



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

Overruler
0-571

GERALD C. MANN
ATTORNEY GENERAL

Honorable Sidney Latham
Secretary of State
Austin, Texas

Dear Mr. Latham;

Opinion No. 0-5310

Re: Power of Governor to withdraw and reconsider Act of Legislature approved and signed and filed by him with the Secretary of State.

Your letter of the 18th instant submits the following question:

May the Governor, having approved, signed and filed Senate Bill No. 117 with the Secretary of State, withdraw such bill from the office of the Secretary of State for further consideration?

Constitution, Article 4, Section 14, provides:

*Every bill which shall have passed both houses of the Legislature shall be presented to the Governor for his approval. If he approve he shall sign it; but if he disapprove it, he shall return it, with his objections, to the House in which it originated, which House shall enter the objections at large upon its journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other House, by which likewise it shall be reconsidered; and, if approved by two-thirds of the members of that House, it shall become a law; but in such cases the votes of both Houses shall be determined by yeas and nays,

and the names of the members voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor with his objections within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent its return, in which case it shall be a law, unless he shall file the same, with his objections, in the office of the Secretary of State and give notice thereof by public proclamation within twenty days after such adjournment. If any bill presented to the Governor contains several items of appropriation he may object to one or more of such items, and approve the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and no item so objected to shall take effect. If the Legislature be in session, he shall transmit to the House in which the bill originated a copy of such statement and the items objected to shall be separately considered. If, on reconsideration, one or more of such items be approved by two-thirds of the members present of each House, the same shall be part of the law, notwithstanding the objection of the Governor. If any such bill, containing several items of appropriation, not having been presented to the Governor ten days (Sundays excepted) prior to adjournment, be in the hands of the Governor at the time of adjournment, he shall have twenty days from such adjournment within which to file objections to any items thereof and make proclamation of the same, and such item or items shall not take effect.

By Section 21 of the same Article of the Constitution, the Secretary of State is required to "keep a fair register of all official acts and proceedings of the Governor." By statute, he is likewise required to "attend at every session of the Legislature to receiving bills which have become laws." (R.C.S., Art. 4331).

It is well settled that the time allowed by constitutional provision for consideration of bills is a matter of privilege with the Governor, who may waive his right to the full period and veto or approve a bill within the allotted period. Hunt v. State, 72 Ark. 241, 79 S. W. 769, 105 A. S. R. 34, 2 Ann. Cas. 33, 65 L. R. A. 71; Pickle v. McCall, 86 Tex. 312, 24 S. W. 265; 25 R. C. L. 890.

While the Governor retains a bill in his possession and under his control within the allotted period, he may reconsider his action thereon; but when he approves and signs a bill, and deposits it with the Secretary of State, the official repository of the official acts of the Governor and of all laws, he has placed the bill beyond his control and may not thereafter recall the bill from the Secretary of State's office for further consideration. People v. McCullough (Ill.) 71 N. E. 602; Pickle v. McCall, supra; 25 R. C. L. 892; 89 C. J. 592.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild

R. W. FAIRCHILD
ASSISTANT

RWF-MR

~~RECORDED~~ MAY-24, 1943
Gerrit E. Mann

ATTORNEY GENERAL OF TEXAS

