Story of the Session

of the

California Legislature

of

1921

By

Franklin Hichborn

In some form or other nearly every governmental problem that involves the health, the happiness, or the prosperity of the State has arisen, because some private interest has intervened or has sought for its own gain to exploit either the resources or the politics of the State.—Hiram W. Johnson in his inaugural address, 1911.

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To

RUDOLPH SPRECKELS

SAN FRANCISCO'S MOST USEFUL CITIZEN

CONTENTS

PREFACE

Thirteen years ago the writer published a review of the work of the 1909 Legislature, showing the voting records of the members of that session on test roll-calls. Similar reviews were published for the sessions of 1911, 1913 and 1915. They were discontinued during the war period, 1917 and 1919.

The review of the 1909 session was written to show the deadening influence of the so-called Southern Pacific machine—the political alliance between the corporation and vice-exploiting interests—upon all that is worth while in the State.

In the thirteen years that have intervened, California has seen that machine broken and scattered, and the wishes of the people of the State finding, for a time at least, expression at the polls and in legislative bodies. The year 1921 saw the influences which had been defeated in 1910, seeking under new names and new leadership, to overthrow the gains California had realized from their defeat.

This review of the 1921 session is written to show what these defeated influences attempted at Sacramento last year, that the voter this year may at least know how this or that legislator stood at the line-up between the vice-corporation influences on the one side, and the influences of good citizenship on the other.

There was no partisan expression in the 1909 Legislature; there was no partisan expression in the Legislature of 1921. The issue thirteen years ago,

as well as last year, was between the two ever opposing elements, those which for gain or political advantage exploit the politics and resources of the State, and those which seek the development of the State for the well-being and advancement of all the people.

Too long have false standards of citizenship confused the public. The following pages show men who occupy high places deliberately slandering the government of their State, that under the confusion thus created the corporations which they serve might escape what the State's fiscal agents had declared to be their just proportion of the tax burden. Such corporation agents must be judged by their public conduct, not by what they give, out of generous expense accounts or unusually large salaries, to the Red Cross in time of war, or to charity in time of peace. Men who misrepresent and slander the government of their State are not to be counted as good citizens. Indeed, they are very bad and very dangerous citizens.

Corporation agents, who, when the fiscal policy of their State was at stake and depending upon a narrow margin of votes, made members of the Legislature drunk, and introduced whisky into the cloak rooms of the Senate chamber to keep them drunk, are not to be classed as "good fellows," but as of the most dangerous class with which a representative form of government has to contend.

Before the State gets far in readjustment to new conditions, the intelligent citizenry must recognize that the utility rates paid to the monopoly-guaranteed corporation are as much a tax as the moneys paid

over the counters of municipal or county tax collector. The public is interested in economy in local and State government; the public is equally interested in the economy of the monopoly-enjoying public utility that collects water, transportation, telephone, or power rates from him. The public pays the expenses of such utilities, just as the public pays the expenses of government. And the public suffers whenever there is waste or extravagance in either. The corporation agents have had much to say of late about "tax-eaters"; the public must learn that the "utility rate-eaters" are as much, or more, of a drain upon their pocketbooks. "Utility rate-eaters" are taking from the public as high as $50,000 a year; the salary of the Governor of the State is only $10,000.

Those of us who have been following the political history of the State for the last quarter of a century recognize now that costly to California as was the exploitation of transportation in bonuses, land grants and extortionate rates on the basis of all the traffic would bear, far more costly was corporation corruption of courts, executives and legislatures, and the undermining of our institutions. That corruption and undermining have left scars upon the State. The slimy trail of the corrupt legislator is across the statute books, and of the corrupt judge across the record of California court decisions. It is for the citizen who holds his State higher than the dollar mark, to vote to keep statutes and court decisions clean.

FRANKLIN HICHBORN.

Santa Clara, May 7, 1922.

FRANKLIN HICHBORN'S BOOKS ON CALIFORNIA POLITICS

Story of the California Legislature of 1909 - -	$1.25
Story of the California Legislature of 1911 - - -	1.50
Story of the California Legislature of 1913 - -	1.50
Story of the California Legislature of 1915 - - -	1.50
Story of the California Legislature of 1921 - -	2.00
"The System" as Uncovered by the San Francisco Graft Prosecution - - - - - - - -	1.50

The above books can be had at the publisher's prices, with the exception of the "Story of 1915," which is about out of print. A limited number of the 1915 books are, however, available at $3.00 each.

CHAPTER I.

Opposing Forces in the 1921 Legislature.

For twenty years and more prior to 1911, California struggled to break the strangle-hold of the "Southern Pacific machine" upon the industries and politics of the State.

The indictment against the corporation, vice, and allied interests which made up the machine, was that they evaded their just share of the tax burden, dominated legislatures, controlled courts and executives, struck at the foundation of American institutions by corruption of elections.

In this years-long struggle on the side of good citizenship, democracy and State development, as opposed to commercialized vice, political domination and exploitation, were the majority of the people of California. They were, however, unorganized and politically ineffective. They did, to be sure, from time to time, attempt organization, only to find their organizations controlled at the test by the very elements they were opposing.[1]

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1 William F. Herrin, for years chief of the Southern Pacific Law Department, was once asked how he accounted for the machine's continuance in power in the face of the many popular uprisings against it. "Because of its control of reform movements," was Herrin's cynical reply. This "control of reform movements," was thoroughly exposed by the San Francisco Graft Prosecution when it was shown that at the 1905 San Francisco election, at which the line between the machine and organized citizens was sharply drawn, the machine had named the leaders and candidates for both sides, and financed both sides. See "The System as Uncovered by the San Francisco Graft Prosecution."

On the side of the "machine," in this extraordinary contest were the corporations; the exploiters of public service and all forms of vice;[2] subsidized newspapers; corporation-supported civic and "patriotic" bodies; public officials and hangers-on, the petty beneficiaries under the system[3]—the "associated villainies," as Arthur McEwen[4] not inaptly dubbed them.

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2 Revelations made at San Francisco during 1906-9, exposed a trust company in the investment of trust funds in an assignation-house enterprise while the officer of this trust company was a Regent of the University of California. The same exposure showed the principal banks of San Francisco petitioning the Board of Supervisors of that city to permit nickel-in-the-slot gamblers to operate unmolested. See report published by order of the San Francisco Board of Supervisors, January 5, 1910, on "Causes of Municipal Corruption in San Francisco."

3 A novel of twenty years ago, too little read now, Frank Norris' "Octopus," deals with the railroad's grip upon the State. The "Octopus" is well worth reading as a novel, and more than worth while as portraying California under Railroad domination.

4 Arthur McEwen was for years the most widely read newspaper writer of the Pacific Coast. His family immigrated to Canada from Scotland when McEwen was about a year old, and from there McEwen came to California. His cleverness as a writer attracted attention and he was induced to take a course in English literature at the University of California. Upon leaving college, he worked as a laborer with pick and shovel on the Central Pacific Railroad in Alameda County. He prepared a lecture, based on his experiences, which he called "Hard and Easy Shoveling." This lecture he delivered up and down the Pacific Coast. In the early 70's he went to Virginia City, where, as a member of the staff of the Virginia Chronicle, he was associated with Joseph Goodman, Charles C. Goodwin, Mark Twain, Dennis McCarthy, Wells Drury, Fred Hart, and other brilliant journalists who got their start in Nevada during the bonanza days. Leaving the Comstock for San Francisco, McEwen was for a time employed in editorial work but left San Francisco to join forces with Edwin Conlon in publishing the Stockton Mail. He soon succeeded in making that paper the most talked of publication in California. While on the Mail, McEwen wrote clever articles for the Sacramento Bee and Oakland Tribune, exposing and denouncing graft in public life. He left Stockton to take editorial charge of the San Francisco Post about the same time William Randolph Hearst became owner of the San Francisco Examiner. McEwen joined the Examiner staff. His most unique venture was the publication of "Arthur McEwen's Letter." Associated with McEwen in this venture was the late Franklin K. Lane. "The Letter" was published weekly. It was devoted to the exposure of graft in high places. McEwen was eventually forced to abandon this venture because of failing health. Later he went to New York as chief editor of the New York American and was chief editorial writer of that publication at the time of his death,

As attack after attack on the machine failed, the opposing citizenry was made to recognize that before government by the people could be restored in California, primary and election laws had to be enacted to ensure expression of the people's will at the polls; that the people must be given checks on the Legislature by which legislative enactments could be rejected, and laws enacted independent of the Legislature; that exploitation of the State's resources must be checked by regulatory laws. Incidental to this, came determination that large tax-evaders should be compelled to bear their just proportion of the tax burden.[6]

The public turned to the Legislature for relief. But the machine controlled the Legislature as it did executives and courts, and had organized to defeat any legislation that might interfere with the activities of any of the interests that made up the machine. Thus, the racetrack gamblers controlled the Senate Committee on Public Morals where legislation adverse to vice-exploitation could be, and, as a matter of fact, was blocked.[7] The same intelligent care was taken in the selection of the committees that dealt with corporations, election laws, etc. When this became clearly understood, California, for the time at least, gave

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which occurred at Hamilton, Bermuda, May 1, 1907. McEwen did more than any other one man to secure for California the Australian ballot system of voting. He was among the first to denounce publicly the methods of the so-called Southern Pacific machine.

6 For an account of how this demand for equalization of the tax burden found expression in the Plehn tax plan see Story of the California Legislature of 1913.

7 See Story of the California Legislature of 1909 and of 1911.

attention to the character and the records of the men selected for the Legislature.

The evils of corporation-vice control of government culminated in the scandals of the 1906 Republican State convention held at Santa Cruz, the so-called "Santa Cruz convention." There, nominations were openly given for support of machine policies. The Chairman of the Republican State Central Committee; a member of the State Supreme Court, who was later to resign his justiceship under fire of serious charges of bribetaking; the Republican nominee for governor; the corporation-attorney chairman of the convention, met at banquet with a notorious political boss, who was even then known as a corruptionist, and was soon to be indicted, tried and imprisoned for bribing a board of supervisors. The widely published picture of that banquet scene went far toward awakening California as to what the "machine" meant to the State, and what it represented.

On the heels of this convention, came the revelations of the San Francisco Graft Prosecution.

The Graft Prosecution ripped the cover off the corruption of "machine" control, and spurred a jaded public to renewed efforts for relief.

These efforts met with partial success at the election of 1908 when a Legislature was elected, which, at the 1909 session, undertook to give the State a practical direct primary law, to take the judiciary out of politics, to restore the Australian ballot to its original simplicity and effectiveness, to reserve to the people the power to initiate laws, to bring the railroads

under effective regulatory control. All but one of these reforms were defeated, although in each instance by narrow margin. The exception was the Direct Primary law, and even here the machine leaders were able to attach provisions which increased the difficulties of its operation almost to the point of impracticability.

Their near successes at the legislative session of 1909 encouraged the supporters of good government to continue their campaign. At the general election in 1910 their efforts were completely successful. Not only did they elect the Governor, but found themselves in safe control of both houses of the Legislature. At the 1911 session, the reforms which the people of California had so long been demanding and which had been denied by narrow margin at the session of 1909, were realized. The corporation lobbyists and other petty beneficiaries of the system, who had for years served their masters well, disappeared from Sacramento. A new political order opened for California.

Under this new order, the little fellows of the "machine," who had, out in the open, fetched and carried for the larger beneficiaries of the System, disappeared. They did not return. But the larger beneficiaries, the "associated villainies," were not driven out; they were not broken. Under new names, with new fetchers and carriers, employing new and more plausible methods, they opened their campaign to recover their power and prestige, and their hold on special privileges, which the political upheaval of 1910 had cost them.

Craftily, they attacked the gains for good citizen-

ship which had followed their defeat. The Initiative and Referendum, the Direct Primary, non-Partisanship in local affairs, were particularly singled out, for until these were broken down those who had profited under vice-corporation rule could not hope to regain their grip. Such measures as the Redlight Abatement Act, the Eight-Hour law for women, the Minimum Wage law for women, the Workmen's Compensation Act, were denounced as "freak legislation." The State administration was attacked as extravagant and wasteful. Organizations were financed by executives of public utility corporations for the alleged purpose of compelling economy in State affairs.

As has been intimated, the discredited political hacks who fetched and carried for the large beneficiaries were not employed for this work. The corporations were out for new men, preferably men who had been prominent in the reform organization. He was indeed an uninfluential "progressive" who could not get a generously salaried place with a corporation. Some, of course, refused such offers; others, more thrifty, accepted them, and have found reform politics not unprofitable.

As the departments of State government were made competent under the new order, the corporations hired effective men away from them. An executive of a State department receiving $5000 a year for his services, with no prospect of advancement or increase in compensation, found his loyalty to his State put to the test, when one of the corporations he was engaged in regulating or supervising offered him double what

he was receiving from the State. The custom of hiring State experts away from their jobs became a recognized custom of corporations. Some executives could not be influenced in this way, and actually refused salaries double that which the State was paying them. But more gave way at the test.

The effect of all this was to break down the confidence of the general public in their own movement. Citizens who approved every specific act of the machine-free Legislature, gained the impression that the progressives were responsible for more or less "freak" legislation. Taxpayers who had demanded modern concrete highways, who had applauded improvements in the handling of the dependent, defective and delinquent classes, endorsed extension of the work of the State University, and of the agricultural, health, and sanitary departments, and were willing to pay for them, found themselves criticizing as wantonly extravagant the very improvements which had their hearty approval and support.

The gains of this propaganda were registered in each successive session of the Legislature. The progressive element in overwhelming majority in 1911-13, found themselves in 1915-17 losing ground.

By 1919, the "Associated Villainies" under new names felt themselves sufficiently re-established to strike. They launched an attack against the Initiative, against the Eight Hour law for women, and other progressive policies. They attempted the passage of their so-called Indeterminate Franchise law, which would have made public utility franchises practically

perpetual. They proposed reorganization of the State government in the name of "economy and reform."

All these attempts at the 1919 session were blocked by a handful of progressives in Senate and Assembly. Senators William J. Carr of Pasadena, Herbert C. Jones and Frank Benson of San Jose, William Kehoe of Humboldt, L. L. Dennett of Modesto, M. B. Harris of Fresno, exposed reactionary moves in the Upper House, while J. M. Argabrite of Ventura, Esto B. Broughton of Modesto, Charles W. Cleary of Tulare, Grace S. Dorris of Bakersfield, Champ S. Price of Santa Cruz, Anna L. Saylor of Berkeley, H. W. Wright of Pasadena, William J. Locke of Alameda, Thomas L. Ambrose of Los Angeles, T. M. Wright of San Jose, and Walter Eden of Orange, did similar work in the Assembly.

At the 1920 election, such members as had been instrumental in defeating reactionary plans at the 1919 session, had the effective opposition of organizations ostensibly working in the interest of State economy and reform, but now known to have been organized and financed by corporations and allied interests. Some of the members thus attacked were actually denied re-election, notably Argabrite, Dorris, and Price. Senators Benson and Kehoe were not candidates for re-election. Both, it was known, would have had the opposition of the corporation-financed "economy-and-reform" organizations if they had been. Such organizations unquestionably played an important part in the election of certain members of the 1921 session. The element in industry and politics which such organ-

izations represent went to Sacramento more confident of making gains for its policies than it had been since its overthrow ten years before. But at the test, it found that on the principal issue before the Legislature, equalization of taxation, it could not command more than a one-third vote of either house, while all attempts to limit the Initiative, to amend the Direct Primary, to pass an Indeterminate (Perpetual) Franchise law, failed. So far as legislation, good or bad, was concerned, the contest between the two groups ended in a stale-mate. But the contest marked the division sharply between the two groups, a division which has been carried to the voters, and will mark the real issue of the 1922 State campaign. In this, the 1921 Legislature was similar to that of 1909.

The issues of the 1909 Legislature were carried to the voters at the 1910 election, and the voters decided against "machine" rule.

At the election in November, 1922, the issues of the 1909 Legislature, which, under other names and changed setting, were the issues of the session of 1921, will once again be submitted to decision of the voters. The issue in 1910 was the ending of government by corporation, vice and allied interests; the outcome of the 1922 issue will determine whether or not the corporation-vice interests can regain their hold on the government of the State of California.

CHAPTER II.

The Unsettled State Tax Problem.

Before the 1921 Legislature convened, the State's tax-experts, after painstaking investigation, found that the tax rates paid by the public service corporations and banks were approximately 35 per cent lower than the average rate paid by the plain citizen, and so reported to the Governor and the Legislature.

The Legislature, backed by the State administration, endeavored to equalize these rates; that is to say, to require the corporations and banks to pay the same proportionate taxes on the value of their property as plain citizens pay. To that end, the so-called King bill was introduced. The measure took its name from its author, Senator Lyman King of Redlands, chairman of the Senate Committee on Revenue and Taxation.

During the first part of the session, that is to say, before the constitutional recess, thirty Senators and forty-nine Assemblymen—seventy-nine members of the Legislature in all—voted for the King bill.

Ten Senators and thirty Assemblymen—a total of forty for both houses—voted against the King bill.

With seventy-nine legislators voting to pass the measure, and forty legislators voting to defeat it, the King bill was, at the first part of the session, defeated.

Such was one of the State's experiences with its revenue and taxation system.

When the Legislature reconvened after the constitutional recess, Mr. King pressed to passage a second revenue-and-taxation bill, which provided for virtually the same tax rates for utility corporations and banks as had been provided in the measure defeated during the first part of the session, that is to say, the corporations' rates were increased to an equality with the rates paid by the general tax payer.

This second King bill received twenty-seven votes in the Senate and fifty-four in the Assembly, a total of eighty-one.

In the Senate, thirteen members voted against it; in the Assembly, twenty-six—a total of thirty-nine.

By this vote of eighty-one to thirty-nine, this second King tax bill became law, and the taxes of the banks and corporations were increased to the rates which the State's tax experts had declared to be necessary to place banks and corporations on the same level as to tax rates as the general taxpayer. But a single member of either house who had voted yes, by voting no, would have defeated the measure.

Had there been such a change of a single vote, resulting in the measure's defeat, a deficit in the State treasury would have resulted.

To meet this deficit, an *ad valorem* tax of approximately 22 cents on each $100 of the property owned by plain citizens would have had to be levied. Thus, in addition to paying rates 35 per cent higher than the rates *(ad valorem basis)* paid by the corporations, the

plain citizen would have been called upon to pay an additional tax of 22 cents on every $100 assessed value of the property he owns, if the King tax-equalization bill had been defeated.

And for the further consideration of the people of California, who, by the passage of the King bill, escaped this increased tax burden, it may be added that had a single member of the Senate who voted for the bill voted against it, and even had he failed to vote, the bill would have been defeated even though every one of the eighty members of the Assembly had voted for it. In other words, the eighty members of the Assembly might have voted to increase the corporation and bank taxes, and twenty-six of the forty members of the Senate, making 106 in all. But if fourteen Senators had voted no, or had they even failed to vote, no increase in the bank and corporation taxes could have been made. The tax burden which these institutions according to the State's experts should carry would have been shifted to the plain citizen. Indeed, the vote in the Legislature of 120 members, might have been 106 votes for the proposed equalization of taxes and not a vote against it, and yet equalization would have been defeated.

Had the corporations and banks been able to control or influence or convince fourteen Senators, or twenty-seven Assemblymen to vote against the King tax bill, or even to refrain from voting, the increase in the corporations' rates recommended by the State's fiscal agents as necessary for the equalization of taxes would not have been made.

Such is the revenue and taxation system in force in California. From the day of its adoption eleven years ago, those in touch with State matters have known that the system is unscientific, inadequate, unjust, both to the smaller and weaker corporations and to the general public. The contest over the King tax bill brought these facts squarely before the California tax payer. For a time, the whole State was awake to the inequalities and the absurdities of the system. Then interest lagged, and the incident of the King tax bill all but passed from public consideration. With few exceptions the banks and corporations interested do not want such revelations as those of the King tax-bill controversy remembered. It is the part of good citizenship to prevent them being forgotten.

California's revenue and taxation system is known as the Plehn plan. It bears the name of its author, Professor Carl C. Plehn of the University of California. Professor Plehn is "Professor of Finance" at the University. As such, he trains young Californians in finance, taxation and corporation organization.

Professor Plehn was a Professor of Finance at the University in 1905, when the State employed him to apply his knowledge, and work out for California an equitable system of taxation. Six years later, November, 1910, the State by faith and popular vote adopted the Plehn plan. It went into effect in 1911, and has been in operation ever since.

Prior to the adoption of the Plehn plan, all taxes on corporations and individuals alike—State, county,

municipal and district—were collected on the *ad valorem* basis, that is to say, on the value of property.

This system worked well enough in counties, municipalities, and districts, for each of these communities had its local assessor who determined the value of property for taxation purposes. But when it came to State taxes, the system did not work well at all.

The State tax rate was the same in all counties, but there was no State valuation of property for taxation purposes. The State taxes were calculated on the assessments made by county assessors. No two of the fifty-eight counties in the State are assessed on the same basis of values. Testimony taken before legislative committees shows that some counties' assessments run as low as 20 per cent of the true value of the property, in other counties the assessment is as high as 60 per cent or more.

It will be seen that where the State tax rate was the same on the assessed value, the people of the counties assessed at 60 per cent of the true value of their property were paying three times as much on the basis of actual values as the people of those counties where the assessment was only 20 per cent of true values. In the confusion of such a situation, large interests found it easy to evade their just proportion of the tax burden.

There were, of course, other serious defects in the system,[8] but the inequalities of the State tax paid by

8 Extended discussion of the old system of taxation, with a complete account of how the Plehn plan came to be adopted, with details of the problems which arise under it, will be found in "The Story of the California Legislature of 1913"—The James H. Barry Co., 1122-24 Mission street, San Francisco, publisher.

counties, the ease with which large concerns dodged their tax bills, were the basis of the popular demand for an overhauling of the system.

In response to this demand, the 1905 Legislature authorized the appointment of a State commission and the employment of an "expert in taxation and public finance" to investigate the State's taxation system and recommend a plan for its reform.

It has been said that the only man within reach who responded to the description "expert in taxation and public finance" was Professor Carl C. Plehn of the University of California. However this may be, Professor Plehn was employed, and given exceptional opportunity to apply his knowledge of taxation.

Two years later, the commission reported to the 1907 Legislature, recommending that the revenues of State and of counties be separated *so that the State would get its revenue from public service and other corporations,*[9] *and the counties their revenues from an ad valorem tax on the property of the plain citizens.* It was not until 1910, however, that the Plehn plan was finally adopted.[10]

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9 The commission further recommended that the State continue to derive revenues from: (1) Poll Tax, (2) Inheritance Tax, (3) Tax on Insurance Premiums, (4) Annual Franchise Tax on Corporations, (5) All Fees at the Time Collected, (6) All Earnings of State Property and Investments, (7) All Collections by State Institutions, (8) The Revenue from Sale of State Land. The commission also recommended that the State retain its right to levy on general property, but that such levy should be resorted to only to make good a deficit.

10 The Plehn plan was voted upon at the general election of 1908, but rejected by a vote of 87,977 in its favor to 114,104 against. From 1908 until 1910, when it was finally adopted by a vote of 141,312 to 96,493, an extraordinary publicity campaign was carried on to influence the public in its favor.

On its face, or at any rate as the people were informed regarding it, the Plehn plan provided that:

(1) *The plain citizen should be relieved of all State taxes, but should pay all the local taxes, county, municipal and district.*

(2) *Certain public utility corporations should be relieved of all local taxes on their operative property, but should pay a percentage tax on their gross earnings for State purposes.*

Or, as it was popularly expressed, *the corporations were to pay the State taxes, and the public the local taxes.* Incidentally, the corporations which had—it was notorious—never borne their fair share of the tax burden, were to be made, under the new system, to pay their full share.

To be sure, careful reading of the Constitutional Amendment under which the Plehn plan was adopted revealed certain details which were to give trouble later on. But, at the time the system was adopted, these details were not emphasized by its advocates.[11]

"The purpose of the Amendment" (providing for the Plehn system), reads a report issued in 1910 and signed by Professor Carl C. Plehn; the then Governor of the State, James N. Gillett, and others, *"is to abolish the State tax on property in general and to supply the State's need from other sources; namely, the gross earning taxes on public service corporations*

11 The public was not long in discovering these details. Said the San Francisco Chronicle in its issue of February 27, 1911, less than four months after the Plehn plan had been adopted: "That the tax amendment (Plehn plan) was not understood is shown by the fact that its adoption has been followed by important and unpleasant results which nobody discovered during the discussion, and which, if suspected, would have defeated the amendment."

and on insurance companies and the per centage tax on the stock of banks. The question, therefore, arises as to whether the new sources proposed will be adequate.

The authors of the report then proceed *to demonstrate that the revenues to be derived from the corporations would be sufficient for State needs.*

To convince the plain citizens that they would be *relieved of all State taxes, if they shouldered the burden of all county, municipal and district taxes,* a most extraordinary publicity campaign was carried on.

A circular letter under date of October 15, 1910, sent broadcast over the State by the Associated Realty Boards of California, urging ratification of the Amendment, said: "Constitutional Amendment No. 1 (providing for the Plehn system) automatically accomplishes perfect equalization as between the several counties of this State, and *entirely relieves the localities from all State taxes.*"

In another circular sent out by the same association, the first two of the "six leading aims" of the Amendments are declared to be:

"(1) *To entirely remove the State tax which is now imposed on property in general,* and thereby relieve real estate from its burden of paying over 90 per cent of the taxes of California.

"(2) *To separate the sources of State revenue from those used by the counties and cities,* automatically curing the present inequalities between counties, and removing them from the jurisdiction of the State Board of Equalization."

Mr. John Tuohy, then Chairman of the Committee on Revenue and Taxation of the State Grange, in an open letter which was given wide circulation in the rural districts of the State, said:

"As Chairman of the Committee on Revenue and Taxation of the State Grange of California, and under resolutions passed at its last annual convention at Napa, I desire to call the attention of members of the Order and of land owners generally, to the importance and necessity of voting for Senate Constitutional Amendment No. 1 which provides a more equitable and just system of revenue and taxation, *by which the State will get its revenue from one source, and the counties, cities and districts from another,* than the present system makes possible."

The measure was described on the ballot as, *"providing for the separation of State and local taxation, and providing for the taxation of public service and other corporations for the benefit of the State."*

The term "more equitable and just system of taxation" meant to the tax-burdened plain citizen that *the corporations, insurance companies and banks were to pay their fair share of taxes,* and the corporations, which were to have their taxes increased under the Plehn plan, were most active in spreading that idea.

In vain did a handful of men who had made something of a study of taxation—not so exhaustive and intelligent a study as Professor Plehn, but something of a study—point out the incongruity of the corporations spending their good money in a publicity campaign to have their taxes "increased."

"Today," said Matt I. Sullivan, later Chief Justice of the Supreme Court, in a statement published during the 1910 campaign, "many of our best citizens, usually on the alert to prevent legislation hostile to the interests of the people, favor the Amendment (the Plehn plan) on the supposed ground that it will *simplify the system of taxation, increase the taxes of public service corporations, and lighten the burden of the other taxpayers.* The corporations, whose taxes are supposed to be increased by the Amendment, excepting the banks, are working for its adoption. They have created a fund, which is now being used to *convince the people that the taxes of the masses will be reduced if the Amendment goes into effect, and that the taxes of the corporations will be correspondingly increased.*"

"A final objection," said State Senator A. E. Boynton, in giving his reasons why the Amendment should be defeated, "which can be made to the Amendment as a whole, is that both the largest railroad corporation and the largest street railway system in the State are in favor of the measure and are industriously working for its passage. In the case of the railroad company, their taxes would not be increased, and the taxes of the street-car system would be reduced 20 per cent. No one would accuse these two corporations of not looking out for their own welfare, and the fact that they are so heartily in favor of the measure should warn the people to study it well before they place the seal of their votes upon it."

But these warnings were faint in comparison with the roar of publicity in favor of the measure which

the corporations that were to have their taxes "increased" kept up, generously assisted by deluded organizations of agriculturists and other producers, who were to have their taxes "decreased"; and by their agents, Chambers of Commerce, Realty Boards, corporation-supported civic bodies and newspapers.

California accordingly adopted the corporation-backed Plehn plan of taxation.

After ten years, the 1921 Legislature found the corporations and banks, on the figures furnished by the State's fiscal agents, still escaping their just share of the tax burden, while Professor Carl C. Plehn appeared at Sacramento, as the paid agent of the corporations, although still retaining his place as Professor of Finance at the University of California, to urge upon the Legislature that the corporations' rates be not increased, and to suggest, as one way out of the State's financial difficulties, that an *ad valorem* tax for State purposes could be levied upon the plain citizen.

This was the same Professor Plehn, tax expert, who, when the Plehn plan was before the State for adoption, joined the then Governor of California in signing a statement that the purpose of the Plehn taxation system is *"to abolish* the State tax on property in general, and to supply the State's needs from other sources, namely, the gross-earnings taxes on public service corporations and on insurance companies and the per centage tax on the stock of banks."

Hiram Johnson became Governor in January, 1911.

The first problem that confronted his administration was presented by the new Plehn taxation system.

The weaknesses of the system at once came to the surface. The 1911 Legislature discovered that the State taxes raised under the plan would not suffice for the State's needs. This first Legislature working under the new system met the situation somewhat crudely, by holding expenditures down to the poverty-basis minimum.

> "The (Plehn) Tax Commission," said Senator Charles P. Cutten, Chairman of the 1911 Senate Finance Committee, "in its various reports assured the Legislature that it could easily raise sufficient increase each year to run the State. But if the Legislature had taken the early assurances of the Commission in good faith and increased its appropriations in the same ratio as has been done for ten years past, the State would be now facing a deficit of $2,121,346, instead of $450,000. It is my opinion that under the present rates the annual deficit will increase rather than diminish, as the needs of the State are increasing faster than the revenues of the public service corporations."

But it was not until 1913, when the Plehn plan had been in operation for two years, that the real significance of the system was fairly understood. By that time, it had been clearly demonstrated that the corporations were not, under the Plehn system, paying their just proportion of taxes.

Governor Johnson in his biennial message to the 1913 Legislature called attention to three facts which

had become apparent to all in touch with the State revenue situation:

(1) That the new tax system would not provide, for the years 1913 and 1914, the revenue essential for the maintenance of the State government.

(2) That small corporations were paying a greater proportion of the taxes than they should, and larger corporations were paying a smaller proportion of the taxes than they should.

(3) That the small householder, proportionately, was paying a greater amount of taxes than the large public-service corporations.

An investigation conducted by the State Board of Equalization, to ascertain the relative burden of State and local taxes in 1912, bore out the Governor's contention. This investigation indicated the average rates of taxes paid by the several groups on each $100 of actual value of their property to be:

For the general tax payer	$1.13
For Railroads and Street Railroads	0.90
For Gas and Electric Companies	0.75
For Telephone and Telegraph Companies	0.90
For Car Companies	0.88
For Express Companies	1.54

Governor Johnson made these findings the subject of a special message to the Legislature, in which he urged that the matter of revenue and taxation be taken up during the first part of the session, and the State rates paid by the corporations relieved of local

taxation be so increased as to compel them to pay their just proportion of taxes.[12]

Acting under Governor Johnson's recommendations, the Legislature finally increased the rates paid by the railroad companies 18¾ per cent, by the car companies 33⅓ per cent, by the telephone and telegraph companies 20 per cent, by the gas and electric companies 15 per cent. The old and new rates on each $100 valuation were as follows:

	Old Rates	New Rates
Paid by the Plain Citizen	$1.13	$1.13
" " Railroads	.90	1.07
" " Car Companies	.88	1.17
" " Telephone and Telegraph Companies	.90	1.08
" " Gas and Electric Companies	.75	.86

It will be seen that all the rates paid by the corporations were, with the exception of those of the car companies, left lower than the rates paid by the plain citizen. The 1913 Legislature did not solve the State's revenue and taxation problem.[13]

12 Governor Johnson in his message summarized the findings of the Board of Equalization, and then said: "The situation, therefore, is obvious. Except in the single instance of the express company, which probably is not paying any greater sum in taxes than it ought, the ordinary taxpayer is paying proportionately twenty per cent more than the public service corporations. As in my initial message, again I call to your attention the fact that the revenue for this year provided by the new method of taxation will be insufficient to meet the expenses of the government of the State. It is essential that the additional revenue required be provided for during the first portion of your session, that is, during the next thirty days. I ask, therefore, that during this first part of your session you take up the subject of the revenue of the State and increase the rates of taxation of the withdrawn corporations to such a sum as shall compel them to pay their just proportion of taxes."

13 A full account of the extraordinary efforts of the lobby sent to Sacramento to oppose any increase in the corporations' rates will be found in "The Story of the California Legislature of 1913"—The James H. Barry Co., San Francisco, publisher.

The 1915 Legislature found a prospective deficit of $5,000,000 facing the State. The tax rates of the plain citizen, who had had five years' experience in paying all the local taxes, had begun to climb upward, until, by 1915, the plain citizen's tax rate was approximately $1.21 on the $100. But the corporations' rates had for two years been at a standstill.

> "I ask," said Governor Johnson in his 1915 message to the Legislature, in discussing the situation, "that immediately you undertake appropriate investigation, and that such determination be rendered by you during the first portion of your session as shall equalize the burden of taxation, and require the payment by the corporations mentioned of their just proportion."

To have compelled the corporations to pay their "just proportion" would have required an increase in their rates ranging from 12 per cent on the rates paid by the telegraph and telephone companies, to 40 per cent on the rates of the gas and electric companies. But no such simple procedure was followed. The corporations' rates were not raised to meet those paid by the plain citizen. The increases ranged from 7 per cent for the telephone and telegraph companies to 15 per cent for the gas and electric companies. Few contended that an equitable adjustment had been made. On the other hand, dissatisfaction with the new rates was general.

> *"The proposed rate for gas and electric companies," declared Senator Kehoe, "is an unjust discrimination against the people of California. If the people were in a position*

to go into court and contest these rates, as a corporation could and would do, such disproportionate rates would not be established." [14]

But they were established, and, with a few changes of scarcely material importance in 1917, the rates paid by the corporations, which six years before Senator Kehoe denounced as disproportionate, had not been changed up to the time the 1921 session convened. But during the six years that had intervened since the 1915 session, the tax rates paid by the plain citizen had increased, until investigation made by the State's experts showed that the tax rates of the banks and corporations on the *ad valorem* basis were 35 per cent lower than the rates paid by the general tax payer.[15]

For ten years, the corporations, banks and insurance companies had been handling the taxation problem skilfully—and at the expense of the plain citizen. To begin with, they had nursed the idea that a public-utility corporation should pay no tax that cannot be

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[14] A complete account of the proceedings at which the 1915 rates of the corporations were fixed, will be found in "The Story of the California Legislature of 1915"—James H. Barry Co., San Francisco, publisher.

[15] The State fiscal agents found that during the six years, 1915-1921, the taxes of the plain citizen had increased from $1.209 on the $100 valuation to $1.632, an increase of 34.98 per cent. The increase of 34.98 per cent proposed by the State authorities in the gross earnings and other special rates paid by the corporations, banks, etc., would give:

	1915 Rate	Increased at 34 98/100%	Proposed New Rate
Railroads and Street Railways	5.25%	.0183	7.08%
Gas & Electric	5.6	.0195	7.55
Telephone & Telegraph	4.2	.0146	5.6
Banks	1.16	.004	1.56
Insurance Companies	2.	.0069	2.69
Franchises	1.2	.0041	1.62
Car Companies	3.95	.0138	5.33
Express Companies	.9	.0031	1.21

passed on to the plain citizen. This policy had been given expression in law.[16] The State Railroad Commission, in a public statement, sent to the press of the State and to every member of the Assembly when that body was about to vote on the King bill, held that the law requires the commission so to fix rates that the corporation's taxes shall be absorbed in the collections from the public.[17] Admitting this to be

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16 The fact must not be lost sight of, that under the system of allowing fixed net returns upon the alleged investment of public service corporations the salaries and expenses of their executives, their attorneys, their experts, etc., are charged to "operating expenses," and the rates which they are permitted to collect from the public are fixed high enough to include these operating expenses plus the profit which they are allowed on their investments. Furthermore, no itemized accounting of these expenses is made to the Railroad Commission. Thus, the elaborate work of their tax "experts" is paid for by the public; the cost of their expensive lobby, when it can be camouflaged as "legal expenses," and allowed as "operating expenses," is paid for by the public. At the first part of the 1921 legislative session, for example, one train brought to Sacramento as many as sixty corporation presidents, attorneys, managers to oppose the passage of the King bill. These corporation lobbyists monopolized the best rooms at the Sacramento hotels, patronized the most expensive cafes and hotel dining rooms—not at their own expense, nor at the expense of the corporations they represented, nor at the expense of the stockholders of the corporations, but at the expense of the overburdened utility rate-payers of California. Eventually the extraordinary expenses of that corporation lobby will be met by the woman who bends over her washtub, by the farmer who is struggling to secure a living from the soil against the odds of extortion which run against him, by the workman perplexed that regardless of how high his wages may be or how rigid his economy, he finds himself constantly at the narrow line which divides bare existence from actual want. Every lobbyist whom the corporations maintain at Sacramento, every "expert," is an "operating expense," charged against the people of California, and paid for by the people of California—and the burden of the total of such entrenched wastefulness is becoming too heavy for the people of California, or, for that matter, for any other people, to bear.

17 The Railroad Commission's statement was as follows: "An illustration of the many ways in which this commission is made the object of criticism, which it is powerless to avoid, is that of increase in part occasioned when taxes on the utilities are increased. In no degree or in any sense do we desire to criticize or pass judgment on the wisdom of the proposal to increase such taxes on utilities. Owing to the abnormal financial demands of the State the Legislature is compelled to provide approximately $17,000,000 additional revenue. If the Legislature decides that a substantial part of the sum should be secured by increasing the

true, the fact remains that the corporations were confronted with a situation where the tax increase would temporarily at least come out of their treasuries. The rates the corporations were collecting from the public, had been fixed during the era of high prices. The corporation managers know that, tax increase or no increase, they could expect no further increase in their rates collected from the public; indeed, they were about to be on the defensive to hold the rates at the extortionate figure to which during the era of war prices they had been able to cajole rate-fixing bodies into allowing.[18] Should their taxes be increased, the increase would be paid out of the high rates already allowed, which they expected to be able to collect from the public regardless of the outcome of the tax controversy. In that fact lies the secret of the extraordinary campaign which the corporations waged to defeat the King bill. They were fighting to escape paying to the State some $7,500,000 a year which from any angle it might be viewed, they should pay. To evade paying this charge against them, they not only sent a hundred or more lobbyists to Sacramento, but engaged in a publicity campaign, the estimated cost of which was placed as high as $1,000,000. In the parlance of the streets, they were spending

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percentage or gross earnings of utilities, a question within its province to determine, then it becomes the duty of this commission under the law to allow such taxes in operating expenses to be reflected in rates. This commission is under the same obligation to do this as is the utility to pay the tax.

18 The Southern Pacific Railroad, for example, in its official report of business done in 1919, after deducting all operating expenses, taxes, payment on debts, etc., showed a net surplus of $25,768,845. Two-thirds of this came from California business. $17,000,000, was distributed in dividends.

$1,000,000 to save $7,500,000 a year. But the fact should not be lost sight of, that the corporations will not in the end foot that advertising bill. Eventually, on one pretext or another, it will be liquidated by those who pay utility-rate taxes—the plain citizens of California.

Under the Plehn plan the popular view has been that:

(1) The plain citizens pay all the local taxes.

(2) The corporations, banks and insurance companies, etc., relieved of local taxes, take care of the State taxes.

There is no provision in the law by which the corporations can be made to pay local taxes on their operating property to make up local deficits, but there is provision by which the plain citizen can be forced to pay a State *ad valorem* tax to make up State deficits, should the corporations, banks, etc., for any reason, fail to pay. The corporation managers have unquestionably planned to force this State tax upon the plain citizen, but while awaiting the psychological moment for that move they have very adroitly been shifting the State tax burden away from themselves. This has been done:

(1) By developing other sources of State revenues. Thus the inheritance taxes, which should in all equity be divided between State and counties, have been monopolized by the State. In 1911-13-15 an attempt was made to put a State license tax on saloons, but this move was blocked because of the alertness of Bishop Edwin H. Hughes, then resident Bishop of the

Methodist-Episcopal Church. The corporations have, however, been more successful with the business franchise tax. The Plehn plan originally contemplated collection of $500,000 a year from this source—a most unjust tax, by the way—but afterwards increased the estimate to $1,000,000. When it became evident, early in 1911, that the State taxes which were to come from the corporations, banks, insurance companies, etc., would not meet the requirements of the State, the business franchise tax was boosted to an actual collection of $1,619,588.36, more than three times the original estimate.[19] This business franchise tax has been nursed along until $2,321,805 was the estimated collection from it for the fiscal year following the 1921 session. It can be easily seen that such independent sources of State revenue tended to delay the day of reckoning that was to force upon the attention of the people of California the fact that under the Plehn plan the corporations, while collecting record-breaking rates for the service they are rendering the public, were systematically evading their fair share of the tax burden.

(2) To the same end, there has been systematic effort to shift expenses, which, prior to 1911, had been paid out of the State treasury, to the counties.

In this way, burdens which had, prior to 1911, been borne by the State, and, under the new tax system, were popularly supposed to be carried by the public service corporations and banks, have been shifted to the plain citizen who pays all the local taxes. Thus, at

19 For discussion of the business franchise tax, and the attempt to relieve business of it, see "The Story of the California Legislature of 1913."

the 1920 election, the University of California, on whose governing board of regents are represented corporations and banks that are affected by the State tax, put a measure on the ballot under which the burden of maintenance of the University would have been shifted from the State to the counties. Under the proposed shift, the cost of University maintenance would have been collected by an *ad valorem* tax upon the plain citizen instead of being paid out of State funds. The proposed shift was defeated, however.

An even more striking example is furnished in the shifting of the State's part of the cost of the maintenance of the public schools.[20] Here, as in the case of the increase in the business franchise tax, the subtle influence of the corporations has been amazingly effective.

The elementary public schools are supported by funds supplied by the State, County and District.

In 1901, ten years before the Plehn system of taxation went into effect, the State paid for school maintenance, on the basis of each teacher, $474 a year, the county $322 and the school district $50. The Plehn plan became effective in 1911. By that year, the elementary school maintenance had *increased* on the basis of each teacher to $533 for the State, $433 for the county, $311 for the district. Two years later, 1913, the allowance had *decreased* $83 for the State and *increased* $51 for the county and $44 for the dis-

20 For interesting discussion of the shifting of the primary school burden, see Report of State Superintendent of Public Instruction for the biennial period ending June 30, 1920. Copies of this report can be had by addressing the State Superintendent of Public Instruction at Sacramento.

trict, respectively. Thus the plain citizen, the county and district taxpayer, had his burden per school teacher increased $95 a year, while the burden of the corporations, theoretically the State taxpayer, was *decreased* $83 a year, which gave a net increase of $12 a year per teacher for 1913. The net increase per teacher in 1911 over 1910 had been nearly ten times that amount, $115.

By 1920, the State support per teacher had been decreased from $533 to $467, the county support had been *increased* from $433 to $712, while the district support had been *increased* from $311 to $408. In 1911, the State supplied $533 per teacher, the local taxpayers $744, less than 50 per cent more than the State supplied. In 1920, after nine years under the Plehn system, the State supplied $467, while the local taxpayers provided $1120, 161 per cent more per teacher than came from the State. It will be noted that the State's part in school maintenance had *decreased* from $474 in 1901 to $467 in 1920, or $7 a year; while the county contribution had increased from $322 in 1901 to $712 in 1920 or $390, while the district amount had increased from $50 to $408, an increase of $358. There had, in a word, been an increase in the plain citizen's annual tax for the schools of $748 a year per teacher, while the corporations' contribution, if we view them as the State's taxpayers, had *decreased* $7. It may be added that this comparison is most favorable to the payers of the State taxes, the corporations, for the Legislature in 1919 took drastic steps to compel the State to do its share

in school maintenance. Under the 1919 Act, the State's fund for school maintenance was increased from $412 paid in 1919, to the $467 used in our comparison, an increase of $55.[21]

In not so marked a degree, there has been a steady decrease in the State support of High Schools, with corresponding increase in the High School support from plain-citizens' taxes.

At the 1920 State election, the plain citizen undertook, by means of the Initiative, to correct this condition. A measure was put on the ballot to provide adequate State support for the schools. This measure carried by 506,008 to 268,781. Under it, State sup-

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21 The following figures from the 1920 Report of the State Superintendent of Schools indicate what the Plehn system of taxation has meant to the citizen taxpayer, and to the schools of the State:

Amount Contributed Per Teacher for Support of Elementary Schools

Year	State	County	District Maintenance
1901	$474.00	$322.00	$ 50.00
1902	481.00	330.00	57.00
1903	429.00	307.00	69.00
1904	457.00	327.00	86.00
1905	504.00	320.00	89.00
1906	480.00	393.00	84.00
1907	492.00	347.00	133.00
1908	487.00	489.00	152.00
1909	488.00	401.00	211.00
1910	498.00	496.00	176.00
1911	533.00	433.00	311.00
1912	513.00	481.00	265.00
1913	450.00	484.00	354.00
1914	442.00	407.00	404.00
1915	437.00	494.00	389.00
1916	429.00	487.00	407.00
1917	421.00	530.00	396.00
1918	415.00	495.00	477.00
1919	412.00	438.00	602.00
1920	467.00	712.00	408.00

Amount Contributed Per Teacher for Support of High Schools

Year	State	County	District Maintenance
1916	$207.11	$831.93	$1139.80
1917	198.51	879.79	1048.78
1918	191.74	813.11	1165.68
1919	194.54	774.33	1328.00
1920	186.65	834.35	1362.53

port of common and high schools has been increased approximately $6,500,000 a year. But this is not, as has been represented by those intent upon keeping the State taxes paid by corporations and banks down regardless of what happens to the taxes paid by the plain citizen, an arbitrary exercise of voting strength on the part of the plain people to heap an undeserved school-tax burden upon the State. The increase in the State's share in the maintenance of schools under the Initiative Act of 1920 merely brings such support up to where it would have been had it not been for the slowing down of the State's support of schools which began the year after the Plehn plan of taxation went into effect.

