

(State Question—Initiative Petition No. 10)

WARNING!

“It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for any measure, or to sign such petition when he is not a legal voter.”

(State Question—Initiative Petition No. -----) ¹¹

To the Honorable Charles N. Haskell, Governor of Oklahoma:

We, the undersigned citizens and legal voters of the State of Oklahoma, County of -----, respectfully order that the following proposed amendment to the Constitution of this State shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection, at the regular election to be held on the first Tuesday succeeding the first Monday in November, A. D., 1910, being the eighth day of said month, or at the next election held throughout the State, or at any special election which the Governor of the State may call for such purpose at which the same may be submitted, and each for himself says:

I have personally signed this petition; I am a legal voter of the State of Oklahoma, and of the County of -----; my residence and postoffice are correctly written after my name. The time for filing this petition expires sixty days from the 10th day of April, A. D., 1910. The question we herewith submit to our fellow voters, is: shall the following proposed amendment to Article Three of the Constitution of Oklahoma be adopted, as Section "4a" thereof, to-wit:

A BILL ENTITLED
AN ACT

Proposing an amendment to the Constitution of the State of Oklahoma, in compliance with the suggestions and provisions of Senate Bill No. 126 of the extra session of the Legislature of 1910, adding to Article Three of such Constitution, the following provision which shall be known as Section "4a" of said Article Three, the same relating to the right of suffrage, prescribing an educational qualification therefor, and providing a method of enforcing same.

Be It Enacted By the People of the State of Oklahoma:

That the Constitution of the State of Oklahoma be, and the same is hereby amended by adding to Article three thereof, as Section "4a," the following:

Section 4a. "No person shall be registered as an elector of this State, or be allowed to vote in any election held herein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person who was, on January 1st, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such Constitution.

Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with the provisions of this section shall be enforced by the precinct election officers when electors apply for ballots to vote.

Copy of book.
Box No 10.

Filed Apr. 11th 1910

By J. W. Sawyer

#12

May 22 1910



Senate Chamber

State of Oklahoma

GUTHRIE, OKLA.,

Chickasha, Okla., 4-II-1910.

Hon. Bill Cross, Secretary of State,

Guthrie, Okla.,

Dear Sir:

As a citizen and elector of the state of Oklahoma I hereby file with you, to be kept as a record in your office of Secretary of State, the attached Initiative Petition No. __, proposing an amendment to the constitution of the state, the title of which is:

"An Act proposing an amendment to the constitution of the State of Oklahoma, in compliance with the suggestions and provisions of Senate Bill No. 128 of the extra session of the Legislature of 1910, adding to Article Three of such Constitution, the following provision which shall be known as Section "4a" of said Article Three, the same relating to the right of suffrage, prescribing an educational qualification therefor, and providing a method of enforcing same"

I respectfully request that you publish notice of the filing hereof as required by law and that you preserve a copy of such notice with this record.

Respectfully,

Filed on 4/11-1910

Request for
Publishing in NIT

\$10

from Dr. Mc Jayson

STATE OF OKLAHOMA
LEGAL DEPARTMENT
GUTHRIE

CHARLES WEST, ATTORNEY GENERAL
EDWARD G. SPILMAN, ASSISTANT ATTORNEY GENERAL
GEORGE A. HENSHAW, ASSISTANT ATTORNEY GENERAL
WILLIAM C. REEVES, ASSISTANT ATTORNEY GENERAL
CHARLES L. MOORE, ASSISTANT ATTORNEY GENERAL

ADDRESS ALL COMMUNICATIONS TO
"THE ATTORNEY GENERAL" AND
REFER TO INITIALS

Guthrie, Oklahoma, April 28, 1910.

Honorable Bill Cross,
Secretary of State,
Guthrie, Oklahoma.

Dear Sir:

Herewith attached I hand you a copy of the proposed amendment to the Constitution of the State of Oklahoma, embracing Senate Concurrent Resolution No. 31 of the Extraordinary Session of the Legislature of the State of Oklahoma of 1910, and also attach hereto for the purpose of filing in your office, a Ballot Title for said proposed proposition. The proposed amendment now filed is a duplicate copy of the one filed in your office on April 11th, 1910.

Please cause same to be filed of record in accordance with law.

Yours truly,



STATE OF OKLAHOMA
LEGAL DEPARTMENT
GUTHRIE

CHARLES WEST, ATTORNEY GENERAL
EDWARD G. SPILMAN, ASSISTANT ATTORNEY GENERAL
GEORGE A. HENSHAW, ASSISTANT ATTORNEY GENERAL
WILLIAM C. REEVES, ASSISTANT ATTORNEY GENERAL
CHARLES L. MOORE, ASSISTANT ATTORNEY GENERAL

ADDRESS ALL COMMUNICATIONS TO
"THE ATTORNEY GENERAL" AND
REFER TO INITIALS

CW-W 297

Guthrie, Oklahoma, April 28, 1910.

To The
Secretary of State.

Sir:

I have received from Senator L. K. Taylor a copy of initiative petition of a proposed amendment to the constitution of the State of Oklahoma, embracing Senate Concurrent Resolution No. 31 of the Extraordinary Session of the Legislature of 1910, enclosing a ballot title.

The ballot title proposed is rejected, and in substitute therefor will be as follows:

"BALLOT TITLE FOR STATE QUESTION NO. _____,
AND INITIATIVE PETITION NO. 10."

The purpose is the adoption by a vote of the people of the State of Oklahoma of an amendment to the constitution restricting the right to vote to persons who could, on or before January 1, 1866, vote under any form of government, and to persons who then resided in some foreign nation, and to the lineal descendants of such persons, of both said classes, and permitting such other persons to vote as can read and write any section of the constitution of Oklahoma and are otherwise qualified electors."

Respectfully,

Chas. West
Attorney General.

Ballot list

(opinion)

in Int. Det. No. 10

By Chas. West

attorney General

Filed ~~April~~

April 28-1910

BALLOT TITLE.

For State Question No. _____ Initiative Petition No. _____

The question is the adoption by vote of the
people of the State of Oklahoma of an amendment to the
Constitution restricting the right to vote to persons who
could, on or before January 1st, 1866, vote under any
form of government, *or who then resided in some foreign nation,*
or to the lineal descendants of such
persons, and permitting such other people to vote as can
read and write any section of the Constitution of Oklahoma.

Beaver Litter
on Box #10
by L.M. Jay Co

Filed Apr 28-1910

copy

Guthrie, Oklahoma
May 28th 1910

Received of Fred P. Branson, a legal resident and voter of the State of Oklahoma, a petition containing ~~40,448~~^{40,440} names, same being an Act Proposing an amendment to the Constitution of the State of Oklahoma, in compliance with the suggestions and provisions of Senate Bill No. 126 of the extra session of the Legislature of 1910, adding to Article Three of such Constitution, the following provision which shall be known as Section "4a" of said Article Three, the same relating to the right of suffrage, prescribing an educational qualification wherefor, and providing a method of enforcing same.

Said Initiative petitions are offered for filing and in the presence of the person offering the same for filing, the sheets containing the signatures and affidavits were detached and then attached to one or more copies of the measure so proposed: Said petition has been duly filed as Initiative petition No. 10.

IN WITNESS WHEREOF I hereto set my hand and cause to be affixed the Great Seal of State. Done at the City of Guthrie this twenty-eighth day of May, A. D. Nineteen hundred and ten.

Secretary of State.

Copy

STATE OF OKLAHOMA.

In the Office of the Secretary of State.

I, BILL CROSS, Secretary of State of the State of Oklahoma, do hereby certify that Initiative Petition No. 10 suggesting an amendment to the Constitution affecting the write of suffrage by the application of an educational test, was filed in this office on the 27th day of May, 1910. That its official number is Int. Pet #10 That said petition was filed by Fred. P. Brause
Muskogee Okla

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of State, this 31st day of May, 1910.

Bill Cross.
Secretary of State.

By Leo Meyer
Assistant.

BEFORE THE HONORABLE BILL CROSS

SECRETARY OF STATE OF THE

STATE OF OKLAHOMA.

In the Matter of

INITIATIVE PETITION NO. 10.

NOTICE OF APPEAL

of Patrick S. Nagle.

BEFORE THE SECRETARY OF STATE OF THE STATE OF OKLAHOMA.

In re Petitions filed against Initiative Petition No.10 seeking to initiate an amendment to the Constitution of the State, in accordance with the provisions of Senate Concurrent Resolution No.31 passed by the Extraordinary Session of the Legislature, 1910 which protests were filed June 1,1910.

Appearances:

For the petitioners, A.C.Cruce,
Fred P.Branson,
W.H.L.Campbell.

For the objectors: John H.Burford,
and P.A.Nagle.

Guthrie, Oklahoma, June 6, 1910.

---ooo000ooo---

To Bill Gross, Sec. of State of Oklahoma.

You are hereby notified that we desie to appeal from your order heretofore made overuling our protest to Innitiated petiton #10, filed by Fred P. Branson, the same being the proposed constitutional amendment suggesting an educational test as the right to vote.

You will certify to the Supreme Court of the state of Oklahoma the original petition, the protest, the answer to the protest, and all the evidence taken by you at the hearing of the protest.

his

Sampson X Smith

mark

his

Thomas X Low

mark

his

J. N. X Neal

mark.

Will X Chappell
Attorney for protestants.

State of Oklahoma.)
) SS.
County of Logan.)

Lou Maylow being duly sworn

upon his oath says: That on the 6th day of June, 1910, he served the within protest be delivering to Fred P. Branson at Guthrie, Oklahoma, a full, true and complete copy of the protest hereto attached.

Lou Maylow

Subscribed and sworn to before me this 6th day of June, 1910.

Martin L. Mock
Notary Public.

My Commission expires August 12 1910

To the Honorable Bill Cross, Secretary of State of the State of Oklahoma, and Fred P. Branson, the person who filed Referendum Petition No. IO.

You and each of you are hereby notified that I, James A. Harris a citizen of the State of Oklahoma, do hereby protest against Referendum Petition No. IO and as grounds of said protest allege:

FIRST: That said petition is not signed by a sufficient number of petitioners.

SECOND: "That a large number of persons whose names appear as signers to said petition are not qualified electors and legal voters of the state of Oklahoma, and were not at the time their names were signed to said petition.

THIRD: That said petition is not sufficient in form and does not conform to the requirements of the constitution and laws of the State of Oklahoma.

FOURTH: The purpose of the proposed amendment while it purports to prescribe an educational test is to disfranchise persons of African descent, also the descendants of persons who were formerly held in slavery, who are at this time qualified electors in the State of Oklahoma and of whom there are several thousand in the State of Oklahoma.

FIFTH: That said proposed amendment to the constitution is in conflict with that portion of section three of the Enabling Act which provides:

"The constitution shall be republican in form and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States, and the principles of the Declaration of Independence."

in that said amendment will, if adopted, have no application to any other persons in said State, than persons of the African or colored race, and the publicly declared purpose of the petitioners is to disfranchise colored voters and none others.

SIXTH: The proposed amendment to the constitution is in direct conflict with subdivision sixth, or section three of the Enabling Act which provides:

"That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude."

in that the expressed purpose of the legislature which suggested said proposed amendment and of the persons who signed said petition is to deprive electors of the African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege.

