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LEGISLATIVE SERVICES DIVISION
STATE OF TEXAS

HOUSE STUDY GROUP special legislative report

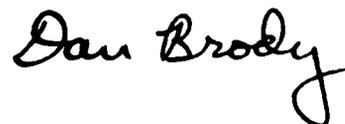
April 30, 1980

Number 57

Constitutional Amendments: 1980

The 66th Legislature proposed 12 amendments to the Texas Constitution. Three were submitted to the voters in November 1979. (See page 35 for the results of that election.) The remaining nine will be on the ballot November 4, 1980.

This report analyzes the nine amendments on this year's ballot. The Secretary of State has not yet conducted the drawing to decide the amendments' order on the ballot. Therefore, this report refers to the amendments only by their resolution number (e.g., HJR 54). When the amendments receive their ballot numbers, we will distribute a revised Table of Contents including that information.



Dan Brody
Director

TABLE OF CONTENTS

HJR	54	Income from Spouse's Separate Property.....	1
HJR	86	Budget Execution Authority for the Governor.....	5
HJR	97	Limited State Right of Appeal in Criminal Cases.....	11
HJR	98	Inclusion of County Taxes in Single Appraisal....	15
HJR	121	County Road Work on Private Roads.....	17
SJR	8	Governor's Power to Remove Officers.....	19
SJR	18	Local Option Bingo.....	21
SJR	35	Unmanned Tellers.....	25
SJR	36	Criminal Jurisdiction for Courts of Civil Appeals.....	29
Results of voting on proposed amendments, November 1979 ...			35

SUBJECT: Spouses' agreement that income from separate property is separate property.

BACKGROUND: In Texas, property accumulated during marriage is considered community property. One half belongs to each spouse. The Constitution says that property held by a wife before marriage or received during marriage by inheritance is separate property. Since 1929, statutory definitions of separate property have been the same for husband and wife. Courts have held that income arising from separate property, such as interest on a savings account, is community property. In 1948, the Constitution was amended to allow spouses to divide their property periodically.

Several conflicts have arisen regarding community and separate property:

1. Partitions of community property

Courts have generally agreed that couples may divide up existing property, including income derived from the property. There is a question, however, about whether spouses may agree in advance that income from separate property will be separate. Courts have made conflicting decisions on this issue.

The typical individuals now adversely affected by the conflicting interpretations are couples of substantial means who are planning to divorce and are trying to work out an amicable settlement. They want to divide up not only what they have now but also any income that they might get until the day of the divorce. As it is now, they are not sure that they can partition income they expect to receive.

2. Pre-nuptial contracts

Texas courts have not allowed persons about to marry to enter into contracts changing the character of community property.

Problems have arisen in cases where an older person who has been married before plans to marry again. Often, the individual wants to preserve his or her separate property and any income arising from it for the heirs of the first marriage. Texas is the only state in the union where persons may not make such an agreement before marriage.

3. Gifts to spouses

In cases where one spouse has given property to another

BACKGROUND
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spouse, questions have arisen about whether or not the gift includes income arising from the property. In a series of cases involving estate taxes, Texans have contended that they obviously intended to give not only the property but also the income to their spouses. The IRS and the courts have taken the position that the income arising from the property was not included in the gift. Furthermore, because the IRS code says that a person who retains income from property has not disposed of the property, the IRS has contended that the donor did not give away his or her half of the property. Therefore, the income arising from the property and half of the property itself is subject to taxation.

DIGEST:

This amendment would allow spouses or persons about to marry to agree in writing that income or property arising from separate property is to be separate property. The amendment also says that a gift of property from one spouse to another includes all the income or property arising from that property. The amendment changes the language of the Constitution from "wife" and "husband and wife" to "spouse" and "spouses."

PRO:

This amendment would give spouses or individuals about to marry greater freedom of choice about how to handle their property. If a husband and wife want to make a written agreement to hold certain property and income separately, they should be able to do so. Likewise, if one spouse wants to give a gift to the other one, he or she should be able to say what is included in the gift.

This amendment would make it easier for a couple to decide exactly which property is to be community property and which property is to be separate property. It would do away with the need to periodically divide the income from separate property.

This bill would correct an unjust situation in which families have had to pay estate taxes on income and property which the deceased spouse had intended to give away.

CON:

This bill would make it easier for an unscrupulous person to induce a spouse to sign away community property rights without understanding what he or she is doing.

This amendment cuts down the power of the federal government to tax people who have substantial amounts of money. Rich people are the only ones who will benefit from this bill, and they already have too many ways to avoid taxation.

COMMENTARY:

Some courts have made a distinction between "income arising from separate property" and "property arising from separate property." The former includes such things as interest on a savings account or cash dividends on stock. An example of the latter would be a stock dividend in which a person might receive one share of stock for every ten shares he or she owns. This amendment covers both.

Seven other states have the community property system. They are Arizona, California, Louisiana, Nevada, New Mexico, Oregon, and Washington. Texas is said to be the strictest of all the community property states in restricting spouses' power to hold their property by means other than community. Courts in other states have interpreted community property provisions differently than Texas courts have. In California, for example, courts ruled that revenue from the wife's separate property is separate property.

SUBJECT: Budget execution authority

BACKGROUND: Once the state's budget is passed by the Legislature, certified by the Comptroller, and signed by the Governor, the Governor loses control of how the money is spent. The Governor can use personal persuasion but he or she does not have the authority to transfer funds within an agency or between agencies, or to withhold appropriated funds.

The Attorney General has ruled that the Governor does not have budget execution authority, and that the Legislature could not grant the Governor that authority under current constitutional restrictions. According to the Attorney General's ruling, budget execution authority for the Governor would allow him to alter legislative policies established in the appropriations act, in violation of the separation of powers doctrine expressed in Article II of the Texas Constitution. The Attorney General has also ruled that the Legislative Budget Board, an agency of the Legislature, cannot enforce budget execution, because budget execution is an executive branch function.

Thus, Texas has no central budget execution authority -- no one person or agency to oversee and manage state spending once the Legislature goes home. Each state agency has sole authority over its budget, within the limits imposed by the appropriations act, and within the limits of available funds as certified by the Comptroller.

There is one exception to this rigid separation of powers. Sometimes the Legislature will stipulate in a bill that certain facts must be proven before funds may be appropriated. State law allows the Legislature to delegate authority to the Governor to withhold appropriated funds until he or she is satisfied that certain factual tests have been met.

A controversial example of this exception occurred in fiscal year 1976 when Governor Briscoe withheld \$2 million of a \$4 million appropriation to the Texas Youth Council. In his opinion, the agency had only partially met the factual standards for receiving the money. Critics complained that the Governor had the power to withhold or release the entire amount, but not a portion of the money. The release of any amount implied that the factual tests had been met, the critics said, and therefore, the full amount should have been released.

