

(State Question—Initiative Petition No.)

WARNING

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

INSTRUCTIONS TO PERSONS SIGNING INITIATIVE PETITION

Each name must be signed by the voter himself, as legibly as possible.

The blanks on the front page of the petition must be filled in with the name of the County in which the voter resides.

The blank affidavit on the back of the petition should recite the name of each person signing the petition, and in order that the initials of the voter should always be correctly given, it would be a good plan to have each petitioner fill in his own name in the blank space of the affidavit, as well as to sign his name on the face of the petition.

The notary and the person making this affidavit should be careful that the blanks are filled out carefully.

Each petition when properly signed and sworn to should be forwarded to W. D. Cardwell, 303 Campbell Bldg., Oklahoma City, who has been appointed to represent the petitioners to transmit the petitions to the Secretary of State.

(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, of the County of _____, respectfully order that the following proposed law shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election to be held on the first Tuesday succeeding the first Monday in November, 1910, being the 8th 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 election the same may be submitted, and each for himself says:

I have personally signed this petition and 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 nine months from the 20th day of August, A. D. 1909. The questions we herewith submit to our fellow voters are: Shall the following amendments to the Constitution be adopted:

5.9

A BILL ENTITLED
AN ACT

Proposing an Amendment to the Constitution of the State of Oklahoma, by Amending Section 7, Article 1, of the Constitution; repealing the separate Article of said Constitution relating to Prohibition, submitted by the Constitutional Convention to the people of the proposed State of Oklahoma at the election held on September 17, 1907, and adopted by the people.

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

Section 1. That Section Seven, Article One, of the Constitution of the State of Oklahoma, be and the same is hereby amended to read as follows:

Section 7, Article 1.—The manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors, within those parts of the State heretofore known as the Indian Territory and the Osage Indian Reservation, and within any other portion of the State which existed as Indian Reservations on the first day of January, 1906, is prohibited for a period of twenty-one (21) years from the date of admission of the State into the Union, and thereafter until the people of the State shall otherwise provide by amendment of this Constitution and proper State legislation; provided, that each incorporated city, town or village within the State of Oklahoma may license the manufacture and sale of intoxicating liquors, including whiskey, beer, ale and wine, subject to the provisions of this section.

Subdivision 1. Each incorporated city, town or village in this State shall be authorized to license the sale of intoxicating liquors within the corporate limits of such city, town or village, subject to the provisions of this section, provided that the sale of intoxicating liquors shall not be permitted in any city, town or village until authorized at an election to be held for that purpose.

Subdivision 2. Whenever a petition shall be signed by a number of qualified electors residing within the territorial limits of any city, town or village in this State equal to twenty-five (25) per centum of the total number of votes cast at the next preceding election had in such city, town or village, asking that an election be held to determine if license shall be granted for the sale of intoxicating liquors in such city, town or village, and if such petition be filed with the chief executive officer of such municipality not less than sixty days nor more than ninety days preceding a general election, then and in that event it shall be the duty of such chief executive officer to call an election on such petition at the next general election. If such petition be so filed more than ninety days prior to the next general election, then it shall be the duty of such chief executive officer within ten days of such filing to call a special election on such petition, such special election to be held within not less than five nor more than ten days after the same is called. Any general or special election held under the provisions of this section shall conform to the general election laws as near as practicable.

Subdivision 3. That the qualified electors of each incorporated city, town or village may, as provided by law, vote upon one or both of two plans for licensing the sale of intoxicating liquors in said city, town or village, as follows:

- a. For licensing the sale of liquor to be drunk or consumed upon the premises the license fee to be Two Thousand (\$2,000.00) Dollars per annum.
- b. For licensing the sale of liquors in original packages, not to be drunk or consumed upon the premises, the license fee to be Five Hundred (\$500.00) Dollars per annum.

Provided, That one-half of all license fees as provided for herein shall go into the general fund of such city, town or village, and the other half into the hands of the county treasurer of the county in which said city, town or village is located, for the use of the county road and bridge fund of such county.

Subdivision 4. The petitions provided for in this section, shall be in compliance with this subdivision, and may be for one or both of the plans for licensing the sale of intoxicating liquors; and the form of ballot providing for the vote upon licensing the sale of intoxicating liquors, as the case may be, shall be in substance as follows:

Shall the city, (town or village) of.....license the sale of intoxicating liquors?

SALOON LICENSES.		MERCHANTS' LICENSES.	
Permitting the sale of intoxicating liquors to be drunk on the premises.		Permitting the sale of intoxicating liquors in original packages, not to be drunk on the premises.	
YES.	NO.	YES.	NO.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Subdivision 5. If at any such election a majority of the electors of any incorporated city, town or village shall have voted in favor of license for the sale of intoxicating liquors as herein provided, then it shall be lawful for any city, town or village to grant license for such sale for a period of five years from and after such election and until a majority of the qualified electors in said city, town or village shall as provided by law, vote against license for the sale of the same in said city, town or village.

Subdivision 6. That, in each incorporated city, town or village in the State, after a majority of the qualified electors have voted in favor of licensing the sale of intoxicating liquors in accordance with these provisions, it shall be the duty of the mayor or chief executive officer to appoint a board of four members to be known as a License Board, the members of said board to be equally divided between the political party receiving the highest and the political party receiving the next highest vote at the general election next preceding; said board shall receive such compensation as shall be provided by the mayor and council, or board of trustees of said city, town or village, provided that such compensation shall not exceed \$300.00 per annum for each member thereof; and provided further, that said board shall serve for a term of two years and until their successors are appointed and qualified.