(3) The third policy followed by the corporations to keep the fact that they are not bearing their proportionate share of the tax burden from coming up for general discussion has been to discourage State expenditures. There has been so much cry from "tax reform" organizations about State extravagance and wastefulness, that the man on the street now takes it as a matter of course that gross wastefulness marks the administration of State affairs. It develops that these "tax reform" bodies are financed by corporations that are not paying their share of the tax bill.[22] As

22 The principal tax economy organization, at any rate the loudest in its protestations for economy, is the so-called Taxpayers' Association of California. That organization was publicly denounced during the first part of the legislative session by Mr. Clyde L. Seavey, of the State Board of Control. After charging the organization with deliberate misstatements intended to confuse the public and setting forth that its representatives were paid by the interested corporations, Mr. Seavey said: "The Taxpayers' Association of California was started in 1916 by Mr. George G. Tunell of Chicago, tax agent for the Santa Fe Railroad, who came to California temporarily to teach the people of this State 'new

a result of this sort of economy there has been a slowing-down of development of State institutions. California, with a population of 2,300,000 when the Plehn plan went into effect ten years ago, now has a population of over 3,400,000. With this increase in population, has come increase in the cost of State government, and increase in demands upon State institutions.

Because of slowing down of the building program at the State hospitals for the insane, at the State penal institutions, at the State schools, there had come at the time the 1921 Legislature convened an overcrowding that could no longer be kept from the public. Something had to be done to relieve this situation. The solution was offered in the not unreasonable suggestion that tax-dodgers be compelled to bear their share of the tax burden.

Such was the situation when the 1921 session opened.

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tricks in corporation methods.' Mr. Tunell at that time brought with him an attorney from Arizona, Mr. Herbert W. Clark, who is now president of the Taxpayers' Association, an attorney for the railroads and the leader of the railroad lobby who presented arguments against a raise of tax. Mr. Paul Shoup of the Southern Pacific Railroad is the brains and the money from that source behind Mr. Fischer (chief executive of the organization) in these grossly misleading statements. The misnamed Better America Federation is behind Mr. Fischer, which is really an organization to serve the special interests. There are others of lesser importance connected with banks and corporations backing Fischer in this fight against a proper equalization of the tax burden. Their cry of economy is but a barrage to cover up their attempt to throw a heavy burden of tax directly upon the people. They have at no time claimed that more than a saving of one million dollars could be made by any reorganization, yet in their statements they would lead the public to suppose that the whole deficit of fourteen and a half million dollars could be met without the raise either of the corporation taxes or an ad valorem tax. The only thing the King bill proposes is to make the corporations pay the same burden of tax as the general taxpayer. The issue in this remarkable contest in the Legislature is whether the corporations can evade their just burden of taxation and force the people to pay the bill. This would mean that the people would have to submit to a levy of about 22 cents on every $100 of assessed value."

CHAPTER III.

1921 Legislature Confronted With Tax Problem.

Even before members of the 1921 Legislature thought of becoming candidates for legislative office, the corporations had their experts busily preparing data to be used in efforts to prevent increase in their tax rates. Supplied with the data which the corporation experts had prepared, corporation lobbyists were at Sacramento waiting when the Senators and Assemblymen began to arrive at the capital.

These lobbyists are most charming fellows to meet, generous and considerate. They can get the legislator's wife invited to desirable places, or they will gladly "throw a free feed," as they express it, into the legislator, if he will permit them. In a thousand and one ways they can make themselves agreeable and useful. It is hard to offend them; and very easy to accept their attentions and favors.

The first thing the 1921 legislators heard from these ingratiating lobbyists was that it is a shame the way auto-trucks are using the State highways. Therefore, the lobbyists contended, a heavy tax should be placed on auto-trucks—also a tax should be placed on gasoline.

Such a story over a cafe dinner told by a legislator's host, can be made most convincing. But back of it all was the corporations' desire to:

(1) Provide State revenues from sources other than the corporations.

(2) Discourage the auto-trucks, which, while enormously effective in the best development of the State, are cutting into the receipts of the steam and electric roads. The corporations are having much to say these days about the power to tax being the power to destroy, but the only suggestion of a destroying tax thus far has come from these same corporations intent upon discouraging development of modern methods of transportation. By legislation and adverse publicity the corporations have practically driven the convenient "jitney" bus out of business, and by the same methods the corporations now propose to drive out the auto-truck if they can. If they succeed in doing so, California will be deprived of one of the most effective agencies for State development.

The corporation lobbyists, during the first days of the session, succeeded in creating such interest in their proposed tax on auto-trucks, gasoline and oil products, that the matter was given a whole evening in the series of discussions before the joint meetings of the Senate and Assembly Committees on Revenue and Taxation which were held to consider the taxation problem.

Gentlemen in the business of selling gasoline and other oil products, whose connections link them up very closely with the public utility corporations, appeared before the committee and expressed their entire willingness to pay such a gasoline tax. All they would have to do would be to add the tax per gallon to the price

of every gallon of oil products sold. Thus, if the current price of gasoline were twenty-seven cents, and the State tax on gasoline was one cent, all that would be required to "pass the tax on" would be to charge twenty-eight cents for the gasoline.

The actual consumers of gasoline were not represented at that hearing, so there was no protest, and the impression gained ground that a tax on gasoline is a most righteous and desirable tax. There was no suggestion, however, that at least part of this proposed tax go to the county in which the sale was made, thereby relieving the plain citizen of part of his tax burden. Agitation for a gasoline tax had for its object relief of the corporations, not of the plain citizen.

The second night of the hearing before the joint committees was given over to the public service corporations. The Senate chamber was packed with presidents, vice-presidents, attorneys and experts of the various utilities concerned. The estimate of over one hundred corporation representatives present was probably conservative. The corporations had sent the best they had, going as far as Chicago in their hunt for convincing advocates.

This lobby was at once dubbed the "billion dollar lobby," for it was estimated that the interests for which it appeared had at least paper investments aggregating a billion or more. It would have been more in point to have ascertained the aggregate compensations of the hundred or more men who constituted that lobby, and their expenses. At an average of only $5000 a year, their compensation would go above $500,000—

it was more likely nearer a million—while their expenses at Sacramento were probably above $1000 daily. The brilliant gathering was in effect an aggregation of operating expenses, which, eventually, the plain people would pay in utility-rate taxes.

Against this array of talented "operating expenses," the State of California could afford two representatives only, and underpaid representatives at that, Clyde L. Seavey of the State Board of Control and M. D. Lack of the State Board of Equalization.

Mr. Lack briefly reviewed the steps of the investigation which State officials had made to determine the relative burden of the tax paid by the public utility corporations and the tax paid by plain citizens. The findings showed that the average tax rate of the plain citizen had increased since 1916 from $1.21 on each $100 actual value of the plain citizens' holdings, to $1.63—an increase of approximately 35 per cent. This percentage of increase carried into the tax rate paid on their gross earnings by the public utility corporations, Mr. Lack contended, gave the new tax rates which the utilities should be required to pay.

The corporation lobby presented as their chief spokesman in reply to Mr. Lack, Carl C. Plehn, "expert in taxation and finance," professor of finance at the University of California, author of the Plehn plan of taxation.[23]

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[23] Professor Plehn's appearance on behalf of the corporations was generally criticized. The San Francisco Chronicle predicted that Plehn would face "an investigation by the Board of Regents of the State University." But when the personnel of the Board of Regents is considered, the improbability of such an investigation became apparent. The Sacramento Bee in its issue of January 19, 1921, declared that "the ethics of the action in the case of Professor

Professor Plehn, it developed, had been for some time in the employ of corporations, assisting them in working out their taxation problems. He was prepared with a mass of figures to demonstrate *that the railroads were paying a higher tax rate than the plain citizen.* Professor Plehn is a very able and convincing speaker. He apparently won the entire lobby to his way of thinking. Whether he was being paid the enormous fee for his services with which he was credited, or was compensated to the extent of the good his presentation did the cause of the corporations, he earned his money.

Professor Plehn granted Mr. Lack's contention that the tax rates of the plain citizen have been increased approximately 35 per cent, making $1.63 on the $100 valuation. But Professor Plehn held that the railroad tax rates, *ad valorem* basis, have increased also, until the railroad taxes were "over 2.6 per cent of the actual value of the railroad property as it was at the time the 1921 session convened, and over 1.9 per cent of the value of the same property as it stood in 1916." [24]

Plehn is difficult to understand. Professor Plehn is himself the author of the law which the Legislature intends to apply. He has been retained as its tax expert with additional compensation on many occasions, when he enunciated certain principles and battled for certain facts, all of which he repudiates when he appears as the paid representative of the corporations. As head of the Economics Department of the University of California Professor Plehn receives a salary of thousands a year. California reasonably might expect one of her servants not to hire himself out against her own interests to tear down the very arguments which Professor Plehn defended before."

24 Professor Plehn ascribed this increase to: Increase of the gross receipts of corporations, together with a marked decline in the value of railroad property, caused by the increase in operating expenses due to wage increases and high cost of materials. To reach his conclusions, Professor Plehn employed the stock and bond basis of valuation. Replying to Professor Plehn, Clyde L. Seavey, of the State Board of Control, pointed out that in times of

To reach these conclusions, Professor Plehn employed as his basis the stock and bond method of valuing corporation property.

Professor Plehn also held that the corporations, banks and insurance companies—the "separation" as Professor Plehn technically put it—could not carry the amount of tax which the State proposed to put upon them. To employ his own figure, a fifteen-ton truck could not be made to carry a thirty-ton load.[25]

In conclusion Professor Plehn stated that instead of increasing the rates paid by the corporations, *an ad valorem tax for State purposes* could be imposed on general property, or an income tax could be levied, or a tax placed upon gasoline.

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unsettled conditions, such as at present prevail, the stock and bond method of valuing the property of corporations is unsound and can not be used. For this reason, Mr. Seavey showed, the stock and bond method of valuation had not in 1915 been followed in arriving at corporation values. That year, Professor Plehn was serving on the side of the State. The 1915 report on tax conditions to the Governor and the Legislature, which Professor Plehn joined Mr. Seavey in signing, contains the following:

"Since it was obviously impossible under the present conditions of business to make an appraisement of general property values or to ascertain the stock and bond shares of public utilities in the manner in which these things were done in 1912, some new method had to be devised for arriving at the facts needed and in particular to answer the question whether the general burden of taxation upon real estate of the State has increased and by how much. The method adopted was to assume that the investigation of 1912 as made by the Board of Equalization was a satisfactory starting point and to inquire into the changes which have taken place since then."

25 The Southern Pacific Railroad, in its official report of business done in 1919, after deducting all operating expenses, taxes, payments on debts, etc., showed a net surplus of $25,768,845. Two-thirds of this came from business in California. $17,000,000 was distributed in dividends. The 1921 report of the State Superintendent of Banks shows that "during a period of rather violent financial readjustment . . . the State banks of California have reached new high records both for total resources and deposits and also for annual increase in each. . . . The combined assets of the National and State institutions, as of date June 30, 1920, is $2,440,487,000." From other sources it is known that the banks of the State had during 1920 paid dividends to stockholders ranging from 13 per cent to 36 per cent.

In replying to Professor Plehn, Clyde L. Seavey of the State Board of Control showed that, in unsettled times such as these, because of the great depreciation in the value of outstanding stocks and bonds, by reason of the unprecedented demand for money and the issuance of new and exceptionally attractive securities, stocks and bonds reflect an unduly depressed valuation of the physical properties behind them; that for this reason the stock and bond method was not followed in 1915, and that the State experts, in arriving at their conclusions in 1921, had adopted the same method which had been followed five years before, a method to which Professor Plehn, Mr. Seavey held, then on the State's side of the controversy, had subscribed.[26]

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26 In arriving at their conclusions the State's experts used as the starting point the figures obtained by the investigation made in 1916 by the State Tax Commission. They were forced to proceed in this manner for two reasons: First, the Legislature had made no money available for the comprehensive gathering of data and the determination of the underlying values of general property and of corporation property. Second, if such money had been available it is a recognized fact that particularly in the case of corporations, no accurate determination of their values could have been obtained. If a physical valuation had been attempted, the time necessary and the expenditure would have been prohibitory. If a stock and bond value had been attempted, the existing condition of the stock and bond market would not have reflected the true value of the property any more accurately than could have been obtained under the conditions of 1914 and 1915. The State Board of Equalization, therefore, was forced to rely upon the method adopted in 1915, which method was proved to be correct by the determination made in 1916. The actual procedure is as follows: There were collected from the cities and counties, the total city, county and district taxes paid by non-operative property and the total assessed values of non-operative property for 1916 and for 1920. The total assessed value of non-operative property in 1916 was $2,917,323,351. The assessed value of non-operative property 1920 was $3,784.252,614. This was an increase in assessed value during that period of 29.716 per cent. The total tax paid by non-operative property in cities, counties and districts in 1916 was $82,529,839.06. If there had been no increase in the tax rates, the tax would have increased just as much as the rolls increased, or by 29.716 per cent, or $24,524,566.97, a total of $107,054,406.03. But the taxes levied in 1920 amounted to $144,524,310.12. In 1916, which

The joint committees met after the hearing to decide upon rates. The attitude of the majority of the committee was expressed by Senator Nelson.

"As I understand it," said Nelson, "we are considering equalization of taxes as between the general taxpayer and the corporations. If private property is paying $1.63 on the $100 valuation, why should not the public utility pay at the same rate. The increase of rates suggested would equalize the taxes. Can we say to our constituents that we allowed one rate to apply to private property and a lower rate to the property of the corporations?"

"I quite agree with Senator Nelson," said Senator Eden. "I would not consent to levy a greater tax on the corporations than is levied on the general taxpayer, but the corporations should pay as great a tax as the private citizen pays. We have heard much about the corporations being in a bad way, but thousands of business men are in a bad way also. The business men are not here asking relief from taxes. Why the corporations?"

Senator King announced that he did not like the

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is the year taken as the basis, the average tax rate on true value for general property was determined to be 1.209 per cent. Then to find to what figure the average burden on general property tax had increased, it must first be determined what the average rate on true value is for 1920 by a solving of a proportion as follows: $107,054,406.03, which would have been raised had there been no increase in tax rate, is to $144,524,310.12, which is the amount of tax actually levied, as 1.209, the rate determined in 1916, is to a new rate to be established. Multiplying $144,524,310.12 by 1.209 and dividing the result by $107,054,406.03, it gives the present average tax rate of 1.632 per cent. This tax rate, namely, 1.632 per cent, is 34.98 per cent greater than the average tax rate established in 1916, namely, 1.209 per cent. This means that on this basis of calculation, general property on the average is bearing 34.98 per cent more tax burden than in 1916 and this is the percentage that the Board of Equalization recommended to the Legislature to determine the increase upon corporation rates.

Plehn plan of taxation at all, but, he contended, it is the State system and until it is changed it must be followed.

Assemblyman W. F. Beal of Imperial fairly expressed the position of the minority when he gave it as his opinion that an *ad valorem* tax should be levied.

The committee, however, followed a different policy. The rates finally levied upon the corporations were those which had been recommended by the State's experts.

The cry was thereupon raised about the lobbies that if the taxes of the corporations were increased, many corporations would be forced into bankruptcy. From all parts of California came local representatives of the corporations to plead with the home assemblyman or senator not to interfere with the corporations' taxes.[27] Mr. Harley Booth, Southern Pacific attorney and tax expert appeared to be the general in charge of the imposing lobby which crowded hotel halls and capitol corridors.

Little was said of the ability of the more impor-

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27 Edward H. Hamilton, the veteran legislative correspondent, in the San Francisco Examiner for January 18, thus describes the scene at the capital: "It looked like old times around the corridors and hotel lobbies. Corporation men of the high type were on hand—sixty or more came in last night and today. Men who are supposed to be able to influence legislators were sent for from far and near and responded to the call. Room 352 at the Sacramento Hotel was made corporation headquarters. This is the room of former Assemblyman Al. Bartlett of Los Angeles, who is lobbyist for all the power company interests. Thence repaired railroad presidents, like Palmer of the Northwestern Pacific, and tax lawyers, like Harley Booth of the Southern Pacific's law department. Booth seemed to settle into the place of general in command. No legislator needed to pay for his own meals—corporation money was plentiful to provide the feed bag. Again things looked like old times, and needy legislators seemed as quick as ever to accept invitations. 'The old guard has come out of its hole at last,' was word that came from the Governor's office."

tant corporations to pay taxes, but the "lame ducks" among them were paraded for legislative sympathy. This was particularly true of the street railroad companies.

Many street railroad companies, for one reason or another, overcapitalization, mismanagement, poor equipment and service, lack of foresight and enterprise, competition of more modern means of transportation, etc., can be shown to be in a bad way. But they are not necessarily so hard pressed as their balance sheets make it appear. For example, when a group of financiers control the hydro-electric power company which supplies a street-car corporation, operated by the same financiers, with electric energy, it is not impossible that the car company is paying a higher rate for its power than would be necessary if the power used came from an independent source. The losses of the car corporations are, in such a situation, the gains of the hydro-electric corporations. However convincing the car corporation's losses may be as an argument for increasing the car corporation's passenger rates, or for reducing its tax charge, the situation is not without profit for the financiers involved.

But for purposes of taxation, under the very scientific Plehn plan, the lame-duck street-car corporations are grouped with the enormously prosperous long-haul railroads. The Plehn plan provides that the same tax rate—gross income basis—must be charged both. Thus, in increasing the gross-earnings rate of the railroads from 5.25 to 7 per cent, the rates of the street-car

companies would automatically be raised to 7 per cent also.

The short-haul railroads are grouped with the long-line roads, so their taxes were due to be raised to 7 per cent—gross earnings basis—also. They, too, raised the cry of poverty, and were given opportunity by the Senate Committee on Revenue and Taxation, before it took final action, to tell why they could not stand the proposed increase.

After the short lines had been heard, Percy V. Long, for the insurance companies, told the committees of the disadvantage of the tax burden to insurance companies, and predicted that, if the insurance companies' taxes were increased, the weaker companies would be driven out of business. Mr. Long's presentation concluded, John S. Drum spoke for the banks. Mr. Drum, in a well-presented argument, contended that the proposed increase in the banks' tax rate would raise the banks' ratio of taxes to a true value of 1.88, which would exceed the 1.63, the average plain citizen's tax rate determined by the Board of Equalization, by 15.44 per cent. He contended that the banks' rate should not be fixed higher than 1.33 per cent on the bank's capital stock, surplus and undivided profits.

Mr. Lack in reply pointed out that in arriving at their conclusions, the banks were taking their present assessed values and adding them to the capital surplus and undivided profit. There were two reasons, Mr. Lack contended, why this method could not be deemed equitable. In the first place, the rate to be established for banks for State assessment was only upon that

part of bank property which is segregated under the Constitution and in making the calculation upon that property, it would not be equitable to take into consideration the real property which is taxed locally and through an *ad valorem* tax. The banks also by this process assumed present values on their property which had not been assumed either on general property in determining the rate of 1.632, nor upon other corporations in fixing their tax rates.

Mr. Seavey followed Mr. Lack.

In using the method which the State's experts had adopted as the only one which could be followed under current conditions, Mr. Seavey held, the State was only concerned in the average burden of tax on property generally and could use no special figures of any particular property or any group of properties where only the present values for those particular groups were presented.

"I take it," said Senator Jones, after the committee had heard Mr. Lack's statement, "that we are interested in equalizing taxes as between the general taxpayer and the corporations. We have accepted the Board of Equalization's figures for the railroads and other groups. We would be inconsistent were we to upset this basis in the case of the banks. We must be consistent and apply the same rule to all classes of corporations."

Nevertheless, Senator Arbuckle moved that the bank tax on capital stock surplus and undivided profits be fixed at 1.33, the figure named by Mr. Drum.

The question was put to Mr. Seavey what he

thought the proper rate for banks would be, taking into consideration all allowance for possible double taxation.

Mr. Seavey replied 1.45.

"We must not," announced Senator Rigdon, "go back on our experts. I move that Senator Arbuckle's motion be amended to make the bank's rate 1.45."

Senator Rigdon's motion prevailed. The 1.45 rate for banks was adopted.

In the case of the insurance companies, the committee decided to fix the State tax on their gross premiums at 2.6 per cent.

The tales of poverty which the well-groomed, expensively dining, generously entertaining lobbyists of the street railroads had been pouring into the ears of the harassed legislators had created a feeling of extreme sympathy for the poverty stricken street-car corporations. So the committee had Attorney-General U. S. Webb before it, to find out if violence could safely be done the scientific adjustments of the Plehn plan by separating the street-cars from the steam roads, the only resemblance between the two classes of roads being that their cars run on rails.

General Webb held that the Legislature could fix one rate for the street-cars and another for the steam roads, without endangering the proposed Act making the changes in rates. The proposal was to leave the gross-earnings tax of the street-car corporations at 5.25 per cent, and raise the rate of the steam roads to 7. The worst that could happen under the arrangement, General Webb held, would be a court ruling

that the 7 per cent held against both groups. He inclined to the opinion that the 5.25 per cent rate for street-cars, however, would hold.

On General Webb's showing, the rate for street-cars was left at 5.25. It was not deemed feasible, however, to attempt separation of the short-line from the long-line steam roads.

The work of the joint committees was then concluded. The fight for equitable tax rates was transferred from committee room to Senate floor.

CHAPTER IV.

The Senate Passes the King Tax Bill.

The effectively worked-up opposition to the increases in the corporation and bank tax rates had been gathering momentum from the day the Legislature had convened. As the committees on revenue and taxation refused to exempt group after group of the corporations affected, this opposition increased, until the final stand for increase in the banks' rates brought a storm of protest upon the Senate. A stream of telegrams from banks, protesting against the proposed increases, poured in. One Senator kept count for a time and found that he averaged nine telegrams an hour.[28] But the good advice contained in these bank messages was so clearly inspired, the senders' ignorance of the situation at Sacramento so apparent, that they had little effect.

The fight had now reached a point where the opposition to increase the corporation rates had all the

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28 The following are samples of telegrams received by members while the King bill was pending in the Senate:

From Pasadena: "The Pasadena banks vigorously protest increase of bank tax rate to 1.45 because such rate is out of proportion to taxes paid by people of State generally. We expect you to use your influence with committee in behalf of fair deal for banks. Pasadena Clearing House Association."

From Pasadena: "Desire to associate ourselves with others in urging upon you difficulties which will be experienced by many railroads of the State in meeting increased taxation reported as intended by Legislature. Believe legislation placing tax on trucks and bus companies to secure part of revenue needed would be a fair method to pursue. J. S. MACDONNELL, President First National Bank, Pasadena."

better of it. All they had to do to defeat the proposed increase was to prevent fourteen of the forty Senators from voting for the bill. It made no difference whether the fourteen voted against the bill or didn't vote at all. Indeed, if twenty-six Senators voted for the measure, and fourteen refrained from voting, even though not a vote were cast against it, the bill would be defeated.

On the other hand, the supporters of the increase were obliged to have twenty-seven Senators present and voting for the bill to pass it. Such is one of the many advantages which the corporations have under the Plehn taxation plan.

The Senate debate on the King bill began at 3 o'clock in the afternoon of January 18. Chamberlin for the opposition announced himself in favor of levying an *ad valorem* tax upon the plain citizens for State purposes. Rominger debated the problem of economy and retrenchment, although that question was not in issue, the issue being equalization of tax rates. Senator Sample announced that he was "not afraid of an *ad valorem* tax" to be levied upon the plain citizen. All of which had little bearing upon the real issue.

The supporters of the increase had nothing but condemnation for the Plehn plan of taxation; they admitted the difficulties of equitable adjustment under it; Senator King, author of the bill, called the system unjust; Senator Duncan and Senator Carr agreed that the Plehn plan is the one under which the taxes of the State must be levied, and the duty of the Legislature was to proceed to levy them on the most equi-

table basis possible under the system. That, they contended, was accomplished in the King bill.

Senator Jones put the issue in a sentence, when he declared it to be strictly an issue between the people of the State and the corporations.

"The People of Los Angeles," said Senator Jones replying to the opposition, "who Senator Rominger says are crying for economy, gave larger majorities for the measures on the November ballot calling for further expenditures of the State's money than in any other district in the State. They returned overwhelming majorities for the increase in highway bond interest, the increase in taxes asked by the University of California regents, the increase in teachers' salaries and for all of the other measures that would mean a greater outlay of the State's funds.

"This is strictly an issue between the people of the State and the corporations. And I would like to ask who there is here lobbying in the interest of the mass of the people. There is no one. But the corporations have the most powerful lobby I have ever seen, and they are using every kind of influence to win the votes of the members.

"The Senate has been flooded today with telegrams from banks and corporate interests in every city in the State. I have received as many as the other members. One of them is from my own bank pleading that the tax rate increase be defeated. And that is a bank from which I have but recently received a check for dividends of 14 per cent. It is a bank that I know has been earning from 20 to 24 per cent in recent years."

When the vote was taken, Senator Anderson failed to respond to his name; Senators Purkett and Irwin were absent from the capital. When Slater, thirty-ninth name on roll-call, voted for the bill, the vote stood 26 for the measure, and 10 against. The fortieth Senator, Yonkin, had the deciding vote. And Yonkin voted "Yes."

The King bill had received the necessary twenty-seven Senate votes for its passage, and not a vote to spare.

But before Lieutenant-Governor Young could announce the result, Senator Yonkin, seeing that his vote had passed the bill, arose at his desk and changed his vote from "yes" to "no."

This left the King bill with only twenty-six votes, one short of the number necessary to pass it. The bill stood defeated with a vote of twenty-six votes for its passage, and eleven against its passage. Eleven Senators were thus defeating the purpose of twenty-six.[29]

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29 During the roll-call on the King Bill the corporation lobby invaded the Senate Chamber, crowded about the desks of the Senators, and, while the vote was pending, urged them to vote "no," C. M. Oddie, for example, representing the short-haul railroads, requested Senator Lester G. Burnett to change his vote from "yes" to "no." Burnett flatly refused, declaring that he never changed his vote. The Sacramento Bee, in its issue of January 19, describes the scenes in the Senate Chamber as follows:

"Like a drama revived after a long sleep, the Senate of California staged a show last night whose popularity expired some ten years ago. It might be named 'Law by Lobby.' In the last decade California has neither seen nor suffered from such bold, open, vicious operations of a corporation lobby as disgraced the Senate Chamber last night while its members were locked in an all-night call-of-the-Senate to secure a vote on the increase of corporation taxes. Lobbyists for corporations of all kinds accosted Senators in their seats, pleading, arguing, cajoling, working like beavers all over the Senate floor, a reckless, boastful crew proud of its success in blocking the passage of a just tax law. What they did offer open and generally to the Senators was whisky. And a lobbyist who uses whisky as a persuader in the very halls of the Senate while that body is in session may offer other things. In the old days of the Southern Pacific machine conditions may have been somewhat worse, but not much. There was little a lobby could do which was not done last night."

Before the vote was announced the Senate doors were locked and the Sergeant-at-arms ordered to bring in the absent Senators. If one absentee voted for the bill, it would be passed, provided none of the Senators who had voted "yes" changed to "no." But it was bluntly recognized that Senator Hart of Los Angeles, who had voted "yes," would change to "no." There were rumors that two other Senators who had voted "yes" would also change. Senator Breed, who had been counted upon to support the bill, but who had suddenly taken the leadership of the opposition, boastfully announced to the bill's supporters that he could bring to them fourteen Senators then in the Senate chamber who would vote "no." This, of course, would mean the bill's defeat, regardless of how the three absentees might vote.

Nevertheless, the progressive leaders insisted upon the absent members being brought in. There was, too, good reason to believe that some of those who had voted with the opposition would, with better understanding of the situation, vote for the bill. Senators McDonald and Godsil of San Francisco, for example, had been counted for the measure. They had voted "no." These two gentlemen were generally reported to have been generously entertained the night before. They were far from well; indeed, their physical condition was such that it was difficult for them to concentrate upon so complicated a problem as the King bill presented, or, for that matter, anything else. The Senate doors were locked about six p. m.; it was quite possible, provided nothing intervened to prevent,

that by midnight the health of Senators McDonald and Godsil would be so far improved as to enable them to give the King bill that serious attention to which its importance entitled it. The Senate settled down—without supper or opportunity to get any—to a long wait for their absent colleagues to return, and their indisposed colleagues to recover.

During the wait, the "billion-dollar lobby" invaded the Senate chamber, and, with amazing assurance, urged the bill's defeat. Harley Booth, tax attorney for the Southern Pacific Company, headed the group that—until they were finally ordered out of the Senate chamber—went from Senator to Senator who had voted for the bill urging him to cast his vote against it.

Midnight came, with Senators Irwin and Purkitt still absent. Nor had the indisposed Senators McDonald and Godsil made much progress toward recovery. Indeed, their condition was, if anything, worse. The Senators settled down for an all night stay of it. They were not comfortable, and perhaps were growing irritable. At any rate, along about four o'clock in the morning, when the fact became too well known for further polite ignoring that members of the "billion dollar lobby" had brought whisky into the cloak rooms of the Senate chamber, and that rather free use had been made of it, demand was made that the Senate chamber be cleared of them. And it was cleared. Seven hours later the absent Senators had returned. Curiously enough, after the departure of the lobbyists Senators McDonald and Godsil recovered rapidly.

When the King bill was put to vote, Senators

Godsil and McDonald changed their votes from "no" to "yes"; two of the Senators who had been absent, Anderson and Irwin, voted "yes"; Chamberlin, still against the bill, changed his vote to "yes" that he might move to reconsider the vote by which it had been passed; Senator Purkitt, the third of the absentees, voted "no"; and Hart, as had been recognized he would, changed his vote from "yes" to "no." These changes fixed the Senate vote at 30 for the King bill to 10 against, three more affirmative votes than the number required for its passage.[30]

The defeat of the corporations' lobby in the Senate did not mean the passage of the bill by any means. The death of one member of the Assembly had reduced the number of Assemblymen who, by failing to appear or by voting against the bill could defeat it, from 27 to 26. The supporters of the bill to pass it were required, under the Plehn plan, to have 54 Assemblymen actually on hand and voting for it. To defeat the bill, its opponents needed to have only 26 Assemblymen vote "no" or fail to vote.

The struggle between the two groups shifted to the Assembly.

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30 The vote by which the King Bill passed the Senate was as follows:

For the King bill: Senators Allen, Anderson, Boggs, Burnett, Canepa, Carr, F. M. Carr, W. J. Chamberlin, Crowley, Dennett Duncan, Eden, Flaherty, Godsil, Harris, Ingram, Inman, Irwin, Johnson, Jones, King, McDonald, Nelson, Osborne, Otis, Rigdon, Rush, Scott, Sharkey, Slater—30.

Against the King bill: Arbuckle, Breed, Gates, Hart, Lyon, Purkitt, Rominger, Sample, Shearer, and Yonkin—10. Chamberlin was against the bill, but voted with the majority to give notice that he would move to reconsider the vote by which the King bill had been passed. The actual Senate vote on the King bill was therefore 29 for to 11 against.

CHAPTER V.

King Bill Defeated in the Assembly.

The King bill having passed the Senate, the "Billion Dollar Lobby" flocked over to the Assembly where a battle royal was on between the opposing forces.

The lobby redoubled its activities. Letters and telegrams from chambers of commerce, banks, "kept" reform organizations, etc., were poured in upon the Assemblymen. To meet this in some measure, Governor Stephens appealed to the plain people to make their position known and their influence felt.

"The battle is not yet won," said the Governor, after the bill had passed the Senate, "the lobbies will now concentrate on the Assembly. I urge every citizen interested in good government to write his or her Assemblyman immediately to safeguard the rights of the people. I have full confidence in the members of the Assembly; but they are deserving, in this gruelling contest, of all the moral benefit of a unanimously and clearly expressed public opinion."[31]

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31 Governor Stephens' statement to the public was in full as follows: "The corporation lobbies, moving in massed attack, have failed to defeat the just operation of our taxing system. The people of California have reason to rejoice that our State Senate has withstood this tremendous power and influence of the special interests. The fight has been bitter and gruelling, but we are ready to go forward with equal vigor and resolution in the contest that now comes up to the Assembly. I appeal to the people of California to communicate at once with their representatives in the Assembly not to yield to this gigantic corporation lobby, the like and strength of which has never before been seen in Sacramento. The time is very short and all appeals in behalf of the people's

The Governor, however, had no well organized, financed-at-the-public's expense "reform" organizations to proceed systematically to deluge the legislators with telegrams, no banks to detail assistants for that purpose, no chambers of commerce to urge an influential membership to address Senators and Assemblymen.[32]

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interest should be sent by telegraph. In this triumph of the people, we must not forget the aid given by the newspaper correspondents who have faithfully described the situation and helped greatly to make the victory possible. The battle is not yet won. The lobbies will now concentrate on the Assembly. I urge every citizen interested in good government to wire his or her Assemblyman immediately to safeguard the rights of the people. I have full confidence in the members of the Assembly; but they are deserving, in this gruelling contest, to all the moral benefit of a unanimously and clearly expressed public opinion."

32 The following are fair samples of the telegrams received from banks and chambers of commerce:

From the Los Angeles Clearing House Association, by A. J. Walters, president: "Desire to call your attention to fact that hydro-electric power and natural gas companies, telephone companies and other public utilities very short of requirements for business and will be obliged to go to public to sell securities in large amounts. Increased taxation makes this program much more difficult and will retard business in State as well as affect adversely prosperity of property owners and laboring men. Suggest your careful consideration before passing taxation bill."

From the Los Angeles Chamber of Commerce: "Respectfully urge opposition increase tax public utilities, and substitution therefor proper license operation auto busses and trucks, tax one cent gallon on gasoline, and necessary modifications present license fees motor-driven vehicles."

From the Farmers' and Merchants' National Bank (Los Angeles), by J. A. Graves, president: "Appeal of Governor Stephens in support of tax measure on ground of corporate influence evades real issue. The entire population of California affected, taxes in the end coming out of it. No need of these tremendous appropriations shown. No attempt at economy is made. State officials are trying to force tax measure through in defiance of will of the people and against conclusion of Professor Plehn and others who have studied the question. Exception of electric roads illegal and advanced to obscure the issue and lessen opposition to the measure. Southern California alone will have to pay electric roads half million additional annually if measure passes. City of Los Angeles will lose $100,000 annual revenue as Matthews, counsel, and Mulholland, engineer, can certify. Administration using threats to cut off appropriations to force passage of bill. The people would welcome such a cause as it would rid them of some of the tax eaters. We urge you to do your utmost to defeat the bill and beg of you to fight for retrenchment and economy of expenditures, which have become a scandal and disgrace to the State, and in the end if persisted in will bury all connected therewith in political oblivion by a majority even larger than that cast against Cox in this State last November."

And the plain people are too busy making a living to organize for their own protection against extortion. The legislators received comparatively few communications from them. It is true that a number of farmers' organizations sent telegrams urging that the King bill be passed, as did a number of public-spirited citizens. Several public service corporations, recognizing the injustice of the proposed tax shift and sensing the injury of it to the corporations themselves[33] took similar action. But such communications were the exception. Probably nineteen out of twenty of the telegrams received urged that the King bill be defeated. Unquestionably, many of the inspired telegrams were paid for by the public service corporations, the cost of them eventually to be charged up as "operating expenses," and later to be collected from the public in public utility rates. The corporation agents had much to say about tax-eaters during the period, not seemingly sensing the fact that they themselves fell readily within the definition of utility-rate eaters.

By far the most persistent of the organizations lined up on the side of the corporations was the Better America Federation.

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33 Senator King, author of the King bill, received the following letter from the Southwestern Home Telephone Company, by Charles A. Rolfe, president: "I congratulate you on the outcome of your bill proportioning the tax of the Public Utilities. I have made a study of the expenses of private and public institutions and in the increases thereof in the last few years and I do not see how the State can escape the increased expenses without going backwards. The trend of the times is for better things and more of them, including improvements and reforms. In conclusion, I do not see how anyone could dispute the action of your committee in reporting an increase of one-third in the Public Utilities tax. It is perfectly just and proper and in line with the trend of affairs at present on account of our higher standards of development. I do not expect to see much decrease in the cost of operating utilities and governments unless we intend to go back to the days of camp-fires and tallow candles."

The Better America Federation, under various aliases and a camouflage of patriotism, had made rather unsavory record,[34] but it was not until the King bill had passed the Senate that the Federation took its stand squarely on the side of the corporations.

Just before the King bill came to vote in the Assembly, each of the seventy-nine Assemblymen received a telegram[35] from the Federation, signed by its State President, H. M. Haldeman, urging, if action on the King bill could not be postponed until the second part of the session, that it be defeated.

The state federation apparently "pulled wires" to set in motion local machinery for telegrams to be sent by the organization's local units, for telegrams, worded similarly to that signed by the State organiza-

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34 The State Board of Education had found it necessary to have literature issued by the Better America Federation excluded from the public schools. The Federation had earned just condemnation because of an unwarranted attack upon the Young Women's Christian Association. During the 1920 State campaign the Federation supported the so-called Anti-Initiative Amendment to the State Constitution, the effect of which would have been limitation of the use of the Initiative. On this issue, as an indication of the Federation's standing, it was defeated in every county of the State except Alpine.

35 The Better America Federation telegram was in full as follows: "Our board of directors, at meeting held this week, unanimously passed resolution requesting Los Angeles County members of Legislature to use their influence to have final consideration of tax bill put over until reconvening of session. The adoption of this tax bill is a matter of very great importance to California and should not be crowded through as an emergency measure, but should be given thorough and careful consideration. It is to be hoped that a thorough investigation of State expenditures will show where considerable savings can be affected in addition to the savings looked for from the elimination and consolidation of State commissions. We are of the opinion that the Legislature should use every endeavor to find ways of reducing the amount of money necessary to run the State rather than hurriedly crowding through an increase in taxation. If action on this bill cannot be postponed until next session, we heartily recommend that it be killed."

tion, began to come from all parts of the State.[36] These local telegrams, however, generally lacked the ring of assurance which marked that sent by State President Haldeman. They indicated that the men sending them were at least in some doubt as to the correctness of their position. The Federation's efforts, however, unquestionably had its effect on certain of the Assemblymen who had been counted upon to vote for the King bill, but who, when the test came, voted against it.[37]

After their defeat in the Senate, the corporation group followed two lines of attack.

To appreciate the utter insincerity of their position, the fact must be borne in mind that the purpose of the King bill was to equalize taxes between the two groups of taxpayers, the corporations, banks, insurance companies, etc., on the one hand, and the plain citizen on the other. The question was not whether the State had sufficient revenues for its main-

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36 The Santa Clara County Unit of the Federation, for example, was responsible for the following: "The attention and interest of the citizens of Santa Clara County are directed today to the discussions in the Assembly bearing on proposed tax measures. We wish to advise you of our continued confidence and support in your efforts to secure the passage of such a tax measure as will provide the greatest benefit to our county and our State. We strongly favor a rigid economy program compatible with present commercial conditions and we particularly urge at this time that you defer vote on proposed increased public utilities tax until after mid-session recess, thus allowing time to determine actual extent of economy program and opportunity for more mature deliberation concerning revenue sources."

37 Twelve Assemblymen, who had been popularly regarded as standing for the King bill, at the test voted against it. They were: Joseph F. Burns, Thomas A. Mitchell and George W. Warren, of San Francisco; Willard R. Badham, Los Angeles; William O. Hart, Orange; James N. Long, Richmond; Daniel McCloskey, Hollister; Ralph McGee, Sutter Creek; Robert B. McPherson, Vallejo; Frank F. Merriam, Long Beach; H. B. Ream, Sisson; John R. White, Glendale.

tenance, but whether the corporations were paying their proportionate share of taxes.

The State's fiscal agents had demonstrated to the satisfaction of the Revenue and Taxation Committees of Senate and Assembly that the corporations were not paying their proportionate share. The committees on this showing had prepared the King bill to the end that the rates between the two groups might be placed on as equitable a basis as possible under the Plehn system.

The lines of attack which the lobby, certain chambers of commerce, "kept" civic bodies and similar adjuncts of corporation domination, advanced against the King bill, were:

(1) That it was not necessary to increase the State's revenues; that economies in State management could be instituted under which savings of some $8,000,000 a year could be maintained.

The principal organization which advanced this argument was the so-called Taxpayers' Association of California. Mr. Seavey of the State Board of Control promptly exposed the Association[38] as originated by George C. Tunell, tax agent of the Santa Fe Railroad; directed by Herbert W. Clark of the corporation lobby, with Paul Shoup, suave and ingratiating, the master mind back of the whole concern, and the "Better America Federation" as assistant. Furthermore, any person familiar with the State's finances knows that no such saving as the Tunell-Clark-Shoup organization stated can be made. Nevertheless, the

38 See footnote 22.

chambers of commerce, banks, Better America Federation, etc., continued to contend, even after the exposure of the Association, that such savings were possible.[39]

(2) The second line of attack, was to prevent the bill's passage during the first part of the legislative session. This position was taken when the lobby discovered soon after the bill's passage in the Senate, that they did not at that time have the necessary 26 votes to defeat it in the Assembly. During the period following the measure's passage in the Senate, and the vote upon it in the Assembly, the bulk of the lobby's work was to have action put over until the second part of the session.

There is very good reason to question the lobby's good faith here. The Attorney-General had ruled from the time the Legislature was first called upon in 1913 to increase the corporation's rates, that the bill so increasing them must become law by the first Monday in March to satisfy all question of whether or not such rates are to be effective for the current year. In the brief period between the date of reconvening of the Legislature after the recess and the first Monday in March, the passage of an act of the King bill's importance would be most difficult. Here, unquestionably, is to be found the reason for the lobby's insistence for delay.

In this, once again, chambers of commerce, banks and "kept" civic bodies were of the greatest assistance to the lobby. The telegrams sent by such es-

39 See footnotes 32, 35 and 36.

tablishments to the Assemblymen almost in every instance asked that no action be taken[40] until the second part of the session.

That strong pressure was brought to bear upon various members of the Assembly to vote against the King bill is notorious.

That Assemblyman C. C. Spaulding of Santa Clara County received an offer of a Federal position to change his support to opposition is well established. Of course, the respectable gentlemen concerned make denial or explanation, but telegrams were received by Mr. Spaulding which could be interpreted in but one way. The State Board of Directors of American Farmers called upon the Grand Jury of Santa Clara County to probe the scandal, but, as is usual in such cases, nothing came of it.

The Sacramento Bee published a charge that Assemblyman George W. Warren, an employee of the Pacific Gas and Electric Company, who shifted from support of the bill to opposition, had claimed he changed his attitude under pressure from John A. Britton, general manager of the corporation which employs Warren. Warren, in a letter to The Bee, denied that Mr. Britton had brought such pressure to bear upon him. The Bee printed Mr. Warren's letter of denial, with an editorial statement that the charge involving Britton had been based on statements made by Warren, and called upon the Assembly to make full investigation.[41]

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40 See footnotes 32, 35 and 36.

41 The Bee's comment on the Warren incident was: "The Bee's story was based upon statements made by Assemblyman George W.

No investigation followed.

Mr. Britton is a Regent of the University of California. The Warren-Britton incident was not the least of the unpleasant features of the opposition which finally resulted in the defeat of this measure.

Although the Assembly Committee on Revenue and Taxation had sat with the Senate Committee when the tax bill was under consideration, the opposition insisted upon a complete hearing before this committee.

First the attempt was made to amend the bill to reduce the tax rates for banks, but this failed, as did the next move to have action on the bill itself continued until after the legislative recess. The committee finally sent the bill back to the Assembly with recommendation that it be passed.

By this time, the opposition had degenerated into a fight for delay. The lobby, with its wide-flung lines of influence, had made some inroads upon the bill's support. Starting with an estimated 61 votes for its passage, 7 more than the 54 required, by the time the bill got to the Assembly floor, the estimated scant

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Warren himself here in Sacramento. The source of that information, which is reliable, without evasion or qualification, stated and reiterates that George W. Warren himself said that John A. Britton threatened him with discharge from the Pacific Gas and Electric Company if he dared vote for the corporation tax measure. The charge is serious, both against John A. Britton and Assemblyman George W. Warren. Assemblyman George W. Warren should demand a legislative investigation, or if he fail to do so, the Assembly itself, in protection of its own integrity, should force such an investigation. The Assembly has full power to subpoena the editor of this paper and all its reporters to disclose the information they have that an Assemblyman in the discharge of his duty was intimidated by the head of a public service corporation. But no subpoena will be needed. The Bee is ready and willing to disclose its sources of information whenever asked by the Assembly or by any investigating committee appointed by it, which leaves it squarely up to Assemblyman George W. Warren and the Assembly of the State of California."

margin of 7 had been reduced by three or four. Delay was recognized as dangerous. But an attempt by the majority to have the bill put upon immediate passage was defeated by a vote of 48 for it to 31 against, 54 being required for adoption of the resolution calling for immediate action.

