

Rebuttal by MacDonald -

[trial etc]

too confusing

not right for Texas

district judges won't like it
too idealistic i.e. radical

Questioned by Langaria -

Co. judge; (if not a lawyer)
non-contested matters

probate

juvenile

OBSERVER COMMENTS

Co. judge; if a lawyer may
serve as circuit judge

(over)

non-lawyer
Coleman: Will Co. judges buy this?
MacDonald: Yes - I don't want
to handle contested cases - will
have a lawyer - circuit judge
available for every co. in state.

Short: what % of ^{co.} judge's job
is spent as Co. judge officer

MacD: 75% or in some cases

Short: Should judges salary be
cut 25% if his work load is
reduced

Digger
Questioned: How will circuit its
work?

Mac - legislature will work out
details - Co. judge might act as
magistrate of circuit it - but
on contested cases, circuit judge
will handle

Digger
Questioned - where will money
go?

Mac - later provision provides
state will only take cost of it
not returned to Co.

Digger
Questioned: Will this cost
more
MacD should not cost appreciably
more

Layman: - Judicial districts unevenly
apportioned - will circuit Ct system
follow this bad distribution

MacD - Hopefully the new system
which will be created by legislature
to distribute load evenly.

Shurt - Spoke in favor of (3)
Henson amendment -
discrimination in terms of
salaries - Sawyer Co. judge's
salary will be picked up by
state - others will be paid
by local revenue
Hale - Shurt is wrong - table
Henson amendment

Henson - I feel it will be easier
to transfer cases - will be
more efficient -

Garcia - will Co. cts at law be
eliminated under your amendment

Henson - No - they will become Dist. judges

Garcia - What about Co. clerk's?

Motion to table: 110 yes 39 no
Only Steddington & Haggitt - no

Craig Washington's amendment -
quoted Ky. Circuit Ct. case in Supreme Ct
he based on population - Must be
not difference between judicial
districts + legislative districts
based on 1 man 1 vote when
elected -

Mac D against - same objections
as yesterday's for District
Judges -

Judges do not represent people
" administer judges
equally to all - moved to table

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified,
major points made, etc. continue on back and additional sheets
when necessary)

OBSERVER COMMENTS

Hack - Federal judiciary will
require this in a few years

Baker - Wouldn't you amend
simply to fix the urban areas
what exists in rural areas -

Murray - This doesn't affect venue
of it.

Wash - no - if we don't select
judges

Vote - to table - 89 yes - 5 no

Carle - yes -

Hed - yes

Slaggett - no

Sec 6 -

Baker explained -
leaves Co. judge functions
the same until legislature
makes provisions for circuit
judges - Co. exec functions
Probate &
notary, etc.
Does not have to be
a lawyer

Baker Amendment: Strike
all of Sec 6 - exec duties
covered under local govt;
would remove them from
probate duties

Baker - should be mentioned
in judiciary - quasi judicial functions
motion to table - 137 yes 8 no
Hed - yes Carle - yes Slaggett - yes

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified,
major points made, etc. continue on back and additional sheets
when necessary)

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified,
major points made, etc. continue on back and additional sheets
when necessary)

OBSERVER COMMENTS



Baker - Amend. to Sec. 7

I'd not needed in small
cases - but can be performed by
15,000 pop/av less down. I
have to have em if they
don't want em -

Spurlock - must keep uniformity
Baker - legislature could give
"small claims" cases to
C. judge -

Table to Motion - passed

~~Sec. 8~~
Cook explained. Qualifications
for judges in unified judicial system
qualified to practice law

Sec. 9 -

Ogg - election of judges at large
partisan issue determined
by law legislature

Minority Report #3 -

Coleman - judges should be
elected (compromise)

judicial district comparable
to supreme ct members
chief justice - state-wide

Ogg - districting causes too
much partisanship -

Wash - com. it sh. be dominated
by huge barometer law firms -

Mauzy - cited instance of Ct. of Appeals
(over)

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified,
major points made, etc. continue on back and additional sheets
when necessary)

*Motion to Table Minority
Report — 58 yes - 88 no*

*Cable - yes
Hogg - yes
Hudd - no*

Motion to recess 96 - yes 57 no

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Full Convention

COMMITTEE

May 13 - p.m.
DATE

Jayne Dibrell
OBSERVER

Daniel
Presiding Officer

Quorum
Committee number present

Art. V - Judiciary - Sec. 1 - Sec. 5
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Hale - Overview - Unified Judicial System of ① One court of last resort for both civil & criminal cases, ② Courts of appeal for civil & criminal, and ③ Trial Courts on two levels: District and Circuit - All of which paid, administered and supervised by the state. local, jp, municipal courts are separate. statewide administration to facilitate justice.

Sec. 1 - Hale - Sets out unified judicial system with equal jurisdiction for each level. No courts of limited jurisdiction. No new courts required but increased state cost approx. $\frac{3}{4}$ million each year. Counties not prohibited from supplementing judges' salary.

Moxey Amendment - 1 - Bifurcated judiciary into criminal & civil. on trial, appellate and last resort level. with criminal branch duplicating present civil branch, including discretionary appeals; because ① legal profession is specializing and ② Relieve criminal case backlog.
Earle against - ① Cost \$20 million, ② Unnecessary duplication, ③ Civil appeals judges underworked, ④ 48 states are unified.

Tabled - For - 100 Against - 50

Moxey Amend - 2 - Keep present system but civil appeals courts to have criminal jurisdiction - Tabled - For - 98 Against - 56

Sec. 2 - Earle - Sets out Chief Justice

Sec. 3 - Coleman - Sets out Courts of Appeals - not to sit in sections

Creighton Amend - Sitting in sections left to legislature.

Sec. 4 - Jones - Set up District Courts

OBSERVER COMMENTS

Washington amendment - Setting up geographical dist. for judges

to run in large circles - one man one vote principal

Jones against - Judges represent ~~people~~ law, not people.

Tabled - For - 100, against - 52

Sec. 5 - McDonald - Sets up one circuit court for each Dist. Court.

League of Women Voters of Texas
OBSERVER FORM

Full Session
COMMITTEE
May 1
DATE
Ann Albers
OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

H de - explanation of Sec. 11 - allows controlling
judicial case load & manpower
Amend 21 by Hostenbach - deletes Sec 11 subsec 3
Tabled excess verbiage, can be statutory
7/59 Minority report No. 1 - Powers - doesn't like leg.
rights of disapproval in Sec 11, subsec (b) 3
minority report essentially same way things
are now as far rule making power goes
but minority report would not allow the
leg. so much power in disapproving
rules of procedure
Motion to table - failed 120-32
Amend. 23 Mousy - ~~legit~~ not allow
Supreme Court to write Criminal
rules of procedure
Stockwaite spoke passionately ~~for~~ for
Mousy. amend. He doesn't trust
Judges to protect our rights &
civil liberties.
Motion to table - 52-102 - failed Amend. adopted

OBSERVER COMMENTS

Art
Amend 48

Age⁸⁶ May 66

2 motions to adjourn defeated

Amend
49 Speedlock

Art V Sec 15

(State no rt. of Appeal in criminal
case) - provide opp for

State to appeal - correct error

So - delete sec 15 - leave it to leg
to determine appeal

Pt of order raised that
same as Jones

Cahoon's Pt of order sustained

Motion to recess till 10 AM Fri
2.

Motion to " " 2:00 Mon
Passed

having present condition
of article printed for
Mon 12 M.

Style + Drafting
9:30 A.M.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

3-28-74

DATE

Jayne Dibrell

OBSERVER

Hale

Presiding Officer

Present: Hale, Baker, Coleman, Cooke, Denson, Earle, Grant,
Committee number present Hendricks, Jones, Mc Donald, Ogg, Reveto

Final vote - Sec. 15-19

Committee activity (public hearing, etc.)

(left before ?)

Hudson

Bales

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Sec. 15 - State's right to appeal Sporlock Amend. Tabled 13 yes, 4 no.

Mau - ✓	Den - x	Hend - ✓	O - ✓	<u>Hale amend.</u> Tabled -
Bak - ✓	E - ✓	J - ✓	Pow - x	same vote.
Col - ✓	G - x	Mc - x	Sp - x	
Cook - ✓	Heat - ✓	N - ✓	Bales - ✓	

Grant Amendment - Passed voice vote -

Sec. 16 - Grant amend - Tabled - yes 12, no 5

Mau - ✓	Col - ✓	E - x	Hend - ✓	Mc - ✓	Sp - ✓
Bak - x	Cook - ✓	G - x	Hud - ✓	N - ✓	Pow - ✓
Bal - x	Den - -	Heat - ✓	J - ✓	O - ✓	Pow - ✓

Hendricks Amend Adoption - yes 15, no 2

Mau - ✓	Col - ✓	G - ✓	Hud - ✓	N - ✓	Pow - x
Bak - ✓	Cook - ✓	Heat - ✓	J - ✓	O - ✓	Sp - ✓
Bal - ✓	E - x	Hend - ✓	Mc - ✓	Pe - ✓	

Mauzy move to adjourn for football game at 7: - 5 yes, 13 no

Sec. 17 - Powers Amend to delete sec. 17. yes 10, no 9 (Hale broke tie)

Mau - x	Col - x	E - ✓	Hend - x	Mc - ✓	Pow - ✓	Hale - ✓
Bak - x	Cook - ✓	G - x	Hud - x	N - x	Pow - ✓	
Bal - ✓	Den - ✓	Heat - x	J - ✓	O - ✓	Sp - x	

Sec. 18 - Mc Donald Amend (Semi-final draft, deleting "general") Passed voiced

Sec. 19 - Hendricks amend - (Sub. sec. b - Semi-final draft, add "as provided by law") Passed - voice vote.

OBSERVER COMMENTS

Delegates studying: 3 amendments on financing by Hale
1 amendment on retirement
Transition Schedule

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

DALLAS 75221

SARAH T. HUGHES
U. S. DISTRICT JUDGE

August 6, 1968

Mrs. Laurence Perrine
7616 Royal Place
Dallas, Texas

Dear Catherine:

I read with interest "A Guide
for Jurors" which was enclosed in your letter of
August 3rd.

In my opinion, it is very useful
information. However, the present rules of federal
jury selection are being presently revised and your
reference to the Federal Courts will be out-dated.

I would suggest that before any
revision takes place, you wait until the new rules
have gone into effect.

With best wishes, I am

Sincerely,

Sarah T. Hughes
U. S. District Judge

LAI-9856
By whom?
When?
What?

How many
summarized
in Dallas City?

New
Amicus May
revisions

Missouri
UT
Revised

Downward
low school

21
20, when?

How
use?



R. Sant

Tabled

COMMITTEE AMENDMENT NO. _____

Amend Section 16, Judiciary Committee Draft of Article
V to read as follows:

"Section 16. APPEAL BY ACCUSED. An appeal under Article
1, Section 11a is to the ~~supreme court.~~"

appellate court having jurisdiction -



Tabled

COMMITTEE AMENDMENT NO. _____

HALE

1 Amend Section 15, Judiciary Committee Draft of
2 Article V to read as follows:

3
4 "Section 15. APPEAL BY STATE. In criminal
5 matters, the legislature may grant the state the
6 right of appeal from an order suppressing evidence
7 or quashing one or more counts of an indictment or
8 from a decision holding unconstitutional all or part
9 of a criminal statute."



Tabled

COMMITTEE AMENDMENT NO. _____

BY Spurlock

Amend Section 15, Judiciary Committee Draft of Article V
to read as follows:

"Section 15. APPEAL BY STATE. In criminal matters, the legislature may grant the state the right of appeal from:

"(1) an order quashing an indictment or information or any count thereof;

"(2) an order granting a new trial;

"(3) an order arresting judgment;

"(4) a ruling on a question of law adverse to the state where the defendant was convicted and appeals from the judgment; or

"(5) the assessment of sentence on the ground that it is illegal."



Committee: Judiciary

March 26th

Bizzell and Bryan

The committee under Hale met after adjournment of general session~~s~~. Sec. 11 on court administration was debated and the committee~~s~~ accepted a Heatly proposal added to the Blanchard amendment which is the same wording in your copy of the final draft.

Ogg's amendment which was a shorter, better version was defeated, but he proposes to carry it as a minority report or amendment on the floor. The others voting with Ogg were: Earle, Powers, McDonald, Peveto, Spurlock. The Ogg amendment was the one I personally favored as it gave the legislature a check and not control; the amendment that passed follows Hale's philosophy that the legislature should have control of rules of procedure in the Judiciary.

The other 2 sections, sec. 12 and 13th, are the same as in the final draft also. Merit selection as alternate transmission should be up tonight and since last night went the way it did, I really have little hope. I guess we're lucky to have gotten what we did.

(Can you believe Spurlock came around? Jones voted with Hale et. al. because a comparative negligence bill which he believes was great that he sponosored was killed,he thinks, when the Supreme Court opposed it. Jones said he was "getting them back." I really am surprised as he has been quite a statesman up until now. Everybody has clay feet.)



League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE
Monday ~~the~~ evening — 3/18 and 3/19
DATE
Bizzell
OBSERVER

Hale
Presiding Officer

21 - 18
Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Sections 1 and 2 were approved on Mon.
Sec 1⁽¹⁰⁻⁹⁾ was the Grant amendment which is attached.
it provides for merger and a unified court system.
Sec 2⁽¹⁵⁻⁵⁾ was the section from the draft, a copy
of which is attached. Sec 3⁽¹⁷⁻⁷⁾ also was approved
from the draft on Tues. evening. Hale was extremely
distressed, not on a substantive basis but on a
language basis. He promises to offer an amendment
to the section from the floor.
Then Sect. 4, slightly amended from the draft,
was accepted on voice vote.

For over an hour discussion on circuit
courts (Sec. 5) began. After much
parliamentary maneuvering, a vote of 12-5
defeated the draft which has the effect
of creating a 1 tier trial court system
(except for the circuit courts provided
in Sec. 11)!

OBSERVER COMMENTS

Heathly et. al are supporting 1 tier proposal
now I think because he thinks this will
subterfuge the constitution - strange. Hale
is furious at progressives as well as
conservatives - A riot!

your
for
Committee

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

RECORD OF ACTIVITY (Record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Section 1 and 2 were approved on Nov. 1919. The Board of Directors was notified and a verified copy of the draft, a copy of which is attached. See 3-11-20. The Board was approved from the draft on Nov. 1919. This was approved, not on a substitute basis but on a charter basis. The provisions to open an amendment to the section from the floor of the Board of Directors was approved on Nov. 1919.

®

OBSERVER COMMENTS

Letter of 11/11/19 is being sent to the Board of Directors. I think the Board will be satisfied with the proposed amendment. I think the Board will be satisfied with the proposed amendment. I think the Board will be satisfied with the proposed amendment.

Passed 10-9
present
not voting
3-18-74

COMMITTEE AMENDMENT NO. _____

BY Grant

Amend Section 1, Judiciary Committee Draft to read as follows:

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

~~Revised~~
~~3-18-74~~

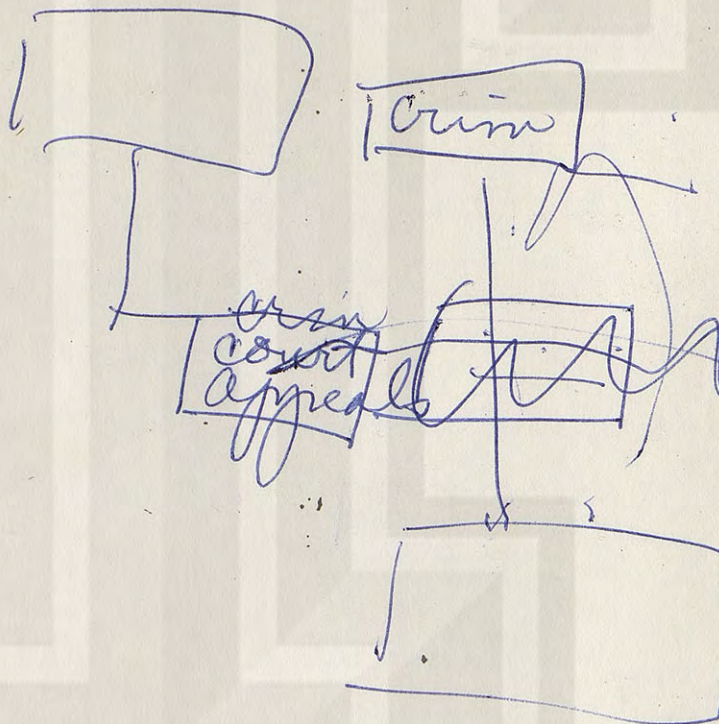
JUDICIARY COMMITTEE DRAFT (referred to Style and Drafting
Committee for informal review)

15 days
5 days

Accepted 2-18 in record vote

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

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



JUDICIARY COMMITTEE DRAFT (referred to Committee on Style and
Drafting for informal review)

ACCEPTED

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 at least two other judges, of whom a majority shall be
necessary to decide a case.

