

THE LEGISLATURE—29TH SESSION.

Governor Markham's Appointees All Confirmed by the Senate.

Another Congressional Apportionment Bill—Favorable Report on the Farmers' Loan Bill.

SENATE.

SACRAMENTO, Thursday, January 22, 1891. The Senate met at 10 o'clock A. M. President pro tem. Fraser in the chair. Roll called, and quorum present. Prayer by Rev. A. C. Herrick. Journal of Wednesday read and approved.

REPORTS OF COMMITTEES.

Mr. Simpson, from the Committee on Hospitals, reported back the bill relating to the registry of births, marriages and deaths, recommending its passage.

Also, the bill providing for a preference hospital for lepers, recommending its passage.

Mr. Dennison, from the Committee on Education and Public Moral, reported back the bill prohibiting the sale of tobacco or its preparations to boys under 16 years of age, without recommendation.

Mr. Everett, from the Committee on Military, reported back favorably the bill providing for the organization of camps of Sons of Veterans.

Also, the bill providing that ex-soldiers and sailors shall have the preference in employment on public works; passage recommended.

Mr. Randall, from the select committee appointed to make certain changes in S. B. 3, providing for the collection of taxes by installments, reported the same back, as amended.

Another amendment was made on motion of Mr. Dry, and the bill ordered reported.

Mr. Dargie, from the Committee on City, City and County and Town Governments, reported back the bill amending the Act providing for the organization of municipal governments, recommending its passage.

Also, the bill relating to the increase of police forces in incorporated cities—allowing one additional policeman for every 100 inhabitants—recommending its passage.

Also, two bills relating to the collection of taxes in school districts, recommending its passage.

TWO MORE ATTACHES. Mr. Byrnes, from the Committee on Atchases and Contingent Expenses, reported back the resolution providing a clerk to compile a history of Senate bills, recommending its adoption.

Mr. Maher offered a resolution appointing J. Steppacher as clerk to the San Francisco delegation, and to assist the clerk on the Committee on Apportionment. Adopted—Ayes 31, noes 1.

RECONSIDERATION. Mr. Sewall moved to reconsider the vote by which S. B. 28, giving the consent of the State to the reservation of certain lands by the Government, be declared a case of urgency, that it may be considered. The bill read three times and passed on its passage. Adopted—Ayes 31, noes 7.

Mr. Ostrom spoke against the hasty passage of the bill. He held that it was possible, if not probable, that innocent settlers who had not yet perfected title to their lands might be ousted from their homes under the operation of the bill. He moved that the bill take its place on the file in regular order. Lost—Ayes 7, noes 21.

The bill was then read the third time and passed—Ayes 27, noes 6.

Mr. Goucher moved from voting. He said he was in favor of the reservation, but as the passage of the bill might affect many of the people in his district, he desired more time in which to study the measure.

Mr. G. H. Williams, from the Committee on Federal Relations, reported back S. B. 1 and 2, offering for the extension of Federal Government loans on farming lands and farm products at 2 per cent per annum, recommending their adoption.

Also, S. J. R. 5, relating to the election of United States Senator, recommending its passage.

Also, providing for the completion of the State Normal School at Chico, recommending its passage.

Mr. Sprague, from the Judiciary Committee, reported back S. B. 75, relating to the duties of public officers, recommending its passage.

Also, S. B. 4, relating to the presentation of fraudulent claims to public officers, recommending its passage.

Also, S. B. 118, relating to qualifications of practitioners in courts of justice.

Also, S. C. A. 10, extending the legislative session to one hundred days, recommending its passage.

A LITTLE DIVERSION. Mr. Sprague, from the Judiciary Committee, also submitted a report on the question as to the right of the Governor to withdraw the names of persons appointed to office by his predecessor before their consideration by the Senate. The report was in substance that the Executive was the sole authority in such cases, and had the power to make such withdrawals.

Mr. Goucher held that the committee had not obeyed the instruction of the Senate to obtain the opinion of the Attorney-General on the subject. He then referred to a statement made in a San Francisco paper connecting his name with the present regime at San Quentin Prison, and stating that he was championing its cause. Mr. Goucher denounced the statement as false and the criticism as unwarranted.

He was proceeding in this strain when Mr. Sprague rose to a point of order. He said the Senator from Fresno had not spoken, was not then speaking, and—in his opinion—did not intend to speak on the question before the Senate.

Mr. Goucher responded that the latter portion of the gentleman's remarks was a piece of impertinence.

Mr. Sprague responded at some length. He said the Judiciary Committee did not recognize the right of the Senate to instruct it in matters coming under its consideration, and that the committee had not deemed it necessary to consult the Attorney-General on a subject on which its members felt amply able to form their own conclusions.

