

H. B. No. 13.

I hereby veto House Bill No. 13, being "AN ACT amending Article 47 of the Penal Code of the State of Texas of 1925, so as to properly define the word 'offense', the word 'felony' and the word 'misdemeanor', prescribing what is and is not a capital felony; and declaring an emergency".

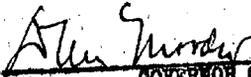
This Bill is vetoed for the following reasons. Under the present law a felony is an offense punishable by death or for which confinement in the penitentiary may be imposed as a punishment. This Bill makes the question of whether or not an offense is a felony or misdemeanor dependent upon the punishment actually inflicted and not the punishment which might be inflicted.

For illustration, an assault with a prohibited weapon may be punished by fine or may be punished by imprisonment in the penitentiary. Driving an automobile while intoxicated may be punishable either by fine or by imprisonment in the penitentiary. A conviction under either of these laws and a fine in any sum constitute a felony as that term is now defined by our law. It is not necessary that the defendant actually be sentenced to the penitentiary under either of these statutes in order to constitute the conviction one of an offense of the grade of felony. If this Bill should become the law, the question of whether or not the conviction was of an offense of the grade of felony would depend not upon the punishment which might have been assessed, but upon the punishment actually assessed.

An automobile in the hands of an intoxicated person is dangerous. It is reasonable to assume from what we have heard and the facts coming under the observation of the average man that the lives of many people have been lost and that much property damage has resulted from the driving of automobiles by persons under influence of intoxicants. If the punishment for a crime is merely a nominal fine some men are not disposed to show respect for the law defining such crime. However, if that fine also carries with it the forfeitures incident to conviction of a felony, the law will receive respect at the hands of many people who otherwise would be inclined to disregard it.

Under the present law citizens know that the driving of an automobile while the driver thereof is in a state of intoxication is a felony for which the citizenship of the person convicted is forfeited. It is conceivable that the seriousness of this penalty will be a deterrent in many cases. I believe that if the law were changed by the Bill, which I hereby veto, that our law would be weakened rather than strengthened and that the public good would not be served.

For the reasons stated, the Bill is vetoed.

  
GOVERNOR OF TEXAS

April 4, 1927.