~~Hale amendment with
Wabers amendment
is adopted.~~

get

Hale will offer amendment
on floor

17 - 2

JUDICIARY COMMITTEE DRAFT (referred to Style and Drafting
Committee for informal review)

1 Section 4. DISTRICT COURT. The state shall be divided
2 into ~~geographical~~ judicial districts as now or hereafter provided
3 by law. In each district there shall be one district court
4 with one or more district judges, ~~and such other officials as~~
5 ~~provided in this article or by law.~~
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Accepted 3/19 on
voice vote

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

3-5-74
DATE

Benge
OBSERVER

Hale
Presiding Officer

Absent
Earle

10
Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

~~Blanchard~~ amendment 8 passed -
(see 11) SEE ATTACHED
(compromise between Earle + Blanchard)

Sec 12 - Prelim draft accepted
with interlined lang. accepted
see attached - (dist. clerks)

Sec. 13 - Jones: draft accepted

Sec ¹⁴ 15

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE
3-5-73
DATE
Biggell
OBSERVER

Hale
Presiding Officer

14
Committee number present

Hale
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

WILL MEET TUES NITE, WED AM + NITE
15 min per amendment per side -
SEC. 10 - FINANCING.

[Jones - strike sec. 10 + leave leg. to establish
financing 12 - 5 PASSED]

Baker - leg. shall pay salaries & complete
judicial system.
if leave it silent supplementation will cost.

Grant - leg pay costs of unified judicial system
money used by cts can reimburse the state

Hale - state take over financing; prohibit supplementation,
allow 90 basis for range - would have
transitional schedule allowing for present
judges to continue getting what they get now.

~~Ron Coleman eloquent for uniform fiscal policy~~
SEC 10 - mandatory retirement struck because
Sec 8b addresses this.

Sec 10 - Removal of judges
Earle amendment spell out members of Judicial
Qualifications Commission
Denson amendment - would take out of const. [withdrawn]
Ogg " passed much briefer - gives to leg.

OBSERVER COMMENTS

Committee Disc. says they will let leg worry
about uniform financing

(over)

Ogg Amendment reads:

Sec 10: The Judicial Qualifications Commission. There shall be a Judicial Qualifications Commission with such Authority & functions as shall be provided by law.

Sec 11 - Judicial Council.

McDonald Amendment - shall have membership by law & prescribe rules of administration & other duties
Earle Amendment - much longer; Spells out member of Judicial Council -

Maury & Earle debate -

099

Section 10 The Judicial Qualifications Commission
There shall be a Judicial Qualifications
Commission with such authority and
functions as shall be provided by
law.

Accepted 3-5-73

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

2-27-74

DATE

Helen L. Tell Macbeth

OBSERVER

Hale

Presiding Officer

14-20

Committee number present

Discussions and Action on 2/12 Preliminary Draft
~~Article V~~ Article V Revisions & adopted 2/13 Amendments of Earle, Grant, Coleman

Committee activity (public hearing, etc.)

McDonald, designated
"Substitution 9" in Working
Draft.

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

The Earle Amendment was tabled 14/4 vote and Grant Amendment substituted. Earle Amendment 2 was withheld. Mc Donald feared that his would be covered in Grant's Amendment so he did not present it.

Grant's Amendment covered JP's election, and treated vacancies in all courts: appellate, District and Circuit, and designated how vacancies in other Courts would be handled. Passed 16/0

The word "vacancy of the judge" was discussed, i.e., the judge is not "vacant"; "Office" was discussed but this was a misnomer, so "vacancy in the court" was decided upon. Even if there were 5 judges and one was absent there would be a vacancy in the court.

The Working Draft provides for Constables to be elected in ^{for} the County.

Coleman's Amendment became (a) in Grant's and the lettering of the particles in Grant's were re-lettered accordingly. Carried 8/6

Coleman's Amendment on districting / election of judge from each of the 8 Districts was spoken to by Rep. Lom Hedden of Dallas. He said the judge would be more representative of the people. The discussion followed that (Blanchard, et al) that the Courts do not represent the people, they are the law interpreters regardless of the people in the District. An equitable decision was reached sentimentally.

OBSERVER COMMENTS

If the Education Committee finishes in the plenary session (Wed. 2-27-74) The Judiciary will meet all day Thursday. They are far behind and Hale wants all to be heard and items refined as much as possible. Committee to meet at 10 a m sharp daily. Hale apologized for not standing on time. If necessary there will be a Monday night meeting 7:00 p m — and following nights to get the work completed.

One delegate, Ok. — became weak on ill. Several showed concern for him quietly. One accompanied him from the room but returned without him.

Section 8

ELECTION OF JUDGES.

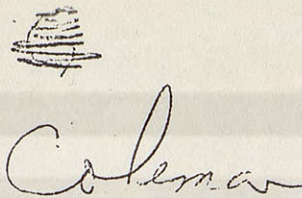
(a) All appellate justices shall be elected every six years in a manner provided by law.

(b) Judges of District and ^{Circuit} ~~County~~ Court shall be elected every four years as provided by law.

(c) The vacancies on the appellate, ~~and district~~, ^{and circuit} ~~court~~ ^{court} level shall be filled by the governor with advice and consent of the Senate. Vacancies of other ^{courts} ~~judges~~ shall be filled as provided by law. Vacancies shall be filled until the next succeeding election.

73 words
as compared 157 words
in preliminary draft
passed 2-27-74

COMMITTEE AMENDMENT NO. _____


Coleman

Amend Section 8 of Committee Tentative Draft by replacing Subsection (a) with the following language:

"(a) The State shall be divided into a number of judicial election districts, which number shall be equal to the number of associate justices of the Supreme Court. As nearly as possible, each judicial election district shall be compact and contain an equal number of inhabitants. The qualified voters of each judicial election district shall be entitled to elect one associate justice to the Supreme Court; the qualified voters of the State shall be entitled to elect the Chief Justice of the Supreme Court."

passed 2-27-74

Section 2. Supreme Court

The Supreme Court shall be the highest court of the State and shall consist of the Chief Justice of Texas and at least eight other justices, of whom a majority shall be necessary to decide a case. It shall have such ~~authority~~ jurisdiction and administrative, and rulemaking authority as shall be provided by law.

The legislature may grant the Supreme Court jurisdiction to receive and answer questions of state law certified to it from federal courts.

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 at least two other judges, of whom a majority shall be necessary to decide a case.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE
2-25-74
DATE
Bezzell
OBSERVER

Hale
Presiding Officer

16
Committee number present

Work Session
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

County Judges -
Hendricks -

Argument over "as now or hereafter
provided by law,"

Section #6 Amendment by Hendricks - Coun. judge head
of Co. Commission shall have such
duties & responsibilities as provided
by law - passed -

Sec 7 - Justice Courts : problem of areas which
don't need or want them discussed -
~~Coleman substitute adopted~~

Blanchard wants constables in constitution

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE
Thurs.
2-21-74
DATE
Bryzell
OBSERVER

Hale
Presiding Officer

17
Committee number present

absent Coleman
Hudson
Spurlock

Work session

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

SECTION 4: consideration of preliminary draft
+ ~~State~~ McDonald, Heatty & Hale amendment
Hale: divide state into 13(?) districts. Debate over
judicial redistricting -

PASSED (Baker and)

"The state shall be divided into as many
geographical judicial districts as now or hereafter
provided by law. In each district there shall
be 1 district court with one or more district
judges & such other officials as provided in
this article or by law."

Vote:

Carle compromised in favor of Heatty
So did all the other "good guys"

OBSERVER COMMENTS

much lobbying in small groups -
Heatty seems to be winning

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

2/21/74

DATE

N. Bené

OBSERVER

Hale

Presiding Officer

16 - 20

Committee number present

Debate on Section 2 - Working Draft.

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Because of a question from Ogg - Hale thinks they should get all 21 members together to vote finally on a unified or multiple court system. Agreed was the fact that no matter where they stand on that matter, there would be enough for a minority report anyway. (Hale sensitive to press reports)

Lengthy discussion ensued as to the amendments of Section 2 which were substitutes for the draft section - Coleman dropped his 18 member court in favor of Mangy or Perets - Earle. Those discussing were Coleman, Earle, Perets & Bales. Mr. Grant expressed favor for working draft section.

Vote I. McDonald Substitute - 11 - Preferred over Prelim Draft
2. Prelim Draft - 6

Vote II Mangy Sub - 8
* Earle - Perets - (Sub for Mangy Amendment) - 10 - preferred

Vote III Earle - Perets - 9
McDonald - 10

McDonald Substitute is adopted in lieu of the prelim draft statement.
(Simplifies the draft section - unified system - adds majority vote of court on cases)
Mr. Grant moved to adopt ^{this} amendment to McDonald Amendment
(not sure what this was)

OBSERVER COMMENTS

Mr. Ogg commented to me that the votes are too close for comfort - which they are -
Mr. Earle & Mr. Ogg were actively lobbying in the room before the votes - Mr. Earle & Mr. Perets & Mr. Ogg did not vote for the Earle - Perets amendment - the opposition did - a great example of political maneuvering

COMMITTEE
DATE
OF YEAR

League of Women Voters of Texas
RESOLUTION FORM

Presiding Officer

Number present

Section 3. ^{adapted} Section 3.
Macdonald Substitute - 14
Hale Substitute - 0

Vote 1. The proposed substitute - 11 - 8
2. The proposed substitute - 8
3. The proposed substitute - 10 - 9
4. The proposed substitute - 10



OF LEARN COMMENTS

Mr. [Name] commented on the [Name] the
Chair for [Name] - [Name] the
Mr. [Name] & Mr. [Name] [Name] the
non [Name] the [Name] the
[Name] for the [Name] the
[Name] - a [Name] the [Name]

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

2-19-74
DATE

Buzzell
OBSERVER

Hale
Presiding Officer

18
Committee number present

Work session
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

SEC 1

Amendment by Earle - adds Circuit Cts } direction
" by Ogg - includes County courts } of 200
" by McDonald - includes County Cts } 3 tier
Reveto - separates Civil + Criminal } System
appeals

Vote on Circuit vs county Cts - Circuit nomenclature
Adopted for "merger-unified" amendments (5-7)

Vote between Reveto and Earle Amendments 10-10

No Section 1

Earle's Adopted - 9-8

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

2-14-74

DATE

Bozell

OBSERVER

Hale

Presiding Officer

13-15

Committee number present

Work session

Committee activity (public hearing, etc.)

absent

~~Murray~~

~~Baker~~

~~Bales~~

~~Coleman~~

~~Denson~~

~~Earle~~

~~Spurlock~~

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Blanchard wants testimony from public after
draft (working) has been approved -
Hale says letters would be acceptable -
Proposal on dist. & county attorneys considered -
Grant objects. Blanchard objects to lag -
Drafts (Sec. 20) approved
Amendment by Grant on certification circulated
under Sec. 2
Working draft approved - copy attached

WILL NOT MEET THIS PM
Witnesses scheduled tomorrow
Work on Amendments MON -

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE
2-12-74
DATE
Bizzell
OBSERVER

Hale
Presiding Officer

15
Committee number present

Work Session
Committee activity (public hearing, etc.)

Bales absent
Coleman absent
Hudson

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Section by section votes; not record votes -

Several begin questioning on issues rather than proposals -

Straw vote on whether jurisdiction of courts of same level should be uniform throughout state: FOR

11 - Nabers

AGAINST
Spurlock, Heatty, Finnell

Votes on Proposals for Sec. 1:

	FOR	AGAINST
CRC #1	5	
Earle #2 (1 tier)	8	
Washington #3 (2 top cts)	5	
Heatty #4	5 (Finnell)	
Heatty #5	4 (Nabers included!)	
Reynolds #6	3 (Heatty excepted)	
Hale #7	0	
Hale #8	4	
Clayton #9	5 (leaves to leg)	
Ogg #10	8	Spurlock for!
Grant #11	7	leg
Baker #12	6	
Grant #13	6	(leave leg whether to merge)
Penson #14		

Second vote	3rd vote
#1 1	#2 -6
#2 5	#3 -7
#3 5	#10 3
#4 1 (Spurlock)	
#9 1	#13 2
#10 2	
#11 0	#2: 8
#12 1	#3: 7
#13 2	#10: 3
	8: 2
	42: 14
	#3: 7
	#10: 3

deleted "and other as may be provided by law" in #10 (Ogg) changed deletion
Mauzy opposes deletion -
Interchanges between Ogg, Earle, + Spurlock

OBSERVER COMMENTS

Grant's beginning to sound shaky on merger -
needs lobbying

Hendricks, Spurlock, Heatty, Finnell - status for
need copy of Grant's #13

Earle's proposal becomes Sec 1

2-18-54

11-11-54

11-11-54

Earle's proposal
becomes Sec 1

11-11-54

11-11-54

11-11-54

11-11-54

RECORD OF ACTIVITY (resolutions, resolutions, who resolved, etc.)

Section 1 of the constitution is hereby adopted

Section 1 of the constitution is hereby adopted

Section 1 of the constitution is hereby adopted

Section 1 of the constitution is hereby adopted

Section 1 of the constitution is hereby adopted

Section 1 of the constitution is hereby adopted

Straw Votes

Sec. 1	Sect	Carle 82	accepted	11-7
Sup. Ct 2		Ogg 181		12-6
Rule-making 2c		Keep silent		16-0
Ct of Appeals 3		Carle 82		9-7
Dist. Ct 4		Jones 175		14-2
Con. Cts 5		CRC		10-4
Justice 6		CRC		9-6
Qual. of judges 7		CRC		9-4
Merit Select + 8 no		Ogg 181		8-7
Compensation 9		Hale #9		9-5
Retirement 10		Grant #211		14-2
Removal 11		Jones #175		8-6
Jud. Council 12		Grant #214		11-6
Item 3 Ogg add: The Leg shall est. by law - d Jud. Qual. Comm -				
Clerks 13		Hale 9		9-7
Juries 14		Grant w and 214 + 70		11-5
Suspension of State 15		Grant #5		14-1
Appeal by State 16		CRC 1-d		unanimous
Appeal by accused 17		CRC w/pmed 1-d		unanimous
General chg 18(a)		Maury 224		10-7
Damages for wrongly 18(b)		Maury 225		9-7
Direct action 18c		Maury 228		8-7
Trial de novo 19		Nabers		12-1

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified,
major points made, etc. continue on back and additional sheets
when necessary)

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

2-15-73
DATE

Dibrell
OBSERVER

Hale
Presiding Officer

9 - Present: Coleman, Grant, Earle, Hale, Hudson, Bales
Committee number present Denson, Finnell, Powers-late

Public Hearing
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

All representing San Antonio Trial Lawyers Association,
James L. Braton, Hubert Hill, Gordon Holton (Boerne)

- ① Favor elective process at all judicial levels.
- ② Opposed merger of civil and criminal courts on appellate levels and supreme court.

Hale - 50 states only have one court - why should Texas be different.

Earle - Defense lawyers also oppose merger because they like to approach their judges. Is the reason trial (plaintiff) lawyers are opposed because civil judges hearing criminal cases might have adverse effect on plaintiffs?

