

Enrolled

Senate Joint Resolution No. 15.

By Lutherlin.

A Resolution Proposing an Amendment to the Constitution of this State.

Be It Enacted by the Legislature of the State of Oklahoma:

That the following amendment to the Constitution of this State is hereby proposed; said amendment with the yeas and nays thereon to be entered in the journals of the respective bodies of the Legislature and referred by the Secretary of State to the people for their approval or rejection, to-wit:

The Supreme Court and the Criminal Court of Appeals, as now constituted, shall be and the same are hereby consolidated, and shall hereafter be known as the Supreme Court of Oklahoma, which court, until the number shall be changed by the Legislature, shall consist of nine (9) justices, who may be nominated from districts or the State at large, or part from districts and others from the State at large, and elected from districts or the State at large, or part from districts and others from the State at large, as may be provided by the Legislature.

The Criminal Court of Appeals, as the same shall be constituted at the time this provision takes effect, shall constitute one division of said court, and shall be known as the Criminal Division of the Supreme Court of Oklahoma. The other six members of the Supreme Court shall comprise the five members constituting the court at the time this provision takes effect, and another member to be appointed by the Governor, to hold office beginning with the second Monday in January, 1917, and ending with the second Monday in January, 1919. At the General Election to be held in 1918, his successor shall be elected for a full term of six years. Said six members of said court shall constitute the Civil Department of the Supreme Court of the State and shall be divided into Civil Divisions, so that each of said Civil Divisions shall consist of at least three justices. The divisions shall sit separately for the hearing and disposition of causes and matters pertaining thereto, and shall have concurrent jurisdiction of all matters and causes, except that the Criminal Division shall have exclusive

M. S. Lutherlin
Secretary of State

cognizance of all criminal cases that may be pending in said court. The justices of the Criminal Division shall have the same qualifications and tenure as the members of said court, and shall be nominated and elected as members of this division, as the Legislature may provide. Under the restrictions herein imposed, all appeals in criminal causes shall be to the Criminal Division of the Supreme Court. A majority of the justices of a division shall constitute a quorum thereof, and all orders, judgments or decrees of either division as to causes or matters pending before it, shall have the force and effect of those of the court, except as the Legislature otherwise provides. Rules for the assignment to each division of causes and matters to be heard by it, as well as to rules of practice in said court, shall be prescribed by the Supreme Court; and all laws relating to practice in the Supreme Court, as well as rules relating to the Supreme Court, shall apply to each division, insofar as they may be applicable thereto; and the Supreme Court may provide rules of practice in and for the governing of said court, in all respects subject to the control of the Legislature.

The opinions of each division and of the court, sitting in banc, shall, except as otherwise provided by law, be in writing. Whenever the justices of a division are unable to decide any question or cause, or when a justice dissents from the decision thereof, or when constitutional or federal questions are involved, the cause shall be transferred to the court for its decision, under such rules as may be prescribed by the court; and the court may, as provided by the Legislature, sit in banc to review the decision of any division.

The Legislature may limit and prescribe the terms and conditions of appeals from any court, commission, or board to the Supreme Court, or to any other court, commission, or board.

The Chief Justice may assign a justice of the Criminal Division to sit in lieu of a justice of another division in the decision of any cause, or number of causes, before that division, and may likewise assign a justice of one of the Civil Divisions to sit in lieu of a justice of the criminal division in the decision of any cause or number of causes before said division."

Approved and
signed in presence of
the Senate and
House of Representatives
this 1st day of
January 1888.

Passed by the Senate February 25th 1915.

M. E. Dixon
President of the Senate.

Passed by the House of Representatives March 6th 1915.

U. M. Cronin
Speaker of the House of Representatives.

Approved this March 11th 1915.

