

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

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The Meaning of the Vote on the Proposed Texas Constitution, 1975

John E. Bebout*

On November 7, 1972, Texas voters, by a vote of 1,549,982 to 985,282 or 61% to 39%, authorized the members of the next Texas legislature to serve, in 1974, as a constitutional convention to consider and propose revision of the Texas constitution. Three years later, on November 4, 1975 by the vote of less than half the number who voted on this authorization in 1972, a revised constitution submitted in the form of a series of eight amendments based on the work of the convention was defeated by margins, on the several amendments, of nearly three to one, or by an average of 73% to 27%.¹

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¹Janice C. May, *The Texas Constitutional Revision Experience in the '70s* (Austin: Sterling Swift Publishing Co., 1975).

Murray and Forsbach report "Overall, support for the eight proposals ranged from just 25 percent to 28.1 percent."²

What do these votes, taken together, mean? What did the voters have in mind when they voted for or against, or failed to vote on, the constitution prepared in response to their instructions? What do their actions say about the attitude of Texans toward their present constitution? What do they portend for the prospects of future attempts to revise it?

These are important questions. The constitution is important in the governance of state, cities, and counties and affects individual citizens and organized private interests. It affects the role that Texas plays in the nation. The constitution has grown bigger and more complicated since 1876, as some 226 amendments have been adopted, in recent years at an increasing rate. Governors, legislators, civic groups, students of government, newspaper editors, and others have complained about it and repeatedly called for a general simplification, updating, and revision. Since Governor Beauford Jester in 1949 organized a Citizens Committee on the Constitution which called for a revision commission, the issue has been an increasingly active item on the public agenda. Governor John Connally sought

legislation for a constitutional convention in 1966-67. There were studies of constitutional revision by the Legislative Council and an official Citizens Advisory Committee in the 1950s and studies and proposals by two constitutional revision commissions. The last was the prestigious Texas Constitutional Revision Commission of 1973 established to prepare for the Convention. This Commission put its conclusions in a draft for a complete new constitution that was widely acclaimed and substantially shaped and influenced the work of the Convention.

This history and the experience of other states strongly indicate that, despite the rejection of 1975, the issue of constitutional revision will not go away, or stay away very long. The better understanding Texans have of the meaning of the votes on the 1972 call for revision and the 1975 defeat of the resulting amendments, the better will be their ability to deal with the revision issue in the future.

There have been various attempts to assess these votes and explain their meaning, by journalists, political leaders, and political scientists. This report tries to synthesize some of the information and insights developed in a number of the attempts. A word about the principal sources drawn upon here may be in order.

From the beginning of the revision movement of the 1970s, the Institute for Urban Studies, University of Houston, offered a broad program of research, information, and technical assistance, pri-

²Richard Murray and Curtis Forsbach, "Anatomy of a Landslide: An Analysis of Texas Voters' Rejection of a New State Constitution," Paper published by the Institute for Urban Studies, University of Houston, 1976.

Comment

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marily for officials and official bodies, especially the Legislature, the Constitutional Revision Commission, the Constitutional Convention, and the Texas Advisory Commission on Intergovernmental Relations. It also provided a certain amount of information to a broader public. In the process it enlisted the help of persons in a number of universities, and other individuals. One of the political scientists, Dr. Janice C. May, professor of Government at The University of Texas, wrote, among other things, a book, *The Texas Constitutional Revision Experience in the '70s*, issued by the Institute for Urban Studies before the 1975 vote. The book was based not only on research but also on direct involvement of the author as a member of the last two constitutional revision commissions and almost daily attendance at the Constitutional Convention and the 1975 Legislature as it produced the package of amendments that were submitted to the people. Against this background, Dr. May also wrote an article, "Texas Constitutional Revision: Lessons and Laments," which appeared in the February, 1977 number of the *National Civic Review*. After the election, the Institute commissioned Professors Richard Murray and Curtis Forsbach of the University of Houston to do a paper entitled "Anatomy of a Landslide: An Analysis of Texas Voters' Rejection of a New State Constitution." The most distinctive effort of the Institute to find explanations of the 1975 results has been through a survey among residents of the

Houston-Galveston Metropolitan Area, conducted as a part of the larger Houston Metropolitan Area Project.³

One other Texas source will be referred to, namely, an analysis of voting results by counties and regions, entitled "Patterns of County Support for Constitutional Revision in Texas, 1975" by James A. Curry and Michael W. Mansfield in Jones, Ericson, Brown, and Trotter, *Practicing Texas Politics*, 3rd edition (Houghton Mifflin Co., 1976). Finally, the significance of the Texas experience in these revision elections will be checked against experience in other states as reported in studies of a number of revision efforts in recent years.

Of special interest, because they are presented for the first time, are the results of the questions on the behavior or attitudes of voters and nonvoters with respect to the 1975 revision amendments as reported in the Houston Metropolitan Area survey (HouMAP). This effort to query people in order to assess the meaning of their performance in an election of this sort is highly unusual if not unique. For a variety of reasons, however, the real significance of its findings can be determined only with the help of information and analysis obtained from other sources. For one thing, the answers obtained from only one metropolitan area need to be interpreted by relating the vote in that area to the votes in other parts of the state. For another thing, the vote at a particular time in a given set of circumstances is relatively meaningless unless seen in historical and comparative perspective.

THE 1972 VOTE

Our starting benchmark is the 1972 vote on "Proposition Four," the amendment to the constitution that authorized the members of the next legislature to serve as a constitutional convention. Proposition Four was one of fourteen amendments voted on at the same time, eleven of which passed. Almost fifty (49.7) percent of the registered voters expressed themselves on the amendment, which ranked eighth among the fourteen in the size of the vote cast on it.

It is hard to interpret the full meaning of this vote. Dr. May points out that it

³HouMAP was a full random probability survey of households in the thirteen county, Houston-Galveston planning region. Approximately 3300 households were surveyed by telephone during the summer and fall of 1976.

attracted fewer votes than a majority of the other amendments and that the margin of "yes" votes was not unusually high for an approved amendment. On the other hand, the fact that more than three out of every five of the approximately half of the registered voters who voted on the question said they wanted to open the door to revision is impressive. Experience in Texas and elsewhere indicates that constitutional revision is seldom a big vote grabber and that people do not generally vote for it absentmindedly or out of mere curiosity. It is hard to escape the conclusion, therefore, that the vote was a meaningful reflection of a long term and fairly widespread dissatisfaction with the Texas constitution noted earlier. It was widely so interpreted at the time.

Dr. May, in Chapter Three of her book on the revision experience, analyzed the vote by Standard Metropolitan Statistical Areas (SMSAs) and by nine political regions.⁴ All but two of the twenty-four SMSAs cast favorable votes on Proposition Four, from 87% in Laredo and 73% in El Paso to 51% in Tyler, Odessa and Sherman-Denison turned down the proposition by 51% and 54% respectively. All nine of the political regions went for revision by percentages ranging from 69% in Southwest Texas to 54% in West Texas. The second and third highest votes were cast in the South Texas and Gulf Coast regions, 68% and 66% respectively. The vote by counties is also interesting because it indicates that the most rural areas, in general, were the least supportive of revision, although all but two of the counties in South Texas did turn in majorities for it. However, sixty-two of the eighty-two counties immediately to the north rejected it.

THE VOTE ON THE 1975 REVISION

The vote that defeated the eight amendments in which the revision was embodied in 1975 was far lighter, although much more decisive in terms of percentages, than the vote in support of the idea of revision in 1972. The largest vote on any of the eight propositions, 1,172,803, was only about 75% of the vote cast for Proposition Four in 1972. The average vote cast against the 1975 amendments was about 55% of the "Yes" vote in 1972. These figures reflect the fact that whereas nearly 50% of the registered voters ex-

⁴The regions were drawn from Charles Deaton, *The Year They Threw the Rascals Out* (Austin: Shoal Creek Press, 1973).

pressed themselves on Proposition Four, the largest vote cast on a single amendment in 1975 represented less than 25% of those registered. The most obvious explanation for this discrepancy lies in the fact that the vote in 1972 was in a general election in which voter interest had been aroused by a major state political scandal, whereas the 1975 election was a special election. In Houston, however, there was a lively contest for the office of mayor which brought out a sizeable vote. Constitutional revision, like most public questions, does not attract the kind of public interest that candidates for office do. Voting on constitutional amendments is, therefore, always much heavier in general than in special elections.

This is not to suggest that the result would have been different if revision had been submitted in a general election, although the closest students of the returns⁵ think that the margin of victory for the opponents would probably have been somewhat smaller. The important point here is to recognize that the final decisions on constitutional issues in Texas are made by small minorities of the potential voters in Texas. Less than 18% of the registered voters piled up the largest negative vote on any of the amendments. To make the point on the power exercised by a small minority more emphatic, Murray and Forsbach observe: "When one considers that about 40 percent of the adults in Texas are not registered, this means that only about one in seven Texans over eighteen years old voted on the constitutional questions." And this means that less than eleven percent of the potential voters in Texas, even according to the 1970 census, which is out of date, defeated the revision. Since registration and voting in Texas have nowhere to go but up, the effect of nonparticipation in elections represents a large unknown for the future.

THE HouMAP SURVEY

Since the HouMAP survey in the Houston metropolitan area gives the only direct testimony of voters and nonvoters themselves on the 1975 revision election, it will provide the focus for further analysis of the meaning of that election. When it is useful, this evidence from a single area will be put in the context of statewide returns as they have been analyzed by counties in the light of socioeconomic information about the counties.

⁵Murray and Forsbach, Curry and Mansfield, and Janice May.

At the outset, it is necessary to point out certain limitations of the HouMAP survey. These result from the fact that the questions on the revision election had to be included in a much larger, more comprehensive survey which was not conducted until several months after the election. Consequently, it was not possible to ask all the questions that might have been desirable. The time lag meant that memories had grown dim, with the result that answers on some questions were not always as reliable as they would have been immediately after election. However, it is clear from relating the returns from the survey to other information that they are, for the most part, reasonably reliable and that they contribute significantly to an understanding of what went on.

Persons registered to vote were asked if they had voted in the 1975 election. If the answer was "Yes," voters were asked if they had voted for all the propositions, against all, or for some and against others. They were then asked why they thought they had decided to vote as they did. Registered persons who did not vote in 1975 were asked why they did not vote and whether, if they had, they thought they would have favored the new constitution or opposed it. Voters and persons not registered were asked if they could recall whether the governor was for or against the amendments at the time of the election. All persons were asked whether they thought that the question of constitutional revision should be dropped or, rather, that the state should continue to try to revise the present constitution.

For the purposes of this report, some of the answers have been analyzed separately for the city of Houston and the remainder of the Houston-Galveston metropolitan area. One reason for this is the fact that the mayoralty election brought out a larger vote than in most other parts of the area or the state. The returns have then been broken down by several characteristics of the population: age, ethnicity, education, party affiliation, political ideology (conservative, liberal), and income. There appear to be significant differences in voting behavior for all or most of these variables. Consideration of these differences can be important for at least three reasons. First, they provide some clues as to kinds of influences affecting voting behavior. Second, since the distribution of these characteristics in the population is subject to change, in some cases more or less predictably, the differences give some indication of

possible future directions in the way with which the revision issue might be dealt. Finally, they contribute to our general knowledge of the fascinating subject of Texas politics.

PRINCIPAL FINDINGS FROM THE HouMAP SURVEY

The salient facts about constitutional revision revealed by the survey can be analyzed under three main headings: (1) what they show about the attitudes of voters toward the Texas constitution; (2) what they show about the level of voter interest and understanding relative to the revision issue; and (3) what they show about differences among voter groups or communities with respect to constitutional revision. The findings under these heads, combined with information derived from other sources, lead to conclusions about the reasons for the 1975 result and the prospect for future efforts toward general revision of the constitution.

(1) **Attitudes of voters toward the Texas Constitution.** Probably the most significant revelation of the survey is that rejection of the 1975 amendments did not amount to an endorsement of the present constitution. On the contrary, when asked whether constitutional revision should be dropped or continued, only about 25% of respondents said revision should be dropped, while nearly 60% in Houston and Harris County and over 53% in the other twelve counties said it should be continued, the remainder being uncertain.

Answers to certain other questions point in the same direction. When asked why they voted as they did, slightly more than 12% of respondents said: because revision was needed. About the same number said flatly that revision was not needed, but about 29% gave as their reason the fact that they wanted to split their vote, which presumably indicated the feeling

The answers to the question: "Do you recall how you voted?" are puzzling. About 17% of those who said they remembered, both in Houston and in Harris County as a whole, claimed to have voted for all eight propositions and the same number claimed to have voted against all, while more than 65% said they split their vote. In view of the fact that the difference in support between the least and the most popular amendments statewide was only three percentage points, Murray and Forsbach concluded that

most people had probably voted straight tickets, for or against all. That 65% of respondents split their votes seems improbable, although it is statistically possible. Perhaps a number of split votes resulted from failure to vote at all on certain amendments about which voters felt no conviction one way or the other, although the fact is that the vote turnout was about the same on all amendments. Perhaps some voters did not remember correctly. No matter what the explanation, the fact that almost 83% of the respondents think they remember having voted either for all or for at least some proposed amendments seems consistent with the position of a substantial majority that revision should go on.

Further support for this position is found in the response of nonvoters to the question: "If you had voted, do you think you would have favored the new constitution or opposed it?" About 59% of Houston voters said they would have favored it, 41% that they would have opposed it. The corresponding figures for the whole survey region were 56.5% and 43.5% respectively. Whether the nonvoters would really have lined up that way, had they voted, is open to serious question, but their responses are anything but an endorsement of the present constitution.

The evidence of this survey of voters and nonvoters in the Houston-Galveston metropolitan area does not reveal any inherent inconsistency between the decisive vote of 1972 to embark on revision of the present constitution and the decisive vote against the 1975 revisions. Rather, the testimony of respondents, like the vote for Proposition Four in 1972, reflects a persistent feeling that Texas should try to provide itself with a better constitution. The 1975 vote simply means that the people were not satisfied that they had yet been offered such a constitution.

(2) *Level of voter interest and understanding relative to constitutional revision.* Although the survey reveals an endemic dissatisfaction with the present constitution, it also reveals the relative shallowness of any understanding, conviction, or feelings about the constitution on the part of most citizens. This comes out in various ways and is supported by evidence inherent in the very small turnout of voters who took the trouble to express themselves on the eight amendments.

For example, less than 46% of those who said they had voted on the new constitution recalled how they had voted.

Of those who answered the question "Why do you think you decided to vote as you did?" more than 40% could not remember or gave a nonanswer. When nonvoters were asked why they had not voted, one third gave no reason. Eight percent gave what could be a very good reason: that they did not know the issues.

Some measure of the information with which voters went to the polls is afforded by answers to the question: "Do you recall at the time of the election whether the governor was *for* or *against* the proposed constitution?" Only 25.6% said correctly that the governor was against it, while 18.2% thought he was for it. More (56%) said they could not recall or did not know. Interestingly, more Houston Republicans (who voted more heavily against revision than either Democrats or Independents) thought Governor Briscoe was for the revision than those who thought he was against it. Houston Republicans apparently had the prize for miscalling the Governor's position, 29.8% thinking he was for the revision to 24.2% that he was against it. The Independents were the best informed, 34.5% reporting that he was against it to 18.8% who thought he was for it.

It is evident that very few Texans cared enough and knew enough about the state constitution to cast informed votes on the revision questions in 1975. This is not surprising in the light of experience in other states. The visibility of state constitutions is too low and the issues raised in connection with their revision are too complex to make it easy and natural for most voters under their own steam to interest and inform themselves enough to go to the polls and cast votes. A large and reasonably confident vote on constitutional revision seldom occurs unless there has been a prolonged and prodigious campaign, involving well-known leaders who play active roles, very extensive public information or education programs, usually on both sides, and a large number of volunteers carrying the word and working the precincts. Obviously, neither the proponents nor the opponents were sufficiently visible and active in 1975 to stir most voters out of their indifference or their sense of incompetency in the face of the revision issue.

(3) *Differences among voter groups.* The HouMap survey reveals significant differences in behavior on revision among various segments of the population as defined by political affiliations, political ideology, age, education, ethnicity, eco-

nomic status, and geographic location. These have been analyzed in detail for the city of Houston and for the remainder of Harris County, and can be summarized fairly briefly.