The report of the committee was then, on motion of Mr. Sprague, approved by a vote of 39 ayes to 7 noes.

RECESS.

Afternoon Session. The Senate reassembled at 1:20 P. M., President pro tem. Fraser in the chair.

Mr. Wilson offered a resolution providing that his concurrent resolutions relating to Government loans to farmers at 2 per cent per annum, reported favorably by the Judiciary Committee, be made the special order for 2 o'clock P. M. on Tuesday, the 23d instant. Adopted.

Several Assembly bills, reported as having passed that body, were read by title and referred.

INTRODUCTION OF BILLS. By Mr. Sewall—Amending the code relating to the time of election of School Trustees.

By Mr. Preston—Amending the Political Code, relating to the powers and duties of the State Board of Education.

By Mr. W. H. Williams—To prohibit the buying and selling of shares of stock in any place under the control of any association.

By Mr. Berry—To add one more to the number of Superior Judges of Tulare county.

By Mr. Dennison—Authorizing the Prison Directors to pay certain claims for skilled labor performed on the dam at the Fresno River.

By Mr. McComas—To authorize the voters of municipalities having a population of less than 2,000 to wind up the affairs of said corporation.

By Mr. Fraser to add Title 5 to the Civil Code, relating to mining laws and the formation of mining districts.

SPECIAL ORDER—EXECUTIVE APPOINTMENTS. [Lieutenant-Governor Reddick in the chair.]

At 9 o'clock P. M. the Senate took up for consideration the special order, for the confirmation of appointments made by Governor Markham.

The following appointments were voted on separately and each confirmed: Ramon E. Wilson, of San Francisco, to be Fish Commissioner, vice Charles Joseph.

Joseph Morizio, of San Francisco, to be Fish Commissioner, vice John K. Orr.

Samuel K. Thornton, of San Francisco, to be Port Warden, vice Alexander Badlam.

George W. Gibbs, of San Francisco, to be Trustee of the California Home for Feeble-Minded Children, vice self.

Dr. Chester A. Rowell, of Fresno, to be Regent of the State University, vice Louis S. Brown.

Irwin C. Stump, of San Francisco, to be State Prison Director, vice J. C. Campbell.

Joseph D. Redding, of San Francisco, to be Fish Commissioner, vice self.

Warren Olney, of San Francisco, to be a Justice of the Peace, District 1, and Blind Asylum, vice self.

Obad Harvey, of Sacramento, to be a Director of the Stockton Insane Asylum, vice self.

Mr. Goucher voted aye on those appointments "vice self," and no on those replacing persons removed. He explained the vote by saying that he doubted as to the Governor's constitutional right to withdraw the name of any person appointed by his predecessor which the Senate had not acted upon.

By Mr. Voorhis—Dividing the State into Congressional Districts, as follows: First District—Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Colusa, Sierra, and Sacramento.

Second District—Butte, Sutter, Yuba, Nevada, Placer, El Dorado, Amador, Calaveras, Mono, Alpine, Tuolumne, Mariposa, Stanislaus, and Sacramento.

Third District—Yolo, Solano, Marin, Contra Costa and Alameda.

Fourth and Fifth Districts—San Francisco, San Diego, Santa Clara, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Kern, and San Bernardino.

Sixth District—Stanislaus, Merced, San Benito, Fresno, Tulare, Inyo, Kern, San Bernardino, Orange and San Diego.

Seventh District—Stanislaus, Merced, San Benito, Fresno, Tulare, Inyo, Kern, San Bernardino, Orange and San Diego.

By Mr. Streeter—Providing for the construction of a seawall in San Diego harbor.

By Mr. Preston—Providing for the payment of lost State Controller's warrants.

Also, relating to the furnishing of arms to military colleges.

COMMITTEE REPORTS. Mr. G. H. Williams offered a resolution appointing John Wilkins an additional committee-room porter at a per diem of \$4. Referred.

BILLS ON PASSAGE. S. B. 351, appropriating \$10,000 for the Secretary of State's office, was read the third time and passed—Ayes 23, noes 8.

Substitute for S. B. 18 and 25, relating to the dismissal of actions and to appeals. Mr. Carpenter (author of the bill) spoke earnestly in its behalf, claiming that it was of great importance to litigants.

Mr. Sewall moved to recommitt the bill to the committee with instructions to make certain amendments. Carried—Ayes 19, noes 16.

Mr. Carpenter said that such alterations had destroyed the value of the bill, but made it a dangerous one. He would therefore move to strike out the enacting clause.

