

~~Impeachment~~

July 19 1932

Mr Carter:

Here are the charges upon which Jim Ferguson was impeached:

ARTICLE 1: "That there was paid from the funds of the Canyon City Normal School, deposited with the Temple State Bank on August 23, 1915, a note of \$5,000, together with \$600 interest, due by James E Ferguson to the First National Bank of Temple. That said amount has never been refunded to the State of Texas. That in part payment of the total due for the building of the Canyon City Normal College he used other funds, a portion of which belonged to the state and the balance being in his hands as Governor and deposited to his credit as Governor in the American National Bank of Austin, which act constitutes a violation of law". This charge was sustained by a vote of 27 to 4.

ARTICLE 2: "That James E Ferguson received from former Governor O B Colquitt more than \$101,000, the proceeds from insurance policies on the Canyon City Normal School. That at the time said monies were turned over to him they were on deposit in banks bearing interest at from 4½ to 5 per cent and which remained there for approximately one year, and that he deposited the other amounts in banks in which he was interested as a stockholder and at the American National Bank, to which he shortly afterwards became indebted. That he received direct and personal profit as a stockholder of the Temple State Bank from the deposit placed with it, thus using and misapplying state funds for his individual benefit and profit". Sustained by a vote of 26 to 5.

ARTICLE 6: "That there was deposited by James E Ferguson in the Temple State Bank on or about the month of January, 1917, the sum of \$60,000 belonging to the state of Texas and in the possession of the Secretary of state by virtue of his office, said

amount being represented by a check of the Secretary of State, although the State Treasury was open for the purpose of receiving same. That James E Ferguson was a stockholder in said bank, owning more than one-fourth of the stock, and that the said Temple State Bank and James E Ferguson used said fund and received the profit and benefit, the said James E Ferguson receiving more than one-fourth of the profits and of the benefits." Sustained 24 to 7.

ARTICLE 7: "That on or about May 29, 1917, James E Ferguson accompanied T H Heard, president of the Temple State Bank, to the American National Bank at Austin and the said T H Heard deposited to the credit of the Temple State Bank, with the knowledge and consent of the said James E Ferguson, the sum of \$250,000 of the funds belonging to the state of Texas and in the possession of the Secretary of State, said funds being represented by five checks drawn by the Secretary of State in the sum of \$50,000 each, although the State Treasury was then and there open for the purpose of receiving same. That the said James E Ferguson owned more than one-fourth of the stock of the Temple State Bank and that said amount was used by the Temple State Bank for its own profit and benefit, more than one-fourth of which profit and benefit belonged to James E Ferguson." Sustained 26 to 5.

ARTICLE 11: "That in the investigation of James E Ferguson by the committee of the whole House of Representatives said James E Ferguson testified that during the regular session of the thirty-fifth legislature and shortly thereafter he received from parties certain currency in varying amounts, the total of which was about \$156,500. That said transaction is unusual and questionable and that the said James E Ferguson, when questioned as to who loaned him this money, declined to answer, although the officer of the committee of the whole, appointed to pass on the

admissibility of testimony, ruled that he should answer, and the committee sustained said ruling. That he is thus not only in contempt of the House and its committee, but he insists he is not required to give before the representatives of the people of Texas an accounting of said \$156,500 in currency which he received during sessions of the legislature or shortly thereafter, and the receipt of such sums in currency and the failure to account for same constitutes official misconduct." Sustained 27 to 4.

ARTICLE 12: "That James E Ferguson had on deposit during the year 1916 in the American National Bank to his account as Governor several sums of money belonging to the Adjutant General's department of Texas, aggregating more than \$3,000, said funds being the property of the state of Texas, but set aside for that department. That in violation of the statutes of Texas he diverted these funds from their lawful purpose and paid same as a portion of the amount for the construction of buildings of the Normal College located at Canyon City." Sustained 27 to 4.

ARTICLE 14: "That by an express provision of the constitution and his oath of office the Governor is bound to enforce all laws of the state of Texas. The laws of Texas during the period of his administration expressly forbade state banks to lend money in excess of 30 per cent of capital stock. This was known to the Governor. Yet, in violation of this provision of the law, he induced the officers of the Temple State Bank to lend him, James E Ferguson, an amount far in excess of that authorized by law, which loans were made during the years 1916 and 1917." Sustained 26 to 5.

