1. Article states that several Democratic candidates for judicial office in Texas are running as Republicans in order to appear more appealing to voters. Candidates note that Texas’ embrace of the GOP in the 1990s has made it virtually impossible to win a judicial election as a Democrat. Indeed, six of the nine statewide judicial races in the 2000 election have only Republican candidates. None of the three Republican state Supreme Court justices running for re-election has drawn a Democratic opponent. Two of the justices, however, are being challenged in the Republican primary by “sometime Democrats” running as Republicans. Experts speculate that one of those challengers, Houston lawyer Valorie Davenport, is being supported by the Texas Trial Lawyers Association, whose leaders vowed to run a candidate against conservative Justice Nathan Hecht. She and officials with the group deny the allegations. Mary Flood, Candidates for Court Cross Lines, Wall St. J., January 12, 2000.

2. The campaign for three open seats on the Illinois Supreme Court has become the most expensive in the state’s history. So far, the candidates have raised approximately $2.72 million for the March 21st primary. According to the State Board of Elections, the three top candidates (in terms of contributions) raised more money in 1999 than any other person has ever raised or spent during an entire Illinois Supreme Court campaign. U.S. District Judge and former Illinois Congressman Abner Mikva said that the amount of campaign contributions brings Illinois’ judicial election in line with states such as Texas, where “every special interest in the state -- the insurance, the defense bar, everybody -- is in there with big bucks to promote their candidates.” Mark Schauerte, Fund-Raising for Supreme Court Primaries Breaks Records, Chicago Lawyer, February 28, 2000.

3. Op-ed discusses judicial elections in Texas, and argues that a recent conversation between the author and a former state judge “raise[d] valid questions about the wisdom of electing our judges in Texas rather than using a system of appointment with retention elections.” In Texas, the piece asserts, “judges labor along in anonymity until they make a controversial decision and become lighting rods at election time.” Consequently, “others watch the potential train wreck occur and determine they won’t make a ruling that will leave them vulnerable. When that happens, the potential loser is always justice.” Henry Tatum, Partisan System Deforms Justice, Dallas Morning News, March 1, 2000.

4. Article discusses the upcoming Illinois Supreme Court election, which promises to be the most expensive in the state’s history. Seth Anderson, director of the Hunter Center for Judicial Selection, stated, “Illinois historically has not experienced this type of really big money judicial campaign. Other states like
Texas have always kind of led the way in that dubious distinction.” The article also notes that several candidates are using campaign materials formerly thought inappropriate for a judicial campaign. For example, Judge Bonnie Wheaton has passed out buttons saying, “Wheaton for Supreme Court -- Pick the chick.” Judge Morton Zwick, who is also running for a seat on the Supreme Court, has distributed bottles of water labeled “Justice Mort Zwick Water…Clear Thinking and Clear Drinking.” Ken Armstrong, Judicial Races in Money, Limelight Campaign Funds Flood Supreme Court Elections, Chi. Trib., March 6, 2000.

5. Article discusses the migration of judicial candidates in Texas to the Republican Party, stating, “In this year’s races for the state high courts, voters will mostly choose between Republicans of different stripes, as candidates from across the philosophical spectrum have migrated into the GOP primary.” According to D’Ann Johnson, executive director of the Texas Criminal Defense Lawyers’ Association, “In statewide races, it’s a one-party state, just like it used to be a one-party Democratic state. If you want to get heard, you run as an ‘R’.” The Texas Republican Party is challenging the credentials of some judicial candidates to run as Republicans. Pete Slover, State Judge Hopefuls Flock to GOP, The Dallas Morning News, March 10, 2000.

6. Op-ed argues that “As long as Texans hang…to the notion that judges…ought to be elected by the people, it will remain the responsibility of the people to find out something about judicial candidates before going to the voting booth.” The author warns it is important for voters to realize that two candidates for the Texas Court of Criminal Appeals -- Judges Tom Price and Jim Wallace -- have been reprimanded by the Texas Commission on Judicial Conduct. Price was admonished for hearing two DWI cases in which his father-in-law was the defendant, and for falsely claiming the endorsements of several associations. Wallace was rebuked for giving special treatment to a defendant. J.R. Labbe, Court Races: Why They Need Scrutiny, Star-Telegram (Fort Worth, TX), March 30, 2000.

7. Op-ed by Joe Hallett reports that the Ohio Chamber of Commerce and other business groups are mounting a campaign to defeat state Supreme Court Justice Alice Robie Resnick, who wrote the majority opinion in the court’s decision to overturn a tort reform statute. According to the piece, since judicial candidates in Ohio are prohibited from discussing issues that may appear before the court, and must adhere to strict spending limits, they “rely on independent groups to be their campaign messengers.” For example, an insurance industry-funded group has already aired radio attack ads in Ohio against Resnick, and the Chamber of Commerce has brought in three consultants to outline tactics used to help elect business-friendly justices in Texas, Louisiana and Michigan. Joe Hallett, High Court Race Conjures Low Blows, The Columbus Dispatch, April 2, 2000.
8. A group of lawyers and consumer advocates -- including Texans for Public Justice -- has filed a federal lawsuit claiming Texas’ system of electing judges is unconstitutional. The lawsuit argues that campaign donations by lawyers and parties with cases pending before the court violate the constitutional guarantee of a fair trial. Plaintiffs have asked the court to stop all judicial elections in Texas starting in 2001. The lawsuit cited a 1998 survey by the state bar of Texas and the Texas Supreme Court showing that only one percent of Texas attorneys said they believed campaign contributions had no influence on judicial decisions. Possible remedies to Texas’ judicial election system include a switch to publicly financed campaigns or a strict recusal law for judges hearing cases in which any of the parties have made contributions to their campaign. Russell Gold, Lawsuit Targets Judges’ Election, San Antonio Express-News, April 3, 2000.

9. Editorial asserts that the federal lawsuit seeking to end the way in which judicial elections are conducted in Texas “may force lawmakers to find the political will to do what hasn’t been done thus far -- seriously discuss the state’s judicial selection process.” According to the editorial, Texas legislators have continually sidestepped the controversial issue of judicial elections in Texas. Although the editorial argues that “public policy through litigation does not top anyone’s list…as the desired way to effect change,” it concludes that “It may be what finally gets [legislators] to look at the perverted system of judicial selection in Texas.” In Court, Star-Telegram (Fort Worth, TX), April 5, 2000.

10. Editorial applauds a federal lawsuit challenging the constitutionality of Texas’ judicial elections, stating, “[The lawsuit] may or may not be successful, but at least it calls attention to the state’s deeply flawed system.” Dismissive of critics who argue that reforms should be made by the state legislature -- and not the courts -- the editorial states, “reformers attempt to change the system practically every legislative sessions and lawmakers are unable to get the job done.” Judicial Elections Face Well-Deserved Attack, San Antonio Express-News, April 7, 2000.

11. Op-ed discusses the recent federal lawsuit brought by Public Citizen and the Gray Panthers against the Texas judicial election system. The op-ed argues that even if the plaintiffs prevail, “change still will be difficult, not only because of monied interests that try to benefit from the present system but also because of deep-seated differences that have been blocking change in the legislature for years.” According to the editorial, the Republican Party, which now controls many of the state courts, has a large incentive to fight change. In addition, some controversy exists over the best method to ensure that minorities are adequately represented on the bench. Finally, “any attempt to create a new system would face everyday Texans, who would have the final say because a new plan would require an amendment to the state constitution.” Texas polls indicate that a large majority of Texans support judicial elections. Clay Robison, No Easy Way to Change Judicial Selection, Hous. Chron., April 9, 2000.
12. According to a recent report produced by Texans for Public Justice, the nine members of the Texas Supreme Court raised $11 million in their most recent general election. The report states that the biggest donors were lawyers and law firms, who supplied $5.2 million, or 48 percent, of the justices’ total campaign expenditures. Individuals or companies with interest in the energy and natural resources field donated another large portion of the total amount raised by justices. A Texas Supreme Court spokesperson said the justices support changing the campaign contribution system, but that the change must come from the legislature. The entire report is available at www.tpj.org. Connie Mabin, Report Says Corporations, Lawyers Funded Supreme Court Races, Hous. Chron., April 13, 2000.

13. Editorial supports the federal lawsuit filed by Public Citizen and the Gray Panthers challenging Texas’ judicial election system, stating, “It is surprising that this type of court challenge has not appeared before.” The editorial argues that judicial elections in Texas are often determined by arbitrary measures such as the length or familiarity of a candidate’s last name or their party affiliation. The editorial suggests that the premise of the lawsuit -- that the election of judges is discriminatory because low-income Texans do not have the financial resources to influence court decisions by making campaign contributions -- may be hard to prove, but adds, “it certainly raises a valid question about the ability of lawyers and others to donate to a judge’s campaign and then appear in court later.” According to the editorial, Texas legislators should, at the very least, consider a plan that would force judges to recuse themselves from lawsuits involving a party that has contributed to their campaigns. Suit Should Prompt State to Reform Judiciary, The Dallas Morning News, April 17, 2000.

14. Editorial states that “[f]rom the state’s chief justice to just-a-citizen, Texans know that the state’s system of choosing its court judges is a mess.” The editorial expresses hope that the recent federal lawsuit filed by Public Citizen and the Gray Panthers which challenges the current system of judicial elections in Texas will “shake the state into action. There’s been far too much hemming, hawing, procrastinating and being embarrassed in the national media about our ‘justice for sale’ system. Lawmakers shouldn’t have to be forced by the federal courts to clean up a situation that virtually everyone agrees is tainted.” Judging Texas, Austin American-Statesman, April 24, 2000.

15. Op-ed by Texas attorney Richard Henderson applauds Public Citizen and the Gray Panthers for filing a federal lawsuit challenging the Texas judicial election system. He writes, “I hope the lawsuit forces a change of our system of selecting judges. I write this as a former judicial candidate who accepted thousands of dollars in campaign contributions; as an attorney who has contributed thousands of dollars to judicial campaigns...; and as an observer of judicial campaigns that
have deteriorated into expensive, sleazy, mudslinging alley fights.” Henderson calls for limits on campaign contributions and a ban on soft money in judicial campaigns. Henderson opposes the adoption of an appointive system for state judges, saying, “I have observed a disease we call “judgitis” set in from time to time” among federal court judges, but does give support to a merit system like the Missouri Plan, whereby judges are first appointed then periodically voted up or down by voters. Richard Henderson, *The Price Tag Needs to be Pulled from Texas Justice*, Star-Telegram (Forth Worth, TX), May 6, 2000.

16. Column calls on Texas voters to “make a small difference this year by closely following the two contested races for the Texas Court of Criminal Appeals.” The column argues that making an informed decision in this election is especially important because of the court’s power over death penalty cases. The column states, “In recent years, the Texas Court of Criminal Appeals has been a prosecutor’s dream come true. Justices have reacted to the state’s law-and-order atmosphere by giving prosecutors all the breaks” in capital cases. The column argues that Texas would be best served by eliminating the partisan election of statewide judges, which would ensure that “judges [would be] less likely to bend in the wind” on controversial decisions. Bruce Davidson, *Court Stands in Way of Justice*, San Antonio Express-News, June 30, 2000.