The Chair ruled that this could not be done, as the bill had been referred to a special committee.

BILLS ON SECOND READING. The following bills were read the second time and ordered engrossed: S. B. 22, relating to the offense of aiding, advising, and encouraging the commission of crime.

S. B. 23, relating to contagious diseases among animals.

S. B. 24, relating to the adulteration of candy.

S. B. 67, concerning the right of eminent domain.

S. B. 70, relative to the service of warrants of arrest and other process in criminal cases.

S. B. 49, relating to solemnization of marriages.

By Mr. Kellogg—To create Board of Harbor Commissioners for Humboldt Bay. Commission to be navigable.

By Mr. Kellogg—To appropriate \$450,000 to pay the claim of W. H. Murphy, illegally paid to the State.

By Mr. Kellogg—Relative to time of election of District School Trustees. Education.

By Mr. Cunningham—To increase the number of Judges of the Superior Court of the County of Tulare. Judiciary.

By Mr. Tannis (by request)—To authorize the Board of Supervisors of San Francisco to exercise the right to adjust and pay the claim of Thos. Day. Claims.

By Mr. Marion—Relative to the disincorporation of cities of the sixth class. Municipal Corporations.

By Mr. Dennis—To provide for the interchange of the copyrights of school text-books between the State of California and other States. Education.

By Mr. Hocking—To amend Political Code relative to public roads. Roads and Highways.

By Mr. Murphy—To provide for giving preference to honorably discharged ex-Union soldiers in making appointments and giving employment upon public works. Military Affairs.

To authorize the formation of county and municipal insurance companies. Corporations.

By Mr. Hunewill—To amend Section 412 of Political Code, relative to the number of National Guard companies. Military Affairs.

By Mr. Coffey—For the relief of Patrick Creighton. Claims.

SPECIAL ORDER—RAILROAD COMMISSION. Assembly Constitutional Amendment No. 9, to abolish the Railroad Commission.

Mr. Shanahan—This constitutional amendment was introduced by me, the object being to abolish the Railroad Commission of this State. I can see no further objection to the commission. It has been in existence about twenty years, and during that time has cost the people not less than \$18,000 per annum. At the very least calculation it has cost the State over \$200,000. The question arises, What benefit has it been to the people? I contend that the people have not had a cent of benefit from it; that whatever concessions have been made in the way of reduction of fares and freights have been made at the instance of the railroad companies themselves. To justify such an expenditure we certainly should have some compensating benefit to the people.

And, outside of the fact that it does nothing to return, the courts have so construed the law as to practically destroy the commission. In the case of the City and County of San Francisco vs. the Spring Valley Water Company, relative to establishing a water rate, the court decided that they had the right to review the action of the Board of Supervisors. That regard the railroad companies had always contended that they were not amenable to the authority of the Railroad Commission, and that the courts in the Spring Valley case referred to simply affirmed that which the railroad companies have always contended for—that any rate of fare and freight should remain in existence, it is useless. Under the law it is powerless. I notice that the Governor of Oregon, Joseph Taylor, has sent a message to the Legislature of that State recommending the abolition of a similar commission there. Their commission is a mere name, and it is not created, and they have had the same experience with it that we have; they have tried it and found it useless.

Mr. Bruner—I have not had time to prepare some facts, but have not had time, combating this proposed amendment to the Constitution. As it only requires one reading, I may have time to do so, and I think that it be made the special order for Thursday next at 2 P. M.

Mr. Shanahan—I have no particular objection.

Mr. Dibble—Perhaps the gentleman from Shasta would prefer finishing his argument on this subject before we meet now.

Mr. Shanahan—No, I have made a sufficient opening.

The Speaker—I suppose the gentleman from Shasta would prefer to take his seat when the matter comes up for final disposition.

Mr. Bruner—That was my idea when I interrupted him. I wish to be fair in the matter.

Mr. Bruner—As a substitute, I move that the amendment be referred to the Committee on Commissions. Assent.

Mr. Bruner—I will say that I am not more than in favor of the bill, and I am not more than in favor of the bill, and I am not more than in favor of the bill.

Mr. Bruner—I have no objection to its being considered, and I have no objection to its being considered, and I have no objection to its being considered.

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for themselves what the facts are, and afterwards, if they see fit, discussing it on the floor. I think the substitute motion should be adopted.

Mr. Doty—There is not a man interested in the welfare of the State, whether inside or outside of the Legislature, who would vote on the question of abolishing the Railroad Commission. I think it a waste of time—time which will be very precious before the session is over, to delay action on this matter. The facts are patent that the Commission has proven a failure, and it is best that the question be brought up on the floor and settled at once. Let us people have a chance to put their feet on this commission, and I promise you they will not be long in doing so.

