

SENATE RESURRECTS, ASSEMBLY CONCURS, GOVERNOR APPROVES.

(Continued from Sixth Page.)

consideration was made a special order for to-day.

RECESS.

The joint session differed from those that preceded it only in being productive of two ballots.

Recess was taken until 2 p. m.

AFTERNOON SESSION.

During the joint ballot and recess, as will be seen by the introductory part of to-day's account, a great deal of feeling had been generated by a malicious cartoon in the San Francisco "Call" and on reconvening an ill-suppressed excitement pervaded the Assembly.

The following bills were passed: S. B. 59, Dickinson, to provide for the inspection of dairies.

S. B. 127, Dickinson, to repeal the Act authorizing the allowance, settlement and payment of claims of counties against the State.

S. B. 96, Taylor, concerning the powers of Boards of Education of cities of the fifth class.

S. B. 7 (substitute for A. B. 10), Chapman, for the relief of John Mullin.

S. J. R. 11, Trout, relative to money now due and unpaid to the State of California from the National Government; adopted.

A. B. 147, Marvin, relative to the Harbor Master of the port of Eureka.

A. B. 433, Valentine, empowering Boards of Supervisors of any of the several counties of the State to levy a special tax for the purpose of displaying the products and industries of any county in the State, at domestic or foreign exhibitions, for the purpose of encouraging immigration and increasing trade in the products of the State.

Passed and Clough gave notice of motion to reconsider.

RESOLUTIONS.

Melick offered the following resolution: Whereas, The caricaturing of public officials, especially of certain legislators by the San Francisco "Call" and "Examiner" has passed the line of common decency, and

Whereas, Such work is outside the realms of legitimate journalism which strives to ennoble and build up true manhood, womanhood and good government as against the personal maliciousness and viciousness of yellow journalism; therefore be it

Resolved, That this Assembly hereby puts its seal of severest condemnation on the unwise, unjust and diabolical work of those newspapers as representing the malicious spite of personal organs and outside the pale of true journalism; and

Resolved, That this Assembly hereby specially condemns and censures as malicious, cowardly and brutal the treatment by the "Call" and the "Examiner" of Hon. Grove L. Johnson, a member of this Assembly.

To this Wright offered the following amendment: "And the representatives of the San Francisco 'Call' are hereby denied admission to the privileges of the floor of this Assembly."

At Johnson's request this was withdrawn before any action was taken.

Burnett offered an amendment excluding the San Francisco "Examiner" from the censure of the House. Lost.

Melick spoke in support of his resolution. He characterized the work of the newspapers mentioned as malicious and spiteful and said the time had come to set the seal of condemnation upon it.

Melick's resolution was unanimously adopted.

RESOLUTION OF CONFIDENCE.

Cowan then offered the following resolution which was adopted: Resolved, That the members of the Assembly do hereby express and reaffirm their confidence in the integrity, ability and untiring energy of the Hon. Grove L. Johnson as a member of the session of 1899.

ANTI-CARTOON.

A message from the Senate announced that the upper house had passed A. B. 400, the anti-cartoon bill, and requested the House to concur in the following amendment, which is a substitute for Section 2 of the bill: It shall be unlawful to publish in any newspaper, poster, book, or serial publication, or supplement thereto, the portrait of any living person a resident of California other than that of a person holding a public office in this State, without the written consent of such person had and obtained; provided, that it shall be lawful to publish the portrait of a person convicted of a crime. It shall likewise be unlawful to publish in any newspaper, handbill, poster, book, or serial publication, or supplement thereto, any caricature of any person residing in this State, which caricature will in any manner reflect upon the honor, integrity, manhood, virtue, reputation or business or political motives of the person so caricatured, or which tends to expose the individual so caricatured to public hatred or contempt.

The Assembly concurred by a vote of 53 yeas to 3 noes, and the bill was sent to enrollment amid cheers.

On motion of Ricard the State Printer was instructed to engrave A. B. 400 out of order.

