

which the commissioner so vacating his office had been appointed. [Acts 1925, p. 193.] [39th Leg., ch. 53, § 1.]

Art. 1783. Sections of commission; clerk.—The Commission of Appeals shall be divided into and sit in two sections to be known as Section A. and Section B., each of which shall consist of three members. Each section shall be a complete entity in and of itself and shall have all the authority hereinafter conferred upon the Commission of Appeals; but there shall be only one clerk for said Commission of Appeals. [Acts 1918, 4th C. S., p. 171.]

Art. 1784. Concurrence of two members.—The concurrence of two of the judges of any section shall be necessary to decision of any question or matter referred to them. [Acts 1925, p. 193.] [39th Leg., ch. 53, § 1.]

Art. 1785. Making rules.—The Commission of Appeals shall make rules regulating the hearing of causes submitted to them. The entire Commission of Appeals shall sit and act together in making and formulating of the rules of procedure hereinafter provided for. [Id.]

Art. 1786. Reference of causes by Supreme Court.—The Supreme Court is authorized to refer to either section of the Commission of Appeals any case pending before said Court, for examination and report thereon; and it shall be the duty of the Supreme Court, from time to time to refer to said Commission so many of the cases pending in said Court as may be reasonably considered and acted upon by the same at the several sessions thereof, having respect in such reference to the length of time such cases have been pending, as well as to promote an early disposition of the cases on the docket. [Id.]

Art. 1787. Notice to parties.—When any case is referred by the Supreme Court to said Commission, counsel for both parties shall have notice thereof, and shall have the right to be heard upon the same as if said cause were tried in the Supreme Court. [Id.]

Art. 1788. Causes referred by consent.—The Commission shall have power to hear and pronounce award upon all civil cases pending in the Supreme Court, wherein the parties or their attorneys may file written consent to the reference thereof to said Commission. [Id.]

Art. 1789. Report on causes referred.—It shall report its conclusions or award to the Supreme Court in the cases and its opinion thereon; and the conclusion or award aforesaid shall be the judgment of said Supreme Court, and said Court shall make and render such further order, judgment, or decree thereon as may be necessary or proper to make said award effective. [Id.]

Art. 1790. Opinions.—The opinion of the Commission in the cases so referred to it by consent shall not be published in the reports of the decisions of the Supreme Court, nor shall it have any further or other effect than to determine the particular causes wherein rendered, and shall have no force, effect or authority as precedent in other causes, unless otherwise decided by the Supreme Court. The opinion of the Commission in cases so referred to it, when adopted by said Court may be published as the opinion thereof, as in other cases. [Id.]

Art. 1791. Report to Supreme Court.—When the Commission has determined upon the proper disposition of any case referred to it, their opinion shall be submitted to the Supreme Court together with a brief synopsis of the case, and the record shall be returned therewith to be used by said Supreme Court. [Id.]

Art. 1792. Refiling papers; costs.—In cases referred to the Commission the papers shall not be refiled with said Commission, and only such additional costs as may be essential to carry into effect the provision hereof shall be incurred by the parties to such cases by reason of the reference thereof. [Id.]

Art. 1793. Sessions.—The Commission shall hold its sessions in Austin at the same time and place as

the Supreme Court, but it shall continue work during the vacation of the Supreme Court in mid-summer. The Judges of the Commission may take a vacation, not to exceed eight weeks, during said period. [Id.]

Art. 1794. Stenographers.—They shall appoint stenographers not exceeding four, each of whom shall receive an annual salary not to exceed fifteen hundred dollars, to be paid in monthly installments, on warrants approved by the Chief Justice of the Supreme Court. [Id.]

Art. 1795. Clerk.—The Clerk of the Supreme Court shall perform the duties of Clerk of said Commission and shall be allowed for services rendered said Commission by him and his deputies, an additional compensation of fifteen hundred dollars per annum, to be paid out of the fees of his office. [Id.]

Art. 1796. Seal.—Said Commission of Appeals shall have a seal, being a star with five points and the words "Commission of Appeals of the State of Texas" around the same. [Id.]

Art. 1797. Dockets and records.—Regular dockets and minutes of all proceedings by or before said Commission of Appeals shall be kept, and the records and proceedings of courts of record, and all cases shall be docketed in the order in which they are transferred or referred by the Supreme Court. [Id.]

