

INSTRUCTIONS

TO THE CIRCULATORS OF INITIATIVE PETITIONS

WARNING

- (a) It is unlawful for any person other than a qualified elector of the State of Oklahoma to circulate any Initiative or Referendum Petition. The circulator must be a registered voter within the State of Oklahoma.
- (b) Only legally registered voters in the State of Oklahoma are eligible to sign this petition. They may sign only once but may sign it anywhere in the State, regardless of where they are registered.
- (c) The petition must be signed in the circulator's presence with a pen or indelible pencil. The signer must sign exactly as he is registered and must list his name and address in his own handwriting. He may not sign for his spouse.
- (d) A petition may contain from one to forty signatures.
- (e) A circulator cannot sign his own petition.
- (f) The circulator must print the name of each signer on the back of the petition in the space provided after each signer affixes his name to the petition, or before the petition is notarized.
- (g) The circulator must sign the petition as a witness to the signatures carried therein **in the presence of a notary public** in the space provided on the last page.

SPECIAL NOTE: Each one who circulates the initiative petition should see that the above instructions are complied with; especially, that the names have been filled in properly on the back of the petition and the affidavit made by the one who circulated the petition.

NOTICE TO CIRCULATOR: Return petitions *AFTER* notarization to *Oklahomans for Modern Alcoholic Beverage Controls, Suite 322, Hotel Oklahoma, Oklahoma City, Oklahoma 73102.*

State Question #480
Initiative Petition #288

"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 the measure, or to sign such petition when he is not a legal voter.

INITIATIVE PETITION

TO THE HONORABLE DAVID HALL
GOVERNOR OF OKLAHOMA

We, the undersigned citizens and legal voters of the State of Oklahoma, respectfully order that the following proposed Amendment to the Constitution 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 7th day of November, 1972, or at a special election which might be called for said purpose, and each for himself says:

"I have personally signed this Petition, I am a legal voter of the State of Oklahoma; my residence and post office are correctly written after my name. The time for filing this petition expires ninety days from the 15th day of April, 1971. The question we herewith submit to our fellow voters is:

Shall the following proposed Amendment to the Constitution of the State of Oklahoma be approved?

TITLE

AN AMENDMENT TO SECTIONS 3, 4, AND 5 OF ARTICLE XXVII OF THE CONSTITUTION OF THE STATE OF OKLAHOMA PERMITTING THE SALE OF INTOXICATING ALCOHOLIC BEVERAGES BY THE INDIVIDUAL DRINK FOR ON PREMISE CONSUMPTION; ALLOWING AREA FRANCHISE AGREEMENTS FOR THE MARKETING OF INTOXICATING ALCOHOLIC BEVERAGES; PERMITTING ADVERTISING; PROVIDING FOR ENACTMENT OF LEGISLATION REGULATING THE MANUFACTURE, SALE, DISTRIBUTION, POSSESSION, AND TRANSPORTATION OF INTOXICATING ALCOHOLIC BEVERAGES AND THE LICENSING AND TAXATION THEREOF CONSISTENT WITH THE PROVISION OF THIS AMENDMENT; PROHIBITING SALES TO CERTAIN PERSONS AND PRESCRIBING PENALTIES.

Be it enacted by the people of the State of Oklahoma that Sections 3, 4 and 5 of Article 27 of the Constitution of the State of Oklahoma be amended to read as follows:

Section: 3. ENACTMENT OF LAWS BY THE LEGISLATURE — SALES TO LICENSED WHOLESALE DISTRIBUTORS AND RETAILERS

The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession and transportation of intoxicating alcoholic beverages, consistent with the provisions of this amendment. Provided that any manufacturer, or subsidiary of any manufacturer who markets his product solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker, brewer, or importer of intoxicating alcoholic beverages bottled or made in a foreign country, either within or without this State, may sell or market such intoxicating alcoholic beverages only to wholesale distributors duly licensed by the State of Oklahoma, and all licensed

wholesale distributors may sell all of their intoxicating alcoholic beverages to all licensed retailers in their marketing area. Such manufacturer or subsidiary of any manufacturer who markets his product solely through a subsidiary or subsidiaries, distiller, brewer, rectifier, bottler, winemaker, or importer of intoxicating alcoholic beverages wheresoever bottled and any licensed wholesale distributor shall have the right to enter into such area franchise and other marketing agreements as do not violate the general anti-monopoly laws of the United States. All laws enacted by the Legislature shall be consistent with this provision.

