The House met at 10:00 o'clock a.m., and was called to order by the Speaker.

The Invocation was offered by the Honorable Leon Thurman, as follows:

“Our Father, We thank you for all the blessings of life. We ask Thy blessing on this group this morning as we attend to the affairs of our State. May everything we do be done in accordance with Thy will. Forgive us of our many sins. These things we ask In Christ’s Name.—Amen.”

LEAVE OF ABSENCE GRANTED

The following Member was granted leave of absence on account of illness:

Mr. Richards for today on motion of Mr. Bailey.

CONGRATULATING THE HONORABLE CRISS COLE

Mr. Pearcy offered the following resolution:

H. S. R. No. 681

Whereas, On May 11, the Honorable Criss Cole celebrates his birthday as an esteemed Member of the House of Representatives of the Fifty-seventh Legislature; and

Whereas, He represents Houston, Harris County, District 22-Place 7. He has lived in Houston since 1944. He grew up in North East Texas in Bowie County. He served in the Marine Corps; and

Whereas, He and his beloved wife, Joanne, have two children, Dennis and Warren; and

Whereas, He was educated at the University of Saint Thomas and received his law degree from the University of Houston in 1944, and

Whereas, He is serving his fourth term as a Member of the Legislature.

This reflects the fact that he is a man of great warmth of personality, of sincere interest in others, possessed of a wonderful talent of being most adept and prompt in serving the personality of others, and a man of invaluable tolerance and patience; now, therefore, be it

Resolved, That the House of Representatives of the Fifty-seventh Legislature congratulates Criss Cole on his birthday and wishes him many more as a Member of this House.

The resolution was read.

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

The resolution was unanimously adopted.

SUSPENDING THE JOINT RULES

SO THAT EITHER HOUSE MAY CONSIDER S. B. NO. 117 AT ANY TIME

The Speaker laid before the House for consideration at this time, S. C. R. No. 54, Suspending the Joint Rules so that either House may consider S. B. No. 117 at any time.

The resolution having heretofore been referred to the Committee on Rules and reported favorably by the Committee.

S. C. R. No. 54 was read and was adopted.

MESSAGE FROM THE SENATE

Austin, Texas, May 11, 1981

Hon. James A. Turman, Speaker of the House of Representatives,

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

S. B. No. 448, Revising and rearranging certain statutes of this State relating to public education into a consistent whole and under a single code to be known as the Texas Public Education Code; and declaring an emergency.

Respectfully,

CHARLES A. SCHNABEL
Secretary of the Senate

SENATE BILL NO. 100 ON PASSAGE TO THIRD READING

The Speaker laid before the House, as pending business, on its passage to third reading, S. B. No. 100, re-
The bill was read second time on yesterday.

Mr. Nugent offered the following amendment to the bill:

Amend Sec. 12 of S. B. 100, by striking out all of said section and substitute in lieu thereof the following:

Sec. 12. Section 20 of Senate Bill No. 176, Chapter 315, page 517, Acts of 1945, 49th Legislature, is hereby repealed.

The amendment was adopted.

Mr. James offered the following amendment to the bill:

Amend S. B. 100 at Section 6 of the bill being Section 16 of the Act in Sub-section (b) at line 48 of page 4 by inserting after the word thereof, “and who are resident partners or those resident partners who have been deceased not more than five years.”

Mr. Watson moved to table the amendment by Mr. James.

The motion to table the amendment by Mr. James prevailed.

Mr. Chapman offered the following amendment to the bill:

Amend Section 6 of Senate Bill 100, page 4, by adding a new sub-section (d) and changing the present sub-section (d) to (e), the new section (d) to read as follows:

“(d) Such persons as shall successfully pass an examination which shall be given and graded by the Board for a ‘public accountant’. Such examination shall be on a level as that required by accredited institutions of learning for candidates for the B.B.A. degree with a major in accounting. To qualify for such examination candidates shall meet the same standards as those set by the Board for candidates to take an examination for a ‘certified public accountant’ and such applicants for the examination for a ‘public accountant’ shall pay the same fees for such examination and be subject to the same rights to request such examination should they fail to pass as applicants for an examination for certificate of ‘certified public accountant’. All applicants who have failed or fail such examination upon request within ninety (90) days after having been notified of such failure shall be furnished by the Board the questions and answers thereto with the grade clearly shown thereon together with the official copy of the solution to such questions and the Board may charge such applicant a reasonable fee therefor.”

Mr. Watson moved to table the amendment by Mr. Chapman.

The motion to table the amendment by Mr. Chapman prevailed.

Mr. Hinson offered the following amendment to the bill:

Amend S. B. No. 100, Section 4, by adding a new paragraph to be known as “paragraph (b)” to read as follows:

“The Board of Public Accountancy shall, upon request, furnish any State official, or officials of any political sub-division, furnish any information requested so long as the information requested is of direct interest to the State or political sub-division requesting such information.”

Mr. Watson moved to table the amendment by Mr. Hinson.

The motion to table the amendment by Mr. Hinson prevailed.

Mr. Lewis offered the following amendment to the bill:

Amend S. B. No. 100 by adding a new sentence at the end of line 53, page 4, said line to read as follows:

“No corporate charters or corporate permits shall be renewed one year after the effective date of this Act.”

Mr. Watson moved to table the amendment by Mr. Lewis.

The motion to table the amendment by Mr. Lewis prevailed.

Mr. Watson raised a point of order on further consideration of the amendment by Mr. Lewis on the ground that it is vague and indefinite and not germane to the body of the bill.
The Speaker overruled the point of order.

The amendment by Mr. Lewis was adopted.

Mr. Quilliam offered the following amendment to the bill:

Amend S. B. 100 as follows:

At line 42, page 6, after the word "education," the following:

education, "Including such education offered by business colleges."

At line 5, page 6, following the word "more," delete the words "colleges or universities," and substitute therefor the following:

"colleges, universities, junior colleges, or business colleges."

Mr. Watson moved to table the amendment by Mr. Quilliam.

The motion to table the amendment by Mr. Quilliam prevailed.

S. B. No. 100 was passed to third reading.

SENATE BILL NO. 100 ON THIRD READING

Mr. Watson moved that the constitutional rule requiring bills to be read on three several days be suspended and that Senate Bill No. 100 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—120
Adams of Lubbock Berry
Adams of Titus
Allen
Allen
Atwell
Barlow
Barrow
Bartman
Bass
Bell
Blaine
Boyson
Bridges
Burges
Butler
Caldwell
Carrier
Cole of Harris
Cole of Hunt
Connell
Cook
Cory
Cowles
Crain
Crews
de la Garza
Dewey
Duffy, Miss
Dungan
Eckhardt
Ehrle
Fairchild
Floyd
Foreman
Garrison
Gibbons
Gladden
Glass
Glasing
Goggles
Grover
Guffey
Hale
Harding
Harrington
Hays
Healy
Hollowell
Huebner
Hughes
Hughes of Grayson
Hughes of Dallas
James
Jamison
Johnson of Dallas
Johnson of Bexar
Johnson of Bell
Jones of Dallas
Jones of Travis
Kennard
Koroth
Lock
Lary
Latimer
La Valle
LeaVen
Levell
Lewis
Longoria
McCoppin
McGregor
McGregor
McLennan
McLennan of El Paso
Mellen
Miller
Mullen
Murray
Mutscher
Niemeyer
Oliver
Osborn
Parsons
Pearcy
Peter
Pettigrew
Quilliam
Quilliam
Rapp
Ratliff
Read
Richardson
Roberts of Dawson
Rosas
Sandoval
Schram
Shannon
Shipley
Slack
Smith of Bexar
Smith of Dallas
Smith of Jefferson
Smith of McLennan
Smith of El Paso
Smith of El Paso
Smolch
Smolch
Simpson
Springer
Stewart
Stewart
Stewart
Smith of Wichita
Thomason
Tunnell
Walker
Watson
Wheatley
Whitfield
Wilson of Trinity
Wilson of Potter
Woods
Yeas-120
Adams of Titus Kilpatrick
Andrews Kollins
Buchanan Markgraf
Cannon Moore
Chapman Nugent
Coffin Preston
Carrington Price
Fletcher Roberts of Hill
Hanis Rosson
Hinson Riders
Jarras Struve
May 11, 1961

Thurman
Wells
Ward
Absent
Cowen
Richards
Pipkin
Absent—Excused
Trevino
Absent

The Speaker then laid Senate Bill No. 100 before the House on third reading and final passage.

The bill was read third time and was passed.

Mr. Watson moved to reconsider the vote by which S. B. No. 100 was passed and to table the motion to reconsider.

The motion to table prevailed.

INTRODUCTION OF HOUSE BILLS

Mr. Stewart of Galveston moved to suspend all necessary rules to introduce at this time and have placed on first reading, H. B. No. 1116.

There was no objection offered and it was so ordered.

Mr. Nugent moved to suspend all necessary rules to introduce at this time and have placed on first reading, H. B. No. 1117.

There was no objection offered and it was so ordered.

RELATIVE TO H. B. NO. 1065

Mr. Niemeyer asked unanimous consent that the Engrossing Clerk be authorized to make the following correction in the amendment to H. B. No. 1065:

In line 5 of Section 1 delete the words "his services" and insert in lieu thereof the words "their salaries."

There was no objection offered and it was so ordered.

CONGRATULATING MR. C. T. NEUGENT

Mr. Adams of Titus offered the following resolution:

H. S. R. No. 666

Whereas, Mr. C. T. Neugent, who is presently employed as a member of the staff of the Sergeant-at-Arms Office of the Fifty-seventh Texas Legislature; and

Whereas, Mr. Neugent is seventy-five years of age today, having been born on May 10, 1886; and

Whereas, Mr. Neugent has devoted long years to public service including service with the State of Texas as an employee of the Texas Employment Commission, the Comptrollers Department, the Department of Health, and the State Department. Also, as a public servant, he was served as County Judge, County Clerk, and District Clerk of Titus County, Texas; now, therefore be it

Resolved, By the House of Representatives of the State of Texas that Mr. C. T. Neugent be congratulated on this his seventy-fifth birthday.

The resolution was adopted.

CONGRATULATING THE HONORABLE SAM RAYBURN

Mr. Stewart of Wichita offered the following resolution:

H. S. R. No. 646

Whereas, The 33rd annual Texas-Oklahoma Fair held in Iowa Park, Texas, will be dedicated to the Honorable Sam Rayburn of Bonham, Speaker of the House of Representatives of the 84th Congress who represents the Fourth Congressional District of Texas; and

Whereas, The selection of Speaker Rayburn for this honor because of his great contributions to Texas, the nation and the world has just been announced by C. E. Clark, president, and T. Leo Moore, executive vice-president of the fair; and

Whereas, When he attends the fair on Pioneer Day, September 26, the program will include a special dedication ceremony in his honor; and

Whereas, It is appropriate that Speaker Rayburn be honored on Pioneer Day at the fair, his family having come to Fannin County, Texas, from a small eastern Tennessee farm in 1887 when he was five years old; and

Whereas, He was born on January 6, 1882, one of eleven children of William Marion Rayburn, a farmer and for four years a Confederate cavalryman, and Martha Waller Rayburn, whose family members were noted in Virginia for generations...
Whereas, Young Sam Rayburn worked on his family’s 40-acre cotton farm in North Texas and attended a one-room school near his home until he was 18; then he attended Professor W. L. Mayo’s East Texas Normal College; and two years later, he was graduated with only $25 in his pocket; and

Whereas, After working his way through a year of higher education by ringing the college bell, sweeping out the public schools, making free and doing various odd jobs, he taught school for a year before returning to complete work for a bachelor of science degree, which he received after having completed the three-year normal college course in two years; and

Whereas, After two years as a country school teacher, Rayburn ran for the House of Representatives of the Texas Legislature, was elected in 1906, and served for six years in that body, the last four as Speaker of the House of Representatives; and

Whereas, He was elected to the speakership of the Texas House at the age of 29, up to that time the youngest man to hold the office; and

Whereas, He attended the University of Texas Law School and was admitted to the bar; and

Whereas, At the age of 30, he ran for Congress from the Fourth Congressional District of Texas and, having been elected, arrived in Washington just in time for Woodrow Wilson’s first inauguration; and

Whereas, He was an ardent supporter of President Wilson and, as a member of Congress, authored an important part of the Wilson legislative program, including a bill to give the Interstate Commerce Commission the right to regulate railroad stocks and bonds; and

Whereas, Later, in 1917, he sponsored the War Risk Insurance Act, which provided the first insurance for soldiers and sailors, the first allotments to servicemen’s families, and the first disability payments for wounded servicemen; and

Whereas, Early in his career in the National House of Representatives, he was assigned to the active and influential Committee on Interstate and Foreign Commerce and, as a member, played a major role in implementing the New Deal program of President Franklin D. Roosevelt; and

Whereas, In 1923, he was author of the Truth in Securities Acts and the Railroad Holding Company Bill, and the next year he was author of the bill creating the Securities and Exchange Commission which regulates stock exchanges; and

Whereas, During this same period, he was also sponsor of the bill creating the Federal Communications Commission and author of the Public Utility Holding Company Act, which became law after one of the bitterest struggles ever seen on Capitol Hill; and

Whereas, In 1926, he and the late Senator George W. Norris of Nebraska were authors of the Rural Electrification Act, which brought electricity to most of the farm homes of the nation; and

Whereas, His interest in rural life also prompted him in 1944 to initiate the Federal program for the building of farm-to-market roads by holding up the Federal Highway Act until the rural roads program was included; and

Whereas, Speaker Rayburn has remained an active farmer and cattleman and today has an outstanding herd of Polled Hereford cattle in Fannin County; and

Whereas, He worked for years to bring to fruition in 1944 plans for Denison Dam on the Red River between Texas and Oklahoma to create Lake Texoma, which at the time of its construction was the fifth largest man-made lake in the world; and

Whereas, In January, 1937, Rayburn was elected Democratic majority leader in the House of Representatives and in this capacity had the responsibility for guiding President Roosevelt’s program through the House; and

Whereas, Upon the death of Speaker Will Bankhead, Rayburn was elected Speaker of the House of Representatives of the United States Congress on September 16, 1940, and with the exception of the 80th Congress (1947-49) and the 82d Congress (1953-1955), he has held that office ever since; and

Whereas, On January 30, 1961, he started setting a new record for having held the speakership longer than any man in American history, on that date having brokenHenry
May 11, 1961

Clay’s record of eight years, four months and eleven days; and
Whereas, Rayburn is now in his 17th year as Speaker of the House of Representatives; and
Whereas, From 1945 to 1949 (80th Congress) and from 1953 to 1955 (83rd Congress), he served as Democratic leader in the House; and
Whereas, He has served three times as permanent chairman of the Democratic National Convention, in Philadelphia in 1948 and in Chicago in 1952 and 1956; and
Whereas, He has served under eight presidents of the United States—Wilson, Harding, Coolidge, Hoover, Franklin D. Roosevelt, Truman, Eisenhower and Kennedy; and
Whereas, In May, 1949, he won the $10,000 Collier’s Award for distinguished service to the nation, which prize he set aside as the nucleus for building the Sam Rayburn Library in Bonham, Texas, to house all his personal files and papers, along with the mementoes of a half-century of public service; and
Whereas, The Sam Rayburn Library, a half-million dollar marble structure, was dedicated on October 9, 1957, by former President Harry S. Truman, former Secretary of the Treasury Robert B. Anderson and other research center for students of democratic government; and
Whereas, Thousands of pioneers and friends from North Texas and Southern Oklahoma welcome the opportunity to pay tribute to this outstanding statesman September 26, 1961, on Pioneer Day at the Texas-Oklahoma Fair in Iowa Park; now therefore be it
Resolved, That the House of Representatives of the State of Texas congratulate Sam Rayburn on his distinguished career of public service and the directors and officials of the Texas-Oklahoma Fair on choosing to dedicate the fair to him this year; and be it further
Resolved, That we commend the people of North Texas and Southern Oklahoma for the interest and cooperation which has made the Texas-Oklahoma Fair an outstanding annual event and wish them continued success in this worthy undertaking
STEWART of Wichita, CONNELL.

The resolution was adopted.
An Act amending subparagraph (b) of paragraph (1) of Article 48-09 of Section 1 of House Bill No. 727, Acts of the 57th Legislature, Regular Session, 1961, so as to make sales of tangible personal property by the State of Texas, its agencies, political subdivisions and instrumentalities subject to the sales tax; and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Jamison:
H. B. No. 1112, A bill to be entitled "An Act amending subparagraph (b) of paragraph (1) of Article 48-09 of Section 1 of House Bill No. 727, Acts of the 57th Legislature, Regular Session, 1961, so as to make sales of tangible personal property by the State of Texas, its agencies, political subdivisions and instrumentalities subject to the sales tax; and declaring an emergency."

Referred to the Committee on State Affairs.

By Mr. Caldwell:
H. B. No. 1113, A bill to be entitled "An Act creating a Court of Domestic Relations in and for Brazoria County; providing powers, duties, jurisdictions and administration; and declaring an emergency."

Referred to the Committee on Judiciary.

By Mauree Peeler, Bridges, Glusing and Hale:
H. B. No. 1114, A bill to be entitled "An Act authorizing power and authority to the City of Corpus Christi to lease certain submerged lands described herein which the State of Texas heretofore relinquished its rights and interest to the City of Corpus Christi, without restriction as to private or public use, to any person, firm or corporation, public or private, owning lands, landfill or shore area adjacent to the described submerged lands, for any period or term not to exceed fifty years, and upon whatever terms, conditions and consideration as is deemed proper by the governing body of the city; declaring restrictions to be contained in lease instrument; authorizing the lease of such submerged lands after election thereon, and repealing and superseding any conflicting charter provision, insofar as these certain submerged lands are concerned, or any existing conflicting act; describing the submerged lands to which this act applied; repealing any laws or provisions of city charter in conflict herewith, and making this act cumulative; providing that this act shall not be construed to grant or convey to the City of Corpus Christi the title to any oil, gas or other mineral which was not already owned by such city; providing for conflict or unconstitutionality in this act; and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Barnes:
H. B. No. 1115, A bill to be entitled "An Act amending Sections 1, 2, 3, 4, and paragraph (d) of Section 6 of Chapter 9, Acts of the 56th Legislature, First Called Session, 1959, as amended by Chapter 51, Acts of the 57th Legislature, 1961, relating to the creation, administration and financing of the Hospital District co-extensive with County Commissioners Precinct No. 4 of Comanche County; and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Stewart of Galveston:
H. B. No. 1116, A bill to be entitled "An Act relating to the civil liability of parents and guardians for certain acts of minors; and the liability of persons for certain acts; setting a maximum; amending Section 13-B of Chapter 204, Acts of the 48th Legislature, 1959; amending Chapter 4 of the Penal Code of the State of Texas by adding an article to be entitled Article 103a relating to searches of persons and automobiles and closing of public places to suppress riots; amending Chapter 3, Title 9 of the Penal Code of the State of Texas by adding an article to be entitled Article 474a relating to trial, conviction and punishment for riot of persons fifteen years of age or older; providing for severability; repealing laws in conflict; and declaring an emergency."