Subdivision 7. The License Board as hereinbefore provided for shall grant license for the sale of intoxicating liquors, as provided for by law, upon the application by petition of ten (10) resident taxpayers of the ward in the city, town or village in which said liquors are to be sold, to any bona fide freeholder of such city, town or village, such application to be filed with the secretary of said board, and upon the payment of the license fee, as provided by law, into the city treasury; provided, that no action shall be taken upon said application until two weeks' notice in two newspapers of general circulation in said county, and of different political faith, has been given by publication.

Provided; That if there is not two newspapers and of different political faith published in said county, then the same shall be published in two newspapers of general circulation in said county. Provided, further, if there be not two newspapers published in said county the same shall be published in one newspaper and if there be no newspaper published in said county notice may be given by posting five notices in conspicuous places at the county seat of said county.

Subdivision 8. Objections in writing to the issuance of said license may be filed with said License Board, when signed by ten (10) resident taxpayers of the ward in which said liquors are sought to be sold, and if no objections are made as provided for herein and all other provisions of law have been complied with, it shall be the duty of said License Board to issue a license for the sale of intoxicating liquors in accordance with the provisions of this section; provided, that no license shall issue except upon the vote of a majority of said board, a yea and nay record of which shall be kept by the secretary of said board.

Subdivision 9. If there be objections filed with the secretary of said board, as provided for in the preceding subdivision, against the issuance of said license, the chairman of the board shall set a day for hearing thereon, and the same shall be heard and determined by said License Board; provided, that not less than three (3) nor more than ten (10) days' notice must be given by the secretary of the board to the applicant and remonstrators.

Subdivision 10. If it shall be satisfactorily proven that the applicant is an immoral person, or if any former license shall have been revoked for any violation of the provisions of this section, within a period of five (5) years, then the board shall refuse to issue said license; provided, that appeal may be taken to the county court, or any court having like jurisdiction (where the same shall be heard de novo) within ten (10) days by either party upon the execution of a good and sufficient bond, conditioned to pay all costs and damages incurred thereby; and provided further, that an appeal from the county court to the supreme court may be taken by either party in like manner as in civil cases.

Subdivision 11. On the hearing of any protest or remonstrance against the issuance of a license, either party may have process to compel the attendance of witnesses, who shall be allowed the same fees as witnesses in the district court, to be paid by the party calling the same. All processes shall be signed by the chairman of the board and attested under seal of the secretary.

Subdivision 12. The License Board provided for herein shall organize by electing one of its own members chairman, and secretary of the board, respectively. A majority of the members present at any meeting shall be authorized to transact business. The board shall have the power to prescribe rules and regulations, not inconsistent with law, to govern its own proceedings and the issuance of licenses. The board shall have the power to limit the number of saloons to a block, and, in its discretion, may refuse to issue a license for any particular ward, precinct, or block of a city, town or village.

Subdivision 13. No license shall be issued for a longer period than one (1) year, and shall be transferrable subject to the approval of the License Board in like manner as new licenses are granted. No more than one saloon license for one thousand (1,000) inhabitants or major fractional part thereof, shall be issued in any city, town or village, according to the last preceding State or federal census; and any license granted by the said board may be suspended for a period of thirty (30) days upon proof of first conviction by any court of record for violating any provision of law, and may be revoked by said board upon proof of second conviction of party holding same, by any court of record of a violation of law; provided, that each licensee shall have a preference right to renew any license he may hold when he has not violated any of the provisions of this section, over any subsequent applicant for a license.

Subdivision 14. All licenses shall be issued in accordance with the provisions of this Act, and if granted under the first paragraph of Subdivision 3 of this Act, the license fee shall be Two Thousand (\$2,000.00) per annum, and liquor may be drank upon the premises where licensed, to be sold under the following restrictions:

First. The room in which said liquors are to be sold shall contain no tables or chairs where a person may sit and be served with drinks. It shall contain no blinds, partitions, screens, stained glass or any other device or scheme to obstruct a full view of its patrons from the front; provided, that this provision shall not apply to bona fide hotels and restaurants serving drinks to its patrons or guests, or to any outdoor garden or park.

Second. No person patronizing any such saloon or place where liquors are sold, shall be permitted to pay for any other person's drink; provided this shall not apply to any father, mother, or guardian, buying drinks for any other member or ward of his or her family.

Third. No gambling, gambling device, slot machine, music, billiard or pool games or any kind of game, shall be permitted in such place.

Fourth. No wine room, or other apartment, where men or women, or both, may resort for the purpose of drinking, shall be permitted on said premises, nor shall there be any door or passageway connecting with, or leading directly to any such place, permitted on said premises.

Fifth. No intoxicating liquors shall be sold to minors or habitual drunkards, or to any person whose wife, mother, sister, brother, or father, has given written notice not to sell to, on account of being a minor or habitual drunkard.

Sixth. No place licensed to sell liquors, shall be kept open on Sunday, or on the day of any special or general election, or at night between the hours of 12 o'clock and 6 o'clock a. m.