Mr. Dibble—I agree with the suggestion made, that it was not intended that the standing committee on commissions should be called upon to make recommendations. Such amendments should properly be considered in the House. I see no necessity for any investigation, either here or there, and we are making up our minds. The amendment was reported back with recommendation by the Judiciary Committee, that it might be made a special order, debated fully and got out of the way.

Mr. Hall—Should the substitute prevail it would give two legislative commissions the issue. I wish to see the Republican party, as represented here, meet the question squarely.

Mr. Dibble—I think the proper course is to have the debate on the floor. Like the gentleman from Sacramento, I think the commission has been tried and found to be a failure. I wish to see the Republican party, as represented here, meet the question squarely.

Mr. Shanahan—To show the impracticability of the substitute motion, I will read the list of work laid out by the Commission to carry on Monday, Tuesday and Wednesday, including the following: Yosemite Valley Commission; Monday, February 24, State Board of Education; Tuesday, February 25, State Board of Education; Wednesday, February 26, State Board of Education.

Mr. Gough—This matter involves the interests of the people, who are looking to the Legislature to consider it now. While I have the highest respect for the members of the committee, I do not think it wise to wait until they report from them before taking action.

Mr. Bruner—I am ready to vote on the amendment now, and I believe the people of the State are entitled to have their views expressed, and the sooner we act the better.

Mr. Robertson—To refer the matter to the committee would simply be to kill it, because the resolution creating the committee provides that it shall prepare and report to the County of Sonoma, Monday, February 24, 1891, and the amendment was voted down, and the amendment made the special order for Thursday next at 2 P. M.

A. B. 148 (Wentworth), amending Section 4066 of Political Code, relating to jurisdiction and powers of Boards of Supervisors. Passed on file.

A. B. 68 (Culver), amending Municipal Corporation Act. Mr. Hersey moved that it be recommitted to the committee on one, with instructions to make clerical amendments.

Mr. Fowler moved that the special committee need to wait until amended by adding after the words "or otherwise," Section 10, "and it shall be unlawful for any county officer of the county in which any city or town is situated to exercise such license otherwise than as herein provided."

The motion was lost—Ayes 21, noes 25. The motion of Mr. Hersey prevailed, and the bill was reported back amended according to instructions and ordered reprinted.

RECESS.

Afternoon Session. House reassembled. Speaker in the chair. Roll called. Quorum present. [Mr. Dibble in the chair.]

SPECIAL ORDER. A. B. 112, amending Subdivision 4 of Section 23 of County Government Act. Read second time.

Mr. Barnard, Chairman of the committee, offered a committee substitute for the bill.

Mr. Clark moved that the substitute be printed and the bill passed on file.

Mr. Robertson—I have just had a copy of the substitute laid on my desk, and object to it being passed to print; and also object to it being considered, because it is a mere substitute, and a subterfuge intended to switch the House off from a consideration of the questions involved in the bill.

Mr. Doty—I feel very much the same way. In fact, I know a good deal more than I do now, and I use to know that the substitute is intended to stave off action, and therefore object to the matter going over. If there is no merit in it, do not try to kill it by a substitute.

The motion of Mr. Clark was lost, as was the substitute, and the bill was ordered engrossed.

A. B. 142 (Mathews), amending Section 499 of the Civil Code, relative to street franchises. Passed ayes 48, noes 20. Mr. Arms gave notice of a motion to reconsider.

A. B. 114 (Culver), amending Section 4066 of Political Code, with reference to electric street railways.

On motion of Mr. Culver, the petitions for the passage of the bill were read.

It is proposed that the bill be amended was adopted in 1876, and it has remained unchanged until this day. At that time electric power was unknown as a motive power for street railways, and the amendment merely provides that the authorities granting street railway franchises should have the right to use electricity, if it is practicable. It is simply to put California in the van of progress, even with the rest of the world. I have been advised by some of our lawyers that this bill is actually necessary.

Passed—Ayes 43, noes 29. Mr. Robertson gave notice of a motion to reconsider.

A. B. 80 (Culver), to acquire water rights. Passed.

A. B. 116 (Culver), to confirm and make valid electric railway franchises heretofore granted. Passed.

Mr. Culver—Since 1876 there has been no provision for electric railways. These laws were made very carefully, and changes have been granted, and hundreds of miles of electric road built. It has been discovered lately that they have no right of way, and this is to legalize and confirm them.

Passed—Ayes 46, noes 25. Mr. Dunn gave notice of a motion to reconsider.