Party differences. More Houston Democrats reported voting for all amendments than against all of them, 22.9% to 13.3%, while the Republicans split, 11% for all to 23.5% against, the remainder in each case splitting their votes. The Independents were in between, 14.1% for all to 18.8% against all. As with most other groupings, all three broke more heavily against revision in Harris County outside of Houston, where, for example, more Democrats reported voting against all the amendments than for all. As for continuing the revision effort, there was little difference between Republicans who registered and Democrats who registered (including nonvoters as well as voters) in support for continuing the revision effort. In this case, the Independents opted most heavily for continuation (67% of Houston Independents supporting this position).

Differences by ideology. Among Houston voters who classified themselves by political ideology, the conservatives were most heavily against the revision, (10.3% for all amendments to 19.5% against all) while the moderates were more evenly divided (19.7% for all and 17.6% against all). The liberals were most supportive (26.4% for all to 10.7% against all). However, over 70% of the conservatives reported splitting their votes as against just under 63% of the moderates and liberals. This appears to indicate a readiness to support some revision among voters of all persuasions. It is interesting, and puzzling, that as many as 50% of the nonvoting conservatives said they would have voted for the new constitution had they gone to the polls, while 56.4% of the moderates and 73.4% of the liberals said they would have done the same. It is to be presumed that confronted with the ballot, some of these would have joined the ranks of the ticket splitters and others the "nay" sayers.

Differences by age. The report of voting by age groups presents a somewhat confusing pattern. Of those Houston voters under thirty, 19.2%, and of those sixty or over, 25.5%, reported voting for all amendments as against only 14.9% in the thirty to fifty-nine age group. This would suggest that those in the middle years, who reported no larger percentage of "no" voters than the others, but a larger percentage of vote

splitters, were likely to be more cautious or more deliberate in their voting than the young or the old. A straw in the wind that may point in the same direction is the fact that the middle group were better informed on the position of the Governor than the others. Other figures in the HouMAP survey tend to the conclusion that, in general, the older people were less likely to be receptive to revision than others. They voted more heavily against revision in Harris County outside of Houston than either of the other age groups. Moreover, the older people were much more inclined to say that revision should be dropped than the others, 35.5%, as against 18.9% of those under thirty and 24% of those in the middle years who favored dropping revision. Finally, the nonvoters in the oldest group reported almost two to one that they would have voted against the revision, close to the reverse of the reports from the nonvoters in the remaining age groups. These figures take on added significance when we note that people in both the two upper age groups showed a much higher percentage of registered voters than the under thirties and that the sixty year olds and over showed the highest percentage of those voting, 66.1%.

Differences by education. Respondents were classified by educational attainment: non-high school graduates, high school graduates, some college (one to three years), and college graduates. The answers to the question on how they voted are puzzling, largely because an unusual 93% of the non-high school graduates claimed to have either voted for all amendments or split their votes. The total for high school graduates was 76.7%, while the total for those with some college and those with college degrees were 82.2% and 81.1% respectively. As for the straight ticket voters, those with some, or a full college education, were fairly evenly divided, the proponents having the edge by about one percentage point.

Answers to another question show consistent differences along the rising educational scale. When asked why they voted as they did, more than twice as many persons with college degrees either said they felt revision was needed or wanted to split their vote than persons with less than a high school diploma. As education increased so did support for some revision, while inability to remember why they voted as they did decreased.

Two other questions show striking differences between college graduates and all others. In all categories except college

graduates, more thought the Governor supported revision than those who thought correctly that he opposed it. Among college graduates 18% thought he supported it; 41.2% thought he opposed, while only 40.8% said they didn't know or couldn't recall. Among those with some college education, 50.3% admitted that they didn't know, but a whopping 26.6% who thought the Governor supported it obviously didn't know either, as well as some who simply guessed luckily that he did not. Maybe a little college education teaches people to bluff, since almost two thirds of those without its benefits admitted they didn't know.

Differences among ethnic groups. The breakdown by ethnic groups is fairly clear. Black and Hispanic voters were much more supportive of revision than Whites. Only 6.1% of the Black voters in Houston who responded and 8.1% of the Hispanic voters said they voted against all amendments, while over 22% in each case voted for all of them with the remainder splitting their vote. On the other hand, only 15.5% of the Whites said they voted for all, to the 22.3% who said they voted against all. The answers to the question of why they voted as they did were consistent with the answers to the first question. Similarly, 73.8% of the Blacks and 70% of the Hispanics who did not vote said that had they voted they would have been for the revision, as against 53.7% of the Whites. It was only on the question of continuation of the revision effort that the responses of all three groups were fairly close. Slightly more than 60% of the Whites favored continuation, to 55.4% of the Blacks and 65.2% of the Hispanics. At the same time, a larger proportion of Whites than of Blacks or Hispanics favored dropping revision.

These differences undoubtedly show the effect of active leadership and organization support in the Black and Hispanic communities that was lacking in the White. It should be remembered, however, that the potential effect of the Black and Hispanic vote is depressed because of the fact that a smaller percentage of those eligible to vote in these groups actually went to the polls than of those among the Whites.

Among the ethnic groups, the Hispanics in Houston had the best record of reporting the position of the Governor, 34.3% saying he was against it to 22.2% who thought he was for it. The Whites followed, 30.5% saying he was against it,

21.4% that he was for it. More Houston Blacks (17.6%) thought he was for it than against it (9.8%).

Differences by income. When Houston respondents are divided by income levels, we find the largest proportionate vote for all amendments in the lowest income group, under \$8,000: 23.7% reporting votes for all, 15.5% against all, the remaining 60.8% reporting split votes. This contrasts with the records of the top income group, \$26,000 and over: 16.9% for all amendments to 19.9% against and 63.2% split ballots. The record for the second lowest income group, \$8,000-\$15,999, is close to that of the lowest income group and the record of the next to highest income group, \$16,000-\$25,999, is close to that of the top level except that there are fewer reported straight ballots for or against and more split votes. This breakdown for Houston is somewhat atypical. For example, in the remainder of Harris County, 20.9% of the voters in the under \$8,000 group voted against all amendments to 15.9% who voted for all. This may be accounted for in part at least by the fact that Houston had a higher proportion of Black and Hispanic voters, who tended to be more favorable to revision, in the lower income groups.

Geographical differences. When responses are broken down by place of residence, we find that Houston voters were most likely to support revision, while voters in the remainder of Harris County were less likely and those in the other twelve counties taken together were least likely. Whereas 17.6% of respondents in Houston said they voted for all amendments, only 14.4% of those in the outlying counties said they had done so, while 17% of Houston voters reported a straight "no" vote against 20.8% in the area outside Harris County. On the other hand, the regional differences among the nonvoters who said whether they would have favored or opposed the new constitution were relatively slight. However, on the question of whether constitutional revision should be continued or dropped, the percentage who would drop it rose from 24.1% in Houston to 28.8% in the area outside of Harris County, while those for continuance of the effort dropped from 59.8% to 53.3%.

A few summary statements may now be made. Among ethnic groups, the strongest support for revision was found among Blacks, followed by Hispanics. Among political and ideological groups the strongest opposition was found among

conservatives and Republicans. Support for revision was significantly greater among Democrats and liberals. The most educated were more likely than others to support revision, especially the continuation of revision efforts. While there are differences among voters related strictly to income levels, they are hard to evaluate because of the distribution of Black and Hispanic voters who were decidedly more favorable to revision than Whites. Similarly, the residential distribution of ethnic groups accounts in part for the greater support for revision found in Houston than in areas outside the city.

It is important, however, not to make too much of these differences. No matter how the respondents are classified, the whole range of reactions toward revision can be found in each group. Significant numbers of conservatives and Republicans lined up with liberals and Democrats. Substantial numbers of Hispanics and Blacks placed themselves among the opponents. Differences in the tendencies of groups to support or oppose constitutional revision are obviously not due to inherent differences in basic attitudes shared by all members. Rather, they are more likely to be due to differences in the messages that the members are likely to receive. This means that members of all groups are wide open to changes in messages from trusted sources with respect to revision in the future. Having noted this, it is important to remember two stubborn facts. One is that there seems to be a pretty durable notion that the Texas constitution ought to be revised sometime, somehow. The other is that any messages about constitutional revision have so far been too weak or too confusing to get most people who are eligible to vote to express themselves clearly at the polls or elsewhere.

FINDINGS FROM ANALYSIS OF ACTUAL VOTES CAST

Some of the findings of the HouMAP survey are worth comparing with findings from analyses of actual votes on the revision amendments throughout the state, done by Murray/Forsbach and Curry/Mansfield in papers referred to earlier. Both of these papers show that counties with large numbers of Hispanics or an unusually high percentage of Blacks gave revision substantially more support than others. They also show that support for revision was largely an urban phenomenon. As Murray and Forsbach put it,

the "mostly rural counties usually voted down all the proposals by margins of nine to ten to one." It may be remembered that rural counties were least supportive of Proposition Four in 1972. The only urban county that voted in favor of revision (for seven of the eight amendments) was El Paso by an average vote of 59% on all propositions. There, 66% of the voters in heavily Hispanic precincts and 56% in White precincts supported revision. Murray and Forsbach report that some observers attribute the atypical behavior of El Paso County to "the area's relative isolation from the general political currents of the state; currents which apparently swung strongly against the revision in the days prior to the election." However, this can hardly be the whole explanation. There appears to have been a more active campaign for the new constitution in El Paso than in other counties, a campaign which insulated the voters against the negative tide that turned an expected statewide moderate defeat into a rout for revision.

In general, these and other conclusions from analysis of the votes are compatible with the findings of the HouMAP survey already set forth. For example, the more rural areas of the survey region were much more heavily against revision than the city of Houston. There is one significant difference. As was pointed out, lower income Houstonians were slightly more prone to vote for revision than those in the top economic brackets, whereas, statewide, the reverse was the case. We attributed this in part to the large numbers of Blacks and Hispanics in the lower economic groups in Houston. Other probable factors were the vigorous opposition of the local Republican Party and the mayoral election in Houston that brought out large numbers of affluent White conservatives. Murray and Forsbach found that Harris County was the only one of the ten most urban counties in which precincts largely inhabited by lower income Whites voted more heavily for revision than upper income White precincts. The tendency outside Harris County of more affluent Whites to vote more heavily for revision than lower income Whites is consistent with findings of a comparative study of the politics of revision in seven states that "people of higher socioeconomic status (SES) would be more likely to support the revised constitution than people of lower SES."⁶

⁶Elmer E. Cornwell, Jr., et al., *State Constitutional Conventions: The Politics of the Revision Process in Seven States* (New York: Praeger Publishers, 1975) pp. 204-205.

In Houston as elsewhere the strongest opposition to revision came from conservative voters, whether Republicans or Democrats who tend to vote for conservative candidates in the primaries. Again, to quote Murray and Forsbach, "the best indicator of a county's strong opposition to revision was a past record of high support for conservatives in contested Democratic primaries."

The voting record by ethnic groupings as indicated by the actual votes in precincts selected by Murray and Forsbach as predominately White, Black, or Hispanic in ten urban counties is revealing. In every county where there were predominantly Black or Hispanic precincts, those precincts voted more decisively for revision than White precincts. The mean support percentage for the eight amendments by Black precincts ranged from 48% in Lubbock County to 83% in Nueces. Even in Harris County the affirmative vote in Black precincts was 54%. The range for Hispanic precincts was from 36% in Lubbock and 39% in Harris to 79% in Nueces. Hispanic precincts carried revision in four counties and defeated it in three. Black precincts carried it in six counties and very narrowly defeated it in three, by 51% in Bexar and Dallas and 52% in Lubbock.

As we have said, El Paso was the only urban county in which White precincts carried revision. The mean support among Whites in other counties ranged from a low of under 15% in Lubbock to a high, for upper and lower SES Whites respectively, of 38% and 34% in Bexar, 39% and 31% in Jefferson, and 38% for all White precincts in Travis.

The significance of these figures must be interpreted against the fact of extremely low turnout of eligible Black and Hispanic voters in most counties, from only 4% to 11% in all counties except Harris, where due presumably to the Houston mayoralty election, 20% of the Blacks and 21% of the Hispanics voted. The turnout for White precincts ranged generally in the twenties or low thirties, except in Harris, where 49% came out in the upper SES precincts and 35% in the lower.

LESSONS FROM OTHER STATES

No student of constitutional revision elections in other states would be likely to be much surprised by the "landslide" vote against the eight amendments. Since Missouri adopted a new constitution in 1945, a number of states have adopted

substantially revised constitutions. In almost every case, including Missouri, New Jersey, Michigan, Pennsylvania, Florida, Hawaii, Illinois, Montana, and Louisiana, vigorous well financed and well staffed state-wide campaigns for the new constitution were mounted by its proponents. Virginia won with a relatively low key campaign. In every case, the active proponents included top political leaders and the bulk of the delegates to the convention or, in the case of Florida, the Commission that prepared the constitution. In most cases the incumbent governor played active supporting roles. Governor Edwards was the spark plug in the campaign for the Louisiana constitution. The lack of firm support from the governor in Missouri was made up for by an exceptionally astute and well organized campaign conducted by a coalition of civic and political forces, a prototype for campaigns to come in New Jersey and other states. The opposition of Governor Swainson of Michigan was more than neutralized by the dynamic leadership given to the revision forces by a governor in the making, George Romney. A classic formula for success developed in Pennsylvania, where the current governor was strongly supportive, the two preceding governors, Scranton and Leader, provided bipartisan leadership for the campaign, and 161 of the 163 convention delegates became active members of the Committee for Five "Yes" Votes which the former governors headed.

None of these conditions existed in Texas in 1975. The Governor opposed the constitution, although three other top elected officials, the Lieutenant Governor, the Attorney General, and the Land Commissioner, as well as the Speaker of the House campaigned for it. Some of the legislators who submitted the constitution gave it visible and audible support, but many of the members displayed a notable lack of enthusiasm, while several of them led the opposition. Judge Calvert, Chairman of the Constitutional Revision Commission that had prepared the way for the Convention, made a valiant effort to create a campaign organization but was unable to obtain the money or muster the staff, the political support, or the army of volunteers that have been evident in successful revision campaigns elsewhere. This effort was no match for general opposition mounted by conservative establishment business interests and strong opposition to individual amendments by particular interest groups. So Texas joined the ranks of other states—Maryland,

Rhode Island, New York, Arkansas, and New Mexico—where new constitutions have been defeated in recent years. It shared with all those states a failure to put together a vigorous campaign by a strong, well led and well financed coalition of proponent forces. Maryland failed to mount an effective campaign, partly because of overconfidence resulting from widespread "expert" acclaim for the integrity of the convention and the excellence of its work, and revision suffered a stunning defeat. New Mexico lost its new constitution by a narrow margin because of sheer inertia. Arkansas, by a wide margin, partly through ineptness and lack of drive on the part of proponents, also failed to adopt a new constitution.

The Texas convention shared image problems with recent conventions in New York and Rhode Island. Whether justifiably or not, all three conventions were seen by many voters, and many newspaper writers from whom the voters gained impressions, as exemplifying state house politics as usual. This was partly the result of the role of legislators in each convention. Although the Texas assembly was the only all-legislator convention, the other two had large and self-assertive minorities of legislators who carried disproportionate weight in the proceedings. In New York, a number of judges, dedicated to preserving the existing judicial system, accentuated the impression of a body of self-serving delegates. Other adverse political factors in each state marred the ideal image of a body of devoted founding fathers (and mothers). In Texas, the failure of the convention to agree on a document, after thirty-two submission resolutions were turned down under intense lobbying, produced a very sour feeling in the electorate which evidently was not fully neutralized by the salvage operation by which the next legislature repackaged the document in eight intricately inter-related amendments.

