

1936

PROPOSITION

TO BE SUBMITTED TUESDAY, NOVEMBER 3, 1936

ISSUED IN ACCORDANCE WITH SECTION 183 OF THE CHARTER OF THE
CITY AND COUNTY OF SAN FRANCISCO

C. J. COLLINS, *Registrar of Voters*

Declaring That the Public Interest Requires the Submission to the Electors of the City and County of San Francisco of the Proposal to Adopt the Provisions of Section 26 of Article VI of the Constitution of the State of California Relative to the Method of Selecting Judges of the Superior Court of the City and County of San Francisco, and Providing for the Submission of Said Proposal to the Electors.

(Code No. 7.01)

Resolution No. 2359, as follows:

WHEREAS, The electors of the State of California at a general election held on November 6, 1934, adopted an amendment to Article VI of the Constitution of the State of California providing for method of selection of justices of the Supreme Court and of the District Courts of Appeal and judges of the Superior Court, which amendment is designated as Section 26 of Article VI of the Constitution of the State of California; and

WHEREAS, The Legislature of the State of California adopted an act entitled "An act to provide means for making applicable to judges of the Superior Courts the provisions of Section 26 of Article VI of the Constitution of this State relating to the method of selecting judges," which said act was approved by the Governor on July 15, 1935, and constitutes Chapter 574 of Statutes of 1935 and which said act is in full force and effect.

WHEREAS, It is provided by said constitutional section that its provisions shall not apply to the judge or judges of the Superior Court of any county until a majority of the electors of such county voting on the question of the adoption of such provisions, in a manner to be provided for by the Legislature, shall vote in favor thereof; and

WHEREAS, The said act hereinabove entitled provides for the manner of submission of such proposal and for the certification of the action of the electors thereon; now, therefore, be it

RESOLVED, by the Board of Supervisors of the City and County of San Francisco, as follows:

That the Board of Supervisors of the City and County of San Francisco hereby declares that the public interest requires the submission to the electors of the City and County of San Francisco of the proposal to adopt the provisions of Section 26 of Article VI of the Constitution of the State of California as applicable to the judges of the Superior Court of the City and County of San Francisco;

That the said proposal that the provisions of Section 26 of Article VI of the Constitution of the State of California be made applicable to the judges of the Superior Court of the City and County of San Francisco be and the same is hereby submitted to the electors of the City and County of San Francisco at the general election to be held on Tuesday, the 3rd day of November, 1936.

That the Registrar of Voters is hereby directed to take all necessary steps to submit the said proposal to the electors at the said election and to include the same on the official ballot for said election in the manner provided by said Section 26 of Article VI of the Constitution and by said act of the Legislature hereinabove entitled;

That if the said proposal is approved at said election by a majority of the votes cast thereon the Board of Supervisors shall cause a certificate signed by the Presi-

dent of said Board as chairman thereof and duly dated to be filed with the Secretary of State reciting that the said proposal to adopt the provisions of said Section 26 of Article VI of the Constitution as applicable to the judges of the Superior Court of the City and County of San Francisco was approved by a majority of the votes cast thereon at said election.

Adopted—Board of Supervisors, San Francisco, January 20, 1936.

Ayes: Supervisors Brown, Colman, Havenner, McSheehy, Mead, Meyer, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing resolution was adopted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

Approved, San Francisco, January 21, 1936.

ANGELO J. ROSSI, Mayor.

Submitting to the Electors of the City and County of San Francisco the Proposal That Section 26 of Article VI of the Constitution of the State of California Relative to the Method of Selecting Judges of the Superior Court Be Made Applicable to the Judges of the Superior Court of the City and County of San Francisco.

