

HSR 22, by Graves and Zan Holmes, Jr.: Paying tribute to the memory of the Reverend Dr. Martin Luther King, Jr.

Mr. Zan Holmes, Jr., moved that the names of all the Members of the House be added to the resolution as signers thereof.

Mr. Mengden and Mr. Blythe requested that their names be removed as signers.

The names of all Members of the House, except those of Mr. Mengden and Mr. Blythe, were added to the resolution as signers thereof.

VOTE RECORDED

Mr. Blythe requested to be recorded as voting Nay on the adoption of HSR 22.

ADJOURNMENT

Mr. Sherman moved that the House adjourn until 11:00 a.m. next Monday.

The motion prevailed without objection.

The House accordingly, at 11:14 a.m., adjourned until 11:00 a.m. next Monday.

FOURTH DAY — MONDAY, JANUARY 18, 1971

The House met at 11:00 a.m. and was called to order by the Speaker.

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

| | | | |
|-------------|------------|--------------|------------|
| Mr. Speaker | Calhoun | Finnell | Holmes, Z. |
| Adams | Carrillo | Finney | Hubenak |
| Agnich | Cates | Floyd | Hull |
| Allen, Joe | Cavness | Foreman | Ingram |
| Allen, John | Christian | Gammage | Johnson |
| Allred | Clark | Garcia | Jones, D. |
| Angly | Clayton | Golman | Jones, E. |
| Atwell | Coats | Grant | Jones, G. |
| Baker | Cobb | Graves | Jungmichel |
| Bass, B. | Cole | Hale | Kaster |
| Bass, T. | Craddick | Hanna, Joe | Kilpatrick |
| Beckham | Cruz | Hannah, John | Kost |
| Bigham | Daniel | Harding | Kubiak |
| Blanton | Davis, D. | Harris | Lee |
| Blythe | Davis, H. | Hawkins | Lemmon |
| Bowers | Denton | Hawn | Lewis |
| Boyle | Doran | Haynes | Lombardino |
| Braecklein | Doyle | Head | Longoria |
| Braun | Dramberger | Heatly | Lovell |
| Burgess | Earthman | Hendricks | McAlister |
| Bynum | Farenthold | Hilliard | McKissack |
| Caldwell | Finck | Holmes, T. | Mengden |

| | | | |
|-------------|--------------|----------|------------|
| Moncrief | Parker, C. | Semos | Tarbox |
| Moore, A. | Parker, W. | Shannon | Traeger |
| Moore, G. | Patterson | Sherman | Truan |
| Moore, T. | Pickens | Short | Tupper |
| Moreno | Poerner | Silber | Uher |
| Murray | Poff | Simmons | Vale |
| Nabers | Presnal | Slack | Von Dohlen |
| Nelms | Price | Slider | Ward |
| Neugent, D. | Reed | Smith | Wayne |
| Newton | Rosson | Solomon | Wieting |
| Nichols | Salem | Spurlock | Williams |
| Niland | Salter | Stewart | Williamson |
| Nugent, J. | Sanchez | Stroud | Wolff |
| Ogg | Santiesteban | Swanson | Wyatt |
| Orr | Schulle | | |

Absent-Excused

| | | | |
|--------|--------|---------|-----------|
| Atwood | Howard | Ligarde | Rodriguez |
|--------|--------|---------|-----------|

A quorum of the House was announced present.

The Invocation was offered by Chaplain Clinton Kersey.

LEAVES OF ABSENCE GRANTED

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

Mr. Howard on motion of Mr. Solomon.

Mr. Rodriguez on motion of Mr. Harris.

Mr. Ligarde on motion of Mr. Santiesteban.

The following Member was granted leave of absence for today because of illness:

Mr. Atwood on motion of Mr. Longoria.

MESSAGE FROM THE SENATE

Austin, Texas, January 18, 1971

Honorable Gus Mutscher, Speaker of the House of Representatives.

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

HCR 4, By Cavness: Appointing joint committees to canvass the vote and make Inaugural arrangements.

SCR 3, By Kothmann, Bernal, et al: In memory of the Honorable Virgil E. "Red" Berry.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof, the following enrolled resolutions:

SCR 2, Providing for joint committees to canvass the vote and make Inaugural arrangements.

HCR 1, In memory of the Honorable George T. Hinson.

HCR 2, In memory of Hurley Benson Axum.

HCR 3, In memory of the Honorable Roger H. Thurmond.

