

# HOUSE . . . . No. 1678

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By Mr. Aspell of Boston, petition of Paul A. Dever (Attorney-General) for ratification and confirmation of certain action of the Governor and Council in connection with a recovered judgment in the Superior Court for Suffolk County against one Edgar B. Davis now residing in Texas. The Judiciary.

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## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Eight.

### RESOLVE RELATIVE TO CERTAIN LITIGATION NOW PENDING IN THE COURTS OF THE STATE OF TEXAS.

1    *Whereas*, The commonwealth of Massachusetts on  
2 November twenty-seventh, nineteen hundred and  
3 thirty-three, recovered judgment in the superior  
4 court for Suffolk county against one Edgar B. Davis,  
5 now resident in Texas, for five hundred thirty-  
6 four thousand, nine hundred seventeen dollars and  
7 forty-eight cents, together with costs of ninety-  
8 one dollars and five cents, as appears from the docket  
9 of said court in case numbered two hundred four-  
10 teen thousand, nine hundred and ninety-seven, which  
11 said judgment is still outstanding and on account of  
12 which nothing has been paid or received, and there  
13 is no known property of said Davis in the common-  
14 wealth sufficient to satisfy said judgment or any  
15 substantial part thereof; and

16 *Whereas*, Two suits have been brought in the  
17 district court of Bexar county, thirty-seventh ju-  
18 dicial district of Texas, one against said Davis and  
19 another, a garnishment proceeding, against United  
20 North and South Development Company, in an  
21 attempt to collect the aforesaid judgment, in which  
22 said suits William H. Russell, Esquire, of San An-  
23 tonio, Texas, appears as attorney for the common-  
24 wealth; and

25 *Whereas*, Under the law of Texas, in order to pro-  
26 cure the issuance of a writ of garnishment, it was  
27 necessary that a bond be filed in double the amount  
28 of the indebtedness claimed, pursuant to which re-  
29 quirement His Excellency, Governor Charles F.  
30 Hurley, by and with the consent of the council, on  
31 June eighteenth, nineteen hundred and thirty-seven,  
32 executed such bond in the principal sum of one mil-  
33 lion, four hundred thousand dollars, in which the  
34 commonwealth is principal and the Fidelity and  
35 Deposit Company of Maryland, Aetna Casualty and  
36 Surety Company, Indemnity Insurance Company of  
37 North America, Fidelity and Casualty Company of  
38 New York, National Surety Corporation and United  
39 States Fidelity and Guaranty Company are sureties,  
40 the condition of which bond is substantially that the  
41 commonwealth will prosecute its suit to effect and  
42 pay to said Davis all damages and costs that may be  
43 adjudged against it for wrongfully suing out said  
44 garnishment; and

45 *Whereas*, The defendants have questioned the suf-  
46 ficiency of the bond and the authority of the governor  
47 of the commonwealth to execute the same and to  
48 create a binding obligation on the commonwealth;  
49 therefore be it

50     *Resolved*, That, in order to remove any such doubts,  
51 the action of said governor and the council in ex-  
52 cuting said bond and the institution of said suits by  
53 William H. Russell, Esquire, as attorney, are ratified  
54 and confirmed.