And if said license is granted under the second paragraph of Subdivision 3, of this Section, the license fee shall be Five Hundred (\$500.00) Dollars per annum, and intoxicating liquors may be sold only in original packages, and shall not be drank or consumed on said premises; and any person drinking intoxicating liquors on, or permitting it to be drank on premises where the same is prohibited by law, shall be deemed guilty of violating the provisions of this section, and shall be punished in accordance with the provisions of this section. Manufacturers and wholesalers' license may be issued in like manner and upon the same terms as provided for in paragraph 2 of Subdivision 3 of this section.

Subdivision 15. Every person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or confined in the county jail not less than thirty (30) days, nor more than six (6) months, or by both

such fine and imprisonment; provided, that any licensee convicted of violating any of the provisions of this section, in addition to such fine or imprisonment, or both, shall have his license suspended for a period of thirty (30) days for first conviction, and said license shall be revoked upon a second conviction during the term of such license.

Subdivision 16. Whenever any person is convicted of any violation of the provisions of this section, it shall be the duty of the clerk of the court where such conviction is had, to transmit, within fifteen (15) days, a duly authenticated copy of the verdict or judgment of the court to the License Board which granted or issued any license under which said person may have been or is doing business; and, if such verdict or judgment is final, then said license board shall deal with such licensee as is provided for in this section.

Subdivision 17. Any person manufacturing, selling, giving away, bartering or otherwise furnishing any intoxicating liquor, including whiskey, beer, ale and wine, in any part of the State of Oklahoma not authorized by the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than Fifty Dollars nor more than Five Hundred Dollars and imprisoned in the county jail not less than thirty days nor more than six months.

Subdivision 18. The Legislature may pass laws necessary for the enforcement of the provisions herein and not inconsistent with any provision or provisions of this section. It may also impose additional restrictions or regulations on the sale of intoxicating liquors not inconsistent with the provisions herein.

Section 2. That the separate article of the Constitution of the State of Oklahoma relating to prohibition, submitted by the Constitutional Convention to the people of the proposed State of Oklahoma at the election held on September 17, 1907 and adopted by the people, which separate article upon the admission of the State into the Union became a part of said Constitution, and all laws and parts of laws in conflict herewith be, and the same are, hereby repealed.

Copy

Guthrie, Oklahoma
February 14th 1910.

Received from John Threadgill one
of the Petitioners of Initiative Petition proposing
an Act entitled, " An Act proposing an amendment to
the Constitution of the State of Oklahoma, by amending
section 7, Article 1, of the Constitution; repealing
the separate article of said Constitution relating to
prohibition, submitted by the Constitutional Conven-
tion to the people by the proposed State of Oklahoma
at the election held on September 17th 1907 and
adopted by the people;" Said petitioners were pre-
sented in pamphlets as provided by law and were
purported to contain 59,487 Petitions, but the sheets
containing the signatures and affidavits were not de-
tached from the pamphlets and attached to one or more
printed copies of the Measure so proposed by the said
Initiative petitions for the reason that his Excellency
The Governor was not present.

Secretary of State.

Release February 17

STATE OF OKLAHOMA.

EXECUTIVE DEPARTMENT.

GUTHRIE.

February 15, 1910.

The Honorable Secretary of State,

Guthrie, Oklahoma.

Dear Sir:

I have been invited to attend at your office and witness the initiation of proceedings to amend Section Seven, Article One, of the Constitution, repealing the prohibition provision, and substituting a variety of conditions therefor, and after having read a copy of the petition and studied in that connection the constitution and laws of our state, in so far as my official duties are concerned:

INITIATIVE AND REFERENDUM LAWS.

I find that the constitution of the State of Oklahoma, vitalized by legislative act, has wisely reserved unto the people of our State the power to amend the constitution, and to legislate by their own act initiated by petition, and that it is my duty, regardless of my personal opinion upon the question involved, when this privilege is properly invoked, to perform whatever duty the law imposes upon me to aid in the conduct of such proceeding and election.

This reserve power to the people of our state is one of the blessings upon which Oklahoma is entitled to congratulation by the people of less favored states. It demonstrates the wisdom and justice of our people in the constitution they prepared and adopted; but there is a wide distinction between the use that the people intend to make of the Initiative and Referendum, and the abuse thereof that might easily arise. Nothing could more readily and certainly discredit the Initiative and Referendum privilege than its reckless use, creating extravagant burdens upon the taxpayers of our state, by seeking

to use the initiative and referring powers where the act would be void if the petition were recognized and granted, and the useless expense of an election imposed upon the taxpayers of our state, and therefore in my judgment, when the law provides as plainly and distinctly as it does for the filing, referring and election upon a question of public interest, it can only sensibly be construed to refer to such questions as may within constitutional limits be operative if adopted by the vote of the people, and where it clearly appears that the subject matter proposed in the petition is such, by reason of its improper form, or its substance, as to be void if adopted by a majority vote, clearly the taxpayers of this state should not be burdened with the cost of an election upon such an obviously void proposition, and when there is ground for doubt in the minds of an executive officer, he would not be warranted in burdening our people with an election that would cost not less than eighty thousand dollars, until the courts have removed the question of doubt, and given assurance that if the proposition should be adopted by the people that it would be operative as a valid act.

We are presumed to benefit by experience. We have but to recall that at the last general election, the people of Oklahoma voted upon a referendum measure submitted by our state legislature, and the expense of such election having been incurred and paid, we shortly found by a decision of the Supreme Court of our State that the whole proceeding was void because of the improper form of the question submitted, and for other reasons stated by the court, and that therefore the entire expense incident to that election, paid by the state, was a waste of the money so expended.