Referred to the Committee on Judiciary.
TO REQUEST A STUDY REGARDING THE TEXAS HIGHWAY DEPARTMENT

Mr. Dungan offered the following resolution:

H. S. R. No. 645

Whereas, It is a well known fact that Texas has one of the most magnificent highway systems in the nation, and

Whereas, Texas ranks very low in some respects, particularly in the field of education in comparison to other states of the nation, and

Whereas, Huge sums of money are being expended on the highway program, and in view of the fact that the State Legislature has no control over expenditures of the Texas Highway Department, and

Whereas, The Texas Highway Department is not directly responsible to the Legislature for their spending program, and

Whereas, The Comptroller of Public Accounts has no breakdown of expenditures for the Texas Highway Department, which is available to members of the Legislature, and

Whereas, There has been considerable criticism of spending by the Texas Highway Department in some respects, therefore, be it

Resolved, That the House of Representatives request the House General Investigating Committees to make inquiries into spending by the Texas Highway Department during the past five (5) years, particularly construction of new highway department buildings, purchase of equipment, highway construction and other such matters as they deem necessary, with the idea of effecting economy wherever possible, and if they think it wise to recommend legislation whereby funds now allocated directly to the Texas Highway Department may be more equitably distributed, particularly in the field of education.

DUNGAN, ALANIZ, ROSAS, FLOYD, WHITFIELD, JOHNSON of Bexar.

H. S. R. No. 645 was read and referred to the Committee on State Affairs.

May 11, 1961  HOUSE JOURNAL  1897
TO REQUEST A STUDY OF TEXAS
LAWS RELATING TO WILDLIFE
RESOURCES

Mr. Harrington offered the following resolution:
H. S. R. No. 668

Whereas, Hunting and fishing activities of Texas citizens have increased phenomenally during the past decade in which the State’s population has shifted from rural to urban; and
Whereas, This escape by the city dweller to our fields and streams during leisure hours has brought increased pressures upon the wildlife resources of our State; and
Whereas, Over the years the Texas Legislature has enacted hundreds of laws, largely in piecemeal fashion, directed at protecting, perpetuating, and improving wildlife resources and the annual harvest thereof; and
Whereas, This patchwork quilt of our game laws has, in many instances, resulted in repetition, ambiguity, and obscurities so that the hunters and fishermen of Texas, as well as enforcing officers of the Game and Fish Commission, have been greatly inconvenienced by present confusion in regulations and laws and their administration; and
Whereas, The Texas concept of wildlife ownership by the citizens of the State, with control by the State government, makes it imperative that the best possible means of wildlife management be available in order that all citizens may share in the maximum harvest possible through employment of conservation measures and practices assuring minimal depletion and waste; now therefore be it
Resolved, By the House of Representatives of the Fifty-seventh Legislature, That the Texas Legislative Council be requested to make a study of Texas laws relating to wildlife resources of the State, and that the Texas Game and Fish Commission, the Attorney General’s Department, and any and all other State departments and agencies concerned be requested to cooperate with the Legislative Council in this study; and be it further
Resolved, That the Council report its findings and recommendations, and submit a complete codification of Texas laws relating to wildlife resources to the Regular Session of the Fifty-eighth Legislature.

The resolution was referred to the Committee on Rules.

TO REQUEST A STUDY REGARDING PRIVATE TRADE AND CORRESPONDENCE SCHOOLS

Mr. Barlow offered the following resolution:
H. S. R. No. 665

Whereas, A number of private trade schools and correspondence schools, both in Texas and in other states, offer and provide instruction and training to Texas citizens; and
Whereas, Although most of these schools are ethically operated and administered and provide a much-needed service to their students and trainees, some of them are organized and conducted in such ways as to misrepresent their services to prospective students and to defraud enrollees by requiring them to pay disproportionately excessive fees or tuition in advance or to sign contracts for such fees and tuition, which sums are collected and retained regardless of whether the student or trainee completes the course for which he enrolled; and
Whereas, Solicitors for these private trade and correspondence schools have on occasion misrepresented the training or education to be provided, the services offered by the schools in general, and the total fees or tuition to be charged; and
Whereas, Private trade and correspondence schools and the persons who solicit business for them are not licensed or regulated in any way in Texas, and this situation permits and even encourages unscrupulous persons to organize and operate such schools, often defrauding persons in the low-income brackets who are seeking to better their economic positions by obtaining additional education, training and skills; now therefore be it
Resolved, By the House of Representatives of the Sixtieth Legislature, That the Texas Education Agency be requested to study the operation and administration of private trade and correspondence schools to determine what abuses exist and how to provide effective regulation of such schools and their solicitors; and be it further
Resolved, That such other State agencies as may be interested or th-
Resolved, That the Texas Education Agency be directed to report its findings and recommendations to the Regular Session of the 58th Legislature.

The resolution was referred to the Committee on Rules.

TO REQUEST A STUDY OF THE SESSION LAWS CONCERNING CERTAIN APPLICABILITY ACCORDING TO THE 1960 FEDERAL DECENTRAL CENSUS

Mr. Nugent offered the following resolution:

H. R. R. No. 666

Whereas, Most laws based on population class, according to the last preceding Federal decennial census, relate to the conduct of affairs of local government; and

Whereas, The director of the Census Bureau has published final population figures for the 1960 Federal decennial census; and

Whereas, Application of the 1960 Federal decennial census to bracket laws renders most counties, cities and districts subject to laws heretofore not applicable and also removes the applicability of laws which generally provide procedure, powers, duties and administration for those political subdivisions; and

Whereas, The consequent effect of this population change is confusion as to the applicability of laws and disruption of the orderly conduct of governmental affairs; and

Whereas, An exhaustive analysis of bracket laws is imperative to evolve a rational and orderly reclassification of laws and a determination of their applicability, now, therefore, be it

Resolved, By the House of Representatives of the State of Texas, that the Texas Legislative Council be requested to undertake a study of the session laws based on population classification enacted since 1960 and the applicability according to the 1960 Federal decennial census, to compile an inventory of such laws, to review the constitutional provisions which have given rise to this problem, and to consider the feasibility of a Constitutional Amendment to alleviate disruption of affairs of the government of the State due to any change in population; and be it further

Resolved, That the Texas Legislative Council be requested to report its findings and to make specific recommendations to the Regular Session of the 58th Legislature.

NUGENT, TOWNSEND, SPILMAN, KENNARD, GLADDEN, SPEARS, CURINGTON.

The resolution was referred to the Committee on Rules.

TO REQUEST CERTAIN STUDY RELATIVE TO STATUTORY REVISION

Mr. Hale offered the following resolution:

H. S. R. No. 659

Whereas, There has been no general revision of Texas statutes since 1925 and during the intervening years there have been numerous amendments to these statutes and in addition court decisions and opinions of Attorneys General relating thereto; and

Whereas, Texas has no official statutory revision service, dependence being placed in Vernon's Annotated Civil Statutes which although being generally accepted are not in fact official; and

Whereas, Many States in the Union have a continuing statutory revision structure through which statutory deadwood can be identified and consequently eliminated by legislative action, together with periodic updating of the statutes as a whole; and

Whereas, Court decisions as well as opinions of the Attorneys General play a major part in actually shaping Texas law; now therefore be it

Resolved, That the Texas Legislative Council be and is hereby requested to survey the methods of continuing statutory revision in other States in the Union to the end that it will report to the 58th Legislature concerning the matter; and be it further

Resolved, That in this study particular attention be paid to the
number and types of opinions which
have been rendered over the past
several years by the Attorneys
General, especially those advisory to
State departments or officials relat-
ing to the constitutionality of bills
passed by the Legislature and/or
filed by the Governor which have
become law, or opinions interpreting
statutes; and be it further
Resolved, That the Legislative
Counsel be and is hereby requested
to report all of these matters to
the 86th Legislature.
The resolution was referred to
the Committee on Rules.

TO GRANT PERMISSION TO
SUE THE STATE

Mr. Wilson of Trinity offered the
following resolution:

H. C. R. No. 105

Whereas, L. B. Nash, Resident of
Trinity County, Texas, has alleged
that he has been wrongfully deprived
of his liquor license for a package
store by the State Liquor Control
Board, and

Whereas, L. B. Nash desires to in-
stitute suit against the State of Tex-
as and its Liquor Control Board for
all moneys paid for the said permit
that has been refunded, now, therefor, be it
Resolved by the House of Repre-
sentatives of the State of Texas, the
Senate concurring, That the consent
of the State of Texas is hereby
given to L. B. Nash to bring suit
against the State of Texas and its Liquor Control Board in a court of
competent jurisdiction for the recov-
er of all sums paid and for damages,
and in case any such suit is filed,
service of citation or any necessary
process shall be on the Administra-
tor of the Texas Liquor Control
Board and the Attorney General of
Texas, and either of the Parties to
the suit shall have the right of ap-
peal as in other civil cases, and, be it
further
Resolved, That nothing herein
shall be construed as an admission
on the part of the State of Texas, or
any of the Departments or Agencies
of the State of Texas, as to the validity of
any allegations or claims asserted in said
suit, but that all allegations and
claims shall be proved as in other
suit under the same rules of evi-
dence and the same laws as apply
in and govern the trial of other
civil cases, and, be it further
Resolved, That nothing herein
shall be construed as a waiver of
any defenses, of fact as well as of
law, that may be asserted by or
available to the State of Texas, or
any of the Departments or Agencies
of the State of Texas, or any of
the political subdivisions of the State
of Texas, in said suit, but all such
defenses are hereby specifically re-
served.
The resolution was referred to the
Committee on State Affairs.

TO GRANT PERMISSION TO
SUE THE STATE

Mr. Sandahl offered the following
resolution:

H. C. R. No. 101

Whereas, On or about November
1, 1960, Solar Construction and En-
gineering Company of Houston, Tex-
as, a partnership composed of An-
thony Caliva, Jr., and George T. Cali-
va, made and entered into a con-
tact and agreement with the State
of Texas represented by the State
Highway Engineer whereby the said
Solar Construction and Engineering
Company, as contractor, agreed to
construct for the State of Texas, as
owner, a District Office, Warehouse,
Shop, and Laboratory and Equip-
ment Storage Buildings, same being
known as Project MC-20-E-9, Dis-
trict No. 26, Beaumont, Jefferson
County, Texas, and

Whereas, It is claimed by the said
contractor that construction work
has begun and has continued for a
considerable period upon said proj-
et, but that various extra, change,
interference, plan deficiencies, and
unreasonable, unauthorized, unfair
and arbitrary actions and work stop-
apes caused by the agents of the
State of Texas, the Texas Highway
Department and the Architects and
their servants, associates and repre-
sentatives, upon said project have
damaged and are damaging said con-
tractor and causing irreparable in-
jury to the contractor; and

Whereas, Said Solar Construction
and Engineering Company, the part-
nership aforesaid, composed of An-
thony Caliva, Jr., and George T.
Caliva of Houston, Texas, desire to
sue the State of Texas to determine
if the State of Texas is liable for
May 11, 1961

HOUSE JOURNAL

Resolved, That nothing herein shall be construed as an admission on the part of the State of Texas, to any of the Departments or Agencies of the State of Texas, or any of the political subdivisions of the State of Texas, as to the validity of any allegations or claims asserted in said suit, but that all allegations and claims asserted in said suit must be proved as in other suits under the same rules of evidence and the same laws as apply in and govern the trial of other civil cases; and be it further

Resolved, That nothing herein shall be construed as a waiver of any defenses, of fact as well as of law, that may be asserted by or available to the State of Texas, or any of the Departments or Agencies of the State of Texas, or any of the political subdivisions of the State of Texas, in said suit, but all such defenses are hereby specifically reserved; and be it further

Resolved, That service of citation and any other legal process, served upon the Attorney General of the State of Texas, or any other officer or employee of the State of Texas, shall be served upon this officer and further to have the force and effect as the service of process upon a defendant in any other civil case, according to the Rules of Civil Procedure of the Supreme Court of Texas; and be it further

Resolved That the sole purpose of this resolution is to grant permission to Solar Construction and Engineering Company to bring suit against the State of Texas; No admission of liability or any fact is made in any way by the passage of this Resolution; but on the contrary it is specifically provided that the facts upon which Solar Construction and Engineering Company seeks to recover must be proved in court, as in other civil cases; and be it further

Resolved That any and all defenses which the State of Texas may have shall be pleaded by them, and none of the defenses which the State of Texas may have are in any way waived by the passage of this Resolution.
The resolution was referred to the Committee on State Affairs.

RELATIVE TO GRANTING THE CITY OF AUSTIN CERTAIN EASEMENT

Mr. Sandahl offered the following resolution:

House Concurrent Resolution No. 103

Whereas, The rapid growth of northcentral Austin has greatly increased the demand for electrical energy to serve residences, businesses, and state buildings, such as the Department of Public Safety Building; and

Whereas, The electrical energy requisite to supply the various above named uses is best supplied through dispersed, moderately sized transmission lines in order to decrease the possibility of total failure of electrical service in an entire area as the result of fire, partial, or civil defense emergency; and

Whereas, It has been determined that a 69KV electric transmission line is necessary on, along and across the eastern most boundary of the certain State-owned tract of land which lies to the east of Guadalupe Street in the City of Austin and to the south of North Loop Boulevard in the City of Austin; and,

Whereas, The State-owned lands of the Texas State Board for Hospitals and Special Schools, as well as other State-owned lands, will be benefited by the provisions for adequate electrical service which will be made possible by the construction of such 69KV electric transmission line; therefore,

Be It Resolved By The House Of Representatives, The Senate Concurring:

That in consideration for the benefits which will accrue to the State of Texas by reason of the extension and development of such 69KV electric transmission line, there is hereby dedicated and granted to the City of Austin an easement for electric transmission and distribution line purposes, upon and along the following described tract of land, to wit:

A strip of land ten (10.00) feet in width, said strip of land ten (10.00) feet in width, being out of and a part of a 40.00 acre tract of land, a 5.00 acre tract of land and a 13.00 acre tract of land all being out of and a part of the James P. Wallace Survey Number 57 in the City of Austin, Travis County, Texas, and all having been conveyed to the State of Texas by Warranty Deed dated March 14, 1883, of record in Volume 55 at page 247 of the Deed Records of Travis County, Texas, the centerline of said strip of land ten (10.00) feet in width being more particularly described as follows:

Beginning at a point in the south line of the aforementioned 40.00 acre tract of land and from which point of beginning the southeast corner of the said 40.00 acre tract of land, same being a point in the north line of Lot 1, Block 11, Hyde Park Annex, said Hyde Park Annex being a subdivision of record in Book 2 at page 120 of the Plat Records of Travis County, Texas, same being a point in the south line of East 47th Street as shown on a map or plat of the J. J. Hegeman Addition, said J. J. Hegeman Addition being a subdivision of record in Book 2 at page 114 of the Plat Records of Travis County, Texas, bears S. 50° 00' E 6.00 feet;

Thence, with a line five (5.00) feet west of and parallel to the east line of the said State of Texas tract of land same being a line that is five (5.00) feet west of and parallel to the west line of the said J. J. Hegeman Addition same being also a line that is five (5.00) feet west of and parallel to the west line of the Smith and Abrahamson Addition, said Smith and Abrahamson Addition being a subdivision of record in Book 4 at page 252 of the Plat Records of Travis County, Texas, to point of termination in the south line of North Loop Boulevard and from which point of termination the northwest corner of Lot 10, Block 2, of the said Smith and Abrahamson Subdivision bears S. 60° 07' E 5.00 feet.

SANDAHL,
JONES of Travis, FOREMAN.

The resolution was referred to the Committee on State Affairs.
TO GRANT PERMISSION
TO SUE THE STATE

Mr. Tunnell offered the following resolution:

H. C. B. Number 100

To Grant H. N. Crow, Et UX,
Willie Mae Crow, Permission To Sue
The State Of Texas, And Others

Whereas, Prior to the 24th day of
February, 1960, the Texas State
Highway Department invited bids
and awarded contracts for the re-
direction and construction of State
Highway Number 31 from the East
into the City of Tyler, Smith County,
Texas, based on surveys, plans and
specifications drawn up and under
the control of the Texas State High-
way Department, and most especially
with reference to the southwesterly
corner of the intersection of such
planned State Highway Number 31
and its intersection with Spur Num-
ber 124, more commonly referred to
as the "Old Henderson Highway";
and,

Whereas, H. N. Crow et ux Willie
Mae Crow were, prior to the 24th
day of February, 1960, the owners
and resided on the property located
on the southwesterly corner of the
intersection of Spur Number 124 on
the "Old Henderson Highway" and
said redirected State Highway Num-
ber 31, and have resided in and on
said property since said date; and,

Whereas, The manner of planning
and constructing said redirection
and construction of said State Highway
Number 31 by the Texas State High-
way Department and its agents and
assigns brought about and caused a
diversion of waters and inundating
of said property owned and inhabited
by H. N. Crow et ux Willie Mae
Crow; and,

Whereas, On the night of the 24th
day of February, 1960, and the early
morning hours of the 25th day of
February, 1960, heavy rain, freezing
and snow, in that order, was expe-
lenced in the area of said property
resulting in the flooding and freeing
of said water, with the resultant
ice, obscured by snow, causing per-
sonal injuries to Willie Mae Crow,
in a fall; and,

Whereas, Subsequent rains and
flooding of said property has materi-
ally affected and lowered the value
of said property and the improve-
ments thereon; and,

Whereas, A bona fide controversy
has arisen between H. N. Crow et
ux Willie Mae Crow and the Texas
State Highway Department with re-
spect to whether or not the Texas
State Highway Department is re-
ponsible for such personal injuries
and lowering of the value of said
property and the improvements
thereon; and,

Whereas, Except with the permis-
sion of the Legislature, suit cannot
be maintained to determine the con-
troversy between H. N. Crow et ux
Willie Mae Crow and the Texas State
Highway Department; and,

Whereas, It is the policy of the
Legislature of the State of Texas to
give and grant to persons and cor-
porations the right to initiate in a
Court of competent jurisdiction the
validity of any claim being asserted
against the State of Texas or any of
de its agencies; now therefore, be it

Resolved By The House Of Rep-
resentatives of the State of Texas, the
Senate concurring, That H. N. Crow
et ux Willie Mae Crow, are and they
are hereby granted permission to
bring suit against the State of Texas,
the State Highway Department of
the State of Texas in any Court of
competent jurisdiction in Smith
County, Texas, for the purpose of
determining the validity of the claim
being asserted by H. N. Crow et ux
Willie Mae Crow arising out of the
surveying, planning, redirection and
construction of State Highway Num-
ber 31 East of the City of Tyler in
Smith County, Texas, and the let-
ting of contracts and specifi-
cations therefore by the Highway
Department of the State of Texas.

Service of citation for the purposes
herein granted may be had by serv-
ing citation upon the Attorney Gen-
eral, and the Chairman, State High-
way Commission; and be it further

Resolved, That the granting of the
right to bring this suit shall not be
considered or understood as an ad-
mission of liability on the part of the
State of Texas, or as an admis-
sion as to any of the contentions
being asserted by H. N. Crow et ux
Willie Mae Crow and shall not be
considered as a waiver of any rights
or defenses that might be interposed
for or on behalf of the State of Texas
or the Highway Department of the
State of Texas.
The resolution was referred to the Committee on State Affairs.