Governor Clements has asked for a constitutional amendment giving him additional budget execution powers.

DIGEST:

The proposed amendment empowers the Legislature to authorize or direct the Governor to exercise fiscal control over the expenditure of appropriated funds, except funds constitutionally dedicated to specific purposes. The Legislature could limit the authority any way it wishes, or attach conditions to it.

The amendment specifies that the law or rider would not be subject to Article II of the Constitution.

Budget execution actions by the Governor would require the approval of a budget execution committee. The budget execution committee would consist of the Governor, the Lieutenant Governor, the Speaker of the House, the chairperson and vice-chairperson of the Senate Finance Committee, and the chairperson and vice-chairperson of the Committee on Appropriations of the House.

PRO:

Government is the biggest business in Texas. Any big business needs some executive budget execution authority. Currently, fragmented budget authority allows state agencies to run the state's business without adequate supervision from either the Governor or the Legislature. Statutes declare that the Governor is the Chief Budget Officer of the state. Yet, in practice, the Governor has no control over the budgets of even the executive agencies. By denying the Governor any real budget execution powers, we deny our elected chief executive one of the essential tools of executive leadership and rational management -- control of the state's purse strings.

The budgetary process has very long lead times for estimating needed expenditures. Agencies, boards, and commissions submit budgetary estimates at least 14 months before the beginning of the fiscal biennium. That is 26 months before the start of the second year of the biennium, and 38 months before the end of the fiscal biennium. It is unrealistic to expect that the Legislature can budget well in detail to meet every need one to three years in advance.

As it stands now, the Legislature has to pass a law to grant an emergency or supplemental appropriation, allow a transfer of funds from one agency to another, or allow a transfer of funds from one budget item to another within an agency. During the interim between legislative sessions, agencies may have emergencies that have to go unattended until the next session. When an agency has unanticipated necessary expenses, such as increased costs due to new federal requirements or unusually high inflation, it may run out of money and have to cut off programs. The process is inefficient.

The 66th Legislature considered many bills to grant emergency or supplemental appropriations, or to authorize transfers of

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funds. At least 16 such bills passed and were signed by the Governor. These bills indicate some of the kinds of cases that could be better handled as they arise through executive budget authority. For example:

- transfer of funds among MHMR institutions to pay increased utility costs (\$1.4 million)
- supplementary appropriation to 21 universities from general revenue to pay increased utility costs (\$20.1 million)
- emergency appropriation to Sam Houston State University and University of Houston for costs of repairing fire-damaged campus buildings (\$49,640 and \$450,000)
- emergency appropriation for repairs to the Sam Houston State Office Building (\$894,936)
- supplemental appropriation to the Attorney General's office, primarily for the Howard Hughes and Ruiz cases (\$907,000).

If the Governor could transfer funds among budget items as necessary, emergencies and changing conditions could be handled in a timely fashion.

This authority will not only allow more flexibility in fiscal management. It will also help control the spiraling costs of state government. It may reduce overall spending and and it will certainly make it easier to control wasteful spending. It will result in more efficient and accountable use of available funds.

For example, when it turns out that the Legislature has appropriated too much for some agency or program, the Governor will be able to reduce the funding. Unsupervised agencies will no longer be figuring out wasteful ways to spend their extra money.

Budget execution authority will make agencies more accountable to elected officials. It is perfectly reasonable for the Legislature to establish guidelines for spending and for the Governor to make sure that agencies follow those guidelines. For example, if an agency uses funds to begin a program that has not been approved, the Governor will be able to cancel the program, thus saving tax dollars.

Some might argue that budget execution power is easily abused. This proposed amendment assures that the power will be closely watched by and shared with the Legislature. The Governor will be able to act only as specified by the Legislature. His or her actions will require the approval of the budget execution committee. Power will not be concentrated in the executive.

Decisions will be public and visible. They will be published in the Texas Register. There is always the possibility for

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abuse in any system, but publicity should help deter it.

Some will argue that mixing members of the executive and legislative branches on the budget execution committee violates the separation of powers, and confuses the lines of accountability in budget execution decisions. However, under this amendment, the Governor will initiate all actions, so the Governor can be held accountable for the results.

CON:

In an era when executive control of government has grown immensely -- and abuse of that power has run rampant -- Texas should not be granting more powers to the Governor. The Governor already plays a powerful budgetary role through the power to veto line items in the appropriations bill. The inclusion in this proposal of a budget execution committee consisting primarily of legislators shows that the Legislature has doubts about the wisdom of granting new powers to the Governor.

It is true that the office of Governor in Texas is, constitutionally speaking, relatively weak. But so is the Legislature. In other states with constitutionally stronger governors, the legislatures are generally also stronger. They typically have annual sessions, make annual budgets, and engage in more oversight of the executive branch. HJR 86 would give the Governor too much power.

The proposed budget execution committee also involves an unwarranted delegation of power to the Lieutenant Governor and the Speaker. The language of the amendment is vague about the workings of this committee. The implication is that budget execution in practice will involve joint action by the Governor, the Lieutenant Governor, the Speaker, and four legislators. Budgetary power would be concentrated in very few hands. The power could be used to circumvent legislative intent. Funds will be transferred from one program to another on the basis of purely political considerations. With everyone running for re-election, logrolling and political favoritism is likely to prevail over professional managerial criteria. The proposal has too much potential for abuse in the form of mutual backscratching by the Governor, Lieutenant Governor, and Speaker.

The proposal lacks clarity. The budget execution committee is a curious mixture of executive and legislative officials, some elected statewide and some not. The committee is bound to diffuse responsibility and obscure accountability. This amendment does not offer a sound basis for tampering with the fundamental principle of separation of powers.

There is no solid reason for legislative participation in budget execution. Budget execution is essentially an administrative function. The proper function of the Legislature is to create or approve policies for the executive agencies, establish a legal framework, fund programs, and then let professional administrators run them. Legislators should

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not be involved in exercising month-to-month spending controls. Budget execution can best be handled administratively within legislative guidelines. To use a committee of persons who have no responsibility for program operations is an unnecessary invasion of the administrative function. This power could be used for political harrassment of agencies.

Authority to transfer funds from one agency to another can have important policy implications. It can change the pattern of appropriations as approved by the Legislature. Transfers of money can commit the state to new programs or new levels of services and influence the course of future appropriations requests. Budget execution decisions can change state policy in fundamental ways. The Governor, Lieutenant Governor, and Speaker will probably want to transfer funds from some programs to others that they favor politically.

