A Resolution

ENROLLED SENATE JOINT
RESOLUTION NO. 3

BY: GRANTHAM of the SENATE
and
STEVENS of the HOUSE

A JOINT RESOLUTION DIRECTING THE SECRETARY OF STATE TO REFER TO THE PEOPLE FOR THEIR APPROVAL OR REJECTION A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE STATE OF OKLAHOMA BY ADDING ARTICLE VII-A; PRESCRIBING A METHOD OF REMOVAL FROM OFFICE OR COMPULSORY RETIREMENT, FOR CAUSES SPECIFIED, BY PROCEEDINGS IN THE COURT OF THE JUDICIARY; CREATING A COURT ON THE JUDICIARY DIVIDED INTO A TRIAL DIVISION AND AN APPELLATE DIVISION VESTED WITH EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE MATTERS INVOLVING REMOVAL FROM OFFICE AND COMPULSORY RETIREMENT OF JUDGES; MEMBERS TO SERVE WITHOUT COMPENSATION BUT SHALL RECEIVE ALLOWANCE FOR EXPENSES; ESTABLISHING AND FIXING QUALIFICATIONS AND TENURE OF MEMBERS ON THE COURT; AUTHORIZING THE COURT TO ESTABLISH RULES OF PROCEDURE; METHOD OF INVOKING THE JURISDICTION OF THE COURT; AND PROVIDING A BALLOT TITLE.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE TWENTY-NINTH SESSION OF THE LEGISLATURE OF THE STATE OF OKLAHOMA:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment by adding Article VII-A to the Constitution of the State of Oklahoma:

Section 1. (a) In addition to other methods and causes prescribed by the Constitution and laws, the judges of any court, exercising judicial power under the provisions of Article VII, or under any other provision, of the Constitution of Oklahoma, shall be subject to removal from office, or to compulsory retirement from office, for causes herein specified, by proceedings in the Court on the Judiciary.

(b) Cause for removal from office shall be: gross neglect of duty; corruption in office; habitual drunkenness; commission while in office of any offense involving moral turpitude; gross partiality in office; oppression in office; conduct tending to bring the judiciary into disrepute.

(c) Cause for compulsory retirement from office, with or without compensation, shall be mental or physical disability preventing the proper performance of official duty, or incompetence to perform the duties of the office.

Correctly Enrolled: Richard E. Penny Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

Section 2. (a) There is created a Court on the Judiciary, hereinafter referred to as the Court, divided into a Trial Division and an Appellate Division. The Court is vested, subject to the provisions of this article, with sole and exclusive jurisdiction to hear and determine causes arising thereunder.

(b) The Trial Division shall be composed of nine (9) members, eight (8) of whom shall be the district judges senior in service, but under sixty (60) years of age, with no two (2) from the same Supreme Court Judicial District (in case of equal seniority, the eldest in years to serve), and one (1) active member of the Oklahoma Bar Association, chosen by the Supreme Court of the State of Oklahoma.

(c) The Appellate Division shall be composed of two (2) members of the Supreme Court, chosen by that court; one (1) member of the Court of Criminal Appeals, chosen by that court; one (1) active member of the Oklahoma Bar Association, chosen by the Supreme Court of the State of Oklahoma; and five (5) district judges, senior in service but under sixty-five (65) years of age; except that no more than one (1) district judge from any Supreme Court Judicial District shall serve. In the event of equal seniority, the eldest in years shall serve. If any district judge is qualified for both divisions, he shall serve on the Appellate Division and the next in qualification shall serve on the Trial Division.

(d) Within thirty (30) days after the adoption of this amendment, and thereafter prior to the first day in February of each odd-numbered year, the Chief Justice of the Supreme Court, the Presiding Judge of the Court of Criminal Appeals, and the President of the Bar Association shall certify to the Secretary of State the names of the judges who are chosen, respectively, by the said courts and by the Oklahoma Bar Association. The Secretary of State shall determine the district judges who hold membership on the Trial Division and the Appellate Division. Promptly thereafter he shall

Correctly Enrolled: Richard E. Romary Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

notify the members of the respective divisions to meet at the State Capitol on a day certain, within thirty (30) days, for purposes of organization and of making or amending rules of procedure.

(e) Members of the courts so designated shall serve until March first of the odd-numbered year next after the year in which they are named. The attainment of the age limit specified shall not terminate their service during the term.

Section 3. (a) Subject to the provisions of this Article, each division of the Court shall select its presiding judge, and shall be judge of the qualifications and the disqualification of its own members and shall make and publish its own rules of procedure. Each division shall meet on call of its presiding judge or three (3) of its members; a majority of the authorized membership of either division of the court shall constitute a quorum for the exercise of any or all of the jurisdiction of that division, regardless of whether or not vacancies exist in the membership of that division.

