such office coming within this provision prior thereto shall be permitted to continue in such office until their successor qualifies hereunder."

Committee Room,
Austin, Texas, March 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Institutions and Departments, to whom was referred

S. C. R. No. 38, Relative to purchase of land for San Antonio State Hospital.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it be adopted, and that it be printed.

PURL, Chairman.

FIFTY-THIRD DAY.

Senate Chamber,
Austin, Texas,
March 30, 1933.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Oneal.
Blackert.	Pace.
Collie.	Parr.
Cousins.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.

Absent—Excused.

Redditt.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Committee Reports.

(See Appendix).

Bills and Resolutions.

By unanimous consent, the rule relating to the introduction of general bills after the first 52 days of the session was suspended and consent was granted to introduce the following bills:

By Senator Duggan:

S. B. No. 487, A bill to be entitled "An Act defining 'warehouse-men' and 'warehouse,' names and words associated therewith; and providing for licensing and bonding of same and the manner of securing license and bond and exempting certain warehouses; and providing for the procedure thereof; defining the duties and liabilities of warehousemen; and providing for the Commissioner of Agriculture to supervise warehouses; and to approve forms of receipts, records and certificates, and providing for records to be kept, and for the inspection of same; for warehouse examiners with a general director thereof; for salaries and qualifications and for bonding of same and prescribing their duties; providing for warehouse-men to furnish an annual audit of reserve funds, assets and liabilities, and the manner of making same; providing for examination fees, fixing the amount of same and to whom payable; providing for the disposition of same to the State Treasurer in a special fund; providing for forced liquidation of insolvent warehousemen; providing for method of handling grain in excess of storage capacity; providing for forfeitures and penalties for violation of provisions of this Act and for violating certain provisions of Chapter 4, Title 93, Revised Civil Statutes of 1925; making failure to obey law a penal offense and fixing punishment therefor; providing for the interpretation of this Act; repealing Chapters 1, 2 and 3, Article 5661, and subsection 10, Article 5613, Chapter 4, Title 93 Revised Civil Statutes 1925, and any other laws in conflict with this Act, and declaring an emergency."

Read and referred to Committee on Agricultural Affairs.

By Senator Pace:

S. B. No. 488, A bill to be entitled "An Act to amend S. B. No. 54, Chapter 17, pages 262 to 265 inclusive, Acts of the Fourth Called Session of the Thirty-fifth Legislature of Texas approved March 25, 1918, which said Act was amendatory of Sections 12 and 16 of the Special Road Law for Smith County, Texas,

passed at the Regular Session of the Thirty-third Legislature and known as Chapter 70 of the Special Laws of said Thirty-third Legislature and which is also amendatory of Section 3 of Chapter 8 of the Special Road Law of Smith County, Texas, passed at the Regular Session of the Thirty-fourth Legislature and approved February 16, 1915, so as to further provide that each officer and witness shall be allowed to receive one-half his fees exclusive of commissions whenever a county convict shall have discharged the fine and costs adjudged against him in full by work or by work and money and declaring an emergency."

Read and referred to Committee on State Highways and Motor Traffic.

By Senators Sanderford and Stone:

S. B. No. 489, A bill to be entitled "An Act to stay all sales under execution, or order of sale or under any deed of trust, mortgage or other contract giving or granting any power of sale of real, personal or mixed property for debt now advertised to be made on April 4, 1933; or which was advertised for sale on March 7, 1933, but which sale was stayed and postponed for a period of four weeks by S. B. No. 418, passed at the Regular Session of the Forty-third Legislature, until August 1st, 1933; providing that no other or further advertisement or notice of any such sale than that lawfully given for sale on March 7, 1933, or April 4, 1933, shall be required for such sale on August 1, 1933; providing that all sales under execution, order of sale or any deed of trust, mortgage or other contract giving or granting any power of sale of real, personal or mixed property for debt made prior to August 1, 1931, and after the effective date of this Act, shall be void; extending the time for return and declaring an emergency."

Read and referred to Committee on Civil Jurisprudence.

Senator Excused.

Senator Redditt was excused for the day on account of sickness in his family, on motion of Senator Cousins.

Senate Simple Resolution No. 76.

Senator Pace sent up the following resolution:

Whereas, The matter of continuance of Federal funds through the Reconstruction Finance Corporation for the State of Texas for the month of April has been delayed; and,

Whereas, It will be necessary for the State of Texas to take some action looking towards participation on its part as a State in this unemployment relief work; and,

Whereas, It is desirable that conference be held with the Reconstruction Finance Corporation authorities, particularly those in charge of unemployment relief work, before such measures are introduced; and,

Whereas, Senator Walter F. Woodul is chairman of the House and Senate committee organized to deal with this problem; now, therefore, be it

Resolved by the Senate of the State of Texas, That Senator Walter F. Woodul be and he is hereby instructed to proceed to Washington and interview the Federal authorities upon this matter.

PACE,
RAWLINGS.

The resolution was read.

Senator Hopkins asked unanimous consent to suspend the rule requiring resolutions to be referred before consideration and to take up the resolution at this time.

Objection was heard.

Senator Hopkins moved to suspend the rule and take up the resolution.

Senator Poage moved as a substitute that the resolution be referred to the Committee on Finance.

Senator Pace moved to table the motion to refer. The motion to table prevailed by the following vote:

Yeas—16.

Beck.	Pace.
Blackert.	Parr.
Cousins.	Patton.
Fellbaum.	Rawlings.
Greer.	Redditt.
Hornsby.	Regan.
Martin.	Woodul.
Neal.	Woodward.

Nays—10.

Collie.	Murphy.
DeBerry.	Poage.
Duggan.	Sanderford.
Holbrook.	Stone.
Moore.	Woodruff.

Absent.

Hopkins. Purl.
Oneal. Small.

Absent—Excused.

Russek.

The motion to take up the resolution at this time prevailed by the following vote:

Yeas—24.

Beck. Neal.
Blackert. Pace.
Collie. Parr.
Cousins. Patton.
Duggan. Purl.
Fellbaum. Rawlings.
Greer. Regan.
Holbrook. Russek.
Hopkins. Stone.
Hornsby. Woodruff.
Martin. Woodul.
Moore. Woodward.

Nays—4.

DeBerry. Poage.
Murphy. Sanderford.

Absent.

Oneal. Small.

Absent—Excused.

Redditt.

Senator Woodward sent up the following amendment:

Amend the resolution by adding thereto the following:

"And the necessary expense incident to the trip be paid out of the contingent expense fund of the Senate."

WOODWARD.

Read and adopted.

The resolution was adopted by the following vote:

Yeas—20.

Beck. Oneal.
Blackert. Parr.
Cousins. Patton.
Fellbaum. Purl.
Greer. Rawlings.
Hopkins. Regan.
Hornsby. Sanderford.
Martin. Stone.
Moore. Woodul.
Neal. Woodward.

Nays—5.

Collie. Poage.
DeBerry. Woodruff.
Holbrook.

Absent.

Duggan. Small.
Russek.

Absent—Excused.

Redditt.

(Pair Recorded.)

Senator Murphy (present) who would vote nay, with Senator Pace (absent) who would vote yea.

Senate Simple Resolution No. 77.

Senator Beck sent up the following resolution:

Whereas, Ex-Senator John M. Henderson of Daingerfield, Texas, is in the Capitol; and,

Whereas, Col. F. M. Witherspoon, of our neighboring State of Louisiana, is in the Capitol; and,

Whereas, Col. Witherspoon is Vice-President of the Gulf-Pacific Highway Association and is sponsoring the designation of a United States Highway to begin at the Mississippi Sound and extend to Puget Sound, traversing a portion of Texas; therefore, be it

Resolved, That Ex-Senator John M. Henderson and Col. Witherspoon be accorded the privileges of the floor and they be invited to address the Senate.

BECK,
NEAL,
PACE,
MOORE,
WOODRUFF,
DeBERRY.

Read and adopted.

Messrs. Henderson and Witherspoon Speak.

The Chair appointed Senators Beck, Neal, Pace, Moore, DeBerry, and Woodruff to escort Senator Henderson and Col. Witherspoon to the platform.

Senator Beck introduced former Senator Henderson, who briefly addressed the Senate.

Mr. Henderson introduced Col. Witherspoon, who briefly addressed the Senate.

Senate Simple Resolution No. 78.

