March 18, 1963  HOUSE JOURNAL  665

FORTIETH DAY
(Monday, March 18, 1963)

The House met at 11:00 o'clock a.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:


A quorum of the House was announced present.

The Invocation was offered by the Reverend I. W. Oliver, Chaplain, as follows:

"Our Heavenly Father, help us as we struggle to learn that we must rely more upon Thee and less upon our own worldly wisdom and ingenuity.

"Teach us the meaning of humility, lest we come to regard ourselves more highly than we should, through the praises of men.

"Let our lives be characterized by true humility that crucifies self; that what we have professed with our lips may be the rule and guide for our lives.

"Lord, let our lives reflect the teachings we have learned through the study of Thy Holy word, that we may in truth be doers of the word and not hearers only.

"In Thy saving Name we pray.

-Amen."

LEAVES OF ABSENCE GRANTED

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

Mr. Cory for today, Tuesday and Wednesday on account of official
State business, to attend the meeting of the Gulf States Marine Fisheries Commission, on motion of Mr. Mutseher.

Mr. Pearce for today on motion of Mr. Wheeler.

The following Members were granted leaves of absence on account of illness:

Mr. Shannon for today on motion of Mr. Hoyse.

Miss Isaac, temporarily, for today on motion of Mr. Blaine.

MEMORIAL RESOLUTION

A. S. R. No. 281, By Koliba: In memory of Mrs. Lawson Rivers.

HOUSE BILLS ON FIRST READING

The following House Bills were today laid before the House, read severally first time and referred to the appropriate Committees, as follows:

By Haynes of Orange:

H. B. No. 977, A bill to be entitled "An Act stating legislative intent; stating the duties and obligations of the Game and Fish Commission of Texas under this Act; defining terms; prescribing and defining unlawful acts; providing for and defining licensing; defining duties, powers and authorities of licensees; providing the closed and open seasons of the coastal waters within the jurisdiction of the State of Texas; providing for the taking, catching, or attempting to take or catch shrimp within the coastal waters within the jurisdiction of the State of Texas; providing for the sale, resale, handling, transporting, unloading, buying, purchasing or handling in any manner or in any way shrimp within the jurisdiction of the State of Texas; providing for exceptions; providing for the continued use of legal nets now in use for a certain period of time; providing license fees imposed hereby to be a privilege tax; repealing certain acts; repealing all laws in conflict herewith in the extent of such conflict; providing and declaring penalties for commission of unlawful acts; setting venue; providing an effective date; providing for filing of reports by licensees; providing for legal 'mesh size' of trawls; providing for the taking of shrimp for 'bait'; providing for the taking of shrimp for 'human consumption'; providing for the persons who may sell or purchase shrimp; providing for the issuance of license; providing for the disposal of 'shrimp heads,' and other refuse; providing for the character of an emblem evidencing the payment of the license imposed; providing for the display of the emblem evidencing payment of the license imposed; providing for the inspection and tagging of individual bait-shrimp trawls by the Game and Fish Commission; providing for the forfeiture of certain properties; providing that each day on which a violation occurs shall be a new offense; providing for fines, imprisonment and/or both upon conviction of an unlawful act; repealing Chapter 187, Acts of the 57th Legislature, 1941 and all other laws in conflict except certain local laws; providing a severability clause; and declaring an emergency."

Referred to the Committee on Game and Fisheries.

By Rosson:

H. B. No. 978, A bill to be entitled "An Act amending Sections 2 and 3, Article 5849, Revised Civil Statutes of Texas, 1925, as amended, to reduce the age of eligibility for appointment as a notary public; repealing conflicting laws; and declaring an emergency."

Referred to the Committee on Judiciary.

By Hughes:

H. B. No. 979, A bill to be entitled "An Act to amend the Acts of 1966, 54th Legislature, Page 41, Chapter 30, Section 24, which amended the Acts of 1944, 49th Legislature, page 589, chapter 240, section 24, regulating the location of cemeteries, graveyards and mausoleums for burial purposes; providing a saving clause and declaring an emergency."

Referred to the Committee on Municipal and Private Corporations.

The Speaker signed in the presence of the House, after giving due
notice thereof and its caption had been read, the following enrolled bill:

S. B. No. 99, A bill to be entitled "An Act amending Chapter 125 of the 45th Legislature, 1937, (compiled as Article 6243e, Vernon's Annotated Civil Statutes), by adding a new section numbered 1OD, requiring any city of more than one hundred and eighty-five thousand (185,000) but less than one hundred and ninety-five thousand (195,000) inhabitants, according to the last preceding federal census, to contribute amounts into firemen's retirement and pension funds, providing the firemen with payment of the total amount they have individually contributed into such fund upon termination of their employment and prior to receiving their twenty-year retirement certificate; providing for election by terminated firemen having received their twenty-year certificates to receive the total amount of their contributions or to continue making payments into such fund until reaching the age of fifty-five, and at such time he shall receive all pension benefits which have accrued; providing for investment of surplus funds by the boards, with the assistance of the advisory committees; and declaring an emergency."

TO NAME DONALD REGAN BIRKNER AND TIMOTHY JOE BIRKNER AS MASCOTS OF THE HOUSE

Mr. Haring offered the following resolution:

H. S. R. No. 276

Whereas, It is a custom of the House of Representatives to honor children of its Members; and

Whereas, Proper candidates for Mascot of this House are Donald Regan Birkner and Timothy Joe Birkner, the sons of our able colleague, Representative Otha Birkner of Van Vleck, and his lovely wife, who was the former Miss Melba Cook; and

Whereas, Donald Regan was eleven years old October 26, 1962 and his brother Timothy will be nine years old on April 8, 1963; now, therefore, be it Resolved, That Donald Regan Birkner and Timothy Joe Birkner be, and they are hereby, named Mascots of the House of Representatives of the Fifty-eighth Texas Legislature, and that their photographs be placed on the Picture Panel of this House; and, be it further Resolved, That copies of this official Resolution be prepared for them as a memento of this occasion.

The resolution was referred to the Committee on Rules.

TO NAME C. GREGORY McNUTT AND JACK E. McNUTT AS MASCOTS OF THE HOUSE

Mr. Mann offered the following resolution:

H. S. R. No. 277

Whereas, It has come to the attention of this House that C. Gregory McNutt and Jack E. McNutt are proper candidates for Mascot of the House of Representatives; and

Whereas, Gregory's tenth birthday is April 25, 1963 and his sturdy young brother Jack was two years old on December 12, 1962. They are the pride and joy of our honorable colleague, Representative Ray E. McNutt of El Paso, and his charming wife, Jacquelyn. Grandparents are Mrs. C. M. McNutt of El Paso, and Mr. and Mrs. R. L. Thomas of Dallas; now, therefore, be it

Resolved, That C. Gregory McNutt and Jack E. McNutt be, and they are hereby, named Mascots of the House of Representatives of the Fifty-eighth Texas Legislature and that their photographs be placed on the Picture Panel of this House; and, be it further

Resolved, That an official copy of this Resolution be given to each boy with the best wishes of this Body.