(Code No. 7.01)

Resolution No. 2360, as follows:

WHEREAS, The Board of Supervisors of the City and County of San Francisco has this day adopted a resolution pursuant to Section 26 of Article VI of the Constitution of the State of California and Chapter 574 of the Statutes of 1935, wherein and whereby the said Board of Supervisors did declare that the public interest requires the submission to the electors of the City and County of San Francisco of the proposal to adopt the provisions of Section 26 of Article VI of the Constitution of the State of California as applicable to the judges of the Superior Court of the City and County of San Francisco; now, therefore, be it

RESOLVED, by the Board of Supervisors of the City and County of San Francisco, as follows:

That the proposal that the provisions of Section 26 of Article VI of the Constitution of the State of California be made applicable to the judges of the Superior Court of the City and County of San Francisco be and the same is hereby submitted to the electors of the City and County of San Francisco at the general election to be held on Tuesday, the third day of November, 1936.

That the Registrar of Voters be and he is hereby directed to take all necessary steps to submit the said proposal to the electors at the said election and to include the same on the official ballot for said election in the manner provided by said Section 26 of Article VI of the Constitution of the State of California and by said Chapter 574 of the Statutes of 1935 in such manner that the electors may vote for or against the said proposal by voting "YES" or "NO" thereon.

Adopted—Board of Supervisors, San Francisco, January 20, 1936.

Ayes: Supervisors Brown, Colman, Havenner, McSheehy, Mead, Meyer, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing resolution was adopted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

Approved, San Francisco, January 21, 1936.

ANGELO J. ROSSI, Mayor

Remove Our Judges From Politics

Vote YES ON SAN FRANCISCO PROPOSITION NUMBER 1

LAST ON THE BALLOT

Argument in favor of Proposition No. 1

SELECTION OF JUDGES

This measure provides a method of selecting the San Francisco Superior Court Judges whereby the people, at fixed periods, determine by a direct "Yes" or "No" vote whether or not a judge is fit to continue in office for another term. *This method, adopted by constitutional amendment in 1934, is already in operation with respect to the Supreme Court and Appellate Courts.*

The proposed plan provides that if a Superior Judge desires to succeed himself the people vote upon the question, "Shall Judge (name) be elected to the office for the term expiring January (year)?" If the majority vote is "Yes" the judge continues in office for a new term of six years, which is the present term. *If the majority vote is "No" the judge's term ceases, he is rendered ineligible for appointment and his successor is selected by the Governor, but only if his selection is confirmed by the Chief Justice of the Supreme Court, the Presiding Justice of the District Court of Appeal and the Attorney-General.* At the end of each six-year term the same method of submitting the judge's fitness to the people is followed. Every selection thus made by the Governor, Chief Justice, Presiding Justice and Attorney-General is required to come before the people at the next general election for approval or disapproval by a clear-cut "Yes" or "No" vote. *Thus the people pass directly upon the issue whether or not the judge has rendered the honest, capable, intelligent and fearless service the public has a right to expect.* If the people determine that the judge has demonstrated his unfitness, they can terminate his incumbency by voting upon the direct question of fitness free and clear of such matters as his own popularity or the popularity of someone else.

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This new method of selection would take our judges out of the ruck of periodical electioneering. Hitherto they have been compelled, willy nilly, to descend from the bench in campaign years to pursue vote getting activities that interfere with their judicial duties and are, in too many instances, beneath the dignity of the court to which they belong. Our judges are required to forego private practice and we have the right to expect from them honesty, dignity, intelligence and courage in the performance of their duties. We should make it possible for them to submit their qualifications to the voters without resorting to publicity stunts or other activities unworthy of the dignity of the high offices which they occupy.

As to the method of designating a candidate in case of a vacancy it seems to be buttressed against selfish or ignoble motives on the part of any Governor who might be tempted to trifle with one of his gravest responsibilities. The Chief Justice, the Presiding Justice of the District Court of Appeal and the Attorney-General are armed with checks and counterchecks upon the action of such a Chief Executive.

The adoption of this measure will in no way destroy or affect the right of the people to recall judges, or the power to remove a judge by legislative action or impeachment.

VOTE "YES."

**O. K. CUSHING
ALBERT A. ROSENHINE
F. M. McAULIFFE
MILTON MARKS
HARRY S. YOUNG**

Without determining merits of the foregoing argument, the Board of Supervisors has authorized the Registrar of Voters to include it with the sample ballots mailed to the voters.