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

2-13-34-p.m.

DATE

Dibrell

OBSERVER

Hale

Presiding Officer

18 - Absent: Sporlock, Hudson, Bales -

Committee number present

Straw votes on comparative proposals for working draft.

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Sec. 10 - Mandatory retirement of judges - #311 (Grant) passed -

Sec. 11 - Removal of judges - #175 (Jones) passed

Sec. 12 - Judicial Council - #214 (Grant) passed

Sec. 13 - Dist. & Cty. Clerks - #8 & 9 (Hale) passed

Sec. 14 - Juries - #214 & 70 (Grant) passed, plus provision authorizing
 $\frac{3}{4}$ juror agreement in civil trials, unanimous in criminal.

Sec. 15 - Suspended Sentences/Probation - #175/5 (Jones-Grant) passed.

Sec. 16 - CRC - No appeal by state passed

Sec. 17 - Appeal by accused CRC passed.

Sec. 18 - Mazy proposals - 3 passed (concerning "no-fault" & insurance lobby)

Sec. 19 - Nabers proposal on trial de novo (?)

To be drafted: proposal on prosecuting attorneys -

OBSERVER COMMENTS

Thurs - p.m. Floor discussion on suffrage article - 9 members had not received copy, which was to have been delivered 72 hrs. prior to discussion.

Fri. a.m. - Floor discussion on education - Heathy hadn't received his either.

Questionnaire

APPELLATE COURTS

1. What courts are included in the appellate judicial system?
 - (a) Supreme Court, Court of Criminal Appeals, and Courts of Civil Appeals (present Constitution) 0
 - (b) Supreme Court and Courts of Appeals (C.R.C. proposal) 6
 - (c) Supreme Court of Civil Appeals; Supreme Court of Criminal Appeals, Courts of Criminal Appeals, Courts of Civil Appeals 5
 - (d) Supreme Court (with ^{separate} Civil and Criminal divisions) and Courts of Appeals 6
 - (e) Supreme Court and such other courts as provided by law. 4
2. Ancillary questions on appellate judicial structure.
 - (a) Should appellate court clerks be treated in the Constitution?
 - (b) Should Supreme Court be permitted to sit in sections?
 - (c) Should majority of Supreme Court be required for a decision of the Court?
 - (d) Should Supreme Court promulgate rules of civil and/or criminal procedure?
 - (1) Rules are in force unless disapproved by ^{both} Legislature.
 - (2) Either House of Legislature may disapprove a rule.
 - (3) As provided in 1876 Const. Art. V, Sec. 25
 - (e) Should Courts of (Civil) Appeals be expandable above 3 members?
 - (f) Should Courts of (Civil) Appeals be required to have a minimum number of justices sitting on a case? ^{merits} May they sit in sections?
Require majority vote -
 - (g) Should special provision be made for answering certified questions from federal courts? ^{as provided by law -}
 - (h) Should jurisdiction of the courts be included in the constitution?
3. Transitional questions on appellate judicial structure.
 - (a) If two high courts are merged, should merger be immediate?
 - (b) What should be the size of one high court? ^{Heathley - must be 2}
 - (c) How should the size of one high court be reduced (if the two courts are merged and reduction in size is desired).
 - (d) Should ^{criminal} ~~appellate~~ and civil divisions of one high court be permitted? Mandated?
 - (e) How should docketed, but not submitted, appeals of criminal cases be handled?

- (f) If immediate merger is adopted, should special provision be made for writs of habeas corpus and other extraordinary writs presently before the Court of Criminal Appeals?
- (g) If immediate merger is not adopted, should the constitution permit merger in the future?

TRIAL COURTS

1. What courts are included in the state trial court system?

- (a) District Courts, Criminal District Courts, County Courts, statutory county-level courts, justices of the peace, and other courts as provided by law (present Constitution)
- (b) District Courts and County Courts (within unified system); justice of the peace and municipal courts (outside unified system); and no others. (C.R.C. proposal) *General Jurisdiction*
- (c) Such courts as provided by law. *As in Federal Courts*
- (d) District Courts and County-level courts (all other courts merged into county-level system) and no others. *2 tier system*
- (e) District Courts. *One tier - J.P. included (Earle)*
- (f) *One tier (County & Dist) J.P. and municipal excluded.*

2. Ancillary questions on trial court structure.

- (a) Should trial courts be amenable to organization into specialized divisions (i.e. criminal, domestic relations, tax)?
- (b) Should overlapping trial court districts become multi-judge single divisions?
- (c) Should any jurisdictional lines be specified constitutionally?
- (d) How should district clerks be treated constitutionally? County clerks?
- (e) Should the constitution specify the judicial personnel of trial courts?

3. Transitional provisions on trial court structure.

- (a) Should criminal district, domestic relations, special juvenile, and special probate courts become District Courts?
- (b) Should other county-level statutory courts become county courts? District courts?
- (c) Should justices of the peace and municipal judges (other than in "general law" cities) become judges (or associate judges, magistrates, etc.) of District courts? County courts?

COUNTY JUDGE

1. Should the county judge who performs judicial functions be a separate office from the county executive who performs administrative functions? (C.R.C. proposal)
2. Should the county judge retain his present executive/judicial function? Should the jurisdiction of such court be retained in the constitution?
3. Should the county judge remain as county executive with judicial functions placed in the state court system--but with magisterial functions in non-contested matters permissively remaining with county executive.
4. Transitional provisions.
 - (a) Should the county judge, if a lawyer, be permitted to elect whether to remain as presiding officer of the county commission or become a judge in the state system?



SELECTION AND TENURE OF JUSTICES AND JUDGES

1. Should justices of the high court(s) and judges of the (civil)-(criminal) appeals courts be chosen and retained by Missouri Plan; and trial judges elected on nonpartisan ballot?
2. Should public be permitted to choose between Missouri Plan or election for appellate justices and judges? Make same choice for trial judges in urban areas (i.e. Constitution would permit legislature to authorize merit selection of trial judges in urban areas)?
3. Should Constitution direct partisan election of all judges and justices? Nonpartisan election? Just "election" with legislature deciding partisan or nonpartisan.
4. Should appellate justices and judges be appointed by Governor with advice of Senate and reconfirmed after fixed term?
5. Should appellate justices and judges be appointed by Missouri Plan with partisan elections for retention?
6. Should there be regional election of high court justices?
7. What should be the terms of:
 - (a) Appellate justices and judges
 - (b) District judges
 - (c) County judges
 - (d) Justices of the Peace
 - (e) Municipal judges
8. Should terms be left for Legislature?
9. Ancillary matters:
 - (a) Should appellate justices and judges be required to be lawyers?
 - (b) Should District judges be required to be lawyers?
 - (c) Should County judges be required to be lawyers?
 - (d) Should judges below County judges be required to be lawyers?
 - (e) Should appellate judges be required to serve periodically on the trial court level (see vertical integration of judiciary--under Administration)

FINANCING

1. Should State pay entire cost of appellate judicial system?
2. Should State pay entire cost of trial court system? (would include clerks, bailiffs, reporters)
 - (a) Should constitution be silent on salary supplements? authorize them? prohibit them?
 - (b) Should constitution authorize payment of entire cost above JP level?
 - (c) Should constitution speak to return of trial court revenues to localities from which derived--above cost of system?
(This can either be locality-by-locality or state-wide)
 - (d) Should constitution speak to payment of cost of state prosecutors' offices?
3. What constitutional provisions on state judicial retirement system?
4. What provisions concerning salary commission? Does its authority extend to supplements?



COURT ADMINISTRATION

1. Should Chief Justice or Supreme Court; or Chief Justice and Presiding Judge; or Supreme Court and Court of Criminal Appeals-- be administrative head of judicial system? Or no language on this at all--as at present?
2. Should delegation of administrative authority to administrative judges and justices--retired and active--be constitutionally authorized?
3. Should authority to transfer cases among the courts of civil appeals or bring cases up to Supreme Court directly be constitutionally authorized?
4. Should horizontal assignment of judges be constitutionally authorized? Limitations on this power?
5. Should vertical assignment of judges be constitutionally authorized? Limitations on this power?
6. Should administrative rules be prescribed by judicial council, with court approval?
7. What provisions, if any, should be included in constitution concerning judicial council organization, membership, duties?
8. Should a court administration office (i.e. the adjunct of the court or judge with the responsibility) be constitutionally established?
9. Should all court administration matters be left to legislation and court rules?



JURIES

1. Should there be 12-person grand jury and 12-person trial juries (except where law or rule authorize less than 12 and less than unanimous verdicts)? (C.R.C. proposal)
2. Leave all jury matters to statute (a right to trial by jury is in bill of rights).
3. Should present provisions on juries be retained intact (grand juries of 12; district court juries of 12 with less than unanimous verdict; county court jury of 6)?
4. Should use of 12- and 6-person jury be delineated on subject matter jurisdiction (i.e. Legislature may provide for 6-person juries in misdemeanor or some civil matters)?
5. What right to jury trial should be guaranteed in civil matters? May Legislature or court require payment, in constitutional matters, of jury fee before empaneling?

MISCELLANEOUS MATTERS

1. What provision should be included on suspension of sentence and probation?
2. Should the state have a limited right of appeal in criminal cases?
3. What right of appeal should an accused have in constitution? When should it be direct appeal?
4. What provision should be included on removal of district clerks? County clerks?
5. Should appointment by Governor require 2/3 approval of Senate?
6. Should local trial court vacancies be filled by county commission or Governor?
7. Should Legislature be able to delegate judicial district creation?
8. Should there be one or more JP precincts in a county as determined by the county?
9. Should the Judicial Article provide for district and county attorneys? District and county clerks?
10. Should the membership of any board or body created in the constitution be enumerated in the constitution?



Grace

① Bonnie Earle's suggestion: County judges
that he knows - write letter to them
League • Veta

② Comments highlight -

(Notes attached to those Leagues whose
members do not favor or are wavering.)

③ vote on judiciary - straw vote for merger

~~CO. judges~~

CO. judges

Juni - new inf #

↳ informally -

letter from Bd of Pardons & Paroles will
be sent from Juni

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

Feb 12, 1974
DATE

Nancy Williams
OBSERVER

Hale
Presiding Officer

16
Committee number present

testimony + straw voting
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Witness William Edwards - Texas Trial Lawyers Assoc.
Does not want civil + criminal courts merged
feels keeping them separate will work best in Texas
feels electing judges is only way. Can't take politics
out of selection of judges by setting up a commission.
but Lawyers Assoc. wants non-partisan elections.

Witness Jack Berner - Pres. Texas trial lawyers
Doesn't like Article I - wants free + ^{non-partisan} restricted election for
all judiciary incl. in constitution - feels the same
as above witness as to separation of Civil + Crim. Cts.
Thinks a judge who is appointed will be tyrannical. Only
concerned with his record - not how well he will serve.

Witness Wayne Fisher - Texas Trial Lawyers Assoc.
Feels same as both above - wants his judges to have
"judicial temperament" - meaning a non-elected judge
is not going to care about the people who come through
his Ct.

Witness Phil Bertram - Pres. Texas defense lawyers -
Also wants separate civil + criminal Cts - at least 3
on a panel to hear cases - Wants the Supreme Cts. to
have rule making authority. Does not like the
Missouri plan - says it's hard to get rid of a judge.
Feels same as above witnesses about electing judges.
Asked what can be done about J.P. courts. Thinks they
can be handled according to the area they serve.

Witness - Smith - appearing for self - lawyer from San Angelo - talked about qualifications for judges - fair - honest, moral etc. Feels judges should have to run statewide - feels that only large metro areas will really have the say - as to who is elected. - But still wants to have them elected - Wants to have geographical districts for Supreme Ct judges to represent. - These districts would be decided by the legislature.

Straw voting -

Art VI Sec. 2 C - (item 1) 1 vote

- 2 - prop. 89 by Washington 5 votes
- 3 - prop 73 by Clayton 3 votes
- 4 - prop 12 - 14 Heatley 7 votes
- 5 - prop. 28 - 117 by Heatley 5 votes
- 6 - prop. 54 - Reynolds 0
- 7 - prop. 9 - by Hale 4
- 8 - prop. 8 by Hale 3

Sec 4			1st Vote	2nd Vote
item 1 -	cc-2			
pro 175	-	13		14
pro 82	-	9		0
pro 89	-	1		
pro 189	-	9		2
pro 8	-	0		
pro 9	-	1		
pro 54	-	0		
pro 12-14-28	-	2		

Pro-175 Be adapted as to Sec 13 4

9 - pro. that there be nothing in consti. on this (13) Hale decided to eliminate any that received less than 4 votes

item 2 - 0
item 4 - 0
item 5 - 0
item 9 - 16 votes that const. be silent as to any rule making authority other than that already included.

Sec 3 -

- Item 1 - pro-1-cc-5 votes
- 2 - pro-54 Reynolds - 0 votes
- 3 - pro. 71 - 13 votes (7 votes 2nd time)
- Heatley 4 - pro. 12 - 0 votes
- 5 - pro-14-28-117 Heatley - 1 vote
- 6 - pro 9 - Hale - 3 votes
- 7 - pro - 5 votes
- 8 - pro. 82 - Earle - 12 votes (9 votes 2nd time)

Committee voted to adapt pro. 82 as it pertained to Sec 3.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

2/13/74
DATE

M. Bené
OBSERVER

Hale
Presiding Officer

15
Committee number present

Working Session
Straw vote - discussion

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Discussion of section 6
Earle had been approached by the President of the JP Assn. - they want to maintain the status quo - Earle presented this as a jury argument. Cook & Earle would prefer to leave JP's out of Constitution as subject to the district court -
Hale agrees for Proposal 9 - admitted it was a big compromise question of blanketing in the JP-municipal court system under state court system -

Harris City (Judge Lee)
JP Assn wants inclusion into Constitution
Hale urged the committee to include everything they might want into the working document now being formulated - anything not wanted only would require a vote to delete.

Judge Lee was called to testify on behalf of the Assn.

1. doesn't want JP Courts as step children to district court
2. wants name to be same
3. wants

Spurlock wanted - strongly - to know if the JP's wanted the legislature to determine jurisdiction & salaries. - Requirements -
Mr. Spurlock became very agitated

Judge Lee felt it was no problem to Assn.

Proposal 9 is only proposal to mention municipal courts.

Item ① 8 votes

Item 2 CCP 9 - 6

Item 3 54 by Reynolds - no vote

4 12 + 14 by Hatley - 1

5. 28-117 " " - 1

6. silent proposal 2 6

① 4 votes - 5 (Hale votes)

② 5 votes

③ 4 votes

① 9 votes

② 6 votes

OBSERVER COMMENTS

Item 1 on work sheet won the vote & will go into working draft

CRC proposal

League of Women Voters of Texas
OBSERVER FORM

Judiciary

COMMITTEE

Feb. 11, '74 p.m.

DATE

Dibrell

OBSERVER

Hale

Presiding Officer

16 - Absent - Cook, Heatley, Hudson, Ogg, Pweto

Committee number present

Work session

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

A packet had been prepared showing all the proposals and comparing them section by section. Meeting adjourned at 2:45 for members to study proposals and be ready to discuss proposals, as well as what has been omitted, for a working draft on Tues. morning. Then more discussion and amendments to determine final draft.

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary

COMMITTEE

2-8-22 - p.m.

DATE

Dibrell

OBSERVER

Hale

Presiding Officer

4 - Grant, Hale, Denson, Coleman, Hudson, Earle (very late)

Committee number present

Public Hearing

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Harold Hammit - Const. Com. State Jr. Bar - Ft. Worth.

Favors - For all judges - district and county included - merit selection for 4 years. Then non-partisan election for 6 year terms. Also change selection of Judicial qualifications Comm. to that of Chief Just. Task force of 2 years ago: Chief Justice, 2 lawyers selected by State Bar, 6 non lawyers (2 each appt. by gov., Lt. gov., Speaker.) a dist. judge, appellate judge. Favors - Unified system with courts of appeals to hear criminal cases. leave more etc. & jip. out of system. Give legis. authority to grant supplements. Hale - opposes supplements ("Grandfather" those now receiving it.) Denson - favors supplements.