Budget execution decisions would in effect be joint executive-legislative actions. Thus, they would be interpreted as executive policies and as legislative approval of the policies. Should a few members of the Legislature be given such discretion to speak for the Legislature in committing the state to changes in policy?

There may be a need for some executive budget authority, in real emergencies, for example. But such authority should be clearly circumscribed. The Legislature could do more contingency budgeting, with limits spelled out clearly, such as: "if the case load of this agency goes up by x amount, the budget committee may allocate y more dollars."

The state's budgetary process could use some real reform. But this proposal is not reform.

COMMENTARY:

In the attempt several years ago to revise the Constitution, three separate bodies -- the Constitutional Revision Commission, the Constitutional Convention, and the 64th Legislature -- proposed that Texas voters decide whether the Legislature should be allowed to grant the Governor budget execution authority.

In 1974, the Texas Constitutional Convention adopted a constitution that gave budget execution authority to the Governor. The proposed constitution was rejected by the voters.

In its Final Report, issued in January, 1977, the Joint Advisory Committee on Government Operations, known as the Hobby-Clayton committee, recommended that : "A constitutional amendment to authorize the Legislature to grant the Governor a specified range of budget execution powers should be submitted to the voters." According to the research staff of the Texas Advisory Commission on Intergovernmental Relations (ACIR), most states have some kind of budget

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execution authority. Budget execution entities are usually created by statute.

In the 66th Legislature, HB 1125 by Simpson, et al., would have granted broad budget execution authority to the Governor. The Governor could have ordered transfers of funds from one purpose to another within an agency, limits on agency expenditures of appropriated funds, and, under certain conditions, transfers of funds from one agency to another. Those powers would not have applied to dedicated funds, salaries, funds appropriated to the Legislature, the judiciary, or to agencies headed by officials elected statewide. The Lieutenant Governor and Speaker acting together would have had the power to nullify budget execution orders of the Governor. The bill would have taken effect if the constitutional amendment was approved by the voters. It was reported favorably by the House Committee on Ways and Means, but died in the Committee on Calendars.

SUBJECT: Granting the state a limited right of appeal in criminal cases

BACKGROUND: Article V, Section 26, of the Texas Constitution says that the state shall have no right of appeal in criminal cases. Texas courts have ruled that this section prevents the state from appealing not only acquittals but preliminary decisions as well. For example, the state cannot appeal a decision to quash an indictment.

DIGEST: HJR 97 gives the prosecution in criminal cases certain appeal rights now available only to the defense. Under HJR 97, the state would have the right to make an interlocutory appeal from a trial judge's ruling on:

- the constitutionality of a statute,
- a motion to quash, dismiss, or set aside an indictment,
- or
- a motion to suppress evidence.

PRO: It is not fair to give the defendant an unlimited right of appeal while giving the state none. Virtually every other state, as well as the federal government, provides some form of limited appeal for the prosecution in criminal trials. This right of appeal gives the state some recourse from erroneous rulings of law by trial judges; it does not prejudice the right of a defendant to a fair trial. Most trial judges are conscientious and competent, but even the best sometimes make mistakes. Under present law, the people have no recourse if the judge makes a wrong ruling. As a result, many criminal cases go no further than pre-trial hearings. That might be expedient, but it certainly does not contribute to justice in Texas.

Trial judges fall into two camps in their decisions on motions in pre-trial hearings. Some always rule against the defendants. They reason that since the state has no right of appeal but defendants have an absolute right, the only way to ensure that rulings will be reviewed is to rule against the defendant. If the judge rules incorrectly, the reviewing court will affirm; if the judge is wrong, the court can reverse and make the correct decision. Other judges always rule against the state because they know their decisions won't be reviewed. This makes their reversal rates quite low, giving the appearance that they are doing a good job. Most probably are doing a good job, but a few are making decisions only one way to keep their records clear. Giving the state this limited right of appeal will make trial judges more competent and honest in their rulings. They won't automatically rule for the state or for the defendant because they know that their decisions can and will be reviewed. This will produce a much more equitable system. This amendment will produce uniform rulings throughout the state. Currently, if a county or district court judge declares a statute unconstitutional, the state

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may not appeal that ruling. This means a number of questions of law are left unresolved. This limited right of appeal will enable the state and the defendant to raise and settle these questions when they arise, rather than waiting until, and if, a defendant appeals a guilty verdict.

This amendment will help restore the balance between the state and the defendant in criminal trials. The defendant is not an underdog; instead, he or she has the upper hand. A limited right of appeal will give the state equal footing, but not an advantage over the defendant. This amendment does not give the state the right to appeal verdicts of not guilty. It will not affect the right of the defendant to a fair trial. It merely establishes some equity and ensures that criminal trials will be conducted in accordance with proper rulings of law.

CON:

Giving the state a right of appeal in criminal cases will unnecessarily draw out criminal trials, and could be used by the prosecution to harass defendants. The time lag for criminal appellate review is ridiculous; it takes an average of almost two years for a case to be reviewed by the Court of Criminal Appeals. Allowing the state to appeal pre-trial rulings will mean that a defendant will have to wait even longer before his or her case is heard on its merits. Such delays violate the intent of the Speedy Trials Act. Further, appeals are costly in time and effort. Most defendants in criminal cases can barely afford an attorney; they should not have to pay additional fees for unnecessary appeals of their cases before they have been tried on the charges themselves. The state has infinitely more resources and can simply badger a defendant into submission with appeal after appeal.

State appeals of decisions in pre-trial hearings are a waste of judicial resources. This amendment will only lead to more appeals, increasing the burden on an already-overworked Court of Criminal Appeals. There are already far too many criminal appeals. The emphasis should be on ways to reduce the number of appeals, not increase them.

Proponents of a state right of appeal correctly point out that many judges who do err do so on behalf of the state. This means that the state almost always has the opportunity to try a case on its merits. The law in this area is also fairly settled; it is rare that a trial judge enters a ruling that is not in accordance with the prevailing law. There is no reason to adopt an amendment that prejudices the right of defendants to a fair and speedy trial because of a handful of erroneous decisions by trial judges.

COMMENTARY:

Texas is one of the few states that does not allow the state some type of appeal in criminal cases. The only other states are Illinois, Massachusetts, and Nevada. At least two states

COMMENTARY
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attempt to give the state a right of appeal equal to that of the defendant. For instance, Connecticut allows an appeal by the state, with the permission of the presiding judge, "in a manner and to the same effect as if made by the accused."

The majority of states fall between the extremes of no state appeal in criminal cases and appeals equal to the accused's rights. Most states permit the prosecution to appeal from pre-trial rulings that quash indictments, dismiss complaints, or prevent prosecution. Prosecution may usually continue when the state wins such appeals.

