

JOURNAL
OF THE
House of Representatives
OF THE
SECOND CALLED SESSION
OF THE
THIRTY-EIGHTH LEGISLATURE

BEGUN AND HELD AT
THE CITY OF AUSTIN, APRIL 16, 1923



VON BORCKMANN-JONES CO.,
AUSTIN, TEXAS.
1923

irrigation water and service, amending Chapter 88 of the General Laws of the Thirty-fifth Legislature, Regular Session, approved March 9, 1917, by amending Section 87 of said act, limiting and regulating the contract lien upon crops irrigated, exempting municipal owned companies or associations or governmental agencies, and levying an occupation tax, repealing all laws in conflict herewith, and declaring an emergency."

Referred to Committee on Revenue and Taxation.

By Mr. Greer, Mr. Melson, Mrs. Wilmans, Mr. Chitwood, Mr. Wallace and Mr. Henderson of Marion:

H. B. No. 23, A bill to be entitled "An Act for the purpose of promoting the public interest of the State of Texas."

provisions of this act; repealing all laws and parts of laws in conflict herewith."

Referred to Committee on Appropriations.

BILLS SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof and their captions had been read severally, the following enrolled bills:

S. B. No. 1, "An Act making appropriations to pay the per diem and mileage of members and per diem of officers and employes of the Second Called Session of the Thirty-eighth Legislature of the State of Texas; to pay the unpaid warrants held by members, officers and employes of the Regular Session of the Thirty-eighth Legislature; to pay the

half of Rome in which he did not de- laughs to scorn the Constitution of his

There is no channel through which the law can be enforced except by authority and power vested in the officers. For this high purpose the resources of the State and the powers of the government are placed at their command. The officer who keeps his eye shut to the law and connives at its violations, should not be permitted to receive the emoluments of office. The officer who is unwilling to enforce the law should be stripped of every official power and every insignia of office. When an officer wilfully and corruptly fails and refuses to enforce a law, he should be ousted from office.

Ouster Proceedings.

The Attorney General of the State should be authorized to go into the open courtroom before judge and jury, and if he proves to twelve men in the jury box that an officer has wilfully and corruptly failed and refused to enforce the law, then in that event said defaulting officer should be ousted by order of the court. In order that the State and the defendant may each get a fair trial, the Attorney General, if he so desired, should have the authority to institute ouster proceedings in a county other than the residence of the officer to be tried. Similar proceedings as to where a person may be tried, may now be instituted in criminal assault cases, in conspiracy, in pandering, in misapplication of public funds, in violation of anti-trust laws, in abduction, in kidnaping, in violation of the highway law and in several other offenses against the laws of Texas. There is no use to try an officer in his own county. The very fact that a county has an officer who refuses to enforce the law is strongly suggestive that the State would not get a fair trial in an effort to enforce the law. Try him where both the State and the defendant can have a fair and impartial trial. If you try him in his own county, where all his friends, relatives, supporters, and henchmen live, he can easily get one juror out of the twelve who will hang the jury. A bill thus providing for the removal of officers is not needed in many counties, but in some counties it is badly needed. It will not hurt the good officers. The corrupt, dishonest officers are not entitled to be protected in their official misconduct.

Certainly no member of the Thirty-eighth Legislature should object to the passage of a bill providing for the re-

moval of officers on the ground that the venue of such a suit is placed in a neighboring county to the county in which the officer resides, because at the Regular Session of this Legislature, Senate bill No. 34 passed the House and the Senate without a dissenting vote. That bill pertained to the prosecutions, or quo warranto proceedings relative to the forfeiture of charters of domestic corporations and contained the following provision:

"Article 7801. For a violation of any of the provisions of this chapter, or any anti-trust laws of this State, by any corporation, it shall be the duty of the Attorney General, when in his judgment the public interest requires it, upon his motion and without leave or order of any judge or court, to institute suit or quo warranto proceedings in Travis county, or at the county seat of any county in the State which the Attorney General may select, for the forfeiture of its charter rights and privileges, and the dissolution of its corporate existence, and for such purposes venue is hereby given to each district court in the State of Texas."

There was no objection to the passage of the above mentioned bill, notwithstanding it gave to the Attorney General the authority to institute suit, or quo warranto proceedings either in Travis county, or in any other county of the State.

That there is necessity for the passage of a law providing for the removal of officers against whom it can be proven that they wilfully and corruptly refused to enforce the law, there can be no question. This is no indictment against all the officers of Texas, but it can be truthfully stated that there are officers in certain localities who openly and arrogantly, wilfully and corruptly fail and refuse to uphold and enforce the law. They protect the criminal and neglect the public. Instead of enforcing the law, they stand in the way of the law. This statement is made after investigation and with a full understanding of its meaning.

You may not know it, but it is a fact that there are places in Texas where the booze traffic is protected by official life. Officers of the law should not shield crime anywhere. To protect or make easy violations of the prohibition law, is to encourage lawlessness. Whoever encourages lawlessness strikes at the very heart of his own government.