Whereas, Proper candidates for Mascot of this House are Craig Nixon Townsend and Mr. Petty offered the following resolution:

H. S. R. No. 279

Whereas, It has been brought to official attention that Craig Nixon Townsend is a proper candidate for Mascot of the House of Representatives; and
WHEREAS, He will be one year old on April 2, 1963. He is the son of our worthy colleague the Honorable Terry Townsend of Brady and his charming wife, Sylvia Nixon Townsend. Grandparents are Mr. and Mrs. E. H. Nixon and Mr. and Mrs. A. L. Townsend; now, therefore, be it

Resolved, That Craig Nixon Townsend be, and be hereby, named Mascot of the House of Representatives of the Fifty-eighth Legislature of the State of Texas, and that his photograph be placed on the Picture Panel of this House; and, be it further

Resolved, That a copy of this resolution be given him as a memento of this occasion.

The resolution was referred to the Committee on Rules.

TO NAME KAREN JOHNSON, KENNETH ELLIS JOHNSON AND GORDON ROBERT JOHNSON AS MASCOTS OF THE FIFTY-EIGHTH LEGISLATURE

Mr. Butler offered the following resolution:

H. S. R. No. 284

WHEREAS, The three beautiful children of our fellow member, Representative Bob Johnson, and his lovely wife, Judy, are eligible candidates as Mascots of the Texas House of Representatives; and

WHEREAS, The pretty daughter of the family, Karen, who celebrated her seventh birthday on December 20, 1962, and the two young sons, Kenneth Ellis, age 9, and baby Gordon Robert, age 14 months, are the source of great pride and joy to their parents; and

WHEREAS, These youngsters deserve recognition as proper Mascots of this House; now, therefore, be it

Resolved, That Karen Johnson, Kenneth Ellis Johnson, and Gordon Robert Johnson be declared Mascots of the House of Representatives of the Fifty-eighth Legislature, and that their pictures be placed on the panel with members of the Fifty-eighth Legislature; and be it further

Resolved, That a copy of this resolution be sent to the parents of these children and that the House go on record as extending its best wishes and greetings to the Johnson children,

The resolution was referred to the Committee on Rules.

CONGRATULATORY RESOLUTIONS ADOPTED

H. S. R. No. 270, By Collins: Congratulating the Buns Cougars.

H. S. R. No. 271, By Coughran, McDonald of Hidalgo and de la Garza: Extolling 24th Annual Rio Grande Valley Livestock Show and rodeo and inviting 54th Legislature to attend.

H. S. R. No. 278, By Koliba: Congratulating Doctors and Staff of Yoens Hospital, Weimar, Texas.

H. S. R. No. 280, By Harding: Congratulating Miss Carol Tisdale.

H. S. R. No. 283, By Haynes of Orange: Congratulating Little Cypress High School Girls Basketball Team.

H. S. R. No. 283, By Coughran, McDonald of Hidalgo and de la Garza: Congratulating Pan American College of Edinburg on winning 24th Annual Basketball Championship Tournament of the NAIA.

RELATIVE TO THE OBSERVANCE OF RICE WEEK

Representative Banfield offered the following resolution:

H. S. R. No. 266

WHEREAS, The food in most prevalent demand throughout the World is rice and its use in the United States is increasing; and

WHEREAS, It is nutritious, versatile in its uses and combinations, delicious and economical; and

WHEREAS, In Texas it is valued not only by consumers, but for its place in the economy of our State. It is one of the State’s leading food crops. One-fourth of the rice produced in the United States comes from that section of Texas bordering the Gulf of Mexico and eighty miles inland from Victoria, Texas, to the Louisiana line; and

WHEREAS, Nutritionalists from as far away as Japan have declared Texas rice to be superior in quality and taste to rice produced elsewhere. It is a warm climate water crop; and
Whereas, The week of March 18 to March 24 has been proclaimed Rice Week; now, therefore, be it
Resolved, That the House of Representa­tives of the Fifty-eighth Legislature of the State of Texas urges public obser­vance of Rice Week, as a means of promoting the use of this excellent food, and to help an ex­panding Texas industry.

The resolution was read and was adopted without objection.

TO EXPRESS APPRECIATION TO THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS

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

S. C. R. No. 37
Whereas, The capital gains tax treatment of timber under the In­ternal Revenue Code has been an important factor responsible for the great improvement in the economic advancement of the commercial timber industry in Texas, as well as other timber producing states; and
Whereas, The forest resources of Texas form an important basis for the economic well-being of the State of Texas; and
Whereas, Texas forests now owned by some 120,000 timberland owners supply the raw material which fur­nishes employment for thousands of Texans; and
Whereas, The capital gains tax treatment under the Internal Reve­nue Code has contributed greatly to­ward the growth and economic stim­ulation of the timber and wood indus­tries;

Now, Therefore, Be It Resolved, By the Senate of the State of Texas, the House of Representatives con­curred, that the Congress and the President of the United States be expressed our appreciation for insti­tuting and retaining this capital gains tax treatment of timber under the Internal Revenue Code and be re­quested to retain the same.

The resolution was referred to the Committee on State Affairs.

The Speaker laid before the House, as unfinished business, on its pas­sage to engrossment,

H. B. No. 57, A bill to be entitled "An Act amending Article 14.06, Title 122A of Vernon's Revised Civil Statutes of the State of Texas, so as to provide an exemption of property passing to or for the use of any religious, educational, or charitable organization, if the laws of the juris­diction under which such organiza­tion is organized or is operating pro­vide an exemption from death tax of any character with respect to property passing (1) to or for the use of any such organization, or (2) to or for the use of any such organi­zation organized or operating within the State of Texas, or (3) to or for the use of any such organization or­ganized or operating within any other jurisdiction which grants a reciprocal exemption; providing a severability clause; and declaring an emergency."

The bill was read second time on March 14.

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

COMMITTEE AMENDMENT NO. 1

Amend H. B. 57 by striking out Section 1 of said bill and substitut­ing in lieu thereof the following:

"Section 1. That Article 14.06, Title 122A of Vernon's Revised Civil Statutes of the State of Texas, be amended so as to read hereafter as follows:

'Art. 14.06 Class E—Foreign Bequest

If passing to or for the use of the United States, to or for the use of any other person or religious, educa­tional or charitable organization or institution, or to any other person, corporation or association not in­cluded in any of the classes men­tioned in the preceding portions of the original Act known as Chapter 29 of the General Laws of the Sec­ond Called Session of the 38th Legis­lature, the tax shall be:
Provided, however, that this Article shall not apply on property passing to or for the use of the United States, or to or for the use of any religious, educational or charitable organization, incorporated, unincorporated or in the form of a trust, when such bequest, devise or gift is to be used within this state. The exemption from tax under the preceding provisions of this Article shall, without limiting its application under other appropriate circumstances, apply to all or so much of any bequest, devise or gift to or for the use of the United States, or a religious, educational or charitable organization, which is, in writing and prior to the payment of the tax, irrevocably committed for use exclusively within the State of Texas or transferred to a religious, educational or charitable organization for use exclusively within this state.

Provided, further, that if the property so passing is to or for the use of a religious, educational, or charitable organization which conducts its operations on a regional basis, one such region of which includes the State of Texas, or any part thereof, then a bequest, devise or gift to be used within such region shall be deemed to be used within this state. For purposes of this paragraph, a region shall comprise not more than five contiguous states, either in whole or in part, one of which is the State of Texas. For purposes of this paragraph, a religious, educational, or charitable organization shall include, but not be limited to, a youth program of physical fitness, character development, and citizenship training or like program.