Some states allow "moot appeals" by the prosecution. This allows the state to appeal trial court rulings in cases in which the defendant is acquitted; the defendant can't be retried even if the state wins the appeal. This lets the prosecution obtain a correction of an erroneous ruling but avoids the double jeopardy problem.

The state of Texas has been able to appeal a decision in a criminal case despite the constitutional prohibition in at least one instance. In a 1976 case, the Texas Court of Criminal Appeals reversed a conviction on federal constitutional grounds. The district attorney applied for a writ of certiorari from the United States Supreme Court, which granted the writ and reversed the decision of the Court of Criminal Appeals. The defendant's lawyer raised the issue of the Texas constitution's prohibition in a motion for a rehearing, but the Supreme Court denied the motion without addressing the question (Texas v. White, 96 S.Ct. 304, 1976).

SUBJECT: Property tax appraisal

BACKGROUND: Two sections of the Constitution give counties the authority to appraise property and collect property taxes. Article 8, Section 14, gives the county assessor-collector the duty to "perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes, as may be prescribed by the Legislature." Article 8, Section 18, directs the County Commissioners' Court to act as a board of equalization for county taxes.

As originally proposed several years ago, Rep. Peveto's property tax code would have put all property appraising in each county into a single, county-wide appraisal office. However, a 1976 Attorney General's opinion said that Article 8, Section 14, conflicted with this proposal. Therefore, the property tax code enacted last year (SB 621) excluded county taxes from most of its provisions. The code's new appraisal districts would be required to appraise property for cities, school districts, and special districts. But joining the appraisal districts was optional for counties. As of January 1980, 213 of the state's 254 counties had decided to join their appraisal districts.

DIGEST: This resolution amends Article 8, Section 18, by removing the County Commissioners' Courts authority to act as a board of equalization, and by adding several new provisions. The new language mandates a single appraisal of all property within a county, and a single board of equalization. The Legislature is required to pass laws implementing these mandates.

PRO: The Property Tax Code passed last session will greatly simplify our tax system. However, the code was unable, because of the constitutional language cited above, to cover county tax appraisals. This amendment is needed to bring counties into the new property tax system.

In approving the Property Tax Code, the Legislature was affirming its belief in a single appraisal for each piece of property. But as the code is written, there will still be two appraisals in some counties: one by the county and one by the appraisal district. That kind of duplication makes no sense.

There is no reason to retain the County Commissioners' Court's authority to act as a board of equalization. Commissioners' courts have in the past used their equalization duties in a political way, rewarding their friends and punishing their enemies. Further, as long as their power is granted by the Constitution, it will be impossible for the Legislature to regulate their activities.

PRO
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Opponents argue that this amendment would lead to higher county taxes. They note correctly that county appraisals are often far below city or school district appraisals of the same properties. If the counties switched to the higher appraisals, taxes would soar unless the tax rate were slashed. Fortunately, the Legislature has already taken care of that problem. The Truth-in-Taxation law passed in 1978 makes automatic adjustments for changes in appraisal policies. If re-appraisals threatened to raise taxes, the truth-in-taxation formula would require notice to be mailed to every taxpayer and published in the newspapers. County commissioners would be under great pressure to reduce the tax rate to compensate for higher appraisals.

Most counties have voluntarily joined an appraisal district. There's no reason to leave a few counties operating on their own, without any state oversight.

The current property tax system has no justification except that it gives power to certain politicians. Survey after survey shows that people dislike the property tax because they feel it is unfairly administered. The best way to make the tax fairer is to reform the appraisal process. This amendment is an important element of tax reform.

CON: The one good thing about county taxes is that they are generally low. This amendment will do nothing but raise taxes. The Truth-in-Taxation law is so complicated that few tax assessors understand it. It is naive to assume that this law will protect us from rising taxes.

No one likes unfair taxes. But the problem is how to make them fairer. This proposal may make the situation even worse.

One virtue of the present system is that local tax offices are accountable to local residents. A county-wide tax office, dominated by urban representatives, will not understand conditions in rural parts of the county.

If this amendment passes, many county tax offices will be abolished, while others will be merged into the new appraisal districts. The expertise of county tax officials will be lost. The tax appraisal system has some problems, but this proposal will not solve them. Let's keep the good parts of the current system, and change the bad parts.

COMMENTARY: SB 621, the Property Tax Code, takes effect gradually over the next two and a half years. The appraisal districts will not be fully in operation until January 1982. If this amendment is approved by the voters, the 67th Legislature could amend the Property Tax Code to give all the appraisal districts the power to set values for county as well as city and school district taxes.

SUBJECT: Authority for counties to do road work on private roads

BACKGROUND: In 1975, Rep. Massey introduced HB 470, a bill that would have given all counties the authority to do road work on private property for a reasonable fee. The Attorney General was asked to consider the bill, and the resulting opinion (LA # 92, 4/4/1975) held that it was probably unconstitutional. The opinion was based on Article 8, Section 3, of the Constitution, which says that taxes may be levied "for public purposes only." The opinion noted that HB 470 did not cite any public purpose in authorizing private road work by county crews.

The opinion noted, however, that a similar law (VACS art. 2372c) authorizing counties to do soil conservation work for a fee had been upheld in court (Rowan v. Pickett, 237 S.W. 2d 734). The court in that case pointed out that the law's introductory sections explained that preventing soil erosion was of general benefit to the public. The court indicated that this justification was enough to bring the actions authorized by the law within the realm of "public purposes."

It is possible, therefore, that HB 470 could have been rewritten to satisfy the Attorney General's objections. However, an alternate course of action, amending the Constitution, has been proposed instead.

DIGEST: This proposed constitutional amendment would allow counties with populations of less than 5,000 to use county equipment to do private road work. The work would have to be done for a "reasonable charge." The Legislature could limit the counties' authority. Any proceeds from the work would have to be used for public road construction or maintenance.

PRO: Many Texans live on farms and ranches located miles from the nearest public road. If a storm washes out a family's private road, the family may be isolated for weeks. Some counties have no road contracting firms; their citizens have to hire contractors from as far as 175 miles away. The contractors have to charge outrageous fees to cover the time and money costs of all the excess travel.

County road crews have the equipment and personnel to do the needed work in these small, rural counties. This amendment will help rural residents at no cost to the taxpayers. The amendment requires the work to be done for a reasonable charge and requires the proceeds to go back into county road work. The amendment lets the Legislature devise whatever additional safeguards it feels are necessary.

PRO (cont) This matter is really a local issue. If rural county governments want to provide this service for their citizens, they should be allowed to do so.

This amendment is needed to authorize counties to do private road work. In light of the 1975 Attorney General's opinion, there is no way the authority could be granted by statute. Attempting this change by statute would only invite prolonged legal battling, with the outcome very much in doubt.