GOVERNOR'S MESSAGES.

Yesterday's messages from the Governor included three bills—two bearing his signature and approval, and one returned with his veto.

The fortunate bills were J. M. Miller's A. B. 98, amending the Code of Civil Procedure relating to mechanics' and other liens upon real property, and Wade's A. B. 106, amending the Act

providing for the submission of Constitutional amendments to the electors of California and prescribing their publication in the newspapers.

The following bill was disapproved: AN ACT TOO BROAD.

To the Assembly of the State of California: I herewith return to your honorable body, without my objection, and with my objections thereto, Assembly Bill No. 23, entitled "An Act to add a new section to the Penal Code, to be designated as Section 354 1/2, making it a misdemeanor to deface, obliterate, cover up or otherwise remove, destroy or conceal the duly filed trade mark, or name of another, printed, stamped, engraved, etched, blown, impressed or otherwise attached to or produced upon, any cask, keg, bottle, vessel, siphon, can or other package."

I disapprove of this bill amending the Penal Code, because it ignores the intent with which the Act is done of using or filling casks, kegs, bottles, siphons, cans, or other packages, and would make even innocent acts crimes. To constitute a crime, there must exist a union or joint operation of act and intent, etc. (Penal Code, Section 20).

I am opposed to the misuse of trade marks and to the use of labels, and I am strongly in sympathy with the general purpose of the bill proposing to give relief against frauds upon trade marks, labels, etc., but this Act is so broad that it would subject to punishment the most innocent persons. Every person who for any purpose should use or even fill such vessel with homemade catsup, olives, or the like (even though the vessel may have been bought and sold in general trade, and innocently purchased from another) yet unless such vessel should have been given thereto, such innocent purchaser by the mere use of such a vessel is liable to imprisonment or a heavy fine of \$500, or both such imprisonment and fine.

Moreover, so far as the purpose of the bill to protect trade marks, this bill is unnecessary, for the reason that Section 354 of the Penal Code affords ample protection.

Again, there is already a law in force covering this whole subject, namely, the Act approved March 21, 1891 (Statutes 1891, page 217), entitled "An Act to protect the owners of bottles, boxes, siphons and kegs used in the sale of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, weiss beer, beer or other beverages."

Whether the Act of March 21, 1891, be valid or invalid, it should at least be tested or repealed before seeking further legislation in this direction.

If a bill be framed to properly reach the wrongs intended to be remedied by this bill, it will not meet with my disapproval.

HENRY T. GAGE, Governor.

AFTERNOON RECESS.

At 5:15 p. m. the Assembly took recess until 8 p. m.

EVENING SESSION.

The evening was enlivened by the reading of the Governor's message approving A. B. 400. The House received it with cheers and everybody was an anti-cartoonist.

FILE WORK.

The following bills were passed: A. B. 607 (substitute for A. B. 74)—To protect domestic live stock from contagious and infectious diseases.

A. B. 272, Valentine—To repeal the Act authorizing the Controller to appoint an additional Clerk in his office, in addition to the number now allowed by law, to be known as the Revenue Clerk.

A. B. 622, Broke—To amend the Act to appropriate money for the support of orphans, half orphans and abandoned children.

A. B. 690 (Substitute for A. B.'s 290, 350)—To create a State Board of Charities and Corrections, prescribing its duties and powers, and appropriating money therefor.

A. B. 77, Lardner—To pay the claim of Thomas Grace against the State of California, and making an appropriation therefor.

ADJOURNMENT.

At 10:10 p. m. the House adjourned.

ATTORNEY GENERAL'S REPORT

In Accordance With a Resolution Adopted by the Assembly.

Yesterday morning a report was received from the Attorney General, Threy L. Ford, to the Assembly, made in response to a request from that body. The report given in full below, speaks for itself:

ASSEMBLY'S REQUEST.