It is appropriate to compare the Texas experience with that of New Jersey in the forties. The 1944 New Jersey legislature, authorized by vote of the people to act in lieu of a convention, submitted a new constitution, which the voters decisively rejected. Yet, three years later, a very similar document, submitted by a specially elected convention, was approved by almost 78% of the votes cast. The difference derived partly from the contrasting images of the two bodies, and more importantly from the leadership

of a new governor and extremely adroit political footwork that turned opponents of the legislative draft into supporters of the convention draft without making drastic changes in basic features of the document. The final outcome also represented the payoff of sustained campaigning for a new constitution that started in the gubernatorial campaign in 1940 when both candidates for governor called for a convention.⁷

Constitutional revision is serious and difficult business. It requires a sense of important purposes shared by people of diverse views and interests, astute and energetic civic and political leadership that commands the confidence of a fairly broad spectrum of the electorate, and a readiness to stick with the enterprise regardless of setbacks and the stretching out of time. Needless to say it costs considerable money and a great deal of manpower, most of it not compensated in the coin of the realm. Unless these conditions and assets exist or can be developed, an effort at constitutional revision may be educational and may set the stage for more gradual constitutional change as it has in Maryland, but it will not produce a new constitution approved by the people. No matter what the merits, people always appear who fear the consequences of change and communicate that fear to others. In the absence of strong reasons to believe that the benefits of changes proposed will exceed the risks, most voters will abstain or vote "no." Without a forceful positive campaign that reaches large numbers of people, the nay sayers will almost certainly have their way. This clearly is the way it was in Texas in 1975. The campaigns in New York, New Mexico, and Rhode Island have been described as "examples of virtual noncampaigns" and that in Arkansas as "almost a copy book case study of an ineffectual campaign effort," or in the words of its executive director, as "amateurish, uninspiring and ineffective." The Maryland campaign has

⁷For reports on experience in other states, see Albert L. Sturm, *Thirty Years of State Constitution Making: 1938-1968*, New York: National Municipal League, 1970, and a series of books published by the League on constitutional revision efforts in a number of states. See also Elmer E. Cornwell, et al., *Constitutional Conventions: The Politics of Revision*, New York: National Municipal League, 1974, and by the same authors, *State Constitutional Conventions*, op. cit.

been characterized by the same authorities as a clear "instance of too little and too late."⁸

Of course, a vigorous campaign does not in itself guarantee victory at the polls for a new constitution or a candidate for public office. There must be a product that can have positive appeal to the voters. Mistakes in judgment or accidents of timing may overturn a promising prospect. However, after reviewing the record of successes and failures, and admitting that "there are no sure bets," three of the closest students of the revision process arrive at this conclusion about the importance of campaigning: "the first point that we want to stress is that a major campaign effort on the part of those supporting ratification is a must."⁹

As we have already pointed out, the data available to us do not indicate that

the chronic feeling of uneasiness about the present Texas constitution cannot be translated into an effective revision effort. Whether or when that will be done depends upon the coming together of such prerequisites for success as have spelled victory for revisionists in such diverse states as New Jersey, Illinois, Montana, and Louisiana. The next Texans who undertake the effort should bear heavily in mind one clear lesson of their own experience and that of others: "there is no adequate substitute for unremitting effort in achieving a favorable vote."¹⁰ That effort must, of course, start long before the final "campaign" on adoption. The groundwork must be laid for it in dedication and purpose tempered by a degree of realism and flexibility on the part of the sponsors of the enterprise. Much depends on the image and demeanor of the ultimate constitution-writing body, and the behavior of its members in pre-

senting their handiwork to the people. The members of the Texas legislator-convention and the subsequent legislature were not necessarily seeking the task of writing a new constitution. That responsibility was thrust upon them as an added and in many cases an unwanted burden. It is not likely that Texas will again ask its legislatures to perform this dual role. Members of a specially elected convention would be more likely to take a less passive role than many members of the legislature in sending a new constitution to the voters. As the record shows, the more active most of the members of a convention are in explaining and advocating their proposals, the better the chances of adoption. When Texas does get a new constitution, it will be partly because many people who worked and voted against the 1975 revision have been persuaded that the new one is worth working for.

⁸Cornwell et al., *Constitutional Conventions*, op. cit., pp. 74, 77 and 78.

⁹*Ibid.*, p. 80 and p. 74.

¹⁰Sturm, op. cit., p. 102.



FEBRUARY, 1978

Comment

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GORPUS CHRISTI CALLER

Will legislators feel backlash?

11-10-75
Caller Austin Bureau

AUSTIN — "No, no, a million times no. We'd rather die than say yes."

That was the word the Texas Legislature got from the voters, who slapped flat the new and modernized constitution Tuesday.

The Legislature which wrote the discredited document in two years of hard work may be wondering if the same resounding "no" will be echoing against them if and when they run again in 1976.

Speculation in 1974 that the voters would turn out the Legislature which spent half a year in session and failed to produce a new constitution was smothered when virtually all of the legislators of 1974 who ran again were re-elected. Only one senator and four House members were defeated.

Now, perhaps, that can be interpreted as a vote of approval of their failure as a Constitutional Convention, to submit a new document to the voters.

If so, then will the voter reaction in 1975 be just the opposite — a turn-of-mind attitude on the legislators who submitted a new constitution which was so distasteful that only a bare handful of counties gave a majority vote to even one of the eight propositions.

And, on the other hand, the state officials who supported it so warmly can be grateful that they do not have to face the voters in 1976 because of the switch to four-year terms.

Defeat of the new constitutional proposals will mean, of course, that there will be elections in 1976 for members of the two high courts, the Supreme Court and Court of Criminal Appeals. Had the judiciary article been adopted and the two high courts combined, it might have been six or eight years before there would have been

an opening for the new high court. Defeat of that proposition means that Justices Martin Dies Jr., of the Beaumont Court of Civil Appeals and Charles W. Barrow can get on with their races for the Supreme Court they had announced early this year.

Of course, there is the problem of Associate Justice Ross Doughty of Uvalde, now serving in the place Associate Justice Ruel Walker held.

If Doughty should decide to run for a full six-year term, the two younger men would be up against a decision of taking on an incumbent, even though he is an appointed incumbent.

Of course, there are the 16 senators who were lucky on the draw and got four year terms in the 1975 drawing. But the other 15 senators and all 150 members of the House of Representatives will be facing the voters again in 1976 if they want to keep on making laws.

The list of those not planning to run again will be growing, since the prospect of an increase in the \$120-a-week salary was dashed by the voters last Tuesday.

The reaction of most leaders for constitutional revision right after the election was there would be no point in trying again for several years at least. But some went back to the idea of submitting one article each two years to the voters, which some conservatives have felt all along would be the better way to approach revision.

Others will play with the idea of asking the Legislature to ask the voters to call a new Constitutional Convention made up of citizens who do not hold public office. The experience of Illinois, Maryland and other states has been that the voters will buy a citizens' constitution after turning down a legislators' constitution.

But decisions can't be made now. The voters will say what's to be done in 1976, by voting for candidates who want to do what the electorate wants to do about constitutional revision — if, indeed, they want anything at all done about constitutional revision.

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SAN ANTONIO LIGHT

Let People Write Our New Constitution

WE'VE SAID it before; we'll say it again:

Texas needs a new constitution.

And, we believe we still have a chance to get one.

Texans this past week rejected a new constitution because they felt—rightly or wrongly—that the proposed document gave too much power to the state legislature.

We believe that if Texans are presented a new constitution which is written at the hands of the people, rather than through the legislature, they will approve it.

We hope the powers that be move immediately to set in motion the plans to call a constitutional convention of citizen delegates to draft a new state charter.

The Light's Don Politico yesterday summed it up this way:

11-10-75
"The feeling among many analysts is that those who voted 'no' last week weren't so much against a new constitution for Texas as they were against THAT new constitution. If Texans were served up a proposed constitution they feel is better than the 100-year-old, over-amended one we have now, they'd quite possibly go for it.

"It just makes sense to the Old Don that if the PEOPLE THEMSELVES write a new constitution, the PEOPLE THEMSELVES will vote for it."

We agree with the Old Don.

Texas is being governed under a constitution which was written for a different time, a different situation. The Texas of 1876 can be compared but in few ways to the Texas about to enter our nation's 200th birthday celebration.

Let's celebrate our nation's 200th year with a citizen-represented constitutional convention to bring Texas into the 20th century—even the 21st century—constitutionally.

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SAN ANGELO STANDARD TIMES

Legislators Get The Word: 'No, No, A Million Times No'

By STU LONG

AUSTIN — "No, no, a million times no. We'd rather die than say yes."

That was the word the Texas Legislature got from the voters, who slapped flat the new and inodernized constitution Tuesday.

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If so, then will the voter reaction in 1976 be just the opposite — a turn-em-out attitude on the legislators who submitted a new constitution which was so distasteful that only a bare handful of counties gave a majority vote to even one of the eight propositions.

And, on the other hand, the state officials who supported it so warmly can be grateful that they do not have to face the voters in 1976 because of the switch to four-year terms.

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this year.

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If Doughty should decide to run for a full six-year term, the two younger men would be up against a decision of taking on an incumbent, even though he is an appointed incumbent.

Of course, there are the 16 senators who were lucky to the draw and got four year terms in the 1975 drawing. But the other 15 senators and all 150 members of the House of Representatives will be facing the voters again in 1976 if they want to keep on making laws.

The list of those not planning to run again will be growing, since the prospect of an increase in the \$128-a-week salary was dashed by the voters last Tuesday.

The reaction of most leaders for constitutional revision right after the election was that there would be no point in trying again for several years at least. But some went back to the idea of submitting one article each two years to the voters, which some conservatives have felt all along would be the better way to approach revision.

Others will play with the idea of asking the Legislature to ask the voters to call a new Constitutional Convention made up of citizens who do not hold public office. The experience of Illinois, Maryland and other states has been that the voters will buy a citizens' constitution after turning down a legislators' constitution. It might perhaps be the old cartoon of "would you buy a used car from this man?" and the answer is that the public is more likely to buy from the public than from those immersed in the business of state government.

Indications are strong that 1975 was a year in which the voters didn't want to do anything about constitutional revision. At least, they didn't want to do anything like what had been proposed this time.

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DALLAS NEWS



Carolyn Barta

Revision election to be issue?

11-10-75

Political Writer of The News

If you think you've heard the last of the constitutional revision question for a while, think again. There are likely to be reverberations from last Tuesday's election throughout the local campaigns of 1976.

At least there are some who intend to make the constitutional election an issue in 1976—primarily in legislative races, but it could spill over into others.

Those who actively campaigned in favor of the document are going to be targeted for defeat by some of the opponents.

Stance to affect election

Dallas County Democratic Chairman Manuel DeBusk as much as said election night that the Democrats will be using the constitution as an issue in going after Republicans Bob Maloney and Frank Gaston.

Maloney, in the Park Cities 33-E district, and Gaston, in the East Dallas-White Rock 33-M district, both actively campaigned in favor of the document which failed miserably.

While DeBusk did not say he will try to displace some of his own Democrats, he feels John Bryant's pro-new constitution campaigning will affect his re-election campaign in the Pleasant Grove District 33-L.

Bryant had some particularly unkind words about DeBusk's own opposition to the proposed constitution, which may come to haunt him if a "DeBusk Democrat" gets into that primary.

It undoubtedly will become an issue in the county chairman's race if former State Rep. Jim Vecchio of Grand Prairie challenges DeBusk, as he is threatening.

That would provide a clear head-on confrontation between DeBusk, who quite early jumped out on his limb of opposition, and Vecchio, who became the co-chairman of Dallas County

forces in favor of the proposed Constitution.

DeBusk further predicts that Jim Mattox will be called to answer for his support of six of the propositions in his campaign for the 5th Congressional District.

Some of the real leaders of the local "fors" will be spared, however. Rep. Dick Geiger of Oak Cliff won't be running again if he gets his judge's appointment, as expected. Rep. Ray Hutchison has already said he will not run again since he is now Republican state chairman, and Sen. Oscar Mauzy is the only one of Dallas County's four state senators whose term is not up next year.

There are some, however, who do not buy the "DeBusk doctrine" on the constitutional spillover.

Bryant, for one, is comfortable with his position on the issue, noting that he had a lot of company.

If voters turn out of office all legislators who favored the document, there would be a bigger turnover than resulted from Sharpstown.

AND DALLAS vote surely will remember that it was they who, in 1972, voted by greater than 60 per cent to authorize the Legislature to sit as a constitutional convention and write a new document to be submitted in a popular election.

Our best guess is that people are sick of hearing about the issue, will have forgotten about it by next year's election, or could care less.

Sen. Ron Clower puts it even stronger. "People forgot about constitutional revision when the TV was turned off Tuesday night . . . It was a \$5 million bad dream."

An analysis of the returns by the staff of the organized opposition shows, incidentally, that little influence was exerted by those legislators actively

speaking in favor of the document—at least in their own legislative districts.

The Oak Cliff district of Dick Geiger (co-chairman of the local forces in favor) voted 12 boxes against, one in favor and four split. Bryant's 16 precincts voted against. Hutchison's northeast Dallas district went 21 against and 3 split, while Gaston's district voted 19 boxes against, one for. Mattox's East Dallas district voted 12 against, 3 split.

Eddie Bernice Johnson may have obtained the greatest success in her Oak Cliff district by obtaining 7 split boxes (favoring some propositions and defeating others) and only eight totally against.

Mauzy affirms position

ODDS AND ENDS: Republican Tom Pauken is trying to build his base in the 16th Senatorial District by expanding Republican and financial establishment support. Russell Perry, prominent Republican and Dallas Chamber board chairman, was host for a luncheon to raise seed money recently from other key GOP financiers.

State Sen. Oscar Mauzy said at his 49th birthday celebration-fund-raiser last week he is not, repeat not, looking seriously at Dale Milford's 24th Congressional District.

County Commissioner Jim Jackson showed last week that fund-raisers don't have to be fun-less, with a western dance and dinner at Brook Hollow which drew 500 Republicans and Democrats alike. Among the dancers was former Democratic County Judge W.L. (Lew) Sterrett.

If Rep. Chris Semos should hang 'em up, for some reason after this, his 5th legislative term, former Democratic state committeeman Guy Callison, treasurer of the Carpenters Federal Credit Union here, wouldn't waste any time jumping in a 33-F race.

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HOUSTON POST

Charter voting not attack on reform

By DARRELL HANCOCK
Post State Capital Bureau

AUSTIN — The defeat of the proposed new constitution by Texas voters is not a repudiation of the great "reform" movement of 1972. It is, instead, a return to the century-old conservative political tradition in the state.

Shocked by scandals, the voters three years ago purged the top ranks of Texas government. A lot of worthwhile changes resulted. Lawmakers, particularly in the Texas House, made their procedures more democratic and wrote open meetings, open records and disclosure laws that let the sunshine into many previously dark corners.

In that same 1972 election voters overwhelmingly asked that the poorly constructed 1876 state constitution be overhauled.

Many observers saw those events as a fundamental shift in the state's political history — something akin to the great revolutions in the state's economy as it shifted from the farm to the oil field and finally to skyscrapers, refineries and other industrial plants.

It appeared that Texas had a new class of political leaders. Most of those elected in 1972 were, while not liberals, at least more progressive than previous Texas politicians.

It even seemed that the state had begun a tradition of public service by heirs of the old Texas families — similar to the practices of the Rockefellers, Kennedys and other eastern families — as Lt. Gov. Bill Hobby and House Speaker Price Daniel Jr., both sons of former governors, took up the gavels in the Senate and House.

If there had been a fundamental shift, it stood to reason that the constitution should also have been ratified as the new leaders gave the state a new direction. Hobby, Daniel, Atty. Gen. John Hill and new House Speaker Bill Clayton all endorsed the document.

But it was crushed better than two-to-one as voters elected to keep the severely limited form of government adopted by agrarians during the unsettled post-Reconstruction era.

The sparkplug for the anti-revision movement was the old Houston business establishment. A restricted government is good for the economic climate, its members said.

The Houston leaders are part of the business elite which has strongly influenced, if not controlled, Texas government in recent decades. Business figures have financed the campaigns, their lobbyists have helped write the laws and their corporations and banks have provided good jobs for friendly politicians who retired.

In killing the constitution, they had valuable allies in the real estate industry, county courthouse officials and local school officials who also preferred the status quo.

And while the campaign against the new constitution, financed largely by a handful of Houston businessmen, oversimplified many issues, ignored others, and resorted occasionally to outright falsehoods, it was not the million-dollar hard-sell campaign predicted by revision advocates. It skillfully raised doubts and fears, especially about such volatile subjects as an income tax, property taxes on cars and a runaway legislature.

In the end, rather than following the leadership of the new class of politicians, voters heeded the warnings of the old establishment that the state had prospered under the present system and that change was dangerous.

After a century, it was now clear, Texans still distrusted strong government. And their distrust was freshly nurtured by the general national conservative reaction to the calamities in New York City and to the liberalism of the 1960s.