17. Letters respond to a recent op-ed by Talmage Boston criticizing the influence of money in Texas judicial elections for the Texas Supreme Court (Court Pester, July 13). Cristen Feldman, of Texans for Public Justice, agrees with Boston. According to Feldman, each campaign costs $1.4 million “and lawyers with cases before the court tend to make contributions in the $5000 range. PACs serving as front organizations for corporations seeking to escape liability for their own negligence slip checks as large as $20,000 to the court.” He concludes that the donors enjoy an influence on judicial elections denied to most Texas. Judge Jay Patterson of the 101st District Court of Dallas, Texas, defends Texas’ system of popular judicial elections. He claims that Texas residents are as satisfied with the state judicial system as residents of Missouri and other states where judges are not popularly elected. Moreover, Patterson also claims that attorneys in Dallas share “the virtually unanimous opinion that our Dallas judges are the best ever and continue to get better.” Cristen Feldman and the Honorable Jay Patterson, *Letters*, Dallas Morning News, July 16, 2000.

18. Article reports that Dallas-based Halliburton Company, formerly by Republican Vice Presidential nominee Dick Cheney, has had a practice of making campaign contributions to Texas Supreme Court Justices when litigation involving the company is pending before the Court. Since 1993, contributions from the firm, subsidiaries, and individual executives have surpassed $80,000. During that time, Halliburton has had at least five cases before the Court and, in each case, the Court has either declined to hear the case or ruled in the company’s favor.
Christian Feldman, an attorney for the watchdog group, Texans for Public Justice, claims, “They’ve methodically flooded the Supreme Court with money at the same time they’ve had cases pending before the court.” An attorney for Halliburton responds that the company does not wish to influence court decisions. Miles Moffeit and Diana Hunt, *Halliburton Gifts Target Areas Where It Has Stake, Records Show*, Fort Worth (Tx.) Star-Telegram, July 29, 2000.

19. Column argues that the recent pardoning of Roy Criner reveals the flaws in Texas judicial elections. Criner was sentenced to a 99-year sentence for murder and rape, but DNA tests supported his claims of innocence. However, the Texas Court of Criminal Appeals denied him a new trial. (See Court Pester, August 17.) According to the column, “only when Montgomery County District Attorney Michael McDougal sought a pardon . . . was Gov. George W. Bush able to release Mr. Criner.” Criner’s case, in the column’s view, “shows the flaws in a system in which all judges are elected. At a time when the public wants judges to lock ‘em up and throw away the key, it is much simpler to deny a new trial to a man many thought had raped and bludgeoned a teenage girl.” The column concludes by endorsing a legislative proposal for judicial appointment. Henry Tatum, *Justice*, Dallas Morning News, August 23, 2000.

20. Article reports that the chief justices of the 15 most populous states with judicial elections will hold “a summit meeting” to discuss judicial electoral reform. (See Court Pester, August 31.) According to Tom Phillips, the Chief Justice of Texas and an organizer of the meeting, the escalating costs of judicial campaigns and the increase in attack advertising make the changing nature of judicial elections “a national problem and one that has to be looked at nationally, not just in whatever state is having an election at the moment.” Chief Justice Phillips says that, in searching for solutions, the participants will focus on limited reforms that can be achieved, rather than sweeping changes. However, some observers have questioned the participants’ commitment to reform, noting that the Justices owe their positions to the very system they seek to change. Tom Smith, the director of Public Citizen’s Texas office, states that “it is our fear that ! what will result is a strategy for defense of the system rather than an effort to find solutions.” William Glaberson, *Chief Justices Plan to Meet on Abuses in Judicial Races*, September 8, 2000.

21. Editorial refers to the meeting of 15 state Supreme Court Chief Justices in December to discuss judicial electoral reform and asserts that “a summit on judicial elections can make improvements but not solve the fundamental problem.” The purpose of the conference is to identify “improvements that realistically could be made within the existing framework of judicial elections.” The editorial applauds the attempt but concludes that real progress will be achieved in Texas only when “the state takes the blatant politics out of selecting its judges.” *Court Conundrums*, Fort Worth Star-Telegram, September 17, 2000.
22. Editorial, in considering the pending Texas Supreme Court elections, welcomes an upcoming conference of state Supreme Court Chief Justices to discuss judicial campaign finance reform. (See Court Pester, September 12.) The editorial laments that “Supreme Court races in Texas have long been costly affairs, with large contributions from those interests with cases before the court.” It labels the plan of the Texas Association of Business and Chambers of Commerce to spend $100,000 in support of its endorsed candidates “another unwelcome symptom of the judicial-election sickness infecting Texas.” The editorial concludes that “Texas is ample proof that the partisan election of judges undermine the dignity of, and public confidence in, state courts. The chief justices and elected officials [who will attend the conference] are to be commended for trying to change the system that won them their jobs.” Restoring Confidence in the Courts, Austin-American Statesman, September 27, 2000.

23. Article reports that Citizens for Independent Courts, a bipartisan organization, has initiated a nation-wide effort to restore decorum to state judicial elections. In Alabama, Illinois, Michigan, Ohio, and Texas, the group has asked judicial candidates to pledge to follow the “Higher Ground Standards of Conduct.” The standards require candidates to refrain from voicing opinions on issues that might appear before them if elected, to make public the sources of campaign contributions within five days of donation, and to take responsibility for all advertisements made on their behalf. Virginia E. Sloan, executive director of the Constitution Project, which sponsors Citizens for Independent Courts, states that “We are trying to create an environment where it’s safe for candidates to say, I can’t tell you where I stand on issues that might come before me.” William Glaberson, A Bipartisan Effort to Remove Politics from Judicial Races, New York Times, October 23, 2000.

24. Article reports that “interest groups -- and their campaign cash -- are changing the nature of judicial elections in America.” It cites a recent study finding that 60% of Texas Supreme Court decisions involved donors to the Justices’ campaigns as either parties or attorneys, and that 49% of state judges, 79% of Texas attorneys, and 83% of Texans believed that campaign contributions have “a significant influence” on judicial decisions. Samantha Sanchez, of the National Institute on Money in State Politics, asserts, “There are political consultants who can come to your state and set up a ‘take over the supreme court’ operation for you.” Brenda Wright of the National Voting Rights Institute opines that the trend “just reflects the growing culture of money-saturated politics.” Christian Science Monitor, Justice for Sale? Cash Pours into Campaigns, Warren Richey, October 25, 2000.

25. Op-ed by Michele Petty, a San Antonio attorney, charges that the Justices of the Texas Supreme Court “just don’t see all people as having the same intrinsic
worth, and accordingly, they protect those people they identify with -- those who have helped them get elected.” Petty claims that, during the past six years, “the court [has] almost uniformly decided every case in favor of big business or insurance companies.” Moreover, it has “eroded the people’s rights” by severely restricting the ability of plaintiffs to conduct discovery of corporate records and depose business executives. Michele Petty, *Scales of Justice Tip toward Big Business*, San Antonio Express-News, October 31, 2000.

26. Article reports on the “skyrocketing” level of campaign contributions in state judicial elections. “Trial lawyers have long been major financial donors to judicial candidates, and labor unions have also given generously for years. In a new twist, business groups, heretofore relatively minor players in judicial campaigns, massively ratcheted up their giving in this last election cycle, spending millions on attack ads to discredit judicial candidates deemed to have an anti-business bias.” Anthony Champagne, professor of government and politics at the University of Texas at Dallas asserts: “These contributions are not really buying on outcomes particular cases. But they are buying a judicial philosophy on the bench. Battling over judicial elections is just another way of accomplishing your objectives as an interest group.” The article also notes: “This weekend, Texas Chief Justice Thomas R. Phillips will host a national summit [in Chicago] of judges and legislators from 15 states to find a way to stop the politicization of the courts.” Michael Scherer, *Courting Big Money*, Mother Jones Newswire, December 6, 2000.

27. Article reports that “the 2000 judicial campaigns featured the nastiest, most injudicious rhetoric in memory.” Considering the reasons why interest groups have only recently become involved with judicial elections, Abner Mikva, former chief judge for the U.S. Court of Appeals for the D.C. Circuit, opines: “They didn’t know how to do it. It wasn’t until the Texas elections ten years ago that special interests realized they could influence the judicial system through campaign contributions. . . . These campaigns are a portent of things to come. It bodes very badly for the future of judicial independence.” Paul Braverman, *Judicial Smackdown!*, American Lawyer, December 12, 2000.

28. Editorial calls for greater investment in increasing public education for Texas judicial elections. It asserts: “lack of voter education is one factor in our belief that Texas should adopt an appointive system for selecting judges” but “if Texans . . . want to continue electing judges, then a public expenditure to make sure that voters have adequate information . . . is a small price to pay.” It finds particular promise in voter guides, available in both print-form and online. Fort Worth (Tx.) Star-Telegram, *Judicious Voting*, January 31, 2001.

29. Column asserts that the reprimand given by the Texas Commission on Judicial Conduct to Judge Tom Price, of the Texas Court of Criminal Appeals, highlights
“the often-absurd nature of our system of forcing state judges -- who are supposed to be above politics -- to run for election.” (See Court Pester, Feb. 1) Last week, the Commission found Judge Price guilty of violating the state’s judicial election codes by pledging, as a candidate for the Chief Judge position of the Court of Criminal Appeals, to “show no leniency to violent criminals.” The columnist finds Judge Price’s promise to be par for the course for judicial elections: “Short of having a magical name like . . . Mother Teresa, the only way to win a race for the Court of Criminal Appeals in the Republican primary is to vow to be tougher on crime than the next candidate. Constitutional rights of criminal defendants are . . . an afterthought.” The columnist concludes by noting that, despite his pledge, Judge Price voted twice last week to grant retrial to defendants convicted of violent crimes and sentenced to death. Clay Robison, Judge’s Politics an Exception to Rulings, Houston Chronicle, February 2, 2001.

30. Editorial demands reform for Texas’ judicial elections: “The judicial selection system in Texas has been a national embarrassment going on 15 years now, since CBS’ 60 Minutes first asked in 1987 if justice is for sale in Texas.” It agrees with Texas Supreme Court Chief Justice Tom Phillips who asserted, in his recent State of the Judiciary address, that judicial elections “dangerously impede public respect for the administration of justice.” The editorial concludes that the legislature would do well to adopt Chief Justice Phillips’ suggestions for improvement, such as public funding for judicial candidates, retention elections for incumbents, and state-distributed voter guides. An Uphill Battle for Judicial Reform, Austin American-Statesman, February 19, 2001.

