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**JOURNAL**  
**OF THE**  
**SENATE OF TEXAS**  
**BEING THE**  
**Second Called Session**  
**OF THE**  
**FORTY-SECOND LEGISLATURE**  
**BEGUN AND HELD AT**  
**The City of Austin, September 8, 1931**



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WENDELL O'NEAL, Journal Clerk.  
MRS. PATTI CLENDENNIN, First Assistant Journal Clerk.

### Message From the Governor.

The Chair recognized the Door-keeper, who introduced a messenger from the Governor with the following message:

Executive Office,  
Austin, Texas, Sept. 8, 1931.  
To the Members of the Forty-second Legislature:

You are assembled again in extraordinary session, to deal with a problem affecting the welfare of the people of Texas. This is primarily a farmers session, called at the instance of the cotton growers of this State, to consider legislation which may relieve them in a great crisis.

Usually the tillers of the soil take little part in the writing of the laws that govern them; they are too busy with the task of feeding and clothing civilization to give legislation much attention; while others interested in endeavors less vital to the public weal exert their influence continually. The farmers are long-suffering and patient, and seldom ask for special consideration. Now, however, they have risen in their distress and lifted their voices in the most widespread and concerted demand that has moved them during modern years.

They are not to be denied, and no one with the interest of the State as a whole at heart would deny them, for upon the well-being of agriculture depends ultimately the well-being of us all. In this session the farmers are to have an inning; it is their session, and they should follow up their far-flung action in bringing about the session, by letting their legislative representatives know what they want. I believe you all are ready to meet their wishes, insofar as you can ascertain them, in any proper and reasonable way.

Judging from the appeals which thousands have made to the chief executive in telegrams, letters, petitions and resolutions, as well as personal and telephone calls, the majority favor a one-half reduction of cotton acreage next year, as a means of decreasing the vast over-supply which has prostrated the cotton market and threatens an even more complete collapse.

Though his operations are probably more economical than those of

any other industry, the farmer does not receive for his cotton, under present prices, as much as the actual cost of production; much less a profit from his investment or a wage from his labor with which to feed, clothe and shelter his family and pay his debts. Still lower prices would mean disaster and ruin to tens of thousands. Yet, unless something is done soon to reduce the supply or increase the demand very substantially, a further demoralization of the market seems inevitable.

Whether the situation can be remedied by legislation remains to be determined. The hopes and prayers of Texas are that it can. As for the best means and methods of accomplishing that end, I leave that to the wisdom of you ladies and gentlemen of the Legislature. It is a grave, difficult problem, and its solution, if possible at all, will require the best that is in you.

Behind the menace of over-production looms another which some day is destined to become as acute and alarming, or more so, if not forestalled. I speak of soil deterioration, due to erosion and constant wearing out of the land by planting cotton year in and year out without rest or rotation. In older states, where land has been planted in the same crop for generations longer than we have been growing cotton, the soil has become so impotent that it will not yield a fair crop except by means of expensive aids. Many Texas farmers will bear witness that their soil already has begun to deteriorate and is much less productive than it was formerly. Likewise a tremendous amount of our best farm acreage has been washed away and ruined by erosion.

If Texas is to avert the calamity of a wornout soil and impoverished agriculture, she had best look diligently to its conservation. And the longer she waits, the more costly it will be.

Acreage reduction, of course, would accomplish conservation of the soil affected, as far as giving it a rest and possibly a rotation of crops is concerned. And, some attorneys of high repute have expressed the opinion that legal restriction of cotton acreage would stand the test of the courts, under

the constitutional provision for conservation of all natural resources of the State.

I submitted this issue to the recent special session, and bills were introduced designed to reduce the acreage and preserve the productivity of the soil. The legislation failed of passage at that time, and I now submit it again, feeling that later developments have placed a new aspect upon the situation.

Nothing less than an acute emergency in the public affairs of Texas would have occasioned this session. It was called to aid an industry in distress—the basic industry of the State, materially affecting practically the entire population, directly or indirectly. This emergency challenges the highest principles of democratic statesmanship, and I counsel you most earnestly to let those principles guide your deliberations here, as I feel confident they will.

