THE ATTORNEY GENERAL
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March 24, 1977

The Honorable Charles Evans
Chairman
House Committee on Judicial
Affairs
State Capitol
Austin, Texas 78701

Letter Advisory No. 126

Re: Constitutionality of House Bill 643, increasing the jurisdiction of the small claims court.

Dear Chairman Evans:

You have requested our opinion regarding the constitutionality of House Bill 643, which would extend the jurisdiction of the small claims court. You first ask whether the Legislature may increase the civil jurisdiction of the justice of the peace beyond the $200 limitation without a constitutional amendment. Article 5, section 19 of the Texas Constitution provides, in pertinent part:

> Justices of the peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exculsive original jurisdiction is not given to the District or County Courts; and such other jurisdiction, criminal and civil, as may be provided by law . . . .

In our opinion, the language of article 5, section 19, conferring upon a justice of the peace "such other jurisdiction, criminal and civil, as may be provided by law," does not empower the Legislature to extend the jurisdiction of a justice of the peace to civil matters in which the amount in

controversy is greater than two hundred dollars. It is well established that a specific constitutional provision controls over a more general provision relating to the same subject matter. County of Harris v. Shepperd, 291 S.W.2d 721, 726 (Tex. 1956); Smith v. Grayson County, 44 S.W. 921, 923 (Tex. Civ. App. --1897, writ refused). We believe that, except as noted below, the constitutional provision for "such other jurisdiction . . . as may be provided by law" refers to matters in which there is no defined "amount in controversy" or to specialized matters where the amount in controversy is not greater than $200, such as that described in article 2460a, V.T.C.S., relating to the small claims court.

Section 2 of article 2460a presently provides, in pertinent part:

> The Small Claims Court shall have and exercise concurrent jurisdiction with the Justice of the Peace Court in all actions for the recovery of money by any person, association or persons, corporation or by any attorney for such parties, or other legal entity only where the amount involved, exclusive of costs, does not exceed the sum of One Hundred and Fifty Dollars ($150), except that when the claim is for wages or salary earned, or for work or labor performed under any contract of employment, the jurisdictional amount, exclusive of costs, shall not exceed Two Hundred Dollars ($200). . . .

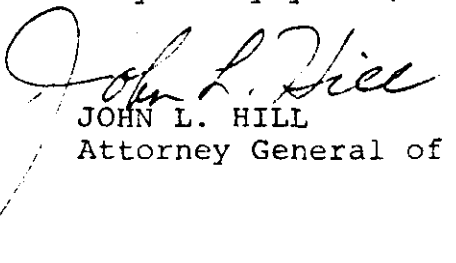
House Bill 643 would substitute a maximum amount of $1000 for all civil cases within the jurisdiction of the small claims court. You ask whether this change can be effected without a constitutional amendment.

Section 1 of article 2460a provides that "[t]he justices of the peace in their several counties and precincts shall sit as judges of said [Small Claims] courts and exercise the jurisdiction hereby conferred . . . ." Under House Bill 643, the small claims court is granted "concurrent jurisdiction with the Justice of the Peace," in all

civil matters, with certain exceptions. As we have noted previously, the civil jurisdiction of a justice of the peace is limited to matters in which the amount in controversy is not greater than $200. Article 2460a can confer upon a justice of the peace no greater jurisdiction than is conferred upon him by the Texas Constitution. In our opinion, therefore, the Legislature may not, in the absence of a constitutional amendment, directly extend the jurisdiction of the small claims court, to civil matters in which the amount in controversy is greater than $200, so long as the justice of the peace is judge of the small claims court.

You have not suggested accomplishing the change by raising the minimum jurisdictional amounts in county courts and thus we need not address the potential applicability of article 5, section 22 of the Constitution.

Very truly yours,



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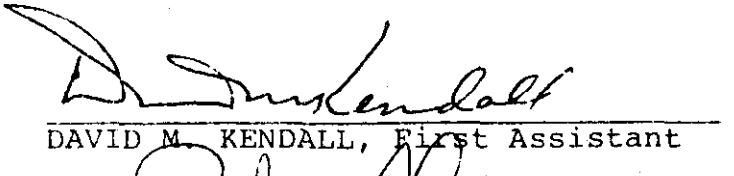
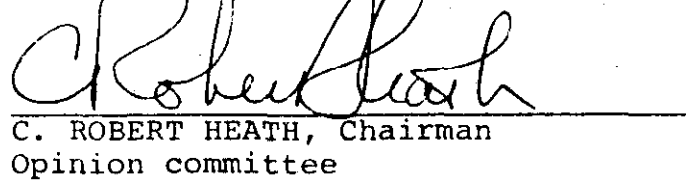


DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion committee