Provided, further, that this Article shall not apply to property passing to or for the use of any religious, educational or charitable organization, incorporated, unincorporated or in the form of a trust, if (a) at the time the property passes or at any time prior to the payment of the tax the laws of the jurisdiction under which such organization is organized or is operating provide an exemption from death tax of any character with respect to property passing (1) to or for the use of such an organization, or (2) to or for the use of such an organization organized or operating in the State of Texas, or (3) to or for the use of such an organization organized or operating within any other jurisdiction which grants a reciprocal exemption, for the purposes of this paragraph, jurisdiction means any state or territory of the United States or the District of Columbia.

The amendment was adopted without objection.

H. B. No. 57 was then passed to engrossment.

HOUSE BILL NO. 377 ON SECOND READING

Mr. Collins moved that all the necessary rules be suspended for the purpose of taking up and considering at this time House Bill No. 377.

The motion prevailed without objection.

The Speaker laid before the House on its second reading and passage to engrossment, H. B. No. 377. A bill to be entitled, "An Act relating to the creation, administration and financing of a hospital district whose boundaries are coterminous with the boundaries of county commissioners precinct number one and two of Jasper County; and declaring an emergency."

The bill was read second time.

Mr. Collins offered the following amendment to the bill:

Floor Amendment No. 1

Amend H. B. 377 by striking out all of subsection (b) of Sec. 6 of
H. B. 377 and substituting in lieu thereof the following:

(3) "The person, firm, corporation, or association to which such contract is let shall give surety bond to the district in accordance with the provisions of Article 5160, Revised Statutes of 1925 and amendments thereto."

The amendment was adopted without objection.

Mr. Doke offered the following amendment to the bill:

Amendment No. 2

Amend paragraph (i) of Section 13 of House Bill No. 377 by inserting a "period" in lieu of the "comma" after the word "architect" and by striking out the remainder of said paragraph.

The amendment was adopted without objection.

Mr. Collins offered the following amendment to the bill:

Amendment No. 3

Amend House Bill No. 377 by striking out Section No. 17 and renumbering the remaining sections of the bill to conform.

The amendment was adopted without objection.

H. B. No. 377 was passed to engrossment.

HOUSE BILL NO. 292 ON PASSAGE

The Speaker laid before the House, as postponed business on its passage, H. B. No. 292, A bill to be entitled "An Act requiring cities having a population of three hundred fifty thousand (350,000) or more, but less than four hundred thousand (400,000), according to the last preceding federal census, to increase the disability benefits contained in their Firemen's Retirement and Relief Fund, to make deductions from the salaries of firemen, to provide monthly contributions of specified amounts into the Firemen's Retirement and Relief Fund, and to provide a specified investment policy for surplus funds; providing for severability; and declaring an emergency."

The bill was read third time on February 28, and further consideration was postponed until 11:00 o'clock a.m. today.

Mr. Doke moved to reconsider the vote by which the amendment to H. B. No. 292 offered by himself was, on February 28, adopted.

The motion to reconsider the vote prevailed.

Mr. Doke then withdrew the amendment.

Mr. Doke offered the following amendment to the bill:

Adding this at the end of Section 2:

"... deposit; except, however, that the Medical and Dental units of the University of Texas System are hereby authorized to make and collect a breakage or loss deposit of $30."

Mr. Hughes offered the following amendment to the amendment offered by Mr. Doke:

Take out "are hereby authorized to make and collect a deposit of $30.00."

Insert in place thereof:

"Shall collect a breakage or loss deposit no greater than $30.00."

The amendment was adopted without objection.

The amendment offered by Mr. Doke, as amended, was then adopted without objection.

H. B. No. 292 was then passed.

HOUSE BILL NO. 249 ON PASSAGE TO ENGROSSMENT

The Speaker laid before the House, as postponed business, on its passage to engrossment, H. B. No. 249, A bill to be entitled "An Act relating to laboratory charges at state-supported institutions of higher education; amending Section 2 of Chapter 237, Acts of the 40th Legislature, 1927, as amended (compiled as Section 2 of Article 2654a, Vernon's Civil Statutes of Texas); providing an effective date; and declaring an emergency."

The bill was read third time on February 28, and further consideration was postponed until 11:00 o'clock a.m. today.

Mr. Doke moved to reconsider the vote by which the amendment to
The bill was read second time on February 18, considered on February 26 and on March 11. Further consideration was postponed until 10:00 o'clock a.m. today.

Mr. Gladden moved that further consideration of House Bill No. 249 be postponed until 10:00 o'clock a.m. next March 25.

The motion prevailed without objection, and it was so ordered.

HOUSE BILL NO. 16 ON PASSAGE TO ENGROSSMENT

The Speaker laid before the House, as postponed business, on its passage to engrossment,

H. B. No. 16. A bill to be entitled "An Act amending Chapter II, Article 4; Chapter III, Article 4; Chapter III; Article 3; Chapter V; Article 4; Chapter IX, Article 2; and Chapter IX, Article 8 of the Texas Banking Code of 1943, same being Chapter 97, Acts of the 48th Legislature, Regular Session, 1943, and amending Chapter V of the Texas Banking Code of 1943, same being Chapter 97, Acts of the 48th Legislature, Regular Session, 1943, by adding a new article designated as Article 3a: providing for the appointment of bank examiners; for perpetual corporate existence for state banks; for the investigation of charter applications for the State Banking Board and payment of expenses thereof; for real estate loans, limitations and exceptions; authorizing bank stockholders and employees to take acknowledgments of instruments in which the bank is interested; defining 'banking house;' providing for equal application of state law to state and national banks; providing for severability; providing that all laws or parts of laws, including specifically the provisions of Chapter 24, Article 1, Section 1, Acts of the 57th Legislature, 1st Called Session, 1981, and the provisions of Chapter 1, Section 1, Acts of the 58th Legislature, 2nd Called Session, 1955, as amended, which are in conflict with this Act are repealed or modified to the extent of such conflict only; and declaring an emergency."

The bill was read second time on March 14, and further consideration was postponed until 11:00 o'clock a.m. today.

Mr. Allen moved that further consideration of House Bill No. 16 be postponed for fifteen minutes, until 12:10 o'clock p.m. today.

The motion prevailed without objection and it was so ordered.

HOUSE BILL NO. 35 ON THIRD READING

The Speaker laid before the House, on its third reading and final passage,

H. B. No. 35. A bill to be entitled "An Act amending Chapter 152, of the 45th Legislature, 1937, as last amended by Chapter 276, Acts of the 55th Legislature, 1957 (compiled as Article 6243a, Vernon's Texas Civil Statutes), providing in all cities of less than 150,000 inhabitants according to the last preceding federal census, for a program of contributions and membership to the Firemen's Relief and Retirement Fund; providing for the investment of fund proceeds in certain cities; for the creation, appointment, and duties of an Investment Advisory Committee in all cities; for the hiring of an actuary in cities with a population of 500,000 or less according to the last preceding federal census; providing for a severability clause; and declaring an emergency."

The bill was read third time.

Mr. Woods offered the following amendment to the bill:

Amendment to H. B. No. 35

Amend paragraph (a) of Section 16A as quoted in Section 1 of House Bill No. 35 by striking out the words "have been" which appear in the second line of said paragraph and substituting in lieu thereof the words "now exist."

The amendment was adopted without objection.

Mr. Haring offered the following amendment to the bill:

Amend House Bill 35 by adding in the quoted Section 23A in Section 2 the words "and subject to the same restrictions" between the words "securities" and "in."
March 18, 1963

The amendment was adopted without objection.

H. B. No. 35 was then passed.

RECESS

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

The motion prevailed.

The House accordingly, at 12:02 o'clock p.m., took recess until 2:00 o'clock p.m. today.

