TENTH DAY

(Monday, October 12, 1936)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Stevenson.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Hanna
Adamson	Hardin
Adkins	Harris of Archer
Aikin	Harris of Dallas
Alexander	Hartzog
Alsup	Head
Ash	Herzik
Atchison	Hill
Bergman	Hodges
Bourne	Hofheinz
Bradbury	Holland
Bradford	Howard
Bridgers	Huddleston
Broadfoot	Hunt
Broyles	Hunter
Burton	James
Butler of Brazos	Jefferson
Butler of Karnes	Jones of Falls
Cagle	Jones of Shelby
Caldwell	Jones of Wise
Calvert	Keefe
Canon	King
Celaya	Knetsch
Collins	Lange
Colquitt	Lanning
Cooper	Latham
Cowley	Leath
Craddock	Lemens
Crossley	Leonard
Daniel	Lindsey
Davis	Lucas
Davison of Fisher	Luker
Davisson of Eastland	Mauritz
	McCalla
Dickison	McConnell
Dunagan	McFarland
Dunlap of Hays	McKinney
Dunlap of Kleberg	Moffett
Dwyer	Moore
Fain	Morris
Farmer	Morrison
Fisher	Morse
Ford	Newton
Fox	Nicholson
Frazer	Olsen
Fuchs	Palmer
Gibson	Patterson
Glass	Payne
Graves	Petsch
Gray	Pope
Greathouse	Quinn
Hankamer	Reader
Reed of Bowie	Stovall
Reed of Dallas	Tarwater
Riddle	Tennyson
Roach of Angelina	Thornton
Roach of Hunt	Tillery
Roane	Venable
Roark	Waggoner
Roberts	Walker
Rogers	Wells
Russell	Westfall
Rutta	Wood of Harrison
Sessions	Wood of Montague
Shofner	Worley
Smith	Young
Steward	Youngblood
Stinson	

Absent

Colson	Scarborough
England	Stanfield

Absent—Excused

Duvall	Jones of Atascosa
Good	Lotief
Harper	McKee
Hoskins	Padgett
Hyder	Settle
Jackson	Spears

A quorum was announced present.

Rev. George W. Coltrin, Chaplain, offered the following invocation:

"Lord, we thank Thee for the fine manhood and womanhood of our great State, and for the privilege of representing them here. God grant us length and breadth of vision and depth of understanding, to the end that the best may be done for the good of our needy and for all our people. In Christ's name. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence on account of important business:

Mr. Spears for today, on motion of Mr. Dickison.

Mr. Lotief for today, on motion of Mr. Davis.

Mr. Hoskins for today, on motion of Mr. Jefferson.

Mr. Good for today, on motion of Mr. Caldwell.

The following Members were granted leaves of absence on account of illness:

Mr. Padgett for today and the balance of the week, on motion of Mr. Ford.

Mr. Jackson for today, on motion of Mr. Hankamer.

Mr. Jones of Atascosa for today, on motion of Mr. Davis.

Mr. Harper for today, on account of illness in his family, on motion of Mr. Calvert.

Mr. Hyder for today, on motion of Mr. Canon.

Mr. McKee for today and the balance of the week, on motion of Mr. Quinn.

Mr. Settle for today, on account of illness in his family, on motion of Mr. Hartzog.

Mr. Duvall for today, on motion of Mr. Calvert.

HOUSE BILLS ON FIRST READING

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Davis:

H. B. No. 43, A bill to be entitled "An Act granting permission to W. M. Rosseau to bring suit against the State of Texas, and/or Highway Department, in a court of competent jurisdiction, for damages for personal injuries received by him while on duty in the employ of the Highway Department of the State of Texas, and which injuries are alleged to have produced damages to the said W. M. Rosseau, providing that any judgment so recovered to be paid out of the funds of the Highway Department of the State of Texas; providing that if any provisions of this Act shall be invalid, the validity of the other provisions thereof shall not be affected; and declaring an emergency."

Referred to the Committee on State Affairs.

By Mr. Davis:

H. B. No. 44, A bill to be entitled "An Act granting permission to Mrs. Cora Mills, Mrs. Elzine Kinsey and husband, Loyd Kinsey, and Mrs. Marie Fouts and husband, Aubrey Fouts, permission to bring suit against the State of Texas and/or Highway Department of the State of Texas, in a court of competent jurisdiction for damages for personal injuries received by Ed Mills, which said injuries are alleged to have resulted in his death, and which said injuries were received by the said Ed Mills while on duty in the employ of the State Highway Department of the State of Texas; and declaring an emergency."

Referred to the Committee on State Affairs.

MESSAGE FROM THE SENATE

Austin, Texas, October 12, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

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

S. B. No. 5, A bill to be entitled "An Act to create an Unemployment Insurance System for the State of Texas; creating an Unemployment Compensation Fund; providing for collections, deposits, and investments of such funds; providing for withdrawals; providing for custody and management of such funds in certain contingencies; providing regular contributions and penalties; providing that claims for premiums shall have priority over other claims; providing duties of employers and employees, and prescribing penalties; designating recipients of benefits and methods of determining and paying beneficiaries; etc., and declaring an emergency."

Respectfully,

BOB BARKER,

Secretary of the Senate.

SENATE BILL ON FIRST READING

The following Senate bill, received from the Senate today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

Senate Bill No. 5, to the Committee on Labor.

RELATIVE TO CERTAIN ALLOCATION TO BRAZOS RIVER CONSERVATION AND RECLAMATION DISTRICT

Mr. Jones of Falls, et al., offered the following resolution:

Whereas, The Brazos River is the longest and largest Texas stream, and is, and throughout all historic time has been, subject to recurrent disastrous floods and over-flows; and

Whereas, The people of the Brazos watershed were among the first of the nation to seek to render themselves effective self-help by the creation of the first all-inclusive drainage system conservation and reclamation district

through the agency of the Brazos River Conservation and Reclamation District, which was created by act of the Legislature of Texas long prior to the creation of the Tennessee Valley Authority; and

Whereas, Such district was created for the purpose of effectively controlling the disastrous floods and preventing the recurrent overflows of said Brazos River and its tributaries; and

Whereas, The people of such district have shown their interest in such undertaking by their years of work and contributions of money, and the State of Texas has proven its belief in the importance of such flood control, and confidence in the Brazos River Conservation and Reclamation District to aid in the creation of the necessary dams, and

Whereas, The Federal government has heretofore allocated the sum of $30,000,000.00 to the furtherance of this work, and has authorized the Brazos River Conservation and Reclamation District to make all plans on the basis of having such sum available for construction purposes, and said district has actually proceeded with the survey and purchase of dam sites, relying on such allocations which have been confirmed on numerous occasions by various officials of the Federal Government; and

Whereas, The District has actually built the roads, purchased land, and Army Engineers have assumed the duty of constructing one of the thirteen major dams included in the approved plan of flood control in said district, and the immediate erection of the other dams of the system is necessary both to protect the people and property of the Brazos Drainage Basin, and the one dam now authorized from loss and destruction by uncontrolled floods; and

Whereas, The Brazos River and several of its major tributaries have within the past week suffered unprecedented floods which have resulted in the loss of many millions of dollars of property, and have rendered two thousand people homeless in one city alone; and

Whereas, Such floods and overflows could be prevented by the erection of the dams for which money has already been allocated; and

Whereas, The people of the Valley who have lost their crops and suffered other losses are in great need of the work that the construction of these dams will provide, and the Brazos River Conservation and Reclamation District is ready and able to proceed with the construction without delay, and the money has already been allocated for this purpose and only needs the order of the President to be made available; now, therefore, be it

Resolved by the House of Representatives of Texas, That we respectfully urge the President of the United States to make all of the aforementioned $30,000,000.00 heretofore allocated to the use of the Brazos River Conservation and Reclamation District available to said district at once to the end that construction work might be commenced on all these dams, thereby protecting the existing investment, saving the lives, homes and property of the inhabitants of the Brazos Valley from destruction by overflow and providing needed work for the unemployed during the coming winter; and, be it further

Resolved, That a copy of these resolutions be forwarded by the Chief Clerk of the House of Representatives to His Excellency the Honorable Franklin D. Roosevelt, President of the United States.

JONES of Falls,
BUTLER of Brazos,
FORD,
CAGLE,
PALMER,
HUDDLESTON,
SHOFNER,
HODGES,
GRAVES,
HEAD,
McCONNELL,
LEMENS.

The resolution was read second time, and was adopted.

