Proclamations and Correspondence, Executive Record Books in records of Secretary of State.
Archives Division, Texas State Library. Reel 3484, pp. 355-358.

Proclamation by the Governor.

Executive Office, Austin, June 7th [illegible]

Public notice is hereby given that the following bills passed at the Regular Session of the 26th Legislature and received in the Executive Office less than ten days prior to adjournment are disapproved.

(1) House bill No. 279 declaring the theft of cotton of the value of twenty dollars or over a felony. Under the present law theft in general is not a felony unless the property stolen is of the value of fifty dollars or more, and it seems to me the general rule should remain unchanged. Ten years ago the value was raised from twenty to fifty dollars and the new law has operated beneficially. Persons guilty of theft of cotton under the value of fifty dollars can now be adequately punished for misdemeanor by fine and imprisonment in jail during which time the convicts can be put to work on county roads. The bill was probably intended as an additional protection to cotton growers but such small gain as would result from the increased penalty would be more than counterbalanced by the cost to the State of creating new felonies.

The costs in felony cases now exceed a million dollars biennially and would be materially increased by the bill without corresponding public benefit.

(2) House bill No. 685 to grant to the Waco Water Power and Electric Company the right to construct and maintain a dam over the Brazos River near the city of Waco, and granting to said company and its successors the water powers thereby created with other privileges. This company is not a public corporation organized for the public good but a private corporation formed for profit and for gain. For the State or any county or city to dam a great river is fraught with serious consequences. It materially affects riparian property rights which have grown up with an undisturbed use and flow of the water throughout the length of the river and confines the immense water power within local and narrow limits.

It is far more serious and dangerous if this extraordinary authority be delegated to private

corporations. It partakes of the spirit of our institutions to believe that when exercised by the State or any municipality regard will largely be had for the public welfare but when exercised by private corporations it will frame and all human experience if the main purpose is not private profit resulting often in intolerable monopoly. To grant to this company, whose charter under Federal decisions is an irrepealable contract, the water power of the Brazos River created by a dam at Waco, besides the effect upon interests elsewhere along the stream might commit the water and light facilities and the manufacturing interests of that City to the demands of corporate avarice and greed. This is one of those important attributes of sovereignty which in my judgment should not pass from the people.

(3) Substitute House Bill No. 207.

This bill which is a general occupation tax act is an improvement on the present law in the matter of revenue but it must be disapproved because it would authorize the circulation of obscene literature, sanction gambling by poor selling and legalize the fire insurance trust operating in the State. The 24th Legislature prohibited the circulation in the State of certain obscene publications calculated to corrupt the public morals and previous to the passage of this bill laws were enacted by the 25th Legislature enlarging and strengthening this prohibition, yet this bill by levying a tax on dealers in such literature would authorize its sale and dissemination. By levying a tax on "book makers" and the sellers of "mutuals" one of the most general and detrimental forms of gambling would be licensed by the State. It is well known that after the decision of the Supreme Court in the fire insurance trust case in 1893, holding that insurance companies were not within the terms of the anti trust act of 1889, fire insurance companies openly formed a combination to fix and maintain uniform rates throughout the State. This open conspiracy was dissolved by the amendment to the trust law passed in 1895, and since then the combination has been covertly maintained through the agency of what is termed a rate maker, who as the agent

of all fire insurance companies doing business in the State establishes rates or who by arrangement with the companies sells rates to them at a stipulated price. Whatever the secret agreement may be the effect is to form a trust by which all the companies obtain and use the rates fixed by one rate maker and thus are enabled to maintain the unreasonable and uniform rates which now exist. The operation of this trust is most hurtful and in some instances its oppressive measures toward worthy and reputable citizens have excited just indignation. Acting in part upon complaints of the people the Attorney General has instituted proceedings to suppress this conspiracy which would be seriously embarrassed if not defeated by this bill though without any such purpose upon the part of its authors. The bill levies an annual occupation tax of five hundred dollars on every fire insurance rate agent or rate maker which it defines as any person or firm who makes or estimates such rates or charges for insurance as is deemed expedient and safe for fire insurance companies to adopt and sells such rates to the companies for their government or instruction. Rate making and such other acts as go to form a combination to establish and maintain uniform rates are now unlawful under the anti trust law but the imposition of a tax upon the business would legalize it. As said by the Court of Appeals "it is not to be supposed that the Legislature intended to punish criminally any of the acts from which its revenue is in part derived.

Chiles v. State, 1 Ct. Appeals, 32.
Harris v. State, 9 Ct. Appeals 308.

(4). House Bill No. 712 to create a more efficient road system for the counties of Bragoria and Malagorda. By the Constitution as originally adopted (Section 9, Article 8) county taxes for road and bridge purposes were limited to fifteen cents on the one hundred dollars. This was amended in 1890 by which "the Legislature may also authorize an additional annual advalorem tax to be levied and collected for the further maintenance of the public roads provided that a majority of the qualified property tax paying voters of the county, voting at an election to be held for that purpose, shall vote such tax, not to exceed fifteen cents on the one

hundred dollars valuation of the property subject to taxation in such County.

Section 4. of the bill under consideration provides that the Commissioners Court of either County shall upon presentation to it at a regular session of a petition signed by two hundred qualified voters thereof, they being property tax payers of the County, or a petition signed by fifty qualified voters living in any one commissioners precinct and being property tax payers therein to order an election to determine whether there shall be levied upon the property within said County or within said Commissioners precinct by said Commissioners Court a road tax not to exceed fifteen cents on the one hundred dollars worth of property situated in said County or within said Commissioners precinct under the provisions of the Amendment of 1889 to the Constitution of the State of Texas adopted in 1890, order said election as hereafter provided. Subsequent sections of the act provide for county and precinct elections and the levy of the tax. It is clear from this statement that while the Constitution declares that the additional tax shall not be levied except on a majority vote of the property tax payers of the whole County the bill authorizes the levy of the tax upon property in a commissioners precinct on a majority vote of the property tax payers of the precinct and is therefore in conflict with the Constitution. The disapproval of this bill will not occasion any inconvenience to these counties because the constitutional provision permitting the additional tax was put into operation by the act approved April 1st 1891. which is now articles 4786 to 4790 of the Revised Statutes, and the tax can be imposed under this general law if necessary and desirable.

In Testimony Whereof, I have hereunto signed my name and caused the Seal of State to be affixed at Austin this, the Seventh day of June, A.D. 1897.

(Seal)

(Signed.) C.A. Culberson
Governor.

By the Governor.
(Signed.) J.H. Madden.
Secretary of State.