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The Supreme Court of Texas  
at the City of Austin in Session  
On the 16<sup>th</sup> day of Feb'y AD 1874  
Roberts, C. J. Chief Justice

W. P. De Normandie having presented to the Court the evidence of his right to hold the Office of Clerk of the Supreme Court, together with his application, supported by the recommendation of respectable attorneys, to be retained in the office, and having requested the decision of the Court thereon, it is deemed proper for the Court to make known its decision.

He was appointed on the 6<sup>th</sup> day of December 1869 by the Supreme Court then acting in such Capacity by Military authority. He was retained as said Clerk by the succeeding Court, appointed under the Constitution and by them reappointed on the 8<sup>th</sup> day of December 1873; all which appears upon the minutes of the Court. Whatever view may be taken of his first appointment the office was vacant at the time of the latter appointment, and was so recognized by himself and the Court; and the appointment was valid as to that Court, and he was

under the provisions of the Constitution the Clerk of that Court during the time it continued in existence. The question is, does he by virtue of his appointment continue to be the Clerk of the Supreme Court as now organized under the amendments to the Constitution lately adopted?

From such consideration as we have been able to give the subject the Court is unanimously of the opinion that he is.

The amendments embrace three sections (2344) of the "Judicial Department", and leaves standing in force the 5<sup>th</sup> section, which relates to the Clerk. It provides that "the Supreme Court shall appoint its own clerk, who shall hold his office for four years, unless sooner removed by the Court for good cause entered of record on the minutes of the Court. The said Clerk shall give bond in such manner, as is now or may be hereafter required by law." The appointment is the act of the Court, the Supreme Court, and is not affected by a change in the persons composing that Court.

The amendments radically change the constitution of the Court, in the number of persons composing it, <sup>in</sup> their tenure of

office, and in their organization, by creating  
 in it a new office, - that of Chief Justice, which  
 rendered it impracticable to engraft the new  
 Court upon the old one, or to combine in har-  
 monious coalescence the old with the new, <sup>o</sup>  
 Still the tribunal established by the amend-  
 ments is ~~with~~ the "one Supreme Court"  
 provided for by the 1st Section of the  
 Judicial Department, which remains  
 unchanged. He derived his appointment  
 not ~~by~~ from the members of the Court, as indi-  
 vidual officers, but from their official action  
 as the "Supreme Court." There is nothing in  
~~the~~ mode of his appointment, his tenure of  
 office, or his duties, incompatible with his  
 being the Clerk of the "Supreme Court," as  
 now organized, as well as of the ~~former~~  
 "Supreme Court" as it existed, when he  
 received his appointment.

The force of this conclusion will be readily  
 appreciated, as it is conceived, by reading <sup>in connection</sup> the first  
 five sections of the Judicial Department in the  
 Constitution as it now stands amended.