Section 4. RETAIL SALE OF INTOXICATING ALCOHOLIC BEVERAGES

Intoxicating alcoholic beverages may hereafter be lawfully sold at retail only:

- (a) In the original sealed package by privately owned and operated package stores, in cities and towns having a population in excess of two hundred. No goods, wares or merchandise shall be sold and no services shall be rendered on the same premises on which intoxicating alcoholic beverages are sold. Premises are herein defined to be the entire space in which such intoxicating alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted. This sub-section shall not apply to on-premise outlets. Not more than one retail package store license shall be issued to any person or general or limited partnership.
- (b) By the individual drink for consumption on the premises when sold by a licensee authorized to make said sales.

Section. 5. PROHIBITION OF SALES TO CERTAIN PERSONS—LIMITATION ON ADVERTISING AND PENALTIES

It shall be unlawful for any licensee to sell or furnish any intoxicating alcoholic beverage to:

- (a) A person under twenty-one (21) years of age;
- (b) A person who has been adjudged insane or mentally deficient; or
- (c) A person who is intoxicated.

The sale or furnishing of any intoxicating alcoholic beverage to persons above-designated shall be deemed a felony: Upon conviction of such felony, any license issued under the terms of this Amendment shall be revoked.

It shall be unlawful for any retail package liquor store to advertise the sale of alcoholic beverages within the State of Oklahoma, except by one sign at the retail outlet bearing the words, "RETAIL ALCOHOLIC LIQUOR STORE"; provided that brand advertising shall be permitted within the licensed premises of a retail package liquor store.

Brand advertising and advertising by all other licensees, including on-premise outlets, shall be permitted.

Any person under the age of twenty-one (21) years who misrepresents his age, for the purpose of obtaining the purchase of any intoxicating alcoholic beverage, shall be guilty of a misdemeanor.

Sec of State

FILED
SUPREME COURT
OF OKLAHOMA
OCT 12 1972
ANDY PAYNE
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

OKLAHOMANS FOR MODERN ALCOHOLIC
BEVERAGE CONTROLS, INC.,

Proponent,

vs.

JOHN B. SHELTON, ROBERT S. SCALES,
JAMES N. POSEY, and ROSS J. McLENNAN,

Contestants.

No. 45,410

REFEREE REPORT

The above styled cause was referred to me as Referee by order entered February 7, 1972. Hearings were held on March 14 and 15, 1972 and resumed April 5, 6, and 7, 1972. The cause was adjourned and resumed May 31, 1972 pursuant to order and with brief adjournments was continued to conclusion of evidentiary hearings on August 22, 1972.

I have made findings of fact and set out related conclusions of law as hereinafter stated.

[Handwritten Signature]
Referee
OCT 4 1972

Hearing was commenced March 14, 1972, to determine factual issues relating to Initiative Petition numbered 288, State Question 480, and with occasional adjournment for good cause, was concluded August 22, 1972. The record of proceedings was completed October 2, 1972.

The final order by the Secretary of State does not determine the total number of signatures on the petition. Counsel for the parties stipulated that the petition bears a gross number of signatures totaling 144,624.

On the basis of the evidence adduced I find the hereinafter stated facts to be established by at least a fair preponderance of the evidence. Conclusions of law follow fact findings.

1. The gross number of signatures affixed to the initiative petition is 144,624.

2. The number of valid signatures required to place the proposition before the electorate is 104,818⁹, computed is fifteen percent of 698,790 which is the total vote cast for the office of Governor in the general election conducted November 8, 1970.

3. Successful challenge to 39,807 signatures would render the petition invalid.

4. Signatures of 33,709 persons not registered to vote during the circulation interval, or who became registered during the interval but after they had signed the petition are by the fact of non-registry rendered invalid. Cont. Exh. 92, 93, 94-98, 102, 103, 107-109, 112-114, 116-123, 125-136, 138, 143-151, 153-156, 193-196; Proponents Exh. 51, 53, 56-59, 61-64, 72-83, 92-98, 100-106, 108-111; Contestants Rebuttal Ech. 286-290, 292-294. In Re Initiative Petition No. 142, State Question No. 205, 176 Okl. 155, 55 P.2d 455, 460.