CON: This amendment will create unprecedented opportunities for political favoritism. What county commissioners' court will be able to resist a powerful rancher's "request" for some cut-rate road work? County commissioners have no experience as road contractors. They will not be able to bid properly, so they will either overcharge their customers or shortchange the taxpayers. Who is to say what a "reasonable charge" is?

Why should counties go into the road repair business? There are plenty of private contractors in Texas. It is extremely rare for a road project to go unbid anywhere in the state. The proponents of this measure have the burden to show why a constitutional change is justified to allow some people to get their driveways patched a little sooner or a little cheaper. They have not met that burden of proof.

If there is to be an amendment, it should not be approved until implementing legislation has been adopted. In that way, we can tell if proper safeguards have been incorporated.

ALTERNATE

CON: This amendment is unnecessary, and perhaps damaging. The court decision in Rowan v. Pickett suggests that the Legislature could give counties this authority by statute. Aside from cluttering up the Constitution with yet another unnecessary provision, this amendment would further limit the Legislature's right to grant powers to counties. The existence of this section in the Constitution will clearly mean that the Legislature will have no power to grant private road-building authority to counties with populations of more than 5,000. And the passage of this amendment will lend more weight to the general argument that any expansion of the definition of "public purposes" of counties requires a constitutional amendment.

COMMENTARY: The 1970 census counted 55 counties with populations of less than 5,000. According to Census Bureau estimates, only 51 counties had fewer than 5,000 people in 1976.

SUBJECT: Governor's power to remove appointed officers

BACKGROUND: The Texas Constitution does not provide specific procedures for removing appointed officers from office. Article 15, Section 7, of the Constitution directs the Legislature to "provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution."

The Legislature has enacted four separate statutes which apply to removal of officers appointed by the Governor:

1. V.A.C.S. Art. 5961 adds several officials to the list of elected officials removable by impeachment contained in Article 15, Section 2, of the Constitution. The additions include the Secretary of State and the Commissioner of Insurance, who are appointed by the Governor, and "all other state officers and heads of state departments or institutions of any kind, and all members, regents, trustees, commissioners having control or management of any state institution or enterprise." Many of these are appointed officers.
2. V.A.C.S. Art. 5964 says that, upon address (resolution) of two thirds of each house of the Legislature, the Governor shall remove the Commissioners of Insurance, Agriculture, and Banking (and certain judges), for willful neglect of duty, other specified offenses, or "other reasonable cause."
3. V.A.C.S. Art. 6253 provides for the trial and removal of any public officer by quo warranto proceedings. "Quo warranto" is a civil proceeding which may be brought against one who usurps, intrudes into, or unlawfully holds or executes any office or franchise.
4. V.A.C.S. Art. 5967 says that the Governor may remove appointed officers for good and sufficient cause in cases where the mode of removal is not otherwise provided by law. The Governor must report the removal at the next session of the Legislature. It is questionable, however, if any method of removal which does not make provision for a trial would be recognized by the courts as complying with Article 15, Section 7, of the Constitution.

DIGEST: This amendment would give the Governor who appoints an officer the authority to remove that officer with the advice and consent of two thirds of the members of the Senate present. If the Governor wants to remove an officer when the Legislature is not in session, he or she must call a special session of the Senate to consider the removal. The session

may not last more than two days.

PRO: The current methods of removing an appointed officer are cumbersome and ineffective. Governors have made appointments of persons who later don't do their jobs at all, or fail to carry out the Governor's programs. The Governor should have the power to remove someone who is not performing adequately.

This proposed amendment contains adequate safeguards against abuse of power. The advice and consent of the Senate on the removal of appointed officers will ensure that the Governor does not misuse his authority. The Senate can make sure that the Governor is not simply acting out of some petty motives in trying to remove an appointee.

CON: This authority is unnecessary. The Governor should carefully screen each appointment beforehand to ensure that officials will do their jobs well.

The Governor will use this authority to make appointments even more political than they are now. The Governor can threaten an appointee with removal unless the Governor's every wish and whim is followed exactly. That's no way to run state government.

This amendment would give the Governor more power than the Constitution intended. To permit the Governor to fire hundreds of members of state boards and commissions would place massive power in the hands of one state officer. No one person in Texas should have such unlimited power.

COMMENTARY: This amendment was part of the emergency package submitted to the Legislature by the Governor.

The Governor appoints members of 237 different boards, commissions, councils, etc., including the Public Utility Commission, the Finance Commission, the State Highway and Public Transportation Commission, the Texas Water Commission, Texas Air Control Board, the Texas Board of Corrections, the Coordinating Board of the Texas College and University System, the Texas Board of Health, and the Texas Board of Human Resources.

SUBJECT: Local option bingo for charitable purposes

BACKGROUND: Article III, Section 47, of the Texas Constitution prohibits lotteries in the state. Bingo is technically a lottery, and thus against the law. However, in many communities, the law is selectively enforced, to permit bingo games held by religious and non-profit organizations.

DIGEST: SJR 18 would allow the Legislature to authorize and regulate bingo games conducted by a church, synagogue, religious society, volunteer fire department, nonprofit veterans' organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs.

The law must allow voters in cities and counties to decide whether bingo will be allowed in their communities.

All proceeds of the game must be spent in Texas for the charitable purposes of the organization. The games must be conducted by members of the organization, on property owned or leased by the organization. The law must require the game operators to submit quarterly financial reports to the Comptroller's office, with penalties to enforce the reporting requirement.

PRO: Bingo has probably raised more money for charitable organizations than any other form of fund raising. For example, the VFW uses bingo to finance its orphan homes for veterans' children, whose parents gave their lives serving our country. The Cerebral Palsy Association uses the money to provide care for the handicapped. Volunteer fire departments use bingo profits to buy equipment. Bingo can benefit medical auxiliaries to hospitals and other worthy causes. Without bingo, these programs will be curtailed or they will become added burdens for the taxpayer.

The amendment contains rigorous guidelines for the enabling legislation's regulation and restriction of bingo games. Only legitimate organizations will be permitted to conduct bingo games. Nobody will get rich off the games. Regular financial accounting to the state will be required. Bingo will not be permitted in any city or county without local voter approval. As with liquor-by-the-drink, communities that don't want it won't have it. For communities that want it, this amendment will assure, for a change, that it is done legitimately, under well-regulated conditions.

The law against bingo is not enforced now because the public doesn't want it enforced. There is no public outcry against bingo. The only real opposition to legalizing it with proper regulation comes from a well-organized lobby trying to enforce a particular religious viewpoint.