This was the first test vote on the King bill in the Assembly.[42] It resulted in the defeat of the bill's supporters. The effect of the defeat was to delay the final vote on the bill for two days.

During the next twenty-four hours the hammering to break down support of the bill evidently had results. The opposition apparently felt it was in control of the 26 votes necessary to defeat the measure. At any rate, the fight of the day before was fought over again with the sides changed, the bill's opponents contending for immediate action, and the bill's supporters fighting for delay. The move of the opposition to force action failed, although thirty-five members voted in the affirmative.

When the debate on the King bill opened in the Assembly the scant one-third of the numbers arrayed

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42 The vote by which this resolution was defeated was as follows:

For the resolution and for the supporters of the King bill: Anderson, Badham, Bernard, Broughton, Christian, Clearly, Colburn, Coombs, Crittenden, Cummings, Fellom, Fulwider, Hawes, Heisinger, Hornblower, Hughes, Johnson, Johnston, Jones, G. L., Jones, I., Kline, Lee, I. A., Lewis, Manning, Mather, McDowell, McGee, McKeen, Merriam, Mitchell, Morrison, Parker, Parkinson, Pettis, Powers, Prendergast, Ream, Roberts, Ross, Saylor, Smith, Spalding, Webster, West, White, Windrem, Wright, H. W., Wright, T. M.—48.

Against the resolution and against the supporters of the King bill: Badaracco, Baker, Beal, Benton, Bishop, Bromley, Brooks, Burns, Cleveland, Eksward, Graves, Gray, Greene, Hart, Heck, Hume, Hurley, Lee, G. W., Long, Loucks, Lyons, McCloskey, McPherson, Morris, Pedrotti, Rosenshine, Spence, Stevens, Warren, Weber, Wendering.—31.

against it made a queer medley. There were a handful of labor union members from San Francisco working side by side with the Better America Federation group from Los Angeles. The "wet" leader Badaracco of San Francisco's notorious Thirty-third Assembly district, on this issue, joined hands with the "dry" Assemblyman Brooks of Alameda. Labor Leader Hurley of Alameda county and Assemblyman Graves of Los Angeles, whose labor record of the 1919 session was made subject of scathing criticism by the State Federation of Labor, were one on the taxation issue. The opponents of the bill were not many in numbers, but they were of a wide range of political, industrial, social, pathological and moral types.

Before the vote was taken, Assemblyman Merriam of Long Beach, who had been counted for the bill, asked that consideration of it go over until after the constitutional recess. When this was denied, Merriam made a statement to the Assembly.

"I am myself satisfied with the King bill," he said, "but I am in favor of its going over until after the recess, because my people favor that action. I believe that my people, if they understood this bill provides for equalization of taxes, and is not to increase the tax burden as has apparently been represented to them, would want me to vote for it. But, yielding to their wishes, I shall vote against the bill, and then move to reconsider the vote by which it is defeated, asking that reconsideration be continued until after the legislative recess."

Merriam's stand meant the defeat of the bill. The support of the measure had, by the time it came to vote, been reduced, counting Merriam and Badham with its supporters, to 54, leaving 25 members against it. The 54 votes were sufficient to pass it. Merriam's withdrawal meant an affirmative vote of only 53, one less than the 54 required for its passage. But Badham, who had been counted as a supporter, voted with Merriam. This reduced the bill's support to 52. Pettis, for the bill, changed his vote from "yes" to "no" to move its reconsideration on the next legislative day, which made the official vote on the bill 51 to 28.[43] Twenty-seven Assemblymen had defeated 52 Assemblymen and 29 of the 40 Senators.

The measure, on Pettis' motion, came up for final vote the following legislative day. Hurley, who had shown himself by far the ablest of the opposition, moved that the bill be re-referred to the Committee on Revenue and Taxation to report back at the earliest possible date after the constitutional recess. In this, Hurley was supported by Weber, Long, Merriam and Hume.

"My feeling is," said Hume, in speaking to the

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43 The vote by which the King bill was defeated in the Assembly was:

For the King bill: Anderson, Bernard, Broughton, Burns, Christian, Cleary, Cleveland, Colburn, Coombs, Crittenden, Cummings, Eksward, Fellom, Fulwider, Hawes, Heisinger, Hornblower, Hughes, Hume, Johnson, Johnston, Jones, G. L., Jones, I., Kline, Lee, G. W., Lee, I. A., Lewis, Manning, Mather, McDowell, McKeen, McPherson, Morrison, Parker, Parkinson, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Smith, Spalding, Spence, Webster, Wendering, West, White, Windrem, Wright, H. W., Wright, T. M.—51.

Against the King bill: Badaracco, Badham, Baker, Beal, Benton, Bishop, Bromley, Brooks, Graves, Gray, Greene, Hart, Heck, Hurley, Long, Loucks, Lyons, McCloskey, McGee, Merriam, Mitchell, Morris, Pedrotti, Pettis, Ream, Stevens, Warren, Weber.—28. Pettis voted against bill to move for reconsideration.

support of Hurley's motion, "that this bill will have more friends after the constitutional recess than today. I am sure it will go through after the constitutional recess with very few changes."

"I am not opposed to this bill in any particular," said Merriam, "but I do ask that it go over until after the constitutional recess."

Assemblymen of the type of Coombs, Crittenden, Windrem, Heisinger, Cleary and Mather, strongly urged immediate action, pointing out the dangers of delay.

"The time to do a thing," said Assemblyman Mather, "is when it should be done. I am convinced that this is the time to pass this bill. I believe it to be an equitable measure. It comes from men who are in a position to know the facts. I believe in the judgment of those men. And in taking the position that I do, I have kept in mind that this is not a bill based on the raising of revenue, but for the purpose of equalizing the tax burden."

Heisinger, apparently knowing the ways of the corporations, warned his colleagues of the misrepresentation of the issue that could be looked for should passage of the bill be postponed until after the constitutional recess.

"If action on the bill is delayed until after the recess," said Heisinger, "the newspapers will be filled with advertisements paid for by the public service corporations to mislead the public. The corporations know that if they can get the bill put off, they can, by misrepresenting advertising, work up public opinion against it. There is no necessity for delay."

Speaker Henry Wright, speaking from the floor, warned his colleagues that delay endangered the passage of the bill.

"I don't need thirty days in which to decide whether or not I shall do justice by the people of California," he told them. "I am going to do my duty now. To ask for delay is only another way of asking for defeat of this bill."

Wright read a telegram from a man whom he described as "one of the most important bankers of Los Angeles." This banker asked Wright to vote against the King bill on the ground that "if it is passed it will be extremely difficult to pass the burden of the increased taxes on to the people."

"I should like to see a law enacted," commented Wright, "that would make it impossible for corporations to pass their share of taxes on to the people."

Mr. Wright then proceeded to make it very clear that it was not a question whether the state needed $1,000,000 or $40,000,000. The question was simply whether or not there should be equitable adjustment of the tax burden. The Legislature, Speaker Wright pointed out, had a duty to perform, irrespective of whether the state faced a deficit or a surplus.

"The people have elected to the State Board of Equalization," he continued, "men who have been working on this problem, not for days or months, but for years. They, in conjunction with the Board of Control, have placed the facts before us. It is our duty to act on those facts."

By way of contrast, Speaker Wright read from a

letter received from a man he described as a large property owner of Los Angeles,[44] in which the writer urged that the King bill be passed, holding that the taxes of the plain citizen had been increased more than 33 1/3 per cent. This property owner showed that as most of his property consisted of stocks in corporations, he would be benefited personally if the King bill were defeated, but expressed the belief that the just thing should be done and stated his willingness as a stockholder in many corporations, "to pay my share of the increased taxation rather than have an increased burden put upon the individual."

"Such," Mr. Wright contended, "is the attitude of citizens who stand for square dealing, whether they are stockholders in corporations, or plain citizens. There is no intention of 'cinching' the corporations, but," the Speaker insisted, "there is determined pur-

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44 The letter was from Dr. John R. Haynes of Los Angeles, and was in full as follows: "I take the liberty of asking you to do all you can in support of the bill which has just passed the Senate by a vote of 30 to 10, increasing the corporation tax. I think this bill is a just one, for the reason that the taxes on property owned by individuals have been increased more than 33⅓ per cent. As an illustration, my tax bill for a certain piece of property in 1919-20 was $1634.70. This year, 1920-21, the bill is $2529.70, showing an increase of more than 50 per cent. It would be very unjust to impose an ad valorem tax upon the private taxpayer whose taxes have already been increased approximately 50 per cent in the past year. I wish to say to you that personally, inasmuch as most of my property is composed of stocks in corporations, I would be benefited by the imposition of an ad valorem tax; but despite this fact, I believe that the just thing should be done and I am willing, as a stockholder in many corporations, to pay my share of the increased taxations rather than to have an increased burden put upon the individual. Many of the corporations are making very handsome profits on their investments, a number of those in which I am a stockholder pay from 12 to 25 per cent, and the great majority of them could stand this increased burden of taxation without materially affecting their dividends." "Likewise I hope that you will do all that you can to defeat Assembly bills 230 and 231, providing for indeterminate franchises. In my opinion these bills are vicious and will forever prevent the public ownership of public utilities."

pose to compel the corporations to carry their just share of the burden of government.

"Do we need any more light than we have?" concluded the Speaker. "If so, from whom? Certainly not from the corporations. They have had the best of it all along. It is our duty to pass this bill now. I, for one, do not need thirty days to enable me to decide that I shall do my duty."

When the measure was finally put to vote, it was defeated with 49 Assemblymen voting for the passage, and 30 for its defeat.[45]

Under the two-thirds rule, the corporations and banks thus defeated an overwhelming majority of both houses of the Legislature.

Governor Stephens, when the defeat of the King bill was accomplished, issued a statement in which he announced that the corporations had prevented the orderly and just process of our taxation system, and gave assurance that the fight for equitable adjustment of the tax burden would go on in the hope that a measure similar to the King bill could be passed immediately on the reconvening of the Legislature following the legislative recess.

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45 The vote by which the King bill was finally defeated in the Assembly was:

For the King bill: Anderson, Bernard, Broughton, Christian, Cleary, Cleveland, Colburn, Coombs, Crittenden, Cummings, Eksward, Fellom, Fulwider, Hawes, Heisinger, Hornblower, Hughes, Hume, Johnson, Johnston, Jones, G. L., Jones, I., Kline, Lee, G. W., Lee, I. A., Lewis, Manning, Mather, McDowell, McKeen, Morrison, Parker, Parkinson, Pettis, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Smith, Spalding, Spence, Webster, Wendering, West, Windrem, Wright, H. W., Wright, T. M.—49.

Against the King bill: Badaracco, Badham, Baker, Beal, Benton, Bishop, Bromley, Brooks, Burns, Graves, Gray, Greene, Hart, Heck, Hurley, Long, Loucks, Lyons, McCloskey, McGee, McPherson, Merriam, Mitchell, Morris, Pedrotti, Ream, Stevens, Warren, Weber, White.—30.

To back up the stand taken by Governor Stephens, Senator King, before the Legislature adjourned for the constitutional recess, introduced a second revenue and taxation bill which was practically the same measure that had been defeated.

The campaign in and out of the Legislature during the constitutional recess and for the first ten days of the second part of the session, was, on the part of the majority of the Legislature, to pass this second King bill by the first Monday after the first day of March which happened to be March 7. The part of the corporations and banks was to defeat it if they could; and, failing to defeat it, to prevent its passage until after March 7.

CHAPTER VI.

Recess Attacks Upon the King Bill.

During the Legislative Recess the corporations resorted to newspaper advertising to discredit the King bill. The burden of these advertisements was that the 1919 State budget had provided only $47,850,153.66 for State purposes for the following two-year period; that the people at the 1920 election had by popular vote added $18,000,000 to State expenditures for the two-year period, making a total of $65,850,153.66. The 1921 budget for the fiscal years 1921-22 and 1922-23 reached a total of $81,387,692.85. The increase over $65,850,153.66, $15,807,538.05, the corporations set forth in flaring advertisements, represented avoidable expenditures and extravagances. Cut this nearly $16,000,000 from the budget, they contended, and there will be no necessity for an increase in the taxes of the corporations, or for levying a State tax on the general taxpayer. In many of the advertisements, the citizen was called upon to "support your legislator in demanding that the State live within its income, or show why," with the added truism that "The power to tax is the power to destroy."

To bolster their contention that the budget was out of all reason large, these allied interests sought to discredit the Budget Board.

"No legislator," reads one of their advertisements

generally published throughout the state a few days before the Legislature began the work of the second part of the session, "can afford to vote in the dark for an $81,000,000 budget. The Budget Board which proposes the enormous extravagance of an $81,000,000 State budget for the next two years, has no legal existence and no legal responsibility."

"Remember," reads another advertisement generally published throughout the State during the third week of February, "no revenue deficit exists; no *ad valorem* tax is necessary. Ask your legislator to demand that the State live within its income."

In another advertisement printed about the same time, the corporations set forth that "not only because the extravagance of our State government is so startlingly obvious when contrasted with that of other states, but because in times like these there is a national need for economy, is it the duty of the Legislature to view with a critical eye all requests for budget increases. The responsibility for any increase is and will be upon the Legislature and upon no one else. If proper economies are practiced, it will be found that our present revenues will pay all expenses and no *ad valorem* or increased corporation tax will be necessary."

The question involved in the King tax bill was not of economy, but of equalization of the tax rates as paid by the utility corporations, banks and insurance companies on the one hand, and the general taxpayer on the other. The State's fiscal agents had presented data, which the majority of the Legislature had ac-

cepted as sufficient, to show that the tax rates of the public utilities were approximately one-third less than those of the general taxpayer. The King bill, based on the fiscal agents' showing, proposed equalization of the rates as between the two groups. Economy in State government is most desirable, and most popular, and very commendable. The King bill, however, did not raise the question of economy at all, but of equalization. Nor was the budget at all involved in the King bill, nor had the committees on Revenue and Taxation anything to do with it, the budget being handled by the Ways and Means Committee of the Assembly and the Finance Committee of the Senate. With these facts in mind, the following from one of the corporations' anti-King-bill advertisements indicates the character of campaign which the associated interests, intent upon preventing any increase in their tax rates, were carrying on:

> "The real issue is economy. Endeavoring to hide the extravagance of an $81,000,000 budget, the state administration has raised the cloud of equalization to befog the real issue—economy. They still do not show the people of California the necessity for $15,000,000 over and above the 1919 budget and all additional money voted by the people at the November elections. For our legitimate needs our present revenue is still adequate. No *ad valorem* or increased corporation tax is necessary."

Another advertisement contained the following:

> "No legislator can afford to let the administration railroad through this $81,000,000 budget. The

Tax Investigation and Economy League[46] has asked the Ways and Means and Finance Committees for a hearing at which the Budget Board can be examined, item by item, as to their extravagant proposals. Every legislator should insist upon the fullest investigation of the facts. Press and people alike demand this. With even normal economy, no increased taxes of any kind should be necessary."

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46 The Tax Investigation and Economy League was closely identified with the so-called Taxpayers' Association, which, under the management of Mr. Will Fischer, had been active in California for several years. When the Taxpayers' Association during the first part of the session published an advertisement in opposition to the King tax bill, Mr. Clyde Seavey, President of the State Board of Control, issued a statement showing that the association was controlled by the public utility companies (see footnote 22). After the publication of Mr. Seavey's statement, we find the Tax Investigation and Economy League practically taking up Mr. Fischer's work, using the data of the Taxpayers' Association and acting in conjunction with Mr. Fischer. Edward H. Hamilton, in discussing the relationship between these two organizations stated in the San Francisco Examiner of February 3rd that: "Having been smoked out of the 'California Taxpayers' Association', the lobby of the corporations now calls itself —'The Tax Investigation and Economy League'. Herbert W. Clark, the same lobbyist, who was president of the Taxpayers' Association, is president of the new organization, and 'Bill' (W. V.) Hill, lobbyist for the traction interests, is secretary. Why not call it the 'Tax Dodgers' Association', and be done with it?"

When Mr. Fischer was testifying before the Senate at the budget hearing, Senator Allen asked him to name the corporations he represented. Mr. Fischer replied, he thought there were about twelve corporations that belonged to the association, naming the Southern Pacific Railroad, the Santa Fe Railroad, the Northwestern Pacific Railroad, the San Joaquin Gas and Light Company, the Southern California Edison Company, and, he believed, the Los Angeles Gas and Electric Company. The Tax Investigation and Economy League under Mr. Hill and Mr. Clarke was in full swing within a week after the Legislature took its constitutional recess. Wigginton Creed, president of the Pacific Gas and Electric Company, testified at the Senate budget hearing that the Economy League was "thrown together very hurriedly for the particular task of budget investigation during the past session of the Legislature," and that it consisted mostly of the public service corporations in the State and the banks; that these institutions financed it. Mr. Creed testified he was a member of the executive committee. President Clark, at the same budget hearing, testified that the League was planned immediately upon the beginning of the legislative recess. Clark admitted that public utility corporations were primarily interested in it and insisted that this was generally known.

A full page advertisement published throughout the State about the middle of February,[47] concluded as follows:

"The two fiscal years about to close have been years of the highest prices known in this country. That condition is rapidly changing. *The State enters the next two-year period with a surplus of $2,000,000 from current revenues.* Is not it reasonable to suggest that it should endeavor to conduct its affairs so as not to spend any more money during the coming two-year period than it has spent during the two years just closing, after adding the $18,000,000 for the schools, interest on road bonds and orphans' aid voted at the last election?

"Instead, the Budget Board at Sacramento has presented to the Legislature a programme calling for the expenditure of $16,000,000 more during the next two-year period than was called for during the two years ending June 30th next, plus the $18,000,000 voted by the people last November, this making a total of $34,000,000 increase.

"Every business interest in this State, whether operated as a corporation or otherwise, now suffers under the tremendous tax burdens imposed by the Federal income and excess profits taxes and the State and local taxes.

"The net earnings of the corporations, if we disregard individual exceptions here and there, are not such that they can bear the proposed added burdens and if such a bill passes, the public utilities must ask for further increases in rates if service is to be maintained.

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47 Throughout this chapter, the exact dates of these advertisements are not given for the reason that, although generally published throughout the State, they did not appear in all the papers on the same day.

"Shall there be economy to meet the need of the times in our state affairs, or shall the burden of increased taxation be permitted to break the back of industry? No matter where these taxes ultimately rest, they are an industrial burden thrust on the people of this State when they can ill afford it.

"We call upon the Governor, the Legislature of this State, and upon all of the State officers, who have a voice in this situation, to give most serious and earnest consideration to this question, with full thought for the grave responsibility that rests upon them, and we ask the people of this State to study this situation thoroughly from the points of view of an equitable distribution of the taxation burdens and of the economy that may be rightly exercised in State affairs. We believe their representatives in the State Legislature will be glad to be advised of their matured judgments."

This particular advertisement was signed by Mr. Wigginton E. Creed, president of the Pacific Gas and Electric Company, and numerous other public utility and bank executives.[48] Most of the other advertise-

[48] The signers of this particular advertisement were: Wigginton E. Creed, president, Pacific Gas and Electric Company; A. H. Payson, assistant to the president, Santa Fe Railroad; W. R. Alberger, vice-president and general manager, San Francisco-Oakland Terminal Railways; Jesse B. McCargar, president, California Bankers' Association; Paul Shoup, vice-president, Southern Pacific Company; Mortimer Fleishhacker, president, Anglo-California Trust Company; Frank B. Anderson, president, Bank of California; B. C. Carroll, general agent, Pacific Telephone and Telegraph Company; John A. Britton, vice-president and general manager, Pacific Gas and Electric Company; William Sproule, president, Southern Pacific Company; Herbert W. Clark, counsel, San Francisco-Oakland Terminal Railways; Clarence M. Oddie, western representative, American Short Line Railroad Association; S. M. Haskins, attorney, Los Angeles Railway Corporation; Frank Karr, chief counsel, Pacific Electric Railway Company, Los Angeles; R. H. Ballard, vice-president, Southern California Edison Company, Los Angeles; Champ S. Vance, vice-president, Los Angeles Gas and Electric Corporation; W. H. Wood, vice-president, First National Bank, Los Angeles; William Clayton, vice-president,

ments were signed by the "Tax Investigation and Economy League, Herbert W. Clark, president; W. V. Hill, secretary." This League, as has been shown, was organized and financed by corporation executives, who signed the Creed advertisement. Never before, probably, in the history of any American state, had citizens of the responsibility of the gentlemen who sponsored those advertisements, made such sweeping charges against a responsible State government. Certainly, never before had such a publicity campaign been carried on to present charges so serious to the general public.

Before acting on the budget, the Senate, taking into consideration the responsibility of sponsors of the advertisements, the gravity of the charges, and the general demand that the matter be investigated, spent nearly a month later on in the session going over the budget item by item.[49] In pursuance of this work, the Senate had before it State officials, fiscal experts, citizens who were thought to be in a position to throw light upon the situation, and attempted to secure the testimony and assistance of the responsible corporation executives who had, over their signatures, vouched for the accuracy of the charges.

But to the astonishment of those who had expected

San Diego Electric Railway; A. B. Cass, president, Southern California Telephone and Telegraph Company, Los Angeles; W. L. Blauer, vice-president, Bank of Italy, San Jose; J. H. Miller, cashier, First National Bank, Healdsburg; Thomas E. Connolly, cashier, Stockton Savings and Loan Bank, Stockton; W. A. Sutherland, vice-president, Fidelity Trust and Savings Bank, Fresno; W. E. Benz, president, First National Bank, Bakersfield; A. H. Smith, president, First National Bank, Chico.

49 A full account of this investigation will be found in the Chapter on the Budget Hearing. See page 122.

to see the several corporation executives hasten to Sacramento with evidence to substantiate and justify their serious and widely advertised accusations, few of them appeared, and those who did appear testified in effect that they had acted on hearsay information, and referred the Senate to Mr. Will Fischer of the Taxpayers' Association, and to Mr. Max Thelan, formerly president of the State Railroad Commission, who had been hired by the corporations to present evidence of extravagance in State government if he could find any, and show how the budget could be cut down approximately $16,000,000 for the two years.[50] The majority of the extravagance-charging corporation executives wrote the Senate asking to be excused from attending the hearings. Some of them very frankly stated, over their signatures, which had been so lightly used in their advertising campaign, that they were not in a position to back up their charges.[51]

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50 See Chapter on the Budget Hearing, page 122.

51 Such letters will be found in the Senate Journal for March 7-8-9. The following are typical:

From Frank B. Anderson, President of the Bank of California, N. A.: "I have no figures in my possession showing what item or items can be eliminated from the State budget without impairing the efficiency of the State government. I signed an appeal to the citizens of California to call upon the representatives of the State to give most serious consideration to the question of equitable distribution of taxation burdens and of economy, as the present economic crisis can only be cured through rigid economy and exercise of common sense on the part of the State and its citizens. The whole subject of taxation, so far as the banks are concerned, was assigned to the California Bankers' Association, which was created to handle such subjects. We have absolute confidence in the officers of the association and accept their findings. I ask to be excused from appearing, as I can not add anything of value to the discussion as a result of a personal study."

From Mortimer Fleishhacker, President Anglo-California Trust Co.: "As I have some exceedingly important business engagements in San Francisco on Tuesday next, I will appreciate very much if I may be excused attending the Senate hearing. I have no information to add to that already in the possession of the Senate."

From Thomas E. Connolly, Cashier of Stockton Savings and

The job of moving that these distinguished gentlemen be excused from testifying devolved on Senator W. J. Carr. There was a ring of irony in Carr's voice, as he went through the formula—"Mr. President, in view of this communication, I move that Mr. So and So be excused from attendance on the budget hearings."

The progressive Senators smiled broadly as they voted with their opposing colleagues to excuse the gentlemen who had given the weight of their names to the serious charges of State extravagance, which had been published throughout the State as an argument against equalization of the State's taxes.

When the legislators convened, however, for the

Loan Bank: "I acknowledge receipt of subpoena to appear before the Senate as Committee of the Whole with reference to the matter of taxation, on Wednesday, March 9, 1921, at 2 oclock p. m., for the purpose, as stated, 'of submitting any figures in their possession showing what item or items can be eliminated without impairing the efficiency of the State government.' In regard to the above quoted requirement, I desire to say that I have no figures in my possession, or do I expect to have by the date mentioned, or at any other time for that matter, any figures showing what item or items can be eliminated from the budget, without impairing the efficiency of the State government. I desire, further, to state that I do not recall of having made any specific charge as to any specific item or items being unnecessary, or that they could be eliminated without impairing the efficiency of the State government, and I am now and will be on the date specified unable to give any testimony which in my opinion would throw any light whatsoever on the subject, or be of benefit to the Committee of the Whole. If I were able to be of any service, I should be exceedingly well pleased to do so, but knowing that I cannot, and desiring to conserve the time of the committee and expedite the business of the Legislature, as well as incidentally to care for important business arising on Wednesday, March 9, 1921, in connection with the affairs of the bank, of which I am cashier, I respectfully request that I may be excused from attendance."

Arthur H. Smith, President First National Bank, Chico, California: "Will you kindly excuse me from appearing before Senate Budget Committee on Wednesday, March 9. Mr. Theien and Mr. Fischer have all the facts in detail, and I have no further information."

From W. E. Blauer, Vice-president Bank of Italy, San Jose: "Have not made study of appropriations and specific items incorporated in each. Do not feel my suggestions would assist in budget

second part of the session, they found representatives of the public utilities and banks on the ground insistent upon a hearing on the budget before the King bill should be acted upon. They got their budget hearing—but they were not permitted to delay the passage of the King bill because of it.

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discussion. Would appreciate being excused from appearing before Senate tomorrow."

William Clayton, Managing Director San Diego Electric Railway Company: "I am here in answer to a subpoena to attend on the Senate in relation to the budget and the possibility of its reduction. While I am one of the signatories to the signed advertisements issued by the Tax Economy League, I have not been in a position to personally go into the question of the economies that might be adopted, but Mr. Max Thelen, whose services have been retained by the League for this express purpose, can and will give information on the subject that will be valuable, and be based upon a precise and careful survey of the subject. As I am personally unable to shed any light on the subject, and am urgently needed elsewhere, I most respectfuly ask to be dispensed with."

William Sproul, President of the Southern Pacific Company, did not ask the Senate to excuse him, but sent his communication to his subordinate, Paul Shoup. The letter which Mr. Shoup received from his superior is printed in the Senate Journal for March 7. It reads: "Paul Shoup, Sacramento. As vice-president and assistant to the president of this company, in addition to your relation as president of Pacific Electric Railway Company, I hope the Committee on Hearings on Budget will accept your testimony as serving also for mine, as I stated in the joint committee hearing on Wednesday, February 23, all that I had to say on the subject, and I left the rest for you to develop, so far as this company is concerned."

CHAPTER VII.

The Second King Tax Bill Passes Senate

The division on the tax issue was sharper than ever when the Legislature reassembled after the constitutional recess. Heisinger's prediction,[52] made when the first King bill was before the Assembly, that the corporations would engage in an extensive publicity campaign to cloud the issue, had been fully justified. Their newspaper and other advertising and publicity was estimated to have cost the corporations—to be collected back from the public later in utility rate taxes[53]—upwards of $1,000,000. To be sure, Governor Stephens and Clyde Seavey, State tax expert, had gone over the State giving the facts to the people. Men of the type of former Governor George C. Pardee and Lieutenant-Governor C. C.

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52 See page 76.

53 The policy of the State Railroad Commission is not to allow such expenditures to be charged to operating expenses. But regardless of this policy, the salaries of the army of corporation executives and their aids who appeared at Sacramento to oppose the King tax bill are unquestionably charged to operating expenses, and as such paid by the rate-payers. Furthermore, these executives are allowed expense accounts over which the Railroad Commission has apparently no supervision. Itemized accounts of these expenses are not filed with the Commission. And yet these expense accounts are allowed as operating expenses, and as such paid by the rate-payers. And, finally, it is known that the corporations charge such expenses, as their executive-lobbyists were put to while at Sacramento while opposing the King tax bill, to operating expenses when they can. They have actually been discovered in this. L. A Reynolds, treasurer of the Great Western Power Company, for example, testified before the Railroad Commission that $2800 which his corporation had expended in opposing the King tax equalization bill had been charged to operating expenses. (See Vol. 13, pp. 878 and following, transcript. Application 5585—

Young had assisted the Governor, as did the progressive members of the Legislature and public-spirited citizens generally, so far as they could. But this volunteer work in the public weal failed to offset a million-dollar publicity campaign. The legislators returned to Sacramento from a constituency confused and perplexed over a problem which is difficult at best, but with the difficulties infinitely increased by such newspaper and other advertising campaigns as the corporations had carried on.[53a]

Eventually, the California public will unquestionably, on one pretext or another, pay in utility tax rates the cost of that campaign.

But had the State administration paid $1,000,000 out of the State treasury, or $100,000, or $10,000,

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Great Western Power Company, before Railroad Commission in April, 1921.) The Commission disallowed the charge as an operating expense. It would be interesting to know how they were finally disposed of.

Testimony taken before the Commission showed that the Pacific Gas and Electric Company had charged the expenses of its fight against the King bill to surplus. The theory seemed to be that when charged to surplus, the expense is borne by the stockholders and not by the rate-payers (consumers). But the question has been raised: Would the entire wiping out of a corporation's surplus by such charges have any bearing in future upon the rates charged consumers? The opinion is growing that any expenditure made by a public utility corporation becomes a liability upon the public which sooner or later upon one pretext or another is liquidated by the rate-payers. The assumption that the stockholders pay these lobby expenses throws the corporation executives into a maze of contradictions. When the King tax bill was pending before the Legislature the executives contended that the proposed increase in their taxes would be allowed as an operating expense collectable back from the public by means of increased utility rates. On the theory that the stockholders bear the expense of the lobby opposition to the King bill, we find these good gentlemen spending their money to defeat increase in their taxes, which, if their statements have foundation, would not come out of their pockets, but out of the pockets of the consumers.

53a The public was quick to resent anything that indicated the committing of the people in blocks against the bill. The San Francisco Examiner for February 3, 1921, for example, contained the following communication from Secretary Stanley of the Napa County Farm Bureau: "In your issue Saturday morning there

to carry the truth of the situation to the public, the corporation managements would have blazed with indignation and—again using money which they would eventualy recover in utility-rate taxes—would have covered the State with advertising condemning such "wanton waste of the public funds."

And yet, California could well have afforded to pay $1,000,000 out of the State treasury to get the facts of the tax situation to the public.

But the people of California could not afford for themselves such a publicity campaign as the corporations actually carried on, although they could be made to bear the burden of the expense of such a campaign when directed against their own interests.

During the first part of the session, a death in the Assembly had given the corporations the advantage of requiring only 26 votes to defeat the first King tax

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appeared an interview from Judge Frank S. Brittain, in which he denied that the California Farm Bureau Federation was behind the Governor's bill to equalize the corporation State Taxes. Judge Brittain has just been appointed attorney for the federation, his appointment subject to confirmation at the meeting of the Executive Regional Board next Friday, and he is probably not in a position to judge the views of the farmer at this early date. He certainly has no authority for intimating that the farmers are in favor of letting the corporations down easy and assuming the tax burden themselves. We believe that fully ninety-five per cent of the members of the Napa County Farm Bureau, and of the farmers of Napa County, are in favor of the bill and hope to see its passage. We regret the position taken by the attorney, and charitably believe that he has been misquoted. We trust that any attorney, appointed for the California Farm Bureau Federation, would be in full sympathy with the farmers' needs and desires." Edward H. Hamilton published in the San Francisco Examiner for February 25, the following story: "Senator Allen of Los Angeles produced in the Governor's office a commendation of his course in voting for the bill signed by many of his constituents. Assemblyman Harry Lyons, whose district is part of the Allen senatorial district, voted against the bill and had quite an unusual experience. He called a meeting of his constituents to bolster up his course; eighteen, including himself, responded. Then it became necessary for Lyons to vote for himself and make the ballot nine to nine in order to keep his course from being denounced."

bill in that body, instead of the 27 necessary when the entire membership of 80 is present and voting. But during the recess, the vacancy had been filled. The corporations, therefore, required 27 Assembly votes to defeat the second King bill, where 26 had sufficed to defeat the first.

But in the Senate, the corporations had enjoyed a distinct gain. McDonald and Godsil, both of San Francisco, who, recovering from a brain-confusing, albeit temporary, indisposition, had voted for the first King bill, were known to have decided to vote against the second. The recess had developed, however, no corresponding gain for the people's side of the controversy.

The corporations had the further advantage in the matter of time. That taxes might be collected under the second King bill for the year 1921-22 it was required that the measure must become law by the first Monday after the first day of March; that is to say, March 7. The Legislature reconvened on February 24. There remained but 12 days in which to pass the bill.

To be sure, the corporations did offer distinguished legal opinion to show that the State would risk nothing by delaying passage of the bill beyond March 7. But the Attorney-General disagreed with this corporation-secured opinion.[54] The wording of the law in-

[54] Article XIII, Section 14, Subdivision f. This section provides: "The rates of taxation fixed in this section shall remain in force until changed by the Legislature, two-thirds of all the members elected to each of the two Houses voting in favor thereof. The taxes herein provided for shall become a lien on the first Monday in March of each year after the adoption of this section and shall become due and payable on the first Monday in July thereafter."

dicated to the plain citizen, untrained in law, perhaps, but with a working understanding of the English language, that the Attorney-General's ruling was correct, and the contentions of the corporations' attorney unsafe for guidance of the Legislature. At any rate, the progressive legislators acted upon the advice of the Attorney-General, ignored that of the willing spokesmen of the corporations, and made their plans to pass the bill by the 7th, if the thing could be done.

The so-called billion-dollar lobby was equally determined that it should not be done. As one way to prevent it, the corporations made, what amounted to a demand upon the joint committees on Revenue and Taxation, that before the King bill be enacted, the committees hold hearings on the State budget to determine whether or not the budget allowances could be cut down.

The way had been admirably prepared to enlist public opinion for such a move.

The public had been led to believe, as has already been shown, that the proposed increase in the corporations' tax rates was being exacted to meet the cost of an extravagant administration.

There was, to be sure, large increase in the State budget, an increase made necessary, not by extravagance, but quite the contrary. The Plehn tax system had not produced sufficient revenue for State needs. Schools, asylums and other public institutions had as a consequence been inadequately supported for ten years. They were deficient in equipment; cruelly short of supplies; run down. The time had come when the

problem had to be met. The question was whether the corporations should be made to carry their share of the burden, or whether the responsibilities they had shirked should be lifted to the overburdened shoulders of the general taxpayer.[55]

In the same misleading publicity campaign, the public had been made to believe that passage of the King bill would mean increase in the taxes of the general taxpayer. The contrary was the fact. In the event of the King bill's passing it would not be necessary to levy an *ad valorem* tax for State purposes upon the general taxpayer. But in the event of the defeat of that measure, an *ad valorem* tax to raise the more than $16,000,000 for the two fiscal years would have to be levied upon the plain people who were already, according to the State tax authorities, paying a rate approximately 35 per cent higher than that of the corporations, banks, and insurance companies.[56]

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55 A statement issued by the chairman of the State Board of Control shows that from the fact that local taxes can be fixed every year while those of the corporations can be changed but once in two years, had alone benefited the corporations approximately $4,600,000 from 1911 to 1916, and $13,900,000 from 1916 to 1921, a total of $18,500,000.

56 Had the King bill been defeated an ad valorem tax of 22 cents upon each $100 of assessed valuation of their property would have been levied upon the plain citizenry of the State, in addition to the county municipal and district taxes which he pays and from which the corporations are exempted. The State Board of Equalization issued a statement showing that in the event of the defeat of the King bill, the taxes of the county taxpayers of each county (amounts payable by utilities, banks, and insurance companies not included) would be: Alameda County, $1,168,224; Alpine, $3,202; Amador, $26,224; Butte, $160,294; Calaveras, $32,570; Colusa, $100,580; Contra Costa, $301,294; Del Norte, $40,292; El Dorado, $32,484; Fresno, $674,222; Glenn, $111,304; Humboldt, $170,774; Imperial, $322,066; Inyo, $46,366; Kern, $463,722; Kings, $104,030; Lake, $30,290; Lassen, $39,880; Los Angeles, $4,653,266; Madera, $83,110; Marin, $102,268; Mariposa, $16,624; Mendocino, $117,870; Merced, $127,578; Modoc, $36,396; Mono, $8,812; Monterey, $156,510; Napa, $93,744; Nevada, $31,114; Orange, $455,750; Placer, $55,488; Plumas, $83,022; Riverside, $166,430; Sacramento,

The issue, then, involved in the tax bill was equalization of taxes. The question of the sufficiency of the budget was not involved, was not before the Revenue and Taxation Committees, but in the regular course of legislative business would be dealt with by the Ways and Means Committee of the Assembly and the Finance Committee of the Senate.

Nevertheless, when the Revenue and Taxation Committees met at the opening of the second part of the session, representatives of the banks and corporations were on hand to press the demand that the budget be taken up.[57]

John S. Drum, appearing for the banks, attacked the State Budget Board, charging it with "arrogating to itself prerogatives of the Legislature"; and char-

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$493,602; San Benito, $56,268; San Bernardino, $227,488; San Diego, $347,692; San Francisco, $2,574,464; San Joaquin, $426,342; San Luis Obispo, $150,506; San Mateo, $157,094; Santa Barbara, $211,384; Santa Clara, $412,904; Santa Cruz, $91,784; Shasta, $69,924; Sierra, $10,738; Siskiyou, $95,218; Solano, $125,522; Sonoma, $208,738; Stanislaus, $198,188; Sutter, $77,980; Tehama, $77,484; Trinity, $15,802; Tulare, $224,750; Tuolumne, $36,516; Ventura, $179,974; Yolo, $118,278; Yuba, $54,176—Total, $16,658,616.

57 This move had been deliberately planned. As early as the middle of February the Tax Investigation and Economy League published the following, in the form of a half-page display advertisement, throughout the State:

"The taxpayers must have a hearing. In order that taxpayers as well as tax-spenders might have an articulate voice in what shall be paid for State taxes, the Tax Investigation and Economy League has addressed the following telegram to the chairmen of the Ways and Means Committee of the Assembly and the Finance Committee of the Senate:

" 'The State Budget Board has recommended to the Legislature expenditures for the ensuing biennium of $81,000,000 in round figures, which amount will exceed by more than $15,000,000 their 1919 recommendations, plus the amount voted last November for schools, road bond interest and orphan aid. Assembly Concurrent Resolution, Number Twenty-two, introduced January 21, provided for the appointment of a joint legislative committee to convene at Sacramento at the beginning of the constitutional recess and investigate and report to the Legislature immediately on the reconvening thereof as to the financial needs of the State for the coming biennium,

acterizing the board's practice of requiring the State departments to submit their financial needs to it as "a vicious habit." He insisted that it is "iniquitous to charge the corporations with desiring to win the State government and as being tax shirkers." He insisted, further, that it was not necessary to fix the corporation tax rates before March 7 to make them applicable for 1921.

Mr. Drum's contentions were strongly supported by the various corporation representatives. William Sproule, president of the Southern Pacific Company, for example predicted dismally that the passage of the King bill would hurt business and tend to keep capital out of the State.

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and as to what sources of revenue are available for the meeting of a deficit, if any should be found. This resolution was referred to the Committee on Revenue and Taxation, where it now lies. Instead of taking advantage of the interim recess to insist upon a public and thorough examination of the State's financial needs as provided by the Hurley resolution, and as sound business judgment demanded, so that the Legislature might have something more to act upon than the purely ex parte recommendations for appropriations made by his Budget Board, Governor Stephens has made that board's abnormal recommendations his own by attempting to defend them from the public platform. However, the responsibility for any increase in the State's expenditures will rest upon the Legislature and upon no one else. The Budget Board having recommended these enormous expenditures, the burden is upon that board to justify each and every item thereof, and it is incumbent upon the Legislature to inquire into the details of the supposed necessity behind these proposed startling increases. On behalf of taxpayers paying more than $18,000,000 annually to the State we request, that upon the reconvening of the Legislature your committee hold public hearings upon the entire budget at which the members of the Budget Board recommending these expenditures of more than $81,000,000 for the ensuing biennium shall be required to present in detail the facts supporting every item of their recommendations. We further request that the taxpayers of this State, if they so desire, be permitted through their attorneys or other representatives to cross-examine the members of the Budget Board who appear in support of that body's recommendations. May we have your assurance that such public hearings will be held and a thorough investigation of this vital subject made?' "

"How about keeping out the farmers, if general property taxes go too high?" inquired Senator Jones of Santa Clara.

That question remained unanswered.

When Senator Jones asked Sproule if he favored repeal of the Plehn tax system, Sproule evaded answer, saying that he considered that question premature.

E. W. Camp, general counsel of the Santa Fe; Wigginton Creed, president of the Pacific Gas and Electric Company and Paul Shoup, vice-president of the Southern Pacific, supported Mr. Drum's plea for a budget hearing, laying particular stress upon Sproule's contention that the increase in corporation and bank taxes proposed in the King bill would prove most injurious to the industries and general business of the State.

Clyde Seavey, of the State Board of Control, replied to the several bank and corporation representatives. Those gentlemen interrupted Seavey constantly, but he met them easily and quickly. This heckling of Seavey had no other effect than to show him far better informed on the issues involved than any of the army of corporation high-salaried experts who opposed him.

"The State is paying Seavey $5000 a year for his services," remarked an observer, "and it is reported that these corporation executives are being paid from $20,000 to $60,000 a year. Either the State is paying Seavey too little, or the corporations are paying these men too much."

But, however that might be, Seavey showed con-

clusively that the attacks on the Budget Board were unwarranted, and had nothing to do with the issue before the committee, namely, tax equalization.

Taking up the question of equalization, Seavey challenged the small army of corporation and bank executives before him, to disprove his contention that the proposed increase in their rates would place them on an equality with the general taxpayer.

"Let the corporations," insisted Seavey, "produce the real value of their property to prove that an increase in their tax-rate would be unjust, the same as a common taxpayer is compelled to do in appearing before a city or county board of equalization." [58]

That was a challenge which had been made to the corporations from the time the real character of the Plehn tax system had been established eight years before. They did not take it up.

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58 Compare this demand of Seavey, with that of Senator Caminetti, made eight years before under similar circumstances. The occasion was a joint hearing of the Revenue and Taxation Committees of the 1913 Senate and Assembly, to determine upon proper equalization of the taxes paid by the banks, corporations, and insurance companies on the one hand, and the general taxpayer on the other. The following is taken from the Story of the California Legislature of 1913, pages 93 and 94: "Another question —which was not answered—would have fixed physical valuation of the railroads within the State. The attorneys and experts of the railroads were before the committee prepared to say dogmatically that the actual value of the holdings of the general taxpayers of the State was $7,028,967,842. But they were not prepared to give the value of the property of their own corporations. Finally, Senator Caminetti demanded of them a statement of the actual value of railroad properties in the State. The Senator held that no comparison could be made between the relative value of the property upon which The People pay taxes and the property of the corporations, until the value of the property of the corporations was known. The corporation attorneys stated they had no such information, and referred Caminetti to the report of the State Board of Equalization, the accuracy of which the corporation attorneys and experts were calling into question. 'You seem to know all about The People's business,' thundered back Caminetti, 'but you know very little about your own. It is not fair that you have not the actual value of the Southern Pacific property here.' "

The joint committee by a vote of 8 to 10 finally rejected the corporations' plea that it defer action on the tax bill until after the corporations could be heard on the budget.[59]

In spite of this decision, however, the corporation representatives continued to insist that the budget be considered before the tax bill should be passed. They also continued to urge upon the committee that delay would not work to the advantage of the corporations. Mr. Drum went so far as to produce an opinion written by former Justice of the Supreme Court, M. C. Sloss, to the effect that the bill could be passed after the seventh of March and be legally binding on the corporations for taxes to be collected in 1921.

But all this was swept aside by the opinion of the Attorney-General that the safety of any levy that might be made by the 1921 Legislature for the year 1921, required it to be made within the time limit,[60] that is to say, by March 7. The corporations were to get their budget hearing later. But when they got it, they failed to establish their contention that the budget showed gross extravagance, or any extravagance at all.[61]

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59 The vote by which the Arbuckle-Breed motion to take up the budget before the King tax bill was:
For the motion—Senators Hart, Breed and Arbuckle; Assemblymen Beal, Benton, Hart, Merriam, and Warren.
Against the motion—Senators W. J. Carr, Jones, Boggs, Nelson, King, Sharkey; Assemblyman Cleary, Crittenden, Hume, Broughton.

60 The opinion of General Webb, with that of Judge Sloss, will be found in full in the Appendix. The two should be read by citizens who would get an insight into the comparative views of an attorney working for the State, and one hired by a corporation.

61 See Chapter X, page 122.

For three days, the Revenue and Taxation Committee permitted the bank and corporation representatives to go over the same ground they had covered during the first part of the session, and to make the various pleas for delays; to predict the flight of capital from the State; to plead poverty;[62] and generally to conduct themselves in the humiliating way to which representatives of large interests descend when legislation to place them on an equality with the plain people is pending.

