Yeas—8

Brownlee	Roberts
Holbrook	Shivers
Moore	Weinert
Rawlings	Winfield

Nays—22

Aikin	Nelson
Beck	Oneal
Burns	Pace
Collie	Redditt
Cotten	Small
Davis	Spears
Head	Stone
Hill	Sulak
Isbell	Van Zandt
Lemens	Westerfeld
Neal	Woodruff

Absent

Newton

Adjournment.

Senator Hill moved that the Senate adjourn until 2:00 o'clock p. m. tomorrow.

Senator Roberts moved that the Senate adjourn until 10:00 o'clock a. m. next Monday, June 7, 1937.

The motion of Senator Roberts prevailed; and the Senate accordingly, at 4:00 o'clock p. m., adjourned until 10:00 o'clock a. m. next Monday, June 7, 1937.

SIXTH DAY

(Monday, June 7, 1937)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

Aikin	Nelson
Beck	Newton
Brownlee	Oneal
Burns	Pace
Collie	Rawlings
Cotten	Roberts
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff

The following Senators were absent and excused:

Davis	Small
Redditt	Spears
Shivers	

A quorum was announced present.

The invocation was offered by the Chaplain.

Reading of the Journal of the proceedings of the fifth legislative day was dispensed with, on motion of Senator Roberts.

Leaves of Absence

Senator Small was granted leave of absence for today and the remainder of the week, on account of important business, on motion of Senator Rawlings.

Senator Davis was granted leave of absence for today on account of important business, on motion of Senator Woodruff.

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Aikin.

Senators Redditt and Shivers were granted leaves of absence for today on account of important business, on motion of Senator Burns.

Motion to Provide for Special Committee

Senator Moore moved that the President appoint a committee of three Senators to call upon the Governor and respectfully request that he transmit to the Senate at this time any message he now has ready submitting additional subjects for legislation at the current special session.

A Secretary of the Governor was announced by the Doorkeeper and was recognized by the President to present a message from the Governor.

On motion of Senator Moore, the motion to authorize the President to appoint a special committee was tabled subject to call.

Message From the Governor

The President then laid before the Senate, and had read, the following message from the Governor:

To the Members of the Forty-fifth Legislature:

I congratulate this Legislature upon the passage of the bill repealing the so-called pari-mutuel betting law and outlawing all forms of gaming at race tracks. In my opinion, this is a stronger bill than the one Texas had before passage of the racing commission act of 1933. A great forward step has been taken.

At the beginning of this session I told you that I was just as anxious as anyone to outlaw betting on dog races and secure a more effective bookie statute. I did not submit these subjects at that time because unquestionably they would have been used by opponents of repeal to try to load down the bill with so many amendments as to defeat repeal of race track betting. These subjects are now submitted to you.

Gaming on Dog Races

So far as I have been able to learn there have not been many efforts to carry on dog racing in this State. A few tracks have opened up here and there, however. Unquestionably this form of gaming is just as much to be condemned as the one outlawed last week by this Legislature. I recommend the passage of a bill outlawing and prohibiting betting or wagering of any kind on this character of racing.

Bookie Laws

It has been repeatedly stated that most of the wagering on horse races is through so-called bookie shops. This is probably true, and in various messages to the Legislature I have heretofore urged the passage of an effective bookie statute.

A.

One of the chief difficulties with reference to enforcement of our bookie statute has been that in order to secure a conviction the State was required to show not only that a bet was taken but that a race actually was run. Of course, this is almost impossible to do since book making is a misdemeanor and witnesses cannot be brought from outside the county in misdemeanor cases. Certainly they cannot be brought from outside the State where the book making is on a race run beyond the boundaries of Texas.

Any effective bookie statute passed by this Legislature should stipulate that in order to secure a conviction it shall not be necessary to show that a horse race was actually run.

B.

If book making shops are to be effectively outlawed, we must prohibit telegraph and telephone companies, or any agent or employee thereof, from transmitting information concerning bets or wagers, or odds offered or paid on any horse race or dog race.