PRO
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Bingo is a social function. It brings people together who want to be together. Its social nature is one of the ways it differs from games like roulette or slot machines. Many elderly, lonely, or handicapped persons find companionship among their friends at bingo games. As a form of recreation, certainly it is no worse than the perfectly legal practice of hanging out at beer joints. Why take it away from them, or stigmatize it as unlawful?

Buying insurance is a form of gambling, but it serves a useful purpose, and so does bingo. The argument against bingo relies on moralistic prejudice or a fear that bingo will come under the control of organized crime. That's not going to happen in Texas. Organized crime rakes in about \$80 billion a year. Organized crime-controlled gambling is already big business elsewhere, and its operations are well-known to the authorities. The mob is not going to move in on church bingo. Under the restrictions contained in this amendment, church and charity bingo would not be worthwhile to the mob.

The real abuses happen in the few states where bingo is still illegal. Because bingo typically operates in the name of charity, law enforcement is often reluctant to intervene even where abuses occur. Legalizing bingo will keep it honest. John Scarne, author of a classic text on gambling (Complete Guide to Gambling), has found that, where bingo is legal, "the state places so many restrictions on the game's operation that the former illegal promoters give up in disgust and quit."

CON: Bingo is gambling, of course, even though its proponents are often reluctant to admit it. A report in 1976 by the Commission on Review of the National Policy Toward Gambling concluded that there is no real distinction between

charitable and commercial bingo. Charitable bingo as it exists in most states is charitable only in that it is sponsored by statutorily sanctioned organizations such as churches and service clubs. It is operated, however, like a commercial operation... and the commission recommends, for regulatory purposes, no distinction be made...

Once bingo is legitimized, states are inclined to legalize other forms of gambling, like parimutuels, lotteries, and casinos.

Bingo is big business. After casino gambling and horse racing, it is the third largest gambling enterprise in the United States. Various sources estimate that Americans spend somewhere between \$1.7 and \$4.5 billion annually on bingo. Judging from the experience of other states, it is clear that legalization encourages large, commercial operations.

CON
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Of all forms of gambling, bingo is the most predatory. It returns in winnings less of the money wagered than any other form of gambling -- usually about 60 percent. In casino gambling, the house typically keeps only about four percent. The large cash flow creates golden opportunities for stealing. Even the game operators admit that a percentage of the take is inevitably skimmed, that is, pocketed by the money handlers. The skimming can range from petty chiseling to grand larceny. In any case, the risks are low, while the profits can be astronomical. In most states bingo is regulated, but in practice, the regulation is so lax that it does less to deter criminal activity than to provide a facade of respectability. Abuses will go undetected and unremedied.

Even worse, the mob tends to move in on legalized bingo. That has happened in cities as far-flung as Miami, Atlanta, Brooklyn, Akron, Chicago, and Los Angeles, according to an August 1979 article by Jan Cook in Forbes Magazine. With legalization, the industry expands and becomes more lucrative. How would we keep the criminal element out? There is practically no statutory procedure that truly eliminates the involvement of outside operators. Legalizing bingo will compound our problems of law enforcement.

Bingo is socially regressive. It victimizes low-income people, especially middle-aged and elderly women. Lonely people, or poor people trying to increase their incomes by a few pitiful dollars, are lured into the addiction of throwing away their money, even from welfare checks sometimes, against overwhelmingly negative odds in bingo halls.

We should not make constitutional exceptions for special interest groups, even if they seem to be for worthy causes. The charities need the money, certainly. But there are methods of charitable fund raising that do not victimize the poor, nor line the pockets of crooks and gangsters. It is not healthy for churches and charities to become financially dependent on gambling. That pattern is all too common already, especially in the Eastern cities. We should not encourage it in Texas.

SUBJECT: Unmanned Teller Machines

BACKGROUND: Unmanned or automatic teller machines are terminals that can be used at any time to carry out banking transactions. With a bank card and a personal identification number, a customer can withdraw and deposit money, transfer from checking to savings or from savings to checking, make loan payments, verify balances, receive automatic loans for overdraft checking, or pay bills automatically.

The terminals are one of a group of automated services referred to as Electronic Fund Transfer Systems (EFTS). Ultimately, EFTS services could include such features as payment for retail goods with a card inserted in terminals in the stores or direct deposit of salaries and government payments without the use of checks.

In Texas, state courts have ruled that electronic terminals are branch banks when they are located away from the bank building. Branch banks are unconstitutional in Texas, although credit unions and savings and loan associations may have branches.

In 1977, Texas voters defeated a constitutional amendment that would have authorized the Legislature to permit "electronic devices or machines" to perform banking functions at places away from the banks. The 1977 amendment did not limit the location of such electronic devices. The 1977 amendment would have required banks with such devices to share them with other banks "on a reasonable, nondiscriminatory basis." The amendment was defeated by a vote of 45 percent for and 55 percent against.

DIGEST: The current amendment, SJR 35, allows the Legislature to permit banks to use unmanned teller machines for all functions anywhere within the city or county of the bank's domicile. If the Legislature permits the machines, it must also require that the machines be shared among financial institutions on a "reasonable, nondiscriminatory basis, consistent with antitrust laws."

PRO: Texans should enjoy the benefits of modern technology just as residents of other states do. In a fast-paced society, the competitive advantage goes to those who can take care of their business quickly and easily, who are not mired down in the old, slow ways. Texans want the competitive advantage of speed and convenience, and they should have it.

PRO
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This amendment does not have the Orwellian implications that opponents have suggested. It will not bring us into a "checkless society" nor will it give the "big banks" any competitive advantages they don't already have.

All the amendment does is allow the Legislature to give the banking customer the right to enjoy certain conveniences that they cannot have now in Texas. Texas consumers would be able to deposit and withdraw money at any time in convenient places.

The amendment would not eliminate checks, receipts, monthly statements, or other records. It would only offer a convenience to the bank customer that credit unions and savings and loan institutions can already offer: the convenience of all-hours, neighborhood transactions. When savings and loan associations begin to offer checking, banks will be at an even greater disadvantage.

In 1977, Texans rejected a much broader amendment that would have permitted point-of-sale terminals. Point-of-sale terminals are not permitted in the enabling legislation for this amendment.

Unmanned tellers can increase the security of financial transactions. Provisions can be made to assure that unauthorized persons will not be able to withdraw cash or personal information. The federal Electronic Fund Transfer Act requires full protection of the rights of consumers using unmanned teller machines. The implementing legislation for the amendment, HB 1510, requires the Attorney General and the state Banking Department to monitor the use of machines to be sure consumers are protected.

The amendment is supported by a broad cross section of the financial community, not just by big banks and bank holding companies. If Texans are afraid of the power of big banks, they must realize that it is the holding companies that concentrate banking power, not consumer conveniences like unmanned teller machines.