5. The petition bears 135 illegible signatures. The identity of the persons signing cannot be ascertained. I hold those 135 signatures invalid. Only a registered voter can sign an initiative petition. 34 O.S. 1971 §§ 3,6 and 23. Initiative Petition 142 State Question 205, Supra. An illegible signature forestalls

determination of eligibility of a signatory to sign. Illegibility of these signatures is asserted by proponents and contestants agree. (Pro. Ex. 107)

6. Contestants have challenged 2,355 signatures which appear on pamphlets circulated by a person not a registered voter. The challenge is based upon the contention that the words "legal voter" as they are used in 34 O.S. 1971 § 3 concerning signers have the same meaning as the words "qualified elector" as they are used in the following section 3.1 concerning circulators. Proponents take the position in their brief filed by direction of the court that a circulator need not be a registered voter to be a qualified elector. Contestants in challenging the related signatures limited proof to non-registry by the circulator as a voter. I conclude as a matter of law that all of the 2,355 signatures challenged on this ground are valid, there being no proof in the record that the circulators were not qualified electors. (Contestants Exhibits 139-142)

7. I find as a fact that 829 signatures are invalid for the reason that they were subscribed out of the presence of the circulator, or that the acknowledgement by the circulator in making his affidavit was improperly performed. Contestants challenged 2,199 names on the grounds stated. The related exhibits are 6 through 10, 16 through 54 and 66 through 90. A review of the testimony and evidence would needlessly expand the referee report. In many of these challenges contestants assert that a circulator, having made his affidavit, thereafter, in responding to a questionnaire sent by or for the contestants, responded in a manner which contestants urge as impeachment of the circulator's affidavit. However, these circulators appeared and testified that the signatures were affixed in his presence, or identified the particular signatures which were or which were not, affixed in his presence. Certainly an admission of falsity of the affidavit, absent other proof, destroys the probative value of the affidavit and the entire pamphlet would be excluded. But where the circulator by his testimony redeems the properly affixed signatures from the

challenge, such testimony is sufficient to affirmatively prove those signatures which were properly affixed, within the rule pronounced in In Re Initiative Petition No. 145, State Question 215, 187 Okl. 284, 102 P.2d 189; cite also 55 P.2d 455 and 244 P. 801. In other instances in the challenge of these 2,199 names a witness was unable to positively recall whether she appeared before the notary taking her acknowledgement, several months after the fact. That testimony does not impeach the affidavit because it obviously was in consequence of the meticulousness of the witness while testifying, and not from any real and well founded doubt. Other challenges are based upon the assertion that certain signatures were affixed at a place sufficiently far removed from the circulator to be out of his presence. One challenged pamphlet was circulated by a bartender who observed subscription of some signatures across the room, a distance of several feet. Such a challenge is hyper technical. I find valid the signatures challenged in the related exhibits by contestants, except for 829 found invalid.

8. I find as a fact that petition counterparts on which appear 315 purported signatures circulated by Karen Kraker are challenged as invalid by contestants and confessed to be invalid by proponents and that therefore the 315 purported signatures on such pamphlets are invalid. I further find that four additional pamphlets bearing 133 purported signatures are challenged by the contestants and are confessed by the proponents and I therefore find an additional 133 purported signatures invalid under this fact finding a total of 448 purported signatures are found invalid.

9. Contestants challenge signatures by their Exhibit 212, asserting that in 1,015 instances the name of the same person appears on the petition more than one time. I find as a fact that of these challenged signatures 671 are invalid. Certainly a citizen cannot effectively affix his or her signature to an initiative or referendum petition more than once, and where the signature is duplicated, the duplicated signature or signatures

are to be disregarded. In Re Referendum Petition on House Bill No. 509, 78 Okl. 47, 186 P. 485. To disregard each of duplicated signatures would impose a sanction which the law does not contemplate. I find that one of each set of the duplicate signatures is valid unless otherwise successfully challenged, and find in this reference 671 signatures invalid.