SEVENTH: That said proposed amendment is in conflict with section three of the Enabling Act, which provides:

"That the delegates to the Convention thus elected shall meet at the Seat of Government of said Oklahoma Territoryand shall declare on behalf of the people of said proposed State that they adopt the constitution of the United States."

EIGHTH: The Constitution, Article 24, prescribed the manner of amending the constitution and such methods are exclusive and this proposed amendment is not submitted or proposed in conformity to any of the methods prescribed or recognized by the constitution. of the State.

NINTH: The said referendum petition No. 10, is a proposed amendment to the Constitution of the State of Oklahoma and the manner of proposing such amendment is contrary to and in conflict with the constitution and laws of the State, and if adopted will be unconstitutional.

TENTH: That said proposed amendment is in conflict with section one, article one of the constitution of the State of Oklahoma, which provides:

"The State of Oklahoma is an inseparable part of the Federal Union and the Constitution of the United States is the Supreme law of the land."

ELEVENTH: That said proposed amendment to the Constitution is in conflict with and a violation of section six of article one of the Constitution of the State of Oklahoma, which provides:

"That said state shall never enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude."

in that the expressed purpose of the Legislature which suggested said proposed amendment and of the persons who signed said petition, is to deprive electors of the African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege.

TWELFTH: That said proposed amendment is in conflict with the fourteenth amendment to the Constitution of the United States which provides:

"That all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any state deprive any person of life, liberty or property without due process of law nor deny any person within its jurisdiction the equal protection of the laws."

THIRTEENTH: That said proposed amendment is in conflict with the fifteenth amendment to the Constitution of the United States which provides:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States, or any State, on account of race, color or previous condition of servitude."

FOURTEENTH: That there are now more than ten thousand persons of African descent belonging to the colored race, who were held in slavery and also those who are descendants of persons of color who were held in servitude during the period before slavery was abolished in the United states, who are each qualified electors in the state of Oklahoma, under the constitution and laws of said State, which it is the purpose of said amendment to disfranchise by reason of color, race and previous condition of servitude, and if said proposed amendment shall be adopted it will deprive said persons of the rights

guaranteed to them by the Constitution and laws of the United States wherein it is provided that the State shall not enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude.

W H E R E F O R E, your objector and protestant prays that a day be fixed for the hearing of the objections herein enumerated and that said Referendum Petition No. 10 be declared insufficient, illegal, unauthorized and in conflict with the constitution of the State of Oklahoma and in conflict with the constitution and laws of the United States.

JAMES A. HARRIS.

state of Oklahoma.)
) :ss.
Logan County.)

JAMES A. HARRIS of lawful age being by me first duly
sworn on his oath says:

That he is a qualified elector of the State of Oklahoma,
that he has read the above and foregoing protest and knows
the contents thereof; that he is the James A. Harris who signed
the above and foregoing protest and that the facts therein
alleged are true as he verily believes.

Witness my hand and notarial seal this 1st day of June,
1910.

Alfredo Jennings
Notary Public.

My Commission expires the 26 day of

March 1912.

Protest of James
A. Harris
against Judicial
Petition No. 10,
Provy of amend
of notice on the
of P. museum

State of Oklahoma.)
) :ss.
County of Logan.)

Lou Muslow being duly sworn
upon his oath says: That on the 6th day of June, 1910, he
served the within protest be delivering to Fred P. Branson
at Guthrie, Oklahoma, a full, true and complete copy of the
protest hereto attached.

Lou Muslow

Subscribed and sworn to before me this 6th day of
June, 1910.

Martin L. Meek
Notary Public.

My Commission expires August 12 1910

(Copy)

To the Honorable Bill Cross, Secretary of State of the State of Oklahoma, and Fred P. Branson, the person who filed Referendum Petition No. 10.

You and each of you are hereby notified that I,

J. N. Neal

am a citizen and elector of the State of Oklahoma; that I am a male person of African descent, a colored person and of the colored race; that I am a qualified voter in the State of Oklahoma; that I have resided in the State since its creation or admission as a State, and was a resident of the Territory of Oklahoma prior to the admission of the State of Oklahoma; that I am 71 year of age; that I have never been adjudged guilty of a felony; that I am not inmate of a poor house or asylum, and not in a prison; nor am I an idiot or lunatic, That I am not able to read or write any section of the constitution of the State of Oklahoma; that I was not on January 1st, 1866, entitled to vote under any form of Government and I am not a lineal descent of a person who was entitled to vote on January 1, 1866; that I was a slave and held in slavery and bondage prior to the emancipation proclamation of President Lincoln, and was not entitled to the right of suffrage during such period of slavery, and that I ~~am~~ are the lineal descendants of a slave who was deprived of the right of suffrage by reason of a condition of servitude, and by reason that he was of the colored or African race; and that I do hereby protest against Referendum Petition No. 10, and as grounds of said protest allege:

FIRST: That said petition is not signed by a sufficient number of petitioners.

SECOND: That a large number of persons whose names appear as signers to said petition are not qualified electors and legal voters of the State of Oklahoma, and were not at the time their names were signed to said petition.

THIRD: That said petition is not sufficient in form and does not conform to the requirements of the Constitution and laws of the State of Oklahoma.

FOURTH: The purpose of the proposed amendment while it purports to prescribe an educational test is to disfranchise persons of African descent, also the descendants of persons who were formerly held in slavery, who are at this time qualified electors in the State of Oklahoma and of whom there are several thousand in the State of Oklahoma.

FIFTH: That said proposed amendment to the constitution is in conflict with that portion of section three of the Enabling Act which provides:

"The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States, and the principles of the Declaration of Independence."

in that said amendment will, if adopted, have no application to any other persons in said State, than persons of the African or colored race, and the publicly declared purpose of the petitioners is to disfranchise colored voters and none others.

SIXTH: The proposed amendment to the constitution is in direct conflict with subdivision Sixth of Section three of the Enabling Act which provides:

"That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude."

in that the expressed purpose of the Legislature which sug-

gested said proposed amendment and of the persons who signed said petition, is to deprive electors of the African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege.

SEVENTH: That said proposed amendment is in conflict with section three of the Enabling Act, which provides:

"That the delegates to the Convention thus elected shall meet at the Seat of Government of said Oklahoma Territory.....and shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States."

EIGHTH: The Constitution, Article 24, prescribes the manner of amending the constitution and such methods are exclusive and this proposed amendment is not submitted or proposed in conformity to any of the methods prescribed or recognized by the Constitution of the State.

NINTH: The said referendum petition No. 10, is a proposed amendment to the Constitution of the State of Oklahoma, and the manner of proposing such amendment is contrary to and in conflict with the constitution and laws of the State, and if adopted will be unconstitutional.

TENTH: That said proposed amendment is in conflict with section one, article one of the Constitution of the State of Oklahoma which provides:

"The State of Oklahoma is an inseparable part of the Federal Union and the Constitution of the United States is the supreme law of the land."

ELEVENTH: That said proposed amendment to the Constitution is in conflict with and a violation of section six of article one of the Constitution of the State of Oklahoma which provides:

"That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude."

in that the expressed purpose of the Legislature which suggested said proposed amendment and of the persons who signed said

petition, is to deprive electors of the African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege.

TWELFTH: That said proposed amendment is in conflict with the fourteenth amendment to the Constitution of the United State which provides:

"That all persons born or naturalized in the United State and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any State deprive any person of life, liberty or property without due process of law nor deny any person within its jurisdiction the equal protection of the laws."

THIRTEENTH: That said proposed amendment is in conflict with the fifteenth amendment to the Constitution of the United States which provides:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States, or any State, on account of race, color or previous condition of servitude."

FOURTEENTH: That there are now more than ten thousand persons of African descent belonging to the colored race, who were held in slavery and also those who are descendents of persons of color who were held in servitude during the period before slavery was abolished in the United States, who are each qualified electors in the State of Oklahoma, under the constitution and laws of said State, which it is the purpose of said amendment to disfranchise by reason of color, race and previous condition of servitude, and if said proposed amendment shall be adopted, it will deprive said persons of the rights guaranteed to them by the constitution and laws of the United

States wherein it is provided that the State shall not enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude.

WHEREFORE, your objector and protestant prays that a day be fixed for the hearing of the objections herein enumerated and that said Referendum Petition No. 10, be declared insufficient, illegal, unauthorized and in conflict with the constitution of the State of Oklahoma and in conflict with the Constitution and laws of the United States.

Witnesses to marks:

B. F. Garrett
Geo. F. Anderson

^{his}
J. N. Neal
mark

STATE OF OKLAHOMA : ss
LOGAN COUNTY :

Before me, the undersigned Notary Public within the aforesaid County and State personally appeared J. N. Neal and _____ and _____ to me known to be the identical persons who signed their names by mark to the above and foregoing protest; they each and all of them acknowledged to me and in my presence that they were unable to read an write, whereupon I read over to them and in their presence the said above and foregoing protest and explained the contents thereof to them and after hearing the reading and explanation all of them signed said protest in my presence and acknowledge to me that they understood the content thereof and that they signed the same of their free and voluntary act and deed for the use and purpose therein set forth.

Witness my hand and official seal this 1st day of June, 1910, A.D.

(Seal)

E. L. Sadler
Notary Public.

My Commission expires on the 25
day of Feb, 1914.

Service of a True copy of the within protest is hereby
acknowledged this _____ day of June, 1910.

J. M. Neal

Notes of J. M. Neal
against William
Atkinson No. 10

Proof of service
of Notice on Atkinson
William

State of Oklahoma.)
) ss.
County of Logan.)

Lon Mylow being duly sworn

upon his oath says: That on the 6th day of June, 1910, he served the within protest he delivering to Fred P. Branson at Guthrie, Oklahoma, a full, true and complete copy of the protest hereto attached.

Lon Mylow

Subscribed and sworn to before me this 6th day of June, 1910.

Martin L. Meek
Notary Public.

My Commission expires August 12th 1910..

Copy.

To the Honorable Bill Cross, Secretary of State of the State of Oklahoma, and Fred P. Branson, the person who filed Referendum Petition No. 10.

You and each of you are hereby notified that I,

Sampson Smith

am a citizen and elector of the State of Oklahoma; that I am a male person of African descent, a colored person and of the colored race; that I am a qualified voter in the State of Oklahoma; that I have resided in the State since its creation or admission as a State, and was a resident of the Territory or Oklahoma prior to the admission of the State of Oklahoma; that I am 80 years of age; that I have never been adjudged guilty of a felony; that I am not an inmate of a poor house or asylum, and not in a prison; nor am I an idiot or lunatic, that I am not able to read or write any section of the constitution of the State of Oklahoma; that I was not on January 1st, 1866, entitled to vote under any form of Government and I am not a lineal descent of a person who was entitled to vote on January 1, 1866; that I was a slave and held in slavery and bondage prior to the emancipation proclamation of President Lincoln, and was not entitled to the right of suffrage during such period of slavery, and that I ^{and} are the lineal descendants of a slave who was deprived of the right of suffrage by reason of a condition of servitude, and by reason that he was of the colored or African race; and that I do hereby protest against Referendum Petition No. 10, and as grounds of said protest allege:

FIRST: That said petition is not signed by a sufficient number of petitioners.

SECOND: That a large number of persons whose names appear as signers to said petition are not qualified electors and legal voters of the State of Oklahoma, and were not at the time their names were signed to said petition.