AFTERNOON SESSION

The House met at 2:00 o'clock p.m. and was called to order by the Speaker.

LEAVE OF ABSENCE GRANTED

Mr. Pipkin was granted leave of absence for this afternoon on account of illness, on motion of Mr. Murray.

REMARKS BY THE HONORABLE HOMER L. KOLIBA

Mr. Koliba addressed the House briefly, expressing his appreciation for flowers sent to him while he was ill in the hospital, and to state his gratitude for other kind expressions.

MESSAGE FROM THE SENATE

Austin, Texas, March 18, 1963
Hon. Byron Tunnell, 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. C. R. No. 49. By Cotten: In memory of Walter Prescott Webb. Respectfully,
CHARLES A. SCHNABEL, Secretary of the Senate.

TO EXTEND CONGRATULATIONS TO THE HONORABLE RUDY ESQUIVEL ON HIS BIRTHDAY

Mr. Gladden offered the following resolution:

H. S. R. No. 287

Whereas, Today, March 18, is the birthday of our esteemed colleague, Representative Rudy Esquivel of San Antonio; and

Whereas, Probably no man enjoys wider popularity among his constituents than does Mr. Esquivel. They know him as a man who works unselfishly to educate and prepare himself for his public responsibility, to serve his community with dedication, at all times upholding the Constitution of the United States, and in support of the American way of life. He is known to be an ardent supporter of the principle of equality for all men; and

Whereas, Mr. Esquivel showed his great love for the United States by serving his country with valor during the Korean conflict. He held the rank of captain in the United States Army and was decorated for bravery in combat; and

Whereas, Helping him celebrate his birthday are two lovely daughters, Beatrice and Delia Esquivel, and his charming wife, Velma; now, therefore, be it

Resolved, That the House of Representatives of the Fifty-eighth Legislature extends its hearty congratulations to Mr. Esquivel on his thirty-eighth birthday, and wishes him continued health, happiness and success in his endeavors.

The resolution was read and was adopted without objection.

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

Mr. Esquivel was then recognized by the Speaker, and addressed the House briefly, expressing his appreciation for the resolution.

HOUSE BILL NO. 16 ON PASSAGE TO ENGROSSMENT

The House resumed consideration of postponed business, same being H. B. No. 16, on its passage to engrossment, relative to providing for appointment of bank examiners.

The bill was read second time on March 14, and further consideration was then postponed until 11:00 o'clock a.m. today.

The bill was again taken up and considered on this morning, and further consideration was at that time postponed for fifteen minutes.
Mr. Allen offered the following amendment to the bill:

Amend H. B. 16 by adding to Article 8 by inserting after, "State and National banks are hereby declared to be within the same class under the Constitution and Laws of this State," the following:

"Except that tax which is levied by the State in the form of franchise taxes."

Mr. Petty moved to table the amendment offered by Mr. Allen. A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Allen prevailed by the following vote:

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(The above record vote was requested by Mr. Haring, Mr. Johnson of Bexar and Mr. Cherry.)

H. B. No. 16 was then passed to engrossment.

Mr. Petty moved to reconsider the vote by which H. B. No. 16 was passed to engrossment and to table the motion to reconsider.

The motion to table prevailed.

The Speaker signed in the presence of the House, after giving due notice thereof and the caption had been read, the following enrolled bill:

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<td>The Speaker signed in the presence of the House, after giving due notice thereof and the caption had been read, the following enrolled bill:</td>
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H. B. No. 233, "An Act relating to and fixing minimum and maximum salary of the official shorthand reporter for the 18th Judicial District of Texas; providing for severability; and declaring an emergency."

H. R. No. 13. A bill to be entitled "An Act establishing the extraterritorial jurisdiction of cities and towns, authorizing the exercise of certain powers by cities and towns in such extraterritorial jurisdiction, and regulation annexation by cities and towns both within and without such extraterritorial jurisdiction; invalidating certain annexation; providing for the disannexation of certain areas annexed by cities and towns after the effective date of this Act under certain conditions; providing for the disannexation of certain areas annexed by cities and towns having conflicting claims over annexed territory may seek a declaration of lawful jurisdiction over same under the Uniform Declaratory Judgments Act, amending Subdivision 2 of Article 1175, Revised Civil Statutes of Texas, 1917; providing that the provisions of this Act shall be cumulative of all laws and parts of laws relating to the subject; providing for severability; providing for exclusion of annexeation in litigation; and declaring an emergency."

The bill was read second time.

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

Committee Amendment No. 1
Amend House Bill No. 13 by striking out all below the enacting clause and inserting in lieu thereof the following:

"ARTICLE I"

"Section 1. Definitions.

For the purposes of this Article the following words shall have the meanings ascribed to them:

'A. 'City or Cities' means any incorporated city, town or village in the State of Texas regardless of population.

'B. 'Voters' means those persons qualified to vote under the laws of the State of Texas.

'C. Written consent of a city, town or village means consent expressed by an ordinance or resolution.

'D. 'Boundary' or 'Boundaries' or 'Boundaries' mean the existing boundary lines of an incorporated city, town or village, as they may be from time to time.

"Section 2. Establishing Extraterritorial Area.

'A. In order to promote and protect the general health, safety, and welfare of persons residing within and adjacent to the cities of this State, the Legislature of the State of Texas declares it to be the policy of the State of Texas that the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of any city, to the extent described herein, shall comprise and be known as the extraterritorial area of the various population classes of cities in the State and shall be as follows:

'(1) The extraterritorial area of any city having a population of less than five thousand (5,000) inhabitants, according to the last preceding Federal Census, shall consist of all the contiguous unincorporated area, not a part of any other city, within one-half (½) mile of the corporate limits of such city.

'(2) The extraterritorial area of any city having a population of five thousand (5,000) or more inhabitants, but less than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, shall consist of all the contiguous unincorporated area, not a part of any other city, within one mile (1) mile of the corporate limits of such city.

'(3) The extraterritorial area of any city having a population of twenty-five thousand (25,000) or more inhabitants, but less than fifty thousand (50,000) inhabitants, according to the last preceding Federal Census, shall consist of all the contiguous unincorporated area, not a part of any other city, within two (2) miles of the corporate limits of such city.

'(4) The extraterritorial area of any city having a population of fifty thousand (50,000) or more inhabitants, according to the last preceding Federal Census, shall consist of all the contiguous unincorporated area, not a part of any other city, within two (2) miles of the corporate limits of such city."
thousand (50,000) or more inhabitants, but less than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, shall consist of all the contiguous unincorporated area, not a part of any other city, within three and one-half (3 1/2) miles of the corporate limits of such city.

"(5) The extraterritorial area of any city having a population of one hundred thousand (100,000) or more inhabitants, according to the last preceding Federal Census, shall consist of all the contiguous unincorporated area, not a part of any other city, within five (5) miles of the corporate limits of such city.

"(B) In the event that on the effective date of this Act the extraterritorial area of a city overlaps the extraterritorial area of one (1) or more other cities, the area so overlapped may be apportioned by mutual agreement of the governing bodies of the cities concerned. Such agreement shall be in writing and shall be approved by an ordinance or resolution adopted by each governing body.

