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BEGUN AND HELD AT

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MESSAGE FROM THE GOVERNOR.

The Speaker laid before the House and had read the following message from the Governor:

Executive Office,
Austin, Texas, November 3, 1932.

To the Members of the Forty-second Legislature:

On the 14th day of July, 1931, I convened you in extraordinary session, for the purpose of passing laws to conserve the natural resources of this State, and submitted to you a message from which I quote in part as follows:

"A grave crisis confronts the State in the conservation of its natural resources. The earth's reservoirs of oil and gas are being drained and virtually thrown away, and enormous underground waste is resulting from the orgy of disorderly production.

"Section 59 of the State Constitution declares: 'The conservation and development of all the natural resources of this State and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties. * * *'

"Aside from these legal public rights and duties, Texas of today owes a solemn moral obligation to Texas of tomorrow, not to exhaust and dissipate its resources needlessly so as to deprive oncoming generations of their benefits. * * *

"Existing laws are inadequate to carry out the conservation clause of the State Constitution, and in consequence, the State is suffering grievously. The oil industry, one of the State's principal sources of wealth, is demoralized and tottering on its foundations; thousands of people, directly dependent upon the industry, are going bankrupt; hundreds of thousands, perhaps millions, of others are feeling the effects indirectly; and the State itself is losing millions of dollars annually in reduced gross production tax receipts—all due to the wanton release and waste of oil and gas which nature has been storing up for thousands of years in the subterranean sands.

"So acute and disturbing has the emergency become, that citizens from all over Texas have besieged the Executive Office with telegrams, letters, petitions, long distance calls and personal visits, urging the convening of a special session of the Legislature to cope with the problem. Numerous chambers of commerce, local governing bodies, land, lease and royalty owners, business men and the vast majority of small independent oil men, have joined in the demand, pleading that immediate legislation was the only course that offered substantial relief.

"Not wishing to put the State to the expense and the members to the inconvenience of an extraordinary session unnecessarily, I withheld action for several weeks, hoping that the conservation problem might be worked out through voluntary public effort. However, such effort apparently has proved fruitless; and finally, after many members of the Legislature had added their advocacy of a session and the enactment of a conservation law, I concluded that this course should be taken. * * *"

In response to the proclamation, which I issued at that time, and in response to my request, you faithfully performed your duties and enacted a conservation measure, which I gladly approved and which measure has been upheld by the Federal court as a valid law on the subject.

Most assuredly, I would not, at this time, have called you into extraordinary session except I believe a grave crisis again confronts the State and our people, on account of the Federal court having held that the Railroad Commission has gone beyond the authority given in this statute enacted at that time in promulgating their orders as to proration and conservation of oil and gas. I respectfully call your attention to the decision in the recent case of Peoples Petroleum Producers, Inc., et al. vs. Lon A. Smith et al., wherein a three-judge Federal court, consisting of Judges Hutcheson, Bryant and Grubb held as invalid orders of the Railroad Commission of Texas in an attemnt to conserve the oil and gas resources of the State.

I invite your attention to the fact that during the consideration of the conservation measure which you wisely enacted at the First Called Session of the Forty-second Legislature, and under which the Railroad Commission is now operating, it was my belief, and it was the belief of a majority of the members of the Legislature, that the act would be rendered invalid if it authorized the Railroad Commis-

sion to take into consideration the reasonable market demand for oil and gas in determining the amount of oil or gas which might be taken from any well or wells, or any given pool or pools, in order to prevent waste, which I believed would be held by the courts as a price-fixing measure.

Since the adjournment of the session at which our present conservation statute was passed, the Supreme Court of the United States, in the case of Corporation Commission of the State of Oklahoma et al. vs. Champlain Refining Company (Vol. 13, Advance Opinions of the U. S. Supreme Court, p. 725 et seq.) in reviewing a statute of the State of Oklahoma, has specifically held that a statute which authorized the Corporation Commission of the State of Oklahoma to take into consideration the reasonable market demand for oil and gas, in determining what would constitute waste, was not a price-fixing measure, and was a valid delegation of power and authority to the Corporation Commission, and that such act was constitutional.

I have invited your attention to the recent case of Peoples Petroleum Producers, Inc., et al. vs. Lon A. Smith et al., wherein the Federal court, consisting of the three judges named, upheld as valid our present conservation statutes, but nevertheless also held that the Legislature, having expressly withheld from the Railroad Commission the right or authority to take into consideration the reasonable market demand for oil or gas, and it was apparent that the Railroad Commission in fixing the allowable necessarily took into consideration the reasonable market demand for oil and gas, and which was not authorized by the Texas statute,—in fact specifically denying to the Railroad Commission the right to take such matters into consideration, that the orders of the Railroad Commission, in its effort to conserve these natural resources, and in its effort to comply with the authority given under our conservation law, were invalid, and that the allowable as determined and fixed by the Railroad Commission was without authority of law and exceeded the authority given by the Legislature.

As a result of the holding of the Federal court in passing upon the orders of the Railroad Commission, and reviewed by the court in the case of Peoples Petroleum Producers, Inc., et al. vs. Lon A. Smith et al., it is apparent that in order to conserve the State's greatest natural resource, oil and gas, and in order to empower the Railroad Commission to take into consideration as an element of waste the production of oil or gas beyond the reasonable market demand therefor, it is necessary that our present conservation laws be amended so as to authorize the Railroad Commission to take into consideration as an element of waste the production of oil or gas beyond the reasonable market demand therefor.

In view of the holding of the Supreme Court of the United States in the Oklahoma case, reference to which I have made, and in view of the three-judge Federal court striking down the orders of the Railroad Commission for the reasons and in the manner as pointed out in the opinion of said three-judge court, it is apparent that conditions such as existed prior to, and during the time you were considering an amendment to our conservation laws, and as pointed out in my message of July 14, 1931, above quoted, will again exist, and the State's greatest natural resource,—oil and gas,—will be wasted and destroyed, resulting in a tremendous financial injury to the State, especially to the taxpayers and the public schools. It is apparent to me that under such conditions the State's income, as a result of the gross production tax on oil will be reduced from approximately sixteen thousand dollars per day to a few thousand dollars per day, thus depriving the State of a tremendous amount of revenue so essentially necessary at this time to defray the expenses of government, especially the public schools, which must be protected.

Therefore, believing a crisis confronts the State of Texas, and for the reasons I have given herein, I feel it is my duty as the Chief Executive of the State of Texas, and as the representative of all the people of Texas, to reconvene you in extraordinary session, to the end that you may amend our present oil and gas conservation statutes as, in your wisdom, will meet the conditions now confronting the people of our State as a result of the decision in the case of Peoples Petroleum Producers et al. vs. Lon A. Smith et al.

I am sure that you understand and appreciate the gravity of the situation and that you will give your usual prompt and careful consideration to this subject.

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