The drive against the bill from Chambers of Commerce and civic bodies continued. The exceptional activities of the Better America Federation led Senator Inman to expose that organization in one of the most scathing addresses ever heard in the Senate Chamber.[63] No member of the Senate—and several of

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62 Representation to the committees on the part of lobbyists for the banking interests that the return on bank surplus and capital stock was only about 5 or 6 per cent was shown to be false. Charles F. Stern, State Superintendent of Banks, issued the following statement: "The State banks of California were never before in so poor a condition, either to attempt to avoid their fair share of the State's expense, or to plead that their share is too heavy a burden. The facts are these: The State banks of California in 1920 increased their total resources by upward of $175,000,000—profiting more conspicuously by California's prosperity than any other line of industry. In 1920 the Los Angeles State banks and trust companies made net profits of $4,178,918.42, which is over 28 per cent on their capital stock, and over 17½ per cent on combined capital and surplus. In 1920 the State banks of California combined made 26½ per cent on their capital stock and 17½ per cent on their combined capital and surplus. It was The People's money, borrowed by the banks, in the form of deposits that earned for the banks these profits."

63 "It is plain," said Senator Inman, "that all the opposition to the King bill is inspired by the corporate interests themselves, and by such agencies as we are subject to their influence and power. We see the so-called Better America Federation at work using what control it possesses to serve the special interest. Under a false title, which would seem to indicate that the organization is aiming to make better American citizenship, and better national life, we find it being used openly and actively in trying to aid these corporate interests, in their endeavor to evade just

them had been supported for election by the Federation —attempted to question Inman's charges.

A special committee of the San Francisco Chamber of Commerce, consisting of Frederick J. Koster, Seward B. McNear, Walton M. Moore, Leon G. Levy and Eli H. Wiel, met and solemnly found "the facts so unavailable on which to base equitable distribution of the tax burden that it is impossible to determine whether and to what extent the rates provided in the King bill are equitable." On these findings the Chamber adopted resolutions disapproving the King tax bill.

Telegrams from employes of the corporations continued to pour in upon the Senators demanding that "unjust tax burdens" be not put upon the

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taxation. We know that this organization interested itself in the candidacies of various members in the Legislature and that it spent great sums of money to bring about their election. We find these same members responding to the command of President H. M. Haldeman that they shall vote against the King tax bill. Many worthy business men have joined this organization in the belief that it was an agency for public good. Here in Sacramento our business men freely signed the roll, and subscribed under the assurance that the purpose of the organization was to combat I. W. W.ism and Bolshevism. Then appeared a pamphlet which has since been suppressed, in which the Better America Federation proclaimed itself against the social and humanitarian advancement that has been accomplished in California during the last ten years. **In this was betrayed the real purpose of those few men in Los Angeles who arrogate to themselves the power to speak for this organization. These gentlemen are typically of the reaction type, representative of 'Big Business' and ready to serve as we now have them revealed the big special interests in so primitive a form of special privilege as evasion of just taxes.** You will find in this group of men, and those associated with them, all those elements that Senator Hiram W. Johnson kicked out of politics, when he was Governor of this State. You will find them waging relentless warfare against him and all that he has accomplished in the regeneration of California's Government. You will find them arrayed against all of those who had a part in redeeming California from the grip of corporate control, and who have maintained steadfastly those principles of Government established by the progressive movement. The part that the Better America Federation has taken in this fight is but a beginning of what these men at the head of the organization have in mind to do. So far as they dare they will advocate the repeal of all regulatory agencies of Government designed to

corporations; that the King bill be defeated,[64] "lest by its passage men be thrown out of employment."

In spite of this bombardment the Revenue and Taxation Committees went on with their hearings, patiently going over ground already covered, realizing

protect The People. Their purpose is to restore big business and the corporate interests in power. They would reopen the doors of the Capitol to special privilege. They have been shut for ten years, and these men, who always know what they want, are prepared to use all the power of the special interests to attain again those conditions, where they can rule The People. To be ruled by The People is intolerable to them. In this taxation contest they have already shown their ugliest mood. They are threatening this and that man with political ruin, and the Better America Federation is leading the cry. In this Legislature the Better America Federation controls a number of votes, sufficient to jeopardize the King tax bill, and its just design to exact an equalization of taxes from the corporations. The purpose of the organization is ultimately to gain control of the Legislature, and then proceed to wreck the entire scheme of advanced legislation built up during the last ten years. They cannot point, and do not point, to a single statute as unsound or wrong. They simply want big business to be free to engage in unregulated and unbridled exploitation of The People of our State. They will, whenever they can, shift burdens of taxation to the backs of The People. To them the rapacious operations of big financial interests is legitimate business. The greedy advantage of the few, as against the many, is their religion. In the gubernatorial election of next year you will undoubtedly find these corporate interests and the Better America Federation arrayed together in an endeavor to regain control of the State. They already have their candidate for Governor. I warn The People of the design of those interests that are opposing the King tax bill. Unless the voters are on guard next year the Better America Federation and these tax-evading corporations will elect a sufficient number of members of the Legislature to gain absolute control of our State Government."

64 The following are fair samples of telegrams such as were sent Senators from all parts of California:

"We employes of the Southern Pacific Railroad at this point demand the defeat of the King tax bill on the grounds that conditions on railroads of the State are bad enough as they now stand and another burden imposed will only decrease the employment on these roads.—H. H. Bunds, Jas. A. Blake, P. R. Colson, M. Pisants, Chas. C. Grenman, J. Rodriques, Wm. A. Wheeler, H. H. Foster, J. R. Kilgore."

"We demand the defeat of the King tax bill on the ground that the State should economize instead of burdening its railroads with unjust taxation, this leading to less employment than there is now, conditions being bad enough already, especially in this county and district.—J. H. Schild, Joseph Contada, J. A. Davis, A. T. Brennan, Vince Orlando, S. Johns; shop committee representing one hundred employes of the Southern Pacific Railroad."

"We, the undersigned yardmasters at San Jose, representing the Southern Pacific Company, demand the defeat of the King

that the smooth-speaking gentlemen of the lobby were talking for delay. Finally, on February 27, allowing the Legislature just time enough to get the bill passed by both houses, the Senate Committee by a vote of 8 to 3 sent the King bill back to the Senate with the recommendation that it be passed.[65]

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tax bill on the ground that the State should economize instead of crippling the railroads with unjust taxation which will lead to less employment then there is at present, conditions at this time are bad enough and exceptionally bad in this county and district.—G. D. Cotton, F. H. Gwinn, W. J. Parrott, E. J. Scanlon, P. J. McKay."

"You will be doing the railroads and employes both a great justice by defeating the King tax bill.—C. D. Robertson, Agent S. P. Co."

"It is our earnest wish that you vote against the King tax bill and assist in every possible manner in curtailing State expenditures. The world-wide depression such as has never been known within historic times demands statesmanship, and as employes of the Southern Pacific we beg you to help check further unemployment.—P. F. McDermott, W. A. Carrar, J. J. Hardy, M. McNamara."

The Sacramento Bee in its issue of March 1, published the following statement regarding such telegrams: "'Sign here' is the order being sent out by the Southern Pacific Railroad Company to thousands of its employes in all parts of the State, and the employes are expected to append their signatures to the following telegram directed to their representatives in the Assembly: 'As one of your constituents, I urge you to vote to defeat the King tax bill as the State should economize instead of crippling the railroads by unjust taxation. Sign here.' This information was given out today by the Governor's office, which has received it authoritatively from a State office. The form telegrams are being sent out from the Southern Pacific offices in San Francisco, written on Western Union Telegraph Company blanks. Senator J. L. C. Irwin of Bakersfield waved seven telegrams received from Southern Pacific employes in East Bakersfield while arguing for the King bill last night and questioned the motive behind them. Senator W. R. Sharkey of Martinez received a telephone call from a Southern Pacific employe in his district who argued that the King bill was an unjust tax measure. This was the second call from a Southern Pacific employe Sharkey received. Sharkey told the employes the bill was a good one and that he would vote for it and believed it would pass the Assembly. Senator Herbert Slater of Santa Rosa received telephone calls yesterday from Southern Pacific employes in his district, asking him to vote against the bill. He replied that the bill is a good one and that it would pass both the Senate and Assembly."

65 The vote in the Senate Committee on the King bill was:
For the bill—Boggs, Carr of Pasadena, Flaherty, Jones, Rigdon, Nelson, and King.
Against the bill—Arbuckle, Breed, Sample.
Two members of the committee were absent, Senator Hart opposed to the bill and Senator Sharkey who was for it.

This action once more took the fight for equalization of the State's taxes to the floor of the Senate.

The following day, the Senate, after a debate of seven hours, passed the bill with 27 voting for it to 13 [66] against it. Had one Senator, who voted in the affirmative, changed his vote to the negative, or even had he failed to vote, the bill would have been defeated, and additional tax burden shifted to the shoulders of the already tax-burdened plain people. Twenty-seven Senate votes are the minimum for the passage of a measure which increases the taxes of corporations, and the second King bill received just that number.

Chamberlin changed his vote from "no" to "yes" to give notice of a motion to reconsider the vote by which the bill had been passed. This delayed the measure one day. But when the motion to reconsider was made, it was promptly denied. The bill then went to the Assembly, where for nearly a week, the progressive leaders fought to increase the affirmative vote to the 54 necessary for the bill's passage, while the billion-dollar lobby labored to hold the opposition at 27, the number necessary to ensure the bill's defeat.

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66 The vote by which the second King tax bill passed the Senate was:

For the bill—Senators Allen, Anderson, Boggs, Burnett, Canepa, Carr, F. M.; Carr, W. J.; Crowley, Dennett, Duncan, Eden, Flaherty, Harris, Ingram, Inman, Irwin, Johnson, Jones, King, Nelson, Osborne, Otis, Rigdon, Rush, Scott, Sharkey, and Slater—27.

Against the bill—Senators Arbuckle, Breed, Chamberlin, Gates, Godsil, Hart, Lyon, McDonald, Purkitt, Rominger, Sample, Shearer, and Yonkin—13.

CHAPTER VIII.

Second King Tax Bill Passes Assembly

Although the Assembly Committee on Revenue and Taxation, sitting jointly with the Senate Committee, had twice listened to the reasons advanced by corporations, banks, and insurance companies why the King tax bill should not be passed, in addition to listening to the same arguments while sitting as an independent committee, the lobby, after the bill had passed the Senate, insisted that the Assembly Committee give it what amounted to a fourth hearing. None contended that anything new would be offered at this hearing; none looked to see a single opinion changed. But the hearing took time and every hour brought nearer the seventh day of March, all of which the majority of the committee kept in mind. By a vote of 9 to 6 the committee finally sent the bill back to the Assembly with recommendation that it be passed.[67]

The first skirmish after the bill got back to the Assembly came over a motion by Graves[68] of Los Angeles that Assemblyman George C. Cleveland of

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67 The vote by which the Assembly Committee on Revenue and Taxation finally sent the second King tax bill back to the Assembly was:

For the bill—Assemblymen Anderson, Broughton, Cleary, Colburn, Coombs, Crittenden, Hume, Rosenshine, T. M. Wright.

Against the bill—Beal, Benton, Bromley, Hart, Merriam, Warren.

68 This is the same Graves who introduced the Indeterminate Franchise bill at the 1919 session and again in 1921. See Chapter XIII.

Santa Cruz be excused from the Assembly until March 7. Cleveland, although voting on both sides,[69] was generally counted for the bill. On the final roll-call he voted for it; had he been absent, the bill would have had only 53 votes where 54 were necessary for its passage; his absence would have had precisely the same effect as though he were voting with the opposition.

The supporters of the bill promptly objected to a leave of absence being granted Cleveland or to anyone else until the King bill had been disposed of. After a sharp debate, Cleveland, by a vote of 25 to 43,[70] was denied his leave of absence. Curiously enough, little opposition developed to the request of the bill's supporters that it be placed on immediate passage. Only six members voted against it, Cleveland, the man who didn't get his leave of absence, being one of them. The five who voted with Cleveland were Baker, Beal, Burns, Heck and Bishop.

But the opposition was prepared to contest every point the supporters of the bill advocated. When Coombs, who had charge of the bill in the Assembly,

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69 See Table of Votes on King tax measures in the Appendix.

70 The vote by which Cleveland was denied his leave of absence was:

To let him go—Assemblymen Anderson, Badham, Baker, Beal, Benton, Bishop, Bromley, Brooks, Fellom, Graves, Gray, Greene, Hart, Heck, Hornblower, Hurley, Lee, G. W.; Loucks, Lyons, McCloskey, McPherson, Merriam, Pedrotti, Ream, and Warren—25.

To keep him on the job—Assemblymen Bernard, Broughton, Christian, Cleary, Colburn, Coombs, Crittenden, Cummings, Eksward, Fulwider, Heisinger, Hughes, Hume, Johnson, Johnston, Jones, G. L.; Jones, I.; Lee, I. A.; Lewis, Long, Manning, Mather, McDowell, McGee, McKeen, Parkinson, Pettis, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Schmidt, Smith, Spalding, Spence, Stevens, Weber, Webster, Windrem, Wright, H. W., and Wright T. M.—43.

asked that it be considered at 4 o'clock, Baker of Los Angeles moved that the hour be 2 o'clock. Coombs' motion finally prevailed, but not until after debate and roll-call.

When the bill came up at 4 o'clock, McGee of Sutter Creek, offered a series of amendments, all proposing reductions in the tax rates fixed for corporations as provided in the bill as it passed the Senate. These amendments were defeated by a vote of 29 to 49.[71]

The debate occupied the entire afternoon, and was resumed at 8 o'clock after a two hours' recess for supper. It continued until 2 o'clock the following morning.

The corporation lobby filled the gallery when the debate opened. But as the argument became more and more heated, the lobbyists swarmed out of the gallery to the floor of the Assembly, and boldly button-holed members. It was the Senate scene over again, when, on the evening of the first consideration of the tax bill, the lobby had, until ordered out, practically taken possession of the Senate floor. Such scenes had not been known at Sacramento since the old days of cor-

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71 The vote by which the McGee amendments were defeated was:

For the amendments and against the bill as it had passed the Senate—Assemblymen Baker, Beal, Benton, Bishop, Bromley, Brooks, Burns, Cleveland, Graves, Gray, Greene, Hart, Heck, Heisinger, Hornblower, Hurley, Loucks, McCloskey, McGee, McPherson, Merriam, Mitchell, Pedrotti, Ream, Schmidt, Stevens, Warren, Weber, and White—29.

Against the amendments and for the bill as it had passed the Senate—Assemblymen Anderson, Badaracco, Badham, Bernard, Broughton, Christian, Cleary, Colburn, Coombs, Crittenden, Cummings, Eksward, Fellom, Fulwider, Hawes, Hughes, Hume, Johnson, Johnston, Jones, G. L.; Jones, I.; Lee, G. W.; Lee, I. A.; Lewis, Long, Lyons, Manning, Mather, McDowell, McKeen, Morrison, Parker, Parkinson, Pettis, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Smith, Spalding, Spence, Webster, Wendering, West, Windrem, Wright, H. W., and Wright, T. M.—49.

poration-domination of State affairs.[72] The so-called new lobby, during the King bill debates was shown repeatedly to have developed in boldness and arrogance far beyond that of the machine lobby of the old days.

The Assembly debate brought out nothing new; it influenced no votes. When the roll was called not one of the forty-nine Assemblymen, who had voted for the first King bill in January, changed. But three members who had voted against the bill in January—Long, McCloskey and Stevens—voted in the affirmative. This gave the measure fifty-two votes. Schmidt of San Francisco, the new member elected to fill the vacancy existing during the first part of the Session, also voted yes. This made the vote 53 to 27, one less than the fifty-four necessary for its passage.

The corporations had won by one vote.[73]

Pettis changed from aye to no, that he might move to reconsider the vote by which the bill had been defeated.

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72 See Chapter XXI, Story of the California Legislature of 1909, and for beginnings of the "new lobby" see Story of the California Legislature of 1913, Chapter VIII.

73 The vote by which the second King bill was defeated on first roll call in the Assembly was:

For the bill—Assemblyman Anderson, Bernard, Broughton, Christian, Cleary, Cleveland, Colburn, Coombs, Crittenden, Cummings, Eksward, Fellom, Fulwider, Hawes, Heisinger, Hornblower, Hughes, Hume, Johnson, Johnston, Jones, G. L.; Jones, I.; Kline, Lee, G. W.; Lee, I. A.; Lewis, Long, Manning, Mather, McCloskey, McDowell, McKeen, Morrison, Parker, Parkinson, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Schmidt, Smith, Spalding, Spence, Stevens, Webster, Wendering, West, Windrem, Wright, H. W., and Wright, T. M.—52.

Against the bill—Assemblymen Badaracco, Badham, Baker, Beal, Benton, Bishop, Bromley, Brooks, Burns, Graves, Gray, Greene, Hart, Heck, Hurley, Loucks, Lyons, McGee, McPherson, Merriam, Mitchell, Morris, Pedrotti, Pettis, Ream, Warren, Weber, and White—28. Pettis was for the bill, but voted no to give him opportunity to move for its reconsideration.

Reconsideration was granted without serious opposition, only twelve votes being cast in the negative.[74] The bill, by common consent, went over until the next day.

But when the next day came, the bill's proponents found they not only had failed to secure the additional vote to pass the bill, but were in danger of losing three of those who had voted with them when, on a margin of one vote, the bill had been defeated. Defeated on reconsideration, the bill could not come up again. Immediate vote meant final defeat. The tables were turned completely. The bill's proponents, working for delay until they could get the necessary fifty-four votes, moved postponement until the next day. The opposition, eager to press their advantage, vigorously opposed such action. But by a vote of 46 to 27 [75] post-

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74 The vote by which reconsideration was granted was:
For reconsideration and for the bill—Assemblymen Anderson, Bernard, Brooks, Broughton, Christian, Cleary, Colburn, Coombs, Crittenden, Cummings, Eksward, Fellom, Fulwider, Gray, Hawes, Heisinger, Hughes, Hume, Johnson, Johnston, Jones, G. L.; Jones, I.; Kline, Lee, G. W.; Lee, I. A.; Lewis, Long, Loucks, Manning, Mather, McCloskey, McDowell, McGee, McKeen, Morrison, Parkinson, Pettis, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Schmidt, Spalding, Spence, Stevens, Warren, Weber, Webster, Wendering, West, Windrem, Wright, H. W., and Wright, T. M.—55.
Against reconsideration and against the bill—Assemblymen Badaracco, Badham, Baker, Beal, Benton, Bromley, Greene, Hart, Heck, Lyons, Pedrotti, and White—12.

75 The vote by which postponement was granted was:
For postponement and for the bill—Assemblymen Anderson, Bernard, Broughton, Christian, Cleary, Colburn, Coombs, Crittenden, Cummings, Eksward, Fellom, Fulwider, Heisinger, Hughes, Hume, Johnson, Johnston, Jones, G. L.; Jones, I.; Kline, Lee, G. W.; Lee, I. A.; Lewis, Long, Manning, Mather, McDowell, McKeen, Morrison, Parkinson, Pettis, Powers, Roberts, Rosenshine, Ross, Saylor, Schmidt, Smith, Spalding, Spence, Webster, Wendering, West, Windrem, Wright, H. W., and Wright, T. M.—46.
Against postponement and against the bill—Assemblymen Badham, Baker, Beal, Benton, Bishop, Bromley, Brooks, Cleveland, Graves, Gray, Greene, Hart, Heck, Hurley, Loucks, Lyons, McCloskey, McGee, McPherson, Merriam, Morris, Pedrotti, Prendergast, Stevens, Warren, Weber, and White—27.

ponement was granted. This put the final vote over until Saturday, March 5.

The position of the bill's supporters was by this time critical. The Attorney General had advised that the measure to be effective for 1921 had to be enacted not later than Monday, March 7. Fifty-four votes were necessary for its enactment. Brought to vote, only fifty-three members would vote for it, which meant its defeat. On the other hand, if the delay continued until adjournment on Monday, the 7th, even though the bill be passed, the corporations, banks, and insurance companies, according to the opinion of the Attorney General, would escape equalization of their taxes for a year. The leaders supporting the measure, in private, frankly admitted themselves beaten.

When the Assemblymen met for Saturday's session, however, it became known that Heck of Bakersfield, who had been voting with the opposition, had decided to vote for the bill. This, with the fifty-three votes cast for it three days before, would give the fifty-four necessary for its passage.

Heck, when his contemplated change became known, was surrounded by members of the type of J. O. Bishop of San Diego, W. F. Beal of Imperial, E. O. Loucks of Los Angeles, J. B. Badaracco and George Warren of San Francisco, reinforced by Senator McDonald, and urged to reconsider his decision. But Heck, his mind made up, refused to be influenced. This apparently meant the bill's passage.

But at once the story got out that Stevens of Sonoma, and McCloskey of San Benito, who had voted against the first bill in January, but who had

voted for the second bill on the first roll-call, would vote with the opposition. This, without other changes, would give the bill only fifty-two votes, two less than the number required for its passage. Then it became known that McPherson of Vallejo, who had been voting no, had decided to vote yes and that Mitchell of San Francisco had decided to take the same course. This would give the fifty-four votes necessary for the bill's passage.

Confusion reigned in the Assembly Chamber. While the debate went on, the leaders of the opposition, Bishop, Graves, Hurley, Loucks, and Beal, made frantic efforts to reorganize their forces. Stevens stood on the outside of the group of the bill's opponents that were laboring to hold Heck in line, and watched the effect of their arguments upon him. McPherson was surrounded by a similar group. And through it all the debate went on and on. In the midst of this confusion the bill was brought to final vote.

Stevens and McCloskey, as had been anticipated, voted against it. Heck, McPherson, and Mitchell for it. This gave 54[76] affirmative votes, the minimum number required for its passage.

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[76] The vote by which the King tax bill finally passed the Assembly was:

For the bill—Assemblymen Anderson, Bernard, Broughton, Christian, Cleary, Cleveland, Colburn, Coombs, Crittenden, Cummings, Eksward, Fellom, Fulwider, Hawes, Heck, Heisinger, Hornblower, Hughes, Hume, Johnson, Johnston, Jones, G. L.; Jones, I.; Kline, Lee, G. W.; Lee, I. A.; Lewis, Long, Manning, Mather, McDowell, McKeen, McPherson, Mitchell, Morrison, Parker, Parkinson, Pettis, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Schmidt, Smith, Spalding, Spence, Webster, Wendering, West, Windrem, Wright, H. W., and Wright, T. M.—54.

Against the bill—Assemblymen Badaracco, Badham, Baker, Beal, Benton, Bishop, Bromley, Brooks, Burns, Graves, Gray, Greene, Hart, Hurley, Loucks, Lyons, McCloskey, McGee, Merriam, Morris, Pedrotti, Ream, Stevens, Warren, Weber, and White—26.

The corporations had lost; the general taxpayers had won.

The King tax bill, having passed both Houses, went to the Governor for his signature.[77]

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77 Certain of the corporations have since taken the tax bill into the courts. In this connection the following news dispatch dated San Francisco and published in the Sacramento Bee for April 7, 1921, is significant: "(William) F. Herrin, chief counsel for the Southern Pacific Railroad, left for New York today, for the purpose, it is reported here, of conferring with Eastern banking interests regarding a possible fight in the Federal Courts against the King tax bill. While Herrin was silent regarding his mission, it is generally believed that he has been summoned East by Kuhn, Loeb & Co. and other banking interests, which have underwritten large issues of California bonds, to discuss the tax ques-.tion. Possible Court action against the Act will be based, it is said, on the ground that it is confiscatory and thus in violation of the Federal Constitution."

CHAPTER IX.

Attempts to Correct Evils of Tax System Fail

The contest over the King taxation measure had brought the extraordinary advantages given the corporations under the Plehn taxation system squarely before the 1921 Legislature, precisely as eight years before a like struggle over a similar attempt to increase the corporations' tax rates had brought those same advantages before the Legislature of 1913.[78]

In 1913, men of the type of Cram in the Assembly and Avey in the Senate, urged the abolishment of the Plehn system, and introduced constitutional amendments to that end. But the system had then been in operation only two years, the general opinion was that it should be given a fair trial, and neither the Cram nor the Avey amendments was brought to vote.

The corporations' rates were again increased in 1915. There was something of a struggle, but it passed quickly. Legislators of the type of William Kehoe of Humboldt denounced the increases as inadequate and unjust to the people.[79] The Plehn system was not put to the test in 1915 as it had been in 1913; the comparatively small increase in rates passed with little publicity.

As the corporations' rates remained practically

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78 See Story of the California Legislature of 1913.

79 See Story of the California Legislature of 1915.

stationary for the next six years, the public all but forgot Professor Plehn and his system.

When, at the 1921 session, another attempt was made to equalize the corporation's taxes under the Plehn system, public and Legislature were brought up with a jerk, as they had been in 1913, to realization that under the Plehn system the banks, insurance companies, and corporations have the better of it at every point.

To wipe out these inequalities, two constitutional amendments were introduced.

The first was offered in the Assembly under the joint authorship of Frank Merriam of Long Beach and Isaac Jones of San Bernardino. It offered the same remedy as had been proposed by Assemblyman Cram and Senator Avey eight years before, namely, abolishment of the Plehn system.

The second measure was offered by Senator King. Under this measure, as introduced, the Plehn system was retained, but an attempt was made to eliminate some of the more objectionable features.

The Jones-Merriam amendment got further than the Cram-Avey measure had eight years before. The Assembly Committee on Constitutional Amendments recommended that it be adopted. In the Assembly a determined effort was made to secure its adoption. Nevertheless it was defeated by a vote of 30 to 31.[80]

The King measure was adopted by both houses,

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80 The vote by which the constitutional amendment to abolish the Plehn taxation system was defeated was:

For the measure—Assemblymen Badham, Beal, Benton, Bernard, Brooks, Eksward, Fellom, Hart, Heck, Hume, Johnson, Jones, I.; Kline, Lee, I. A.; Lewis, Loucks, Mather, McCloskey, McDowell,

but only after it had been amended in the Assembly in a way that retained most of the features of the Plehn system which it had been the purpose of its author to correct.

Two of the features of the Plehn system, which gave the Legislature much trouble, were the rigid grouping of corporations for taxation purposes, and the requirement of a two-thirds vote of each house to change corporations' tax rates, while a majority vote only was required to shift the tax burden to the general taxpayer.

Under the rigid classification, for example, street-car corporations, long-haul steam roads and short-haul steam roads were grouped together. Under this grouping, the Legislature to increase or lower the rate for one of the sub-groups, must raise or lower the rate for all. It has no authority to change the classification. To be sure, the 1921 Legislature did attempt to fix one rate for the street-car companies and another for the steam roads, but only on the assurance from the State Attorney General that it is extremely unlikely that any interested person or corporation would question the discrimination in the courts.

Under the two-thirds rule, as has been shown, fourteen Senators or twenty-seven Assemblymen could block any proposed change in the corporations' rates,

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McKeen, McPherson, Merriam, Pedrotti, Ream, Roberts, Ross, Smith, Webster, White, and Wright, H. W., 30.

Against the measure — Assemblymen Anderson, Badaracco, Baker, Bromley, Broughton, Burns, Christian, Cleary, Coombs, Graves, Gray, Hawes, Hornblower, Hurley, Jones, G. L.; Lee, G. W.; Lyons, McGee, Mitchell, Morrison, Parker, Parkinson, Powers, Rosenshine, Saylor, Schmidt, Spence, Warren, Wendering, West, and Windrem, 31.

even though all the other members of the Legislature might be for such change.

To correct these two defects was the primary purpose of Senator King's amendment. He did so by:

(1) Providing that a majority vote of both houses should be sufficient to change rates paid by corporations, banks and insurance companies, thus placing them on the same footing as the general taxpayer.

(2) Providing that the Legislature could by a majority vote change the grouping of the corporations for taxation purposes.

The measure went through the Senate practically without opposition. Thirty-four Senators voted for it. Not a vote was cast against it.[81]

In the Assembly, the measure was sent to the Committee on Constitutional amendments. The committee, in executive session, decided not to report the measure out at all. Later, this action was reconsidered; the measure was revised to restore the two-thirds vote requirement to change a corporation rate, and the requirement for reclassification of corporations for taxation purposes increased from a majority to a two-thirds vote.

In the closing hours of the session, the Assembly adopted these amendments, adopted the measure, and the Senate concurred.

Under the amendment as it was finally adopted,

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81 The vote by which the King amendment passed the Senate was:

For the amendment—Senators Allen, Arbuckle, Boggs, Breed, Canepa, Carr, F. M.; Carr, W. J.; Chamberlin, Crowley, Duncan, Eden, Flaherty, Gates, Harris, Hart, Ingram, Inman, Irwin, Jones, King, Lyon, McDonald, Nelson, Osborne, Otis, Purkitt, Rigdon, Rush, Sample, Scott, Sharkey, Shearer, Slater, and Yonkin, 34.

Against the amendment—None.

and as it is to be voted upon by the people of California in November, 1922, the provision for changing corporation tax rates remains as it was; fourteen Senators or twenty-seven Assemlymen can still block the rest of the Legislature.

There can be reclassification of the corporation groups, but here again under the two-thirds rule fourteen Senators or twenty-seven Assemblymen, regardless of the purpose of the remainder of the Legislature, can block such reclassification.

The progressives were more fortunate with Senate bills 856 and 857, introduced by Senator King and Senator W. J. Carr. These measures were intended to give the State's fiscal agents the machinery necessary to secure from the public service corporations reliable data on the value of their properties for taxation purposes.

The first of these, Senate bill 856, provided for a continuous appropriation of $25,000 for each biennium to be used by the State Board of Equalization in securing the data to report to each Legislature the relative percentages of tax borne by corporations and by general taxpayers.

This measure passed the Senate without a vote cast against it, although fifteen of the forty members failed to vote.[82] In the Assembly, fifty members voted for it and none against it.[83]

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82 The vote by which Senate Bill 856 passed the Senate was:
For the bill—Senators Boggs, Breed, Burnett, Carr, F. M.; Eden, Flaherty, Gates, Harris, Hart, Ingram, Johnson, Jones, King, Nelson, Osborne, Otis, Purkitt, Rigdon, Rush, Sample, Scott, Sharkey, Shearer, Slater, and Yonkin, 25.
Against the bill—None.

83 The vote by which Senate Bill 856 passed the Assembly was:
For the bill—Assemblymen Badaracco, Badham, Beal, Bernard,

Senate bill 857 requires the public utility corporations to file with the State Board of Equalization between July 1 and October 1 in each year preceding a regular session of the Legislature a detailed statement showing:

(1) The physical value of each of said properties.

(2) The stock and bond value of each of said properties when obtainable.

(3) The value of each of said properties as may have been determined by the Railroad Commission.

(4) The values of such properties as may have been claimed before the Railroad Commission by any or all of said persons or corporations.

(5) The reproduction cost of each of said properties when obtainable.

(6) The original or historical value of each of said properties.

The bill further provides that the values thus filed shall be competent evidence of the person or corporation filing them before any Court in the State, before the Railroad Commission and before any Legislative Committee.

As in the case of its companion measure, Senate

Christian, Cleary, Cleveland, Colburn, Coombs, Cummings, Eksward, Fellom, Graves, Hart, Hawes, Heisinger, Hornblower, Hughes, Hume, Johnson, Johnston, Jones, G. L.; Jones, I.; Lee, G. W.; Lee, I. A.; Lewis, Loucks, Manning, McCloskey, McDowell, McKeen, McPherson, Merriam, Mitchell, Parkinson, Pedrotti, Powers, Prendergast, Rosenshine, Ross, Saylor, Spalding, Stevens, Warren, Webster, Wendering, White, Windrem, Wright, H. W.; Wright, T. M., 50.

Against the bill—None.

bill 856, this bill passed the Senate without a vote being recorded against it.[84]

The Assembly vote was not, however, unanimous. Three members—Badaracco, Baker, and Graves—voted in the negative. But forty-three members voted for it, two more than the number required for its passage.[85]

These two measures give the State Board of Equalization an appropriation to collect data upon which to base tax rate estimates, and—so far as a legislative act can—require the public utility corporations to file reliable data as to their values with the Equalization Board. In addition, under the proposed constitutional amendment, the Legislature may reclassify the corporations for taxation purposes.

With this the 1921 Legislature passed the rapidly growing taxation problem on to the Legislature of 1923.

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84 The vote by which Senate Bill 857 passed the Senate was:
For the bill—Senators Allen, Arbuckle, Breed, Canepa, Carr, W. J.; Chamberlin, Crowley, Dennett, Duncan, Eden, Flaherty, Gates, Godsil, Harris, Ingram, Inman, Irwin, Johnson, King, Osborne, Otis, Purkitt, Rush, Sample, Scott, Slater, and Yonkin, 27.
Against the bill—None.

85 The vote by which Senate Bill 857 passed the Assembly was:
For the bill—Assemblymen Beal, Benton, Bishop, Bromley, Cleary, Coombs, Crittenden, Cummings, Eksward, Fulwider, Greene, Hart, Heck, Heisinger, Hornblower, Hughes, Hume, Hurley, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Lewis, Loucks, Manning, Mather, McDowell, McKeen, McPherson, Merriam, Parkinson, Ream, Rosenshine, Ross, Saylor, Smith, Spalding, Stevens, White, Windrem, Wright, H. W., Wright, T. M., 43.
Against the bill—Assemblymen Badaracco, Baker, and Graves, 3.

CHAPTER X

The Corporations Get Their Budget Hearing

While the corporations were demanding that the Committee on Revenue and Taxation should postpone consideration of the King tax bill until the State budget could be "investigated," the Senate was preparing for public hearings on the budget to begin as soon as the King tax bill should be disposed of.

In pursuance of that policy, the Senate, on February 24, the day it reconvened for the second part of the session, adopted a resolution, offered by Senators Inman, Irwin, Flaherty, Sharkey, and Otis, providing that immediately upon completion of the Senate's part of the process of equalization that body resolve itself into a committee of the whole to consider the budget item by item, and that the representatives of the corporations and banks responsible for the charges that the budget was unduly large be required to appear before the Senate and submit any figures in their possession showing what item or items could be eliminated without impairing the efficiency of the State government.[86]

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[86] The resolution in its preamble set forth the Senate's position, and was in full as follows:

"Whereas, The Legislature, in pursuance of its constitutional duty, is now engaged in the task of equalizing the burden of taxes as between property taxed locally for local purposes and property taxed against the public service corporations and banks for State purposes; and

Whereas, Under the advice of the Attorney-General of the State, whatever rates may be fixed as a result of the present

The resolution was not adopted, however, without a struggle. Curiously enough the opposition came from Senators who had been upholding the contentions of the corporation lobby. Although the opponents of the King bill had to a considerable extent based their opposition on the theory that the budget was too large, they attempted amendment of the resolution, and six of them—Arbuckle, Breed, Hart, Lyon, McDonald and Sample—finally voted against it. But the proposed amendments were all rejected, and the resolution adopted as it had been originally introduced.

The word "required" to appear before the Senate, as applied to public utility and bank executives, rang

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equalization process must be fixed prior to the first Monday in March, in order to be effective for the ensuing fiscal year; and

Whereas, The charge has been made by representatives of the public service corporations and banks that the present budget, as submitted to the Legislature by the State Board of Control and the State Controller, is unduly large, and that it should be investigated prior to the completion of such equalization process; and

Whereas, In the opinion of the Senate the two matters are entirely distinct, and furthermore, to conduct any such investigation into the budget and at the same time perform the constitutional duty of equalizing taxes within the time necessary to effect such is impossible; and

Whereas, Every member of the Legislature is pledged to a policy of rigid economy in State affairs, and it is the desire of this body to obtain every possible criticism of the budget or suggestion for effecting economy, and to do this at the very earliest possible date consistent with the constitutional duties imposed upon the Legislature; now, therefore, be it

Resolved, That immediately upon the completion of the process of equalization, so far as the Senate is concerned, this body from day to day resolve itself into a Committee of the Whole for the consideration of the budget, item by item; and that the representatives of said public service corporations and banks who have made said charges be required to appear before the Senate and submit any figures in their possession, showing what item or items can be eliminated without impairing the efficiency of the State government;

Resolved, further, That a committee of five be appointed by the president of the Senate to arrange and submit to the Senate a program and schedule of such meetings, to the end that all persons interested in the various items of the budget be given notice and an opportunity to appear before the Senate and be heard for or against such items.

harshly upon the ears of some of those who were opposing the King bill. Senator Breed moved that the gentler word "requested" be substituted for "required," also, that the fourth paragraph of the preamble setting forth that equalization of taxes was one thing and the budget another, be eliminated. This motion, after a spirited discussion, was withdrawn.

A motion by Senator Irwin to eliminate the entire preamble was lost, as was Senator Crowley's to postpone action. Breed came back with his motion to strike out the fourth paragraph. The Senate rejected it by a vote of 13 to 22.[87] The resolution was then adopted by a vote of 28 to 6.[88]

The Senate passed the second King tax bill on February 28, thereby completing the process of equalization so far as the Senate was concerned. The following day, March 1, the budget hearings began.

It soon became evident that the several corporation and bank executives who had signed the sensational advertisements alleging the budget to be unnecessarily large, were not themselves prepared to substantiate their radical charges.

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87 The vote by which the Senate refused to amend the resolution was:
To amend—Senators Arbuckle, Breed, Burnett, Duncan, Gates, Godsil, Hart, Lyon, McDonald, Purkitt, Sample, Shearer, and Yonkin, 13.
Against amending—Senators Allen, Boggs, Canepa, Carr, W. J.; Crowley, Eden, Flaherty, Harris, Ingram, Inman, Irwin, Johnson, Jones, King, Nelson, Osborne, Otis, Rigdon, Rush, Scott, Sharkey, and Slater, 22.

88 The vote by which the Senate adopted the resolution was:
For the resolution—Senators Allen, Boggs, Burnett, Canepa, Carr, W. J.; Crowley, Duncan, Eden, Flaherty, Gates, Godsil, Harris, Ingram, Inman, Irwin, Johnson, Jones, King, Nelson, Osborne, Otis, Rigdon, Rush, Scott, Sharkey, Shearer, Slater, and Yonkin, 28.
Against the resolution—Senators Arbuckle, Breed, Hart, Lyon, McDonald, and Sample, 6.

This became so apparent that Senator Harris finally asked Wigginton E. Creed, president of the Pacific Gas and Electric Company and connected with numerous other corporations, if he had in mind any item in the budget which could either be eliminated or reduced in amount.

Creed replied that he would much prefer that these details be taken up by Mr. Max Thelen, who had been hired [89] by the corporations to represent them in the controversy, and by Mr. Will H. Fischer, manager of their Taxpayers' Association.

"Well," replied Senator Harris, "the reason I asked this question, Mr. Creed, was this: Of course I sympathize with you and anyone else who wants to reduce expenses, but I did somewhat resent the publication of advertisements after the adjournment of the first session, in which it was stated that the budget was too much by something like $15,000,000. I don't know whether you signed that advertisement or not, but a number of gentlemen did. Did you sign that?"

Then came Creed's insistence that the advertisements where such charges were made had not been signed by individuals.

"Not signed by you?" demanded Senator Harris incredulously.

"Well," continued Harris, "you will pardon me for

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89 Mr. Wigginton E. Creed, President of the Pacific Gas and Electric Company, testified before the Senate that he and Mr. John Drum, the representative of the organized banks at the legislative hearings, had employed Mr. Thelen for the budget hearing, after consulting with Mr. Paul Shoup of the Southern Pacific Company. Thelen himself stated to the Senate that he did not represent any definite organization, but had been hired "to represent the banks, the public utilities and other State-tax corporations."

taking that up, but I thought if you had signed it, or been responsible for it, that you really ought to have known when it was published what savings could have been made, before you made specific statements that an amount so large as that could be saved. Were you responsible yourself, either directly or indirectly, for publishing it?"

"Oh, I think so," admitted Creed. "I would not dodge responsibility for those advertisements."

And thus the budget hearing went on for several days. The distinguished citizens whose names had been signed to the sensational advertisements calling for a budget investigation, either wrote begging to be excused,[90] or, when they did appear, made about the same statement that Mr. Creed had made and referred the Senate to Mr. Thelen and Mr. Fischer.[91]

Senator Rigdon finally gave expression to what the various progressive members of the Senate were thinking.

"I think," said Rigdon, "we are likely here to overlook a very important fact in this hearing. Now, the gentlemen who signed these advertisements are coming here, and we are finding out that they do not

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90 The last to refer to Mr. Thelen and Mr. Fischer was Clarence M. Oddie, Western Representative American Short Line Railroad Association. "I was just going to say, gentlemen," said Mr. Oddie, "that my name having appeared on this advertisement that has appeared over all of these names, that it did not appear because of my having any personal knowledge. I have not made a study of it. I assume this Senate is seeking for the best evidence in this inquiry, and it is not going to the best evidence when it wastes time in asking questions of those who have not made this study of it. I agree with Senator Duncan that you should go ahead and question those who have made a study of it, and I will yield to Mr. Thelen and Mr. Fischer."

91 See Chapter VI; also footnotes 48, 51.

know much about this budget. That is the very point that I am interested in. I think it is well enough if they know about the budget and can offer us any information along the lines of their idea that each man be permitted to tell it, and if he does not know it, just to frankly say so, and we can draw our own conclusions."

"You might," said Senator Harris, following up Rigdon, "put it this way: If the rest of these gentlemen will admit that they don't know anything more about it than those who have already addressed us, then we might very well leave it as it is, and take it up with somebody who knows something about it, as the men who addressed us know absolutely nothing; or, if they do know it, they have kept it to themselves."

"I want to say this," said Senator Inman, "that a while ago, I advocated the thing that Senator Harris mentioned, that is, if these gentlemen do not know anything about this budget, let them say so. We will proceed on our way. But the only way we can find out whether they know anything about it is to ask them some questions, and that is what we are proceeding to do, and we are proceeding to find out the very thing Senator Harris said, that they do not know anything about the budget, and that is not calling anybody liars. It is not treating these gentlemen without courtesy, but it is simply stating a plain fact. Now, the truth is that these gentlemen signed a long list of advertisements, and they paid for them, and they put them in the papers, and they made a

lot of statements about the budget, and I say that they are responsible for every single word in them, and they ought to be called before this Senate to see whether they know anything about it, or whether they were taking the word of some understudy, somebody that was making this study for them and putting it in their hands."

"I have hoped," said Senator Harris, "to hear something concerning the budget which would cause us to cut it down or give us some standard by which to reduce it. I hold no brief against the gentlemen who have appeared here to testify, but the Senate and the Legislature of California is in this peculiar position: that it has been advertised broadcast in practically every newspaper in this State, that we are going to be called upon to vote for a budget which is abnormal in its demands. The names of responsible men are signed to those advertisements and it may be when we get through with this hearing we shall find ourselves forced to vote for that budget practically as it is printed here in this pamphlet today. If we are forced to do so, and these gentlemen who have made these charges have not been brought before us to make their statements, and give their showing, we can be properly charged by the people of this State with not having done our duty, and with not having made a sufficient inquiry, and we will have, therefore, two purposes in making this investigation and in conducting this examination; that is, to reduce the budget, that is the first thing, I think, in the minds of all of us, to reduce that budget, if we can, and also to protect

ourselves against advertisements which may be—it yet remains to be seen—which may be untrue in the statements which they put before the people of this State, and, therefore, I say that everyone of these men who are responsible for those advertisements should either come before us and show either that they know or do not know anything about it, or else they should come up now and admit it and save us the trouble of proving it."

"I take it," said Senator Jones, "that it is quite important, and I wish to emphasize my views, as expressed by Senator Harris, that during the last month, during the recess, the Legislature of this State, was held up before the public of California as responsible for that budget, and charged in some advertisements directly, and some inferentially, with being guilty of extravagance to the amount of $15,000,000 or $16,000,000."

"Or rather the Budget Board," went on Senator Johnson, taking up Senator Jones, "and, of course, everybody recognizes it is simply a board making recommendations, and that it is incumbent upon the Legislature to act upon those recommendations, so that in the last analysis, the authority and responsibility is upon the Legislature. But, as I say, these gentlemen have signed these advertisements throughout the entire State of California. This advertisement was signed on the 12th day of February. That was some two weeks before they employed Mr. Max Thelen, and I want to know what information they had at the time they issued this to the public of California upon which they made these statements."

That information the Senate did not get. After confession from bank and corporation executives that they had signed those advertisements without personal information to justify the serious charges given State-wide publicity, the Senate called upon Max Thelen, who had been proclaiming his ability to show how the budget could be cut down.

CHAPTER XI

The Corporations' Case Against the Budget

Mr. Thelen was the man upon whom the corporations depended to make good their published charges of extravagance in State government, and their intimation, to put it mildly, that $16,000,000, or thereabouts, had been put into the budget which should not be there.

Thelen was, on the face of it, a valuable man for them. He had, under the Johnson progressive administration,[92] occupied important State positions, and had been counted a progressive. Word that he had been hired by representatives of the banks and corporations in their controversy with the State government created as much comment as had the similar employment of Professor Plehn.

Thelen appeared to be temperamentally unable to appreciate the obvious fact that his reputation was of more value to the corporations than his knowledge of the matters involved, and that, with the corporations, this was no doubt the important consideration of his employment.

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92 When Hiram Johnson was elected Governor in 1910, Thelen was in the employ of the legal department of the Western Pacific Railway Company. In March, 1911, he took the State job as attorney for the State Railroad Commission. He "sat in" at the writing of the Public Utilities Act adopted by the California Legislature at its extraordinary session in December, 1911, under which the present State Railroad Commission is organized. He became a member of the commission in 1912, continuing that connection until June, 1918, serving much of the time as president.