These are abnormal, perilous times, and the problem before you is an extraordinary one, calling for heroic measures in its solution. This is an hour when political and private consideration should be laid aside, and when we should all work with one aim—the general public good. Patriotism dominated our thoughts and actions during the World War, and should do no less now, in the country's greatest crisis since then.

The eyes of the nation are upon us, watching and hoping for us to raise a torch that will light the way for the Southland out of the darkness that now engulfs it. I trust that out of your labors will evolve a law or laws that will safeguard the future of agriculture in Texas, lead to the adoption of similar measures in other Southern States, and redound to the benefit of all the people, and that this be done as speedily as possible.

Respectfully submitted,  
R. S. STERLING,  
Governor of Texas.

**Message From the Governor.**

Executive Office,  
Austin, Texas, Sept. 18, 1931.  
To the Members of the Forty-second  
Legislature:

As an emergency measure, I herewith hand to you the attached bill bearing upon the subject of the tax rate for the present year and I urge your immediate passage of this measure in order that the tax rate for this year may be promptly fixed and in order to insure that the State rate will not be raised.

Respectfully submitted,  
R. S. STERLING,  
Governor.

Williamson. Woodul.  
Woodruff. Woodward.

Absent.

Cousins. Stevenson.

Absent—Excused.

Berkeley.

#### Senate Bill No. 19.

On motion of Senator Thomason, S. B. No. 19 was laid on the table subject to call.

#### Recess.

On motion of Senator Purl, the Senate, at 12:52 o'clock p. m., recessed until 2:30 o'clock p. m.

#### After Recess.

The Senate met at 2:30 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

#### Senators Excused.

Senators Hardin and Oneal were excused for the rest of the day to attend the funeral of Senator Holbrook's brother.

#### Message from the Governor.

Executive Office,  
Austin, Texas, Sept. 18, 1931.  
To the Members of the 42nd Legislature:

I hand you herewith for consideration the attached bill relating to the leasing of river beds for oil and gas development. The fact that river bed areas are now in proven oil territory but are not subject to lease and the fact that contiguous areas are being developed will lead to the draining of oil and gas belonging to the State of Texas from the river bed areas.

I consider this an emergency matter and request that you give it your prompt attention.

Respectfully submitted,  
R. S. STERLING, Governor.

#### House Bill No. 19.

The question recurred upon H. B. No. 19.

Senator Small raised the following point of order:

The Hon. Edgar E. Witt:

I raise the point of order to House Bill No. 19, by DeWolfe and others,

purporting to repeal Sub-division 4 of House Bill 251, Chapter 212, Acts of the Regular Session of the Forty-second Legislature, imposing an occupation tax on peddlers, that the bill is not within the Governor's call in that it does not provide for soil conservation and the alleviation of the condition of agriculture in Texas, and does not relate to establishing a policy which other agricultural states may follow, because it is not designed to bring about the reduction of cotton acreage in Texas, as was the Governor's intent, and because the subject embraced therein has not been submitted by the Governor, and therefore the consideration of said bill is expressly prohibited by the Constitution, as reflected by the opinion of the Attorney General, dated September 15th, 1931, addressed to the Hon. Ray Holder, and signed by James V. Allred, Attorney General, a copy of which is attached hereto.

#### SENATOR,

Thirty-first Senatorial District.

Austin, Texas, Sept, 15, 1931.

Honorable Ray Holder, Chairman  
Committee on Education,  
House of Representatives,  
Austin, Texas.

Dear Sir:

Receipt is acknowledged of your letter of September 14th, reading as follows:

"As chairman of the Committee on Education I am asking for an opinion on whether or not the enclosed bill comes within the Governor's call, calling the Second Called Session of the Forty-second Legislature.

"The reason that the Committee on Education is interested in this bill is because of the fact that one-fourth of all occupation taxes go to the support of the public schools in this State, and as this bill seeks to repeal all taxes on all peddlers the public school funds will be materially affected and will result in the curtailment of the public activities in this State, and it will naturally become a matter of vital concern to this committee.

"Due to the fact that this bill has been reported out of committee I am urging that this opinion be furnished at the earliest possible date."