To the Assembly of the State of California: I have the honor to acknowledge the receipt of a resolution adopted by your honorable body on the 10th inst., reading as follows: "Resolved, That the Attorney-General and he is hereby requested to report to the Assembly the present status of all litigation pending between the Railroad Commissioners of this State and the Southern Pacific Railroad Company, and other railroads; also the amount of funds necessary to carry on said litigation to a final determination."

Pursuant to the terms of the foregoing resolution, I have made the needed examinations and beg to report thereon as follows:

I am unable to find any litigation pending between the Railroad Commissioners of this State and the Southern Pacific Railroad Company.

Following is an account of all litigation, so far as I have been able to ascertain the same, now pending between the Board of Railroad Commissioners and any of the railroads together with a statement of "the amount of funds necessary to carry on said litigation to a final determination."

A WRIT GRANTED.

Southern Pacific Company et al. vs.

Board of Railroad Commissioners, etc.—No. 64,311.

Action brought in the Superior Court in and for the City and County of San Francisco to obtain a writ of prohibition in the matter of the complaint of John R. Robinson before the Board of Railroad Commissioners.

On August 1, 1898, the court filed its opinion and order granting the writ of prohibition. No appeal has been taken from the order granting the writ.

I am advised that this office was but nominally connected with the above cause, Hon. George M. Montelth having conducted the proceedings therein on behalf of the complainant, John R. Robinson.

MARKET-STREET RAILWAY.

Board of Railroad Commissioners, etc., vs. Market-street Railway Company and J. L. Wilcutt, Secretary, etc.—No. 59,728.

Action brought in the Superior Court in and for the City and County of San Francisco, to compel defendants to produce all papers, books, records, etc., for investigation by the Board of Railroad Commissioners, in the establishment of rates of fare.

On October 13, 1898, the court, through Judge Grant, filed its written opinion and order granting judgment by entered denying the writ of mandate prayed for and directing a dismissal of the action. No appeal was taken. The cost of an appeal would, probably, not exceed one hundred dollars.

ALL ABOUT RATES.

Southern Pacific Company vs. Board of Railroad Commissioners—United States Circuit Court.

To better understand the nature and purpose of this suit, it may be well to briefly suggest the causes which gave it birth.

On September 12, 1895, the Board of Railroad Commissioners adopted a resolution, upon which a schedule of rates was based, and by which an eight per cent. reduction in grain rates was sought to be established.

On the following day, September 13, 1895, the board adopted another resolution looking to a general reduction of freight rates, other than upon grain, to the extent of twenty-five per cent. of such rates as they existed on December 1, 1894. No schedule was ever adopted under this resolution.

On October 14, 1895, the Southern Pacific Company, against whom the said resolutions were directed, filed a bill in equity in the United States Circuit Court for the Northern District of California, by which it was sought to restrain the Board of Railroad Commissioners from proceeding under the foregoing resolutions.

A temporary restraining order having been issued by the court, an injunction pending the trial of the cause was sought by the Southern Pacific Company, the hearing upon which, from various causes, was delayed until January 6, 1896.

The hearing of this motion, including two continuances, occupied some four months, the argument alone occupying twenty-nine days. The motion was then taken under advisement by the court.

On November 29, 1896, the court made its order continuing the injunction as to the proposed eight per cent. reduction in grain rates, but refusing to further enjoin proceedings under the so-called twenty-five per cent. resolution, the court having disclaimed any intention of proceeding under the latter resolution without further investigation.

On January 25, 1897, the Board of Railroad Commissioners filed their answer to the bill of complaint and on February 17, 1897, the Southern Pacific Company filed its replication thereto.

Exceptions to the answer were filed and referred to the Master in Chancery, upon whose report, and after argument by counsel, the court entered an order allowing such exceptions in part and denying them in part.

This last named order was made on April 25, 1895, whereupon the cause became at issue and the taking of testimony was thereupon begun.