OBSERVER COMMENTS

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

Feb-6-'74-p.m.
DATE

J. Dibrell
OBSERVER

Dewitt Hale

Presiding Officer

18-Absent: Mawzy, Cook, Finnell, (Late: Blanchard, Ogg, Powers,
Committee number present Hudson (very late) left early

Work session-lasting until 6:00 (ending in near chaos)
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

"straw votes" taken on Questionnaire (attached) ^{Delegates could} _{-vote more than once.}

Appellate Courts: 1. a-0, b-6, c-5, d-2, e-5

(yes votes) 2. a-0, b-7, c-14, d-civil 11 (Bales, Baker against criminal-9, d-(1)-2, (2)-2, (3)-13, e-16

(Baker opposed to any of #2 in Const.) f-14 (Debate on sitting in sections) & 6-(1) opposed to sitting in sections d-(majority 2 (13)-g-15 ^{Heatley & Sporlock}

3. (Heatley & Sporlock - Never to merger) a-12

b- ① McDonald - Not more than 9 ^{One court}
② Baker - Not less than 9 (CCC) ^{①-4 ②-10}
③ As provided by law ^{Two Courts-}
①-9 ②-2 ③-10

c ① Judicial Qualifications Selection - 4

② Election - 14 running for 9 places - 3

③ "Black bean" (Term ends position) - 0

④ Attrition - 10

d If courts merged: Permit - 0, Mandate - 2
Prohibited - 6, Const. silent on subject - 8

Straw Vote on Merger - For one court - 9, For 2 courts 5

e, f, g - Passed - Delegates wanted to know about proposals.

Trial Courts - 1. a-4, b-6, c-6, d-1, e-3

OBSERVER COMMENTS

At this point the session dissolved into ~~free~~ questions concerning the proposals and details of Sections. It was decided to invite all authors of proposals to present them tomorrow. Then Committee will take consensus for overall structure and wording of Art. IV (3)! No comparison of proposals has been provided nor contemplated.

Judiciary

Feb 8, 1974

11:30

McDonald - Need to state what will happen if Nem. Comm. doesn't nominate w/in 45 days

McDonald - ^{may} need to give state priv. of appeal in crim. cases w/ time limit

Carle - As each judge's tenure expires - may run again for App. and until reduced to 9

as what's major about 9? Why not make flexible

Ogg - or

Carle - whole merger proposal w/ Judge O'Brien's objections to CRC prop. in mind - Contact him again

Baker - Supreme Ct.

Am A purist - Mr. Carle is too long - need very short + have legis. free to cope for next 100 years for one - ~~trial~~ trial courts

Denson - people's complaints ^{judges} too long - you feel as if the Legis. could experiment over the next 50 years and could change

Spaulock - Aren't you giving Legis. too much power - I don't want balance of power

Ogg - he agrees w/ Baker, Denson, Hadley also agree - feels people will accept it and it will be flexible

Hales - Proposal 9 - based on House Judicial Comm. "Streamlining Texas Jud

1 Supreme Ct, 2 Just - trial Ct., J.P. Cts. + Mun. Cts. (elected) not Courts of Record - elected to make them independent of City Council
Uniform jurisdiction

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

DATE

OBSERVER

Hall

Presiding Officer

~~#~~ # All present except Spurlock

Committee number present

Work Session

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Hale says comparison of proposals + CRC draft are being made by staff. [Votes are coming up.] Then Article made on votes section by section and then amend.

Delegate Grant on his proposals:

- #55: should be judicial article but need to delete some unnecessary - #55 might ought to be deleted. (1) Need to guarantee jury trials for citizens (2) protection of judiciary from other branches of gov. refers to House Judiciary P. 57-58. Feels even merger could be left to law. Consider simple Article V - not enumeration of jurisdictions etc.
- #55 - suspend execution of sentence - give power to Ct to reimpose sentence. McDonald questions ~~the~~ executive Clemency. Doesn't think Judicial Qualifications Commission needs to be in Const. (Bales talks a lot - redundant)
- #69 - Higher Ct cannot transfer case until it has been tried at lower level.
- #70 - at least 9 jurors to indict
- #71 - majority on Ct of appeals necessary to decide a case.

Nabers #176 - spells out how co. & dist. attorneys selected - Leg. may provide for election 4 yr term (CRC in loc. gov.) Healy says that is what co. attorneys wanted - Pay? Leg. may provide - Grant says that State should pay them.

OBSERVER COMMENTS

Peveto: Thinks #176 too specific for const.
15 Counties have city attys performing duties &
district attys - Hale thinks should be reorganized
but Healey objects. Extended disc. of this issue
(political problems).

Bales #212 - limit area covered by
dist. atty to 4 counties -
transition statement to leave to
leg.

Mauzy #224, 226 - jury charge shall be
general & not specific

#225 - Wrongful death of minor
child - parents awarded for anguish

#228 - Can sue insurance co.
instead of person if want to -
Healey wants these in the constitution -
thinks increased voter participation
will result.

Hudson #98 - unanimous jury verdict in
misdemeanor cases. ensures full &
complete deliberation

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

Feb 5, 1974
DATE

Yancy Williams
OBSERVER

Hall
Presiding Officer

16
Committee number present

Testimony
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Leon Jaworski

Advocate for merit selection of judges - Appointment of judges in past have been excellent. Believe judges will be reluctant to serve if they have to run for re-election. - then you decrease talent available - Demerit for a judge to accept contributions etc. Also - judges elected not chosen for their qualifications. The voter does not know enough about appellate judges. Still have recourse for getting rid of a bad judge. Also appointed judges can be made independent without fear of reprisal. This is very important. Allows for a wider range of selection - can only be an improvement on the current system where a popular name can waste a well qualified judge. Believe the merged Supreme Ct. should hear only the most important of cases. Think J.P.s have made progress in recent years. - Caliber of J.P.s today is better today than 20 yrs. ago - & that these Cts perform an important function - Want to leave J.P. courts like they are - & no lawyer qualification

OBSERVER COMMENTS

for J. P.'s.

Question - How was transition schedule arrived at?
answer - least painful way - but is a problem
cut back on number of judges as cases decrease
until merger complete.

Why do you think appointing best way? Law would ^{you} safeguard ^{the office?}
Believe of a judge performs poorly - the press +
Bar would let the public know about him.

The reason the Commission made up of all types of
people or people ^{public} couldn't say it's run by lawyers.
One different salaries in different areas.

Feel judges in cities have to have more to live -
Feel all salaries for judges + leg. etc should be high
enough for a decent living but alas!

Should D. A.'s be paid by state + be full time?
If the salary is high enough can be full time, but
at times if pay is inadequate can't be full time

Feel if voters are educated they will favor the
unified system.

How was the 11-member commission will disregard
for ethnic - etc etc arrived at?

This was done to let all people feel that they
will truly be represented.

Would there be problems if the gov. might appoint
3 nominees from the same geographic area etc?

Possible, but probably not a problem ^{argued it} happen.

Shouldn't the const. contain a means for leg. to
set qualifications for J. P.'s in future? not necessarily
could be worked through.

Reason J. P. courts not part of unified system is
because of qualification problems.

Could Supreme & justices come from State Districts?

Possibly - to avoid large expenses - But
the commission didn't consider this.

Believe strongly in jury system. Thinks 12 man jury
would do better than 6-man

Why couldn't County + District Ct be combined?

- The commission's decision was largely a compromise
Political considerations made on impact.

League of Women Voters of Texas
OBSERVER FORM

COMMITTEE

DATE

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Would it be desirable for a Supreme Ct Justice to sit as a trial judge first?
Thinks it might be a good thing.

What about 2 lines of appeals to Supreme & Civil
revised Ct.?

This would probably cause a backlog like in the
present system.

Thinks it is longful that our Supreme Ct Justices
Cn't make ends meet -
How do you handle salary differences between
judges?

In favor of realistic salaries at all levels.
Thinks all jud. salaries should be paid by State
of Texas & should or sm't. be frozen in the
Constitution? as to ratio? would have some merit.
Then leg. could set actual salaries (- Dis. Jud. 70%
of what Supreme Ct. jus. makes - X. example
Why did Jaworski never run for Supreme Ct?
Wasn't what he wanted to do - also the name
Jaworski was not politically popular.

OBSERVER COMMENTS

Black comm. members concerned that there should be
more considerations to see that a Black is appointed
to Supreme Ct. - Cn see some infighting here -
Jaworski sidestepped & Hale said they would
argue wording later.

Jamieson says he has never served on a
Commission that went about its work as
thoroughly as the C.R.C. did.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

2-5-74

DATE

Buggell
OBSERVER

Hale
Presiding Officer

11
Committee number present

Public hearing
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

mark
Martin of CRC testifying (lawyer from Dallas)
→ Selection of judges. For merit selection.
(1) Convert to merit selection
(2) laymen more progressive than lawyers on this issue

Reasons for appellate merit selection
(1) acknowledged complete lack of knowledge by public for qualifications of appellate judges
Q from Blanchard: no qualifications for nominating commission? Shouldn't there be "consistent with judges? Answer (Martin): perfectly in order to expand on this. Blanchard wants small law firms to be represented in judge selection.

Hale - do you think Ct. should be immune to popular will? Ans. None is being expressed.

Vote in Commission 28 to 9 for merit.

OBSERVER COMMENTS

Baker seems opposed to merit selection
needs evidence for " " being better.

Powers seems opposed to merit selection

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

Feb. 4, 1924 - p.m.
DATE

Dibrell

OBSERVER

Hale
Presiding Officer

14 - Absent - Cook, Hudson, Jones, Ogg, Spurlock, Heatley
Committee number present Powers

Public Hearing - Calvert, May, Doyle, Crouch -
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

R. W. Calvert - Favors letting people decide merit selection or non-partition election. Favors merger of civil and criminal courts. Under dual system questions of administration, writing rules, etc. No need for specialization because ① Any trial judge can try all types of cases. ② Criminal judges become hardened. ③ Leads to too much technicality. ④ Criminal courts less respected.

Ques. Blanchard - Con-current jurisdiction for county and district judges in sparsely populated areas? create new judges for equal justice?

Ans. Yes - also clerks, court reporters should be under unified system.

Ques. Baker - Authorize Chief Justice to transfer judges as well as cases, to various levels? Ans. Yes.

Genice May - CRC, Gov. Prof at UT - non-attorney - Merit system in Mo. came into being by voter initiative over legislative objection. Favors - merit selection - ① Good Texas judiciary because 66% appointed. ② Minorities represented ③ Elected judges do what is popular.

Baker opposes merit - ① Still tied to politics (gov.) ② Elite judiciary. Mauzy opposes (?) or gave arguments against. ① Opinions don't follow public opinion. ② Judges would "run" for appointments. ③ Minorities could be represented with single-member judicial districts.

OBSERVER COMMENTS

Grant - need for selection, tenure, qualifications, jurisdiction in Const.? Ans. Yes
Major Don Doyle - Austin Police - testimony attached. Blanchard Mauzy share views.
A. L. Crouch - Small matters -

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

Feb 1 74
DATE

Bryan
OBSERVER

Hale
Presiding Officer

12-B
Committee number present

Public Hearing Justice Tom Clark Attney Gen. Under Truman
Committee activity (public hearing, etc.) Assoc Justice - Supreme Ct.
Speaking of for himself

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

- For good Judiciary must have 3 things (1) Unified Judicial Structure
(2) Good central Administrative System, (3) Good judges (this means Merit Select.)
- * For leaving many this statutory rather than "freezing into" Constitution
 - * Cts. Need business + Administrative experts, use of studies and computers
 - * To expedite cases, pinpoint bottlenecks + take load off judges - Also need "PARA-PROFESSIONALS" - TRAIN + Educate clerks, so they can do some of judges paperwork - Need to have courage to EXPERIMENT with ideas
 - * FOR ONE TRIAL Cts. WITH MANY DEPARTMENTS under Admin. of Chief Justice
12 member juries ARE NOT NECESSARY
 - * - All judges should be LAWYERS
Who tapes should be used - especially w/ depositions of expert witnesses
 - * State should fund entire Judicial System - Aware cities make money on MUN. Cts., but courts don't exist to make money
Need built-in "sense of history" in Con. - so have have flexibility for future trends + needs - LEAVE much STATUTORY
 - * Recommends one Not 2 top Courts of Appeal
It is demeaning for Judge to have to ASK for money for campaign
And who can he go to? Has to depend upon lawyers for support,
Campaign personnel and solicitation -

OBSERVER COMMENTS

EARLE ~~RONNIE~~ WAS very pleased with this presentation and feels it had a profound effect upon his colleagues. Let's hope it will
I wish I could be as optimistic as he - but BLANCHARD, Hale
and COLEMAN seemed unimpressed -
BAKES, Cook, Spuckler + some others were absent

League of Women Voters of Texas
OBSERVER FORM

Judiciary

COMMITTEE

2-1-74-p.m.

DATE

Jayne Dibrell

OBSERVER

Hale

Presiding Officer

7 - Dwindled to 4 Grant, Baker, Hale, Denson, McDonald,
Hendricks, Hudson

Committee number present

Public Hearing

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

William Martin - Domestic Relations Judge - Gregg County -

Supports non-specialization of judges - should be able to hear all cases. Baker - question - Do you feel qualified to hear all cases? Ans - Yes, But after 10 or 20 years I wouldn't. Quest. Separate criminal and civil courts? Ans. No.

Hollis Garmon - Dist. Judge - Greenville, Hunt county - 47,000 pop.

Opposes an administrator assigning judges across state.

Does - Baker - Support one tier court system? Yes.

" " Are 50,000 people too many? - No, but nature of cases, i.e. close to Dallas, recreational area, college increases criminal caseload. Favors general jurisdiction and administrator for caseload. Also favors state paying for everything since County will not supply secretary, raises, etc. Favors equal pay for all judges on same level.

Benny Goodman - Favors rights to protect children specifically - and prohibit things "behind closed doors".

Joe Smith - No citizen recourse when local government corrupt.
Hale - not applicable -

H. D. Glover - County Judge Reeves County (Peros) 17,000 population -
Favors - lawyer for County Judge and multi-county judges -

OBSERVER COMMENTS

Baker - favors unified system, opposes supplementing judges salaries.

JUDICIARY COMMITTEE

Room 3/4 full of spectators

Dewitt Hale Chairman

Judges and justices present:

12-15 Committee members present

Greenhill, Revely, Denton, Walker
Roberts, Stokley, Calvert, Garwood
and others

WITNESS: Justice Tom Clark, ^{former} Attorney General of U.S. (Truman), and former
U.S. Supreme Court Associate Justice

Suggested that the delegates keep in mind in their drafting of a new judiciary article the need for "a sense of history", provide for flexibility, changing times and needs, perhaps leaving most major specifics in statutory form rather than "freezing" them into the consti. To provide for an excellent system of justice, you need 3 things.

1. A unified structure
2. Good Administration (Central)
3. Good judging (which implies Merit Selection !)

Judges and Court personnel in general do not like change and are resistant to new ideas (often) but we must use many means to update and improve the judicial structure at every level. We need an interdisciplinary approach to improving the system-- call in experts in the areas of administration, efficiency etc. -- use electronics for example, to find the bottlenecks, the concentration of cases, to analyse the types of cases heard in certain courts. Judges could keep time-schedules to determine where he wastes time and how many hours certain types of cases typically take. In some courts we are experimenting with sending computer print-outs to all judges within an area with counts of number of cases each judge has handled during a 2-week period. This may be considered a pressure tactic, but it has cleared the docket in that area ! The courts are everybody's business, and we need to stop feeling so exclusive and use other disciplines and professions when necessary to improve our system.

Baker: What do you think of dividing court of criminal and civil appeals?

Clark: I recommend one court, the simpler you can make the system, the more efficient it will probably be. Right now Texas has a "crazy quilt" of courts. I would also recommend one trial court with departments (juvenile, criminal, civil, traffic, jury, non-jury etc) and have it under the supervision of the Chief Justice.