TO GRANT PERMISSION TO SUE THE STATE

Mr. Hankamer offered the following resolution:

H. C. R. No. 17, To Grant G. C. Kent permission to sue the State.

Whereas, The State Highway Department of the State of Texas, in carrying out certain improvements on the County Road in El Paso County, Texas, known as the Ysleta-Carlsbad Cut-off Road, and connecting the Town of Ysleta with what is known as the El Paso-Carlsbad

Road, such work being done under the control of the State Highway Department, and in accordance with plans and specifications prepared by it, and under contract let by it, did, according to the claims of G. C. Kent, who owns lands adjoining said highway, cause certain damage to his said lands, crops and personal property on said lands by changing the course of and diverting storm waters on to and across said lands, and he desires to bring suit against the State of Texas, the State Highway Department of Texas, and the County of El Paso, for the purpose of recovering his damages and determining which of said parties is liable therefor; and

Whereas, The said G. C. Kent claims that the damage that was so done to his lands, crops and personal property would not have taken place had said road been properly constructed or if it had not been constructed at all; now therefore, be it

Resolved by the House of Representatives of the State of Texas, the Senate concurring, That G. C. Kent be and he is hereby granted permission to bring suit against the State and the State Highway Department of Texas, or either of them, or to join them, or either of them, as parties defendant in any suit or suits against them and the County of El Paso in any Court, of competent jurisdiction of the amount involved, in El Paso County, Texas, for the purpose of determining the compensation or damages, if any, the said G. C. Kent is entitled to recover by reason of the premises above set out, and the liability, if any, of the State of Texas and the State Highway Department of Texas therefor, and that any damages or compensation therein determined to be owing to the said G. C. Kent, by the State of Texas or the State Highway Department of Texas, shall be paid out of the State Highway funds; and, be it further

Resolved, That service of all necessary process may be had upon the Highway Commission of the State of Texas and the Attorney General of said State, with the same force and effect as in civil cases is made and provided, and provided that any of the parties to said suit shall have the right to appeal; and, be it further

Resolved, That the Attorney General and the Highway Commission of the State of Texas, either or both, be and are hereby authorized to compromise or otherwise settle any such suit if, in the opinion of the Attorney General or Highway Commission, the said G. C. Kent is entitled to compensation because of his injury and damage, if any, and that the Comptroller be and is hereby authorized and instructed to settle same in compliance therewith, and charge same against the State Highway fund; and, be it further

Resolved, That any such suit shall be tried according to the same rules of law and procedure as to liability and defense of the State of Texas and the State Highway Department of Texas that would be applicable and available if such suit were brought against any private corporation, under the same facts and circumstances as provided by the laws of this State.

HANKAMER,
BRIDGERS,
JACKSON.

The resolution was read second time.

On motion of Mr. Hankamer, the resolution was referred to the Committee on State Affairs.

TO GRANT ADDITIONAL AUTHORITY TO CERTAIN INVESTIGATING COMMITTEE

Mr. Tarwater offered the following resolution:

Whereas, House Simple Resolution No. 12 as adopted by the Third Called Session of the 44th Legislature, called for an investigation of alleged rumors concerning certain doctrines taught in the Higher Institutions of Learning in Texas; and

Whereas, Texas is primarily an agricultural state, and the welfare of our farmers is of paramount importance; and

Whereas, There has been a protest from the farmers and farm organizations all over the state against certain publications and statements by Dr. A. B. Cox, Director of Business Research Department of the University of Texas, which are in opposition to the federal farm program,

and inimical to the best interest of the farmers; and

Whereas, Dr. Cox has repeatedly assumed the right to speak for the farmers of Texas and advertised his connection with the University of Texas, whether or not with the authority of the University, at least with the prestige of our great University; and

Whereas, These purported statements and publications by Dr. Cox conform to the ideas and propaganda of anti-new dealers, and especially with the Liberty Leaguers, and are giving aid and comfort to the opponents of our great President who has put forth more effort to improve the conditions of our farmers than all former presidents; and

Whereas, Dr. A. B. Cox is an employee of the State of Texas, having received Forty-Six Hundred ($4,600.00) Dollars the past year from the State Treasury, and hence his official activities are subject to the control of the University authorities; and

Whereas, It is reliably reported that part of the funds used by Dr. Cox for his department are derived from the Laura Spellman Foundation and other sources of this character, and also private sources have been used to assist and support the work carried on by A. B. Cox and J. Evetts Haley; and

Whereas, It is believed that funds from the sources above indicated should not be used to pay the salaries of persons connected with public institutions such as the University of Texas; and

Whereas, It is further believed that where such funds are used in the University of Texas for research work or other purposes that the persons deriving benefit from such funds are not free from bias and prejudice such as has been indicated by statements issued by the said Dr. A. B. Cox and J. Evetts Haley; now therefore, be it

Resolved, That this investigating committee be empowered and directed to include an exhaustive and complete inquiry into all grants and sums of money from private or other sources given to the State University and/or being in any way used in said University for research work directed by Dr. A. B. Cox and J. Evett Haley, and all such funds used by J. E. Haley during his connection with the University of Texas, and give this Legislature a list of all of such donors and Foundations. That a thorough investigation of all activities of the said Dr. A. B. Cox and J. Evetts Haley be made in order that this Legislature can fairly determine whether or not a request for their dismissal would be justified; and, be it further

Resolved, That the names of two members be added to the investigating committee to aid in carrying out the provisions of this resolution.

TARWATER,
LANNING,
MAURITZ.

The resolution was read second time.

(Mr. Latham in the Chair).

Mr. Jones of Wise offered the following amendment to the resolution:

Amend the resolution by adding a new paragraph to read as follows:

"Resolved, That the above committee be authorized and directed to investigate the reasons for and purposes of the recent order of censorship of the Daily Texan by the Board of Regents of the University of Texas."

JONES of Wise,
KEEFE,
FARMER.

Mr. Bradbury raised a point of order, on further consideration of the resolution, at this time, on the ground that the time allotted for the consideration of resolutions has expired.

The Chair sustained the point of order.

Mr. Jones of Wise moved that the House Rule, relative to the time allotted for the consideration of resolutions, be suspended, at this time, for the purpose of considering the above resolution until same is disposed of.

The motion was lost.

EXTENDING INVITATION TO HON. E. E. TOWNSEND.

Mr. Payne offered the following resolution:

Whereas, The Honorable E. E. Townsend of the National Parks Service will be in Austin on Tuesday, October 13, 1936; and

Whereas, Mr. Townsend has in his possession a great number of interesting and educational pictures which are in the form of slides to be used in a stereoscope machine for public display, consisting of mountain and canyon views of the Rio Grande Canyon and wild life of that section of the State; and

Whereas, Mr. Townsend has indicated his willingness to put these pictures on display and exhibition for the benefit of the Members of this Legislature and the public; now, therefore be it

Resolved by the House of Representatives, That the Honorable E. E. Townsend of the National Parks Service be invited to display these pictures for the benefit of the Members of the Texas Legislature and the public in the Hall of the House of Representatives at eight o'clock Tuesday Night, October 13, 1936; and, be it further

Resolved, That Members of the Senate and the public be invited to attend this exhibition on this date.

PAYNE,
DANIEL.

The resolution was read second time, and was adopted.

OPINION OF HON. COKE STEVENSON IN REGARD TO H. B. NO. 6.

Mr. Graves and Mr. Petsch offered the following resolution:

Whereas, There is pending before the House, a bill proposing to divert from the State Highway Fund the sum of Three Million Dollars ($3,000,000.00) for the purpose of paying the warrants issued on the Old Age Assistance Fund; and

Whereas, The constitutionality of the said bill has been questioned, and the Speaker, Hon. Coke Stevenson, has been called upon for a ruling thereon, and he therefore has prepared, after careful research, an exhaustive opinion thereon, which contains much valuable information, as well as legal research and learning; and

Whereas, Such labor should be preserved not only as a record of the present Legislature but also as an indication to those interested, of the attitude of this Legislature, relative to a diversion of Special Funds; now, therefore, be it

Resolved by the House of Representatives, That the written opinion of the Speaker, Hon. Coke Stevenson, relative to the constitutionality of House Bill No. 6, be ordered printed in the Journal.

GRAVES,
PETSCH.

The resolution was read second time, and was unanimously adopted.

The following Opinion of Hon. Coke R. Stevenson, Speaker, was ordered printed in the Journal:

The question is whether House Bill No. 6, proposing to make an appropriation and transfer of Three Million ($3,000,000.00) Dollars from the State Highway Fund to the Texas Old Age Assistance Fund, would violate Section 7 of Article VIII of the Constitution of Texas; and also whether said bill would be in violation of Section 16 of Article I of said Constitution.

Section 7 of Article VIII of the Constitution reads as follows:

> "The Legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the Treasury; and shall make it penal for any person or persons to borrow, withhold or in any manner to divert from its purpose any special fund, or any part thereof."

Pursuant to the second clause in said Section the Legislature has enacted what is now Article 94 of the Penal Code which reads as follows:

> "Whoever shall wilfully borrow, withhold or in any manner divert from its purpose, any special fund, or any part thereof, belonging to or under the control of the State, which has been set apart by law for a specific use, shall be confined in the penitentiary not less than two nor more than ten years."

The language of the foregoing Section of the Constitution indicates a clear intention to protect special funds. They are protected against diversion and against borrowing.

The Attorney General of this State has held that the foregoing constitutional provision applies only to constitutional special funds and not to statutory special funds. The At-

torney General is the chief law officer of this State and his opinions are entitled to the highest consideration and profound respect. The Legislature, however, is not bound thereby. The courts of the State are not bound by the opinions of the Attorney General and frequently disagree with him. One of the cases cited in the Attorney General's opinion, now under discussion, is a case in which the Supreme Court of this State disagreed with the position of the Attorney General and issued a Writ of Mandamus against him.

It is conceded that the State Highway Fund is a special fund. It is true that the State Highway Fund was created by statutory enactment in 1917, (Acts 1917, page 424) and which is now designated as Article 6694 of the Revised Civil Statutes and reads as follows:

"All funds coming into the hands of the Commission derived from the registration fees or other sources provided for in this subdivision, as collected, shall be deposited with the State Treasurer to the credit of a special fund designated as 'The State Highway Fund,' and shall be paid only on warrants issued by the Comptroller upon vouchers drawn by the chairman of the Commission and approved by one other member thereof, such vouchers to be accompanied by itemized sworn statements of the expenditures."