RELATIVE TO GIVING CERTAIN APPROVAL TO THE BOARD OF DIRECTORS OF A & M COLLEGE OF TEXAS

Mr. Collins offered the following resolution:

H. C. R. No. 104

Whereas, Section 18 of Article VII of the Constitution of Texas provides a method payment for the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for the Texas Agricultural and Mechanical College system; and

Whereas, Section 18 of Article VII provides that no building or other permanent improvement shall be acquired or constructed thereunder for use by any part of the Texas Agricultural and Mechanical College System, except at and for the use of the general academic institutions of said system, namely the Agricultural and Mechanical College of Texas, Arlington State College, Tarleton State College, and Prairie View A. and M. College, without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval; and

Whereas, The Board of Directors of the Agricultural and Mechanical College of Texas is desirous of constructing, equipping and acquiring of buildings and other permanent improvements for the Texas Forest Service; now, therefore, be it

Resolved by the House of Representatives, that the Board of Directors of the Agricultural and Mechanical College of Texas be, and it is hereby given approval in conformity with Section 18, Article VII, Constitution of Texas, from the proceeds of sale of bonds authorized by this Section; to construct, equip, and acquire buildings and improvements necessary thereto and other permanent improvements for the Texas Forest Service of the type as follows:

- 3 Lookout Towers
- 1 Workshop
- 2 additions to District Office Buildings
- Hard Surfacing of 1 District Headquarters Equipment Shop Area.

The total amount expended for the buildings, equipment and other permanent improvements listed above shall not exceed $40,000. This authorization is effective September 1, 1961.

The resolution was referred to the Committee on State Affairs.

TO DESIGNATE PUBLIC SCHOOLS WEEK

The Speaker laid before the House for consideration at this time the following resolution:

S. C. R. No. 56

PUBLIC SCHOOLS WEEK

Whereas, Texas Public Schools Week, since its inauguration by the Texas Citizens Committee for Public Schools Week in 1951, has become an outstanding observance which attracts well over a million visitors to Texas schools each year; and

Whereas, Since the administration and operation of the public schools of Texas constitute a public trust which has been delegated largely to local boards of education, it is desirable that citizens who elect the local boards be well informed concerning their schools; and

Whereas, The provision of planned opportunities for citizens to visit in the schools offers a suitable means of encouraging their participation in the continued growth and progress of education in Texas; now, therefore, be it

Resolved By the Senate of Texas, the House of Representatives concurring, that the Legislature join with the State Board of Education in urging the citizens of Texas to participate in the annual visitation programs of our public schools, and that visitors in the schools be reminded of each citizen's obligations and responsibilities as a contributing member of a self-governing society; and, be it further

Resolved, That the week of March 5th through 9th, 1962, be hereby designated as the dates for the official Public Schools Week in Texas for the year 1962, and, be it further

Resolved, That a copy of this resolution be sent to the Commissioner of Education and to the Chair-
May 11, 1961

H. C. R. No. 86, Relative to the 58th Legislature of Texas resolving itself into a Constitutional Convention.

The Speaker laid before the House for consideration at this time

H. C. R. No. 86 was read.

RECESS

Mr. Slack and Mr. Oliver moved that the House recess until 2:00 o'clock p.m. today.

The motion prevailed.

In accordance with the motion to recess the House at 12:09 o'clock p.m., took recess until 2:00 o'clock p.m. today.

AFTERNOON SESSION

The House met at 2:06 o'clock p.m. and was called to order by the Speaker.

MESSAGE FROM THE SENATE

Austin, Texas, May 11, 1961

Hon. James A. Turman, Speaker of the House of Representatives.

2 Jour.—11

Sir: I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to Senate Bill No. 98 by viva voce vote.

Senate concurred in House Amendments to Senate Bill No. 308 by viva voce vote.

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

S. C. R. No. 58, Granting an easement to the City of Austin for electric transmission and distribution line purposes.

S. C. R. No. 55, Suit against State-Industrial Gas Supply Corporation.

S. C. R. No. 47, Resolution Granting permission to Condon-Cunningham, Inc., to sue the State of Texas.

S. B. No. 357, To provide that items of minimum capital stock and minimum surplus shall consist only of cash; and declaring an emergency.

H. B. No. 83, Jurisdiction of San Antonio River Authority; and declaring an emergency. (with amendments)

H. B. No. 482, Validating incorporation of certain cities; and declaring an emergency. (with amendments)

H. B. No. 91, Creating a Savings and Loan Commissioner; and declaring an emergency. (with amendments)

H. B. No. 566, Creating a Civil Court at Law for Harris County; and declaring an emergency. (with amendments)

Respectfully,

CHARLES A. SCHNABEL
Secretary of the Senate.

CONSIDERATION OF H. C. R. NO. 86

The House resumed consideration of pending business, same being
H. C. R. No. 86, Relative to the 68th Legislature resolving itself into a Constitutional Convention, the resolution having been considered on this morning.

Mr. Whitfield moved that further consideration of H. C. R. No. 86 be postponed until next Monday, May 16th, at 10:00 o'clock a.m.

The motion prevailed.

RELATIVE TO HOUSE BILL NO. 817

Mr. Fletcher offered the following resolution:

House Concurrent Resolution No. 107.

Whereas, House Bill No. 817 passed both Houses of the Legislature and is now in the House Enrolling Room, and

Whereas, A minor correction needs to be made to correct the date for the opening of the turkey season in Caldwell County; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, that the Enrolling Clerk of the House be directed to change the date from November 14th to November 16th wherever it appears in the Bill, and to show that the dates for the season to be November 16 to December 31 of each year to be inclusive.

The resolution was read and was adopted.

CERTAIN CORRECTION AUTHORIZED IN H. B. No. 149

Mr. Martin asked unanimous consent to permit the Enrolling and Engrossing Clerk to make the following correction in House Bill No. 149:

Include Burnet County in the list of counties contained in the amendment to House Bill No. 149 to which this act shall not apply.

There was no objection offered and it was so ordered.

CONSIDERATION OF LOCAL AND UNCONTESTED BILLS

The House in accordance with a previous motion, proceeded to the consideration of the Local and Uncontested Bill Calendar.

H. B. No. 66, A bill to be entitled "An Act to provide that it shall be unlawful to sell, give or barter knuckles made of any metal or any hard substance, or a switch blade knife, spring blade knife or throw blade knife; providing for penalties; and declaring an emergency."

The bill was read second time.

Mr. Barlow offered the following Committee Amendment to the bill:

Amendment No. 1

Amend House Bill No. 66 by striking all below the enacting clause of House Bill No. 66 and substituting the following:

"Section 1. Article 489 of the Penal Code of Texas is hereby amended to read as follows:

"Section 1. Whoever shall knowingly sell, give or barter, or cause to be sold, given or bartered to any person within this State, a switch blade knife, spring blade knife or throw blade knife, or knuckles made of metal or any hard substance shall be punished by a fine of not less than twenty-five dollars or more than two hundred dollars or be imprisoned in jail for a period of time not to exceed one year or by both such fine and imprisonment. It shall be a defense to this act if such switch blade knife, spring blade knife or throw blade knife shall be an antique bought and sold by collectors of such items.

"Section 2. Whoever shall knowingly sell, give or barter, or cause to be sold, given or bartered to any minor a pistol, dirk, dagger, slingshot, black-jack, hand-chain, night-stick, pipe-stick, sword, cane spear, or bowie knife, without the written consent of the parent or guardian of such minor, or of someone standing in lieu thereof, shall be fined not less than twenty-five dollars nor more than two hundred dollars, or be imprisoned in jail for a period of time not to exceed one year or by both such fine and imprisonment."

"Section 2. This Act does not apply to litigation pending as of the effective date of this Act."
Section 3. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only.

Section 4. The importance of this legislation and the crowded condition of the calendar in both houses, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and that this Act take effect and be in force from and after its passage, and it is enacted.

The amendment was adopted.

Mr. Johnson of Bexar moved to reconsider the vote by which Committee Amendment No. 1 was adopted.

The motion prevailed without objection.

Mr. Johnson of Bexar offered the following amendment to Committee Amendment No. 1:

To amend Committee Amendment No. 1 to House Bill No. 66, Section 1, line 43, by adding the following:

"This Act shall not apply to antique or curio firearms which were manufactured prior to 1898 and which may have, as an integral part, a folding knife blade or other characteristics of items prohibited by this Act."

The amendment was adopted.

Mr. Korioth in the Chair.

Mr. Johnson of Bexar offered the following amendment to Committee Amendment No. 1:

To amend Committee Amendment No. 1 to House Bill No. 66, Sections 1, 2, 3, 5, and 24 by inserting after the word "sell" the words "or offer for sale."

The amendment was adopted.

Committee Amendment No. 1, as amended, was adopted.

H. B. No. 66 was passed to engrossment.

HOUSE BILL NO. 238 ON SECOND READING

The bill was read second time and was passed to engrossment.

H. B. No. 238, A bill to be entitled "An Act to provide that a tax collector may issue to certain people under certain circumstances a certificate showing that neither their land nor themselves are liable for delinquent taxes and that the liability for such taxes is thereafter a personal liability of the person under whom the taxes became delinquent and thereby making a court action to accomplish the same thing unnecessary; requiring the tax collector to issue an affidavit certifying that there has been no fraud or collusion; and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 249 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 249, A bill to be entitled "An Act amending Section 9 of Article 8306, the employers' liability and workmen's compensation insurance laws of this State, by providing that the liability of the association for funeral benefits shall not exceed Five Hundred Dollars ($500); providing a savings clause; and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 254 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 254, A bill to be entitled "An Act amending Sections 1 and 12 of Chapter 159, Acts of the 54th Legislature, Regular Session, 1955, to enable counties having a population of one hundred twenty thousand (120,000) or more to establish the office of Medical Examiner; and declaring an emergency."

The bill was read second time and was passed to engrossment.
H. B. No. 262, A bill to be entitled "An Act amending Article 4001 of the Revised Civil Statutes of Texas, 1925, to provide that the term merchandise in the Bulk Sales Law shall be construed as including, but not limited to, meat and other edible foods furnished to restaurants, cafes and cafeterias, and declaring an emergency."

The bill was read second time.

Mr. Ratcliff offered the following Committee Amendment to the bill:

Committee Amendment No. 1

Amend H. B. 262 by striking out the first three lines of the first paragraph and inserting in lieu thereof the following:

"The sale or transfer in bulk of any part or the whole of the material, supplies, stock of merchandise or other inventory, including, but not limited to, meat and other edible foods furnished to restaurants, cafes and cafeterias, or merchandise and fixtures pertaining to the."

The amendment was adopted.

H. B. No. 262 was passed to engrossment.

HOUSE BILL NO. 279 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 279, A bill to be entitled "An Act to amend Article 4436 of the Revised Civil Statutes of Texas of 1925, as amended by Section 1 of Chapter 453, page 973, Acts of the 56th Legislature, Regular Session, 1959, to authorize all Incorporated cities, towns, and villages to regulate certain properties within their corporate limits for the purpose of promoting the health, safety, and welfare of the inhabitants of said cities, towns and villages; and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 324 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 324, A bill to be entitled "An Act amending House Bill 581, Acts of the Fiftieth Legislature, Regular Session, 1947, Chapter 354, codified as Article 6877-1 of Vernon's Civil Statutes, so as to provide that when a county furnishes the sheriff or his deputies with motor vehicles pursuant to the provisions of Subsection (b) of Section 1 of this Act that the sheriff or his deputies shall be compensated at a rate not to exceed six cents ($0.06) per mile, while engaged in the performance of their official duties; providing that this Act shall not repeal Subsection (a) of Section 1 which authorizes the Commissioners Court to furnish the sheriff or his deputies adequate motor transportation, including all expenses incidental to the upkeep and operation of such motor vehicles; providing in the alternative under Subsection (c) of Section 1 of this Act that if the sheriff or his deputies use and operate their own vehicles while engaged in the performance of their official duties anywhere in the State of Texas that such sheriff or his deputies shall be paid not less than eight cents ($0.08) per mile for each mile traveled in the performance of these duties; providing for a repealing clause; and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 361 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 361, A bill to be entitled "An Act providing a procedure for service of process on certain non-residents involved in accidents involving watercraft; and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 365 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 365, A bill to be entitled "An Act amending Article 5949 of
The Revised Civil Statutes of Texas, 1925, as amended, extending the jurisdiction of Notaries Public; providing that this Act shall be anticipatory; and declaring an emergency.

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 373 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 373, A bill to be entitled "An Act amending Art. 326k-19 of the Revised Civil Statutes of the State of Texas, providing for the appointment of a stenographer by District Attorneys in judicial districts containing two or more counties, fixing the maximum salary to be paid such stenographers, providing for the approval and payment of the salary of such stenographer by the Commissioner Courts of the counties in such district, permitting such Commissioner Courts of each county to increase the salary permitted by this Act when the needs of the stenographer requires it and the financial condition of the counties in such district will permit it, repealing all laws and parts of laws in conflict therewith, and declaring an emergency."

The bill was read second time.

Mr. Johnson of Dallas offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend House Bill No. 373, Section 2, line 5 by inserting between the word "compensation" and the word "paid" the word "being"; and further amend said Section 2 by striking the words "of the maximum sum allowed by this Act" appearing on the last line of Section 2, page 1 of said Bill and substituting in lieu thereof the words "of the sum being paid when the provisions of this Act are invoked."

Amend Section 3 of House Bill No. 373, page 2, line 1 by deleting the words "cumulative of" and substituting in lieu thereof the words "in addition to."

The amendment was adopted.

Mr. Lack offered the following amendment to the bill:

Amend House Bill No. 373, Section 1, line 25 by striking the word "shall," and inserting the word "may."

The amendment was adopted.

H. B. No. 373 was passed to engrossment.

HOUSE BILL NO. 379 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 379, A bill to be entitled "An Act defining and regulating the business of giving bail in criminal and quasi-criminal cases, actions or proceedings; providing for the licensing of persons, firms and corporations, who engage in that business in any county; providing certain penalties; providing certain exemptions from this Act; providing for appeal from the decision of the Administrator of the Securities Division of the Office of the Secretary of State; providing for administration of this Act by the successor to the Administrator of the Securities Division of the Office of the Secretary of State; providing for licensing fees; declaring legislative intent and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 397 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 397, A bill to be entitled "An Act to amend Section 3 of Chapter 58, House Bill No. 278, Acts of the Fifty-third Legislature, 1953 providing for the deposit of revenues to the credit of the General Revenue Fund, and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 398 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.
H. B. No. 398, A bill to be entitled "An Act amending Subsection 1(b) of Section 2, Chapter 41, General Laws, Second Called Session, Forty-first Legislature, 1929, as amended, to provide that motor vehicles engaged in transporting passengers for compensation or hire and any commercial vehicle in authorized use as a 'Highway Post Office' vehicle shall observe the same speed limits as those prescribed for all vehicles except commercial vehicles, trucks, tractors, trailers, or semitrailers; and declaring an emergency."

The bill was read second time.

Mr. Townsend offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend H. B. No. 398 by striking out all below the enacting clause and inserting in lieu thereof the following:

Section 1. Chapter 428, General laws, regular session, 54th Legislature, 1925, codified as Article 837a, Section 8, Subsection 1, Paragraph (5), Vernon's Penal Code of Texas, is hereby amended so as to hereafter read as follows:

"(5) The speed for any motor vehicle engaged in this state in the business of transporting passengers for compensation or hire or for any commercial vehicle which is in authorized use as a 'Highway Post Office Vehicle' for furnishing Highway Post Office service in transportation of United States mail shall be the same as prescribed for all vehicles except commercial vehicles, trucks, tractors, trailers, or semitrailers as provided in Paragraph (3) as hereinbefore set forth."

Section 2. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and should any section or provision of this Act be declared unconstitutional or invalid, such invalidity shall not impair any remaining sections or provisions of this Act, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions hereof regardless of the validity of any part.

Section 3. The fact that the present law prescribes a speed of motor vehicles transporting passengers for compensation and hire at a slower or different rate than that prescribed for other vehicles creates a need to further the safety of operations on the highways of the State of Texas and creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended and said rule hereby suspended, and this Act shall become effective and be in force from and after its passage, and it is so enacted.

The amendment was adopted.

H. B. No. 398 was passed to engrossment.

HOUSE BILL NO. 423 ON SECOND READING

The Chair said before the House, on its second reading and passage to engrossment,

H. B. No. 423, A bill to be entitled "An Act eliminating the requirement of separate and privy acknowledgement of a married woman to instruments purporting to be executed by her; amending Articles 1399, 1406, 1459, and 4677, Revised Civil Statutes of Texas, 1925; repealing Articles 6605 and 6606, Revised Civil Statutes of Texas, 1915; and all other laws or parts of laws to the extent only that they conflict with the provisions of this Act; and declaring an emergency."

The bill was read second time.

Mr. Rosson offered the following amendment to the bill:

Amend H. B. No. 423 by adding a new paragraph at the end of Section 3 of said bill as follows:

Provided however, that said Article 1399 as hereby amended shall not be deemed to in any way affect or render ineffective any of the provisions of Article 4614 of the Revised Civil Statutes of Texas whereby a married woman is authorized to have sole management, control, and disposition of her separate property without the joinder of her husband upon her compliance with the necessary provisions of said Article.

The amendment was adopted.
H. B. No. 423 was passed to engrossment.

HOUSE BILL NO. 441 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment:

H. B. No. 441. A bill to be entitled "An Act amending Article 527 of the Penal Code of Texas, 1925, as last amended, by substituting the word obscene for similar words, defining obscene, making it illegal to knowingly possess for sale, keep for sale, manufacture, distribute, assist in the sale or distribution of, or give away obscene phonograph record, and making a second conviction of a violation of the article a felony; amending Chapter 120, Acts of the 54th Legislature, Regular Session, 1955, by removing the exemption for magazines actually engaged in the factual reporting of current events; providing for severability; repealing all laws in conflict; and substituting in lieu thereof the committee amendment to the bill:  

"Section 1. Article 527 of the Penal Code of Texas, 1925, as last amended, by Section 1, Chapter 503, Acts of the 55th Legislature, Regular Session, 1957, is amended to read as follows:

'Art. 527. Section 1. Whoever shall knowingly photograph, act in, pose for, model for, print, offer for sale, give away, exhibit, publish, or offer to publish, or have in his possession or under his control, or otherwise distribute, make, display, or exhibit any obscene book, magazine, story, pamphlet, paper, writing, card, advertisement, circular, print, pictures, photograph, motion picture film, image, cast, slide, figure, instrument, status, drawing, or presentation, or other article which is obscene, shall be fined not more than $2,500.00 nor imprisoned in the county jail more than two years or both."

The bill was read second time.

