383.1

AMENDMENTS

to the

CONSTITUTION

proposed by the

LIMITED CONSTITUTIONAL CONVENTION

of

1977

Prepared by

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Note — As of March 2, '78, no more copies of this booklet from Chief Clerk of Senate's office are available. They were printed privately for members of the Constitutional Convention.

EWM

Proposal 12

ARTICLE II

SECTION 8—Relative to legislative sessions and the inauguration of the governor:

EXISTING LANGUAGE

SECTION 8. Legislative sessions—Governor's inauguration.—The General Assembly shall meet in organizational session on the first Tuesday in January next succeeding the election of the members of the House of Representatives, at which session, if in order, the Governor shall be inaugurated, and it shall remain in session for not longer than fifteen consecutive calendar days during which session no legislation shall be passed on third and final reading. Thereafter, the General Assembly shall meet on the fourth Tuesday in February next, and may by joint resolution recess or adjourn until such time or times as it shall determine. It shall be convened at other times by the Governor as provided in Article III, Section 9, or by the presiding officers of both Houses at the written request of two-thirds of the members of each House. [As amended; Adopted in Convention December 10, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

PROPOSED AMENDMENT

SECTION 8. Legislative Sessions—Governor's Inauguration—The General Assembly shall meet in organizational session on the second Tuesday in January next succeeding the election of the members of the House of Representatives, at which session, if in order, the Governor shall be inaugurated. The General Assembly shall remain in session for organizational purposes not longer than fifteen consecutive calendar days, during which session no legislation shall be passed on third and final consideration. Thereafter, the General Assembly shall meet on the first Tuesday next following the conclusion of the organizational session unless the General Assembly by joint resolution of both Houses sets an earlier date.

The General Assembly may by joint resolution recess or adjourn until such time or times as it shall determine. It shall be convened at other times by the Governor as provided in Article III, Section 9, or by the presiding officers of both Houses at the written request of two-thirds of the members of each House.

Proposal 8

ARTICLE II

SECTION 15—Relative to the filling of vacancies in the legislature:

EXISTING LANGUAGE

SECTION 15. Vacancies.—When the seat of any member of either House becomes vacant *his successor shall be elected by the Legislative body of the county of his residence* at a meeting duly called for such purpose. Only a qualified voter of the district from which such member was elected may be eligible to succeed him. The term of any Senator so elected shall expire at the next general election, at which his successor shall be elected. [As amended; Adopted in Convention December 10, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

PROPOSED AMENDMENT

SECTION 15. Vacancies—When the seat of any member of either House becomes vacant, the vacancy shall be filled as follows:

(a) When twelve months or more remain prior to the next general election for legislators, a successor shall be elected by the qualified voters of the district represented, and such successor shall serve the remainder of the original term. The election shall be held within such time as provided by law. The legislative body of the replaced legislator's county of residence at the time of his or her election may elect an interim successor to serve until the election.

(b) When less than twelve months remain prior to the next general election for legislators, a successor shall be elected by the legislative body of the replaced legislator's county of residence at the time of his or her election. The term of any Senator so elected shall expire at the next general election for legislators, at which election a successor shall be elected.

(c) Only a qualified voter of the district represented shall be eligible to succeed to the vacant seat.

Proposal 2

ARTICLE II

SECTION 18—Relative to the passage of bills, with particular reference to the requirement that bills be signed by the respective speakers in open session:

EXISTING LANGUAGE

SECTION 18. Passage of bills.—Every bill shall be read once, on three different days, and be passed each time in the House where it originated, before transmission to the other. No bill shall

become a law, until it shall have been read and passed, on three different days in each House, and shall have received, on its final passage in each House, the assent of a majority of all the members, to which that House shall be entitled under this constitution; and shall have been signed by the respective speakers in open session, the fact of such signing to be noted on the Journal; and shall have received the approval of the Governor, or shall have been otherwise passed under the provisions of this constitution.

PROPOSED AMENDMENT

A bill shall become law when it has been considered and passed on three different days in each House and on third and final consideration has received the assent of a majority of all the members to which each House is entitled under this Constitution, when the respective speakers have signed the bill with the date of such signing appearing in the Journal, and when the bill has been approved by the Governor or otherwise passed under the provisions of this Constitution.

Proposed 9

ARTICLE II

SECTION 24—Relative to devising a method by which the state of Tennessee reaches a position of making annual appropriations from funds in hand as opposed to appropriations against estimated revenues, with any ceiling provided on appropriations being expressed in some terms other than dollar amounts:

EXISTING LANGUAGE

SECTION 24. Appropriations of public moneys.—No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at the rise of each stated session of the General Assembly.

PROPOSED AMENDMENT

SECTION 24. Appropriation of public moneys.—No public money shall be expended except pursuant to appropriations made by law. Expenditures for any fiscal year shall not exceed the state's revenues and reserves, including the proceeds of any debt obligation, for that year. No debt obligation, except as shall be repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program,

nor shall the proceeds of any debt obligation be expended for a purpose other than that for which it was authorized.

In no year shall the rate of growth of appropriations from state tax revenues exceed the estimated rate of growth of the state's economy as determined by law. No appropriation in excess of this limitation shall be made unless the General Assembly shall, by law containing no other subject matter, set forth the dollar amount and the rate by which the limit will be exceeded.

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year's funding.

No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.

An accurate financial statement of the state's fiscal condition shall be published annually.

Proposal 4

ARTICLE III

SECTION 4—Relative to the governor's term of service:

EXISTING LANGUAGE

SECTION 4. Governor's term of service.—The Governor hereafter elected shall hold office for four years, and until his successor shall be elected and qualified. One succeeding to the vacated office during the first eighteen calendar months of such term shall hold office until his successor to such vacated office is elected at the following election for members of the General Assembly and qualified for the remainder of the term, as provided in Section 2 of this Article and Section 8 of Article II; and one succeeding to said vacated office subsequent to the first eighteen months of the term shall continue to hold office for the remainder of the full term. No Governor elected and qualified for a four year term shall be eligible for the succeeding term. [As Amended: Adopted in Convention May 19, 1953; Approved at election November 3, 1953; Proclaimed by Governor November 19, 1953.]

PROPOSED AMENDMENT

SECTION 4. Governor's term.—The Governor shall be elected to hold office for four years and until a successor is elected and qualified. A person may be eligible to succeed in office for additional four-year terms, provided that no person

presently serving or elected hereafter shall be eligible for election to more than two terms consecutively, including an election to a partial term.

One succeeding to the office vacated during the first eighteen calendar months of the term shall hold office until a successor is elected for the remainder of the term at the next election of members of the General Assembly and qualified pursuant to this Constitution. One succeeding to the office vacated after the first eighteen calendar months of the term shall continue to hold office for the remainder of the full term.

Proposal 6

ARTICLE III

SECTION 18—The second and fourth paragraphs relative to the time in which the governor must act on legislation:

EXISTING LANGUAGE

If, while the General Assembly remains in session, the Governor shall fail to return any bill, with his objections within five days (Sundays excepted) after it shall have been presented to him, the same shall become a law without his signature. The Governor may approve, sign, and file in the office of the Secretary of State within ten days after the adjournment of the General Assembly any bill presented to him for signature during the last five days of the session, and when thus approved the same shall become a law. If the General Assembly, by its adjournment, prevents the return of any bill within said five-day period it shall become a law, unless disapproved by the Governor and filed by him, with his objections, in the office of the Secretary of State within ten days after such adjournment.

The Governor may reduce or disapprove the sum of money appropriated by any one or more items, or parts of items, in any bill appropriating money, while approving other portions of the bill, and the portions so approved shall become law, and the item or parts of items disapproved or reduced shall be void to the extent that they have been disapproved or reduced, but any such reduction or disapproval with respect to bills presented to the Governor five (5) or more days before final adjournment of the General Assembly shall not be effective unless the Governor shall, not less than three (3) whole days prior to final adjournment, and not more than five (5) days (Sundays excepted) after presentation of the bill, give written notice to the House in which the bill originated setting out the items or parts of items disapproved or reduced and the reasons therefor, and, with respect to bills presented to the Governor within five (5) days before such final adjournment, any such reduction or disapproval of any item or parts

of items shall not be effective unless the Governor shall not later than the following day give such written notice and the reasons for such disapproval or reduction of such items or parts of items to the House in which the bill originated, unless prevented from so doing by final adjournment of the General Assembly. Any such items or parts of items so disapproved or reduced shall be restored to the bill in the original amount and become law if repassed by the General Assembly according to the rules and limitations prescribed for the passage of other bills over the executive veto. [As amended: Adopted in Convention May 20, 1953; Approved at election November 3, 1953; Proclaimed by Governor, November 19, 1953.]

PROPOSED AMENDMENT

If the Governor shall fail to return any bill with his objections in writing within ten calendar days (Sundays excepted) after it shall have been presented to him, the same shall become a law without his signature. If the General Assembly by its adjournment prevents the return of any bill within said ten-day period, the bill shall become a law, unless disapproved by the Governor and filed by him with his objections in writing in the office of the Secretary of State within said ten-day period.

The Governor may reduce or disapprove the sum of money appropriated by any one or more items or parts of items in any bill appropriating money, while approving other portions of the bill. The portions so approved shall become law, and the items or parts of items disapproved or reduced shall be void to the extent that they have been disapproved or reduced unless repassed as hereinafter provided. The Governor, within ten calendar days (Sundays excepted) after the bill shall have been presented to him, shall report the items or parts of items disapproved or reduced with his objections in writing to the House in which the bill originated, or if the General Assembly shall have adjourned, to the office of the Secretary of State. Any such items or parts of items so disapproved or reduced shall be restored to the bill in the original amount and become law if repassed by the General Assembly according to the rules and limitations prescribed for the passage of other bills over the executive veto.

Proposal 7

ARTICLE IV

SECTION 1—Relative to the voting age:

EXISTING LANGUAGE

Section 1. Right to vote—Election precincts—Military duty.—Every person of the age of twenty-one years, being a citizen of the United

States, and a resident of this State for twelve months, and of the county wherein such person may offer to vote for three months, next preceding the day of election, shall be entitled to vote for electors for President and Vice-President of the United States, members of the General Assembly and other civil officers for the county or district in which such person resides; and there shall be no other qualification attached to the right of sufferage.

The General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot box.

All male citizens of this State shall be subject to the performance of military duty, as may be prescribed by law. [As Amended: Adopted in Convention May 25, 1953; Approved at election November 3, 1953; Proclaimed by Governor November 19, 1953.]

PROPOSED AMENDMENT

SECTION 1. Right to vote—Election precincts—Military duty. Every person, being eighteen years of age, being a citizen of the United States, being a resident of the State for a period of time as prescribed by the General Assembly, and being duly registered in the county of residence for a period of time prior to the day of any election as prescribed by the General Assembly, shall be entitled to vote in all federal, state, and local elections held in the county or district in which such person resides. All such requirements shall be equal and uniform across the state, and there shall be no other qualification attached to the right of sufferage.

Proposal 13

ARTICLE VI

JUDICIAL DEPARTMENT

All of Article VI, consisting of Sections 1 through 15, all relating to the judicial department:

EXISTING LANGUAGE

SECTION 1. Judicial power.—The judicial power of this State shall be vested in one Supreme Court and in such Circuit, Chancery and other inferior Courts as the Legislature shall from time to time, ordain and establish; in the Judges thereof, and in Justices of the Peace. The Legislature may also vest such jurisdiction in Corporation Courts as may be deemed necessary. Courts to be holden by Justices of the Peace may also be established.

SECTION 2. Supreme court.—The Supreme Court shall consist of five Judges, of whom not more than two shall reside in any one of the grand divisions of the State. The Judges shall designate one of their own number who shall preside as Chief Justice. The concurrence of three of the judges shall in every case be necessary to a decision. The jurisdiction of this Court shall be appellate only, under such restrictions and regulations as may from time to time be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present Supreme Court. Said Court shall be held at Knoxville, Nashville and Jackson.

SECTION 3. Supreme court judges.—The Judges of the Supreme Court shall be elected by the qualified voters of the State. The Legislature shall have power to prescribe such rules as may be necessary to carry out the provisions of section two of this article. Every Judge of the Supreme Court shall be thirty-five years of age, and shall before his election have been a resident of the State for five years. His term of service shall be eight years.

SECTION 4. Judges of inferior courts.—The Judges of the Circuit and Chancery Courts, and of other inferior Courts, shall be elected by the qualified voters of the district or circuit to which they are to be assigned. Every Judge of such Courts shall be thirty years of age, and shall before his election, have been a resident of the State for five years and of the circuit or district one year. His term of service shall be eight years.

SECTION 5. Attorney-general and reporter.—An Attorney General and Reporter for the State, shall be appointed by the judges of the Supreme Court and shall hold his office for a term of eight years. An Attorney for the State for any circuit or district, for which a Judge having criminal jurisdiction shall be provided by law, shall be elected by the qualified voters of such circuit or district, and shall hold his office for a term of eight years, and shall have been a resident of the State five years, and of the circuit or district one year. In all cases where the Attorney for any district fails or refuses to attend and prosecute according to law, the Court shall have power to appoint an Attorney pro tempore.

SECTION 6. Removal of judges and attorneys.—Judges and Attorneys for the State may be removed from office by a concurrent vote of both Houses of the General Assembly, each House voting separately; but two-thirds of the members to which each House may be be entitled must concur in such vote. The vote shall be determined by ayes and noes, and the names of the members voting for or against the Judge or Attorney for the State together with the cause or causes of removal, shall be entered on the Journals of each House respectively. The Judge or Attorney for the State, against whom the Legislature may be about to

proceed, shall receive notice thereof accompanied with a copy of the causes alleged for this removal, at least ten days before the day on which either House of the General Assembly shall act thereupon.

SECTION 7. Compensation of judges.—The Judges of the Supreme or Inferior Courts, shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be increased or diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office nor hold any other office of trust or profit under this State or the United States.

SECTION 8. Jurisdiction of inferior courts.—The jurisdiction of the Circuit, Chancery and other Inferior Courts, shall be as now established by law, until changed by the Legislature.

SECTION 9. Judge's charge.—The Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SECTION 10. Certiorari.—The Judges or Justices of the Inferior Courts of Law and Equity, shall have power in all civil cases, to issue writs of certiorari to remove any cause or the transcript of the record thereof, from any inferior jurisdiction, into such court of law, on sufficient cause, supported by oath or affirmation.

SECTION 11. Incompetency of judges—Special judges.—No Judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity of consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior Court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court shall thus be disqualified from presiding on the trial of any cause or causes, the Court, or the Judges thereof, shall certify the same to the Governor of the State, and he shall forthwith specially commission to the requisite number of men, of law knowledge, for the trial and determination thereof. The Legislature may by general laws make provision that special Judges may be appointed, to hold any Courts the Judge of which shall be unable or fail to attend or sit; or to hear any cause in which the Judge may be incompetent.

SECTION 12. Requisites of writs and process.—All writs and other process shall run in the name of the State of Tennessee and bear test and be signed by the respective clerks. Indictments shall conclude, "against the peace and dignity of the State."

SECTION 13. Clerks of courts.—Judges of the Supreme Court shall appoint their clerks who shall hold their offices for six years. Chancellors shall appoint their clerks and masters, who shall hold their offices for six years. Clerks of the Inferior Courts holden in the respective Counties or Districts, shall be elected by the qualified voters thereof for the term of four years. Any Clerk may be removed from office for malfeasance, incompetency or neglect of duty, in such manner as may be precribed by law.

SECTION 14. Fines exceeding fifty dollars to be assessed by jury.—No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

SECTION 15. Districts in counties—Justices and constables—Number—Term—Removal from district.—The different Counties of this State shall be laid off, as the General Assembly may direct, into districts of convenient size, so that the whole number in each County shall not be more than twenty-five, or four for every one hundred square miles. There shall be two Justices of the Peace and one Constable elected in each district by the qualified voters therein, except districts including County towns, which shall elect three Justices and two Constables. The jurisdiction of said officers shall be co-extensive with the County. Justices of the Peace shall be elected for the term of six, and Constables for the term of two years. Upon the removal of either of said officers from the district in which he was elected, his office shall become vacant from the time of such removal. Justices of the Peace shall be commissioned by the Governor. The Legislature shall have power to provide for the appointment of an additional number of Justices of the Peace in incorporated towns.

PROPOSED AMENDMENT

SECTION 1. Judicial power. The judicial power of this state shall be vested exclusively in a uniform judicial system comprised of the Supreme Court, Court of Appeals, Superior Court, General Sessions Court, Court of Discipline and Removal and such other courts as may be authorized by this article.

SECTION 2. Supreme Court.

(a) Composition. The Supreme Court shall consist of a Chief Justice and four Associate Justices. The concurrence of a majority of the justices shall be necessary for a decision. There shall be at least one justice of the Supreme Court from each grand division of the state.

(b) Jurisdiction. The Supreme Court shall have final appellate jurisdiction to be exercised pursuant to the Rules of Practice and Procedure. The Court shall have the power to issue original and remedial writs and orders incident to the exercise of its power and jurisdiction.

(c) Chief Justice. The justices of the Supreme Court shall designate one justice to be Chief Justice. The Chief Justice shall be the administrative head of the judicial system and may assign temporarily any judge to any court in the judicial system except the Court of Discipline and Removal. The Chief Justice with the approval of the Court shall appoint an administrative director of the judicial system.

(d) Rulemaking. The Supreme Court shall promulgate rules of evidence, uniform rules of practice and procedure, and uniform rules for the administration of the judicial system. The Court shall furnish proposed rules to the General Assembly which at the next regular session shall approve or disapprove the proposed rules in whole or in part. A rule shall become effective upon approval by the General Assembly and may be repealed by statute.