The Statute is clear in designating this fund as a special fund and by specific language provides the only way in which it can be paid out, to-wit; "on warrants issued by the Comptroller upon vouchers drawn by the chairman of the Commission and approved by one other member thereof, such vouchers to be accompanied by itemized sworn statements of the expenditures." The money derived from the gasoline tax is governed by the provisions of the Acts 1932, 42nd. Leg., 3rd. C. S., page 15, Ch. 13 and is now designated as Article 6674q-5 and 6674q-6.

Article 6674q-5 reads as follows:

"All moneys now or hereafter deposited in the State Treasury to the credit of the 'State Highway Fund,' including all Federal Aid money deposited to the credit of said Fund under the terms of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said System of State Highways by the State Highway Department."

This Statute is clear and specific in providing that the State Highway Fund shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said system of State Highways by the State Highway Department. Article 6694, supra, specifically designates the State Highway Fund a special fund, and Article 6674q-5 states the specific purpose for which the special fund was created. Section 7 of Article VIII of the Constitution, supra, specifically forbids the Legislature to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the Treasury. Clearly then, House Bill No. 6 would violate this constitutional provision unless it applies only to constitutional special funds as contended by the Attorney General.

It will be noted that the language of the Constitution specifically refers to any special fund that may, or ought to, come into the Treasury. In an effort to understand the meaning of the language used in the Constitution let us keep in mind some of the rules of constitutional interpretation.

Mr. Justice Story in his work on the Constitution, Section 454, has this to say:

"Constitutions are not designed for metaphysical or logical subtleties, for niceties of expression, for critical propriety, for elaborate shades of meaning, or for the exercise of philosophical acuteness or judicial research. They are instruments of a practical nature, founded on the common business of human life, adapted to common wants, designed for common use, and fitted for common understandings. The people make them, the people adopt them, the people must be supposed to read them, with the help of common sense, and cannot be presumed to admit in them any recondite meaning or any extraordinary gloss."

Judge Cooley in his work on Constitutional Limitations, (7 ed.), page 93 says:

"Narrow and technical reasoning is misplaced when it is brought to bear upon an instrument framed by the people themselves, for themselves, and designed as a chart upon which every man, learned and unlearned, may be able to trace the leading principles of government."

Applying the foregoing texts, the Chair is of the opinion that Section 7 of Article VIII of our Constitution is a statement of a practical nature, founded on the common business of human life, adapted to common wants, designed for common use and made for common understanding. It means what it says when it refers to any special fund and is not restricted to a constitutional special fund; but applies with equal force to both constitutional special funds and statutory special funds.

We are fortified in this reasoning by reference to other provisions of our Constitution. The Constitutional special funds are few in number and are dealt with in Article VII of the Constitution. Section 3 of said Article makes provision for the available school fund and provides, however, "that should the limit of taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State." Section 4 of said Article makes provision for the sale of lands which constitute the permanent school fund, and Section 5 of said Article contains this provision: "and no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever." This provision effectually safeguards these constitutional special funds and it is not necessary to look to the provisions of Section 7 of Article VIII in order to find protection for the special funds mentioned. Section 6 of Article VII provides for the disposition of the lands composing the county permanent school funds, and protects the special funds arising therefrom in the following language:

"Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal shall be available fund."

Section 9 of Article VII deals with the asylum land and provides that the same is set apart as a permanent fund for the support, maintenance and improvement of said asylums; and that the Legislature may provide for the sale of lands and the investment of the proceeds in manner as provided for the sale and investment of school lands.

Section 11 of Article VII creates the permanent University fund and the language of the original Section provided:

"And the same as realized and received into the Treasury of the State (together with such sums, belonging to the Fund, as may now be in the Treasury), shall be invested in bonds of the State of Texas, if the same can be obtained, if not, then in United States Bonds and the interest accruing thereon, shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing Section. (Being Section 10 which provides for the establishment of the University of Texas.)"

It will be observed that Article VII of the Constitution is the one creating constitutional special funds and it will be noted that the special funds created have been safeguarded by restrictions then and there placed around each of said special funds in the constitutional provisions creating them.

Article VIII of the Constitution deals with the subject of taxation and revenue. Section 3 of said Article provides that taxes shall be levied and collected by general laws and for public purposes only. There are 19 Sections in this Article of the Constitution and all of them deal with the subject of revenue and

taxation and with the manner of levying and collecting taxes, and with the authority of the Legislature in connection therewith. Included in these several Sections is the one under consideration, to-wit: Section 7. It is included and grouped with the other Sections dealing with the power of the Legislature to levy and collect taxes. It therefore appears plainly to the Chair that its provisions constitute a restriction on the power of the Legislature to borrow, or in any manner divert from its purpose, any statutory special fund which might arise from taxes levied and collected by the Legislature.

Our own Supreme Court has not construed this particular Section, but it seems entirely proper for the Legislature to do so since the language of said Section deals entirely with the power of the Legislature. The Supreme Court of Arkansas has construed a similar provision in the Arkansas Constitution. Section 11 of Article XVI of that constitution is quoted as follows:

"No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same; and no moneys arising from a tax levied for one purpose shall be used for any other purpose."

In the opinion in Collins V. Humphrey, 27 S. W. (2nd.), page 102, the Supreme Court of Arkansas says:

"The power of taxation and the power of apportioning taxes are identical and inseparable unless there is some constitutional restriction. In Moore v. Alexander, 85 Ark. 171, 107 S. W. 395, the court held that the capitol fund, collected pursuant to a special tax levied for the purpose of building a state capitol, could not be paid out unless there had been a biennial appropriation in compliance with Article 16, Section 12, of the Constitution, notwithstanding it was beyond the power of the General Assembly to divert the fund collected therefor to use for any other purpose under Article 16, Section 11, of the Constitution. In that case, the levy here was a continuing one, but the tax had already been collected. Hence, it was held that the Legislature could not divert it because it was money arising from a tax levied for one purpose, and could not be used for another purpose. Of course if there is a surplus left after the purpose is accomplished and the money is no longer needed for the original purpose, the Legislature may appropriate it to another public purpose. If the framers of the Constitution had meant that a tax levied for one purpose could not be used for another purpose, they would have so provided as they did in the case of school taxes under Article 14. By the use of the phrase 'arising from a tax levied for one purpose' it was evidently intended that when the tax was collected, it automatically belonged to the purpose for which it was levied and could not thereafter be diverted by the Legislature to another purpose.

"In other words, the Legislature has no power to divert a fund after the tax has been levied and collected and transfer it to another and separate purpose. If it could the funds thus levied and collected might seriously embarass the administration of the State Government."

One of the Judges of that court went even further than the majority opinion and said:

"The word 'arising' in the sentence is a present participle and refers to money then collected or to be collected in the future as long, of course, as the purpose for which the levy was made exists. The broad natural meaning of the language used in the sentence is that when a tax has been levied for a specific purpose the Legislature cannot thereafter (meaning after the passage of the bill in levying the same) divert the money arising therefrom to a different purpose. Any other construction would permit the Legislature to lay a tax upon the people for a certain purpose agreeable to them and provide for the collection thereof, but, before same had been collected, to divert it to some purpose not agreeable to them."

In Ohio the Court of Appeals in 1913 in the case of State v. Benham one Ohio Appellate Reports, page 472, construed Section 5 of Article XII of the Ohio Constitution which provides:

"No tax shall be levied, except in pursuance of law; and every act imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied."

The Legislature passed an act to create an institution for the needy blind and provided:

"After the passage of this Act and on the demand of the State Treasurer the Treasurers of the respective counties shall transfer and pay over to the State Treasurer all monies in their possession or that may thereafter come into their possession under the present levies for the relief of the blind."

With respect to this Act, the Court held:

"The fund in controversy was raised prior to the passage of the State Commission Act, under levies specifically made for previous years, supplying relief to the needy blind in Franklin county, which fund was to be administered through the channel of the county authorities in favor of the holders of certificates and warrants adjudged entitled thereto.

"The State Commission Act took effect August 11, 1913. It is prospective only in its operation, and is to be administered for the general benefit of the needy blind throughout the State. It therefore follows that the transfer of the Franklin county fund to the State Treasurer would necessarily have the effect of diverting the moneys from the county beneficiaries, who had rights accruing prior to the passage of the State Act, to a general class of beneficiaries throughout the State. The fund should with propriety be confined to Franklin county alone."

In South Dakota the Supreme Court in 1932 was confronted by a proposal of the Governor of that State to transfer funds raised by the Motor Vehicle Fuel Sales Tax to furnish aid in the form of feed or feed loans to citizens who might need same in carrying their livestock through the winter. (See opinion of the Judges, 240 N. W. R,' page 600.) The Court held that such transfer of funds would be illegal and said:

"First, and by way of preliminary, we may say that, in our opinion, the tax upon motor vehicle fuels is merely one of many conceivable forms of taxation. We can see no legal distinction, so far as concerns the purposes for which the tax may lawfully be levied or the proceeds thereof appropriated, between the motor vehicle fuel tax and any other tax, and in discussing this precise point on a previous occasion the Judges said: 'It is our opinion that moneys which may be derived from this particular type of taxation stand in no other or different position than moneys derived from any other form of taxation, as, for example, a general property tax.' Opinion of the Judges, 50 S. D. 324, 210 N. W. 186, 187.