With that object lesson of the recent past, I am not warranted in doing any official act that will cause the useless expenditure of public money for election and other purposes, and when it is apparent to me that if submitted to the people, voted

upon and adopted, the proposition which we now have before us would be set aside as void, and I therefore, shall refuse to do any official act recognizing this proposition as an initiated proposition, entitled to be recognized by the state and requiring such a large expense to be assumed by the state, until the courts have decided that it is a proper subject for legislation, and would be valid if adopted.

Again, it may be fair for me to further express the reasons why I believe this petition does not come within the provisions of our laws, and for which reasons it should not be the occasion for the expenditure of public money.

First, it seeks to repeal the prohibition provision of the Oklahoma Constitution, a provision which, by its own terms, is irrevocable for a period of twenty-one years, and these terms were the conditions imposed by an act of Congress upon the proposed new state as a condition precedent only under which the state could be created, and back of the Enabling Act were numerous treaties between the Five Civilized Tribes and the Government of the United States under the terms of which, (quoting from one of them):

"The United States agrees to maintain strict laws in said Nation against the introduction, sale, barter, or giving away of liquors or intoxicants of any kind whatsoever."

and following this general provision the United States Government in authorizing the creation of our state, and intending to maintain this particular pledge to the Five Civilized Tribes, required the proposed State of Oklahoma to enter into a contract in its state constitution to accept statehood upon those terms, and that this prohibition provision should be irrevocable for the period of years named.

I believe that this was an agreement that the Indian Nations had a right to contract for with the Federal Government; I believe that the Federal Government had a right, as a means to insure peace, good order and morality in this country, to

make this an irrevocable condition upon which statehood might be obtained, and the people of Oklahoma, in their constitution, accepted this condition by express provision, and should not either in law or common honesty be heard to repudiate a condition which the Government of the United States had a right to impose in pursuance of good faith in its Indian treaties, and in the consideration of these Indian treaties we must not lightly consider them as merely compact without substantial consideration.

Different from Indian conditions in nearly every other part of the United States, the area from which our state was created was the property, the home, and within the sovereign power, not of wild Indian tribes, but of civilized Indian Nations. The United States Government did not seek by conquest to take away the power of government and of property rights in these five Nations, but rather, by amicable treaty and mutual agreement were the five Nations induced to surrender their right of self-government and their property rights, and the people of Oklahoma certainly realize that the conditions upon which this surrender were made are sacred conditions which both honesty and the laws of our land compel us to respect. And I believe that if we were so reckless of the taxpayers' money in Oklahoma as to incur the expense of an election, that the courts of the land would hold the proposed act null and void and therefore the election would be a waste of time and money.

Expediency is not a substitute for sound law nor justice. I am aware that many people, honest in their purpose, believe that some other condition would be better than prohibition, and to all such I concede the same right of opinion that I myself would claim, and I do not assert that it would be proper for me to inject my individual views, but it is proper that I do my official duty and protect the people of the state from the expense of vain and unlawful expenditures.

I am aware that strenuous effort and organization has been made from the beginning of statehood, in large part by those, principally persons and corporations outside our state, who would profit by a traffic now prohibited in our state, to arouse a public sentiment that might vote the prohibition provision out of our constitution, and to create this sentiment no opportunity has been neglected to discredit the enforcement of the prohibition law, to throw in the way of enforcement every possible barrier, and to discredit the public officers whose duty it is to enforce the law, and to which every honest effort is being made; and while the vast majority of those who hoped for the success of the law have neglected to yield the active aid and support to law enforcement that they must confess was their duty, they have by their indifference simply enabled the diligence of its opponents to create false impressions among the people.

It is true that the prohibition law, like the other criminal laws of our state, has its violators. It is true that the present policy of the Federal Government, particularly in affording the unrestricted use of the United States mail, and the sacred protection of the interstate commerce laws, and the condoning of offenses against the Federal Government by reason of a payment of a small Federal tax, makes the successful enforcement of prohibition laws difficult, and often fall short of our hopes and expectations, but this combined effort to destroy laws that tend for morals and domestic happiness can never be an excuse for a backward step, but on the other hand should suggest renewed energy, renewed vigor, and a determined effort to compel respect and obedience to the laws of the state.

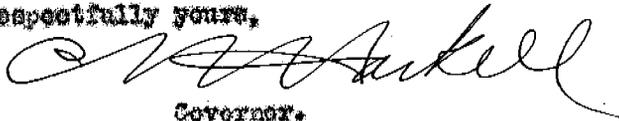
I am aware that the expense of enforcing the laws is pointed to as a reason for their repeal, and yet I do not hear that this same excuse would be offered as a reason for repealing the laws penalizing larceny, burglary, or murder;

and yet we know that if the prohibition law of the state was vigorously enforced it would not only cover its own expense, but would minimize the vast variety of other criminal offenses, which are so largely the outgrowth of a whiskey traffic.

I find by careful observation that three-fourths of the crimes in the personal violence class are the result of a mind made mad by intoxication. I find that even a greater per cent of the crimes of burglary, larceny and the like are the result of destitution and distress occasioned by personally spending their substance for whiskey and kindred evils, thereby being reduced to the necessity of stealing for bread.