(e) Supervision of Judicial Department. The Supreme Court shall upon uniform criteria determine the need for increasing or decreasing the number of judges, district attorneys general, public defenders, magistrates and their respective staffs; and the need for establishing and modifying the subject matter divisions of the several courts. The Court shall furnish its findings and recommendations to the General Assembly which at the next regular session shall approve or disapprove the recommendations in whole or in part. A decrease in the number of judges, district attorneys general, public defenders or magistrates shall be effective only at the expiration of a term.

SECTION 3. Court of Appeals.

(a) Composition. The Court of Appeals shall consist of not less than eighteen judges, an equal number of which shall be from each grand division of the state. The structure and organization of the Court shall be as prescribed by the Rules for the Administration of the Judicial System. The Court shall sit at Knoxville, Nashville and Jackson.

(b) Jurisdiction. The Court of Appeals shall have appellate jurisdiction as prescribed by the Rules of Practice and Procedure and may be divided into subject matter divisions.

SECTION 4. Selection of Appellate Judges.

(a) Selection. Justices of the Supreme Court and judges of the Court of Appeals shall be appointed by the Governor from three nominees recommended for each vacancy by the Appellate Court Nominating Commission.

(b) Term. The term of office of justices and judges shall be six years.

(c) Appellate Court Nominating Commission. An Appellate Court Nominating Commission shall be established by the General Assembly.

(d) Retention or rejection. The name of each justice and judge seeking retention shall be submitted to the qualified voters for retention or rejection at the regular August election next preceding the expiration of each six year term. A justice or judge appointed to fill an unexpired term shall be considered for retention or rejection at the next regular August election occurring more than two years after the date of appointment or at the regular August election next preceding the expiration of the term, whichever occurs first.

SECTION 5. Superior Court.

(a) Composition. The General Assembly shall divide the state into compact judicial districts composed of one county or contiguous counties. Each district shall have two or more judges based upon uniform criteria established by the Supreme Court. Superior Court shall be held in each county of the state.

(b) Jurisdiction. Superior Court shall have uniform, original, exclusive and general jurisdiction of all civil and criminal actions except as granted to General Sessions or Municipal Courts. Superior Court shall have appellate jurisdiction as provided by the Rules of Practice and Procedure.

(c) Divisions. Superior Court shall be comprised of separate law, equity, probate and criminal divisions.

(d) Administrative Appeals. Any final order or determination by a state administrative agency, except those agencies whose commissioners are elected by popular election, shall be appealable in a manner prescribed by the General Assembly to the Superior Court of the county wherein the dispute arose.

SECTION 6. General Sessions Court.

(a) Composition. The General Assembly shall divide the state into compact judicial districts composed of one county or contiguous counties. Each district shall have one or more judges based upon uniform criteria established by the Supreme Court. General Sessions Court shall be held in each county of the state.

(b) Jurisdiction. General Sessions Court shall have limited original jurisdiction as provided by law. Jurisdiction shall be uniform in every district.

(c) Juvenile Courts. Juvenile jurisdiction shall be vested in the General Sessions Court except in those districts where juvenile courts are created by the General Assembly.

(d) Magistrates. The General Assembly may provide for magistrates where necessary to perform such duties as it may prescribe.

SECTION 7. Municipal Courts. Municipal Courts, where authorized may have jurisdiction of

municipal ordinances and such state misdemeanors as may be prescribed by the General Assembly.

SECTION 8. Election of trial judges.

(a) Election—term. Judges of Superior and General Sessions Courts shall be elected by the qualified voters of each judicial district to individual offices for terms of six years. Such elections shall be conducted in a non-partisan manner as provided by law.

(b) Vacancies. Regional Judicial Nominating Commissions shall be established by the General Assembly. A vacancy occurring before the end of the term shall be filled by the Governor from nominees recommended by the appropriate regional judicial nominating commission.

SECTION 9. Court of Discipline and Removal.

(a) Composition. The Court of Discipline and Removal shall have nine members: two judges from the Court of Appeals, three judges from trial courts, three non-lawyers, and one district attorney general. Each member shall be appointed by the Governor for a four year term from three nominees recommended by the Appellate Court Nominating Commission. No member shall serve more than one term.

(b) Jurisdiction. The Court of Discipline and Removal shall have power to censure, suspend with or without pay, or remove from office the Attorney General, any justice, judge, district attorney general, public defender or magistrate for mental or physical disability or misconduct in office. The Court may declare any officer removed for malfeasance ineligible to hold any judicial office thereafter.

(c) Procedure. The Judicial Standards Commission as established by the General Assembly shall initiate and prosecute charges in the Court of Discipline and Removal. Any charged officer upon demand shall be entitled to a public hearing before the Court. Any officer disciplined under this section shall have the right of appeal to the Supreme Court. The Governor shall appoint a judge of the Court of Appeals to replace any justice of the Supreme Court who may be ineligible to serve on any appeal. Proceedings shall be as provided by the General Assembly.

SECTION 10. Attorney General.

(a) Duties. The Attorney General shall be the chief legal officer of the state and shall perform such duties as prescribed by the General Assembly.

(b) Selection. The Attorney General shall be appointed by the Governor from three nominees recommended by the Appellate Court Nominating Commission and shall be confirmed by the Senate. A vacancy occurring before the end of the term shall be filled in like manner. The Attorney General may be reappointed by the Governor with confirmation by the Senate.

(c) Term. The term of office of the Attorney General shall be four years.

SECTION 11. District Attorney General.

(a) Duties. The District Attorney General shall be the chief prosecuting officer in all trial courts in the district served and shall perform other duties as prescribed by the General Assembly.

(b) Election—term. The qualified voters of each superior court district shall elect a district attorney general for a term of six years.

(c) District attorney general pro tempore. The Superior Court shall appoint a district attorney general pro tempore in the event a district attorney general shall fail or refuse to prosecute.

SECTION 12. Public defenders. The General Assembly shall provide for the adequate defense of indigents charged with criminal offenses. Representation may be provided by public defenders as determined by the General Assembly upon criteria submitted by the Supreme Court.

SECTION 13. Qualifications of judicial officers. The Attorney General and all justices, judges, district attorneys general and public defenders shall be citizens of the United States, residents of the state and the judicial district in which they serve, licensed to practice law in the state and shall have any additional qualifications prescribed by the General Assembly. A person convicted of a crime involving moral turpitude shall be ineligible to serve in these offices. General Sessions Judges may be exempted by the General Assembly from the requirement of being licensed to practice law.

SECTION 14. Clerks.

(a) Appellate court clerks. Justices of the Supreme Court shall appoint appellate court clerks for terms of six years.

(b) Clerk and masters. In those counties where provided for by the General Assembly, the Superior Court Judges, equity division, shall appoint a clerk and master for a term of six years.

(c) Trial court clerks. A clerk or clerks as provided for by law shall be elected by the qualified voters in each county for terms of four years. The General Assembly may combine or eliminate clerk and clerk and master positions, but any such change shall take effect only at the end of a term.

(d) Removal. Any clerk may be removed from office for malfeasance, incompetence or neglect of duty in such manner as may be prescribed by the General Assembly.

SECTION 15. Constables. Constables shall be elected for terms of four years in a manner prescribed by the General Assembly. These non-judicial officers shall serve the courts and

perform such other functions as provided by law. Any county by referendum may abolish or subsequently reinstate the office of constable.

SECTION 16. Charge to juries. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

TRANSITIONAL PROVISIONS

This article upon ratification shall replace the present Article VI, Sections 1-15, in accordance with the provisions, below, provided no judge or civil officer shall be removed from office prior to the expiration of a term. Upon ratification of this article, Section 13—Qualifications of judicial officers, shall become effective immediately. The remainder of the article shall become effective not later than August, 1982, in accordance with transitional provisions adopted by the General Assembly.

The term of the present Attorney General shall be extended until March 1, 1983.

Judges of juvenile courts created under private act and General Sessions judges presently holding office, but not licensed to practice law, are eligible for re-election to one additional term in 1982.

The Governor shall initially appoint four members of the Court of Discipline and Removal to two year terms and the remaining five members to four year terms.

Justices of the Supreme Court and judges of the Court of Appeals shall be subject to a retention election without reappointment in August, 1982. Judges of the Court of Criminal Appeals shall be eligible for retention election as members of the Court of Appeals in August, 1982, without appointment.

In the event that PROPOSAL _____: CHANGES RELATIVE TO THE JUDICIAL DEPARTMENT is ratified and PROPOSAL _____: CHANGES RELATIVE TO LOCAL GOVERNMENT is not ratified, then Section 15, of the previously existing Article VI shall become Section 18 of Article VI as set forth herein, but shall be amended to read as follows:

SECTION 17. Districts in Counties—Justices—Number Term—Removal from District. The different Counties of this State shall be laid off, as the General Assembly may direct, into districts of convenient size, so that the whole number in each County shall not be more than twenty-five, or four for every one hundred square miles. There shall be two Justices of the Peace elected in each district by the qualified voters therein, except districts including County towns, which shall elect three Justices. The jurisdiction of Justices shall be co-extensive with the County. Justices of the Peace shall be elected for terms of six years. Upon the removal of a Justice from the district in which he was elected, his office shall become vacant from

the time of such removal. Justices of the Peace shall be commissioned by the Governor. The Legislature shall have power to provide for the appointment of an additional number of Justices of the Peace in incorporated towns.

These transitional provisions shall be deleted from this article upon their completion.

Proposal II

ARTICLE VII

SECTIONS 1 AND 2—Relative to county officers, their election, terms and removal and the filling of vacancies:

EXISTING LANGUAGE

SECTION 1. County officers—Their election—Terms—Removal.—There shall be elected in each County, by the qualified voters therein, one Sheriff, one Trustee, one Register; the Sheriff for two years, the Trustee for four years, and the Register for four years; but no person shall be eligible to the office of Sheriff more than six years in any term of eight years, provided that the first four year term of the trustee shall begin on or after September 1, 1962. There shall be elected for each County by the Justices of the Peace, one Coroner, and one Ranger who shall hold their offices for two years; said officers shall be removed for malfeasance, or neglect of duty, in such manner as may be prescribed by law. [As amended: Adopted in Convention July 24, 1959; approved at election November 8, 1960; Proclaimed by Governor, December 1, 1960.]

SECTION 2. Vacancies—How filled.—Should a vacancy occur, subsequent to an election, in the office of Sheriff, Trustee or Register, it shall be filled by the Justices; if in that of the clerks to be elected by the people, it shall be filled by the Courts; and the person so appointed shall continue in office until his successor shall be elected and qualified; and such office shall be filled by the qualified voters at the first election for any of the County Officers.

PROPOSED AMENDMENT

SECTION 1. County government. The qualified voters of each county shall elect for terms of four years a legislative body, a county executive, a Sheriff, a Trustee, a Register, a County Clerk and an Assessor of Property. Their qualifications and duties shall be prescribed by the General Assembly. Any officer shall be removed for malfeasance or neglect of duty as prescribed by the General Assembly.

The legislative body shall be composed of representatives from districts in the county as drawn by the county legislative body pursuant to

statutes enacted by the General Assembly. Districts shall be reapportioned at least every ten years based upon the most recent federal census. The legislative body shall not exceed twenty-five members, and no more than three representatives shall be elected from a district. Any county organized under the consolidated government provision of Article XI, Section 9, of this Constitution shall be exempt from having a county executive and a county legislative body as described in this paragraph.

The General Assembly may provide alternate forms of county government including the right to charter and the manner by which a referendum may be called. The new form of government shall replace the existing form if approved by a majority of the voters in the referendum.

No officeholder's current term shall be diminished by the ratification of this article.

SECTION 2. Vacancies. Vacancies in county offices shall be filled by the county legislative body, and any person so appointed shall serve until a successor is elected at the next election occurring after the vacancy and is qualified.

Proposal 10

ARTICLE XI

SECTION 7—Relative to interest rates:

EXISTING LANGUAGE

SECTION 7. Interest rates.—The Legislature shall fix the rate of interest, and the rate so established shall be equal and uniform throughout the State; but the Legislature may provide for a conventional rate of interest, not to exceed ten per centum per annum.

PROPOSED AMENDMENT

SECTION 7. Interest. The General Assembly shall define and regulate interest, and set maximum effective rates thereof.

If no applicable statute is hereafter enacted, the effective rate of interest collected shall not exceed ten (10%) percent per annum.

All provisions of existing statutes regulating rates of interest and other charges on loans shall remain in full force and effect until July 1, 1980, unless earlier amended or repealed.

Proposal 3

ARTICLE XI

SECTION 11—Relative to a homestead exemption from sale under legal process:

EXISTING LANGUAGE

SECTION 11. Homestead exemption.—A homestead in the possession of each head of a family and the improvements thereon, to the value, in all of one thousand dollars shall be exempt from sale under legal process, during the life of such head of a family, to inure to the benefit of the widow, and shall be exempt during the minority of their children occupying the same. Nor shall said property be alienated without the joint consent of husband and wife, when that relation exists. This exemption shall not operate against public taxes, nor debts contracted for the purchase money of such homestead or improvements thereon.

PROPOSED AMENDMENT

SECTION 11. Exemptions from execution. There shall be a homestead exemption from execution in an amount of five thousand dollars or such greater amount as the General Assembly may establish. The General Assembly shall also establish personal property exemptions. The definition and application of the homestead and personal property exemptions and the manner in which they may be waived shall be as prescribed by law.

Proposal 5

ARTICLE XI

SECTION 12—Relative to the segregation of white and negro school children:

EXISTING LANGUAGE

SECTION 12. Education to be cherished—Common school fund—Poll tax—Whites and negroes.—Knowledge, learning, and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conducive to the promotion of this end, it shall be the duty of the General Assembly in all future periods of this Government, to cherish literature and science. And the fund called common school fund, and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the General Assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by Legislative appropriations; and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of

all the people thereof; and no law shall be made authorizing said fund or any part thereof to be divested to any other use than the support and encouragement of common schools. The State taxes, derived hereafter from polls shall be appropriated to educational purposes, in such manner as the General Assembly shall from time to time direct by law. No school established or aided under this section shall allow white and negro children to be received as scholars together in the same school. The above provisions shall not prevent the Legislature from carrying into effect any laws that have been passed in favor of the Colleges, Universities or Academies, or from authorizing heirs or distributees to receive and enjoy escheated property under such laws as may be passed from time to time.

PROPOSED AMENDMENT

SECTION 12. Inherent value of education—Public schools—Support of higher education.—The State of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools. The General Assembly may establish and support such post-secondary educational institutions, including public institutions of higher learning, as it determines.

Proposal 1

ARTICLE XI

SECTION 14—Relative to the intermarriage of whites and negroes:

EXISTING LANGUAGE

SECTION 14. Intermarriage between whites and negroes.—The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood, descended from a negro to the third generation inclusive of their living together as man and wife in this State is prohibited. The legislature shall enforce this section by appropriate legislation.

PROPOSED AMENDMENT

BE IT RESOLVED, That Article XI of the Constitution is hereby amended by deleting therefrom in its entirety Section 14 prohibiting interracial marriages.

TENNESSEE

CONSTITUTIONAL CONVENTION

Nashville

Richard J. Eskind
Delegate—55th District

6000 Dunham Springs Road
Nashville, TN 37205

Re ratification vote on March 7, 1978, there follows the proposal numbers and subject matter as they will appear on the ballot:

			Effects
p. 19 ✓	1	Interracial Marriages	reflects law as now exist.
p. 2 ✓	2	Passage of Bills	a revised procedure for passing legislation;
p. 17 ✓	3	Homestead Exemption	previously $1000 exemption. Raised to $5000 as a minimum figure, & Legisl. can set higher; personal property exemptions – probably outside the call.
p. 4 ✓	4	Term of Office of Governor	2 4-yr. terms.
p. 18 ✓	5	Concerning Education	eliminates archaic language, dis-avowed poll tax, gives law to state support of higher education. (KC probably outside the call)
p. 5 ✓	6	Governor's Veto Provision	5 days to 10 days to review Legisl. before vetoing;
p. 6 ✓	7	Voting Age	reduces to 18, consistent with state law.
p. 2 ✓	8	Legislative Vacancies	
p. 3 ✓	9	Limitations on State Spending	a ceiling on growth of state spending;
p. 17 ✓	10	Interest Rates	General Assembly to adjust acceptable interest rates.
p. 16 ✓	11 ×	Local Government	statutes out sheriff's article. Much has been added. Sheriffs have unlimited succession. Add'l Constit. officers added. Doesn't affect home rule act.
p. 1 ✓	12	Legislative Sessions	the recess for study of bills didn't work, this goes back to prior system
p. 7 ✓	13	Judicial Department	Congress passes on the rules of U.S. Supr. Ct. This amendment would let State Legisl. approve rules of TN. Supr. Ct. This rule-making matter has been controversial, but Supr. Ct. has last say on anything the Legislature does.

6 proposals are "routine housekeeping items"

1, 2, 6, 7, 8, 12

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TML

TENNESSEE MUNICIPAL LEAGUE
ROOM 317
226 CAPITOL BOULEVARD
NASHVILLE, TENNESSEE 37219
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WYETH CHANDLER, PRESIDENT
MAYOR, MEMPHIS

HERBERT J. BINGHAM
EXECUTIVE DIRECTOR

JOSEPH SWEAT
ASSISTANT DIRECTOR

CONSTITUTIONAL CONVENTION WRAP-UP

When the limited Constitutional Convention began its work in Nashville on August 1, 1977 three matters of real or potential municipal impact were on the agenda: the restructuring of local (county) government; judicial reform; and the proposal to place a limitation on governmental expenditures.