The copy of the bill which you enclose is numbered House Bill 19, the caption of which reads as follows:

**Message From the Governor.**

Executive Office,  
Austin, Texas, Sept. 21, 1931.  
To the Members of the Forty-second  
Legislature:

Pursuant to resolutions passed by the Senate and House of Representatives, in which you request the submission of salary reductions, I am submitting herewith bills which in effect reduce all salaries of State employees with the exception of those fixed by the Constitution and those salaries that are less than One Hundred and Thirty-four Dollars (\$134.00) per month.

I feel that it is absolutely necessary to reduce the expenses of operation of the State Government and if the expenses are not reduced, it will become necessary to fix the ad valorem tax at the constitutional limit.

Therefore, I request that you give these measures your prompt and careful consideration.

Respectfully submitted,

R. S. STERLING,  
Governor.

**S. C. R. No. 11.**

Senator Greer sent up the following resolution:

Whereas, The McFarlin interests have offered to donate to the State of Texas, the McFarlin farm located near Rosser in Kaufman County, consisting of four thousand seven hundred and sixty acres (4760) for any purpose and use to which the State might wish to put it at some future time, and;

Whereas, The said McFarlin farm has cost in improvements nearly one million (\$1,000,000.00) dollars, and;

Whereas, The said McFarlin farm has been noted as the most famous and best equipped hog farm in the entire Southwest; therefore

Be It Resolved, That the Lieutenant Governor of the Senate of Texas, be authorized to appoint a committee of three and the Speaker of the House, a committee of four members of the House to confer with the President of the A. & M. College and the Board of Control, to determine whether or not this farm could be taken over by the State of Texas for any purpose for which the State might use same, and whether or not the amount of indebtedness against

the land and the levy indebtedness thereon would be greater than its value to the State, or whatever purpose it might be used.

GREER,  
GAINER.

Read and adopted.

**Simple Resolution No. 17.**

Senator Purl sent up the following resolution:

Resolved, That in order to prevent an increase in the ad valorem tax rate and to absorb and remove the existing deficit in the general revenue fund of this State, the Governor is requested to submit to the present Legislature the subject of amending Article 771 of the Revised Civil Statutes, known as the Gross Production Tax Law, so as to provide that such Gross Production Tax shall in no event be less than 2c per barrel; as such a law would not materially increase the amount of Gross Production Tax paid by oil producers in this State above the amount paid for years past, but would prevent a large reduction in those taxes by placing the Gross Production Tax on oil on the same basis as the Gross Production Tax on sulphur.

PURL.

The resolution was read.

Senator Loy sent up the following amendment:

Amend Resolution by adding the submission of a bill levying a 2 cent tax per 1000 cubic feet on gas pipe lines, shipping natural gas out of the State.

LOY.

The amendment was read and lost.

The roll call showed no quorum present. Senator Purl raised the point of order that a quorum was lacking.

On motion of Senator Purl, a call of the Senate was ordered to obtain and maintain a quorum until the resolution was disposed of.

The resolution was lost by the following vote:

Yeas—12.

Beck.	Moore.
DeBerry.	Neal.
Gainer.	Parrish.
Greer.	Purl.
Hornsby.	Woodruff.
Loy.	Woodward.

## Message From the Governor.

Executive Office,  
Austin, Texas, Sept. 22, 1931.  
To the Members of the Forty-second  
Legislature:

At this time, the General Fund of this State is overdrawn and there are several million dollars on deposit in the State Highway Fund. There is every reason why the last named fund keep a balance on hand at all times in order that all outstanding highway contracts will be amply protected and the upkeep of the highways carried on. However, this balance does not necessarily have to be all cash. There is no better security in Texas than a warrant on the General Fund of this State and a part of the balance in the Treasury of the Highway Funds might, with perfect safety and propriety, be invested in such warrants.

I am, therefore, submitting to you and recommending a bill which directs the Treasurer and Highway Department to invest the sum of \$3,000,000.00 in State Warrants. It is my opinion that such an amount of Highway funds can be so used by curtailment of the Department's operations without serious injury to the Highway System.

Respectfully submitted,  
R. S. STERLING,  
Governor.

## Messages From the Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

Herewith I hand you a proposed measure which provides that all interest and penalties accrued on all State, county, special, school district, road district, levee improvement district, and irrigation district taxes and taxes of other defined subdivisions of the State, other than incorporated cities and towns, which are delinquent up to and including October 20th, 1931, shall be released provided said taxes are paid by January 1st, 1932.