By Mr. Bruner, from the Judiciary Committee, reporting back the World's Fair appropriation bill, with the opinion of the committee that it is constitutional.

GENERAL FILE RESUMED. A. B. 121 (Shanahan), repealing Act declared by the Klamath River navigable. Passed.

A. B. 120 (Dibble), adding Section 1591 to Penal Code, making it a misdemeanor to advise to obtain a divorce, or to aid therein.

Mr. Robertson—I think as a lawyer I will have to oppose the passage of this bill. It is a very careful and thoughtful publication—which is proper enough—it adds "or notice of any kind." Now, as an attorney, I occasionally give notice through my friends. I think it is a little too sweeping. It is intended to stop advertising the divorce business. I concur in that part of it, but this bill to sweep with the last clause.

Mr. Dibble—The bill is a copy of the Act of Illinois and certain other "western States," and is very carefully considered at the hands of the Judiciary Committee.

By Mr. Robertson (of Sonoma), providing for the levy and collection of taxes by and for school districts, except in municipal corporations of the first class.

Mr. Robertson—I think that I will not say that I introduced the special purpose of empowering the Trustees of

the Court-house School District in the County of Sonoma to levy a tax upon the taxable property of that district for the purpose of paying the school debts.

It appears to me that it is liable, and perhaps likely, to affect the method of raising money by taxation in all the school districts of the State. Therefore, I move that it be referred to the Judiciary Committee, retaining its place on the file, that they may pass on the question.

Mr. Barnard of Sonoma—As the author I wish to make an explanation. Our Court-house School District embraces San Joaquin and other territory in Sonoma. The object of the bill is to do away with unnecessary offices. By the present method of raising taxes we are allowed the privilege of paying them ourselves, and the Board of School Directors apply the money as they deem fit. We have a right to elect an Assessor to levy and collect the tax. We wish to do away with, and to have the assessment made by the County Assessor used in making a levy for school purposes.

Mr. Gough—I think the bill a good one, and have no objection to it if it does not affect other school districts.

Motion of Mr. Barnard prevailed. A. J. R. 8, directing the State Printer to deliver ten copies of every work printed to the State Librarian, and two copies to the Librarian of the State University.

Mr. Phillips—While the State Printer has furnished the State Library with copies of ordinary works, such as are usually printed by this office, he has never furnished copies of reports of commissions and matters of that sort. The report of the State Librarian, for the year or six years back was destroyed in Sonoma. It was found in the building, because nobody had kept it. I think it essential that the State Library should have reference to State matters should be filed away in the State Library. The second part of the resolution, with reference to sending the reports of the Librarian of the State University, is by unanimous request of the Board of Regents. I sincerely hope the resolution will be adopted.

Adopted. A. B. 63, amending Section 2281 of the Political Code, with relation to the office of Treasurer of the Deaf, Dumb and Blind Asylum.

Mr. Ames—As author of the bill, I ask leave to withdraw it, and A. B. 32, relating to the same, be substituted for it.

Agreed to, and S. B. 32 read the first time.

A. B. 34, concerning costs of serving summonses and subpoenas in civil actions; read second time and ordered engrossed.

A. B. 36, adding Section 429, relating to qualifications of Justices of the Peace. Mr. Shanahan moved to amend by striking out "Supreme" and inserting "Superior," so as to require simply admission to practice in the Superior Courts. A very long discussion ensued. The amendment prevailed by 21 ayes to 20 noes, and the bill was ordered to be reconsidered, and the bill was ordered engrossed.

IN MEMORIAM. By Mr. Bert.

Yesterday the Assembly of the State of California has learned of the death of the late King Kalakaua with feelings of sincere regret and sympathy.

Resolved, That when the Assembly adjourns to-day it adjourn on respect to his memory.

Adopted. Adjourning.

LEGISLATIVE NOTES. The county-division fights in the southern part of the State are becoming very animated and bitter.

Joseph Brown and W. A. Harris of San Bernardino, who are now here, last evening received the following telegram regarding the Riverside division fight:

SAN BERNARDINO, January 22d. The report sent over the wires that San Bernardino would be divided with the Riverside County line is bogus. No such arrangement has been made. We are not in favor of any county division, and are opposed to the whole scheme in every way.

H. ANDERSON, J. L. KASHER.

MOLLUSK AND DUNN. Judge Cravens Refuses to Dismiss Their Cases.

When the cases of George Mollusk and Tom Dunn, charged with battery, were called in the Police Court yesterday morning the complaining witness, John Baldwin, was not present, and of course the prosecution was not ready to proceed. The defendants' counsel moved that the cases be dismissed, claiming that it was