(b) The Clerk of the Supreme Court shall be the clerk of the court. He shall perform his duties under the direction of the Court or of the presiding judges.

(c) In the exercise of its jurisdiction, the Court is vested with full judicial power and authority, including the power to summon witnesses to appear and testify under oath and to compel the production of books, papers, documents, records, and other evidential objects; to issue all manner of judicial and remedial process and writs, legal or equitable; to provide for discovery procedures in advance of trial; to make rules governing procedure; to grant full immunity from prosecution or punishment when deemed necessary and proper in order to compel the giving of testimony under oath or the production of books, papers, documents, records, or other evidential objects. The specific enumeration of powers herein shall not derogate from the existence of other judicial power and authority in the Court, or from the exercise thereof in aid of its jurisdiction.

Correctly Enrolled: Richard E. Bryant, Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

Section 4. (a) The jurisdiction of the Trial Division of the Court may be invoked by a petition, filed either by the Supreme Court or the Chief Justice thereof; by the Governor; by the Attorney General; or by the Executive Secretary of the Oklahoma Bar Association when directed so to do by a vote of a majority of all members of its Executive Council; or by Resolution of the House of Delegates or by Resolution of the House of Representatives of the State of Oklahoma. The Petition shall state the name of the respondent; the grounds upon which his removal from office or compulsory retirement from office is sought; and such other matters as may be specified by the rules of the Trial Division. It shall be subject to amendment by order of either division of the Court.

(b) Immediately upon the filing of the petition, the Clerk shall notify the presiding officer of the Trial Division, and the respondent named therein, in accordance with the rules of the Trial Division. The presiding judge of the Trial Division shall secure from the Executive Council of the Oklahoma Bar Association a panel of five (5) active members of the Association from which the presiding judge shall designate the prosecutor, and any necessary assistant, to conduct the proceeding against the respondent.

(c) The Trial Division or the presiding judge shall set the matter for hearing, not less than sixty (60) days after notice of the filing of the petition shall have been given the respondent. In all procedural matters not covered by rule of the Trial Division, the provisions of the Code of Civil Procedure, or of the law of Oklahoma, shall be followed, so far as they may be applicable.

(d) Pending the determination of the proceedings, the Trial Division in its discretion may suspend the respondent from the exercise of his office. After full hearing, the Trial Division shall render such judgment as the facts may justify. No judgment shall extend further than: (1) to removal of the respondent from office, with or without disqualification to hold any public office of honor,

Correctly Enrolled: Richard E. Rogers Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

trust, or profit under this state, or (2) to compulsory retirement from office; but such a proceeding, regardless of result, shall not bar or prejudice any other proceeding, civil or criminal, authorized by law. A judicial officer who is a member of the retirement compensation system as provided by law and is compulsorily retired shall receive the retirement compensation to which his term of service entitled him.

Section 5. (a) From any judgment of the Trial Division, the respondent or the prosecutor may appeal to the Appellate Division, by filing a notice of appeal with the Clerk of the Supreme Court within ten days after entry of the judgment. The notice shall be served upon the opposite party in the manner prescribed by the rules of the Appellate Division.

(b) The preparation and certification of the record upon appeal and all proceedings upon the appeal, not prescribed by this action, shall be governed by the rules of the Appellate Division.

(c) The review in the Appellate Division shall be an equity appeal, as to both law and fact. The Appellate Division may affirm, modify, or reverse the judgment of the Trial Division, or enter a new judgment, as justice may require.

Section 6. (a) In all proceedings before the Court the established rules for disqualification of judges for interest, prejudice, or partiality shall apply. No district judge shall sit in a matter in which the respondent is a judge of a court within his district court judicial district. In the event of the disqualification or failure to act of a member of the Court, a judge pro tem to sit in his place shall be named by the authority appointing him; if he is a district judge, the qualified district judge from his Supreme Court judicial district, next in seniority, shall serve as judge pro tem.

(b) Members of the Court shall serve without compensation, but shall receive the allowance for expense permitted district judges

Correctly Enrolled: Richard E. Romano Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

serving outside their districts.

(c) The prosecutors shall receive such fair and just compensation as the respective division of the Court shall award for service before that division.

(d) The legislature shall appropriate such sums as may be necessary to carry out the provisions of this article.