31. Column parses Texas Supreme Court Chief Justice Tom Phillips’ recent State of the Judiciary Address. In his speech, Chief Justice Phillips dismissed as “wishful thinking” the idea that, because the state courts have not been embroiled in recent scandals, there is no need for reform: “the greatest systemic problem with Texas courts remains the way our judges are selected. The current system has outlived its usefulness and now dangerously impedes public respect for the administration of justice.” The columnist argues that Chief Justice Phillips’s concern stems from the belief that the state judiciary suffered no scandals only because “Democrats . . . gave GOP Supreme Court justices a free ride” in 2000, thereby avoiding the heated campaign battles of the past. In his address, Chief Justice Phillips also attacked the practice of voting for judicial candidates based on party affiliation alone and noted that many able Democratic judges had been defeated as a result. Moreover, he gave his support for the public financing of judicial campaigns and called for the creation of internet voter information guides. Bruce Davidson, Once Again, Phillips Is Calling for Reform, San Antonio Express-News, February 23, 2001.

32. Op-ed by Claude DuCloux, member of the board of directors for the State Bar of Texas, attacks Texas’ judicial elections. DuCloux states that although “the public
election of judges in and of itself is not a bad idea,” too often, “well-meaning voters go to the polls where they rely [only] on familiar-sounding names, gender, personal stereotypes, and (above all) party affiliation.” He concludes by supporting state Supreme Court Chief Justice Tom Phillips’ call for reform: “there is no better public service that [lawyers] as a profession can do than change this judicial election system with urgency.” Claude DuCloux, *Is This Any Way for Texans to Elect our Judges?*, Austin-American Statesman, February 23, 2001.

33. Op-ed by Texas Supreme Court Chief Justice Tom Phillips excerpts his recent State of the Judiciary address. Chief Justice Phillips charges: “the greatest systemic problem with Texas courts remains the way that judges are selected. The current system has long outlived its usefulness and dangerously impedes public respect for the administration of justice.” He laments that Texas’ judicial elections are characterized by voter ignorance and large campaign contributions by trial lawyers and prospective litigants. As avenues of reform, Chief Justice Phillips suggests: public funding of judicial elections, judicial campaign finance laws limiting contributions to unopposed candidates, voter information guides on the Internet, and allowing judicial candidates to seek the endorsement of more than one party, a suggestion that has been endorsed by the Texas Judicial Council. Thomas Phillips, *Texas Needs to Change Selection System*, Dallas Morning-News, March 4, 2001.

34. It also sees promise in Representative Pete Gallego’s (D.) proposals to establish nonpartisan elections, prohibit lawyers and law firms from making campaign contributions, and create a public financing system. The editorial concludes: “Justice should not even appear to be for sale in the state.” Editorial surveys proposals to improve Texas judicial elections. It endorses state Senator Robert Duncan’s (R.) proposal to have appellate judges and Supreme Court justices appointed by merit selection. *Judicial Elections Need More Judgment*, Dallas Morning News, March 28, 2001.

35. Letter by Joe Deshotel, Texas Representative (D.), endorses a House bill that would create non-partisan, publicly funded judicial elections. Even though Texas judges are “truly fine people,” the current system is problematic because “private contributions are incompatible with the need for the appearance of impartiality.” Texas currently has the highest judicial election contribution limits in the country -- $15,000 per individual and $90,000 per law firm. Furthermore, judges need not recuse themselves from cases involving donors. While many in the Legislature support an appointive system, that would require a constitutional amendment, “a very high hurdle.” The public financing bill offers a more reasonable alternative. Candidates would qualify for public funds by securing 2500 contributions, ranging from $5 to $100. Parties would not be allowed to contribute. Then, all candidates would receive equal amounts to campaign. Joe Deshotel, *Free for All*, Dallas Morning News, April 15, 2001.
36. A new report by Texans for Public Justice finds that “the more money you give to a [Texas Supreme Court] justice’s election campaign, the more likely the Texas Supreme Court will agree to hear your case.” The report, “Pay to Play,” found that Justices were four times more likely to accept appeals from campaign contributors than from noncontributors. Craig McDonald, director of the group, asserts: “Clearly, the members of this court are politicians first, jurists, perhaps, second, in our opinion.” Texas Supreme Court Chief Justice Tom Phillips disagreed: “their own figures indicate that many of the law firms with the greatest success in getting cases heard have given little or nothing to Supreme Court campaigns.” The full report is available at www.tpj.org. Bruce Hight, Contributions Buy Access to Court, Group Says, Austin American-Statesman, April 25, 2001.

37. Column calls on Texans to recognize that “Texas judges are politicians because we ask them to be.” He asserts that while “the Texas judiciary is by and large filled with good people who are serious about their responsibilities,” “Texans refuse to relinquish their votes in judicial elections” and judicial elections require the state’s jurists to be politicians. He applauds efforts in the Legislature to create an appointive system and to make judicial elections nonpartisan and publicly funded but is skeptical of the chances of success: “Real change always meets a wall of resistance. . . . The same special interests that contribute to judicial races would be digging in their pockets to weigh in.” Arnold Garcia, Shocked, Shocked to Learn Judges are Politicians, Austin American-Statesman, April 28, 2001.

38. Editorial finds that a recent report by Texans for Public Justice prompts the question “Is justice for sale in Texas?” The report, “Pay to Play,” found that the largest campaign contributors to state Supreme Court justices were four times more likely to have a case accepted for review than non-contributors. (See Court Pester, April 26.) The editorial endorses a state Senate proposal for a constitutional amendment allowing gubernatorial appointment of appellate judges: “Were it to become law, [the] amendment would remove millions of dollars in campaign contributions from the judicial selection process and go a long way toward restoring the tattered reputation of Texas courts.” Take the Price Tag of Texas Justice, Austin American-Statesman, April 30, 2001.

39. Op-ed by Gene Nichol, Dean of the University of North Carolina, Chapel Hill School of Law, calls for judicial appointments for appellate judgeships. Nichol asserts that due to voter ignorance, voters are unable to make informed choices in judicial races: “even a blind hog occasionally finds an acorn. But starkly uninformed decision-making has little to commend itself.” Although restrictions on judicial speech contribute to this problem, Nichol contends that the alternative is worse, citing the example of a Texas judicial candidate who vowed to never reverse a capital murder case and “in over 200 decisions, . . . has kept her word.”

40. Article reports that the Texas House Judicial Affairs Committee has approved a bill changing the state’s selection of appellate judges from election to appointment. Previous bills have been defeated due to the opposition of Committee Chairwoman Senfronia Thompson (D.), who believed that minorities fared best in an elective system. Thompson, however, has now changed her opinion. According to the article, the bill faces an uphill battle because House deadlines require that it be scheduled for debate by next week. Janet Elliott, Bill to Appoint Top Appellate Judges Clears Hurdle, Houston Chronicle, May 16, 2001.

41. Judicial elections have given rise to “influence scandals and obscenely expensive campaigns.” At the same time, the public’s influence in determining who will actually serve on the bench is weaker than usually recognized: “nearly 280 visiting judges -- jurists who voluntarily retired, along with some who were voted from office . . . -- handled thousands of cases during the last fiscal year.” In addition, “a good 40 percent of the more than 500 judges sitting on the district and appeals courts were first appointed to those jobs before ever facing voters.” Considering proposals for merit selection, the columnist responds, “that’s not too different from what happens already.” Linda P. Campbell, Judicial Selection is Overlooked -- Again, Fort Worth (Tx.) Star-Telegram, May 31, 2001.

42. Article reports that several states have initiated efforts to “rein in aggressive politicking by judicial candidates, spurred on by last year’s judicial elections, which were fiercer and more expensive than ever.” Geri Palast, Executive Director of Justice at Stake, opines: “There is an understanding that this situation is going to escalate, so it’s a moment when you want to draw a line in the sand.” Some states, such as New York, are planning to provide voter guides, monitor interest-group advertising against judicial candidates, and create campaign oversight panels. Wisconsin and North Carolina are considering full public financing of judicial elections. Susan Armacost, Legislative Director of Wisconsin Right to Life, opposes full public financing: “we don’t want our state tax dollars going to candidates who don’t agree with our positions.” In other states, calls for merit selection are growing, with supporters including Gov. John Engler (R., Mi.), Gov. Tom Ridge (R., Pa.), and the chief justices of Michigan, Ohio, and Texas. William Glaberson, States Taking Steps to Rein In Excesses of Judicial Politicking, The New York Times, June 15, 2001.

43. Column laments that “as usual, efforts to revamp Texas’ judicial selection system died on the vine in this year’s legislative session.” Proposals for merit selection for appellate judges and public financing for judicial candidates failed to gain
support. However, limited reforms met with some success. The Legislature passed a bill that limits contributions to judicial campaigns to $250 and prohibits judges from contributing to committees supporting or opposing judicial candidates. It also passed a measure mandating judicial election voter guides for distribution on Internet. Bruce Davidson, *Judicial Politics See Some Reform*, San Antonio Express-News, June 24, 2001.

44. Editorial considers the Houston Bar Association’s recent survey evaluating judges in Harris County and Texas appellate benches and finds that “partisan elections shelter -- sometimes foster -- incompetence as distinguished judges of the minority party are swept out, often to be replaced by inferior candidates of the majority party.” It warns, however, that public financing would “bring problems of its own making” because appraising voters of candidates’ qualifications would be “prohibitively expensive.” Furthermore, the money may well “wind up in the slush funds of party hacks and kingmakers more interested in enforcing ideological purity and grasping personal power than in promoting a qualified judiciary.” *Courting Disaster*, Houston Chronicle, July 27, 2001.

45. Op-ed by Anthony Champagne, Professor for the School of Social Science at the University of Texas, Dallas, warns that “the new calm in Texas judicial politics” is only temporary. Citing Georgetown Law Professor Roy Schotland, Champagne states, “there is every indication to think that the 'nastier, noisier, and costlier' campaigns of much of the rest of the nation will soon come to Texas.” He notes that during the 1980s, Texas had some of the most contentious judicial elections in the nation. In the 1990s, however, Republican domination of state politics drastically reduced the competitiveness of court races. Champagne argues that the state’s rising Hispanic population will likely strengthen the Democratic party. As a result, judicial elections are likely to become more competitive and in the near future more rancorous. Anthony Champagne, *The Calm Before the Next Judicial Storm*, Texas Lawyer, October 15, 2001.

46. Op-ed by Craig McDonald, executive director of Texans for Public Justice (TPJ), charges: “in Texas . . . it’s . . . campaign contributions . . . that often determines who can win and preside in the courtroom.” TPJ’s 1998 study, “Payola Justice,” found that trial lawyers and business groups contributed millions to candidates. Noting that “the candidate with the most money almost always wins,” McDonald points out that 60% of the Texas Supreme Court’s cases involve a campaign contributor to at least one of the justices. Contributions pose two threats. First they endanger the appearance of an impartial judiciary: 80% of Texans, and 50% of Texas judges, believe that judges are influenced by campaign contributions. Moreover, TPJ’s latest study of 4,000 petitions for the right to appeal to the Texas Supreme Court suggests that the appearance is supported by reality: “the more money that a law firm or party to a lawsuit gave to the judges, the more likely
they were to accept their case.” The two biggest contributors to the court had over 50% of their cases heard, while the rate was 5% for non-contributors. Craig McDonald, *Texas-Sized Contributions to Texas Supreme Court*, TomPaine.com, November 1, 2001.