Mr. Barlow offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend House Bill 441 by striking all below the enacting clause and substituting in lieu thereof the following:

"Section 1. Article 527 of the Penal Code of Texas, 1925, as last amended, by substituting the word obscene for similar words, defining obscene, making it illegal to knowingly possess for sale, keep for sale, manufacture, distribute, assist in the sale or distribution of, or give away obscene phonograph record, and making a second conviction of a violation of this article a felony; amending Chapter 120, Acts of the 54th Legislature, Regular Session, 1955, by removing the exemption for magazines actually engaged in the factual reporting of current events; providing for severability; repealing all laws in conflict; and substituting in lieu thereof the following:

'Sec. 1. Whoever shall knowingly photograph, act in, pose for, model for, print, offer for sale, give away, exhibit, publish, or offer to publish, or have in his possession or under his control, or otherwise distribute, make, display, or exhibit any obscene book, magazine, story, pamphlet, paper, writing, card, advertisement, circular, print, pictures, photograph, motion picture film, image, cast, slide, figure, instrument, status, drawing, or presentation, or other article which is obscene, shall be fined not more than $1,000.00 nor imprisoned more than one year in the county jail or both."

Sec. 2. Whoever shall knowingly photograph, print, offer for sale, sell, give away, exhibit, or otherwise distribute, make, display, or exhibit any obscene book, magazine, story, pamphlet, paper, writing, card, advertisement, circular, print, pictures, photograph, motion picture film, image, cast, slide, figure, instrument, status, drawing, or presentation, or other article which is obscene, to a minor shall be fined not more than $2,500.00 nor imprisoned in the county jail more than two years or both.

Sec. 3. For purposes of this article the word "obscene" is defined as whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interests.

Sec. 4. Whoever shall be convicted for the second time of a violation of this article shall be deemed guilty of a felony and shall be punished by confinement in the State penitentiary for not more than five (5) years or by a fine of not more than Ten Thousand Dollars ($10,000) or by both such fine and imprisonment.

Sec. 5. It shall be a defense to any charges brought hereunder if such prohibited matter or act shall be regularly in use in any bona fide, religious, educational or scientific institution or the subject of a bona fide scientific investigation.

Sec. 6. The district courts of this State and the judges thereof shall have full power, authority, and jurisdiction, upon application by any district or county attorney within their respective jurisdictions, to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this Act.'"

BARLOW.

NUGENT.

Mr. James offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to H. B. 441 by striking in Section 2 of the bill the words "photograph, print," in the first line of that section.

The amendment was adopted.
Mr. Hughes of Dallas offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1, House Bill 441 by inserting after the word drawing in Section 1, sentence nine and Section 2, sentence five the following:

"phonograph record, mechanical recording"

The amendment was adopted.

Committee Amendment No. 1, as amended, was adopted.

H. B. No. 441 was passed to engrossment.

HOUSE BILL NO. 463 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 463, A bill to be entitled "An Act amending Article 7884 of the Revised Civil Statutes of Texas, 1935, as last amended by Chapters 162 and 385, Acts of the 56th Legislature, Regular Session, 1986, relating to corporations exempt from payment of the franchise tax; and declaring an emergency."

The bill was read second time.

Mr. Foreman offered the following amendments to the bill:

Committee Amendment No. 1

Amend House Bill No. 463 by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. Article 12.03 of Title 12A, Taxation-General of the Revised Civil Statutes of Texas, is hereby amended to read as follows:

"Art. 12.03. Corporations Exempt. The franchise tax imposed by this Chapter shall not apply to any insurance company, assess, guarantee or fidelity company, transportation company or sleeping, palace car and dining car company, or any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to any corporation, no part of the income of which is distributed to its members, shareholders or officers and which is organized for the exclusive purpose of promoting the public interest of any city, town, county or other area within the State, or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purposes of holding agricultural fairs and encouraging agricultural pursuits or for strictly educational purposes, or for purely public charity, or to State-chartered building and loan associations, or to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which hold stocks, bonds or other securities of other companies solely for mutual investment purposes, or for nonprofit corporations having no capital stock organized for the purpose of the education of the public in the protection and conservation of fish, game and other wildlife, grass lands and forests."

Sec. 2. The fact that there is a need for corporations (such as, but not limited to, those known as Chambers of Commerce) no part of the income of which is distributed to their members and organized for the exclusive purpose of promoting the public interest of counties and other areas of the State: that each corporation is now promoting the public interest of cities or towns, and that the liability for such taxes accrues on May 1 creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted.

H. B. No. 463 was passed to engrossment.

COMMITTEE MEETING

Mr. Randahl asked unanimous consent of the House that the Committee on Constitutional Amendments be permitted to meet at this time.

There was no objection offered.
The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 471, A bill to be entitled

"An Act to provide for the registration and protection of trademarks and service marks, to define certain terms, to define marks registrable and marks not registrable, to define the requirements for an application for registration, to instruct the Secretary of State as to handling of applications for registration and issuance of certificates of registration, to define the rights and privileges descendent from a registration of a mark, to constitute a registration of a mark constructive notice of a claim of ownership, to provide for judicial review of actions of the Secretary of State concerning marks and applications therefor, etc., and declaring an emergency."

The bill was read second time.

Mr. Hale offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend H. B. No. 471 by striking therefrom the last sentence in Section 6 and substituting in lieu thereof the following:

"In all appeals prosecuted in any of the Courts of this State pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from Justice of the Peace Courts to County Courts. When such an appeal is filed and the Court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the Court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the Courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the Courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this Section. If this Section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect."

The amendment was adopted.

Mr. Hale offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend H. B. No. 471 by striking therefrom the last sentence in the first paragraph of Section 11, and by substituting in lieu thereof the following:

"Such action may be brought in any District Court of the State of Texas having venue thereof."

and

By striking therefrom all of subsection (3) of Section 11, and by re-numbering all subsequent subsections.

The amendment was adopted.

Mr. Hale offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend H. B. No. 471 by deleting following the words "or by any other fraudulent means," the following language in Section 13:

"shall be liable in a civil action in the District Court by any person injured thereby to pay any damages sustained"

and by substituting in lieu thereof the following language:

"shall be liable, in a civil action brought in any District Court having venue by any person injured thereby, to pay any damages sustained"
The amendment was adopted.

Mr. Hale offered the following committee amendment to the bill:

Committee Amendment No. 4

Amend H. B. No. 471 by striking therefrom all of Section 16, and substituting in lieu thereof the following:

Section 16. Any Registrant who desires to avail himself of the benefits of section 15 must first give written notice by Certified Mail to the offending party that unless the offending party ceases and desists from such practices, suit for injunction and/or damages will be filed. Should the offending party persist in such practices for more than 10 days after receipt of such notice, the Registrant may proceed by suit in any District Court having venue to enjoin such practices, and such District Court may grant injunction to restrain such acts as the Court finds are violative of this Act. In such suit the Registrant may also recover all damages suffered by reason of such acts from and after the date two years prior to the date of filing such suit. The Court may also order that any reproductions, counterfeits, copies or colorable imitations described in Section 15 hereof, in the possession or under the control of any defendant in such suit, be delivered to any officer of the court, or to the Registrant, to be destroyed.

The amendment was adopted.

Mr. Hale offered the following committee amendment to the bill:

Committee Amendment No. 5

Amend H. B. No. 471 by striking therefrom all of Section 17, and by re-numbering all subsequent sections accordingly.

The amendment was adopted.

Mr. Hale offered the following committee amendment to the bill:

Committee Amendment No. 6

Amend H. B. No. 471 by striking out that portion of Section 18 beginning on Page 13 line seven after the word "Act," and running through line 25 page 13 ending with the word "demand."

The amendment was adopted.

H. B. No. 471 was passed to engrossment.

COMMITTEE MEETING

Mr. Watson asked unanimous consent of the House that the Committee on Insurance be permitted to meet at this time.

There was no objection offered.

HOUSE BILL NO. 477 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 477, A bill to be entitled "An Act amending Section 13 of the Texas Motor Vehicle Safety-Responsibility Act; exempting certain persons from suspension of driver's licenses, automobile registrations and non-residents' operating privileges due to non-payment of judgments; and declaring an emergency."

The bill was read second time.

Mr. Smith of Bexar offered the following amendment to the bill:

Amend H. B. No. 477 by adding the following sentence at the end of Section 13(c):

"A finding by the Department that an insurer is obligated to pay a judgment shall not be binding upon such insurer and shall have no legal effect whatever except for the purpose of administering this Section."

The amendment was adopted.

H. B. No. 477 was passed to engrossment.

HOUSE BILL NO. 503 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 503, A bill to be entitled "An Act to amend Article 6889d of Vernon's Annotated Civil Statutes, Acts 1953, Fiftieth Legislature, Page 56, Chapter 46, so as to compensate constables and deputy constables for transportation or furnish adequate transportation within the State, providing for sworn statements
covering such transportation; providing that this Act shall be severable; providing for the repeal of Article 6889c of Vernon's Annotated Civil Statutes, Acts 1951, Fifty-second Legislature, Page 424, Chapter 264; providing this Act be cumulative with all other existing laws, and declaring an emergency.

The bill was read second time and was passed to engrossment.

**HOUSE BILL NO. 504 ON SECOND READING**

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 504, A bill to be entitled "An Act amending Section 8, House Bill 169, Chapter 427, Acts of the 55th Legislature, Regular Session, 1957, providing for contracts in the conduct of research; and declaring an emergency."

Mr. Cannon moved that House Bill No. 504 be laid on the table subject to call.

There was no objection offered and it was so ordered.

Mr. Cannon asked unanimous consent of the House that Senate Bill No. 210 be considered in lieu of H. B. No. 504.

There was no objection offered and it was so ordered.

**SENATE BILL NO. 210 ON SECOND READING**

The Chair laid before the House, in lieu of H. B. No. 504, on its second reading and passage to third reading,

S. B. No. 210, A bill to be entitled "An Act amending Section 8, House Bill 169, Chapter 427, Acts of the 55th Legislature, Regular Session, 1957, providing for contracts in the conduct of research; and declaring an emergency."

The bill was read second time.

Mr. Cannon offered the following amendment to the bill:

Amend S. B. 210 by striking all below the enacting clause and inserting in lieu thereof the following:

"Section 1. That Section 8, House Bill 169, Chapter 427, Acts of the Regular Session of the 55th Legislature, 1957, be and the same is hereby amended so as to hereafter read as follows:

**CONTRACTS**

"Sec. 8. In conducting the research authorized by this Act, the Board shall make such contracts as it seems necessary to carry on such research. These contracts may be made with Jefferson Davis Hospital, operated jointly by the City of Houston and the County of Harris, Texas Medical Center, Inc., and Baylor University College of Medicine, both non-profit corporations, and agencies of the Federal Government; provided, however, the Board shall not be authorized to make a contract which will expire later than August 31, 1964."

"Section 9. The fact that there are no provisions for making contracts for the conduct of research by the Board for Texas State Hospitals and Special Schools with private and public agencies creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and such rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The amendment was adopted.

S. B. No. 210 was passed to third reading.

On motion of Mr. Cannon and by unanimous consent of the House, the caption of Senate Bill No. 210 was ordered amended to conform with the body of the bill.

**HOUSE BILL NO. 579 ON SECOND READING**

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 579, A bill to be entitled "An Act to amend Article 2.11 of the Insurance Code; and declaring an emergency."

The bill was read second time.

Mr. Kennard moved that House Bill No. 579 be laid on the table subject to call.
There was no objection offered and it was so ordered.

**HOUSE BILL NO. 630 ON SECOND READING**

The Chair laid before the House, on its second reading and passage to engrossment, H. B. No. 630, A bill to be entitled, "An Act enabling navigation districts, organized under the provisions of Section 59 of Article XVI of the Constitution and coming within the purview of this Act to enact ordinances, rules, and regulations for the purpose of protecting their properties and of promoting the health, safety and general welfare of that portion of the general community using their said properties and the facilities constructed thereon; providing procedure; granting full power to said navigation districts for such purposes; providing certain methods of enforcement and remedies; providing for venue of offenses committed in violation of this Act and such ordinances, and for maximum penalties for such offenses; providing that no ordinance, rule or regulation passed pursuant to the authority granted by this Act shall conflict with any applicable State law; providing for the validity of all parts of the law not declared unconstitutional; and declaring an emergency."

The bill was read second time.

Mr. Pipkin offered the following amendment to the bill:

Amend House Bill 630, Section 1 thereof, by striking all of the last clause in the first paragraph of said Section 1 beginning immediately following the last semi-colon, and inserting in lieu thereof the following: "such powers that may be exercised by any such navigation district for such purposes and with respect to any of its properties not situated within the corporate limits of any city, town or village of this State shall include powers."

The amendment was adopted.

H. B. No. 630 was passed to engrossment.

**HOUSE BILL NO. 676 ON SECOND READING**

The Chair laid before the House, on its second reading and passage to engrossment, H. B. No. 676, A bill to be entitled, "An Act amending House Bill 126, Chapter 47 of the General and Special Laws of the State of Texas, Fiftieth Legislature, 1947, relating to the operation of vending stands on State property by blind persons so as to enlarge the economic opportunities of the blind, by adding a new section to be known as Section 1(a) authorizing the State Commission for the Blind to negotiate with heads of departments, boards or commissions and/or divisions of departments, boards or commissions for certain proceeds accruing from vending machines operated for profit by departments, boards or commissions and/or divisions of departments, boards or commissions, to accrue to the blind vending stand operator in said building; and declaring an emergency."

The bill was read second time and was passed to engrossment.

**HOUSE BILL NO. 702 ON SECOND READING**

The Chair laid before the House, on its second reading and passage to engrossment, H. B. No. 702, A bill to be entitled, "An Act to provide for the acquisition of certain lands from Water Control and Improvement Districts; amending Sections 1, 2, 5 and 6 of Chapter 119, Acts of the 47th Legislature, Regular Session, 1941, as amended and adding a new section, Section 61, thereto; and declaring an emergency."

The bill was read second time and was passed to engrossment.

**HOUSE BILL NO. 712 ON SECOND READING**

The Chair laid before the House, on its second reading and passage to engrossment, H. B. No. 712, A bill to be entitled, "An Act amending Chapter 7, Title 12, of the Penal Code of Texas, 1921, as amended, by adding a new Article to be known as Article 761a pertaining to dentists and narcotic drugs; providing a severance clause; repealing all laws in conflict; and declaring an emergency."

The bill was read second time and was passed to engrossment.
May 11, 1961

HOUSE BILL NO. 744 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 744, A bill to be entitled "An Act creating the State Fiscal Study Commission, prescribing its membership and terminating said Commission by August 31, 1965; stating the duties of said Commission and providing the methods for obtaining assistance and staff essential to the accomplishment of its duties; declaring that the provisions of this Act are cumulative to pre-existing law; and containing an emergency clause." — was passed to engrossment.

The bill was read second time and was passed to engrossment.

REASON FOR VOTE

We voted no on H. B. No. 744 as this bill is solely for the purpose of creating a job for a former Member of the Legislature.

COTTON, LATIMER, KOLIBA.

HOUSE BILL NO. 769 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 769, A bill to be entitled "An Act amending Article 2.08 of Chapter 2, of the Insurance Code (Acts of 1951, 52nd Legislature, as amended by Acts of 1957, 55th Legislature, page 868, as amended by Acts of 1959, 56th Legislature, page 87, Chapter 41, Section 1) providing that the capital stock of a domestic insurance company with a nominal or par value shall be divided into shares of not less than one dollar ($1.00) each, and not more than one hundred dollars ($100.00) each, providing that at least fifty percent of the authorized shares with a nominal or par value shall be in good faith subscribed and paid for, and further providing certain requirements essential to the issuance and sale of stock in various situations and the reports to be filed thereon; etc., and declaring an emergency." — was passed to engrossment.

The amendment was adopted.

The bill was read second time.

Mr. Whitfield offered the following committee amendment to the bill:

Committee Amendment No. 1
Amend H. B. No. 770 by Kennard, by striking out all below the enacting clause, and substituting in lieu thereof the following:

Section 1. Section 1 of Article 2.07 Insurance Code (Section 1 of Article 2.07 of Chapter 491, Acts of the 52nd Legislature, Regular Session (1951), page 868, as amended by Acts of 1957, 55th Legislature, page 87, Chapter 41, Section 1) is hereby
amended to read and provide as follows:

"Section 1. Division.

(a) The shares of any insurance company organized under the laws of this State, if shares with a nominal or par value, shall be divided into shares of not less than One ($1.00) Dollar each, and not more than One Hundred ($100.00) Dollars each and the stockholders of any such company authorizing the issuance of its stock with a nominal or par value shall be required in good faith to subscribe and fully pay for shares representing at least fifty (50%) per cent of the aggregate par value of the shares authorized to be issued with a nominal or par value in good faith subscribed and paid for in full.

(b) The privileges and powers conferred by this Article shall be in addition to any and all powers and privileges conferred by any other law or laws, and not in restriction or limitation of any of the powers now permitted to such companies; provided, however, life, health, or accident insurance companies operating under Chapter 3 of this Code shall not utilize the provisions of this Article but shall comply with the provisions of Chapter 3 of this Code as amended."

Section 2. Paragraphs (a), (b), (c), and (d) of Article 3.02a, Insurance Code (Acts 1955, 46th Legislature, Page 916, Chapter 282, Section 4) is hereby amended to read and provide as follows:

"Article 3.02a. Shares of Stock.

(a) The shares of any life, health or accident insurance company organized or operating under the provisions of this chapter may be divided or converted into shares of either par value or no-par value, or some of each, and all issuable shares shall be fully paid and non-assessable. If divided or converted into shares of par value, each share shall be for not less than One ($1.00) Dollar nor more than One Hundred ($100.00) Dollars and the stockholders of any such company authorizing the issuance of its stock with a nominal or par value shall be required in good faith to subscribe and fully pay for shares representing at least fifty (50%) per cent of the aggregate par value of the shares authorized to be issued with a nominal or par value before said company shall be chartered or have its charter amended so as to authorize the issuance of shares with a nominal or par value. At the time of filing of an original charter or any amendment of an existing charter authorizing issuance of stock of a nominal or par value, the company shall file a statement under oath with the State Board of Insurance setting forth the aggregate number of shares with a nominal or par value subscribed to, the actual aggregate consideration received by the company for such shares, and the actual aggregate consideration received by the company for such shares.

(c) If, in the event all of the shares with a nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares with nominal or par value are sold and issued, the company shall file with the State Board of Insurance, within ninety (90) days after the issuance of such shares a certificate authenticated by the majority of the directors setting forth the aggregate number of such additional shares so issued and the actual aggregate consideration received by the company for such shares.

(d) The aggregate number of shares which the company has authority to issue may be increased or decreased from time to time by lawful charter amendment as long as the shares representing at least fifty (50%) per cent of the aggregate par value of the shares authorized to be issued with a nominal or par value is in good faith subscribed and paid for in full.
number of shares with a nominal or par value subscribed and the actual aggregate consideration received by the company for such shares. If divided or converted into shares of no par value, every such share shall be equal in all respects to every other such share. At the time of filing of an original charter or any amendment of an existing charter authorizing the issuance of stock with no-par value, the company shall file a statement under oath with the State Board of Insurance setting forth the number of shares without par value subscribed and the actual consideration received by the company for such shares. Provided, however, that the stockholders of any such company authorizing the issuance of its stock without nominal or par value, shall be required in good faith to subscribe and pay for at least fifty (50%) per cent of the authorized shares to be issued without nominal or par value, before said corporation shall be chartered or have its charter amended so as to authorize the issuance of shares without nominal or par value; and provided further, that in no event shall the amount so paid be less than Two Hundred Fifty Thousand ($250,000) Dollars. The aggregate number of shares which the company has authority to issue may be increased or decreased from time to time by lawful charter amendment so long as at least fifty (50%) per cent of the aggregate number of the authorized shares to be issued with nominal or par value is in good faith subscribed and paid for and so long as shares representing at least fifty (50%) per cent of the aggregate par value of the shares authorized to be issued with a nominal or par value has been in good faith subscribed and paid for in full; provided that authorized but unissued shares shall not constitute capital or stock or capital stock of such company.