THIRD: That said petition is not sufficient in form and does not conform to the requirements of the Constitution and laws of the State of Oklahoma.

FOURTH: The purpose of the proposed amendment while it purports to prescribe an educational test is to disfranchise persons of African descent, also the descendants of persons who were formerly held in slavery, who are at this time qualified electors in the State of Oklahoma and of whom there are several thousand in the State of Oklahoma.

FIFTH: That said proposed amendment to the constitution is in conflict with that portion of section three of the Enabling Act which provides:

"The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States, and the principles of the Declaration of Independence."

in that said amendment will, if adopted, have no application to any other persons in said State, than persons of the African or colored race, and the publicly declared purpose of the petitioners is to disfranchise colored voters and none others.

SIXTH: The proposed amendment to the constitution is in direct conflict with subdivision Sixth of Section three of the Enabling Act which provides:

"That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude."

in that the expressed purpose of the Legislature which sug-

suggested said proposed amendment and of the persons who signed said petition, is to deprive electors of the African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege.

SEVENTH: That said proposed amendment is in conflict with section three of the Enabling Act, which provides:

"That the delegates to the Convention thus elected shall meet at the Seat of Government of said Oklahoma Territory.....and shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States."

EIGHTH: The Constitution, Article 24, prescribes the manner of amending the constitution and such methods are exclusive and this proposed amendment is not submitted or proposed in conformity to any of the methods prescribed or recognized by the Constitution of the State.

NINTH: The said referendum petition No. 10, is a proposed amendment to the Constitution of the State of Oklahoma, and the manner of proposing such amendment is contrary to and in conflict with the constitution and laws of the State, and if adopted will be unconstitutional.

TENTH: That said proposed amendment is in conflict with section one, article one of the Constitution of the State of Oklahoma which provides:

"The State of Oklahoma is an inseparable part of the Federal Union and the Constitution of the United States is the supreme law of the land."

ELEVENTH: That said proposed amendment to the Constitution is in conflict with and a violation of section six of article one of the Constitution of the State of Oklahoma which provides:

"That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude."

in that the expressed purpose of the Legislature which suggested said proposed amendment and of the persons who signed said

petition, is to deprive electors of the African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege.

TWELFTH: That said proposed amendment is in conflict with the fourteenth amendment to the Constitution of the United States which provides:

"That all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any State deprive any person of life, liberty or property without due process of law nor deny any person within its jurisdiction the equal protection of the laws."

THIRTEENTH: That said proposed amendment is in conflict with the fifteenth amendment to the Constitution of the United States which provides:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States, or any State, on account of race, color or previous condition of servitude."

FOURTEENTH: That there are now more than ten thousand persons of African descent belonging to the colored race, who were held in slavery and also those who are descendants of persons of color who were held in servitude during the period before slavery was abolished in the United States, who are each qualified electors in the State of Oklahoma, under the constitution and laws of said State, which it is the purpose of said amendment to disfranchise by reason of color, race and previous condition of servitude, and if said proposed amendment shall be adopted, it will deprive said persons of the rights guaranteed to them by the constitution and laws of the United

States wherein it is provided that the State shall not enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude.

WHEREFORE, your objector and protestant prays that a day be fixed for the hearing of the objections herein enumerated and that said Referendum Petition No. 10, be declared insufficient, illegal, unauthorized and in conflict with the constitution of the State of Oklahoma and in conflict with the Constitution and laws of the United States.

Witnesses to marks:

B. F. Garrett

Jno. F. Anderson

^{his} Sampson X Smith
mark

STATE OF OKLAHOMA:
LOGAN COUNTY : SS.

Before me, the undersigned Notary Public within the aforesaid County and State personally appeared Sampson Smith and _____ and _____ to me known to be the identical persons who signed their names by mark to the above and foregoing protest; they each and all of them acknowledged to me and in my presence that they were unable to read and write, whereupon I read over to them and in their presence the said above and foregoing protest and explained the contents thereof to them and after hearing the reading and explanation all of them signed said protest in my presence and acknowledged to me that they understood the contents thereof and that they signed the same of their free and voluntary act and deed for the use and purpose therein set forth.

Witness my hand and official seal this 1st day of June, 1913, A.D.

E. J. Saddler
Notary Public.

(Seal)

My Commission expires on the 25th day of February, 1914.

Service of a True copy of the within protest is hereby
acknowledged this _____ day of June, 1910.

Sampson Smith

Protect of Sampsons
Smith Legation
~~Smith Legation~~
Station No. 10.

Chief of Service
of Police and
Fred P. Brown

ARGUMENT SUBMITTED BY O. F. BRANSTETTER,
JOHN HAGEL, OSCAR AMERINCHE,
W. L. REYNOLDS AND P. S.
HAGEL.-----Committee.

.....

The recent Legislature passed four bills known as Senate Bill No. 372, House Bill No. 125, Senate Bill No. 126 and Concurrent Resolution No. 31.

In the first is concealed the "Sleeper", in the second the "Weazle word", in the third the fangs of the rattle snake and in the fourth the concentrated poison of the copper head.

Upon these four Acts is predicated the proposed Constitutional Amendment to disfranchise a large section of the working class.

"The Sleeper" consists in this- that it gives the Governor the right to call a special election upon amendments to the Constitution proposed by the Legislature, whereas the Constitution prescribed specifically that where the Legislature proposes an Amendment to the Constitution it shall be submitted at "The next regular general election" unless the Legislature by a two-thirds vote order a special election. Thus in violation of the Constitution the Governor is empowered to call a special election upon measures proposed by the Legislature. Consequently he can call them in harvest time, for instance the eleventh of June and upon short notice. It is true that the proposed Amendment to disfranchise a group of the working class was not "proposed" by the Legislature it was "suggested"- this is the disingenuous reasoning of the reactionaries who are supporting the Amendment.

If this measure originated with and was initiated by the people it might properly under the Constitution be sent to the electors at the next election throughout the State. But the measure was not initiated by the people - it was born of a "suggestion" by the Legislature- born of the infamous Senate

Bill No. 126.

Mr. Fred P. Branson, Chairman of the Democratic Executive Committee, testified on the stand and under oath "My part in initiating this proposition was to carry out the intention of the Legislature as incorporated in the law.

Question to Branson-And you signed the petition solely to carry out the legislative intent- Answer- Yes sir.

THE WEAZLE WORD.

House Bill No. 125 is an election law drawn along the lines of the Taylor and Goebel election laws- The entire election machinery is in the hands of the Governor. The people are entirely excluded from an participation in conducting the election. Watchers are not permitted and no one has any knowledge of the result of elections except the appointees of the Governor.

It is craftily and ingenuously drawn filled with "Weazle words" and as might be expected no provision is made for the recall. Under election laws of this character the working class of many states both white and black have been almost wholly disfranchised.

Oklahoma in 1908 polled 257,000 votes and had five Congressmen, Florida polled 39,000 votes and had three congressmen- Peonage of white men exist in Florida and all peons belong to the working class. Oklahoma in the same year polled 56,000 votes in the Second District, South Carolina polled 66,000 votes and had four congressmen, Mississippi 77,000 votes and four Congressmen, Louisiana 76,000 and seven Congressmen, Alabama 102,000 and nine Congressmen, Georgia 132,000 and eleven Congressmen. In these states the land renter is a serf and in Georgia the treatment of prisoners- even white women is a disgrace to civilization. This is the con-

dition of the working class in states where they have been deprived of the franchise.

SENATE BILL NO. 126.

This is the most infamous piece of legislation passed by the reactionaries now in power. In the folds of this Bill are concealed not only the fangs of the rattle snake but the knife of the assassin. This Bill passed the Senate March 10th- the House March 17th and was approved by the governor and declared to be the law of the State on the latter date.

On June 22nd 1910, at 10 A.M. the Supreme Court held that the Bill was not subject to the referendum. When they passed and declared this Bill to be the Law of the State they plunged a butcher knife into the bowels of the Initiative and Referendum and turned it around. There is nothing left of the Initiative and Referendum in this State but a new made grave. If there are those who weep and wish to erect a monument over the remains I suggest this as an epitaph-"Assassinated by Legislative Chicanery and Executive debauchery with Judicial sanction."

And how was the death of the Initiative accomplished- The Constitution gave unlimited time to the people to prepare, discuss, circulate and file initiative petitions and ninety days to demand the referendum.

This Senate Bill 126 cuts the time down to sixty days- If they can reduce it to sixty days they can reduce it to thirty or ten days. The unorganized people can not circulate and sign up a petition in sixty days. A powerful railroad industrial or political organization can.

The Democratic organization claim to have 43,140 names and they paid five cents in the City and eight in the country for signatures. They got up their petition in sixty days but they had the money and a powerful and well knit organization to begin with.

An honest initiative and referendum law will protect all men and for this very reason it was marked for destruction.

The roots of the "Grandfather Clause" is buried in Senate Bill 126. To disfranchise the negro it was imperative to pass Senate Bill 126, and Senate Bill 126 destroys the Initiative and Referendum. Thus the disfranchisement of the negro is the destruction of the Initiative and Referendum. He could not be disfranchised without destroying it- as in spirit it stands for the protection of all men.

In this Senate Bill No. 126 the Legislature "Suggests" to itself that it "Suggest" to the people that they "Suggest" to the Governor and his election board that they wish to vote on a proposition prepared for them or "suggested" by the Legislature and if they heed the "Suggestion" they can have on year to get up their petitions, but if the people wish to get up a petition without any "Suggestion" from the Legislature they must do so in sixty days. Nor is this all- the peoples Bill must receive a majority of all the votes cast at the election but with the "Suggestion" bill it is different- it is provided that "For the Amendment" shall be printed in an inconspicuous place and without any distinguishing marks and if you do not hunt it up and strike it out with your pencil you are voted for the "Suggested" amendment.

The people may as well know first as last that under the laws of this State as they now stand and are construed that the Legislature can pass any Bill they desire and if they incorporate in the Bill an "Emergency exists in the interest of public peace, health and safety" that such Bill instantly becomes a law and can not be referred and that the Courts will not interfere. The Legislature can also pass any sort of a Bill they desire and if they insert in the caption that it was passed for the purpose of putting the initiative and referendum into effect, as was done in Senate Bill 126, such a Bill can

not to be referred to the people notwithstanding the fact that the true intent of the Bill is not to put the initiative and referendum into effect but to destroy it.

It is important to know who will be disfranchised under the "Grandfather Clause".

Mr. Branson, Chairman of the Democratic Executive Committee, was asked at the hearing before Cross, Secretary of State, if it was not the intention to disfranchise negroes solely. Mr. Branson refused to answer this question and go on record but in the pleadings filed he denied that the intent was to disfranchise negroes solely. If the sole purpose is not to disfranchise the negro, then the purpose must be to disfranchise in connection with the negro, the Russian, the Bohemian, the Irishman, the Jew, the Catholic or some other group .

the Indian
/

SOCIAL EQUALITY

There is no such thing as social equality-it does not exist among the whites.

Social courtesies go by favor not as a right, if the most aristocratic "Nigger hater" in Oklahoma should go to the back door of the residence of Mrs. Potter Palmer and even intimate that he was her social equal he would be kicked from the premises by the negro butler. If he should be found prowling around the palace of the younger Mrs. Vanderbilt with any such notion concealed about his person she would set the dogs on him.