Vote YES ON
SAN FRANCISCO PROPOSITION NUMBER **1**

LAST ON THE BALLOT

Remove Our Judges From Politics

Vote NO ON PROPOSITION NUMBER 1

LAST ON THE BALLOT

Among the fundamental objections to said proposal we may be permitted to enumerate the following:

1. Once approved by the voters, **no legal possibility exists to change the method of selecting our judges** by election, except by another Constitutional Amendment and state-wide vote thereon.

2. Under the appointive system, as now proposed, it would be impossible to defeat or supplant an incumbent judge, no matter how bad or untrue to his trust he may prove to be. Nothing like active opposition and rivalry will tend to insure an able, fearless and upright judiciary.

3. **The best judges now have practically no opposition;** and no judge should consider himself too good to be held once in every six years of office responsible to the people, whose servant and not their master he is.

4. Judges like other men are influenced by their environment. A judge **secured in his position for life** and surrounded by influences estranged from the affairs and problems of the common citizenship, is apt to become exclusive in his sympathies and outlook upon life, and be **accommodating and complaisant to interests** totally selfish and reckless of the interests of the community and the great mass of common people, thinking in terms of property and social preferment, to the neglect of human rights and the righting of legal and social wrongs.

5. The road of opportunity for judicial preferment and service will be restricted to those having connections with the higher ups and influential in politics, business and the profession. Lack of such connections will prove an unsurmountable obstacle to the aspirant otherwise eminently qualified by reason of ability and fitness.

6. As corporation and professional interests are chiefly litigated in the court, **corporation trained and connected lawyers**, the adepts at evasion of legal obligations through technique gained in corporation service, **are the only ones** that may succeed in securing a position on the bench under the appointive system.

7. **Whatever the shortcomings of the popularity seeking judge may be, the corporation serving judge and the complaisant judge who kowtows to might and influence is far more dangerous to the interests of the community, the rights of the public, and the welfare of the masses.**

8. This proposal is one of the mile-posts in the age-long scheming for an appointive judiciary and life-long tenure, a conspiracy against the

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democracy instituted by the framers of the State Constitution of 1879. The many successive amendments and proposals to amend Article VI of the Constitution testify to the adroit and insinuating manner in which interests expecting to profit by such changes in the selection of judges, inch by inch gradually restrict the right of the voters to have any say in the selection of those who are to judge them, and in whose hands their lives and fortunes are confided.

9. Almost without exception the men who would control and influence appointments **are lawyers retained by the great corporations.** Their main concern is to **protect these corporations in their special privileges** and powers to exact tribute from the public. These men seldom appear in court but spend their time devising ways and means to circumvent the laws for their clients, or to have them declared unconstitutional by the very judges whom they have helped to select and place in power. Such judges will readily grant injunctions against labor organizations, and will be inclined to declare laws invalid when against their interests.

10. And now we have the plan which **provides for the appointment of judges in San Francisco by the Governor.** If this plan be permitted to operate, we may be sure that fresh and large quantities of "dirt" will be shoveled into state politics. Certainly, it is not designed to purge politics, nor to remove them from the control of special interests. **A reform more treacherous to public welfare was never devised.** Under the present system of electing judges by the people, mistakes may be made, but we have never found in this democratic country that such mistakes were corrected by substituting a small group of autocrats for popular government. When United States Senators failed to respond to the will of the people, the people made **them elective by popular vote, and not by restricting the choice to a few men.**

This plan is an open invitation to scheming, intimidation, and trading for favors, coming into free play. And in the end, one man, the **Governor, shall have the power to say who shall mete out justice,** who shall declare guilt or innocence, and who shall pronounce life or death. It is the most **outrageous concentration of power** into the hands of a few, and a **backward step in government.**

Respectfully submitted,

SAN FRANCISCO LABOR COUNCIL,

Edward D. Vandeleur, President.

John A. O'Connell, Secretary.

SAN FRANCISCO BUILDING TRADES COUNCIL,

Thomas L. Chambers, President.

Thomas Doyle, Secretary.

VOTE NO on NO. 1 LAST ON THE BALLOT

(OVER)

