

1928

WAIVING JURY TRIAL IN CRIMINAL CASES

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_props

Recommended Citation

WAIVING JURY TRIAL IN CRIMINAL CASES California Proposition 20 (1928).
http://repository.uchastings.edu/ca_ballot_props/249

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

WAIVING JURY TRIAL IN CRIMINAL CASES. Senate Constitutional Amendment 9. Amends Section 7, Article I, of Constitution. Declares 20 that a trial by jury may be waived in all criminal cases, by consent of both parties, expressed in open court by the defendant and his counsel.	YES	
	NO	

(For full text of Measure see page 48, Part II)

Argument in Favor of Senate Constitutional Amendment No. 9

It is proposed by Senate Constitutional Amendment No. 9, so to amend section 7 of article I of the constitution as to authorize a jury to be waived in the trial of any criminal action.

This proposed constitutional amendment is a part of the comprehensive program for the revision of criminal law and criminal procedure of the State of California. Like the numerous other measures prepared and submitted by the California Crime Commission to the legislature during its forty-seventh session, in 1927, this measure is designed to simplify criminal procedure in this state and thereby to make the administration of justice in criminal matters not only more positive, but also more swift and certain.

That amendment, through the only change to be made in the existing constitution, provides that a trial by jury may be waived in all criminal cases, with the consent of both parties—both the defendant and the prosecution—expressed in open court. If a jury trial be thus waived, the defendant will be tried before the court alone, sitting without a jury. Under the existing law, both parties are compelled to have a jury trial in all felony cases, whether or not they so desire. The law now permits the waiver of a jury trial in all civil cases, and also in all cases of misdemeanor, when the parties to such actions so desire. The proposed constitutional amendment, therefore, simply extends this rule or law to include felony cases.

The rule that a jury may be waived in the trial of all felony cases, at the request of both sides, has for many years been the law of the states of Maryland and Connecticut. In these states it has worked exceedingly well. In a

large percentage of felony cases in those states, probably one-half of them, a jury trial is waived. This results, first, in relieving the congestion in the courts and in speeding up justice; and, second, in a very great saving to the people in respect to the cost and expense in connection with jury trials. It also operates to avoid the heavy economic drain resulting, under the present California law, in calling thousands of men each year from the productive fields of industry to serve as jurors. There is no sound reason why California should not have the benefits which result from the operation of the law in Maryland and Connecticut, and every reason why it should have them.

The proposed amendment does not deprive a defendant of a single advantage which he now has. He will still be entitled to a jury trial if he so desires, and he will be tried before a jury unless the jury be waived in open court both by himself and his attorney. In cases where both the people, on the one hand, and the defendant and his attorney, on the other, wish to waive a jury trial and to try the case before the court alone, no good reason can be assigned why they should be forced against their will to have a jury trial. If the people adopt this amendment, as submitted to them by the legislature of the State of California, it will make the administration of criminal justice in this state more positive, sure and swift, and will not only result in a vast saving as to both time and expense, but it will also put California in line with the most progressive and enlightened practice in the administration of criminal justice.

C. C. BAKER,
State Senator, Seventeenth District.
F. C. HANDY,
State Senator, Fourth District.

and character of property in the State of California not exempt from taxation under the law, and subject to taxation on the first day of July, 1910, and in the same manner, and by the same method, as other state taxes were levied, assessed, and collected under the law, as the same existed on the first day of July, 1910. The state board of equalization shall each year, at the time it determines the amount of revenue required for other state purposes, determine, fix, and include the rate of tax necessary to raise the revenue herein provided for.

There is hereby created in the state treasury a fund to be known as the Panama-Pacific International Exposition fund, and all moneys collected pursuant to this provision, after deducting the proportionate share of the expense for the collection of the same, shall be paid into the state treasury, and credited to such fund. All moneys so paid into such fund are hereby appropriated, without reference to fiscal years, for the use, establishment, maintenance and support of said Panama-Pacific International Exposition. No tax, license fee, or charge of any kind or character shall ever be levied or assessed or charged against any property of said Panama-Pacific International Exposition, or against any property used as exhibit therein, while being used or exhibited in connection therewith.

There is hereby created a commission to be known as the Panama-Pacific International Exposition commission of the State of California, which shall consist of the governor of said state and four other members to be appointed by the governor, by and with the advice and consent of the Senate of said state. The governor shall have the power to fill all vacancies occurring at any time in said commission. The

members of said commission shall receive no compensation and shall hold office until such exposition shall have been closed and its affairs settled. Said four members of said commission shall be selected from different sections of the state, and the appointment thereof shall be made by the governor of the state during the month of February, 1911. The commission hereby created shall have the exclusive charge and control of all moneys paid into the Panama-Pacific International Exposition fund; and provided, further, that the Legislature shall pass all laws necessary to carry out the provisions of this act, including the times and the manner in which and the terms and conditions upon which moneys shall be drawn from the state treasury by said commission; where contracts and vouchers shall be filed; to whom and how often reports shall be made; what disposition shall be made of any sum left unexpended or received from the sale of any property or buildings purchased or constructed by said commission for the use of said exposition, or of any disposition of any building or improvement constructed by said commission out of said fund, and to provide for the transfer to the general fund of the State of California, of any portion of said Panama-Pacific International Exposition fund unused.

The commission herein created is authorized and directed to make such proper contract with the Panama-Pacific International Exposition Company, a corporation organized under the laws of the State of California on the twenty-second day of March, 1910, as will entitle the State of California to share proportionately with the contributors to the said Panama-Pacific International Exposition in the returns from the holding of said exposition at the city and county of San Francisco.

WAIVING JURY TRIAL IN CRIMINAL CASES. Senate Constitutional Amendment 9. Amends Section 7, Article I, of Constitution. Declares **20** that a trial by jury may be waived in all criminal cases, by consent of both parties, expressed in open court by the defendant and his counsel.

Said state v. the defendant	YES
	NO

Senate Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the constitution of said state by amending section seven of article one thereof, relating to trial by jury.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its forty-seventh session, commencing on the third day of January, 1927, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to amend section 7 of article I of the constitution to to read as follows:

PROPOSED AMENDMENT

(Proposed changes in provisions are printed in black-faced type)

Sec. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, by the consent

of both parties, expressed in open court by the defendant and his counsel, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court.

EXISTING PROVISIONS

(Provisions proposed to be repealed are printed in italics)

Sec. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases *not amounting to felony*, by the consent of both parties, expressed in open court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court.