Regardless of my personal opinion, if the courts say that it is my duty to submit this question as a legal proposition, I should do so, but until the prohibition law of Oklahoma is lawfully repealed, I take this occasion to remind the people of the State that the blessings of home comfort, home plenty, and domestic happiness demand that ever good citizens of this state lend his active aid and support to the state and local officers in enforcing the law, and that law enforcement will tend more to reduce the present expenditures for that purpose than will the lax methods now prevailing in many localities.

Respectfully yours,



Governor.

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA.

John Threadgill and Henry Braun,
Plaintiffs,

vs.

Bill Cross, Secretary of State
of the State of Oklahoma,
Defendant.

ALTERNATIVE WRIT OF MANDAMUS.

A verified petition herein having been filed, praying that a writ of mandamus shall issue to the defendant, Honorable Bill Cross, Secretary of State of the State of Oklahoma, commanding him to perform certain official duties therein prayed for, an alternative writ is hereby allowed, returnable to this court on the eighth day of March, 1910, at 10 o'clock A.M: and it is ordered that said defendant immediately, on service of this order, proceed, in the presence of the Governor of the State of Oklahoma, unless the presence of said Governor cannot be obtained, and then in his absence, and in the presence of one of the committee of petitioners who presented to him for filing the Initiative petitions, requesting that a certain proposed bill, entitled:

"An Act Proposing an Amendment to the Constitution of the State of Oklahoma, by Amending Section 7, Article 1, of the Constitution; repealing the separate Article of said Constitution relating to Prohibition, submitted by the Constitutional Convention to the people of the proposed State of Oklahoma at the election held on September 17, 1907, and adopted by the people."

be referred to the electors of said State for their approval or rejection; and said bill so proposed by Initiative being an amendment to Section 7 of Article 1 of the Constitution and a repeal of the separate Prohibition Article of said Constitution; to place upon said petitions the file mark of his office on the date same were left with him for filing, and detach the sheets containing the signatures and affidavits, and cause them all to be attached to one or more, printed copies of the measure so proposed by initiative petitions, and bind the aforesaid sheets in one or more volumes, as may be most convenient, and attach to each

volume a single printed copy of said measure.

And you are further commanded that, as soon as you have performed the aforesaid acts, you will at once proceed to examine into the sufficiency of said petitions, and that if said petitions be found sufficient, that you transmit forthwith to the Attorney General a copy of the same, that he may prepare a ballot title therefor, as by law required; and that upon said ballot title being certified to you by the Attorney General, you the said Secretary of State notify the Governor thereof in writing, or on failure to perform said acts you show cause at said time.

Witness my hand and official seal of said court, at
Guthrie, this 1st day of March, 1910.

W.H.L. Campbell,
Clerk Supreme Court.

By *James Fardol* Deputy

(Seal)

3-3-1910.

Honorable Chas. West,

Attorney General,

Guthrie, Oklahoma.

Dear Sir:

This is to respectfully request that you look after the interests of my Department in the matter of the Alternative writ of mandamus, in which John Threagill and Henry Braun are plaintiffs and Bill Cross, Secretary of State, is Defendant, and which writ I understand is to be taken up by the Supreme Court March 8th, 1910, at 10:00 A.M.

Very truly yours,

Secretary of State.

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

Guthrie, Oklahoma, March 3, 1910.

To The

Secretary of State.

Sir:

I have received no request from you for advice, but orally have been advised that you desired that I should represent you in an action pending in the Supreme Court where John Threadgill and Henry Braun are complainants and yourself as Secretary of State was defendant.

I have received what purports to be a copy of a so-called alternative writ of mandamus. I enclose you what I deem to be a sufficient return. I desire to call your attention again to the fact that you have a very great and weighty duty to perform in regard to initiative petitions. It may be that the courts may decide that there is no appeal from your act-

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

Secretary of State, 2

ion and it is, therefore, particularly necessary
that you keep yourself absolutely free from ~~any~~
on ~~each~~ side and in an entirely impartial attitude.

I, therefore, advise that you make no technical defense in this action at all, ~~and~~ refuse to move in the action at all, except to file the return that I have prepared and to obey whatever order the court may make.

Respectfully,



Attorney General.

Honorable Bill Cross,
Guthrie, Oklahoma.

STATE OF OKLAHOMA
LEGAL DEPARTMENT
GUTHRIE

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

ADDRESS ALL COMMUNICATIONS TO
THE ATTORNEY GENERAL AND
REFER TO INITIALS

EGH-W

Guthrie, Oklahoma, March 3, 1910.

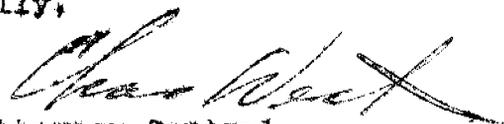
To The

Secretary of State.

Sir:

Copy of alternative writ of mandamus
in Re John Threadgill and Henry Braun, Plaint-
iff, vs. Bill Cross, Secretary of The State
of Oklahoma, Defendant, received by messenger.
Have you no other papers? Copy of Petition, etc?
Kindly send all papers connected with this case.
I do not refer to the initiative petitions.

Respectfully,


Attorney General.

Honorable Bill Cross,
Guthrie, Oklahoma.

Reply

3-8-1910.

Mr. John Devereaux,

Guthrie, Oklahoma.

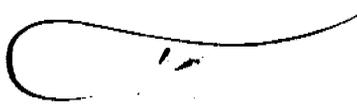
Dear Sir:

I am today signing the attached Return to Alternative Writ of Mandamus, and this is to advise you that I am to be in no way held responsible for any fees or compensation for services in this matter, in authorizing you to file this it is solely for the purpose of testing the legal questions involved.