The Democratic Committee is sending out extracts from a speech delivered by Lincoln in Illinois in 1858, wherein it is alleged that he stated that he was opposed to the negro voting and sitting on Juries. Lincoln fitted his speech to the stage of enlightenment of that day-The Oklahoma Democrats are at that stage of enlightenment to-day that was reached by the people of Illinois in 1858, and consequently they think that Lincoln's speech is applicable.

The negro was not fitted to vote or sit on Juries in 1858, but Lincoln did not say that they should be prohibited from voting and sitting on Juries in all the ages yet to be.

The negro is not to-day all that could be wished-Yet when we consider that he has been subject to the influences of civilization for only 300 years and that for four-fifths of that time he was compelled to associate on terms of "social equality" with a brand of Democracy similar to the brand that exists in Oklahoma to-day we should be charitable.

Certainly no "social equality" should exist in Oklahoma between the Democracy and the negroes-without the negroes consent-and this in the interest of "public health".

A WORD TO THE WORKING CLASS

And now a word to the working class-The writers of this argument in the name of those who are directing the great movement of the working class throughout the world do not ask you to vote against this amendment because the negro has any "God given rights" or because he is "guaranteed" anything under any Constitution or any Enabling Act or because it is "Eternally right", or because he is entitled to a "square deal" or because of a "Golden rule", or a "Sermon on the Mount".

These arguments have no force and are lifeless in so far as the working class are concerned. They have ever been the arguments used to lull the working class into a sense of security-sealed with a kiss-then the betrayal. There is nothing in the terms of those who are directing the great movement of the working class along scientific lines but ice waters. They do not ask you to love the negro-they ask you to be sorry for yourself. They do not say to you that the negro and white man are equal-they are not equal-and the inequality is not so much in color as in years-something between twenty-five thousand and two hundred and fifty thousand years.

but they do say that the negro is entitled to equal opportunity for access to the means of life and the full social value of his own labor. And he should not be deprived of the ballot, because the ballot is an instrument with which he can fight his way to industrial freedom. And it can not be said that he has always voted wrong-he has voted right more often than the white section of the working class-he has unswervingly voted against those who murdered his father, outraged his mother and raped his sister.

They tell you that the negro belongs to the working class, and the working class must stand by the negro. If the white section of the working class abandons the negro he will become a scab and strike breaker on the industrial fields and in times of unrest the armed and uniformed mercenary of the ruling class.

The goal of the working class is industrial freedom-
That the workers white and black will reach this goal is inevitable,
because it is in harmony with the great laws of social and eco-
nomic evolution that control the destiny of the world. The
forces that are forever in conflict are the forces of progress
(right) and the forces of reaction (evil). If we act in har-
mony with the great evolutionary forces that are fighting out
battles we shall accelerate the coming of the day that will
deliver us from industrial bondage. The reactionaries may
delay and obstruct but the forces of progress eventually pre-
vail.

Congress might appropriate millions of dollars of
money and the Executive employ millions of men to dam the
Mississippi but all such efforts would be vain-it could only
result in death and destruction-and the waters of that mighty
river would still proceed to the sea.

Oklahoma City SECRETARY'S MEMORANDUM

STATE OF OKLAHOMA,
Secretary's Office

This insurance was filed to record this
23rd day of June
1900
Insurance Corporation
Secretary of the State
Ben Cross

PROCLAMATION OF GOVERNOR
CALLING ELECTION ON AUGUST 2, 1910,
ON
INITIATIVE PETITION NUMBER TEN.

STATE OF OKLAHOMA
EXECUTIVE DEPARTMENT
PROCLAMATION

WHEREAS, The undersigned, the Governor of the State of Oklahoma, has received notice in writing from the Secretary of State that in pursuance of the law of the State of Oklahoma regulating the initiative and referendum powers reserved in the people of the State by Articles Five and Eight of the Constitution of the State of Oklahoma, that there has been filed in his office Initiative Petition Number Ten, which seeks to have adopted an amendment to the Constitution of the State of Oklahoma.

AND WHEREAS, The undersigned Governor of the State of Oklahoma has received notice in writing from the Chairman and Secretary of the State Election Board of the State of Oklahoma, that a certified copy of said Initiative Petition Number Ten has been filed in the office of the State Election Board by the Secretary of State, together with a certificate of the fact that said original petition has been found to contain the required number of signatures of legal voters of the State of Oklahoma to initiate said proposed measure, and that said initiative petition proposes an amendment to the Constitution of the State of Oklahoma, and that said proposed amendment was originated by Concurrent Resolution of the Legislature of the State of Oklahoma, which Initiative Petition Number Ten is in words and figures, as follows, to-wit:

(State Question—Initiative Petition No.)

WARNING!

“It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for any measure, or to sign such petition when he is not a legal voter.”

(State Question—Initiative Petition No. -----)

To the Honorable Charles N. Haskell, Governor of Oklahoma:

We, the undersigned citizens and legal voters of the State of Oklahoma, County of -----, respectfully order that the following proposed amendment to the Constitution of this State shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection, at the regular election to be held on the first Tuesday succeeding the first Monday in November, A. D., 1910, being the eighth day of said month, or at the next election held throughout the State, or at any special election which the Governor of the State may call for such purpose at which the same may be submitted, and each for himself says:

I have personally signed this petition; I am a legal voter of the State of Oklahoma, and of the County of -----; my residence and postoffice are correctly written after my name. The time for filing this petition expires sixty days from the 10th day of April, A. D., 1910. The question we herewith submit to our fellow voters, is: shall the following proposed amendment to Article Three of the Constitution of Oklahoma be adopted, as Section "4a" thereof, to-wit:

A BILL ENTITLED
AN ACT

Proposing an amendment to the Constitution of the State of Oklahoma, in compliance with the suggestions and provisions of Senate Bill No. 126 of the extra session of the Legislature of 1910, adding to Article Three of such Constitution, the following provision which shall be known as Section "4a" of said Article Three, the same relating to the right of suffrage, prescribing an educational qualification therefor, and providing a method of enforcing same.

Be It Enacted By the People of the State of Oklahoma:

That the Constitution of the State of Oklahoma be, and the same is hereby amended by adding to Article three thereof, as Section "4a," the following:

Section 4a. "No person shall be registered as an elector of this State, or be allowed to vote in any election held herein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person who was, on January 1st, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such Constitution.

Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with the provisions of this section shall be enforced by the precinct election officers when electors apply for ballots to vote.

And that a certified copy of the approved Ballot Title for said measure was likewise filed with the Secretary of said State Election Board.

AND WHEREAS, The said Secretary of State has further notified the undersigned, the Governor of the State of Oklahoma, in writing, that he has examined said petitions so filed in his office, as above set out, and has found the same to be signed by forty-three thousand four hundred forty (43,440) legal voters of the State of Oklahoma, and in all respects to be sufficient, and in all things to comply in manner and form with the requirements of the law for initiating such an amendment to the Constitution of the State; and

That there was filed at the same time in the office of the Secretary of State a Ballot Title for said measure, that a true and accurate copy of said Ballot Title was on said date, to-wit, the twenty-eighth day of May, One Thousand Nine Hundred Ten, transmitted the Attorney General of the State of Oklahoma, together with a copy of said measure, and that the Attorney General has duly notified the Secretary of State that said Ballot Title so filed with the Secretary of State, and with the Attorney General, has been approved.

AND WHEREAS, no appeal has been taken from the decision of the Attorney General on the Ballot Title; and an attested copy of same has been filed with the Secretary of

the State Election Board.

NOW THEREFORE, I, Charles N. Haskell, Governor of the State of Oklahoma, by virtue of the authority vested in me by the Constitution and laws of the State of Oklahoma, do hereby proclaim and make known that the date of the initiative vote on said measure will be on the second day of August, in the year of our Lord, One Thousand Nine Hundred Ten, and I do hereby further proclaim and call an election to be held throughout the State of Oklahoma on said date for the purpose of such initiative vote, the same being the date on which the primary elections are held throughout the State of Oklahoma; and that the same be held at same time and at same places at which said primary election is held.

I do further proclaim and make known that the proposed measure to be voted upon on said date under said initiative petition is incorporated in a Resolution passed by the Extraordinary Session of the Legislature of the State of Oklahoma, which is in words and figures, as follows, to-wit:

SENATE CONCURRENT RESOLUTION NO. 31

BY TAYLOR.

Suggesting an Amendment to the Constitution.

WHEREAS, It is desirous to ascertain the sentiment of the people of the State upon the advisability of proposing and adopting an amendment to our Constitution affecting the right of suffrage by the application of an educational test such as would result from the adoption of the amendment hereinafter proposed;

Therefore,

BE IT RESOLVED BY THE SENATE, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN, That this, the Extraordinary Session of the Legislature of the State of Oklahoma, suggest to the citizens of the State that they initiate, by petition, under the provisions of Senate Bill No. 126, of this Session, as a proposed amendment to the Constitution of the State, to be ratified or rejected by the vote of the people, the following to be known if adopted or approved, by a majority of the votes cast at such election, as section 4a of Article 3:

No person shall be registered as an elector of this State, or be allowed to vote in any election held therein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person who was, on January 1st, 1866, or at any time prior thereto entitled to vote under any form of government, or who at that time resided in some foreign nation and no leniel descendent of such person shall be denied the right to register and vote because of his inability to so read and write sections of such constitutions.

Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this Section at the time of registration provided registration be required. Should registration be dispensed with the provisions of this Section shall be enforced by the precinct election officers when electors apply for ballots to vote.

J. C. Graham,
President Pro Tempore of the Senate.

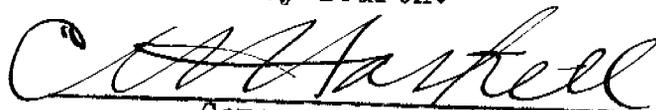
Ben F. Wilson,
Speaker of the House of Representatives.

Approved March 28th, 1910.

C. N. Haskell,
Governor of the State of Oklahoma.

The said proposed amendment to the Constitution of the State of Oklahoma set forth in said initiative petition, shall be submitted to such initiative vote at said election as State Question Number _____ initiated by Initiative Petition Number Ten.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the great seal of the State of Oklahoma to be hereto affixed this the 9th day of June, in the year of our Lord, One Thousand Nine Hundred Ten, and of the Independence of the United States of America One Hundred Thirty-fourth.


Governor.

ATTEST:


Secretary of State.



~~#542~~ #12

Proclamation, calling
election on Initiative
Petition Number Seven

SECRETARY'S MEMORANDUM

CURTIS, STATE OF OREGON,
Secretary's Office

This memorandum is filed for record this
10th day of June 1951

Noted in _____
Special to _____ at 10:45 AM
Bill Brown
Secretary of the State

OFFICE OF SECRETARY OF STATE,

OKLAHOMA CITY, OKLA.

June 16, 1910.

Before Hon. Bill Cross Secretary of State of the
State of Oklahoma.

In the matter of the protest of James A. Harris against
Initiative Petition No. 10, filed by Fred E. Branson May
28th, 1910.

This matter coming on to be heard in pursuance of notice
by telegram to James A. Harris, as shown by copy of telegram here-
to attached and marked "Exhibit A", would be heard at 1:30 P. M.
at the office of the Secretary of State at the Lee-Huckins Hotel,
Oklahoma City, June 16th, 1910, under the order of the District
Court of Logan County made and entered on June 9th, 1910, and served
upon the Secretary of State June 15th, 1910.