Senator Moore sent up the following resolution:

Whereas, Joint rules of the Senate and House of Representatives provide that finance bills shall have right of way in both bodies; and,

Whereas, The Senate calendar is becoming crowded to such an extent that it will be practically impossible for the measures thereon to receive consideration without some extra night sessions; and,

Whereas, There are many meritorious bills pending before the Senate if enacted into law will bring relief to the citizens of Texas; therefore be it

Resolved by the Senate, That, beginning Monday evening, April 3, 1933, we meet at 7:30 o'clock two evenings each week for two weeks for consideration of measures now appearing on the calendar or that have been passed out of committee.

MOORE.

The resolution was read.

By unanimous consent the rule requiring resolutions to be referred before consideration was suspended.

The resolution was adopted.

S. C. R. No. 39.

Senator Holbrook sent up the following resolution:

Whereas, A. A. Ostermayer, of Galveston, Texas, instituted a certain suit in the district court of Galveston County during December, 1932 term of said court against W. R. Ely, Cone Johnson and D. K. Martin, constituting and composing the State Highway Commission of the State of Texas, at the time of filing of said suit, and,

Whereas, Said suit is entitled as A. A. Ostermayer vs. W. R. Ely, et al., and numbered 48,704, on the docket of said court, and,

Whereas, The purpose of said Ostermayer in filing said suit as aforesaid was and is to establish his legal title to certain real property set out and described in said suit, and for a matter of convenience is again set out herein as follows:

First Tract: A portion of that certain tract conveyed to plaintiff, deed recorded in Volume 421, pages 285-87, of the Deed Records of Galveston County, Texas, described as follows: Commencing at the Southwest corner of fractional Block 55, Subdivision "K" of the Cook and Stewart Subdivision to the Town of La Marque; situated in the John D. Moore League as shown by map and plat thereof recorded in Vol. 81, Page 526, of the Deed Records of Galveston County, Texas; thence along the said South line of said fractional Block 55 to a point where said boundary line is intersected by the Westerly Boundary Line of present State Highway No. 6 for the Southwest corner of the tract; thence East along said South Boundary Line of fractional Block 55 as extended to the West Boundary Line of Fourth Avenue; thence North along the West Boundary Line of Fourth Avenue to the Westerly Boundary Line of G. H. & H. Railroad Right-of-Way; Thence Northwest along said Right-of-Way to Prune Street; thence West along the South Boundary Line of Prune Street, same being also the North Boundary Line of said Fractional Block 55, to a point where the North Line of said fractional Block 55 is intersected by the Westerly Boundary Line of present State Highway No. 6, same being a distance of approximately 125 feet; thence in a South Easterly direction along the Westerly Boundary Line of said State Highway No. 6 to the place of beginning. Said described strip of land being now used for, and composed of, that part of said State Highway No. 6 abutting and adjoining said fractional Block 55 on the East and said G. H. & H. Railroad Right-of-Way on the West, and lying immediately between said fractional Block 55 and said G. H. & H. Railroad Right-of-Way and measuring approximately 342 feet in length by 125 feet in width.

Second Tract: Beginning at a point on the East Boundary Line of Block 62, Subdivision "K" of the Cook and Stewart Subdivision to the Town of La Marque, situated in the John D. Moore League, according to the map and plat thereof as is recorded in Vol. 81, Page 526 of the Deed Records of Galveston County, Texas, at a point where said boundary line is intersected by the Westerly Boundary Line of said State Highway No. 6; thence North along said East Boundary Line of said Block 62 to the Northeast corner of said Block 62; thence West along the North Boundary Line of said Block 62 to a point where said North Boundary Line is intersected by the Westerly Boundary Line of said Highway No. 6; thence along the Westerly Boundary Line of said

Highway No. 6 to the point of beginning. And,

Whereas, It appears that the above described property was taken and used for the purpose of constructing and maintaining said State Highway No. 6 without condemnation proceedings, purchase, and without adequate compensation therefor, and,

Whereas, A judgment against the State Highway Department for the legal title to the above described real property will not, without joinder of the State of Texas in said suit, entitle the said Ostermayer to recover from the said State Highway Department or from the State of Texas adequate compensation in money for the reasonable value of said land at the time of its taking as aforesaid together with interest thereon from that date as may be established by said suit until paid, and,

Whereas, Article No. 1, Section 17, of the Constitution of the State of Texas, provides that, "No person's property shall be taken, damaged or destroyed for, or apply to, public use without adequate compensation being made, unless by the consent of such person," and,

Whereas, The said A. A. Ostermayer and his predecessors in title has at no time consented to the taking of the above described property with or without compensation, and,

Whereas, by the proper proceedings the said State Highway Department and/or the State of Texas, may by cross-action in said suit institute condemnation proceedings against the above described property and thereby secure a title to same for the purpose for which the said property is now being used, and,

Whereas, If the legal title to such property has not been heretofore divested from the said A. A. Ostermayer and his predecessors in title then the said A. A. Ostermayer is entitled to adequate compensation for said property, and

Whereas, All questions pertaining to the legal title to said property and its reasonable value thereof will be litigated and determined in a court of competent jurisdiction; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the said A. A. Ostermayer be given consent to make the State a party defendant in the above styled cause for the purpose of recovering a money judgment for the proper and reasonable value of the above described real property, should the legal title to said described real estate be finally determined and adjudged to be vested in the said A. A. Ostermayer and used for the said public purpose by the said State Highway Department unlawfully and without adequate compensation having been made to the said A. A. Ostermayer.

HOLBROOK.

Referred to Committee on Civil Jurisprudence.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Conference Committee report on H. B. No. 490 by a vote of 118 yeas and no nays.

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Free Conference Committee Report.

Senator Fellbaum sent up the following Free Conference Committee report:

Committee Room,
Austin, Texas, March 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

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

Sirs: We, your conferees, appointed to adjust the differences between the Senate and the House of Representatives on

H. B. No. 490, A bill to be entitled "An Act providing for the disposition of fees of office and setting the maximum for precinct, county and district officers in certain counties; providing that if any part of this Act is held unconstitutional, it shall not affect the remaining part of the Act; repealing all laws in conflict herewith and fixing the effective date of the bill; and declaring an emergency."

Beg to say that the differences have been adjusted, and we recommend the passage of the original bill, as amended, with the exception of the Purl amendment to the bill which reads as follows:

"Amend House Bill No. 490, Section 1, lines two and three by changing the words and figures three hundred ten thousand (310,000) to read three hundred and forty thousand (340,000),

which we recommend be not adopted.

Respectfully submitted,
FELLBAUM,
REGAN,
HOLBROOK,
On part of the Senate,
ANDERSON of Bexar,
HUGHES,
KAYTON,
READER,
On part of the House.

The report was read.

Senator Purl moved that the report be rejected and the bill be sent back to the Free Conference Committee for further consideration. The motion was lost.

The report was adopted by the following vote:

Yeas—24.

Beck.	Oneal.
Blackert.	Parr..
Collie.	Patton.
Cousins.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Regan.
Greer.	Sanderford.
Holbrook.	Stone.
Hornsby.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.

Nay—1.

Murphy.

Absent.

Hopkins.	Russek.
Martin.	Small.
Pace.	

Absent—Excused.

Redditt.

Free Conference Granted.

On motion of Senator Holbrook, the Senate granted the request of the House for a Free Conference Committee on H. B. No. 169.

The Chair appointed the following on the part of the Senate: Senators Holbrook, Beck, Regan, Purl, and DeBerry.

Message From the Governor.

Executive Office,
Austin, Texas, March 29, 1933.

To the Texas State Senate:

I ask the advice, consent and confirmation by the Senate of the following appointments for the next ensuing full statutory term:

To be Members of Texas Technological College:

Mrs. John A. Haley, Midland, Midland County;

Honorable Lee P. Pierson, Amarillo, Potter County;

Mrs. S. W. Meharg, Plainview, Hale County.

To be a Member of the State Board of Education:

Hon. R. S. Bowers of Burleson County.

To be Members of Board of Regents for State Teachers Colleges:

Hon. Ward Templeman, Navasota, Grimes County;

Dr. J. E. Ulmer, Tyler, Smith County;

Hon. T. C. Andrews, McKinney, Collin County.

To be members of State Board of Nurse Examiners:

Sister Mary Gertrude Giblin, Austin, Travis County.

Miss Lena Baker Thomas, Greenville, Hunt County.