The complainant (the Southern Pacific Company) has taken the testimony of its Chief Engineer, Mr. Hood, and of Messrs. Curtis and Bogue, presented as experts, and a few other minor witnesses. The testimony thus far taken by complainant relates to the question as to what would be the probable effect upon the properties of the Southern Pacific Company. The taking of testimony on the part of complainant has not yet been completed.

The respondent (the Board of Railroad Commissioners) taken the testimony of C. P. Huntington. Proper examinations are now being perfected for the further taking of testimony on behalf of respondent.

The testimony thus far taken amounts to 2,429 pages of typewritten matter, the taking of which occupied the greater part of the time from May 5th to November 2, 1898.

COSTS AND EXPENSES.

Hon. W. W. Poole, retainer (paid) San Francisco, Feb. 23d, \$10,000 00

Hon. Robert Y. Hayne, retainer (paid) San Francisco, Feb. 23d, 10,000 00

Hon. J. C. McMillin, retainer (paid) against State) 11,050 00

Clement Bennett, reporter (paid) 2,125 00

Robert Y. Hayne, reporter (paid) 2,242 80

I. H. Polk, expert (bill pending in Legislature) 7,700 00

Total paid or incurred 443,128 10

PROBABLE FUTURE COSTS AND EXPENSES.

Fees of expert (estimated) \$30,000 00

Fees of special counsel (estimated) 20,000 00

Fees of reporter, including transportation of copies (estimated) 5,000 00

Other costs, including traveling expenses 2,000 00

Total probable future costs 57,000 00

RECAPITULATION.

Costs and expenses already paid or incurred 443,128 10

Probable future costs and expenses 57,000 00

Total \$500,128 10

ESTIMATED EXPENSES.

Referring to the probable future costs and expenses necessary to secure a final determination of the case last above referred to, I desire to state that it is impossible to estimate with any degree of accuracy the amount of such costs and expenses, but it is safe to assume that they will not fall below the amounts above indicated.

In the matter of fees of expert, the amount has been placed at \$30,000. This is believed to be a conservative estimate of the amount necessary to secure the indispensable aid of those who are skilled in the many and complicated matters necessary to be examined in the prosecution of the defense. In a communication addressed to the Board of Railroad Commissioners, under date of January 29th last, I estimated the expense of experts at \$25,000, and recommended to the board that they ask for that amount at the hands of the Legislature. Since then, however, and upon consultation with special counsel in the case, I am convinced that the appropriation for expert fees should not be less than the amount first above indicated.

In my opinion the employment of experts is indispensable to the presentation of a proper defense, in which opinion I am joined by associate counsel.

Referring to the matter of attorneys'

fees, I will state that the continued employment of the Board of Railroad Commissioners of special counsel as heretofore, that is to say, three in number, cannot well be done for less than \$30,000, in addition to the \$31,000 already paid or incurred. It is not necessary, however, that the entire \$30,000 should be appropriated at the present session of the Legislature, though I would suggest that a payment of \$2,500 on account to each of such special counsel as may be continued in the case would be a proper and appropriate course to pursue.

The other items of probable future costs above enumerated are clearly indispensable, and are certainly conservative.

The amount of the last named items, as also the amount of attorneys' fees, will depend in no small degree upon the length of time occupied in reaching a final determination of the case. So far, some three and one-half years have been consumed since the commencement of the suit. Upon the conclusion of the taking of the testimony the case will come up for trial in the United States Circuit Court, from which an appeal lies to the United States Circuit Court of Appeals, whence an appeal may be taken to the Supreme Court of the United States. You will thus perceive the difficulties attendant upon an attempt to comply with the request of your honorable body to report the "amount of funds necessary to carry on said litigation to a final determination." Respectfully,

TREY L. FORD, Attorney General.

Sacramento, Feb. 22, 1899.

TWO BALLOTS, NO CHOICE.

Vote for Senator Yesterday Failed to Break the Deadlock.

Two ballots were taken for United States Senator yesterday, but neither showed any change from that of the day before, except that the Democrats, on the first, scattered badly, but succeeded in giving Nathan of Los Angeles a majority of their complimentary vote.