Mayor Wyeth Chandler of Memphis, President of TML, appointed a special committee to advise the staff on the various proposed resolutions relating to these matters. This committee was comprised of: Mayor Pat Rose, Chattanooga (Chmn.); Mayor Stacey Garner, Pulaski (Vice-Chmn.); Mayor Joe Taylor, Brownsville; Barrett Jones, City Manager, Columbia; and Henry Evans, Chief Administrative Officer, Memphis.

The committee established three major goals for TML in the Constitutional Convention:

1. Prevent the imposition of any spending limit on municipalities;
2. Prevent the abolition of municipal courts;
3. Prevent the restructuring of county governments in a way that would be harmful to cities.

It is a pleasure to report that all three of these major objectives were achieved.

TML efforts were also largely successful on a number of subsidiary issues related to spending limits, courts, and county government. Following is a summary of nine major votes taken in the Convention on these issues. Since many Constitutional Convention delegates will undoubtedly be candidates for other offices in the future please note how friendly or unfriendly your delegate was towards municipal interests.

I. Spending limit. TML was successful in getting a provision in the standing committee report providing:

> No law shall be passed imposing increased expenditures on cities or counties without providing for a method of reasonable mutual participation in the funding by the state and local government.

Not phrased this way (see Section 3 below)

1. Amendment #8 by Judson Thornton of Jonesboro, in Committee of the Whole, would have weakened this provision by requiring only that the General Assembly provide a "method of funding" for any law imposing increased expenditures on local governments. TML opposed. Failed 18-66-1.

2. Amendment #2 by Earl Dowdy of Somerville, upon final consideration, identical to preceding Amendment 8. TML opposed. Passed 45-39-2.

(MORE)

PRESIDENT

Wyeth Chandler
Mayor, Memphis

VICE-PRESIDENTS

Charles "Pat" Rose
Mayor, Chattanooga

Richard Fulton
Mayor, Nashville

Robert Conger
Mayor, Jackson

DIRECTORS

Don Arnold
Mayor, Johnson City

Dan Buckner
Mayor, Dickson

Max Carroll
Councilman, Cleveland

Ernest Clark
City Manager, Kingsport

Fred Davis
Councilman, Memphis

Herb Davis
Mayor, Milan

Murray Flatt
Mayor, Newbern

H. V. Griffin
Mayor, Shelbyville

H. Ryan Holley
Mayor, Cumberland City

Bert Kelly
Vice-Mayor, Oak Ridge

Louis Oliver
City Manager, Hendersonville

Sam Stooksberry
Mayor, Waynesboro

Randy Tyree
Mayor, Knoxville

Frank Runyon
Clarksville, President, TMAA

M. G. Isbell
Athens, President, TCMA

Mike Stone
Columbia, President, TCAPWA

Stites Carneal
Springfield, President, TMFOA

Willard Fletcher
Memphis, President, TAACA

Billy Cooper
Chattanooga, President, TAHRA

John Burch
Nashville, President, TBOA

Finis Gray
Clarksville, President, TFCA

Maynard Glenn
Knoxville, President, TRPS

Dr. James Powers, Mayor, Waverly
TML Past President

A. K. Bissell, Mayor, Oak Ridge
TML Past President

Tom Hall, Mayor, Millington
TML Past President

Harry Dethero, Mayor, Cleveland
TML Past President

Dr. Stacey A. Garner, Mayor, Pulaski
TML Immediate Past President

(M.T.A.S.)

Victor C. Hobday
Executive Director

CONSULTANTS ON:

Municipal Management
Municipal Law
Municipal Information
Engineering-Public Works
Intergovernmental Relations
Finance and Accounting
Personnel
Codes of Ordinances
Urban Growth
Law Enforcement

SPECIAL COUNSEL

Griffith and Stokes, Attorneys

3. Amendment #4 by Herb Denton of Blountville, upon final consideration, to change provision that the General Assembly provide a "method of funding" for any law imposing increased expenditures on cities or counties to read: "the General Assembly shall provide that the state share in the cost." TML supported. Failed 60-28-1 (2/3 vote required to pass).

4. Amendment #5 by Robert Ownby of Sevierville, upon final consideration, same as preceding Amendment 4 except for adding "any law of general application imposing increased expenditures on cities or counties." TML supported. Passed 61-20.

II. Local government. The standing committee had recommended in Section 1 h of its final report the following provision: "a local government (county) may exercise any legislative power or perform any function not denied by its charter, the laws of the State of Tennessee, or the laws of the United States." TML made an agreement with the Tennessee County Judges Association not to oppose this broad grant of power to counties if they would accept this amendment: "Special service districts established by a county may not be supported by county taxes or service charges collected from outside such special district."

5. Amendment #10 by Frank Holloman of Memphis contained this agreed-upon amendment to Section 1 h of the Local Government article. TML supported. Failed 36-40 (NOTE: Section 1 h was later deleted, thus making any amendment superfluous).

III. Judicial reform. The final report of the Judicial Committee contained three provisions that were counter to TML policy: the jurisdiction of municipal courts was limited to ordinances which were not also state offenses; a trial de novo was required on appeal from the decision of any state or local administrative agency; and all municipal judges would have to be licensed attorneys.

1. The Judicial Committee report (Article 6, Section 5) provided that final orders of all state or local administrative agencies be appealable by trial de novo to the Superior Court of the county in which the dispute arose. Amendment #17 by David Swaffort of Pikeville changed this by deleting reference to local governments. TML supported. Passed 44-29-1.

2. The Judicial Article as passed in the Committee of the Whole permitted municipal courts to exercise such jurisdiction over state offenses as may be prescribed by the General Assembly. Amendment #14 by William Leech of Columbia and Jo Ann North of Madison deleted the provision for jurisdiction over state offenses and restricted municipal courts to jurisdiction over municipal ordinances only.

3. Amendment #47 by Robert Bickers of Memphis would have restored the provision for jurisdiction over state offenses by municipal courts that was deleted from the Judicial Article by Amendment #14 (preceding). TML supported. Failed 33-45-1.

4. Amendment #59 by Barry Sterling of Germantown restored the provision for jurisdiction over state offenses by municipal courts that had been deleted from the Judicial Article by Amendment #14. TML supported. Passed 61-12.

Following is a summary of the outcome of all the issues of municipal concern that came up in the Limited Constitutional Convention of 1977.

Issue	Outcome
1. Prevent imposition of spending limit on local governments	Succeeded
2. Prevent imposition of inflexible spending limit on state government that would harm local governments	Succeeded

(MORE)

	Issue	Outcome
3.	Amend Limitations on State Spending Article to prevent state from imposing mandated costs on local governments unless the state shares in the cost. (TML was successful, however, in retaining the most desired phrasing in this section)	Succeeded
4.	Amend Local Government Article to prevent counties from levying county-wide taxes to support services that are not provided county-wide.	Failed
5.	Prevent a constitutional provision abolishing municipal right to annex territory by ordinance.	Succeeded
6.	Prevent provision for trail de novo on appeal from decisions of local administrative agencies and regulatory bodies.	Succeeded
7.	Prevent outright abolition of municipal courts	Succeeded
8.	Prevent restricting of municipal court jurisdiction to municipal ordinances only	Succeeded
9.	Prevent a constitutional provision requiring municipal judges to be licensed attorneys	Failed

TML would like to publicly thank the following delegates to the Convention for their special support and cooperation: Dorothy Bacon of Memphis; Robert Bailey of Greeneville, DeArnold Barnette of Chattanooga; Charles Burson of Memphis; Steve Cohen of Memphis; Herbert Denton of Blountville; Charles Keener of Kingsport; Ed McBrayer of Memphis; Alf Rollins of Goodlettsville; Helen Shacklett of Nashville; Barry Sterling of Germantown; Rheubin Taylor of Chattanooga; Joe Walker of Harriman; and Ray Walker of Dayton.

TML also wishes to thank those municipal officials who contacted their delegates on matters of municipal concern. TML sent out periodic bulletins on the Constitutional Convention and on at least two occasions when important votes were coming up, called municipal officials personally to urge them to contact their delegates. When you had talked with your delegate about an issue we could tell the difference.

When one is lobbying on the front lines, it is easy to tell whether a delegate or representative has been "talked to" by the home folks. They will usually freely tell a lobbyist whether or not a mayor or other official has contacted them. So if you fulfilled your obligation to let your wishes be known, we thank you. If you didn't, we hope you will do so during this session of the General Assembly. Don't assume someone else will contact your member. Nothing TML can do is as persuasive as personal contact from local elected officials.

The TML Board of Directors will be meeting in Nashville on February 2 to review the proposed Constitutional amendments and possibly adopt positions of support or opposition. The ratification election will be held on March 7, at which time each proposed article will be voted up or down. The recommendations of the Board will be communicated to all municipal officials for appropriate action.

****

DELEGATE VOTED FOR TML POSITION?

Legislative District	Delegate	Admt #8 Spend Limit	Admt #2 Spend Limit	Admt #4 Spend Limit	Admt #5 Spend Limit	Admt #10 Local Gov't	Admt #17 Judicial	Admt #14 Judicial	Admt #47 Judicial	Admt #59 Judicial	Pro-Municipal Voting Record
31	Smith, Paul E.	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	7/9
83	Sterling, Barry	Yes	A	A	A	Yes	A	Yes	Yes	Yes	5/5
37	Swafford, David	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	6/9
28	Taylor, Rheubin M.	Yes	Yes	Yes	Yes	yes	No	A	Yes	Yes	7/8
6	Thornton, Judson	No	No	No	No	No	No	No	No	No	0/9
47	Tidwell, Anthony	Yes	No	No	Yes	No	Yes	A	A	A	3/6
65	Townsend, Edwin C.	Yes	No	No	No	A	Yes	No	No	A	2/7
13	Troutman, Jerrye	Yes	No	Yes	Yes	A	A	A	A	A	3/4
32	Walker, Joe H.	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	8/9
25	Walker, Raymond	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	8/9
46	Ward, James	Yes	No	Yes	Yes	A	A	No	No	Yes	4/7
73	Wilder, James S.	A	No	Yes	Yes	Yes	No	No	PNV	No	3/7
95	Williams, Dick	A	A	A	A	Yes	A	Yes	Yes	Yes	4/4
60	Winfree, Rose H.	No	No	No	Yes	Yes	Yes	Yes	No	Yes	5/9

* A--Not present, or present but not recorded
**PNV--Present, not voting

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Legislative District	Delegate	Admt #8 Spend Limit	Admt #2 Spend Limit	Admt #4 Spend Limit	Admt #5 Spend Limit	Admt #10 Local Gov't	Admt #17 Judicial	Admt #14 Judicial	Admt #47 Judicial	Admt #59 Judicial	Pro-Municipal Voting Record
27	Oehmig, Dan	PNV	A	A	A	A	Yes	No	No	A	1/3
76	Oliver, Terry	Yes	No	No	Yes	No	Yes	No	No	Yes	4/9
74	Orr, Roy	A	No	No	No	Yes	Yes	Yes	Yes	Yes	5/8
12	Ownby, Robert E.	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	6/9
87	Patterson, J. O., Jr.	A	A	A	A	A	A	A	A	A	0/0
39	Perry, Buddy P.	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	7/9
93	Pleasant, O. C.	Yes	No	No	No	Yes	A	Yes	Yes	Yes	5/8
66	Price, Travis	Yes	A	A	A	Yes	A	A	A	A	2/2
78	Pritchett, Ellis W.	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Yes	7/9
58	Pruitt, Mary	Yes	No	No	Yes	Yes	A	Yes	Yes	No	5/8
26	Ramsey, Claude	No	No	Yes	Yes	A	A	Yes	A	A	3/5
50	Rollins, Alf	Yes	Yes	Yes	Yes	Yes	A	A	Yes	A	6/6
24	Rowe, Donald D.	Yes	Yes	Yes	A	Yes	Yes	No	NO	Yes	6/8
62	Russell, F. Lee	Yes	Yes	Yes	Yes	No	A	No	No	Yes	5/8
53	Shacklett, Helen	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	9/9
17	Slyman, James	Yes	A	Yes	Yes	No	A	No	A	A	3/5
54	Smith, Harold J.	Yes	No	No	No	Yes	A	Yes	Yes	No	4/8

(OVER)

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Legislative District	Delegate	Admt #8 Spend Limit	Admt #2 Spend Limit	Admt #4 Spend Limit	Admt #5 Spend Limit	Admt #10 Local Gov't	Admt #17 Judicial	Admt #14 Judicial	Admt #47 Judicial	Admt #59 Judicial	Pro-Municipal Voting Record
19	Jenkins, Craig A.	Yes	No	Yes	Yes	No	No	No	No	No	3/9
2	Keener, Charles	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	8/9
67	Knight, Peggy	Yes	PNV**	PNV	No	Yes	PNV	Yes	A	Yes	4/5
52	Langford, Bob	Yes	Yes	Yes	Yes	No	No	A	A	A	4/6
33	Layton, Don	Yes	Yes	Yes	Yes	A	A	A	A	A	4/4
21	Lee, Brenda	No	No	No	No	Yes	No	No	No	A	1/8
22	Lee, J. D.	No	No	Yes	Yes	A	Yes	Yes	Yes	Yes	6/8
64	Leech, William M.	Yes	Yes	A	A	No	No	No	No	No	2/7
40	LeFevre, George E.	Yes	Yes	Yes	Yes	A	A	A	A	A	4/4
42	Little, James D.	Yes	Yes	Yes	Yes	Yes	Yes	No	A	A	6/7
69	Littleton, Robert L.	A	A	Yes	Yes	A	No	No	No	Yes	3/6
99	McAdams, H.B.	Yes	Yes	Yes	Yes	Yes	A	A	A	A	5/5
84	McBrayer, Ed	A	Yes	Yes	Yes	A	Yes	Yes	Yes	Yes	7/7
29	McDaniel, Paul A.	A	Yes	Yes	No	Yes	Yes	A	Yes	Yes	6/7
72	McKee, Robert L.	A	No	Yes	No	No	Yes	Yes	No	Yes	4/8
68	Neblett, Paul E.	Yes	Yes	Yes	Yes	A	A	A	A	A	4/4
51	North, JoAnne	Yes	Yes	Yes	Yes	A	No	No	No	No	4/8

(MORE)

DELEGATE VOTED FOR TML POSITION?

egislative istrict	Delegate	Admt #8 Spend Limit	Admt #2 Spend Limit	Admt #4 Spend Limit	Admt #5 Spend Limit	Admt #10 Local Gov't	Admt #17 Judicial	Admt #14 Judicial	Admt #47 Judicial	Admt #59 Judicial	Pro-Municipal Voting Record
5	Ford, N. J.	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	7/9
4	Foster, E. Bruce	Yes	No	Yes	Yes	No	No	No	No	Yes	4/9
4	Froedge, E. M.	Yes	No	Yes	A	A	Yes	No	No	Yes	4/7
	Gibson, Gary Reece	No	No	Yes	Yes	No	Yes	Yes	A	A	4/7
	Gouge, Loretta	Yes	No	Yes	A	Yes	Yes	A	Yes	A	5/6
7	Guinn, Julian P.	Yes	No	No	No	No	A	Yes	Yes	Yes	4/8
5	Hadley, J. A.	A	A	A	A	Yes	A	A	A	A	1/1
0	Hale, Vernon	Yes	No	Yes	Yes	No	Yes	A	No	Yes	5/8
	Harr, Paul A.	Yes	Yes	Yes	A	No	Yes	No	No	Yes	5/8
1	Helms, Walter E.	Yes	No	Yes	Yes	No	No	No	Yes	Yes	5/9
1	Hennessee, Stone	Yes	No	No	Yes	No	No	Yes	No	Yes	4/9
3	Holloman, Frank	A	No	Yes	A	Yes	Yes	No	No	No	3/7
2	Hooks, Michael A.	A	No	Yes	Yes	Yes	A	Yes	Yes	Yes	6/7
	Hyder, Oris D.	No	No	A	A	No	No	No	No	No	0/7
6	Hyman, Billy	Yes	Yes	Yes	A	A	Yes	No	Yes	Yes	6/7
9	Ingram, William B. Jr.	A	PNV	Yes	A	A	Yes	Yes	Yes	Yes	5/5
8	Jenkins, Casey	A	A	A	A	A	A	A	A	A	0/0

(OVER)

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94	Burson, Charles W.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	9/9
43	Camp, John	No	No	No	No	No	No	Yes	No	Yes	2/9
79	Carney, J. S.	Yes	No	Yes	Yes	Yes	No	No	No	Yes	5/9
90	Cohen, Steve	Yes	Yes	Yes	Yes	A	No	No	No	Yes	5/8
45	Corley, Nancy	Yes	Yes	Yes	Yes	No	No	No	No	No	4/9
34	Cox, Everett	Yes	Yes	No	Yes	Yes	Yes	No	No	Yes	6/9
20	Crawford, Duncan	Yes	No	No	Yes	No	No	No	Yes	Yes	4/9
16	Cunningham, Jack	Yes	Yes	Yes	Yes	No	No	No	NO	Yes	5/9
48	DeHoff, George	Yes	Yes	Yes	Yes	A	No	Yes	A	Yes	6/7
3	Denton, Herbert	Yes	Yes	Yes	Yes	A	Yes	Yes	Yes	Yes	8/8
86	Dixon, Roscoe	A	A	A	A	Yes	Yes	Yes	Yes	Yes	5/5
80	Dowdy, Earl	No	No	No	No	Yes	No	Yes	A	Yes	3/8
36	Duer, Shirley	Yes	Yes	Yes	A	No	A	No	Yes	Yes	5/7
98	Elion, Dave	No	No	No	No	Yes	Yes	Yes	Yes	Yes	5/9
55	Eskind, Richard J.	No	No	No	No	No	No	NO	A	Yes	1/8
49	Evans, Terry	No	No	No	No	No	A	No	A	Yes	1/7
35	Fannon, William L.	No	A	No	Yes	No	Yes	A	No	Yes	3/7

(MORE)

DELEGATE VOTED FOR TML POSITION?