To be Members of State Board of Accountancy:

Hon. Frank L. Wilcox, Waco, McLennan County;

Hon. S. J. von Koenneritz, Austin, Travis County;

Hon. Robert F. Roberts, Beaumount, Jefferson County;

Hon. W. T. Chumney, San Antonio, Bexar County;

Hon. Victor Edward Buron, Texarkana, Bowie County.

To be Members of State Board of Medical Examiners:

Dr. M. E. Daniels, Honey Grove, Fannin County;

Dr. J. M. Witt, Waco, McLennan County;

Dr. H. C. Morrow, Austin, Travis County;

Dr. Will E. Watt, Austin, Travis County.

To be Members of State Board of Health:

Dr. J. S. McCelvey, Temple, Bell County;

Dr. S. A. Woodward, Ft. Worth, Tarrant County;

Hon. Henry F. Hein, Pharmacist, San Antonio, Bexar County.

To be Members of State Board of Pharmacy:

Dan Allen, Houston, Harris County;

Hon. E. E. Weaver, Ft. Worth, Tarrant County.

To be Members of State Prison Board:

Hon. W. R. Delaney, Houston, Harris County;

Hon. Fred Horton, Greenville, Hunt County;

Hon. W. A. Boyett, Burleson County.

To be Members of State Board of Dental Examiners:

Dr. J. T. Edwards, Fort Worth, Tarrant County;

Dr. R. T. Weber, Austin, Travis County;

Dr. L. F. Robichaux, San Antonio, Bexar County;

Dr. Emmett R. Johnson, Dallas, Dallas County;

Dr. Wm. F. Murphy, Palestine, Anderson County;

Dr. Chas. Schacht, Hillsboro, Hill County.

To be Members of Washington Park Board:

Mrs. A. W. Green, Brenham, Washington County;

Mrs. Walter Greenwood, Plantersville, Grimes County;

Hon. W. R. Neblitt, Anderson, Grimes County;

Mrs. E. P. Anderson, Brenham, Washington County;

Hon. Fred Holle, Washington County.

To be Pilot Commissioners of the Port of Sabine Pass, River and Tributaries:

Hon. Abe Goldberg, Port Arthur, Jefferson County;

Hon. Walter W. Glass, Port Arthur, Jefferson County;

Hon. Floyd H. Pipkin, Beaumont, Jefferson County;

Hon. Geo. T. Adams, Beaumont, Jefferson County;

Hon. R. M. Johnson, Orange, Jefferson County.

To be Member of State Board of Water Engineers:

C. S. Clark, Donna, Hidalgo County.

To be State Reclamation Engineer for the unexpired term ending July 1, 1933:

Hon. B. F. Williams, Austin, Travis County.

Respectfully submitted,
MIRIAM FERGUSON,
Governor of Texas.

Read and referred to the Committee on Governor's Nominations.

Senate Bill No. 209.

Senator Rawlings called up the motion to reconsider the vote by which the motion to re-commit S. B. No. 209 was lost.

Senator DeBerry raised the point of order that the motion was out of order at this time because this was House Bill Day and the morning call would not be concluded until the House bills on today's calendar had been disposed of.

The Chair, Licutenant Governor Edgar E. Witt, sustained the point of order.

H. C. R. No. 15.

The Chair laid before the Senate,

H. C. R. No. 15, Granting Hugh E. Carr permission to sue the State.

Read and adopted.

H. C. R. No. 21.

Senator Fellbaum called up from the table:

H. C. R. No. 21, Relative to weighing and brake-testing equipment for State Highway Department.

On motion of Senator Rawlings, the resolution was laid on the table subject to call.

House Bill No. 150.

The Chair laid before the Senate on its second reading the following bill:

By Mr. Morrison, Mr. Chastain, Mr. Alexander, Mr. Hoskins, Mr. Hodges, Mr. Barrett, Mr. Hankamer, and Mr. Hicks:

H. B. No. 150, A bill to be entitled "An Act to amend Article 2218, Title 41, Chapter 9, of the Revised Civil Statutes, 1925, providing that in a foreclosure, if the property be real property, and if the proceeds of such sale be insufficient to satisfy the mortgage and other liens, then no judgment shall issue, as a deficiency judgment against any other property of the defendant to satisfy any bal-

ance thereof remaining unpaid; and declaring an emergency."

Read second time.

Adjournment.

Senator Woodruff moved to recess until 8 o'clock p. m., today.

Senator Greer moved to recess until 10 o'clock tomorrow morning.

Senator Hornsby moved to adjourn until 10 o'clock tomorrow morning. The motion prevailed and, at 12:08 o'clock p. m., the Senate adjourned.

APPENDIX.

Committee Reports.

Committee Room,
Austin, Texas March 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Federal Relations, to whom was referred

S. R. No. 75 (Requesting R. F. C. funds to be spent by Texas Highway Department).

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

WOODUL, Chairman.

Committee Room,
Austin, Texas, March 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Federal Relations, to whom was referred

S. C. R. No. 35 (Memorializing Congress to ratify World Court treaties now pending before it).

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

WOODUL, Chairman.

Committee Room,
Austin, Texas, March 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 480, A bill to be entitled "An Act authorizing the board of trustees of independent school districts having a scholastic population of not less than 225 and not more than 325 according to the last scholastic census, to borrow money from the Reconstruction Finance Corporation or from other sources, for the purpose of installing canning factories, manual training equipment, equipment for physical education department and for the erection of necessary buildings therefor, providing for charging of fees for the use providing for the issuance of securities based on such fees which may be supplemented by the local maintenance tax of such districts, as a basis of credit for the purchase of such equipment as is named above; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

NEAL, Chairman.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 219, A bill to be entitled "An Act extending the limits of all existing common and independent school districts which border on navigable streams to the center of such streams so as to include in each district one-half (1-2) of the beds of such streams; and requiring that the limits of any school district hereafter created in any way so as to border on any navigable stream, to be extended to the center of such stream so as to include one-half (1-2) the bed thereof, defining the center of such stream, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

NEAL, Chairman.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 277, A bill to be entitled "An Act relating to free textbooks for the public free schools of this State; amending Sections 30, 31, 33,

34 and 39, and repealing Section 40 and 41 of Chapter 176 of the General Laws of the Regular Session of the Thirty-ninth Legislature of this State; providing for the setting aside of funds for free textbooks used in the public free schools of this State; etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with the attached committee amendment.

NEAL, Chairman.

Committee Amendment.

Amend S. B. No. 277 by striking out in Section 34, lines 30 and 31 the following: "according to the scholastic population of each" and insert in lieu thereof the following: "according to the greatest number in attendance during any one month of previous years."

Committee Room,
Austin, Texas, March 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 486, A bill to be entitled "An Act amending Section 2 of Chapter 17, H. B. No. 122, Acts of the First Called Session of the Fortieth Legislature, by redefining the term loan broker, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

SMALL, Chairman.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 444, A bill to be entitled "An Act to amend Articles 798, 799, 800, 801, 802, 803, 804, 805, 806, 807 and 810 of Chapter 4, Title 9, of the Code of Criminal Procedure of Texas, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

SMALL, Chairman.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

H. B. No. 431, A bill to be entitled "An Act to amend Chapter 2, Title 128, Revised Civil Statutes, authorizing the issuance of funding, refunding and amortization bonds by water improvement districts which obtain their water supply under contract with the United States government, prescribing method thereof, the terms thereof, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

COUSINS, Chairman.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 303, A bill to be entitled "An Act authorizing the board of directors of any water improvement district or water control district within the State to remit, in whole or in part, penalties and interest on all ad valorem taxes levied by such districts that are now delinquent and/or past due and unpaid, and which are paid on or before December 31, 1933, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

COUSINS, Chairman.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 426, A bill to be entitled "An Act repealing Chapter 241 of the Special Laws of Texas, passed by the Forty-second Legislature at its Regular Session, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the

recommendation that it do pass, and be printed.

COUSINS, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, March 29, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred

S. B. No. 365, A bill to be entitled "An Act amending Article 7150, Section 1, of the Revised Civil Statutes of 1925, of the State of Texas, as amended by Chapter 124, of the Acts of the Regular Session of the Forty-second Legislature, by adding thereto a provision exempting property belonging to any benevolent, educational or charitable organization used exclusively and reasonably necessary for its educational work, from all taxes, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

HOPKINS, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, March 29, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, a minority of your Committee on State Affairs, to whom was referred

S. B. No. 365, A bill to be entitled "An Act amending Article 7150, Section 1, of the Revised Civil Statutes of 1925, of the State of Texas, as amended by Chapter 124 of the Acts of the Regular Session of the Forty-second Legislature, by adding thereto a provision exempting property belonging to any benevolent, educational or charitable organization used exclusively and reasonably necessary for its educational work, from all taxes, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

DeBERRY,
HOLBROOK.