"We are therefore of the opinion that your first and second inquiries are, in substance and legal effect, precisely identical.

"Secondly, and with particular reference to the possibility of employing moneys (either State or county) now on hand or to accrue under present levies, for the furnishing of feed or making of feed loans, Article 11, Section 8, Constitution of this State, provides: 'No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.'

"Under this Section we are of the opinion that moneys now on hand (or hereafter to be received) as the result of payment of taxes (whether motor vehicle fuel tax or other tax) already levied, and the proceeds of which have already been appropriated, must be applied to the purposes for which they were levied and to which they have already been appropriated, and we think the same could not now be diverted, even by Legislative action, to any other purpose. See Opinion of the Judges, 50 S. D. 324, 210 N. W. 186; White Eagle

Oil and Refining Company v. Gunderson, 48 S. D. 608, 205 N. W. 614, 43 A. L. R. 397."

In Washington, in the case of Burbank v. Douglass, 255 Pacific, page 360, the Supreme Court of that State was considering whether a maintenance fund of an irrigation district could be transferred to a fund to pay the interest on the outstanding indebtedness of the district, the Court said:

"The general rule is that, where money is raised and is payable out of a special fund, the fund in question shall not be called upon to pay any other or different charges, except those for which it is created. Potter v. Black, 15 Wash. 186, 45 P. 787; Sheldon v. Purdy, 17 Wash. 135, 49 P. 228."

In Corpus Juris, Volume 61, page 1521, Section 2235, states the general rule thus:

"Taxes which are set apart by the Constitution of the State for particular uses cannot be diverted by the Legislature to any other purpose, and neither can funds derived from taxes levied and collected for particular purposes be legally utilized for, or diverted to, any other purpose, some constitutional provisions expressly so providing."

As above stated, the Supreme Court of Texas has never passed upon the question whether Section 7 of Article VIII of our Constitution prohibits the diversion of statutory special funds. Several cases can be found in which the language used indicates that it does certainly protect the transfer and diversion of constitutional special funds. Among these are the cases cited by the Attorney General in his Opinion of October 5, 1936. To his citation may be added the cases of Love v. City of Dallas, 40 S. W. (2nd.) 20; Lawson v. Baker, 220 S. W. 260, precise page 272; Carroll v. Williams, 202 S. W. 504.

These cases all clearly indicate the sanctity of special funds, and it is the belief of the Chair that our Supreme Court will hold that Section 7 of Article VIII applies equally to statutory special funds as to constitutional special funds. Any other construction of this Section would be unthinkable, especially if we adhere to the standards of constitutional interpretation announced by Story and Cooley, supra.

The argument is advanced that this construction of the Constitution would prevent the Legislature from exercising management and control over its own creation, to-wit: the special funds which it, from time to time, designates. This would be true as long as the purpose for which the special fund is set aside continues to exist. Certainly if there is a surplus left in the special fund after the purpose is accomplished and the money is no longer needed for the original purpose, the Legislature could appropriate it to another public purpose. The Legislature could also increase or diminish the sources of revenue for the special fund. For instance, the present State Highway Fund arises from only a portion of the gasoline tax. The latter part of Article 6674q-6, Vernon's Statutes, reads as follows:

"One-fourth (1/4) of such occupation or excise tax shall go to and be placed to the credit of the Available Free School Fund; one-fourth (1/4) shall go to and be placed to the credit of a fund to be known as the 'County and Road District Highway Fund'; the remainder of such occupation or excise tax shall go to and be placed to the credit of, the State Highway Fund, for the construction and maintenance of the public roads of the State, constituting and comprising the system of State Highways of Texas, as designated by the State Highway Commission of Texas."

From examination of the foregoing, it will be readily observed that the gasoline tax has been split three ways when levied. One-fourth (1/4) goes to the Available School Fund. It will be conceded by all that this is a constitutional special fund, and Section 5 of Article VII of the Constitution prohibits the Legislature from appropriating any part of this fund to any other purpose whatever. The Legislature cannot borrow this fund and cannot divert it. It could,

however, decrease that portion of the gasoline tax which goes into the fund, or it could increase the same. Once the tax is levied and collected, however, the Legislature is powerless to divert any part of it to any other purpose. The same reasoning should apply to each of the other funds mentioned in Article 6674q-6. The County and Road District Highway Fund is allocated for a special purpose. The Legislature could increase or diminish that fund by increasing or reducing the gasoline tax, or by changing the allocation of that part of the gasoline tax which now goes to that fund, but having once made the allocation and the money having been collected and set apart under such allocation, the Legislature has no authority to disturb that fund until its original purpose has been accomplished. The same reasoning applies to the State Highway Fund.

For the reasons stated, the Chair is of the opinion that H. B. No. 6 violates Section 7 of Article VIII of the Constitution of Texas, and so believing, it is not necessary to decide whether said bill would be in violation of Section 16 of Article I of said Constitution.

COKE STEVENSON,
Speaker.

MESSAGE FROM THE SENATE

Austin, Texas, October 12, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has concurred in House amendments to S. C. R. No. 4, Relative to enactment of Chapter 13, Acts of 1932 of the Third Called Session of the Forty-second Legislature by viva-voce vote.

Respectfully,

BOB BARKER,
Secretary of the Senate.

RELATIVE TO REVENUES FOR OLD AGE ASSISTANCE

The Chair laid before the House, for consideration at this time, resolution by Mr. Fain, offered on last Friday, relative to raising revenues for Old Age Assistance.

The resolution having been read second time, on last Friday.

Mr. Westfall offered the following substitute for the resolution by Mr. Fain:

Whereas, The recent investigation of our Old Age Assistance Commission has disclosed a dissatisfaction of said law by the Federal Social Security Board and the Executive Head of the Old Age Assistance Commission of this State for the reason as expressed by each one that the law is entirely too liberal and is allowing too many people to become eligible for old age assistance that are really not in need of it, and does not necessarily conform to the requirements of the Social Security Board; and

Whereas, Such an attitude on the part of the Social Security Board and the Old Age Assistance Commission has left the membership of both Houses of the Legislature in doubt as to the proper course to pursue or the proper amount of revenue needed to meet the requirements of the Old Age Assistance Commission in providing the necessary revenue for the needy old people, and such conditions will create in the minds of many members an unwillingness to vote for any additional revenue unless and until they are fully informed as to the manner in which such funds will be administered and who will be the beneficiaries of such allotment; and

Whereas, Due to the fact that an emergency exists in the payment of claims caused by the lack of the necessary revenue at present, and further, due to the fact that the present confusion among the membership of both Houses will likely defeat efforts to provide the necessary revenue to carry out our obligations to our old people who are in dire need of assistance at the present time; therefore, be it

Resolved by the House of Representatives, That the Governor be called upon to submit House Bill No. 26, which is the Old Age Assistance Law, passed by the First Called Session of the Forty-fourth Legislature, for any changes that in the wisdom of the Legislature is deemed proper and necessary to better carry out the purposes for which said law was intended.

Mr. Lucas raised a point of order, on further consideration of the substitute resolution, at this time, on the ground that the substitute is not a

proper substitute for the original resolution by Mr. Fain.

The Chair overruled the point of order.

Mr. Morrison moved that the original resolution, by Mr. Fain, and the substitute resolution by Mr. Westfall, be referred to the Committee on State Affairs.

Mr. Westfall moved to table the motion by Mr. Morrison.

The motion to table was lost.

Question recurring on the motion by Mr. Morrison to refer the resolutions to the Committee on State Affairs, it prevailed.

OPINION OF ATTORNEY GENERAL WILLIAM McCRAW IN REGARD TO HOUSE BILL NO. 6

Mr. Lucas offered the following resolution:

Whereas, There is now pending before the State Affairs Committee of the House, a bill making appropriation and transfer of $3,000,000.00 from the State Highway Fund to the Texas Old Age Assistance Fund; and

Whereas, The Attorney General of the State of Texas has given an opinion on the constitutionality of said bill; and

Whereas, It is believed said opinion should be made a permanent record by this Legislature; now, therefore, be it

Resolved, That a copy of said opinion be printed in the House Journal.

LUCAS,
FAIN.

The resolution was read second time, and was adopted.

The following opinion of Attorney General Wm. McCraw, was ordered printed in the Journal:

Austin, Texas, October 5, 1936.

Honorable Lon A. Alsup,
Chairman, Committee on Counties,
Capitol Building,
Austin, Texas.

Dear Sir:

We are in receipt of your letter of the 3rd instant, in which you request the advice of this Department upon the following inquiry:

No. 1. Whether or not House Bill No. 6, proposing to make an appropriation and transfer of Three Million Dollars ($3,000,000.00) from the State Highway Fund to the Texas Old Age Assistance Fund would violate Section 7 of Article VIII of the Constitution of Texas?

No. 2. Whether or not said House Bill No. 6, in authorizing the transfer of Three Million Dollars ($3,000,000.00) from the Highway Fund to the Texas Old Age Assistance Fund and further reimbursing said State Highway Fund in providing that Three Million Dollars ($3,000,000.00) be transferred from the State General Fund to the State Highway Fund, would be in violation of Article I of Section 16 of the Constitution of Texas.