R. L. Williams
Governor of the State of Oklahoma.

Barrett & Smith

SENATE JOINT RESOLUTION No. 18. APPROVED MARCH 11, 1915

-----BALLOT TITLE-----

Proposed amendment to Constitution providing for consolidation of supreme and criminal court of appeals as now constituted, with an additional justice, and as consolidated to be known as the Supreme Court of Oklahoma. Said court to sit in divisions of at least three justices; one Criminal Division to which appeals in criminal cases shall be taken; authorizing Legislature to provide for nomination and election and may reduce or increase the number of justices of said court and change the districts; appeals to be limited; relates also to rules of practice, decisions and organization of the court.

* * *

Be it enacted by the Legislature of the State of Oklahoma: That the following amendment to the Constitution of this State is hereby proposed; said amendment with the yeas and nays thereon to be entered in the Journals of the respective bodies of the Legislature and referred by the Secretary of State to the people for their approval or rejection, to-wit:

"The Supreme Court and the Criminal Court of Appeals, as now constituted, shall be and the same are hereby consolidated, and shall hereafter be known as the Supreme Court of Oklahoma, which court, until the number shall be changed by the Legislature, shall consist of Nine (9) justices, who may be nominated from districts or the State at large, or part from districts and others from the State at large, and elected from districts or the State at large, or part from districts and others from the State at large, as may be provided by the Legislature.

The Criminal Court of Appeals, as the same shall be constituted at the time this provision takes effect, shall constitute one division of said court, and shall be known as the Criminal Division of the Supreme Court of Oklahoma. The other six members of the Supreme Court shall comprise the five members ~~of the Supreme Court~~ constituting the court at the time this provision takes effect, and another member to be appointed by the Governor, to hold office beginning with the second Monday in January, 1917, and ending with the second Monday in January, 1919. At the General Election to be held in

1918, his successor shall be elected for a full term of six years. Said six members of said Court shall constitute the Civil Department of the Supreme Court of the State and shall be divided into Civil Divisions, so that each of said Civil Divisions shall consist of at least three justices. The divisions shall sit ^{separately} ~~separtely~~ for the hearing and disposition of causes and matters pertaining thereto, and shall have concurrent jurisdiction of all matters and causes, except that the Criminal Division shall have exclusive cognizance of all criminal cases that may be pending in said Court. The justices of the Criminal Division shall have the same qualifications and tenure as the members of said Court, and shall be nominated and elected as members of this division, as the Legislature may provide. Under the restrictions herein imposed, all appeals in criminal causes shall be to the Criminal Division of the Supreme Court. A majority of the justices of a division shall constitute a quorum thereof, and all orders, judgments or decrees of either division as to causes or matters pending before it, shall have the force and effect of those of the Court, except as the Legislature otherwise provides. Rules for the assignment to each division of causes and matters to be heard by it, as well as to rules of practice in said court, shall be prescribed by the Supreme Court; and all laws relating to practice in the Supreme Court, as well as rules relating to the Supreme Court shall apply to each division, insofar as they may be applicable thereto; and the Supreme Court may provide rules of practice in and for the governing of said Court, in all respects subject to the control of the Legislature.

The opinions of each division and of the court, sitting en banc, shall, except as otherwise provided by law, be in writing. Whenever the justices of a division are unable to decide any question or cause, or when a justice dissents from the decision thereof, or when constitutional or federal questions are involved, the cause shall be transferred to the Court for its decision, under such rules as may be prescribed by the Court; and the court may, as provided by the Legislature, sit en banc to

review the decision of any division.

The Legislature may limit and prescribe the terms and conditions of appeals from any court, commission, or board to the Supreme Court, or to any other Court, commission, or board.

The Chief Justice may assign a justice of the Criminal Division to sit in lieu of a justice of another division in the decision of any cause, or number of causes, before that division, and may likewise assign a justice of one of the Civil Divisions to sit in ~~xxx~~ lieu of a justice of the Criminal division in the decision of any cause or number of causes before said division."