"At any time after one hundred and eighty (180) days from the effective date of this Act, any city having an extraterritorial claim to such overlapping area shall have authority to file a plaintiff’s petition in the district court of a judicial district, within which is located the largest city having an extraterritorial claim to the same overlapped area, naming as parties defendant all cities having a claim to such overlapped area and praying that such overlapped area, to which it has mutual claim, be apportioned among the cities concerned. In effecting such apportionment, the district court shall consider the population density and patterns of growth, transportation, land utilization in the cities concerned and in the overlapped area, and property lines. The territory so apportioned to a city shall be contiguous to the extraterritorial area of such city. In the event the extraterritorial area of a city is totally overlapped, the territory so apportioned shall be in a substantially compact shape. Such overlapped area shall be apportioned among such cities in the same ratio (to one decimal) as the respective populations, according to the last preceding Federal Census, of the cities concerned, but in such apportionment no city shall receive less than one-fifth (1/5) of such area. Provided, however, that any apportionment made under this subsection B shall give due consideration to existing property ownership lines, and no tract of land or contiguous tracts of land, under one ownership upon the effective date of this Act and not exceeding three hundred and twenty (320) acres in size shall be apportioned so as to lie within the extraterritorial area of more than one city, without the written consent of the landowner.

"(C) Once established as provided in Sections IA and B of this Act, the extraterritorial area of a city may not be diminished due to the extension of the corporate limits or extraterritorial area of any other city. However, the extraterritorial area of a city may be expanded beyond the distance limitations imposed by Section IA of this Act to include therein any land contiguous to the otherwise extraterritorial area of such city provided that the owner or owners of such land request such expansion and provided that the same does not conflict with existing boundaries or extraterritorial area of another city.

"(D) When a city acquires additional territory, the extraterritorial area of such city shall expand in conformity with such acquisition and shall comprise an area around the new boundaries of the city consistent with Section IA hereof. Provided, however, that such expansion shall not conflict with existing boundaries or extraterritorial area of another city.

"(E) No city shall impose or collect any tax in the extraterritorial area of any city as long as it remains in such status.

"Section 2. Authority Within Extraterritorial Area.

"A. Hereafter every owner of any tract of land situated within the extraterritorial area of any city or town as defined by Sections IA and IB hereof, who may hereafter divide...
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the same in two or more parts for
the purpose of laying out any sub-
division of any tract of land, or for
laying out suburban lots or building-
lots, or any lots, and streets, avenues
or alleys, of said land, or any parts
intended for public use, or the use of purchasers
or owners of lots fronting thereon or
adjacent thereto, shall cause a
plat to be made thereof which shall
accurately describe all of said sub-
division or addition by metes and
bounds and locate the same with
respect to an original corner of the
original survey of which it is a part,
giving the dimensions thereof of said
subdivision or addition, and dimen-
sions of all streets, avenues, squares,
parks or other portions of said same
intended to be dedicated to public use,
or for the use of purchasers or own-
ers of lots fronting thereon or adjac-
ent thereto; providing, however, that
no plat of any subdivision of any
tract of land shall be recorded unless
the same shall accurately describe
all of said subdivisions or additions by
metes and bounds and locate the
same with respect to an original corner of the
original survey of which it is a part,
giving the dimensions thereof of said sub-
division or addition, and dimensions of all streets, avenues, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto; providing, however, that no plat of any subdivision of any tract of land shall be recorded unless the same shall accurately describe all of said subdivisions or additions by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, avenues, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

"B. That every such plat shall be
duly acknowledged by owners or
proprietors of the land, or by some
duly authorized agent of said owners
or proprietors, in the manner required
for the acknowledgment of deeds;
and the said plat shall be filed for
record and be recorded in the office
of the County Clerk of the County
in which the land lies.

"C. That it shall be unlawful for
the County Clerk of any county in
which said land lies to receive or
record any such plan, plat or replat,
unless and until the same shall have
been approved by the City Planning
Commission at the city in whose
extraterritorial area the subdivision
is located, if said city has a City
Planning Commission and if it has
no City Planning Commission, unless
and until the said plan, plat or re-
plat has been approved by the
governing body of such city. Any
person desiring to have a plan, plat
or replat approved as herein pro-
vided, shall apply therefor to and
file a copy with the Commission,
providing, however, that the
Commission at the city in whose
record any such plan, plat or replat
is located, unless and until the same shall have been approved and a certificate showing said filing date and the failure to take action thereon within thirty (30) days from said filing date, shall be deemed to have been approved and a certificate showing said filing date and the failure to take action thereon within thirty (30) days from said filing date, shall on demand be issued by the City Planning Com-
mision or governing body, as the
case may be, of such city, and said
certificate shall be sufficient in aid
of the written endorsement or other
evidence of approval herein required.

If the plan, plat or replat is ap-
proved, such Commission or govern-
ing body shall indicate such finding
by certificate endorsed thereon,
signed by the Chairman or presid-
ing officer of said Commission or gov-
erning body and attested by its Sec-
retary, or signed by a majority of
the members of said Commission or
governing body. Such Commission or
governing body shall keep a record
of such applications and the action
taken thereupon, and upon demand
of the owners of any land affected,
shall certify its reasons for the action
taken in the matter.

"D. If such plan, plat or replat
shall conform to the general plan
of the city in whose extraterritorial
area the subdivision is located and
its streets, avenues, parks, playgrounds
and public utility facilities, includ-
ing those which have been or may
be laid out, and to the general plan
for the extension of said city and of
its roads, streets and public high-
ways within said city, and within
its extraterritorial area, regard being
had for access to and extension of
sewer and water mains and the in-
strumentalities of public utilities,
and if same shall conform to said
general rules and regulations, if any,
governing plats and subdivisions of
land falling within its jurisdiction
as the governing body of such city
may adopt and promulgate to pro-
mote the health, safety, morals or
general welfare of the community,
and the safety, orderly and healthful
development of said community, then
it shall be the duty of said City
Planning Commission or the gov-
erning body of such city, as the
case may be, to endorse approval upon the plan, plat or replat submitted.

"E. That any such plan, plat or replat may be vacated by the proprietors of the land covered thereby at any time before the sale of any lot therein by a written instrument declaring the same to be vacated, duly executed and acknowledged and recorded in the same office as the plat to be vacated, provided the approval of the City Planning Commission or the governing body of said city, as the case may be, shall have been obtained as above provided, and the execution and recordation of such shall operate to destroy the force and effect of the recording of the plan, plat or replat so vacated. In cases where lots have been sold, the plan, plat or replat, or any part thereof, may be vacated upon the application of all the owners of lots in said plat and with the approval, as above provided, of the City Planning Commission or governing body of the said city, as the case may be. The County Clerk of the county in whose office the plan or plat thus vacated has been recorded shall write letters across the plan or plat so vacated the word 'vacated,' and also make a reference on the same to the volume and page in which said instrument of vacation is recorded.

"F. The approval of any such plan, plat or replat shall not be deemed an acceptance of the proposed dedication and shall not impose any duty upon any city in whose extraterritorial area the subdivision is located concerning the maintenance or improvements of any such dedicated parts until the proper authorities of said city shall have made actual appropriation of the same by entry, use or improvement.

"G. When any such map, plat or replat is tendered for filing in the office of the County Clerk of any county in which any such extraterritorial area of a city may be situated, it shall be the duty of such Clerk to ascertain that the proposed plan, plat or replat, is, or is not, subject to the provisions of this Act, and if it is subject to its provisions then to examine said map, plat or replat to ascertain whether the endorsements required by this Act appear thereon. If such endorsements do appear thereon, he shall accept same for registration. If such endorsements do not appear thereon, he shall refuse to accept same for registration. When the same does not disclose whether the land covered by said map, plat or replat, or any part thereof, is or is not within the extraterritorial area of any city, the County Clerk may require one offering said map, plat or replat for registration to file with him an affidavit setting forth such information. The filing or recording of any plan, plat or replat contrary to the provisions of this Act shall constitute a misdemeanor punishable by fine of not less than Fifty Dollars ($50) nor more than Two Hundred Dollars ($200), and both the County Clerk and any Deputy filing or recording the same shall be guilty.