The Act referred to by you, a copy of which is enclosed in your letter, being H. B. No. 6 pending before the present Third Called Session of the Forty-fourth Legislature makes an appropriation and transfer of Three Million Dollars from the State Highway Fund into the Texas Old Age Assistance Fund, and also makes an appropriation and transfer of Three Million Dollars out of the General Revenue Fund into the State Highway Fund.

Section 7 of Article VIII of the Constitution of Texas reads as follows:

> "The Legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the Treasury; and shall make it penal for any person or persons to borrow, withhold or in any manner to divert from its purpose any special fund, or any part thereof."

The foregoing provisions of the Constitution prohibit the Legislature from diverting from its purpose any special fund, but this prohibition is directed against the diversion of any special funds provided for in the Constitution of Texas and would not have any reference to any special funds which have been created by the Legislature, commonly known as statutory special funds as distinguished from constitutional special funds. Brazos River Conservation and Reclamation District vs. McCraw, 91 S. W. (2d) 665, exact page 674; Ferguson vs. Johnson, 57 S. W. (2d) 372, exact page 376, (Writ of Error dismissed).

The State Highway Fund is unquestionably a special fund inasmuch as all revenue coming into such fund is

set aside for a specific purpose, but said fund was created by the Legislature and is known as a statutory special fund and what the Legislature can create, it can certainly control and thereafter manage in such way as it may deem proper. Therefore, you are respectfully advised in answer to your first question that in our opinion, H. B. No. 6 would not violate Section 7 of Article VIII of the Constitution of Texas.

Section 16 of Article I of the Constitution of Texas provides that no bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

Apparently your inquiry is directed toward the latter provisions of this Section of the Constitution and you desire to know as to whether or not this Act would have the effect of impairing the obligations of any contracts which may have been made by the State Highway Commission so as to be violative of this Constitutional limitation.

In the case of City of Aransas Pass, et al vs. Keeling, Attorney General, 247 S. W. 818, the Supreme Court of Texas had before it for consideration an Act of the Legislature which donated and granted to the City of Aransas Pass for a period of twenty years, eight-ninths (8/9) of the amount collected upon property and persons in San Patricio County. The taxes so appropriated was to be used as a fund for the purpose of retiring bonds to be issued by the City of Aransas Pass for the construction of a sea wall for the protection of said City against the ravages of the sea. One of the objections raised in the validity of this Act was that reasonable provisions was not made for the redemption of these bonds for the Legislature, after the sale of the bonds, might repeal the Act appropriating the eight-ninths of the taxes for a period of twenty years. However, the Supreme Court, in an opinion by Mr. Justice Greenwood denied this contention in the following language:

"The objection is not tenable that reasonable provision is wanting to redeem the bonds because the Legislature, after the sale of the bonds, can repeal the donation of state taxes for 20 years. State and federal authorities are uniform that, when an act of a state Legislature, authorizing a bond issue, creates or authorizes the creation of, a certain fund for the bond's payment, such provision of the act enters into the contract between the debtor and the holders of the bonds, so that it cannot be repealed by subsequent legislation without the substitution of something of equal efficacy. The subsequent legislation would impair the obligation of the contract, and therefore come under constitutional condemnation."

In the case of Ferguson vs. Johnson, 57 S. W. (2d) 372, the Austin Court of Civil Appeals in an opinion by Chief Justice McClendon, in discussing the power of the Legislature over the State Highway Fund, did so in the following language:

"Appellants argue that the Legislature has the continuing power to repeal the appropriation or allocate the fund to other uses. This power is conceded, but it does not militate against the availability of the appropriated fund so long as the power is not exercised. Furthermore, this power is not limited to that portion of the fund which has not yet been actually deposited in the treasury, but exists in like manner and to a like extent over that portion of the fund which has been actually deposited in the treasury. We are not here concerned with the effect or validity of a legislative repeal of an appropriation after it has been contracted against. The impotence of private individuals to enforce through the courts their contractual rights against the State, by reason of inability to sue the State without its consent, inheres in every such contract. This impotence, however, does not affect the binding force of state obligations; nor does it deprive the Legislature of the power to delegate to an appropriate agency authority to create binding contractual obligations against the State. It is not to be presumed that the Legislature will withdraw appropriations already contracted against under its own direction (conceding its power to do so), without making adequate provision to meet the valid obligations its authorized agency has created at its behest. To do so would amount to repudiation. But even should the Legislature see fit to repudiate valid

state obligations, its act in so doing would not have the retroactive effect of destroying the previously exercised contractual power of its agency. If such act of withdrawal rendered unavailable the previously available fund, excess of liability over available fund would not be created by the highway commission but by the Legislature; which body by such act would be creating a liability which it has expressly denied to its constituted agency the power to create. If it should be held that this continuing power of withdrawal is a limitation upon the contractual power of the commission, then, as above shown it extends to funds in the treasury as well as to those coming into the treasury. From which it would follow that the entire contractual power attempted to be conferred would be a nullity and the commission would be impotent to perform the functions for which it was created." (Under scoring ours).

The power of the Legislature to withdraw appropriations made against such obligations have been created by an agency of the State Government which was fully empowered to make such obligations without making adequate provision to meet such obligations would be questionable. However, in H. B. No. 6, in withdrawing and transferring certain funds out of the State Highway Fund, the Legislature has in turn attempted to reimburse said fund from the General Fund of the State thereby attempting to make adequate provision for meeting any obligation that may be legally outstanding against the State Highway Fund.

Therefore, it is the opinion of the writer that H. B. No. 6 is not in violation of Section 16 of Article I of the Constitution of Texas.

Yours very truly,

(Signed) WM. McCRAW,
Attorney General of Texas.

TO GRANT PERMISSION TO SUE THE STATE

The Chair laid before the House, for consideration at this time, the following resolution:

S. C. R. No. 6, To grant Tom S. Mann permission to sue the State.

Whereas, On the 7th day of August, 1935, Tom S. Mann of Oakhurst, San Jacinto County, Texas, was an employee of the Texas Highway Department, and was working on State Highway Number 45 in San Jacinto County, Texas; and

Whereas, Said Tom S. Mann was following the orders of the foreman of said State Highway Department, Mr. T. O. Hoskins, and was actually in discharge of his duties cutting weeds along the sides of the Highway near Oakhurst, Texas, with a hand operated weed cutter on a sloping place beside said Highway Number 45, and while engaged and in discharge of said duties, the said Tom S. Mann slid and fell, striking his hand against the blade of said weed cutter; and

Whereas, The said Tom S. Mann received injuries severing all tendons and muscles in right hand which has caused permanent disability due to nerve injury and to the palmer muscles; and

Whereas, The said Tom S. Mann has not been compensated by the State Highway Department for said injuries and has been compelled to expend large sums of money trying to cure and restore the use of said right hand; now, therefore, be it

Resolved by the Senate of Texas, the House of Representatives concurring, That the said Tom S. Mann be, and he is hereby, granted permission to bring suit against the State of Texas and the State Highway Department in a court of competent jurisdiction in order to determine compensation for damages received, and the said State Highway Department is hereby directed, in the event a judgment is recovered in any court of competent jurisdiction, to pay said judgment out of any fund in said State Highway Department and that service of citation or the necessary process may be had upon the State of Texas by delivering a copy of the said pleading thereto to the Honorable Harry Hines, Chairman of the State Highway Commission of the State of Texas, as in other civil cases.

The resolution was read second time.

On motion of Mr. Alsup, the resolution was referred to the Committee on State Affairs.

GRANTING PERMISSION TO SUE THE STATE

The Chair laid before the House, for consideration at this time, H. C. R. No. 5, by Mr. Bradbury, Granting Mike Martin permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING PERMISSION TO SUE THE STATE

The Chair laid before the House, for consideration at this time, H. C. R. No. 6, by Mr. Bradbury, Granting W. L. Walker permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

(Speaker in the Chair.)

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, H. C. R. No. 10, by Mr. Wells, Granting T. G. Allen permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, H. C. R. No. 9, by Mr. McFarland, Granting The State Life Insurance Company of Indianapolis, Indiana, permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, H. C. R. No. 12, by Mr. Lanning, Granting Odis Wade permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, H. C. R. No. 13, by Mr. Lanning, Granting Mrs. Virginia Thomas permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, H. C. R. No. 11, by Mr. Alsup, Granting W. D. Hill and Mrs. Willie Hill permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, H. C. R. No. 14, by Mr. Craddock, Granting

Gertrude Pugh permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, S. C. R. No. 5, Granting E. A. Schlick permission to sue the State.

The resolution having heretofore been read second time, and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

TO PROVIDE FOR COMMITTEE TO ATTEND CERTAIN CONFERENCE

The Speaker laid before the House, for consideration at this time, resolution by Mr. Payne, To provide for committee to attend the Southwestern States Probation and Parole Conference.

The resolution having heretofore been read second time, and referred to the Committee of State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Mr. Payne offered the following amendment to the resolution:

Amend the resolution by striking out the last paragraph beginning "now, therefore, be it resolved, etc." and substituting in lieu thereof the following:

"Now, therefore, be it resolved, That a Committee from the Texas House of Representatives composed of three members be appointed by the Speaker of the House to attend this Conference in New Orleans, with a view of studying proposed legislation on the subject of probation and parole and that the actual expenses, not to exceed $500.00, of this Committee be defrayed from the Contingent Fund of the Third Called Session of the Forty-fourth Legislature."