(b) Such companies may issue and dispose of their authorized shares having no nominal or par value for money or those notes, bonds, mortgages and stocks of which the law requires that capital stock of insurance companies shall consist. Any and all shares without nominal or par value issued for the consideration prescribed or fixed in accordance with the provisions of this article shall be fully paid stock and not liable to any further call or assessment thereon, nor shall the subscriber or holder be liable for any further payments.

(c) In the event all of the shares without nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares without nominal or par value are sold and issued, the company shall file with the State Board of Insurance within ninety (90) days after the issuance of such shares, a certificate authenticated by a majority of the directors setting forth the number of such shares so issued and the actual aggregate consideration received by the company for such shares. In the event all of the shares with a nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares with a nominal or par value are sold and issued, the company shall file with the Board, within ninety (90) days after the issuance of such shares, a certificate authenticated by a majority of the directors setting forth the aggregate number of shares so issued and the actual aggregate consideration received by the company for such shares.

(d) Nothing herein contained shall be construed to impair the charter rights of companies heretofore authorized to issue stock of no-par value or par value.

Section 2. All laws or parts of laws in conflict herewith are to that extent hereby repealed; and this Act shall prevail over any conflicting provisions of law.

Section 4. If any section, paragraph, sentence, clause or word of this Act is held to be unconstitutional, the remaining portion of the same, nevertheless, shall be valid, and the Legislature hereby declares that it would have enacted this Act without such unconstitutional portions.

Section 5. The fact that foreign insurance companies are now authorized to have authorized but unissued capital stock of a nominal or par value, placing domestic companies in a disadvantageous position, and
the crowded condition of the calendar, creates an emergency and an imperative public necessity that the Constitutional rule requiring bills to be read on three several days in each House be suspended and said rule is hereby suspended; and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted.

H. B. No. 770 was passed to engrossment.

HOUSE BILL NO. 810 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 810, A bill to be entitled "An Act amending Section 1 of Chapter 160, Acts of the 43rd Legislature, Regular Session, 1933, as amended, to provide that consolidated trust debentures issued by the Federal Intermediate Credit Bank and by the Bank for Cooperatives are lawful investments for fiduciary and trust funds in this State, and eligible security for public deposits where authorized; and declaring an emergency."

The bill was read second time.

Mr. Cook offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend H. B. 810, Section 1, fourth line from the bottom of page 1, by striking out everything after "comma" to the bottom of the page, and substituting in lieu thereof the following:

"or by the Federal Farm Loan Board, or by any Federal Land Bank, the Federal Intermediate Credit Banks, or Banks for Cooperatives, or by any National Mortgage Association, or by any entity."

The amendment was adopted.

H. B. No. 810 was passed to engrossment.

HOUSE BILL NO. 840 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 840, A bill to be entitled "An Act amending Section 1 of Chapter 500, Acts of the 53rd Legislature, Regular Session, 1933, to provide that the maximum salary for stenographers for county judges in counties with a population in excess of twenty thousand and one (20,001) and less than fifty thousand (50,000) shall be Four Thousand and Eight Hundred Dollars ($4,800); and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 859 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 859, A bill to be entitled "An Act authorizing independent school districts to borrow money for current maintenance expenses; providing for the method of evidencing such loans by the issuance of negotiable notes; prescribing the conditions under which such notes may be issued; enacting other provisions related to the subject; providing that this Act is cumulative of Article 2877 V.A.R.S. of Texas; and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 912 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment.

H. B. No. 912, A bill to be entitled "An Act raising the maximum fees that may be retained by justices of the peace in counties of more than 46,000 and not more than 76,000 persons according to the last preceding Federal census; repealing all laws in conflict; and declaring an emergency."

The bill was read second time and passed to engrossment.

(Speaker In The Chair)

HOUSE BILL NO. 830 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment.
H. B. No. 830, A bill to be entitled "An Act regulating the grading and classification of rose plants, cuttings, or bushes; fixing the responsibility of the Commissioner of Agriculture, providing for establishing rules, regulations, orders and requirements; providing for a fee for services; etc., and declaring an emergency." The bill was read second time.

Mr. Richardson offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1 TO H. B. 830

Amend H. B. 830 by striking out all below the enacting clause and substituting in lieu thereof the following:

"Section 1. The purpose of this Act is to provide necessary authority for the Commissioner of Agriculture to prescribe rules, regulations and procedures for inspection, grading and labeling of all rose plants, cuttings and bushes; and any authorized representative under the supervision and control of the Commissioner of Agriculture, or his duly authorized representative under the supervision, and the license year shall be twelve (12) months, or any fraction thereof, beginning on January 1 and ending on December 31, and any certificate of authority issued during the said year shall be for the remainder thereof and for no longer period. The annual license fee for sale or displayed, and after such inspection shall include the grading of said rose plants, cuttings or bushes as may be offered for sale by the holder or under his direction.

Section 5. The Commissioner of Agriculture may accept the inspection, grading and labeling of rose plants, cuttings or bushes as performed in other states by the duly authorized authority in said state, provided such rules and regulations are approved in writing by the Attorney General of Texas, and such approval shall remain on file in the office of the Commissioner of Agriculture for public inspection.

Section 6. The annual license fee for growers, dealers, wholesalers and processors shall be determined according to the actual amount of work done or time consumed by the Commissioner or under his direction and supervision, and the license year shall be twelve (12) months, or any fraction thereof, beginning on January 1 and ending on December 31, and any certificate of authority issued during the said year shall be for the remainder thereof and for no longer period. The annual license fee for the certificate of authority shall in no event be less than the following schedule:

(a) For growers, dealers, wholesalers or processors handling, selling or offering for sale up to One Hundred
Thousand (100,000) rose plants, cuttings or bushes for the calendar year................. $16.00
(b) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of One Hundred Thousand (100,000) and less than Five Hundred Thousand (500,000) rose plants, cuttings or bushes for the calendar year.................. $20.00
(c) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of Five Hundred Thousand (500,000) and less than One Million (1,000,000) rose plants, cuttings or bushes for the calendar year.................. $25.00
(d) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of One Million (1,000,000) rose plants, cuttings or bushes for the calendar year.................. $35.00

All fees collected hereunder shall be fees of office of the Commissioner of Agriculture and shall be deposited in the General Fund of the State of Texas, subject to appropriation by the Legislature. Persons, firms or corporations purchasing graded stock not clearly and distinctly marked with a grade or classification in accordance with the rules and regulations of the Commissioner of Agriculture and after the effective date of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty and No/100 ($50.00) Dollars nor more than One Hundred and No/100 ($100.00) Dollars, and each separate sale shall be a separate offense and violation.

Section 8. If any part of this Act shall be held void, such portion shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Act. Section 9. The fact that there are presently being offered for sale throughout the State rose bushes of a very inferior grade which are published as being a typical Texas rose, and that such merchandise is a fraud upon the consuming public creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three (3) several days in each house be suspended and the same is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Mr. Jarvis offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to H. B. No. 830 by adding a new subsection known as Section 4a, which shall read as follows:

Sec. 4a. The Commissioner of Agriculture, or his duly authorized representative, may, while enforcing the provisions of this Act, issue and enforce a written or printed "Stop Sale" Order on any rose plants, cuttings or bushes offered for sale which shall not bear a label showing the proper classification or grade, and such "Stop Sale" Order shall prohibit further sales of such rose plants, cuttings or bushes until they shall be properly graded, classified and labeled.

The amendment was adopted.

Mr. Richardson offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to House Bill No. 830 by striking out the annual license fees provided for in Section 6 subsections (b), (c) and (d) and substituting in lieu thereof in subsection (b) "$16.00"; in subsection (c) "$60.00"; and in subsection (d) "$100.00."

The amendment was adopted.

Committee Amendment No. 1, as amended, was adopted.

H. B. No. 830 was passed to engrossment.

HOUSE BILL NO. 971 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment.
H. B. No. 971, A bill to be entitled "An Act relating to poll taxes and the payment thereof; amending Article 2121 of Title 122A, Taxation-General, of the Revised Civil Statutes of Texas, and Section 41 and 75 of the Election Code of the State of Texas (Articles 3.09 and 7.10, Vernon's Texas Election Code); redefining the persons liable for the portion of the state poll tax levied for the benefit of the free schools and for the portion levied for general revenue purposes; etc., and declaring an emergency."

The bill was read second time and was passed to engrossment.

COMMITTEE MEETING

Mr. Harrington asked unanimous consent of the House that the Committee on Game and Fisheries be permitted to meet at this time.

There was no objection offered.

HOUSE BILL NO. 998 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 998, A bill to be entitled "An Act relating to the licensing of certain Business Brokers and Dealers and Consultants; providing for the definition of certain words and phrases; providing for the administration of this Act; providing for certain exemptions; providing certain procedures, rules and regulations in the licensing and administration of this Act; providing for penalties for the violation of the provisions of this Act; and declaring an emergency."

The bill was read second time.

Mr. Ratcliff offered the following committee amendment to the bill:

Amend House Bill No. 998 by striking out all below the enacting clause and substituting in lieu thereof the following:

"Section 1. Administration. (a) The administration of the provisions of this Act shall be vested in the State Securities Board.

(b) The Commissioner of the State Securities Board is hereby empowered to examine witnesses and administer oaths, and it shall be his duty to investigate persons doing business as a Business Broker, Business Consultant and Business Salesman, as defined herein, in this State to ascertain whether they are violating any of the provisions of this Act and to keep such records and minutes as shall be necessary to an orderly dispatch of business.

Sec. 2. Definitions. The following terms shall, unless the context otherwise indicates, have the following meaning:

(a) The term 'Business Broker' shall include every person or company who for another or others for compensation or other valuable consideration, or who with the intention or in the expectation or upon the promise of receiving or collecting compensation or other valuable consideration, lists for sale, sells, exchanges, buys, or rents, or offers, or attempts or agrees to negotiate a sale, exchange, merger, purchase, or finance any company, corporation, partnership or other business enterprise and/or their assets in whole or in part.

(b) The term 'Business Consultant' shall include every person who for another or others for compensation or other valuable consideration, or who with the intention or in the expectation or upon the promise of receiving or collecting compensation or other valuable consideration, lists for sale, sells, exchanges, buys, or rents, or offers, or attempts or agrees to negotiate a sale, exchange, merger, purchase, or finance any company, corporation, partnership or other business enterprise.

(c) The term 'Business Salesman' shall mean a natural person, who for compensation or other valuable consideration or in expectation of compensation is employed by a licensed Business Broker to list for sale, sell, exchange, buy, rent, offer or agree to negotiate a sale, exchange, purchase, or finance any company, corporation, partnership or other business enterprise and/or their assets in whole or in part.

(d) The word 'person' shall mean and include any individual, firm, partnership, association or corporation.

(e) The word 'Commissioner' shall mean the State Securities Commissioner."
Sec. 3. Exemptions.

(a) The provisions of this Act shall not apply to any person acting as attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchanging of any business, nor shall this Act be construed to include in any way services rendered by an attorney at law, nor shall it be held to apply to the acts of any person while acting as an escrow holder, receiver, trustee in bankruptcy, administrator or executor, or to any person doing any of the acts specified in this Act under order of any court, nor to apply to the trustees acting under a trust agreement, deed of trust or will, nor to the regular salaried employees thereof, nor shall this Act apply to public officers or employees while performing their duties as such, unless any such person is engaged wholly or in part as a business broker, business salesman, or business consultant.

(b) This Act shall not apply to the sale, lease or transfer of any property when such sale, lease or transfer is made by the owner, or one of the owners, or the attorney for said owner or owners, or his or its regular salaried employees, unless the owner or owners or the attorney for said owner or owners is engaged wholly or in part as a business broker, business salesman or business consultant.

(c) A real estate broker or real estate salesman while acting as such in connection with the sale, lease or exchange of real property or an interest therein when the transfer of a business or good will of an existing business is purely incidental to the sale, lease or exchange of real property.

(f) Any employee of any bank or finance corporation while engaged in any activity related to the business of any such bank or finance corporation.

Sec. 4. Eligibility for License.

(a) No individual applicant shall be eligible to be licensed under the terms of this Act unless such applicant is at the time of filing such application at least twenty-one (21) years of age, an actual bona fide resident of this State and shall have been an actual bona fide resident of this State for at least sixty (60) days immediately preceding the filing of such application. No partnership or association shall be eligible to be licensed unless the members thereof have the above qualifications of an individual applicant. No corporation shall be licensed unless the officers thereof have the above qualifications of an individual applicant. Provided, however, the above provision as to residence shall not apply to non-resident applicants who may apply for licenses under the terms of Subdivision (b) hereinafter set forth.

(b) A non-resident of Texas may be licensed as a business broker, salesman or consultant, providing such non-resident is at the time licensed as a certified public accountant or attorney under the laws of the State where he resides; and providing further that such resident license shall at all times maintain a place of business in this State in conformity with the requirements as to resident licenses. Nothing herein is intended to prohibit transactions in this State by non-residents if conducted by a resident licensed broker, salesman or consultant.

Sec. 5. Application for License.

(a) Any person desiring to act as a business broker, salesman or consultant in this State shall file with the Commission an application for license. The application shall be in such form and contain such information as the Commissioner may prescribe, including but not limited to the following:

(1) The name and address of the applicant and if the applicant shall...
be in partnership or association, the name and address of each member thereof; if it is a corporation, the name and address of each officer thereof; and each director thereof;

(b) The name under which the business shall be conducted;

(c) The place or places, including the street and number and the time, village or city and county, where the business is to be conducted;

(d) The business or occupation engaged in by the applicant and every member or officer thereof for a period of not less than five (5) years immediately preceding the date of application;

(e) The time and place and experience of the applicant and every member or officer thereof engaged as a business broker, salesman or consultant.

(f) Whether the applicant or any member or officer thereof has ever been convicted of or is under indictment for forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, any crime involving moral turpitude, conspiracy to defraud or other like offenses, and whether applicant or any member or officer thereof has ever had a license to engage in the same type of business or profession cancelled, revoked or suspended and the reasons thereof.

(7) Whether the applicant or any member or officer thereof has ever been refused occupational, business or professional license in this or any other jurisdiction.

(8) If the applicant is a partnership, association or corporation, the name of a designated member or officer thereof who is to carry on the activities of a business broker or consultant on behalf of the partnership, association or corporation, who shall be designated as agent of the partnership, association or corporation for that purpose;

(9) Such application for a business broker's license and/or business consultant's license shall be made by applicant. If such application is made by a partnership or association, it shall be filed by all members thereof. If made by a corporation, it shall be filed by the president and secretary thereof.

(b) An individual's application shall be accompanied by recommendations of at least three (3) citizens not related to the applicant, who have known applicant for a period of three (3) years or more, which recommendations shall be under oath and shall certify that the applicant has a reputation for honesty, tractability, fairness, dealings and competency, and shall recommend that license be granted to the applicant.

If the applicant cannot procure such recommendations for the reason that he has not resided in the county for three (3) years, he may furnish three recommendations from three (3) persons where the applicant may have resided for three (3) years prior to the filing of his application.

(c) Every partnership or association in its application shall designate and appoint one of its members as agent broker and every corporation in its application shall designate one of its officers as agent broker. The application of the said partnership, association, or corporation shall be accompanied by an application by such designated agent broker in the same form as individual applicants. Upon compliance with all requirements of law by the partnership, association, or corporation as well as by the said designated member or officer, the Commissioner shall issue a business broker's license, and/or business consultant's license to said partnership, association, or corporation, which shall have the name of such member or officer and thereafter the member or officer so designated shall without payment of any further fee be entitled to perform all the acts of a business broker and/or business consultant contemplated by the provisions of this Act; provided, however, said license shall enable such member or officer so designated to act as a business broker and/or business consultant only as officer or agent of said partnership, association, or corporation and not on his own behalf, and provided, further, that if in any case the person so designated shall be refused a license by the Commissioner, or in case such person ceases to be connected with the partnership, association, or corporation, said partnership, association or corporation shall be entitled to designate another person to qualify and act as in the first instance, upon qualification of the designated agent.
or corporation who acts as a business broker and/or business consultant, other than the agent broker of the partnership, association or corporation shall be required to make application for and take out a separate broker's license in his own name individually. Should the licenses of any partnership, association or corporation, or the licenses of any member or officer thereof, be suspended, revoked or canceled for violation of any provision of this Act, all other licenses of such concern and their members and officers shall be suspended until the business relationship with the violator is terminated to the satisfaction of the Commissioner.

(a) Every application for a salesman's license shall be made in writing upon a form prescribed by the Commissioner and shall contain such information as required in a broker's application, and shall also set forth a period of time, if any, said applicant has been in such business, stating the name and address of his last employer, the name and place of business of the person or company employing him, and in what capacity he is employed or into whose service he is about to enter. The application shall be accompanied by a certified written statement by the broker in whose service he is about to enter, certifying that in his opinion the applicant is honest, capable, and of good reputation, and recommending that the application be granted a license. Every application for a salesman's license shall be verified by the applicant.

Every application for a business broker and/or business consultant license or a salesman's license shall be accompanied by the fee prescribed in this Act. In the event the Commissioner does not issue the license through no fault of the applicant, the fee shall be returned to the applicant.

Sec. 6. Additional Information May Be Required. Application for a business broker, consultant or salesman's license shall contain such other information as to the applicant, in addition to the above prescribed, as the Commissioner shall require. The Commissioner may require such other information through the application or otherwise as the Commissioner shall deem desirable with due regard to the paramount interest of the public to the honesty, truthfulness, integrity and personal competency of the applicant.

Sec. 7. Bond. Immediately upon approval of the application, the applicant shall be notified and before the license shall be issued, a bond executed by the applicant, as principal, and a surety company authorized to do business in this State, as surety, shall be furnished to the Commissioner in the principal sum of Five Thousand Dollars ($5,000) for a broker and Three Thousand Dollars ($3,000) for a salesman, payable to the Commissioner for the use and benefit of any injured party, and conditioned that the applicant will pay any judgment recovered by any person in any suit for damages or injury caused by a violation of this Act. Each bond shall be maintained as a condition to the continued validity of such license.

Sec. 8. Issuance and Custody of License.

(a) If the Commissioner is satisfied that the applicant for a business broker's consultant's or salesman's license is of good business repute and that the business will be conducted in an honest, fair, just and equitable manner, and upon complying with all other provisions of law and conditions of this Act, a license will thereafter be granted by the Commissioner to the successful applicant therefor as a business broker and/or business consultant, or as a business salesman and the applicant, upon receiving possession of the license, is authorized to conduct the business of a business broker, consultant or salesman in this State.