In my judgment, this will give relief to the citizens of Texas in the payment of their past due taxes and I urge that you give this measure your prompt and careful consideration.

Respectfully submitted,  
R. S. STERLING,  
Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I hand you herewith a proposed measure which amends Chapter 286 General Laws of the Forty-second Legislature relating to an oil and gas royalty audit of the permanent school fund and other funds. This measure, if passed, will prevent great injury and loss to the State of Texas and to the permanent school fund, and I urge your prompt and careful consideration of the bill.

Respectfully submitted,  
R. S. STERLING,  
Governor.

Executive Office,  
Austin, Texas, Sept. 23, 1931.  
To the Members of the Forty-second  
Legislature:

It is my opinion that the proclamation convening the Second Called Session of the Legislature was broad enough to include legislation affecting the Canalization of the Trinity River, for the reason that successful completion of the project would result in soil conservation through control of the flood waters of the Trinity River.

However, in order to dispel any doubt as to the legality of passing House Bill No. 35, in view of the recent opinion by the Attorney General, your consideration of said bill is hereby approved.

Respectfully submitted,  
R. S. STERLING,  
Governor.



## Messages from the Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the 42nd Legislature:

I herewith hand you Senate Bill No. 8, which provides for an appropriation for relief of the almost helpless condition of the Valentine Independent School District which condition was brought about by an unprecedented calamity in the form of an earthquake which recently occurred in West Texas.

In my judgment, this matter should have your immediate and careful attention to the end that this school district may have relief in its distressed condition.

Respectfully submitted,

R. S. STERLING, Governor.

Executive Office,  
Austin, Texas, Sept. 25, 1931.  
To the Members of the Forty-second Legislature:

Upon the request of a large majority of the members of the House I herewith hand you a proposed measure which would provide that the Texas Prison Board be permitted by law to bid upon and contract for printing, binding, and supplies of like character on State contracts.

I respectfully ask your prompt and careful consideration of this measure.

Respectfully submitted,

R. S. STERLING, Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second Legislature:

It having been made known to me that a conflict exists in several instances relating to the time for holding courts in some of the Judicial Districts in this State, and in other instances the terms are so arranged as to make it quite inconvenient, therefore, I am hereby submitting to you this subject, to the end that

the time for holding courts may be changed where it is necessary to cure any errors or conflicts heretofore existing.

Respectfully submitted,

R. S. STERLING, Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second Legislature:

Upon the request of several members of the House I herewith submit for your consideration the amendment of Section 3 of Chapter 20, of the general laws of the Forty-first Legislature, fourth called session, and/or as amended.

Respectfully submitted,

R. S. STERLING, Governor.

Executive Office,  
Austin, Texas, Sept. 23, 1931.  
To the Members of the Senate of the Forty-second Legislature:

Subject to your confirmation I have appointed Honorable R. F. Burges of El Paso to serve as the Texas Commissioner of the Rio Grande Compact Commission. Provision is made for this position under the appropriation for the State Board of Water Engineers, the appointment to be made by the Governor.

Respectfully submitted,

R. S. STERLING, Governor.

**Messages from the Governor.**

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the 42nd Legislature:

I hereby submit to you the subject of authorizing counties in Texas not having exceeding fifteen thousand (15,000) population according to the 1930 census, to purchase property at any bankruptcy sale, receivership sale or any other judicial proceeding in cases where such county holds claims of at least fifty per cent (50%) of all claims against the debtor or debtors whose property is being sold at said sale.

Respectfully submitted,

R. S. STERLING, Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the 42nd Legislature:

I hereby submit for your consideration the amendment of Article 619 of the Penal Code of 1925.

Respectfully yours,

R. S. STERLING, Governor.

**Messages From the Governor.**

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I hereby submit to you the following subjects for consideration:

1. The amendment of Section 7, Chapter 163, of the General Laws of the State of Texas passed at the Regular Session of the Forty-second Legislature.

2. The amendment of Article 15 of the Revised Civil Statutes of 1925.

Respectfully submitted,

R. S. STERLING,  
Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I herewith hand you a bill by Senators Hornsby, Neal and Small covering the matter of appropriations to pay salaries and expenses of district judges in judicial districts numbers 123, 124, 126 and the assistant district attorney of the 47th Judicial District.

