



GOVERNORS OFFICE
AUSTIN, TEXAS

REPRODUCED FROM THE
HOLDINGS OF THE
TEXAS STATE ARCHIVES

March 30, 1921.

PAT. M. NEFF, GOVERNOR
R. B. WALTHALL, SECRETARY TO THE GOVERNOR
MR. ESPA STANFORD, ASSISTANT SECRETARY

To the Secretary of State:

By the authority vested in me by the Constitution and laws of the State of Texas, I herewith file with you House Bill No. 7, which is an amendment to the Suspended Sentence law, and which bill is hereby disapproved and vetoed, for the following reasons:

To permit this bill to become a law is to commit myself to the principle underlying the legislation, to which I have serious objection. In view of the very great importance of this subject, I have decided to ask the special session of the Legislature, soon to be reconvened, to repeal outright the suspended sentence law, of which this bill is only an amendment, and in the main makes only slight changes in the original law. I therefore conclude that it would be unwise to further encumber the statutes with amendments to this bill until the Legislature shall determine finally the question as to whether or not it would be advisable to repeal the entire law.

This bill is not based fundamentally upon the condition surrounding the defendant, but receives its probative force by reason of the particular crime committed, and the effect of it is to extend mercy, not to the defendant who commits the crime, but evidences leniency toward the character of crime committed. The same defendant may on the same day commit several crimes, some of which may be suspended, while others cannot. The bill applies alike to the youth who under improper influences commits his first offense, and the old, seasoned and experienced man who has committed many crimes. It applies alike to the quick and trained mind, and the weak and uneducated mind. As above stated, its application depends solely upon the particular crime committed. If there must be a suspended sentence law, it should be based on the age and conditions of the defendant, rather than on the crime committed.



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The probability of the reformation of the defendant, as such, does not enter into our present suspended sentence law. This amendment to the law says that a person who steals an automobile shall not receive the benefits of the suspended sentence, but if a person, in exactly the same circumstances, steals a horse or a herd of cattle, or burglarizes a bank or illegally pockets ten thousand dollars belonging to his employer, or forges another's name to a check, the criminal may, with a suspended sentence, go unpunished. What is there sacred about an automobile that inspires the law to say that if you steal an automobile you must go to the penitentiary, but you may steal anything else you can get your hands on, and the law will permit you under the suspended sentence, to go free.

No sound reason can be offered to show why this particular offense should be added unless it is admitted that the suspended sentence law stood in the way of and prevented effective enforcement of the law prohibiting the stealing of automobiles. The fact that automobile insurance companies who have studied the suspended sentence law as it applies to automobiles, regarded the suspended sentence law as being the most serious impediment to the enforcement of laws against automobile theft, and in fact regarded the suspended sentence law as an actual encouragement to the commission of the offense, was evidenced by the fact that that organization appealed to the Legislature to add to the list of offenses to which the suspended sentence would not apply, the offense of theft of automobiles. What is true in regard to the enforcement of the law against stealing automobiles is true in regard to all other violations of the law. There is no doubt that the suspended sentence law was and is a most serious impediment in the way of the enforcement of the law.

It is scientifically wrong and contrary to a proper governmental policy to characterize certain acts as felonies with all the solemnity of the law, and then say to the prospective defendants that as a special inducement to violate this particular statute we have just enacted we will permit you to have a suspended sentence. Many criminals will take advantage of the invitation, and being successful in the first one or two efforts made to violate the law in that he escapes punishment, he becomes a hardened criminal, when he would not have in the first instance embarked upon his criminal career, knowing that it would lead to certain punishment. The fact that the law is fundamentally wrong cannot better be illustrated than by its own terms, which provide that the suspended sentence law will not apply to the crime of perjury, while at the same time a person who commits the crime of false swearing may have his sentence suspended. The law does not permit



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the suspension of a sentence in the crime of the burglary of a private residence, while the burglary of a store or a bank are within the purview of the law. The suspended sentence law will not permit a person who steals an automobile to have his sentence suspended, while a person who steals a horse or a wagon or cattle may be the beneficiary of the law. These illustrations could be multiplied. It thus appears that no valid reason can be assigned why the law should single out certain offenses to which the suspended sentence law will not be permitted to apply, while in other offenses of equal gravamen the defendant is permitted to receive the benefits of the law.

The fact that officers are constantly confronted with the loop holes of the suspended sentence law, disturbs and discourages them in the enforcement of the law, and at the same time destroys the morale of the general citizenship for the enforcement of laws. Last year over two thousand criminals were convicted and immediately turned loose on suspended sentences without any punishment whatever. These convictions cost the tax payers of Texas more than half a million dollars. Why spend this money? Why laugh at the law? Why march up hill and then down hill?

All persons should be made to understand that the consequences of violating the law are grave and that the government will not indulge, trifle with nor encourage the commission of even the first offense. It should be understood that when the offense is committed the person committing the offense must certainly pay the penalty. When this is done then all the people will have respect for the law and Texas will be made a safe place in which to live. Looking to this high purpose, this bill is hereby disapproved and vetoed.

Yours sincerely,

Governor.

Filed in Department of State

30th day of March 1894

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J. L. Stiles