S. P. FREELING
ATTORNEY GENERAL

JNO. B. HARRISON
R. E. WOOD
R. McMILLAN
SMITH C. MATSON
C. W. KING
J. I. HOWARD

BANKING DEPARTMENT
J. H. MILEY
SCHOOL LAND DEPARTMENT
ASSISTANT ATTORNEYS GENERAL

STATE OF OKLAHOMA
OFFICE OF THE
ATTORNEY GENERAL

OKLAHOMA CITY
April 20, 1916

PLEASE REFER TO INITIAL SCM/HML

To the Secretary of State,
City.

Dear Sir:

Receipt is acknowledged of your communication enclosing copies of joint resolutions passed by the Legislatures of 1915 and 1916, proposing amendments to the Constitution of the State, together with proposed ballot titles for the submission of such proposed amendments and requesting this office in the event such ballot titles are not approved, to prepare ballot titles to conform to each of such proposed amendments. We submit herewith ballot titles to be used by you in the submission of these amendments as follows:

SO 82 SENATE JOINT RESOLUTION OR BILL #6, THE 1916 LEGISLATURE.

To this proposed amendment the Legislature has prescribed a ballot title in Section 3 of said resolution, which ballot title must be used in the submission of this proposed amendment and also in connection with the preparation of this ballot the form prescribed by the Legislature must be strictly followed.

Secretary of State-2

✓
SQ. 83 SENATE JOINT RESOLUTION #12, APPROVED MARCH 13, 1915.

To this resolution the following ballot title is adopted:

The gist of this proposition is to repeal section 12a of article 10 of the Constitution, which section provides that all taxes collected for the maintenance of the common schools of the state and which are levied upon the property of any public service corporation operating in more than one county in the state shall be paid into the common school fund and distributed as are other common school funds of the state.

SO 89 SENATE JOINT RESOLUTION #16, APPROVED MARCH 11, 1915.

For this proposed amendment the following ballot title is prepared:

An amendment abolishing county court and vesting jurisdiction of county court, including probate matters, in district court; district court to have original jurisdiction in all civil and criminal matters whatever, except where Legislature hereafter confers exclusive jurisdiction on some other court; clerk of district court appointed by and holding at pleasure of judge and to exercise such judicial power as Legislature may provide; district judge ineligible to become candidate for office during his term except to succeed himself. Amendment to become effective second Monday of January, 1917.

The following ballot title is prepared to be used in connection with the submission of Senate Joint Resolution

SQ 87 No. 18, Approved March 11, 1915:

✓ Proposed amendment to Constitution providing for consolidation of supreme and criminal court of appeals as now constituted, with an additional justice, and as consolidated to be known as the Supreme Court of Oklahoma. Said court to sit in divisions of at least three justices; one Criminal Division to which appeals in criminal cases shall be taken; authorizing Legislature to provide for nomination and election and may reduce or increase the number of justices of said court and change the districts; appeals to be limited; relates also to rules of practice, decisions and organization of the court.

5088
SENATE JOINT RESOLUTION #22, APPROVED MARCH 11, 1915

The ballot title is as follows:

Proposed amendment to Section 19, Article 2, Constitution, providing that juries in courts of record other than county court, shall consist of 8 men, except in capital cases to consist of 12 men; juries in county court and courts not of record to consist of 6 men; in all civil cases and criminal cases less than felonies, three-fourths of jury may render verdict; also that Legislature may provide for rendering final judgment in the appellate court without remanding cause for retrial by jury as to the facts.

5085
SENATE JOINT RESOLUTION #20, APPROVED MARCH 30, 1915.

The ballot title is as follows:

Proposed amendment to Section 27, Article 10, Constitution relating to limitations upon indebtedness of incorporated cities and towns, limits such municipalities as to indebtedness in addition to the amount allowed under Section 26, Article 10, Constitution, to only 5 per cent of the assessed valuation of the property therein, for the purpose of purchasing, constructing or repairing municipal-owned public utilities; such additional indebtedness to be authorized by assent of three-fifths of the qualified, property taxpaying voters at an election, and this limitation not to include indebtedness incurred under Section 27, Article 10, prior to adoption of this amendment.