There were present and representing the person who filed
said petition, Fred E. Branson and his attorneys of record. James
A. Harris, protestant, failed to appear, whereupon it was ordered
by the Secretary of State, and it is hereby ordered by the Secretary
of State, that the objections so filed and ordered to be re-heard
by the Honorable District Court of Logan County, Oklahoma, be and
the same are hereby overruled and said initiative petition in all
respects considered, ordered and adjudged valid and sufficient to
initiate the constitutional amendment therein set forth and sought
to be initiated under the provisions of our constitution and law gov-
erning the initiation of amendments to the constitution of Oklahoma.

It is further considered by the Secretary of State that this
proceeding should not have been required; that the order of the Court
was wrongfully entered, and that this hearing was granted under protest.

Bill Cross

Secretary of State.

COPY....

EXHIBIT "A".

LEGAL NOTICE.

Notice of Publication.

Notice is hereby given that Whereas the Extraordinary Session of the Legislature of the State of Oklahoma of 1910, passed a Resolution known as Senate Concurrent Resolution Number Thirty One recommending an amendment to the Constitution of the State to be initiated and voted upon in accordance with the provisions of Senate Bill One Hundred and Twenty Six of said Extraordinary Session of the Legislature, which proposed amendment if adopted is to become Section 4a of Article 3 of the Constitution of Oklahoma, and is in words and figures as follows, to-wit:

No person shall be registered as an elector of this State or be allowed to vote in any election held herein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person, who was, on January 1, 1866, or at any time prior thereto entitled to vote under any form of government, or who at any time resided in some foreign nation and no legal descendant of such person shall be denied the right to register and vote because of his inability to so read and write sections of such constitution.

Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with the provisions of this section shall be enforced by the precinct election officers when electors apply for ballots to vote.

WHEREAS a copy of the Initiative Petition No. 10 to initiate this proposed amendment as recommended by a Resolution of the Legislature was filed in the Office of the Secretary of State on the Tenth day of April Nineteen Hundred and Ten, of which due and legal notice was given as required by law,

AND WHEREAS: Petitions containing the names of approximately 40,000 legal voters of the State of Oklahoma have been obtained to initiate said amendment, notice is therefore given that the original petitions to initiate the proposed amendment of State Question No., the same being the amendment above set out so recommended by the Legislature as above stated, have this day been filed in the office of the Secretary of State at Guthrie, Oklahoma, to be dealt with in accordance with the law.

IN TESTIMONY whereof I hereto set my hand and cause to be affixed the Great Seal of the State of Oklahoma, this Twenty Eighth day of May Nineteen Hundred and Ten.

BILL CROSS
Secretary of State

SEAL

COPY

Exhibit A.....

LEGAL NOTICE#

COPY

EXHIBIT "A".

LEGAL NOTICES.

NOTICE OF PUBLICATION.

Notice is hereby given under the provisions of Section two of Article one of Senate Bill Number One Hundred Twenty Six approved by the Governor March Seventeenth Nineteen Hundred and Ten, that there was filed in the office of the Secretary of State of the State of Oklahoma, in the city of Guthrie Oklahoma, on the twenty eighth day of April, Nineteen Hundred and Ten, a copy of the petition initiating a proposition to which the following is a true and correct copy.

A BILL ENTITLED

An Act

Proposing an amendment to the Constitution of the State of Oklahoma, in compliance with the suggestions and provisions of Senate Bill No 126 of the extra session of the Legislature of 1910 adding to Article three of such constitution, the following provision which shall be known as Section "4a" of said Article Three, the same relating to the right of suffrage, prescribing an educational qualification therefor, and providing method of enforcing the same.

Be it Enacted By the People of The State of Oklahoma.....

That the Constitution of the State of Oklahoma be, and the same is hereby amended by adding to Article Three thereof, as Section "4a" the following:

Section 4a. "No person shall be registered as an elector of this State, or be allowed to vote in any election held herein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person who was, & on January 1st, 1866; or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such Constitution.

Precinct election inspectors having in charge the registration of electors, shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with the provisions of this section will be enforced by the precinct election officers when electors apply for ballots to vote.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Great Seal of State. Done at the city of Guthrie, this Twenty Ninth day of April, A.D. Nineteen Hundred and Ten.

(SEAL).

BILL CROSS.
Secretary of State.

COPY

Exhibit A.....

LEGAL NOTICE#

In re - Initiative Petition
no 10
7

Transcript of hearing -
etc. filed with clerk
of Supreme Court
June 16, 1910
7

STATE OF OKLAHOMA.

DEPARTMENT OF STATE

BILL CROSS,

SECRETARY OF STATE.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I, BILL CROSS, Secretary of State of the State of Oklahoma, do hereby certify that the within is a true and correct copy of the transcript of the evidence offered and rejected at the hearing before the Secretary of State on the 6th day of June, A.D.1910, in re Initiative Petition No.10, seeking to initiate an amendment to the Constitution of the State of Oklahoma, in accordance with the provisions of Senate Concurrent Resolution No.31 passed by the Extraordinary Session of the Legislature,1910.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Great Seal of State. DONE at the City of Oklahoma, this sixteenth day of June, A.D.1910.

Secretary of State.

BEFORE THE SECRETARY OF STATE OF THE STATE OF OKLAHOMA.

In re: Petitions filed against Initiative Petition No. 10 seeking to initiate an amendment to the Constitution of the State, in accordance with the provisions of Senate Concurrent Resolution No. 31 passed by the Extraordinary Session of the Legislature, 1910 which protests were filed June 1, 1910.

Hon. A. C. Cruce,)
Fred P. Branson,) Attorneys representing petitioners present.
W. H. L. Campbell,)

Judge John H. Burford,)
P. A. Magle, Atty.) Attorneys for protestants, present.

NOW COMES Judge John H. Burford, Attorney for one of the objectors and protestants, James H. Harris, and in his statement to the Court says:

I appear for Mr. James H. Harris, who has initiated a protest against the initiative petition number 10 and object on behalf of Mr. Harris to a hearing by the Secretary of State at this time on the sufficiency of the petition and the protest which Mr. Harris has initiated, but which protest is not yet completed. Prior to initiating the protest, Mr. Harris procured from the Secretary of State, a certificate stating that the Initiative Petition No. 10 had been filed in the Secretary's office, on the 28th day of May 1910, and that it was filed by Mr. Fred P. Branson, of Muskogee, Oklahoma. Mr. Harris prepared a protest and filed one copy with the Secretary of State on the first day of June 1910, and was following up his efforts to complete the protest by serving a copy upon Mr. Fred P. Branson as required by law, and went to Muskogee on last Saturday for the purpose of serving notice on Mr. Branson, and there learned that he was absent from Muskogee and was in Oklahoma City, and Mr. Harris was to go to Oklahoma City today to complete his protest by serving notice on Mr. Branson and making proof of service.

That the time for completing the protest would not expire until tomorrow, and still be within the ten days.

That, under the law as provided in section 2 of Senate Bill No. 126, being Chapter 66 on page 121 of the Session Laws of 1910, the Secretary of State is not authorized to set a hearing sooner than five days after the completion of the protests, and as this protest has not yet been completed, that the action of the Secretary in setting a date at this time for a hearing on the petition of Mr. Harris is premature, without authority and void, and Mr. Branson who is now present, having stated in person in the presence of the Secretary that he (Branson objects) waives notice of protest initiated by Mr. Harris, I now ask on behalf of Mr. Harris that the time of hearing be fixed not ~~later~~ ^{sooner} than five days from this date.

To which FRED P. BRANSON replies: That, on the first day of June, 1910, he received copy of protest filed on that date with the Secretary of State in this matter, at Oklahoma City, Oklahoma, which was a true and exact copy of said protest filed in this office on that day, and considered that that copy was sufficient service upon him of protest filed, and accepted same as service of protest.

P. D. WAGLER appeared in this case in the name of the Executive Committee of the Socialist Party of Oklahoma City, Oklahoma, and states that he filed protest against said initiative petition No. 10 under their instructions.

That he filed said protest with Leo Meyer, Assistant Secretary of State in the said Secretary of State's office, and was advised at that time by the said Meyer, as he now remembers, that the matter would be taken up in ten days.

That on Saturday, June 4, 1910, and late in the afternoon of said date, he received a letter from the Honorable Bill Cross, Secretary of State, advising him that this matter was set down for trial on Monday morning, June 6, 1910.

That he is not at this time prepared to go to trial, and asks at this time, to-wit: 11:15 A.M., of said 6th day of June, 1910, that he be allowed until 2 P.M. to make further showing in writing and under oath.

A attorney A. C. CRUCE appearing in behalf of the petitioners, stated: I find in addition to the protests of Mr. Hagle and Mr. Harris, that there is a protest by Sampson Smith, Thomas Lowe, and J. N. Neal (Braason: They are copies- that set out what the personal qualifications are and then recite the same objections.) As I understand these protests, each one sets out fourteen reasons on which protest is based, and the fourteen reasons in each of the protests are the same, and I presume we may consolidate the protests and hear them all together. (No objections.)

Now, I have this to say with reference to this act; the Secretary will observe in an examination of the different acts on this question of initiative petitions and referring laws in proposed amendments, that there is one idea that runs through it all, and that is, the earliest possible hearing must be granted. I do not agree with Judge Burford that a protest is dependant upon the service of notice; if that were so, the petitioner might easily absent himself or by simply eluding the officers- might defeat absolutely the right of every protestant. I do not understand that service of notice is absolutely essential to vesting the Secretary with jurisdiction to issue his notice. The service of notice is intended for the petitioner. It simply means that the protestant cannot come in with protest and the Secretary call a hearing within one or two days without giving the petitioner time to answer what they set out in their protest. Mr. Braason has stated before the Secretary that he received notice of this protest the day following the time it was filed, and that he considered that as service. At least, he waives any question of notice. He has not insisted on any notice.

and it doesn't occur to me that a plaintiff in a suit can take advantage of the fact that his adversary has not had notice.

I grant you that Mr. Branson could insist on having this notice but he doesn't insist, and the statute requires that this hearing shall be forthwith- that is the substance of it. There is no reason assigned why Mr. Harris is not just as well prepared to substantiate what he charges now, as at any other time. When he made the affidavits he has, he presumably made them on information, and when he received notice that the case was set for today he was charged with the duty of naming and substantiating these matters. That these steps should be rapidly taken, the Secretary will readily see. The proposition is to give the citizens of the State an opportunity to pass upon matters which are of vital importance to them, at the earliest possible time, and inasmuch as the only contention is that no one could be heard because of lack of service, it offends to me that no ground for continuance has been set up here, and if these gentlemen have any testimony to offer to substantiate their allegations, they should offer it at this time.

BY JUDGE BUFFORD: I am not asking for continuance, I simply object to a hearing on the grounds that the secretary has no power. My contention is that under the law he was without power until this protest had been completed; that until this protest had been completed, that there must five days elapse before the Secretary has authority to have the hearing; that he must not set the date sooner than five days from the date the protest is completed. The date of hearing has been prematurely fixed; the Secretary is without authority; has no right to hear it at this time, and we are objecting and are asking that a day be fixed within the law at a later date at which date we will be ready and will appear.