10. Contestants, by the testimony a witness, Mrs. McPherran, who, by stipulation of the parties, testified as a handwriting expert, essayed to prove that 951 signatures were subscribed by someone who subscribed two or more names. The proof adduced consisted exclusively of the expert opinion of the witness. The related contestants exhibit is numbered 216. The witness made no effort to distinguish the signatures and contestants take the position that each of them is invalid. I find the related evidence sufficient to overcome the presumption of validity as to all the signatures challenged on this ground and sustain the challenge to 460 signatures, on contestants Exhibit 216. In Re Initiative Petition No. 196, State Question No. 273, 102 P.2d 189.

11. Contestants have challenged 167 signatures on the ground that the persons whose signatures are challenged are residents of Oklahoma City or Tulsa and each failed to give a street address. Related contestants exhibits are 207 and 207-A. I find that each of these challenges is effective under the rule propounded by this court in In The Matter of Referendum Petition No. 119, State Question No. 381, Okl., 339 P.2d 532. ^{should be 176 one 155, 55 P.2d 455} However, I also find as a fact that of these 167 signatures, 34 of them are also successfully challenged as unregistered. Where challenges are tandem, success of one challenge renders any and all other challenges to that signature moot. I therefore find that of the 167 signatures here challenged, 133 are valid challenges. Thirty-four challenges are not effective, they having been effectively challenged on other grounds.

12. Contestants have challenged 102 signatures for failure to provide a post office address, and 171 signatures on the ground

the signer gave as a post office address the word "City" with a street address which was patently in Oklahoma City. Cont. Ex. 208-208-A. I find that contestants were not at all disadvantaged by the abbreviation, and although the practice is not in accord with the provisions of 34 O.S. § 1 et seq, Initiative and Referendum, it nevertheless is a generally understood usage and the challenge is intrinsically technical. In this same context contestants challenge 6,205 signatures for the reason the signer used the letters "MWC", "OC", "OKC", "B'ville" and like abbreviations. Abbreviations if sufficiently generally understood, are technical violations unless a contesting party is actually burdened by the use, and I find the contestants here were in no sense burdened. The 102 persons who omitted to state a post office address are challenged and I find those signatures invalid.

13. Eighteen persons signing the petition gave addresses not in Oklahoma from which I infer I find as a fact that those persons are non-resident in Oklahoma and consequently ineligible to lawfully sign an initiative petition in Oklahoma. 34 O.S. 1971 § 2. Contestants Exhibits 256 and 256-A.

14. I find as a fact that pamphlet numberd 1904 bearing 37 signatures is not verified by the circulator because of omission of the signature of the person taking the circulators acknowledgement. I therefore find the affected 37 signatures invalid. 34 O.S. 1971 § 6. The related Contestants Exhibit is numbered 257. Concerning other challenges on Exhibit 257 I find that on pamphlets bearing 119 signatures the circulator of the pamphlet essayed to take his own acknowledgement and I find that the 119 signatures on those pamphlets were thereby made invalid. In Re Initiative Petition No. 224, State Question No. 314, 197 Okl. 432, 172 P.2d 324. By the same exhibit contestants challenge 47 signatures on pamphlets whereon the circulator acknowledged his verification signature before a notary public whose commission had expired. I find these 47 signatures invalid. I find all other challenges in contestants exhibit 257 to be technical within the compass of the law as set out in In Re Initiative Petition No. 244, State

Question No. 314, 172 P.2d 324, 327. Based on Exhibit 257 I find a total of 203 signatures are invalid.

15. By Exhibit 260 contestants challenge signatures on pamphlets whereon occur asserted defects relating to circulators. Pamphlets bearing 449 signatures are challenged because the circulator failed to give a sufficient post office address. Each asserted defect is based on varying abbreviations of Oklahoma City. The post office address is readily determinable in each instance although abbreviated and is in fact a substantial compliance. Also challenged on this exhibit are the signatures of 176 persons whose signatures appear on pamphlets whereon the circulator gave a post office address of Tulsa or Oklahoma City, without elaboration. I conclude as a matter of law that such challenge is specifically within the ruling of this court in In Re Initiative Petition, No. 272, State Question No. 409, Okl., 388 P.2d 290, 294, and find the challenged 176 signatures are valid. Contestants in the same exhibit challenge six signatures because the circulator signed the petition counterpart which he circulated, and certified his own signature. There is no basis for such challenge and I find the six challenged signatures valid. By the same exhibit contestants challenge 1,963 signatures on the ground that the name of the circulator as it appears in the affidavit varies from the subscribed signature of the affiant. This is purely technical and I find the affidavit in these instances sufficient under the governing statute, 34 O.S. 1971 § 6.