"H. Unless and until any such plan, plat or replat shall have been first approved in the manner and by the authorities provided for in this Act, it shall be unlawful within the area covered by said plat or replat for any city in whose extraterritorial area the subdivision is located, or any official of such city to serve or connect said land or any part thereof, for the use of the owners or purchasers of said land or any part thereof, with any public utilities such as water, sewer, lights, gas, etc., which may be owned, controlled or distributed by such city.

"I. If any such plan, plat or replat is disapproved by the City Planning Commission or the governing body of such city in whose extraterritorial area the subdivision is located, the case may be, such disapproval shall be deemed a refusal by the said city of the offered dedication shown thereon.

"J. The provisions of this Section 3 are cumulative of the provisions of Article 974a, Revised Civil Statutes of Texas, but the provisions of this Act shall control in event of conflict.

"K. Provided, however, that nothing in this Act shall be construed to apply to or impose any restriction on any farm or ranch land, any improvements thereon, or any other property not being used for purposes of subdivision.

"Section 4. Industrial District.
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"The governing body of any city shall have the right, power, and authority to designate any part of the area located in its extraterritorial area as an industrial district, as the term is customarily used, and to treat with such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city, is the permissive right and power to enter into contracts or agreements with the owner or owners of land in such industrial district to guarantee the continuation of the extraterritorial status of such districts, and/or its immunity from annexation by the city for a period of time not to exceed ten (10) years, and upon such other terms and conditions as the parties might deem appropriate. Such contracts or agreements shall be evidenced in writing and may be renewed or extended for successive periods not to exceed ten (10) years each by such governing body and the owner or owners of land in such industrial district. Existing contracts or agreements of such nature, recognized in or evidenced by an ordinance or resolution of the governing body of the contracting city, are hereby in all respects validated as of the date they were made, for the extent of their term or from ten (10) years from the date made, whichever is shorter.

"Section 5. Annexation Proceedings.

"A. A city may annex territory only within the confines of its extraterritorial area.

"B. Before any city may institute annexation proceedings, the governing body of such city shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to institution of such proceedings. Notice of such hearing shall be published in a newspaper having general circulation in the city and in the territory proposed to be annexed. The notice shall be published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to the hearing. Annexation of any territory by a city shall be brought to completion within ninety (90) days of the date on which the governing body of such city institutes annexation proceedings or be null and void.

"C. Any territory contiguous to the corporate limits of a city within the extraterritorial area of the city shall be annexed by the city upon the petition of a majority of the qualified resident voters, if any, in such territory and the owners of fifty per cent (50%) or more of the land in the territory.

"D. All annexation proceedings by cities which are pending on or instituted after February 1, 1963, shall be subject to the limitations as to size and extent of area imposed by this Act and shall be brought to completion within ninety (90) days of the effective date of this Act or be null and void. Should any such annexation proceeding be or become directly involved in litigation on such effective date, or within ninety (90) days thereafter, the period within which said annexation proceeding must be completed shall commence upon the date of final judgment or order in such litigation.

"Section 6. Limitation on Annexations in Any One Year.

"A. A city may annex in any one calendar year only territory equivalent in size to ten per cent (10%) of the total corporate area of such city as of the first day of that calendar year. In addition to such ten per cent (10%), a city may annex the following: (1) the territory caused to be annexed by a request of a majority of the qualified resident voters in the territory and the owners of fifty per cent (50%) or more of the land in the territory, (2) territory which is owned by the city, the county, the State, or the Federal Government, (3) territory annexed after a favorable vote of a majority of the inhabitants of the territory who are qualified to vote for Members of the State Legislature, and (4) territory annexed upon petition of the owner or owners of the land therein.

"B. In the event a city fails in any calendar year or years to annex the total amount of territory which it is authorized to annex in such calendar year or years, such unused allocation may be carried over and used in subsequent calendar years.
A city, utilizing the power granted under this Subsection, may not annex in any one calendar year an amount of territory in excess of thirty per cent (30%) of its total area as of the first day of the calendar year.

Section 7. Limitations on Creation of Political Subdivisions Within the Extraterritorial Area.

A. No city may be incorporated within the area of the extraterritorial area of any city without the written consent of the governing body of such city. Should such governing body refuse to grant permission for the incorporation of such proposed city, a majority of the qualified resident voters, if any, in the territory of such proposed city and the owners of fifty per cent (50%) or more of the land in such proposed city may petition the governing body of such city and request annexation by such city. Should the governing body of such city fail or refuse to annex the area of such proposed city within six (6) months from the date of receipt of such petition, proof of such failure or refusal shall constitute authorization for the creation of such proposed city insofar as the purposes of this Subsection are concerned. The provisions of this Subsection shall apply only to the area of such proposed city which lies within the extraterritorial area of such city.

B. No political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial use or the furnishing of sanitary sewer services may be created within the area of the extraterritorial jurisdiction of any city without the written consent of such city. Should the governing body of such city fail or refuse to grant permission for the creation of such proposed political subdivision within thirty (30) days after receipt of a written request for same, a majority of the qualified resident voters in the territory of such proposed political subdivision and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision may petition the governing body of such city and request such city to make available to such territory the water or sanitary sewer services contemplated by the proposed political subdivision. Should the governing body of the city and a majority of the qualified resident voters and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision fail to execute a mutually agreeable contract providing for the water or sanitary sewer services requested within six (6) months after receipt of such petition, such failure shall constitute authorization for the creation of the proposed political subdivision insofar as the provisions of this Subsection are concerned. The provisions of this Subsection shall apply only to the area of such proposed political subdivision which lies within the extraterritorial area of such city.

This Subsection shall not apply to any such proposed political subdivision where a valid petition seeking its creation has been filed with the county clerk or other legally designated authority prior to the effective date of this Act.

Section 8. Annexation Petition.

The petition for annexation provided for in C of Section 5 and in Section 7 of this Article I shall be made by the voters and landowners signing and presenting to the city clerk or other official the written petition requesting annexation. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a voter shall sign his or her name as it appears on the official copy of the current poll list or an official copy of the current list of exempt voters and each voter shall note on such petition his or her residence address and the precinct number and serial number that appear on his or her poll tax receipt or exemption certificate. Each landowner signing the petition shall note thereon apposite his or her name the approximate total acres he or she owns within the territory. The petition shall describe the territory to be annexed and have attached to it a plat of the territory. Prior to circulating the petition for annexation among the voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the territory and by publishing it once (1) time in a newspaper of general circulation serving the territory at least fifteen (15) days prior to the circulation among the voters and landowners.
of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary: (1) the sworn affidavit of any voter who signed the petition, stating the place where and the date when the petition was signed, and; (2) the sworn affidavit of the publisher of the newspaper setting forth the name of the newspaper and the issue and date when the notice was published. (2) In addition, there shall be attached to the petition the sworn affidavit of three (3) or more voters signing the petition. If there be that many, stating the total number of voters residing in the territory and the approximate total acreage within the territory.