BY FRED P. BRANSON, one of petitioners, and Attorney in the case. By permission of the Secretary, I want to state as representing the petitioners in this case. I received and was served with a copy of the protest filed in the matter of this p e-

petition on the first day of June, 1910. I do not understand the law to mean that Mr. Harris or any other individual is required to serve in person his notices upon the petitioners, but I was served with copy of the protest in this matter, which copy I considered as service on the day on which it was filed, and acted accordingly.

CRUCE: Will counsel treat the statement of Mr. Branson as sworn to? If not, I would like to have him sworn. (No objections.)

In conclusion of the morning hearing, the Secretary over-ruled the contention of Judge Burford appearing for protestant James A. Harris, and exceptions taken.

Attorney P.A. Nagle was granted until 2: o'clock P.M. to make a further showing in his protest.

WHEREUPON court recessed until 2:P.M.

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Pursuant to morning recess, hearing was continued at 2:00 P. M. in the office of the Secretary of State. Attorneys Burford, Nagle and Chapple appearing on behalf of the respective protestants; and Attorneys Cruce, Branson, and Campbell for the petitioners.

At this time P. E. Nagle filed an affidavit for continuance, which, after being considered by the Secretary, was overruled and exceptions to the ruling taken by the protestant Nagle.

Judge Burford, on behalf of the protestant Harris; the protestant declines to proceed at this time for the reason that the hearing was fixed by the Secretary is premature, and in violation of law, and on behalf of protestant Harris, I now ask that a time be fixed after five days from this date at which a hearing may be had upon the petition and protests. Our contention is that our protest is only completed today, and that the Secretary has no power or authority to call a hearing until five days from the time we have completed our protest. If we are refused a date beyond five days from this date, we shall decline to consider our troubles in Court except for the purpose of making protest against the action of the Secretary. I say this to the Secretary, that I am associated with Mr. Nagle in this case, and any appearance I may make further, is on behalf of Mr. Nagle.

By Mr. Chappel: I understood from what Mr. Branson said this morning that these cases were to be consolidated. I want a separate hearing on mine.

By Judge Burford: There was a suggestion made that the cases be consolidated for the purpose of trial; I made no objection to it ~~xxxxxx~~ expecting that the cases would go to consolidation of the cases not ready

for trial. If Mr. Nagle desires to proceed with his trial, that is another matter, but as far as Mr. Harris is concerned I shall object to any action except to give us a hearing that will be beyond 5 days from the time of completing our protest.

CHAPPEL: I want to ask for the same thing, because I want to present our case for three colored men entirely separate from what you and Mr. Nagle want. I want the record to show that so far as my appearance here is concerned that it is not connected with your case.

NAGLE: The record will not show there was anything done with your case.

CRUCE: Not exactly- I understand that this matter was set down for hearing at eleven o'clock this morning, and that neither the three protestants or their attorney were present. We might have insisted that the proceedings be dismissed for lack of prosecution, but I don't desire to take any advantage and I did ask Judge Burford and Mr. Nagle if they had any objections to consolidating the cases, and they said they had no objections. And, as I stated to the Secretary of State at that time, that the cases were consolidated- but whether he did or not, I shall ask that they do be consolidated now- I so understood it this morning- had I not, I would have asked that their petitions be denied because there was no one here to represent them, and I certainly thought the Secretary was at that time consolidating the cases with Mr. Nagle's and Mr. Harris' cases. Of course the argument presented by the three protestants that Mr. Chappel represents- the arguments made may be different, but as I understand, the fourteen reasons assigned are literally the same reasons set up in the two protests of Mr. Nagle and Mr. Harris, and I take it, Mr. Secretary, you were sitting here as a court- practically, that my court in the world, over the protest of counsel on both sides in a hearing on a matter of that kind, you would order the

even against the protest of counsel because it occurs to me it would be nonsense to hear to hear these separately when exactly the same protests are made. I don't know how the Secretary understands it, but I know Mr Branson understood it, and Mr. Campbell, that the secretary had consolidated the protests, and because the attorneys present didn't object, there was no one present, there was no one else to object .

BURFORD: I have no objections now to the consolidation of the trial with the Harris case and with the Nagle case when it is ready, but I would not consent to being tried until the proper time is fixed.

CRUCE: The Judge is correct- he was protesting against trial- he doesn't object to consolidation at the trial when we are ready for trial.

CHAPPEL: I apprehend that my line of testimony will be very different in the trial, and that I would use different witnesses. I wanted a separate record for my cases- didn't want them consolidated. The line of testimony and the procedure will be so different in these cases to theirs, that no good purpose could be arrived at by having my hearing when they have theirs. I had no notice that the matter was coming up.

SECRETARY: I registered a letter to you on _____

CHAPPEL: I haven't received the registered letter.

SECRETARY: I received receipts from Mr. Nagle and from Mr. Harris- and I registered your letter at the time theirs were registered.

CHAPPEL: The letter hasn't been delivered to me. I was advised at noon unofficially, and came up here. I haven't taken my registered letter out of the office. I went to Sapulpa to appear for the city in that debate

Saturday- we got in here about four o'clock Sunday morning- Sunday evening I went out to the lake and haven't been to the postoffice since Sunday morning and consequently, had no official notice of this meeting. I apprehend that my line of testimony will be different, that my affidavits are different from theirs, and I don't want my protests consolidated. There is no objection to putting my three copies together, but I don't want my case consolidated with that of Mr. Nagle and Mr. Harris, because I want a separate record. I don't want Mr. Nagle's record to be a part of mine.

CAMPBELL: As to Mr. Chappel's suggestion there that his entire scope, his proof is strictly a question of law and not a question of fact-

CHAPPEL: We would at least have a right to tender- to let the record show that we offered fact.

CAMPBELL: It is not a question of fact.

CRUCE: I just want to make this statement- it is a fact that is not denied, that literally the fourteen objections assigned by his three protestants are the same objections assigned by the other protestants. The fact that he may rely more largely on one or two of those reasons than the other gentlemen might rely on in their protest, don't change the fact that in his case you must try exactly the thing that you try in the other two cases. Let me give you an illustration. If Mr. Chappel's ~~request~~ request is to be granted, they could have absolutely made it, if that is the proper procedure, made it impossible to get a hearing. Suppose instead of filing five protests, ten thousand protests had been filed? Is it possible that each of those ten thousand protestants would rely on exactly the same ground? and has the State got to sit here with its hands tied to listen to the different protestants? I am not saying that that is what is done in this case, but if Mr. Chappel is correct, that because he happens to represent

three petitioners who are seeking the same relief through precisely the same channels that two other petitioners are seeking relief, if he is entitled to separate trials, then the thousand or ten thousand that might file petitions and set out the same reasons- you would be sitting here for the next ten years hearing testimony. It is in your discretion to consolidate these cases and try them at once, and we think it should be done.

CHAPPEL: I think you are right, but my three clients-
 CRUCK: Do you think it makes any difference as a matter of law that it happens that they are three people who would be disfranchised as you claim and the other petitions are by those not disfranchised but who are fighting for the disfranchised?

CHAPPEL: No, but here's the proposition- here's three cases. Neither one of these gentlemen may want to go to the Supreme Court from the ruling of the Secretary. I don't want to get the protests of my parties so mixed up that I can't go to the Supreme Court. I want a separate record, free and independent, because I am going to the Supreme Court on this proposition, and I want a separate and independent record to go on. I have a right to have it that way. It says that every person shall have a right to file protest, and that the secretary shall grant a hearing and hear testimony, and that the party may appeal.

CRUCK: I think they indicated that they would appeal; but I say to you that if they decline to appeal that no objection will be taken that you cannot appeal your case.

CHAPPEL: If you insist on consolidating my case in the hearing at this time, I will take steps to see if I cannot compel the Secretary of State to give me a separate hearing. I will undertake to see if I cannot make him do it. If the Secretary refuses to give me a separate hearing, I will take any steps necessary.

CRUCE: I supposed you would do that any way.

CHAPPEL: No sir, no sir.

SECRETARY: I think you are lucky to get any consideration at all, Mr. Chappel. You were not here when you were called to be here. I registered a letter to you at the time the others were registered and have a receipt for the letters. I have your receipt on file, but to be fair to you, if you want to have a hearing here, have it with these others all together.

BRANSON: The record then will show that the cases are consolidated?

SECRETARY: If I understood the contention of Judge Burford and Mr. Nagle correctly this morning.

CHAPPEL: Now names at this time appeared W.H. Chappel, attorney for Sampson Smith, J. N. Neal, and Thomas Lowe, protestants, to the Initiative Petition No. 10 filed on May 28th 1910, by Fred P. Branson, et al, and objects and protests to having said protests consolidated and heard at this time with the protest of P.S. Nagle, and James A. Harris, and as reasons therefor says:

That the time required by law has not expired in which the secretary should set said protests for a hearing. That the Secretary of State is at this time without legal authority either to consolidate said protests over the objections of these protestants, and is without legal authority

to hear and try the questions involved in said petition and protests, for the reason that the time fixed by law has not expired and the secretary is without legal authority to proceed in said hearing; and demands that the Secretary fix a day not ~~later~~ ^{less} than five days from this date at which time protestants will be granted a hearing and be permitted to offer testimony in support of same.

Objection over ruled by the Secretary. Exceptions.

By BURFORD: The protestant, James A. Harris, objects to the order of the Secretary in consolidating his protest with that of Sampson Smith, Thomas Lowe, and J. N. Neal and objects to proceeding with the hearing at this time under the order of consolidation and demands of the Secretary that he fix a day not less than five days from this date, at which date and at which time he may have a hearing on his protest and be permitted to offer testimony in support of same. I would like to have a ruling from the Secretary on my objection and demand.

SECRETARY: The objection is overruled as well as the demand. (Exceptions).

BURFORD: The protestant now declines to proceed under the order consolidating the hearings, and ^{the} for a reason that the Secretary is without authority or jurisdiction to hear his protest at this time. That the date fixed is premature, and in violation of his rights under the law, and he renews his demand that ~~the date be fixed~~ not less than five days from this date on which date he may have a hearing.

SECRETARY: Now, I don't want you to think that I am discourteous-

BURFORD: No sir, I have been turned down by too many courts before. Our contention is that our protest was not completed until today, and that you had no right to fix a date for hearing but that is a matter the courts will have to decide-

Objection and demand overruled. (Exceptions.)

By CHAPPEL: These protestants now decline to proceed under the order consolidating the hearings, and for the reason that the Secretary is without authority or jurisdiction to hear their protests at this time. That the date fixed is premature, and in violation of the rights of said protestants under the law, and renew demand that a date be fixed not less than five days from this date on which date a hearing may be had.

Objection and demand overruled. (Exception.)

Now, at this time F. P. Nagle calls Fred P. Branson to the stand as a witness, who, after being duly sworn by the Secretary of State, makes answer to interrogatories and cross interrogatories as follows, to-wit:

- Q. You are the gentleman that filed this petition number ten?
- A. Yes sir.
- Q. You are Chairman of the Democratic State Central Committee?
- A. No sir.
- Q. In charge of Democratic State Headquarters?
- A. Yes sir.
- Q. Chairman Campaign Committee?
- A. Chairman Democratic State Executive Committee.
- Q. You had charge of preparing this petition and filing it?
- A. In conjunction with Mr. Taylor, of Chickasha, yes sir.
- Q. Now, there was a protest filed here by me which, in the fifth paragraph of that protest reads: as follows:

"That said proposed amendment to the constitution is in conflict with that portion of section three of the Enabling Act which provides:

"The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States, and the principles of the Declaration of Independence."