From this new perspective, the events of 1972 take on a different meaning. When voters threw out the rascals, they were evidently calling for more honest and trustworthy public stewards, not basic changes in the structure of government.

Or perhaps they just changed their mind like Dolph Briscoe, the governor

they elected that year and a man whose rural, business-oriented conservatism perfectly symbolizes the old order.

He praised the revision process and wished it well, but offered no leadership. In the end, confronted with a document that would have strengthened government, he voted with thousands of other Texans against the change.

The immediate prognosis is clear — the legislature will be allowed to write annual budgets, the governor will be given control of the sprawling bureaucracy, the property tax system will be overhauled and the court system will be streamlined only when the old order agrees to such changes. New politicians are in office, but old-time conservatism still governs the people.

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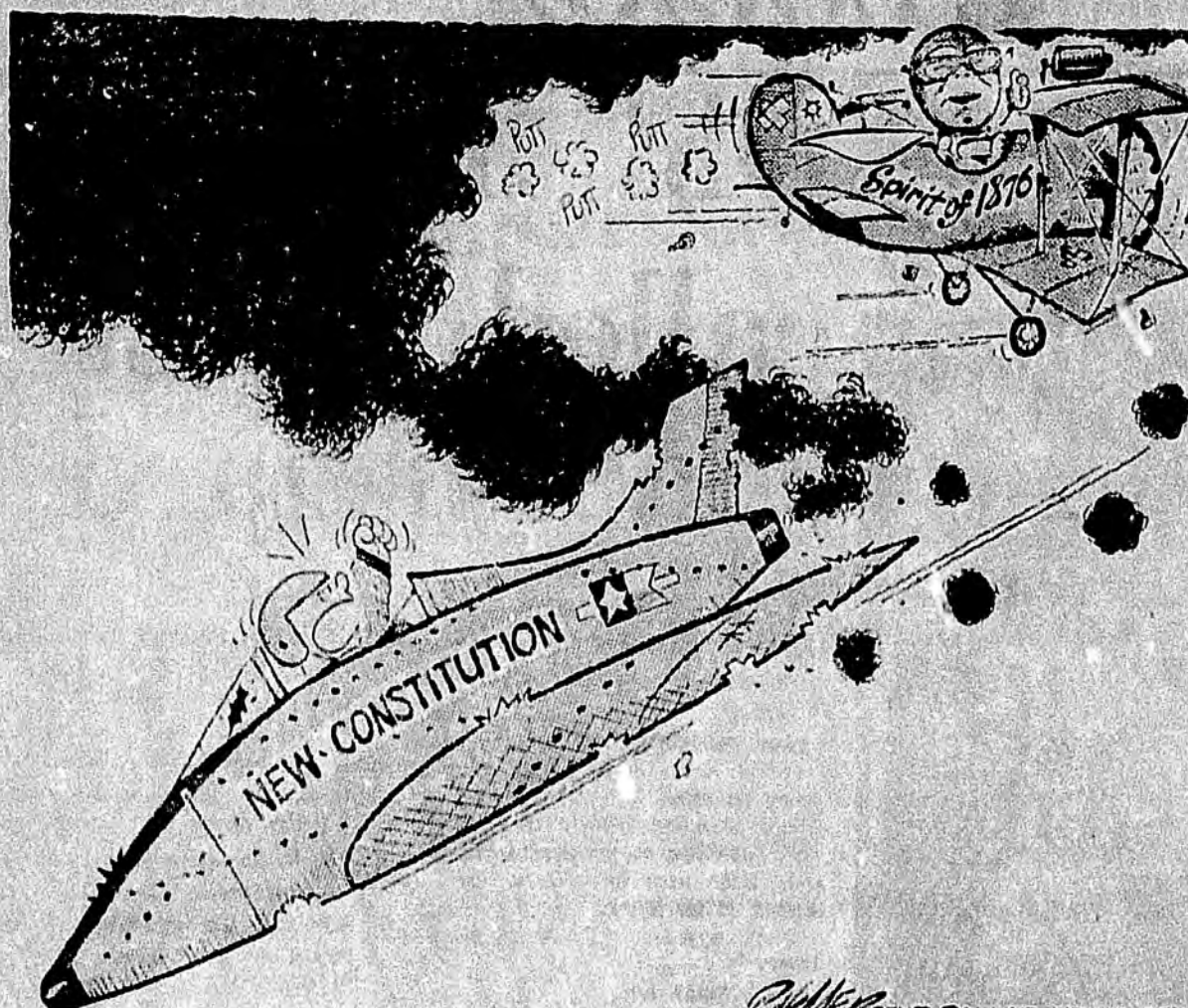
NOV 9 1975

DALLAS NEWS

'Curse You, Dolph Briscoe!'

By JIM PALMER
Dallas News Staff Cartoonist

11-9-75



PALMER THE DALLAS NEWS 75

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NOV 6 1975

DALLAS NEWS

New state charter defeated badly in large counties

By SAM KINCH JR.

AUSTIN—Semi-final statewide totals showed Wednesday that all eight of the constitutional revision amendments were defeated by margins of at least 2 to 1.

Further, the proposed new state charter was beaten badly in the very places where it had to win big margins in order to have any chance of adoption statewide—in the big city counties.

In addition, the small percentage of split-ticket voting—that is, voting for some propositions and against others—obviously indicated the Legislature's strategy of mix-and-match adoption was a failure.

With the exception of the finance article, the difference between the biggest and smallest vote for a proposition was only 2.5 per cent—and even with finance included, it was only 6 per cent.

LEGISLATORS had split the proposed new constitution into eight parts on the theory that voters might object to one or two, but would accept the others.

The proposed new constitution, in fact, was approved by voters in only three counties—El Paso, Webb and Duval. And in the biggest-vote counties, which in 1972 provided a 470,000-vote margin in favor of the revision process, the document was defeated by a margin of more than 250,000.

But even with the revision proposal buried alive by the voters, proponents of constitutional change plotted future activities—after a decent interval for analysis of what went wrong.

League of Women Voters President Betty Anderson of Lubbock vowed "renewed vigor" in the battle for revision, beginning with a pitch

New Citizens' convention to do the drafting.

Mrs. Anderson said the league is taking that approach "in the hopes that the polarized politicization which contributed to the defeat of the (new constitution) can be avoided."

BUT LEGISLATIVE leaders were less anxious to begin moving right away, particularly since the lawmakers are not scheduled to meet again until January, 1977.

Lt. Gov. Bill Hobby flatly declared the revision movement dead in its tracks, but left an avenue open for future options. He had been a citizens' convention advocate after the 1974

Constitutional Convention failed, and was converted late to support the Legislature's submission of the document on Tuesday's ballot.

House Speaker Billy Clayton, however, indicated the Legislature should get on with the revision effort as soon as lawmakers can figure out exactly what went wrong and why. He predicted a "pulse of the people" eventually will show the way.

But Clayton absolutely rejected any attempt to compromise with leading legislative opponents of the proposed constitution—Sens. Peyton McKnight of Tyler and O. H. (Ike) Harris of Dallas, for example. "How could you—why would you—(compromise) when they wouldn't participate in the writing process this time?" Clayton asked.

OTHER LEGISLATORS indicated, however, they will force legislative opponents of the document to be good to their word—particularly McKnight's concession that some "deadwood" can be eliminated from the 100-year-old Texas Constitution.

Indeed, Rep. Ray Hutchison of Dallas, who is not seeking another House term next year, said the "logical and

feasible" approach is to put a clean-up version of the current constitution—without any substantive changes—on the ballot as soon as possible.

Then, over a decade or more, the Legislature can propose amendments to make the changes that will be forced on the state by the federal courts, he said.

Rep. Lyndon Olson of Waco, another leader in the revision effort, agreed that a "no gimmicks" rewrite of the constitution is needed in order to satisfy the voters. He said voters then might become convinced that article-by-article change is needed to "solve our problems before the federal courts jump in and deal with them."

LAMB COUNTY, Clayton's home, rejected the revision proposal by an 8 to 1 margin. Hutchison's Dallas County rejection rate was 2 to 1, while Olson's McLennan County rejection margin was 6 to 1.

McKnight, whose Smith County constituents voted 8 to 1 against the document, was not talking about a citizens' convention to rewrite the constitution, as some proponents thought he implied throughout the campaign.

Instead, McKnight said any changes that are needed "should be made by the orderly process of amendment rather than through wholesale revision."

Both McKnight and his top antirevision supporter, Gov. Dolph Briscoe, didn't gloat about their triumph, however. Briscoe, by long distance, called on both sides to continue working on his 1974 campaign theme of "Cooperation for Progress."

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NOV 6 1975

AUSTIN AMERICAN STATESMAN

'Not enough of the body left for an autopsy'

By JON FORD
Political Editor

Only one group — the League of Women Voters — had anything optimistic to say about the future of Texas constitutional revision Wednesday.

Margin of defeat for a proposed new constitution — nearly 3 to 1 — in Tuesday's

statewide election humbled most proponents and sent them off to lick their wounds in silence. Some stated frankly they hope voters will soon forget their roles in the campaign.

Others read stern warnings for legislators who submitted the revision document with its broadened

powers for lawmakers and government in general) from the election returns.

"There was some mighty strong feeling expressed to us by the voters," said a Central Texas legislator. "I'm going to keep a low profile for a while."

Asked for his analysis of the crushing defeat, Lt. Gov.

Bill Hobby reportedly answered: "There is not enough of the body left for an autopsy."

State Rep. Ronald Earle of Austin Tuesday night indicated an interest in starting legislative action toward a new citizens constitutional convention in 1977. But Earle appeared to

have cooled a little on the subject Wednesday.

The League of Women Voters of Texas issued a statement that its members, long-time proponents of revision, are "undaunted by defeat (and) will work with renewed vigor for a revised constitution for Texas."

State League President Betty Anderson said the group remains convinced the rejected document was better than the present constitution.

"We will now seek the establishment of a citizens convention to draft a new document in the hopes that the polarized politicization which contributed to the

defeat of the constitution can be avoided. And we will continue our efforts to educate citizens toward an understanding of the needs for revising our present constitution," said Anderson.

"There will be no overall revision in the near future," said House Speaker Bill

Clayton. "It would be futile for the legislature to try to deal with (another total revision) in view of the voters' expression."

Only a handful of Texas' 254 counties supported the proposed new constitution.

Duval and Webb in South Texas apparently were the only counties voting for all eight propositions on the Tuesday ballot. El Paso County voters endorsed seven, but rejected Proposition 1 (to rewrite the legislative-executive-separation of powers articles).

Black precincts provided the only bloc support for revision in Houston, where the propositions were rejected about 70-30. Three articles were approved and five rejected by Kennedy County voters.

Final unofficial election returns from all 254 counties

(with only about 800 votes from five boxes in four counties uncounted) to Texas Election Bureau showed these results of the Tuesday voting:

Proposition 1 — 300,466 for to 863,090 against; judiciary article — 327,713 for to 830,343 against; voting and elections article — 322,878 for to 836,179 against; education article — 319,425 for to 840,443 against; finance article — 251,706 for to 885,346 against; local government — 305,901 for to 851,963 against; general provisions — 305,300 for to 853,253 against, and mode of amending the constitution — 320,336 for to 837,253 against.

The total voter turnout was about 1,164,000 — a little more than 23 per cent of an estimated 4.9 million eligible.

~~The second intelligible outcome of the state human vote is still in the 20 per cent.~~

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NOV 6 1975

FT. WORTH STAR-TELEGRAM

Why proposed constitution got a no-no

No.

Not only no but heck no.

That was the word from Texans — or, at least, from the less than one in four qualified-to-vote Texans who bothered to go to the polls — on the proposed, new state constitution, a proposal which cost \$5 million and took five years to formulate.

By as much as 30 to 1 in some places and as little as 2 to 1 in other places, Texans pointedly made their position clear.

Why?

A complete analysis will take a while.

But some points can be made now.

Point 1 — The proposal should not have been written by the legislature. A citizens committee should have done it. Many, including this newspaper, felt the proposal would have made the legislature too powerful.

Point 2 — Many did not understand the proposal. Many Texans no doubt do not understand the 63,000-word present constitution either. But they know what kind of government they have under the present document and they were not sure of what they would get under the proposed document. Fearful of what the proposal might permit, they said no.

Point 3 — There appears to be a growing mood that there already is too much government and too much government spending. Gov. Dolph Briscoe and State Sen. Peyton McKnight of Tyler, two leading opponents of the proposal, expressed this opinion during the campaign. They said voters would reject the proposal for

these reasons and the outcome backs up their contention.

Point 4 — The opposition organized sooner and may have been better funded than the proponents. The opposition hammered away at the contention more government would result and governmental costs would rise and the proponents, obviously, were not able to overcome the opposition's effective strategy.

Point 5 — Governor Briscoe, who emerged as the man in the white hat on the issue, greatly influenced many Texans to oppose it. The governor, who had little input into the proposed document, came out strongly against it only weeks before Tuesday's election. Proponents, to stand any real chance of winning, needed the governor's considerable influence plus that part of the state Democratic party machinery which he can deliver.

Point 6 — The effort to get a new constitution was poorly handled from the start. As stated, it was badly conceived as a project for the legislature when it should have been handled by a citizens committee. Then, the campaign to "sell" the proposal to Texans was slow to jell — if indeed, it ever fully did.

Point 7 — Many Texans obviously voted a straight ticket — either for all eight propositions or against all eight propositions.

Point 8 — Voter apathy had its effect. Some Texans didn't care. In Tarrant County, only about one in five qualified voters bothered to go to the polls. Around the state, the figure was about one in four.

Other points can be made, of course, but the point right now is that the nays have it in Texas. They have etched their no in convincing fashion. They have said they prefer the constitution which has served Texas for nearly a century.

And, judging from the overwhelming way they said it, it appears it may be a spell before a serious effort is made to get Texans to say yes to the idea of writing a new constitution.

HAWAII
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JUN 6 1975

HOUSTON POST

New charter demands still kicking

By FELTON WEST
Chief, Post State Capital Bureau

AUSTIN — Demands for a "citizens' constitutional convention to revise the 1876 Constitution continued Wednesday after the voters' overwhelming rejection of a proposed constitution written by the all-legislator 1974 convention and submitted to the people by the 64th Legislature.

State League of Women Voters President Betty Anderson said her organization, a longtime agitator for constitutional revision, would work with renewed vigor for that goal.

Anderson said the league was disappointed by defeat of the proposed charter Tuesday, but "we will now seek the establishment of a citizens' convention to draft a new document, in the hopes that the polarized politicization which contributed to the defeat of the constitution can be avoided." She added the league will continue efforts to "educate citizens toward an understanding of the needs for revising our present constitution."

Meanwhile, State Rep. Ron Waters, D-Houston, called for a special session of the legislature to pass legislation necessary to call a "citizens' convention." He urged Lt. Gov. Bill Hobby, House Speaker Bill Clayton and Atty. Gen. John Hill to join him in "pressuring" Gov. Dolph Briscoe to call a special session.

Waters viewed Tuesday's defeat of the proposed constitution as not a rejection of revision but "rejection of the politicians in the legislature" who wrote it.

Unless convention legislation is passed now, he said, it would be 1978 before a new revision effort could begin.

His proposal was likely to receive a cool reception from Gov. Briscoe, Hobby and Clayton.

After the proposed charter was defeated, Gov. Briscoe, who had opposed all eight parts of it, said the existing constitution had served Texas well and would continue to serve well for years to come.

Lt. Gov. Hobby said he considered constitution revision "dead for the foreseeable future," while Clayton said he thought it had been set back for "quite a few years."

Sen. Peyton McKnight, D-Tyler, who

led the statewide group that fought to retain the present charter, said future revision should be attempted by the normal amendment process rather than wholesale rewriting of the document.

Final unofficial returns from the Texas Election Bureau showed Wednesday that each of the eight propositions that were to make up the new constitution was beaten by a landslide.

Statewide they lost by margins ranging from 2.5 to 1 to almost 3 to 1.

In Harris County, where proponents of the document had hoped to roll up the bulk of their support to offset rural-area opposition, the propositions were likewise all defeated. The margins ranged from 2.2 to 1 to 2.7 to 1 against them.

Only in two of the state's 254 counties — Duval and Webb, both in South Texas, did all eight propositions win approval. In El Paso County the controversial Proposition 1, embracing changes in the executive and legislative branches of the state government, was defeated, but the other seven propositions were approved.

