

RULING BY THE SPEAKER
on House Bill 20

Announced in the House on May 10, 2023

Mr. Anchía raises a point of order against further consideration of House Bill 20 under Rule 8, Sections 1 and 3, on the grounds that the caption does not give reasonable notice of the bill's contents and the bill has more than one subject.

The bill contains a finding that "This state is "in such imminent [d]anger as will not admit of delay' and declares authority under Section 10, Article 1, United States Constitution." The bill also authorizes the Governor to invoke the same constitutional provision and issue a unilateral declaration "that a state of invasion or imminent danger under Section 10, Article I, United States Constitution, exists" and then direct the proposed border protection unit to use force to deter and repel certain persons entering Texas. Mr. Schaefer argues that the invocation and authorization are merely general statements of an existing right of self-defense.

Under Section 10, Article 1, United States Constitution, "[n]o State shall, without the Consent of Congress, . . . engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay." The bill's invocation of this authority is an express declaration of war under the long-dormant war power reserved to the states. The bill likewise authorizes the governor to issue a declaration of war if he finds that either condition authorized by the U.S. Constitution exists and then deploy state resources to prosecute that war.

The plain meaning of the term "war" includes more than self-defense activity. Mr. Schaefer does not offer any contrary authority to support his interpretation. Declarations of war under an obscure provision of the Federal Constitution are precisely the subject matter that must be stated in the caption of a bill ostensibly concerned only with law enforcement activity in the state's border region. And because domestic law enforcement is not the same kind, degree, or type of activity as that of war, the caption does not give reasonable notice of the bill's content and the bill also impermissibly contains two subjects.

Accordingly, the point of order is well-taken and sustained.