As nearly as could be judged by the testimony taken before the Senate, Mr. Thelen had got the job about the time the Legislature re-convened. This gave him about a fortnight to analyze an $81,000,000 budget, investigate the various institutions affected by it, and gather the data that warranted his criticism of the findings of the Budget Board which had been arrived at after an investigation covering a period of several months.[93]. One feature of Mr. Thelen's service with the corporations was, that the testimony all went to show he had been employed fully a month after the publication of the first of the sensational advertisements for which his employers were responsible. But on Mr. Thelen fell the responsibility of justifying those advertisements; that is to say, of showing how approximately $16,000,000 could be cut from the two years'

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93 Senator Jones summed up the testimony affecting the time of Thelen's hiring, in a statement to the Senate, on March 7, as follows: "I have his (Thelen's) statement made on the floor here when he was speaking, about a week before, that he had been employed to investigate the budget and had been on that task about a week. That is as authentic as I have been able to get. The gentlemen who employed him are not able to tell us, but he told me it was about a week before he spoke here last Friday." This would make Mr. Thelen's job begin about February 23 or 24. The Legislature reconvened on February 24. Thelen admitted, in answer to questions from Senator Inman, that in preparing his report on the budget he had visited no State institutions, and had not visited any since prior to May, 1918. He failed, in spite of Inman's insistence that the question was pertinent, to specify institutions he had ever visited. Col. John Chambers, State Controller, in commenting upon Mr. Thelen's attempt to handle the budget in a fortnight, stated to the Senate: "You can take an axe and break in the windows or doors of a building, but you are doing the building no good. No man who ever studies the question can take hold of the budget of the State of California and in a week or two weeks or in a month or several months, if he is new at that work, and go intelligently over that budget and make intelligent recommendations, in my opinion. In my judgment the budget is one of the best ever made in the State of California since 1911, when we practically began the making of a proper State budget. We are not perfect, we may have made errors, but I want to go on record as standing emphatically in favor of the budget as it is."

budget without impairing the efficiency of the State government.

Mr. Thelen told the Senate that to guide him in his investigation, he followed certain rules and principles. They were:

(1) No higher wage scales and no additional jobs.
(2) Due consideration to the falling prices of food, clothing, and supplies.
(3) No unnecessary maintenance or operating expenses.
(4) No new functions or State aid.
(5) New building projects and the purchase of additional land to be deferred unless really necessary now.
(6) Substantial permanent improvements to be provided for in a bond issue, and not to be met out of the revenues of the State.

Following these rules, Mr. Thelen claimed he could justify a reduction of the budget of $8,146,815.50. This did not meet the alleged $16,000,000 reckless extravagance as advertised by Mr. Thelen's employer by approximately $8,000,000.

The figures of the proposed savings were, however, imposing; Mr. Thelen's opening statement unquestionably impressed those members of the Senate who were genuinely intent upon cutting down the budget if such reductions could be made without impairing the efficiency of the State government.[94] But,

94 Senators who had voted against the King tax bill, and who had insisted that the budget should be reduced were not in attendance when the budget hearing opened. "I notice that Senator Charles Lyon of Los Angeles, who has been evidencing great

as the hearing proceeded, it became evident that Mr. Thelen was quite unconsciously basing his proposed reductions on apparent economies which would eventually prove most expensive, or compel abandonment of humanitarian and other activities which had proved most advantageous to the State. Heads of State departments had no difficulty in showing that Mr. Thelen's proposed reductions would bring to a standstill activities upon which the State's best development largely depends. He proposed other "savings," by shifting the cost of work done by the State back to the plain citizen taxpayer.

Mr. Thelen advised, for example, that the budget of the State Department of Agriculture be reduced $291,676. The budget board had recommended for this department $974,200 for the two years. Mr. Thelen recommended that it be cut to $672,523.98.[95]

interest in economy and cutting the budget is not in his seat," declared Senator Herbert C. Jones at the start of he hearings. "I request that the sergeant-at-arms go out and find him." After an hour's search the sergeant-at-arms returned, but without Lyon. "I am informed by the sergeant-at-arms," said Jones, "that Senator Lyon has gone to San Francisco." "I also notice that Senators McDonald and Godsil of San Francisco, who are much concerned about economy, are not in their seats," remarked Jones, "and I ask that the sergeant-at-arms bring them in." Just after the request had been made Godsil and McDonald appeared in the lobby of the Senate chamber.

95 The various farming groups were quick to protest against Mr. Thelen's scheme of economy in cutting down the appropriations for the work of the State Department of Agriculture. Among the telegrams of protest received by Lieutenant-Governor C. C. Young, President of the Senate, were the following:

From the California Fruit Growers' Exchange: "The Agricultural Legislative Committee, of which this organization is a member, appointed a committee to thoroughly investigate the activities of Department of Agriculture, which committee gave its heartiest support to appropriation recommended by the budget committee. We would urge you to give your support to this appropriation in full."

From the California Walnut Growers' Association: "This organization is member of Agricultural Legislative Committee, which thoroughly investigated budget statement Department of Agricul-

He added the suggestion, however, that the Department be permitted to collect fees from farmers for services rendered them. This would shift the cost of the department's work from the state to individual farmers, and be in effect a State tax upon farming interests. Inasmuch as the farmers with their fellow general taxpayers are supposed to be relieved of all State taxes in lieu of which they, with their fellow plain citizens, bear the entire burden of the district, municipal, and county taxes, the tendency of Mr. Thelen's suggestion was apparent.

It may be stated in this connection that throughout Mr. Thelen's statement to the Senate were repeated suggestions that political subdivisions assume the financial burden of functions now being performed by the state. Here again was a shifting of payment from the State treasury supposed to be supplied by public utility taxes, to the county treasury, actually supplied by the citizen taxpayer. Mr. Thelen's suggestions would have proved poor propaganda mate-

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ture and urge that the budget approved by Budget Commitee be appropriated in full. The work of this department is important to the agriculture of the State and should be supported."

From the California Cattlemen's Association: "The program of the State Department of Agriculture demands the amount set up in their budget. The agricultural interests of the State will be seriously affected, if this budget is materially reduced. The department, since its organization, has been active in learning the necessities of agriculture in the State and is thoroughly equipped to perform the work if supplied with funds. Representing the range cattle branch of the industry with an estimated investment of approximately four hundred million dollars, we would protest any material reduction in the budget of the State Department of Agriculture."

From the California Woolgrowers' Association: "Woolgrowers need every protection offered through Department of Agriculture that cost of production may not be increased particularly while present market conditions exist. Careful scrutiny of Department of Agriculture and the work they are doing indicates necessity for entire amount of proposed budget."

rial for the proponents of the Plehn taxation scheme when that system was before the State for adoption eleven years before.

The Senate made quick disposal of Mr. Thelen's idea that the farmers should pay fees for the services rendered by the State Agricultural Department. One of these services, for example, is the examination of cattle, particularly dairy cattle, for tuberculosis. Mr. Thelen's idea was that the owners of the herds should be charged for this. The Senators from the agricultural districts were quick to show that the health of the cities as well as of the farming districts depends upon disease-free dairy herds; that, in many cases, cattle owners instead of asking examination of their stock avoided it, even going to the extreme of concealing diseased animals.[96] The imposition of fees for unpopular examinations would of course increase the difficulties. Incidentally, the health of the people of the State would suffer.

This brought the discussion down to consideration of the practicability of the nearly $300,000 decrease in the department's budget which Mr. Thelen proposed.

G. H. Hecke, director of the Department of Agriculture, presented comparative figures and a statement of the work of his department which indicated at least a better understanding of the needs of the

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96 "Mr. Thelen," said one Senator, "a case came to my attention not long ago, where one man deliberately bought one hundred head, or about that number, of dairy cows that reacted, and moved them to another city, and there sold them for milch cows. He would not ask for an examination."

State than Mr. Thelen in his recommendations had shown.

Director Hecke described the work of his department as under three divisions, namely: plant industry, animal industry, and chemistry.

Taking up plant industry, the director stated that in 1914 the plant products of the State amounted to $194,172,000. In 1920 they totaled $457,000,000. The budget recommendation for this division was $410,470 for a two-year period, approximately $200,000 a year.

Against California's $457,000,000 of plant products, those of Florida had a value of $87,000,000. But the Florida Department of Agriculture asked for this biennium $825,880 for plant industry, more than double the amount asked by the California department.

Back of the enormous appropriations asked by Florida, Mr. Hecke pointed out, was that State's attempt to economize on this item.

Seven years ago, Florida had cut her appropriations for her agricultural department until nothing was provided for quarantine service against fruit pests. Imported citrus nursery stock carried citrus canker. In five years, Florida, the Federal Government, and individuals had spent $1,328,120 in the attempt to eradicate the pest. In addition, 235,593 orchard trees had been destroyed, and 2,645,514 nursery trees. These trees had a value of $5,000,000.

"The California citrus crop in 1920," went on Director Hecke, after giving these facts, "was estimated to bring to the growers $54,125,000. Florida tried to experiment, to cut down, so she didn't have

any quarantine service at all. What is the result? Citrus canker. I want to tell you that citrus canker is not yet entirely exterminated in Florida. It may break out any time. After this disaster, it didn't take much to persuade the Legislature of the State of Florida that it was necessary to provide money for the upbuilding of the horticultural industry, and the result of it is known, that the Horticultural Board of Florida is asking for an appropriation of twice the amount of money that the division of plant industry of the California Department of Agriculture is asking."

To safeguard the State against the costly citrus canker, the Department of Agriculture was asking the State for $43,000 for two years, $1,800 a month. The public utility corporations have men on their salary rolls who are drawing $3,000 a month or more, double the entire appropriation which the Department of Agriculture was asking to protect California's half-billion dollar citrus industry against a pest which in five years had cost Florida many millions of dollars. And the reader should bear in mind always, that the enormous salaries paid by the public utility corporations are charged to the corporations' operating expenses, and are paid by the public in utility-rate taxes. The objection, therefore, of utility corporations to the comparatively small cost of needed State work, is one of the incongruities of the corporation-revenue system which, largely under corporation guidance, has grown up in this State. Under Mr. Thelen's rules of "no new functions or State aid" and of "no additional jobs" such appropriations as that asked to safeguard the citrus industry against canker would have been

cut from the budget. Such "saving" had already cost Florida in five years more than $6,000,000.

Director Hecke gave many other illustrations in terms of millions of the importance of the work of the Agricultural Department.

California has, for example, 950,000 acres of alfalfa, the crop being worth $70,000,000 a year. The alfalfa weevil is already in Nevada, and within twenty miles of the California line. Once in California, it would do incalculable damage. All that stands between the California alfalfa grower and the alfalfa weevil is quarantine directed by the State Department of Agriculture.

To keep out the Mexican orange maggot, is another feature of the Department's activities. Only one inspector is employed for this work at San Diego where the chief danger of introduction of the maggot into California groves lies. He labors as many as twenty hours a day to protect California's citrus industry against this pest.[97]

"I do not know," went on Director Hecke, "how it has happened that we in California have been able to keep the Mediterranean fruit fly out of the State for 12 years, because it has been in the Hawaiian Islands for that length of time, and fruit growing is absolutely ruined in the Hawaiian Islands. The only fruit we admit into the State of California are bananas

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97 "Any of you gentlemen," said Director Hecke in describing the orange maggot situation, "who have ever had the opportunity of being in South America, or the Panama Canal Zone, you will know what those oranges are. You will know that if you will cut an orange in two, that in place of the fine and luscious orange, as you do in California, you will find a mass of wriggling maggots inside of it, and this is the Mexican orange maggot."

and pineapples for certain reasons which I will not go into, but they are apparently free, and we can fumigate them. Bear in mind that we are shipping out of the State of California nearly 100,000 cars of fresh fruit a year, and the introduction of these fruit flies means that all at once the fruit is stopped. I will trust to God, I will trust to the intelligence of California farmers, that we will find a way that we can continue fruit growing even after the Mediterranean fruit fly gets in here, but for the moment, for the time being, there is going to be an absolute stop. Gentlemen, that is a lesson that Florida has learned and that is the reason why Florida is providing almost 100% more money for its service than California does."

Turning to the division of animal industry, Director Hecke showed the State has $300,000,000 invested in beef cattle alone; that the State's total animal products have an annual value of $170,000,000; that for the safeguarding of this industry the budget provided $250,500 a year for the two-year period; that the Department is charged with the twofold duty of enforcing the laws to safeguard the public from diseased cattle,[98] and to protect the herds and flocks. The director held that the work could not be effectively carried on for less.

Taking up the question of new jobs and new salaries, which Mr. Thelen was contending should be

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98 Dr. J. P. Iverson, chief of the division of Animal Industry, stated before the Senate that records compiled from Germany and substantiated in New York hospitals and in England seemed to show that about 25 per cent of tuberculosis in children is of bovine origin.

disallowed, Director Hecke showed the importance of employing two plant pathologists. He proposed to pay these experts $3,000 a year, or the monthly salary of one of the criticizing public-utility executives. In the matter of salaries, Mr. Hecke stated the highest paid in his department was $5,000; the head of the division of animal industry was receiving only $4,000. Experts in the pest-control divisions were receiving only $3,000. The Director showed how he was constantly losing his best men, men who occupy positions where an error would cost the agricultural interests of the State hundreds of thousands and even millions of dollars, because they cannot afford to continue longer in the State's service on the salaries which the State allows.[99]

Mr. Thelen's rule of "no new jobs, no increase in salaries," Mr. Hecke intimated, placed a serious handicap upon the State Department of Agriculture, and upon the agricultural interests of the State.

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99 Director Hecke gave a number of examples of men who had left the State service for better paying positions. The following case is typical: "We had had," he said, "a splendid man (standardization expert) for over two years, Professor Wellburn, who served the State of California for $2700 a year, and today he is in charge of the agricultural work at high school, and there they recognize his ability and they are paying him $5000 a year. Could you blame Mr. Wellburn for leaving? I put in his place a Mr. Hoyt, for $2700 a year, and after Mr. Hoyt had served us for about two years, he left the State service because he did not see any opportunity in State service, and he is now in the insurance line, possibly making a great deal more money than he ever could have made in the State Department of Agriculture. And during the month of June, last year, the State of California was actually without any man to carry on the standardization service in the State, and I took the liberty of appealing again to the Federal Department of Agriculture, and I told Mr. Livingston, Chief of the Bureau of Markets, that California could not hire a man for $2700 a year; that we did not have any more money; on the other hand, he was directing a service of standardization, and I told him if he would assign a man to California, I would pay him $2700 towards his salary."

As another item of "economy," Mr. Thelen proposed a $579,865 reduction from the budget of the State Board of Health. His principal cut was from the support of the bureau of tuberculosis. The budgeted allowance for this bureau, he contended, should be decreased for the two years from $600,000 to $200,000, a reduction of $400,000.

The development of the Bureau of Tuberculosis is, however, generally regarded as one of the most important achievements of progressive administration of the State's affairs.

Prior to 1911, during the regime of the old Southern Pacific machine, the condition of those afflicted with tuberculosis was wretched in the extreme. Indeed, the neglect of them had become a State scandal.

After the progressive administration had broken the grip of corporation rule, with its waste and graft and incompetence, one of the first matters taken up was that of the care of the unhappy victims of tuberculosis.

The problem was not hastily disposed of. Six years passed before the plan eventually decided upon was definitely authorized by an act of the Legislature.

One of the first conclusions reached as the result of initial investigation and preliminary work, was that, owing to the great number of native Californians who needed hospital care, a State institution was out of the question. A State institution would entail a long waiting list, while the handling of such patients a long way from home and friends seriously increased the difficulties. On the other hand, experience had shown some sort of State supervision to be necessary.

After thorough investigation, it was decided that the counties and the State should join in meeting the problem.

The plan finally worked out placed the greater part of the burden of the care of tuberculosis patients upon the counties. The counties were to build suitable hospitals and undertake the major part of the burden of maintenance. The State, as its share, and to assure uniform State supervision, was to allow $3 per bed per week used by tubercular patients of a year's residence in the State. This was definitely authorized by an act of the Legislature of 1915.

In carrying out this plan, the counties had, up to the opening of the 1921 session, invested $2,000,000 in buildings, and spent $5,000,000 in maintenance. With the $3 per bed allowed by the State, proper attention can be and is given the patients. The ghastly conditions[100] of the days of corporation control dis-

100 Mrs. Edythe Tate Thompson, Director of the Bureau of Tuberculosis, testified before the Senate as to the conditions in the old days of corporation-domination of the State. She told of a visit to a tuberculosis shack used as a hospital in Southern California to ascertain the character of treatment given dying patients. "When I reached the hospital," said Mrs. Thompson, "there were no lights on in the general hospital, but I walked to the back of the building and found a lantern hanging on a tree, and went over to one of the small buildings, which I discovered had a roof that leaked in many places, and there was not even a locker where a man could hang his clothes. What little he had were thrown on the bed over him. As I started to open the screen door, a man's voice in the darkness called out and asked who was there. I told him it was someone interested in tuberculosis, and he asked me to be careful when I opened the door, that he could not see, but that a patient had died with a hemorrhage attempting to get back from the bathroom into his bed, and that he had fallen in front of the door. It was with some difficulty that I pushed open the door and got in, to find him lying in a pool of blood. All of the men in the ward were too ill to leave their beds. It took me nearly an hour afterwards to find someone to carry out his body, which, had it not been for my visit, would have been lying there until morning. I can paint you another picture," went on Mrs. Thompson, "of a hospital where the women patients received the only care that was given

appeared. As a direct result, in four years the State death rate from tuberculosis fell from 188 per 100,000 to 154, in spite of the war and influenza, and the deaths due to Federal Government war-risk cases, which the Government contracted with California's institutions to handle.

The 1921 budget provided $300,000 a year as the State's share in the work. Mr. Thelen proposed to reduce that amount to $100,000. Such reduction would "save" the State $400,000 for the biennium but would amount virtually to abandonment of the plan which had been worked out so satisfactorily for the handling of one of the most difficult problems with which California is confronted.

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them by the male orderly. These women were absolutely bedridden and unable to care for themselves. They told me they used to take turns in the night trying to keep awake as they were practically in the ward with the men patients, and they were afraid. And I can paint you another picture where the tuberculous patients were kept upstairs in a room under the roof, where there was a mattress on the floor and no bedding and a tin tomato-can used as a sputum cup, and I judge never emptied. The hospital superintendent told me that they kept it that way so the people who came would not stay. And I can paint you another picture of shacks where women patients were stripped to their waists in wards with other patients and exhibited to medical students as types of emaciation; of another place where maternity, cancer, and tuberculosis cases were kept in the same ward; of other places where Irish stew was brought in 365 days in the year, twice a day, in buckets, and left in the ward for the patients to eat. There were no tables, each patient simply dipping down into the bucket, with his bowl, and eating what he could of it; of still another place where it was so crowded that the room used as the patients' dining-room was also used as a dormitory, and where frequently the dead would lie through two meals in the room where patients had to eat before they could get around to removal. Places where there was no provision for dying cases, so that they were brought in and placed in the wards without even a screen around them when they died. None of the places had nurses or doctors excepting the orderly, and he made the rounds. All of the buildings were hopelessly out of repair. In one instance I know of a hospital where the rain flooded the wards so that even patients who had strength enough to move their beds out of the rain could not do it without being drenched. Still other places where food was left during the nights for patients to get up and prepare their morning meal with."

Mr. Thelen's proposed "savings" in the Department of Agriculture and in the Department of Public Health were typical of his recommendations for reductions in other departments. The heads of these departments made as convincing a showing against him as had the representatives of the departments of health and of agriculture.

The Senate gave Mr. Thelen courteous hearing. It did not act on his suggestions.

Mr. Thelen gave repeated evidence of the difficulties of mastering a State budget in a fortnight. For example:

The water plane of the Santa Clara Valley, because of increased demand upon wells for irrigation purposes, has been lowered steadily, until even the best producing wells have gone dry. Such wells are being deepened to meet the lowered water plane.

The well on the grounds of the State Normal School at San Jose has been no exception to the other wells of the valley. When it failed, the school was obliged to buy water from a private water company at an expense of $2000 a year. As a business proposition the State engineering department decided to do what the farmers of Santa Clara Valley are doing, namely, deepen the well. For this purpose, $8500 was provided in the budget. When Mr. Thelen reached this item, he struck it out with the statement that the State should "save that money" by buying water from the corporation which controls the San Jose water supply.[101] Dr. W. W. Kemp, president of the San Jose

101 Mr. Thelen's comment on this item was as follows: "The next item, 'New Well, $8500.' Well, I happen to know something

State Normal School, pointed out in replying to Mr. Thelen that in four years under Mr. Thelen's plan, the State would pay to the corporation for water the entire cost of bringing the well into production.

The principal budget cut which Mr. Thelen proposed did not represent a reduction of expenditures, but a putting off the day of payment by issuing bonds for admittedly needed improvements aggregating $2,211,877.50.

Such a course would have marked a decided departure from the settled State policy of meeting the cost of ordinary building out of current income.[102] The

about the water situation down in San Jose. When I was a member of the Railroad Commission, I heard a number of cases affecting the San Jose Water Company, and I went over their property. It is an old-established reliable company, which has an adequate supply of water. Under those circumstances I do not understand why the State should proceed to dig a well for $8500 on this property, when it can get the water easily by making application to the San Jose waterworks. I understand that a well that they had on the property went dry. I do not know whether it is desired to dig another dry well, or just what the plan is. But my suggestion is, unless good reason be shown, that this Normal School arrange to get its water from the concern from which everybody else gets it in San Jose, and I deduct the sum of $8500."

102 "In all of the State's history," said Clyde Seavey in discussing this feature of Mr. Thelen's recommendations for reducing the budget, "only a very few bond issues have been put out for building purposes. Part of this capitol building was built that way; a good deal of it was built by appropriation. A bond issue of $3,000,000 for new State Capitol buildings was voted; the bond issue for the University building of $1,000,000 was voted, and a $1,000,000 building in San Francisco was voted. Outside of that, I do not remember any bond issues voted by the people of the State of California for building needs. And it has been the policy, as I said, from the beginning of the State, to take care of its current needs out of current revenue, and as each succeeding period comes along needs are apparent and come up, and as a matter of policy, I think the State, through its Legislature, has decreed wisely in the matter of taking care of those current needs out of current revenue. It is true that at the present time, the State, like every other community, is three or four years behind in its building problem. Building was stopped during the war. It has been partially stopped since then, because of high prices, but if there is revenue in sight, the current needs of the State should be taken care of out of that revenue, because additional needs will come up for future years, and for future generations of like nature."

progressive members of both houses were unanimous in their opinion that the policy should not be changed.[103] Speaker H. W. Wright of the Assembly stated at one of the hearings that Thelen's bond-issue suggestion reminded him of "the story of the man who said he was determined to live within his means even though he had to borrow money to do so."

After the matter had been thoroughly considered, not a member of the Senate supported Mr. Thelen's bond-issue scheme. By a vote of 36 to 0 the Senate declared the plan to hold a special bond election for that purpose to be "unwise and financially unsound. By a vote of 31 to 3, the Senate further declared against departure from the established policy of caring for the ordinary building program out of current revenues. The three who voted in the negative were Senators Chamberlin, Gates, and Lyon.

The impracticability of that part of Mr. Thelen's plan by which he proposed to save $1,570,523 for the biennium by denying all salary increases and the creation of new positions was convincingly demonstrated by State officials, who, in positions of responsibility find themselves unable to hold technically trained men because of the inadequate salaries allowed State officials and employes. Practically every head of a department, who appeared before the Senate, had concrete examples of efficient men being hired out of the State's employ by corporations and individuals who

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103 The corporations themselves were divided on this issue. Manager Fischer of the so-called Taxpayers' Association announced to the Senate that his association was not in accord with Mr. Thelen's bond-issue idea.

paid a higher wage than the State allows. The evidence was conclusive that Mr. Thelen's proposed "saving" would add to the difficulties of an already difficult situation, and prove costly economy for the State.[104]

Convincingly was the fact brought out by Clyde Seavey of the State Board of Control that the State, in order to keep a service of 6161 persons, had been obliged during 1919-20 to employ 11,794, a labor turnover of practically 100 per cent.[105]

Mr. Thelen's experience as a State official illustrated very well the inadequacy of the State's compensation of its effective men. As State Railroad

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104 The loss to the State of trained men because of the inadequate compensation allowed by the State was shown throughout the hearing. "The State of California," said State Superintendent of Public Instruction Will C. Wood, for example, "has invested in men like Dr. Edwin R. Snyder of the Vocational Education Department, about six years of very careful investigation of the educational system of the State of California. I happen to know that Dr. Snyder has been offered $5400 per annum by the Federal Government; that his salary in this State is $4000; I happen to know that he has held on to the State office, hoping that something would be done at this session of the Legislature to enable him to remain with the State department. Is it economy, is it efficiency in State Government, to allow a man who has this amount invested in him by the State, to go, and put a green hand on the job who will take four or five years getting ready to do the work which ought to be done now."

105 "It has been impossible, especially in special lines," said Clyde Seavey in presenting figures in answer to Mr. Thelen's "saving" on the score of salary increases and new positions to the Senate, "to keep people in the service of the State very long. In the Department of Engineering, there are but twelve engineers and architects that have been in the employ of the State since 1914. There has been a big turnover in the matter of technical service in that department, and it has been reflected in the service of the department. It was impossible to get 100 per cent service under those conditions. In the Industrial Accident Commission, although that commission has no deductions against it, so far as this budget is concerned, including the compensation insurance fund, of a total organization which numbered 200 in 1914 there are but 39 that are still in its employ, and it now has an organization of considerably more than the 200. Men technically trained are coming in and leaving the State's service in all of its departments very rapidly, much to the detriment of the service of the State. Even now, with the increase that has been allowed, and

Commission, Mr. Thelen received $8000 a year, $666.66 a month. He devoted perhaps a month to the budget controversy. His compensation for that job has not, so far as the writer knows, been made public.

During the month devoted to the budget hearing, the Senate examined ninety-five witnesses. The corporation executives and the agents whom the corporations employed to represent them, failed to show that the budget could be reduced $16,000,000 without impairing the efficiency of the State departments, or even the $8,000,000 which their agent, Mr. Thelen, attempted to demonstrate, or at all.

The Senate in its report on the hearings showed that while the aggregate of the proposed State budget

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considerable increase was allowed in some of these technical lines, we are still 7 or 8 per cent below the average salaries paid on the outside for the ordinary technical service, and that is not taking into consideration specially trained men that are needed in the State as well as in other lines of duty. There is a single public service corporation in this State which employs ten engineers in its Bureau of Engineering at a salary of from six to twelve thousand dollars a year, a number equal to that of all the officers in the State of California receiving like amounts. These private corporations and semi-private corporations have found that they have to pay for technically trained men and they do pay for technically trained men, and they take from the State its best technically trained men as they develop. The average salary of the technically trained men of the Department of Agriculture has increased but 19 per cent since 1914, and the average salary for employes in the Motor Vehicle Department, a non-technical organization, has increased but 8 per cent since 1914. The increase in the average salary of all State employes, from April, 1919, to January 21, was 22.4 per cent. Of all of the officers and employes of the State service, including the Governor, those of the University and the judges of the courts, 60 per cent receive $125 a month and less, and that is counting maintenance, where they get maintenance; 87 per cent receive $200 a month, and less, and only 3 per cent receive more than $300 per month, which is a sum that corporations pay to highly trained clerks in many instances. The total expenditure for State salaries for all State agencies exclusive of the University and the Highway Commission, was on April 1, 1919, $7,183,487. On January 1, 1921, there was paid $9,142,964, an increase of 27 per cent, which includes additional activities and new men, as well as increased salaries."

was $81,387,692.51 for the two-year period as the corporations had published, $1,064,533.78 of that amount was to cover deficiency items for the 1919-21 biennium, making the items for the new biennium $80,323,138.73.

The 1919 budget had, indeed, as the corporations had advertised, been $47,580,953.16, but the 1919 Legislature actually appropriated $52,673,255.66. This, with the deficiency appropriations of $1,064,533.78 brought the appropriations for the 1919-21 biennium up to $53,737,809.44. Thus the increase in the 1921 budget over the total appropriations for the 1919-21 biennium was $26,585,329.29.

Of this $26,585,329.29 increase, $18,000,000 was accounted for by the moneys voted for special purposes by the people at the 1920 election. The increased fixed charges thus added to the State budget by vote of the people included increases of $10,900,000 for the common schools, $2,500,000 for high schools, $4,000,000 for highway bond interests transferred from the counties to the State, and $600,000 aid to dependent children. Deducting the $18,000,000 from the excess of $26,585,329.29, and the excess of the 1921 budget over the total appropriation for the 1919-21 biennium is reduced to $8,585,329.29. This, the Senate found, was represented quite largely by items for buildings, repairs and improvements, the total budget recommendations for such purposes being $5,043,622.50. This brought the increase down to $3,541,706.79 for the two years' period, or $1,770,853.39 a year, which, considered in connection with the State's growth during

the two years, could scarcely be regarded as extravagant.[106]

Such were the findings of the Senate after a month's hearing. Its full report and findings will be found printed in the Senate Journal for April 14, 1921.

In this way concluded perhaps the most extraordinary attack by responsible persons upon a responsible administration of an American State.

From any viewpoint the incident was extraordinary. Even though the corporations had succeeded in justifying every one of their widely published charges and innuendoes of extravagance in State government, it would have had no bearing upon the issue before the Legislature, the equalizing of taxes between the general taxpayer group on the one hand and the corporation group on the other. As the corporations failed to show extravagance, or even unreasonable budget allowances, their widely published charges were shown to be as foundationless as they were ill-advised.

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106 Compare these figures with those of the advertisements signed by the executives and agents of the public utility corporations. See Chapter VI, page 81.

CHAPTER XII

Revising the Budget Upward

We have seen:

(1) That the 1921 Legislature, acting upon the findings of the State's experts, attempted to equalize tax rates as between banks, utility corporations and insurance companies, on the one hand, and the plain citizenry on the other.

(2) That the corporations denying the necessity of such increase raised the cry of extravagance in the administration of State affairs.

(3) That when given opportunity to do so, the executives of such corporations confessed they had no personal knowledge to justify their grave intimations and charges, but referred the Senate to their employes.

(4) That these employes made no more convincing showing in justification of the charges than had their principals.

(5) That throughout the debates on the tax equalization measure, members who were opposing increase in the corporations' rates repeatedly insisted that economies in State affairs should be practiced to make the increase proposed in the corporations' rates unnecessary. Indeed, the supporters of the King tax equalization bill were placed before the State in the light of

> recklessly extravagant and unworthy legislators, while the opponents of the equalization bills were, by inference at least, made out the guardian watchdogs of the State treasury.

To be sure it was unjust to ascribe extravagance to the supporters of the King equalization bill; to credit its opponents with the motives of a treasury watchdog was more than unjust; it was funny. But such were the impressions spread broadcast over the State in the propaganda against the proposed equalization. Great is the power of liberally financed publicity.

The group of Senators who had led the support of the King bill had for several sessions endeavored to hold down appropriations. In the report on the budget they attempted to limit appropriations to the amounts decided upon by the Budget Board.[107] They were, however, defeated in this by the opponents of the King Tax bill, led by Senator Gates, chairman of the Senate Finance Committee. Senator Gates moved that

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107 The rule was proposed in the first draft of the Senate Committee report on the budget hearings, and was as follows: "It is the sense of the Senate, sitting as a Committee of the Whole, that the State Budget was and is justified in reducing and eliminating the various requests for appropriations in the manner and in the amount expressed in the report of the Budget Board, and that there should be no increase in any of the amounts recommended by the Budget Board, and that there should be no appropriations for any of the budgetable items disallowed by the Budget Board. The rule was rejected on Senator Gates' motion to lay the declaration on the table." The vote was:

To lay the declaration on the table and against the rule—Senators Arbuckle, Boggs, Breed, Burnett, Chamberlain, Crowley, Flaherty, Gates, Godsil, Hart, Ingram, Johnson, Lyon, McDonald, Nelson, Osborne, Otis, Rominger, Rush, Sample, Shearer, and Yonkin—22.

Against laying the reclaration on the table and for the rule—Senators Allen, Carr, F. M.; Carr, W. J.; Dennett, Duncan, Eden, Harris, Inman, Irwin, Jones, King, Rigdon, Scott, Sharkey, and Slater—15.

the motion to adopt the rule to limit appropriations to budget recommendations be laid on the table. This was done by a vote of 22 to 15, the opponents of the King Tax bill supporting the motion. From that moment all pretext of keeping down appropriations to the limit fixed by the Budget Board was abandoned.

There is just one way to defeat an appropriation bill without legislative vote or Governor's veto, and that is to hold it in the Senate Finance Committee or the Assembly Committee on Ways and Means. It was the hope, if not the program, of those members who really wanted the appropriations kept down, that these committees would send no excess appropriation bills to either house for consideration.

The credit for breaking up this arrangement, or discredit as one may view it, is due to these supporters of the University of California who were at Sacramento urging enormous appropriations for that institution.

Curiously enough among the advocates of this liberal policy toward the University were those who opposed the passage of the King equalization bill, and were foremost in criticizing the budget as unnecessarily large.

The Legislature has always treated the University most liberally. In 1915, $3,240,736.87 were appropriated for the institution; $4,218,747.40 in 1917; $5,310,173.11 in 1919—$12,769,657.38 for the three sessions.

Under the State law by which the University gets a definite allowance each year from the State, an appropriation of $3,639,499.15 was assured.

This did not satisfy the Regents. They went before the Budget Board demanding approximately $10,000,000 with a request for an additional $5,000,000 to be raised by a bond issue.[108]

In comparison with allowances made for other State institutions, the demands made by the Regents loom large. The Budget Board, for example, allowed the seven State Normal Schools[109] $2,140,200 for the

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108 The finances of the University of California are not subject to the supervision of the State's fiscal agents as are the other State institutions. Of this unique feature the State Controller's office says: "The (University's) funds are handled directly by the Regents through the comptroller (of the University) neither the (State) Board of Control nor the (State) Controller have audit powers. All claims are made up in the University and forwarded to the Governor for approval. Through courtesy these claims are sent to the Board of Control and put through in the regular way, but if a question should be raised as to the power of audit the (State) constitution provides that the University shall have control of its funds. The constitution gives the University extremely broad powers as to its finances." Thus, when the Legislature appropriates $3,000,000, $5,000,000, or $10,000,000 or more for University purposes, the money is turned over to the Board of Regents, where, as the Controller's office puts it, "The (State) constitution gives the University extremely broad powers as to its finances." As the inner workings of the affairs of the University are brought under the light of publicity the definite exercise of the Regents' powers over the State's money thus placed at their disposal justifies the Controller's statement. For example, the Regents paid their former Comptroller, Mr. Ralph Merritt, a salary of $7500 a year. That was 50 per cent more than the State Controller receives, and within $2500 of the $10,000 paid the Governor. To increase the salary of either of State Controller or Governor, an amendment to the State constitution adopted by two-thirds of the members of each House of the Legislature and passed by a majority vote of the 1,000,000 or more voters of the State would be required. In the case of Mr. Merritt (testimony given at Budget hearing showed) the Regents advanced his salary to $12,000 a year. This was done by simple majority vote without the public knowing very much about it. This gave Mr. Merritt a salary $2000 a year greater than the salary paid the Governor of the State, and 50 per cent greater than the salary paid the members of the State Board of Railroad Commissioners. Senator Duncan, in bringing this fact out at the Senate budget hearing, alleged that Mr. Merritt had been given $6000 in addition "in face of the fact," as Senator Duncan expressed it, "that the Regents face a deficit of some $900,000."

109 The Normal School at Los Angeles, being a branch of the State University, is not included. The budget allowances to the others were: Chico, $199,700; Fresno, $260,000; Humboldt, $124,900; San Diego, $329,100; San Francisco, $268,100; San Jose, $649,300; Santa Barbara, $309,100.

biennium. The University asked an appropriation 900 per cent greater than the combined Normal School budget allowances. To put it another way, the Regents asked for the University the equivalent of the support and upkeep of sixty-three Normal Schools of the standard maintained in California. And Regents of the University, acting in their capacity as public utility executives, through Mr. Thelen and other hired agents attacked the Normal School allowances as unnecessarily high.[110]

In this connection it may be said that every important corporation that placarded the State with allegations of extravagance on the part of the State administration, is represented on the Board of University Regents. Two of the Regents, John A. Britton of the Pacific Gas and Electric Company, and Mortimer Fleishhacker of the Great Western Power Company[111] were among the signers of the advertisements, published

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110 Mr. Thelen proposed a reduction of $296,500 from the budget allowance of the San Jose Normal School; Chico, $36,284; Fresno, $30,000; Humboldt, $39,700; San Diego, $96,760; San Francisco, $56,900; Santa Barbara, $141,650, a total of $697,794, from a total budget allowance of $2,140,200, or more than 30 per cent. From the total allowance budgeted and fixed, of the University of California, $9,232,386.15, Mr. Thelen proposed a cut of $50,000 for deciduous fruits and $200,000 for the treatment of dependents at the medical college, a total of $250,000, or less than 3 per cent of the total allowance.

111 At a hearing before the State Railroad Commission, it was brought out that Mr. Fleishhacker had received a salary of $30,000 a year from the Great Western Power Company. This is as much as the Governor of the State receives for three of the four years of his term, as much as a member of the Board of Control or the Secretary of State, or the State Controller, or the State Treasurer receives in six years. As additional compensation to his $30,000 salary, Mr. Fleishhacker received 3 per cent of the net income of his corporation, which gave him an additional salary of $24,000 a year. This arrangement was discontinued and Fleishhacker was given a flat salary of $50,000 a year.

throughout the State during the recess period, attacking the budget.[112]

Of the more than $15,000,000 asked by the University Regents the Budget Board allowed $5,592,887,[113] in addition to $3,639,499.15 fixed charges, which gave the University the enormous total of $9,232,836.15. This was an increase of approximately 80 per cent over the allowance of 1919.

In spite of the generous treatment given the University by the Budget Board, bills providing appropriations for the University in excess of the $9,232,836.15 allowed in the budget, were introduced. Partisans of the University proceeded to get these excess bills through. In doing so, they assisted in the passage of certain road bills which had not been recommended by the Budget Board. A scramble to get through bills in excess of budget allowances followed. Once the bars were down, appropriations of millions in excess of the budget passed both houses and were sent to the Governor.

Governor Stephens met this raid on the State treasury by grimly applying the veto in no less than thirty-two instances, thereby denying appropriations which had been passed by both Senate and Assembly to the total amount of $3,397,520.

Of the thirty-two bills thus vetoed, eleven originated in the Senate, carrying $1,011,800 in appropriations; and twenty-one in the Assembly, carrying $2,385,720.

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112 See Chapter VI, page 81.

113 In 1919, the Budget Board allowed $910,000. The 1921 allowance, $5,592,887, was an increase of 500 per cent over the 1919 budget allowance.

Analysis of the votes of the Senators and Assemblymen on these vetoed appropriation measures, who had opposed the King tax bill, is suggestive. Thirteen Senators had voted against the bill. They had between them 416 possible votes on the thirty-two vetoed appropriation bills. Of these 416 votes, only 16 were cast in the negative.[114] Six of the thirteen, Arbuckle, Breed, Gates, Godsil, Rominger, and Shearer, failed to cast a negative vote. Senator Breed heads the list of affirmative votes, with 31 votes for the bills out of a possible thirty-two. His seat-mate, Senator Gates, is a close second with thirty affirmative votes.

The twenty-six Assemblymen who had voted against the King tax bill made similar showing. One of them, White of Los Angeles, proved an exception, by voting against ten of the thirty-two bills. But Mr. White voted for fourteen, and failed to vote on eight. The other twenty-five King bill opponents cast only sixteen negative votes between them. These twenty-five "watch-dogs of the State treasury" could have cast a total of 800 votes against the bills.

Of the twenty-six, fourteen—Badham, Beal, Bishop, Burns, Hart, Lyons, McCloskey, McGee, Merriam, Morris, Pedrotti, Ream, Stevens, and Weber—voted

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114 The number of votes cast on the thirty-two bills by the thirteen Senators who voted against the King tax bill was as follows:

	Yes	No	Absent		Yes	No	Absent
Arbuckle	27	0	5	McDonald	14	1	17
Breed	31	0	1	Purkitt	16	4	12
Chamberlin	5	3	24	Rominger	7	0	25
Gates	30	0	2	Sample	24	2	6
Godsil	10	0	22	Shearer	17	0	15
Hart	16	2	14	Yonkin	23	2	7
Lyons	7	2	23				

Totals—For the bills, 227; against, 16; failed to vote, 173.

for the appropriations every time they voted. The twenty-six gave a total vote of 464 in favor of the appropriations; they failed to vote 342 times.[115]

Governor Stephens had the deciding vote, however. He cast it in the negative. To that extent he put his veto on revision of the budget upward.

Of the total of $3,397,520 in appropriations thus vetoed by the Governor, $805,000 was for the University of California.

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115 The number of votes cast on the thirty-two bills by the twenty-six Assemblymen who voted against the King tax bill was as follows:

	Yes	No	Absent		Yes	No	Absent
Badaracco	19	1	12	Hurley	22	1	9
Badham	20	0	12	Loucks	21	1	10
Baker	7	2	23	Lyons	9	0	23
Beal	21	0	11	McCloskey	24	0	8
Benton	20	2	10	McGee	25	0	7
Bishop	20	0	12	Merriam	18	0	14
Bromley	8	2	22	Morris	13	0	19
Brooks	17	1	14	Pedrotti	15	0	17
Burns	25	0	7	Ream	29	0	3
Graves	14	3	15	Stevens	13	0	19
Gray	26	1	5	Warren	24	1	7
Green	11	1	20	Weber	13	0	19
Hart	16	0	16	White	14	10	8

Totals—For the bills, 464; against the bills, 26; failed to vote, 342.

CHAPTER XIII.

Defeat of the Indeterminate Franchise Bill.

The Indeterminate Franchise bill, defeated at the 1919 session, was again introduced in 1921.

This measure provided that every right and franchise granted under it and every franchise which shall be granted by any incorporated city or town or consolidated city and county, pursuant to the provisions of the Act, should be indeterminate; that is to say, every such right and every such franchise should endure in full force and effect until the same with the consent of said Railroad Commission, should be voluntarily surrendered or abandoned by its possessor, or until the State of California or some municipal or public corporation duly authorized by law should purchase by voluntary agreement or should condemn all property actually used and useful in the exercise of such right or such francise.[116]

The Assemblyman who introduced this measure in 1919, Mr. Sidney Graves of Los Angeles, introduced it in 1921. This re-introduction was not unlooked for. When the measure had been defeated at the 1919 session it was well understood that the corporations interested would again attempt its passage in 1921. Indeed, such legislation is clearly part of the general plan under which the corporations propose to deal with

[116] In addition to providing for the Indeterminate Franchise, the bill repealed several sections of the Civil Code.

California. They failed to get it through in 1919; they failed again in 1921; they will make the same attempt in 1923, and, failing then, will persist through other sessions.

Those opposing the measure, legislators and citizens who distinguish between the development and exploitation of the State's resources, held that the franchise would in effect be perpetual.[117] The opposition in 1921 took the same course as in 1919.

At the 1919 session, few understood, until the bill had passed the Assembly, just what its provisions meant. The very effective support back of it had, however, managed to get it out of committee and up to vote in the Lower House. The vote upon it came at midnight after a hard day. Before the roll was called upon it, worn-out Assemblymen questioned as to what it meant and what was its necessity, but the opposition

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117 The argument on this feature of the bill was as follows: "An indeterminate franchise practically means a perpetual franchise, for the reason that if a municipality, county, or State desires to take over a public utility which has a franchise under the provisions of this bill, it can only do so by condemnation or by a voluntary sale on the part of the owners of the franchise. The amount of money which would be exacted and which would probably be allowed by the Railroad Commission or the courts, would not be based on the physical value of the operating plant but upon the amount of money put into the plant from the time of its inception to the time of the proposed condemnation proceedings. This would mean that the price would be prohibitive and that a franchise once granted under such conditions, would be perpetual. Knowing this, the corporations would be absolutely masters of the situation, could evade the legal regulations and obligations placed upon them, and the result of the passage of this bill would be that we would have the public utility corporations forever saddled upon us, and they would be harsh, unyielding and extortionate masters. If the Railroad Commission should support the corporations then we would have absolutely no redress whatsoever. We could be unconscionably robbed and our rights violated and yet we would be powerless to remedy the condition. Under the determinate franchise plan when the franchise of a corporation has expired, or is about to expire, we, the people, have the whip hand and can compel the corporations to grant us at least a small iota of the obligations justly due us."

was uninformed and unprepared to offer effective resistance. The measure was rushed through by a vote of 53 to 21.[118]

A companion measure, which had been introduced by Assemblyman Easton, also from Los Angeles and an associate of Mr. Graves, was passed by practically the same vote.

In the Senate, however, progressive members took the position that the measures were too important to be put through without better understanding of them.

"I cannot help believing," said Senator Inman in speaking against their passage, "that the rushing through of these bills is done with a purpose. Had they been left to the committee in the regular way, they would never have been reported out. My predecessors have told me that such things used to be done in the old days of corporation domination, but this is my first experience with it. The man who votes 'aye' on this measure, in my judgment, votes for the most vicious piece of legislation that has come before this Legislature in six years."

"I have," said Senator Dennett, "devoted more than two hours to the study of this bill. I do not see where

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[118] The vote by which the 1919 Graves Indeterminate Franchise bill passed the Assembly was:

For the bill—Assemblymen Allen, Ambrose, Anderson, Badaracco, Baker, Bromley, Brooks, Browne, M. B.; Bruck, Calahan, Carter, Easton, Eksward, Fleming, Gebhart, Godsil, Goetting, Graves, Greene, Hawes, Hilton, Hughes, Hurley, Johnston, Kenney, Knight, Lamb, Lewis, Lindley, Lynch, Madison, Manning, Mathews, McColgan, McCray, Merriam, Mitchell, Morris, Morrison, Odale, Prendergast, Ream, Roberts, Rose, Rosenshine, Saylor, Stevens, Vicini, Warren, Wendering, White, Windrem, Wright, H. W., 53.