ARTICLE 16: "Section 30-A of Article 16 of the constitution of Texas provides for a board of Regents for the University of Texas, who shall hold office for six years, their terms expiring one-third every two years. The purpose of the people of Texas in the adoption

of this provision was to take the University of Texas and all other such state institutions from the control of politics and to keep the different boards from being under the control and domination of whoever might happen to be Governor. By Articles 2639 and 2640 of the revised Civil Statutes of 1911 the Board of Regents are given the management of the affairs of the University of Texas with the discretion to remove members of the faculty when in their judgment it is deemed best. That it is the duty of the Governor or any private citizen to call attention of the Board of Regents to any mismanagement or improper practices at the University, or any other institutions, is readily conceded. The people themselves have given to the Board of Regents, by constitutional enactment, which has been confirmed by statutory law, the sole right to judge of the truth of the charges and the punishment to be inflicted against members of the faculty. The Board of Regents in their sphere are just as supreme as the Governor is in his, each having both constitutional and statutory duties to perform and each being answerable to the people of Texas. The Governor of Texas not only filed charges against certain members of the faculty, as he had a right to do, but after the members were exonerated by the Board of Regents he has sought to have the members of the faculty expelled from that institution because he desired it. He has thus sought to set aside the constitution and law giving to the Board of Regents the discretion in matters of this kind and assert instead of their legal judgment his own autocratic will." Sustained 22 to 9.

ARTICLE 17: "Article 6027 of the revised Civil Statutes of 1911 provides for the removal of members of the Board of Regents (among other officers) for 'good and sufficient cause'. The

Governor has sought to remove members of the Board of Regents without such cause, has demanded resignations of others without reason, simply and only because he could not dictate to them as to how they should cast their votes in reference to matters arising before them. Such conduct was a clear violation of the law and would serve to make inoperative the provision of the constitution providing for six-year terms of office." Sustained 22 to 8.

ARTICLE 19: "The Governor of Texas has sought to use the power of his office to control members of the Board of Regents. The chairman of the board of Regents had become surety on a bail bond, the case pending in Jones County, Texas. The defendant escaped and judgment was secured on said bond in the sum of \$5,000 against the principal and sureties, one of the sureties being Wilbur P Allen, chairman of the Board of Regents of the University of Texas. He applied to the Governor of Texas for a remission of the judgment, which he would have had to pay, and without good reason, but only to influence his action as a member of the Board of Regents, James E Ferguson, as Governor, remitted the forfeiture of \$5,000, which except for such action of James E Ferguson would have belonged to the people of Texas." Sustained 21 to 10.

Ferguson also was charged with having misapplied monies of the state in the purchase of groceries, feed, automobile tires, gasoline, etc. The committee appointed by the House of Representatives found that he had so misapplied several thousand dollars. Ferguson testified before that committee that if the decision in the case of Middleton vs. Terrell were decided against him he would refund to the state the sum so spent. The decision went against him and Article 13 sought to impeach him on the ground that he had mis-

appropriated the funds and had failed to pay in accordance with his oath before the committee. This charge was not sustained, the vote being 15 aye and 16 no. The Middleton suit, as I recall, is what is known as the famous chicken salad case, wherein expenses of entertaining in the Governor's mansion and one dinner wherein chicken salad was served were paid for out of the state funds appropriated for fuel, water and maintenance of the Governor's mansion. This was during Colquit's administration. I also think this charge is based upon testimony which brought to light, among other things, the purchase of a ukelele. Both the chicken salad and the ukelele figured largely in subsequent campaigns.

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of the constitution; but, as the matter is of such public importance, I am taking the liberty to again call your attention to the provision, in order that there may be no possibility of the provision being overlooked. Yours truly, James E. Ferguson, Governor."

On March 28, a week after Ferguson's letter, the court decided the case against the governor's desires, and on April 5 Ferguson vetoed the bill increasing the Supreme Court justices' salaries.

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In 1922, Jim Ferguson returned to the Democratic party as a candidate for U. S. Senator, and was defeated by Earle Mayfield. After that defeat, he bolted the Democratic primary and stumped the state for George Peddy, Republican nominee. The sworn reports of the campaign expenditures of the Republican state executive committee of Texas for the year 1922, and of the Peddy campaign for the same year, show that Jim Ferguson's Forum received \$2500 in cash during that campaign from the Republican state executive committee and that Ferguson and his Forum together received in addition \$6542 from the Peddy campaign committee. In other words, Jim Ferguson or the Forum, or both, received \$9042 for their activities in behalf of the Republican candidate.

The newspapers of Texas, on Sunday, January 4, 1925, less than two weeks before Mrs Ferguson's inauguration, announced that Jim Ferguson had become associated as general counsel and adviser for four Texas railroads. The dominant factor in the ownership of these railroads was W T Eldridge, the head of the Sugarland industries. The fees paid Ferguson never have been made public, but were variously estimated at from \$10,000 to \$20,000 a year.

Now we come to Jim Ferguson's acts while his wife as governor and to the record of her administration.