(b) The Commissioner shall issue to each licensee a license in such form and style as shall be prescribed by the Commissioner. This license shall show the name and address of the licensee, and in case of a business salesman's license, shall show the name of the business broker by whom he is employed. Each license shall have imprinted thereon the seal of the State of Texas, and in addition to the foregoing shall contain such matter as shall be prescribed by the Commissioner. The license of each business salesman shall be delivered or mailed to the business broker by whom such business salesman may be employed and shall be kept under the custody and control of such broker.
(c) The Commissioner shall prepare and deliver to each licensee a pocket card, which card, among other things, shall contain an imprint of the seal of the State of Texas, and shall certify that the person whose name appears thereon is a licensed business broker, consultant or salesman, as the case may be; and if it is a business salesman's card, it shall also contain the name and address of his employer; the matter to be printed on such pocket card, except as above set forth, shall be prescribed by the Commissioner.

(d) All business brokers or consultants shall also prominently display in their place or places of business the licenses of all business salesmen employed by them therein or in connection therewith. All licenses issued to business salesmen shall designate the employer of said salesmen by name.

Sec. 9. Change of Broker's Address. Upon change of address of any broker from that shown in any license held by him or his salesmen, the broker shall immediately return such license to the Commissioner together with a fee of Two Dollars ($2) for each license, and the Commissioner shall issue new licenses for the unexpired term of the returned licenses showing the new address as designated by the broker.

Sec. 10. Hearing on Application. If the Commissioner declines or fails to license an applicant, he shall immediately give notice of the fact to the applicant and, upon request from such applicant, filed within ten (10) days from the receipt of such notice, shall fix a time and place for hearing. Within ten (10) days notice shall be given to such applicant, and to other persons interested or producing any evidence relating to the business broker's, consultant's, or salesman's application. In such case the Commissioner shall fix the time of such hearing on a date within thirty (30) days from receipt of the request for the particular hearing, provided the time of hearing may be continued from time to time with the consent of the applicant. If satisfied as aforesaid, the Commissioner shall thereupon license the business broker and/or salesman if all other provisions of this Act shall have been met.

Sec. 11. Revocation and Suspension of License. The Commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person, provided such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection therewith, shall make out a prima facie case, investigate the actions of any business broker, business consultant or business salesman or any unlicensed person who shall assume to act in either such capacity within this State, and shall have the power to suspend or revoke any license issued under the provisions of this Act at any time when it has been determined that the license has been obtained by false or fraudulent representation or where the licensee in performing or attempting to perform any of the acts mentioned here is determined to be guilty of:

(1) Knowingly making any substantial misrepresentation; or

(2) Making any false promises with intent to influence, persuade or induce; or

(3) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents or salesmen or adverting or otherwise; or

(4) Failing to make clear for which party he is selling, or receiving compensation from more than one (1) party, except with the full knowledge and consent of all parties; or

(5) Failing within a reasonable time to account for any moneys coming into his possession which belong to others with his own funds; or

(6) Procuring a license under this Act for himself or any salesman by fraud, misrepresentation, or deceit; or

(7) Having been convicted of a felony, knowledge of which the Commissioner did not have at the time of the said issuance of a license to such licensee; or

(8) Demanding from an owner a commission to which he is not justly entitled; or

(9) Paying commissions or fees to or dividing commissions of fees with anyone not licensed as a real estate broker or salesman in this or any other state; or
(19) Using any misleading or untruthful advertising including the use of any trade name or false title of membership in any organization of which he is not a member; or

(20) Accepting, receiving or charging any undisclosed commission, rebate or direct profit on expenditures made for a principal; or

(21) Any other conduct, whether of the same or different character than hereinafter specified, which constitutes dishonest dealings; or

(22) Willfully disregarding or violating any provisions of the law, or of this Act.

This section of this Act shall not be construed to relieve any person or company from civil liability or from criminal prosecution under this Act or under the laws of the State.

Upon complaint by affidavit of any credible person that any licensee under the provisions of this Act has been guilty of, or has committed any of the acts mentioned in this section, the Commissioner shall, after proper investigation and verification of information contained in the complaint, notify the licensee of the filing of such complaint and the date a hearing will be held thereon. After hearing, the Commissioner shall enter such order as to it appears proper under the facts presented. Either party may appeal from that decision to any District Court of the County where such licensee resides, where a trial de novo shall be had, under the rules of procedure governing ordinary civil cases in the District Court.

Sec. 12. Unlawful Practice of Law. Any license granted under the provisions of this Act shall be cancelled by the Commissioner upon proof that the licensee, not being licensed and authorized to practice law in this State, for a consideration, reward, pecuniary benefit, present or anticipated, direct or indirect, or in connection with or as a part of his employment, agency, or fiduciary relations, draws any deed, note, deed of trust, or will, that may transfer or anywise affect the title or interest in any business, or advises or counsels any person as to the validity or legal sufficiency of any such instrument above mentioned, or as to the validity of title of any business.

Sec. 13. Hearings. The Commissioner shall, before suspending or revoking any license, notify in writing the licensee of any charges made in order to afford such licensee an opportunity to be heard, which notification shall be given not less than (10) days prior to the date set for the hearing. The Commissioner shall prescribe the time and place of the hearing. The Commissioner shall...
have no authority to promulgate rules or regulations which are not definite-
ly set forth in this Act. Such writ-
ten notice may be served by mailing
same by registered mail to the last
known business address of each li-
censee. If such licensee be a sales-
man, the Commissioner shall also
notify the business broker employ-ing
him, specifying the charges made
against such business salesman by
sending a notice thereof by regis-
tered mail to the business broker's
last known address. At such hearing,
or at any other provided for in this
Act, such licensee, any and all per-
sons complaining against him, as well
as any other witness whose testi-
money is raised upon to substantiate
the charges made, shall be entitled
to be present. He shall also be en-
titled to present evidence, oral and
written, as he may see fit, and as
may be pertinent to the inquiry. The
said hearing may be held by the
Commissioner, and the said hearing
shall be held, if the applicant or
licensee so desires, within the coun-
ty where the applicant or licensee
has his principal place of business.
In such hearing all witnesses shall
be duly sworn by the person herein
authorized to preside, and stenog-
graphic notes of the proceedings
shall be taken and filed as part of the
record of the case. Any party given
to the proceedings desiring it shall
be furnished with a copy of the sten-
ographic notes upon the payment
to the Commission of a fee not to
exceed one dollars (10¢) per page.

Sec. 14. License Prerequisite to
Suit for Compensation. No person or
company engaged in the business of
acting in the capacity of a business
broker or consultant or a real estate
salesman within this State shall bring
or maintain in any action in the courts
of this State for the collection of
compensation for the performance of
any of the acts set out in Sub-
division (1) of Section 4 hereof,
without alleging and proving that
such person or company was a duly
licensed business broker or consul-
tant or salesman at the time the al-
leged cause of action arose.

Sec. 15. Witnesses and Evidence.
(a) The Commissioner may re-
quire by subpoena or summons is-
sued by the Commissioner, or any
person duly authorized to act for
the Commissioner, addressed to the
sheriff or any constable, the attend-
ance and testimony of witnesses and
the production of any books, ac-
counts, records, papers and corre-
pondence (except such books of ac-
count as are necessary to the con-
tinued conduct of the business, which
books the Commissioner shall have
the right to examine or cause to be
examined at the office of the con-
cern, and to require copies of such
portion thereof as may be deemed
necessary) touching such matter in
question under this Act, which copies
shall be verified by affidavit of an
officer of such concern and shall be
admissible in evidence as pro-
vided in Section 52 hereof, relating
to any matter which the Commis-
ioner has authority by this Act to con-
sider or investigate; and for this
purpose the Commissioner or any
person duly authorized by the Com-
mis-sioner may sign subpoenas, ad-
minister oaths and affirmations, ex-
amine witnesses and receive evidence.
In case of disobedience of any sub-
poena or of the subpena of any
witness appearing before the Com-
mis-sioner, the Commissioner or the
person duly authorized to act for
him may invoke the aid of the Dis-
trict Court within whose jurisdic-
tion any witness may be found and
such court may thereupon issue an
order requiring the person subpoen-
aed to obey the subpoena, to produce
necessary or pertinent books, accounts,
records, papers, and correspondence
touching the matter in question. Any
failure to obey such order of the
Court may be punished as a contempt
thereof.

(b) The Commissioner, or any
person duly authorized by the Com-
mis-sioner, may in any investigation
cause the deposition of witnesses re-
siding within or without the State
to be taken in the manner provided
for depositions in civil actions under
the laws of Texas. Each witness re-
quired to attend any hearing pro-
vided for in this Act shall receive
for each day's attendance the sum
of Seven Dollars ($7) and shall re-
cieve in addition the sum of two
cents (10¢) for each mile traveled
by such witness by the usual route
going to and returning from the
place where his presence is required.
All disbursements made in the pay-
ments of such fees shall be included
in and paid in the same manner as
is provided for the payment of other
expenses incidental to the adminis-
tration and enforcement of this Act, as
hereinbefore provided. The fee for serving the subpoena shall be the same as that paid the sheriff for similar services. The fees, expenses, and costs incurred at or in connection with any hearing may be imposed by the Commissioner upon any party to the record or may be divided between any and all parties to the record in such proportions as the Commissioner may determine.

1. The District Courts may, upon application of either party and upon due notice given, advance the case on the docket. From the decision of the District Court, an appeal may be taken to the Court of Civil Appeals by either party, as in other cases, and no bond shall be required of the Commissioner. A judgment in favor of the defendant shall not bar after one year a new application by the plaintiff for a license, nor shall a judgment in favor of the plaintiff prevent the Commissioner from thereafter revoking or refusing the license of such person for any proper cause which may thereafter accrue or be discovered. The Court shall have full power to dispose of all costs.

Sec. 16. License Fees. The Commissioner shall charge and collect the following fees and shall duly pay all fees received into the State Treasury:

(a) A fee not to exceed Twenty-five Dollars ($25) for the filing of any original or renewal application of a business broker or consultant, which fee shall include the cost of the issuance of a license if any should be issued. When a license is not issued through no fault of applicant, the filing fee shall be refunded.

(b) A fee not to exceed Ten Dollars ($10) for the filing of any original or renewal application of a business salesman, which fee shall include the cost of the issuance of the license if any should be issued; where license is not issued through no fault of applicant, the filing fee shall be refunded.

(c) A fee of Two Dollars ($2) for each duplicate new license upon transfer of salesman's license.

(d) The fees to be paid under paragraphs (a) and (b) of this Section shall be as fixed by the Commissioner, within the limits prescribed, at least three ($3) months prior to December 1st of any year and shall continue to be effective until changed at least three ($3) months prior to December 1st of any succeeding year. The fees so fixed shall apply to licenses issued after January 1st following the date the Commissioner prescribes such fees. Until such fees are so fixed, the rates existing on the effective date of this amendment shall prevail.

Sec. 17. Expiration and Renewal.

All licenses issued under the provisions of this Act shall expire on December 31st of the year for which it is issued, at midnight, and application for the renewal thereof shall be made in such form as the Commissioner shall prescribe. Applications for renewal of said licenses may be made between the 1st day of October and the 31st day of December.

Sec. 18. Custody and Disposition of Funds.

Upon and after the effective date of this Act, all moneys derived from fees, assessments, or charges under this Act shall be paid by the Commissioner into the State Treasury for safekeeping, and shall by the State Treasurer be placed in a separate fund to be available for the use of the Commission in the administration of the Act upon regulation of the Commissioner. All such moneys so paid into the State Treasury are hereby specifically appropriated to the Commission for the purpose of paying the salaries and expenses of all persons employed or appointed as provided herein for the administration of this Act, and all other expenses necessary and proper for the administration of this Act, including equipment and maintenance of any supplies for such office or quarters as the Commission may occupy, and necessary traveling expenses for the Commission or persons authorized to act for it when performing duties hereunder at the request of the Commissioner. At the end of the fiscal year, any unused portion of said funds in said special account, except such funds as may be appropriated to administer this
Act pending receipt of additional revenues available for that purpose, shall be set over and paid into the General Revenue Fund. The Comptroller shall, upon requisition of the Commission, from time to time draw warrants upon the State Treasurer for the amount specified in such requisition, not exceeding, however, the amount in such fund at the time of making any requisition; provided, however, that all moneys expended in the administration of this Act shall be specified and determined by the General Departmental Appropriation Bill for the Texas State Securities Board, and not otherwise.

Sec. 19. Admissibility of Certified Documents in Evidence.

Copies of all papers, instruments, or documents filed in the office of the Commissioner certified by the Administrator or the Chairman of the Commission under the seal of the State of Texas, shall be admitted to be read in evidence in all courts of law and elsewhere in this State in cases where the original would be admitted in evidence; provided that the court may, for cause shown, require the production of the originals. In any prosecution, action, suit or proceeding before any of the several courts of this State, based upon or arising out of or under the provisions of this Act, a certificate under the seal of the State duly signed by the Commissioner showing compliance or non-compliance with the provisions of this Act by any real estate broker or salesman shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act.

Sec. 20. Unlawful Commission.

It shall be unlawful for any business broker or business salesman to offer, promise, allow, give, pay, or rebate, directly or indirectly, any part or share of his commission or compensation arising or accruing from any business transaction, to any person who is not licensed in this or any other state as a broker or salesman, in consideration of service as a business broker or salesman performed or to be performed by such unlicensed person, and no business salesman shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed, and it shall be unlawful for any licensed business salesman to pay a commission to any person except through the broker under whom he is at the time licensed.

Sec. 21. Offense Defined and Injunction Authorized.

(a) Any person who knowingly authorizes, directs or aids in the publication, advertisement, distribution, or circulation of any false statement or representation concerning any business offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus, or letter concerning any business containing any written statement that is false or fraudulent, issues, circulates, publishes, or distributes the same, or who shall cause the same to be issued, circulated, published, or distributed, or who while acting as a business broker, consultant or salesman, commingles any funds deposited with him in escrow or in trust or who deposits such funds in any bank in any account which contains funds other than those so deposited with him in escrow or in trust, and any person who, in any respect, wilfully violates or fails to comply with any provisions of this Act, or who in any respect wilfully violates or fails to obey, observe or comply with any order, permit, decision, demand, or requirement of the Commissioner authorized by this Act shall be guilty of a misdemeanor and upon conviction therefor be sentenced to pay a fine of not more than Five Hundred Dollars ($500), or to imprisonment in the county jail for not more than one (1) year, or to both such fine and imprisonment.

(b) Whenever in the judgment of the Commissioner any person has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of any provision of this Act, the county attorney or district attorney, in the county wherein such violation has occurred or is about to occur, or in the county of the defendant's residence, or the attorney general, may maintain an action in the name of the State of Texas in the district court of such county to abate and temporarily and permanently enjoin such acts and practices and to enforce compliance with this Act.
plaintiff shall not be required to give any bond nor shall any court costs be adjudged against the plaintiff.

Sec. 22. Contract for Commissions. No action shall be brought in any court in this State for the recovery of any commission for the sale or purchase of any business unless the promise or agreement upon which action shall be brought, or some memorandum thereof, shall be in writing and signed by the party to be charged therewith or by some person by him thereunder lawfully authorised.

Sec. 23. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid for any reason.

Sec. 24. The importance of this legislation and the inadequacy of the present law in protecting the public from fraud, misrepresentation, and imposition by certain persons create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted.

H. B. No. 998 was passed to engrossment.

HOUSE BILL NO. 951 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment.

H. B. No. 951, A bill to be entitled "An Act amending Article 1106a of Vernon's Texas Penal Code, defining the word 'person' and providing that every director, officer, agent, employee, or member of any firm, co-partnership, association, or corporation participating in, aiding, or authorizing any violation of this Act shall be subject to the punishment provided herein; making it unlawful for any person, with exceptions, to offer and sell or re-use the container, can, tank, pump, or other distributing device of any manufacturer, processor, or distributor, for the purpose of offering for sale or selling lubricating oils, greases, and similar products therefrom when said container, can, tank, pump, or distributing device bears the trade-mark, symbol, sign, or other distinguishing mark of said manufacturer, processor, or distributor, or of his products; etc., and declaring an emergency."

The bill was read second time.

Mr. Pierotti offered the following committee amendment to the bill:

Committee Amendment No. 1 to H. B. No. 951

Amend H. B. 951 by striking all below the enacting clause and substituting in lieu thereof the following:

Article 1106a of Vernon's Texas Penal Code is hereby amended to read as follows:

"Section 1. The term 'person' as used in this Act shall include every natural person, firm, copartnership, association, or corporation and if any firm, copartnership, association, or corporation violates any of the provisions of this Act, every director, officer, agent, employee, or member participating in, aiding, or authorizing the act or acts constituting a violation of this Act shall be guilty of violating this Act, and shall be subject to the punishment herein provided.

"Section 2. When any container, can, tank, pump, or other distributing device containing lubricating oils, greases, and similar products, bearing the name, trade-mark, symbol, sign, or other distinguishing mark of the lubricating oils, greases, or similar products originally placed in said container, can, tank, pump, or other distributing device by the original manufacturer, processor, or distributor, whose name, trade-mark, symbol, sign, or other distinguishing mark appears on such container,
can, tank, pump, or other distributing device shall be opened and any part of the contents thereof removed, it shall be unlawful for any person, except such original manufacturer, processor or distributor to refill in whole or in part or to re-use any such container, can, tank, pump or other distributing device for the purpose of selling or offering for sale any lubricating oils, greases, or other similar products.

"Section 5. When any person has in his possession any container, can, tank, pump, or other distributing device, which has been opened and refilled, as described in the above Section, such possession shall be prima facie evidence of possession thereof by such person for the purpose of sale.

"Section 4. It shall be unlawful for any person, firm, or corporation, to disguise or camouflage his or their own equipment by imitating the design, symbol, trade name, or the equipment, under which recognized brands of gasolines, motor fuels, lubricating oils, greases, or other similar products, are generally marketed.

"Section 5. No person shall expose or offer for sale or soil under any trade-mark, trade name, or name, or other distinguishing mark any gasolines, motor fuels, lubricating oils, greases, or other similar products, or those manufactured or distributed by the manufacturer or distributor marketing such products under such trade name, trade-mark or name, or other distinguishing mark.

"Section 6. No person shall aid or assist any other person in violating any of the provisions of this Act.

"Section 7. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by fine of not less than Twenty-five Dollars ($25.00) nor more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

"Section 8. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact, that any one or more of the sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

"Section 9. The fact that inferior and falsely branded gasolines, motor fuels, lubricating oils, greases or similar products are being sold to the public in Texas under recognized and established trade names and the purchasers of said products are being defrauded by such deceptive practices and the fact that existing statutes do not adequately provide for the control and punishment of such offenses, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and this rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

The amendment was adopted.

H. B. No. 951 was passed to engrossment.

HOUSE BILL NO. 1012 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment.

H. B. No. 1012. A bill to be entitled "An Act concerning the management control and disposition by a married woman of her separate property, both real and personal; amending Article 4614, Revised Civil Statutes of Texas, 1925, as amended to provide that a married woman residing out-of-state may elect to manage her separate property in Texas; and declaring an emergency."