After the brutal caricature printed in the "Call" was received, it was decided by the Republicans to give Grove L. Johnson a complimentary vote, and with that intention the second ballot was ordered, but as there was no time in which to perfect the arrangement, the matter went over until to-day. The second ballot resulted as follows:

Whole number of votes cast.....110

Majority to choose.....56

Barnes.....11

Bulla.....11

Burns.....25

Grant.....25

Hard.....3

Scott.....1

White.....25

Rosenfeld.....2

Phelan.....2

De Vries.....1

W. R. Hearst.....1

Kinney.....1

Another ballot to-day.

THE DEADLY ORANGE PEEL.

It Causes the Death of Little Robbie Ochmer.

Robert Edward, the four-year-old son of Mr. and Mrs. John M. Ochmer, of 923 D street, died on Wednesday from

consumption of the brain. He was, at the time of his death, the child was murdered by some unknown person who, in defiance of the law, threw fruit-skins on a cement sidewalk. The child stepped on one of these skins, slipped and fell, striking his head on the stone walk.

It is safe to say that bushels of orange, banana, apple or other skins could be gathered daily from the stone sidewalks, and yet there has been no person arrested for depositing them there. It would seem that where so much of it is done somebody could be detected in the act, for these menaces to life and limb are found on every block.

The city has two officers on detective work exclusively. "How would it do to give the police a few days rest and vagrants a rest for a few days while rounding up some of those who are endangering the lives of people every day?"

COMMERCIAL.

THE WHEAT MARKET INACTIVE AND LOWER.

Further Decline in Barley Futures, But Spot Prices Well Maintained—Oats Quiet.

The local wheat market was inactive and weaker to-day. Futures had a small decline. In the sample market shipping grades were lower; but milling wheat was unchanged. Chicago prices at first advanced, but foreign news, but shaded a little at the close. Liverpool futures closed at a small advance, but later advices reported that buyers of cargoes were indifferent operators. In the barley market futures had a further decline, but spot prices were maintained, with business dull. The receipts included 5,900 cwt. of rolled barley from Oregon. Oats were quiet and steady. Corn is held firmly, with trade light. None was received to-day.

Bran and Middlings continue to be firmly sustained at the quotations. The Hay market is dull and unchanged. Prices of Apples, Oranges and Lemons are in fair request at well maintained prices. Some Lemons marked fancy will not bring over \$2 per box as they do not compare favorably with other brands. In Dried Fruits, Apricots and Peaches are very scarce. Apples are well cleaned up. California Walnuts and Almonds are in demand. There are no strictly first class Walnuts here. Honey is now moving better and prices for extracted are stronger. The butter market opened quietly to-day. Prices still have a tendency toward New Cheese is easy at the quotations. Eggs continue firm. Chicago buyers are still in the field, but there is no margin of profit for them in paying over 15c. The freight rate per special car is 50c per dozen to Chicago.

Produce Quotations.

FLOUR—Family Extras, \$4.45 per barrel; Bakers' Extras, \$3.90; Oregon and Washington, \$4.25; Best, \$3.50; Superior, \$3.25; Shipping Wheat, \$1.25 per cwt for No. 1 and \$1.15 for choice; Milling Flour, \$1.15.

BARLEY—Feed, \$1.25 per bushel; Brewing, nominal; Potatoes, \$1.25 per cwt; Road to choice, \$1.25; Fancy feed, \$1.25; Gray, \$1.25; Milling, \$1.25; Superior, \$1.25; Red, feed, \$1.25; L.S. Black, for seed, \$1.50; Yellow, \$1.25; White, \$1.25; Mixed, \$1.25; 1 1/2; Small Yellow, California, \$1.25; 1 1/2; Rye, \$1.25 per cwt.

BUCKWHEAT—Nominal.

ROLLS—\$1.25 per ton.

ROLLED BARLEY—\$3.50 per ton.