Very respectfully,

AJ.


Secretary of State.



STATE OF OKLAHOMA
LEGAL DEPARTMENT
GUTHRIE

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

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

EGS-D

Guthrie, Oklahoma, March 8, 1910.

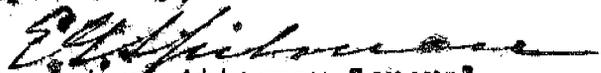
To the Honorable
Secretary of State.

Sir:

In the matter of John Threadgill and Henry Braun, Plaintiffs, vs. Bill Gross, Secretary of State of the State of Oklahoma, Defendant, pending in the Supreme Court of the State of Oklahoma, you are advised that the Attorney General has just been informed that you have made return in this case to the alternative writ of mandamus otherwise than the return already filed therein made by you under his direction.

This action on your part necessitates the withdrawal of the Attorney General from the case and imposes upon him the necessity of filing a motion before the Supreme Court asking permission to withdraw the return already made by you and filed by him in the first place.

Respectfully,


Assistant Attorney General.

Hon. Bill Gross,
Secretary of State,
Guthrie.

P R O T E S T .

We, the undersigned citizens of Guthrie, Logan County, Oklahoma hereby file this our protest against the sufficiency of the petition, purported to be left with the Secretary of State for filing, submitting an amendment to the Constitution of Oklahoma, repealing Section 7, of Article 1, Federal Relations, of the Constitution of the State of Oklahoma, and substituting therefor a system of local option and license for municipalities, and repealing the separate article of the Constitution of the State of Oklahoma relating to prohibition, submitted by the Constitutional Convention to the people of the proposed State of Oklahoma at the election held on Sept. 17, 1907 and adopted by the people, which separate article upon the admission of the State into the Union became a part of the Constitution, and repealing all laws and parts of laws in conflict with their proposed amendment. This protest is based upon the following grounds .

First:- The proposed amendment is not a proper subject for the Initiative and Referendum.

Second:-The United States entered into Treaties with the Five Civilized Tribes of Indians pledging them prohibition of the manufacture, sale, etc., of intoxicating liquors within their country known as the Indian Territory, and the United States in accordance with said treaties passed a Statutory Law prohibiting the manufacture, sale, etc., of intoxicating liquors within the Indian Territory and other Indian Reservations in Oklahoma Territory, and which said statutory law has not been repealed by the United States.

Third:-The Congress of the United States passed an Enabling Act entitled, "AN ACT TO ENABLE THE PEOPLE OF OKLAHOMA AND OF INDIAN TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT AND BE ADMITTED TO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES; AND TO ENABLE THE PEOPLE OF NEW MEXICO AND OF ARIZONA TO FORM A CONSTITUTION AND STATE GOVERNMENTS AND BE ADMITTED INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES."

Section 1 of the Enabling Act is as follows, to-wit:-"Admission of Oklahoma and Indian Territory as State." " That the inhabitants of all that part of the area of the United States now constituting the Territory of Oklahoma and the Indian Territory, as at present described,

may adopt a constitution and become the State of Oklahoma, as hereinafter provided: PROVIDED, THAT NOTHING CONTAINED IN THE SAID CONSTITUTION SHALL BE CONSTRUED TO LIMIT OR IMPAIR THE RIGHTS OF PERSONS OR PROPERTY PERTAINING TO THE INDIANS OF SAID TERRITORIES (SO LONG AS SUCH RIGHTS SHALL REMAIN UNEXTINGUISHED) OR TO LIMIT OR AFFECT THE AUTHORITY OF THE GOVERNMENT OF THE UNITED STATES TO MAKE ANY LAW OR REGULATION RESPECTING SUCH INDIANS, THEIR LANES, PROPERTY OR OTHER RIGHTS BY TREATIES, AGREEMENT, LAW OR OTHERWISE, WHICH IT WOULD HAVE BEEN COMPETENT TO MAKE IF THIS ACT HAD NEVER BEEN PASSED."

In Section 3, of the Enabling act we find the following language, to-wit: "And said convention shall provide in said constitution:" and under it designated as "Second" we find the following language to-wit:

"That the manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within those parts of the said State now known as the Indian Territory and the Osage Indian Reservation and within any other parts of the said State which existed as Indian reservations on the first day of January, nineteen hundred and six, is prohibited for a period of twenty-one years from the date of the admission of the State into the Union, AND THEREAFTER UNTIL THE PEOPLE OF SAID STATE SHALL OTHERWISE PROVIDE BY AMENDMENT OF SAID CONSTITUTION AND PROPER STATE LEGISLATION." And that the Constitution of Oklahoma contains said provision of the enabling Act designated as "Second" copied from the Enabling Act in accordance with the terms thereof and which said Article is Section 7 of Article 1, Federal Relations in the Constitution of Oklahoma.

That the Enabling Act, Sec. 22 uses the following language to-wit: "Acceptance of this act." "That the Constitutional Convention provided for herein shall, by ordinance irrevocable, accept the terms and conditions of this Act."