5084
SENATE JOINT RESOLUTION #27, APPROVED MARCH 30, 1915.

The ballot title is as follows:

This proposed amendment to the Constitution reduces the salary of the Clerk of the Supreme Court to \$2500.00 instead of \$3000.00 as now provided; clerk to be appointed by the Supreme Court; and constitutes the clerk ex officio clerk of any other appellate courts in the state; amendment to be effective second Monday in January, 1919.

5080
HOUSE JOINT RESOLUTION #1, APPROVED MARCH 30, 1915.

The ballot title is as follows;

Secretary of State-4

Proposed amendment to Section 7, Article 23, Constitution, authorizing the Legislature to provide for compulsory or elective compensation by the employer to the employee in case of death, permanent or partial disability and to create the machinery for the administration of such workmen's or employees' compensation fund.

5281 HOUSE JOINT RESOLUTION #17, APPROVED MARCH 30, 1915.

The ballot title is as follows:

Proposed amendment to Section 21, Article 10, of the Constitution creating a state tax commission of three members to adjust or assess and equalize the valuation of real and personal property between counties and assess all railroad and public service corporation property and to exercise such other powers relating to taxation as may be prescribed by the Legislature. Abolishes State Board of Equalization as now constituted.

Very truly,

For the Attorney General,

Smith C. Matson
Assistant Attorney General.

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ARGUMENT IN SUPPORT OF THE CONSTITUTIONAL AMENDMENT SUBMITTED UNDER SENATE JOINT RESOLUTION 18 PROVIDING FOR A RE-ORGANIZATION OF THE SUPREME COURT AND THE CRIMINAL COURT OF APPEALS.

This proposed amendment accomplishes the following desirable changes in the present law.

1. It consolidates the Supreme Court and the Criminal Court of Appeals. At present these courts are entirely separate and independent. This occasionally causes some confusion and conflict in decisions without any provision for adjusting such conflicts. Under the proposed amendment, the courts being consolidated, the possibility of such confusion and conflict is obviated.

2. The proposed amendment provides for the election of judges either from districts or the state at large or partly from districts and partly from the state at large as may be provided by the Legislature. Under the present law all justices of the supreme court must be nominated by districts and elected from the state at large. If the people so desire, under the amendment, the Legislature in carrying out the will of the people may create districts so as to cause the minority party to have representation on the court.

3. The amendment provides for the court sitting in divisions composed of three justices. This is desirable because it gives greater efficiency to the court as divisions composed of three justices can work more rapidly with more accurate results. This is shown by the experience of other states. A great many of the cases taken to the Supreme Court involve very simple questions, and it is unnecessary to take the time of all the members of the court to consider them. In important cases the court may sit en banc thereby giving the benefit of the consideration of each member of the court to such questions. All constitutional and Federal questions must be considered by the court en banc and ample provision is made in the amendment for procuring the decision of the entire court on all questions which are regarded as of sufficient importance to take the time of each of the justices.

4. A very important feature of the proposed amendment

is the one permitting the legislature to limit appeals and prescribe the terms and conditions of same. Under the present law all cases, no matter how small the amount involved and the principle of law for adjudication, may be appealed to the supreme court. This is one of the reasons why the docket of the supreme court is so much crowded. Under the amendment permitting the legislature to limit and prescribe the terms and conditions of appeals, the district court may be given final jurisdiction of many cases from which frivolous appeals are now taken. There are cases on record in the Supreme Court where the amount involved is less than \$5.00, and many cases where the amount involved is less than \$100.00. It costs the state practically \$70.00 to have a case determined in the supreme court and in the absence of some important question, appeals involving these insignificant amounts, should not be allowed to burden the supreme court.