Now, to that protest you file answer through your attorneys denying the truth of that allegation, and I wish to ask you if this part of the paragraph is true? That the amendment which you seek to have adopted, if adopted, will have any application to any other person in said state, than persons of the African or colored race, and if the publicly declared purpose of the petitioners is to disfranchise colored voters and none others? Isn't that true? Wasn't that your intention?

CRUCK: I object- on the ground that it is incompetent, irrelevant and immaterial.

CHAPPEL. I would like to make this suggestion. I do seriously object to a witness being placed on the stand and asked questions that the answer would be purely purely a matter of legal conclusion. Now, the Supreme Court of the United States and different states have passed on the effect of similar provisions, and it is a purely a matter of law. Now, if there is any issue of fact that is to be decided it is all right to go ahead with it, but I do object to any man being put on the witness stand and asked by as good a lawyer as my friend Mr. Nagle purely a legal conclusion. Objection sustained by the Secretary.

To which ruling by the Secretary the protestant, Nagle, excepts.

Q. I will ask you if it is not the intention of the petitioners whom you represent and the party you represent, the political party, if it isn't their sole purpose to dis-

franchise people of the African or colored race?

CRUCE: We object to that for the reason assigned to the other question. Objection sustained by the Secretary. (Exceptions.)

Q. The sixth paragraph of the Socialist protest reads as follows:

"The proposed amendment to the Constitution is in direct conflict with subdivision Sixth of Section three of the Enabling Act which provides:

"That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude."

in that the expressed purpose of the Legislature which suggested said proposed amendment and of the persons who signed said petition, is to deprive electors of the African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege." I will ask you if that is not true in fact?

CRUCE: I object to that for the same reason assigned to the preceding questions, and for the same reason expressed in the statement made by Mr. Chappal, inasmuch as these questions are to be presented one after another. I don't think there is a better settled question than the fact that no court can inquire into the purpose of a legislative body in enacting a law. It would be folly to think of putting a member of the legislature on the witness stand to find out what his purpose was in supporting a measure or what their purpose was in enacting a law. The United States Court has established that rule. This is a species of legislation presented to the people- the wisdom of it has been demonstrated so many times by the Supreme Court, but in no case has the wisdom

of the rule been better demonstrated than right in this instance. This one witness out of forty three thousand people on the petition, this one witness is asked whether the purpose of those forty three ~~persons~~ thousand persons was this or that; these are the reasons why-

BURFORD: If your memory is good, and I assume it is, the very same argument was made in a case previous to this in *Norris vs. Cross* by one Ledbetter- that the proceeding before the Secretary was a legislative proceeding and that no inquiry could be made into, or steps taken by any courts who had control of it, and the same argument was made in the Supreme Court- and the Supreme Court did not agree with the Secretary or with Mr.Ledbetter. The Legislative procedure has not begun yet. This is only the initiative step. The Courts do have jurisdiction, and this is a legal proposition. The assertion made that this is asking for a legal conclusion is not correct. The purpose the petitions have is not calling for a legal conclusion or an interpretation of the law. Mr.Nagle alleges in his petition that the ~~proposition~~ purpose was to disfranchise the negro- or the electors of one race and that that is in conflict with the provisions of the Enabling Act and the Constitution of the State and United States, and he further alleges that that was the declared purpose of the petitioners and of the legislature which suggested the amendment which is now being initiated. That is a question of fact- it is a question of law- it is a question of fact as to what their purpose was in doing it, and it is a matter we have a right to know. The Supreme Court has not passed on it as a question of fact, but as a question of law.

SECRETARY: The objections are overruled. (Exceptions taken.)

NAGLE: If it was- is it your express purpose and have you not so declared yourself, that the purpose of the petition was to disfranchise that group of voters known as the

African or colored race? (Objections)

SECRETARY: I believe you may answer that question.

BRUCE: I object to it.

BRANSON: My conclusion as to the law- I have given the interpretation of the law as I understand it and its operation, is individual- my interpretation is not binding on anybody.

MAGLE: My question to you was and now is, that their intention as a matter of fact was to deprive these people of the right of suffrage.

A. It was not my intention. My part in initiating this proposition was to carry out the intention of the legislature as incorporated in the law-

Q. And you signed the petition solely to carry out the legislative intent?

A. Yes sir.

Q. You have no desire to disfranchise any colored man?

A. What my individual desires are- are not.....

Q. Your individual desires are a matter of fact . Were your reasons simply to carry out the legislative intent?

A. Yes sir.

Q. You didn't sign it for the purpose of disfranchising the negro?

A. My signing it would not affect any purpose except as to initiating it. I am merely one of forty three thousand one hundred and forty petitioners; my name appears as merely one, and whatever my individual intent was would make no difference. If the matter becomes a law it is a matter of judicial construction.

Q. My question was and is, what was your intent? Did you have any further intent except simply to carry out the legislative intent?

BRUCE: We object to that, Mr Secretary.

SECRETARY: The objection is sustained.

Q. The eleventh paragraph of the protest reads as follows: "That said proposed amendment to the Constitution is in conflict with and a violation of section six of article one of the Constitution of the State of Oklahoma, which provided:

"That said state shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude."

in that the expressed purpose of the Legislature which suggested said proposed amendment and of the persons who signed said petition, is to deprive electors of African or colored race of the right of suffrage, and not deprive any person of the white race of such privilege." Are they undertaking to enact a law in conflict with the Constitution?

CRUCE: We object to that.

SECRETARY: Your objection is sustained.

NAGLE: The gentleman has testified that he didn't sign this petition or at least that he signed it solely for the purpose of carrying out the legislative intent. Now, I ask him if the Legislature of this great State- if it is initiating a law in plain violation of the Constitution? I have had a pretty good idea of the State and I don't think they would be guilty of anything of that kind, and I presume there were lawyers enough to know something about the law- if not, Mr. Cruce stands ready to construe it.

CRUCE: I will answer that this way- that counsel and myself cannot speculate on whether or not this bill, if it becomes a law, whether it conflicts with the Federal or State Constitution. I do not believe counsel could agree on two reasons why it conflicts. Now this witness is asked to swear what the law would be. That would be nothing. That is the reason you cannot go into the intention of the legislature- I care not whether they are representatives of pe-

tioners. My friend misunderstood my contention - whether this argument is legislative or that we are here to amend the constitution. What I contend is, that the forty three thousand some odd petitioners have exercised the sovereign power as a people of this State in their original capacity as sovereigns, and you want to inquire into that intent- when they have acted and it goes before the courts, the courts will say whether or not it is in conflict with the Federal constitution of the State constitution- but not here. You can see the reason for it. If this man undertakes to testify today that what they did will be constitutional, why can't you bring the other forty three thousand some odd petitioners in and let them testify as to what they think is constitutional.

NAGLE: I wanted him to testify as to what he done as an individual.

CRUCE: That is a matter for the courts to determine- the records show what they did.

NAGLE : Now, you testified that you were chairman of the executive committee?

A . Yes sir.

Q. That out of the committee you got up this petition No.10?

A. A great many citizens of the State participated in it. I received the petitions as they came in.

Q. Did the legislature direct the central committee to get up the petition? (Objections) (Objections sustained.)

Q. If that is not a part of the legislative act, then you were acting in another capacity- in behalf of your party? (Objections) (Objections sustained.)

Q. Now, I will ask you if you have not publicly declared and if your committee has not publicly declared that the

purpose of this initiative petition No.10 is to disfranchise the colored voter? (Objections.) (Objections sustained.)

Attorney Cruce takes the witness.

Q. When did you receive notice of the filing of the protests, Mr. Branson?

A. About an hour after they were filed.

Q. How?

A. By telephone from the Secretary of State's office.

Q. On what date?

A. The first day of June, 1910.

Q. When did you receive notice?

A. The evening of the same day.

Q. Did you not treat them as copies?

A. I considered them notices. They were addressed to me.

Q. That is all. I understood counsel to agree this morning that the notice the Secretary published in one of the newspapers was sufficient? (Copy of notice hereto attached marked Exhibit A.)

BURFORD: I didn't agree to it, I assumed he did.

BRANSON: It was published on the 28th day of May.

CRUCE: As a part of the record, I would ask that a copy be filed.

NAGLE: I believe I will ask Mr. Tilletson to be sworn.

Here Mr. J.A. Tilletson, Attorney, Nowata, Oklahoma is called to the stand as a witness, who, after being duly sworn by the Secretary of State makes answer to interrogatories and cross interrogatories as follows, to-wit:

Q. You were a member of the House of Representatives?

A. Yes sir.

Q. You were present when the law was passed upon which this referendum petition No.10 was predicated?

A. I think so.

Q. You supported that law or resolution?

A. If I was there I did.

Q. Do you remember whether you ever made an argument in that line?

A. I did.

Q. I will ask you if you didn't state that the purpose of that law was for the purpose of disfranchising the colored people? (Objections.) (Objections sustained.)

Here Miss Eva G. Seaman, official reporter of the House of Representatives was called to the ~~State~~^{stand} as a witness, who, after being duly sworn by the Secretary of State, made answer to interrogatories and cross interrogatories as follows, to-wit:

By Mr. Nagle:

Q. Were you the stenographer taking the proceedings of the last legislature known as the Extraordinary Session?

A. I was.

Q. Were you present and taking the proceedings while this resolution relative to the disfranchisement of the colored race was considered?

A. I was present. I think the debate was in a committee of the whole House of which no record is made, if I remember correctly. I cannot say accurately as to that without consulting the records of the House.

Q. When the Legislature is in a committee of the whole, there is no record kept?

A. No.

Q. Any record of the votes?

A. I do not remember.

Q. Did you take any of the speeches?

A. I can't say.

Q. Can you refer to your notes and find out?

A. I can.

Q. Will you do so.

A. If I have access to the notes and have permission.

Q. Who do you consider you must get permission from?

A. The note books are the property of the State.

Q. As a citizen of the State I ask you to get them and produce them here forthwith, and ask ~~for~~ a ruling.

CRUCE: We would have no objection to your bringing the books in here, if there are any. I understood though that in a committee of the whole stenographic notes were not taken.

MAGLE: I will take her word for that- the question is, would you allow-

CRUCE: I am frank to say to you now that I should object to a word that was uttered by any man on the floor of the House in discussion of this question, because I don't think that it is material- don't think that any court would go into it.

Here Mr. Nagle states to the Secretary that if he, the Secretary would hold the statements of Mr. Cruce to be the law, of course it would be unnecessary to produce the records and asks for a ruling.

You see, Mr. Secretary. (by Mr Nagle) I want to be understood; if she should find these records and Mr. Tillotson or any other gentleman that was a member of the House of Representatives, if the records should show that they made a speech in which they publicly declared or proclaimed that the purpose of this act was to disfranchise the negro, I would

introduce the record and he would object, and he says here, that the minute I undertake to introduce that speech, he would object on the ground that it was incompetent, and if you sustained the objection-

SECRETARY: I would sustain the objection.....