OGG: How are federal courts redistricted? Ans: Congress does it
What is reasonable case load per year? Ans: About 200

Coleman: What do you feel about 12 member juries? Would 6 do just as well?

Clark : I was opposed to them at first, but through experience with 6 mem. trial juries, I find it makes no difference We are saving about 2 million dollars on Fed. level, not that cost is a factor when justice is involved

Justice Tom Clark's testimony

Denson: What is the key to success of English Jud. system, not crowded dockets there.

Clark : 1) they train their judges to be judges, we require ours to learn through experience with the public as guinea pigs !
2) they don't tolerate delays in trials like we do (rejoinders etc)

Blanchard: In Merit Selection, is the commission flexible enough? Does the legislature have enough voice or flexibility?

Clark : I am very much for a Merit plan, now in terms of flexibility I feel it should probably be left statutory, have great confidence in legislature to make proper decisions in the future if changes are needed
I am also for trial judges being under the merit plan it is demeaning to have to ask for money and to have to campaign and one almost always has to depend upon lawyers for support and as campaign solicitors, and then when those same lawyers come into his court to try a case, can he be totally objective?

Hale: There is no method of judicial discipline at the federal level; would you favor such? Clark: yes, we do have a code or canon of ethics now which is 2-3 yrs. old, too early to see effect

Hale: Would you change lifetime appointment of Fed. judges? Halo effect?
Clark: No

Hale: Are Fed. Cts. getting into the area of policy-making and getting away from judicial practice? Is cts. drawing lines of re-dis. unconstit?

Clark: It should go back to the legislature or similar body for reconsider. but when that body flatly refuses to take the responsibility over a long period of time as in some states, then court may be forced to

Blanchard: We have no tax claims ct. in Texas, may need one someday, then should we leave wording "no other courts shall be created"?

Clark: No, general language would be best, no restrictive lang. necessary

Clark: Disappointed that clerks and county level personnel are still elected. We need to train and educate clerks in judicial administration proced. and take some of the admin. duties away from judge. Make clerk para-professional!

Hale: Is Fed. Magistrate system working? Clark: Yes, Hale: Is it just at the grace of the judge that the magis. has any authority? Clark: yes, right now, but hopefully will change in future and become assistant judge, Hale: Shouldn't they then be reviewed by Congress if filling judge role? Clark: no that is probably not necessary

Hudson: Shouldn't judges be lawyers even at J.P. level? If compare with Medical profession, wouldn't think of letting someone serve as a physician without being qualified. Clark: Yes, strongly for all judges be lawyers this is hard problem especially in sparsely pop. areas; Calif. adopted grandfather clause regarding non-prof. and gradually weeding out unequal. personnel - rural judicial procedure is damaging the entire judicial system because that is what most of the public is exposed to, no matter ^{quality} of personnel at top of system, we are all judged by those closest to people

Justice Tom Clark Testimony

Baker: Do you approve of use of mechanical devices, tapes, vidio etc. being admitted as evidence?

Clark: Yes, vidio plus expert testimony, it is so much cheaper to take especially expert testimony dépositions by vidio. Physicians and other professional persons are too busy to sit in ct. waiting to testify, if you can get them to come at all, very useful to use vidio at time of examination, accident or incident

Hale: Should ct. reporters be prohibited from taking outside work? Clark: yes

Grant: How should we limit the legislature in developing this Article?

Clark: Give discretion to legislature

Hale: Should state fund the entire judiciary?

Clark: Yes, ^Qsome municipalities are making money on courts, but that is not what the courts exist for ^Qand also you need a central management so you can find out what the courts are costing, we have no idea right now. Studies could be run and much taxpayers money could be saved by efficient fiscal management

Blanchard: If you exclude merit selection, what would you recommend instead?

Clark : I believe the quality of the entire system rest on GOOD JUDGING AND THAT MEANS MERIT SELECTION TO ME, but next I would suggest merit tanure, and next non-partisan election and if you don't want THAT then you better just give up. and forgett the whole thing !

The end

League of Women Voters of Texas
Observer Form

Judicial
COMMITTEE
1-23-74 - morning
DATE
Jayne Dibrell
OBSERVER

Hale
Residing Officer

14
Committee number present

Public hearings
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Supplementing Helen McBeth -

Judge Bryan Crozier - 18th Judicial Dist -

Opposes Merit selection of judges because too much like
Federal appts. Favors non-partisan elections.

Favors multiple counties for county court at law judges.

Favors 2 or 3 tier systems because of problem of appeals.

(Earle - single tier could appeal from one level to another)

Crozier favors: all courts must be courts of record, no

supplements in pay (get county commissioners out of our hair),

state payment of all connected with judiciary: clerks, reporters, etc.

Favors intermediate appeals courts assuming criminal jurisdiction,

but separate in highest courts. Also county & district attorneys

should be prohibited from practicing law - good administration

and salary would compensate enough. Favors vertical as
well as horizontal assignment of judges in administration.

Committee: Judiciary

Date: Jan 31

Observer: Bizzell

Present: 12-14

Type: _____

Absent: ^{late} Maury, Healy, Hudson,
Jones, Nabers, ^{off} Spurlock,
Blanchard excused on
account of illness

present: 12

Judge Albert Lee (J.P. Association):

90% people appear in lower levels.

* Desire to remain in Constitution; should be continued
to financed by county. Opposed to state fiscal
policy. No need to be lawyers; have schools
→ like jurisdiction raised to \$500.00 so they could
serve the little people, + class B criminal juris-
diction (2 misdemeanors)

→ Should not become courts of record. - cost

[Maury shows inconsistency between having more crim.
jurisdiction + not being Courts of Record].

[Baker is somewhat hostile - asks if performance graded
in school. gets Lee to agree that jurisdiction doesn't
necessarily have to be in the Constitution, could be left to leg.]

* would like a jp. representative on Judicial Qualifications
Commission. [Baker - would you be willing to remove jp's
through Commissions that need removal? Lee says yes]

[Earle asks for comment about his proposal - Lee seems
amiable enough]

Comments

LEE: received questionably.

witness: Judge Barbara Culver (Midland Co. Judge)

Endorses Commission's efforts.

County Courts: W. Texas Concerns —

Smaller Counties - County judge performs
counseling services not available.

Disagrees that Co. judge should not handle
legal matters. "People would fall through the
cracks". Benson questions: Do you not
feel it necessary to have lawyer to preside
over contested areas? Ans: Yes, but mentally
all cases (uncontested) should not be
shelved until Circuit judge comes.

Culver Expense of Circuit judge may not be justified
because they have so few trials. Allow leg.
to set by bracket laws (population).

Don't take all judicial & quasi-judicial from
Co. judges. Leave uncontested (mentally ill,
guilty pleas etc.) to Co. judge - non-lawyer.

Leg. could require schooling to improve
their abilities. P 113 of Const. where Co. Ct's

described as circuit - add "although not a
part of unified judicial system." P. 158

Add Co. judge to have legal duties as
provided by law - 221 of 254 ^{counties} would be
involved.

★ → more flex. language to give Co. judge
to have emergency legal powers as provided
by law.

Circuit Courts - population ?

200,000	{ 8 counties
100-200	
50-100,000	

Hale: be sure contested matters before lawyer
judge

Committee: Judiciary
Date: 2-1-74

Observer: B. Zell

Present: Jan 31

Type: to

Absent: Maury, Heasley, Hudson
Jones, Nabers, Spurlack
Blanchard withdrew on
account of illness

present: 14

Judge Albert Lee (J.P. Association):

90% people appear in lower levels.

* Desire to remain in Constitution; should be continued
to financed by County; opposed to state fiscal
policy. No need to be lawyers; have schools

→ like jurisdiction raised to \$500.00 so they could
serve the little people, + class B criminal juris-
diction (B misdemeanor)

→ Should not become courts of record. - cost

[Maury shows inconsistency between having more crim.
jurisdiction + not being Courts of Record.]

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in school. gets Lee to agree that jurisdiction doesn't
necessarily have to be in the Constitution, could be left to leg.]

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Jan 31

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Circuit Courts - population?

200,000	} 8 counties	
100-200		8
50-100,000		17

Hale: be sure contested matters before lawyer
judge

Public Hearing

David Hale
Presiding Officer

Judiciary
1-31-74
Judy Parker

Judge Marvin Johnson in Raymondville + Brownsville
retiring this year.

1. Discuss - 12 man jury in district court required with

no flexibility

Has worked closely in qualifying juries - Wants
to reduce size either in Constitution or give power
to Supreme Ct or legislature.

a. jurors travel 50 miles total to testify daily

b. tremendous sacrifice for many people

c. would cut cost of per diem - many spend \$100,000
Travis pay \$4 a day - doesn't cover annually
travel and lunch costs

d. to reduce size from 12 to 6 - save costs mailing
and parking etc. save time in recesses etc.

Quoted US

Supreme Ct decision - Williams vs Florida '72.
no evidence to show 12 more just than 6. Florida and Ga.
now have 6 in Fed. courts

Because of the cross examination of jurors + no one
to be - probably it would be a section.
Read letter from many judges in TX + Florida
which greatly support this. Many felt they would save
valuable time. It is no more a big number, just trial time.
Had to have some of that men - because of low pay, higher
would significantly increase quality of jury

R. Earl
Bales came in 10 min late.
came in 10 min late

1 Mrs. Carmichael - Volunteer Parents Organization
fighting "Children of Bad" Tobacco
Kills work as U.S. Health
man. They have organized the
many parents of the
lost. Don't let your child
They are the kids who fight.

1. Things that are
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 263

1. Mint system would be useful at least in part
and could be used as a paper money system.

1. Examine the document and identify the author and date.
 2. Read the document and identify the main points.
 3. Write a summary of the document.
 4. Write a conclusion of the document.

Page 2, Brizzell

Jan 31 or
Feb 1

Judge Chambers - (Criminal) Circuit Ct -
Dallas

Art IV, Sec 1 - Unified judicial system

Such other cts?

2 & 3rd sentences:

"No other cts" directed to
leg. so more cts could not be
created.

But more cts may be needed -
Punishment - rehabilitation problem.

Texas Cts of Sentencing &
Parole so disparity of sentences
may be eliminated.

Future may not be served by
just the main cts; no more
limited jurisdiction

proposes rewording:

" . . . and such other cts of
general jurisdiction as may be
provided by law. "

He agrees with Ogg's proposal

In favor of Earle's one tier
system

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

1-30-74
DATE

Jayne Dibrell
OBSERVER

Grant
Presiding Officer

6 to 9
Committee number present

Public Testimony - Work session cancelled at 3:30 because
Committee activity (public hearing, etc.) no quorum present-

RECORD OF ACTIVITY (record all votes, resolutions, who testified,
major points made, etc. continue on back and additional sheets
when necessary)

Judge Spurgeon Bell - Retired appeals judge from Houston -

Favors - merit selection because of expense of running.
Baker request - If money were taken care of? Ans. Elected
judges fine.

Favors - County judges being lawyers - multiple county judges.
Heathley - Could Const. give authority so legislative provide?

Bell questions merger because of too much litigation.

Judge Larry Sullivant - County Judge in Cook County - Gainesville.

Is a lawyer and favors lawyer being county judge.
Lawmen can learn some things (Earle - of a magistrate
nature?) but setting up as district court (multi-county)
would meet needs. Another city judge (non-lawyer) agrees.

Denson agrees.

Sullivant does not favor appointments - as district
judge appointing lower judges.

OBSERVER COMMENTS

Delegates present: Baker, Grant, Earle, Denson, McDonald,
Heathley, Coleman,

Cook - Nabers and Bales - in and out.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE
1-31-74
DATE
Judy Parker
OBSERVER

Dewitt Hale

Presiding Officer

8 members present
Committee number present

Public Hearing

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Judge of
Marvin Johnson - 107 Court - in Raymondville + Brownsville
retiring this year.

1. Discuss - 12 man jury in district court required with
no flexibility.

Has worked closely in qualifying juries - wants to
reduce size either in constitution or give power
to Supreme Ct or legislature.

a. jurors travel 50 miles total to testify daily.

b. tremendous sacrifice for many people

c. would cut cost of per diem - many spend \$100,000
annually.
Travis pays \$4 a day - doesn't cover
travel + lunch costs for some people.

d. to reduce size from 12 to 6 - save costs mailing
and parking etc, save time in recesses etc.

Quoted U.S.
a Supreme Ct decision - Williams vs Florida - '72,
no evidence to show 12 more just than 6. Florida, Louisiana
have 6 in Fed. courts

Because of the cross examinations of jurors + reasons not
to serve - you don't get a good cross-section.

Read letters from many judges in Texas - Federal + State
which greatly support this. Many felt it would save
valuable time. 12 is no magic number, just tradition.

Had to excuse some of best men - because of low pay. Higher pay
would significantly increase quality of jury

OBSERVER COMMENTS

1. Bales and R. Earle absent
came in later - 10 min.
came in later about 10 min.

from Houston

2. Mrs. Carmitter - Volunteer Parents Organization fighting "Children of God". Take in about 300 kids a week in U.S. Go under many other names. They've been harassed by them + in many suits. Many parents physically hurt. Don't allow parents to see children. They use the Bible as a front.

DeWitt Hale - asked her to direct her comments to Judiciary. Told her in the wrong place. Said ^{they} can't pass legislation. Advised her to come back and talk to legislature.

She replied legislators have not helped.

He replied they couldn't help her.

3. Mr. ^{Frank} Maloney, attorney - read ^{stmt from} Texas Criminal Defense Lawyers but was not representing them, some disagreement

1. Merit system would be workable at least on appellate level + would hope they adopt it. Many judges have worked up politically from J.P.'s. This process doesn't help to get best people to run + be elected.

Question by Heatley how to select without "politics involved"

" " ^{Bales}
Need to give the judiciary some intestinal fortitude ^{with} - decisions based on law - not politics. Not asking for the federal system - with its prima donna's. We need more trial lawyers.

Somehow we need a merit system on appellate level + give some security - where not overwhelmed by politics. Also need to write in some qualifications

Judiciary
COMMITTEEJan. 30, 1974
DATENancy Bueh
OBSERVER

Chm. Hale

Presiding Officer

13

Committee number present

Public Hearing

Committee Activity (Public Hearing, etc.)

RECORD OF ACTIVITY FOR DATE _____
 (record all votes, resolutions,
 who testified, etc. continue
 on back and additional sheets
 when necessary)

— Judge Schrab - Judge of 25 District Court - (Coral district)
 1. Elections - system should apply to all judges
 2. Redistricting - expressed concern over creation of large district
 3. Salary Supplements - opposed to it
 4. Unified Judiciary - welcomed movement of judges to expedite work -

Denson favors salary supplement because of difference in cost of living
 Hale suggested a salary formula in Constitution (opposed to salary supplement)
 Schrab agreed -

— Judge Claussen - 169th District Court Judge - (Bell County)
 (Candidate for re-election). Bell County has 3 courts [H. Hood]

1. favorable to unified judiciary - but stressed difference between County & City Courts - he has no secretarial staff -
2. non-partisan election ballot - doesn't like federal system favors 6 year term
3. gets a supplement from County but would rather not - string on the freedom judges
4. would like to see revamp of county Commissioner Court
5. favors state Probation System (question from Baker)

(OVER)

OBSERVERS COMMENTS:

all questions concerning length of term came from Baker
 Sen. Rep. Ogg - must be running again because he was very
 busy with a Houston TV camera during entire morning.
 Bales not present
~~Early out for 15 min.~~

Clausen favors a less ~~rigid~~ rigid ~~of~~ of jurors - 12-6

— Judge CV ~~Wideman~~ 70th District Ct. judge - (Odessa)
Milburn

1. likes election of District Judges
appointment of Supreme Ct. Judge
2. favor of 6 man ~~juries~~ ^{juries} in civil cases
12 man juries should not be locked in constitution
3. favor of less than unanimous verdicts -
4. strongly opposes "Family Code"

— Judge Pond, County Judge - (Donald) Randall County
doubts if circuit system will work
would like to see County court of law created on a
population basis -

Earles suggested a system where there would be an
associate judge (a non-lawyer judge) to
handle non-contested matters & a trial
judge (lawyer) to handle contested cases.
Contingent on meeting the personnel demands -

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

Jan 29 '74
DATE

Nancy Williamson
OBSERVER

Hale
Presiding Officer

12
Committee number present

Public Hearing
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Witness - Robert Hejl - concerned who will be qualified to be J.P. (pro law qualification)
As businessman feels J.P.'s in his area have not served him as the community well enough -
No questions asked!