47. Editorial proclaims: “Texas Chief Justice Tom Phillips’ decision to run for re-election next year is welcome news to those who look for stability and continuity from the state Supreme Court.” According to the editorial, Chief Justice Phillips’ re-election is virtually guaranteed, since he is unlikely to face a Republican challenger in the primary and because he handily defeated his Democratic opponents in the last two elections. It praises Chief Justice Phillips for restoring the Court’s “reputation for professionalism badly battered by scandals and unprofessional conduct in the 1980s,” an especially difficult task given the state’s partisan elections. It anticipates that Chief Justice Phillips’ leadership will be sorely needed as the Court next year faces the possibility of having five new Justices on the bench. It concludes, “Phillips’ long service on the court and his highly personal brand of leadership will be a calming influence in this period of change.” *Stability on the Bench*, Austin American-Statesman, November 5, 2001.

48. Column discusses Texas Supreme Court Chief Justice Tom Phillips’ plans for reforming judicial elections. Chief Justice Phillips maintains that the main problems with the state’s judicial elections are their partisan nature and the increasing expense of campaigns. According to the columnist, this means that “[v]irtually all Texas judges are vulnerable to charges of conflicts of interest.” Chief Justice Phillips himself is no exception: “while he has made his mark as the leader for judicial reform in Texas, Phillips also has demonstrated a willingness and ability to raise big bucks if his survival depends on it.” Bruce Davidson, *Top Justice Sees Need for More Reform*, San Antonio Express-News, November 11, 2001.

49. The U.S. Court of Appeals for the Fifth Circuit has affirmed a district court ruling which dismissed a case alleging that Texas’ judicial campaign finance system deprives the state’s citizens of due process. A group of plaintiffs, including Public Citizen, argued that judicial candidates cannot maintain an appearance of impartiality when they accept campaign contributions from likely litigants. (See Court Pester, April 6, 2000.) The Appeals Court held, “[t]he injury-allegations at hand are too abstract and speculative to meet the constitutional standard for standing.” Associated Press, *Appeals Court Upholds Ruling in Favor of State’s Judicial Campaign System*, Abilene Reporter News, November 27, 2001.

50. Editorial calls on the U.S. Supreme Court to allow judicial candidates to speak about their legal views. The High Court will decide whether Minnesota’s prohibition of public discussion by judicial candidates of their political and legal views violates the First Amendment. (See Court Pester, December 4.) Noting that
the paper’s home state, Texas, has a similar rule, the paper contends, “the rules are a farce. Judges have opinions about key issues even if they keep mum. An examination of contributors to most judicial candidates already gives a good indication of their philosophical leanings.” It concludes that “[g]ood judges can be counted on to make rulings based on the law regardless of their personal feelings, and free expression will give voters a better understanding of the judges they elect.” Give Judges Chance to Speak on Issues, San Antonio Express-News, December 10, 2001.

51. Article reports that this year, Texas Democrats plan an expensive battle to challenge the G.O.P.’s domination of the state’s Supreme Court and Court of Criminal Appeals, neither of which seats a Democratic judge. This year, five out of nine Supreme Court seats and three out of nine Criminal Appeals seats will be contested. Whereas the state Democratic Party did not field candidates for the 2000 Texas Supreme Court elections, this year the Party will challenge all the Supreme Court seats except for that of Chief Justice Tom Phillips. In addition, all three of Gov. Rick Perry’s midterm appointees will face challengers in the primary. Pundits expect the upcoming race to be one of the costliest in Texas history. Pete Slover, Costly Battles Predicted in Judicial Races, Dallas Morning News, January 3, 2002.

52. Op-ed by Wy Spano, Publisher and Co-editor of Politics in Minnesota, responds to a recent column by George Will attacking Minnesota’s prohibition of discussion by judicial candidates of contentious legal and political issues. (See Court Pester, January 3.) According to Spano, Minnesota’s judicial election rules have ensured the integrity of the courts: “When there is an election with an opponent, we insist the election not be decided on the basis of the judge’s political party nor do we allow there to be judicial bidding wars (I’ll give shoplifters five years! I’ll give them 10!). The result: We have one of the nation’s best judiciaries.” He predicts, however, that the Supreme Court will agree with Will: “Soon Minnesota will be treated to tactics and themes found, for example, in the president’s home state of Texas where, in the 2000 election, a judge who overturned a sodomy law received a letter demanding retraction or resignation from 14 Republican county chair! s.” Wy Spano, Will’s View on Judicial Selection, Alas, Will Probably Prevail, Minnesota Star-Tribune, January 10, 2002.

53. Wallace Jefferson, who is Texas’ first African American Supreme Court Justice, discusses his campaign in this year’s Supreme Court election. Justice Jefferson (R.), who was given a midterm appointment last year by Governor Rick Perry (R.), expresses confidence that his race will not prevent Republicans from supporting him although he has drawn a primary opponent who is white: “I hope we’re in a new period in Texas history.” He also states that fundraising was “a heavy frustration for me” but warned that excessive campaign finance regulation would mean that “you won’t have people like me running for office because I’m

54. Column discusses the campaign of Texas attorney Brooks Harrington for a seat on the Tarrant County District Court. In an effort to spur judicial election reform, Harrington is running as an independent who won’t take campaign contributions. He explains, “I’m trying to show that it’s at least possible within the present legal system to run in a different way.” Concerning his independent status, Harrington asserts: “Trial judges are the referees of democracy. I don’t think communities ought to trust the parties to select the judges who are going to referee the system.” Concerning Harrington’s decision not to accept campaign contributions, the columnist points out the controversy now brewing over Enron’s campaign contributions to Texas Supreme Court Justice Priscilla Owen, who has been nominated to the U.S. Court of Appeals for the Fifth Circuit: “Did she deliberately help a campaign donor? Most probably not. Will she be able to escape the taint? Most probably not?” (See Court Pester, January 22.) Harrington will have to gather 500 signatures from voters who did not participate in party primaries to appear on the November ballot. Linda Campbell, *Seeking Truly Independent Judicial Elections*, Fort Worth Star-Telegram, January 24, 2002.

55. Syndicated columnist Marianne Means argues that the Enron scandal “dramatizes an embarrassing weakness in the judicial system,” the fact that elected judges take money from the interests likely to appear before them. The 5th Circuit nomination of Texas Supreme Court Justice Priscilla Owen has sparked opposition because Justice Owen, after receiving $8,600 in contributions from Enron, wrote an opinion reversing a lower court decision requiring the corporation to pay $15 million in school taxes. (See Court Pester, January 22.) A report by Texans for Public Justice asserts that 85% of Justice Owen’s decisions were in the interest of her campaign donors and that she failed to recuse herself when faced with conflicts of interest. Means concludes that the only solution is for states to stop electing judges. Marianne Means, *The Fallacy of Electing Judges*, Seattle Post-Intelligencer, January 29, 2002.

56. Texas Supreme Court candidate Steven Smith has brought a federal lawsuit against the State Bar of Texas, challenging the Bar’s restrictions on judicial candidate speech as an abridgment of his First Amendment rights. The Texas Code of Judicial Conduct prevents candidates from making statements that “indicate an opinion on any issue that may be subject to judicial interpretation.” Candidates usually interpret the provision as allowing little more than discussions of their legal experience. In his suit, Smith states that he has told voters that his judicial philosophy is similar to those of Justices Scalia and Thomas but that he has also made sure not to suggest how he might rule on individual cases. Last year, the Texas Commission on Judicial Conduct gave Judge Tom Price of the Texas Court of Criminal Appeals a public warning for indicating a bias in favor of

57. Column applauds the fact that this year’s Texas judicial candidates have all either returned or refused contributions from Enron but observes: “It’s easy to spurn the check from a company that has become persona non grata. . . . What I’d really like to know is when the justices and other judicial candidates plan to forsake money from the Texas Medical Association . . . , from the Bass family,” law firms, and other groups likely to appear before them. Merit selection, the columnist argues, offers the surest chance of preserving judicial integrity. Although it would not eliminate the political element in judicial selection, merit selection would put an end to the influence of money: “Judicial selection in Texas needs a clean slate, and flushing out the Enron money falls woefully short of providing it.” Linda Campbell, *Clean Courts: A Small Start*, Fort Worth Star-Telegram, January 31, 2002.

58. Editorial hails the Georgia legislature’s creation of a joint committee to determine whether the state’s judicial elections ought to be publicly financed: “The framers of the state Constitution never intended judicial decisions to be affected . . . by campaign contributions.” The average appellate court campaign costs nearly $200,000, a sum that, according to the editorial, “has caused many experienced lawyers who would make fine judges to shy away from the job.” By implementing public financing, Georgia can protect itself from the scandals that have plagued Alabama and Texas. Furthermore, since lawyers are often reluctant to lose favor with incumbent judges by contributing to challengers’ campaigns, public financing would widen the slate of candidates for voters. *Use Public Financing for Judicial Elections*, Atlanta Journal-Constitution, February 3, 2002.

59. Editorial contends that Enron’s “contributions to seven members of the Texas Supreme Court highlight a serious flaw in state jurisprudence.” Since 1993, the company has contributed $100,000 to the state’s justices. Recently, attention has focused on the company’s $8,600 contribution to Justice Priscilla Owen, who has been nominated by President Bush to the Fifth Circuit, and who wrote a majority decision benefiting Enron financially shortly after receiving the contribution. (See Court Pester, January 22, 31.) The editorial defends Justice Owen from charges of corruption, noting that the decision was unanimous, and adds that “focusing on Owen for political reasons misses the point.” Although it is difficult, in the editorial’s view, to prove that campaign contributions influence judicial decisions, “[t]here is no way to avoid criticism and suspicion under the existing system.” It concludes that either merit selection or Chief Justice Tom Phillips’ proposal for public financing of judicial elections would guard state judges from doubts about their integrity. *E lecting Judges Opens Door for Ethics Questions*, Austin American-Statesman, February 4, 2002.
60. Op-ed by Diane Davis, executive director of East Texans Against Lawsuit Abuse, and Jeff Clark, Texas director of the National Federation of Independent Business, urges Texas voters to cast ballots in this year’s Supreme Court elections: “It isn’t unusual for voters to skip down ballot races. But that would be shortsighted, for the Supreme Court’s decisions have an impact on Texans’ lives.” Of the Court’s nine seats, five are up for election. Davis and Clark praise the incumbents, asserting that the current Court is “a far cry from the scandal-plagued panel of the 1980s that prompted 60 Minutes to come to Texas . . . exposing the extent to which some justices of that era were being manipulated by a small group of wealthy personal injury lawyers.” Noting that personal injury attorneys have sponsored two PACs to contribute to judicial candidates, the Texas 2000 Political Action Committee and the Constitutional Defense Fund, they exhort voters to ask “why [the attorneys] are hiding behind obscure names” and to examine which candidates the PACs are supporting. Don’t Overlook Texas Supreme Court’s Contests, Diane Davis and Jeff Clark, Dallas Morning News, February 10, 2002.