NAGLE: Then it would be unnecessary,

CAMPBELL: Just a minute before that ruling is made.

The fact of the business is that every man that is a lawyer knows that in the early history of this country, Chief Justice Marshall in a case that came up from the State of Georgia with regard to the validity of land title in the State of Mississippi, held that _____ could not be inquired into as a matter of legislative inquiry. That has been the law of the United States for nearly a hundred years. We find that where it was alleged upon the face of the petition that the members of the legislature of the southern State of Georgia had voted for a certain land charter or patent in the State of Mississippi, I think that is right if I remember correctly, I may have it crossed, but I think it was just East of the line in Alabama or Mississippi, I am not sure, but it was on the East side of Georgia at a trial in which a certain land grant was involved- they alleged that the State of Georgia, that the Legislature of the State had acted corruptly in granting this land grant. The Supreme Court of the United States in the opinion rendered by Judge Marshall says you cannot go into the legislative intent. Now, in the organic law of the State of Oklahoma, we have written in there the principles of the initiative and referendum. The Legislature has put certain acts in force that says how certain measures can be referred or initiated. Now, what the motive of a particular signer was stands on exactly the same basis as a member of the Legislature of the State of Georgia in that case. It is the method or manner in which the ~~sovereign~~people of this state can amend their

their organic law. You might as well ask God Almighty Himself what His reasons were for doing anything, as to ask the sovereign people of the State of Oklahoma what their reason is for initiating this measure- it is their right; their birth right as a citizen of this State, and no man can call them to account for why they signed a petition, and to make the record here that objections on that account, it is simply superfluous, and I want my earnest protest in this matter to go down. It is the law of the land- it has been the law ever since Judge Marshall decided it in the Marshall case- you can't inquire into the motives of a legislature. You cannot set aside an act of the legislature because it was influenced- that is the principle of the law. It is one of the impediments- it is especially true in a state that has the initiative and referendum- where people say we want so and so- enacted. If it is voted down at the ballot, well and good- if adopted, it becomes the law; it is a question to be decided at the polls- not a question of intent of the signers of the petition or of the legislature.

At this time P. S. Nagle tenders and offers to show by the records of the legislature that members of said legislature and particularly all of the members belonging to and affiliated with the Democratic party in discussing the resolution upon which the Referendum and Initiative Petition No. 10 was predicated, that it was said that it was for the purpose of disfranchising that group of the citizenship of said State known as negroes. Objections were made to the introduction of said records, and sustained. Exceptions taken.

SECRETARY: Have you anything further to say, Judge?

BURFORD: Only to renew my demand for a later hearing.

SECRETARY: Which demand is overruled.

CHAPPEL: I also desire to renew my demand for a later

hearing, and at this time, representing the protestants Neal, Smith and Lowe, demand that the Secretary fix a legal date for hearing the protests and objections of said protestants, and for the purpose of receiving testimony thereon as required by law. (Overruled.)

Whereupon the Secretary instructs that the registered receipts of Messrs. Nagle, Harris and Chapral be attached hereto and marked Exhibit B.

The hearing being concluded, Court adjourned until four o'clock P.M. at which time the Secretary of State advised his decision would be rendered.

STATE OF OKLAHOMA.

Department of State,
Oklahoma City,
Oklahoma.

To the

Clerk of the Supreme Court,

S i r:

There is herewith transmitted to you for filing for the purpose of appeal from the Secretary of State of the State of Oklahoma, to the Supreme Court of said State, all papers and proceedings in connection with Initiative Petition No.10 seeking to initiate an amendment to the Constitution of the State of Oklahoma in accordance with the provisions of Senate Concurrent Resolution No.31 passed by the Extraordinary Session of the Legislature,1910, together with certified copy of the transcript in hearing before the Secretary of State on June 6,1910, as noted in index hereto attached, Exhibits "A" to "P" inclusive.

IN WITNESS WHEREOF I hereto set my hand and cause to be affixed the Great Seal of State. Done at the City of Oklahoma, this Sixteenth day of June, A. D. Nineteen Hundred and Ten.

Secretary of State.

I N D E X

Senate Concurrent Resolution No.31.	Exhibit A.
Senate Bill No.126.	B.
Copy petition.	C.
Letter of transmittal accompanying initiative petitions.	D.
Acknowledgement by Secretary of State.	E.
Ballot title and petition submitted to Governor,	F.
Initiative Petition No.10.	G.
Protest of P. S. Nagle,	H.
Protest of James A.Harris,	I.
Protest of Thomas Low,	J.
Protest of J. N. Neal,	K.
Protest of Sampson Smith,	L.
Denial by petitioners,	M.
Affidavit for continuance by P.A.Nagle,	N.
Hearing before the Secretary of State, complete transcript,	O.
Decision of the Secretary of State,	P.

RECEIPT FOR MANDATE.

In re Initiative State Question
No. 10, otherwise known as
Suffrage Proposition,
vs.

No. 1784

Received of W. H. L. Campbell, Clerk, the MANDATE
in the above entitled cause.

Dated this _____ day of _____ 1910.

Clerk.

United States of America } ss.
State of Oklahoma }

MANDATE
SUPREME COURT

In re Initiative State Question
Number 10, otherwise known as the
"Suffrage Proposition"

Plaintiff ~~EX PARTE~~

vs.

No. 1784

Defendant in Error.

THE SUPREME COURT OF OKLAHOMA:

To the Honorable ~~Judge of the~~ Secretary of State of the ~~COURT~~
State of Oklahoma, ~~County of said State of Oklahoma.~~

WHEREAS, The Supreme Court, of the State of Oklahoma, did at the May
19 10 Term thereof, on the 22nd day of June, 19 10 render
an opinion in the above entitled case, appealed from the order of the Secretary/ ~~COURT~~ of
the State of Oklahoma, ~~County~~ affirming the order of said
Secretary,

Now, therefore, you are hereby commanded to show this
affirmance of record in your court, and take such other proceedings
as shall accord with said Supreme Court opinion and right and justice.

Supreme Court cost to \$16.00

Witness, the Honorable JESSE J. DURN, Chief Justice of the Supreme Court
of the State of Oklahoma, at the City of Guthrie, this 25th day of October, 1910.

W. H. J. Campbell,

Clerk.

By *W. M. Doney* Deputy

NO 1784

**IN THE
SUPREME COURT**

In re Initiative State
Question Number 10, other-
wise known as the Suffrage
Proposition Plaintiff in Error

vs.

Defendant in Error

MANDATE



PROCLAMATION.

Upon canvass of the votes given at an election, duly held, for that purpose, on August 2nd, 1910, upon a measure known as State Question No. 18, and Initiative Petition No. 10, same being a proposed Amendment to the Constitution of Oklahoma, and constituting proposed Section 4a of Article Three of the Constitution, I, Charles N. Haskell, Governor of the State of Oklahoma, by virtue of the authority vested in me by the Constitution and laws of Oklahoma, do hereby

PROCLAIM, that at said election duly held on August 2nd, 1910, in the State of Oklahoma, at which there was submitted to the qualified electors of said state, a measure known as State Question No. 18 and Initiative Petition No. 10, the total number of votes cast for said measure was one hundred and thirty-four thousand, four hundred and forty-three, and the total number votes cast against said measure was one hundred and six thousand, two hundred and twenty-two; the total number of votes cast, both for and against said measure, being two hundred and forty-one thousand, six hundred and sixty-five; said measure being known as proposed Section 4a of Article 3 of the Constitution, and in words and figures as follows:

"Section 4a. No person shall be registered as an elector of this State, or be allowed to vote in any election held herein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person who was, on January 1st, 1866, or at any time prior thereto, entitled to vote under any form of government,

or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such Constitution.

"Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this Section at the time of registration, provided registration be required. Should registration be dispensed with, the provisions of this Section shall be enforced by the precinct election officers when electors apply for ballots to vote."

That said measure has been approved by more than a majority of those voting at said election and is in full force and effect as a part of the Constitution of the State of Oklahoma from and after the date of this Proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the great seal of this

State to be affixed at Oklahoma City the Capitol, this 6th day of October, A. D. 1910.

W. H. Murray

Governor.

Attest:

W. H. Murray

Secretary of State.

Proclamation de-
claratory Initiative
Petition no 10 to
be adopted and
a part of the Consti-
tution of Oklahoma

OKLAHOMA CITY
SECRETARY'S OFFICE
STATE OF OKLAHOMA
Secretary's Office

This instrument was filed for record this
to the day of October
A. D. 1904

Recorded in
Record No. 783
Thos. B. Smith
Secretary of Oklahoma

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Filed June 22, 1910.

In re Initiative state Question
Number 10, otherwise known as the
"Suffrage Proposition"

No. 1784

SYLLABUS BY THE COURT:

1. Senate Bill No. 126, ch. 66, Sess. Laws 1910, pp. 121-127, styled, "An act carrying into effect provisions relating to the initiative and referendum; prescribing the method of procedure for submitting and voting for proposed amendments to the Constitution and other propositions, and prescribing the method of appeal from petitions filed or from the ballot title; repealing sections 6, 7 and 16 of article one, chapter forty-four of the Session Laws of Oklahoma, 1907-8," approved by the Governor on March 7, 1910, became effective on that date.

2. The written notice to the Secretary of State and to the party or parties who filed the initiative petition, embodying a protest against said petition, having been filed with the Secretary of State, it becomes his duty then and there to fix a day not sooner than five days thereafter, in which to hear the same, and it is not essential that such notice be served otherwise upon the party or parties filing said initiative petition.

3. The action of the Secretary of State in overruling a motion for continuance, will not be disturbed on review here unless it affirmatively appears that he abused his discretion.

4. The constitutionality or validity of a proposed or initiated measure cannot be determined on a hearing before the Secretary of State.

Appeal from the Order of the Secretary of State.
Affirmed.

I, W.H.L. Campbell, Clerk of the Supreme Court of the State of Oklahoma, do hereby certify that the above and foregoing is a full, true and complete copy of the syllabus of the opinion of said court in the above entitled cause, as the same remains on file in my office.

In witness whereof, I hereto set my hand and affix the seal of said court, at Guthrie, this 25th day of October, 1910.

W.H.L. Campbell, Clerk.

By *W.M. Bowler* Deputy

Elections of 1910

STATE QUESTION

STATE QUESTION NO. 17

INITIATIVE PETITION NO. 10

The gist of the proposition is as follows:

That no person shall be registered as an elector in this State, be allowed to vote in any election held herein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person who was, on January 1, 1866, or at any time prior thereto, entitled to vote, under any form of Government, or who at that time resided in some foreign nation, and no lineal descendent of such person, shall be denied the right to register and vote because of his inability to so read and write sections of the Constitution.

Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with, the provisions of this section shall be enforced by the precinct election officers when the electors apply for ballots to vote.

Vote---Yes.....135,443

No.....106,222

AMENDMENT ADOPTED.

Inoperative by reason of decision of U. S. Supreme Court. See Guinn v. U. S., 238 U. S. 347, 35 S. Ct. 926, 59 L. Ed. 1340.

(State Question—Initiative Petition No. 10)

WARNING!

“It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for any measure, or to sign such petition when he is not a legal voter.”

*Miller vs. H. T. O.
copy filed April 10th 1910 by L. W. Taylor
Notice of Publication in Guthrie Daily Leader
April 13th 1910*