Witness - Judge Ray - (Assoc Justice ^{Texas} ~~Association~~)
Feels Jud. Article should be as simple as possible -
Const. should be as general as possible to allow for future
amendment. Wants to elect judges on non-partisan basis.
Would best serve the people - against merit plan.
Feels Court of Appeals & Supr. Court are keeping up with work-load (Crim.) Does not object to Civ. App. Ct taking on Criminal jurisdiction. (Now a judge can "pick up" 5,000 extra hearing Criminal Cases so why change? Against merging Supreme Ct & Appeals - Wants 18 judges - 9 sup. 9-civil
need to speed up disposition of cases (if quickly possible for a defendant to take 3 yrs to get to jail.
question - Should a county judge be a lawyer? yes!
Could it be possible under some conditions for a ~~lawyer~~ judge to be a lawyer? On counties like Harrison presents a problem

OBSERVER COMMENTS

(Overheard - Hale says if the merit selection plan goes thru he'll fight it all the way!) Ray & Comm. basically in accord - no sparks here.
Comm. friendly to Ray & Kitman (lots of laughs & a few jokes)
Kennedy is a lobbyist, but Hale thought he did great job on his survey.

quest - What about Supr. Ct. of ^{Civil & Crim.} ~~Crim.~~ appeals with 9 judges?
Ray Has no objection - except for overloading
Has given no thought to 1 tier trial system -
Feels we are not making most efficient use of
mid-level Civil appeals Courts. Think the best
solution to crowded docket is to have more help
(ex - more brief clerks) rather than create more courts.
How could the burden on Supr. Ct. be lightened?
maybe by cutting off at \$5,000 - only \$5,000 or up would be
heard by top Ct.

Ray - feels that a 9 man court couldn't handle
all the work - Hale says they manage in
N.Y. - Calif - Ill - why couldn't Texas?
Feels Sec 3 art V should be changed to not fewer than
2 judges sit rather than 3.

Witness -
John Kennedy - Texas Research League
(appearing at request of the Chair)
T.R.L. conducted a study on Court Costs - conducted a
Survey of all counties - \$46,500,000 (1970) - \$56,000,000
in (1973) (Total Court costs of all state - county + municipal)
See a total cost of \$81,000,000 by 1980 - under
the Task force proposal. (These estimates include all
people connected to the courts.)

Witness
Bob Smith - D.A. of Travis County
Art. V would eliminate the Atty. General from
his present duties - D.A. association has agreed on
only 3 of Commission's proposals in Art V. Like
provision which put D.A. under the Ex. branch.
Feels a statute ^{carried out by legislature} necessary to put a check on a D.A. if he
allows his license to practice lapse. Feels all prosecutors
should be full time (about 2/3 now are not)
Likes flexibility to determine which system should be
used in various counties.

Balls question - Should Const. state D.A.'s have no out-
side law practice - "no - if such wording in Const.
too many people would be against it."

League of Women Voters of Texas
OBSERVER FORM

Jud. com. t-
COMMITTEE

Jan 29

DATE

Nancy Williams
OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Smith witness com. t-

D. H. want judges to file all reports from a Grand jury. Also feels Grand Jurors should be restricted.

Earles - Could there be different trial Ct for felons + misdemeanors?

Smith - Feels things too complicated now + this would add to this. Dis. Judge reluctant to reduce felons to misdemeanors.

Witness - Oliver Kitman - DA - 155th Jud. District
Wants to maintain process of local prosecution in Com. t.
under Jud. rather than Loc. Gov. See problems with Trial court System - time wise + financially
Basically likes Art II as is.

Witness Proposal # 54

Author W. Dick Reynolds to Intro a completely
rewritten constitution - (Is not ~~critical~~ ^{critical} of Com. drift.)
What he does is rewrite the present Const. →

OBSERVER COMMENTS

in simpler language with no substantive
Changes. His proposal provides a link
between present C. + Draft. His version has
8 Art. - # 4 is good. Reduced the 55,000 1876
Document to 17,000 words. Feels working from
this version more logical than the C.R.C.'s.
He is not against changes just thinks this better way
to approach them. - Disagrees with many of
the C.R.C.'s proposal.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

1-29-45

DATE

Brynell

OBSERVER

Hale
Presiding Officer

12-16
Committee number present

Public Hearing
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Judge Henson: Co. Judge Dallas County: (Small Co.)
Why should co. judges be lawyers? He never
had any civil or crim. cases appealed. 24 years as
judge. Strongly oppose merit selection
opposes salary commission - money from
counties would not be returned - Counties would
have to raise taxes -
"take power away from gov. (appointments)
Said " to go to groups (in his list he
included the League of Women Voters!)
In answer to Blanchard: thinks leg. shouldn't
set salary. - Doesn't want salary commission
appointed by one man.
Question from Denson: lawyers from co? !
Judge should have intelligence + integrity.
Denson - function of judge not whether fair
but on pts. of law. Ans from Denson: All
lawyers are not good lawyers. - UT doesn't
teach them. Judge should be a "good" man.
Henson makes \$4000. Henson doesn't think
raising salaries would attract more lawyers.
"Courts have too much independence" - Henson
No objection to giving people selection between
merit + election (Henson in answer to Jones) -
Change of name doesn't bother Henson -
In answer to McDonald: 100,000 might be pop.
figure. (H.) Henson says he might favor training
in fields they need it - not be necessarily lawyers.

OBSERVER COMMENTS

Jones polite and playing mediator role in conversation
with delegate prior meeting (between Blanchard + Earle)
→ proposes pop. for counties that would come under unified
system.
Spurlock seems anxious about something; keeps conferring with
Hendricks + Nahers.
Co. judges don't understand the proposal!! Need
education

Judicial
COMMITTEE

1-28-74
DATE

Jayno Dibrell
OBSERVER

Grant, then Mavry
Residing Officer

9, then 14
Committee number present

Public Hearing-
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Ms. Betty Steel - County/District Clerk in Dalhart - Concerned about removal of incompetents - Feels people would reject whole Const. if County Judge were attorney. Ques - Would you prefer a lawyer? - No - Ques - Why should dist judges be lawyers but county lawyers not? Ans. Well, maybe on population basis.

Paul Carrington and Galdwell McFaddin - E. Tx. Chamber of Commerce. Favor merit selection. C.C. Committee for merger, C.C board against merger. On Judicial Nominating Committee they feel merit only (not geography, sex, minority) should be criteria. McFaddin favors more judges on Criminal Court of Appeals, but it would be better to have intermediate courts than to merge - Judge Dorwood Wimpy - County Judge Rockwall County - not a lawyer. 85% Administration, 15% Judicial - work load. Favors non-lawyers for rural areas.

12 Dallas County Judges - All lawyers. Most favor specialization and intermediate criminal appeals courts. Oppose merger, oppose merit selection. Favor lawyers being County Judges.

OBSERVER COMMENTS:

Baker and Hale seem to oppose specialization.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

Jan 25

DATE

Bryan

OBSERVER

Hale-Crant
Presiding Officer

15
Committee number present

Pub Hearing
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Long Business Meeting - Monday next week - 2:00 one witness - not time work session. Tues - MORN - Witnesses - after - work session - Wed. MORN - Witness W. afternoon - work, Thurs. - Witnesses All day, after Friday - work session All day Common expressed concern - not getting to put input into other committees or even know what they are doing - Hale - need to start alternating comm. meetings, so can visit other committees. Coleman does not want to hear any more testimony. Blanchard says can't do that to public - Bad R. Relations.

Judge Paul Nye - Corpus G. Chief of Civil Appeals Ct. - ① Combine Crim. + Civil Appeals let see. is more flexible - omit "of same level" - trial judges can sit as sub. on appeals bench - Coleman - Appeals Judge should not know trial judges Be in different Ct. from same area - Baker - 3-4 yrs. to Appeals case noted - longer if combine? Ans - No

Ken Chestnut - Dallas Attorney - sp. for self - Elect 56. Jus. by geographic districts AS IN LOUISIANA - continue App. must by gov. not to fill vacancies

Judge Pratt - Dawson Ct. 16,000 - 17,000 - elected rather than App. Ct. no Attorney has ever run for Ct. judge - need to settle cases at local level

Judge Crow - Gaines City - fees & fees should remain in city.

Judge Yates - city judge - Menden City - NO legal training

I am profoundly unimpressed with these County judges!

OBSERVER COMMENTS

Denson sounds like wants Licensed Attorneys on Ct. level
Baker always ask about J.P.'s

League of Women Voters of Texas
Observer Form

Judiciary
COMMITTEE

1-24-74
DATE

2:00'clock

Judy Parker
OBSERVER

DeWitt Hale
residing Officer

all but 3
Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

1. Helen Hunter, Director of L.W.V. of Texas, statement included
 - A. Two questions asked about J.P.'s being judges & she replied League would accept a compromise
 - B. Bales - ^{said} would substitute backdoor politics or "politics of the bar" (quote from Yarkborough) Yarb. also felt party of judge should be known.
 - Grant - pointed out Layman would give input to nomination
2. Mr. ^{Mallen} Smith, Prof at UT Law School, testifying as citizen, worked for Judicial Council + Mr. Hale, Chmn.
 - A. Not necessary to protect public from legislature, have faith & adopt that philosophy - which leads to a simple Constitution not lots of detail. Judge Cabents to complex + unwieldy - could be done by legislature. Make one simple statement in Constitution giving legislature powers to develop a court system. Maybe only detail limit size to prevent overpacking. Many problems (overloaded cases, jurisdiction, selection of judges etc. can & should be statutory. Not easy to do politically - take courage.

Question about practical politics - pressure groups + sacred cows. Could this pass as well. Response - will be defeated because of what's in it and not what's not in it.

Under present law - legislature has wide powers - could change J.P. system etc. + constitution

Must have flexibility for future - be general - very few dangers.

Legislature - is most competent + logical group to set up system.

OBSERVER COMMENTS:

Hudson, Ogg + Powers not present. A few members stayed to hear only one or 2 speakers, then left, one immediately after attendance.

Prof. Smith's comments made sense and not always usually agreeing with our emphasis + priorities.

(over)

Smith-Cont'd

1. Discussing specifics of system

a. Least important issue is having one or 2 systems
 minor inconvenience - so long as can expedite
 Court of Criminal Appeals (intermediate appellate
 review) might save a little money on salaries in
 unified system.

b. Should specify size - studies show a minimum
 of 3 + max. of 9. Calvert suggests calling some judges
 + some justices - details ^(titles) petty not crucial - ^{would} lower morale,
 so don't give different title.

c. Trial Court Levels - Why have several levels - County,
 District etc.? Establish one level if you are specific
 in Constitution. Problem - District judge won't fool with
 problems of J.P. - wife calls up about beating etc. small
 amount of money in cases. Experienced + qualified judges
 would handle all instead of upgrading J.P.'s.
 J.P.'s frequently need human qualities most - not
 always found exclusively in lawyers.

d. Which appointive system do you want? This one or
 Missouri. Question from Hale about appointment +
 election - 5 elected +
 4 appointed on Supreme Court now.

Toss-up - studies show no significant evidence on decisions.
 Very low contest + low loss rate. Appointed Federal
 judges become arrogant - why don't know.

Merit selection - not be a big point in spite of LWV.

No evidence on impact that one is superior to others.

e. Integrated system is what really need. Not much admin.
~~power~~ or direction + centralization - desperately need
 a unitary operating system to prevent waste + prevent
 differences between rural + urban. Benefit to taxpayer to
 be operated as a unit.

Question about being a lawyer as judge - need some legal training definitely
 J.P. can resolve many, many cases without being lawyers,
 and decide well. Mature, intelligent, ^{compassionate} caring person could
 be better than young inexperienced lawyer.

Not against J.P.'s being required to be lawyer, doesn't feel it's
 crucial. Also racial minority's could serve easier as J.P.'s
 non-lawyers.

another

Comment - screen cases - rights + constitutional need lawyer

Response - many times don't need court process just set them down
 + talk it over informally. If ^{become} out of record - expensive cost
 would hurt many poor people.

League of Women Voters of Texas
Observer Form

Judiciary

COMMITTEE

1-24-74 2:0'clock

DATE

Judy Parker

OBSERVER

DeWitt Hale
residing officer

all-but 3
Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

1. Helen Hunter, Director of L.W.V. of Texas, statement included
 - A. Two questions asked about J.P.'s being judges & she replied League would accept a compromise
 - B. Bales - ^{said} would substitute backdoor politics or "politics of the bar" (quote from Yarbrough) Yarb. also felt party of judge should be known.
 - Grant - pointed out Layman would give input to nomination
2. ^{Mallen} Mr. Smith, Prof at UT Law School, testifying as citizen, worked for Judicial Council + Mr. Hale, Chmn.
 - A. Not necessary to protect public from legislature, have faith & adopt that philosophy - which leads to a simple Constitution not lots of detail. Judge Cabents to complex + unwieldy - could be done by legislature. Make one simple statement in Constitution giving legislature powers to develop a court system. Maybe only detail limit size to prevent overpacking. Many problems (overloaded cases, jurisdiction, selection of judges etc. can & should be statutory. Not easy to do politically - take courage.

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could this pass as well. Response - will be defeated because of what's in it and not what's not in it.

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Must have flexibility for future - be general - very few dangers.

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Prof. Smith's comments made sense and not always usually agreeing with our emphasis + priorities.

(over)

Judiciary 1-24-74, 2 o'clock

Observer
J. ParkerCont'd
Another
Comment or QuestionPeople now attracted not of high quality -
part-time job for reulators etc.Response - must treat them w/ respect + pay them
adequately to attract good people

Comment - of most concern to constituents is speedy trial

" - if given training at AM in one case, they
felt they knew more law than anyone else.Response - if administered - could be some
advice as to their procedure etc. whereas
now they can do what they want since
they're elected.All should be paid from state - many of
our present problems would disappearFunctions of J.P. Court just as important as
higher courtOne tier system, abolish de nova court, use some
non-lawyers + could keep cost low (some
variance)Entirely appropriate for J.P.'s to feel threatened -
take into account + work with them.Another Comment - Re minorities - with appointments, the
rights of people diluted. ~~most~~ One student study
on minorities probably do best in present system.
Non commission has nothing to trade as governor would

Variety vs. expertise issue in unified versus two Supreme Courts

Reality Criminal Court have vested interest
Ideally starting from scratch have one Sup. Ct.
but if it will prevent passage of
Constitution - not that crucial.

Most lawyers are specialized now, not S.P.'s
can they become competent?

Either case is reasonable

J.P. functions which require a lawyer could be
removed from J.P. to district court such as
preliminary hearing. Rotate judges in & out of
domestic or traffic etc. J.P.'s wouldn't
have as much flexibility to rotate.

How reimburse City for loss of funds - could come back
from State.

Remarks from Institute of Urban Studies - Houston
will be published - we should read it.

League of Women Voters of Texas
OBSERVER FORM

Judiciary
COMMITTEE

1-24-74 AM

DATE

Brynell
OBSERVER

Hale
Presiding Officer

18
Committee number present

Public hearing
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Testifying: Judge Brown (5th Circuit Pres. Judge) on behalf of fed. judges. Fed judges want to surrender some of our responsibilities to state courts. Efforts to get jurisdiction generalized [Certification procedure]. Ct of Appeals prepare cert. (facts + sole question submitted to Sup. Ct of state then back to fed. Ct). Not an impediment to quick adjudication. [data available of explanatory and support type to committee]. Believes certification to be of constitutional status. (Case tried held by Sup. Ct justice to require Const. Amendment if certification could take place). Whether new draft would allow? Question of whether or not Certification is an Advisory opinion. Recommends - minimum of 2 language; need flexibility to allow for Certification outside 2x grid system (fed. cts). perhaps. Need to mention it. See Sect 1 last sentence [Spurlock]. Brown agrees Commission. Draft would accommodate certification. In answer to Baker: Brown supports combined 2 top level courts on rationale that diversity aids justice. In answer to Hale: Courts function is adjudicatory rather than policy-making. Merit Selection question from Denson: Brown supports merit selection.