Against the bill—Assemblymen Argabrite, Broughton, Brown, J. S.; Cleary, Cummings, Doran, Dorris, Eden, Gray, Kasch, Kline, Locke, McKeen, Miller, D. W.; Oakley, Parker, Pettit, Polsley, Strother, Wickham, and Wright, T. M., 21.

it is leading us. I resent the bringing of a bill of this importance before the Senate at this late day."

"Personally," said Senator Harris of Fresno, "I would rather never have had a seat in this Senate than be recorded as voting for this bill. 'Indeterminate' might as well be called 'perpetual.' If we pass this bill we go back to our constituents with the statement that we have given away their rights in perpetuity, and that the only way they can get those rights back is to buy them back."

Senator Sharkey followed Harris. "No Senator," said Sharkey, after endorsing all that Harris had said, "with a city of the sixth class in his district can vote for this bill with a clear conscience."

To Senator Frank Benson of San Jose, more than to any other one man, is accorded the credit of the defeat of the 1919 bills.

Senator Benson was credited at the time with changing the votes of at least two San Francisco Senators whom the corporation lobby had counted upon to vote for the measures.

"We members of the Legislature," said Benson, "know nothing about this bill. But, in this Senate Chamber, I listened to an attorney for a public utility company who did know all about it. That public utility attorney knew everything that was in it; he had prepared it, not after two hours of study, but after long hours and days, if not months of study. He drew it just as he wanted it. I submit that we have no right to take a chance with this sort of legislation. If through our action, the public utilities get the best of it, somebody is getting the worst of it. And I want to say

to you San Francisco Senators who talk so glibly about the poor man, that the poor man is the one who is getting the worst of it. I believe that any Senator who takes a chance on this legislation is betraying his constituents. I believe that this is the most serious moment of my connection with this Legislature; not that I believe that these bills can become laws, but because I fear that men whom I have grown to look upon as friends, are in danger of doing a thing in voting for these bills which I believe will be a lasting stain upon their reputation."

The Senate Journal for 1919 shows that the test vote was taken on the Easton bill. It was defeated. Sixteen Senators voted for it; twenty-four voted against it.[119] The Senate Journal shows further that the Graves bill, without being brought to vote, was then returned to the Senate Committee on Public Utilities.

In this way ended the attempt made at the 1919 session to give the principle of the indeterminate (perpetual) franchise expression in California law.

At the 1921 session the lobby which had worked

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119 The vote by which the companion bill to the Graves Indeterminate Franchise bill was defeated in the Senate, which was the vote by which the disposition of the Graves bill was decided was:

For the bill—Senators Anderson, Breed, Burnett, Chamberlin, Gates, Hart, Irwin, Johnson, Lyon, McDonald, Purkitt, Rominger, Sample, Scott, Shearer, and Yonkin, 16.

Against the bill—Senators Benson, Boggs, Brown, Canepa, Carr, F. M.; Carr, W. J.; Crowley, Dennett, Duncan, Evans, Flaherty, Harris, Ingram, Inman, Jones, Kehoe, King, Nealon, Otis, Rigdon, Rush, Sharkey, Slater, and Thompson, 24.

The writer, in this footnote and in the text, follows the official Senate Journal. His own notes indicate that it was the Graves bill A. B. 1085, 1919 series, itself that was voted upon and defeated, and the companion of the Graves bill (A. B. 1084), which was thereupon sent back to committee. Such, too, is the recollection of certain Senators who had awakened to the importance of the Graves measure.

for the defeat of the King bill labored for the passage of the Graves bills. Soon stories were current about the capital that amendments had been prepared which met the objections to the measures raised by city attorneys and others. When the bills came up in the Assembly Committee none appeared to oppose them. Supporters were present in force. These offered the amendments that were supposed to cure all defects. Adopting these amendments the committee sent the bill back to the Assembly with recommendation that it be passed. The Assembly did precisely what it had done two years before, passed the bill with a good margin above the necessary majority.[120]

By the time the bill reached the Senate, opposition developed just as it had at the 1919 session. This opposition found expression, when the bills came up for consideration in the Senate Public Utilities Committee.

H. A. Mason, speaking for the League of California Municipalities, stated that his organization was unalterably opposed not only to the bills but to the principle of the Indeterminate Franchise. T. E. Zant, representing the San Francisco Taxpayers' Association, took the same ground. Former State Senator William Kehoe pointed out the difference between the original

120 The vote by which the 1921 Assembly passed the Graves Indeterminate Franchise bill was:

For the bill—Assemblymen Badaracco, Badham, Baker, Beal, Benton, Bromley, Brooks, Burns, Christian, Colburn, Coombs, Eksward, Fellom, Fulwider, Graves, Gray, Greene, Hart, Hawes, Heck, Hornblower, Hurley, Jones, G. L.; Lee, G. W.; Lee, I. A.; Lewis, Loucks, Lyons, Manning, Mather, McCloskey, McDowell, McGee, McPherson, Mitchell, Morris, Morrison, Parkinson, Pedrotti, Prendergast, Roberts, Rosenshine, Ross, Spalding, White, and Windrem, 46.

Against the bill—Assemblymen Bernard, Broughton, Cleary, Heisinger, Hume, Long, McKeen, Parker, Saylor, Spence, Weber, Webster, Wendering, West, Wright, H. W., 15.

policy of the indeterminate franchise, and that which found expression in the bills.

"The original indeterminate franchise," said Kehoe, "could be terminated within a certain period of time, but the bills before the committee provide not for indeterminate franchises, but for perpetual franchises. If the public utility corporations get these perpetual franchises, the longer the time runs the more the People will have to pay to get public ownership. The larger they become, the more value they assume, and less will be the chance for the public to take them over. It is not up to us of the present generation to say posterity shall be tied up in this way. The corporations are not here because they expect the People will be given an opportunity, under this plan, to attain public ownership. They are here to get a permanent hold. These are vicious measures."

The committeemen present, it developed, stood six to three against the bills, as follows:

For bills—Senators Burnett, Lyon, and Yonkin.

Against the bills—Senators Carr, W. J., Inman, Johnson, Dennett, Harris, and Sharkey.

When the advocates for the bills found they could not get a favorable recommendation, they made the plea that the measures be sent back to the Senate without recommendation. Harris and Sharkey finally joined with Burnett, Lyon, and Yonkin, and the five, against the votes of Carr, Inman, Johnson, and Dennet, finally took that action.

The corporation lobby immediately redoubled its efforts to secure favorable action from the Senate. But

here they failed. They could not muster the required twenty-one affirmative votes. Wiser than they had been two years before, they did not permit either bill to come to vote. Both measures were eventually stricken from the file.

But the fight is not over. The program of the corporations calls for the forcing of the principle of what amounts to the perpetual franchise upon the State. The corporations failed to do this at the 1919 session; they failed at the 1921 session. But they will be on hand with their bill again at the 1923 session, and again at the 1925 session if they fail in 1923, until eventually, unless the public continue alert, they will elect a complacent Legislature which will put their program through.

CHAPTER XIV.

The Johnson Power Development Bill

While the representatives of the public utility corporations were laboring for the passage of the Graves Indeterminate Franchise bill, they were quite as actively opposing the so-called Johnson Power Development bill.[121]

This measure provided the machinery by which counties, municipalities, or districts, could unite for the development of hydro-electric power. The framers of the measure recognized that power development projects are often too large for a single community to undertake, but may be very satisfactorily handled by a group of communities. The extravagance and expensive financing of private corporation development have been shown in previous chapters, and need not be dwelt upon here. The object of the framers of the Johnson bill was to provide a way for the people of California to escape such extravagance. It was the first move in that direction to find expression in a proposed Act of the Legislature. As a forerunner of such legislation, the Johnson bill was one of the most important measures ever introduced in the Legislature of California.

The Graves Indeterminate Franchise bill considered

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121 The measure had been drawn by representatives of the League of California Municipalities. It was introduced by Senator M. B. Johnson of San Mateo County, and known as Senate Bill 397.

in the last chapter, taken with the Johnson Power Development measure, illustrated very well the two policies for hydro-electric development which are fast coming into conflict not only in California, but throughout the continent.

The Graves bills, in effect, gave the power companies perpetual rights. The argument was even heard about the lobbies that without such powers it was impractical for private corporations to finance the costly power development plans which are now proposed in California.

The Johnson bill, on the other hand, provided the machinery by which the public could sweep the waste and extravagance of private corporation development aside, and substitute for it the tried-out Ontario plan [122] of public development of power on the basis of sale at cost to the consumer.

The same motives which prompted the public utility corporations to oppose the Johnson bill induced their support of the Graves bill.

The Johnson bill was referred to the Senate Committee on Governmental Efficiency, of which W. J. Carr of Pasadena, associate of Francis J. Heney, the graft prosecutor, was chairman. At the committee hearing the side of the power companies was presented by Mr. Gardner Wood, a brilliant young man who

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122 There was nothing proposed in the Johnson bill that has not been tried out elsewhere and successfully. Under the Ontario plan, which the framers of the bill followed, two hundred cities and rural districts of Ontario, Canada, have escaped from the toll-exacting methods of privately owned public utilities, brought rates down as low as 2 cents a kilowatt hour for domestic lighting, and in eight years saved consumers $20,000,000 in their bills for electric energy.

had become active in California politics during the 1920 campaign.[123]

Mr. Wood's presentation does not appear to have been convincing. At any rate, the Committee sent the bill back to the Senate with the recommendation that it be passed.

But its opponents did not permit the measure to go to vote without a struggle. Senator F. A. Arbuckle of Ventura, on the day of its return to the Senate, moved its reference to the Senate Public Utilities Committee for further consideration. In this connection, it may be said, Senator Arbuckle was the only member of the Committee on Governmental Efficiency, the committee which had recommended that the Johnson bill be passed, who had voted against the King Tax Equalization bill.

Johnson opposed Arbuckle's motion vigorously. He denounced the move as "simply an attempt to delay the bill with a view to kill it."

Senator Arbuckle replied that the bill was revolutionary in character and should not be rushed. "The power companies," he added, "want to be heard on this bill."

"Mr. Gardner Wood, who said he represented the power companies," Johnson shot back, "was before the Governmental Efficiency Committee yesterday and after stating his objections declared he did not care for further hearing."

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123 Gardner Wood, during the 1921 session, was associated with Al Bartlett, former Assemblyman, who appeared at Sacramento in the interest of certain power companies. Mr. Wood was one of the organizers and prime movers in the so-called "Young Men's Republican Clubs," which will no doubt play an important part in the 1922 campaign.

"Mr. Wood," replied Arbuckle, "does not represent all the power companies. Mr. Al. Bartlett, who does represent them, has requested a public hearing on the measure."

This naive admission fixed the source of the opposition to the bill.

Senator Chamberlin of Los Angeles backed up Arbuckle, asserting that it was no more than fair for the Senate to consider Mr. Bartlett's request.

"Isn't Mr. Wood from Bartlett's office?" demanded Inman.

"Yes," responded Chamberlin, "I believe he is Bartlett's office boy. But I don't think we should seek to tie up the public service corporations on an office boy's action."

But in spite of this move against the bill, the Senate refused to delay it further, and by a vote of 14 to 19 defeated Arbuckle's motion.[124]

When the bill came up for final vote, a fortnight later, opposition to its passage had apparently ended. Chamberlin was the only member who voted against it.[125] But the power companies had not withdrawn

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124 The vote by which the Senate rejected Arbuckle's motion was:
For the motion and for delay—Senators Arbuckle, Breed, Burnett, Chamberlin, Gates, Godsil, Hart, Irwin, Lyon, McDonald, Purkitt, Rominger, Sample, and Yonkin, 14.
Against the motion and against delay—Senators Allen, Boggs, Carr, F. M.; Carr, W. J.; Crowley, Duncan, Eden, Flaherty, Harris, Ingram, Inman, Johnson, Jones, King, Nelson, Rigdon, Scott, Sharkey, and Slater, 19.

125 The vote by which the Johnson power bill passed the Senate was:
For the bill—Senators Allen, Boggs, Breed, Canepa, Carr, F. M.; Crowley, Dennett, Duncan, Eden, Flaherty, Godsil, Harris, Hart, Ingram, Inman, Irwin, Johnson, Jones, McDonald, Nelson, Osborne, Otis, Rigdon, Rush, Sample, Scott, Shearer, and Slater, 28.
Against the bill—Senator Chamberlin, 1.

opposition.[126] They proposed to defeat the measure in the Assembly, and did.

The Assembly Committee on Government Efficiency and Economy gave the measure the same treatment which the Senate Public Morals Committee of the old vice-corporation days used to accord measures that were adverse to gambling and allied interests; that is to say, refused to act on the bill one way or the other.

Assemblyman Parker accordingly led a fight to compel the Committee to return the measure to the Assembly. Forty-one votes were required for this. The bill's supporters managed to secure thirty-six,[127] five less than the number necessary.

Two days later Mr. Parker made a second attempt to get the bill back for consideration. This time[128]

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126 There was no concealment of this purpose. Al Bartlett, on the day after the bill passed the Senate, was quoted in the public prints as saying: "I do not think the Johnson bill is practical. I can see no way by which its provisions can be financed. We will ask a hearing in the Assembly committee to make a fight in the lower House."

127 The vote by which the first attempt to withdraw the Johnson power bill from committee was:

For withdrawal and for the bill — Assemblymen Bernard, Broughton, Christian, Cleary, Cleveland, Crittenden, Cummings, Heisinger, Hughes, Hume, Johnson, Johnston, Jones, I.; Lewis, Lyons, Mather, McCloskey, McDowell, Merriam, Morris, Parker, Parkinson, Powers, Prendergast, Roberts, Rosenshine, Ross, Saylor, Schmidt, Smith, Spalding, Webster, West, Windrem, Wright, H. W.; Wright, T. M., 36.

Against withdrawing and against the bill—Assemblymen Anderson, Badaracco, Badham, Baker, Beal, Benton, Bishop, Bromley, Brooks, Burns, Colburn, Coombs, Eksward, Fellom, Fulwider, Graves, Gray, Greene, Hart, Hawes, Heck, Hornblower, Hurley, Jones, G. L.; Kline, Lee, G. W.; Long, Loucks, Manning, McGee, McKeen, McPherson, Morrison, Pettis, Ream, Spence, Stevens, Warren, Weber, and Wendering, 40.

128 The vote by which the second attempt to withdraw the Johnson power bill from committee was lost was:

For withdrawal and for the bill—Assemblymen Anderson, Bernard, Broughton, Christian, Cleary, Cleveland, Colburn, Crittenden, Cummings, Heisinger, Hughes, Hume, Johnson, Johnston,

thirty-seven affirmative votes were secured, four less than the required number.

After this defeat the bill's supporters made no further attempt to get it out of committee.

In this way was the Johnson Power Development bill defeated.

Twelve years before, at the 1909 session, legislation no more advanced for the times than was the Johnson Power bill for 1921 was defeated on margins as narrow. Two years later, at the 1911 session, all progressive measures defeated in 1909 were enacted into law.[129]

That California will not much longer tolerate the present exploitation of her hydro-electric power resources goes without saying.

Jones, I.; Lee, I. A.; Lewis, Mather, McCloskey, McDowell, McKeen, Parker, Parkinson, Powers, Prendergast, Roberts, Ross, Saylor, Smith, Spalding, Spence, Weber, Webster, West, Windrem, Wright, H. W.; Wright, T. M., 37.

Against withdrawal and against the bill—Assemblymen Badaracco, Badham, Baker, Benton, Bishop, Bromley, Brooks, Burns, Coombs, Eksward, Fellom, Fulwider, Graves, Gray, Hart, Hawes, Heck, Hornblower, Hurley, Jones, G. L.; Kline, Lee, G. W.; Loucks, Lyons, McGee, Mitchell, Morris, Morrison, Ream, Rosenshine, Stevens, Warren, Wendering, and White, 34.

129 See Stories of the California Legislature of 1909 and 1911.

CHAPTER XV.

The Attacks on the Initiative

The ten years' opposition to direct legislation, which had begun immediately after the adoption of the initiative, referendum, and recall amendments to the State Constitution in 1911, found expression at the 1921 session in the introduction of four constitutional amendments, one proposed law to limit the use of the initiative, and a Senate resolution calling for an investigation of the application of the principle of the initiative in other States. All were defeated, the Senate resolution being the only one of the six propositions to come to a vote. In defeating these measures the Legislature, as had been done at other sessions, upheld the decision repeatedly expressed by State-wide vote that the people of California are well satisfied with their experience with direct legislation, and overwhelmingly opposed to anything that savors of limitation of its use.

California labored for a quarter of a century to gain the initiative; for ten years the State has fought reactionary, vice and other exploiting interests to hold it. There are indications that the fight is to go on. But gradually, in spite of this opposition, the initiative is becoming as firmly fixed in our governmental plan as suffrage, or trial by jury.

A brief outline of the attacks on the initiative during the last ten years will enable us to appreciate the significance of the attempts made at Sacramento at the 1921 session to limit its application.

Under the thirty years' control of State affairs by the corporation-vice-controlled political organization, popularly known as the "Southern Pacific Machine," [130] which followed the adoption of the State Constitution of 1879, the dominating political group, recognizing that under the initiative their control would be broken, cleverly opposed all forms of direct legislation, denouncing all who advocated it as dreamers and "anarchists." Nevertheless, direct legislation gained in popular favor, until by 1908 there was strong demand that amendments to the State Constitution providing for the initiative, referendum, and recall be submitted to the electors.

The 1908 Democratic State Convention adopted a plank pledging the party to such submission, while civic organizations throughout the State unqualifiedly endorsed the principle. Nevertheless the Democratic leaders in the 1909 Senate joined the various interests that opposed the initiative amendment that was pro-

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130 So-called because the Southern Pacific Railroad Company was the most important corporation concerned, and dominated the organization. Affiliated with it were most of the other public service corporations of the State, and the gambling, liquor-dealing and prostitution-exploiting groups. During this regime, the principal banks of the State came openly to the defense of the most vicious forms of gambling; trust companies invested trust funds in assignation houses; as part of their loot at Sacramento the vice interests were permitted to dominate Committees on Public Morals, while the various vice interests never failed the corporations at the polls or in legislative bodies. The last Legislature to meet under this system was that of the Session of 1909. See "Story of the California Legislature of 1909."

posed at that session. The efforts of its proponents to have it put to popular vote failed.[131]

The initiative was but one of the popularly demanded reforms defeated in the 1909 Legislature. Out of these defeats, and the accompanying flounting of public opinion, came the political uprising which at the 1910 primaries led to the complete overthrow of the so-called "Southern Pacific Machine," and the nomination, and later election, of Hiram W. Johnson, Governor, and a Legislature thoroughly committed to progressive policies.

Chief among these policies were that of the right of the people to initiate laws independent of the legislative branch of government, and that of giving the people a check on laws which the legislative branch might enact—the referendum. In accordance with the popular demand, both the Republican and Democratic State conventions in 1910 adopted planks calling for submission to popular vote of initiative and referendum amendments to the State Constitution.[132]

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131 For complete account of the defeat of the 1909 Initiative Amendment, see "Story of the California Legislature of 1909." The chapter on the Initiative closes with the following paragraph: "Senators Curtin and Miller, in spite of their party's endorsement of the policy, expressed themselves as 'scandalized' at such an idea as the Initiative. But as good men as Miller and Curtin were scandalized at the idea of abolition of slavery in 1860, only to become the most earnest supporters of the Emancipation Proclamation three years later. Reform waves, like the Atlantic Ocean, are not kept back with brooms—or Gus Hartmans." Two years later, in 1911, the Legislature by a vote of 106 to 1 submitted the Initiative and Referendum to the electors. The electors by a vote of 3 to 1 adopted both.

132 The Republican platform called for "The submission to the people of constitutional amendments providing for direct legislation in the State and in the county and local governments, through the initiative, the referendum and the recall." The Democratic platform called for "The initiative, referendum and recall in State and local governments."

Governor Johnson, in his inaugural address, urged upon the Legislature that it could best assist the people to arm themselves against such organizations of vice and greed as the "machine" which they had overthrown, by adopting the initiative and referendum.[133] The Legislature with but one dissenting vote, that of Senator Leroy A. Wright of San Diego, adopted a constitutional amendment to that end. The electors by a vote of 168,744 to 52,093 endorsed the Legislature's action. Thus was the safeguard of initiative and referendum reserved to the people of California.[133a]

But with the weapons of initiative and referendum in their hands the people temporarily had little need of them. With the cleaning out of the State govern-

133 "When," said Governor Johnson, "with your assistance, California's government shall be composed only of those who recognize one sovereign and master, the people, then is presented to us the question of, How best can we arm the people to protect themselves hereafter? If we can give to the people the means by which they may accomplish such other reforms as they desire, the means as well by which they may prevent the misuse of the power temporarily centralized in the Legislature and an admonitory and precautionary measure which will ever be present before weak officials and the existence of which will prevent the necessity for its use, then all that lies in our power will have been done in the direction of safeguarding the future and for the perpetuation of the theory upon which we ourselves shall conduct this government. This means for accomplishing other reforms has been designated the 'initiative and the referendum,' and the precautionary measure by which a recalcitrant official can be removed is designated the 'recall.' And while I do not by any means believe the initiative, the referendum, and the recall are the panacea for all our political ills, yet they do give to the electorate the power of action when desired, and they do place in the hands of the people the means by which they may protect themselves. I recommend to you, therefore, and I most strongly urge, that the first step in our design to preserve and perpetuate popular government shall be the adoption of the initiative, the referendum, and the recall. I recognize that this must be accomplished, so far as the State is concerned, by constitutional amendment. But I hope that at the earliest possible date the amendments may be submitted to the people, and that you take the steps necessary for that purpose. I will not here go into detail as to the proposed measures."

133a See Story of the California Legislature of 1911, Chapters VII, VIII, IX, and X.

ment of vice-corporation control, the people secured the advantage of a representative Legislature in sympathy with their purposes, and responsive to their will. Legislators who met the public demand by submitting the question of adoption of the initiative and referendum to popular vote, gave favorable consideration to other policies which the people had been long demanding. Thus, when it was made possible for the people to make the policy of the initiative part of the fundamental law of the State, they found it was practical to secure through the Legislature reforms which the machine-controlled Legislature had failed to grant. Resort to the initiative was, therefore, unnecessary. With such Legislatures as had sat in California up to 1909, the public, had they had the initiative, would unquestionably have employed it to correct the abuses of the election laws, to curb the exploiting corporations, to give State-provided textbooks to public school children, to outlaw race-track gambling, to establish the direct primary, reforms which had long been demanded, but which the vice-corporation interests in control of the Legislature had denied. But with the weapon of the initiative the public found the Legislature by practically unanimous vote providing for such reforms.[184] This was particularly true of the Legislatures that sat in 1911, and 1913; not quite so true of the Legislature of 1915. With the steady gains of the old vice-corporation elements, acting under new names, and not infrequently under camouflage of public spiritedness and patriotism, the people have found the

[184] See Story of the California Legislature of 1911, and of 1913.

Legislature less responsive to their will, until, at the 1921 session, while the vice-corporation interests were not quite strong enough to put through bad legislation, they could, and did, block good legislation. Measures thus blocked in the 1921 Legislature will, by means of the initiative, be given place on the 1922 ballot.[135]

While the good citizenry of California with legislative representation responsive to its will had little need for the initiative and referendum during the half decade following the 1910 overthrow of the "machine," the vice-corporation interests, which had lost control of the State government, resorted to both initiative and referendum to defeat the reforms which were finding expression in law. Thus, we find the gamblers who had for a decade prior to 1911 controlled public morals committees of the Legislature, resorting to the initiative to restore race-track gambling, which had been outlawed by the Walker-Young anti-gambling law of 1911, while the tenderloin interests employed the referendum in an effort to defeat the 1913 Redlight Abatement Act. In the same way the corporations invoked the referendum against such measures as the Water Commission (Conservation) and the Investment Companies (Blue Sky) Acts passed by the Legislature of 1913.

But a lesson in democracy was in store for the reactionary interests. Repeatedly it was demonstrated that they could not control the vote of upwards of a million American citizens as they had controlled the vote of a Legislature of 120 members. They could

135 The Water and Power Act, providing for State development of hydro-electric power, is a good example of this. The 1921 Legislature defeated such legislation. See Chapter XIV. Public-spirited citizens have placed this measure on the ballot under the initiative.

invoke the initiative to put a bad law on the statute books, and did; they could and did invoke the referendum to defeat good laws passed by Legislatures truly representative of the people. But they could not get a majority of the people to vote for a bad law or against a good one. The vicious pro-gambling measure of 1912 was defeated with a majority of more than 200,000 against it, while the Redlight Abatement measure, the Conservation Act, the "Blue Sky" law, and other good measures which had been put to the test of the referendum, were upheld at the polls by substantial majorities.

On the other hand, where the exploiters of vice and public service had the initiative directed against them, they found themselves unable to stand against aroused public interest and the educational possibilities of State-wide campaigns. Thus, the Anti-Prize Fight Act, which had by narrow margin failed of passage at the 1913 legislative session, placed on the ballot under the initiative, became law by popular vote in 1914, while the State majority against prohibition, because of the campaigns of education which the initiative made possible, fell from 168,745 in 1914 to 101,561 in 1916 and 30,845 in 1918.[136]

Repeated demonstration that the State's citizenry could employ the machinery of direct legislation successfully against the vicious and exploiting elements of society, while every attempt to employ it against

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136 As a direct result of the three State-wide educational campaigns for prohibition, 1914-1916-1918, which without the initiative could not have been made, the majority of the 1919 California Legislature, pledged to national prohibition, ratified the Eighteenth Amendment.

the State's interests failed, has, as the years have passed, increased the opposition of the reactionaries who would restore the conditions that prevailed prior to the overthrow of the "Southern Pacific Machine" in 1910.

From the day of their defeat at the primary polls in August, 1910, the reactionary elements began their planning to get back into power. The principal barriers in their way are the direct primary, the referendum, the recall, the initiative. Of the four, the initiative has been found to be the most important arm of the people against vice, special privilege, extortion, and the corruption that comes from the political combination of the three. The people might lose all the others, but so long as they retain the initiative they have the power to regain them by their own petition and own vote, regardless of who may control their Legislature.

It is not surprising, therefore, that the reactionary forces' most aggressive resistance to democracy in California has found expression in opposition to the initiative. Their campaign has been to discredit the initiative, to limit it, to increase the difficulties of its use, until it shall be made impractical. The objective of most of their attacks has been to limit its use in some particular. If the people could be denied the right to initiate laws affecting the liquor traffic, or prize-fighting, or taxation, such limitation could and would be used as a precedent to force other exemptions until the State would have the initiative in name but not in fact. To that end repeated attempts have been made to associate the initiative in the public mind with unpopu-

lar policies. In this the reactionaries have been uniformly unsuccessful.

The first serious attempt to limit the initiative came at the general election in 1914, three years after its adoption.

The anti-liquor forces had initiated a constitutional amendment providing for State prohibition. Prohibition was at the time most unpopular in California. The alert reactionary element thought they saw in this prohibition amendment opportunity to place the initial limitation upon the initiative.

They joined with the extreme pro-liquor groups in putting a constitutional amendment on the ballot, which provided that the initiative, on all issues involving the liquor traffic, should be suspended for eight years.

The votes on the prohibition amendment, and on the proposal to suspend the use of the initiative for prohibition measures for eight years, gave the reactionaries their first startling lesson in what direct legislation really means.

More than half a million (524,781) voters cast their ballots against prohibition; only 355,394 voted to prevent initiation of prohibition laws. Prohibition was defeated with a majority of 168,745 against it; the proposition to limit the initiative on prohibition questions was defeated by a majority of 80,307. The people of California did not, in 1914, want prohibition; they were equally opposed to giving up their right to vote on the question of prohibition whenever they might see fit so to do.

Failing to limit the initiative by direct vote of the people, the opponents of the principle appealed to the Legislature. When the 1915 session convened several acts and constitutional amendments calculated to discourage the use of the initiative were introduced.

Certain abuses had developed in the circulation of direct legislation petitions. That these abuses should be met if possible was recognized by the friends of the initiative,[137] but they did not propose that, on the excuse of correcting abuses, the initiative should be loaded down with hampering limitations and restrictions. They urged that instead of tinkering with the constitutional provisions governing direct legislation, the Legislature should clearly define the crimes arising from its fraudulent application, and fix definitely the duty of prosecuting officers in such cases. This policy eventually prevailed, and several measures providing adequate penalties for fraudulent circulation of petitions, perjury committed in connection with them,

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137 Governor Johnson in his 1915 biennial message to the Legislature called attention to these abuses. "It would be idle to deny," he said, "that certain abuses (of the initiative, referendum and recall) have arisen just as abuses in the early trial of new policies ever will arise. It is our duty to remedy those abuses, if possible, and therefore, I direct your attention to the fact that solemn acts of the Legislature have been held up and presented to the people by referendum upon petitions that in part, at least, were fraudulent. The Fish and Game bill was passed by the Legislature, signed by the Governor, and received the solemn sanction that the Constitution requires for the making of a law. A referendum petition was presented against this bill, part of which was founded upon rank forgery. The referendum of the Redlight Abatement bill was in part composed of forged signatures. It is stated that the first (second) recall petition presented against Senator Grant in San Francisco likewise had upon it many forged signatures. The initiative and referendum are the very highest prerogatives of the people. To permit their use through fraud or forgery is to pollute at its very source our government. So scandalous were the frauds upon the referendum petitions, that some months ago I asked the Attorney-General to investigate them and to take charge of cases pending in San Francisco."

etc., became laws.[138] On the other hand, hampering measures, such as Assembly bill 16 (1915 series), which tended to increase the difficulties of circulating direct legislation petitions, were defeated. The same action was taken on Assembly Constitutional Amendment 32, which, had it been adopted, would have eliminated from the initiative provisions of the Constitution the sections under which hampering restrictions on the initiative by legislative enactment are virtually prohibited.

Up to this point, the 1915 Legislature consistently followed the policy to reject all limiting measures. Departure from this policy was taken, however, in the case of Senate Constitutional Amendment 22.

This measure proposed an amendment to the initiative provisions of the State Constitution to require a two-thirds vote to carry any initiated measure proposing a bond issue. As the initiative stood, a majority vote only was required.

This move against majority rule attacked the initiative at its weakest point. For years, in local bond elections in California, a two-thirds vote had been required to establish a bonded indebtedness. The public had been educated up to the idea that to carry bonds, a two-thirds vote was necessary. The supporters of the proposed change urged this in behalf of their measure, and were successful. Not a Senator when the measure came to vote voted in the negative, although the measure received only the twenty-seven votes necessary in the Senate for its passage. Fifty-six Assembly-

138 See Story of the California Legislature of 1915, Chapter IX.

men voted for it, and only eight against it.[139] With this showing, the proposed change was submitted to the people.

And the people voted it down, showing by substantial majority, as they had the year before when the question of restricting the use of the initiative on the question of prohibition had been submitted to them, that they opposed any change in the initiative which limits or hampers free expression by the majority.

The opponents of democracy,[140] during the year

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139 The vote by which Senate Constitutional Amendment 22 (1915 series) was adopted was:

In the Senate—For the amendment—Anderson, Ballard, Beban, Benedict, Birdsall, Butler, Campbell, Carr, Chandler, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Irwin, Jones, Kehoe, King, Luce, Lyon, Mott, Shearer, Slater, Stuckenbruck, Thompson, and Wolfe, 27.

Against the amendment—None.

In the Assembly—For the amendment—Anderson, Ashley, Bartlett, Beck, Benton, Boude, Brown, Henry Ward, Brown, M. B.; Bruck, Burke, Canepa, Chenoweth, Conard, Edwards, L.; Edwards, R. G.; Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Hawson, Hayes, D. R.; Hayes, J. J.; Johnson, Judson, Kennedy, Kerr, Kramer, Long, Lostutter, Lyon, McDonald, J. J.; McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phelps, Phillips, Ream, Rigdon, Ryan, Salisbury, Scott, F. C.; Scott, L. D.; Sharkey, Sisson, Tabler, Widenmann, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young, 56.

Against the amendment—Boyce, Downing, Harris, Pettis, Quinn, Schmitt, Shartel, and Spengler, 8.

140 The expression "opponents of democracy" may have a curious ring to those who have heard so much about America's purpose in entering the World War "to make the world safe for democracy." Nevertheless, important groups that are opposing the initiative now openly spread propaganda to the effect that America may soon be fighting "to make the world **unsafe** for democracy." The so-called Better America Federation, whose part in the attempted defeat of the King tax bill has already been considered, is, for example, active in the distribution of such propaganda. The "Better America Federation" was originally known as the Commercial Federation of California. Recently, it changed its name without change of directors or officers. H. (Harry) M. Halderman of Los Angeles, president of the Commercial Federation, went right on as president of the Better America Federation. There was in the change of name no change in policies, aims, or purposes. In its weekly letter No. 44 to members, under date of April 26, 1920, signed by the Commercial Federation of California, by H. M. Halderman, President, "the Federation recommends Leslie M. Shaw's 'Vanishing Landmarks' for its 100 per cent Americanism," and announces a campaign to raise $20,000 to place

following the defeat of the proposal that a two-thirds vote should be required for the adoption of an initiative measure providing for a bond issue,[141] carried on an extraordinary publicity campaign against everything that savored of direct legislation. As always, the attempt was made to associate the initiative with unpopular conditions and policies.

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the book in the hands of every school teacher in California. Shaw was formerly Governor of Iowa. The quality of the "100 per cent Americanism" which the Federation recommends and would force upon California school teachers, is, of course, best shown by Governor Shaw's book itself. Governor Shaw is no lover of democracy, nor of those important instruments of democracy, the initiative, referendum and recall. His peculiar views are set forth in "Vanishing Landmarks." On page 53 he demands, "Why do liberty-loving Americans seek to divorce the word 'democracy, from its original meaning and popularize the greatest enemy liberty has ever known?" On page 43, Governor Shaw tells us: "Legislating by initiative or by referendum, the recall of judges, and especially the recall of judicial decisions, come dangerously near constituting a democratic form of government, against which the Constitution of the United States guarantees." The Governor opens his book with, "The Fathers created a republic and not a democracy," and concludes his first chapter with, "Unless we speedily give heed we shall be fighting to make America unsafe for democracy. Then we may have difficulty in explaining that we have meant all these years a very different thing than our language has expressed." The word in black type is Governor Shaw's. Governor Shaw, in 1920, stumped California, as the principal speaker in the campaign carried on in the futile attempt to shake the confidence of the people of California in democracy and direct legislation.

141 During the ten years that the initiative has been in force in California, but one issue of State bonds has been proposed under it. This bond issue was not initiated by what such institutions as the Farmers and Merchants National Bank of Los Angeles would designate by the mild term "mob democracy" (see monthly financial letter of that bank, July 15, 1916), but by the Regents of the University of California to carry out the building program of that institution. In its wildest flights of political imagining, the Farmers and Merchants National Bank of Los Angeles would scarcely refer to the Regents of the University of California as representing a "mob democracy." Nevertheless, the Regents very gladly availed themselves of that instrument of democracy, the initiative, to increase the bonded indebtedness of the State, a thing which no other citizen or group of citizens had up to that time so much as suggested. The Bond Act initiated by the Regents provided for a bond issue of $1,800,000. It carried (1914 election) with a vote of 413,020 for it to 239,332 against it, showing the overwhelming support of the so-called "mob" for the measure. With the total vote cast on this issue, 652,352, under the two-thirds rule, 434,901 affirmative votes would have been required to carry the measure, and it would have been defeated by falling more than 20,000 votes short of two-thirds.

While direct legislation is popular, for example, a high tax rate is not. The opponents of the initiative, therefore, abandoned frontal attacks upon it, and sought by indirection to discredit it with the people, by boldly asserting that the initiative was responsible for high taxes. This propaganda took many forms, from the "whisper" at social gatherings, to newspaper "news items" and editorial articles. Most significant was that which came from certain banks and trust companies.[142]

"Two of the most frightful sources of public expense," says the Farmers' and Merchants' National Bank of Los Angeles,[143] in its monthly financial letter for June, 1916, "are the initiative and the referendum. Wipe these off the slate as a starter towards economy! . . . . We changed our government in the twinkling of an eye to a mob-democracy. Its workings have not been successful."

The following month the bank in its financial letter for July carried this idea a little further. "If," reads this letter, "you honestly desire to reduce taxation, use your most strenuous efforts to do away with the direct primary, the initiative, the referendum, and the recall. They are useless and expensive adjuncts of our form of government."

As a result of this opposition to the initiative,

142 See report on Sources of Political Corruptions, issued by San Francisco Board of Supervisors in 1910, where a trust company had invested trust funds in a five-story assignation house at San Francisco, the plans for this dive having been passed upon by the officers of the trust company prior to the investment of the trust funds.

143 At the time this financial letter was issued June 15, 1916, the officers of the Farmers' and Merchants' Bank of Los Angeles were Isaias W. Hellman, President; J. A. Graves, Vice-president; I. W. Hellman Jr., Vice-president. This is the same Graves who took so important a part in the opposition to the King tax bill.

ranging from underworld elements that found direct legislation a menace to their free activities, to National Banks, several constitutional amendments to limit the initiative were introduced at the 1917 session of the Legislature.

Assemblyman Leo R. Friedman of San Francisco proposed what he termed "a counter petition" [144] under which after 8 per cent of the voters had petitioned to put a measure on the ballot, the opponents of the measure, by a counter petition of 10 per cent of the voters, could keep the proposed law off the ballot. Under such an arrangement, the use of the initiative could have been blocked by one-tenth of the voters of the State. This Friedman measure, after being repeatedly amended, was sent back to the Committee on Constitutional Amendments. The Assembly took no further action upon it.

Although it did not come to a vote, Senate Constitutional Amendment No. 12, introduced by Senator Arthur H. Breed of Alameda County, providing that the initiative and referendum "shall not be used to enact or annul any law providing any method of

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144 Assembly Constitutional Amendment 17 (1917 series). Mr. Friedman was elected from the Thirty-third Assembly district, which covers the so-called uptown and downtown tenderloins of San Francisco. Mr. Friedman also proposed the same counter-petition limitation for Recall elections (Assembly Constitutional Amendment 18). This measure came to vote and was defeated. Out of an Assembly of 80 members, only 14 voted for it. They were Assemblymen Ashley, Baker, Bartlett, Burke, Calahan, Eksward, Farmer, Godsil, Goetting, Hudson, Madison, Prendergast, Tarke, and Watson. Mr. Friedman was also the author of Assembly Constitutional Amendment No. 54, which provided "for the formation of segregated districts within which prostitution may be licensed and permitted." Needless to say, Mr. Friedman's plan for legalizing prostitution by amendment of the fundamental law of the State received no better support than his attempt to limit the initiative.

assessment, or for the levy of any tax in this State," was important, inasmuch as it was the first serious attempt made to influence the public to withdraw the safeguard of the initiative from issues involving taxation on the ground that such course must be taken "to save the State from the Single Tax."

For the next four years, this was to be the principal basis of attack. The initiative had been demonstrated to be popular; Single Tax measures had repeatedly been defeated at the polls by large majorities. The opponents of the initiative, by asking the public to exclude taxation measures—notably measures providing for the Single Tax—from popular vote, were striking at the initiative at probably its least popular and, therefore, weakest point.

The supporters of the initiative were quick to see to what the Breed amendment was leading. Through the Direct Legislation League they called the attention of the members of the Legislature to the fact that the measure struck at the very root of popular self-government.[145] After this exposure, not a dozen mem-

145 The League's letter to Senator Breed, under date of March 23, 1917, read: "The Direct Legislation League of California desires me to call your attention to the fact that S. C. A. No. 12 takes away from the people the most important right of self-government which they possess, namely: the power of control over taxation. This strikes at the very root of popular self-government. Practically all historic struggles for liberty, including the English Revolution, the French Revolution, and our own American Revolution, have centered about the question of the people's control over taxation. On account of your past splendid record, the League believes that in this instance you have merely failed to realize fully the great consequences that such an amendment, if adopted, would bring about. We know that you are not influenced by interested motives, and that you are absolutely honest in supporting it; but we wish to say that if the amendment be adopted by the necessary majority in both Houses, it will be overwhelmingly defeated, in our opinion, at the polls, because of the numerous classes of citizens who oppose any curtailment of the powers of self-government. The Prohibitionists,

bers of the 1917 Legislature could have been induced to vote for Senator Breed's measure. It did not leave the committee to which it had been referred.[146]

During the two years which followed adjournment of the 1917 Legislature, the campaign against the initiative continued from the same quarters, namely, at one extreme from the underworld that saw its sources of revenue from liquor selling, prostitution, and prize-fighting open to constant popular attack; and, at the other extreme, from the so-called special interests

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the Labor people, the Socialists, the Single Taxers, a large proportion of the Progressives, who do not belong to any of the above classes, the Direct Legislationists, and many others, will oppose the amendment to a man. We sincerely hope that you will see fit to withdraw your measure, as we do not wish to be compelled to make a State-wide fight against it, which would be necessary if it be submitted. There are so many other important matters that deserve our attention and aid that we do not wish to diffuse our energies unnecessarily. Therefore, we hope that you will withdraw it and oppose all other measures which may be introduced looking towards the abridgement of any of the powers which the people now exercise by reason of the constitutional provisions which they possess in the initiative, referendum, and recall."

146 Four other constitutional amendments to limit the initiative were introduced at the 1917 session. None of them was adopted and none of them was seriously considered. They were Assembly Constitutional amendments 26 and 36 and Senate Constitutional amendments 5 and 35. The only one of the four to come to a vote was Assembly amendment 26. Of the 80 members of the Assembly, 29 only voted for it, 54 votes being required for its adoption. The 29 who voted for the amendment were: Anderson, Arnerich, Ashley, Byrne, Calahan, Collins, Edwards, Eksward, Friedman, Gebhart, Gelder, Goetting, Green, L.; Greene, C. W.; Harris, Hawes, Hayes, D. R.; Hayes, J. J.; Hilton, Johnstone, J. W.; Kylberg, McCray, Madison, Manning, Marks, Mathews, Morris, Rose, and Vicini. The amendment had been introduced by Assemblyman Gelder of Berkeley and provided: "Hereafter no bill, act, resolution or petition, intended to be enacted into law, or amendment to this constitution, shall be presented to the voters of this State for their ratification, approval or rejection, whether the same be the initiative or otherwise, nor shall the legislature enact any general law, controlling, regulating or prohibiting, the selling, dividing or giving away of any alcoholic, vinous or malt liquors or admixtures thereof or limiting in anywise the places wherein such liquors or admixtures thereof shall or may be sold, divided or given away, or in anywise affecting, regulating or controlling the general business of selling, such liquors or admixtures thereof throughout this State."

intent upon cinching their monopolies upon the various public utilities and the free exploitation thereof. Neither group could feel quite secure, so long as the people were able, independent of the Legislature, to pass laws and amend the State Constitution.

The opposition from the so-called special interests crystallized into the plan which had its beginning in the Breed amendment of 1917, to take from the people their power to initiate measures relating to taxation. The anti-initiative campaign along this line was by this time being conducted by the so-called "People's Anti-Single Tax League." The announced purpose of this organization was to protect the State from the advocates of the Single Tax. The organization's contention was that unless the initiative were limited on matters affecting taxation, the Single Tax would constitute an everthreatening menace to the State.

But before settling down to this policy the People's Anti-Single Tax League's attack on the initiative had been on a broader basis.

Late in 1917 the organization distributed literature proposing that when an initiated measure "is defeated by a vote of 4 to 3 it cannot be submitted again for eight years; when defeated by a vote of 3 to 2, it cannot be voted on again for twenty years; and when defeated by a vote to 2 to 1, it is settled for all time"; that is to say, when any proposition had been defeated by a two to one vote the initiative could never again be invoked to present it to the people.

Before the 1919 Legislature convened, the People's Anti-Single Tax League had settled down to the

policy that the initiative must be limited in matters affecting taxation, as "protection against the Single Tax."

Here, again, the opponents of the initiative set up most effective opposition. The initiative is popular; Single Tax measures on the other hand had been defeated repeatedly by overwhelming majorities. If the label "Single Tax" could be fastened to the initiative it would be discredited with a large percentage of the voters of the State.[147] From the opening of the 1919 Legislature down to the present writing the settled policy of the People's Anti-Single Tax League and other opponents of the initiative has been to associate the Single Tax with the initiative. In this, as the sequel will show, in spite of its well-financed propaganda, the anti-initiative organization has met with signal failure.

When the 1919 Legislature met, the two groups opposing the initiative lined up against it precisely as they had done two years before.[148]

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147 At the 1916 election, the vote for the single-tax measure was 260,332, while the vote against it was 576,533. At the 1918 election, over 300,000 electors were kept away from the polls because of the influenza epidemic of that year. The vote on any measure at the 1918 election is therefore only suggestive. The vote for the single-tax act fell to 118,088, while the vote against it was 360,334, more than 3 to 1 against it.

148 Before the 1919 Session of the Legislature convened, the ever-watchful Direct Legislation League fully informed itself of the plans of the so-called Anti-single Tax League. Through the president of the Direct Legislation League, Dr. John R. Haynes of Los Angeles, every member of the Legislature was warned as to the attack that was contemplated on the initiative. The following is a copy of President Haynes' letter to the members of the Legislature: "The Anti-single Tax League has drafted an amendment to the State Constitution, which it is going to ask the incoming Legislature to submit to the people at the next general election. This proposed amendment would increase the percentage of signatures required for initiative petitions in measures relating to taxation, at present 8 per cent of the votes cast

The underworld interests, however, found themselves with a new grievance and a new issue.