Legislative District	Delegate	Admt #8 Spend Limit	Admt #2 Spend Limit	Admt #4 Spend Limit	Admt #5 Spend Limit	Admt #10 Local Gov't	Admt #17 Judicial	Admt #14 Judicial	Admt #47 Judicial	Admt #59 Judicial	Pro-Municipal Voting Record
56	Akin, William E.	Yes	Yes	No	Yes	No	No	No	No	No	3/9
15	Ambrose, W. Leonard	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	6/9
97	Bacon, Dorothy C.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	9/9
8	Bailey, Robert H.	Yes	Yes	Yes	Yes	Yes	Yes	A*	Yes	Yes	8/8
11	Ball, W. Gordon	No	A	No	Yes	No	A	No	No	Yes	2/7
30	[illegible]nette, DeArnold	Yes	Yes	[illegible]	Yes	Yes	Yes	Yes	No	A	7/8
57	Bass, Warner	Yes	No	Yes	Yes	No	No	No	No	Yes	4/9
61	Baugh, Joe	Yes	Yes	Yes	Yes	A	Yes	No	No	Yes	6/8
81	Baxter, R. A., Jr.	Yes	No	No	Yes	Yes	No	Yes	No	Yes	5/9
18	Bernstein, Bernard	No	No	No	No	No	No	No	No	Yes	1/9
82	Bickers, Robert	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	7/9
23	Biddle, William P.	Yes	Yes	Yes	No	No	No	No	No	No	3/9
38	Blakley, Frankie	Yes	Yes	No	No	A	A	Yes	No	A	3/6
70	Bodiford, Ray	Yes	No	No	No	Yes	Yes	No	No	A	3/8
4	Bowman, Thelma	No	No	No	Yes	No	No	No	No	A	1/8
63	Brandon, Roger E.	Yes	No	Yes	Yes	A	No	No	No	A	3/7
91	Brown, Larry	No	A	No	No	Yes	Yes	Yes	Yes	A	4/7

(OVER)

Convention

Bonney 3/6/78

primarily composed of bankers and small loan company officials, began its television advertising campaign late last week — and will continue it through election day.

The television ads, which committee members call simply a "reminder campaign," show housewives and blue-collar workers urging passage of Proposal 10, claiming it would keep money available to the small borrower.

And a new committee was formed over the weekend in an effort to drum up support for the judicial article.

Convention delegate Richard Eskind is the only name showing in newspaper ads for the Committee for Proposal 13.

Numerous lawyers across the state reportedly are involved in the committee, but sources said they requested their names not appear.

The committee's ads claim the state could save $8 million in judicial salaries if the article is approved.

David Collins, state elections coordinator, predicted last week that only 12-18 percent of the voters will cast ballots Tuesday.

He lowered his previous estimate of as much as 25 percent due to the low number of absentee ballots cast, Collins said.

But the rain and thunderstorms in Tuesday's forecast could lower even Collins' expectations.

A low voter turnout is seen as an advantage primarily to the banks and lending institutions who were responsible along with sheriffs and Blanton to set the special March election.

And Sheriff Fate Thomas has run ads urging passage of Proposal 11 which would allow sheriffs to serve unlimited four-year terms.

The following is a brief description of the 13 proposals facing voters.

- Proposal 1. Removes the constitutional ban on interracial marriages.
- Proposal 2. Allows the speakers of both state houses to sign bills without being in open session and a vote on a bill would be necessary only on third and final reading.
- Proposal 3. Increases homestead exemption from $1,000 to $5,000.
- Proposal 4. Allows a governor to serve a second consecutive term.
- Proposal 5. Removes ban on desegregated schools.
- Proposal 6. Increases the governor's time to veto a bill from five to 10 days.
- Proposal 7. Allows 18-year-olds to vote as required under federal laws.
- Proposal 8. Calls for a special election if a legislator dies with more than a year remaining on his term.
- Proposal 9. Limits state spending through a formula tying it with the increase in the economy.
- Proposal 10. Removes the 10 percent interest ceiling by allowing legislature to set rate.
- Proposal 11. Allow changes in county government including creation of county executive while also giving sheriffs right to unlimited four-year terms like other county officials.
- Proposal 12. Removes the requirement that the legislature convene every two years for an organization session and then adjourn until February.
- Proposal 13. The most sweeping of the articles calls for revamping the judiciary including nonpartisan selection of all appellate judges; legislative review over Supreme Court rules; and gubernatorial appointment of attorney general.

Tennessean 3/5/78

Amendments Worth Voting On

By JOE HATCHER

ON TUESDAY, Tennesseans will go to the polls in what may be the most expensive state voting ever. They will vote on 13 oddly diversified amendments to the Tennessee Constitution; about the only common element is that not one of them has stirred the people.

There is considerable question in many quarters as to whether the 1977 Constitutional Convention or this March 7 referendum was truly needed.

Whether they were needed or not, they are costing the taxpayers a bundle. About $1 million was spent on the convention, and the referendum is costing another $2.6 million.

Only two of the proposals have created more than passing interest: No. 10 to authorize the legislature to set interest rate and No. 13 to reform the state's judicial system.

The banks and other money lending institutions have spent freely in their campaign to remove the 10% interest rate ceiling from the constitution. They poured out the money to get the convention called and they will likely keep it coming 'til the polls close on Tuesday night.

The judicial article has stirred some interest within the legal community of the state, but not much among the people. There have been few voices in favor of the article.

One of the other amendments proposes a limit to state spending and some observers believe the constitutional convention went beyond its call in drafting that article.

Several of the amendments would merely remove from the constitution certain articles that have long-since been eliminated by U.S. Supreme Court decisions — such as the ban against inter-racial marriages, the segregation of schools and 21 as the majority age.

Proposal No. 4, if approved, will allow a governor to seek re-election and serve two consecutive four-year terms. After more than 20 years of a constitutional prohibition against a governor succeeding himself, many think this is a good proposal.

The 15-day "organization period" in the state legislature has proven to be a wa te of time, and the amendment eliminating it is probably a good thing. Very likely the people will also approve giving the governor 10 days instead of five to veto bills. Other amendments likely to win approval would allow speakers to sign bills outside open sessions, and would allow the people to fill vacancies in the legislature.

The convention proposed amendments that are both good and bad — and it is up to the voters to exercise caution at the polls. Since the proposals cover the full face of the voting machines and only two minutes will be allowed for voting — it behooves citizens to study the proposals and make up their minds before election day.

It's hard to predict the result of the voting on Tuesday, but in past referendums on constitutional proposals — in 1954, 1960, 1966 and 1972 — the voters ratified all proposals submitted.

The 1954 amendments were the first since 1870, and did much to bring the constitution up to date. In 1960 a rural-dominated convention increased the salaries of legislators, lengthened the terms of senators, and allowed each legislature to determine its own expense allowances.

● See Page 6-B for an analysis of Proposals 11, 12 and 13.

The 1972 referendum passed on Question 3, a proposal allowing the classification of property. It was approved by a vote of 495,076 to 175,287.

The only sure thing about this election Tuesday is that it is costly — and every citizen is helping pay for it. That makes it all the more important to get out and vote your sentiments.

Editorials

An Important Voting Day: Our 13 Recommendations

ON TUESDAY, Tennessee voters will cast their ballots on 13 proposed changes to the state constitution, and today the *Banner* repeats the following recommendations:

● **Proposal 1**, in line with earlier federal court rulings, would eliminate the current state constitution's prohibition against interracial marriages. **VOTE "FOR."**

● **Proposal 2** would require that a legislative vote be taken only on third reading of a bill and would remove the requirement for speakers to sign all bills in open session — speeding up the legislative timetable. **VOTE "FOR."**

● **Proposal 3** raises the current homestead exemption — an exemption of a homeowner's property from seizure by creditors seeking to satisfy debts — from the current $1,000 to $5,000. **VOTE "FOR."**

● **Proposal 4** would allow a governor two consecutive four-year terms. We think the current one-term provision both limits long-range positive programs and discourages many capable citizens from seeking this office. While personalities have entered into debate on this proposal, that is a side issue and election day voters always have the last word. **VOTE "FOR."**

● **Proposal 5** nullifies a school segregation section in the present constitution and additionally brings the state document into line with earlier federal rulings. **VOTE "FOR."**

● **Proposal 6** would extend to 10 days the time for a governor to take action on a legislative act — a more realistic amount of time than the current five-day limit. **VOTE "FOR."**

● **Proposal 7** would bring the state constitution up to date with the U.S. Constitution's 26th Amendment by lowering the voting age to 18. **VOTE "FOR."**

● **Proposal 8** would make changes in filling a legislative seat when vacancies occur, opening up to popular election in a district the filling of a vacancy with at least a year remaining in the term. **VOTE "FOR."**

● **Proposal 9** proposes a limitation on state spending. The principle is fine, but the proposal would tie spending to a yet-undetermined index, and allows an escape clause for the legislature to exceed such a limit. Besides the escape clause, there is a vagueness to other parts of the proposal that could prove troublesome. Spending limits can still be applied through political response to public demand. And Proposal 9 doesn't do what its proponents intended — if it does anything at all. **VOTE "AGAINST."**

● **Proposal 10** would give the legislature the authority to fix interest rates, supplanting the present 10 percent constitutional ceiling. Rigid control of rates in the constitution is unrealistic in times of shifting state and national economic conditions. Money is a commodity and its price is subject to change. If lending institutions are forced to operate at a loss because of the rigid ceiling, then borrowing opportunities are cut back or terms are stiffened. This has a rippling effect across the entire economy of the state in terms of buying, in terms of jobs. The legislators, answerable to the people, should be able to control rates. **VOTE "FOR."**

● **Proposal 11** concerns "changes relative to local government," including the right to charter. Vagueness clouds this proposal, but one thing easily comprehended is a provision in it for unlimited terms of office for sheriffs. We think this carries potential political dangers that the voters must resist. **VOTE "AGAINST."**

● **Proposal 12** would speed up the timetable between the legislature's organizational session and the regular session by eliminating a lengthy recess — certainly a progressive step. **VOTE "FOR."**

● **Proposal 13** is a massive overhaul of the Judicial Article. Actually, it just about wrecks the Judicial Article, with confusion over rule-making authority and removal of selection of Supreme Court justices from true popular election by the people. Legal organizations throughout the state are opposed to it. So are others. Several positive things in the proposal could be dealt with through legislative action, but the bad far outweighs the good and the package must be taken as a whole. It should be rejected as a whole. **VOTE "AGAINST."**

Tuesday's referendum puts into formal language, or leaves alone, law that can determine for long years the direction of government, the political process, the state's economy and the lives of all citizens. The greater the voice, the better the constitution will reflect the desires of Tennesseans. We urge you to vote.

Legal Groups Believe

Banner Feb. 28, 1978

Proposal 13 Unlucky

By RICH RIEBELING
Banner Staff Writer

It's appropriate that the article calling for sweeping changes in the state's judiciary is listed on Tuesday's Constitutional Convention ballot as Proposal 13.

If voters approve it, the state Supreme Court, which has led opposition, will moan that it was unlucky for the state.

After much haggling, mind-changing and finally compromising, 99 convention delegates last fall rewrote the judicial article now in the Tennessee Constitution.

Proponents argue that the proposed revision would lead to a more modernized court system for Tennessee. But many judicial and legal groups across the state have sharply criticized the article, contending the state is better off now than it would be with the passage of Proposal 13.

Criticism of the article came shortly after the convention adjourned in late December.

In a ringing speech, Supreme Court Chief Justice Joe Henry told the Tennessee Municipal Attorneys Association that passage would "produce a devitalized, disorganized, demoralized and subservient judiciary, (and) I have no honorable choice but to stand with absolute and uncompromising hostility to its adoption."

What gripes the Supreme Court in the proposed article is a clause requiring that the General Assembly pass on all rules proposed by the high court. This means the legislature could pass judgment on rules of procedure, as well as administration.

The chief justice said this requirement eventually "would utterly stagnate the operation of the highest court in our state."

But former state Court of Appeals Judge C.S. Carney of Ripley, also a delegate to the convention, argues that "the good outweighs the bad."

"It will the the last time, at least in my lifetime, for Tennessee to modernize its courts," he said.

Among other changes the article would:

● Lower Supreme Court and appeals court terms to six years from the present eight years.

● Require that appellate judges be nominated by an Appellate Court Nominating Committee which would give three names to the governor who would make a final choice. Justices would face voters only in "yes" or "no" elections on whether they would continue in office, giving them virtual lifetime appointments. No one could challenge an incumbent or opposing candidate. This procedure already is in effect for appeals judges under state law, rather than the constitution, but not for Supreme Court justices.

● Require that the attorney general be appointed by the governor and confirmed by the Senate. This strips the power of the Supreme Court to choose the state's highest legal officer.

● Would allow the General Assembly to eliminate any court clerk or clerk and master in a county.

✓ This is the second article in a series dealing with issues in the March 7 referendum to change Tennessee's constitution.

● Establish a Court of Discipline and Removal that would have the power to actually remove judges — a power now solely vested in the legislature.

● Give the General Assembly more power over the pay of judges.

While the five Supreme Court justices haven't openly admitted it, the control over their pay apparently played a major factor in their opposition.

Convention delegate Richard Eskind of Nashville said earlier this week that approval of the judicial article could save Tennessee taxpayers as much as $8 billion.

He said passage would stop the automatic cost-of-living salary increases that judges now receive.

In a press release, Eskind cited information showing that annual salary boosts through 1982 would amount to an average of about $32,000 for each of the state's 250 judges.

In urging approval of the article, Carney took special notice of the recent controversy involving Court of Criminal Appeals Judge Charles Galbreath.

Under the Court of Discipline and Removal, the Judicial Standards Commission would forward evidence to the newly created body.

That body could then could "slap him with a two month suspension without pay, publicly censure him or remove him, without going to the legislature," Carney said.

"It would prevent an incident like the Galbreath thing where he is being tried in the newspapers," he said.

Carney also argued that the article would generally alleviate inequities in court caseloads, insure juvenile offenders were tried by a judge who is a lawyer and allow the Supreme Court to decide whether new judges or district attorneys general are needed.

But opposition to the article has been widespread among legal groups. The opponents include the Tennessee Bar Association, Tennessee Judicial Conference, state Court Clerks Association, Nashville Bar Association board, Tennessee County Services Association; Tennessee Council of Juvenile Court Judges, Supreme Court and 12 Nashville judges.

Recently, the Young Lawyers Conference of the Tennessee Bar Association sought an opinion of the article from the National Center for State Courts.

That group's opinion was that the article does not measure up to bar association "standards relating to court organization."

The author of the report, Victoria Cashman, said in an interview, "It may have the net effect of moving the courts a step backward."

While Chief Justice Henry says he has completed his lobbying against the article, Carney said he has several appearances scheduled before Tuesday's vote.

Chattanooga.

Hensley began spreading the word to legislators that the amendment was simply a means for Blanton to give his friend and former campaign manager, Jim Allen, a lucrative business. And it was confirmed Blanton expressed an interest in the amendment.

Legislators were receptive to the story because of other alleged patronage abuses by Blanton, including granting Allen the first retail liquor license in the lucrative Belle Meade area of Nashville.



Gov. Ray Blanton
Has another view

Cities should have wholesalers. Retail package stores in the area now have to obtain their whiskey from wholesalers in Knoxville. Blackburn, who does not even have retail stores in his district, said this results in higher prices and shipment delays for stores in the area.

Sources close to the administration discounted the Allen connection because he and the governor are no longer on speaking terms because of

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Tennessean 2/26/78

Professors Offer Guide for March 7

Here are the 13 proposals affecting the Tennessee State Constitution, which will be placed before voters of the state — to be approved or disapproved — in the statewide election of March 7.

Proposal 1. Elimination of prohibition against interracial marriages.

The existing Tennessee Constitution prohibits blacks and white from intermarrying. U.S. Supreme Court decisions have made this unenforceable. Proposal 1 deletes this provision.

Proposal 2. Passage of bills.

The current Constitution requires all bills to be signed by the speakers of both Houses of the General Assembly in open session. Proposal 2 omits the requirement that the signing take place in open session. This change relates to the convenience of conducting legislative business.

Proposal 3. Homestead.

The current Constitution allows a $1,000 homestead exemption. An example will illustrate the effect of the current law. A business fails, and the owner owes $40,000, with no resources except a home. He can be forced to sell the home. If the proceeds are $30,000, business creditors will receive $29,000, and the court will hold the $1,000, for reinvestment in a new home. The Constitution provides this $1,000 exemption only with regard to real property (that is, land and buildings). In addition, the General Assembly has provided a $2,500 personal property exemption.

Proposal 3 increases the homestead exemption on real property from the existing $1,000 to at least $5,000, and this amount could be increased, without upper limit, by the General Assembly. The proposal would also require the General Assembly to establish personal property exemptions. (See later discussion of the status of Convention proposals that go beyond the scope of the call.

The existing Constitution contains a number of additional details about the homestead exemption. Proposal 3 leaves out the details, and authorizes the General Assembly to fill them in. The effect is to confer increased authority upon the General Assembly to define and explain this matter.

Proposal 4. Governor's Consecutive Terms.