Section 7. No other court shall have jurisdiction to restrict or control or review the orders of the Appellate Division of the Court on the Judiciary and no court except the Appellate Division shall have jurisdiction to restrict, control, or review the orders of the Trial Division. District and Superior Courts shall, on direction of a Division of the Court on the Judiciary, aid in carrying out its procedure and mandates.

SECTION 2. The ballot title for the proposed constitutional amendment shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No._____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

Shall a Constitutional Amendment

adding Article VII-A to the Constitution of the State of Oklahoma; providing a method of removal or compulsory retirement from office for cause specified, by proceedings in the court of the judiciary; creating a court on the judiciary divided into a Trial Division and an Appellate Division vested with full judicial power and authority and with exclusive jurisdiction to hear and determine causes involving removal from office, and compulsory retirement; providing for appointment of qualified judges by the Chief Justice of the Supreme Court, Presiding Judge of the Court of Criminal Appeals, and the President of the Bar Association, to serve on the Court on the Judiciary, said judges to serve without compensation, but shall receive the allowance for expenses permitted District Judges

Correctly Enrolled: Richard E. Romang Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

serving outside their districts; prescribing the method of invoking the jurisdiction of the court; providing for a prosecutor to be appointed by the presiding judge from a panel of five (5) active members of the Bar Association; the prosecutor shall receive such fair and just compensation as the respective division of the Court shall award for service before that division,

be approved by the people?

YES ☐

SHALL THE PROPOSED AMENDMENT BE APPROVED?

NO ☐

SECTION 3. The President of the Senate shall, immediately after the effective date of this resolution, prepare and file one copy thereof, including the above ballot title, with the Secretary of State and one copy with the Attorney General of the State of Oklahoma.

Passed the Senate the 11th day of June, 1963.

Acting President of the Senate

Passed the House of Representatives the 10th day of June, 1963.

Speaker of the House of Representatives

Correctly Enrolled: Richard E. Forary Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

Correctly Enrolled: Richard E. Rozzell Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

OFFICE OF THE GOVERNOR

Received by the Governor this 13

day of June, 1963,

at 5:05 o'clock P M.

By: DM Cox

Approved by the Governor of the State of Oklahoma the _____

day of _____, 1963.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

14 day of June, 1963,

at 2:59 o'clock P. M.

James M. Bullard

By: A Jones

bc

STATE OF OKLAHOMA
OFFICE OF THE ATTORNEY GENERAL
OKLAHOMA CITY

CHARLES NESBITT
ATTORNEY GENERAL

July 1, 1963

RECEIVED
JUL 1 1963
JAMES M. BULLARD
SECRETARY OF STATE

Honorable James M. Bullard
Secretary of State
B U I L D I N G

Dear Mr. Bullard:

You are hereby notified that pursuant to the discretion and duty lodged in and imposed upon the Attorney General by 34 O.S. 1961, § 9, he has examined the proposed ballot title to Enrolled Senate Joint Resolution No. 3 of the Regular Session of the Twenty-ninth Legislature of the State of Oklahoma, which, together with a copy of said resolution, was delivered to him on June 27, 1963, by the Honorable Leo Winters, President of the Senate, and from said examination finds that said ballot title is not in legal form or in harmony with the law. Therefore, the Attorney General submits the following ballot title which, in his opinion, is in legal form and in harmony with the law.

BALLOT TITLE

Legislative Referendum No. 141 State Question No. 415

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

Shall a constitutional amendment

> adding Article VII-A to Oklahoma Constitution; creating Court on the Judiciary with trial and appellate divisions having exclusive jurisdiction to remove or compel retirement of persons exercising constitutional judicial powers, for specified causes; court members selected by Supreme Court, Court of Criminal Appeals and

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JUL 1 1963
JAMES M. BULLARD
SECRETARY OF STATE

> Bar Association; prosecutions instituted by Supreme Court, Governor, Attorney General, Bar Association, or House of Representatives; Supreme Court to select prosecutor from Bar Association's list; court members to receive no compensation except expense allowance as for District Judges, prosecutor's compensation awarded by and in each Division of Court,

be approved by the people?

☐ YES

SHALL THE PROPOSED AMENDMENT BE APPROVED?

☐ NO

Inasmuch as 34 O.S. 1961, § 9, supra, expressly provides that

> "no appeal shall be allowed as to ballot titles of constitutional or legislative enactments proposed by the Legislature which ballot titles have been approved or revised by the Attorney General.",

it is your duty, under the provisions of said section, to immediately

> "transmit to the Secretary of the State Election Board an attested copy of the pending proposition, including such approved title."

Yours very truly,

FOR THE ATTORNEY GENERAL

Harvey H. Cody

HARVEY H. CODY
Assistant Attorney General

HHC:gld