Mr. Reed of Dallas offered the following amendment to the amendment:

"Amend the resolution by striking out $500.00 wherever it appears."

REED of Dallas,
HANNA,
ROANE,
HARRIS of Dallas,
McCALLA,
LEMENS.

Question—Shall the amendment by Mr. Reed of Dallas be adopted?

RECESS

On motion of Mr. Butler of Brazos, the House at 12:00 o'clock m., took recess to 2:00 o'clock p. m., today.

AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by Mr. Alexander.

TO PROVIDE FOR COMMITTEE TO ATTEND CERTAIN CONFERENCE

The House resumed consideration of pending business, same being resolution by Mr. Payne, providing for a committee to attend the Southwestern States Probation and Parole Conference.

The resolution having heretofore been read second time, with amendment by Mr. Payne, and amendment by Mr. Reed of Dallas to the amendment, pending.

Mr. Reed of Dallas withdrew the pending amendment, and offered the following in lieu thereof:

Amend the amendment to read as follows:

"The Committee shall be required to pay their own expenses."

REED of Dallas,
HANNA,
HARRIS of Dallas,
McCALLA,
LEMENS,
ROANE.

Mr. Payne moved to table the amendment by Mr. Reed of Dallas.

The motion to table was lost.

Question recurring on the amendment by Mr. Reed of Dallas, it was adopted.

Question recurring on the amendment, as amended, yeas and nays were demanded.

The roll of the House was called on the amendment and the vote announced as follows:

Yeas—59

Adamson	Knetsch
Aikin	Lange
Alsup	Lanning
Atchison	Latham
Bradbury	Lemens
Bridgers	Lucas
Broadfoot	Mauritz
Broyles	McCalla
Burton	Moffett
Butler of Karnes	Moore
Cagle	Morris
Calvert	Morse
Canon	Pope
Collins	Quinn
Craddock	Reed of Dallas
Fain	Roach of Angelina
Farmer	Roane
Fox	Roark
Gibson	Roberts
Gray	Rutta
Hankamer	Steward
Hanna	Stovall
Harris of Archer	Tennyson
Herzik	Thornton
Hodges	Venable
Holland	Walker
Howard	Wood of Montague
Hunt	Worley
James	Youngblood
King	

Nays—30

Adkins	Keefe
Bergman	Luker
Bourne	Morrison
Bradford	Newton
Daniel	Olsen
Davison of Fisher	Palmer
Dickison	Patterson
Ford	Reader
Frazer	Reed of Bowie
Glass	Roach of Hunt
Hardin	Stinson
Hofheinz	Tarwater
Huddleston	Tillery
Hunter	Waggoner
Jones of Wise	Wood of Harrison

Absent

Alexander	Cooper
Ash	Cowley
Butler of Brazos	Crossley
Caldwell	Davis
Celaya	Davisson of Eastland
Colquitt	Dunagan
Colson	Dunlap of Hays
Dunlap of Kleberg	McConnell
Dwyer	McFarland
England	McKinney
Fisher	Nicholson
Fuchs	Payne
Graves	Petsch
Greathouse	Riddle
Harris of Dallas	Rogers
Hartzog	Russell
Head	Scarborough
Hill	Sessions
Jefferson	Shofner
Jones of Falls	Smith
Jones of Shelby	Stanfield
Leath	Wells
Leonard	Westfall
Lindsey	Young

Absent—Excused

Duvall	Jones of Atascosa
Good	Lotief
Harper	McKee
Hoskins	Padgett
Hyder	Settle
Jackson	Spears

Mr. Lucas raised the point of order that there was not a quorum present.

The Chair sustained the point of order.

Mr. Lucas moved a call of the House for the purpose of securing and maintaining a quorum until 5:00 o'clock p. m., today, and the call was not seconded.

Mr. Hofheinz moved a call of the House for the purpose of securing a quorum, and the call was duly ordered.

On motion of Mr. Hofheinz, the Sergeant-at-Arms was instructed to bring in all absent Members within the city who are not ill.

The roll of the House was called and the following Members were present:

Adamson	Cagle
Adkins	Calvert
Aikin	Canon
Alexander	Collins
Alsup	Colquitt
Atchison	Craddock
Bergman	Crossley
Bourne	Daniel
Bradbury	Davison of Fisher
Bradford	Davisson of Eastland
Bridgers	Dickison
Broadfoot	Fain
Broyles	Farmer
Burton	Fisher
Butler of Karnes	

Ford
Fox
Frazer
Gibson
Glass
Gray
Hankamer
Hanna
Hardin
Harris of Archer
Hartzog
Herzik
Hodges
Hofheinz
Holland
Howard
Huddleston
Hunt
Hunter
James
Jones of Falls
Jones of Wise
Keefe
King
Knetsch
Lange
Lanning
Latham
Lemens
Lindsey
Lucas
Luker
Mauritz
McCalla
McFarland
McKinney
Moore
Morris
Morrison
Morse
Newton
Nicholson
Olsen
Palmer
Patterson
Payne
Pope
Quinn
Reader
Reed of Bowie
Reed of Dallas
Roach of Angelina
Roach of Hunt
Roane
Roark
Roberts
Rogers
Rutta
Sessions
Smith
Steward
Stinson
Stovall
Tarwater
Tennyson
Thornton
Tillery
Venable
Waggoner
Walker
Wood of Harrison
Wood of Montague
Worley
Youngblood

Absent

Ash
Butler of Brazos
Caldwell
Celaya
Colson
Cooper
Cowley
Davis
Dunagan
Dunlap of Hays
Dunlap of Kleberg
Dwyer
England
Fuchs
Graves
Greathouse
Harris of Dallas
Head
Hill
Jefferson
Jones of Shelby
Leath
Leonard
McConnell
Moffett
Petsch
Riddle
Russell
Scarborough
Shofner
Stanfield
Wells
Westfall
Young

Absent—Excused

Duvall
Good
Harper
Hoskins
Hyder
Jackson
Jones of Atascosa
Lotief
McKee
Padgett
Settle
Spears

A quorum was announced present.

Mr. Payne asked unanimous consent of the House to withdraw the resolution from further consideration at this time.

There was objection offered.

Mr. Jones of Falls moved that further consideration of the resolution be postponed indefinitely.

Mr. Frazer moved to table the resolution.

The motion to table the resolution was lost.

Question recurring on the motion to postpone further consideration of the resolution indefinitely, yeas and nays were demanded.

The roll of the House was called on the above motion, and the vote announced as follows:

Yeas—59

Adamson
Adkins
Alsup
Atchison
Bourne
Bradford
Bridgers
Broadfoot
Broyles
Burton
Butler of Brazos
Cagle
Canon
Collins
Daniel
Davison of Fisher
Dickison
Farmer
Frazer
Gibson
Harris of Archer
Hofheinz
Holland
James
Jones of Falls
Jones of Wise
King
Lanning
Latham
Lemens
Lindsey
Mauritz
McKinney
Moffett
Moore
Morris
Morrison
Newton
Patterson
Payne
Pope
Reed of Bowie
Roach of Angelina
Roach of Hunt
Roane
Roark
Roberts
Rutta
Sessions
Smith
Stovall
Tennyson
Tillery
Venable
Waggoner
Wood of Harrison
Wood of Montague
Worley
Youngblood

Nays—25

Aikin
Bergman
Bradbury
Butler of Karnes
Craddock
Fain
Fox
Gray
Hanna
Hodges
Howard
Hunter
Keefe
Knetsch
Lange
Lucas

McCalla
McFarland
Morse
Quinn
Reader
Reed of Dallas
Rogers
Stinson
Thornton

Absent

Alexander
Ash
Caldwell
Calvert
Celaya
Colquitt
Colson
Cooper
Cowley
Crossley
Davis
Davisson of Eastland
Dunagan
Dunlap of Hays
Dunlap of Kleberg
Dwyer
England
Fisher
Ford
Fuchs
Glass
Graves
Greathouse
Hankamer
Hardin
Harris of Dallas
Hartzog
Head
Herzik
Hill
Huddleston
Hunt
Jefferson
Jones of Shelby
Leath
Leonard
Luker
McConnell
Nicholson
Olsen
Palmer
Petsch
Riddle
Russell
Scarborough
Shofner
Stanfield
Steward
Tarwater
Walker
Wells
Westfall
Young

Absent—Excused

Duvall
Good
Harper
Hoskins
Hyder
Jackson
Jones of Atascosa
Lotief
McKee
Padgett
Settle
Spears

The point of order was raised that there was not a quorum present.

The Chair sustained the point of order.

Mr. Alsup moved a call of the House for the purpose of securing and maintaining a quorum until 5:00 o'clock p. m., today, and the call was not seconded.

Mr. Alsup moved a call of the House for the purpose of securing and maintaining a quorum until 3:00 o'clock p. m., today, and the call was duly ordered.

On motion of Mr. Alsup, the Sergeant-at-Arms was instructed to bring in all absent Members within the city who are not ill.