APPOINTMENT OF PERMANENT OFFICERS AND EMPLOYEES

The Speaker announced the appointment of the following officers and employees:

| | |
|--------------------------------------|-------------------|
| Chief Clerk | Dorothy Hallman |
| Sergeant at Arms | Walter Schaefer |
| Parliamentarian | Robert E. Johnson |
| Reading Clerk | Clay Kistler |
| Journal Clerk | Jeanette Burk |
| Calendar Clerk | Adele Jacobs |
| Engrossing and Enrolling Clerk | Orea Guffin |
| Voting Machine Operator | C. H. Petri, Jr. |
| Chaplain | Clinton Kersey |

(Mr. Hale in the Chair)

(The Chair laid out at this time HSR 23 which occupies full page with border.)

(Speaker in the Chair)

COUNTING THE VOTES CAST FOR GOVERNOR AND LIEUTENANT GOVERNOR

(The House of Representatives and the Senate in Joint Session)

In accordance with the provisions of SCR 2, providing for a Joint Session of the House and Senate for the purpose of counting the votes for the Governor of Texas and the Lieutenant Governor of Texas cast at the last General Election, held on November 3, 1970, the Honorable Senators at 11:30 a.m. were admitted to the Hall of the House and occupied seats provided for them.

Senator Hightower occupied a seat on the Speaker's Rostrum.

Senator Hightower called the Senate to order and stated that a quorum of the Senate was present.

Speaker Mutscher called the House of Representatives to order and directed the Clerk to call the roll of the House.

The roll of the House was called.

The Speaker announced that a quorum of the House was present.

Speaker Mutscher stated that the House and Senate were in Joint Session for the purpose of counting the votes for Governor of Texas and Lieutenant Governor of Texas cast at the last General Election, held on November 3, 1970.

The Joint Tellers were announced present, who were previously appointed, as follows:

Senators Aikin, Chairman; Connally, Hightower, Jordan, and Watson, on the part of the Senate, and Representatives Stewart, Chairman; Christian, Lemmon, Salter, and Presnal, on the part of the House.

Speaker Mutscher made the following announcement:

"As provided in the Constitution and laws of Texas, as Speaker of the House of Representatives, I now officially turn over to the Joint Committee, heretofore appointed, the official returns of the last General Election for the Offices of Governor and Lieutenant Governor, said returns having been turned over to me by the Secretary of State of the State of Texas."

The Joint Tellers, on the part of the House and Senate, then proceeded to count the votes cast in the last General Election for the Governor and Lieutenant Governor of Texas.

At 11:35 a.m., the Speaker stated that the Joint Session would stand at ease pending the counting of the votes.

(While the votes were being canvassed, Mr. Haynes occupied the Chair temporarily.)

(Speaker in the Chair)

The Speaker called the Joint Session to order at 12:33 p.m.

Speaker Mutscher stated to the Joint Session that the Joint Tellers had completed the count of the votes and that the Joint Session was now ready to receive the result and the report of the Joint Tellers.

Senator A. M. Aikin, Jr., on the part of the Senate of Texas, and the Honorable Vernon Stewart, on the part of the House of Representatives of Texas, submitted the following report which was read to the Joint Session:

Austin, Texas, January 18, 1971

Honorable Ben Barnes, President of the Senate

Honorable G. F. Mutscher, Speaker of the House of Representatives

Sirs: We, the Joint Committee of Tellers appointed by the presiding officers of the Senate and House of Representatives to canvass the votes cast at the last General Election held in the State of Texas on November 3, 1970, for Governor and Lieutenant Governor of the State of Texas, as shown by returns delivered to us by the Secretary of State, beg leave to

report that we have performed that duty and that the result of our canvass is as follows:

There were votes cast for Governor as follows:

| | |
|---------------------------------------|-----------|
| Preston Smith, Democratic Party | 1,197,726 |
| Paul Eggers, Republican Party | 1,037,723 |
| Others | 398 |

There were votes cast for Lieutenant Governor as follows:

| | |
|---|-----------|
| Ben Barnes, Democratic Party | 1,461,242 |
| Byron Fullerton, Republican Party | 716,593 |
| Others | 231 |

Respectfully submitted,

For the Senate:

A. M. Aikin, Jr., Chairman
Wayne W. Connally
Jack Hightower
Barbara Jordan
Murray Watson, Jr.

For the House of Representatives:

Vernon Stewart, Chairman
Tom Christian
Ray Lemmon
Bill Presnal
Bob Salter

The report was unanimously adopted.