CON: The voters have already rejected EFTS. This is just another attempt by the banks to thwart the will of the people. The banks argue that SJR 35 is not the same as 1977's SJR 49. The only real difference is that the new amendment restricts the electronic devices to the city or county of the bank's domicile. Otherwise, the differences are only in the implementing legislation. The new amendment says, "such machines may perform all banking functions." That is broad enough to allow full EFTS, not just unmanned tellers. If the new amendment passes, the bankers will be back next session to get the rest of what they want.

Unmanned teller machines seem relatively harmless, even attractive, on the surface. But when you consider what they

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will do to competition, how they will be abused, and how they can ultimately be used, it is clear that they are not harmless at all.

EFTS is the first step in the elimination of the checking system. When checks are abolished, consumers will no longer have cancelled checks and the proof they provide that bills and taxes have been paid. Full EFTS would mean consumers could not stop payment on checks. EFTS will not be a convenience to consumers; it will deprive them of substantial financial protections they enjoy now.

There is no great demand for EFTS. Studies have shown that consumers are satisfied with the present checking system. Even if EFTS becomes available, consumers will accept it very slowly. It makes little sense to offer services that are not wanted, except by the bankers.

The consumer will have to pay for the public relations campaign that will sell the advantages of unmanned tellers. The banks will need a large volume of transactions to justify the cost of EFTS. To get those transactions, it will be necessary to create a reliance on EFTS. To create that reliance, banks will try to discourage the use of checks, probably by raising checking fees.

Small banks will not be able to generate the necessary volume to buy their way into the EFTS system, so the sharing guarantees will be meaningless.

The National Commission on EFTS found that the cost of clearing checks is decreasing. Why, when clearing checks is becoming cheaper, should we abandon checks for an unknown system? The interim study of the House Financial Institutions Committee concluded that the cost effectiveness of EFTS is "an advantage that exists in theory more than in practice."

But EFTS is not just unnecessary; it is an evil itself. It will increase the power of the giant bank holding companies and run small banks out of business.

Unmanned tellers would be the first step in an assault on the constitutional guarantee that banks will not overwhelm Texas consumers and businesses.

COMMENTARY: HB 1510, the implementing legislation for the amendment, passed the Senate and the House. Its provisions are contingent on the approval of SJR 35. HB 1510 allows the use of unmanned teller machines, establishes sharing provisions, complaint procedures, and penalties for violations, and directs the Banking Department and the Attorney General to make a "continuing study" of the machines and of the relevant provisions of the federal Consumer Protection Act.

SUBJECT: Criminal jurisdiction for Courts of Civil Appeals and requiring Supreme Court justices to be licensed to practice law in Texas.

BACKGROUND: Article 5 of the Texas Constitution establishes a three-tier court system. Civil cases are tried in district courts or county courts, with appeals to the Courts of Civil Appeals and, finally, to the Supreme Court. Criminal cases are tried in county and district courts, with appeals to the Court of Criminal Appeals, which has final jurisdiction.

There is a Court of Civil Appeals in each of the 14 supreme judicial districts in Texas. They hear civil cases on appeal from trial courts within their districts. They do not hear criminal cases. The Supreme Court can transfer cases from one Court of Civil Appeals to another if the caseload is unequal.

In November 1978, the voters approved a constitutional amendment permitting the Legislature to provide additional associate justices for the Courts of Civil Appeals. The Legislature has done so in three of the courts, expanding them from three to six justices. Those courts that have the additional judges may sit in panels to hear cases.

Another constitutional amendment, passed in 1977, enlarged the Court of Criminal Appeals from five to nine members and permitted the court to sit and decide cases in three-judge panels. The court must sit en banc for capital punishment cases.

Even with those amendments, the Texas courts, particularly the Court of Criminal Appeals, have continued to have overloaded dockets. The number of cases brought to the Court of Criminal Appeals has increased greatly in the last ten years.

Table 1

New Cases in the Court of Criminal Appeals

<u>Year</u>	<u>New Cases</u>	<u>Increase</u>
1970	1057	+18%
1971	1328	+26%
1972	1394	+ 5%
1973	1628	+17%
1974	1546	- 5%
1975	1863	+21%
1976	2458	+32%
1977	3267	+33%
1978	3104	- 5%
1979	3166	+ 2%

Source: Texas Judicial Council

BACKGROUND
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The figures in the table above include only new cases, not cases carried over from the previous year, applications for writs of habeas corpus, or other motions. The court carried over 696 cases from 1975 to 1976, 1075 cases from 1976 to 1977, 1904 cases from 1977 to 1978, and 2507 cases from 1978 to 1979. The court is now about 23 months behind in its docket, according to Court Clerk Thomas Lowe.

The Court of Criminal Appeals is also burdened by the statutory requirement that a written opinion or citation with supporting authorities accompany each decision.

In the Supreme Court, the number of new cases each year is smaller:

<u>Year</u>	<u>New Cases</u>	<u>Regular Causes</u>
1974	564	96
1975	668	104
1976	693	111
1977	766	103
1978	869	110
1979	822	120

The cases above do not include old cases carried over from the previous year or motions of various kinds. The table shows that the vast majority of the new cases (applications for writs of error) never become "regular causes"; that is, they were disposed of without oral argument or written opinion.

Reformers have suggested several proposals to clear up the overcrowded docket of the Court of Criminal Appeals:

- 1) Create a unified judicial system by merging the civil and criminal appeals courts. The voters rejected that solution when it was proposed in 1975.
- 2) Create intermediate appellate criminal courts similar to the Courts of Civil Appeals. The intermediate courts, it is argued, would help reduce the backlog of criminal cases and pave the way for a unified system.
- 3) Give criminal jurisdiction to the Courts of Civil Appeals. This is the approach of SJR 36.

The Texas Constitution now requires that any justice of the Supreme Court have been a practicing lawyer, or lawyer and judge, for at least ten years before election. There is no requirement that the person be licensed to practice law in Texas. As a result, a lawyer who has lost his or her license can be elected to the Supreme Court.

DIGEST: SJR 36 gives the Courts of Civil Appeals criminal as well as civil jurisdiction, and changes their name to Courts of Appeals. Appeals in cases involving the death penalty would go directly to the Court of Criminal Appeals. The amendment also changes the name of associate justices to simply "justices." The amendment would require that all Supreme Court justices be licensed to practice law in Texas.

PRO: The heavy caseload of the Court of Criminal Appeals has been a problem for some time, not just to the judges, but to the defendants, the attorneys, and society as well. Speedy justice means the guilty serve their time and the innocent go free. When the guilty and the innocent alike have to wait years to find out which it will be, justice is not served.