Committee Room,
Austin, Texas, March 30, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Insurance, to whom was referred

H. B. No. 19, A bill to be entitled "An Act to amend Article 1572, Chapter 3, Title 18, Revised Penal Code of the State of Texas of 1925; providing for penalties and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PURL, Chairman.

Committee Room,
Austin, Texas, March 29, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 459, A bill to be entitled "An Act to amend Articles 4504 and 4510, of Chapter 6 of Title 71 of Revised Civil Statutes of the State of Texas, 1925, in such manner as to allow all citizens of Texas to practice fully the tenets of their religion without interference or hindrance; repealing all laws in conflict therewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed, and that the two proposed amendments be printed following the printing of the bill.

HOPKINS, Chairman.

Proposed Amendment No. 1.

Amend the caption of Senate Bill No. 459 so as to read as follows:

A BILL
To Be Entitled

An Act to amend Article 4504, Revised Civil Statutes of 1925, so as to eliminate therefrom all reference to the application or use of the principles, tenets or teachings of any church in the ministration to the sick or suffering by prayer without the use of any drugs or material remedy; repealing all laws in conflict therewith; and declaring an emergency."

Proposed Amendment No. 2.

Amend Section 1 of Senate Bill No. 459 so as to eliminate therefrom

all reference to Article 4510 and so that said section, as here amended, shall read as follows:

"Section 1. That Article 4504, Revised Civil Statutes of 1925, be amended so as to hereafter read as follows:

" 'Article 4504, Construction of this law.

" 'Nothing in this law shall be so construed as to discriminate against any particular school or system of medical practice. The provisions of this chapter do not apply to dentists legally qualified and registered under the laws of this State who confine their practice strictly to dentistry; nor optometrists who confine their practice strictly to optometry, as defined in this title; nor to nurses who practice only nursing; nor to masseurs in their particular sphere of labor who publicly represent themselves as such, nor to commissioned or contract surgeons of the United States Army, Navy or Public Health and Marine Hospital Service in performance of their duties, but shall not engage in private practice without license from the Board of Medical Examiners; nor to legally qualified physicians of other states called in consultation, but who do not open office or appoint places in this State where patients may be met or called to see. This law shall be so construed as to apply to persons other than licensed druggists of this State not pretending to be physicians who offer for sale on the streets or other public places remedies which they recommend for the cure of disease.' "

Committee Room,
Austin, Texas, March 28, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 807, A bill to be entitled "An Act to provide for conventions to pass on amendments to the Constitution of the United States which may be now or may be hereafter proposed by the Congress of the United States for ratification by conventions in the several states; setting the time of said elections; prescribing the method and manner in which delegates shall be elected to attend such convention; providing the form of the ballot to be used at such election; prescribing certain duties of the public officials of this State with reference to the conduct of such election; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with committee amendments, and be printed.

HOPKINS, Chairman.

Committee Amendment No. 1.

Amend House Bill No. 807, page 2, Section 3, by striking out of line 3 of said section the words "twenty-three (23) delegates each," and inserting in lieu thereof the words "Thirty-one (31) delegates each, such total number of delegates to be composed of one delegate from each of the several thirty-one (31) senatorial districts of the State."

Committee Amendment No. 2.

Amend House Bill No. 807, page 4, Section 6, in line 2 thereof by inserting between the word "Elections" and the word "shall," the following: "and the qualifications of voters."

Committee Amendment No. 3.

Amend House Bill No. 807, page 1, by adding to Section 1, the following:

"And it is further provided that an election shall be held on the first Tuesday after the first Monday in November, 1933, under the provisions hereof, for the purpose of electing delegates as herein provided to attend a convention to vote upon any amendments which have been heretofore submitted to the various states by the Congress of the United States which are now pending to be voted upon at conventions to be held in the respective states."

Committee Amendment No. 4.

Amend House Bill No. 807 by striking out Section 15, and substituting in lieu thereof the following:

"Sec. 15. The two citizens designated by the Governor hereunder to call the conventions herein provided for, are each hereby empowered to appoint a chairman and vice-chairman for each county (or the vice-chairman in event of failure or inability of the chairman) shall select and appoint the necessary officers to hold the election in each voting precinct of the county, except the presiding election judge who shall

be appointed by the county commissioners court of each county, as follows, viz.: each chairman shall appoint one assistant election judge and one clerk, and if more than four such election officers be necessary to properly conduct the election in any precinct, the said chairman shall appoint such others, each selecting a like number. Should a chairman or vice-chairman fail to make such appointments, then the presiding judge of each precinct shall appoint such assistants, in the manner now provided by statute, the appointees, however, shall be selected to equally represent both sides of the question, otherwise the said election, manner of conducting the same and the returns thereof shall be in all things held as is now provided by statute for the holding of general elections. None of the expenses arising or accruing because of the appointment of or the services rendered by the presiding election judges, chairman, vice-chairmen, assistant election judges, clerks and other election officers, shall be borne by the State or any county thereof; provided, however, any other usual, customary election expenses shall be paid as is now provided by law for general elections."

Committee Amendment No. 5.

Amend H. B. No. 807, Page 5, by adding after the words "For Ratification of the above Amendment" in the form of ballot prescribed, the following words: "Which is for the Repeal of the 18th Amendment," and by adding after the words "Against Ratification of the above Amendment" in the form of ballot prescribed, the following words: "Which is against the Repeal of the 18th Amendment."

Committee Amendment No. 6.

Amend House Bill No. 807, Page 6, by adding a new sentence at the end of Section 11 thereof, to read as follows: "In the event any such delegate, after he has been duly elected, shall die, resign or become incapacitated before attending such convention, then and in any such event the county judge of the county in which such delegate had his legal residence shall be authorized to appoint some duly qualified voter residing in the senatorial district of which such county is a part to fill such vacancy, provided, however, that such appointee so made by such county judge shall, under affidavit, state whether he is for the ratification or against the ratification of such amendment, and such county judge shall make no such appointment unless such individual appointee shall be pledged in the same manner on the question of for ratification or against ratification as was such delegate in whose place he has been appointed."

Committee Room.
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 244, A bill to be entitled "An Act authorizing water improvement districts to borrow money and create debts, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the committee substitute for S. B. No. 244, attached hereto, do pass in lieu thereof, and be printed.

COUSINS, Chairman.

C. S. S. B. No. 244.

A BILL
To Be Entitled

An Act to amend Article 7699 of the Revised Civil Statutes of 1925, and authorizing Water Improvement Districts to borrow money and create debts and obligations to fully carry out the purposes of their organization and to levy and collect taxes and to fix, levy and collect charges for the use of water and power and other services and to pledge same for the payment of debts and to provide for the government and operation of such districts and declaring an emergency.

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

Section 1. Water Improvement Districts may incur indebtedness evidenced by contracts, notes, warrants or bonds to fully pay any debt or obligation incurred or to be incurred for any lawful purpose provided by law including the purchase,

construction, securing or acquiring of any reservoir, rights of way, water rights, and any properties, plants or improvements and the maintenance and operation thereof and including all incidental expenses connected therewith, also for the purpose of constructing repairs, extensions and other improvements upon or to any such properties.

Sec. 2. At the time of the creation of any debt or obligation as provided in Section One hereof such Water Improvement District shall provide for payment of such debt or obligation. General ad valorem taxes may be fixed, levied, and assessed and collected upon a benefit basis. Any such district which may have heretofore issued bonds or obligations payable by taxation upon either basis may in the creation of additional debt or obligation adopt a different plan of taxation for the payment thereof. Each such debt or obligation shall be paid in the manner provided for its payment at the time such debt or obligation was or is incurred.