One of the difficulties in prosecutions under such a statute is found in establishing knowledge on the part of the telegraph or telephone company, its officers, agents or employees, of the nature of the use made of such facilities. Some have suggested that the word "knowingly" be left out of the statute. I think probably the courts would read "knowingly" into any bill that might be passed by this Legislature; and I suggest that any bill on this subject contain a provision substantially to the effect that where it is shown by the State that information concerning bets or wagers, or odds offered or paid on any horse race or dog race, is transmitted by telegraph, teletype or telephone over any lines or facilities of such concern, it shall be prima facie evidence of knowledge on the part of such corporation, its officers, agents or employees, of the unlawful nature of such transaction. Provision should also be made affirmatively requiring such telegraph or telephone company to remove any of its lines or facilities from the office or place of business of any person making such unlawful use of such facilities.

In addition to criminal penalties, it should be provided that any person violating any provision of the gaming statutes passed by this Legislature may be proceeded against by injunction under Articles 4664, 4665, 4666 and 4667 of the Revised Civil Statutes of 1925.

C.

In addition to outlawing book making in its ordinary terms, any

bill passed by this Legislature should prohibit and outlaw the business of book making. The bill should specifically authorize the State to prove any number of transactions and to elect upon any one of the number proved for conviction.

We now have upon our statute books laws denouncing and prohibiting general gaming, including slot and marble machines. The State is in a rather inconsistent attitude with reference to marble machines in view of a claimed license by the State. In my opinion no such license exists but it is a smoke screen behind which operators of these marble machines and some local officers hide. I suggest that any doubt on this matter be removed by the Legislature.

The most effective method of dealing with slot and marble machines is confiscation. These machines are subject to confiscation, but are required to be turned over to local sheriffs by the seizing officers. It sometimes happens that after these machines have been seized by State officers in a few counties in this State and turned over to the sheriff, they are returned to the operators. Some effective method of dealing with the matter of requiring the performance of duty by local officers should be devised by this Legislature.

Among other things I recommend that authority be given for the filing of injunction suits against gambling houses and condemnation suits for gambling paraphernalia in the district court of Travis County where it is alleged by the Attorney General that the local officers in any given county have failed or refused to discharge their duties.

Jacks and Stallions

I also submit to the Legislature the subject of the disposition of jacks and stallions belonging to the State. It occurs to me that these animals can be disposed of by arrangements with commissioners' courts in various counties over the State. If they have been worth being kept by the State, then they are certainly worth as much to the county. I see no reason why these animals cannot be disposed of by the end of the present fiscal year. Certainly there is no occasion to appropriate money to maintain or look after them over another two year period, as was provided in one of the amendments offered to Senate Bill No. 1.

In General

I suggest that the committees of the two Houses ask the State's Attorney for the Court of Criminal Appeals to come before them and assist in preparation of a bill, or bills, to accomplish these objectives. I understand a number of bills on these subjects are being offered, and since it is quite probable the writing of such bills will go to a sub-committee they should avail themselves of the services of the State's Attorney.

Caution should be observed that any bill dealing with bookies, or other forms of gambling, shall not in anywise modify or repeal the law already passed prohibiting gambling on horse races.

It occurs to me that these ends can probably best be achieved by the passage of separate bills dealing with these subjects, rather than attempt to consolidate all in one bill.

Respectfully submitted,
JAMES V. ALLRED,
Governor of Texas.

Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 7, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate amendments to H. B. No. 1 and requests the appointment of a conference committee to adjust the differences between the two Houses. The following are appointed on the part of the House with instructions to eliminate from the bill all matters pertaining to raising or lowering salaries and all matters making an additional appropriation other than mileage and per diem:

Messrs: Graves, Thornberry, Reed of Dallas, Davison of Fisher, Thornton.