61. Article discusses the level of voter ignorance in Texas judicial elections. Federal Judge Royal Furgeson asserts, “you can have great judges who lose to great politicians. No system is perfect, but ours is the worst.” State district judge John Hyde places the blame on the system of partisan elections: “I know of some cases of people switching parties to get elected. Some very fine judges have lost their seats just because they were Democrats.” At the same time, Judge Hyde maintains, “[t]he elected method assures the greatest amount of credibility.” The article also notes that campaign contributions pose an area of concern, citing a recent Texas Bar Association poll finding that 99% of the state’s attorneys and 86% of state judges believe that judicial decisions are influenced, at least in part, by campaign contributions. Shanna Sissom, Election of Judges: Is There a Better Way?, Midland Reporter-Telegram, March 4, 2002.

62. Editorial charges that Texas judicial elections are too often decided by little more than the appeal of a candidate’s name. For example, in their first GOP primaries, state Supreme Court Justice Wallace Jefferson handily won and his colleague Xavier Rodriguez lost, even though both were judges of color running against white men and had more money than their challengers. Some GOP officials contend that Jefferson benefited both from having an appealing name and for facing an opponent, Sam Lee, whose name could belong to an Asian-American. Rodriguez, on the other hand, faced Steven Wayne Smith, whose name is less likely to be attached to candidates of color. Since Texas is not likely to adopt merit selection, the editorial concludes that the media must do more to give voters information about the judicial candidates before them and that “voters . . . take up the responsibility of learning what’s behind all those names. Justice depends on it.” Voter Education Key in Judicial Races, Austin American-Statesman, March 17, 2002.
63. Editorial calls on the Supreme Court to uphold Minnesota’s restrictions on judicial candidate speech in Republican Party of Minnesota v. Kelly. Looking at judicial elections in its own state, Texas, the editorial “share[s] voters’ frustration at a candidate’s polite refusal to say more than to cite their legal experience and promise to be impartial.” It asserts that Texas judicial candidates, either “out of conviction . . . or out of fear of reprimand by the State Commission on Judicial Conduct,” interpret the state’s regulation of candidate speech to prevent even discussion of their judicial philosophies. On the other hand, were judicial candidates to speak more freely, they would be incapable of following their duties once elected. The judiciary must “remain above the daily political fray, and it can’t do that if judicial candidates find themselves constantly pushed to come out in favor of this or against that on a campaign stump.” Candidates’ Opinions Should Wait for Bench, Austin American-Statesman, March 25, 2002.

64. Column hails a new study by the National Institute on Money in State Politics as proof that judicial elections need no reform. The study analyzed campaign contributions to Michigan Supreme Court campaigns during the 1990s and found no relationship between contributions and decisions. 94% of donors did not appear before the court, and those who did enjoyed the same odds of victory as non-contributors. Given the significance of the study’s findings, the columnist ponders the lack of media attention. In contrast, a Texans for Public Justice (TPJ) report, finding that campaign contributors were more likely to have to have their cases heard, received widespread coverage. Yet, according to the columnist, the Institute’s report “appears to be the most rigorous undertaken on the subject” while the TPJ report was purportedly debunked by the trade publication, Texas Lawyer. One explanation is “media bias. . . . [T]he mainstream media have provided most of the cheerleading for campaign-finance reform.” Another is that “[j]udges aren’t supposed to be biased. So when it’s demonstrated that they’re not, it’s possible that media decision-makers view the news as unremarkable.” Dawson Bell, Good News About Judicial Fairness Gets Overlooked, Detroit Free-Press, March 25, 2002.

65. Column assesses the reasons why Texas Supreme Court Justice Xavier Rodriguez lost his bid for the GOP nomination. Despite endorsements from Republican leaders, a $700,000 campaign fund, and the state’s major newspapers, Rodriguez lost to “a little-known lawyer with the name of an Anglo Everyman -- Steven Wayne Smith.” Terry McAuliffe, Chair of the Democratic National Committee, touts the defeat as proof that the Republican party is unfriendly to minorities, pointing out that Smith was the plaintiffs’ attorney in the recent Hopwood case, ending affirmative action in Texas’ universities. Justice Rodriguez disagrees that his ethnicity played a role. Instead, he attributes his loss to the unusualness of his name, noting that a respected judge, Lee Yeakel, lost his bid for the chief judge position on his appellate court to a challenger attorney named Ken Law. (See Court Pester, March 27.) Richard Murray, Professor of Political Science at the
University of Houston, asserts, “Rodriguez likely would have won if he had more money to tell voters that he was the choice of the Republican establishment” --Rodriguez gained 68% of the vote in counties where he spent heavily on TV advertising -- “[or] if his parents named him Billy Bob.” John Williams, *Name Game Costs GOP Candidate*, Houston Chronicle, March 25, 2002.

66. Article reports that campaign contributions have become the focus of debate in a Texas Supreme Court Republican primary runoff. Judge Elizabeth Ray has been attacked by Texans for Lawsuit Reform for the level of contributions she has received from plaintiffs’ attorneys. Trial lawyers are the source for 83%, or $182,000, of her campaign funds. Craig McDonald of Texans for Public Justice retorts that the contributions show “she’s not locked into an anti-consumer, pro-tort reform agenda.” Judge Ray adds that she has received contributions from many of the defense funds that support her opponent, Judge Dale Wainwright. Laylan Copelin, *Campaign Donations a Focus in GOP Runoff*, Austin American-Statesman, March 27, 2002.

67. Article discusses the upcoming general elections for the Texas Supreme Court and Texas Court of Criminal Appeals. In the GOP primaries, incumbents won handily for the most part. Anthony Champagne, Professor of Political Science at the University of Texas, Dallas, opines that the general election will be far more competitive: “I think it will be a much meaner kind of election than we’ve had in the past. [The Democratic party has] got serious candidates running. They’ve got more than people running on the popularity of their names.” In the 2000 races, the party did not field any candidates for the state Supreme Court races. This year, five Democrats are vying for seats on the High Court, four of whom are sitting judges. Max Baker, *Incumbent Judges Sweep GOP Runoffs*, Fort Worth Star-Telegram, April 9, 2002.

68. Op-ed by Thomas Phillips, Chief Justice of the Texas Supreme Court, warns that “for several reasons, modern campaigns are making [elected] judges into ordinary politicians and that such a conversion threatens our legal system.” First, the cost of judicial campaigns has risen precipitously. A report from the Brennan Center for Justice, the National Institute on Money in State Politics, and Justice at Stake finds that campaign spending rose by 61% from 1998 to 2000. Another problem stems from “outside groups . . . engaging in ‘slash and trash’ media blitzes” in order to obtain a bench that will forward their agenda. Professor Anthony Champagne of the University of Texas, Dallas found that in the four states with the highest levels of competition for High Court seats, interest groups accounted for nearly half of all campaign advertising. These trends have eroded public confidence in the judiciary, with over two-thirds of voters believing that judges are influenced by campaign contributions. To strengthen the appearance of impartiality, Chief Justice Phillips asserts that, at a bare minimum, judicial elections should be subject to tight contribution limits and stringent disclosure.

69. Column urges the Texas legislature to take a second look at public financing for judicial elections. Last year, a public funding measure proposed by state Rep. Pete Gallego (D.) failed to gain political momentum. However, surveys released this year by Justice at Stake find that 76% of voters and 26% of judges are concerned about the influence of campaign contributions on judicial decisions. The columnist concludes, “Public financing may seem like a radical idea, but [as one advocate of reform] puts it, Texas’ current system is ‘insane.’” Bruce Davidson, *It’s Time to Take Justice Off the Market*, San Antonio Express-News, April 14, 2002.

70. Editorial agrees with Texas State Senator Robert Duncan (R.) who opines: “The notion that the public wants to vote on . . . [judicial] races is nothing more than a fiction with no basis in reality.” Although public opinion polls report that voters would like to retain judicial elections, the editorial responds that only 1.7% of voters participated in this month’s Republican run-off elections for the Supreme Court and the Court of Criminal Appeals and only 5% participated in the Democratic run-offs. The combination of partisan elections and large campaign contributions from interests likely to appear before the candidates they support has damaged public confidence in the courts. The solution, the editorial concludes, is for Texas to “dump this ripe-for-corruption system before it dumps another scandal on Texas.” *Drop Judicial Elections*, Austin American-Statesman, April 17, 2002.

71. Article reports that civil rights groups and voters have filed a federal lawsuit asking that the Texas Supreme Court be “required to say how its nine members vote when deciding whether to accept civil cases for review.” One of the plaintiffs, watchdog group Texans for Public Justice, estimates that “90 percent of cases reaching the high court are turned away without hearing arguments or rendering decisions on their merits.” Because the justices are elected and accept campaign contributions, sometimes from lawyers bringing cases before them, the plaintiffs believe that making voting records public would allow voters to determine whether the justices’ decisions as to which cases to accept are improperly influenced. In a 1992 case, Chief Justice Tom Phillips said that the advantages of making votes public are “far outweighed by [the] deleterious effects on the currency of our docket, the orderly development of the law, and the harmonious workings among the justices.” David Pasztor, *Suit: Court’s ‘Yea’ or ‘Nay’ Should Be Made Public*, Austin American-Statesman, May 22, 2002.

72. Column supports the lawsuit filed by watchdog groups against the Texas Supreme Court seeking to force disclosure of how individual justices vote in deciding whether to hear cases. [See Court Pester, May 23.] Noting that the justices accept
only 10 percent of cases appealed to them, the columnist asserts that the justices “are elected and should be accountable for their decisions.” Because Texas has a “money-riddled system of electing state judges,” increasing “openness on the high court [is] all the more important.” “Releasing all the justices’ votes may not clear the air of accusations and suspicions, but continued secrecy will only breed more distrust.” Clay Robison, Court’s Secrecy Is Hiding Accountability, Houston Chronicle, May 24, 2002.

73. Article reports on the early volleys in the Texas judicial elections. Texas Supreme Court Chief Justice Tom Phillips told Republican Convention delegates, “Judicial elections should be less expensive and less political so that no one can ever charge again that justice is for sale.” Democratic Party chief Molly Beth Malcolm called the state’s Republican-dominated courts “an embarrassment” and argued that Democratic judges would return “professionalism to the courts by administering justice fairly.” Presiding Court of Criminal Appeals Judge Sharon Keller rejected that claim, asserting that while Republican judges would administer the law fairly, Democratic judges have not always followed the law in their rulings, “and it’s a nightmare to deal with.” Colleen McCain Nelson, Justice Urges Low-Profile Races: Republicans Pitch Candidates for Courts Dominated by Party, Dallas Morning News, June 9, 2002.