Sec. 3. Water Improvement Districts, the principal function or operation of which is providing and furnishing water for the irrigation of the lands included in such district, may provide for the payment of the principal and interest of any such debts or obligations so created by the levying of taxes upon the land therein upon an equal or uniform basis of an equal charge per acre upon each acre of land to be irrigated. When such basis of taxation is adopted a special tax roll shall be prepared showing each tract of land therein, the number of acres in each such tract, the total assessment of benefits upon each tract, and the amount to be paid each year thereon and such roll shall be prepared or amended each year thereafter. Such tax roll shall be prepared by the tax collector, renditions thereof made by the owner of the property, and said tax roll shall be examined, corrected and approved by the Board of Equalization of such district and such property shall be rendered for taxation, assessed and such tax roll prepared in the manner provided by law for the assessment and collection of taxes and at the time and times provided by law and in all things as provided by law except that the valuation fixed thereon shall be the assessment charge against each acre of land at the time such debt or obligation was or is incurred or issued.

Sec. 4. Prior to the issuance of any bonds or the creation of any debt as herein provided the proposition shall first be submitted to the qualified property tax-paxing voters of such district and the proposition be adopted by a majority of those voting at such election. The proposition submitted shall also state the method of taxation to be adopted to provide for the payment of the principal and interest of such bonds, debts, or obligations. Notices of such election shall be given and such election shall be in all things held and conducted as provided by law for the holding of such elections within such districts.

Sec. 5. Water Improvement Districts may borrow money from the Reconstruction Finance Corporation created by the laws enacted by the Congress of the United States for any purpose incident to its powers and functions and any purpose provided by law, and may evidence such debts by contract, agreements, notes, bonds or warrants payable within any term of years not be exceed forty years, and to bear interest at not to exceed the rate of six per centum per annum.

Sec. 6. Water Improvement Districts may borrow money for any purpose and in any manner herein provided and may pledge for the payment thereof any part of the income and revenue from the sale and use of water, power, or other sources of income sufficient to fully guarantee the payment of such debts and all interest and charges to accrue thereon, and for the purpose of paying same shall have and are vested with the power to fix charges for the use and sale of water, power and other services to meet the payments so required in addition to all other lawful purposes.

Sec. 7. Article 7699 of the Revised Civil Statutes of 1925 is hereby amended so that same shall hereafter read as follows:

Provided, further, that whenever such a district shall have constructed or purchased improvements and same shall be damaged so that it may be necessary to raise funds to repair such damage, such district

may either issue bonds to secure such funds or may issue its notes to run not to exceed twenty years, and to bear interest at not to exceed six per cent per annum. Before such notes are issued, the board of directors shall order an election and give notice thereof as required in bond issues, stating the purpose for which they are to be issued, the time they are to run, and the rate of interest they are to bear, and the time and place of said election. The ballots for such election shall have printed thereon, "For Issuance of Notes," and "Against Issuance of Notes." The election shall be held and returns made and canvassed as provided for bond elections. If two-thirds majority of those voting at such election voted in favor of the issuance of such notes, the board of directors may issue same and sell same for the benefit of said district. At the time such notes are issued or sold the board of directors shall levy a tax for the purpose of paying the interest thereon and creating a sinking fund sufficient to pay such interest and to pay said notes within the time of their maturity. Said notes may be issued in serial form to mature in installments as determined by the directors.

Sec. 8. Whenever a water improvement district shall have on hand and unsold any bonds issued by it under the provisions of Chapter 2, Title 128, of the Revised Civil Statutes of Texas, 1925, and any amendments thereto, and such bonds cannot, in the opinion of the board of directors of such district, then be sold upon terms advantageous to the district, such district may raise money by loan contracts, in an amount not exceeding the amount of its unsold bonds, and use such money for any of the purposes for which such unsold bonds shall have been authorized, and may pledge such bonds as a guarantee or assurance of the payment of such loan. The amount of bonds so pledged shall not exceed the amount of such loan more than fifteen per cent of the amount of such loan.

Sec. 9. Any Water Improvement District may pay and contract to pay on any bonds sold or pledged by it in addition to all taxes levied and collected therefor other funds derived from water charges for the use of water within said district or from the sale or supplying of water to any cities or towns or other municipal corporations, including any other districts, and to any lands or users of water outside of the boundaries of such district, or the sale of water to any commercial or industrial enterprise, or from the sale of hydro-electric power, or out of and from either, any or all of such respective sources of revenue, as the board of directors of such district may fix and determine. The amount necessary for such purpose shall be fixed by the directors of such district, and when thus fixed, shall be enforced and collected in the same manner as now provided by law in respect to charges or assessments for maintenance and operation of any such district; and all liens and remedies now or hereafter provided by law to secure and enforce the collection of charges and assessments for maintenance and operation purposes, shall exist and be applicable for securing and enforcing the collection of such funds. The proceeds of the collection of all such loan fund charges shall be segregated and kept in a separate fund, to be known as the "Loan Fund," and said fund shall be used and disbursed for no other purpose than to pay the principal and interest on the loan or securities herein provided for, so long as any part of said loans or any of said securities shall remain unpaid. Such loan fund charge thus created and pledged shall constitute an additional and distinct charge and source of income for such district, over and above and distinct from its income for maintenance and operation and other purposes provided by law. When and after such loan fund charge is thus created and pledged, and so long as the same is maintained, the action of the board of directors of such district in fixing the amount thereof, and in fixing the total annual charges or assessments for maintenance and operation purposes, shall not be reviewable by the State Board of Water Engineers, any existing law to the contrary notwithstanding.

Sec. 10. The fact that water improvement districts serve a large public interest and that the operation of such districts is now restricted because of economic conditions and should be vested with further authority to secure necessary

funds for their operation creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended and said rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room.
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Public Lands and Land Office, to whom was referred

H. B. No. 791, A bill to be entitled "An Act amending Subsection 14 of Article 5421c of the Revised Civil Statutes of Texas, same being Acts 1931, Forty-second Legislature, Second Called Session, Page 64, Chapter 40, by providing that hereafter in all condemnation proceedings the mineral rights of the condemned party shall be superior to the surface rights of the condemning party, and in the event of any conflict where it is necessary to drill any offset well, that the surface rights shall yield to the mineral rights, and the condemning party shall immediately remove any interference or hindrance therewith, and in the event of his failure to do so upon demand, the owner of the mineral rights shall have the right to do so, without liability; and providing that in all condemnation proceedings of this character, the commissioners or any other tribunal, shall not take into consideration the value of the oil or gas lying under said rights of way of such condemned properties, and providing that this Act shall apply to all cases and proceedings now pending; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with committee amendments and that the same be printed.

WOODRUFF, Chairman.

Committee Amendment No. 1.

That the Caption of H. B. No. 791 be amended so as to hereafter read as follows:

An Act amending Subsection 14 of Article 5421c of the Revised Civil Statutes of Texas, same being Acts 1931, Forty-second Legislature, Second Called Session, Page 64, Chapter 40, by providing that the Board or any person, corporation, assignee or leaseholder holding a contract with said Board, or any previous contract with the State of Texas or the Land Commissioner prior to the passage of what is known as the River Bed Law or law creating the Board of Mineral Development for the development of the oil and/or gas resources in State owned river beds, streams or channels, is granted the right of eminent domain and condemnation as provided by the General Laws of this State for said purpose of securing necessary right of way and land in the development of the minerals in river beds belonging to the State of Texas; and further providing that hereafter in all condemnation proceedings, the mineral rights of the condemned party shall be superior to the surface rights of the condemning party, and in the event of any conflict where it is necessary to drill any offset well, that the surface rights shall yield to the mineral rights, and the condemning party shall immediately remove any interference or hindrance therewith, and in the event of his failure to do so upon demand, the owner of the mineral rights shall have the right to do so, without liability; and providing that in all condemnation proceedings of this character, the commissioners or any other tribunal, shall not take into consideration the value of the oil or gas lying under said rights of way of such condemned properties, and providing that this Act shall apply to all cases and proceedings now pending; and declaring an emergency.

Committee Amendment No. 2.