And that thereafter the constitutional Convention did accept the terms of said Enabling Act in the following language, to-wit:

"ACCEPTING ENABLING ACT. "

"BE IT Ordained by the Constitutional Convention for the

proposed State of Oklahoma, that said Constitutional Convention do, by this ordinance irrevocable, accept the terms and conditions of an Act of Congress of the United States, entitled, "An Act to Enable the People of Oklahoma and the Indian Territory to form a Constitution and State Government and be admitted into the Union on an equal footing with the original states; and to Enable the People of New Mexico and of Arizona to form a Constitution and State Government and be admitted into the Union on an equal footing with the original states," approved June the sixteenth, Anno Domini, Nineteen Hundred and Six.

I hereby certify that the foregoing ordinance Accepting the Terms and Conditions of the Enabling Act as the same has heretofore been passed and engrossed, was engrossed with the engrossed copy of the Constitution on parchment, was read as engrossed and roll call had thereon and the same duly adopted by a majority of the votes of all the delegates elected to and constituting this Convention, at 11:41 o'clock, A. M. this 22nd day of April, Anno Domini, 1907.

Wm. H. Murray, President the Constitutional
Convention of the proposed State of Oklahoma.

Attest: John McLain Young, Secretary.

That on the 17th, day of September 1907 the people of the State of Oklahoma did adopt the provisions herein set forth by adopting the Constitution of Oklahoma by a majority of over 108,000, and thereafter on the 16th, day of November 1907, President of the United States, Theodore Roosevelt, issued a proclamation declaring the State of Oklahoma admitted into the Union.

We therefore protest against the filing of said petition for Resubmission of the Prohibition question to the people of the State of Oklahoma as a Constitutional Amendment, and further protest against the Secretary of State submitting the same to the Attorney General of the State of Oklahoma for a Ballot Title, and further protest against the Secretary of State sub

with the said petition to the Hon. G. W. Washell, Governor of
the State of Oklahoma, for the purpose of having same submitted
by the Governor to the People as a proposed Constitutional
Amendment in accordance with the terms of the Enabling Act,
and the terms of the Constitution of the State of Oklahoma.

Wm. C. Washell
G. W. Washell
T. J. Washell
W. C. Washell
W. C. Washell

SECRETARY'S MEMORANDUM
CURTIS, STATE OF OKLAHOMA,
Secretary's Office
This Memorandum was filed for record this
_____ day of _____, 1911, at _____ M.
Presented in _____ Corporation
Record No. _____
W. C. Washell
Secretary of Oklahoma

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA.

PEREMPTORY WRIT OF MANDAMUS.

The State of Oklahoma to The
Honorable Bill Cross, Secretary
of State of the State of Oklahoma,
GREETING:

Whereas John Threadgill and Henry Braun have heretofore commenced and prosecuted in the Supreme Court of the State of Oklahoma their action for a peremptory writ of mandamus against you as Secretary of State of the State of Oklahoma, commanding you to do and perform certain official acts which they allege that it was your duty to perform, and which you refused.

And Whereas, on the first day of March, 1910, the Honorable Chief Justice of said Court caused to be issued an Alternative Writ of Mandamus commanding that you, Bill Cross, Secretary of State of the State of Oklahoma, immediately proceed in the presence of the Governor of the State of Oklahoma, unless the presence of said Governor cannot be obtained, and then in his absence, and in the presence of one of the committee of petitioners who presented to him for filing the initiative petitions requesting that a certain proposed bill, entitled "An Act proposing an Amendment to the Constitution of the state of Oklahoma by amending Section 7, Article 1, of the Constitution; repealing the separate article of said Constitution relating to prohibition, submitted to the Constitutional Convention to the people of the proposed State of Oklahoma at the election held on September 17, 1907, and adopted by the People" be referred to the electors of said State for their approval or rejection; to place upon said petition the file mark of his office on the date same were left with him for filing, to wit, the 14th day of February, 1910, and detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative petitions, and bind with the aforesaid sheets

in one or more volumes as may be most convenient, and attach to each volume a single printed copy of said measure; and further commanding you as soon as you have performed the aforesaid acts to at once proceed to examine into the sufficiency of said petitions, and that if said petitions be found sufficient that you transmit forthwith to the Attorney General a copy of the same, that he may prepare a ballot title therefor as by law required, and that upon said ballot title being certified to you by the Attorney General you, the said Secretary of State, notify the Governor thereof in writing, or on failure to perform said acts you show cause ~~sixty-six~~ on the 8th day of March, 1910,

And Whereas, at a regular session of the Supreme Court of said State, on the 10th day of May, 1910, said Supreme Court upon consideration of the averments of the Alternative Writ and of your said return and of the causes therein shown by you why the commands of said writ should not be made peremptory, it was considered by the said Supreme Court that you had returned insufficient causes for having failed to perform the acts commanded in the said Alternative Writ, and it was then and there considered and ordered by the judgment of the Supreme Court of the State of Oklahoma, that a Peremptory Writ of the State issue requiring and commanding you, the said Bill Cross, Secretary of State of the State of Oklahoma, to perform the acts required of you in said Alternative Writ of Mandamus.

And Whereas, on the 7th day of June, the said Supreme Court of the State of Oklahoma, denied a petition for a rehearing of said cause.