② Chas W. Barrow (4th & Civil Appeals, San Antonio) Merging civil + criminal appeals: Congestion on criminal side something to be gained by more judges, something takes more time. Either create intermediate crim. cts. or merge. Question from Blanchard re expanding # of cts and/or judges - Barrow says would help, but favors merger. Leg. Auth. to create courts or increase membership in courts. Q about right size for Sup. Ct. Merit selection question from McDonald: Barrow is reluctant convert to merit selection; not for political race or appointments. Cost of running overwhelming. Citizens don't want to vote for appellate judges. Sandrich feels that merit selection might hurt passage of Constitution. Barrow debates his point; Barrow thinks either fed. n.s. if undisturbed. Jones: Alternatives given to public. Nabers + wouldn't you still spend money to be affirmed on merit ballot? Barrow says no, but Leg. could make laws. Denson -- if run, do you neglect duties on bench? Yes, answers Barrow.

Coleman left Ames back late
OBSERVER COMMENTS

Heathly left early - Spurlock seems more conciliatory than usual, though he was gone a lot. Hale seems to lean toward partisan election. Denson seems favorable to merit selection.

(Lawrence Wells - recognized as
researcher for House & Convention)

Committee: Judiciary
Chmn: Hale
Observer: Brizell

Presiding off: 266

Present: 17 + + -

Done left -

type: public hearing

(Chmn + VChmn left for picture taking!)

Bales
Booke
absent: Nabers
off late

Jan. 22-1974
Convened about 10:20

Leroy Jeffers testified as Pres. of State Bar Assn of Texas.
① Court restructuring to merge Sup Cts - Lawyers favor 2 to 1
② 473 issue of Texas Bar journal gives results of referendum
③ convert court of crim. Appeals to Court of Appeals - Lawyers favor 3 to 1
Nov 1972 of Judge Truman Robts (article) which supports

* All commission proposals supported except one - merit selection

③ to eliminate Special district Cts - 4 to 1
④ County courts - etc - (Commission has
a group to this)
⑤ Chief Justice the adm. head (Commission has

⑥ Lawyers Co. up - heartily endorsed by lawyers
Right of Supplementation should be preserved
Coleman's comment shows he disagrees with salary
supplementation. Jeffers says leave it flexible to
state's future. 47.99% of members responded

Heavily opposed to Sec 4.
Coleman's statistics should not be
sole basis for equalizing district.

Baker concerned about all judges
being lawyers, wants to have pop. limit when they have to be lawyers -

Spurlock argues for status quo, need for specialized courts
Earle debates Spurlock & Healy (after Healy has left). "Proposal not to limit judges"
Hendricks addresses physical facility problem; followed discussion on
primarily statutory matters.

Spurlock corrects Earle after Earle leaves. (Spurlock's father is district
judge; delaying tactics in rules not court system.) Hall says admin. in
unified judicial system - (praise Spurlock's father time.)

Denton comments in favor of unified system. So does Ogg.
Spurlock is not convinced -

Jeffers - greatest # of lawyers - non partisan election of all judges
next " " " " appellate & trial (leg) - merit selection.

Support voters making the choice

COMMENTS:
Healy already arguing for status quo, worried that judges won't be close enough to
people. Don't think Healy has heard either Constitution!! When Healy + Coleman
are not arguing their side they leave.
Baker seems to favor 1 tier ct system
Spurlock seems mad at Earle.

Committee members converse among themselves & leave

League of Women Voters of Texas
OBSERVER FORM

De Witt Hale
Presiding Officer

Judiciary
COMMITTEE

1-23-74

DATE

Helen Macbeth for
OBSERVER Nancy Bene

"a new proposal handed out and later
referred to?" referendums are not to ask - Price or
C.R.C. draft, I believe.

De Witt Hale
Presiding Officer

17

Committee number present

Testimony, Public Hearing

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified,
major points made, etc. continue on back and additional sheets
when necessary)

(Baker absent) ^{10:15} Film opening later film committee
(Earle present)

Mike Mc

Asst Pres. of Texas Homeageory - Refutant Figs

former Rural Ideas of New Constitution states goals. Leave judge
system as at present, and not separate. In County under new draft

There would be 2 judges doing what 1 can and now does.

Question: juvenile cases are not being handled and juveniles set
free. Judge travels from a-b-c and runs out of time at end.

Membership is not in Rio Grande Valley but North of that area
around Lubbock, Tex. 81 counties. On judicial issue the vote for
old system was 50-50. No reference to judges being lawyers. Not a
weighted question.

Definition of rural county? Less than 5-8 thousand, over 10,000 is urban.

Why did you pick sup. Courts? We just picked out some things to question

Each County sent in resolutions, these were compiled, and a draft was made into
yellow booklet.

In formal announcement.
Judge John R. Brown will be here at 10 a.m. Thursday to testify that the
present case law prevents 5th Circuit from sending back (sound) (dramatic)

It seems that C.R.C. has or has not language on jurisdiction.

District Judge E. Byron Crasien - a rural county, also county summer (?) which is not considered rural.

"Unified judicial system" a catch all. Entire Texas Supreme Court, and other
higher up have testified. Supreme court assumes a lot of measures that have been
legislation in past. This would make Chief Justice a powerful figure. Merit System
is "hard to swallow." Many present ones are good and could not be so elected under
draft. Legislature might

OBSERVER COMMENTS

Mike in witness was treated kindly but pointed out

District Judge Crasien ready to testify - Larry Baker absent, relaxed atmosphere: Hale asked Judge
to sit down. He! He! Baker found and came in, Hale told him not to sit at the bench. Sent

reserved for Maury who was in committee before break. Hale asked Clerk, and
assistant (black) be in picture, and David (who knows everything going on), Maury of Com. left

immediately after film & pictures. Jud. C. - Sit courts commissioners judges "out your hair"
Judges in metropolitan courts try only one type case. Judge C. tries all types cases.
Anderson: Problem getting judges to rem. Judge C. If pay & responsibility were raised lawyers would
rem. from office.

continued from bottom of this page.

Baker: - would county judges be against this new system?

Judge C: yes because of jurisdiction

Baker: Every county judge 10,000 have County Court, how? yes

Does Judge C receive a supplement pay?, yes, as juvenile judge. Is called into (?)

Judge C gets 10 to run court and must compromise at times \$600.

Create appellate judge which would only retire or expire.

This new system would require new districting.

Is the time for juveniles great? No in my District it is arranged so it doesn't. Judge C consults with County judges on case loads, and cases.

Judge C: County Courts next same jurisdiction. Now the County Court is a Constitution County Court, and the spite cases take as much time of Dis. Court as legitimate big money cases. County Judge 30 lawyers in Johnson Co, and 2 in Summit (?) Dis. judge always from Johnson Co.

If the Constitution submitted to people of Sumnerville Co, a lawyer was required/draft would they accept this? No, this there is a County Court but no County Court of Law so Crocker has to handle all cases inc. civil cases over 1000.

It seems that the draft solves problems? Yes - but - judge and a lawyer county attorney may be needed? Yes. Person can get a jury trial for \$5 fee. Night before trial call that case is settled, and 100-150 jurors come in for fee.

Earle: - more people needed at Dis Court 25-30 judges in a new proposed system. ^{there rather than 30 in} 2 judges not restricted to name of position. Call it one court with degrees of responsibility. Different in clerical and judicial aspect. This could be handled by statistics or administrative rule.

Judge C - not sure that this would be better. Jurisdiction would be 5000-7000. but applies to County Court of Law in every Dis.

P. 9 sec 16(e)

Judge C - 2 or 3 tier District better.

Earle - appeal would be different under 1 tier or 2/3 tier system. (Mend Cross - talk between members.)

Spunkish - but this would be one level of court - (Need a County Court and this be a court of record. Wouldn't merit system ^{timers} give better chance for independence of judges on reactions? Judge C - No. Courts should reflect public opinion. Judge should have backbone to do right.

Judge C - No one would turn be thrown out because no other name is on ballot.

Spaullock J.P. Cts. are max kind of people - simple and cheap
no lawyer fee etc. get justice w/out complexity

Chard answer - you can have simplified system - can have small
claims procedure at District level
Sp - No improvement then, is there?

yes
Carle : better quality of judge - experienced + a lawyer
SW Bell filed most delinquent debts in Arlington
in J.P. Ct. where Bell is represented by a lawyer
and the defendant is not - is this equal justice?

Chard - Especially in cases where counsel is not involved
★
The judge needs to be a lawyer - so knowledge
of the law is introduced somewhere in
the hearing
point!

In Municipalities - could have associate judges
who are respon. to District Court

Carle - What if that Assoc. Judge were elected instead
of App. - Not necessary answer

Carle What about in rural areas -

CH - Hope Const. would not require one way or
another - may even leave no local option

If retain J.P. Cts., then don't need County Courts

CH ★ At least give pub. a choice in their selection
★ if you have top quality judges, they can
make any system or organization work

Dale How about magistrate system - have someone right
to deal by District Judge

Knowlton, Witness - Widdie Falls -
Mr. Shaddock - Chmn. Citizens Advisory Committee
Judges should be elected
Merit selection is good compromise
and people would support it -
Separate S.C. & Ct. Chmn. Appeals,
but full combo would work -

Section 8 @ Judicial Nom. - don't like representative
enumeration of sexes, geographic regions - should
be because of technical skill - Not Black, West
Texas etc.

Gap between Public Knowledge & Convention
spalling -

Send summary of each committee's daily activity
to all newspapers in state

Send weekly newsletter to all Citizens groups
direct mailing as

Corpus Christi 212 ^{column inches} over 8 day period

Austin - 353 column inch in one day

each delegate make a weekly report to constituency
need to recruit districts + set up speaking
engagements - need delegates to work hard
until Nov.
preliminary work session -

Jan 23/1974 Judiciary
Hale

Obsv - Union Bryan
2:00

Jan. 23, 1974

public Hearing

10 members

Clarence CHARD - speaking for self - Williams, Bateman

Judge CHARD - Ct Civil Appeals - DALLAS

Indiffing on reform of Appellate Courts

Wants unified judicial system

takes courage to go "All the Way" w/ Unified
Judicial System -

- 1- Now we have inequities in case loads because
we depend upon the Legislature
Criminal Appeals

Ideal system

- 2- Need one trial and one appeal before at least
3 judges - No need for 2 trials or 2
reviews

No facts to support the fact that more than 3
judges in intermediate Cts. do any better than 3
may not need as many as 9 in Ct of last Appeal
4 may be a better number - most states have

7 - No reason
One Ct. of Appeals ^{state at large} - 15 judges in all - 3 per
each case - Michigan has this -
Judge Levenski from Mich. would be an expert
witness -

Only way to assure Criminal Appeals ^{cases} get prompt attention
is to combine the Cts. "separate but equal" doesn't
work in Judiciary anymore than it does in education

Specialization - A judge really should be a generalist to be a good judge
broaden the experience, the better

Prosecutors may feel a Criminal Ct. judge may lean more
toward tough prosecution -

Hale
Asked:

Mich. system - People want "local judges" to hear cases
Mich. system wouldn't allow for that -

judges -
Hearse Judicial
Comm. Hce
Report

Spaullock: mandamus power - ^{if there} unified Ct. if there ^{is} ~~in~~ ^{is} lockatory
ref = now a lawyer can "shop" around until you
can find a sympathetic judge

Ans: this is not good law - if we can reduce
this practice, we are improving system

Spaullock - ^{being human} ~~being human~~ judges pre-disposed to lean certain way
are we really improving system or just changing the
name?

Baker - How can 9 people handle 14 ^{Judges} peoples load
Probably be more limited level Appeals -

^{Wants to} ~~Wants to~~ - limit supreme Ct. only to few cases - most cases

Spaullock - need only one appeal -
We don't need unified system to give S.C. more discretion
in the number of cases they are willing to take -

TRIAL COURT
Mr. Grant - Would you need to look in the no. 3 on Immediate
Appeal Order

Yes - probably sound to have 3

TRIAL COURT

Need central trial court - one tier

no confused jurisdiction, no competition, hard to
divide load between District + City Ct.

Spaullock - would mean Ct. + P. personnel be part of District
yes -

On trial level - specialization makes more sense
gives ^{same} ~~some~~ quality of justice to all under one trial
Ct. system - if there several trial Cts.
implies providing varying degrees of quality
trial de Novo - Shut Out Theory - "this judge
is no good, so his word can be reversed"
no effective review

Baker - would need to change jury

Harlan Friend - Liberty Co. Lawyer
running for County Judge & See back

League of Women Voters of Texas
Observer Form

Jaworski may come next wk

Judiciary
COMMITTEE

DATE

Bisnell
OBSERVER

Hale
residing officer

8-13 (varied!)

Committee number present

Public hearing

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

For ~~Wolmer~~ ~~Garwood~~ testified:
Citizens Advisory Committee -

(non-partisan) Selection of judges for trial ct
Recommendations
① any revision of jud. merit plan for appellate courts
② include present const. with selection of judges for trial ct

③ exclude partisan participation in any election
④ Consolidation of Sup. Ct & Crim. Appeals (9 members)
⑤ intermediate appellate ct - Cts of Appeals -
add civil to criminal jurisdiction
SEE HANDOUT FROM ADVISORY COMMITTEE

Qualifications, retirement, etc.
Spurlock questioned about supplementation of lower ct
judge salaries which advisory committee does not recommend
Garwood quotes article in ~~the~~ ~~journal~~ for + against
merit selection - "Best way to improve judiciary is to have
arguing for change Good judges"

Denton: "people don't know who is running" - vote for or
against names
Blanchard: "best way to
nominating committee? Garwood - reliable way of
getting nominees - in favor of commission proposal."
"what state has best system?"

Jones: Asking for response to Garwood's comments. Garwood says
merit selection stricter than federal system
alternatives of present system vs merit rather than CJC proposals
Denton: Arguments against merit selection - Career professionals, Garwood
regards # promoted from lower to higher really small

Baker: % of elected vs appointed? 50 - 50% from Colvert, in audience
Garwood - doesn't know of any incompetent appointed judges in TX
Carle - Confirmation by Senate & mixed feelings on that from Garwood.

Hudson: - Would minorities fare better under merit? YES.
Baker: why would they recommend 3? why not just recommend 1?
Denton: odds great against minorities being elected to upper ct - Gov agrees

Coleman: Could never favor Judicial Nominating Commission - afraid his
geographical area would not be represented. ~~no~~ ~~issue~~ in const.
Says "better showing how corruption in judiciary, but in other areas."
Spurlock - Not only is corruption in judiciary, but in other areas.
Hale - Judge does not make policy; he interprets law by Garwood.