“A. From and after the effective date of this Act, any city annexing a particular area shall within three (3) years of the effective date of such annexation provide or cause to be provided such area with water and sewerage, and with all other governmental and proprietary services substantially equivalent to those furnished to other areas of said city, including, in addition to water and sewerage, such light, power, streets, drainage, fire prevention and police protection services as are substantially equivalent to the standard and scope of such services furnished by the city to comparable areas of such city. In considering whether or not the services so rendered are substantially equivalent to those in other areas of such city, there shall be taken into account the area in which disannexation is sought and comparable areas within the confines of the city, considering the characteristics of topography, pattern of land utilization, or population density of the area sought to be disannexed and of comparable areas within the confines of the city. But there shall also be taken into account the general level of services rendered to residents of the city as a whole, and the ultimate determination shall be whether or not the city has acted promptly and reasonably in extending services to the area involved. In the event a city fails or refuses to so provide or cause to be provided water and sewerage and other services within the time specified herein, a majority of the qualified voters who reside within such particular annexed area, where there are three or more such qualified voters, and the owners of fifty per cent (50%) or more of the acreage within such particular annexed area may petition the governing body of such city to disannex such particular annexed area. If there are less than three (3) qualified voters residing in such particular annexed area, such petition shall be by the owners of fifty per cent (50%) or more of the acreage of such particular annexed area.

“B. Should the governing body of such city fail or refuse to disannex such particular annexed area within ninety (90) days of receipt of a sufficient petition, any one or more of the signatures of such petition may, within sixty (60) days file in a district court any district in which such annexed area is located a petition praying that the particular annexed area be disannexed. The governing body of such city shall, within twenty (20) days after the service upon the members thereof of such petition, certify to said district court an answer thereto. Upon the filing of an answer by the governing body of said city, and upon application of either party, the case shall be advanced and heard without further delay in accordance with the Texas Rules of Civil Procedure. At the trial the only issue of fact shall be whether or not the city has provided to the area sought to be disannexed with water and sewerage, and all of the other governmental and proprietary services of the nature and in the manner above specified in Section 9A. If it is found, by the court or the jury, that the city has not furnished such items as required, the court shall enter an order disannexing such particular annexed area.

“C. Any city having had within its corporate limits, for a period of five (5) years or more, a particular area to which it has not provided all services as defined under Paragraph A. of this Section 9, shall within one (1) year from and after the effective date of this Act provide such area with such services. In the event a city fails or refuses to so provide or cause to be provided such services within the time specified herein, a majority of the
qualified voters who reside in such area, where there are three or more such voters, and the owners of fifty per cent (50%) or more of the acreage within such area, may petition the governing body of such city to disannex such area, in the same manner and with the same record to court action as otherwise provided in this Act for resident voters and/or landowners in areas annexed after the effective date of this Act.

Provided, however, that the right to disannexation provided for in this Subsection C shall not be available as to any area which was lawfully within the city limits at the time of the sale of any duly authorized general revenue bonds of the city, and for so long as any such bonds shall be outstanding.

"D. When any such area is disannexed under the provisions of this Section, it shall not again be annexed within one (1) year of such disannexation, and, if it is again annexed within three (3) years of disannexation the period for affording such services as are required by this Section shall be one (1) year from reannexation rather than three (3) years as in other cases.

"E. The request and petition for disannexation provided for in Section 9 of this Act shall be made by the qualified voters and landowners signing and presenting to the city secretary a written petition requesting disannexation. The signatures to this petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a qualified voter shall sign his or her name as it appears on the official copy of the current poll list or an official copy of the current list of exempt voters and each qualified voter shall note on such petition his or her residence address and the precinct number and aerial number that appear on his or her poll tax receipt or exemption certificate. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the particular annexed area. The petition shall describe the particular annexed area to be disannexed and have attached to it a plat of the particular annexed area. Prior to circulating the petition for disannexation among the qualified voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the particular annexed area and by publishing it for one (1) issue in a newspaper or newspapers of general circulation serving the particular annexed area at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary: (1) the sworn affidavit of any qualified voter who signed the petition stating the places where and the dates when the petition was posted, and (2) the sworn affidavit of the publisher of the newspaper or newspapers setting forth the name of the newspaper or newspapers and the issue and date in which the notice was published. In addition, there shall be attached to the petition the sworn affidavit of three (3) or more qualified voters signing the petition if there be that many, stating the total number of qualified voters residing in the particular annexed area and the approximate total acreage within such particular annexed area.

"Section 10. If any part of any territory annexed to a city under the provisions of this Act, or hereafter annexed to any such city under the provisions of any other law or charter, is claimed to be unlawfully annexed by some other city to be lawfully included within the limits of such other city, or for any other reason is claimed to be unlawful annexation by an interested person, party or firm, then either of the cities having such conflicting claims, or the person, party or firm alleging himself or itself to be aggrieved, may file a petition in a court of competent jurisdiction under the Uniform Declaratory Judgments Act seeking a declaration in the premises. In any such proceeding, the court may consider the respective claims of the parties, and decide the issues, regardless of whether such claims might otherwise be regarded as collateral attacks on the validity of the annexation ordinances in question or whether such ordinances might otherwise be regarded as not subject to judicial review. A final judgment on any such proceeding, declaring the validity or invalidity of any such
ordinance, shall be binding on the cities, towns, persons, parties or firms which were parties to such proceeding in any other litigation or other proceeding involving the same ordinance or ordinances.

"Article II
"Subdivision 2 of Article 1176, Revised Civil Statutes of Texas, 1925, is amended to read as follows:
"D. The power to fix the boundary limits of said city, to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, to provide for the disannexation of territory within such city and to provide for the exchange of territory with other cities or towns, according to such rules as may be provided by said charter not inconsistent with the procedural rules prescribed by this Act.

"Article III
"The provisions of this Act shall not repeal any law or part of law upon the subject of which the provisions of this Act relate unless they are especially inconsistent. It is expressly provided that this Act shall not repeal or affect Article 1183 to Article 1187, both inclusive, Revised Civil Statutes of Texas, 1925, nor apply to any territories held by any city or town under the provisions of said Articles or the laws of which said Articles were a codification.

"Article IV
"If any provision of this Act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are declared severable.

"Article V
"The importance of this Legislation and the crowded condition of the Calendars 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 this Act shall take effect and be in force from and after its passage, and it is so enacted.

(Mr. Johnson of Dallas in the Chair)

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

Amend House Bill 13, Committee Amendment No. 1, page 2, Subsection B, of Section 2, line 43, by striking the words “three hundred and twenty (320) acres,” and inserting in lieu thereof the words “one hundred and sixty (160) acres.”

Mr. Butler moved to table the amendment offered by Mr. Grover.

(Speaker in the Chair.)

The motion to table the amendment offered by Mr. Grover was lost. The amendment offered by Mr. Grover was then adopted.

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

Amendment No. 2
Amend House Bill Number 13, Committee Amendment No. 1, page 2, Subsection C of Section 2, line 47, by inserting the words “without the written consent of the governing body of such city,” after the word “diminished.”

The amendment was adopted without objection.

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

Amendment No. 3
Amend House Bill 13, Committee Amendment No. 1, page 3, Subsection D of Section 2, line 6, by adding the words “without the written consent of the governing body of such other city” after the words “of another city.”

The amendment was adopted without objection.