74. Osler McCarthy, staff attorney for public information for the Supreme Court of Texas, defends the Court’s practice of not disclosing how individual justices vote when deciding whether or not to consider a case. A recently filed lawsuit seeks to “force [such] voting into the open, so that elected judges can be accountable to voters.” (See Court Pester, May 23.) Noting that only ten state supreme courts reveal votes on whether to review cases, McCarthy argues that “courts like mine and the U.S. Supreme Court” keep such votes private “for many reasons, not least of which is that such votes say nothing about the merits of the case, or that justices may decide one way or another on whether to take an appeal for many different reasons.” True accountability comes from examining the justices’ written opinions in the cases they accept for review. Osler McCarthy, No Secret: Texas Supreme Court Rulings Tell All, Houston Chronicle, June 12, 2002.

75. Column foresees “judicial candidates pandering on abortion and the environment” and seeking the aid of political consultants in the wake of the U.S. Supreme Court’s ruling in Republican Party v. White. The columnist calls for appointed judges in Texas, because “the prospect of judicial candidates basing rulings on focus group research takes me aback.” Arnold Garcia, Court Ruling Opening Volley in War of Judicial Rhetoric, Austin American-Statesman, June 30, 2002.

76. Article reports on reactions in Texas to the U.S. Supreme Court’s recent decision striking down a Minnesota canon restricting the speech of judicial candidates. The Texas Supreme Court will decide this week what steps are needed to bring the
state’s ethics code in line with the ruling. Because Texas’s code is similar to Minnesota’s, the ruling will likely have a dramatic effect on state judicial elections. Sherry Sylvester, *High Court Edict Affects Texas*, San Antonio Express-News, June 29, 2002.

77. Murry Cohen, formerly a judge on the First Court of Appeals in Houston, argues that the U.S. Supreme Court’s decision striking down Minnesota’s canon restricting judicial speech means that “things are about to get worse fast” in Texas judicial elections. “Various interest groups [will] pressure judicial candidates to state their opinions” on issues “ranging from abortion to zoning” as a “condition of endorsing them.” “Once that happens, what will be the difference between the judiciary and the legislature?” Murry Cohen, *There Is Justice in Keeping Judges Muzzled*, Houston Chronicle, July 5, 2002.

78. Column argues that Texas’s partisan judicial elections are “broken and badly in need of major changes” because they are “financed by groups that have a vested interest in the outcome of court proceedings” and have reduced judges to “money-grubbing politicians.” However, the major candidates for Texas governor and lieutenant governor have been reluctant to show “leadership” on the issue - indeed, the columnist asserts, “the state’s top statewide politicians are asleep at the wheel on judicial reform.” Although a change in selection method would have to be approved by voters in the form of a constitutional amendment, “the lieutenant governor could exercise considerable influence on judicial reform efforts in the Legislature,” ensuring legislation to support an amendment. “The integrity of the state’s judicial system is vital in protecting all citizens’ rights.” Bruce Davidson, *Judicial Reform Is Still Badly Needed*, San Antonio Express-News, June 30, 2002.

79. Article reports that Texas Supreme Court Chief Justice Tom Phillips has announced that “in protest of the state’s ‘dysfunctional method of selecting judges,’ he is not accepting campaign contributions and will limit his re-election campaign spending to $20,000 already in his coffers.” His opponent, Democrat Richard G. Baker, has made a similar pledge. Denying that his pledge was a “publicity ploy,” Justice Phillips said, “It’s worth it for me because at this stage in my career I don’t have to have this office anymore, and I’d like to run a campaign that just sees what can be done differently.” Justice Phillips supports a merit selection system with retention elections. Armando Villafranca and Clay Robison, *Chief Justice Rejecting Campaign Contributions*, Houston Chronicle, July 13, 2002.

80. Editorial praises Texas Supreme court Chief Justice Tom Phillips for “showing leadership” for judicial election reform by announcing that he will not accept campaign contributions in his re-election bid. (See Court Pester, July 16.) Asserting that Justice Phillips “isn’t trying to embarrass other judges or prove he
is holier than they are,” since he readily admits that he is in a uniquely good position to make such a protest, the editorial praises him for “thrust[ing] the issue before voters during the fall election.” “Big money and poorly informed voters fuel judicial elections in the Lone Star State, and the system needs to be changed.” Justice Phillips’s “on target and well-timed” protest “offers some hope for reform.” *Phillips Takes Lead in Judicial Reform*, San Antonio Express-News, July 18, 2002.

81. Article reports that Texas Supreme Court Chief Justice Tom Phillips “took his election reform campaign to the national stage” by “endorsing a list of innovations for reducing the influence of money and partisan politics on the judiciary” contained in a new report by the nonpartisan Committee for Economic Development. The innovations include nonpartisan elections, longer terms (six to ten years), publicly financed judicial campaigns, and stronger disclosure laws. Justice Phillips noted, however, that an appointment system, as suggested by the report, would not necessarily solve the judiciary’s problems. “You have to be very careful to see that governors and legislatures are not able to make an end run to retire judges … merely on the basis of trying to get somebody more philosophically compatible with the majority party of the moment.” The full report can be obtained at http://www.ced.org. Chuck Lindell, *Judge: Throw Politics Out of Court*, Austin American-Statesman, August 10, 2002.

82. Article reports that U.S. District Judge James Nowlin has “ruled unconstitutional a Texas judicial conduct rule prohibiting judges and judicial candidates from expressing opinions on disputed legal and political issues.” Judge Nowlin relied on the U.S. Supreme Court’s decision striking down a similar Minnesota rule. Texas Supreme Court candidate Steven Wayne Smith (R.), who filed the suit challenging Texas’s judicial conduct rule, began using his new freedom immediately, “criticizing prior court rulings on school finance and abortion.” State Court of Appeals Judge Margaret Mirabal (D.), Smith’s opponent, said that his comments indicate how he will rule on school finance and parental notification. “Even under Judge Nowlin’s opinion, that is not appropriate. We are supposed to look at the facts and apply the law regardless of our personal viewpoint,” she said. Jane Elliott, *High Court Candidate Speaking Freely*, Houston Chronicle, August 10, 2002.

83. Article reports that “critics of judicial elections … fear [that] the rising amount of money flowing into judicial elections is undermining judicial independence.” The Chamber of Commerce, for instance, which spent heavily in several judicial races in 2000, remains “very interested in judicial elections” and will likely match or exceed their 2000 spending this year, according to James Wootton, president of the U.S. Chamber of Commerce’s Institute for Legal Reform. Expressing concern over an American Bar Association poll showing that 72 percent of Americans worry that campaign fundraising compromises judicial impartiality, ABA
President Alfred P. Carlton said, “Millions of dollars are being spent to ‘control’ courts in some states much the same way political parties control legislative and executive branches of government.” Wootton, however, argues that, even if campaigns and ads are “bruising and tough,” “you really have to let the public evaluate the candidates based on the information they’re given.” Kent Hoover, Judicial Campaign Contributions Stir Debate About Price of Justice, Houston Business Journal, August 16, 2002.

84. Article reports that the Texas Supreme Court has issued a new code of ethics for judges, lifting rules on campaign speech that conflicted with a recent U.S. Supreme Court decision in Republican Party of Minnesota v. White. The new rules prohibit public comment on pending or impending proceedings in a manner that would indicate a probable decision in the case. The new rules also warn that any campaign communication that compromises a judge’s impartiality in a case will be grounds for recusal. Meanwhile, at a news conference held at the Capitol, the watchdog group Campaigns for People announced that most of the major party candidates for the Texas Supreme Court have pledged to avoid making campaign statements that indicate an opinion on any issue that may come before the court. But two candidates, Republican Steve Smith and Democrat Richard Baker both refused. Associated Press, Court Issues Rules Ethics Rules for Judges and Candidates, Abilene Reporter-News (Abilene, Texas), August 23, 2002.

85. Article reports that, despite Texas Supreme Court Chief Justice Tom Phillips’ “pledge to reject campaign contributions, ten other candidates for the Texas Supreme Court raked in nearly $3 million in donations during the recent election cycle,” according to a report by Texans for Public Justice, “a nonpartisan research group.” Republican candidates enjoy a 3-1 fundraising advantage over Democratic candidates at this point. Craig McDonald, director of Texans for Public Justice, said that “law firms and the so-called tort reformers continue to be the top high-court donors. It’s business as usual.” Because of resignations and retirements, “the Texas Supreme Court is undergoing its greatest transition in more than a decade, with five of nine seats … up for grabs.” Max B. Baker, Report: Justice Candidates Raise About $3 Million, Fort Worth Star-Telegram, August 28, 2002.

86. Column reports that, in Texas, “statewide judicial races are likely to get lost in the smoke of a nasty gubernatorial campaign this year,” particularly since “judicial candidates are not expected to raise enough money to get on TV.” Texas Supreme Court Chief Justice Tom Phillips, who is not raising money for his reelection bid, said that a changing political landscape could encourage the Legislature to enact judicial reform such as a merit system of judicial selection. “When party leaders feel secure about keeping judicial offices, they tend to oppose reforms,” the columnist argues. However, the columnist note that “a new poll financed by Campaigns for People shows that 59 percent of Texas voters oppose applying
judges, compared to only 36 percent who support the idea.” However, voters “believe campaign contributions undermine the process,” and 55 percent of voters admit they “had little or no information about judicial candidates in the last election.” Bruce Davidson, *Low-Key Judicial Races Are Expected*, San Antonio Express-News, September 1, 2002.

87. Article discusses “a crisis of credibility … gripping many of the thirty-nine states that elect appellate judges” as judges contend with a “flood of money … driven by a fierce battle over judicial philosophy that has pitted trial lawyers, consumer advocates and unions against corporations, their attorneys and their trade associations.” “In recent years, the single greatest wild card in judicial races has been the influx of anonymous spending beyond the direct control of candidates,” usually in the form of “issue advertising” which “insulates donors from disclosure, allowing for nastier, more underhanded tactics.” One major player, the U.S. Chamber of Commerce, plans to spend “as much as $25 million in undisclosed contributions” in 2002. The result of such spending is likely to be “costly and bitter elections in states like Texas, Ohio, Michigan, Florida, Louisiana, Illinois, Mississippi, Alabama and Idaho, where the voters’ decisions could alter the courts’ ideological makeup.” Georgetown University law professor Roy Schotland said that contribution limits and independent expenditure disclosure requirements, if narrowly tailored for judicial elections, “could pass constitutional muster.” Michael Scherer, *State Judges for Sale*, The Nation, September 2, 2002.