The existing Constitution establishes a four-year term for the governor. A governor may not serve more than one consecutive term.

Proposal 4 permits a governor to serve two consecutive terms of four years each. If approved, this proposal would permit the present governor to seek reelection to one more term, to start immediately following his present term.

Proposal 5. Education.

The current Tennessee Constitution requires public schools to be racially segregated. This provision is invalid, as the result of U.S. Supreme Court decisions. Proposal 5 deletes this invalid provision from the Tennessee Constitution.

This was the only topic, with

(Turn to Page 2-B)

This non-partisan voters' guide to the Tennessee Constitutional Referendum of March 7 covers the first 10 of 13 proposed amendments. The last three will be printed next Sunday.

The guide was prepared by L. Harold Levinson, professor of law and senior research associate, Vanderbilt Institute of Public Policy Studies, and Ann H. Hopkins, associate professor of political science, University of Tennessee.

March 7 Referendum: A Non-Partisan Guide

(Cont'd from 1-B)

regard to education, that the Convention was authorized to consider. The Convention proceeded, however, to deal with other aspects of education. Proposal 5 includes language that appears to authorize the General Assembly to establish "eligibility standards" for the public school system, and to provide support for private as well as public institutions of higher learning.

Proposal 6. Time Limit for Governor To Exercise Veto Power.

Proposal 6 would allow the governor to exercise the veto power within ten days after a bill is presented to him. This would replace the existing provision, which allows five days in some situations and ten in others.

Proposal 7. Voter Qualifications.

Proposal 7 reduces the voting age from 21 to 18. This change has already been made by federal constituional amendment; the proposal merely brings the Tennessee Constitution into line.

Although the call for convention authorized the Convention only to consider the voting age, Proposal 7 also makes some changes to voter residency and registration. The existing Constitution requires a voter to have lived in the state for twelve months, and in the county for three months, before being eligible to vote. Residency requirements of such length have been declared unconstitutional by the U.S. Supreme Court. Proposal 7 would authorize the General Assembly to prescribe the period of residence in the state, and to establish a period of time before election day for voter registration; this would prevent registration on election day itself.

Proposal 8. Method of Filling Legislative Vacancies.

The Constitution currently provides that if a vacancy occurs in the General Assembly, the legislative body of the county in which the former legislator resides shall meet and select a replacement. In case of a vacancy in the Senate, the replacement selected in this manner serves only until the next general election.

Proposal 8 makes a distinction, depending on how much time is left of the unexpired term. If at least one year remains, a new legislator is to be elected by the voters of the legislative district, within such time as may be provided by law. The legislative body of the home county of the former legislator may select an interim successor pending the election. If less than one year remains of the unexpired term, the current method is used.

Proposal 9. Limitation on state spending.

The crux of Porposal 9 is the requirement that the rate of growth of appropriations from state tax revenues shall not exceed, in any year, the estimated rate of growth in the state's economy. The General Assembly shall determine, by law, how to measure the estimated rate of growth of the state's economy. As a compromise in the Convention, Proposal 9 includes a provision authorizing the General Assembly to exceed this limit if they pass a separate law stating the amount and rate by which the limit will be exceeded.

The limitation on appropriations applies, according to Proposal 9, only to those appropriations made from state tax revenues. The state receives considerable revenues from other sources, such as borrowing, federal revenue sharing, state funds received as payment for goods and services, and license fees; these non-tax sources are not covered by the limit on appropriations.

The entire spending ceiling provision may arguably be beyond the scope of the Convention's call, which authorized consideration "relative to devising a method by which the state of Tennessee reaches a position of making annual appropriations from *funds in hand* as opposed to appropriations against estimated revenue."

Proponents of the spending ceiling want to control the rate of growth of state government. The proposal is a statement of philosophy that government demands too much, spends too much, and should be controlled. Opponents of the ceiling counter that the proposal does not really limit spending since the General Assembly can alter the limit. Further, they argue that a spending limit should not be in a Constitution, but should be left to the General Assembly. Opponents also assert that tying the rate of appropriations to economic growth is a poor idea because of the problems that occur when the economy declines and the demands of appropriations tend to be greater in order to meet the social problems caused by the declining economy.

Proposal 9 also prohibits any new state law of general application from imposing increased requirements on local governments, unless the state shares the cost of the program. This requirement of a state share would not apply to private acts conferring a local option on specified local governments. The intent of this provision is to prevent the state from shifting the burden of taxation to local governments, particularly as the spending ceiling might reduce the capability of the state itself to adopt new programs. The provision does not indicate how large the state's share would have to be, in the cost of any local government program. This aspect of Proposal 9 could be interpreted as dealing with local government finances, in violation of the call that was limited to finances of the state government.

Proposal 10. Interest Rates.

The existing Constitution establishes a maximum interest rate of ten percent. Borrowers are required to pay higher amounts, such as the 18 percent currently charged on credit card accounts, on the theory that these are service charges rather than interest.

Proposal 10 permits the General Assembly to set maximum effective rates, without any upper limit. If the General Assembly fails to enact any statute on the subject, the maximum rate shall be ten percent. The proposal preserves existing statutes until July 1, 1980, unless amended or repealed before then. The proposal implies that the General Assembly may classify various types of loans, and may set different interest rates for different types of loans. The proposal also implies that the distinction between interest and service charges will continue to be made, so that service charges will not be governed by the same laws that apply to interest rates.

Proponents of Proposal 10 point out that if Tennesse's interest rate is lower than that in other states, investors inside and outside the state will tend to lend their money where they can get the maximum return, with the result that borrowers in Tennessee will be unable to find money available. The impact is most likely to be felt by the low income borrower who represents the greater risk. Proponents argue that the Constitution is not the place to regulate interest rates, since new economic conditions require prompt adjustments that cannot be made by constitutional amendment, especially where the Constitution is as difficult to amend as ours. Only Tennessee and Arkansas set interest ceilings in their Constitutions.

Those who support maintaining the current ten percent constitutional limit on interest rates argue that the General Assembly cannot be relied upon the set an interest



rate that is fair to the borrower. Additionally, it should be pointed out that if an emergency arises, relief could be obtained by the enactment of a federal statute to override the Tennessee constitutional interest ceiling, as was done in 1974.

A decision to support or oppose Proposal 10 would seem to rest on the interaction of three judgment factors: how pressing the immediate economic situation is; whether the Constitution is the appropriate place to regulate interest; and whether the legislature can be trusted to set appropriate maximum interest rates.

(Next Sunday authors Hopkins and Levinson will deal with the last three proposals.)



'Who Are These Guys... Why Are They Following Us Everywhere?'

'Next?'



Voter's Guide to Amendments

Vanderbilt Law Professor L. Harold Levinson and University of Tennessee Science Professor Anne H. Hopkins have prepared a non-partisan voters' guide to the March 7 referendum on changes in the Constitution of Tennessee. The first 10 proposals appeared in this section last Sunday. Here are the last three.

The guide was sponsored by the League of Women Voters and the Institute for Public Policy Studies at Vanderbilt.

Proposal 11. Local government.

Proposal 11 makes a number of structural changes in local government. Each county shall have a legislative body, and a separate executive officer. The legislative body shall consist of no more than 25 representatives, elected for four-year terms from districts within the county; this would not apply to the consolidated government of Nashville-Davidson County.

The proposal establishes the new office of county executive, to be elected for a four-year term. Creation of this office would accomplish a separation of powers within the county government, between this officer, the legislative body, and the courts under the Judicial Article. Currently, the county quarterly court combines executive, legislative and judicial functions, to some extent.

The proposal makes relatively few changes in other county officers. The most controversial is the provision that would permit sheriffs, like all other county officers, to serve four-year terms, with no limit on re-election. Currently, the sheriff serves a two-year term, and may hold office for only six years out of eight.

Proposal 11 includes innovating language, that the General Assembly may provide "alternate forms of county government including the right to charter and the manner in which a referendum may be called. The new form of government shall replace the existing form if approved by a majority of the voters in the referendum." Although not entirely clear, this appears to make counties eligible for home rule, to the extent prescribed by the General Assembly and approved by local referendum.

Proposal 12. Legislative sessions.

The current Constitution requires the General Assembly to meet for a maximum 15-day organizational session in January following the election of the governor. In these odd-numbered years, the leg slature cannot meet again until the fourth Tuesday of February.

Proposal 12 maintains the organizational session, but permits the General Assembly to reconvene the next Tuesday after completion of the organizational session, to conduct its regular business. The proposal eliminates the delay between the organizational session and the regular session.

Proposal 13. The Judicial article.

Proposal 13 presents an entirely new Judicial Article to replace the existing Article VI.

Supreme Court and Court of Appeals Membership.

The proposal, like the existing Constitution, provides for a five-member Supreme Court. The proposal also creates a Court of Appeals, with at least 18 judges to hear both civil and criminal appeals. Under present statutes, separate appeals courts hear civil and criminal appeals.

Selection and Tenure of Supreme Court and Court of Appeals Judges.

The proposal reduces judicial terms from eight years to six, starting in 1982. A modified "Missouri Plan" is provided for the Supreme Court and the Court of Appeals. If an incumbent judge desires an additional term, the incumbent's name is placed on a ballot for the new term in a retention-rejection election, with no other candidate running against the incumbent. If a vacancy occurs, either because of a rejection vote or because an office becomes vacant during a term, the governor fills the vacancy by appointing one of three nominees recommended by the Appellate Court Nominating Commission. The proposal requires the General Assembly to establish such a commission, but the proposal contains no details regarding the commission's composition procedures; these matters are entirely up to the General Assembly.

The method of selecting Supreme Court and Court of Appeals judges is the issue relating to the judicial system that seems to arouse the greatest public interest. The value of an independent judiciary is widely held, as are the somewhat conflicting demands of freedom from partisanship and public control over judicial policy making.

Trial Court.

The proposal establishes a streamlined set of trial courts, to replace the diversified types of courts that exist under current statutes. The proposal prohibits the General Assembly from creating any type of court other than those expressly authorized by the revised Judicial Article. The creation of a uniform system of courts, by contrast to the existing lack of uniformity, is one of the major changes that would be accomplished by Proposal 13.

Selection and Term of Trial Judges.

Like appellate judges, trial judges serve six year terms under the proposal, rather than the eight years under the existing law. Unlike appellate judges, trial judges would still be elected by the people under the proposal, but the elections for trial judges would be non-partisan.

Supreme Court Rulemaking.

The issue of Supreme Court rulemaking has become a major point of contention. The proposal deals with one of the two major types of court rulemaking, namely, the promulgation of rules of evidence and uniform rules of practice, procedure and judicial administration. Rules of this type shall be promulgated by the Supreme Court, but shall become effective only upon approval by the General Assembly. Existing practice under the Constitution reaches the same result, so that the proposal makes no change with regard to this type of rulemaking.

There is another type of rulemaking that has be n recognized by court decisions. This second type deals with the governance of the activities of a specific court. Under current law, this second type of rulemaking is within the inherent power of each court, and cannot be controlled by the General Assembly, because of the separation of powers. In the case of the Supreme Court, this second type of rulemaking includes the authority of the Supreme Court to regulate the licensing of lawyers, without control by the General Assembly. Proposal 13 makes no mention of the second type of rulemaking, which would therefore remain as it exists under current law. In short, Proposal 13 appears to make no change with regard to Supreme Court rulemaking.

Court of Discipline and Removal.

The present Constitution provides that judges may be removed by a vote of two-thirds of the members of each House of the General Assembly. The proposal deletes this provision, and establishes, in its place, the Court of Discipline and Removal. The court consists of nine members: two judges from the Court of Appeals, three judges from trial courts, three non-lawyers, and one district attorney-general. Each member shall be appointed by the governor for a four-year term, from thr e nomin es recommended by the Appellate Court Nominating Commission.

The Court of Discipline and Removal has the power to censure, suspend or remove the attorney general, any judge, district attorney-general, public defender or magistrate, for mental or physical disability or misconduct in office. Decisions of this court are appealable to the Supreme Court. Proceedings in the Court of Discipline and Removal are prosecuted by the Judicial Standards Commission. The proposal does not describe the composition of this commission, but provides merely that the General Assembly shall establish it.

The existing Constitution provides that judges are subject to impeachment under Article V, as well as removal under the Judicial Article. The Convention did not, neither could it have examined Article V, since this was not in the call. That article, therefore, remains in effect, and judges continue to be subject to impeachment, whether or not Proposal 13 is adopted.

There is widespread agreement, and no apparent opposition, to the concept of the Court of Discipline and Removal.

Attorney General.

Currently the attorney general is elected by the Supreme Court for an eight-year term. Proposal 13 reduces the term to four years and gives the governor the power to appoint the attorney general, from three nominees recommended by the Appellate Court Nominating Commission, subject to confirmation by the Senate. A vacancy occurring during a term shall be filled in the same manner. The new system would start in 1983, and the attorney general's terms would coincide with those of the governor.

Most states elect the attorney general through popular vote. In six states, the governor or legislature appoints. Both the existing Tennessee provision and the proposed charge are unique among the states.

Qualifications of Judicial Officers.

The present Constitution does not require judicial officers to be lawyers. The proposal would impose such a requirement upon all judges, except that the General Assembly may exempt General Sessions judges from this requirement.

Judicial Salaries.

The present Constitution prohibits the General Assembly from changing the salaries of judges during a term of office. Proposal 13 omits this provision. By the omission, the Convention may have intended to permit the General Assembly to reduce judicial salaries during a term of office. Even if Proposal 13 is adopted, however, judicial salaries may still be protected. Courts in a number of states have decided that a legislature may not reduce the salaries of judges while in office, because such a reduction would interfere with the independence of the judicial branch of government, in violation of the separation of powers.

Status of Convention proposals beyond scope of call.

Four of the thirteen proposals appear to go beyond the scope of the call: homestead exemption; education; voter qualification; and spending ceiling.

In August, 1977, the attorney general advised the Convention that it should consider only those matters specified in the call, and he explained the cope of a number of items appearing in the call. He also advised that if the Convention adopted proposals that went beyond the call, such proposals could not become effective, even if the people voted favorably upon them. Thus, if the March, 1978, referendum results in adoption of any proposal that goes beyond the scope of the call, such amendment would be subject to challenge in court, at any time in the future that the amendment became an issue in a lawsuit.

383.1

Vol. 8, No. 1, January, 1978

OFFICE OF LOCAL GOVERNMENT

Newsletter

Issued by the State of Tennessee, Comptroller of the Treasury, Office of Local Government

CONVENTION ACTS ON LOCAL GOVERNMENT ARTICLE

The Tennessee Limited Constitutional Convention has been meeting since August 1, 1977. As of mid-December, the Convention has completed action on all items mandated in the convention call (Chapter 848 of Public Acts of 1976) except changes in Article VI of the state Constitution which defines the judicial system. The Convention has also set March 7, 1978, as the date for the referendum on Proposed Amendments. Following is a summary of proposals the Convention will place before Tennessee voters for approval.

LOCAL GOVERNMENT

As envisioned by the Constitutional Convention, a county's governing officers would be sheriff, trustee, register, county clerk, assessor of property, and a legislative body. These officials would serve four-year terms. The state General Assembly would define duties and qualifications of those officials.

The county's legislative body, composed of not more than 25 members, will be elected from districts drawn in accordance with state statutes and reapportioned at least each ten years based on the latest federal census. Not more than three representatives would be elected from each district. Counties which had already chosen metropolitan forms of government would be exempt from the above requirements.

If a vacancy occurs in a county office, the county legislative body will choose a successor to serve until a new official is chosen in the next election after the vacancy.

The General Assembly is authorized to provide alternate forms of government from which counties may choose. If a majority of voters in a referendum approve a specific plan, a county may change its government. A county may also have the right to charter that government.

It should be noted that, if approved, no provision of this article would affect any present officeholder until his or her term expires.

INTEREST RATES

Under this proposal, the responsibility of regulating interest and the setting of maximum effective rates has been placed with the General Assembly. If the General Assembly does not pass legislation raising the rate, the effective rate collected shall not exceed ten (10%) percent per annum.

VOTER QUALIFICATIONS

This proposal brings Tennessee's voter qualifications into conformity with the federal Constitution by lowering the legal voting age to eighteen.

PASSAGE OF BILLS

This proposed amendment does away with the requirement that all bills be signed by the respective speakers of each house in **open session**. The bills may be signed outside the House Chambers by the speakers if so desired. All else remains unchanged in the process of passing bills.

APPROVAL OR VETO OF BILLS

Under present law, a bill that remains on the governor's desk for five days and has not been vetoed, shall become law without his signature.

The proposed amendment would extend this period from five days to ten days. The same extension (ten days) shall also apply to bills appropriating money (i.e. line-item veto power of Governor).

EDUCATION: SEGREGATION

This proposed amendment forbids segregation of whites and blacks, and provides for the maintenance of a system of free public schools.

INTERRACIAL MARRIAGES

This proposal would remove language from the constitution which prohibits the intermarriage of white persons with blacks, mulattoes, or persons of mixed blood.

(Continued on Page 2)

Office of Local Government

Newsletter

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This newsletter was prepared by the staff of the Office of Local Government under the supervision of *Dorothy Beeler*.

Grady Gallant, Information Officer, Office of the Comptroller of the Treasury, Editor.

TAX PAYMENT INFORMATION COOPERATION REQUESTED

The Office of Local Government will soon commence its annual collection of data for use by the Tennessee Valley Authority in calculating the in-lieu of tax payments due city and county governments from municipal electrical systems.

In-lieu of tax payments are made in lieu of all county, city, and other local taxes or charges (except retail sales or use taxes) on such system and its operation.