Ratification of the Eighteenth Amendment had removed prohibition from initiative possibilities. There

for all candidates for Governor, at the next preceding election to 25 per cent. It is not necessary for me to tell you that such a proposal is contrary to the whole spirit of popular government. Its advocates point out that the increased percentage is limited to measures affecting taxation; but if the practice of tinkering with our constitutional provisions for direct legislation is once begun, all manner of fettering restrictions will soon be brought forward, and presently these instruments of popular government will become so difficult to use that the provisions will be virtually null and void. Further, although the proposal applies only to taxation, all students of government recognize the fact that the power to tax is the most essential function of government. Almost every revolution in history, including the English and American revolutions, originated in disputes relating to this very question of the power of imposing taxes. To take away the power of the people to originate measures of taxation means practically to take away the most essential of their powers of direct self-government. Before the last election, 72,000 signatures were required on initiative petitions. The number of electors casting their ballots at the last election was the smallest in many years, due to a combination of several factors; one that it was not the presidential election year; another, that the epidemic of influenza caused people to avoid crowds; and, third, the fact that very large numbers of men were in enlistment camps and prevented from voting. On account of this small vote, the number required on initiative petitions for the next two years will be only 55,000. After that time, however, under normal conditions and considering the natural increase in population, the number of signatures required under the present provisions of the constitution will probably approximate 100,000. So that, if the increase proposed in matters of taxation should be incorporated into the constitution, it would mean that in a few years at least a quarter of a million signatures would be required on such petitions. Anyone conversant with public affairs understands that such a requirement would make the use of the initiative absolutely impossible, excepting in the case of large corporations with many employes and plenty of money. I did not favor or vote for the Single Tax measure placed on the last ballot; nevertheless, I believe that the large landed estates in California must in some way be broken up. At present they are contributing little or nothing to the urgent need for food products and they are preventing the incoming of settlers who would make those landed areas their homes. It may be that the people may decide to put on the ballot some scheme of graduated land tax such as is in use in Australia, by which large holdings pay a higher rate of tax. If the people want to do this, they should have the right. The Anti-single Tax League originally proposed that when a measure placed on the ballot by the initiative was defeated by a certain majority, that it could not be placed again upon the ballot by the same percentage of signatures until the expiration of four years, an earlier circulation requiring a higher percentage. Now, I am opposed to curbing the power

was not, therefore, any attempt made to limit the initiative, as had been done in 1917, on questions affecting the liquor traffic. Redlight abatement had by this time become the settled policy of the State. There was therefore no move to safeguard prostitution against initiative attack. However, the people had, in 1914, through the initiative, outlawed prize-fighting. With other sources of revenue cut off, underworld interests had begun to turn to prize-fighting to recoup their losses. But the initiative law of 1914 stood in the way. Their special concern, therefore, was to have prize-fighting made immune from initiative attack. A constitutional amendment was introduced in both the Senate and Assembly which practically nullified the Initiative Act of 1914, under which prize-fighting had been outlawed.

The opposition of the interests represented by the so-called Anti-Single Tax League took the form of a constitutional amendment,[149] introduced by Senator Egbert J. Gates of Los Angeles.

Senator Gates was the seat-mate and close associate of Senator Breed, who two years before had intro-

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of the people in any way or form; but the proposal just mentioned is certainly much fairer than the one they are now promoting. I hope that you will do everything you can to prevent the submission of the proposed amendment. I realize that their proposal could never carry in the general election; but it would prevent the people concentrating their attention on other important matters, and the submission would be hailed by Eastern reactionary journals as an evidence that California, hitherto the leader in progressive movements, had become tired of direct legislation, and a totally false impression would be created, which would not be removed by the defeat of the proposal by the people."

149 Senate Constitutional Amendment 5 (1919 Series). The same measure was introduced in the Lower House by Assemblyman Baker of Los Angeles, but was not pressed there, although Baker was one of the most earnest advocates of the policy proposed.

duced the so-called Breed amendment considered above. But the Gates amendment differed from the Breed amendment in this; namely, that while the Breed amendment took the direct course of limiting the initiative in matters of taxation definitely prohibiting such use, the Gates amendment attempted the same thing by indirection, by requiring a 25 per cent petition to initiate any measure dealing with taxation. The petition required under the California initiative is 8 per cent. A 25 per cent petition would necessitate more than a quarter of a million signatures. Such a requirement is clearly prohibitive. Under the Gates measure, the initiative could no more have been used on issues affecting taxation than it could have been under the Breed amendment which definitely prohibited such use.

The fight to nullify the Anti-Prize-fight law by constitutional amendment was confined to the Assembly. The measure to that end was one of the most curious ever offered in the California Legislature. The measure was really a statute introduced as a constitutional amendment which provided for a prize-fight commission and authorized ten-round fights. As a bid for the support of the so-called good people, it provided that no fights should be pulled off on Sunday.[150]

150 The proponents of this measure overlooked nothing. At San Francisco at least one prominent clergyman was taken to see professional fighters of the type of Benny Benjamin box, that the good man might "be shown that such contests are unobjectionable." With this entertainment and instruction of the clergyman as a basis, the supporters of the measure actually circulated the report in the Legislature that San Francisco clergymen had made investigation and were in favor of the proposed amendment. Assemblymen of the type of Frank F. Merriam of Long Beach, frankly told those who circulated this report that it was without foundation. But the report at least had the foundation of the exhibition fights at which at least one clergyman attended. One

To get this amendment through, fifty-four Assembly votes were required. It soon became evident to the earnest supporters of the measure that the fifty-four votes could not be secured, so they abandoned their original plan to permit a ten-round prize-fight statute being made part of the State constitution, and amended their measure by cutting out the entire statute and substituting a section providing that: "The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this constitution, to authorize and regulate boxing, or sparring matches or exhibitions of not more than ten rounds of not more than three minutes' duration for each round."

The effect of this, had the amended resolution been adopted, would have been to take from the people their powers to initiate laws affecting prize fights.

Such an amendment, of course, brought down upon it the opposition not only of those who were laboring to save the initiative from hampering limitations, but of the considerable group who were in opposition to prize-fighting. The supporters of the measure thereupon added another amendment to that quoted above, which read: *"Provided, however,* that nothing herein contained shall be construed to contravene or limit or in any way affect any measure enacted by the people under the initiative provisions of Section 1 of Article IV of this constitution."

As the measure was thus amended, it is difficult to see how the initiated Anti-Prize-fight law of 1914 could

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of the strongest supporters of the restoration of the prize-ring told the writer that the clergyman they had entertained had given his approval of the proposed amendment.

have been affected. Apparently all the amended measure did was to remove bills passed by the Legislature from the possibility of interference by the referendum. But the proponents of the amendment were of the opinion that a ten-round contest would be possible under it, and, in the confusion of the situation, permitted it to come to a vote.

Considering the subject matter, a most extraordinary vote was cast in its favor. Fifty-four Assembly votes were necessary for its adoption. It actually received forty-seven. Seven more votes would have been sufficient to send the measure to the Upper House for Senate approval.[151]

While the pro-vice side of the attack on the initiative was being heard in the Assembly, the groups represented by the so-called People's Anti-Single Tax League were making the fight in the Senate for the Gates amendment to require a 25 per cent petition to initiative measures affecting taxation. They made most extraordinary claims of support which were echoed in the reactionary press throughout the State.

Governor Stephens and other progressive leaders took a decided stand against the Gates attack on the

151 The Assembly vote on Assembly Constitutional Amendment No. 29 (1919 Series) was: For the amendment—Assemblymen Allen, Anderson, Badaracco, Baker, Bromley, Brooks, Bruck, Calahan, Carter, Easton, Eksward, Fleming, Gebhart, Godsil, Goetting, Graves, Greene, Hawes, Hilton, Hurley, Johnston, Kasch, Kenney, Kline, Knight, Lamb, Lewis, Lynch, Madison, Manning, Mathews, McColgan, McCray, Mitchell, Morris, Morrison, Parker, Prendergast, Ream, Roberts, Rose, Rosenshine, Stevens, Vicini, Warren, White, and Wickham, 47.

Against the amendment — Assemblymen Ambrose, Argabrite, Broughton, Brown, J. S.; Browne, M. B.; Cleary, Cummings, Doran, Dorris, Eden, Hughes, Lindley, Locke, Mather, McKeen, Merriam, Miller, D. W.; Oakley, Odale, Pettit, Polsley, Price, Saylor, Wendering, Windrem, Wright, H. W.; Wright, T. M., 27.

initiative. This opposition was bitterly resented by the People's Anti-Single Tax League. In a communication to the Governor, the League went so far as to say that the Governor's continued opposition to the measure would "be a betrayal of the confidence which the people placed in you when they elected you." [152]

This insulting letter had no effect upon Governor Stephens. The Governor and the progressives in and out of the Legislature continued unalterably opposed to the Gates measure.

The various progressive groups had been assured that the amendment would not be reported out of the Committee on Constitutional Amendments until they had been heard in opposition to it. Nevertheless, practically without a hearing, ten days before the 1919 Legislature

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152 This communication to the Governor was signed by E. P. Clark, President of the People's Anti-single Tax League. It was printed in full in the Los Angeles Times of March 8, 1919, as follows: "It has been reported to us that you and your administration will oppose Constitutional Amendment No. 5, which provides for increase of percentage of signatures on initiative measures relating to taxation alone. You know, of course, that Amendment No. 5 has been endorsed by practically every business organization in California and business interests throughout the entire State, together with holders of real property, who, we believe, are the representative people of California. This measure is not in anywise a subtle attack on the initiative, but is simply a reasonable modification thereof as is calculated by the only practical method of protecting the State from the very serious and very real menace of the single tax agitators. Will you not assume the fair and honest position which it is presumed you and the administration stand for, by giving the people of this State a fair chance to express their wishes on this paramount issue? Any other course on your part will be a betrayal of the confidence which the people placed in you when they elected you. There can be no compromise in this fight against the iniquitous single tax, as has been fully explained to you by Senator E. J. Gates and Philip D. Wilson, secretary of this league, who quoted to you the opinions of the best lawyers in California and those representing the property holders themselves. We do not object to your plan for a constitutional convention, but we seriously object to your ideas that no constitutional amendment of any nature whatsoever, save that relating to constitutional convention, shall appear upon the ballot in 1920. Will you please reply by wire?"

adjourned, the committee sent the amendment back to the Senate without recommendation. Four days later it came to a vote. Of the forty Senators only fourteen voted for it.[153] Twenty-seven votes were necessary for its adoption.

After the defeat of the Gates amendment its supporters announced they would resort to the initiative to put it on the ballot. They carried out their threat.[154]

Two other constitutional amendments aimed at the initiative were introduced in this session, but no action was taken on them.

The first of these was Assembly Constitutional Amendment No. 16, introduced by Wickham of Los Angeles. This measure abolished the initiative altogether. The second was Senate Constitutional Amendment No. 6, introduced by Senator Crowley of San Francisco. The Crowley measure required signers to

153 The vote by which Senate Constitutional Amendment No. 5 (1919 Series) was lost was: For the amendment—Senators Breed, Burnett, Carr, F. M.; Chamberlin, Dennett, Gates, Hart, Irwin, King, Lyon, Otis, Purkitt, Rominger, and Sample, 14.

Against the amendment — Senators Anderson, Benson, Boggs, Brown, Canepa, Carr, W. J.; Crowley, Duncan, Evans, Flaherty, Harris, Ingram, Inman, Johnson, Jones, Kehoe, McDonald, Nealon, Scott, Sharkey, Slater, and Thompson, 22.

154 The various progressive organizations of the State went on record against the Gates amendment. The legislative committee of the Federated Council of Teachers' Clubs of the city of Los Angeles for example, representing 3600 teachers, and empowered by them to act, on March 20, 1919, adopted the following resolution: "Be It Resolved, That the teachers of Los Angeles most urgently request the members of the Legislature of California to vote against the passage of Constitutional Amendment No. 5, which would increase the number of names necessary in initiative petitions in matters relating to taxation from the present rate of 8 per cent of the last vote cast for Governor to 25 per cent. This would amount to about 250,000 names, a number impossible to obtain. Moreover, inasmuch as the State is put to some expenditure in the case of every initiative petition, it is possible that every such expenditure might be construed by the courts as a matter affecting taxation, and thus the 25 per cent requirement might be imposed in the case of all initiative petitions."

an initiative petition to appear before a public official. Neither one of these measures was taken seriously, and neither got beyond committee.

The measure which the Anti-Single Tax League, true to their threat made in the 1919 Legislature, placed on the 1920 ballot was practically the same which Senator Gates had introduced at the 1919 session and which had met with such overwhelming defeat in the upper house.[155] To carry this amendment the League covered the State with a most efficient organization. During the summer and fall of 1920, speakers sent out by the League appeared before commercial bodies, improvement societies, fraternal organizations, women's clubs, etc., to urge that the people vote away from themselves the power to initiate laws affecting taxation. Newspaper advertising was used extensively, and the State thoroughly circularized in the interest of the amendment.

Throughout the campaign the supporters of the amendment endeavored to confuse the public into believing that, from the standpoint of the opponents of the Single Tax, it was as important to carry the initiative-restricting measure as to defeat the amendment providing for the Single Tax. In this, as the sequel showed, they failed utterly.

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155 The change which the proposed amendment made in the initiative as provided for in the California State Constitution was as follows: "Provided, however, that if said proposed law or amendment to the constitution relates to the assessment or collection of taxes, or provides for the modification or repeal of this proviso, it shall not be submitted to the electors under the provisions of this section, unless the petition proposing it is certified as herein provided to have been signed by qualified electors, equal in number to twenty-five per cent of all of the votes cast for all candidates for Governor at the last preceding general election at which a governor was elected."

To meet this anti-initiative campaign, progressive citizens, under the leadership of Dr. John R. Haynes of Los Angeles, organized the League to Protect the Initiative. The object of this League, as set forth in its literature, was "to defeat the proposed amendment to the initiative law which seeks to destroy the power of the people to initiate laws pertaining to the assessment and collection of taxes; and to resist any other attacks, open or covert, upon the initiative." The officers of the organization included both United States Senators from California, Hiram W. Johnson and James D. Phelan; Dr. David P. Barrows, president of the University of California; Dr. Ray Lyman Wilbur, president of Stanford University; Lieutenant-Governor C. C. Young, Herbert C. Hoover, and Hon. William Kent.[156]

The nature of the amendment and the character of

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156 The officers of the League to Protect the Initiative were: President, Dr. John R. Haynes; secretaries, Mrs. Herbert A. Cable and L. E. Blochman; vice-presidents, Ernest P. Clarke, Mrs. Frank A. Gibson, Mrs. Mary Roberts Coolidge, Mr. A. E. Boynton; honorary vice-presidents, Senator Hiram W. Johnson, Herbert C. Hoover, Pres. David. P. Barrows, Pres. Ray Lyman Wilbur, Pres. James A. B. Scherer, Lieut-Gov. C. C. Young, Senator James D. Phelan, William Kent, A. J. Wallace, Edwin A. Meserve, Samuel M. Shortridge; executive committee (south)—S. C. Graham, chairman; Alfred G. Bartlett, George F. Bidwell, Seth Brown, William E. Brown, Mrs. Oliver C. Bryant, Kemper Campbell, William J. Carr, Mrs. H. S. Darling, Miss Paula Dunnigan, Miss Mary Foy, Miss Lloy Galpin, John P. Hamilton, P. M. Johnson, Mrs. H. H. Koons, Joseph E. Lewinsohn, Meyer Lissner, Mrs. A. S. Lobingier, Mrs. Force Parker, Albert Shaw, Mrs. Seward A. Simons, Mrs. J. Wells Smith, Marshall Stimston, Miss Bessie Stoddart, Mrs. Shelley Tolhurst, Miss Van de Goorberg, Mrs. Mabel Willebrandt, Dr. Byron H. Wilson, Mr. Stanley B. Wilson, Miss Mary Workman; executive committee (north)—Hon. C. C. Young, chairman; Ben S. Allen, A. E. Boynton, Dr. Adelaide Brown, John S. Chambers, Mrs. Mary Roberts Coolidge, Mrs. A. M. De Yo, Herbert C. Jones, William Kehoe, Irving Martin, Mrs. A. E. Osborne, Chester H. Rowell, Paul Scharrenberg, Robert Telfer, George S. Walker, J. E. White.

the campaign carried on for it, thoroughly aroused California progressives.

"The amendment as proposed," said Governor William D. Stephens in a public statement, "contains a blow at the fundamental principles of the initiative. I well understand and regret the expense of opposing at every general election proposed statutes and constitutional amendments. But, in my judgment, it would be unwise and unjust to weaken the initiative in the manner as set forth. The right of the people to avail themselves of this important instrument of the Government should not be curtailed. It is far better to tolerate some abuses than to impair this great factor in free government."

Senator Hiram W. Johnson denounced the measure as an insidious attack aimed at nullification of the initiative.

"The proposed amendment," said Senator Johnson, "which requires the signatures of 25 per cent of the voters to a petition, is not an amendment to the initiative, but a nullification of it. The initiative is a potent and necessary weapon in these days. The recent tendency to reaction makes its preservation more important now than at any time since its adoption. It is peculiarly a weapon designed for the protection of the people. To demand a petition signed by 250,000 or more voters, before it could be put into operation is to destroy absolutely its power, and to take from the people its necessary protection. If the constitutional amendment giving our people the initiative is to be destroyed, the attack should be a frontal one upon

the whole scheme, not insidiously upon a part. We, who still have an abiding confidence in the righteousness and wisdom of the people, should defeat the proposed amendment, and defeat it overwhelmingly."

The campaign conducted by the League to Protect the Initiative was one of straight publicity. All the League attempted to do was to show the effect the proposed measure would have upon direct legislation, relying upon the public confidence in and support of the initiative to vote down the proposed limitation. In this, the League was successful. The public was not misled into confusing the initiative issue with that of the single tax. The single tax measure was voted down with a majority of 366,809 against it. The attempt to limit the initiative on the ground that such limitation is necessary to save the State from the single tax was defeated by a majority of 123,598.

The defeat was State-wide and general. Of the fifty-eight counties of the State, fifty-seven returned majorities against it. The single exception was Alpine County, the smallest county numerically in the State.[157]

The opponents of the initiative had suffered as complete defeat in their appeal to the people, as they had experienced in the defeat of the Gates amendment at the 1919 legislative session.

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157 Alpine County registered 93 voters for the 1920 election. Of the 93, 70 went to the polls. Of the 70 who voted, 40 failed to vote on the initiative-limiting measure. Of the 30 votes cast on this issue, 21 were in favor of limiting the initiative, 9 against such limitation. In all the other counties of the State the measure was defeated. But the Alpine County vote gave the People's Anti-single Taxpayers League opportunity to say that in one county of the State they carried the initiative-limiting measure by a vote of more than two to one.

CHAPTER XVI

1921 Legislature Upholds the Initiative.

In two years the opponents of the initiative had made a complete circle. At the 1919 session of the Legislature they had attempted limitation of the initiative in the matters of prize-fighting and taxation. Failing there, they had appealed to the voters direct, and again had they failed. January, 1921, found them once more before the Legislature following their identical pleas of two years before; namely, to nullify the initiative law of 1914 limiting boxing contests to four rounds, and to prevent the use of the initiative in matters concerning taxation, by requiring impossible petitions.

The move against the 1914 anti-prize fight law was staged in the Senate instead of in the Assembly as had been the case two years before. The measure, Senate Constitutional Amendment 33, was introduced by Senator Scott of San Francisco.

This Scott amendment provided for a State commission as had the original Assembly amendment of 1919, but, whereas the 1919 amendment permitted ten-round contests, the Scott amendment authorized fifteen rounds. But the Scott amendment, as had that of 1919, made its concession to "the good people," by virtuously providing there should be no prize-fights held on Sunday.

Scott managed to get his amendment out of the Senate Committee on Constitutional Amendments. It came to vote on April 22. Twenty-seven votes were required for its adoption. Nineteen were cast for it.[158] For a second time, the California Legislature defeated the attempt to set aside the initiated anti-prize fight law of 1914.

The attempts to strike at the initiative by appeal to popular prejudice against the single tax took several forms.

In the Assembly, Manning of Marin County proposed that the Constitution should be so amended as to provide that, "no initiative measure, proposing to amend the revenue and taxation laws of the State of California, by requiring that all revenues and taxes shall be collected from one class of property, namely land, and exempting from taxation, specifically or otherwise, any or all other classes of property, shall be submitted to be voted on at a general or special election." [159]

The measure was not taken very seriously; little attention was given it in the public press; few expected to see it get out of committee. Nevertheless, three months after its introduction, the Committee on

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158 The vote by which Senate Constitutional Amendment 33 was defeated was: For the amendment—Senators Breed, Burnett, Canepa, Carr, F. M.; Chamberlin, Crowley, Flaherty, Hart, Ingram, Inman, Irwin, Lyon, McDonald, Otis, Purkitt, Sample, Scott, Sharkey, and Shearer, 19.

Against the amendment—Senators Allen, Arbuckle, Boggs, Carr, W. J.; Dennett, Duncan, Eden, Gates, Harris, Jones, King, Nelson, Osborne, Rigdon, Rominger, Rush, Slater, and Yonkin, 18.

159 Assembly Constitutional Amendment 12 (1921 Series).

Constitutional Amendments sent it back to the Assembly to be voted upon "without recommendation." There are indications that the road was well prepared for it to go through. In twenty-four hours after its return to the Assembly, the amendment could have been put to vote.

But it wasn't put to vote. The League to Protect the Initiative had got wind of what was going on, and the League's agent at Sacramento was instructed to see to it that the members of the Assembly were thoroughly informed as to what the Manning amendment meant. With such understanding, all danger of adoption of the amendment passed. It finally was returned to the committee to which it had been originally sent.

After this failure to slip the Manning amendment through the Assembly, the supporters of such measures adopted new tactics. They represented that they were at Sacramento in the interest of the initiative, and even went so far as to say that they had the support of the League to Protect the Initiative, of which Dr. John R. Haynes was president. In some instances at least, they stated that Dr. Haynes, as president of the League, approved the proposed changes in initiative provisions. While such claims unquestionably worked confusion in the minds of the members of both houses, in the end it got the opponents of the initiative no votes.

Following the defeat of the Manning amendment, the supporters of such measures made a drive on the Senate, taking up Senate Constitutional Amendment

No. 26 which had been introduced by Senator Burnett of San Francisco.

This measure was in effect the same as that which the Anti-Single Tax League had placed on the ballot at the 1920 election, and which had been defeated in every county of the State except Alpine. It provided for a 25 per cent requirement for all initiative petitions that touched upon taxation.

Supporters of the Burnett measure went before the Senate Committee on Constitutional Amendments with the statement that the supporters of the initiative now favored the proposed increase in initiative petitions affecting taxation, and that even President Haynes of the League to Protect the Initiative looked in favor upon it.[160]

The committee, which had been hastily called together for the purpose, decided to recommend that the 25 per cent requirement for initiative petitions proposed in the Burnett amendment be reduced to 15 per cent, and that the measure thus amended be sent to the Senate with recommendation that it be adopted.[161]

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160 The Sacramento Bee in its issue of April 13, 1921, stated of the representations made to the committee: "John R. Haynes of Los Angeles, head of the League to Preserve the Initiative, has written to members of the Legislature to fight the passage of all measures seeking to change the initiative. However, it was declared in the committee by Burnett that even Haynes now looks with favor upon the proposed amendment."

161 Under date of April 14, the League to Protect the Initiative, in a letter to every member of the Senate, signed by President Haynes, denied the report that it approved the Burnett amendment as follows: "The League to Protect the Initiative, composed of thousands of very responsible citizens of this State, opposes any change in the initiative provisions of the constitution. Especially are they opposed to any increase in the number of signatures necessary upon an initiative petition. As the population of the State increases, the number of signatures required upon petitions automatically increases. Eight per cent of the vote cast

Senator William J. Carr who appeared in the committee room just as the five Senators present were taking this action, vigorously opposed the measure, and asked that he be recorded as voting no. The five other members present outvoted him, however.

Carr at once proceeded to organize the Senate to defeat the Burnett measure.

"I am," said Senator Carr in an interview generally published over the State, "unalterably opposed in any circumstances to disturbing the initiative and referendum as they stand today in the Constitution. I voted 'no' in the committee on its being reported out, and I have been conferring with Senators for attack upon the measure, which is now on the third reading file. No matter what may be said of the purpose of the proposed amendment, California cannot afford to disturb the constitutional protection the people are given under the existing provisions."

Publicity defeated the Manning amendment in the Assembly; the same publicity made adoption of the Burnett amendment in the Senate impossible. On the same page of the Senate Journal for April 22, where the defeat of the Scott measure to legalize fifteen-round prize-fights by limiting the initiative is recorded,

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at the last election (987,632) would amount to 80,000 without any increase in the percentage. Fifteen per cent of the vote at the last election (which is the amount proposed in the (amended) Burnett amendment) would amount to 144,000 verified signatures, a number impossible to obtain. In order to have 144,000 verified signatures, experience has shown that it is necessary to secure about 200,000. Many names are thrown out because of technical reasons, such as leaving the voting precinct in which registered, signing in the wrong county, etc. Only the large moneyed interests could secure such enormous numbers of signatures, and the people would be deprived of the use of the initiative."

appears the following record of the disposition of the Burnett amendment: "On motion of Senator Burnett, Senate Constitutional Amendment 26 was ordered withdrawn from the file and re-referred to the Committee on Constitutional Amendments." That was the last heard of the measure.

In the meantime, the representatives of the Anti-Single Tax League had attacked the initiative from another quarter; this time by attempted statute.

The proposed statute imposed restrictions which, could they have been enforced, would have rendered the initiative practically inoperative.[162] Representing

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162 The proposed statute was clearly in conflict with Section 1, Article 4 of the initiative provisions of the State constitution. For example, the proposed measure provided that "Satisfactory evidence that the signers to such (initiative) petition are qualified voters of the county in which signed. Such evidence may be by registration card issued by the county clerk . . . or otherwise as may be authorized by the Attorney-General of the State." The initiative provision of the California Constitution, Article 4, Section 1, under the head of miscellaneous provisions, paragraph 3, provides: "Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number, if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications, and that all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine, and that the persons signing the same are qualified electors. Unless, and until it be otherwise proven upon official investigation, it shall be presumed that the petition pre-

themselves as seeking to strengthen the initiative, the proponents of the measure visited newspaper offices to get newspaper support for their new drive. In this, they met with signal failure. Nevertheless, Assemblyman F. D. Mather of Pasadena, believing that the proposed statute was intended to strengthen the initiative, was prevailed upon to introduce it. The measure was known as Assembly bill 1330.

Once more did the League to Protect the Initiative

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sented contains the signatures of the requisite number of qualified electors." It will be seen that under this section the signer does not have to do anything else, is not required to present a registration card nor is the solicitor required to demand any or to require the signer to obey any regulations that the Attorney-General may authorize. The final words of the constitutional provision for the initiative are: "This section is self-executing, but legislation may be enacted to facilitate its operation. But in no way limiting or restricting either the provisions of this section or the powers herein reserved." If the solicitors are authorized to demand a registration certificate, it would be a restriction upon the provisions of the initiative. It was evidently the intention of the framers of this provision to the constitution that the only requirement that was necessary for the signer of a petition was for the signer to state to the solicitor that he is a qualified voter. The right of any qualified voter to sign a petition under these sections of the constitution cannot be restricted. If, however, a signature can only be appended under such conditions as were prescribed in the proposed statutes and such others as may be authorized by the Attorney-General, it would decidedly limit and restrict provisions of the constitution. It would be in the power of the Attorney-General to kill every initiative petition by attaching conditions impossible to be complied with. The proposed statute had other limiting provisions clearly as unconstitutional as the one that has been considered. For example, the Act provided that "signers of initiative petitions or referendum petitions shall certify that they have read the title to such petitions and favor the proposition covered by it, and that it has not been misrepresented to them by the solicitor securing their signature." How could signers make such certification? Would they demand an affidavit from each signer, or would they have to sign another petition stating that fact? Again, Section 3 of the Act provided that solicitors "who secure signatures upon initiative and referendum petitions, which include in the certificate which they are required to file on each section of such petition a statement that they have required from signers satisfactory evidence that they are qualified voters and that they have not misrepresented the object of such petition to such signers." Under Section 1 of the Act, the Attorney-General would be able to place impossible restrictions upon what was to be termed satisfactory evidence.

resort to publicity, and again were the advocates of limiting the initiative blocked.[163] Assemblyman Mather, when informed as to the measure's significance, made

163 Dr. John R. Haynes, President of the League to Protect the Initiative, under date of April 8, wrote Assemblyman Mather regarding this measure as follows: "I understand that you have introduced A. B. 1330, upon the solicitation of the representative of the Anti-single Tax League and California Real Estate Association. These are the organizations which put No. 4 (the Initiative-limiting Amendment) upon the ballot last election, after they failed to succeed in inducing the Legislature of 1919 to submit the same to the people. This amendment was, as you know, defeated by a majority of 123,000. Both of these organizations are the bitter enemies of the initiative. I have not the pleasure of your acquaintance, but I am informed that you are public-spirited, conscientious and honest, and are not averse to the principle of the initiative. In fact, I have in the office a questionnaire sent out by the League to Protect the Initiative and signed by yourself in which you say that you are in favor of retaining the initiative provisions of the State constitution, which have now been in effect for nine years. I do not believe that you are aware of the defects that are very apparent to one who is conversant with the initiative provision of the constitution. This bill seems to me to be designed by those who asked you to introduce it, as an insidious method of killing the initiative. In fact, I think it is a greater blow at the initiative, which you are in favor of retaining, than was Amendment No. 4, because it would be impossible to get any petition signed under the conditions laid down in A. B. 1330. How many people preserve their certificate of registration? I do not know where mine is, and I doubt very much if you know where yours is. If we were asked to sign a petition we could not do it until we hunted up our receipts or got new ones from the County Clerk. Under such circumstances it would be practically impossible to get the requisite number of signatures upon any initiative or referendum petition. The provision that allows the Attorney-General to decide what evidences are necessary to make certain the legal qualifications of the voter would make him absolute master of the situation and would prevent any petition from receiving even a small portion of the signatures required. The Attorney-General might be a bitter enemy of the initiative and might make absurd requirements for the signers' qualifications, such as a certificate from his office and various other conditions difficult to comply with. Again, in Section 2 of your bill you say that the signer of the petition shall certify certain things when he signs the bill. This is very indefinite and ambiguous. Do you want him to make an affidavit to the effect that he has read the bill, or to write a special certificate or to merely sign another statement that he has read the title? With reference to Section 3 of your bill, are you aware of the fact that there are now upon the statute books of the State several bills passed in 1917, which make it a penal offense to misrepresent, to forge or to allow signatures put upon the petition which the solicitor knows to be those of non-voters? It seems to me that these provisions just mentioned cover all the points brought out in your bill. After you have carefully reconsidered your bill, I hope that you may see your way clear not to push it."

no move to get it out of the committee to which it had been referred.

After these defeats for the agencies which were attempting to limit the use of the initiative, no attempts were made to press similar constitutional amendments which had been introduced. The committees to which they were referred took no action upon them.[164]

Nevertheless, one more move to call the initiative into question was made. On April 28, within less than twenty-four hours of the time set for final adjournment, Senator Arbuckle of Santa Barbara introduced a Senate resolution calling for a special committee to consist of State officials to investigate the operation of the initiative and referendum in various States, to include the safeguards which are in effect governing the preparation, signing and filing of petitions, and the limitations, if any, placed upon applications of initiative measures affecting assessment and taxation, said committee to report by January 1, 1922. The committee was also called upon to recommend the nature of legislation and the limitations to be placed upon appli-

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164 Important among these were Assembly Constitutional Amendment 27 introduced by Assemblyman R. P. Benton of Los Angeles. This Benton measure required a fee of 4 cents per name to be paid to the county clerk or registrar for each name on such initiative petitions as might be presented. Under this provision, for a State-wide measure, a filing fee of approximately $4000 would be required. As population increases, this filing fee would, of course, increase. The effect of it would have been to deny the use of the initiative to all but the very wealthy. Another such measure was Assembly Constitutional Amendment No. 35 introduced by Carleton Greene of San Luis Obispo. The Greene amendment increased the number of signatures required to initiate a law from 8 per cent to 20 per cent. This would have made the number of signatures necessary for such initiation in excess of 200,000, an impossible requirement. The adoption of this amendment would have practically left the State without workable initiative machinery.

cation of initiative petitions affecting assessment and taxation.

This measure was, in the rush of the closing hours of the session, being put through without many understanding just what it meant,[165] when Senator Herbert C. Jones of Santa Clara, sensing that such a resolution at so late a date might well be worth looking into, suggested that before it were acted upon it be printed in the Journal, that all could familiarize themselves with its provisions. This step was taken.

Senator Arbuckle, when the measure came up on the 29th for vote, was closely questioned regarding it. The members had had an opportunity to read it, and were in an inquiring mood. The measure provided, for example, that the committee of investigation should report back by "January 1, 1922." Senator Arbuckle's colleagues pointed out to him that the Legislature would not convene in regular session until after January 1, 1923. They wanted to know if a mistake had not been made, and if he had intended the report to be made at the later date, instead of 1922 as his resolution provided.

Senator Arbuckle very frankly admitted that no mistake had been made, that the report was intended for use during the 1922 campaign. This was equivalent to stating that another attempt would be made in 1922, to put a measure on the ballot to limit the initiative as had been done in 1920.

165 Being a mere Senate resolution, a majority vote of the Senate was not required for it—a majority of those present and voting would have been enough to put it through. With five Senators in their seats, without a roll-call, three could have put it through.

Arbuckle, in his opening speech for the adoption of his resolution, declared himself to be a "friend of the initiative," but stated that the initiative is threatened by two enemies:

(1) By enemies who would eliminate it.

(2) By others who abuse it.

He stated that it was his idea to protect it from both.

Senator Herbert Slater of Sonoma demanded of Arbuckle what further safeguard the initiative requires.

"The initiative," said Senator Slater, "has been in operation in California for ten years. There has been no serious abuse under it. What, I would ask of Senator Arbuckle, is the matter with the initiative that these continued attacks should be made upon it? The people by their vote have shown that they are thoroughly satisfied with it. I do not question Mr. Arbuckle's word that he is a friend of the initiative. Nevertheless, I am convinced that there is something back of this resolution. I think we should vote it down."

"I am surprised," said Senator Rigdon, "that such a resolution should have been introduced. I would like to have Senator Arbuckle, who is back of it, explain what it means. With Senator Slater, I would ask of him, what is the matter with the initiative? For my part, I believe that back of this is a scheme to bring the initiative into question."

"The thing that is wrong with the initiative," said Senator Inman of Sacramento County, "according to its enemies, is that it is in the State Constitution.

The people are for it; at the November election by a majority of 123,000 they defeated an attempt to limit it. It is well for this State that it is on the books. Such is the view of the people of California. They regard the initiative as firmly established as suffrage, trial by jury, or habeas corpus. This Senate could as well authorize a commission to inquire whether or not any of these has proved successful in other States, as to provide such a commission to 'investigate' the initiative."

Senator Arbuckle did not meet the issues raised by those who spoke in opposition to his resolution. The one Senator who came to his relief was Burnett of San Francisco, the defeat of whose Constitutional Amendment to limit the initiative in matters of taxation has already been considered.

When the Arbuckle resolution came to vote, only seven Senators voted for it.[166] Of these seven, three besides Arbuckle had introduced initiative-limiting measures. They were Burnett, Scott, and Gates. The other three were Godsil of San Francisco, Hart of Los Angeles, and Purkitt of Glenn County.[167]

166 The vote by which the Arbuckle amendment was defeated was as follows:

For the amendment—Senators Arbuckle, Burnett, Gates, Godsil, Hart, Purkitt, and Scott, 7.

Against the amendment — Senators Allen, Anderson, Boggs, Canepa, Carr, F. M.; Carr, W. J.; Crowley, Dennett, Duncan, Eden, Flaherty, Harris, Ingram, Inman, Irwin, Johnson, Jones, King, McDonald, Nelson, Osborne, Otis, Rigdon, Rush, Sharkey, Shearer, and Slater, 27.

167 The various educational and civic bodies of the State went on record against all the anti-initiative measures which were considered at the 1921 session.

The following resolutions were, for example, sent by the Central Committee of the Public School Teachers of Los Angeles to every member of the Legislature: "The Central Committee, representing the public school teachers' organizations of the

The 1921 Legislature adjourned with the opponents of the initiative defeated at every point.

city of Los Angeles, most respectfully but most earnestly request the members of the State Senate to defeat S. C. A. No. 26, which increases the percentage of signatures required upon initiative petitions concerning taxation from 8 to 15 per cent. Fifteen per cent of the votes cast at the last election in 1920, would equal approximately 150,000. In order to procure 150,000 verified names, at least 200,000 would have to be obtained upon the petition. This immense number of signatures could only be obtained by the special interests having large financial resources at their command. A similar amendment was placed on the ballot at the last election and defeated by a majority of 123,598, Los Angeles County alone giving a majority against the amendment of over 23,000."

The high school teachers of Los Angeles declared against the attempted tinkering with the initiative as follows: "Whereas, the High School Teachers' Association of Los Angeles believes that the initiative provisions of the constitution of the State of California should be retained without change, and Whereas there is a Constitutional Amendment before the State Senate known as S. C. A. No. 26 which would increase the percentage of signatures required upon initiative petitions from 8 to 15 per cent, and Whereas we believe that this increase will not prevent the great moneyed interests from initiating measures but will prevent the common people from so doing, because of the great expense entailed in procuring from one hundred and fifty to two hundred thousand names requisite if the proposed amendment becomes a law, therefore be it Resolved, that the High School Teachers' Association go on record as opposed to S. C. A. No. 26 and that a copy of these resolutions be sent to all the members of the State Senate urging them to do all that they can to defeat S. C. A. No. 26."

The State Building Trades Council adopted the following: "Whereas, in 1911 the people of California by a vote of 3 to 1 placed in the Constitution of the State of California a provision which gives to the people the same legislative powers, through the Initiative which the Legislature itself possesses, and Whereas, the **State Building Trades Council** believes that this initiative right of the people should not be impaired, restricted, or abolished, therefore be it Resolved, that the State Building Trades Council of California, in conference assembled on this 25th day of March, 1921, by a unanimous vote **requests the Legislature of California to defeat** A. C. A. No. 27, which would require the person filing an initiative petition to deposit four cents per name with the county clerk for the expense of checking the petition; A. C. A. No. 35, which would increase the percentage of signatures required on all initiative petitions from 8 per cent, the present number, to 20 per cent; and **S. C. A. No. 26,** which would increase the percentage of signatures required on all initiative petitions concerning taxation from 8 per cent to 25 per cent, because all the above measures would, in the opinion of the Council, render the use of the initiative possible only to special interests with enormous capital at their command, and impossible to the common people at large, and because on November 2, 1920, the people of California, by a majority of 123,598, defeated Amendment No. 4 on the ballot which proposed to destroy the initiative by requiring an impossible number of signatures on initiative petitions, thereby showing that the people of California still desire to retain the initiative power unimpaired."

CHAPTER XVII.

Partisan Amendment to Direct Primary Defeated.

Three Assemblymen, J. R. White of Los Angeles, O. W. Smith of Santa Barbara and Ira A. Lee of Pomona, joined in introducing certain amendments to the State Direct Primary law, the object of which was to limit party nominations for office to the party with which the candidate is affiliated. That is to say, if the Democrats of a given community wished to nominate, or even to endorse, a Republican for office, they would not be permitted to do so, and vice versa. This was regarded as a step backward toward that partisanship which was the foundation of the old Southern Pacific machine rule. The bill was opposed on that ground, and finally defeated.

That the Southern Pacific machine was able to dominate the State after Gage's administration,[168] which

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168 The Southern Pacific machine, although in continuous control of State affairs from the adoption of the Constitution of 1879, until the election of Hiram W. Johnson as Governor in 1910, was not unopposed. On the contrary, there were many uprisings against it. The years-long struggle, for example, to break the machine's hold on the State Railroad Commission is made basis of Frank Norris' novel, "The Octopus." In 1892, the opposition to the machine actually elected a majority of the State Legislature. This resulted in the election of Stephen M. White to the United States Senate. But the "organization" managed to involve the Legislature in the scandal of the Rea-Johnson investigation, which entertained the people while the "organization" made good its losses. Six years later, 1898, opposition to the "machine" took form in support of the candidacy of James G. Maguire for Governor. Maguire, the "Little Giant" as he was called, had, as Congressman from California, blocked the railroad's plans in Congress, and won the "machine's" enmity and the People's confidence. Maguire, was, however, defeated, and Henry T. Gage

ended in 1902, was due to election laws under which it was impractical for the electors to give free expression of their wishes at the polls. With conviction that to the machine's control of primaries and elections was due most of the political ills under which the State suffered, came demand for simplification of the Australian ballot, for the direct primary, and for placing the judiciary above the plane of partisan squabbles. Steady gains were made for these reforms. They found expression in well thought out measures introduced at the 1909 session. Measures to correct the corruption of the Australian ballot and to take the judiciary out of politics were defeated that year by narrow margin.[169] A direct primary law was, however, enacted, but only after it had been loaded down with hampering partisan provisions.[170]

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elected. Out of this came the complication of the Dan Burns' candidacy for the United States Senate, failure on the part of the Legislature to elect any Senator at all (for almost a year thereafter, March 4, 1899-February 8, 1900, California was represented by only one United States Senator) and the most serious opposition to the machine that developed prior to the organization of the Lincoln-Roosevelt League movement. This opposition actually controlled the 1902 Republican convention. It could and did prevent the nomination of Governor Gage for re-election, but was unable to nominate its own leader, Thomas Flint. Failing to nominate Flint, the opposition to the machine turned to George C. Pardee. Pardee was elected. But the machine continued in control of the Legislature and other departments. The machine's opposition to Pardee found expression in the scandals of the so-called Santa Cruz convention, the Republican State convention, held at Santa Cruz in 1906. The machine was in complete control. Pardee was denied renomination, James N. Gillett being named in his place. Gillett was the last California governor to be selected under the old partisan convention system.

169 See Story of the California Legislature of 1909. A full account of how these reforms were secured two years later will be found in the Story of the California Legislature of 1911.

170 Progressive members of the 1909 Legislature predicted that these partisan provisions would soon be done away with. "I shall vote for this report (the Direct Primary measure finally decided upon)," said Senator Stetson of Alameda County, "not because

These partisan provisions were responsible for the defeat of Francis J. Heney for District Attorney of San Francisco in November, 1909, and the breaking-up of San Francisco's prosecution of those who had been instrumental in the corruption of the government of that city.[171] But, imperfect though it was, this Direct Primary law of 1909 gave Hiram W. Johnson the opportunity to go directly to the People, without any intervening convention, as a candidate for Governor. His election, and the overthrow of the machine followed.

As immediate effect of this, every progressive policy defeated at the 1909 session found expression in law at the session of 1911. Not only the judiciary, but also the school departments—State, county, municipal, and district—were put on a non-partisan basis. The Australian ballot was restored to its original simplicity and effectiveness. Partisan limitations were eliminated from the Direct Primary law.

These were long strides in the direction of non-partisanship in State affairs. However, the gains did

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I want to, but because I have to if we are at this session to have any Direct Primary law at all." Senators Campbell, Holohan, and Miller sent to the Secretary's desk the following explanation of their votes: "We voted for the Direct Primary bill because it seems to be the best law that can be obtained under existing political conditions. We are opposed to many of the features of this bill, and believe that the people at the first opportunity will instruct their representatives in the Legislature to radically amend the same in many particulars, notably in regard to the election of United States Senators, and the provisions that prevent the endorsement of a candidate by a political party or organization other than the one that first nominated such candidate."

171 See The System as Uncovered by the San Francisco Graft Prosecution, Chapter XXVII.

not put the State abreast of the non-partisan standards adopted by municipalities, which more closely reflected the public demand that partisanship be done away with, except where a partisan—that is to say, Federal—issue is involved.

Berkeley had pioneered the way by making all municipal offices non-partisan. The Berkeley plan, as it was called, was taken up by other municipalities, so, by the time the 1911 Legislature convened, all of the chartered cities of the State had either adopted the Berkeley plan, or were about to adopt it. By 1913, there was not a chartered city in the State that elected its officials on the partisan basis.

The 1913 Legislature accordingly brought the county governments up to the non-partisan standards of the municipalities. Every county office was, under this 1913 Act, made non-partisan. More than 2300 State and county offices, which during the days of machine rule had been partisan, were by the Acts of 1911 and 1913 made non-partisan. As the municipalities had by their own votes banished partisanship, when the 1913 Legislature adjourned there were, aside from the members of the Legislature, only eleven officers of the State, or of any political subdivision, who were elected on partisan basis.