16. Contestants challenge of 495 signatures under their Exhibit 140 and 140-A is not supported by any evidence to show the circulator involved was not a qualified elector.

17. Contestants challenge 231 signatures on the ground some persons inscribed multiple names to petition pamphlets. The related exhibits are 266 through 272. Exhibit 266 is a signature pamphlet. The circulator obtained signatures of sixteen persons on the pamphlet, subscribed in the spaces provided for verification of the signatures. The names of these signers were then printed on the signature side. The challenge is based purely on the use of the obverse side for the purpose of the reverse side, and vice versa.

No doubt is cast on the genuineness of the signatures and the defect is clerical, and technical. Concerning Exhibits 267 through 272, these are signature pamphlets. The expert witness in handwriting testified that multiple signatures on these pamphlets were inscribed by one person. I find that the opinion evidence of the witness considered in conjunction with the Referee's examination of the pamphlets whereon the challenged signatures appear, is insufficient to overcome the presumption of validity of the signatures and find all such signatures valid.

18. I find that pamphlet 1474 was was inadvertently verified by Ernestine Kunc when ^{which} that pamphlet was ^{in fact} circulated by some other person. The forty signatures on pamphlet 1474 are therefore invalid. Challenge by contestants of other pamphlets circulated by Ernestine Kunc has no basis and I find those pamphlets not to be rendered invalid by the inadvertence mentioned. The related Contestant's Exh. is numbered 259-T.

19. Contestants, by Exhibits 273, 274 and 275 challenge 26 signatures on the basis of opinion evidence by the witness for contestants whose expertise is handwriting is agreed by the parties, to the effect that these 26 signatures were subscribed by the circulator of the petitions from which the subject pamphlets were detached. The evidence adduced is not sufficient to overcome the presumption of validity. The challenged signatures are predominately those of persons residing locally. Contestants offered no proof relating to the least inquiry of these persons. I find the challenged signatures valid on the basis of the legal presumption of validity, and the quantum of proof adduced.

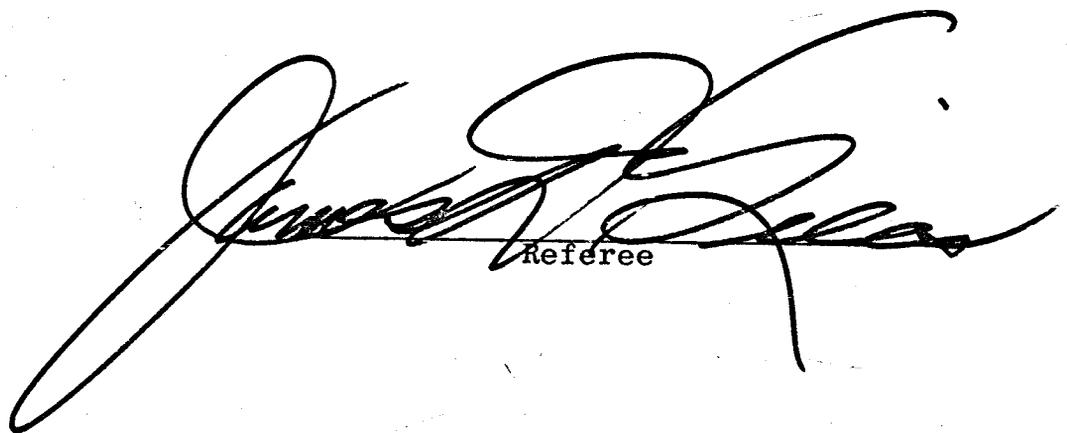
20. Contestants Exhibits 258 and 258-A concern the fact that the name of Mrs. Ballyeat appears on each of these pamphlets, one circulated by Mrs. Sturm and one circulated by Tony Clark. Mrs Sturm testified as a witness that Mrs. Ballyeat signed the petition she, Mrs. Sturm circulated. Mrs. Ballyeat testified she signed only the petition circulated by Mr. Clark. Mrs. Ballyeat could effectively sign but once, but absent a showing of guilty knowledge or intentional wrong doing, the remaining signatures on the pamphlet circulated by Mrs. Sturm are not impeached. There

is no basis in the record to find that the duplicate signature is elsewhere challenged and I find one signature invalid.