The Speaker then made the following announcement:

"The Honorable Preston Smith, having received the highest number of votes cast, I, by virtue of the authority vested in me by the Constitution and the laws of the State of Texas, declare him duly, legally and constitutionally elected Governor of the State of Texas for the ensuing term of two years.

"The Honorable Ben Barnes, having received the highest number of votes cast, I, by virtue of the authority vested in me by the Constitution and the laws of the State of Texas, declare him duly, legally and constitutionally elected Lieutenant Governor of the State of Texas for the ensuing term of two years."

The Speaker then delivered the official returns of the election to the Secretary of State.

SENATE RETIRES

At 12:36 p.m., Senator Aikin stated that the purpose of the Joint Session was concluded and the Senate would stand adjourned until 11:00 a.m. tomorrow, in accordance with a previous motion which had been adopted.

HOUSE AT EASE

The Speaker stated that the House would stand at ease pending the departure of the Senators.

The Speaker called the House to order at 12:38 p.m.

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

HSR 15, by Salem: Commending KINE and K-PUP for efforts during Hurricane Celia.

HSR 25, by Baker: Congratulating students of the Department of Social Sciences, Monahans High School.

HSR 26, by Heatly: Commending Tommy Keel for his outstanding record as a student and athlete.

HSR 28, by Edmund Jones, Blythe, Mengden, Ogg, Earthman, Lee, and Bowers: Congratulating Girl Scout Troop 871 of Houston.

VOTES RECORDED

Representatives Bowers, Earthman, Lee, Blythe, and Mengden requested to be recorded as voting Nay on the adoption of HSR 6, the vote being on January 12, 1971.

REASON FOR VOTE

I voted Nay on HSR 6 because the next to last paragraph of the resolution gives the Speaker a blank check on expenditures and gives him totally too much power.

Signed: Earthman

ADJOURNMENT

Mr. Sherman moved that the House adjourn until 11:00 a.m. tomorrow.

The motion prevailed without objection.

The House accordingly, at 12:39 p.m., adjourned until 11:00 a.m. tomorrow.

(Mr. Hale in the Chair)

In Memory of the Honorable

James Earl Rudder

Mr. Heatly offered the following resolution:

HSR 23

Whereas, On March 23, 1970, the State of Texas and the United States of America were saddened by the passing of one of Texas' most distinguished educators, statesmen and citizens, the Honorable James Earl Rudder; and

Whereas, This famous Texan was born on a small farm in Eden, Texas, on May 6, 1910, one of six sons of Dee Forest and Annie Powell Rudder; and

Whereas, His early education was in the public schools of Eden and after graduation from Eden High School in 1927, he enrolled at John Tarleton Agricultural College. In 1930 he transferred to Texas A&M where he majored in industrial education and so excelled in football that in 1956 he was named to Sports Illustrated Magazine's Silver Anniversary All-American Football Team. He was graduated from A&M in 1932 with a Bachelor of Science degree and was commissioned a Second Lieutenant of Infantry in the Army Reserve; and

Whereas, In 1933 he met Miss Margaret Williamson and they were subsequently married in 1937, after which they returned to John Tarleton Agricultural College in 1938 where Rudder coached football and taught until 1941, when he was called to active duty as a Second Lieutenant; and

Whereas, In June 1943 he organized and trained the 2nd Ranger Battalion which was given the mission of scaling the 100-foot cliffs at Pointe du Hoc during the D-Day invasion of Normandy. To accomplish this mission, Rudder's Rangers suffered over 50 percent casualties and with Rudder being twice wounded during the battle. On December 8, 1944, Rudder took

command of the 109th Infantry Regiment, and eight days later the Germans began their last great counter-offensive of the war, now known as the Battle of the Bulge. Led by Rudder, the 109th was credited with a major role in repulsing the German attack. His military decorations at the end of the war included the Distinguished Service Cross, Legion of Merit, Silver Star, Bronze Star with Oak Leaf Cluster, Purple Heart with Oak Leaf Cluster, French Legion of Honor with Croix de Guerre and Palm, and the Belgian Order of Leopold with Croix de Guerre and Palm. He was released from active duty with the rank of Colonel in April 1946. After the war, he remained active in the Army Reserve until his retirement in 1967 with the rank of Major General; and