ROLLED OATS—\$3.50 per ton.

ROLLED CORN—\$3.50 per ton.

ROLLED WHEAT—\$3.50 per ton.

ROLLED RYE—\$3.50 per ton.

ROLLED SUGAR—\$3.50 per ton.

ROLLED LARD—\$3.50 per ton.

ROLLED BUTTER—\$3.50 per ton.

ROLLED EGGS—\$3.50 per ton.

ROLLED MEAT—\$3.50 per ton.

Pink, \$1.00; Red, \$1.25; Lima, \$1.50; Pos, \$2.00; White, \$2.50.

Large White, \$1.00; Small, \$1.25; Action White, \$1.50; Black, \$2.00.

POTATOES—\$1.25 per bushel.

ONIONS—\$1.25 per cwt.

FRESH FRUITS—Apples—Fancy, \$1.50 per box, and common to choice, 50c to \$1.25.

CITRUS FRUITS—Oranges, Navel, \$1.50 per box for common and \$1.75 for choice. Seelings, \$2.00 per box; Japanese Mandarins, \$1.50 per box; Mexican Limes, 10-packs, \$3.50 per box; California Oranges, \$1.50 per box; California Lemons, \$1.50 per box for choice and \$2.00 for fancy; Grape Fruit, \$1.50 per box.

TROPICAL FRUIT—Bananas, \$1.50 per bunch; Pineapples, \$1.50 per dozen; Guava Fruit, \$1.50 per lb; Passion Fruit, \$1.50 per lb.

SHED FRUITS—Apples, 100 lbs for Royal and 150c for Moorpark, Prunes, 40-50c, 50-60c, 60-70c, 70-80c, 80-90c, 90-100c, 100-110c, 110-120c; Black Figs, 100 lbs in sacks, 50c; White, 50c; Peaches, 100 lbs for peeled, 100c; for unpeeled, 100c; Raisins—New crop, 100 lbs for Valencia, 100c; for Med and 50c; for Sun-dried, 100c; 2-crown Fancy clusters, \$1.50; 3-crown Fancy clusters, \$1.50; Seedless Muscades, 5-lb boxes, 50c; Ungraded Loose Muscades, 30c; Sultanas, unbleached, 50c.

BUTTER—Creamery, 25c per lb; Secular, 25c per lb; Dairy, 25c per lb; Packer, 25c per lb; Pickled, 15c per lb; Firkins, 10c per lb.

CHEESE—New, 10c per lb; Old, 10c per lb; California Cream Cheddar, 12c; Young American, 12c; Eastern, 12c; 15c; Western, 14c.

EGGS—California, 14c per dozen, with select 15c.

POLTRY—Live Turkeys, 12c per lb for Hens, and 12c for Gobblers; Dressing, 10c per lb; Small Ducks, \$1.50 per lb and \$1.50 for young; Broilers, \$3.50 per lb for small; Large, \$4.50 per lb; 4.50 for small; Hens, \$3.50 per lb; 5.50 for Geese, \$1.50 per lb; Pigeons, \$1.50 per lb; Old, \$2.00 per lb.

GAME—Ducks—Canvasback, \$3.50 per dozen; Mallard, \$3.50 per dozen; Spring, \$3.25 per dozen; Wild, \$3.25 per dozen; English Snipe, \$2.50 per dozen; Common, \$1.50; Gray Geese, \$1.50; White, 2c; Partridge, 2c; Hens, 3c; Hare, 1c; Rabbits, 1c; Doves, 6c.

MEAT MARKET.

Following are the rates for whole carcasses from slaughterers to dealers: BEEF—First quality, 7c; other grades, 6c per lb.

PORK—Live Hogs, 5c per lb for medium, 4c per lb; 5c per lb for large; dressed, 6c per lb.

CLOSING QUOTATIONS.

WHEAT—May, 75c; Chicago, Feb. 23d, 75c; New York, Feb. 23d, 75c; March