The House has passed the following bill:

S. B. No. 1, A bill to be entitled "An Act repealing House Bill No. 12, Acts of the First Called Session of the Forty-third Legislature, same being Chapter 10 of the General and Special Laws of the First Called Session of the Forty-third Legislature; etc., and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Senate Bills on First Reading

The following bills were introduced, read first time, and referred by the President to the Committee on Criminal Jurisprudence:

By Senator Van Zandt:

S. B. No. 2, A bill to be entitled "An Act repealing Chapter 10, of the Laws of the Forty-third Legislature, First Called Session, being H. B. No. 12, pages 32-41 of the General and Special Laws of the Forty-third Legislature, First Called Session, save and except paragraph three (3) of Sub-section one (1) of Section one (1) thereof, so as to provide for the support and maintenance of the Department of Agriculture until August 31, 1937, reappropriating certain unexpended balances in certain special funds in the State Treasury to the support and maintenance of said Department of Agriculture for the ensuing biennium ending August 31, 1939, making other provisions therefor; providing and giving the Commissioner of Agriculture certain authority relating to State owned jacks and stallions; providing for the assignment of State owned jacks and stallions by the County Commissioners Court to caretakers; providing for the care and maintenance of such jacks and stallions and the payment of salaries for caretakers thereof; providing for title to such jacks and stallions; providing for the collection of breeding fees; providing for the remittance of part of such breeding fees to the Commissioner of Agriculture and for the disposition of such fees by the Commissioner of Agriculture; providing for the appointment of a supervisor of jacks and stallions by the Commissioner of Agriculture and the payment of said supervisor's salary and all expenses incident to the supervision of jacks and stallions; providing for the refunding of certain breeding fees incident to the breeding seasons of 1936 and 1937, and for the transfer of present funds by the Comptroller and Treasurer; making it unlawful to take or accept any bet or wager in this State, at or within any enclosure in this State at which any horse race is to be run, trotted or paced, or aid any person thus offending by means of certificate system of betting, making certain other prohibitions and making same unlawful; reenacting Article 645 of the Penal Code of the State of Texas with certain amendments; providing penalties for violation of certain provisions of this Act; prohibiting the buying and selling of pools or bookmaking on any horse race or dog race; providing the form of indictment or information sufficient to charge the offense; prohibiting the use of certain property for selling pools or bookmaking; prohibiting the furnishing of means of communication to persons using property for pool selling or bookmaking in violation of the provisions of this Act; declaring it unlawful to buy pools or wager on horse races or dog races; declaring certain acts prima facie violations of the provisions of this Act; providing penalties for the violation of the provisions of this Act; repealing Articles 624, 625, 647, 648, 649, 650, 651 and 652, Penal Code of Texas, 1925, and repealing S. B. No. 1, passed at the First Called Session of the Forty-fifth Legislature; providing, however, that the passage of this Act shall not affect any indictment or information now pending for violating any of the Articles hereby repealed; providing conviction may be had under the terms of this Act on the uncorroborated testimony of accomplices, such person to be exempt from prosecution for any offense about which he testified; declaring the terms of this Act to be severable; prohibiting miscellaneous betting so as to include within the terms thereof any race, speed, skill, or endurance of, by, or between dogs; prohibiting the keeping of a place for miscellaneous betting as herein defined, providing penalties therefor as well as penalties for miscellaneous betting; providing the penalties provided herein to be cu-

mulative at the option of the court, and declaring an emergency."

By Senator Van Zandt:

S. B. No. 3, A bill to be entitled "An Act to amend Articles 624 and 625 of the Penal Code of the State of Texas of 1925, so as to include within the terms and meaning of said Articles any races, speed, skill, or endurance, of, by, or between dogs, and declaring an emergency."

By Senators Davis and Woodruff:

S. B. No. 4, A bill to be entitled "An Act amending Article 4667 of the Revised Civil Statutes of the State of Texas, Revision of 1925, so as to provide and enjoin duties upon the District Attorney, County Attorney and Attorney General, defining reliable information and providing a penalty for the District Attorney, County Attorney or Attorney General for a failure to perform duties enjoined upon him by Article 4666 and Article 4667, Statutes of the State of Texas, Revision of 1925, and declaring an emergency."