21. By Exhibits 209 and 209-A contestants challenge 713 signatures on the ground that the challenged signatures were improperly certified on the reverse side of the signature pamphlets involved. The challenge is often based on the difference in the respective versions of the circulator vis a vis the version of some staff member of the contestants. The exhibits reflect numerous challenges based upon minor variations. I find that of the 713 challenged signatures there are in fact 221 instances where the manner of certification by the circulator is improperly done to an extent to sustain the challenge to the related signatures. As to the remaining challenges under Contestants exhibits 209 and 209-A, there is substantial compliance with the provision of 34 O.S. 1971 § 6.

The total number of successfully challenged signatures in the foregoing is 36,970. The initiative petition bears therefore 107,654 valid signatures. Contestants have challenged a total of 53,165 signatures. In the foregoing fact finding 51,765 challenges have been adjudicated. There remain 1,400 challenges which are not specifically dealt with. The seeming discrepancy is found as a fact to result from tandem challenges. Assuming, arguendo, that such is not the case and that these 1,400 challenges are not duplicate or tandem, and were all sustained, the validity of the petition would still be established but of course by a narrower margin.

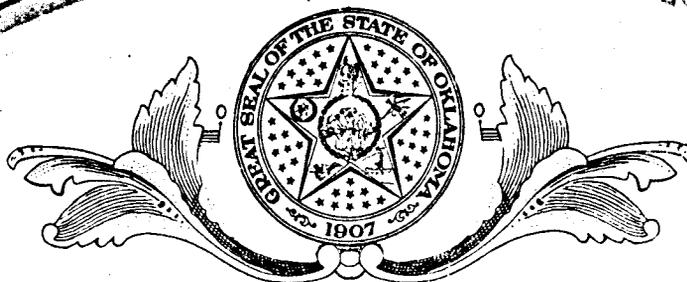
DATED THIS 4th DAY OF OCTOBER, 1972.


Referee

FILED

NOV 14 1972

JOHN ROGERS
SECRETARY OF STATE



EXECUTIVE DEPARTMENT

Proclamation

Pursuant to Title 34, Section 66, Oklahoma Statutes 1971, I, DAVID HALL, GOVERNOR of the State of Oklahoma, do hereby proclaim the following to be the results of the votes at the General Election on November 7, 1972:

STATE QUESTION NO. 480 - INITIATIVE PETITION NO. 288

Total Votes Cast on the Measure	988,553
Total Votes Approving the Measure	463,405
Total Vote Disapproving the Measure	525,148

Original with question State 480

STATE QUESTION NO. 486 - LEGISLATIVE REFERENDUM NO. 192

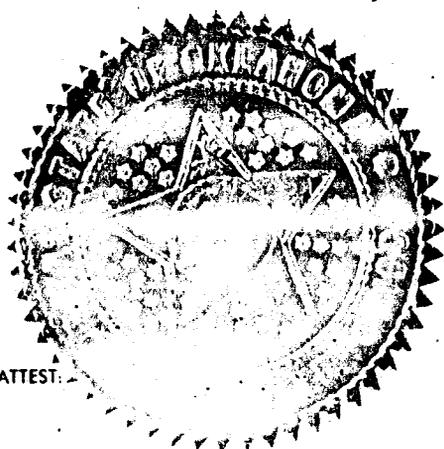
Total Votes Cast on the Measure	924,582
Total Votes Approving the Measure	537,310
Total Vote Disapproving the Measure	387,272

STATE QUESTION NO. 487 - LEGISLATIVE REFERENDUM NO. 193

Total Votes Cast on the Measure	903,989
Total Votes Approving the Measure	490,966
Total Vote Disapproving the Measure	413,023

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed.

Done at the Capitol, in the City of Oklahoma City, this 13th day of November, in the Year of Our Lord one thousand nine hundred and seventy-two, and of the State of Oklahoma the Sixty-fourth year.



ATTEST

John Rogers
SECRETARY OF STATE

David Hall
GOVERNOR