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

Amend Committee Amendment No. 1 to House Bill No. 13 by adding...
after paragraph E in Section 2 thereof (after line 7 on page 3 of the Committee Amendment as printed) a new paragraph, as follows:

"F. It shall not be mandatory for the city to embrace, as a part of its extraterritorial jurisdiction, all of the territory which could be embraced within the full extent of its potential jurisdiction; and, before any territory shall become the extraterritorial jurisdiction of a city or town, its governing body shall define by ordinance the extraterritorial area over which such powers and authority are to be applied. It shall then cause to be prepared a map or plat, together with a description of such area, describing such extraterritorial area, and such map or plat, together with such description, shall be published in a newspaper having general circulation within the county or counties involved once weekly for four (4) consecutive weeks before such city or town exercises its powers and authority under this Act within such extraterritorial area, and before any of the co-relative rights of persons in such area, which are dependent on extraterritorial jurisdiction status, shall apply.

The amendment was lost.

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

Amend Committee Amendment Number 1 to House Bill Number 13 by striking all of section 3 and substituting in lieu thereof the following:

"Sec. 3. Extension of Certain Ordinances Within the Extraterritorial Area. The governing body of any city may extend by ordinance to all of the area within its extraterritorial area the application of one (1) or more of such city's ordinances relating to health, sanitation, and subdivision development. In such event, such city shall have full power and authority to secure compliance with the provisions of such ordinance or ordinances made applicable within its extraterritorial area. Violation of any provision of any such ordinance or ordinances within such extraterritorial area shall be considered the same as a violation occurring within the corporate limits of such city and shall be prosecuted in the same manner and carry the same penalty as a violation occurring within the corporate limits of such city, and to this end and for these purposes, the jurisdiction of the corporation court of a city shall exist within the extraterritorial area of such city."

Mr. Butler moved to table the amendment offered by Mr. Quilliam.

A record vote was requested on the motion to table.

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

Yeas—76

Adams
Arlinda
Atwell
Ball
Banfield
Barnes
Basas of Bowie
Basas of Harris
Berry
Blaine
Boaman
Bridges
Brooks
Butler
Cannon
Carriker
Carr
Clayton
Collins
Cook
Cotron
Cowins
Craw
Crag
Duggan
Edwards
Fairchild
Floyd
Fonneren
Garrison
Giaas
Green
Grover
Harding
Harris of Dallas
Harris of Orange

Nays—72

Alanis
Allen
Beckham
Birkner
Brown
Brown of Galveston
Brown of Taylor
Cain
Caldwell
Canales

Carpenter
Chapman
Cowden
Crews
Davia
de la Gana
Dolle
Dykes
Elkins
Ericksen
Eubanks
Farris
Ferraro
Graber
Green
Grovet
Grover
Harding
Harris
Hart
Hawkins
Hellard
Henderson
Henderson
Herron
Hollingsworth
Hooper
Hope
Howard
Hudson
Huffman
Hunt
"
A record vote was requested on the adoption of the amendment offered by Mr. Quilliam. The amendment offered by Mr. Quilliam was lost by the following vote:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>66</td>
<td>75</td>
</tr>
</tbody>
</table>

The amendment offered by Mr. Quilliam was lost by the following vote:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>66</td>
<td>75</td>
</tr>
</tbody>
</table>

(The above record vote was requested by Mr. Eckhardt, Mr. McGregor and Mr. Weldon.)

A record vote was requested on the adoption of the amendment offered by Mr. Quilliam.
The above record vote was requested by Mr. Brooks, Mr. Rodriguez, and Mr. Harris of Galveston.)

Mr. Johnson of Dallas requested a verification of the above vote.

The motion to table prevailed.

RECESS
Mr. Shipley moved that the House recess until 10:30 o'clock a.m. tomorrow.

The Benediction was offered by the Reverend I. W. Oliver, Chaplain.

In accordance with the motion to recess, the House, at 4:30 o'clock p.m., took recess until 10:30 o'clock a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

The Committee on Rules has filed a favorable report on H. S. R. No. 262.

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Austin, Texas, March 14, 1963
Hon. Byron M. Tunnell, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills to whom was referred

H. B. No. 35, An Act amending Chapter 125 of the Forty-fifth Legislature, 1937, as last amended by Chapter 275, Acts of the Fifty-fifth Legislature, 1957 (compiled as Article 6243c, Vernon's Texas Civil Statutes), provid-

ing in all cities of less than one hundred and eighty-five thousand (185,000) inhabitants according to the last preceding Federal Census, for a program of contributions and membership to the Firemen's Relief and Retirement Fund; providing for the investment of fund proceeds in certain cities; . . . etc.; and declaring an emergency.

Has carefully compared same and finds it correctly engrossed.

NELSON COWLES, Chairman.

REPORT OF THE COMMITTEE ON ENROLLED BILLS

Austin, Texas, March 18, 1963
Hon. Byron M. Tunnell, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 233, An Act relating to and fixing minimum and maximum salary of the official shorthand re-
porter for the 18th Judicial District of Texas; providing for severability; and declaring an emergency.
March 19, 1963   HOUSE JOURNAL   687

Has carefully compared same and finds it correctly enrolled.

JOE CANNON,  
Vice-Chairman.

SENT TO GOVERNOR  
March 18, 1963  
H. B. No. 233.

FORTIETH DAY  
(Continued)  
(Tuesday, March 19, 1963)

The House met at 10:30 o'clock a.m., and was called to order by the Speaker.

The Invocation was offered by the Reverend I. W. Oliver, Chaplain, as follows:

“Our Father, let us never be guilty of failing to listen to new thoughts and new ideas. Let the shades of our minds be ever open to receive Thy light, that in the fullness of that light we might not fear to follow paths that were before unknown.

Through Christ our Lord, we pray.—Amen.”

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence:

Mr. Shannon for today on account of illness, on motion of Mr. Boyse.

Mr. Wieting for today on account of a death in his family, on motion of Mr. Haring.

Mr. Gibbens was granted leave of absence for last Tuesday, Wednesday and Thursday, and for Monday March 18, on account of important business, on motion of Mr. Crew.

TO INVITE DR. JAMES B. CONANT TO ADDRESS THE HOUSE

Mr. Woods moved that all the necessary rules be suspended for the purpose of taking up and considering at this time House Simple Resolution No. 262.

The motion prevailed without objection.

The Speaker then laid before the House, for consideration at this time, H. S. R. No. 262, To invite Dr. James B. Conant to address the House.

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

H. S. R. No. 262 was then adopted.

COMMITTEE APPOINTED

The Speaker announced the appointment of the following Committee to escort Dr. Conant and party to the Speaker's rostrum, pursuant to the provisions of H. S. R. No. 262:

Representatives Woods, Chairman; Banfield, Grover, Fondren, Ham-lin, Jamison, Macatee and Markgraf.

HOUSE JOINT RESOLUTION NO. 12  
ON SECOND READING

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

H. J. R. No. 12, A Joint Resolution “Proposing an amendment to Sections 1 and 2 of Article VI of the Constitution of the State of Texas so as to lower the minimum age required for voting to eighteen (18) years and to exempt persons under twenty (20) years of age from the operation of any provision imposing a poll tax or any type of registration fee as a prerequisite to voting.”

The resolution was read second time.

Mr. Berry moved that further consideration of House Joint Resolution No. 12 be postponed until next Tuesday, March 26, at 11:00 o'clock a.m.

There was no objection offered, and it was so ordered.

VOTE RECORDED

By unanimous consent of the House, Mr. Brown of Taylor was granted permission to be recorded as present-not voting on the motion to table the amendment offered by Mr. Allen to H. B. No. 16 on March 18.