The roll of the House was called and the following Members were present:

Adamson
Adkins
Aikin
Alexander
Alsup
Atchison
Bergman
Bourne
Bradbury
Bridgers
Broadfoot
Broyles
Burton
Butler of Brazos
Butler of Karnes
Cagle
Caldwell
Calvert
Canon
Celaya
Colson
Craddock
Crossley
Daniel
Davis
Davison of Fisher
Dickison
Fain
Farmer
Fisher
Ford
Fox
Frazer
Fuchs
Gibson
Glass
Gray
Hankamer
Hanna
Hardin
Harris of Archer
Herzik
Hodges
Hofheinz
Holland
Howard
Huddleston
Hunt
Hunter
James
Jones of Falls
Jones of Wise
Keefe
King
Knetsch
Lanning
Latham
Leath
Lemens
Lindsey
Lucas
Luker
Mauritz
McCalla
McFarland
McKinney
Moffett
Moore
Morris
Morrison
Morse
Newton
Nicholson
Olsen
Palmer
Patterson
Payne
Pope
Quinn
Reader
Reed of Bowie
Reed of Dallas
Roach of Angelina
Roach of Hunt
Roane
Roark
Roberts
Rogers
Rutta
Sessions
Shofner
Smith
Steward
Stinson
Stovall
Tarwater
Tennyson
Thornton
Tillery
Waggoner
Walker
Westfall
Wood of Harrison
Wood of Montague
Worley
Youngblood

Absent

Ash
Bradford
Collins
Colquitt
Cooper
Cowley
Davisson of Eastland
Dunagan
Dunlap of Hays
Dunlap of Kleberg
Dwyer
England
Graves
Greathouse
Harris of Dallas
Hartzog
Head

Hill	Riddle
Jefferson	Russell
Jones of Shelby	Scarborough
Lange	Stanfield
Leonard	Venable
McConnell	Wells
Petsch	Young

Absent—Excused

Duvall	Jones of Atascosa
Good	Lotief
Harper	McKee
Hoskins	Padgett
Hyder	Settle
Jackson	Spears

A quorum was announced present.

Mr. Frazer moved to table the motion by Mr. Jones of Falls to postpone further consideration of the resolution, indefinitely.

The motion to table prevailed.

Mr. Payne moved that further consideration of the resolution be postponed until 10:00 o'clock a. m., next Wednesday.

The motion was lost.

Mr. Morse moved the previous question on the resolution, and the main question was ordered.

Question recurring on the resolution, yeas and nays were demanded.

The resolution was lost by the following vote:

Yeas—45

Ash	Keefe
Bradford	Leath
Broyles	Lemens
Butler of Brazos	Lucas
Calvert	Mauritz
Celaya	McConnell
Colquitt	McKinney
Daniel	Morris
Davison of Fisher	Morrison
Davisson of Eastland	Newton
	Nicholson
Dickison	Palmer
Fain	Payne
Fisher	Quinn
Ford	Reader
Fox	Reed of Dallas
Gray	Roark
Hartzog	Roberts
Hofheinz	Rogers
Hunter	Stinson
James	Thornton
Jones of Falls	Wells
Jones of Wise	Wood of Montague

Nays—66

Adamson	Aikin
Adkins	Alsup
Atchison	Latham
Bergman	Lindsey
Bourne	Luker
Bradbury	McCalla
Bridgers	McFarland
Broadfoot	Moffett
Burton	Moore
Butler of Karnes	Morse
Cagle	Olsen
Caldwell	Patterson
Canon	Pope
Colson	Reed of Bowie
Cooper	Roach of Angelina
Craddock	Roach of Hunt
Davis	Roane
Dunagan	Russell
Farmer	Rutta
Frazer	Sessions
Gibson	Smith
Glass	Steward
Hankamer	Stovall
Hanna	Tarwater
Hardin	Tennyson
Harris of Archer	Tillery
Head	Venable
Herzik	Waggoner
Hodges	Walker
Huddleston	Westfall
Hunt	Wood of Harrison
Knetsch	Worley
Lanning	Youngblood

Absent

Alexander	Holland
Collins	Howard
Cowley	Jefferson
Crossley	Jones of Shelby
Dunlap of Hays	King
Dunlap of Kleberg	Lange
Dwyer	Leonard
England	Petsch
Fuchs	Riddle
Graves	Scarborough
Greathouse	Shofner
Harris of Dallas	Stanfield
Hill	Young

Absent—Excused

Duvall	Jones of Atascosa
Good	Lotief
Harper	McKee
Hoskins	Padgett
Hyder	Settle
Jackson	Spears

Mr. McCalla moved to reconsider the vote by which the resolution was lost, and to table the motion to reconsider.

The motion to table prevailed.

HOUSE BILL NO. 3 ON PASSAGE TO ENGROSSMENT

The Chair laid before the House, as unfinished business, on its passage to engrossment,

H. B. No. 3, A bill to be entitled "An Act amending Section 2, Acts 1933, Regular Session of Forty-third Legislature, Page 409, Chapter 162, House Bill 154, as amended by Acts of 1933, Forty-third Legislature, First Called Session, Page 43, Chapter 12; increasing the tax on oil; allocating the revenue to the Public School Fund, and for the payment of Old Age Pensions; prescribing a savings clause, and declaring an emergency."

The bill having been read second time on last Friday, with committee amendment by Mr. Bradbury, and substitute amendment by Mr. Stovall, for the committee amendment, pending.

Mr. Quinn moved to table the substitute amendment by Mr. Stovall.

Question recurring on the motion to table, yeas and nays were demanded.

The roll of the House was called on the above motion, and the vote announced as follows:

Yeas 61, Nays 55.

Mr. Keefe requested a verification of the vote.

The roll of the "yeas" and "nays" was again called and the verified vote resulted as follows:

Yeas—62

Adamson	Howard
Alsup	Hunt
Atchison	Hunter
Bergman	James
Bradford	King
Bridgers	Knetsch
Butler of Karnes	Lanning
Caldwell	Latham
Celaya	Leath
Collins	McConnell
Colquitt	McFarland
Colson	McKinney
Cooper	Moffett
Dunagan	Moore
Gibson	Morrison
Greathouse	Morse
Hankamer	Nicholson
Hanna	Olsen
Harris of Archer	Pope
Hartzog	Quinn
Herzik	Reed of Dallas
Hill	Roane
Holland	Roark
Roberts	Stinson
Rogers	Tennyson
Russell	Thornton
Rutta	Tillery
Scarborough	Walker
Shofner	Wells
Smith	Worley
Steward	Young

Nays—56

Adkins	Hofheinz
Aikin	Huddleston
Ash	Jefferson
Bourne	Jones of Falls
Bradbury	Jones of Shelby
Broadfoot	Jones of Wise
Broyles	Keefe
Burton	Lemens
Cagle	Lindsey
Calvert	Lucas
Canon	Luker
Craddock	Morris
Daniel	Newton
Davis	Palmer
Davison of Fisher	Patterson
Dickison	Payne
Fain	Reader
Farmer	Reed of Bowie
Fisher	Roach of Angelina
Ford	Sessions
Fox	Stovall
Fuchs	Tarwater
Glass	Venable
Graves	Waggoner
Gray	Westfall
Hardin	Wood of Harrison
Head	Wood of Montague
Hodges	Youngblood

Absent

Alexander	Frazer
Butler of Brazos	Harris of Dallas
Cowley	Lange
Crossley	Leonard
Davisson of Eastland	Mauritz
	McCalla
Dunlap of Hays	Petsch
Dunlap of Kleberg	Riddle
Dwyer	Roach of Hunt
England	Stanfield

Absent—Excused

Duvall	Jones of Atascosa
Good	Lotief
Harper	McKee
Hoskins	Padgett
Hyder	Settle
Jackson	Spears

The Chair announced that the motion to table prevailed.

Mr. Lucas moved the previous question on the pending amendment,

amendments on the Speaker's desk and the passage of House Bill No. 3 to engrossment, and the motion was not seconded.

Mr. Knetsch offered the following substitute for the committee amendment by Mr. Bradbury:

Amend House Bill No. 3, Section 2, subsection 1a, line 24, by striking out the words and figures "ten (10) cents", and insert in lieu thereof the words and figures: "three and one-fourth (3¼) cents".

KNETSCH,
FARMER.

Question recurring on the substitute amendment, yeas and nays were demanded.

The substitute amendment was adopted by the following vote:

Yeas—73

Adamson
Adkins
Aikin
Alsup
Ash
Atchison
Bourne
Bradbury
Bradford
Bridgers
Broadfoot
Broyles
Burton
Butler of Brazos
Butler of Karnes
Calvert
Canon
Daniel
Davis
Davison of Fisher
Dickison
Fain
Farmer
Fisher
Ford
Fox
Fuchs
Glass
Graves
Gray
Hardin
Harper
Head
Hodges
Hofheinz
Holland
Huddleston
Hunt
Jones of Falls
Jones of Wise
Keefe
Knetsch
Lindsey
Lucas
Mauritz
McConnell
Moffett
Moore
Morris
Morrison
Newton
Olsen
Palmer
Payne
Petsch
Reader
Reed of Bowie
Roach of Angelina
Roark
Russell
Rutta
Sessions
Shofner
Smith
Stovall
Tarwater
Tillery
Venable
Westfall
Wood of Harrison
Wood of Montague
Worley
Youngblood

Nays—52

Bergman
Cagle
Caldwell
Celaya
Collins
Colson
Cooper
Cowley
Craddock
Crossley
Dunagan
Dunlap of Hays
Frazer
Gibson
Greathouse
Hankamer
Hanna
Harris of Archer
Harris of Dallas
Hartzog
Herzik
Hill
Howard
Hunter
James
Jefferson
Jones of Shelby
Lange
Lanning
Latham
Leath
McCalla
McFarland
McKinney
Morse
Nicholson
Patterson
Pope
Quinn
Reed of Dallas
Roane
Roberts
Rogers
Scarborough
Steward
Stinson
Tennyson
Thornton
Waggoner
Walker
Wells
Young

Present—Not Voting

Alexander
Lemens

Absent

Colquitt
Davisson of Eastland
Dunlap of Kleberg
Dwyer
England
King
Leonard
Luker
Riddle
Roach of Hunt
Stanfield

Absent—Excused

Duvall
Good
Hoskins
Hyder
Jackson
Jones of Atascosa
Lotief
McKee
Padgett
Settle
Spears

PAIRED

Mr. Lemens (present), who would vote "yea", with Mr. Colquitt (absent), who would vote "nay".