That Paragraph 1, Subsection 14, lines 30 to 34, inclusive, of H. B. No. 791, be stricken out and said bill be amended by inserting in lieu thereof, the following:

Subsection 14. The Board, or any person or corporation holding a contract with said Board, including all leaseholders or assignees, or any leaseholder or assignee holding a lease contract with the State under

the State Land Commissioners prior to the enactment of Acts 1931, Forty-second Legislature, Second Called Session, Page 64, Chapter 40, or what is commonly known as the River Bed or Board of Mineral Development Law, for the development of oil and/or gas resources, in State owned river beds, streams or channels, is hereby granted the right of eminent domain and condemnation as provided by the General Laws of the State of Texas for the following purposes:

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Insurance, to whom was referred

S. B. No. 175, A bill to be entitled "An Act to amend Section 1 of Article 8309, Revised Civil Statutes of Texas, 1925, by adding thereto definition of the terms 'dependent'; redefining the terms 'employee,' 'beneficiaries,' 'legal beneficiaries,' 'injury' and 'personal injury'; the term 'dependent' being defined to be one who, for a period of one year immediately prior to the injury, was actually dependent for support, in whole or in part, upon the deceased, who, during said period, actually relied upon the deceased, in whole or in part, for reasonable necessaries consistent with the claimant's position in life, and defining 'employee' to mean every person in the service of another under any contract of hire, expressed or implied, oral or written, except masters of or seamen on vessels engaged in interstate or foreign commerce, and except one whose employment is not in the usual course of the trade, business, profession or occupation of his employer; and the term 'employee' shall include all sub-contractors of general contractors and all the employees of such sub-contractors, unless such sub-contractor is then a subscriber under the terms of this law, in which latter event such sub-contractor shall be deemed an independent contractor; defining 'beneficiaries' and 'legal beneficiaries' to mean only the relatives' names in Article 8306, Revised Civil Statutes, defining 'injury' and 'personal injury' to mean damage or harm to the physical structure of the body sustained in the course of employment and such diseases or infection as naturally result therefrom; redefining the term 'subscriber' to mean any employer who has become a member of the association by paying the required premium, provided that the association holds a license issued by the Commissioner, as provided for in this law; providing that the method of computing 'average weekly wages' shall be as follows: The average daily wage received by the employee in the same or in a similar employment, during the year immediately preceding the injury, shall be multiplied by the number of days the employee actually worked in the same or in a similar employment during said year, but not by less than 225 days, and the result shall be divided by 52, and providing said wages shall include the market value of board, lodging, laundry, fuel, and other advantages which can be estimated in money which the employee received from the employer as part of his remuneration. Any sums, however, which the employer has paid to the employee to cover any special expense entailed on him by the act of his employment shall not be included; and declaring an emergency which demands the suspension of the constitutional rule that bills be read on three several days in each House, and that this Act shall be in full force and effect after its passage."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the committee substitute in lieu thereof do pass and be printed.

PURL, Chairman.

C. S. S. B. No. 175.

A BILL
To Be Entitled

An Act to amend Section 1 of Article 8309, Revised Civil Statutes of Texas, 1925, by adding thereto definition of the term "dependent"; redefining the terms "employee," "beneficiaries," "legal beneficiaries," "injury" and "personal injury"; the term "dependent" being defined to be one who, for a period of one year immediately prior to the injury, was actually dependent for support, in whole or in part, upon the deceased, who, during said period, actually relied upon the deceased, in whole or in part for reasonable

necessaries consistent with the claimant's position in life, and defining "employee" to mean every person in the service of another under any contract of hire, expressed or implied, oral or written, except masters of or seamen on vessels engaged in interstate or foreign commerce, and except one whose employment is not in the usual course of the trade, business, profession or occupation of his employer; and the term "employee" shall include all sub-contractors of general contractors and all the employees of such sub-contractors, unless such sub-contractor is then a subscriber under the terms of this law, in which latter event such sub-contractor shall be deemed an independent contractor; defining "beneficiaries" and "legal beneficiaries" to mean only the relatives named in Article 8306, Revised Civil Statutes, defining "injury" and "personal injury" to mean damage or harm to the physical structure of the body sustained in the course of employment and such diseases or infection as naturally result therefrom; redefining the term "subscriber" to mean any employer who has become a member of the association by paying the required premium, provided that the association holds a license issued by the Commissioner, as provided for in this law; providing that the method of computing "average weekly wages" shall be as follows: The average daily wage received by the employee in the same or in a similar employment, during the year immediately preceding the injury, shall be multiplied by the number of days the employee actually worked in the same or in a similar employment during said year, but not by less than 225 days, and the result shall be divided by 52, and providing said wages shall include the market value of board, lodging, laundry, fuel, and other advantages which can be estimated in money which the employee receives from the employer as part of his remuneration. Any sums, however, which the employer has paid to the employee to cover any special expense entailed on him by the act of his employment shall not be included; and declaring an emergency which demands the suspension of the constitutional rule that bills be read on three several days in each House, and that this Act shall be in full force and effect after its passage.

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

Section A. That Section 1 of Article 8309 of the Revised Civil Statutes of Texas, 1925, shall be and the same is hereby amended so as to hereafter read as follows:

"Article 8309. Section 1. The following words and phrases as used in this law, shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

"Employer" shall mean any person, firm, partnership, association of persons, or corporations, or their legal representatives that make contracts of hire.

"Employee" shall mean every person in the service of another under any contract of hire, expressed or implied, oral or written, except masters of or seamen on vessels engaged in interstate or foreign commerce; and except one whose employment is not in the usual course of the trade, business, profession or occupation of his employer; and the term "employee" shall include all sub-contractors of general contractors and all the employees of such sub-contractors, unless such sub-contractor is then a subscriber under the terms of this law, in which latter event such sub-contractor shall be deemed an independent contractor.

The words "beneficiaries" or "legal beneficiaries" as used in this law shall mean only the relatives named in Section 8a of Article 8306, Revised Civil Statutes of 1925.

The word "dependent" as used in this law shall mean one, who during the period of one year immediately prior to the injury was actually dependent for support, in whole or in part, upon the deceased, and who, during said period, actually relied upon the deceased, in whole or in part, for reasonable necessaries consistent with the claimant's position in life.

"Association" shall mean the "Texas Employers' Insurance Association," or other insurance company authorized under this law to insure the payment of compensation to injured employees or to the beneficiaries of deceased employees.

"Subscriber" shall mean any employer who has become a member of the Association by paying the required premium; provided that the Association holds a license issued by the Commissioner of Insurance, as provided for in this law.

The method of computing "average weekly wages" shall be as follows: The average daily wage received by the employee in the same or in a similar employment, during the year immediately preceding the injury, shall be multiplied by the number of days the employee actually worked in the same or in a similar employment during said year, but not by less than 225 days, and the result shall be divided by 52. Said wages shall include the market value of board, lodging, laundry, fuel and other advantages which can be estimated in money which the employee receives from the employer as part of his remuneration. Any sums, however, which the employer has paid to the employee to cover any special expenses entailed on him by the act of his employment shall not be included.

The terms "injury" or "personal injury" shall be construed to mean damage or harm to the physical structure of the body sustained in the course of employment and such diseases or infection as naturally result therefrom.

The term "injury" or "personal injury" or "injury sustained in the course of employment," as used in this law, shall not include:

1. An injury caused by the Act of God, unless the employee is at the time engaged in the performance of duties that subject him to a greater hazard from the act of God responsible for the injury than ordinarily applies to the general public.

2. An injury caused by an act of a third person intended to injure th employee because of reasons personal to him and not directed against him as an employee, or because of his employment.

3. An injury received while in a state of intoxication.

4. An injury caused by the employee's wilful intention and attempt to injure himself, or to unlawfully injure some other person, but shall include all other injuries of every kind and character having to do with and originating in the work, business, trade or profession of the employer received by an employee while engaged in or about the furtherance of the affairs or business of his employer whether upon the employer's premises or elsewhere. Any reference to any employee herein who has been injured, shall, when the employee is dead, also include the legal beneficiaries, as that term is herein used, of such employee to whom compensation may be payable. The word "Commission," whenever used in this law shall be held to mean the Industrial Accident Commission created by this law. Whenever in this law the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

Section B. The fact that under the present law the method of computing average weekly wages is unsound and unjust to all parties at interest and increases litigation, creates a necessity for computing average weekly wages upon actual earnings and creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read upon three several days in each House, and said constitutional rule is hereby suspended, and it is provided and enacted that this Act shall take effect and be in force from and after its passage.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Labor, to whom was referred

S. B. No. 176, A bill to be entitled "An Act to amend Sections 3c, 7, 7c, 7d, 8, 8a, 12c, 12i and 15 of Article 8306 of the Revised Civil Statutes of Texas, 1925; that Section 3c be amended by adding thereto the provision that on or before the date of expiration of a compensation policy the association shall give notice of such expiration to the Industrial Accident Commission and from and after such notice by either the subscriber or association, all employees of the subscriber shall be conclusively presumed to have notice of the fact that the employer has ceased to be a subscriber, so that said section, as amended, provides that from and after receipt by the Industrial Accident Commission of notice from any

employer he has become a subscriber, all employees of such subscriber then or thereafter employed shall be conclusively presumed to have notice of such subscription; provides that if any such employer ceases to be a subscriber, both the subscriber and the association shall give notice of such fact to the Industrial Accident Commission on or before the expiration of the policy and that from and after the giving of such notice by either, all employees of the subscriber shall be conclusively presumed to have notice of such fact; Section 7, as amended, providing that the association shall furnish such medical, surgical or other attention or treatment, nurse and hospital service including crutches and apparatus for such period as may be required; as the association, after notice of the injury, refuse, fail or neglect to provide above treatment, the employee may furnish same at association's expenses; that at the time of or immediately after injury, the employer shall have the right to call in available physicians or surgeons for first aid at expense of association; that in no event for all of above described treatment shall association be liable for more than five hundred dollars ($500.00) unless the Association, in writing, so authorize; and providing that the importance of the Act creates an emergency, demands the suspension of the constitutional rule requiring bills to be read on three several days in each House, and that this Act shall be in force and effect from and after its passage."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass but that the committee substitute in lieu thereof do pass and be printed.