Art. 1798. Writs and process; contempt.—Said Commission shall have the right to issue writs of certiorari to perfect the record, and such process as the Supreme Court might issue to make parties, and shall have the power to punish for contempt. [Id.]

Art. 1799. Practice and procedure.—All laws and rules regulating practice and procedure in the Supreme Court shall be of force in the practice and proceedings of the Commission of Appeals so far as applicable. All applications for rehearing in cases referred to said Commission shall be made before and determined by it. [Id.]

Art. 1800. Term of office.—The term for which said Commissioners of Appeals shall exist shall be from the last Saturday in June, 1925, to and including the last Saturday in June, 1931. The names of the persons so appointed shall be submitted to the Senate for confirmation if in session when such appointments are made. If not, then at the first session of the Senate thereafter; provided that for the term beginning the last Saturday in June, 1925, one judge on each section of the commission shall be appointed for two years, one judge on each section for four years, and one judge on each section for six years from the last Saturday in June, 1925. Upon the expiration of the term of any member of either section his successor shall be appointed by the Governor for a term ending the last Saturday in June, 1931, when the Commission of Appeals itself shall expire under and by virtue of the terms of this Act. [Acts 1925, p. 193.] [39th Leg., ch. 53, § 1.]

TITLE 38

COURT OF CRIMINAL APPEALS

Art.	
1801.	Judges.
1802.	Presiding judge.
1803.	Disqualification of judge.
1804.	Term of court.
1805.	Seal of court.
1806.	May ascertain facts.
1807.	Mandate.
1808.	Clerk.
1809.	Deputy clerk.
1810.	Reporter and reports.
1811.	State Prosecuting Attorneys.
1811a.	Commission of Criminal Appeals.
1811b.	Term of office.
1811c.	Approval of opinions.
1811d.	Salary and expenses.

Article 1801. [1652] [1044] Judges.—The Court of Criminal Appeals shall consist of three judges, two of whom shall be a quorum. The concurrence of two judges shall be necessary to a decision of said court. Said judges shall have the same

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

qualifications as judges of the Supreme Court. At each biennial general election one judge for said court shall be elected for a term of six years, the division into classes to remain as now provided by law. [Acts 1892, p. 34.]

Art. 1802. [1654] [1046] Presiding judge.—The judges of said court shall choose a presiding judge from their number at such times as they deem proper. All writs and processes issuing from said court shall bear test in the name of said presiding judge and the seal of the court. [Id.]

Art. 1803. [1655] [1047] Disqualification of judge.—When any member thereof shall be disqualified under the Constitution and laws of this State to hear and determine any case in said court, the same shall be certified to the Governor who shall immediately commission a person learned in the law to act instead. [Id.]

Art. 1804. [1658] [1050] Term of court.—Said court shall hold one term each year at the city of Austin, commencing on the first Monday in October of each year, and shall continue until the last Saturday in June next succeeding. [Acts 1909, p. 51.]

Art. 1805. [1666] [1059] Seal of court.—The court shall use a seal having thereon a star with five points with the words, "Court of Criminal Appeals of Texas" engraved thereon. [Id.]

Art. 1806. [1661] [1054] May ascertain facts.—Said court shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

Art. 1807. [1669] [1062] Mandate.—When the court from which an appeal has or may be taken has been or shall be deprived of jurisdiction over any case pending such appeal, and when such case has or may be determined by the Court of Criminal Appeals, the mandate of said appellate court shall be directed to the court to which jurisdiction has been, or may be, given over such case. [Id.]

Art. 1808. [1162-3-4] Clerk.—Said court shall appoint a clerk for said court, who shall:

1. Hold his office for four years unless sooner removed by the court for good cause, entered in its minutes.

2. Take and subscribe the official oath and give the same bond to be approved by said court as may be required of the clerk of the Supreme Court.

3. Perform as such clerk the like duties and be subject to the same liabilities as may be required of or prescribed for the clerk of the Supreme Court.

Art. 1809. Deputy clerk.—The court, or such clerk with the approval of the court, may designate any stenographer employed by said court to act as deputy clerk during the absence, illness or disability of said clerk. Such stenographer shall receive no extra compensation for such services, and shall discharge the duties of the clerk in the name of his principal as deputy clerk, signing his name after that of said principal as deputy clerk. [Acts 1923, p. 17.]