Voters in sparsely populated Kenedy County, in South Texas, approved the

first three propositions and rejected the last five.

Otherwise the proposed charter lost overwhelmingly everywhere. In Andrews County in West Texas, it was rejected about 30-1.

Voter turnout — unofficially 1,163,556 — was less than most advance predictions. This showed Texans of 1976 much less interested in constitutional revision than Texans were in 1876, when the present constitution (since amended 220 times) was adopted.

About 15 per cent of the state's population voted then, but less than 10 per cent of the population — now 10 times as big — voted Tuesday, even though the percentage of eligible voters has more than doubled because of enfranchisement of women and 18 to 21-year-olds since 1876.

Harris County's voter turnout, about 30 per cent of the registered voters, amounted to only about 22 per cent of the statewide turnout, despite advance predictions that the Houston city and school board elections might pull out 40 per cent of the state vote.

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NOV 5 1975

Area nixes change

By SHARON ENGLADE
Staff Writer

Jefferson, Orange and Chambers county voters followed the statewide trend Tuesday, defeating the proposed rewrite of the century-old state constitution.

Almost 20 per cent of Jefferson County's almost 105,000 registered voters turned up at the polls, with the vote running heaviest against the eight amendments in south county.

The finance revision amendment, proposition 5, was defeated by the largest margin, 13,043-6,219.

The voters in Jefferson County turned the entire revision effort down by almost a 3-1 margin.

Members of the Southeast Texas legislative delegation

who, as a body, endorsed the entire document laid the blame for defeat at a poor job of educating the public.

"This is another example of the public is not supporting something it does not fully understand," said 172nd District Judge Thomas A. Thomas.

Former House Speaker Price Daniel Jr., president of the constitutional convention, called the negative vote a "major setback," adding, that opponents were able to raise enough questions, fears and doubts "that it seemed the safest thing to do" to vote against it.

"I think the people were completely confused," said Orange State Rep. Wayne Peveto. On one hand you have the governor and the

comptroller urging its defeat and then other top state officials calling for its adoption, he said.

He and Beaumont State Reps. Pike Powers and Chester Slay predicted that full-scale revision efforts are dead for many years to come.

"This is a real shame," Powers said, "not so much for the people who voted today, but for their children and grandchildren."

Slay said he feels it will be 25 or 30 years before people once again clamor for a new constitution. Peveto suggested the first area which will be hit with one-shot revision would be the judiciary which is "at crisis proportions now."

Jefferson County Criminal District Judge Larry Gist, who actively sought the defeat of proposition 2, the judicial revision article, agreed, saying reform in this area is vitally needed, "but this (constitutional amendment proposal) was not the method or technique to choose."

He added he hopes those people who were so anxious to see the proposition pass, "and I know they were genuinely interested in improving the quality of justice, will settle down and get together and find something more acceptable."

Port Arthur Rep. Carl Parker said he thinks those proponents of a revised constitution "did not have the machinery to make the people understand the difference between the proposed and present constitution. We're part-time representatives and didn't have the wherewithal to inform the public."

In Jefferson County, the

proposed document came closest to victory, turning it down by a 5-4 margin. The vote in the mid-county and Port Arthur boxes was a more than 2-1 against the document.

The county vote on the eight amendments was:

— Proposition 1, calling for the revision of the separation of powers, executive and legislative articles, 12,267-6,115.

— Proposition 2, the judiciary, 11,803-6,556.

— Proposition 3, changing the voting and election provisions of the present constitution, 11,704-6,681.

— Proposition 4, revising the education provisions, 11,822-6,664.

— Proposition 5, affecting the finance provisions of the present constitution, 13,043-6,219.

— Proposition 6, the local government issue, 12,620-6,608.

— Proposition 7, the general, or "catch-all" provision revision, 12,551-6,712.

— Proposition 8, revision of the method of amending the constitution, 12,459-6,829.

Only the Bill of Rights contained in the 1876 document was retained in the proposed new constitution.

Orange County

Voters in Orange County overwhelmingly rejected all eight propositions by a 3-2

margin as 16.9 per cent of eligible voters turned out.

Only one of the 28 polling places showed any real support for the new constitution, Box 10 at the Orange Community Center. A total of 415 votes were cast with all eight propositions winning by modest margins.

Box 4 in the predominantly black area of Navy Park, where 54 votes were cast, the last seven proposition carried by two to eight votes and the first lost by a single ballot.

Out of a total of 32,103 registered voters, only 5,443 went to the polls.

Chambers County

Chambers County voters defeated all propositions by margins ranging from 82 to 86 per cent.

Proposition 4 got the most "for" votes, 267 to 1,284 against, and proposition 5 suffered the worst defeat, 203 to 1,315.

The turnout was larger than the absentee vote had indicated, with 1,576, or 27.3 per cent of the county's registered vote of 5,760, going to the polls.

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SAN ANGELO STANDARD TIMES

New Constitution Defeated

11-5-75
By The Associated Press

From the big cities to the small towns, Texas voters overwhelmingly rejected a new state constitution in a special election Tuesday.

The metropolitan areas of Houston, Dallas, San Antonio, and Austin, beat down the eight proposals by margins of 2-to-1 to 3-to-1.

The smaller counties, from the piney woods of East Texas to the plains of West Texas, were even more lopsided.

Polk County in deep East Texas rejected the constitutional changes by an 11-to-1 margin.

Sterling County in far West Texas voted against 9-to-1.

Less than two hours after polls closed, Lt. Gov. Bill Hobby, one of the pilots of constitutional revision, conceded the cause was lost.

Voters spoke loud and clear from the beginning of vote tabulations.

"The voters of Texas have rejected five years of effort directed toward constitutional

revision by as decisive a margin as anyone could imagine. I want to thank all the civic groups and concerned citizens who have devoted countless months of efforts in

this attempt to modernize our state government. It was a good fight but we lost," Hobby told The Associated Press.

When only less than 10 per cent of the expected 1 million votes were counted it seemed obvious voters were on their way to beating down the constitutional changes.

Eighty-five per cent of the rural voters were against the constitution at that point.

It fared a little better in urban areas where it was losing by a two to one margin.

Voting against the proposed revision was heavy in conservative East Texas, perhaps due in part to criticism that the new constitution favored big timber companies in that heavily forested part of the state.

Articles in the constitution would have allowed farm, ranch and timberland in production to be considered separately for property taxation from other real estate.

Poll watchers expected voters in Harris County (Houston) to swing the big stick because of a mayoral election which would draw out more voters than could be expected ordinarily. Voting was running four to one against revision with 66,500 of Houston's expected 350,000 votes counted. Worst loser on the ballot in Houston was Proposition 5 dealing with

finances which was failing 49,922 against and 15,631 for. The amendments proposal was doing best of the eight although losing 44,971 to 17,723.

Webb and Duval counties were the only two found late in the evening which had approved of the constitution. The two South Texas counties, however, also voted for George McGovern in the 1972 presidential election.

Nueces County, the first big county where vote counts were completed, defeated the measure by a two to one margin.

In Larab County, it went down eight to one. In Smith County (Tyler), home of state Sen. Peyton McKnight, a leading opponent of constitutional change, the revision lost by an eight to one edge.

In Austin, voter opposition ran 55 to 60 per cent against all eight propositions.

Waco area voters turned down the proposals with heavy negative votes. The separate powers article lost 14,080 to 2,492.

McKnight said he was gratified by the massive disapproval and hoped the legislature realized change in the constitution must come through amendment, not wholesale revision.

"If there is any lesson we should have learned from this election it is that the people have a right to impose restraints upon their government and they still want to do so," McKnight said.

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A New Constitution
for Texas
Text, Explanation,
Commentary



A New Constitution For Texas

Text, Explanation, Commentary

**Report of the
Texas Constitutional Revision
Commission**

November, 1973

Austin, Texas



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November 30, 1973

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James F. Ray, Executive Director

To the Honorable William P. Hobby
Lieutenant Governor

To the Honorable Price Daniel, Jr.
Speaker of the House of Representatives

To the Members of the 63rd Legislature

The Constitutional Revision Commission is pleased to submit this report of recommendations for change in the State constitution as directed by Article XVII, Section 2 of the Constitution of 1876 and Senate Concurrent Resolution Number 1 enacted by the 63rd Texas Legislature.

This report is the second of a series which together will portray the results of the intensive constitutional research which has occurred during the months of the Commission's life. In an earlier report submitted to the Legislature on November 1, 1973, the Commission, as required by Senate Concurrent Resolution Number 1, presented recommendations for the text of a new constitution. This second report provides a more detailed description of the Commission's work and a commentary on each section of that new document.

The new constitution submitted by this Commission represents the first thorough attempt to draft a new constitution for Texas since the present one was adopted in 1876. Perhaps the most noticeable difference between the Commission's recommended draft and the present constitution is the difference in length. This is due to the fact that the 1876 Constitution contains a number of duplicative or overlapping provisions as well as a considerable amount of obsolete material. There was a conscious effort on the part of the Commission to keep unnecessary details out of the new document. In general, the new constitution is intended as a source of fundamental guidance for the future. It will allow greater opportunity for the modification of State law without

constitutional amendments as unpredictable needs and circumstances arise in the years ahead.

Any change in the constitution of the State is a matter for serious and thoughtful consideration because it is a change in the fundamental law which governs the relationship between the people of Texas and their government. The attention given to the recommendations of this Commission should be consistent with the thorough change which this report suggests for the fundamental law of the State.

Similarly, the importance of the Commission's task is reflected in the consideration and debate of many issues for which the unanimous agreement of each member could not be reached. The Commission agreed early in its deliberations that there should be an opportunity for members to prepare and submit statements in support of views which did not prevail and could not therefore be reflected in the Commission recommendations. Statements of minority viewpoints will be included in a separate document to be published at a later date.

Although the viewpoints of individual Commission members vary on a number of the recommendations, all agree that the new constitution represents a very significant improvement over the existing document. The Commission voted unanimously to submit the new constitution contained in this report for the consideration of the members of the constitutional convention.

Respectfully yours,

Beryl Buckley Milburn

Mrs. Malcolm Milburn
Vice Chairman

Robert W. Calvert

Robert W. Calvert
Chairman

RWC/BBM:cwj

Members of the Texas Constitutional Revision Commission

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Chapter One

Text of the New Constitution



ALL POLITICAL POWER
IS INHERENT IN THE
PEOPLE AND ALL FREE
GOVERNMENTS ARE FOUNDED
ON THEIR AUTHORITY
AND INSTITUTED FOR THEIR BENEFIT;...
FIRST CONSTITUTION, STATE OF TEXAS, 1845

Preamble

Humbly invoking the blessings of Almighty God, the people of the State of Texas, do ordain and establish this Constitution.

Article I **Bill of Rights**

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

Section 1. Freedom and Sovereignty of State

Texas is a free and independent State, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the States.

Section 2. Inherent Political Power; Republican Form of Government

All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Section 3. Equal Rights

All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

Section 3a. Equality under the Law

Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin. This amendment is self-operative. (Added Nov. 7, 1972.)

Section 4. Religious Tests

No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

Section 5. Witnesses Not Disqualified by Religious Beliefs; Oaths and Affirmations

No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

Article I

Section 6. Freedom of Worship

All men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Section 7. Appropriations for Sectarian Purposes

No money shall be appropriated, or drawn from the Treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Section 8. Freedom of Speech and Press; Libel

Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Section 9. Searches and Seizures

The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Section 10. Rights of Accused in Criminal Prosecutions

In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger. (Added Nov. 5, 1918.)

Section 11. Bail

All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

Section 11a. Multiple Convictions; Denial of Bail

Any person accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor may, after a hearing, and upon evidence substantially showing the guilt of the accused, be denied bail pending trial, by any judge of a court of record or magistrate in this State; provided, however, that if the accused is not accorded a trial upon the accusation within sixty (60) days from the time of his incarceration upon such charge, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder. (Added Nov. 6, 1956.)

Section 12. Habeas Corpus

The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall enact laws to render the remedy speedy and effectual.

Section 13. Excessive Bail or Fines; Cruel and Unusual Punishment; Remedy by Due Course of Law

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

Section 14. Double Jeopardy

No person, for the same offense, shall be twice put in jeopardy of life or liberty, nor shall a person be again put upon trial for the same offense, after a verdict of not guilty in a court of competent jurisdiction.

Section 15. Right of Trial by Jury

The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill persons not charged with a criminal offense, for a period of time not to exceed ninety (90) days, by order of the County Court without the necessity of a trial by jury. (As amended Aug. 24, 1935.)

Section 15-a. Commitment of Persons of Unsound Mind

No person shall be committed as a person of unsound mind except on competent medical or psychiatric testimony. The Legislature may enact all laws necessary to provide for the trial, adjudication of insanity and commitment of persons of unsound mind and to provide for a method of appeal from judgments rendered in such cases. Such laws may provide for a waiver of trial by jury, in cases where the person under inquiry has not been charged with the commission of a criminal offense, by the concurrence of the person under inquiry, or his next of kin, and an attorney ad litem appointed by a judge of either the County or Probate Court of the county where the trial is being held, and shall provide for a method of service of notice of such trial upon the person under inquiry and of his right to demand a trial by jury. (Added Nov. 6, 1956.)

Article I

Section 16. Bills of Attainder; Ex Post Facto or Retroactive Laws; Impairing Obligation of Contracts

No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

Section 17. Taking, Damaging or Destroying Property for Public Use; Special Privileges and Immunities; Control of Privileges and Franchises

No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.

Section 18. Imprisonment for Debt

No person shall ever be imprisoned for debt.

Section 19. Deprivation of Life, Liberty, Etc.; Due Course of Law

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Section 20. Outlawry or Transportation for Offense

No citizen shall be outlawed, nor shall any person be transported out of the State for any offense committed within the same.

Section 21. Corruption of Blood; Forfeiture; Suicides

No conviction shall work corruption of blood, or forfeiture of estate, and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

Section 22. Treason

Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

Section 23. Right to Keep and Bear Arms

Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.

Section 24. Military Subordinate to Civil Authority

The military shall at all times be subordinate to the civil authority.

Section 25. Quartering Soldiers in Houses

No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

Section 26. Perpetuities and Monopolies; Primogeniture or Entailments

Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

Section 27. Right of Assembly; Petition for Redress of Grievances

The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

Section 28. Suspension of Laws

No power of suspending laws in this State shall be exercised except by the Legislature.

Section 29. Provisions of Bill of Rights Excepted from Powers of Government; to Forever Remain Inviolate

To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

Article II

Separation of Powers

Section 1. Separation of Powers

The government of the State of Texas shall be divided into three branches: legislative, executive, and judicial. Except as otherwise authorized by this Constitution, each branch shall exercise the powers appropriate thereto.

Article III

The Legislature

Section 1. Legislative Power

The legislative power of the State of Texas shall be vested in two houses, a Senate and a House of Representatives, which together shall be styled "The Legislature of the State of Texas."

Section 2. Composition

As shall be provided by law, the Senate shall consist of not fewer than thirty-one nor more than fifty members, and the House of Representatives shall consist of not fewer than ninety-three nor more than one hundred fifty-five members. The number of members of the House of Representatives shall be a whole multiple of the number of members of the Senate.

Section 3. Qualification of Members

(a) A person shall be eligible for election to the Senate if a citizen of the United States, a qualified voter, twenty-five years of age or older, and a resident of this State for five years and of the senatorial district for one year immediately preceding the election.

(b) A person shall be eligible for election to the House of Representatives if a citizen of the United States, a qualified voter, twenty-one years of age or older, and a resident of this State for two years and of the representative district for one year immediately preceding the election.

(c) In the general election following a redistricting, a person shall be eligible to be elected to the Legislature from any new district that contains a part of the district in which that person was eligible for election on the effective date of the redistricting, but only if within thirty days after the date of filing as a candidate in the primary election that person becomes a resident of the new district.

(d) A member of the Legislature may not hold any other office or position of profit or trust under this State, the United States, or any foreign government, except as a member of the National Guard, National Guard Reserve, or any of the armed forces reserves of the United States, as a retired member of the armed forces of the United States, or as a notary public.

Section 4. Election and Terms of Members

(a) Senators and Representatives shall be elected at a general election.