PURL, Chairman.

By Martin. S. B. No. 176.

A BILL
To Be Entitled

An Act to amend Section 3c, 7, 7c, 7d, 8, 8a, 12c, 12i and 15 of Article 8306 of the Revised Civil Statutes of Texas, 1925; that Section 3c be amended by adding thereto the provision that on or before the date of the expiration of a compensation policy the association shall give notice of such expiration to the Industrial Accident Commission and from and after such notice by either the subscriber or association, all employees of the subscriber shall be conclusively presumed to have notice of the fact that the employer has ceased to be a subscriber, so that said section, as amended, provides that from and after receipt by the Industrial Accident Commission of notice from any employer he has become a subscriber, all employees of such subscriber then or thereafter employed shall be conclusively presumed to have notice of such subscription; provides that if any such employer ceases to be a subscriber, both the subscriber and the association shall give notice of such fact to the Industrial Accident Commission on or before the expiration of the policy and that from and after the giving of such notice by either, all employees of the subscriber shall be conclusively presumed to have notice of such fact; Section 7, as amended, providing that the association shall furnish such medical, surgical or other attention or treatment, nurse and hospital service including crutches and apparatus for such period as may be required; as the association, after notice of the injury, refuse, fail or neglect to provide above treatment, the employee may furnish same at association's expense; that at the time of or immediately after injury, the employer shall have the right to call in available physicians or surgeons for first aid at expense of association; that in no event for all of above described treatment shall association be liable for more than five hundred dollars ($500.00) unless the association, in writing, so authorize; Section 7c and 7d to be combined into a section to be called Section 7c, the same, as amended, providing that attorney's fees shall be fixed by the Industrial Accident Commission, or a member or deputy, not to exceed thirty-three and one-third per cent (33 1/3%), and no agreement regarding fee shall be binding unless so approved; that on appeal to the court attorney's fee to be fixed by the court; that attorney's fee is to be paid out of compensation and become a

lien upon compensation; Section 7d, as amended providing that unless the association or subscriber have notice of injury, and unless claim for payment for medical or surgical or hospital services or medicines be presented to association or subscriber within six months no provision therefor shall be maintained; and to further amend Article 8306 by adding new sections immediately following Section 19 to be known as Sections 20 and 21; all of said sections, as amended, providing if death should result from the injury the association shall pay to the beneficiaries compensation for 360 weeks from date of injury less the weeks compensation theretofore paid; providing that if the beneficiary be other than husband, wife or minor child of deceased and only partially dependent for support upon deceased's wages, the compensation shall not exceed the average weekly contribution for support made by deceased during the year preceding the injury; providing that the surviving husband, wife and minor children of deceased are conclusively presumed to be dependents; providing that the compensation shall be for the sole and exclusive benefit of the surviving husband, wife and dependent children of deceased and to be distributed in accordance with the laws of descent and distribution of community property; providing that no compensation is to be paid to a husband or wife who at a time more than three years before the injury abandoned the deceased and where said abandonment has been continuous; providing that if no compensation is payable to a surviving husband, wife or dependent children, the compensation shall be for the sole and exclusive benefit of dependent brothers, dependent sisters, dependent parents and dependent grandparents of deceased to be distributed in accordance with the laws of descent and distribution; providing that the rights to compensation or surviving husband, wife or children shall be complete, binding and vested, but the right to compensation upon the part of any other beneficiary shall cease upon the death of such beneficiary; providing that a compensation shall not be liable for debts of deceased or beneficiary, shall not pass to estate of deceased, but shall be paid directly to beneficiaries or to guardian or next friend in case of lunacy, infancy or other disqualifying cause; providing that if an employee suffering a previous disability shall sustain an injury which results in a condition of incapacity to which both the injury and the previous disability of their effects have contributed, the Association shall be liable only for the compensation to which the injury alone would have entitled the employee; providing minor's compensation may be based upon wage when same would be found to increase, but such increase shall be limited to probable increase in earnings in same or similar employment up to the time of attaining majority; providing that nothing herein shall be construed as authorizing employment of minor in prohibited occupation, but such minor shall be entitled to compensation; providing that where death or total permanent incapacity results from injury, the association may redeem its liability by payment of lump sum by agreement, subject to approval of Industrial Accident Commission, which character of lump sum is exclusive; providing in special cases where manifest hardship and injustice would otherwise result, the commission may compel the association to redeem its liability in one lump sum in cases of conclusive permanent total incapacity and in death cases where the beneficiaries have vested right in the compensation; providing that notice of injury shall be given association or subscriber within thirty (30) days after injury and claim for compensation made within six (6) months of injury, death or end of mental incapacity, otherwise no liability for compensation; for good reason the commission may waive notice or claim; all claims barred unless claim filed within two years after accident or death; and all compensation to be paid weekly, except as otherwise provided; providing that compensation shall equal sixty per cent of average weekly wages, but not to exceed $20.00 nor less than $7.00 per week, but if average weekly wages are less

than $7.00 per week, the compensation shall be said average weekly wage; providing that vested rights, remedies, powers and duties shall not be affected by this law, but that the provisions of this law shall affect, govern and control all such rights, remedies, powers and duties which shall arise after this law becomes effective, and that this law, as long as the same is operative or effective, shall suspend the amended provisions of Article 8306, as written prior to the passage of this law; and providing that the importance of the Act creates an emergency, demands the suspension of the constitutional rule requiring bills to be read on three several days in each House, and that this Act shall be in force and effect from and after its passage.

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

Section A. That Section 3c of Article 8306 of the Revised Civil Statutes of Texas, of 1925, shall be and the same is hereby amended so as to hereafter read as follows:

Section 3c. From and after the time of the receipt by the Industrial Accident Commission of notice from any employer that the latter has become a subscriber under this law, all employees of said subscriber then and thereafter employed, shall be conclusively presumed to have notice of the fact that such subscriber has provided with the association for the payment of compensation under this law. If any employer ceases to be a subscriber both the subscriber and the association shall on or before the date on which the policy expires give notice to that effect to the Industrial Accident Commission, and from and after such giving of notice by either the subscriber or the association all employees of the subscriber shall be conclusively presumed to have notice of the fact that the employer has ceased to be a subscriber.

Section B. That Section 7 of Article 8306 of the Revised Civil Statutes of Texas, 1925, shall be and the same is hereby amended so as to hereafter read as follows:

Section 7. The association shall furnish such medical, surgical and other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus for such period as the nature of the injury or the process of recovery may require. If the association fails to provide the same as and when needed after notice of the injury to the association or subscriber, the employee may provide such treatment or services at the cost and expense of the association. The employee shall not be entitled to recover any amount expended by him for such treatment or services nor shall any person who supplied the same be entitled to recover of the association therefor, unless the association or subscriber shall have had notice of the injury shall have refused, failed or neglected to furnish same within a reasonable time. At the time of the injury or immediately thereafter, if necessary, the employee shall have a right to call in any available physician or surgeon to administer first aid treatment as may be reasanably necessary at the expense of the association. In no event shall the liability of the association for the above described services or treatment exceed the sum of five hundred dollars ($500.00) unless the association in writing has authorized an expense exceeding said amount.