The Office of Local Government obtains from the assessor of property of each county and the recorder of each city the tax rate, the real property assessment, and the assessment level of the taxing jurisdiction. TVA uses these data in arriving at the actual amounts of the tax equivalent payments.

If you, as one of these officials, receive a request for information, please complete it promptly and return it to the Office of Local Government so that the revenue due your city or county may be sent on its way as soon as possible.

CONVENTION ACTS

(Continued from Page 1)

TWO CONSECUTIVE ELECTED TERMS

This amendment simply allows future governors to succeed themselves one time.

STATE SPENDING

This amendment places the following limitations on the spending of state moneys:

A) It prohibits any expenditures in excess of revenues and reserves.

B) It prohibits increased annual spending at a rate greater than that of the state's rate of growth.

C) Lastly, it prohibits the General Assembly from requiring increased expenditures on cities and counties unless the state shares in the cost.

LEGISLATIVE SESSIONS

This proposed amendment would require the General Assembly to meet in an organizational session on the 2nd Tuesday in January. This organizational session shall not last longer than 15 consecutive calendar days. Thereafter, the General Assembly shall meet not later than the lst Tuesday next following the conclusion of the organizational session. In effect this proposal shortens the delay between the organizational session and the regular session by about 3-4 weeks.

JUDICIAL ARTICLE

The Constitutional Convention delegates in the Committee of the Whole have taken the following action on proposals submitted by the Judicial Article Committee:

- The judicial power of the state would rest in a "uniform" court system rather than a "unified" court system.
- The State Supreme Court would be stripped of the rulemaking power it has claimed for itself, and legislative approval would be required for all rules the court recommends.
- Supreme Court justices and appeals court judges would be appointed by the governor from three nominees presented by an Appellate Court Nominating Commis-

sion. Justices would serve six-year terms and would stand for either retention or rejection by the voters at the end of their terms in office, but no one would be permitted to oppose them on the ballot.

- All appeals from administrative agencies' rulings would be made in the county where the dispute arose.

- The state would be divided into districts at the Superior (trial) Court level. Each district would include law, equity, criminal, and probate divisions (dockets) established by the legislature. There would not necessarily be separate judges for each division.

- The Supreme Court would not have the power to recommend adjustment of judicial districts in the state to the legislature.

- The state attorney general would be appointed for a four year term by the governor from nominees presented by the Appellate Court Nominating Commission and confirmed by the Senate.

- Trial judges would be popularly elected for six-year terms.

- All juries in state court proceedings would have twelve members, and all jury verdicts would have to be unanimous.

- A court of discipline and removal would be created to suspend, censure, or remove court officials for misconduct or disability. The court would contain nine members, including two appellate court judges, three trial lawyers, a district attorney general, and three non-lawyers. The members would be appointed by the governor for four-year terms and would have disciplinary authority over all state judges and attorneys general.

- The legislature would determine a public defenders system for representation of indigent defendants.

- Appellate court clerks would be appointed for six years by the Supreme Court, trial court clerks would be popularly elected for four-year terms. In counties where the General Assembly provides for them, clerks and masters would be appointed by Superior Court judges for six-year terms.

- A uniform system of General Sessions Courts would be established by districts in the state and would have juvenile jurisdiction except where the legislature creates juvenile courts.

- The legislature would create "magistrates" to handle small quasi-judicial matters, juvenile courts, and municipal courts of municipalities.

The delegates have also decided on a March 7, 1978, referendum in which the voters will ratify or reject the convention's action on thirteen constitutional issues.

LOCAL GOVERNMENT SETS LEGISLATIVE PROGRAM

With the convening of the second session of the 90th General Assembly on January 19, 1978, the Tennessee County Services Association (TCSA) and the Tennessee Municipal League (TML) have several priorities contained in their *Local Government Platform*.

Out of the twenty eight issues, there are seven which the two organizations consider urgent:

House adoption of the two-thirds State gasoline inspection fee to be used for county roads and city streets;

Street and road aid continued at least at the current level;

Change of the per gallon gasoline tax to a percentage of the wholesale price;

Authorization of local tax on hotel-motel rooms;

Adoption of local gasoline and fuel tax of one cent per gallon;

Legislation providing for periodic updating of property assessment taxes;

Opposition to mandatory state fire and construction codes, preferring to see this on the local level.

Another area in which Ralph Harris, Director of TCSA, indicated an interest is the problem of bridges on county roads. There is a need for a comprehensive bridge inspection plan and for replacement of some of these bridges. Also TCSA opposes any school budget referendum law which does not provide the funding for the budget. A continuation of the present 4 1/2 % state sales tax which expires in June is also felt to be necessary.

TCSA and TML will also concentrate on other areas such as jury salaries, solid waste disposal, ambulance services, sewerage systems, local interstate connectors, school drug violations, plus local tax base issues and State-Local relations. All the issues are important to the future development of the local governments and communities in the State of Tennessee.

OFFICE OF LOCAL GOVERNMENT

Newsletter

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BOTTOM LINE

Roy Williams and Bob Hughes, County Personnel Consultants, Office of Local Government, prepared the feature *Bottom Line*. The column, which will be a regular feature of the Newsletter, will acquaint local officials as employers with issues in personnel management. You are urged to save these columns, keeping them with your copy of the *1977 Employee Benefit Survey*, also prepared by Williams and Hughes. Contact Williams and Hughes (615-741-2171) for additional information on any item mentioned in *Bottom Line*.

Earlier this month the Labor Department proposed dropping approximately 1100 safety regulations. Some examples of regulations which *would be abolished* in about five months are:

* Toilet seats in workers' privies shall be not less than 12 inches nor more than 15 inches above the floor, and at least 24 inches apart in multiple units.

* Every toilet shall have a hinged seat made of substantial material and shall be of the open front type.

* Drinking fountain surfaces which become wet during fountain operations shall be constructed of materials impervious to water and not subject to oxidation.

As you can tell from these listed, the safety rules do need to be reorganized. Yet we do need to continue to think of safety.

Recently an article in the newspaper stated persons seeking federal jobs would be required to list sex, race, and ethnic background on their application forms. The U. S. Civil Service Commission in Atlanta has suggested local governments continue to furnish applications not requiring this information to avoid discrimination suits. The Commission's reason for requiring this information is to determine whether federal agencies are meeting goals for employing minorities.

Have you heard of Mrs. John Satty? The U.S. Supreme Court ruled that her employer, Nashville Gas Company, unconstitutionally denied her seniority benefits during her pregnancy leave five years ago.

She was a $140-a-week clerk for the gas company when she became pregnant and took seven weeks' pregnancy leave. She returned on a temporary basis for $130-a-week and noticed that other women at the firm were getting better jobs. She asked about better positions, but company officials told her they were being eliminated. She finally requested a letter of separation, which she received, so she could draw unemployment benefits. Then she sued the company.

The Supreme Court ruling in her favor means she is entitled to between $30,000 and $40,000. She is also eyeing a $9000-a-year receptionist job or a similar position with the gas company.

Be aware of this type of situation. Written personnel rules and regulations are a good suggestion. We are available to assist you with this and other personnel problems.

Quarterly Quote

He that thinketh by the inch and talketh by the yard; let him be kicketh by the foot.

The Iron Coast

THE TENNESSEAN

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Constitutional Changes: Some Harmful, Destructive

ON TUESDAY, the voters of Tennessee will be asked to vote for or against 13 changes in the Constitution, as proposed by the Constitutional Convention.

Some of these changes are sought in order to bring Tennessee into compliance with federal law. Others affect the housekeeping operations of state government and would have little impact on the citizens.

There are other proposed changes, however, which could affect the daily lives, pocketbooks, and even the way citizens conduct their local affairs. Some have language that is vague, an intent that is unclear, and a potential that may be dangerous. In others the language is clear, but the results can be just as dangerous.

This newspaper has weighed very carefully the proposed changes, including the language, the probable intent and the possible results. For purposes of brevity, it has classified the proposals either as "harmless" in the sense it sees no probable dangers to citizens, or "harmful" in the sense they could be disruptive or destructive or both.

Following are the proposals, a brief description, and the rating. Those rated harmful should be defeated:

● Proposal 1. Eliminates prohibition against interracial marriages. Supreme Court has made it unenforceable. Harmless.

● Proposal 2. Passage of bills. A housekeeping measure for legislature. Harmless.

● Proposal 3. Increases the homestead exemption on real property from $1,000 to at least $5,000. Harmless.

● Proposal 4. Permits the governor to serve two consecutive terms of four years each. Harmless.

● Proposal 5. Education. Deletes requirement for racial segregation in the schools, already invalid. But opens the door to legislative support for private as well as public schools. Breaches church-state role. Harmful.

● Proposal 6. Veto time limit. Housekeeping provision. Harmless.

● Proposal 7. Reduces the voting age. Now in effect by federal constitutional amendment. Harmless.

● Proposal 8. Filling legislative vacancies. Clarifies procedure. Harmless.

● Proposal 9. Limitation on state spending. It doesn't really. Has loopholes, vague language. Harmful.

● Proposal 10. Permits legislature to set interest rates, without upper limit. Harmful.

● Proposal 11. Restructures local government, lets sheriffs and others serve unlimited terms. Harmful.

● Proposal 12. Legislative session change. Housekeeping measure. Harmless.

● Proposal 13. Rewrites judicial article, changes judicial system to the point it would be destructive of separation of powers. Harmful in extreme.

ATHENS CLAY PULLIAS:

Tennessean 2/26/78

Question 10: An Amendment Dealing With Interest Rates

ON MARCH 7, Tennesseans will have an opportunity to vote for or against 13 proposed amendments to the Constitution of Tennessee. On the ballot the tenth of these, referred to as Question 10, will give the legislative power to control interest rates:

The General Assembly shall define and regulate interest, and set maximum effective rates thereof.

If no applicable statute is hereafter enacted, the effective rate of interest collected shall not exceed ten (10%) percent per annum.

All provisions of existing statutes regulating rates of interest and other charges on loans shall remain in full force and effect until July 1, 1980, unless earlier amended or repealed.

I sincerely believe that the passage of this amendment is in the best interest of all Tennesseans. Therefore, I will vote for Question 10 for several important reasons.

- The Constitution should deal with principles, not specific items.
- The legislature can best solve swiftly changing economic problems.
- Citizens can influence decisions of the legislature through contact with their elected representative and/or senator.
- Approval of Question 10 will not automatically raise the interest rate above 10%. Competition will continue to determine the rate of interest paid by borrowers. Only once in more than 100 years has the prime rate exceeded 10% and then only for a short time.
- Approval of Question 10 will enable the legislature to deal promptly with a steep rise in the interest rate on a national basis, and thereby prevent Tennessee from losing enormous amounts of capital to other states. Under present law, the Tennessee economy could be seriously crippled in a time of financial crisis, including substantial loss of jobs.
- It is far more important to the farmer, small business man and average citizen to have money available when needed at the "going rate" than to have a low legal rate and not be able to borrow at all.
- Forty-eight states have placed control of interest rates in the hands of the legislature with good results.

I am strongly opposed to high interest rates. Interest is "rent" paid for the use of money. The higher the interest rate the harder it is for businessmen to succeed and for the average citizen "to make ends meet." High interest rates paid by major corporations are passed on to the consumers, fueling fires of inflation. Unreasonable interest rates are as destructive to the economy as unreasonable increases in wages and salaries.

I have concern for borrowers of small sums of money. Interest rates above 20% are often charged. These rates can place our poorest people in practical economic slavery, where they are unable to ever pay out. I have long felt that people who have to pay exorbitant interest rates to get money, should not borrow money. I will support legislation to provide strict control and supervision for small loans.

I am reminded of what J.R. Loyd of Bridgeport, Alabama, said about tenement farming. His store had "furnished" tenants with food, clothing and farm supplies on credit since 1865. "The small tenant farmer is in a hopeless position. If he has a good crop, gets a good price and has no bad luck, he may break even. Some of these people have been in debt for generations and will never get out." The legislature, if Tennesseans insist upon it, can control loan shark abuses.

As you evaluate what I have said you have a right to know what my connections and background are in the area of taxes, business and finance. I have been Public Interest Director for Tennessee on the Board of the Federal Home Loan Bank of Cincinnati since 1962, a reserve bank serving and supervising more than 500 savings and loan associations in Ohio, Kentucky and Tennessee. These associations have combined assets of more than $35 billion, and for 1978 I am serving as Chairman of the Board of this $2 billion bank. The principal concerns of this bank are savings and home ownership.

As a college administrator for 40 years, and as present Chairman of the Board of Cumberland College at Lebanon, I know the critical importance of being able to borrow money when needed. As an attorney, I have specialized in wills, estates and trust funds.

Under Governors Clement and Ellington I served as Chairman of the Tax Study Commission and was chairman of two statewide campaign committees for Question 3.

My wife and I have been substantial net borrowers of money all of our lives, not lenders, and still are. I was a member of Interest, Inc. and am now Treasurer of the Committee for Question 10. These positions were accepted because on the basis of a lifetime of study and experience I believe that Question 10 should be approved.

Editorials

For A Variety Of Reasons, Vote Against Proposal 13

LAST ON THE BALLOT next Tuesday and certainly the longest of the offered amendments is Proposal 13, the Judicial Article. We urge voters to strongly oppose it.

The point has been made here many times before. And age has not only failed to improve Proposal 13 in any form, but more and more groups have rallied in opposition to it. Newspapers and legal organizations from bench to bar (the Nashville Bar and 11 local judges were among the latest) have looked at it, searched it, tried to find something about it to merit saving the proposal, but have thrown up their hands and have walked away muttering.

Yet it is non-lawyers and non-editors who form the bulk of the voting public, and it is to this public that we address our remarks.

What has stirred up much of the opposition is a proposed transfer in rule-making power from the courts to the legislature, which has brought out whether this poses a near-disintegration in the balance of power traditionally held by separate levels of government. We won't argue this case here; others are doing it quite well, and suffice it to say that this aspect will merely generate more confusion within the courts system.

Our main concern — and we believe it is shared by much of the public — is the extension of the modified Missouri Plan from the appeals courts to members of the Tennessee Supreme Court. It is a system of filling court vacancies by nomination and appointment, and on election day an incumbent judge stands subject to only a yes or no vote by the people.

There is no opposition allowed by another candidate. It certainly does not do what it claims — removing a judge from politics — and virtually assures a lifetime judgeship. Its greatest harm, however, is that this method of circumventing genuine popular election procedures just takes more political power out of the hands of the people.

The *Banner* in no way could support such a move. And neither should the average voter, who would be giving up just another slice of rights. We do not view popular election as harmful, as dangerous; there are some very qualified jurists elected this way, and what must be resisted is any move that generates a form of clubmanship-through-committee that closes the door to other candidates.

We think the principle of popular election should be preserved wherever it can, and we continue to urge the legislature to restore that system to other appeals court judges. We view a vote in favor of Proposal 13 — and in favor of a Missouri Plan — as eventually moving toward a rationale of exempting all judges from popular election processes. We find it insulting — and you should, too — that one thrust of the Missouri Plan is that the public cannot be trusted to actually elect its judges. We think at stake is a frequently heard principle known as democracy.

We center our argument on this aspect of Proposal 13, though there are other parts which have made the Constitutional Convention's work here only a waste of time. For instance, the convention could have opted for a stronger (and greatly needed) state attorney general, to also be popularly elected. Instead, the proposal only transfers the job from being a Supreme Court appointee to a gubernatorial appointee.

There are several good parts in the proposal, including a Court of Discipline and a public defender system. Perhaps these can be salvaged by the General Assembly.

But we return to a former argument, that if there are good parts there are many more troublesome and outright harmful pieces in this judicial jigsaw puzzle. Additionally, it is an all-or-nothing proposition. Nothing means leaving the current Judicial Article alone, and that should certainly be done here until a future convention can actually improve the article. The many groups in opposition may have different reasons but it is just final evidence that the entire package is too much to swallow.

And voters can take pleasure in retaining political power — which this amendment would restrict — by solidly voting "AGAINST" Proposal 13.

Constitutional Changes May Influence Election

Ed (4) & (11) Banner 3/2/76

✓ This is the fourth in a series of articles dealing with proposals facing voters in Tuesday's Constitutional Convention referendum.

By RICH RIEBELING
Banner Staff Writer

Two amendments on Tuesday's Constitutional Convention ballot could play a major role in shaping the field for this year's elections.

Proposal 4 would allow governors, including Gov. Ray Blanton, to serve two consecutive terms.

And Proposal 11 would allow 19 sheriffs across the state, including Davidson County's Fate Thomas, to run again and if re-elected serve unlimited terms.

Although Proposal 4 hasn't created a large amount of debate, it is playing a large role in shaping this year's gubernatorial contest.

The amendment would allow a governor to succeed himself. Under the present Tennessee Constitution, an incumbent governor can not serve two consecutive four-year terms.

But a governor can sit out four years and then run again.

Blanton has steadfastly declined to say whether he would seek re-election if the proposal is approved. But his forces, along with financial institutions and sheriffs, supported the plan to hold a special referendum early instead of during one of the regular elections later this year.

Blanton apparently now plans to endorse all 13 amendments, and some administration sources indicate the governor is "seriously considering" running again if Proposal 4 passes.

Most of the remaining gubernatorial candidates have indicated they'll be in this year's race whether Proposal 4 passes or not.

Republican Lamar Alexander already has cast an absentee ballot in support of all 13 and Democrats Jake Butcher and Richard Fulton say they're in the race regardless of Proposal 4.

But Public Service Commission Chairman Bob Clement apparently is waiting on the outcome Tuesday before finally reaching a decision on whether to run for governor. He may run if it fails but apparently definitely will run if it passes, sources close to him indicate.