Pinkston.	Stell.
Pool.	Stevens.
Pope.	Stewart
Potter.	of Edwards.
Purl.	Stewart of Jasper.
Quaid.	Stewart of Reeves.
Quinn.	Stiernberg.
Rice.	Stroder.
Robinson.	Sweet.
Rountree.	Teer.
Rowland.	Thrasher.
Russell of Trinity.	Vaughan.
Sackett.	Wallace.
Sanford.	Westbrook.
Satterwhite.	Williamson.
Shearer.	Wilmans.
Simpson.	Wilson.
Smith.	Young.
Sparkman.	

Nays—2.

Hardin	Wessels.
of Kaufman.	

Absent.

Blount.	Loftin.
Carson.	McBride.
Chitwood.	McDaniel.
Coffee.	McDonald.
Dielmann.	Martin.
Dunlap.	Melson.
Green.	Montgomery.
Hardin of Erath.	Moore.
Harris.	Patterson.
Henderson	Price.
of McLennan.	Russell
Irwin.	of Callahan.
Johnson.	Shires.
Lamb.	Wells.
Lewis.	Winfree.

Absent—Excused.

Bird.	Lusk.
Bobbitt.	McKean.
Carter of Coke.	Merriman.
Culp.	Rogers.
Dinkle.	Storey.
Faubion.	Strickland.
Frnka.	Thompson.
Hughes.	Turner.
Hull.	

The Speaker then laid House bill No. 33 before the House on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL NO. 34 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 34, A bill to be entitled "An Act making it a felony for any

person to carry on or about his person while violating the liquor laws any weapon or arm mentioned in Article 475 of the Penal Code; prescribing the penalty, and declaring an emergency."

The bill was read second time.

Mr. Stroder offered the following amendment to the bill:

Amend House bill No. 34 by changing Section 2 to read Section 3, and insert a new Section 2, as follows:

"Section 2. If any person shall have on or about his person any weapon or arms mentioned in Article 475 of the Penal Code of 1911, as amended, and shall have in his possession at the same time any intoxicating liquor as defined in the prohibition laws of this State, which liquor was not procured from one who had a legal right to sell same, he shall be guilty of a felony, and upon conviction shall be confined in the State penitentiary for a period of time not less than one year, and not more than five years."

Mr. Jones offered the following amendment to the amendment:

Amend amendment to House bill No. 34 after the word "person," by adding the following: "or in any vehicle of whatever kind or character."

Mr. Patman offered the following substitute for the amendment to the amendment:

Amend House bill No. 34, after the word "liquor" in line 13, page 1, add the following: "or any other offense in violation of the law of Texas."

Mr. Jones moved to table the substitute by Mr. Patman.

MESSAGE FROM THE GOVERNOR.

Mr. John H. Johnson, Assistant Secretary to the Governor, appeared at the bar of the House, and being duly announced, presented the following message from the Governor, which was read to the House, as follows:

Governor's Office,
Austin, Texas, April 26, 1923.

To the Members of the Second Called Session of the Thirty-eighth Legislature.

Gentlemen: I hereby submit to you for your legislative consideration, the following subject matters:

1. Highway legislation; giving county commissioners courts authority to condemn land for the purpose of laying out and building public highways; providing for the use of gravel, shell, and similar material belonging to the State,

Bobbitt.	Hardin
Bonham.	of Kaufman.
Carpenter	Jones.
of Dallas.	Lusk.
Carter of Coke.	Merriman.
Crawford.	Turner.
Dinkle.	Wessels.
Dodd.	Winfree.
Frnka.	

Question then recurring on the amendment by Mr. Pate, yeas and nays were demanded.

The amendment was adopted by the following vote:

Yeas—66.

Abney.	Looney.
Atkinson.	McBride.
Avis.	McDaniel.
Barker.	McKean.
Bell.	McNatt.
Burmeister.	Merritt.
Carpenter	Miller.
of Matagorda.	Pate.
Carson.	Patterson.
Carter of Hays.	Perdue.
Covey.	Pinkston.
Cowen.	Pool.
Culp.	Pope.
Davenport.	Potter.
DeBerry.	Rice.
Dielmann.	Robinson.
Downs.	Rowland.
Duffey.	Russell
Dunlap.	of Callahan.
Fields.	Sackett.
Finlay.	Sanford.
Henderson	Satterwhite.
of Marion.	Shearer.
Henderson	Smith.
of McLennan.	Sparkman.
Houston.	Stevens.
Howeth.	Stewart
Hull.	of Edwards.
Irwin.	Stewart of Jasper.
Jennings.	Storey.
Johnson.	Strickland.
Kemble.	Thompson.
Lane.	Wallace.
LeMaster.	Westbrook.
LeStourgeon.	Williamson.
Lewis.	Wilson.
Loftin.	

Nays—36.

Baker of Milam.	Green.
Baker of Orange.	Greer.
Beasley.	Harrington.
Bryant.	Harris.
Chitwood.	Jacks.
Driggers.	Lackey.
Dunn.	Laird.
Durham.	McFarlane.
Edwards.	Martin.
Fugler.	Mathes.