It early became apparent that the five justices provided for by the Constitution could not take care of the immense volume of business, and instead of decreasing after the first few years constituting the state's constructive period, as some expected, the volume of court business increased. Then a Criminal Court of Appeals with three judges was created in 1908. In the effort to catch up with the work, in 1913 the Legislature provided for Supreme Court Commissioners to assist the court. While these commissioners have done splendid work toward relieving the crowded condition of the docket, the system has not proven entirely satisfactory, litigants with important cases not being satisfied with anything less than a decision by the Supreme Court proper.

The court thus consolidated, consisting of only one additional member, it is important that the court may sit in divisions for the hearing and determination of causes, in order that more work may be facilitated. This may not be done without such a constitutional amendment as here proposed, because of the following clause in section 3, article 7 of the Constitution, which reads: "A majority of the members of the Supreme Court shall constitute a quorum, and the con-

currence of the majority of said court shall be necessary to decide any question". At present the court is required to sit in a body on all questions, however small be the controversy, and the time of each member is taken in the deliberation.

The plan of the Supreme Court to work in divisions, or sections, or departments - as they are variously termed - is in operation in many of the states of the Union, and it meets with increasing favor. Colorado, in 1904, adopted a constitutional amendment in essential features similar to the one here proposed for Oklahoma, and the out-put of opinions in that court was greatly increased and expedited. In 1913 Oregon provided for its Supreme Court, sitting in divisions, and the results as to the expedition of the work of the court has been satisfactory. Among the other states where now the Supreme Courts are authorized ^{and do} work in divisions, or departments, are Alabama, Missouri, California, Ohio, Florida, Georgia, Iowa, Kentucky and Washington.

As to consolidating the Criminal Court of Appeals with the Supreme Court, it may be said the chief argument for the separation of the two courts - which has been done in only one other state, to wit, Texas - is that it enables the judges to specialize respectively on the criminal and the civil law. The size of Texas is such that it is not a precedent for Oklahoma, ^{but in} the proposed amendment to the Constitution this advantage is preserved, in that the Criminal Court of Appeals is constituted a distinct division of the Supreme Court with exclusive cognizance of criminal causes, subject to review by the entire court in exceptional cases, and in the future changes in the personnel of the court naturally judges particularly ^{experienced} ~~learned~~ in the criminal law will ^{as a rule} be secured for this division. In Missouri where the Supreme Court sits in divisions, one division is especially constituted for appeals in criminal cases, and is a precedent ^{being designated "Criminal Division"} for the action proposed by this amendment. With such consolidation the possibility of serious conflict between the two courts in their interpretation of law

is obviated. The advantage of transferring a justice from one division to another when need arises, as where a justice is disqualified in a cause, or when the criminal division has little work to do as will result when the state becomes older and crime decreases and precedents become settled, is apparent.

This amendment has the indorsement of those who have earnestly made a study of the question with a view of getting the best results from our appellate courts. It should be adopted.

*Howard Parker,
Secy Joint Legislative Committee*

*Wm. S. [unclear]
[unclear]*

Record No. _____
Recorded in _____

APR 26 1904 3:30 P.M.

55 [unclear]

THE [unclear] [unclear]

SECRETARY'S MEMORANDUM
OKLAHOMA CITY, STATE OF OKLAHOMA

12

Joint Legislative Committee

see [unclear]

[unclear]

State Secretary [unclear]

State Question #87
Initiative Petition #60
Argument
See Re
Senate Joint Resolution
#18

SECRETARY'S MEMORANDUM
OKLAHOMA CITY, STATE OF OKLAHOMA

Secretary's Office
This instrument was filed for record this

22 day of April

A. D., 1916 at 3:30 o'clock P. M.

Recorded in _____ Corporation

Record No. _____ of _____ pages

[Signature]

Secretary of State

By *Chas McCafferty*
Ames