Whereas, On January 4, 1955, Rudder was appointed Commissioner of the General Land Office of Texas and during his three-year tenure significantly increased the financial foundation of Texas' educational system through sound management of Land Office resources which enured to the benefit of the Permanent University Fund and the Permanent School Fund. In 1958, Rudder became Vice-President of Texas A&M and was named President in July, 1959. On September 1, 1965, the Board of Directors of Texas A&M named him President of the Texas A&M University System, consolidating the office of Chancellor with the office of University President. During his period of inspired leadership, the college of 7,526 students expanded to a university of approximately 14,000 students from all sections of the United States and 75 foreign countries; and

Whereas, During his lifetime, many high honors were bestowed upon this extraordinary man in recognition of services to his state and nation, the impact of which is still unfolding. These honors include the Distinguished Service Medal, the nation's highest award for peacetime service; the Good Citizenship Gold Medal for outstanding service in war and peace; the Exchange Club's Outstanding Citizen Award; and the Texas Heritage Foundation's Distinguished Service Medal; and

Whereas, The House of Representatives of the State of Texas wishes to officially recognize a unique and extraordinary career and to acknowledge a debt of gratitude to the services performed for the citizens of the State of Texas by General James Earl Rudder; now, therefore, be it

Resolved, That in tribute to a man who could serve as a model of true excellence to any Texan or American when the House of Representatives of the State of Texas adjourns today, it do so in his honor; and, be it further

Resolved, That copies of this Resolution, under the Seal of the House, be prepared and mailed to his wife, Mrs. Margaret Williamson Rudder; his two sons, James E., Jr., and Robert; his three daughters, Mrs. Anne Walton, Mrs. Edward P. Wollenman and Linda Rudder; his brother, John Rudder; and his two grandsons, Marc and Bradley Walton.

Signed: Heatly, Presnal, and Jim Nugent.

The resolution was read and unanimously adopted by a rising vote.

On motion of Mr. Spurlock the names of all the Members of the House were added to the resolution as signers thereof.

(Speaker in the Chair)

In Memory of the Honorable
Virgil E. "Red" Berry

The Speaker laid before the House the following resolution:

SCR 3

Whereas, The death of the Honorable Virgil E. "Red" Berry, State Senator from San Antonio, on Monday, November 24, 1969, at the age of 70, leaves a void of great dimension in the legislative halls of the Texas Capitol; and

Whereas, Senator Berry, a four-term legislator who served as a Member of both the Texas House of Representatives and the Senate was a dedicated legislator who was beloved and respected by fellow legislators; and

Whereas, A native of Arkansas, the future senator was one of 13 children. He began work at the age of 15 for the Union Pacific Railroad, but soon left this job in 1918 for service in the United States Army; and

Whereas, After serving several hitches in the army, "Red" Berry became a San Antonio resident, emerging as a well-known personage in the city's social and political life; and

Whereas, Although he was defeated in 1946 in his first political aspiration, a race for San Antonio Police Commissioner, the red-haired Berry acquired a taste for politics, and in 1960 won election to the Texas House of Representatives. In 1966 he was elected to the Senate, and after reapportionment made a second race necessary at the end of two years, he was reelected; and

Whereas, As a Member of the Legislature, Senator Berry fought unsuccessfully for legalization of pari-mutuel gambling, a cause which made him famous throughout Texas, and he also supported such outstanding legislation as educational benefits for the underprivileged and tax exemptions for charity animal hospitals; and

Whereas, In addition, he ardently supported lowering the voting age in Texas to 18 and was the first legislator in Texas history to get this provision out of committee and into floor debate; and

Whereas, The outstanding career of Senator Berry was marked by his great zest for life and his almost single-minded dedication to the affairs of the Legislature, and Members of both Houses of the 62nd Legislature wish to join in honoring this respected former colleague, Senator Virgil E. Berry; now, therefore, be it

Resolved by the Senate of the 62nd Legislature of the State of Texas, the House of Representatives concurring, That the Texas Legislature pay tribute to the memory of Senator Virgil E. Berry and extend sympathy on their great loss to the members of his family: to his wife, Mrs. Lydia Gorzell Berry and to his son, Duke Berry, both of San Antonio; and to his brothers, Otis Berry of Louisiana and Artie Berry of Kansas City, Missouri; and, be it further

Resolved, That official copies of this Resolution be prepared for the members of his family, and that when both Houses of the Legislature of the State of Texas adjourn today that adjournment be in memory of the Honorable Virgil E. "Red" Berry.

The resolution was read and unanimously adopted by a rising vote.