88. Column argues that “Texas voters gamble every election cycle that their elected judiciary has something going for it other than catchy names or party affiliation.” The columnist asserts that “we’re reminded constantly that Texans love to vote for their judges, but I strongly suspect that it’s the special interests who control the funding it takes to run for a judgeship - particularly statewide - who love it most and best.” Asserting that “business and insurance groups and lawyers who represent the people who sue them” form the bulk of those interest groups, the columnist argues that “it suits both sides just fine that most voters don’t take the time to find out about the candidates for judgeship from the Supreme Court to justice of the peace.” The columnist concludes by calling for judicial reform, since “when it comes to handing somebody the power to pick deep pockets legally or order jail time or even impose a death sentence, I want to know something more about them than where they went to law school or how high they finished in their class.” Arnold Garcia Jr., *Do You Know Who Your Judges Are? Maybe You Should Find Out*, Austin American-Statesman, September 14, 2002.

89. Editorial argues that the Texas Legislature should, in its next session, begin “to move Texas away from a judicial election system tainted by big money, conflicts and political partisanship.” Noting that “Texas is one of only four states that still elect the entire judiciary by partisan vote,” the editorial asserts that “Texas is long
overdue for a radical change in its judiciary.” Justices on the Texas Court of Criminal Appeals, for example, must “struggle for campaign donations and attention,” but although “they hold the power of life or death,” only “a handful of Texans know about them or what they do.” The editorial concludes that “Texas should move to an appointed system with appointed judges who stand for retention elections at regular intervals.” In addition, Texas should “have only one supreme court for civil and criminal appeals.”

Texas’ Court System in Need of Reform to Gain Public Trust, Austin American-Statesman, September 15, 2002.

90. Article reports that Texas Supreme Court candidate Steven Wayne Smith (R.) has said that affirmative action, which he fought as a lawyer, “has placed ‘underqualified’ minorities in colleges.” He “suggested that even Texas Supreme Court Justice Xavier Rodriguez, whom Smith defeated in the GOP primary, and former Texas Attorney General Dan Morales might have been better off attending the University of Texas instead of Harvard.” Smith said that affirmative action means that “you’re always having minorities compete with people who are better prepared to be there.” Rodriguez was appointed by Gov. Rick Perry to fill the term of Greg Abbott, who resigned to run for attorney general; Smith called the appointment “racial politics.” Smith “readily admits that his willingness to discuss controversial issues helps him get press coverage to overcome his meager campaign war chest,” which lags far behind that of his opponent, Margaret Mirabal (D.). Janet Elliott, Candidate Rips Affirmative Action, Houston Chronicle, September 20, 2002.

91. Article discusses the race for a vacant seat on the Texas Supreme Court, a “campaign that almost certainly won’t make it on to the radar screen of most voters.” The two candidates, District Judge Jim Parsons (D.) and District Judge Dale Wainwright (R.), both acknowledge “problems with the state’s judicial election system, although neither wants to switch to an appointment system.” Judge Wainwright, who “favors some campaign finance reform and extending the length of judicial terms,” said, “Texans across this state, I would venture to guess, would fight a civil war if you try to take away their right to vote” for judges. Parsons supports similar reforms and has also “proposed electing Supreme Court judges from nine judicial districts to give the court more regional balance.” Bruce Davidson, Court Candidates ‘Along for the Ride’, San Antonio Express-News, September 22, 2002.

92. Article reports that Steven Wayne Smith (R.), a candidate for the Texas Supreme Court, “has antagonized Republicans and Democrats alike, criticized affirmative action and attacked the conservative credentials of the nine GOP members of the high court bench.” Smith’s “controversial style” is leading some Republicans to support his opponent, Appeals Court Judge Margaret Mirabal (D.), who is “collecting thousands of dollars in campaign contributions from Republican attorneys and conservative corporate law firms” and has earned the support of
Texas for Lawsuit Reform, the Texas Association of Business, and the Texas Medical Association. A top Republican official said that White’s campaign has sparked a debate within the party. “Is it best to elect this guy and give him a platform over the next few years? Or does that damage the GOP more than allowing a Democrat to win?” the official wondered. Max B. Baker, *Candidate Speaks His Mind in Court Race*, Fort Worth Star Telegram, October 6, 2002.

93. Article reports that “after publicly vowing earlier this year to raise and spend more than $30 million to help elect business-friendly candidates and push legal reform in the 2002 elections, the U.S. Chamber of Commerce has become more tight-lipped about the effort.” Although the Chamber’s Institute for Legal Reform has declined to comment “on how much was being spent on advertising and get-out-the-vote operations in judicial and attorney general races around the country,” several sources say “that a joint fundraising drive by the Chamber and the Business Roundtable has raised about $20 million so far.” That money “is being spent to bolster Supreme Court and attorney general candidates in Delaware, Florida, Illinois, Michigan, Mississippi, and Texas.” Judicial candidates in Ohio and Wisconsin “may also get some help.” Peter H. Stone and Louis Jacobson, *Chamber Is Coy on Campaign Effort*, National Journal, October 12, 2002.

94. Article reports that this year, in stark contrast to 2000, five of the Texas Supreme Court’s nine seats “are up for grabs, and political analysts say Democrats are back in the race, with a slate that includes two appeals court judges and a former State Bar of Texas president.” However, “by July, the five GOP candidates beat their Democratic opponents by a ratio of 3-to-1 in campaign contributions, pulling in $2.2 million to the Democrats’ $784,000.” The Republican slate includes “Chief Justice Tom Phillips – credited with rebuilding the court’s tarnished image after a campaign contribution scandal in the late 1980s – and the court’s first African-American justice.” In 2000, “Republican Supreme Court justices Nathan Hecht, Priscilla Owen and Al Gonzales breezed to victory over nominal, third-party opposition.” Max B. Baker, *Jammed Field Vies for Seats on Court*, Fort Worth Star-Telegram, October 13, 2002.

95. Article reports that, although Texas judicial candidates have collectively raised millions of dollars, “there will be few television and radio ads, and even those risk being muffled by the noisy races at the top of the ballot.” Indeed, “most Texans have no idea who the candidates are and will cast votes based on party label or whatever whim possesses them when they step into the booth.” Judicial candidates “court law firms, friends and party loyalists,” and they “carom around the state seeking ears to bend and hands to shake,” hoping to win in “tiny increments” the small percentage of voters who will not simply vote on straight party lines in judicial elections. District Judge Jim Parsons (D.), who is running for the Texas Supreme Court, described the experience as “an emotional roller coaster. You’re strapped in, and the highs and lows are beyond your control.”
96. Article reports that Harris County (Tex.) Democratic chairwoman Sue Schechter has said that “a group of Republican Harris County judges are violating a state judicial election law with a recent television ad.” In the commercial, a narrator asserts that “crime is falling because experienced Republican judges are tougher on repeat criminals. Republican judges are getting criminals off the streets and into jails and keeping them there.” Schechter argues that “their ad clearly tells of their position and how they will tend to rule,” in violation of a law prohibiting judicial candidates from making “pledges or promises” that would “suggest to a reasonable person that the judge is predisposed to a probable decision in the cases within the scope of the pledge.” Republican political consultant Alan Blakemore, the ad’s producer, said that Schechter was unhappy with the ad because “she hasn’t won a countywide race in year, and this year doesn’t appear like it will be any different.” John Williams, Judges’ Ad Breaks Law, Opponents Say, Houston Chronicle, October 31, 2002.

97. Article reports that “more and more state medical societies are getting involved in” state Supreme Court races. Tim Maglione, the Ohio State Medical Association’s senior director for government relations, said, “It’s important for physicians to know that courts are equally as important as the governor’s office or the legislative branch…. The court’s decisions have an effect not only on the practice of medicine, but property taxes we pay and other issues.” In recent years, “doctors in Illinois, Michigan, Ohio, Pennsylvania and Washington have stepped up their efforts to promote judicial candidates,” often in response to the issue of tort reform. Troy Alexander, the director of TEXPAC, the Texas Medical Association’s political action committee, said that doctors “were getting killed in the courtrooms.” In Texas, “doctors hand out 1.5 million bright red ‘vote smart’ slate cards that contain the names of judges” endorsed by doctors. Tanya Albert, Reorder in the Court: Which Judges Will Serve Medicine Best?, American Medical News, November 4, 2002.

98. Column wonders: “Which should disturb devotees of an independent judiciary more - that Justice Mike Schneider raised $900,000 to run for the Texas Supreme Court, or that he may as well have gathered a mere $900 for all the difference it made?” Noting that “it took about a million dollars to ensure election to the state’s highest civil court this year,” the columnist argues that “those lawyers, business czars and PACs plunking down $1,000, $2,500 and $5,000 at a pop may have thought they were underwriting good government or - are we being cynical? - that they were ensuring themselves a measure of favor in the court.” However, “the numbers show that what mattered most was party affiliation, even more than money…. Despite the popular myth that Texans want to elect their judges, most folks just lost interest or rely on broad assumptions by the time they get to the

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99. Article reports on Texas Supreme Court Chief Justice Tom Phillips, who “believes with a passion … that his state, at least, desperately needs to change the way it goes about putting men and women on the bench.” Noting that only four states select judges the way Texas does, with partisan elections, Justice Phillips said, “I think there is a strong consensus in Texas that we are using an outmoded system.” Although the legislature has failed to take action on the issue previously, Justice Phillips and other reform advocates “are hoping 2003 might be different, with leadership of the state House and Senate passing to new hands and memories of particularly vicious election campaigns still fresh in voters’ minds.” Rep. Steven Wolen, a Democrat from Dallas, said, “For 20, 21, 22 years, we’ve been discussing this and nothing ever passes because we’re asking for too much. We need to try taking this one step at a time and see what happens.” David Pasztor, *Should Texas Elect Its Judges?*, Austin American-Statesman, December 2, 2002.

100. Column provides analysis into the victory of underdog Steven Wayne Smith, who with no major law firm support and little financial backing, easily won a seat on the Texas Supreme Court in the “most shocking outcome of the Texas 2002 campaign season.” The former Austin solo practitioner defeated Margaret Mirabal, a Democratic candidate who served as a justice for 14 years on Houston’s First Court of Appeals. During the campaign, Mirabal outspent Smith by a margin of 50 to 1. David Rogers, Smith’s campaign manager, believes voters responded to Smith’s conservative message. Smith advertised himself as a “true conservative.” Cal Jillson, a political science professor at Southern Methodist University believes voters responded to Smith’s GOP ballot label. John Council, *Don’t Estimate the Underdog*, Texas Lawyer, December 23, 2002.