(b) Each Senator shall serve a term of four years beginning on the date provided in this Constitution or by law for convening the Legislature in regular session. The qualified voters shall elect a new Senate after each statewide senatorial redistricting, and the Senators shall decide by lot which shall serve four-year terms and which shall serve two-year terms, so that one-half shall be chosen every two years thereafter.

(c) Each Representative shall serve a term of two years beginning on the date provided in this Constitution or by law for convening the Legislature in regular session.

(d) Vacancies in the Senate and House of Representatives shall be filled by special election as provided by law.

Article III

Section 5. Redistricting

(a) Before August 15 following publication of each federal decennial census, the Legislature shall by law divide the State into single-member senatorial districts and each senatorial district into single-member representative districts.

(b) All senatorial districts shall contain as nearly as practicable an equal number of inhabitants. All representative districts within a senatorial district shall contain as nearly as practicable an equal number of inhabitants. All districts shall be composed of compact and contiguous territory.

(c) A county entitled to more than one Senator or Representative shall be divided into the required number of districts. Population in excess of that required for complete districts within the county, or the population of a county insufficient to comprise a district, shall be joined with population of another county or counties to form one district.

(d) Senatorial and representative districts shall not divide counties unless necessary to prevent a significant population variance between districts.

(e) A Legislative Redistricting Board shall be constituted within twenty days after August 15. The board shall consist of the Governor, Lieutenant Governor, Speaker of the House of Representatives, Attorney General, and five members appointed by the Governor. The appointed members shall be from different geographical regions of the State, and due regard shall be given to the division between urban and rural areas. No appointed member shall be a public officeholder, and not more than three shall be from the same political party. The Legislature shall provide funds for the board's clerical, technical, and other expenses.

(f) If the Legislature fails to redistrict by August 15 or if its redistricting plan is declared invalid, the State shall be redistricted by the board. In the event of failure to redistrict, the board shall convene as soon as practicable after it is constituted. In the event the legislative redistricting plan is declared invalid, the board shall convene as soon thereafter as is practicable. The board shall make and file its redistricting plan with the Secretary of State within twenty-five days after its first meeting.

(g) If the board fails to complete its redistricting in accordance with the requirements of this Section, the Supreme Court of Texas shall have original jurisdiction to compel the board to perform its duties and may provide such remedies and penalties as may be appropriate.

(h) The board shall be dissolved immediately following the first general election held in accordance with a valid redistricting plan.

Section 6. Compensation

Each member of the Legislature shall receive compensation and allowances as provided by law, not to exceed the amount recommended by the salary commission. Any increase in compensation shall become effective only at the first regular session following the next general election.

Section 7. Sessions

(a) The Legislature shall meet at least once every two years and at such times and for such duration as provided by law.

(b) All legislative proceedings shall be open to the public.

(c) Neither house may adjourn or recess for more than three days without the consent of the other.

(d) The Legislature shall meet at the seat of government unless otherwise provided by law.

Section 8. Organization and Procedure

(a) Each house shall be the judge of the qualifications and election of its own members, but contested elections shall be determined as provided by law.

(b) Each house shall adopt its rules of procedure. The Legislature by majority vote of the membership of each house shall adopt joint rules. Rules, once adopted, shall remain in effect until amended, repealed, or otherwise changed by the same or succeeding Legislatures.

(c) At the beginning and end of each session the Senate shall elect from its members a president pro tempore who shall perform the duties of president when the Lieutenant Governor is absent or disabled, or when the office is vacant.

(d) When first assembled the House of Representatives shall organize and elect a speaker from its members.

(e) All elections held by either house of the Legislature shall be by individual voice votes to be recorded in the journal.

(f) Two-thirds of the membership of each house shall constitute a quorum for transacting business, but fewer members may recess or adjourn from day to day and compel the attendance of absent members.

(g) Each house shall prepare and publish a journal of its proceedings. At the request of any three members present, the votes on any question shall be recorded in the journal.

(h) Each house may punish a member for disorderly conduct or for cause deemed sufficient by that house and may expel a member by two-thirds vote of its membership, but not a second time for the same offense.

Section 9. Legislative Immunity

No member shall be questioned in any other place for speech or debate during a legislative proceeding.

Section 10. Conflict of Interest

(a) No member may vote for the appointment of another member to any office filled by the Legislature.

(b) During the term for which elected a member shall be ineligible for (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during such term, or (2) any office or position the appointment to which may be made, in whole or in part, by either house of the Legislature. The ineligibility shall terminate on the last day in December of the last full calendar year of the term for which the member was elected.

(c) A member privately interested in a bill, resolution, or other matter before the Legislature shall disclose the interest and shall not vote on the bill, resolution, or other matter.

Article III

(d) No member may have a pecuniary interest in any contract with the State.

(e) No member shall for compensation other than the emoluments of office appear before or have dealings with an executive or administrative unit of State government; and no member shall directly or indirectly share in any fee paid to any other person for such appearance or dealings.

(f) A continuance shall not be granted in any judicial proceeding solely because a party or attorney is a member of the Legislature.

Section 11. Bills

(a) The Legislature shall enact no law except by bill.

(b) A bill may originate in either house. After a bill passes either house, the other may amend or reject it, but neither house may so amend a bill as to change its original purpose.

(c) Every bill shall be limited to a single subject, which shall be expressed in its title. A general appropriation bill shall be limited to the subject of appropriations. A statutory revision bill shall be limited to that subject.

(d) A bill, amendatory in form, shall set out the complete section, as amended, of the statute it amends.

(e) Before a house considers a bill it must have been referred to a committee of that house and reported at least five days before adjournment of the session.

(f) Before a bill becomes law it must be read on three separate days in each house. Either house by four-fifths record vote of the members present and voting may suspend this requirement.

(g) If a bill or resolution is defeated by a vote of either house, no bill or resolution containing the same substance shall be passed during the same session.

(h) The presiding officer of each house shall, in the presence of that house, certify the final passage of each bill or resolution requiring the concurrence of both houses. The fact of certification shall be recorded in the journal.

(i) No law except the general appropriation act and redistricting acts shall take effect until ninety days after it becomes a law or ninety days after adjournment of the session at which it was enacted, whichever is earlier. The Legislature, by three-fourths record vote of the membership of each house, may authorize an earlier effective date.

Section 12. Local or Special Legislation

The Legislature may not enact a local or special law if a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination.

Section 13. Impeachment

(a) The House of Representatives shall have the sole power to conduct legislative investigations to determine the existence of cause for impeachment and, by the record vote of two-thirds of its membership, to impeach executive officers and justices of the Supreme Court.

Article III

(b) Any officer against whom articles of impeachment have been preferred shall be suspended from the exercise of the duties of the office during the pendency of the impeachment. The Governor may make a temporary appointment to fill the vacancy occasioned by the suspension of the officer until the decision on the impeachment.

(c) Impeachments shall be tried by the Senate. When sitting for that purpose, Senators shall affirm or take an oath to try impartially the party impeached. If the Governor or Lieutenant Governor is tried, the Chief Justice of the Supreme Court shall preside. A person may be convicted of impeachment charges only by record vote of two-thirds of the membership of the Senate.

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

Section 14. Advice and Consent of the Senate

Two-thirds of the members present and voting shall constitute consent to any appointment which this Constitution requires to be with the advice and consent of the Senate. The Legislature may provide by law for interim appointments made when the Senate is not in session.

Article IV

The Executive

Section 1. Officers Constituting the Executive Department

The Governor shall be the Chief Executive Officer of the State. The Executive Department shall consist of a Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Secretary of State, Commissioner of the General Land Office, and such other officers as may be provided by law.

Section 2. Selection, Terms, and Residence of Officers of Executive Department

The Governor, Lieutenant Governor, Attorney General, and Comptroller of Public Accounts shall be elected by the qualified voters of the State at general elections beginning with 1978. The Secretary of State shall be appointed by the Governor. The Commissioner of the General Land Office shall be elected or appointed as provided by law. Appointive officers of the Executive Department shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor. Elective officers of the Executive Department shall serve four-year terms. All officers of the Executive Department shall reside at the seat of government.

Section 3. Returns of Election; Declaration of Election; Tie Votes; Contests

Election returns for executive officers shall, until otherwise provided by law, be sealed and transmitted to the Secretary of State, who shall open the returns and promptly certify the winner but shall do so no later than the first Monday in January. The person receiving the highest number of votes for an office shall be declared elected. If two or more persons shall have the highest and an equal number of votes for an office, one of them shall be chosen immediately by joint vote of both houses of the Legislature. Contested elections for executive offices specifically named in Section 1 of this Article shall be determined by both houses of the Legislature in joint session.

Section 4. Governor's Eligibility and Installation

(a) The Governor shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a resident of this State at least five years immediately preceding election.

(b) The Legislature shall provide appropriations for a staff and office space for a new Governor-elect prior to inauguration. A new Governor-elect shall be entitled to receive from governmental agencies those reports to which an incumbent Governor is entitled.

(c) The Governor shall be inaugurated on the second Tuesday in January or as soon thereafter as practicable. In those years when a new Governor is inaugurated, the Legislature shall convene in regular session one day prior to inauguration and shall organize but shall not act as a deliberative body for the consideration and passage of bills and resolutions until forty-five days thereafter, except on matters called for by the Governor.

Section 5. Gubernatorial Succession

(a) If before inauguration the person elected Governor fails to qualify, is disabled, or dies, the person elected Lieutenant Governor shall be inaugurated and shall serve as Governor

Article IV

until the person elected Governor at the next general election assumes office for the remainder of the term.

(b) If after inauguration the Governor dies, resigns, becomes disabled, or is removed from office, the Lieutenant Governor shall become Governor and shall serve for the remainder of the term unless the vacancy occurs within sixteen months after inauguration in which event the Lieutenant Governor shall serve only until the person elected Governor at the next general election assumes office for the remainder of the term.

(c) If after a vacancy occurs in the office of Governor and the Lieutenant Governor becomes Governor and thereafter dies, resigns, becomes disabled, or is removed from office, the Speaker of the House of Representatives, if qualified, shall become Governor under the same conditions and for the same term as provided for the Lieutenant Governor.

(d) If the Governor is absent from the State, the Lieutenant Governor shall act as Governor until the Governor returns. If both the Governor and Lieutenant Governor are absent from the State, the Speaker of the House of Representatives shall act as Governor during such absences.

(e) While serving or acting as Governor, the Lieutenant Governor or Speaker of the House of Representatives shall receive only the compensation payable to a Governor.

(f) The Legislature may provide by law for further succession to the office of Governor. No person shall serve as Governor unless qualified for that office.

Section 6. Disability of Elective Officers of Executive Department

The disability of any elected officer of the Executive Department to perform the duties of the office during the term for which elected shall be determined in a proceeding in the Supreme Court of the State under such rules of procedure as may be prescribed by that court. A majority vote of the Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Commissioner of the General Land Office, Speaker of the House of Representatives, and President pro tempore of the Senate shall initiate such proceedings.

Section 7. Compensation of Officers of Executive Department

The compensation of the Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Secretary of State, and Commissioner of the General Land Office shall be as provided by law, not to exceed the amount recommended by the salary commission. The compensation of officers of the Executive Department shall not be diminished during their term of office. The Governor shall have the use of the Governor's Mansion.

Section 8. Dual Office Holding; Other Compensation

No officer of the Executive Department shall hold any other civil or corporate office or practice any profession; nor shall any such officer receive any salary, reward, or compensation from non-governmental sources.

Section 9. Commander-in-Chief; Calling Forth Militia

The Governor shall be Commander-in-Chief of the military forces of the State, except when they are called into actual service of the United States, and shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions.

Section 10. Execution of Laws; Conduct of Business With Other States, The United States, and Foreign Nations

The Governor shall cause the laws to be faithfully executed and shall conduct, in person or in such manner as shall be provided by law, all intercourse and business of the State with other states, the United States, and foreign nations.

Section 11. Convening the Legislature in Special Session

The Governor may, on extraordinary occasions, convene the Legislature in special session, stating specifically the purpose and duration of the session.

Section 12. Governor's Message

At the beginning of each legislative session the Governor shall, and at other times may, give the Legislature information on the condition of the State, and may recommend legislative action.

Section 13. Action on Bills and Resolutions

(a) Every bill that passes both houses of the Legislature shall be presented to the Governor. The Governor may approve the bill by signing it in which event it shall become law and shall be filed with the Secretary of State. The Governor may veto the bill by returning it with objections to the house in which it originated. That house shall enter the objections in its journal and reconsider the bill for passage over the veto. If the bill passes that house by a two-thirds record vote of the membership, it shall be sent with the Governor's objections to the other house which shall enter the objections in its journal and reconsider the bill for passage over the veto. If the bill likewise passes that house by a two-thirds record vote of the membership, the bill shall become a law and shall be filed with the Secretary of State. If the Governor fails to veto a bill within ten days (Sundays excepted) after it is presented, the bill shall become a law and shall be filed with the Secretary of State. If the Legislature by its adjournment prevents a veto, the bill shall become a law and shall be filed with the Secretary of State unless within twenty days after adjournment the Governor files the bill and objections with the Secretary of State and gives public notice thereof by proclamation. If the same Legislature meets again, the Secretary of State shall return the bill with the Governor's objections to the house in which the bill originated for reconsideration in the manner provided above.

(b) The Governor may veto or reduce any item of appropriation in a bill, except that no item consisting of an appropriation for the salary for a single office or position may be reduced. Portions of a bill not vetoed and the reduced amount of items shall become law. Items vetoed and the amount by which items are reduced together with the Governor's objections shall be returned to the house in which the bill originated for reconsideration in the manner provided in Subsection (a).

(c) All orders and resolutions requiring the concurrence of both houses of the Legislature, except those concerning adjournment and legislative rules and those proposing amendments to the Constitution or a referendum on incurring State debt, shall be presented to the Governor. If the Governor disapproves an order or resolution, it shall not become effective unless repassed in the manner provided for in Subsection (a).

Section 14. Chief Planning Officer

The Governor shall be the chief planning officer of the State and may require information in writing and reports from all State agencies and officers upon any subject relating to their duties, conditions, management, and expenditures.

Article IV

Section 15. Budget Preparation

At the beginning of each session at which appropriations are to be made for the general operation of the government the Governor shall submit to the Legislature a budget for all proposed State expenditures for the applicable fiscal period, accompanied by an appropriation bill covering the proposed expenditures. This bill, to be known as the Budget Bill, shall be introduced immediately in each house by the respective chairmen of the committees on appropriations for consideration and passage as in the case of any other bill. Until the Budget Bill has been enacted, neither house shall finally pass any other appropriation bill, except emergency bills recommended by the Governor and appropriations for the operation of the Legislature.

Section 16. Budget Execution

The Governor shall be responsible as provided by law for the proper execution and administration of the total State budget and shall require of all State governmental agencies such expenditure plans, fiscal reports, and accounts as deemed necessary to supervise the expenditure of previously appropriated funds.

Section 17. Administrative Reorganization

The Governor may from time to time submit to the Legislature written reorganization plans reassigning functions among or consolidating or abolishing any State governmental agencies. Within sixty days after submission or within sixty days after the Legislature can act as a deliberative body, whichever comes later, either house may reject a plan by resolution. Unless rejected the plan shall become effective by its terms.

Section 18. Reprieves, Commutations, and Pardons; Remission of Fines and Forfeitures

The Governor shall have power as provided by law to grant reprieves relating to the execution of death sentences, and to grant commutations, pardons, and the remission of fines and forfeitures.

Section 19. Lieutenant Governor

The Lieutenant Governor shall possess the same qualifications as provided for the Governor. The qualified voters shall cast separate votes for the candidates for Governor and Lieutenant Governor. The Lieutenant Governor shall, by virtue of the office, be President of the Senate and when the Senate is equally divided may cast a deciding vote.

Section 20. Secretary of State

The Secretary of State shall perform the duties required by this Constitution and such other duties as may be provided by law.

Section 21. Attorney General

The Attorney General, except as expressly provided by law to the contrary, shall represent the State in all suits in which the State may be a party in all the courts of the State and of the United States, shall have all the powers of the office as at common law, and shall have such other duties as may be provided by law. The Attorney General must be qualified to practice before the Supreme Court of this State.

Section 22. Comptroller of Public Accounts

The Comptroller of Public Accounts shall perform the duties required by this Constitution and such other duties as may be provided by law.