(OVER)

OBSERVER COMMENTS:

Committee members consult & leave & break -
Baker seems to be against merit selection; prefer
for appointment with advice of Senate.
Coleman probably against merit selection - (El Paso)
maybe for gubernatorial appoint
Spurlock - seems opposed to merit selection; favors election
Denton - Cont determine position on merit selection
Jefferson quite eloquent - Spurlock's reaction to him questionable

Dr. Jefferson's testimony (Vice Chmn of CJC Judiciary)

1. Favor merger of SC + Co. Appellate.
Exclusion of JP + Harlan (3 tier) - political consideration
Paveto: testimony about JP - Jeff - negative testimony about JP Ct
Jefferson & JP should be lawyer if Co. have lawyer
Spurlock pinpointed Jefferson to say: Justice better served in all cases if judge is lawyer.
Spurlock: where is horizontal transfer between trial Ct? Sect 12C
→ concern about transfer of cases (not judges) between Ct.
Jeff - should have variety in docket - might have primary assign.
(on specialized Courts)
Spurlock - 2b may be interpreted as precluding transfer of cases?
no - could do it legislatively or reassign judges
Favors - merit selection; evils of campaigning -
→ Arguments for better treatment of minorities under merit selection -
Jefferson's primary concern - good judges -
→ suggestion of local option merit selection under Co. choice rule for Ct outside appellate level

HAD TO GO

Harlan Friend was scheduled to testify against S.R. which precludes Co. judges to practice law outside -

Other testimony involved a proposal to take sentencing from judges into hands of Commission - See Clipping -

League of Women Voters Observer Form

Judicial
COMMITTEE

Jan 17, 1974
DATE

Jane Williams
OBSERVER

De Witt Hale
Presiding Officer

7
Committee number present

Committee Activity (public Hearing, etc.)

RECORD OF ACTIVITY FOR DATE _____
(record all votes, resolutions,
who testified, etc. continue _____
on back and additional sheets
when necessary)

Rip Hale called the afternoon session
to order - As there were no witnesses
to testify he moved they stand at ease
to adjourn later in the afternoon.

(OVER)

OBSERVERS COMMENTS:

Judiciary
COMMITTEEThurs 11, 74
DATEMarian Bryan
OBSERVERHale
Presiding Officer16 - (4 or 5 in/out)
Committee number presentPub. Hearing
Committee Activity (public Hearing, etc.)

RECORD OF ACTIVITY FOR DATE

(record all votes, resolutions, who testified, etc. continue on back and additional sheets when necessary)

Sen. Ralph Zerkow
objective report

Zerkow argued strongly for any ^{A PARTISAN} Elective system for Appellate Judges. Merit Selection is oligarchic - call for. Nominating Comm. A "little patsy group" + Secret group. And said it would be the worst possible way to select nominees. Feels it's also ridiculous to hamstring the Gov. w/ the 60 day limit. Feels Senate should have a vote in selection if determined to use this method - A Senate hearing would help select.

Feels "Merit Selection" term implied present system is "demerit system" + says that's just not true - Feels Texas has been very fortunate in getting outstanding judges on political election system - if it had not worked so well then let's work to change it all. People want election - (Illinois had a choice). Feels J.P. Courts are not too bad as they are - criticism has been scattered - local people are dedicated to the system way it is.

Committee questions on back:

(OVER)

OBSERVERS COMMENTS:

subjective comments
I feel Comm. members may be supportive of Unified Judicial System - but are have many questions about J.P. Courts - I sensed a need to change them somehow, but a fear of their power & ability.

Baker - feels J.P. Jurisdiction is too limited $\therefore$ no one of
any great ability wants to run for J.P. - Feels expanding
the jurisdiction would attract better people

Yayborough - yes, Now City Comm. can increase requirements
of J.P. ^{County} and have done so in Adams County for example. But some
small counties don't have enough lawyers to go around ASIS - hard in
those to make J.P. a lawyer -

Shantz - What do you mean when refer to Fed. Nominat. Comm. as "Secret
group?" They'd have to have public meetings wouldn't they?

Jer - yes, but you know they will have conferred privately before the public meeting.

Mr. Colman - What do you feel about Combining Civil + Criminal Appeals?

Jer - Not much experience, but Commission debated little about that +
saw no problem - However, later, defense Attys + prosecutors
both came out opposed because they fear more delay in cases
if combine appeals etc.

Baker - Will J.N.C. take "Politics" out of judgeships? Jer - No, it will sub-
stitute "BAR + corporate" politics for "people politics".

Baker - in J.P. area - what if J.P. would be Attorney, but still left out of
Unif. Jud. System - Jer - Maybe, but put population limit for Counties
that are sparsely populated + make some other arrangement for them

— Would if we changed J.P. Cts., would they cause such a stir at
the grass roots, they may defeat Art V? Jer - probably not
Jones - Is it demanding for a judge to ^{collect} spend \$100,000 to be elected
Jer - yes this is a valid argument, but it does not outweigh the
dangers of merit selection -

Baker - How about incorporating J.P. Cts into U.J. S? Would you position
be ameliorated if Senate had a voice in appointment?

Jer - Still for Elective System -

Judicial
COMMITTEE11/6/74
DATENancy Bené
OBSERVERHale
Presiding Officer16 (Mr. Hancock left after railroad)
Committee number presentHearings - Supreme Ct. Justices (4 present in room)
Committee Activity (public Hearing, etc.)RECORD OF ACTIVITY FOR DATE
(record all votes, resolutions,
who testified, etc. continue
on back and additional sheets
when necessary)

I. Judge Greenhill - Chief Justice -

Supports in general the work of the Commission - proposed article
Criminal Appellate problem -
need for Coordination of judicial effort - disproportionate work loads
feels that there are adequate judges (606 judges for 11 million people).
feels that 14 Civil Appeal Courts could assume some Criminal Appeal Cases
(Most of Civil Appeal Ct. are "grossly underfunded")Note: Supreme Ct. issues about 25-30 writs per year per week
plus about 100 opinions per year. (Average age of Cases is 4-5 months.)
429 Cases in 1972 - more Criminal Cases nowSupports the unification of present court system - does not want
to "proliferate" the courts. Supports unification of Criminal & Civil Courts.
judges should hear both - no specialization.
Supports mandatory retirement at 70.(A suggestion was made that mandatory age be 70 with full retirement pay -
with a penalty of the loss of 10% of retirement with each year past 70
- suggestion made in yesterday's hearing)
from merit selection but feels it doesn't make alot of difference
dislikes the implications of campaign financing - political implications
would like to take judicial positions out of election politics
prefers nominating election system
~~Merit & Bar selection~~ American Bar system

(OVER)

OBSERVERS COMMENTS:

Note: Judge Greenhill
Younger Cases from
Ct. of Ct. of Civil Appeals
this means the 5 judges of
the Court are sent - at state expense -
to another area to act for the purpose of
equalizing workload.

II Judge Rigley^(?) Justice of Supreme Ct. - Pres. Civil Judicial Council
wants flexibility - and provision for administrative or managerial
"leadership"

* direction, planning & management of entire
judiciary - 1 person at head -
appropriation + direction for him -
authority

wants means + power to post judges where the work is -
Emphasized the lack of expeditious disposition of Criminal Court cases
see solution in a local presiding judge with local staff
responsive to local law officers

"Court of Last Resort" - prefers unification of top courts -
(he would like to hear both kinds of cases)

[Ronald Coleman of El Paso is puzzled about unification - or about the vertical assigning
of judges for purposes of work load distribution - (long winded song again, ed.)
Judge Rigley would not limit the jurisdiction of the Court of Last Resort
" " feels that valuable talent is lost through the bi-partisan
election -

(apparently lost an election for Atty Gen.)

Salary question mentioned - felt that many lawyers will not leave
a lucrative practice to run for \$40,000 judgeship
1968 - Cost him about \$100,000 to run for Supreme Ct judge - won because he
raised \$25,000 for billboards - ran against Judge Weston

feels they should retain private reprimand - not in CRC report
effective tool -

likes Civil Judicial Council as proposed by CRC - to replace the present one -
should encompass criminal & civil law -

wants vertical movement of judges to take care of immediate needs -
wants lawyer judges to handle probate

Chairman Hale feels some fear about making the Chief Justice a "dictator" -
in other words, giving him the power of the ~~the~~ head of the
judicial system -

R. Carle has done his homework.

Judge Walker
Judge Johnson } also present but
declined to speak

Judiciary
COMMITTEE
Jan. 16 - afternoon -
DATE
Jayne Dibrell
OBSERVER

Hale
Residing Officer

116 of 21
Committee number present

Testimony of Ct. of Crim. Appeals -
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Onion - Favors merit selection but objects the Governor making appointments to commissions. Elections are too expensive and people disinterested. Favors separate civil and criminal appellate system - wants intermediate criminal courts and administration.

Objects to many oversights in Sect. 19 of Transition schedule - Memo
Favors J.P. courts in one tier system -

Morrison - Generally agrees with Onion. He doesn't favor merger but doesn't favor merit selection.

Douglas - No objection to merger but must have intermediate courts... handling appeals. Objects to courts deciding when and if to merge - it is for the people to decide.
Objects to constitutional prohibition of state's right of appeal - should be statutory.

J.P. courts - jurisdiction and qualifications increase -

Roberts and Odum - Favors merger of intermediate and higher courts because of good administrative control and raising standards of criminal justice. But transition schedule would have to be overhauled (Onion memo)
Favors election of judges -

Justice Courts - 2 tier court system because small courts need next level for appeals - 2 tier appeals level also.

All favor criminal appeals on writ of certiorari and judicial administration but not solely in hands of Chief Justice.

OBSERVER COMMENTS:

Jan. 15, 1934 - a.m. & p.m.
DATE

Jayne Dibiell
OBSERVER

Hale
residing officer

16-
Committee number present

Testimony of Jim Fronzer
Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

I On merit selection:
Opposes merit selection but recognizes that judges do get defeated for an unpopular decision.

Favors - Gov. appointment and standing for election ^{with opponents} two times (for appellate judges & Sup. Ct.) then tenure granted.
Weaknesses in new proposal - ① How can you vote against a judge when the alternative is unknown ② With no opponent, who would criticize (newspapers?)

II On merger

Review of cases must be multi judge, not just one.
Because of tremendous workload intermediate courts would be unable to assimilate criminal cases unless. ① Some right of appeal is cut away. ② Great increase in number of judges who would be forced to sit in panels.
Weakness - panels may give opposing opinions on same question - (As in 5th circuit)

Favors - separate criminal courts of appeal at intermediate level.

III J.P. & Municipal Courts -

Serious mistake leaving out of unified system.

Favors - Not requiring them to be lawyers and

Keeping name, but functions questioned on some levels and daily survey of activities -

Earle comment - Battleground is legislative for J.P. problem

If put up to the people, J.P. would lose.

IV - Independent administration of docket. Where judges are elected, docket tends to be dictated by lawyers. Unified administrative framework keeps docket moving.

Judiciary -
COMMITTEE

Jan 15, 1974 a.m.
DATE

Jayne Dibrell
OBSERVER

Hake -
Presiding Officer

He started at 23
Committee number present

Bill Bass - Describing member of Judicial Committee of Revision Commission -
committee Activity (public Hearing, etc.)

RECORD OF ACTIVITY FOR DATE Testimony
(record all votes, resolutions,
who testified, etc. continue
on back and additional sheets
when necessary)

Bass opposes merit system - favors present system.

1. Though elected in partisan elections - no corruption in judiciary
2. Most ^{60%} reach bench through ~~appt.~~ appt. by governor, who is responsible to electorate.
3. Only 6% appellate judges and 5% dist. judges defeated in 20 years.
4. Takes selection of judges away from people (pie suppers and chicken dinners.) to politics of the bar.

Question - Would minority have chance to serve if elected in present system -

Ans - No, but merit systems not getting more minorities.

Question - Wouldn't 11 people be better than one (governor) in selecting -

Byers -

Heathley - wants no change, no way, from top to bottom - "what's problem"

Ans - Backlog of cases, not enough pressure from lawyers,

Heathley - Reorganize for cities, leave small places alone -

Question - Wouldn't merit selection provide better professionalism, more qualified people, rewarded by hard work, only lawyers really know who's qualified

Ans - might become lazy if don't have to run. And small areas know
about judges.

(OVER)

OBSERVERS COMMENTS:

Questions - by Spillock, ~~Byers~~ Heathley, Grant, Earle, Cook, Maxxy, Nabes - ⁰⁹⁻ generally against merit selection. Powers,

Also Hake, Hendricks, Byers -

Question - You don't want any appointments -

Grant

Answer - Any hint of appointive system will doom whole Article

Questions on general feeling of Committee during writing of Article -

Roles of Civil & Criminal Procedure in Supreme Court

Sect. 2 - Removal of cases to Sup. Ct - not before trial -

Sect. 3 - App. Ct. - no less than 3 judges.

Bass - Comment - Complaints mostly from general public are on J.P. courts.
Where most reform needed. J.P.'s not problem solvers but money collectors.

Quest. - Without merit - could problems such as Sirica be independent?

Powers

Ans - No.

Quest - more attuned to people if elected - Ans. Yes -

Cook

Bell & Rights Sec. 15 outlines citizens rights of trial. Section 26 does not mention this.

Mr. Cook questioned the membership of Judicial Council, Sec. 12; when examined the Supreme Court judges have a great amount of power in selection of judges, and their removal, etc.

Sec. 2 c This follows 1939 legislative actions. (See my observations on cooled heated discussion) Several members questioned whether 1939 Act still was in force; i. e., Supreme Court repeal statutes. 1941 act - Constitution shall remain inviolate as well as rules.

Section 3 Courts of Appeals

could be 4, 5, 6 judges but at least 3 should decide case.

Why "judges" rather than "justices?" "Judges" does not have to be defined.

Jan. 14 - 1974

DATE

Jayne D. Brell
OBSERVERSen. Hale
Presiding Officer

Committee number present

Review of Judicial Appellate in New Mexico -
committee Activity (public Hearing, etc.)RECORD OF ACTIVITY FOR DATE Robt. W. Calvert - mins. research assist.
(record all votes, resolutions,
who testified, etc. continue
on back and additional sheets
when necessary)

At present probate (county) juvenile & domest. relations courts not in
judicial retirement system nor usually paid by state - this is incentive
Calvert recommends that there shouldn't be more than 9 on supreme
court (-7 better) because then it only debates - but provides for as
many as legislative passes.

New cons - Sup. Ct. can bypass appellate courts - Now can only
issue stay orders on important cases, but doesn't take case before trial

Question - Too few people in on selection of Judicial Council? Sup. Ct.

Question - Too much power for Sup. Ct. since both houses required
to overturn procedural rules. (Civil)

Question - Unable to render judgment in intermediate courts if
one of 3 judges disqualified.

Question (Hale) - Could one 6-judge appeals court turn out as much
as two 3-judge courts. Calvert - no, because (1) All judges would
have to review all cases. (2) Endless debates. But if 3-judge
panel in larger court had binding decisions - could be efficient.

(OVER)

OBSERVERS COMMENTS: Some committee members asking questions - Hale,
Baker, Maxey, Cook, McDonald, Earle, Sporlock, Grant, Blanchard.

Earle supplied much information.

Sporlock only spoke in defense of justice and municipal courts.

Jan. 14 - 1974

DATE

Jayne D. Brell
OBSERVERSen. Hale
Presiding Officer

Committee number present

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(OVER)

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Question - route of appeal in criminal cases? Intermediate then supreme?
But Sup. Ct. could limit number coming to it.

Defining: County Judge - doesn't have to be lawyer - administrative - but
in new if lawyer can practice on side

const. Judge of County Court - must be lawyer, can cover ~~more~~ more than
one county, cannot practice on side, cannot be county judge too

Sporlock Question - why eliminating "people's court", why not in unified
system -

Earle - justices of peace & munic. judges - didn't want it,

Calvert - Unified system requires law degree -

Baker - munic. courts not interested in justice - only money -
make budget for city on fines collected. Shouldn't be
called courts.

Salaries - Should there be supplements by county(?) would limits
set by commission include supplements? Arguments for
include higher living standards living in cities.

Question - Expense of state paying for all judges in unified system.

Answer Expenses for all courts in 1972 - \$54 million out of
budget of over \$9 billion - (a) It's nothing.

Retirement - most judges retire at 70

Removal - includes justices of peace.

Question - State have right of appeal in criminal cases?

Calvert - no - ① few guilty get by ② clutter up docket

Selection - State bar poll - 48% merit, 42% non-partisan election.
28 states have some form of merit plan.

Cook - question - why not appellate judges run.

Calvert - ① who and from where does money come from.
② people don't know whose running & don't care.

Baker - Why not dist. judges also - All campaign should
be paid by party in tax check off.

Question - Why 6 year terms for dist. judges -

Calv - make them more independent.