Moore.	Stell.
Morgan	Stewart of Reeves.
of Liberty.	Stroder.
Morgan	Sweet.
of Robertson.	Thrasher.
Patman.	Wells.
Quinn.	Wilmans.
Shires.	Young.
Simpson.	

Present—Not Voting.

Mr. Speaker.	McDonald.
Arnold.	

Absent.

Bird.	Maxwell.
Cable.	Melson.
Coffee.	Montgomery.
Collins.	Price.
Davis.	Purl.
Faubion.	Quaid.
Gipson.	Rogers.
Hardin of Erath.	Rountree.
Hendricks.	Stiernberg.
Hughes.	Teer.
Lamb.	Vaughan.

Absent—Excused.

Amsler.	Dodd.
Baldwin.	Frnka.
Barrett.	Hardin
Blount.	of Kaufman.
Bobbitt.	Jones.
Bonham.	Lusk.
Carpenter	Merriman.
of Dallas.	Russell of Trinity.
Carter of Coke.	Turner.
Crawford.	Wessels.
Dinkle.	Winfree.

Mr. Pope move to reconsider the vote by which the amendment was adopted, and to table the motion to reconsider.

The motion to table prevailed.

BILL SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof and its caption had been read, the following enrolled bill:

H. B. No. 6, "An Act making an emergency appropriation for the Adjutant General of this State, made necessary by emergencies arising in declaring martial law in this State, and declaring an emergency."

MESSAGE FROM THE GOVERNOR.

Mrs. Margaret Tindale, Assistant Secretary to the Governor, appeared at the bar of the House, and, being duly announced, presented the following message from the Governor, which was read to the House, as follows:

MESSAGE FROM THE GOVERNOR.

Mrs. Margaret Tindale, Assistant Secretary to the Governor, appeared at the bar of the House, and being duly announced, presented the following message from the Governor, which was read to the House, as follows:

Governor's Office,
Austin, Texas, May 5, 1923.

To the Members of the Thirty-eighth Legislature, Second Called Session.

Gentlemen: It was not my intention to submit any other matters to you for consideration, but I find I have overlooked sending up in my last message two or three items that I had promised to submit.

I will, therefore, submit to you legislation in regard to the powers and duties of the State Board of Education, with reference to the purchase of bonds for the account of the State Permanent School Fund, which will require an amendment to Article 2740 of the Revised Civil Statutes; an act prescribing the qualifications of the persons holding the office of county superintendent of public instruction, and for the filling of vacancies in said office; amending the laws harmonizing and reconciling discriminations of non-resident guardians as to bond required and the validity of appointments of non-resident guardians; limiting and regulating persons to whom the railroads of the State are privileged to grant free transportation.

Respectfully submitted,
PAT M. NEFF,
Governor.

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, May 5, 1923.

Hon. R. E. Seagler, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

S. B. No. 38, A bill to be entitled "An Act extending oil and gas permits on lands which are now or have been in the possession or under the control of the Federal receiver appointed by the Supreme Court of the United States for such periods of time respectively as such lands have been or may be in such receiver's possession or under his control, and declaring an emergency."

S. B. No. 52, A bill to be entitled "An Act amending acts of the Thirty-

seventh Legislature, First Called Session, Chapter 13, and providing for the reorganization of the Seventy-second Judicial District of Texas, fixing the times and terms of the district courts in the several counties thereof, and naming them; providing that process, bonds and recognizances made and grand and petit juries drawn, before this act takes effect, shall be valid for and returnable to the terms as herein set forth; attaching the unorganized county of Cochran to Hockley county for judicial and all other purposes; fixing the time of taking effect of this act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

S. B. No. 55, A bill to be entitled "An Act to amend Section 5, Chapter 87, of the Acts of the Thirty-fifth Legislature of the State of Texas, by providing for ordering of elections by the commissioners court for the organization of water improvement districts; providing the questions to be submitted at such election; and to amend Section 7, Chapter 87, of the Acts of the Regular Session of the Thirty-fifth Legislature of the State of Texas, as amended by Chapter 28, Second Called Session of the Thirty-sixth Legislature of the State of Texas, providing for the manner of conducting elections provided for in said Chapter 87; providing the qualifications for voters at such elections; prescribing the duties of the commissioners court in canvassing the returns of such vote; the creation of water improvement districts; providing for the division of the proposed district into one or more election precincts; and providing polling places in such voting precincts; the appointment of judges and clerks to hold such election; providing a method of filling places on said election board; providing for printing of ballots and the matter to be contained thereon; and amending Section 9 of Chapter 87 of the Acts of the Regular Session of the Thirty-fifth Legislature of the State of Texas, as amended by Chapter 28, Second Called Session of the Thirty-sixth Legislature of the State of Texas, by providing for returns to be made by the officers of such election; the canvass and return showing the results of such election; the establishment of districts and making records thereof; the issuance of notes of said district for the purpose of defraying expenses of the organization, investigation, engineering, issuance of bonds, making and filing of maps and reports, all legal ex-