101. Columnist supports a change in the way Texas selects judges, citing that the “ultimate goal is to sever the relationship between contributions from special interests and the state’s system of justice.” For several sessions, legislation to end statewide partisan judicial elections and replace them with merit selection, or an appointment/retention election system, has failed. Columnist cites several solutions such as public financing of judicial elections, but acknowledges that public funding appears to have no place on the 2003 legislative agenda. One proposal suggests extension of district judge terms from four to six years and appellate terms from six to eight terms. Longer terms would decrease the need for judicial candidates to pander to special interests and lawyers and put a little more distance between campaign contributions and judges. But, Texas Court Supreme Court Justice Tom Phillips, a longtime leader of the reform movement, notes “judges would remain politicians.” Columnist predicts that lawmakers will be forced to concentrate on more urgent matters such as the budget crisis, and Texas will continue to suffer from a “bad system under siege by special interest groups.”
102. Article reports that a bipartisan group of Texas state legislators have moved to replace the statewide system of judicial elections with gubernatorial appointments. State Senator Robert Duncan, a Republican from Lubbock, says the plan would rid the judicial system of partisanship and big campaign contributions, and remove the perception that justice is for sale. “Texas has a reputation for being a rogue state with regard to our civil justice system,” Senator Duncan said. Texans would have to approve the new system through an amendment to the state constitution. In 2001, the Senate approved a resolution that would have let the voters decide whether they wanted elected or appointed judges, but the measure died in the House. New Push in Texas for Appointed Judges, New York Times, March 3, 2003.

103. Article reports that in his biennial state of the judiciary address, Texas Supreme Court Justice Tom Phillips asked lawmakers to give voters the opportunity to reform the state judicial system. For years, Phillips, a Republican, has pushed for replacing the current system of judicial elections with one that would have the governor appoint the judges who then can be voted out of office. He said such a system would help eliminate much of the special interest money, and the perception of political duplicity from the courts. “Our partisan, high-dollar judicial selection system has diminished public confidence in our courts,” Phillips said. “Millions of people across the world now believe that politics has compromised the rule of law in Texas courts.” Associated Press, State Supreme Court Justice Calls for Judicial Elections, Amarillo Globe-News, March 5, 2003.

104. Texas Supreme Court Chief Justice Thomas Phillips argues that Texas’s “partisan, high-dollar judicial selection system has diminished public confidence in our courts, damaged our reputation throughout the country and around the world, and discouraged able lawyers from pursuing judicial careers.” He calls for “a constitutional amendment to allow the people to decide whether they would prefer another election method.” Noting that “most Texas judicial races are unopposed,” Justice Phillips argues that “retention elections would preserve most of the good of electing judges while alleviating most of the bad. Far from diluting the democratic process, retention elections would actually give most voters more control over their judges than they now enjoy.” Thomas R. Phillips, It’s Time to Bang the Gavel on State’s Judicial Election System, Dallas-Fort Worth Star-Telegram, March 9, 2003.

105. Column argues that the “apparatchiks” of the Texas Republican Party have “launched a shrill attack against ‘elitist’ judicial reforms,” fighting to preserve the state’s system of partisan elections rather than replacing it with a system of appointments and retention elections, as proposed by Texas Supreme Court Chief
Justice Tom Phillips as well as Republican lawmakers and “a long list of GOP leaders from recent decades.” “Responsible GOP leaders advocated judicial reform in the 1980s when Democrats made a mockery of justice with cozy relationships with plaintiff lawyers. Now the pendulum has veered in favor of business interests and the GOP.” Noting that “the state party’s rhetoric has singled out Phillips for abuse,” the columnist argues that “the crew in the GOP’s Austin headquarters is placing partisanship before justice.” The columnist concludes: “Republicans who put Texas first will take a stand for judicial reform while they have the power to make a difference.” Bruce Davidson, GOP Leaders Battling Judicial Reform, San Antonio Express-News, March 23, 2003.

106. Article reports that supporters of judicial election reform in Texas “say they’ve won bipartisan support for a bill that would let voters decide if the governor and state Senate would appoint Texas’ judges,” who would then face voters in nonpartisan retention elections. Make Texas Proud, a Republican group supporting the legislation, “includes such GOP luminaries as former Gov. Bill Clements, former Republican National Committee co-chairwoman Anne Armstrong and three former state party chairs.” However, the Texas Republican Party opposes ending direct judicial elections, as do “some Democrats and civil-rights groups such as the Mexican American Legal Defense and Education Fund.” Max B. Baker, Groups Push for Judicial Reform, Fort Worth Star-Telegram, April 21, 2003.

107. Article reports that “despite last-ditch efforts by Texas Supreme Court Chief Justice Tom Phillips to get it passed, a bill allowing voters to decide whether judges should be appointed rather then elected appeared headed for certain death” in the state House Judiciary Committee. The proposal would have allowed voters to remove judges in nonpartisan retention elections. Rep. Elizabeth Ames Jones (R.), who authored the House version of the bill, said, “I’m not sure why people are afraid to hear healthy debate on the House floor” on this issue. The Texas Republican Party opposed the bill; a spokesman “said passing the bill would have given special-interest groups even more influence over the process through their campaign contributions to the governor and senators.” Max B. Baker, Outlook Bleak for Judge Bill, Fort Worth Star-Telegram, May 25, 2003.

108. Column discusses perceptions of corruption arising from campaign donations to justices on the Texas Supreme Court. Dawn Richardson, who filed a lawsuit against David Weekley Homes, the company which built her house, said she was dismayed to learn that the Weekley family and a related political action committee had donated money to seven of the nine current state Supreme Court justices. She said, “[The Supreme Court] is supposed to be the most sacred place in the state. And it’s human nature to help the people that support you. How are we going to go up against that?” The columnist notes that even Weekley’s lawyer - former Supreme Court justice Raul Gonzalez - concedes that the system creates
a perception of impropriety, though he argues that “the judges make decisions based on the merits” of a case, not campaign donations. Jordan Smith, *Is Texas High Court Contaminated by Toxic Campaign Cash?*, Austin Chronicle, June 6, 2003.

109. Article reports that Texas Court of Appeals Justice Paul Green has “said he definitely will run for the Texas Supreme Court next year, setting up a showdown that has as much to do with Green’s qualifications as it does political payback. Green, a nine-year veteran on the San Antonio-based appeals court, said he has the support of Gov. Rick Perry, who is still incensed over the defeat of Supreme Court Justice Xavier Rodriguez in the 2002 Republican primary.” Rodriguez lost to Steven Wayne Smith, “who some believe ran a crass campaign against the Latino incumbent by branding him as not a ‘true conservative.’” Green “has hired Dave Carney, one of the governor’s chief political strategists,” a move that “will come in handy in a statewide election that could cost upward of $1 million.” Jaime Castillo, *High-Court Race Shaping Up as Shot at Political Payback for Perry*, San Antonio Express-News, October 4, 2003.

110. Texas State Rep. Elizabeth Ames Jones (R.) argues that the state’s current judicial selection system, “a mixture of gubernatorial appointment, partisan elections and unopposed races,” is inconsistent and makes some votes matter more than others. Citing survey results, Rep. Jones endorses a system of gubernatorial appointment with nonpartisan retention elections, which she argues would “improve judicial accountability, minimize judicial activism and enhance public perception of the Texas judiciary.” Legislation that would have given Texans “the opportunity to vote” on amending the constitution to allow for nonpartisan retention elections had the support of Republicans and Democrats “representing various geographic regions and populations of the state” but “was killed in the House Judiciary Committee” this spring. Elizabeth Ames Jones, *Remove the Partisanship, Money from Judicial Races*, San Antonio Express-News, November 9, 2003.

111. Article reports that “San Antonio Appeals Court Judge Paul Green … filed in the GOP primary against embattled Texas Supreme Court Justice Steven Wayne Smith.” Judge Green “is endorsed by U.S. Sen. John Cornyn [R., Tex.], Texas Agriculture Commissioner Susan Combs and former Texas Supreme Court Justice Craig Enoch.” Justice Smith, who was elected in 2002 to finish the term of Greg Abbott, who stepped down to run for attorney general, “was disavowed by some of his party’s leaders for making racially charged comments” during the campaign. If re-elected, Justice Smith would serve a full six-year term. He said, “Supreme Court justices should expect to be challenged, even in the party primaries.” However, he added that he had “defeated tough, well-funded opponents before, and with the help of grassroots Republicans I will do so again.”
112. Column reports that the 2002 races for the Texas Court of Criminal Appeals “don’t have the usual horde of candidates” as a result of a new law that “requires candidates for statewide judicial positions to obtain 50 signatures from registered voters in each of the state’s 14 appeals districts.” Previously, “hungry lawyers [had] been known to write a $3,000 check for the filing fee and do little or no campaigning, hoping to strike pay dirt with an easy-to-pronounce last name.” One justice on the court, Cheryl Johnson, said, “This court used to be a $3,000 lottery.” The columnist concludes that, although the races are “still a lottery” since they attract so little money and attention, “the odds have been improved for those who are truly qualified and willing to work hard to get signatures from around the state.” Bruce Davidson, New Law Cleans Ballot in Judicial Races, San Antonio Express-News, February 15, 2004.

113. Article reports on the re-election bid of Texas Supreme Court Justice Steven Wayne Smith. Although a conservative Republican, Smith was never “fully welcomed into the party fold” because he “upset Gov. Rick Perry’s [R.] hand-picked favorite for the court in 2002,” Xavier Rodriguez. In that election, “Smith had virtually no money or statewide renown but apparently benefited from having an Anglo name in a down-ballot race.” “Because no Democrat has filed in the election, Republican voters will effectively decide who wins the seat when they pick between Smith and challenger Paul Green in the March 9 primary.” “While Smith has been banking modest sums to finance his re-election campaign, big money has been rolling into Green’s coffers from political committees associated with law firms, business executives and GOP stalwarts.” David Pasztor, Texas GOP Aims to Unseat One of Its Own, Austin American-Statesman, February 16, 2004.

114. Column argues that the race for a seat on the District Court in Travis County, Tex. is “exhibit A in what can go wrong in a judicial election.” “After getting knocked around for her involvement in redrawing Texas congressional districts, candidate Jan Soifer launched a counterattack with a mailer that linked rival candidate Gisela Triana to Republicans,” a liability in Travis County. A third candidate, John Hathaway, “is catching hell because of the heavy backing he’s getting from what’s known as the ‘family bar’ lawyers who specialize in domestic cases.” “So, the contest devolves into which candidate is the most politically pure and not a discussion of judicial philosophy or even professional credentials.” While concluding that “it’ll take a major-league scandal to produce real change” in the judicial selection system, the columnist calls “at the very least” for a nonpartisan nominating process that “might remove the temptation for candidates to position themselves to feed primary voters the red meat they crave.”

115. Article reports that incumbent Texas Supreme Court Justice Steven Wayne Smith was defeated in the Republican primary by his challenger, San Antonio appeals court Judge Paul Green, who received a “highly unusual anti-incumbent endorsement” by Gov. Rick Perry (R.). The governor’s endorsement of Green was seen as retribution for Justice Smith’s 2002 defeat of the governor’s appointee to the court. Justice Smith listed the governor’s endorsement as one of several factors working against him, but he declined to analyze the effect of the endorsement. Both candidates portrayed themselves as conservatives who, in Green’s words, “will not write law from the bench.” Judge Green faces no Democratic opponent and is assured of winning a seat in November. Pete Slover, *Justice Smith Loses GOP Race*, Dallas Morning News, March 10, 2004.