By Senators Davis, Woodruff and Newton:

S. B. No. 5, A bill to be entitled "An Act amending Chapter 6, of Title 11, Penal Code of Texas, 1925, by adding Article 648, making it unlawful for any person to operate a bookie shop as defined in this Act, and providing a penalty; and by adding thereto Articles 649a and 649b, so as to increase the State's penalties and remedies against telegraph, teletype and telephone companies for aiding or assisting in pool selling or bookmaking schemes or placing bets on horse races, and prescribing additional penalties and remedies against owners, agents or lessees of property permitted to be used as a place for selling pools or book-making or wagering on horse races; providing that this Act shall be cumulative of all laws not in conflict herewith repealing all laws and parts of laws in conflict herewith; providing that the passage of this Act shall not affect any case pending or in which final judgment has been rendered, based on laws in effect prior to the enactment hereof; providing that each section, paragraph, sentence, phrase and word of this Act is severable, and declaring an emergency."

By Senator Van Zandt:

S. B. No. 6, A bill to be entitled "An Act prohibiting the buying and selling of pools or bookmaking on any horse race or dog race; providing the form of indictment or information sufficient to charge the offense; prohibiting the use of certain property for selling pools or bookmaking; prohibiting the furnishing of means of communication to persons using property for pool selling or bookmaking in violation of the provisions of this Act; declaring it unlawful to buy pools or wager on horse races; declaring certain acts prima facie violations of the provisions of this Act; providing penalties for the violation of the provisions of this Act; repealing Articles 647, 648, 649, 650, 651 and 652, Penal Code of Texas, 1925; providing, however, that the passage of this Act shall not affect any indictment or information now pending for violating any of the Articles hereby repealed; providing conviction may be had under the terms of this Act on the uncorroborated testimony of accomplices, such person to be exempt from prosecution for any offense about which he testified; declaring the terms of this Act to be severable, and declaring an emergency."

By Senators Westerfeld, Collie, Woodruff, Lemens, Hill, Cotten, Head, Burns, Roberts, Nelson, Oneal, Neal, Aikin, Isbell, Pace and Beck:

S. B. No. 7, A bill to be entitled "An Act providing that the Supreme Court, or any Court of Civil Appeals, shall have the power, or authority, or jurisdiction to issue the writ of mandamus against a peace officer, or magistrate, (except magistrates of appellate courts), as defined by the Laws of this State, or against any court or district attorney, to compel the performance of any act, or duty, which such peace officer, magistrate or district or county attorney is required by law to perform, and declaring an emergency."

Request of House Granted

Senator Collie moved that the request of the House for a conference committee to adjust the differences between the two Houses on H. B. No. 1 be granted.

The motion prevailed.

Bill Signed

The President announced that he would sign in the presence of the Senate, after its caption had been read the following enrolled bill:

S. B. No. 1, "An Act repealing H. B. No. 12, Acts of the First Called Session of the Forty-third Legislature, same being Chapter 10 of the General and Special Laws of the First Called Session of the Forty-third Legislature; prohibiting in this State the certificate system of betting upon horse races; making it unlawful for any person, firm, corporation or association of persons, by means of the certificate system of betting, to bet upon or to aid any other person to bet upon any horse race; making it unlawful for any person, association of persons or corporation to bet or wager any money or article of value at any race track in this State upon any horse race to be run, trotted or paced at any such track in this State; re-enacting Article 645 of the Penal Code of the State of Texas; prescribing a penalty for violation of the provisions of this Act, and declaring an emergency."

Senator Moore raised, and submitted in writing, the following point of order:

I raise the point of order on S. B. No. 1 that the caption is not the same caption as contained in such bill as finally passed by the House and Senate, such caption having been amended as follows:

"Amend S. B. No. 1 by amending the caption to conform to the changes made in the body of the bill."

And the caption now contains words other than those quoted above.

MOORE.

The President overruled the point of order.

Senator Moore requested that the point of order and the President's ruling thereon, be indorsed on the enrolled bill.

The President declined to grant the request of Senator Moore; and he signed the bill (S. B. No. 1) in the presence of the Senate after its caption had been read.