Mr. Ballman moved to consider Senate Bill No. 325 in lieu of H. B. No. 1012.

The motion prevailed without objection.

SENATE BILL NO. 325 ON SECOND READING

The Speaker laid before the House, in lieu of H. B. No. 1012, on its
second reading and passage to third reading.

H. B. No. 1036, Relating to the filing by a married woman of a statement of election as to the management of her separate property in counties in which she owns real estate; and declaring an emergency.

The bill was read second time and was passed to third reading.

H. B. No. 1012 LAID ON THE TABLE SUBJECT TO CALL

Mr. Ballman moved that House Bill No. 1012 be laid on the table subject to call.

There was no objection offered and it was so ordered.

COMMITTEE MEETING

Mr. Ballman asked unanimous consent of the House that the Committee on Revenue and Taxation be permitted to meet at this time.

There was no objection offered.

HOUSE BILL NO. 1036 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 1036, A bill to be entitled "An Act providing that it shall be unlawful to sell or offer for sale, any rat poison, insect poison, or any other preparation which contains thallium sulphate or any other thallium compound; declaring violation of this Act to be a misdemeanor punishable by a fine and prescribing a penalty for the violation thereof; and declaring an emergency."

The bill was read second time.

Mr. Stewart of Galveston offered the following amendment to the bill:

Amend House Bill No. 1036 by striking all below the enacting clause and substituting in lieu thereof the following:

"Section 1. Chapter 457, Acts of the 56th Legislature, Regular Session, 1985 (codified as Article 734-2 of Vernon's Texas Civil Statutes) is amended to read as follows:

"Section 1. It shall be unlawful to sell, or offer for sale, use or possess any rat poison, insect poison, or any other preparation which contains thallium sulphate, or any other thallium compound except that:

(a) Federal, State, county, or municipal officers or employees, in their official capacities, or persons under the immediate supervision of such officers or employees, may possess thallium for use for pest control purposes.

(b) Licensed physicians, surgeons, pharmacists, or veterinaries may possess thallium for use in their respective professions.

(c) Metallurgists and manufacturers of alloys of which thallium is a component part may possess thallium for laboratory use or manufacture of alloys.

(d) Persons operating research or chemical laboratories may possess thallium for use for the purposes of such laboratories.

Section 2. Any person who violates any provision of this Act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Fifty Dollars ($50), nor more than Two Hundred Dollars ($200).

Section 3. The fact that many children in the State of Texas have died during the past two years from accidental poisoning resulting from eating or handling preparations containing thallium sulphate, or other thallium compounds, and the fact that there are many other substances which are either nonpoisonous, or not dangerous to man, which can be used in rat poisons, insect poisons, and other similar preparations; and the fact that many of the preparations containing thallium sulphate and other thallium compounds, which are now available in grocery stores, drug stores, and other retail establishments, constitute a dangerous menace to the lives of Texas children, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."
The amendment was adopted.

H. B. No. 1067 was passed to engrossment.

HOUSE BILL NO. 1067 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 1067, A bill to be entitled "An Act relating to the appointment by the court of interpreter for any person who is deaf or a deaf mute in criminal prosecutions and causes in which such person may be committed to a mental institution; and declaring an emergency."

The bill was read second time and was passed to engrossment.

HOUSE BILL NO. 1070 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 1070, A bill to be entitled "An Act relating to the adoption of home rule charters; validating the charters so adopted and providing that such charter so adopted shall constitute the home rule charter of the city; validating elections held for the election of members of the governing bodies of the city and their assumption of office; validating acts of city officers and officials; providing that this Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof; providing a severability clause; and declaring an emergency."

The bill was read second time.

Mr. Osborn moved that House Bill No. 1070 be laid on the table subject to call.

There was no objection offered and it was so ordered.

COMMITTEE MEETINGS

Mr. Cannon asked unanimous consent of the House that the Commit-tee on State Hospitals and Special Schools be permitted to meet at this time.

There was no objection offered.

Mr. Preston asked unanimous consent of the House that the Committee on Municipal and Private Corporations be permitted to meet at this time.

There was no objection offered.

LEAVE OF ABSENCE GRANTED

The following Member was granted leave of absence for the remainder of the day on account of important business:

Mr. Schram for the remainder of today on motion of Mr. McCoppin.

HOUSE BILL NO. 1077 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 1077, A bill to be entitled "An Act revising and rearranging certain statutes of this State relating to public education into a consistent whole and under a single code to be known as the Texas Public Education Code; providing a severability clause; providing a savings clause; repealing certain enumerated laws and all other laws in conflict; providing for an effective date; and declaring an emergency."

The bill was read second time.

Mr. Hale offered the following amendment to the bill:

Amend House Bill 1077 as follows:

1. Amend line 2 of paragraph (g) on page 9 by adding the word "service" between the words "membership" and "and."

2. Amend line 8 of paragraph (a) on page 10 by striking the period after the word "System" and adding the words "shall receive credit for prior service."

3. Strike out the second line of sub-section (3) on page 14 which reads "completed creditable service after November 22, 1956, as follows:" and insert in lieu thereof the words "completed a year of creditable service after November 22, 1956, as follows:"
4. Amend H.B. 1077 by deleting Subdivision (b) of Part Two, Chapter 3, Article 3.16, Section N, and substituting in lieu thereof the following:

“(b) No person shall be classified as a ‘Workman’ or be eligible for any compensation benefits under this article until he has submitted to a physical examination by a regularly licensed physician or surgeon designated by the employing institution (if such examination is requested by the institution) in accordance with Section N, Subsection (2) of this article and/or been certified by the employing institution to be placed on its payroll.”

Amend H.B. 1077 by deleting Subdivision (2) of Part Two, Chapter 3, Article 3.16, Section N, and substituting in lieu thereof the following:

“(2) Each institution shall designate a convenient number of regularly licensed, practicing physicians or surgeons to examine, in compli­ance with the terms of this subsection, employees or prospective employees subject to being certified as workmen as that term is defined in Subsection (3) of Section B of this article.”

WATSON, ADAMS of Lubbock.

The amendment was adopted.

Mr. Watson offered the following amendment to the bill:

Amend House Bill No. 1077 by striking out Section 4 and substituting therefor the following:

“Section 4. Repealer.

The following statutes and laws of this State are supplanted by the provisions of this Code and are hereby repealed:

Title 49 of the Revised Civil Statutes of Texas of 1925, as amended, and all articles contained in said title, as said articles are amended, and all Acts and amendments thereof enacted since 1925 which have been compiled in Title 49, Vernon’s Texas Civil Statutes; Articles 136, 137, 138, 139, 140, 141, 142, 144, 145, 146, 147, 148 and 149 of the Revised Civil Statutes of 1925; Acts 1926, 41st Legislature, p. 81, Ch. 37 (carried as Article 149a, Vernon’s Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 509, Ch. 244 (carried as Article 149b, Vernon’s Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 641, Ch. 284 (carried as Article 149c, Vernon’s Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 652, Ch. 284 (carried as Article 149d, Vernon’s Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 672, Ch. 190 (carried as Article 149e, Vernon’s Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 683, Ch. 178 (carried as Article 149f, Vernon’s Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 689, Ch. 227 (carried as Article 149g, Vernon’s Annotated Civil Statutes); Acts 1930, 42nd Legislature, Ch. 99, Sec. 1 (carried as Article 149b, Vernon’s Annotated Civil Statutes); Acts 1935, 44th Legislature, p. 623, Ch. 190 (carried as Article 149a, Vernon’s Annotated Civil Statutes); Acts 1935, 44th Legislature, p. 649, Ch. 178 (carried as Article 149f, Vernon’s Annotated Civil Statutes); Acts 1937, 45th Legislature, p. 569, Ch. 227 (carried as Article 149g, Vernon’s Annotated Civil Statutes); Acts 1941, 47th Legislature, p. 126, Ch. 99, Sec. 1 (carried as Article 149b, Vernon’s Annotated Civil Statutes); Acts 1941, 47th Legislature, p. 129, Ch. 640 (carried as Article 149f, Vernon’s Annotated Civil Statutes); Acts 1941, 47th Legislature, p. 598, Ch. 452 (carried as Article...
May 11, 1961

HOUSE JOURNAL

149j, Vernon's Annotated Civil Statutes); Acts 1953, 52nd Legislature, p. 322 (as carried as Article 149k, Vernon's Annotated Civil Statutes); Acts 1957, 55th Legislature, p. 1243, Ch. 412 (as carried as Article 689a-17a, Vernon's Annotated Civil Statutes); Acts 1957, 55th Legislature, p. 1243, Ch. 412 (as carried as Article 689a-13a, Vernon's Annotated Civil Statutes); Article 1286, Revised Civil Statutes of 1925; Article 1289, Revised Civil Statutes of 1925; Acts 1951, 52nd Legislature, p. 841, Ch. 474 (as carried as Article 5440c, Vernon's Annotated Civil Statutes); Acts 1945, 49th Legislature, p. 384 Ch. 246, (as carried as Article 3152h, Vernon's Annotated Civil Statutes); Acts 1949, 51st Legislature, p. 914, Ch. 493 (as carried as Article 3203-c, Vernon's Annotated Civil Statutes); Articles 3202, 3204 and 3205, Revised Civil Statutes of 1925, Acts 1949, 51st Legislature, p. 326, Ch. 158, Sec. 2 (as carried as Article 2393a, Vernon's Annotated Civil Statutes); Article 3297, Revised Civil Statutes of 1925; Acts 1933, 43rd Legislature, First C. S., p. 77, Ch. 23, Sec. 1 (as carried as Article 3264b, Vernon's Annotated Civil Statutes); Acts 1943, 46th Legislature, p. 295, Ch. 127 (as carried as Article 3264d, Vernon's Annotated Civil Statutes); Article 3288, Revised Civil Statutes of 1925 as amended by Acts 1935, 44th Legislature, 2nd C. S., p. 1752, Ch. 447, Sec. 5; Acts 1947, 54th Legislature, p. 619, Ch. 395, Sec. 2; Acts 1951, 52nd Legislature, p. 229, Ch. 200, Sec. 1; and Acts 1952, 53rd Legislature, p. 783, Ch. 332, Sec. 1; Acts 1953, 52nd Legislature, p. 793, Ch. 332, Sec. 4 (as carried as Article 3288b, Vernon's Annotated Civil Statutes); Acts 1959, 56th Legislature, p. 630, Ch. 214, Sec. 1 (as carried as Article 4447b, Vernon's Annotated Civil Statutes); Article 5416, Revised Civil Statutes of Texas, as amended by Acts 1925, 44th Legislature, p. 720, Ch. 312, Sec. 2; Acts 1926, 44th Legislature, p. 378, Ch. 140, Sec. 2 (as carried as Article 5416a, Vernon's Annotated Civil Statutes); Article 5417, Revised Civil Statutes of 1925; Revised Civil Statutes of 1925; Acts 1947, 55th Legislature, p. 417, Ch. 239, as amended Acts 1949, 51st Legislature, p. 840, Ch. 457; Acts 1953, 53rd Legislature, p. 498, Ch. 178; Acts 1957, 55th Legislature, p. 460, Ch. 222, Acts 1959, 56th Legislature, p. 644, Ch. 297 (as carried as Article 8309b, Vernon's Annotated Civil Statutes); Acts 1951, 52nd Legislature, p. 522, Ch. 310, as amended Acts 1959, 56th Legislature, p. 103, Ch. 322 (as carried as Article 8309d, Vernon's Annotated Civil Statutes); Acts 1957, 55th Legislature, p. 526, Ch. 322 (as carried as Article 8309f, Vernon's Annotated Civil Statutes)."

The amendment was adopted.

Mr. Grover offered the following amendment to the bill:

Amend House Bill 1077, P. 184, Art. 50.35, A. 1, (a) by inserting after the word "State" in line 4, the following: "provided however, that an applicant, desirous of teaching in the junior or senior high schools, shall not be required to complete more than twelve (12) hours of education courses, which shall include an accredited course in practice or directed teaching, and shall have completed at least twenty-four (24) hours in a major subject and who is otherwise eligible to teach in the public free schools of this state.

"The Provisional Certificate shall be issued to each applicant who has acquired, or shall acquire, a bache­lor's degree conferred by a college or university, approved for teacher education by the State Board of Education of this state, provided, however, that an applicant desirous of teaching in the elementary schools, shall not be required to complete more than twenty-four (24) hours of education courses, including an accredited course in practice or di­rected teaching."

Mr. Hale moved to table the amendment by Mr. Grover.

A record vote was requested on the following vote:

The motion to table the amendment by Mr. Grover was lost by the following vote:

Yeas—41
Adams of Titus
Andrews
Barlow
Bartram
Barnes
Bass
Bridges
Ballman
Bartram
Bass
Bridges

Noes—12

2 Jour.—12

HOUSE JOURNAL

1937
<table>
<thead>
<tr>
<th>Absent-Excused</th>
<th>Absent—Excused</th>
<th>PAIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Fletcher (present), who would vote &quot;yes,&quot; with Mr. Roberts of Dawson (absent) who would vote &quot;no.&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A record vote was requested on the amendment by Mr. Grover.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The amendment by Mr. Grover was adopted by the following vote:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year—73</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adams of Lubbock</td>
<td>Jarvis</td>
<td></td>
</tr>
<tr>
<td>Allen</td>
<td>Johnson of Dallas</td>
<td></td>
</tr>
<tr>
<td>Atwell</td>
<td>Johnson of Bexar</td>
<td></td>
</tr>
<tr>
<td>Banfield, Mrs.</td>
<td>Johnson of Bell</td>
<td></td>
</tr>
<tr>
<td>Bell</td>
<td>Jameson</td>
<td></td>
</tr>
<tr>
<td>Berry</td>
<td>Kornoh</td>
<td></td>
</tr>
<tr>
<td>Boyse</td>
<td>Leaverton</td>
<td></td>
</tr>
<tr>
<td>Buchanan</td>
<td>Longoria</td>
<td></td>
</tr>
<tr>
<td>Butler</td>
<td>McGregor</td>
<td></td>
</tr>
<tr>
<td>Cole of Harris</td>
<td>of McLennan</td>
<td></td>
</tr>
<tr>
<td>Cook</td>
<td>Miller</td>
<td></td>
</tr>
<tr>
<td>Cotten</td>
<td>Moore</td>
<td></td>
</tr>
<tr>
<td>Cram</td>
<td>Mullen</td>
<td></td>
</tr>
<tr>
<td>Curlington</td>
<td>Murray</td>
<td></td>
</tr>
<tr>
<td>de la Garza</td>
<td>Nugent</td>
<td></td>
</tr>
<tr>
<td>Dewey</td>
<td>Oliver</td>
<td></td>
</tr>
<tr>
<td>Duff, Miss</td>
<td>Osborn</td>
<td></td>
</tr>
<tr>
<td>Dugan</td>
<td>Feeler</td>
<td></td>
</tr>
<tr>
<td>Fairchild</td>
<td>Pipkin</td>
<td></td>
</tr>
<tr>
<td>Floyd</td>
<td>Rapp</td>
<td></td>
</tr>
<tr>
<td>Garrison</td>
<td>Ratliff</td>
<td></td>
</tr>
<tr>
<td>Gibbens</td>
<td>Read</td>
<td></td>
</tr>
<tr>
<td>Grover</td>
<td>Richardson</td>
<td></td>
</tr>
<tr>
<td>Guffey</td>
<td>Ross</td>
<td></td>
</tr>
<tr>
<td>Harding</td>
<td>Toson</td>
<td></td>
</tr>
<tr>
<td>Haring</td>
<td>Sandahl</td>
<td></td>
</tr>
<tr>
<td>Healy</td>
<td>Shiley</td>
<td></td>
</tr>
<tr>
<td>Huebner</td>
<td>Slack</td>
<td></td>
</tr>
<tr>
<td>Hughes of Dallas</td>
<td>Smith of Bexar</td>
<td></td>
</tr>
<tr>
<td>Isacks, Miss</td>
<td>Spear</td>
<td></td>
</tr>
<tr>
<td>Jarvis</td>
<td>Spilman</td>
<td></td>
</tr>
<tr>
<td>Johnson of Dallas</td>
<td>Stewart</td>
<td></td>
</tr>
<tr>
<td>Johnson of Bexar</td>
<td>Smith of Galveston</td>
<td></td>
</tr>
</tbody>
</table>

| Nay—74 |
|-----------------|-------|---|
| Adams of Lubbock | Johnson of Bell | |
| Allen | Johnson of Dallas | |
| Atwell | Johnson of Bexar | |
| Banfield, Mrs. | Johnson of Bell | |
| Bell | Jameson | |
| Berry | Kornoh | |
| Boyse | Leaverton | |
| Buchanan | Longoria | |
| Butler | McGregor | |
| Cole of Harris | of McLennan | |
| Cook | Miller | |
| Cotten | Moore | |
| Cram | Mullen | |
| Curlington | Murray | |
| de la Garza | Nugent | |
| Dewey | Oliver | |
| Duff, Miss | Osborn | |
| Dugan | Feeler | |
| Fairchild | Pipkin | |
| Floyd | Rapp | |
| Garrison | Ratliff | |
| Gibbens | Read | |
| Grover | Richardson | |
| Guffey | Ross | |
| Harding | Toson | |
| Haring | Sandahl | |
| Healy | Shiley | |
| Huebner | Slack | |
| Hughes of Dallas | Smith of Bexar | |
| Isacks, Miss | Spear | |
| Jarvis | Spilman | |
| Johnson of Dallas | Stewart | |
| Johnson of Bexar | Smith of Galveston | |

| Yeas—71 |
|-----------------|-------|---|
| Adams of Lubbock | Jarvis | |
| Allen | Johnson of Dallas | |
| Atwell | Johnson of Bexar | |
| Banfield, Mrs. | Johnson of Bell | |
| Bell | Jameson | |
| Berry | Kornoh | |
| Boyse | Leaverton | |
| Buchanan | Longoria | |
| Butler | McGregor | |
| Cole of Harris | of McLennan | |
| Cook | Miller | |
| Cotten | Moore | |
| Cram | Mullen | |
| Curlington | Murray | |
| de la Garza | Nugent | |
| Dewey | Oliver | |
| Duff, Miss | Osborn | |
| Dugan | Feeler | |
| Fairchild | Pipkin | |
| Floyd | Rapp | |
| Garrison | Ratliff | |
| Gibbens | Read | |
| Grover | Richardson | |
| Guffey | Ross | |
| Harding | Toson | |
| Haring | Sandahl | |
| Healy | Shiley | |
| Huebner | Slack | |
| Hughes of Dallas | Smith of Bexar | |
| Isacks, Miss | Spear | |
| Jarvis | Spilman | |
| Johnson of Dallas | Stewart | |
| Johnson of Bexar | Smith of Galveston | |
Amend House Bill 1077, P. 184, Art. 20.05, A. 1, by adding a new paragraph which shall be designated paragraph (e).

“(e) For the purposes of this Section the term ‘education course’ shall mean any course offered by the Department of Education or Teacher Training in the respective college or university attended by the applicant.