Section 23. General Land Office

There shall be one General Land Office in the State at the seat of government, where all land titles emanating from the State shall be registered. The Commissioner of the General Land Office shall perform the duties required by this Constitution and such other duties as may be provided by law.

Section 24. Vacancies in Statewide Offices

Unless otherwise provided by this Constitution, all vacancies in elective statewide offices shall be filled by appointment of the Governor with the advice and consent of the Senate. An appointee shall serve for the remainder of the term unless the vacancy occurs within sixteen months after the elected officer assumed office, in which event the appointee shall serve only until a successor elected at the next general election assumes office for the remainder of the unexpired term.

Section 25. State Agencies

(a) The length of the term of members appointed by the Governor to State governmental agencies created by statute and with a life of not less than six years shall be two years, unless the number of appointed members is three or a whole multiple thereof in which case the length of the term shall be six years. Two-year terms shall expire between February 1 and April 1 of odd-numbered years. In the case of agencies with members who serve six-year terms, the terms of the members appointed by the Governor shall be staggered. The terms of one-third of such members shall expire between February 1 and April 1 of odd-numbered years.

(b) At the time of appointing members of multi-member agencies with six-year terms, the Governor may designate the chairman. If the Governor fails to designate a chairman prior to April 1, the members of an agency shall choose the chairman from among its membership.

Section 26. Seal of State and Commissions

There shall be a Seal of the State which shall be kept by the Secretary of State and used by that officer officially under the direction of the Governor. The Seal of the State shall be a star of five points encircled by olive and live oak branches and the words "The State of Texas." All commissions shall be in the name and by the authority of the State of Texas, sealed with the Seal of the State, signed by the Governor, and attested by the Secretary of State.

Article V

The Judiciary

Section 1. Unified Judicial System

The judicial power of the State is vested in the Judicial Branch. The State unified judicial system shall be composed of a Supreme Court, courts of appeals, district courts, and county courts. No other courts shall be created except municipal courts, as provided by law or charter, and justice courts. All courts shall have jurisdiction as provided by law, but jurisdiction of courts of the same level shall be uniform throughout the State.

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. The court may sit in sections as designated by the court to hear argument of cases and to consider applications for writs of error or other preliminary matters, but a majority of the court shall be necessary to decide a case.

(b) The Supreme Court shall have the duty and authority to provide for the efficient and just operation of the judicial system. It may transfer cases from a trial court to a court of appeals or to the Supreme Court, and from one court of appeals to another or to the Supreme Court.

(c) The Supreme Court shall have authority to prescribe rules of civil and criminal procedure, but any rule of procedure expressly disapproved by the Legislature shall have no effect thereafter. The Supreme Court may prescribe other rules as provided by law.

Section 3. Courts of Appeals

The Legislature shall provide by law for one or more courts of appeals, each consisting of a chief judge and two other judges, and such additional judges as may be provided by law. Not fewer than three judges shall sit in any case.

Section 4. District Courts

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

Section 5. County Courts

The Legislature shall provide by law for county courts. A county court may serve one or more counties, but no county shall have more than one county court. Each county court shall have one or more judges and such other officials as provided by law.

Section 6. Justice Courts

The governing body of each county shall establish and maintain one or more justice courts and, if more than one, shall divide the county into justice precincts and provide a justice court for each precinct.

Article V

Section 7. Qualifications of Judges

Each justice or judge shall be a citizen of this State and shall have such other qualifications as provided by law. Each justice and judge in the unified judicial system must be licensed to practice law in this State.

Section 8. Merit Selection and Nonpartisan Election*

(a) There is hereby created a Judicial Nominating Commission of eleven members, a majority of whom shall be non-lawyers. The Governor, Lieutenant Governor, and Speaker of the House of Representatives acting together shall select the members of the Judicial Nominating Commission and designate the chairman. The selection of the members shall be on a nonpartisan basis with due regard to representation of the sexes, ethnic groups, and geographical regions of the State.

(b) Members of the commission shall serve six-year terms, and no person shall serve more than one full term. Vacancies shall be filled by the selection committee for the remainder of the term.

(c) No member of the commission shall hold an elective or salaried public office or office in a political party, or shall be eligible for appointment to a State judicial office during the term for which appointed.

(d) When a vacancy occurs in the office of the Chief Justice of Texas, a supreme court justice, or a court of appeals judge, the vacancy shall be filled by the Governor from a list of three nominees submitted by the commission within forty-five days after the vacancy occurs. In selecting nominees, the commission shall consider only those who are well qualified from experience and knowledge of the law, but, among those so qualified, shall give fair consideration to the sexes, ethnic groups, and geographical regions of the State. If the Governor fails to make the appointment within sixty days after receiving the list of nominees, the Lieutenant Governor shall make the appointment from the list. A justice or judge appointed pursuant to this Subsection shall be subject, in the manner provided by law, to approval or rejection on a nonpartisan ballot at the first general election held more than ten months after the appointment is made, and every sixth year thereafter.

(e) If the Supreme Court determines that the Chief Justice is temporarily disabled, it shall designate another justice of the Supreme Court to serve temporarily as acting Chief Justice until the disability ends.

(f) District and county judges shall be elected on a nonpartisan ballot by the qualified voters as provided by law. Judges of the district courts shall serve six-year terms, and judges of the county courts shall serve four-year terms. Vacancies in the office of judge of the district and county courts shall be filled until the next succeeding general election by the Governor with the advice and consent of the Senate.

* The Commission voted its preference for merit selection of appellate judges but also recommends that the following proposal for nonpartisan election be submitted to the qualified voters as an alternative:

ALTERNATIVE SUBMISSION

Section 8. Nonpartisan Election of Appellate Judges

(a) The Chief Justice and justices of the Supreme Court shall be elected by the qualified voters of this State every six years on a nonpartisan ballot in the manner provided by law. Judges of the courts of appeals shall be elected by the qualified voters of their respective districts every six years on a nonpartisan ballot in the manner provided by law.

(b) Vacancies in the offices of justices and judges of the Supreme Court and the courts of appeals shall be filled until the next succeeding nonpartisan election by the Governor with the advice and consent of the Senate.

(g) Justices of the peace shall be elected every four years by the qualified voters of the county or precinct. Vacancies in the office shall be filled by the County Commission for the remainder of the term.

(h) No active justice or judge in the unified judicial system may engage in the practice of law. If any justice or judge files as a candidate for any elective nonjudicial office, the judicial office shall immediately become vacant.

Section 9. Compensation

The State shall pay the basic salaries of all justices and judges of the unified judicial system, subject to any supplementation by counties, and shall pay such other expenses of the system as provided by law. The salaries of such justices and judges shall not exceed the amount recommended by the salary commission. Funds collected by the courts may not be used to support the unified judicial system except to the extent of reimbursement of salaries and other expenses.

Section 10. Mandatory Retirement of Judges

The office of each justice and judge in the unified judicial system shall become vacant on the first day of January of the year following the date on which the incumbent reaches the age of seventy-five years or an earlier age, not less than seventy years, as provided by law.

Section 11. Removal of Judges

(a) Any justice of the Supreme Court shall be removed by the Governor, after a hearing by the Legislature and a vote by two-thirds of the membership of each house, for willful neglect of duty, incompetency, oppression in office, or other reasonable cause not a sufficient ground for impeachment.

(b) Any justice, judge, or other judicial officer may be removed from office, suspended, or censured by the Supreme Court for willful or persistent conduct which is clearly inconsistent with the proper performance of duties of the office, or which casts public discredit upon the judiciary or the administration of justice, and may be involuntarily retired or removed by the Supreme Court for disability seriously interfering with the performance of duties of the office if the disability is, or is likely to become, permanent.

(c) The Legislature shall establish by law a Judicial Qualifications Commission which shall operate under rules promulgated by the Supreme Court. The commission shall have authority to issue an order of public censure and to recommend to the Supreme Court suspension, removal, or retirement of any justice, judge, or other judicial officer.

Section 12. Judicial Council

(a) There is hereby created a Judicial Council which shall consist of the Chief Justice of Texas as chairman and the following members, each of whom shall serve a two-year term: two judges of the courts of appeals, three trial judges, one district clerk, and one county clerk, each appointed by the Supreme Court of Texas; four members of the State Bar appointed by its board of directors; and two members of each house of the Legislature appointed by each house. Vacancies shall be filled by the appointing authority for the remainder of the term.

(b) The council shall prescribe rules of administration for the unified judicial system and shall perform other duties as provided by law. Rules of administration shall not become effective until approved by the Supreme Court.

Article V

(c) Pursuant to rules of administration prescribed by the council, the Chief Justice may delegate administrative powers to active or retired judges, and temporarily assign a judge to any court of the same level and from a court of appeals to the Supreme Court. By such assignments, the membership of any court may be temporarily increased. The council shall also prescribe rules for filling vacancies temporarily for the purposes of trying cases and hearing appeals. If for any reason a judge feels aggrieved by any administrative action of the Chief Justice, the judge may petition the Supreme Court for review of such action.

Section 13. Clerks

(a) The Supreme Court and each court of appeals shall appoint a clerk who shall serve for a term of four years unless sooner removed by the court for good cause entered on the minutes of the court. These clerks shall give bond as required by law.

(b) District courts may remove their district clerks from office upon a jury finding of incompetence, official misconduct, or other causes defined by law.

Section 14. Juries

(a) Grand juries in the district courts shall consist of twelve persons, nine of whom shall constitute a quorum.

(b) Trial juries in the district courts shall consist of twelve persons and verdicts shall be unanimous, except that the Legislature or the Supreme Court pursuant to its rule-making power may provide that a verdict may be rendered in civil and misdemeanor cases in the district courts by fewer than twelve but not fewer than nine who shall concur in and sign the verdict.

(c) Trial juries in county courts shall consist of six persons and verdicts shall be unanimous, except that the Legislature or the Supreme Court pursuant to its rule-making power may provide that in civil cases a verdict may be rendered by fewer than six jurors.

(d) The qualifications of grand jurors and trial jurors shall be as provided by law.

(e) Any party shall have a right of trial by jury in civil causes in the district and county courts upon demand as provided by law or rule of the Supreme Court. A jury shall not be empaneled in any cause until a jury fee is paid if required by law or by rule of the Supreme Court.

Section 15. Suspension of Sentence and Probation

Courts having original jurisdiction of criminal cases shall have power to suspend sentence, place a defendant on probation, and reimpose sentence, subject to regulation by law.

Section 16. Appeal by State

The State shall have no right of appeal in criminal cases.

Section 17. Appeal by Accused

The right of appeal granted to an accused by Article I, Section 11a of this Constitution shall be direct to the Supreme Court of Texas.

Article VI

Suffrage

Section 1. Qualified Voter

Any citizen of the United States eighteen years of age or older who meets the registration and residence requirements provided by law, who is not serving a sentence for a felony, whether incarcerated, on parole, or on probation, and who is not of unsound mind as determined by a court, shall be a qualified voter.

Section 2. Elections

All elections by the qualified voters shall be by secret ballot. The Legislature by law shall provide the requirements for residence, registration, absentee voting, and administration of elections, and shall ensure the purity of elections and guard against abuses of the electoral process.

Section 3. General Elections

General elections shall be held in even-numbered years on a date provided by law.

Article VII Education

Section 1. Equitable Support of Free Public Schools

(a) A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature to establish and make suitable provision for the equitable support and maintenance of an efficient system of free public schools and to provide equal educational opportunity for each person in this State.

(b) In distributing State resources in support of the free public schools, the Legislature shall ensure that the quality of education made available shall not be based on wealth other than the wealth of the State as a whole and that State supported educational programs shall recognize variations in the backgrounds, needs, and abilities of all students. In distributing State resources, the Legislature may take into account the variations in local tax burden to support other local government services.

Section 2. Permanent and Available School Fund

(a) The Permanent School Fund consists of all property set apart for support of the free public schools. The Permanent Fund shall not be expended but shall be preserved and invested at the direction of the State Board of Education in the manner prescribed by law.

(b) The Available School Fund consists of income from the Permanent Fund together with all State taxes dedicated to support the free public schools.

(c) The Available Fund shall be appropriated by the Legislature to support the free public schools, including the provision of free textbooks and such other instructional materials as may be required in academic programs.

Section 3. Prohibition of Aid to Non-Public Schools

Public funds shall not be used for support of religious, church-affiliated, or proprietary schools that provide education below the college level; nor shall public funds be provided to any students for payment of expenses incurred by attending such schools.

Section 4. Dedicated School Tax

One-fourth of the revenue from State occupation taxes and one-fourth of the net revenue from the State motor fuel tax are dedicated to the Available School Fund.

Section 5. State Board of Education

There shall be a State Board of Education which shall have the duties provided in this Article and by law. The Legislature may provide either for appointed or elected members whose terms shall not exceed six years. If the board is elective, the Governor shall appoint four additional members to the board. In making appointments the Governor shall give consideration to fair and equitable representation of the sexes, ethnic groups, social groups, and economic groups.

Article VII

Section 6. School and Community College Districts

The Legislature shall define by general law the duties and functions of school and community college districts and shall provide for establishing, financing, altering, consolidating, and abolishing such districts.

Section 7. First Class Colleges and Universities

The Legislature shall provide for a system of higher education of the first class which shall include The University of Texas System, the Texas A&M University System, universities, colleges, community colleges, and other first class institutions or systems as may be provided by law.

Section 8. Permanent University Fund, Its Administration, Its Investments; Available University Fund and Its Expenditure

(a) The Permanent University Fund consists of the two million acres of land set apart and appropriated for the establishment and maintenance of The University of Texas by the Constitution of 1876 and the Legislative Act of April 10, 1883, together with the proceeds of the sale of such land, including the sale of oil, gas, and other minerals from such land, and the securities and other assets purchased with the proceeds. All proceeds shall be invested, and only the income from the Permanent University Fund may be appropriated and expended.

(b) The Permanent University Fund shall be held in trust for the people of Texas and for the use and benefit of the Texas A&M University System and The University of Texas System. The land set apart to the Permanent University Fund, if sold, shall be sold under such regulations, at such times, and on such terms as may be provided by law.

(c) The Board of Regents of The University of Texas System may invest the Permanent University Fund in securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government, or any of its agencies, in bonds issued by the State of Texas or any political subdivision thereof, and in such bonds, debentures, obligations, preferred stocks, or common stocks issued by corporations, associations, or other institutions as the Board of Regents of The University of Texas System may deem to be proper investments for the Permanent University Fund. However, not more than one percent of the Fund shall be invested in the securities of any one corporation nor shall more than five percent of the voting stock of any one corporation be owned by the Fund. In making each and all investments, the Board of Regents shall exercise the judgment and care under the circumstances then prevailing that men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. The Board of Regents shall make full disclosure of all investments as provided by law.

(d) The net income (that is, dividends, interest, and other income less administrative expense) of the Permanent University Fund, exclusive of net income attributable to grazing leases of Permanent University Fund land, shall constitute the Available University Fund. Out of one-third of the Available University Fund, the Legislature shall appropriate an annual sum sufficient to pay the principal and interest due on Permanent University Fund bonds or notes issued by the Board of Directors of the Texas A&M University System pursuant to the next section or its predecessor sections of prior constitutions, and the remainder of such one-third of the Available University Fund shall be appropriated by the Legislature for the support and maintenance of Texas A&M University at College Station. Out of the other two-thirds of the Available University Fund, the Legislature shall appropriate an annual sum sufficient to pay the principal and interest due on Permanent University Fund

bonds or notes issued by the Board of Regents of The University of Texas System pursuant to the next section or its predecessor sections of prior constitutions, and the remainder of such two-thirds of the Available University Fund, plus the net income (that is, income less administrative expense) from grazing leases of Permanent University Fund land, shall be appropriated by the Legislature for the support and maintenance of The University of Texas at Austin.

Section 9. Texas A&M University System; The University of Texas System; Permanent University Fund Bonds or Notes

(a) The Board of Directors of the Texas A&M University System and the Board of Regents of The University of Texas System for the benefit of all the institutions now included in their respective systems are each hereby authorized to issue in amounts not to exceed for the Texas A&M System ten percent, and for The University of Texas System twenty percent, of the value of the Permanent University Fund exclusive of real estate at the time of any issuance, negotiable bonds and notes for the following purposes: (1) acquiring land either with or without permanent improvements; (2) constructing new buildings or other permanent improvements; (3) repairing and rehabilitating existing buildings or other permanent improvements; (4) acquiring library books and materials; (5) acquiring capital equipment; and (6) refunding any bonds heretofore or hereafter issued.