Senate Resolution No. 3

Senator Westerfeld offered the following resolution:

Whereas, The Greater Texas and Pan American Exposition, through its duly constituted officials and director general, has extended to the Members of the House and Senate of the Forty-fifth Legislature an invitation to attend this great Exposition, and has set aside Saturday, June 12th, as "Texas Legislative Day"; now, therefore, be it

Resolved, By the Senate of Texas, That the Members of the Senate accept this invitation and make it a point to be present on the day and date set apart, as near as may be, in a body; and that we extend our thanks to the officials of the Exposition for courtesies extended, and particularly for this invitation.

The resolution was read and was adopted.

Senate Resolution No. 4

Senator Stone offered the following resolution:

Whereas, There has been introduced in the Congress of the United States H. B. No. 6763, which would extend the three and one-half per cent interest rate to farmers on certain Federal Land Bank farm loans; and

Whereas, This bill has been favorably reported to the Senate; and

Whereas, Unless this or some similar bill is passed before July 1, 1937, the interest rates on such loans are automatically reverted to the original higher rate of four and one-half to five per cent; and

Whereas, It would be utterly unwise to increase the interest rate on such loans because one of the greatest services which the Federal Government can render is to make it easy for farmers to become the owners of the land on which they live and because the establishment of farm homes ought to be one of the cardinal policies of the Federal Government and because those farmers who have purchased homes and have loans on them in the Federal Land Banks are making earnest efforts to complete their payments and become the absolute owners of the land upon which they live and because this Government can afford to continue at three and one-half per cent interest rates on such loans and by so doing it will enable farmers to meet interest payments on their loans and to pay a portion of the principal in-

debtedness and cause to increase the interest rate at this time and seriously hinder the progress that farmers have thus far made under and by virtue of the low interest rates now existing; now, therefore, be it

Resolved, By the Senate of the State of Texas, That the Congress of the United States be and is hereby urgently requested to pass H. B. No. 6763 as speedily as possible in order that the farmers of the nation, the sinew and backbone of this country, may continue to receive the aid and help afforded them through the low interest rates on loans obtained from the Federal Land Banks and to which they are so justly entitled.; be it further

Resolved, That the Secretary of the Senate send a copy of this resolution to the Secretary of Agriculture, to the Senators Sheppard and Connally and to each of the Members of Congress from the State of Texas.

STONE,
SULAK.

The resolution was explained by Senator Stone and was adopted.

Message From the Governor

A Secretary of the Governor was announced by the Doorkeeper and was recognized by the President to present the following message:

Austin, Texas, June 7, 1937.

To the Senate of the Forty-fifth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointment:

To be a Notary Public: John H. Smith, of Austin, Travis County.

Respectfully,
JAMES V. ALLRED,
Governor of Texas.

The message was read and was referred to the Committee on Nominations of the Governor.

Time for Executive Session Set

Senator Oneal asked unanimous consent that the Senate go into executive session at 11:17 o'clock a. m. today to consider certain nominations submitted by the Governor.

There was no objection offered, and it was so ordered.

Executive Session

At 11:17 o'clock a. m., the President announced that the hour fixed for an executive session of the Senate had arrived, and he requested all those not entitled to attend the executive session to withdraw from the Senate Chamber and its galleries and directed the Doorkeeper and Sergeant-at-Arms to keep closed all doors leading from the Chamber until the executive session has been concluded.

At the conclusion of the executive session, the Secretary of the Senate informed the Journal Clerk that all nominations of notaries public heretofore submitted by the Governor had been confirmed by the Senate.

The Senate was called to order by the President, as in legislative session, at 11:20 o'clock a. m.

Adjournment

On motion of Senator Woodruff, the Senate, at 11:20 o'clock a. m., adjourned until 10:00 o'clock a. m. tomorrow.

APPENDIX

Reports of Standing Committee

Committee Room,
Austin, Texas, June 3, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 1 carefully examined and compared and find same correctly engrossed.

ROBERTS, Chairman.

Committee Room,
Austin, Texas, June 7, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 1 carefully examined and compared and find same correctly enrolled.

WESTERFELD, Chairman.