Section C. That Sections 7c and 7d of Article 8306 of the Revised Civil Statutes of Texas, 1925, shall be and the same are hereby combined into one section to be known as Section 7c of Article 8306 which shall be and the same is hereby amended so as to hereafter read as follows:

Section 7c. All fees of attorneys for legal services rendered an injured employee or his legal beneficiaries in respect of a claim or award for compensation shall be fixed by the Industrial Accident Commission, or a member or deputy, and any agreement as to said fee shall not be binding unless said agreement is approved by said Commission, or a member or deputy. In the event there is an appeal from any final award of the commission the amount of said attorney's fee shall be fixed by the court to which the appeal is taken. The attorney's fee as provided herein shall be paid out of the compensation awarded in the manner provided by the commission, member or deputy, or by the court and shall become a lien upon the compensation awarded. Such fee shall not exceed thirty-three and

one-third per cent (33 1/3%) of the compensation awarded.

Section D. Immediately following Section 7c of Article 8306 of the Revised Civil Statutes of Texas, 1925, there shall be added a new section to be known as Section 7d, which shall read as follows:

Section 7d. Unless the association or subscriber have notice of injury, and unless claim for payment for medical or surgical services, hospital services or medicines be presented to the association or subscriber within six months after same were furnished no proceeding therefor shall be maintained against either the association or the subscriber and there shall be no liability on either of them for the payment for such services.

Sec. E. That Section 8, 8a, 12c, 12i and 15 of Article 8306, of the Revised Civil Statutes of Texas, 1925, shall be and the same are hereby amended so as to hereafter read as follows:

Sec. 8. If death should result from the injury, the association shall pay to the beneficiaries of the deceased employee compensation for a period of three hundred and sixty weeks from the date of the injury, less the number of weeks for which compensation has theretofore been paid to said employee; but if the beneficiary is other than the husband, wife or minor child of the deceased and was only partially dependent for support upon the deceased, the compensation to be paid shall in no event exceed the average weekly contribution for support made by deceased to such beneficiary during the year next preceding the injury.

Sec. 8a. The surviving husband, wife and minor children of a deceased employee are conclusively presumed to be dependents, and compensation provided for in this law shall be for the sole and exclusive benefit of the surviving husband, wife and dependent children of the deceased and is to be distributed in accordance with the laws of descent and distribution of community property of this State. No compensation is to be paid to a husband or wife, who at a time more than three years before the injury abandoned the deceased and where said abandonment has been continuous.

If under the provisions of this section, no compensation is payable to a surviving husband or wife or dependent children of the deceased employee, the compensation provided for in this law shall be for the sole and exclusive benefit of dependent brothers, dependent sisters, dependent parents, and dependent grandparents of the deceased, to be distributed in accordance with the laws of descent and distribution of this State.

The rights to compensation of the surviving husband, wife or children of the deceased shall be complete, binding and vested, but the right to compensation upon the part of any other beneficiary shall cease upon the death of such beneficiary.

Said compensation shall not be liable for the debts of the deceased or of the beneficiary and shall not pass to the estate of the deceased to be administered upon, but shall be paid directly to said beneficiaries when the same are capable of taking under the laws of this State, or to their guardian or next friend in case of lunacy, infancy or other disqualifying cause.

Sec. 12c. If an employee suffering a previous disability shall sustain an injury which results in a condition of incapacity to which both the injury and the previous disability, or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the injury itself would have entitled the injured employee had there been no previous disability.

Sec. 12i. If it be established that the injured employee was a minor when injured and that under normal conditions his wages would be expected to increase, that fact may be considered in arriving at his average weekly wages and compensation may be fixed accordingly. In estimating the probable increased earnings under this section the Commission shall be limited to the probable increase of such earnings in the same or a similar employment up to the time the injured employee would have attained his majority. This section shall not be considered as authorizing the employment of a minor in any hazardous employment which is prohibited by any statute of this State; providing a minor who has been employed in any hazardous or other employment which is prohibited by any law of this State shall nevertheless be entitled to receive

compensation under the terms and provisions of this Act.

Sec. 15. In cases where death or total permanent incapacity result from an injury, liability of the association may be redeemed by payment of a lump sum by agreement of the parties thereto, subject to the approval of the Industrial Accident Commission. This section shall be construed as excluding any other character of lump sum settlement. In special cases where in the judgment of the Commission manifest hardship and injustice would otherwise result, the Commission may compel the association in cases of conclusive permanent total incapacity as defined in Section 11a of this article, as amneded, Acts Fortieth Legislature, Chapter 28, Section 1, and, in such death cases as the beneficiaries under the law may have a vested right, to redeem its liability by payment of a lump sum as may be determined by the Commission.

Sec. F. Immediately following Section 19 of Article 8306, of the Revised Civil Statutes of Texas, 1925, there shall be added three new sections to be known as Sections 20, 21 and 22 respectively, which shall read as follows:

Sec. 20. Unless the association or subscriber have notice of the injury no proceeding for compensation for injury under this law shall be maintained unless a notice of the injury shall have been given to the association or subscriber within thirty (30) days after the injury and unless a claim for compensation with respect to such injury shall be made within six (6) months after such injury or within six (6) months after date of last payment of compensation or in case of death of the employee or in the event of his physical or mental incapacity within six (6) months after death or the removal of such physical or mental incapacity. For good cause, the Commission, or a member or deputy may in meritorious cases waive the strict compliance with the foregoing limitation as to notice, and the filing of the claim before the Commission. Provided that all claims shall be forever barred unless within two years after the accident or death of the employee, claim shall have been filed as above provided.

Sec. 21. Unless otherwise stipulated all compensation payments provided for in this law shall be in an amount equal to sixty per cent of the employee's average weekly wages, but not to exceed $20.00 nor less than $7.00 per week; provided however, that if the employee's average weekly wages at the time of the accident are less than $7.00 per week, the compensation to be paid shall be said average weekly wages. All the compensation provided for in this law shall be paid weekly, except as otherwise provided.

Sec. 22. No inchoate, vested, matured, existing or other rights, remedies, powers, duties or authority, either of any employee or legal beneficiary, or of the board, or of the association, or of any other person shall be in any way affected by any of the amendments herein made to the original law hereby amended, but all such rights, remedies, powers, duties and authority shall remain and be in force as under the original law as if the amendments hereby adopted had never been made, and to that end it is hereby declared that said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties and authority; but as to all such rights, remedies, powers and duties which shall arise after Article 8306, as amended herein, becomes effective, the sections of Article 8306, as enacted prior to their amendment herein, and which conflict with these amendments, are suspended so long as said Article 8306, as amended herein, remains effective and operative; and further, this law in so far as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

Sec. G. The fact that confusion results from the failure of the present law to provide for constructive notice to the employees of the termination of the employer's subscription; that the present law regarding medical and attorney's fees in some instances permits such fees to be inadequate and in others permits them to be excessive for the services rendered, and that the present law encourages appeals to enable attorneys to collect larger fees; the fact that persons other than the husband, wife or minor children of the deceased and who were only partially dependent under the present law collect compensation far in excess

of the deceased's contributions to them; that the compensation for death be for the benefit of the surviving husband or wife and dependent children, and that the compensation paid one partially dependent shall not be in excess of the contributions by the deceased; and the facts just mentioned create an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read upon three several days in each House, and said constitutional rule is hereby suspended, and it is provided and enacted that this Act shall take effect and be in force from and after its passage.

Committee Room,
Austin, Texas, March 30, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred,

H. B. No. 482, A bill to be entitled "An Act validating all cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas; and validating all governmental proceedings performed in good faith by the governing bodies of such cities and towns sinces their incorporation or attempted incorporation respectively; providing the provisions hereof shall affect no city or town now in litigation, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

COLLIE, Chairman.

By Turlington. H. B. No. 482.

A BILL
To Be Entitled

An Act validating all cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas; and validating all governmental proceedings performed in good faith by the governing bodies of such cities and towns since their incorporation or attempted incorporation respectively; providing the provisions hereof shall affect no city or town now in litigation, and declaring an emergency.

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

Section 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or under the commission form of government, and which have in good faith functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

Sec. 2. All governmental proceedings performed in good faith by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

Sec. 3. The provisions of this bill shall affect no city or town now in litigation.

Sec. 4. The fact that a number of the cities and towns in Texas are functioning as such in good faith and irregularities or negligence in making proper records in the incorporation proceedings renders the validity of such incorporations questionable constitutes an emergency and an imperative public necessity that the rule requiring bills to be read on three separate days be suspended, and such rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.