Around Davidson County, Proposal 11 is better known as "Fate's bill." The sheriff has mounted a massive campaign to get the proposal approved to allow him to run again.

The proposal would allow sheriffs unlimited four-year terms, like other county officeholders. They currently are allowed to serve only three consecutive two-year terms. But like governors, they can sit out one election and then serve three more terms.

Thomas already has begun an organized campaign in Davidson County, with telephone calls to voters and a massive mailing of brochures.

He said Wednesday he plans to mail out 40,000 brochures. In addition he has prepared bumper stickers urging voters to approve Proposal 11.

While most of the discussion about Proposal 11 has focused on allowing sheriffs unlimited terms, the proposal would make several other changes in county governments.

According to the amendment, a new position of county executive would be created. This would have the effect of separating powers between the officer, county legislative body and the courts.

These proposed changes in county governments, however, would have no effect in Davidson County because of the consolidated government.

Other changes include allowing the General Assembly the power to allow counties to establish alternate forms of government — which could mean home rule if passed by the legislature and a referendum of county voters.

The article has been endorsed by the Tennessee Municipal League, Tennessee County Services Association and the Tennessee Magistrates Association.

One other amendment before the voters, Proposal 3, would increase the homestead exemption from $1,000 to $5,000. This is the amount of property exempt from be[illegible] seized by creditors.

'Poll' Intended To Influence Voters

(Cont'd from 1-B)

In Chattanooga, there is some building opposition within the black community.

Silvine Hudson, a leader in the Nashville League of Women Voters, says part of the problem has been in making people aware of the amendments and then generating any interest in them. She says the lending industry deliberately pushed for the March 7 special election knowing what would happen.

Stewart Acuff, an organizer with a Memphis group called the Association of Community Organizations for Reform Now (ACRON), agrees:

"It's an old trick. The people who are for it are going to come out and vote. The people who would be against it either don't know about it or else aren't likely to vote in a special election."

Regardless of the motives for the referendum date, lenders say the amendment must be passed to keep Tennessee in the nation's economic mainstream. Without , they say, interest rates will e restricted and investment apital will flee the state during periods of tight money and traditionally high rates.

There's also another angle.

"If it's passed, we stay in business," says Robert Dinwiddie, field supervisor for Beneficial Finance Co.'s Tennessee small loan operation. "Without it, we close up."

Dinwiddie says Beneficial Finance has not made any loans since last fall when the Tennessee Supreme Court finally ruled that lenders must adhere strictly to the 10% ceiling. For years they had charged more than that with the protection of a state law called the Industrial Loan and Thrift Act.

Those laws let lenders charge an average of about 21% or 22%. In some cases the rates on small installment loans could run to several hundred per cent.

Other laws let banks regularly charge from 11% to about 14% on the traditional auto loan. They too have stopped making such loans, turning instead to a subterfuge system of letting auto dealers write up the loans and then transfer them to the nk.

If the interest rate amendment passes, those laws would be reinstated automatically, at once.

Lexington attorney William L. (Dick) Barry, an outspoken critic of the proposed change, describes it as "the most flagrant effort to pervert the fundamental law of this state for private gain that I have ever seen."

***

The interest rate amendment is only 68 words long. Most critics say that is even too long for what it is trying to do.

It does three things:

1-It takes the current 10% ceiling on contract loans from the Constitution and gives the legislature full authority to set whatever rates it might choose.

2-It reinstates the laws that were in effect before last fall's Supreme Court ruling—laws that would immediately push rates on most consumer loans back above 10%. Those laws would remain in effect until 1980, unless the legislature wants to change them before then.

3-It provides that if somehow the legislature should choose to say nothing at all about interest rates, the rates would automatically go to a 10% level.

The present Constitutional provision, 42 words in length, provides for a contract rate of interest, or "conventional" rate, that is limited to 10%. It also providds that the legislature shall fix what the courts have defined as a "legal" rate of interest — the rate that is paid in settling disputes where no contract rate was set.

Most arguments over the proposed changes focus on the economic ramifications. For the bankers and loan company operators, it is a question of profit, competitiveness and, perhaps, even survival. For consumers, it is a question of unreasonable, uncontrolled costs for borrowing money.

But consumers also contend there is a question of ethics—a question of right and wrong.

"For us, it is mainly a pocketbook issue," said Acuff, "but obviously there is an underlying ethical question. Also, everyone knows the Constitutional Convention was put together for the up front purpose of updating an outdated Constitution, but it was really the big monied interests taking care of themselves.

"Who's going to pay for this so-called reform? It will be young people who are trying to buy a home. It will be poor people who are trying to buy a car on credit."

The lenders counter, saying that without more flexibility to raise rates small borrowers might not be able to get any loans during periods when interest rates are high and money tight.

But Memphis labor leader Tommy Powell argues that borrowers need the protection of a Constitutional guarantee. He says the legislature offers little hope of protection.

"I was in the legislature at the time of the Industrial Loan and Thrift Act," Powell said. "They (lenders) can charge up to 300%. It's just highway robbery. Arkansas is doing all right with a 10% limit.

"The rich people aren't going to be hurt by this, they can shop all over the country for money."

"This amendment gives the bankers just what they want.

"If the fox ate up all the chickens one time, then why come you're going to put him back in there with them again. If the legislature gave them the right to charge up to 300% one time, then what makes you think they won't do that again?"

But Dinwiddie defends the lending industry's position. He says that with a 10% limit, the so-called small loan companies simply cannot make a profit. They have to pay more than the banks to get money and they need to charge more to lend it.

Also, he says, the small lenders traditionally deal with a less credit worthy customer and, therefore, have a greater risk of loss.

Figures on loss experience surprisingly show that the major banks in Tennessee have a higher loss experience on their loans than do the small loan companies with their "higher risk" customers.

Dinwiddie says the rates permitted under the Industrial Loan and Thrift Act are satisfactory and profitable.

Under that law, a standard charge on a $1,000, two-year loan would be about 21%. The customer would receive $995.21 and have to pay back $1,296. Part of that payback cost is $35.77 for life insurance normally required by most small lenders.

Dinwiddie said the legislature is competent to set the interest rates, and that what was allowed in the past is "most reasonable."

"It goes right back to supply and demand," he said, "with a reasonable amount of government control."

His colleagues in the banking industry also contend that it is question of remaining in step with the rest of the country. Today only Tennessee and Arkansas have 10% interest ceilings. When interest rates nationally climb above that level, the bankers say investment capital will flee the state.

The reason is that banks elsewhere will be earning more on the money they lend and will be willing to pay more for the money they need from depositors, they say.

Meanwhile Wiseman says the banking industry is not trying to deceive the public with its telephone campaign. He says it is simply a "voter identification survey" to help the industry identify their supporters and get them out to vote on election day.

Wiseman said callers have not been instructed to mislead voters about the purpose of the calls. He said the callers are supposed to ask three questions that lead up to the important question on the interest rate amendment. Voters who say they have not made up their minds will be offered information to help them reach a decision.

Despite claims by the callers to the contrary, Wiseman said it is an authentic public opinion survey.

'Let Them Eat Cake'



Council ... Thomas Sharp

Asked for, got another opinion

By FRANK GIBSON

The Metro Board of Zoning Appeals, often the whipping post in the Metro Council, found itself vindicated last week when the planning commission declined to hear South Central Bell's request to build a switching substation on Chesterfield Avenue.

And the councilman who could not have been more delighted was 25th District Councilman Thomas Sharp.

AFTER THE zoning appeals board denied Bell's request for a special permit, Bell's attorneys went back to the planning commission, claiming different standards should apply to them because they are a public utility.

To support that claim, Bell attorneys used a legal opinion rendered by Metro attorney Robert Rutherford which said the planning commission had "exclusive jurisdiction" over Bell's request and that the zoning board had no business in the issue.

"Any provisions of the Metro zoning regulations which deal with approval of public utilities by any agencies or officials other than the Metro Planning Commission are in conflict with the Metro Charter and are, therefore, void," wrote Rutherford.

SHARP, ANGRY over the fact that an opinion by tax paid attorneys was being used to sidestep the earlier ruling of the zoning board, alertly ordered another legal opinion. That opinion, by council staff director Larry Snedeker, held that Rutherford was wrong and that the zoning ordinance controls the situation.

When the matter came before the commission Wednesday, Rutherford noted that his legal opinion does not make the ordinance "void" and said the planning commission would not have "exclusive jurisdiction" over Ma Bell's proposal until "a court of competent jurisdiction" so ruled.

The commission backed away and declined to hear the matter thus apparently forcing South Central to go to court in an effort to really get that section of the zoning ordinance declared "void."

***

The selection of a committee to review problems in the Metro Codes Administration and particularly the performance of Codes Director Walter England is indicative of the way Mayor Richard Fulton has handled problems as they arose over the past two and a half years.

Although the England situation is a thorny question, the selection of such a committee with its distinguished membership lends a degree of objectivity to any recommendations it reaches.

IT IS INDEED unfortunate that the committee's work is marred somewhat by Fulton's previous effort to install another director—an effort which ended by a Chancery Court ruling which said Fulton could not place England back on work probation status.

Mayor Beverly Briley had elevated England to the position on a permanent basis ahead of schedule, and Fulton felt that it would be proper for him to continue the probationary period. Of course, during that probationary period England could have been removed, leaving England without recourse before the Metro Civil Service Commission.

Few, if any, positions in the government are as controversial as that of the codes director. The director can make a lot of friends by what he doesn't do and irritate a lot of other people by the way he enforces the zoning, building, plumbing and electrical codes.

England's current problem stems from disclosures that contractors often underestimate the value of their construction projects to reduce the amount they must pay in permit fees.

As England hinted and one courthouse observer noted last week, if the practice has been widespread in the past, it casts a dark cloud on the honor of persons in the local building industry.



Walter England
Has a problem

Tennessean 2/27/78

Against Spending Amendment

#9

(The following is a statement by the League of Women Voters.)

The League of Women Voters-Tennessee opposes the adoption of the proposed amendment on state spending because we believe it includes provisions which are essentially matters of public policy that should be left to the legislature.

A state Constitution should be a general document that sets forth the basic structure of government and the rights of the citizens. Problems arise when state constitutions become overly specific. When specific provisions become outdated, or when the intent of the drafters is not clear, then the courts are called upon to determine the meaning of specific provisions.

The proposed amendment provides: (1) for a balanced budget; (2) that the current operations of state services cannot be funded by the issuance of bonds; (3) that the rate of growth of appropriations from state tax revenues cannot exceed the estimated growth of the state's economy as determined by law — except that the legislature may enact a separate law providing appropriations in excess of limitation; (4) that the state legislature shall provide the first years funding for any program it enacts, and; (5) that the legislature shall not impose increased expenditure requirements on cities and counties unless the state shall share the cost.

The proposed amendment is fraught with ambiguous terms, the meanings of which have not been spelled out to the public or to the drafters themselves:

● What index will the legislature adopt to determine the estimated rate of growth of the state's economy? Some possibilities are sales tax revenues, Gross Tennessee Product, or personal income. The difficulty is, however, that these indices reflect the condition of the state's economy for the year just past, but not for the year for which the budget is to be formulated. In a cyclical economy, needs for services are greatest in times when the economy is in a downturn.

● How is the term "first year's funding" to be applied? The intent of the drafters is to assure that new programs are not enacted unless the legislature provides funding for them. But how is a new program to be distinguished from an expansion of services under an old program?

● What formula will be applied to assure the state shall "share in the cost" of programs for cities and counties? Would a token share by the state meet the requirement? In addition, many citizens have expressed concern that if a constitutional limitation is placed on state spending, and needed services are not funded, then a greater financial burden will be shifted to local governments and hence to the local property tax.

The amendment provides its own loophole to the spending limitation: the legislature can, by separate legislation, "set forth the dollar amount and the rate by which the limit will be exceeded." Thus, it can be argued that the amendment does not effectively limit state spending at all.

If that is indeed the case, then this amendment should be *defeated* by the voters, since its only effect will be to clutter the Constitution with unneeded and ambiguous language. We believe the present constitutional provision in Article II, Section 24 is adequate: "No money shall be drawn from the treasury but in consequence of appropriations made by law."

Balanced budgets have been required by law since 1937. While we have no objection to inclusion in the Constitution of this requirement, we believe that the problems raised by the other provisions in the proposed amendment should be rejected.

There are other means, besides constitutional limitations, for controlling state spending. The legislature, which has been characterized by fiscal restraint, has made impressive advances in recent years in improving its appropriations process. An alternative to enacting spending limits is to improve procedures for program evaluation. The legislature's enactment of "sunset laws" last session is an indication that it is taking seriously the responsibility for state spending.

If this amendment is adopted by the voters, it will be important for those who are interested in adequate funding for education, human services, and other state programs to make sure that the legislature adopts criteria for determining "growth in the state's economy" that are not unduly restrictive. It would be far better, however, to defeat this amendment and to entrust the responsibility for policy making and responsible spending to our duly elected representatives in the legislature.

Texas Learned Interest Lesson

#10

Letters to The Editor

Tennessean 3/5/78

To the Editor:

In 1960 Texas voters made the mistake of approving an amendment to the Texas Constitution similar to one to be voted on in Tennessee on March 7. It authorized the legislature to establish legal interest rates above 10% without limitation.

Since that time we have had a continual battle with those who would legalize loan-sharking. In fact, Texas is now one of five or six states in which rates as high as 240% per annum are authorized for certain cash loans. A common loan for $100 cash bears an interest rate of 108 per cent.

Loans of any amount, even up to one million dollars and above, bear a legal interest rate of about 14.5 per cent, just so long as the loan is repayable in monthly installments to a "licensed lender."

Loans of $2,500 and under in Texas now commonly bear much higher rates of interest than 10 per cent. A $1,000 loan, for example, now bears interest of 19.7 per cent. Every legislative session, loan companies push hard to increase that rate.

Under last session's proposal, rates could have risen to well over 30% per annum. These same rates could apply to purchases made with bank credit cards.

I do not quarrel with those who say that interest rates on some purchases in Texas should be above 10%, and possibly that is true in Tennessee. Only you can decide that. However, we made a very serious blunder when we simply placed in the hands of the legislature the authority to set maximum rates of an unlimited amount. Other states have experienced similar problems.

I greatly respect the intelligence and wisdom of the people of Tennessee. If you go ahead and vote for the interest rate proposal, I surely hope that your future experience in this area is better than ours in Texas.

WILLIAM N. PATMAN
State Senator

P.O. Box 13247
Capitol Station
Austin, Texas 78711

Ed Barnes 1/16/78

Legislative Delegate Blasts State High Court

#13

Constitutional Convention delegate Richard Eskind today was to chastise the chief justice of the state Supreme Court for "inappropriate" and often "far-fetched" criticisms of the convention's judicial reform proposals.

Eskind was to speak at a Nashville Rotary Club luncheon. He was expected to be critical of a number of recent statements by Justice Joe Henry, who has declared that he opposes the convention's proposals with "absolute and uncompromising hostility."

That statement, according to Eskind, "is out of character with generally expected judicial temperament and objectivity (and) . . . is not what the citizens of Tennessee should expect."

Eskind says the convention's six-month effort resulted in changes that "have merit.

"Not all are good, not all parts of each are good, but that is also true of the many sections of our constitution as it is presently written," Eskind said.

Eskind, a Nashville stockbroker who ran unsuccessfully for the convention's presidency, is defending the delegates' work in anticipation of the March 7 referendum for the convention's 13 proposed changes in the state's charter.

After outlining the general thrust of the recommendations, Eskind was to focus on the controversial judicial article, which revamps the state's entire court system.

One of the most hotly contested aspects of the article would dilute much of the Supreme Court's rule-making authority, turning approval over to the General Assembly. That is what Henry is fighting.

The chief justice has said that change would violate the separation of powers doctrine and would give the legislature a "coercive influence" over the high court.

Eskind calls those comments a form of "subtle intimidation." He was expected to urge the Rotarians not to be awed by Henry's prestige in making their decision on how to vote.

Eskind also says it is interesting that, after strongly advocating the convention's creation, Henry would oppose its end product because of some disagreements.

"There are those who are miffed that in the fading days of December, there were some things left out of their Christmas stockings," Eskind said, in pointed reference to the chief justice.

Tennessean Feb. 19, 1978

Support For Judicial Article

#13

By C.S. CARNEY

(The following is a summation of remarks to the Brownsville Rotary Club by Mr. Carney, the former Court of Appeals judge who was a member of the Constitutional Convention.)

AS YOU KNOW, I resigned as presiding judge of the Court of Appeals after 24 years' service so I could have a part in rewriting our outdated judicial article.

I respectfully disagree with Chief Justice Joe Henry and the leaders of the Tennessee Bar Association who have condemned the article and who recommended its defeat. The good in the article much outweighs the bad. The administration of justice in Tennessee will be improved by the adoption of the article.

There seem to be two principal objections to the article:

- That the legislature has the right to veto or repeal any rule of evidence or procedure adopted by the Supreme Court.
- That the legislature might harass the courts by lowering judicial salaries.

I don't share the fears of the opponents of the article.

If the legislature should attempt to harass or coerce the judiciary by reducing judicial salaries without corresponding reductions in the salaries of other state officials, then the Supreme Court could and should declare such legislation unconstitutional. If we have a depression and the legislature should have to reduce salaries of other state officials, then I see no objection to the salaries of judicial officers being reduced also.

As to the legislative veto, don't fear that the legislature will stagnate the courts or impede the efficient administration of the courts by unreasonable vetos or repeal. The legislators are closest to the people and the General Assembly receives the closest scrutiny by the press of any branch of government. Public opinion would inhibit the legislature from unreasonable interference with the judiciary.