Mr. Daniel offered the following amendment to the amendment as substituted:

Amend Knetsch amendment by striking out 3¼ cents and inserting in lieu thereof the words and figures "5 cents".

DANIEL,
FARMER.

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

The roll of the House was called on the above amendment, and the vote was announced as follows.

Yeas 62, Nays 59.

A verification of the vote was requested.

The roll of the "yeas" and "nays" was again called, and the verified vote resulted as follows:

Yeas—61

Adamson	Harper
Adkins	Head
Ash	Herzik
Atchison	Hodges
Bourne	Hofheinz
Bradbury	Huddleston
Bridgers	Jones of Falls
Broadfoot	Jones of Shelby
Broyles	Jones of Wise
Burton	Keefe
Butler of Brazos	Lange
Cagle	Lucas
Calvert	Morris
Canon	Newton
Craddock	Olsen
Daniel	Palmer
Davis	Patterson
Davison of Fisher	Payne
Dickison	Petsch
Dunlap of Kleberg	Reader
Fain	Reed of Bowie
Farmer	Roach of Angelina
Fisher	Rutta
Ford	Sessions
Fox	Stovall
Fuchs	Venable
Glass	Waggoner
Graves	Westfall
Gray	Wood of Harrison
Greathouse	Youngblood
Hardin	

Nays—60

Alsup	Holland
Bergman	Howard
Bradford	Hunt
Butler of Karnes	Hunter
Caldwell	James
Celaya	Jefferson
Collins	Knetsch
Colson	Lanning
Cooper	Latham
Cowley	Leath
Crossley	Mauritz
Dunlap of Hays	McCalla
Frazer	McConnell
Gibson	McFarland
Hankamer	McKinney
Hanna	Moffett
Harris of Archer	Moore
Hartzog	Morse
Hill	Nicholson
Pope	Steward
Quinn	Stinson
Reed of Dallas	Tarwater
Roane	Tennyson
Roark	Thornton
Roberts	Tillery
Rogers	Walker
Russell	Wells
Scarborough	Wood of Montague
Shofner	Worley
Smith	Young

Present—Not Voting

Aikin	Lemens
Alexander	

Absent

Colquitt	Leonard
Davisson of Eastland	Lindsey
Dunagan	Luker
Dwyer	Morrison
England	Riddle
Harris of Dallas	Roach of Hunt
King	Stanfield

Absent—Excused

Duvall	Lotief
Good	McKee
Hoskins	Padgett
Hyder	Settle
Jackson	Spears
Jones of Atascosa	

PAIRED

Mr. Lemens (present), who would vote "yea", with Mr. Colquitt (absent), who would vote "nay".

Mr. Aikin (present), who would vote "yea", with Mr. Harris of Dallas (absent), who would vote "nay".

The Chair announced that the amendment was adopted.

Question—Shall the amendment as amended, be adopted?

REASON FOR VOTE

The so called Bradbury Amendment to House Bill 3, (Oil Tax Bill) is in reality a committee amendment and not my personal amendment. I offered this amendment in the Committee in an effort to get the bill reported to the floor of the House with a favorable report. By this procedure it would be before the House for debate and amendment. Therefore this amendment should not be considered my personal sentiment, but was offered to get the bill out of the committee to the floor where a fair tax could be placed on oil to assist

in paying the old age pensions. Personally I think that oil should bear a substantial tax for this purpose.

BRADBURY.

EXTENDING INVITATION TO MEMBERS OF THE HOUSE

The Chair laid before the House, and had read the following communication:

October 12, 1936.

Hon. Coke R. Stevenson,
Speaker of the House,
Capitol Station,
Austin, Texas.

Dear Mr. Stevenson:

The University of Texas Progressive Democrats invite the members of the Legislature to an open house given in their honor Wednesday night at seven thirty o'clock at 2103 Nueces Street.

If you will please have this read to the members of the Legislature we shall be grateful.

Sincerely yours,
PED WATKINS,
President.

HOUSE BILL ON FIRST READING

The following House bill, introduced today, (by unanimous consent) was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Roane:

H. B. No. 45, A bill to be entitled "An Act amending Section 6, Chapter 116, Acts Forty-fourth Legislature, Regular Session, making an appropriation; directing the transfer of certain funds from the State Board of Cosmetologists Fund to the Texas Old Age Assistance Fund; and declaring an emergency."

Referred to the Committee on State Affairs.

RECESS

On motion of Mr. Thornton, the House at 5:10 o'clock p .m., took recess to 10:00 o'clock a. m., tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills and resolutions as follows:

Labor: Senate Bill No. 5.

Municipal and Private Corporations: House Bill No. 10.

State Affairs: House Bill No. 39; House Concurrent Resolution No. 17; Senate Concurrent Resolution No. 6.

REPORT OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,
Austin, Texas, October 8, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills to whom was referred

H. B. No. 8, A bill to be entitled "An Act levying and imposing occupation taxes on certain industries, and public utilities, and natural resources; providing how the moneys, so derived, shall be allocated to the Texas Old Age Assistance Fund; levying an occupation tax on gas, electric light, electric power, or water works, or water and light plants, etc., and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,
Austin, Texas, October 12, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 4, Granting John Mulkey of Ellis County, Texas, permission to bring suit against the State of Texas and the State Highway Department for damages to his property caused by overflow.

Has carefully compared same and finds it correctly enrolled.

ROANE, Vice-Chairman.

Committee Room,
Austin, Texas, October 12, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 15, Authorizing the use of certain State Highway Equipment in the City of Calvert for paving purposes.

Has carefully compared same and finds it correctly enrolled.

ROANE, Vice-Chairman.

TENTH DAY

(Continued)

(Tuesday, October 13, 1936.)

The House met at 10:00 o'clock a. m., and was called to order by Mr. Aikin.

MESSAGE FROM THE SENATE

Austin, Texas, October 13, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

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

S. B. No. 3, A bill to be entitled "An Act validating all levies and assessments of ad valorem taxes heretofore made by independent school districts, etc."

S. C. R. No. 10, Granting J. E. Thomson permission to sue the State.

S. B. No. 11, A bill to be entitltd "An Act amending H. B. No. 10, Regular Session, Forty-first Legislature, 1929; and declaring an emergency."

I am directed by the Senate to inform the House that the following corrected bill is being sent to the House:

S. B. No. 5, A bill to be entitled "An Act to create an Unemployment Insurance System for the State of Texas; creating an Unemployment Compensation Fund; and declaring an emergency."

Respectfully,

BOB BARKER,

Secretary of the Senate.

LEAVE OF ABSENCE GRANTED

(By unanimous consent.)

Mr. Head was granted leave of absence for this morning, on account of illness, on motion of Mr. Morse.

HOUSE BILL NO. 3 ON PASSAGE TO ENGROSSMENT

The Chair laid before the House, as pending business, on its passage to engrossment,

H. B. No. 3, A bill to be entitled "An Act amending Section 2, Acts 1933, Regular Session of Forty-third Legislature, page 409, Chapter 162, House Bill No. 154, as amended by Acts of 1933, Forty-third Legislature, First Called Session, page 43, Chapter 12; increasing the tax on oil; allocating the revenue to the Public School Fund, and for the payment of Old Age Pensions; prescribing a savings clause, and declaring an emergency."

The bill having heretofore been read second time, with committee amendment by Mr. Bradbury, as substituted by amendment by Mr. Knetsch, pending.

Mr. Dunlap of Kleberg moved to reconsider the vote by which the amendment by Mr. Daniel was, on yesterday afternoon, adopted.

Mr. Reader moved to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—66

Adamson	Hodges
Adkins	Hofheinz
Aikin	Huddleston
Ash	Jones of Falls
Bourne	Jones of Shelby
Bradbury	Jones of Wise
Bridgers	Keefe
Broadfoot	Lange
Broyles	Leath
Burton	Lemens
Butler of Brazos	Lindsey
Cagle	Lucas
Calvert	Morris
Canon	Morrison
Craddock	Newton
Daniel	Olsen
Davis	Palmer
Davison of Fisher	Patterson
Dickison	Payne
England	Petsch
Fain	Reader
Farmer	Reed of Bowie
Fisher	Riddle
Ford	Rutta
Fox	Sessions
Fuchs	Spears
Glass	Stovall
Graves	Tarwater
Gray	Venable
Greathouse	Waggoner
Hardin	Westfall
Harper	Wood of Harrison
Herzik	Youngblood