

Referendum Measure No. 24

BALLOT TITLE

AN ACT relating to the duties of prosecuting attorneys; providing that they shall no longer attend and appear before or give advice to grand juries except in cases where the calling of the grand jury has been initiated by the prosecuting attorney; and amending section 4136 of Remington's Revised Statutes.

HOUSE BILL NO. 329

AN ACT relating to Prosecuting Attorneys, defining their duties and fixing their compensation, and amending section 18, pages 63 and 64, of the Laws of 1886 (section 4136 of Remington's Revised Statutes).

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 18, pages 63 and 64, of the Laws of 1886 (section 4136 of Remington's Revised Statutes) be amended to read as follows:

Section 18. The Prosecuting Attorney when not in attendance upon the Superior Court shall institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of, a felony when he has information that any such offense has been committed, and shall for that purpose attend when required by them. The Prosecuting Attorney shall draw all indictments when required by the grand jury. The Prosecuting Attorney shall not attend or appear before

or give advice to the grand jury when cases are presented to it for its consideration except in cases where the calling of the grand jury has been initiated by the Prosecuting Attorney. It shall be the duty of the Prosecuting Attorneys elected under this act to carefully tax all cost bills in criminal cases arising in their respective counties, and they shall take care that no useless witness fees are taxed as part of such costs, and that the officers, authorized to execute process, tax no other or greater fees than the fees allowed by law: *Provided*, That if they are not present at the trial of any criminal case, before any Justice of the Peace, and the cost bill in such last case is lodged with the County Commissioners for such payment the said Prosecuting Attorney shall have the right to receive and retax the same, and it is made his duty so to do, if the Board of County Commissioners deem the bill exorbitant or improperly taxed.

Passed the House February 24, 1941.

Passed the Senate March 12, 1941.

Approved by the Governor March 24, 1941.

ARGUMENT FOR REFERENDUM MEASURE NO. 24

Referendum Measure No. 24, the companion measure of Referendum No. 23, preserves to the prosecuting attorney the power and right to attend upon and advise the grand jury in cases where he has himself initiated the call for it, but provides that in other cases he shall not attend, appear before, or advise the grand jury. These companion measures, Numbers 23 and 24, provide for a grand jury system that is impartial and independent. In those cases where the prosecuting attorney needs a grand jury for any purpose and initiates the call for one, he may act. In other cases, where a citizen or group of citizens initiates the call for a grand jury, believing that there is need for an independent investigation, the prosecuting attorney may not take part in the grand jury proceedings.

This measure should be supported for the same reasons advanced in support of Referendum No. 23.

JOHN M. CUSTER, Sponsor,
Representative, 36th District;

EDWARD J. REILLY,
Speaker, House of Representatives;

W. R. ORNDORFF,
Senator, Spokane County;

GEORGE C. KINNEAR,
Representative, King County;

CHARLES H. TODD,
Representative, 44th District;

MRS. THOMAS E. KEHOE,
Representative, 3rd District;

JOHN R. JONES,
Representative, Okanogan-Douglas Counties;

JOSEPH E. HURLEY,
Representative, Spokane County.

STATE OF WASHINGTON—ss.

Filed in the office of the Secretary of State, June 21, 1941, by John M. Custer, State Representative, 36th District.

BELLE REEVES,
Secretary of State.

ARGUMENT AGAINST REFERENDUM MEASURE NO. 24

Chapter 191, Session Laws of the State of Washington (Referendum No. 24), provides that the Prosecuting Attorney shall not attend or appear before or give advice to the grand jury when cases are presented to it for its consideration, except in cases where the calling of the grand jury has been initiated by the Prosecuting Attorney.

Chapter 191 should be repealed for the reasons given in paragraph "C" of the Argument against Chapter 158, on page 25.

It relieves the Prosecuting Attorney of responsibility as advisor to grand juries in certain instances and permits a special attorney to act in his stead. The special attorney would not function in the prosecution of any person before the Court. The Prosecuting Attorney is required to prosecute criminal actions that he had no part in investigating or instigating. No responsibility exists on the grand jury or "special attorney" in the prosecution of an offender and yet their power of instigating criminal actions is unlimited.

The citizens of each county of the State of Washington elect their Prosecuting Attorney, who is under oath and bond and answerable to the citizens who elected him to office to

conduct that office according to law and in a fair-minded, conscientious and sincere manner. If he fails, he can be removed at the next election or by recall. This is the democratic way.

The whole question is whether the Prosecuting Attorney shall or shall not be permitted to guard the rights and property of the citizens of their respective counties by whom and for which purpose they are elected to office, and whether a "Special Attorney" not responsible to the citizens of each county shall, with the assistance of the Superior Courts usurp the functions of the duly elected Prosecuting Attorneys.

Chapter 191, like Chapter 158, should be repealed.

Citizens of this state should vote **against** retaining the law on the statute books.

WASHINGTON STATE REFERENDUM
COMMITTEE,

By Tom Mulholland.

STATE OF WASHINGTON—ss.

Filed in the office of the Secretary of State, June 21, 1941, by Tom Mulholland, Washington State Referendum Committee.
BELLE REEVES,
Secretary of State.