(b) Any bonds or notes issued pursuant to this Section shall be payable solely out of the Available University Fund. Bonds or notes so issued shall mature serially or otherwise not more than thirty years from their respective dates.

(c) Institutions now included in the Texas A&M University System and The University of Texas System, and entitled to participate in the Permanent University Fund, shall not receive any general revenue funds for acquiring land either with or without permanent improvements, or for constructing and equipping new buildings or other permanent improvements except in case of fire, flood, storm, or earthquake occurring at any such institution. In such an event an appropriation in an amount sufficient to replace the uninsured loss may be made by the Legislature from general revenue funds.

(d) For the purpose of securing the payment of the principal and interest of these bonds or notes, the Boards are severally authorized to pledge the whole or any part of the respective interests of the Texas A&M University System and The University of Texas System in the Available University Fund. The Permanent University Fund may be invested in these bonds or notes. All bonds or notes issued pursuant to this Section shall be approved by the Attorney General of Texas and when so approved shall be incontestable.

Section 10. State Higher Education Tax Fund for the Benefit of Certain Institutions of Higher Education

(a) The Legislature shall levy a State ad valorem tax on property at a rate not less than ten cents on the one hundred dollars valuation sufficient to provide a level of support necessary to promote the attainment of first class status for all State institutions of higher education except those institutions included in the Texas A&M University System and The University of Texas System, all public community colleges, and all State technical institutes.

(b) The proceeds of this tax shall comprise the Higher Education Tax Fund.

(c) The Higher Education Tax Fund may be pledged to secure or refund bonds issued heretofore or hereafter for acquiring land, either with or without permanent improvements thereon, constructing, equipping, repairing, rehabilitating buildings or other permanent improvements, and for acquiring capital equipment and library books and materials at the in-

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stitutions for which the Fund is created. After appropriating an annual sum sufficient to pay the principal and interest due on such bonds, the Legislature shall appropriate the remainder of the Fund for the support and maintenance of State institutions of higher education other than The University of Texas at Austin, Texas A&M University at College Station, the public community colleges, and the State technical institutes.

(d) The Legislature shall provide by law for each issue of bonds authorized by this Section and for equitable distribution of the proceeds on the basis of statewide needs. Responsibility for issuance of bonds and allocation of proceeds shall be vested as provided by law.

(e) From the date on which they became eligible to participate in the special tax fund established in this Section, the institutions participating in this fund shall not receive any general revenue funds for acquiring land or permanent improvements, or for constructing and equipping new buildings or other permanent improvements, except that in the case of fire or natural disaster the Legislature may appropriate from general revenue an amount sufficient to replace the uninsured loss.

(f) If for any reason the tax authorized by this Section is held invalid, the Legislature shall provide an equal amount of revenue from other sources.

Article VIII

Finance

Section 1. Taxation

Taxes shall be levied and collected by general law.

Section 2. Property Tax Exemptions

(a) There shall be exempt from all ad valorem taxation:

- (1) The property of the State except as provided by law and all other public property used for public purposes;
- (2) All household goods and personal effects not used for the production of income; and
- (3) All farm products in the hands of the producer and family supplies for home and farm use.

(b) There shall be exempt from State ad valorem taxation:

- (1) Three thousand dollars of the assessed value of all residence homesteads; and
- (2) The property of political subdivisions of the State.

(c) The Legislature by general law may exempt from ad valorem taxation:

- (1) Property used exclusively for educational or charitable purposes or places of burial not held for profit;
- (2) Up to three thousand dollars of the assessed value of property owned by a disabled veteran of the armed services of the United States or by the surviving spouse and surviving minor children of a disabled veteran of the armed services of the United States;
- (3) Up to three thousand dollars of the assessed value of property owned by the surviving spouse or surviving minor children of any member of the armed services of the United States whose life was lost while on active duty;
- (4) Actual places of religious worship;
- (5) Any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society if the property yields no revenue to the church or religious society, but such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; and
- (6) Any other property validly exempt at the time of adoption of this Constitution.

(d) The governing body of any political subdivision may exempt from ad valorem taxes not less than three thousand dollars of the assessed value of a residence owned and occupied by persons sixty-five years of age or over. If no exemption has been granted, the governing body,

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upon a petition signed by qualified voters equal in number to at least twenty percent of those voting in the last preceding election held by the political subdivision, shall call an election to determine by majority vote whether to grant such an exemption in the amount, not less than three thousand dollars, specified in the petition.

(e) The Legislature by general law may provide relief from residential ad valorem taxes for persons determined to be in need of such relief because of age, disability, or economic circumstances. Any such law shall provide for the reimbursement of political subdivisions for revenue losses caused by such relief.

(f) No exemptions from ad valorem taxation shall be granted except as authorized under this Section.

Section 3. Highway-User Revenues

Subject to legislative appropriation, allocation, and direction, all net revenues from motor vehicle registration fees and three-fourths of net revenues from all taxes on fuels and lubricants used to propel motor vehicles over public roadways, except gross production and ad valorem taxes, shall be deposited in the State Highway Fund. Such revenues shall be used solely for acquiring rights-of-way, constructing and maintaining a State highway system; for policing public roadways; and for administering laws pertaining to the supervision of traffic and safety on public roadways. One-fourth of net revenues from these taxes shall be allocated to the Available School Fund. The net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each county, or less than the percentage allowed to be retained, under the laws in effect at the time of adoption of this Constitution.

Section 4. State Taxes on Income

If a law is enacted levying an income tax, the tax may be on personal or corporate income, or both, and may be graduated or otherwise. The law may define income by reference to the laws of the United States as they then exist or may thereafter be changed.

Section 5. State Debt

(a) State debt shall mean bonds or other evidences of indebtedness which are secured by the general credit of the State or are to be repaid, directly or indirectly, from tax revenue and are incurred for the State or for an agency of the State.

(b) No State debt shall be authorized or incurred except as provided in this Constitution.

(c) State debt may be authorized by general law to refund outstanding State debt.

(d) State debt may be incurred if approved by two-thirds vote of the membership of each house of the Legislature and submitted to and approved by a majority of the qualified electors voting on the question.

Section 6. Appropriations

(a) Money may not be drawn from the State Treasury except in accordance with specific appropriations made by law.

(b) Any appropriation from the State Treasury expires two years after its effective date.

(c) No bill containing an appropriation may be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts certifies that the amount appropriated is within the estimated revenue for the applicable fiscal period.

(d) No appropriation in excess of the estimated revenue shall be valid unless it is made in response to imperative public necessity and approved by four-fifths vote of the membership of each house of the Legislature.

Section 7. Public Funds

Public money and public credit shall be used for public purposes only.

Section 8. Public Purposes

Public purposes, as that term is used in this Constitution, include, but are not limited to, purposes for which taxes could be levied or public money or public credit could be used before the adoption of this Constitution.

Article IX

Local Government

Section 1. Counties

The counties of the State are those that exist on the date of adoption of this Constitution. Changes in county boundaries, the merger and division of counties, and the removal of county seats shall be subject to the approval of a majority of the qualified voters voting on the question in each county affected.

Section 2. Powers of County Government

The powers of counties shall be those granted by this Constitution and by general law.

Section 3. County and District Officials

(a) The governing body of each county, to be known as the County Commission, shall consist of a County Judge elected by the qualified voters of the county and four County Commissioners, each elected by the qualified voters from separate and compact precincts containing as nearly as practicable an equal number of inhabitants. The County Judge shall serve as presiding officer.

(b) A Sheriff, Treasurer, Tax Assessor-Collector, County Clerk, and District Clerk shall be elected for each county, except that a single County Clerk may be elected to perform the duties of county and district clerk as provided by law.

(c) County Attorneys, District Attorneys, and Criminal District Attorneys shall be elected in such numbers and for such counties as provided by law.

(d) The County Commission may provide for the election of one or more Constables.

(e) The qualifications, duties, and functions of county officials and the grounds and procedure for disqualification, suspension, and removal shall be as provided by law.

(f) Notwithstanding any of the foregoing provisions, the qualified electors of a county, as provided by general law, may by charter, or by a majority vote of those voting on the question, alter the governing body, create additional offices, eliminate offices, combine the duties and functions of offices, and change the method of selection of any one or more county officials. In such an event the county shall provide for the performance of all duties and functions required by State law.

(g) Vacancies in county offices shall be filled as provided by general law or charter. Vacancies in district offices shall be filled as provided by law.

Section 4. County Charters and Ordinances

(a) The Legislature shall by law provide procedures by which any county with a population of not less than twenty-five thousand may adopt, amend, or repeal a charter with the approval of a majority of qualified voters voting on the question. A charter election may be initiated by petition of the qualified voters of the county or by resolution of the governing body as provided by law. No charter or ordinance shall be inconsistent with the Constitution or laws of the State.

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(b) The qualified voters of a county without a charter may by a majority of those voting on the question grant the county governing body the power to enact ordinances as authorized by law.

(c) If a county ordinance conflicts with an ordinance of an incorporated city or town, the municipal ordinance shall prevail within its jurisdiction as defined by law.

(d) Neither county charters nor ordinances shall affect jurisdiction or venue or the duties of personnel of courts which are part of the State unified judicial system.

Section 5. General Law Cities

Cities and towns having a population of one thousand five hundred or less may be chartered only by general law. They may levy, assess, and collect such taxes as may be authorized by law.

Section 6. City Charters

Cities and towns having more than one thousand five hundred inhabitants may, by a majority vote of the qualified voters voting on the question, adopt, amend, or repeal their charters as provided by law. No charter or ordinance shall be inconsistent with the Constitution or general laws of the State. Cities which adopt charters under this Section may levy, assess, and collect any taxes authorized by law or charter. No city shall lose the power to amend or repeal its charter because its population drops below one thousand five hundred.

Section 7. Special Districts and Authorities

The Legislature shall provide by general law for establishing, financing, consolidating, and abolishing special districts and authorities and shall define their powers by general law. No special district or authority shall be created if the service it is to provide can be provided by an existing political subdivision. The provisions of this Section shall not be applicable to school and community college districts.

Section 8. Terms of Office

The terms of office for all elected officials of political subdivisions shall be as provided by law or charter.

Section 9. Compensation of Officials

Elected officials of political subdivisions shall be compensated only on a salary or per diem basis.

Section 10. Local Redistricting

Within the calendar year following that in which each federal decennial census is published, and at such other times as the governing body of any political subdivision may deem necessary, each governing body not entirely elected at large shall divide its geographical area into districts for the election of those representatives to the governing body not elected at large. The districts shall be composed of contiguous territory and shall be as compact and as nearly equal in population as practicable.

Section 11. Local Debt

Political subdivisions shall not issue general obligation bonds, except refunding bonds, unless approved by a majority of qualified voters voting on the question. No debt shall be

created by a political subdivision unless at the same time provision is made for paying the interest and principal when due.

Section 12. Intergovernmental Cooperation

A political subdivision may, by act of its governing body, cooperate or contract with one or more other political subdivisions, the State, or the United States with respect to the exercise of any function, power, or responsibility, or the use of public funds and credit in the public interest.

Article X

General Provisions

Section 1. Official Oath

All State and local officials shall take the following oath before they enter upon the duties of their office:

"I, _____, do solemnly swear that I will faithfully execute the duties of the office of _____ and will to the best of my ability preserve, protect, and defend the Constitutions and laws of the United States and of the State of Texas, so help me God."

Section 2. Residence of Civil Officials

All elected and appointed officials shall reside within the State. All elected and appointed officials of a political subdivision shall reside within the political subdivision which they serve, and shall keep their offices at such places as required by law. Failure to comply with these conditions shall vacate the office.

Section 3. Officials to Serve Until Successor Qualified

All officials may continue to perform the duties of their offices until their successors shall be duly qualified.

Section 4. Forfeiture of Residence by Absence on Public Business

No person shall forfeit the right of suffrage, or of election or appointment to any office because of absence from the State or a political subdivision on business of the United States, this State, or a political subdivision.

Section 5. Vacancies Filled for Unexpired Term

Except as otherwise provided in this Constitution, elections to fill vacancies in office shall be for the remainder of the term only.

Section 6. Disqualification from Constitutional Office

In addition to the grounds and procedures provided in this Constitution, the disqualification, suspension and removal from any constitutional office, withholding of salary, and temporary filling of vacancies shall be as provided by law, but no statute enacted under the authority of this Section may be applicable to conduct committed before its enactment.

Section 7. Qualification for and Disqualification from Statutory Office

Unless otherwise provided in this Constitution, the qualifications, grounds for disqualification, suspension and removal from office, withholding of salary, and temporary filling of vacancies for statutory officials shall be as provided by law.

Section 8. Appointments to State Agencies

The authority responsible for appointing the members or filling vacancies for State gov-

Article X

ernmental agencies shall make appointments that fairly and equitably represent the sexes, ethnic groups, economic groups, and geographical regions of the State.

Section 9. Salary Commission

(a) A salary commission shall be established to recommend rates of compensation for members of the Legislature, judges in the State unified judicial system, and officials of the executive branch, and to perform such other duties pertaining to compensation as may be provided by law. Compensation paid by the State shall not exceed the rates recommended by the commission.

(b) The salary commission shall consist of nine members appointed by the Governor with the advice and consent of the Senate. Members of the commission shall serve six-year terms. Vacancies shall be filled by the Governor for the remainder of the term with the advice and consent of the Senate. No member of the commission may hold another public office at the same time.

Section 10. Environment

The State and each person shall maintain and improve a clean and healthful environment in Texas for present and future generations. The Legislature shall provide for the administration and enforcement of this duty. The Legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

Section 11. Separate and Community Property of Husband and Wife

All property owned or claimed by each spouse before marriage, and that acquired afterward by gift, devise, or descent, shall be the separate property of that spouse; and laws shall be passed more clearly defining the rights of each spouse in relation to separate property as well as that held in common with one another. A husband and wife may from time to time and by written instrument partition between themselves in severalty or into equal undivided interests all or any part of their existing community property. In like manner, they may exchange between themselves the community interest of one in any property for the community interest of the other in other community property. The portion or interest set aside to each by partition or exchange shall be and constitute a part of the separate property of such spouse. A partition or exchange under this Section shall not prejudice the rights of preexisting creditors. This provision is self-operative, but laws may be passed prescribing reasonable requirements not inconsistent herewith.

Section 12. Homestead

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

(b) The homestead not in a city, town, or village shall consist of not more than two hundred acres of land, which may be in one or more parcels with the improvements thereon. Of the two hundred acres, only fifty acres on which the home is located shall be classified as residential and the remainder shall be classified as non-residential. The homestead in a city, town, or village shall consist of land valued at the time of establishment thereof, and without reference to the value of any improvements thereon, at no more than ten thousand dollars or any larger sum as may be provided by law. A homestead in a city, town, or village is a residential homestead if used as a home and is non-residential if used as a place for the exercise of the calling or business of the head of a family or such other person as may be designated by law. A home remains a homestead while temporarily rented only so long as no other homestead is acquired.

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

Section 13. Protection of Personal Property from Forced Sale

The Legislature shall provide by law for the protection from forced sale of certain portions of the personal property of all adults and heads of families.

Section 14. Wages Not Subject to Garnishment

No current wages for personal service shall be subject to garnishment.

Section 15. Private Corporations

No private corporation shall be created except by general laws.

Section 16. Foreign Corporations with Banking and Discounting Privileges

No foreign corporation, other than national banks of the United States, shall be permitted to exercise banking or discounting privileges in this State.

Section 17. Alcoholic Beverages

(a) The Legislature shall regulate the manufacture, sale, possession, and transportation of alcoholic beverages, and shall preserve the right of any county, justice precinct, or incorporated town or city to exercise local option by election to legalize or to prohibit the sale of alcoholic beverages of various types and various alcoholic content.

(b) In any county, justice precinct, or incorporated town or city in which the manufacture, sale, barter, or exchange of alcoholic beverages of any of various types and various alcoholic content was prohibited at the time of the adoption of this Constitution, the same shall continue to be unlawful unless and until a majority of the qualified voters in such political subdivision voting on the question in an election shall determine such to be lawful.

Section 18. Practitioners of Medicine

The Legislature may pass laws prescribing the qualifications of practitioners of medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of medicine.