Now, for the progressive and wholesome reform contained in the judicial article.

The most important reform is the creation of the Court of Discipline and Removal. Under our present system, neither a judge nor a district attorney general is answerable to anyone except the electorate or the General Assembly for his or her conduct. If a judge or district attorney general wants to take a three-months' vacation, there are absolutely no sanctions which can be applied against either of them short of impeachment or removal by the legislature.

We have recently seen one appellate judge tell the Judicial Standards Commission that if they did not like what he was doing, they could "lump it." When the commission tried to take some action, he called them, through the news media, "sons of bitches" with absolute impunity. We need a Court of Discipline now — not six years from now.

The second great reform contained in the judicial article is the inclusion of the appellate courts under the so-called "Modified Missouri Plan." It should be called the "Tennessee Plan." The Tennessee Plan represents the best parts of all the other merit selection and retention plans.

It guarantees the selection of qualified judges and keeps political influence in the selection of appellate judges to a very minimum. It frees appellate judges from having to solicit and accept political contributions from anyone yet assures to the electorate the ultimate power to remove any appellate judge.

On the trial level, the new judicial article assures the appointment and election of qualified judges on a non-partisan basis.

One important, far-reaching, and beneficial provision of the new Judicial Department Article, Section 2(e), has been overlooked by the opponents of the judicial article. That provision requires the Supreme Court to determine upon uniform criteria, the need for increases in the number of judges and district attorneys general.

Under the present policy of legislative courtesy, new judges and district attorneys are authorized by the legislature upon the recommendation of one or two representatives and one or two senators without regard to case load.

Delegate Julian Guinn furnished figures showing that from 1970-1976 the criminal case load increased 50% but the budget of the district attorneys general increased 300%.

Section 2(e) provides checks and balances on the legislature which counterbalance the veto power of the legislature on rules of evidence and procedure promulgated by the Supreme Court. We need Section 2(e) now.

383,8

DID YOU KNOW...



...That eight out of every ten Tennesseans use credit on a regular basis but only one Tennessean out of ten understands it?

Some eighty percent of the major purchases of most families are made through the use of credit. We buy automobiles, homes, appliances, recreational vehicles, furniture, clothing, and services with credit—without credit, our way of life would be completely different.

In a recent Tennessee survey, 26% of the people interviewed thought that interest rates are lower than they actually are, 68% thought they were higher, and almost all agreed that rates are too high even though they don't know how much they are. At least half of those interviewed have no idea who regulates interest rates. Some 18% think the legislature regulates interest rates, while only 9% think the rate is set in the state Constitution.

...That this year's Constitutional Convention can directly affect consumer credit, charge accounts and credit card purchases, the economy of our state, and the availability of jobs?

Among the thirteen parts of the Constitution which will be considered is ARTICLE XI, Section 7, which provides that the Legislature shall fix a uniform rate of interest throughout the state. The second part of this section states "but the Legislature may provide for a conventional rate of interest not to exceed ten per centum per annum."

Your next question will surely be what connection there is between ARTICLE XI, Section 7, and such things as consumer credit, whether or not you, as a citizen, will be able to borrow money when you need it, and the economy.

Did you know that there are legal questions concerning Tennessee's many consumer lending laws and their relationship to our Constitution? This could affect the availability of consumer credit to Tennesseans.

When our present Constitution was drafted in 1870, there was no such thing as consumer credit. Since that time, laws have evolved which allow the extension of short-term credit on small amounts. The rates allowed in these consumer laws produce an **Annual Percentage Rate** in excess of **10%** in almost all cases. We, as consumers, receive this



disclosure in every credit use and in every statement sent to us. The question before the Courts is whether or not this APR and "conventional interest" are the same thing. The fact that this question can be raised is reason enough to amend our Constitution.

In Arkansas, our sister state which has the second lowest per capita income in the nation and a similar

Constitutional provision, the courts have already ruled that 10% is the most that can be charged whether stated as APR's or otherwise. Even when the economic situation allows an adequate return at 10% on large loans, this amount does not cover the expense of making high-cost, short-term loans such



as we have in revolving charge accounts, credit cards, and appliance purchases. As an example, there is less risk and less expense in making one loan of $100,000 than in making 100 loans of $1000 each.

One result of the Arkansas decision is a raising of credit standards to reduce losses from those who don't repay their loans. Raising credit standards means the loss of credit to those who need it most.

Another result is that all small loan companies who provided consumers with short-term money left the state. These lenders would have lost money on every loan they made, and we all know they're not going to do that.

Perhaps the most far-reaching effect of the Arkansas decision is that retail prices on items frequently bought on credit were raised to everyone, cash and credit customers alike. These price increases which range from 10 to 20% are necessary to cover the costs of extending limited credit. It is the average family that suffers most in this situation.

The question raised in Arkansas is similar to the cloud that hangs over Tennessee's consumer laws. Amending our Constitution could clear away this cloud.

Did you know that Tennessee is dependent on dollar investments from other states for construction projects such as shopping centers, hospitals, and apartment complexes, for manufacturing development, and for industrial expansion? These projects create jobs for Tennesseans.

These investment dollars don't come into Tennessee during periods in the nation's economy when interest rates are higher than those stated in our Constitution. Our Legislature does not have the authority to react to these fluctuations in the national economy. Such a shortage of imported funds occurred in Tennessee in 1969 and in 1974, and our state's economy suffered. At the same time, Tennessee dollars went to other parts of the country where a better return on investments was available. Tennessee could not compete.



Did you know that the legislatures in the forty-seven other states regulate interest rates and that their rates are no higher than ours?

The Tennessee Legislature meets annually. Thus, our lawmakers could look at the national economy and raise or lower rates as needed to compete. Our Constitution can be changed only once every six years. Thus, we are now powerless to react to changes in the rest of the nation and cannot assure ourselves a continued supply of credit dollars. We need to amend our Constitution to give



our Legislature the authority to respond to economic changes just as other states have done.

Not only could the Legislature help protect the Tennessee economy but it could make specific rules and regulations on different kinds of credit and help guarantee credit availability. The Legislature could regulate credit costs by setting interest at the fairest possible rate. Legislators are politicians and therefore are unlikely to pass lending laws and change interest ceilings unless absolutely necessary.

Now you know the importance of the upcoming Constitutional Convention and its relationship to consumer credit, charge accounts and credit card purchases, to our state's economy and the availability of jobs, and that you, as a citizen, can have a voice in seeing that we continue to have fair credit at fair prices and that Tennessee's economy remains strong.

If you want to know more
about this important issue,
contact

INTEREST RATE INFORMATION, INC.

20th Floor, Life & Casualty Tower
Nashville, Tennessee 37219
615-256-5304



#10

March 7th Is An Important Day

On March 7th, there will be an election in Tennessee to accept or reject amendments to our outdated Constitution. One of these amendments, Question Number Ten, will give the legislature the power to control interest rates. It's very important to every Tennessee citizen that this question pass.

Why Is It So Important?

A VOTE FOR Question 10 will help Tennessee's economy and, therefore, all of us as Tenneseans. Here's how:

1. ***A Vote FOR Question 10 will help the Tennessee economy by making more money available and that helps all of us.***

2. ***A Vote FOR Question 10 will give us more control over interest rates because they will be controlled by our elected legislators.***

3. ***A Vote FOR Question 10 will allow many credit unions and small loan companies to once again loan money to people in Tennessee when they really need it.***

4. ***A Vote FOR Question 10 will help the Tennessee economy to remain strong during hard times and, therefore, provide more jobs.***

All Kinds Of People Are Voting FOR 10

Everyone in Tennessee stands to benefit from the passage of Question 10. Here's what some individual Tennesseans are saying.

"I'm voting FOR Question 10 because it's important to my credit union and because it will help them be able to keep loaning money to credit union members."

Jim Davenport
Postal Employees' Credit Union

"I'm voting FOR Question 10 because it will help keep Tennessee's economy strong and keep unemployment down."

David M. Bailey
Teamsters Local 327

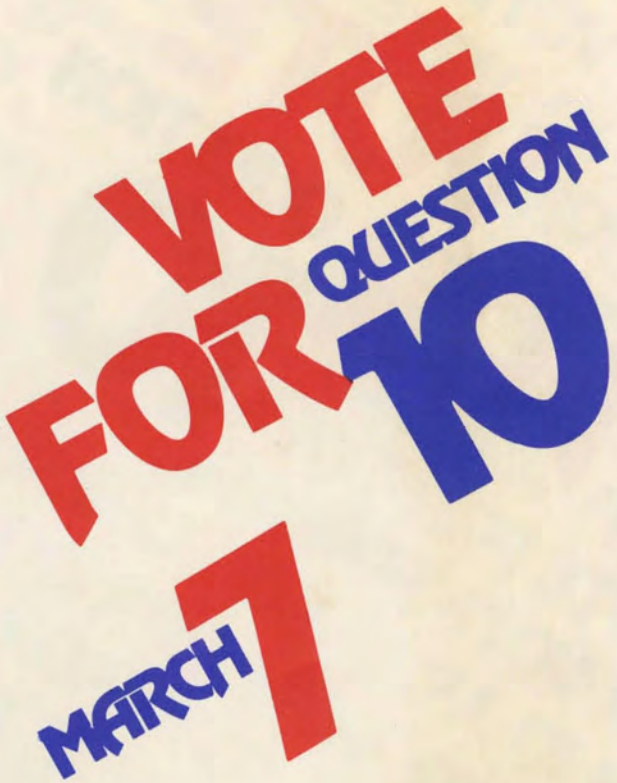
"Right now Tennessee loan companies have had to quit loaning money because of Tennessee's outdated Constitution. I'm voting FOR Question 10 so loan companies can once again loan money to people when they need it."

Don Stephenson
Crestline Finance Corp.
Jackson, Tennessee

"Without the passage of Question 10, retail merchants throughout Tennessee might have to stop letting their customers charge the things they need to buy. I'm voting FOR Question 10 and I'm urging my customers to vote for Question 10 so we can keep our charge accounts open."

Jack Profitt
Profitt's Department Store
Alcoa, Tennessee

Forty-eight other states have already turned control of interest rates over to their state legislatures and it has been a big improvement. Now it's time Tennessee caught up with the times. Vote FOR Question 10 for the good of Tennessee. Our outdated Constitution needs to be changed.



VOTE FOR QUESTION 10

Committee on Question 10

12th Floor
First American Center
Nashville, Tennessee 37238

VOTE FOR QUESTION 10

Committee on Question 10

12th Floor
First American Center
Nashville, Tennessee 37238

ATHENS CLAY PULLIAS
TREASURER
ROBERT KIRK WALKER
ASSISTANT TREASURER

Edmund W Meisenhelder III
3102 Acklen Ave
Nashville Tn 37212

Dear Friend:

On March 7, there will be an election in Tennessee to accept or reject several amendments to our outdated Constitution.

The outcome of one of these amendments - Question 10- is so important to you and me as members of the financial community that I wanted to take this time to write you personally about it.

Question 10 requires the legislature to control interest rates in the State of Tennessee. Right now, our only control over interest rates is an outdated provision in the State Constitution that was written over 100 years ago! There is only one other state in the U.S. - Arkansas - that still handles interest rates this way. The other forthy-eight states have already given their legislatures control of interest rates and it has proved to be a much better system.

Several years ago when I first started in the banking business, I was a teller at the First American Bank. Now I am Branch Manager at our 8th and McGavock Branch. When I first chose banking as a career, I was a little nervous but I've never regretted making that decision. Sure, there have been days when things didn't go just right but generally, banking has been good to me

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Please Detach and Return this Coupon

- ☐ On March 7th I will vote yes on Question 10.
  My voting place is _____.
  My phone number is _____.
- ☐ I will ask my friends and family to vote yes.
- ☐ I will volunteer a few hours of my time to help pass Question 10.
- ☐ No, I want the present constitution to stay in effect because _____.

Edmund W Meisenhelder III
3102 Acklen Ave
Nashville Tn 37212 v

and my family. I feel I'm providing a worthwhile service to my community and to my customers.

Because I'm in banking, family, friends and customers naturally come to me for financial advice. I'm sure the same thing happens to you. And like you, I feel a strong responsibility to advise them truthfully and with the best knowledge I have.

Right now, the question of changing the Constitution and turning over control of interest to the legislature is a frequent question from my customers, friends and family. When they ask me what I'm going to do, I tell them I'm going to vote YES on Question 10 and I explain why.

- Voting YES on Question 10 means a stronger Tennessee economy and that, of course, benefits us all.

- Passage of Question 10 means interest rates will be controlled by the legislature and, therefore, be more responsible to the concerns of the average Tennessean.

- Voting YES on Question 10 will mean that those loan companies, credit unions and banks that have been forced to limit their lending to some Tennesseans can start lending again.

Those are just a few of the reasons I am telling people that I am voting YES on Question 10. I hope you will join me on March 7 with your YES vote -- and ask your friends, family and customers to do the same. I've enclosed a brochure that tells you more about Question 10. I am confident that a YES vote on March 7 will be good for Tennessee and for Tennesseans.

Help us pass Question 10, the amendment on legislative control of interest.

Sincerely,

Tom Wright

Tom Wright

P.S. I have enclosed a return coupon and envelope. I hope you will fill it out and help us get the message out to other people who feel the way we do. Please let us know that you are going to vote with us on March 7 and that you will help contact people on this important issue by filling out the coupon and returning it to us today. Thanks.

383.6

Banner Nov. 17, 1976

Davidson Election Officials Certify Winners

By LARRY MAY
Banner Staff Writer

Rose Winfree was certified as the winner by 95 votes in the race for the convention delegate seat from the 60th District Monday by the Davidson County Election Commission.

Unofficials returns had listed Anna Brown Alexander as the winner by five votes on election night. However, Mrs. Guynell Sanders, registrar, said a mathematical error was discovered and corrected.

The certified vote was 3,021 for Mrs. Winfree and 2,926 for Mrs. Alexander.

Other votes certified were:

● Jimmy Carter, for President, 99,007 to 60,662 for Gerald R. Ford.

● Jim Sasser, for United States Senator, 91,864 to 65,993 for Bill Brock.

● Frank D. Cochran, for public service commissioner, 73,813 to 31,580 for Bob Pitt.

● Clifford Allen, for 5th District Congressmen, 114,128 to 9,912 for Roger Bissell.

● Bill Boner, for state senator from the 18th District, 23,313 votes, unopposed.

● John Hicks, state senator from the 20th District, 25,590 votes, unopposed.

● John Steinhauer, state representative from the 45th District, 780 votes, unopposed.

● James R. (Jim) McKinney, state representative from 50th District, 9,082 votes, unopposed.

● Robb Robinson, state representative from the 51st District, 8,759 votes, unopposed.

● E. Marvin Fleming Sr., state representative from the 52nd District, 6,868 votes to 1,256 votes for Aubrey A. Waffird.

● Victor Ellis, state representative from the 53rd District, 6,047 votes, unopposed.

● Harold M. Love, state representative from 54th District, 6,793, unopposed.

● Michael D. Murphy, state representative from the 55th District, 11,521, unopposed.

● Stephen A. Cobb, state representative from the 56th District, 8,553, unopposed.

● John Chiles Jr., state representative from the 57th District, 10,555 to 10,370 for Thomas W. Brothers.

● Charles W. Pruitt, state representative from the 58th District, 6,402, unopposed.

● Dick Clark, state representative from the 59th District, 11,797, unopposed.

● Elliott Ozment, state representative from the 60th District, 8,990, unopposed.

● Clarence (Pete) Phillips, state representative from the 62nd District, 1,361, unopposed.

● Dan Holder, convention delegate from the 45th District, 294 votes to 117 votes for J.C. McMurtry, his nearest competitor.

● Alf Rollins, convention delegate from the 50th District, 3,550 votes to 1,986 votes for Thelma M. Harper, his nearest competitior.

● Jo Ann North, convention delegate from the 51st District, 3,725 votes to 2,086 votes for John Douglas Copeland, her nearest competitor.

● Bob Langford, convention delegate from the 52nd District, 1,933 votes to 488 votes for Philip M. Carden, his nearest competitor.

● Mrs. Earl C. (Helen) Shacklett, convention delegate from the 53rd District, 2,660 votes, unapposed.

● Harold Jude Smith, convention delegate from the 54th District, 1,137 votes to 1,113 for Lorenzo Hayden, his nearest competitor.

● Richard J. Eskind, convention delegate from the 55th District, 2,478 votes to 1,084 for Robert N. Allen, his nearest competitor.

● William E. Akin, convention delegate from the 56th District, 2,654 votes to 1,135 votes for Molly Todd, his nearest competitor.

● Warner Bass, convention delegate from the 57th District, 5,076 votes to 2,161 votes for Larry Stewart, his nearest competitor.

● rs. Charles W. Pruitt, convention delegate from the 58th District, 2,299 votes to 595 votes for James L. Perkins, her nearest competitor.

● Casey Jenkins, convention delegate from the 59th District, 3,335 votes to 1,939 for Jerry Sailors, his nearest competitor.

● Rose H. Winfree, convention delegate from the 60th District, 3,021 votes to 2,926 votes for Anna Brown Alexander, her nearest competitor.

● William E. Shofner, convention delegate from the 62nd District, 519 votes to 414 votes for Monte D. Curry, his nearest competitor.

Frank M. Bess Jr. was certified as the winner in the special election for constable in the urban services district with 38,022 votes.

Amendments to the charter for the Metropolitan Government were certified as failing to pass except Amendment No. 3, which passed. This amendment calls for a registered nurse to be added to the Metro Board of Health.

The election commission also certified that 165,304 of the 214,561 registered voters voted in the election, for a percentage of 77.04.