Now, therefore, you, Bill Cross, Secretary of State of the State of Oklahoma, are hereby commanded and enjoined that immediately after the receipt of this writ and without delay, you proceed in the presence of the Governor of the State of Oklahoma, unless the presence of said Governor cannot be obtained, and then in his absence and in the presence of one of the Committee of

of petitioners who ~~filed~~ presented to you for filing said initiative petitions in your office on the 14th day of February, 1910, to detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative petitions and bind the aforesaid sheets in one or more volumes as may be most convenient and attach to each volume a single printed copy of said measure; And you are further commanded that as soon as you have performed the aforesaid acts you will at once proceed to examine into the sufficiency of said petitions and that if said petitions be found sufficient that you transmit forthwith to the Attorney General a copy of the same, that he may prepare a ballot title therefor as by law required, and that upon said ballot title being certified to you by the Attorney General you, the said Secretary of State, notify the Governor thereof in writing; and that you certify perfect obedience and due execution of this Writ to the Supreme Court of the State of Oklahoma at a session to be held on the 12th day of July, 1910. Hereof fail not at your peril, and have then and there this Writ.

Witness the Honorable Jesse J. Dunn, Chief Justice of said Supreme Court, this 9th day of June, in the year of our Lord, 1910.

W. H. Campbell
Clerk Supreme Court
By *D. W. M. Bower* Deputy

Received this
9th day
of June A.D.
1910
Bill Crag
Secretary of
State

STATE OF OKLAHOMA.

ATTORNEY GENERAL'S OFFICE.

Honorable Bill Cross,

Secretary of State,
Oklahoma City, Okla.

My dear sir:-

on reverse side
I herewith transmit to you title ballot
for Initiative Petition No. 11, as required of me
by law.

Yours truly,

Chas. Kist

Attorney General.

*Filed
June 10th 1910
Ballot*

Ballot Title. Initiative Petition No. 11.

Purpose to amend section seven article one of Constitution and to provide for the licensed sale of intoxicating liquors in incorporated cities towns and villages after an election to determine whether said municipality shall license the sale of liquors to be consumed on the premises at cost of \$2000 per year and the sale in original packages not to be there consumed at cost of \$500 per year for each license with restrictions as to Sunday and midnight closing prohibiting trading and other restrictions named and ~~and~~ repeal the present separate article of ~~the~~ Constitution relating to prohibition adopted at statehood.

~~100~~ words
99

OKLAHOMA CITY
XXXXXX

June 20 1910

Honorable C. N. Haskell,

G O V E R N O R

Oklahoma City, Okla.

Dear Sir:-

Pursuant to the provisions of section 8 of Chapter 44, Session Laws of 1907-08, I have the honor to advise you that there was filed in the office of the Secretary of State, an Initiative Petition No. 11, entitled

"An Act proposing an Amendment to the Constitution of the State of Oklahoma, by amending section 7, Article 1 of the Constitution; repealing separate Article of said Constitution relating to Prohibition, submitted by the Constitutional Convention to the People of the proposed State of Oklahoma, at the election held on September 17th 1907 and adopted by the people"

A copy of which said petition is hereto attached. That said petition has been accepted and that its ballot title has been decided upon by the Attorney General as follows:

OKLAHOMA CITY
XXXXXX

BALLOT TITLE Initiative Petition No. 11.

Purpose

Proposing to amend Section 7, Article 1, of the Constitution and to provide for the licensed sale of intoxicating liquors in incorporated cities, towns and villages, after an election to determine whether said municipality shall license the sale of liquors to be consumed on the premises, at cost of Two Thousand dollars (\$2000.00) per year, and the sale in the original packages, not to be there consumed at a cost of Five Hundred dollars (\$500.00) per year for each license, with restrictions as to Sunday and midnight closing, prohibiting treating and other restrictions named and repeal the present separate article of Constitution relating to Prohibition adopted at Statehood.

Sincerely yours,

LM-BS

Int Pet #11
Secretary of State.

Sept. 10, 1910.

Hon. Will Linn,

Secretary State Election Board,

Oklahoma City, Okla.

My Dear Sir:

I am herewith transmitting to you a copy of Initiative
Petition No. 11, also ballot title for said petition.

This petition has been filed in the regular legal way,
notice having been given the Governor, as provided for by law and
proclamation for an election of said Initiative Petition No. 11 has
been called by him.

Respectfully submitted,

Assistant Secretary of State.

LM/TP

Elections of 1910

STATE QUESTION NO. 22

INITIATIVE PETITION NO. 11

The gist of the proposition is as follows:

To amend Section 7, Article 1 of the Constitution and to provide for the licensed sale of intoxicating liquors in incorporated cities, towns and villages after an election to determine whether said municipality shall license the sale of liquors to be consumed on the premises at a cost of two thousand dollars per year, and the sale in original packages not to be there consumed at a cost of five hundred dollars per year for each license, with restrictions, as to Sunday and midnight closing, prohibiting treating and other restrictions.

Vote---Yes.....	105,041
No.....	126,118

AMENDMENT REJECTED.

S.R. 22

Init Pet # 11.

59.487 39
name

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

WARNING

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

INSTRUCTIONS TO PERSONS SIGNING INITIATIVE PETITION

Each name must be signed by the voter himself, as legibly as possible.

The blanks on the front page of the petition must be filled in with the name of the County in which the voter resides.

The blank affidavit on the back of the petition should recite the name of each person signing the petition, and in order that the initials of the voter should always be correctly given, it would be a good plan to have each petitioner fill in his own name in the blank space of the affidavit, as well as to sign his name on the face of the petition.

The notary and the person making this affidavit should be careful that the blanks are filled out carefully.

Each petition when properly signed and sworn to should be forwarded to W. D. Cardwell, 303 Campbell Bldg., Oklahoma City, who has been appointed to represent the petitioners to transmit the petitions to the Secretary of State.