There is no appropriation now provided by law for these positions and I submit same to you for your early attention.

Respectfully submitted,

R. S. STERLING,  
Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I hereby submit for your consideration the following subjects:

1. The amendment of Article 773 of the Revised Penal Code of Texas, 1925.

2. The amendment of Article 7332, Chapter 10, Title 122, of the Revised Civil Statutes of Texas 1925, as amended.

Respectfully submitted,

R. S. STERLING,  
Governor.

**Conference Committee Appointed.**

On motion of Senator Rawlings the Senate refused to concur in House amendments and asked for the appointment of a Conference Committee.

The Chair appointed the following on the part of the Senate:

Senators Rawlings, Small, Woodward, Purl and Hopkins.

**Message From the Governor.**

Executive Office,  
Austin, Texas, Sept. 23, 1931.  
To the Members of the Forty-second  
Legislature:

I herewith hand you two measures relating to State occupation tax. These measures are curative only and will clarify the existing occupation tax laws.

The yare submitted to you with the hope that you will give them your earnest and prompt consideration.

Respectfully submitted,

R. S. STERLING,  
Governor.

## Messages From the Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I hereby submit to you the subject  
of amending Section 22, Chapter 34,  
Acts of the First Called Session of  
the Forty-first Legislature.

Respectfully submitted,

R. S. STERLING,  
Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I hereby submit for your consid-  
eration the following subjects:

1. The amendment of Article 773  
of the Revised Penal Code of Texas,  
1925.

2. The amendment of Article 7332,  
Chapter 10, Title 122, of the Revised  
Civil Statutes of Texas 1925, as  
amended.

Respectfully submitted,

R. S. STERLING, Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I hereby submit to you the follow-  
ing subjects for consideration:

1. The amendment of Section 7,  
Chapter 163, of the general laws of  
the State of Texas passed at the reg-  
ular session of the 42nd Legislature.

2. The amendment of Article 15  
of the Revised Civil Statutes of 1925.

Respectfully submitted,

R. S. STERLING, Governor.

Executive Office,  
Austin, Texas, Sept. 24, 1931.  
To the Members of the Forty-second  
Legislature:

I hereby submit to you for consid-  
eration the following subjects:

1. Amendment of Chapter 212,  
Section 18, Acts of the Regular Ses-  
sion of the Fortieth Legislature.

2. Amendment of Article 1025 of  
Chapter 2, Title 15, Code of Criminal  
Procedure of the State of Texas.

3. Amendment of Article 1020,  
Chapter 2, Title 15, Code of Criminal  
Procedure of the State of Texas.

Respectfully submitted,

R. S. STERLING, Governor.

**Message From the Governor.**

Executive Office,  
Austin, Texas, Sept. 25, 1931.  
To the Members of the Forty-second  
Legislature:

I herewith submit to you the subject of cooperative marketing of unrefined natural petroleum and its distribution.

It has been suggested that if a law patterned after the law regulating cooperative marketing of cotton was passed it would greatly aid in the elimination of speculation and waste, and would possibly stabilize marketing problems of the producer of unrefined natural petroleum.

I trust that you will give this subject your careful consideration.

Respectfully submitted,  
R. S. STERLING,  
Governor.

**Message From the Governor**

Executive Office,  
Austin, Texas, Sept. 28, 1931.  
To the Members of the Forty-second  
Legislature:

I submit to you for your consideration the subject of amending H. B. No. 943, Chapter 159 of the Special Laws of the Forty-second Legislature as amended by H. B. No. 37, Chapter 31 of the General and Special Laws of the First Called Session of the Forty-second Legislature, repealing closed season for killing quail in Atascosa county.

Respectfully submitted,

R. S. STERLING,  
Governor.

**Message From the Governor.**

Executive Office,  
Austin, Texas, Sept. 30, 1931.  
To the Members of the Forty-second  
Legislature:

According to the last enumerated Federal census the State of Texas is entitled to additional members of Congress. Under the Federal and State Constitution and laws it is therefore necessary that the Legislature re-district the State as to congressional representation.

I therefore hereby submit to you the subject of congressional re-districting for your consideration.

Respectfully,  
R. S. STERLING,  
Governor.