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In an interview published in The Star-Telegram of August 5, 1925,

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which was authorized by Jim Ferguson himself, he stated he had been invited to sit in with the Highway Commission and had accepted the invitation. He was quoted as having said: "I thought it necessary. In the first place, the Commission cordially invited me to sit with them, as my wife had appointed all three of them. I thought I ought to accept their kind invitation. It must be borne in mind that the Highway Department spends more money than all of the departments of your state government. My wife's administration will be charged or credited with the failures of the Commission and its administration of highway laws. Therefore, my wife's administration can not escape liability in the premises. I thought I could not in any better way redeem my promise to the people for an economical administration of their affairs than to identify myself with the Commission and inform myself about this important branch of state government."

How well Jim redeemed his promise was shown in the highway suits later brought and the disclosures they gave the public.

Here are some instances:

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The American Road Company received a contract to maintain 154 miles of state highway in Dallas county at a price of \$9,989.81 per month. The contract lasted six months. The company drew \$59,957.66 from the state treasury. The highway suits showed that it had paid out under the contract for work done, salaries, and every other expense, \$21,957.25, leaving a profit of \$38,000.41 in six months' time.

The same company had a contract to maintain the Tarrant county highways. It drew from the state \$55,633.70. It paid out for all purposes \$27,618.70. Its profit on the Tarrant County job was \$28,014.94.

Charlie Hurdleston organized the Marine Construction Company



and was given maintenance contracts in four counties totaling \$112,000. The capital stock of his company was \$5,000 and the half of it necessary to be paid in under charter requirements was paid out of the first monthly check under its contract.

The commission decided it was imperative to retop immediately several thousand miles of state highways with asphalt, and this was awarded to the American Road Company at 30 cents per square yard. It was let without bid and without bond for performance. The American Road Company immediately sub-contracted the work. It was incorporated under the laws of Delaware about April 17, 1925, with a paid up capital of \$55,000, consisting of \$10,000 in cash, a secondhand asphalt plant, and five secondhand automobiles. On September 17, 1925, little over a month after its incorporation, it declared a dividend of \$200,000. On October 3, sixteen days later, it declared another dividend of \$319,000 payable in Liberty Bonds.

It was proven in the trial at Austin that a commission of five percent of the company's gross income was paid to Broadnax and Heyser, principals in this company, and that within six months after it had been chartered it had paid in commissions to its principal stockholders and in dividends, a total of \$709,111.35, which is quite some profit in six months on \$50,000 capital. And after paying out all this, they had cash and Liberty Bonds totaling \$230,000 more.

After hearing the evidence the court at Austin returned a judgment in favor of the state against the American Road Company for \$600,000 and cancelled all estimates due the company, which had been approved for payment but not paid, and required it to pay into the state treasury in cash the excess up to \$600,000. As a

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result of this judgment, the profits of the American Road Company on the work done prior to the judgment was reduced to \$300,000 and all contracts cancelled. However, \$300,000 profit on \$50,000 investment in six months' time is still quite a healthy profit.

W K McIlyar, engineer of the American Road Company and its dummy president, testified that if the company had been permitted to complete the contracts, under the same prevailing conditions, its profits would have been somewhere between \$1,800,000 and \$2,000,000.

The Hoffman Construction Company received a similar topping contract, under which it was paid in six months \$908,443.24 from the state treasury for work which cost it \$296,805.50. Its profit was \$611,637.74. It, too, sublet its juicy contracts. The state paid the Hoffman Company 30 cents a square yard for asphalt surfacing. It paid sub-contractors .958 per square yard. Joe Burkett, then highway commissioner, testified he knew nothing about the American Road Company contract. Frank Lanham, chairman of the commission, testified he knew nothing about the Hoffman contract. W T Montgomery, a San Antonio contractor, testified that in a conversation with Lanham, in the offices of the Texas Highway Commission, about the tenth or eleventh of May, 1925, Lanham told him: "Montgomery, I had nothing more to do with letting the American Road Company contract than you had", and I said, "Who did?", and he said, "Jim Ferguson". The testimony also showed that the Hoffman Company received \$35,346.63 for maintaining state highways in Bexar county, and only spent \$6,687.28.

In the Ferguson Forum of October 3, 1924, appeared a statement signed by Mrs Miriam A Ferguson, which declared: "I favor the most rigid enforcement of all liquor laws, including both the Dean law and the Volstead act, and I favor the passage of a law to put

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the drugstore bootleggers in the penitentiary."

The records of the secretary of state show that during the first 17 months of her administration pardons in one form or another were granted to 402 convicted bootleggers, 24 per month. During this period, 34 persons convicted of driving automobiles while intoxicated were pardoned. During the same time there were pardoned 37 men convicted of rape, and restoration of citizenship was granted to 7 convicted on the same charges. Ten convicted of bigamy, 2 convicted of pandering, and 10 convicted of seduction were pardoned. Other pardons during these 17 months were granted as follows:

16 convicted of unknown offenses,

2 arson

4 for keeping gambling houses

1 for poisoning a well

1 for maiming and disfiguring

51 for assault either with intent to murder, rape or rob.