“(f) For the purposes of this Section the term ‘major subject’ shall mean English, Foreign Languages, History and Government, Business, Industrial Arts, Journalism, Agriculture, Mathematics, Physics, Chemistry, Biology and Zoology and Botany, Economics and Sociology, Physical Education, Home Economics, Music, Art, all of which shall be among those courses offered by those departments other than the Department of Education or Teacher Training, in the respective college or university attended by the applicant.”

The amendment by Mr. Grover was adopted.

Mr. Cotten offered the following amendment to the bill:


The amendment was adopted.

Mr. Slack offered the following amendment to the bill:

Amend H. B. No. 1077 by deleting the period at the end of the last line on page 27 and adding the following:

“provided however that the Commission shall make no rule or regulation requiring as a prerequisite for accreditation the employment of any counselors or supervisors.”

Mr. Hale moved to table the amendment by Mr. Slack.

The motion to table the amendment by Mr. Slack was lost.

A record vote was requested on the amendment by Mr. Slack.

The amendment by Mr. Slack was adopted by the following vote:
The Speaker laid before the House, on its second reading and passage to engrossment, H. B. No. 1102, a bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as 'Hull Fresh Water Supply District'; prescribing its rights, powers, privileges and duties; providing for its governing body; containing other provisions relating to the subject; providing for a severability clause; and declaring an emergency.'"

The bill was read second time.

Mr. Walker offered the following amendment to the bill:

Amend H. B. No. 1102, Section 3, page 5, by inserting the following names in the blanks provided therefor:

1. George Richards
2. E. A. Hendrick
3. Douglas Emanuels
4. Floyd Finklea
5. Jimmy Best, Sr.
The amendment was adopted.

H. B. No. 1102 was passed to engrossment.

MESSAGE FROM THE SENATE

Austin, Texas, May 11, 1961
Hon. James A. Tarmann, Speaker of the House of Representatives.

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

H. B. No. 981, Relating to commercial fishing in Angelina County; and declaring an emergency.

H. B. No. 980, Relating to transporting Minnows in Trinity County; and declaring an emergency.

H. B. No. 979, Limiting the hunting of wildlife in Trinity County; and declaring an emergency.

H. B. No. 261, Concerning the adoption and filing of rules and regulations of State administrative agencies; and declaring an emergency.

Respectfully,

CHARLES A. SCHNABEL,
Secretary of the Senate.

MESSAGE FROM THE SENATE

Austin, Texas, May 11, 1961
Hon. James A. Tarmann, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to Senate Bill No. 294 by the following vote:

Yeas 25, Nays 1.

Senate concurred in House amendments to S. B. 399 by the following vote: 27 yeas, 0 nays.

Senate concurred in House amendments to S. B. 378 by the following vote: 27 yeas, 0 nays.

Senate concurred in House amendments to S. B. 339 by viva voce vote.

Senate concurred in House amendments to S. B. 315 by viva voce vote.

Respectfully submitted,

CHARLES A. SCHNABEL,
Secretary of the Senate.

HOUSE BILL NO. 892 ON SECOND READING

Mr. James moved that all the necessary rules be suspended for the purpose of taking up and considering at this time House Bill No. 892.

The motion prevailed by the following vote:

Yeas—91
Adams of Titus
Allen
Andrews
Atwell
Ballman
Banfield, Mrs.
Barlow
Barnes
Barron
Bass

Affirmative votes 91. The vote was by show of hands.

H. B. No. 461, Providing for Short-hand Reporter salary of the 115th Judicial District; and declaring an emergency.

H. B. No. 261, Concerning the adoption and filing of rules and regulations of State administrative agencies; and declaring an emergency.

Respectfully,

CHARLES A. SCHNABEL,
Secretary of the Senate.

Yeas—91

Adams of Titus
Allen
Andrews
Atwell
Ballman
Banfield, Mrs.
Barlow
Barnes
Barron
Bass
The Speaker laid before the House, on its second reading and passage to engrossment, H. B. No. 992, A bill to be entitled "An Act to eradicate so-called private clubs operated as a subterfuge for the sale of liquor by the drink, and to assure strict compliance for operation of bona fide private clubs; providing certain fees and taxes for operation of private clubs to the credit of the General Revenue Fund; providing penalties; and declaring an emergency."

The bill was read second time.

Mr. Murray offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend House Bill 992 by striking all below the enacting clause and substituting in lieu thereof the following:

Sec. 1. Article 1 of the Texas Liquor Control Act as amended is hereby further amended by adding thereto a new section 15 (e) to read as follows:

15 (e) (1) For purposes of this Act, the following definition of words and terms shall apply:

(a) "Private Club" shall mean an association of persons, whether incorporated or incorporated under the laws of the State of Texas, for the promotion of some common object and whose members must be passed upon and elected as individuals, by a committee or board made of members of the club. Such club shall own, lease or rent a building, or space in a building of such extent and character as in the judgment of the Liquor Control Board, is suitable and adequate for its members and their guests and shall provide regular food service adequate
for its members and their guests. Its aggregate annual membership fees or dues or other income, exclusive of any proceeds from disposition of alcoholic beverages, (themselves not for service thereof), shall be sufficient to defray the annual rental of its leased or rented premises, or, if such premises are owned by the club, shall be sufficient to meet the taxes, insurance and repairs and the interest on any mortgage thereof. Its affairs and management shall be conducted by a board of directors, executive committees or similar body chosen by the members at their annual meeting. No member or any officer, agent or employee of the club shall be paid or directly or indirectly, shall receive in the form of a salary or other compensation any money from the disposition of any alcoholic beverages, (themselves not for service thereof), to the members of the club and guests introduced by members.

(b) “Locker System” shall mean that system of alcoholic beverages storage whereby the club refunds to its members lockers wherein the member may store alcoholic beverages for consumption by himself or his guests. All such alcoholic beverages so stored under the “locker system” shall be purchased and owned by the member as an individual.

(c) “Pool System” shall mean that system of liquor storage where all members of the pool participate equally in the purchase of all alcoholic beverages and the replacement of all alcoholic beverages is paid for by moneys assessed and collected in advance from each member equally. Such pool system shall be legal on an area which has been voted “yes” for all alcoholic beverages by the majority of voters at an election held under local option.

(d) All other words and terms used in this Act shall have the same meaning as that contained in the Texas Liquor Control Act.

(2.) No permittee, licensee, nor any other person shall deliver, transport or carry any alcoholic beverages to, into, or upon the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, unless such club shall hold a Private Club Registration Permit issued by the Board.

(3.) No person may store, possess, mix or serve the drink or in broken or unsealed containers, any alcoholic beverages on the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, are declared to be an illicit beverage and subject to seizure without a warrant unless a Private Club Registration Permit has been issued by the Board for such premises, location, room or place.

(4.) All alcoholic beverages stored or possessed on the premises of any establishment, location, room or place purporting to be a club or holding itself out to the public or any person as a club or private club, are declared to be an illicit beverage and subject to seizure without a warrant unless a Private Club Registration Permit has been issued by the Board for such premises, location, room or place.

(5.) A Private Club Registration Permit shall be displayed in a conspicuous place at all times on the licensed premises and shall permit alcoholic beverages owned by members of the club to be stored, possessed, mixed, or consumed and served by the drink or in broken or unsealed containers on the club premises, but only by or to members owning such alcoholic beverages or such members’ families or their guests; provided, only a club which conforms to the definition of a “Private Club” as set forth in Section 1 (a) of this Act may obtain a Private Club Registration Permit; and provided further, that acceptance of a Private Club Registration Permit shall constitute an express agreement and consent on the part of the private club that any authorized representative of the Board or any peace officer shall have at all times the right to and privilege of freely entering upon the club premises for the purpose of conducting any investigation or inspecting said premises for the purpose of performing any duty imposed by the Texas Liquor Control Act on the Act.

(6.) Any club which conforms to the definition of a “Private Club” as set forth in Section 1 (a) of this Act shall make application for a Private Club Registration Permit on
forms furnished by the Board furnishing to the Board all Information necessary to insure compliance with this Act and the Texas Liquor Control Act. Each applicant shall furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by the permit is located prior to the filing of the original thereof with the Texas Liquor Control Board at Austin, Texas. Each private club in the State of Texas shall pay a yearly fee to the State for each separate place of business. The license fee shall be based on the average number of members in good standing during the year preceding the year for which the license fee is to be paid and shall be at the following rates:

<table>
<thead>
<tr>
<th>Average Number of Members</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 200</td>
<td>$50.00</td>
</tr>
<tr>
<td>201 to 500</td>
<td>$60.00</td>
</tr>
<tr>
<td>501 to 1000</td>
<td>$70.00</td>
</tr>
<tr>
<td>1001 to 2000</td>
<td>$80.00</td>
</tr>
<tr>
<td>2001 to 3000</td>
<td>$90.00</td>
</tr>
<tr>
<td>Over 3000</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

All Private Club Registration Permits shall expire on August 31 of each year and application for renewal of Private Club Registration Permits for the following year shall be filed with the Board within thirty (30) days prior thereto. All fees hereunder shall be prorated and collected as provided in Section 15 (b) of the Texas Liquor Control Act. All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Board upon request by the Board or any of its authorized representatives.

(7.) The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any Private Club Registration Permit or any renewal of such Private Club Registration Permit, upon finding that the permittee club has:

(a) Sold, offered for sale, purchased or held title to any liquor whichsoever so as to constitute an open saloon as defined in Section 3 of the Texas Liquor Control Act.

(b) Refuse to allow any authorized agent or representative of the Texas Liquor Control Board or any peace officer to come upon the club premises for the purpose of inspecting alcoholic beverages stored on said premises or investigating compliance with this Act or any provision of the Texas Liquor Control Act.

(c) Refused to furnish the Board or its agent or representatives when requested any information pertaining to the storage, possession, serving or consumption of alcoholic beverages upon club premises.

(d) Permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises.

(e) Failed to maintain an adequate building at the address for which said Private Club Registration Permit was issued.

(f) Caused, permitted or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system.

(g) Caused, permitted or allowed any person to consume or be served any alcoholic beverages on the club premises at any time on Sunday between the hours of 1:00 A.M. and 1:00 P.M., or any other day at any time between the hours of 12:00 A.M. and 7:00 A.M.

(h) Violated any provision of the Texas Liquor Control Act or this Act.

(8.) (a) The license fee as levied in this Act shall be paid in advance by the private clubs to the Texas Liquor Control Board on or before the last day of August each year.

(b) Any fees collected according to Subsection (a) of this Act shall be deposited to the General Revenue Fund.

(9.) Any person who violates or assists, aids or abets any violation of this Act or any provision thereof shall be subject to the penalties provided in Article 66-61, Texas Penal Code.

(10.) Any permittee who violates or assists, aids or abets any violation of this Act or any provision
thereof shall subject such permit to suspension or cancellation in accordance with the provisions of the Texas Liquor Control Act.

(11.) Any alcoholic beverages stored, possessed, delivered, transported or carried in violation of this Act are hereby declared to be illicit beverage and may be seized without warrant.

Sec. 3. If any section, subsection, paragraph, subparagraph, sentence, clause or part of the above provision shall, for any reason, be held invalid, such decision shall not affect the remaining portions of the above provisions.

Sec. 4. The importance of this legislation and the crowded condition of the Calendar in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it so enacted.

Mr. Collins offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to H. B. 832 by striking out all of Sec. (6) and inserting the following Section:

(6) Any club which conforms to the definition of a “Private Club” as set forth in Section 1 (a) of this Act shall make application for a Private Club Registration Permit for issuance by the Board furnishing to the Board all information necessary to insure compliance with this Act and the Texas Liquor Control Act. Each applicant shall furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by the permit is located prior to the filing of the original thereof with the Texas Liquor Control Board at Austin, Texas. Each private club in the State of Texas shall pay a yearly fee to the State for each separate place of business. The license fee shall be based on the estimated average number of members in good standing during the year for which the license fee is to be paid and shall be at the following rates:

<table>
<thead>
<tr>
<th>Age Number of Members</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 250</td>
<td>$600.00</td>
</tr>
<tr>
<td>251 to 350</td>
<td>$700.00</td>
</tr>
<tr>
<td>351 to 450</td>
<td>$800.00</td>
</tr>
<tr>
<td>451 to 550</td>
<td>$900.00</td>
</tr>
<tr>
<td>551 to 650</td>
<td>$1000.00</td>
</tr>
<tr>
<td>651 to 750</td>
<td>$1100.00</td>
</tr>
<tr>
<td>751 to 850</td>
<td>$1200.00</td>
</tr>
<tr>
<td>851 to 950</td>
<td>$1300.00</td>
</tr>
<tr>
<td>951 to 1100</td>
<td>$1400.00</td>
</tr>
<tr>
<td>1101 to 1500</td>
<td>$1600.00</td>
</tr>
<tr>
<td>1501 to 2000</td>
<td>$1800.00</td>
</tr>
<tr>
<td>2001 to 2500</td>
<td>$2000.00</td>
</tr>
<tr>
<td>2501 to 3000</td>
<td>$2200.00</td>
</tr>
<tr>
<td>3001 to 3500</td>
<td>$2400.00</td>
</tr>
<tr>
<td>3501 to 4000</td>
<td>$2600.00</td>
</tr>
<tr>
<td>4001 to 4500</td>
<td>$2800.00</td>
</tr>
<tr>
<td>4501 to 5000</td>
<td>$3000.00</td>
</tr>
<tr>
<td>5001 to 5500</td>
<td>$3200.00</td>
</tr>
<tr>
<td>5501 to 6000</td>
<td>$3400.00</td>
</tr>
<tr>
<td>6001 to 6500</td>
<td>$3600.00</td>
</tr>
<tr>
<td>6501 to 7000</td>
<td>$3800.00</td>
</tr>
<tr>
<td>7001 to 7500</td>
<td>$4000.00</td>
</tr>
<tr>
<td>7501 to 8000</td>
<td>$4200.00</td>
</tr>
<tr>
<td>8001 to 8500</td>
<td>$4400.00</td>
</tr>
<tr>
<td>8501 to 9000</td>
<td>$4600.00</td>
</tr>
<tr>
<td>9001 to 9500</td>
<td>$4800.00</td>
</tr>
<tr>
<td>9501 to 10000</td>
<td>$5000.00</td>
</tr>
<tr>
<td>Over 10000</td>
<td>$52 per member</td>
</tr>
</tbody>
</table>

All Private Clubs Registration Permits shall expire on August 31 of each year and applications for renewal of Private Club Registration Permits for the following year shall be filed with the Board within thirty (30) days prior thereto. All fees hereunder shall be prorated and collected as provided in Section 16 (b) of the Texas Liquor Control Act. Not less than 90 days prior to the expiration of the year for which the license fee is paid, a permittee may submit an amended application with such additional license fee as shall be required under the amended return. If after notice and hearing it is found that the average membership of such private permittee club is above that authorized by said permit or license issued the same shall be considered a violation of this Act. All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Board upon request by the Board or any of its authorized representatives.

The amendment was adopted.

Mr. Cotton raised a point of order on further consideration of the Committee Amendment No. 1 on the grounds that it is vague and indefinite.

The Speaker overruled the point of order.
Mr. Berry offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to House Bill 892 by adding a new subsection to follow immediately after the period on line 25 of page 3 of the printed bill to read as follows:

"(7a) An appeal from any order of the Board or Administrator under this section refusing, cancelling or suspending a permit or license may be taken to the District Court of the County in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. The proceeding on appeal shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

(b) Such proceedings shall have precedence over all other causes of a different nature.

(c) All such causes shall be tried before the Judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The Substantial Evidence rule shall have no application in the proceedings of the District Court."

The amendment was adopted.

Mr. Slack offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to H. B. 892 by adding at the end of Sec. 1 the following:

Provided however that nothing in this Act shall apply to Fraternal, or Veterans Clubs.

The amendment was adopted.

Committee Amendment No. 1, as amended, was adopted.

A record vote was requested on the passage of H. B. No. 892 to en- grossment.

H. B. No. 892 was passed to engrossment by the following vote:

Yea—76

Adams of Titus John of Bexar
Allen Jones of Dallas
Andrews Kilpatrick
Atwell Koliba
Ballman Larry
Barfield, Mrs. La Vallee
Barlow McCoplin
Bartram McGregor
Bell of McLennan
Berry Miller
Blaine Mullen
Bridge Murray
Buchanan Mutchler
Cannon Nusbet
Cole of Harris Oliver
Cook Paster
Cowen Peeler
Curtington Pipkin
de la Garza Prine
Dewey Guiliarn
Echardt Ratcliff
Floyd Read
Forsman Ross
Garrison Shipley
Gladden Black
Gustine Smith of Bexar
Grover Spears
Guffey Spelman
Hale Sprigg
Harding Stewart
Haring of Galveston
Harrington Strawn
Haynes Thurmond
Huebner Trevino
Hughes of Dallas Russell
Immocks, Miss Walker
James Wood
Johnson of Dallas Yeak

Nays—48

Adams of Lubbock Caldwell
Bailey Carricker
Barnes Cole of Hunt
Bass Collins
Bayset Connell
Burgess Colten
Butler Cowles
Mr. James moved to reconsider the vote by which H. B. No. 892 was passed to engrossment and to table the motion to reconsider. The motion to table prevailed.

**REASONS FOR VOTE**

I voted "no" on H. B. No. 892 because I consider it a method of legalizing liquor by the drink in Texas.

**RONALD E. ROBERTS**

I voted no on H. B. 892 because it may be a move to legalize the sale of liquor by the drink in Texas. This I cannot vote for.

**LEON THURMAN**

I wish to be shown voting no on H. B. 892, because I think it will be legalizing liquor by the drink.

**BOB BASS**

I voted for this bill because it would curb the open saloons and allow the law enforcement officers to go into them.

**MYRA BANFIELD**

I wish to be recorded as voting "nay" on H. B. No. 892.

**CARRIKER**

RELATIVE TO HOUSE BILL NO. 1077

Mr. Hales moved to suspend all necessary rules in order that H. B. No. 1077 be not physically engrossed.

There was no objection offered and it was so ordered.

**ADJOURNMENT**

Mr. Healy moved that the House adjourn until 5:45 o'clock p.m. today.

The motion prevailed.

The Benediction was offered by the Honorable B. H. Dewey, Jr.

In accordance with the motion to adjourn, the House at 5:45 o'clock p.m. adjourned until 5:45 o'clock p.m. today.

**SIXTY-FIRST DAY**

(Thursday, May 11, 1961)

The House met at 5:43 o'clock p.m., pursuant to adjournment, and was called to order by the Speaker.

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

- Mr. Speaker
- Buchanan
- Adams of Lubbock
- Burgess
- Adams of Titus
- Butler
- Alonis
- Caldwell
- Allen
- Cannon
- Andrews
- Carricker
- Atwell
- Cole of Harris
- Bailey
- Cole of Hunt
- Ballman
- Collins
- Bannfield, Mrs.
- Connell
- Barlow
- Cook
- Barnes
- Cory
- Bartram
- Cotton
- Bass
- Cowen
- Bell
- Cowles
- Berry
- Crain
- Blaine
- Crews
- Boyce
- Carlington
- Bridges
dela Garza