Expansion of the court and sitting in panels have not solved the problem. Last year, a case appealed to the Court of Criminal Appeals took about a year to hear. This year, the average delay has already almost doubled. Civil appeals, on the other hand, are much quicker.

This amendment offers the most practical and economical solution. There are 14 Courts of Civil Appeals (51 judges) and only one Court of Criminal Appeals (nine judges). According to Supreme Court Chief Justice Joe Greenhill, six of the 14 are "badly underdocketed" and could easily absorb criminal cases.

"Less than half of the decisions of the Courts of Civil Appeals are appealed to our court," Greenhill said. If the same ratio applies in criminal cases, the load on the Court of Criminal Appeals will be cut in half if the amendment passes.

Furthermore, defendants, their lawyers, and prosecuting attorneys will find it much less expensive and more convenient to conduct appeals in regional intermediate courts.

It has been argued that justices of the Courts of Civil Appeals are not competent to decide criminal cases. They are. Criminal law is no more difficult than the law of taxes, antitrust cases, or oil and gas, all of which are litigated every day in the Courts of Civil Appeals. Almost half the judges now sitting in those courts have had experience in criminal law as public officials or defense attorneys.

Appellate judges in 48 states and the federal system handle criminal as well as civil cases. Texas appellate judges are certainly as competent as appellate judges in other states. They can handle criminal cases.

The Constitution and the laws of the state require that criminal defendants be tried as quickly as possible. That requirement has no meaning until there is some relief for the overloaded criminal appeal system.

PRO
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The only alternative to this proposal is to create another system of appellate courts with criminal jurisdiction. That would be fiscally irresponsible. Another system of courts is neither necessary nor economical. The most inexpensive and reasonable solution is SJR 36.

Many of those involved in the judicial system in Texas have supported the solution offered by SJR 36. Proponents include Chief Justice Joe Greenhill of the Texas Supreme Court (1979), the Chief Justice's Task Force for Court Improvement (1972), the State Bar of Texas (1973), and the Constitutional Revision Committee (1973).

CON: This change will slow down, not speed up, the criminal appellate process. It will only add a step to an already lengthy process. Defendants will continue to appeal unfavorable verdicts and sentences as long as they can, and this amendment adds a whole new layer of appeals before defendants must accept their fates and serve their sentences.

It is true that some of the Courts of Civil Appeals are underdocketed and might absorb the new caseload this amendment would bring. But others are already overworked and this change would only add to their burdens. In fact, the Courts of Civil Appeals that are most overworked would certainly be the ones to receive the greatest overflow of criminal cases. In Houston, Dallas, San Antonio, and Austin, the Courts of Civil Appeals are already so overworked that cases have been transferred away in the last three years. They do not need more cases.

The change would put a tremendous burden on the justices of the Courts of Civil Appeals. Some have not dealt with criminal law for 20 years. Criminal law has seen a lot of changes in that time. Some justices have never dealt with criminal law. Many, of course, could learn to handle their new responsibilities. But the learning would be "on the job" and would take time. In criminal matters, where the safety of society and the fate of individuals are involved, mistakes are costly. In this case, mistakes would be unnecessary. There is no need to give criminal jurisdiction to civil judges.

Finally, the amendment would create too many systems of justice for one state. There would be one criminal law for Houston and another for Amarillo, where a different set of judges would create a different body of law. Geographical location would become an important element in the outcome of criminal appeals. The present setup gives Texas a fair and predictable criminal justice system.

COMMENTARY: Twenty-four states have intermediate appellate courts. The intermediate courts have criminal jurisdiction in all but Texas and Oklahoma. The intermediate courts in Alabama, Tennessee, and Pennsylvania have separate courts for criminal and civil appeals. The appeals from the courts

COMMENTARY
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in those three states are to a single court of last resort, with both civil and criminal jurisdiction.

Table 2 shows the number of criminal appeals that were filed in 1978 and 1979 from the 14 supreme judicial districts in Texas. The Courts of Civil Appeals would have had those cases if SJR 36 had been in effect.

Table 3 shows the actual caseloads of the 14 Courts of Civil Appeals in 1977, 1978, and 1979.

Table 2

Appeals filed in the Court of Criminal Appeals
From the Supreme Judicial Districts

<u>Court and location</u>	<u>1978</u>	<u>1979</u>
First at Houston	952	1036
Second at Fort Worth	147	165
Third at Austin	156	209
Fourth at San Antonio	238	231
Fifth at Dallas	820	733
Sixth at Texarkana	61	58
Seventh at Amarillo	154	167
Eighth at El Paso	149	166
Ninth at Beaumont	92	89
Tenth at Waco	96	76
Eleventh at Eastland	75	63
Twelfth at Tyler	27	47
Thirteenth at Corpus Christi	126	119
Fourteenth at Houston *	952	1036

* The fourteenth district covers the same counties as the first district.

SOURCE: Clerk of the Court of Criminal Appeals

Table 3

CASELOADS IN COURTS OF CIVIL APPEALS, 1977-1979

COURT AND LOCATION	1977			1978			1979		
	New Cases	Transfers In	Out	New Cases	Transfers In	Out	New Cases	Transfers In	Out
First at Houston*	235	9	71	271	0	54	272	1	30
Second at Fort Worth	116	1	20	139	15	0	154	1	0
Third at Austin	182	0	50	228	0	79	204	0	76
Fourth at San Antonio	201	1	67	223	0	37	245	0	75
Fifth at Dallas*	346	0	157	358	0	192	474	0	96
Sixth at Texarkana	62	47	1	60	71	3	60	69	0
Seventh at Amarillo	116	0	20	107	20	0	147	0	0
Eighth at El Paso	108	37	1	93	0	0	101	20	0
Ninth at Beaumont	81	75	0	97	52	0	131	65	0
Tenth at Waco	89	101	2	81	60	1	85	60	0
Eleventh at Eastland	48	85	1	51	102	0	56	76	1
Twelfth at Tyler	40	68	1	59	72	1	61	40	0
Thirteenth at Corpus Christi	132	0	0	156	0	0	177	1	40
Fourteenth at Houston*	208	7	40	249	14	40	278	0	15
TOTALS	1969			2172			2445		

* Six judges

SOURCE: Texas Judicial Council

PROPOSED CONSTITUTIONAL AMENDMENTS:

RESULTS OF NOVEMBER 1979 GENERAL ELECTION

Amendment # 1	HJR 108	Notaries Public	FOR	291,006
			Against	153,371
Amendment # 2	HJR 133	Legislative review of agency rules	For	208,168
			AGAINST	227,290
Amendment # 3	SJR 13	Farm and ranch loans	FOR	240,605
			Against	201,212