Art. 1810. [1667-8] Reporter and reports.—Said court shall appoint a reporter of such of its decisions as the law requires to be published, and may remove him for inefficiency or neglect of duty. The clerk shall deliver to the reporter the original opinions when recorded and the record in each case to be reported, taking receipt therefor, and the reporter shall return them when he finishes using them. The volumes of such decisions shall be numbered in continuation of the present reports, styled Texas Criminal Reports, and be printed and disposed of in like manner as the reports of the Supreme Court.

Art. 1811. State Prosecuting Attorneys.—The Governor, with the consent of the Senate, shall biennially appoint two attorneys to represent the State in all proceedings before the Court of Criminal Appeals, one of whom shall be styled "State Prosecuting Attorney," and the other "Assistant State Prosecuting Attorney," each said attorney to hold office for two years, and each of whom shall have had not less than four years experience as a practicing attor-

ney or shall have been a district judge for not less than four years before his appointment. [Acts 1923, p. 335.]

Art. 1811a. Commission of Criminal Appeals.—By and with the advice and consent of the Senate of Texas, the Governor of this State is hereby authorized and empowered to appoint a commission to be composed of two attorneys at law, having those qualifications fixed by the laws and Constitution of this State for the judges of the Court of Criminal Appeals of Texas, which commission shall be for the aid and assistance of said court in disposing of the business before it; and shall discharge such duties as may be assigned it by said court. Each of said commissioners shall receive the same salary now or hereafter paid, and at the same time as do the judges of said court, and two stenographers for said commissioners shall be appointed by the court, who shall receive the same salary paid or to be paid the other stenographers of said court. Provided it shall not be obligatory on the Governor to appoint two such members to fill vacancy, if, in his judgment, the condition of the docket of the court does not require it, but he may, under his discretion, appoint only one such member. [Acts 1925, 39th Leg., ch. 95, p. 269, § 1; Acts 1927, 40th Leg., p. 56, ch. 40, § 2.]

Art. 1811b. Term of office.—Said commissioners shall hold office for a term of two years from the date of their appointment, and any vacancy occurring on said commission may be filled by the Governor for the unexpired term. [Acts 1925, 39th Leg., p. 269, ch. 95, § 2; Acts 1927, 40th Leg., p. 56, ch. 40, § 3.]

Art. 1811c. Approval of opinions.—All opinions of said commissioners shall be submitted to the Court of Criminal Appeals of Texas and shall receive the approval of said court or a majority of them, before handed down as opinions of said court, and when so approved and handed down, shall have the same weight and legal effect as if originally prepared and handed down by said Court of Criminal Appeals of Texas, and not otherwise. [Acts 1925, 39th Leg., ch. 95, p. 269, § 3; Acts 1927, 40th Leg., p. 56, ch. 40, § 4.]

Art. 1811d. Salary and expenses.—The sum of thirty thousand (\$30,000.00) dollars, or so much thereof as may be necessary is hereby appropriated to be paid out of the State Treasury for the purpose of paying the salaries of the two commissioners hereinabove provided for and to pay such other expenses incident to said commission as may be found necessary by the Court of Criminal Appeals. [Acts 1925, 39th Leg., ch. 95, p. 270, § 4.]

TITLE 39

COURTS OF CIVIL APPEALS

Chap.

1. Terms and Jurisdiction.
2. Clerks and Employés.
3. Proceedings.
4. Certification of Questions.
5. Judgment of the Court.
6. Conclusions of Fact and Law.
7. Rehearing.
8. Writ of Error to Supreme Court.

CHAPTER ONE

TERMS AND JURISDICTION

Art.

1812. Three justices.
1813. Election and term of office.
1814. Qualifications of judges.
1815. Special judge.
1816. Terms of court.
1817. Location of courts.
1818. Adjournment.
1819. Jurisdiction defined.
1820. Judgment conclusive on facts.
1821. Judgment conclusive on law.
1822. Inquiry into jurisdiction.
1823. Writs of mandamus, etc.
1824. May mandamus district courts.
1825. Issuance of process.
1826. May punish for contempt.

Article 1812. [1580] [987] Three Justices.—Each Court of Civil Appeals shall consist of a Chief