When the election of United States Senators was taken from the Legislatures, and given to the electors, the last valid reason for electing State Legislatures on a partisan basis disappeared. Under the strengthening of the election laws, and general advance in political thought, partisan considerations

in the filling of these offices were fast disappearing.[172]

The 1915 Legislature, following the policy of the municipalities and of the two previous Legislatures to its logical conclusion, made the eleven remaining partisan State offices and the Legislature nonpartisan.[173]

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172 Of the 80 Assemblymen elected in 1914 we find 24 nominated as Republicans; 8 as Democrats and Republicans; 10 as Progressives and Republicans; 6 as Progressives, Republicans, and Democrats; 1 as Progressive and Socialist; 1 as Republican, Democrat and Prohibitionist; 1 as Progressive, Republican, Democrat and Prohibitionist; 1 as Progressive, Socialist, Democrat, Republican and Prohibitionist; 10 as Democrats; 7 as Democrats and Progressives; 1 as Prohibitionist, Progressive, and Democrat; 7 as Progressives; 2 as Socialists; 1 as Progressive, Republican, Democrat, and Socialist. Of the twenty State Senators elected that year there were 2 nominated as Republicans; 2 as Progressives; 4 as Democrats; 5 as Republicans and Progressives; 2 as Democrats and Progressives; 2 as Democrats, Progressives and Socialists; 1 as Democrat, Republican, and Prohibitionist; 1 as Progressive, Democrat, Republican, and Prohibitionist; 1 as Progressive, Democrat, and Republican.

173 Governor Hiram W. Johnson in his biennial message to the Legislature in 1915 said of non-partisanship in State affairs: "Most earnestly do I suggest to you that our State officials be elected without party designation of any sort. The advance to non-partisanship in our State will be neither an extended nor a difficult step. The political units that compose the State have all adopted non-partisanship in the selection of their officials. The desideratum of a government is efficiency—to obtain honest and able officials devoted exclusively to the government. To govern well is to govern for all, not for a part or a class. To act in official capacity should be to act solely for the benefit of the State, and that official acts best who forgets every other consideration but the interest of the State. Long ago this lesson was learned by cities. In California, as in many States, all of our cities elect their officials without regard to party affiliations at all, and without party designation. Why? Because experience taught these cities that thus they obtained better officials and greater efficiency. It is within the memory of all of us that these cities formerly elected their officials—city clerks, and the like—because of their partisan affiliations. Progress in city government swept from existence this old system, that had obtained so long, and its destruction was necessary in order that the best government be obtained. Recently the counties of the State adopted the plan that has been in vogue in cities, and elected all of the county officials without party designation. Inquiry among the counties has demonstrated that this method has met with almost universal approval, and it is hoped that the counties, in service, will be benefited just as the cities, in service, have been benefited. We now suggest applying the principle to the State as well, so that candidates for State positions will come before the people upon

The referendum was invoked against this 1915 non-partisan provision, and an extraordinarily bitter campaign was carried on against it.

The issue was decided at a special election, which more than anything else seemed in its results to voice a protest at calling special elections for the consideration of such matters. Only a comparatively few voters went to the polls, and of the eleven measures submitted—several of them propositions which had been opposed by no one—every one went down to defeat.

Out of a State registration of 1,220,000, only 269,-648 voted on the non-partisan bill. The measure was defeated with only 156,967 votes cast against it. Had the issue been fought out at a general election with the vote cast running upwards of 1,000,000,[174] if one may judge by the general satisfaction with the non-partisan provisions for municipal and county officials and for State judicial and school offices, a different result would have been registered.

In spite of the small vote cast the opponents of non-partisanship insisted that the people of California had gone definitely on record against the non-partisan idea. Nothing was further from the truth. However the partisan-inclined made the defeat of

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what they themselves are, not upon what their ancestors were, that they will ask the suffrages of the electorate upon their record or lack of record; their merits or their demerits, rather than upon the blind partisanship of themselves or their forefathers. There is nothing thus presented to you that seeks to destroy or even to affect political parties nationally."

174 Out of a registration of 1,219,345, 961,868 votes were cast at the preceding general election, November 3, 1914.

the non-partisan primary their talking point, and, at the 1917 session, when the Direct Primary bill came up for consideration, Assemblyman Henry Hawson of Fresno offered an amendment which provided that no primary candidate who failed to secure the nomination of the party with which he had registered should be eligible for nomination by another party.[175]

The members of the 1917 Legislature didn't quite realize the possibilities of the Hawson amendment, nor suspect the complications to which it was to lead. But the amendment had a partisan ring, which satisfied the pro-partisan members, and appeared harmless to the others. So Mr. Hawson had his way; his amendment was adopted and became law.

At the 1918 primary election, Mr. Hawson and the remainder of the State awoke to the possibilities of his amendment.

At the primaries James Rolph, Jr., received 74,955 votes for Democratic nomination for Governor; Francis J. Heney, 60,662; Thomas Lee Woolwine, 28,879. Mr. Rolph was thus, by large plurality, the Democratic choice for Governor. He was, however, registered as a Republican, and ran for the Republican nomination as well as for the Democratic. But while the Democrats wanted him for their candidate, the Republicans did not want him

175 The Hawson amendment was in full as follows: "No candidate for a nomination for other than a judicial, school, county, township or municipal office who fails to receive the highest number of votes for the nomination of the political party with which he was affiliated thirty-five days before the date of the primary election, as ascertained by the secretary of State from the affidavit of registration of such candidate in the office of the county clerk of the county in which such candidate resides, shall be entitled to be the candidate of any other political party."

for theirs. He failed to receive the Republican nomination. Under the Hawson amendment, Mr. Rolph having been denied nomination by his own party, was ineligible for nomination by the Democratic party. The Supreme Court decided not only that he was ineligible, but also that as neither Mr. Heney nor Mr. Woolwine had received the highest Democratic vote, neither of them was nominated. This left the Democratic party without a candidate for Governor.

The newspapers of the time give indication that the Democrats failed to see any humor in the situation.

Then it developed that Mr. Hawson is a Democrat. Indeed, at the primaries, where, under his amendment, nobody got the Democratic nomination for Governor, Mr. Hawson had been given the Democratic nomination for Congress. Mr. Hawson was not, however, elected.

This unsatisfactory result of Mr. Hawson's attempt to read a little partisanship into the Direct Primary law was, of course, considered at the 1919 session of the Legislature. The legislators, divided into four groups—those who favored:

(1) Leaving the Direct Primary just as the Hawson amendment had made it.

(2) Permitting the several parties to nominate any one whom they chose, regardless of political affiliations.

(3) Making all nominations strictly partisan.

(4) Prohibiting the nomination by another party

of any person who had failed to secure the nomination of his own party (the Hawson idea), but providing that in such a situation the party committee should name the candidate just as the committee was previously given power to fill vacancies on the ticket caused by the death of a candidate between a primary and the subsequent election.

This last view prevailed. It was really nothing more than the Hawson plan, with the further provision that the party committee should correct all such complications as that which had deprived the Democrats of a gubernatorial candidate in 1918.

When the 1921 Legislature convened, it at once became evident the non-progressive element, of which the Better America Federation was typical, was determined to inject partisanship into the Direct Primary law. The issue came over the measure introduced by Assemblymen White, Smith and Lee mentioned at the opening of this chapter. Their bill, which in effect denied the citizen the privilege of becoming a candidate for nomination of any party but that of his affiliation, in this particular set the Direct Primary back twelve years to what it was when first adopted in 1909.

The bill, furthermore, denied to the voters a privilege which had been theirs, and which had been frequently exercised by them, even under the old convention system, namely, the privilege of an endorsement by one party of a candidate registered in another party, even though that candidate already held the office to the best interests and fullest satis-

faction of all the voters in his district. By this privilege of endorsement by both parties in a primary, many excellent legislators had been induced to continue in service, whereas they might have been unwilling to stand the strain and expense of a second contest for election on a strictly partisan basis, to a legislative body in which questions of party never enter.

The Assembly Committee on Election Laws, to which this bill was referred, did not take kindly to it, but was eventually prevailed upon to report it out without recommendation.

Once it got back to the Assembly an active campaign was organized for its passage. When it finally came to vote, 51 Assemblymen cast their ballots for it, and 25 against.[176]. Two of those who voted for it, Fellom and Windrem, were, however, strongly opposed to it, and voted with the majority only to protect the opposition under a motion to reconsider the vote by which the bill had been passed. Reconsideration was, however, denied, and the bill went to the Senate.

The three authors of the measure—White, Smith,

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176 The vote by which the White-Smith-Lee partisan amendment to the Direct Primary laws passed the Assembly was:

For the bill—Assemblymen Baker, Beal, Benton, Bernard, Bishop, Bromley, Brooks, Christian, Cleveland, Colburn, Crittenden, Cummings, Fellom, Fulwider, Graves, Greene, Hart, Heck, Heisinger, Hornblower, Hume, Hurley, Johnson, Johnston, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Lewis, Loucks, Lyons, Manning, Mather, McCloskey, McDowell, Merriam, Parker, Parkinson, Pedrotti, Pettis, Powers, Roberts, Ross, Smith, Spalding, Stevens, Weber, Webster, White, Windrem, Wright H. W.—51.

Against the bill—Assemblymen Anderson, Badaracco, Broughton, Burns, Cleary, Eksward, Gray, Hawes, Hughes, Lee, G. W.; Long, McGee, McKeen, McPherson, Mitchell, Morrison, Prendergast, Ream, Rosenshine, Schmidt, Spence, Warren, Wendering, West, and Wright, T. M.—25.

and Lee—appeared before the Senate Committee on Election Laws to urge that their bill be given favorable consideration, or that at least it be passed out without recommendation as had been done by the Assembly Committee. But after the presentation of their case they found the Senate Committee practically a unit against the bill.

During the discussion of the measure, one of the committee inquired from its authors as to whether they would be willing to amend their bill so as to make it apply only to candidates for offices which were in their nature partisan, namely, Federal offices, such as that of United States Senator or Representative in Congress. But the three authors refused to consider any such limitation, declaring that no political party should be permitted to nominate any candidate for office who was not a member of such party.

Whereupon members of the committee pointed out that the refusal of the bill's supporters to have it apply only to offices really partisan by nature made the measure impossible, since its real effect was to destroy one of the fundamental principles of the primary law—free choice, on the part of the electors, of their candidates for office; and on motion, sustained by a unanimous vote of the committee, the bill was laid upon the table.

According to the rules of the Senate any bill which a committee refuses to report may, by vote of the Senate, be taken from the committee, and brought before the Senate for consideration. Certain

supporters of this measure from outside the Legislature sought to gain support among the Senators for thus withdrawing the bill from the committee; but after careful canvass only a very few Senators of either party were found to be in favor of the measure. Twenty-one affirmative votes would have been required to secure its passage.

CHAPTER XVIII.

The Anti-Liquor Campaign of 1920.

The 1919 California Legislature, by an affirmative vote of 47 in the Assembly and 24 in the Senate, ratified the Eighteenth (Prohibition) Amendment to the Constitution of the United States.[177]

By almost the same vote the Legislature passed the effective Prohibition Enforcement law, which had been drawn under the direction of the late Dr. D. M. Gandier.[177a] This measure was introduced by Senator M. B. Harris of Fresno in the Senate. It was handled in the Lower House by Assemblyman T. M. Wright of San Jose.[178]

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177 The vote (1919 session) by which the prohibition amendment to the Federal Constitution was ratified by the California Legislature was:

In the Senate: For the amendment—Senators Anderson, Benson, Boggs, Breed, Brown, Carr, W. J.; Dennett, Duncan, Evans, Gates, Harris, Ingram, Irwin, Johnson, Jones, Kehoe, King, Lyon, Otis, Rigdon, Rominger, Sample, Thompson, and Yonkin—24.

Against the amendment—Senators Burnett, Canepa, Carr, F. M.; Chamberlin, Crowley, Flaherty, Hart, Inman, McDonald, Nealon, Rush, Scott, Sharkey, Shearer, and Slater—15.

In the Assembly: For the amendment—Allen, Ambrose, Anderson, Argabrite, Baker, Bennett, Bromley, Brooks, Broughton, Brown, J. S.; Browne, M. B.; Carter, Cleary, Cummings, Doran, Dorris, Eden, Fleming, Graves, Gray, Hilton, Hughes, Kline, Knight, Lindley, Locke, Martin, Mather, McKeen, Merriam, Miller, D. W.; Miller, H. A.; Oakley, Odale, Pettit, Polsley, Prendergast, Price, Roberts, Saylor, Strother, Wendering, White, Wickham, Windrem, Wright, H. M., and Wright, T. M.—47.

Against the amendment—Badaracco, Bruck, Calahan, Collins, Easton, Eksward, Gebhart, Godsil, Goetting, Greene, Hawes, Hurley, Johnston, Kasch, Kenney, Lamb, Lewis, Lynch, Manning, McColgan, McCray, Mitchell, Morrison, Parker, Ream, Rose, Rosenshine, Vicini, and Warren—29.

177a See footnote 183, page 236.

178 The vote (1919 session) by which the Harris enforcement bill was passed by the Legislature was:

In the Senate: For the Harris bill—Senators Benson, Boggs,

At the general election, which followed the 1919 legislative session, November, 1920, the voters by a majority of 65,062 repudiated the action of the 1919 Legislature in passing the Harris Prohibition Enforcement Act, and reduced the anti-liquor strength in the Assembly from the dependable vote of forty-seven out of eighty members at the 1919 session, to thirty-six at the 1921 session.

In no other State was there such an astonishing change in public opinion on prohibition as evidenced on the face of the election returns. Ohio, which had defeated prohibition enforcement legislation by a majority of 26,734 the year before, faced about, and in 1920 gave a majority of 290,140 for such a measure. Missouri's majority for prohibition enforcement at the 1920 election was 62,000. Even New York and Pennsylvania, regarded as pro-liquor strongholds, showed important gains in popular support of prohibition enforcement. New Jersey, one of the three States which refused to ratify the

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Breed, Brown, Carr, W. J.; Dennett, Duncan, Evans, Gates, Harris, Ingram, Irwin, Johnson, Jones, Kehoe, King, Lyon, Otis, Rigdon, Rominger, Sample, Thompson, and Yonkin—23.

Against the Harris bill—Senators Anderson, Burnett, Canepa, Carr, F. M.; Chamberlin, Crowley, Flaherty, Hart, McDonald, Nealon, Scott, Shearer, and Slater—13.

In the Assembly: For the Harris bill—Allen, Ambrose, Argabrite, Baker, Bennett, Bromley, Brooks, Broughton, Brown, J. S.; Browne, M. B.; Carter, Cleary, Cummings, Doran, Dorris, Eden, Fleming, Graves, Hilton, Hughes, Hurley, Kline, Knight, Lindley, Locke, Martin, Mather, McKeen, Merriam, Miller, D. W.; Miller, H. A.; Morris, Oakley, Odale, Pettit, Polsley, Prendergast, Price, Roberts, Saylor, Strother, Wendering, White, Wickham, Windrem, Wright, H. M., and Wright, T. M.—47.

Against the Harris bill—Anderson, Badaracco, Bruck, Calahan, Collins, Easton, Eksward, Gebhart, Godsil, Goetting, Greene, Johnston, Kasch, Kenney, Lamb, Lewis, Lynch, Madison, Manning, Mathews, McColgan, McCray, Mitchell, Ream, Rose, Stevens, Vicini, and Warren—28.

Eighteenth Amendment, elected a Legislature pledged to strict prohibition enforcement. California, in apparent reaction against prohibiton was, at the 1920 election, the one important exception among the States of the Union.

The term "apparent" is used because comparison of the 1916 and 1920 election returns shows there was no reaction against prohibition in California. On the contrary, the reaction was against the liquor traffic.

The pro-liquor vote in California, instead of showing the increase which reaction in favor of the liquor interests would have involved, fell from 538,200 in 1916 to 465,537 in 1920, a loss for the pro-liquor groups of 72,663.

This heavy loss came to the liquor forces after what was unquestionably the best financed and most effectively conducted campaign they have ever carried on in California. That their vote fell off nearly 100,000 in spite of their extraordinary and practically unopposed efforts shows their weakness in this State was quite equal to that in other States, which, everywhere but in California, resulted in their overwhelming defeat.

Had the anti-liquor forces in California held their vote of 436,639 in 1916, and added to it the pro-liquor loss of 72,663, without counting their natural gains possible for a four-year's period, the vote for the Harris Prohibition Enforcement law would have been 509,302, and the 1919 Legislature's course in passing the measure, instead of being repudiated,

would have been upheld at the polls with a majority above 40,000.

But the pro-liquor loss was not added to the anti-liquor vote of 1916. Indeed, perplexing as it may seem to those who have been following prohibition gains the country over, the California anti-liquor vote of 436,639 for absolute prohibition in 1916, fell to 400,475 for prohibition enforcement in 1920.[179] In a word, the anti-liquor vote of 1916 did not find expression at the 1920 polls. Because of this failure of the anti-liquor forces to hold their own the Harris prohibition enforcement act was defeated, and the dependable anti-liquor majority in the Lower House of the Legislature wiped out.[180]

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179 The reverse of this statement, namely, that the pro-liquor forces failed to add to their 1916 strength the anti-liquor loss, does not hold, for the reason that the pro-liquor group carried on a most effective campaign against the Harris act, and for members of the Assembly who were in sympathy with their policies. The pro-liquor forces got out their last vote so far as up-to-date campaign management can get the vote out. The anti-liquor forces' campaign both for the Harris act and members of the Legislature was admittedly poorly directed, inadequate and blundering. When, less than two months before election, practical men attempted to place the anti-liquor campaign on an effective basis, they found it impossible to overcome in a period of seven weeks the inaction and blundering of nearly two years, nor could they meet in that brief period the two-years' propaganda of the pro-liquor groups which had been permitted to go practically unanswered. The maximum California pro-liquor vote was cast at the 1920 election; the anti-liquor vote was not.

180 So far as the liquor line-up was concerned, there was practically no change in the Senate. To begin with, twenty of the forty members of the 1921 Senate were named at the 1918 election. Of the twenty elected in 1920, fourteen were old members returned on their legislative records. Four of the six changes were in districts which are overwhelmingly anti-liquor. The members named from these districts, Nelson, Allen, Arbuckle, and Eden, were naturally as staunchly for prohibition policies as had been their predecessors. In the fifth case, Osborne of Santa Clara County was elected in a district where the pro-liquor forces suffered serious losses over their 1916 vote, and where, even with the mismanagement of the anti-liquor campaign, the pro-liquor side carried the county with a majority under 1000. Had the anti-liquor vote of 1916 been cast in Santa Clara County, plus

In this chapter will be traced the series of events which brought about these exceptional reverses for the anti-liquor forces in California, that we may have clear understanding of the controversy in the 1921 Legislature over the various measures affecting the liquor traffic.

The anti-liquor program at the previous session (1919) called for ratification of the national prohibition amendment, and passage of effective prohibition-enforcement legislation. The "drys" were in safe majority in each house.[181] The amendment was ratified; the necessary prohibition-enforcement law enacted.

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the pro-liquor loss, the pro-liquor group, instead of carrying the county against the Harris act, would have been defeated with a majority of 4500 in favor of that measure. Senator Osborne, with such a constituency back of him, voted as consistently with the anti-liquor Senators as had his predecessor, Senator Frank H. Benson. The other Senatorial district to change its Senator, the Twenty-first of San Francisco, is overwhelmingly pro-liquor. Senator Godsil, the new member from this district, voted with the pro-liquor group always, as had the member whose place he took, the late Senator Nealon.

181 The anti-liquor forces were even stronger in the 1919 Legislature than a bare statement of the vote indicates. In the Senate, twenty-three of the forty members voted against liquor every time they voted. Of the twenty-three, thirteen voted on every roll-call. They were Benson, Boggs, Breed, Carr, W. J.; Duncan, Ingram, Johnson, Jones, King, Rigdon, Sample, Thompson, Yonkin. Ten of the twenty-three voted against the liquor traffic every time they voted, but were absent on certain roll-calls which are shown in the tables. They were: Brown, absent on three roll-calls; Dennett, absent on four roll-calls; Evans, absent on one roll-call; Gates, absent on one roll-call; Harris, absent on one roll-call; Irwin, absent on one roll-call; Kehoe, absent on two roll-calls; Lyon, absent on two roll-calls; Otis, absent on four roll-calls; Rominger, absent on two roll-calls. On the "wet" side, only two Senators—Crowley and Nealon—voted on every roll-call on the side of liquor. Five others voted on the side of liquor every time they voted, but were absent on several roll-calls. They were: Senators Canapa, Scott, Flaherty, McDonald, all absent on one roll-call. Of the seven, who voted against prohibition every time they voted, six were from San Francisco; one, F. M. Carr, was from Alameda. In the Assembly, thirty-one of the eighty members voted in opposition to liquor every time they voted. Of the thirty-one, eighteen voted on every one of the twenty-five roll-calls. They were: Allen, Ambrose, Argabrite, Bromley, Brown, J. Stanley; Cleary, Eden, Kline, Lindley, Mather, McKeen, Mer-

The anti-liquor leaders did more than put these measures through the Legislature. Realizing that the enforcement act would be brought to popular vote under the referendum, in drawing the measure they provided for every possible objection that could be brought against it.

The section safeguarding altar wine, for example, was drawn by a Catholic priest and passed upon by prominent Catholics. Manufacturers of flavoring extracts were consulted as to their requirements for continuation of legitimate business. Care was taken that no unduly drastic provision that the public might regard as unreasonable be included in the bill.

The further precaution was taken in the 1919 Legislature to keep notes of the several debates, that the various objections which might be brought up later might be answered from the record.

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riam, Miller, D. W.; Miller, H. A.; Pettit, Saylor, Wendering, Wright, T. M. Five others voted against liquor every time they voted, but were absent on one roll-call. They were: Broughton, Cummings, Knight, Oakley, Wright, H. W. Eight voted against the liquor traffic every time they were recorded as voting, but were absent on more than one roll-call. They were: Brooks, absent on four roll-calls; Doran, absent on three roll-calls; Dorris, absent on three roll-calls; Flemming, absent on four roll-calls; Hughes, absent on two roll-calls; Odale, absent on four roll-calls; Prendergast, absent on five roll-calls; Strother, absent on three roll-calls. On the pro-liquor side, in the Assembly, twenty members voted for liquor every time they voted. Three of them—Eksward, Lewis and Manning—voted every time. Curiously enough, not one of the three was from San Francisco, Eksward hailing from San Mateo, Lewis from Yuba, and Manning from Marin. The seventeen remaining who made a clear record in favor of the liquor traffic, so far as they voted, were: Badaracco, absent on one roll-call; Calahan, absent on one roll-call; Collins, absent on two roll-calls; Easton, absent on one roll-call; Greene, absent on one roll-call; Hawes, absent on thirteen roll-calls; Kasch, absent on one roll-call; Kenney, absent on two roll-calls; Lamb, absent on one roll-call; Madison, absent on five roll-calls; McColgan, absent on one roll-call; Mitchell, absent on ten roll-calls; Morris, absent on ten roll-calls; Morrison, absent on seven roll-calls; Stevens, absent on eight roll-calls; Vicini, absent on two roll-calls; Warren, absent on two roll-calls.

For example, it was recognized that an attempt would be made to turn Labor against the bill on the ground that certain "dry" members of the Legislature had opposed labor measures. Complete records of the votes of all the members on labor measures were accordingly kept. These records showed that the effective opponents of labor policies had voted with the pro-liquor group, while the most effective supporters of labor measures were on the prohibition side.

In the same way, the exposure and condemnation by Catholic members of those who attempted to defeat the enforcement act by falsely alleging that provision was not made in it for altar wine, were published in the official paper of the "dry" forces, The Liberator,[182]

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182 The California Liberator, official publication of the Anti-Saloon League, in its issue for April, 1919, for example, contains the following reference to these debates: "Before the Harris enforcement act was submitted to the Assembly, a priest of the Catholic Church and other Catholics had read it and had suggested provisions,—which were made part of the measure—that made the manufacture, sale, storage and use of wine for sacramental purposes absolutely secure. The bill provides that 'nothing in this act shall be construed as rendering unlawful, the sale or furnishing of wine for sacramental purposes.' The manufacture and storage of wine for such purposes is also provided. In spite of these provisions, the 'wets', when the Harris bill came up for passage in the Assembly on March 21, insisted on an amendment further to safeguard altar wines. The amendment was unnecessary. But the 'drys', to make assurance doubly sure, consented to such an amendment as the 'wets' suggested, although by accepting it they delayed the bill's passage several days. When the measure came up for passage the following Friday, the 'wets' proposed another amendment for the 'protection of altar wine'. This was carrying their solicitude for altar wine a trifle too far. Assemblyman Prendergast, himself a Catholic, let it be known that he considered it an outrage that the liquor interests should, after the sacrament of the mass had been amply protected, continue to use the sacred institution as pretext to delay the passage of a necessary and meritorious measure. Mr. Prendergast showed that when the bill had been before the Assembly several days before, although in its original form there could have been no reasonable question on that score, it had been amended in terms so plain that even a 'wet' could understand that altar wine was not brought under prohibition provisions. 'And yet,' concluded Mr. Prendergast, 'they come here at this late hour, after this

the intention being to use these statements during the referendum campaign, to meet the reckless charges that under the Harris prohibition enforcement act adequate provision was not made for the sacrament.

The 1919 Legislature closed not only with the prohibition program successfully carried out, but with every point at which that program might be attacked safeguarded.

Furthermore, to carry out their well considered plans to defeat referendum of the Harris law, the anti-liquor forces had the most effective political organization ever built up in California. This organization, functioning through the Anti-Saloon League, was the result of years of careful planning on the part of Dr. D. M. Gandier, [183] and the aids who had joined with

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feature has been satisfactorily adjusted, and attempt further to delay by asserting that altar wine is not protected. As a Catholic, I resent such tactics, and such employment of the name of that sacred institution of my church, the mass, in the interest of saloon keepers and whiskey sellers.' Assemblyman Wendering, also a Catholic, protested as vigorously as did Mr. Prendergast against the use to which the liquor interests were putting altar wine. He showed that representatives of the Knights of Columbus had examined the bill, and were perfectly satisfied that altar wine was fully safeguarded. After such a showing from Catholic members, the 'wets' could not continue this particular line of attack."

183 Dr. D. M. Gandier first appeared at the California Legislature in 1909, when he was sent to Sacramento by the Anti-Saloon League to put through a county local option law. Although he failed of his mission that year, he established connections which made local-option legislation possible two years later. After the passage of the Local Option law in 1911, Gandier became the recognized head of the prohibition forces in California functioning through the Anti-Saloon League. From legislative representative of the Anti-Saloon League, he was advanced to State Superintendent, a position which he held until the time of his death, although he continued his legislative work at Sacramento (See Stories of the California Legislature of 1909, 1911, 1913, and 1915). Gandier enjoyed the confidence of the supporters of prohibition and the respect of its opponents. His departure from California when the success of plans for prohibition-enforcement demanded his presence here, was the best thing that could have happened for the pro-liquor forces; it was the worst thing that could have happened for the anti-liquor campaign, and, as the sequel showed, himself.

him in their successful drive against the liquor interests. Control of the Anti-Saloon League meant control of California's exceptionally efficient anti-liquor organization, and administration of the large fund which church people were contributing to the Anti-Saloon League to break the liquor traffic. The outcome of the 1918 campaign, and the accomplishment of this organization at the 1919 Legislature, at once made it an important factor in California politics.

Practical men on both sides recognized that the battle for prohibition enforcement would be quite as important as that for ratification of the national prohibition amendment. So long as the anti-liquor organization remained intact, the chances for defeat of the Harris Enforcement Act were slight. Effective "drys" recognized that the important thing in the interest of prohibition enforcement in California, and incidentally of world prohibition, was to keep up their organization. Effective wets no doubt recognized the importance, from their standpoint, of slowing down the Anti-Saloon League's work and depriving it of the counsel and service of men who had made it effective.

As the lines of the 1919-20 campaign for prohibition enforcement tightened, anti-liquor workers were dismayed to find a movement started to get Dr. Gandier out of the State at a time when his presence here was needed as it never had been before.

The first suggestion was that he be sent to Europe in the interest of world prohibition. He actually started for New York on that mission, but trouble over passports prevented his crossing the Atlantic. He had

scarcely returned to California to the work awaiting him, when the idea was advanced that, in the interest of world prohibition, he should go to Japan and China. The trip was to be made a sort of "holiday" for the good of his health. It proved a most disastrous "holiday" for the cause of prohibition, and a cruelly disastrous "holiday" for him.

Gandier had for months been breaking under the strain of the various campaigns which he had directed. On his return from his proposed European trip, the first symptoms of the terrible malady which was to result in his death were plainly discernible. His place was in a hospital, not in the then unsettled Orient. He himself recognized this, and at one time had practically decided to ignore the insistent suggestion that he go into Asia; place himself in the hands of competent physicians, to the end that, with needed rest and competent medical and, if necessary, surgical attention, he could be made fit for the 1919-20 campaign. His disinterested advisors bluntly told him that prohibition was on trial in the United States; that its adoption by other countries hinged upon its enforcement here; that in the interest of world prohibition his place was in California.

But in the end, Gandier yielded to the insistent clamor that he go to Asia for a "rest" and to advance the cause of prohibition in those far lands. Had he adhered to his first decision to remain in California and place himself in the hands of a physician, he would probably be alive today with twenty years of useful work ahead of him.

He went to Asia. He returned to die.

When Gandier left the State, Dr. Arthur H. Briggs, as Superintendent of the Anti-Saloon League for Northern California, and Rev. S. T. Montgomery, as Superintendent of the Anti-Saloon League for Southern California, assumed charge of that organization, and hence of the anti-liquor campaign.

The pro-liquor groups, from the day the Eighteenth Amendment had been ratified, had been organizing to have it set aside if possible,[184] to block prohibition enforcement if they could not repeal it. Their movement was nation-wide, and was particularly well represented and organized in California. It soon became apparent that, so far as meeting this well-considered pro-liquor campaign was concerned, the Anti-Saloon League organization was slowing down.

The pro-liquor management was plainly making a drive for Catholic and Labor support.[185] This move,

184 The prospectus of an organization to repeal the Eighteenth Amendment which had its headquarters in the Munsey building, Washington, D. C., contained the following: "Every member signs a pledge of somewhat the following form: 'I hereby pledge my word that so long as I remain a member of this League, I will not vote for any candidate for the office of United States Senator or Member of Congress or Member of the State Legislature unless such candidate announces or promises that he will favor the repeal of the recent prohibition amendment to the Federal Constitution.' The prospectus concluded: 'The prohibitionists, believing that victory is won, have turned their attention to their anti-tobacco crusade and to their work for prohibition in other countries and here they are somewhat disorganized and are so flushed with victory that this seems a good time to recover our rights.'"

185 Comparison of the "wet" and "dry" votes of the 1914 and 1916 campaigns, showed that the peak of the Protestant-prohibition vote had been reached in 1914; that this vote did not exceed 365,000. As 500,000 votes were required to give a majority for a prohibition measure, it was evident that approximately 150,000 votes had to be secured from outside traditional prohibition circles. Gandier and his aids worked on this theory during the 1917-18 campaigns to close the saloons, and to elect a Legislature

as has been shown, had been anticipated when the 1919 Legislature was in session. The "dry" organization was well prepared to meet this attack. But perplexed prohibitionists could not see that the attacks were being met.[186]

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that would ratify the Eighteenth Amendment. Particular appeal was made to Catholic and Labor groups, with such success that the balance of power which these groups held was thrown on the prohibition side. Dr. Gandier on one occasion told the writer that in his judgment the man who had done most to influence doubting voters to cast their ballots for prohibition in California, was Rev. Father M. J. Whyte, pastor of the Catholic Church at Sunnyvale. Father Whyte's influence for prohibition, was, before the breaking down of the anti-liquor organization, felt from the Oregon line to Mexico. Men and women closely affiliated with organized labor, shown that the 'drys' were their consistent friends, threw their influence to the prohibition side in 1917-18, and had much to do with the prohibition successes of those years. The first objective of the 1919-20 pro-liquor campaign was to win these groups away from the prohibition side.

186 In a letter under date of June 11, 1919, Dr. Josiah Sibley, pastor of the Calvary Presbyterian Church of San Francisco, asked the writer for data to confute the statements that were being circulated that the prohibition members of the 1919 Legislature had made black records on labor legislation. The following reply was sent Dr. Sibley:

"In the 1919 Senate, ten test votes were taken on so-called labor measures. The two Senators who registered the worst records on these votes from the standpoint of labor, voted against ratification of the national prohibition amendment, and against the Harris bill providing for enforcement of prohibition. On ten labor test roll-calls, the two could have cast a possible 20 votes. Their record was 3 votes for labor, 15 votes against labor and two failures to vote. There were in the Senate ten test roll-calls on the liquor question. The two Senators who made the worst labor records—from Labor's standpoint—had 20 votes on liquor issues. They cast 6 votes against liquor, 9 votes for liquor, with five failures to vote. In the Assembly, the 'wet' opposition to Labor was more pronounced in comparison with 'dry' opposition than in the Senate. I find, however, that the 'wets' have given wide distribution to a pamphlet which sets forth that only three members of the Legislature voted against Labor every time, and the three were prohibitionists. There is enough truth in this statement to get by, but it by no means tells the whole story. The three Assemblymen referred to do have the distinction of being the only ones out of 120 members of the Legislature to vote against Labor on every roll-call. It is true, too, that they had the support of the 'drys' at the 1918 election. It is equally true that they were the leaders of the reactionary group in the Assembly which stood out against the election of H. W. Wright, the dry candidate for Speaker. Furthermore, they were among the least dependable

The same was true of the pro-liquor people's efforts to get publicity by attempting to put the ratification of the Eighteenth Amendment to referendum vote. This wet publicity move could have been readily blocked, but was not. Such examples of apparent inability to meet the campaign which the pro-liquor people were forcing upon the beginning-to-be demoralized anti-liquor forces brought sharp criticism.

"What has become of the Anti-Saloon League," wrote Senator M. B. Harris of Fresno, author of the

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of the 'dry' supporters. At times when the 'drys' needed every vote, these three Assemblymen sometimes failed to vote, and several times voted 'wet'. On twenty-five roll-calls affecting anti-liquor legislation, one of the three voted 20 'dry', 3 'wet', and failed to vote 2; the second voted 20 'dry', 1 'wet,' failed to vote 4; the third voted 17 'dry', 7 'wet', failed to vote 1. Two of the three had to be watched constantly and we probably did more worrying about how they were going to vote than we did over all of the other 'dry' members combined. Personally, I have, with others who stand for good government, always protested against 'dry' support being given such men. You can see from our experience with the three Assemblymen in question, how 'dry' support of unworthy candidates involves the whole prohibition movement. But we must not without protest permit the attitude of all the 'drys' in the Assembly on labor measures to be fixed by the records of three reactionaries. A broader test must be applied. In the Assembly, there were ten test roll-calls on labor issues. On these ten roll-calls eleven members made, from Labor's standpoint, very bad records. Five of the eleven did not vote for Labor at all; six voted for Labor on one ballot only. Included with the eleven are, of course, the three who have already been considered. The list contains only one other 'dry', and, by the way, the only 'dry' of the four who made a clear record against liquor. The other seven members were all 'wet'. Three of them were the leaders of the 'wet' side, and directed the fight for the 'wets' on the floor of the Assembly. The eleven had 110 possible votes on the ten labor roll-calls. They voted 6 times for Labor, 78 times against Labor, 26 times not voting. The eleven, on 25 test votes on liquor issues, had 275 possible votes. They voted against liquor 86 times, for liquor 161 times, 28 times not voting. Included in the 86 anti-liquor votes of this anti-labor eleven were 57 votes cast by the three reactionaries considered above. These 57 votes eliminated from the 86 'dry' votes cast by the 11 anti-labor Assemblymen, and we have for the group but 29 'dry' votes. If we deduct from the twenty-nine the 25 votes of the only clear record 'dry' of the eleven, we have only 4 'dry' votes from this anti-labor group. The seven anti-labor

Harris Prohibition Enforcement Act, under date of June 11, 1919. "The officials of this organization in this county have received no advice from the State organization, and so far as they know the State organization has ceased to act. I have been impressed for a long time with the great importance of a closer organization and a more intensive campaign now and for some time to come than have ever yet been attempted by the Anti-Saloon people. I am astonished and chagrined at their apparent indifference. To all intents and purposes, so far as California is concerned, they have deserted the ship."

Assemblymen who cast these four dry votes, had a possible 175 votes on anti-liquor measures. They voted against liquor 4 times, for liquor 150 times, not voting 21 times. In the Assembly, only three members voted for liquor on every one of the twenty-five roll-calls. These three 'perfectly wet' Assemblymen had a possible 30 votes on Labor test roll-calls. They voted 7 times for Labor, 21 times against Labor, were absent on two roll-calls. In view of these facts, my dear Sibley, I do not think the 'wet' publicity bureau can maintain its position that Labor had the undivided support of the 'wets' at the 1919 Legislature. And yet, from one end of California to the other, Labor has the idea that the 'wets' made clear pro-labor records at the 1919 Session. I do want to say a word of 'dry' support of labor measures. In the Senate, the two dependable pro-labor-legislation leaders were 'dry', had been elected as 'drys', and voted 'dry'. Labor's chief fight in the Senate was the so-called anti-injunction bill. The five substantial backers of that bill in the Senate, whose support prevented the contest for it from becoming contemptible, were 'dry'. In the Assembly, of the two dependable leaders in the debates for labor legislation, one was 'dry' and the other 'wet', so honors were evenly divided there. But the three effective leaders of the group in opposition to Labor, were also the three effective leaders of the 'wet' forces. These three led the opposition to prohibition legislation, and they led the opposition to labor legislation. As for the fifteen best records on labor measures, from Labor's standpoint, made in the Assembly, 6 were made by 'drys' and 9 by 'wets'. And yet Labor is being schooled to believe that the 'drys' are all opposed to labor measures. You may find this useful in combating the misinformation which the 'wets' are so industriously putting out."

Although a copy of this letter to Dr. Sibley was sent the acting head of the Anti-Saloon League for Northern California, no use of the data contained therein seems to have been made by that organization.

Other "dry" leaders throughout the State similarly expressed their astonishment at the unlooked-for change of policy of the Anti-Saloon League.

Another matter that caused more or less criticism was the failure of the Anti-Saloon League management to call a State convention of the dry forces to plan the 1920 campaign, as had been done with the best of results in 1914, 1916 and 1918.

As month followed month without a convention being called, and without appreciable progress being made against the aggressive and most effective campaign which the pro-liquor forces were carrying on, opinion increased that, unless action could be secured through those in charge of the Anti-Saloon League, then the Women's Christian Temperance Union, or some similar body should call a meeting to plan a campaign, and, if that failed, effective supporters of prohibition should meet the situation independent of all existing organizations.

Such a course was seriously considered when the State Legislature met at Sacramento in extra session in November, 1919. While those who advised against such a course recognized that valuable time was being lost, they pointed out that Dr. Gandier was expected back from Asia about the first of the year, and held that no action should be taken until his return. This view finally prevailed. Had Dr. Gandier returned well and fit, such counsel that further delayed the campaign would have been good. As he returned broken in health and out of touch with the situation, it proved eventually to be very bad advice.

Gandier reached California early in January, 1920, too ill to grasp the fact that the Anti-Saloon League was no longer the effective organization which he had left nine months before; too weak of body—unable to use his head, as he himself expressed it—to give the situation the vigorous attention which alone could have averted the defeat for which the anti-liquor forces had, for nine months, been headed.

So the drift continued. Those who were in control of the Anti-Saloon League organization let it be understood that Gandier was in the counsels of the campaign, and held out the hope that he would soon be back in full leadership. This reassured many, for all had confidence in Gandier. But Gandier was not back in the campaign, and even while the March Liberator [187] was being distributed, announcing his return to the work, he was writing to a friend, under date of March 29, that the representative of the Liberator had been misled as to his condition by seeing him on his best day, that the Liberator's statement was too optimistic, that "a little effort to use my head soon let me know that I have to stay out of the work for a time."

In spite of this, the dry forces were led to believe that Dr. Gandier was back on the job, and that all was well once more with the anti-liquor organization.

The "dry" campaign continued to drift. As late as

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187 The California Liberator, official publication of the Anti-Saloon League for California, in its March issue for 1920 said: "There is reason for deepest gratitude to God in the fact that Dr. Gandier is gaining strength every day. He walks about a little and is taking solid food. He is now in the counsels of the campaign and, please God, we will soon have him back again in full leadership."

March 1, 1920, practical "drys" were for giving the management of the Anti-Saloon League one more chance, and if action could not be had from that organization, favored forming an independent organization to direct the anti-liquor activities.

In such a confused situation there could be no initiative on the part of the anti-liquor forces in shaping the campaign. In 1914, 1916 and 1918 the "drys" had met in convention, decided upon a campaign, selected their leaders, and forced the issue. In 1920 there was no such convention, no plan of campaign. Efforts of practical "drys" to have a convention called were, on one pretext or another, discouraged. The pro-liquor forces, on the other hand, took the initiative, shaped the campaign so far as it was shaped, and the anti-liquor groups accepted the situation because there was nothing else they could do.

It had early become apparent that the anti-liquor forces would be called upon:

(1) To defend the Harris Prohibition Enforcement law, held up under the referendum;

(2) To elect Congressmen committed to enforcement of prohibition;

(3) To elect a United States Senator so committed in place of Senator James D. Phelan;

(4) To defend their majority in the Legislature against the attacks of the pro-liquor group.

The importance of sending a "dry" vote in the United States Senate in place of the "wet" vote represented by Senator James D. Phelan, appealed strongly

to the California opponents of liquor. When, therefore, in the summer of 1919, William Kent announced his candidacy on a prohibition enforcement platform for the Republican nomination for United States Senator, practical "drys" saw in his candidacy opportunity to recover much of the ground they had lost.

As a member of Congress, Mr. Kent had been a most effective supporter of prohibition measures which the Anti-Saloon League, in preparing the way for constitutional prohibition, had forced through Congress.[188] During the 1916 anti-liquor campaign in California he had rendered fine assistance at a time when it was greatly needed. For years, not only in California, but throughout the nation, his time, his fortune and his fine abilities had been devoted to betterment work.

With the announcement of his candidacy, Mr. Kent sent a communication to the State press in which he unequivocally went on record for enforcement of the prohibition provisions of the Federal constitution and statutes.[189] Furthermore, Mr. Kent recognized that

188 For Mr. Kent's effective support in Congress of Anti-Saloon League policies, Rev. Edwin C. Dinwiddie, who for many years was Legislative Superintendent of the Anti-Saloon League at Washington, wrote Mr. Kent as follows: "I want to thank you, both personally and on behalf of the people in the church and temperance committees and organizations which I have the honor to represent in national legislative affairs, for your support of the interstate liquor shipment bill which we have been urging. We were glad to note your vote in favor of the bill when it originally passed the House on February 8, and that you reaffirmed your interest in the legislation by voting to pass it over the Presidential veto. Please be assured that our constituency throughout the country will hold you in grateful remembrance for your stand in support of this righteous measure."

189 Mr. Kent's statement to the press read as follows: "I have always seen and realized the social, political and economic evils of the liquor trade. I used to believe that the remedy lay in local option and anti-saloon legislation, but believe great good will come from the prohibition amendment. That amendment is

enforcement laws were not enough alone. He recognized that adequate appropriations for enforcement of such laws were required, and announced that he would support such appropriations. From the anti-liquor standpoint—the replacing of a "wet vote" in the United States Senate with a "dry vote"—Kent was by far the strongest candidate whom the "drys" could have selected. He had an independent following which no other candidate, willing to take his advanced position on prohibition enforcement, had. He was not the man to look for financial assistance from the anti-liquor organization. His candidacy at once left the "drys" free to press their campaign for the Harris bill, for "dry" Congressmen, and State legislators. Influential anti-liquor workers throughout the State, recognizing the strength which Kent's candidacy would give the California anti-liquor movement, identified themselves with his campaign.[190]

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to my mind a duly enacted part of the supreme law of the land and should be enforced. I believe that those who are attacking its validity are either whistling to keep up their courage or are practicing a colossal confidence game. Legislation intended to weaken the amendment will necessarily be declared unconstitutional. Any attempt to permit the sale of beer on the border line of an intoxicant will mean a perpetuation of the saloon nuisance. Every student of civic questions realizes that the brewery interests with their subsidized saloons have been in the van of political wickedness."

190 Kent had the support of Californians who had led the campaigns for prohibition, redlight abatement, gambling, etc., for Kent had been identified with all these movements. Among these leaders were Dr. David Starr Jordan of Stanford University; Senator George S. Walker, author of the Anti-Race Track Gambling bill of 1909 and 1911, under which race-track gambling was driven from the State; (see Stories of the California Legislature 1909 and 1911); Assemblyman L. D. Bohnett of San Jose, author of the Redlight Abatement Act in the 1913 Assembly (see Story of the California Legislature of 1913); E. W. Chapin of Pasadena, twice candidate for President of the United States on the prohibition ticket; C. M. Goethe, leading prohibition worker of the Sacramento valley; Mrs. Dane Coolidge of Berkeley, etc.

Several months after Mr. Kent announced his candidacy, it became known that the State President of the Anti-Saloon League,[191] Mr. A. J. Wallace, was ambitious to go to the United States Senate himself, and was preparing to announce his own candidacy for the Republican nomination. Not only would this late entrance of Mr. Wallace into the contest divide the "dry" vote and very likely result in a "pro-liquor" candidate being nominated, but practical anti-liquor workers recognized that Mr. Wallace was without independent sources of strength which were necessary to make his election at the November finals possible.[192] Some of Wallace's closest associates advised him to

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191 The story has been widely circulated that Mr. Wallace's candidacy was announced in advance of that of Mr. Kent, and that Mr. Kent crowded into the campaign after Mr. Wallace had become a candidate. Such is not the fact. As early as July, 1919, Mr. Kent's candidacy had been definitely announced and was the topic of general comment in California papers. Edward H. Hamilton, in the San Francisco Examiner for July 30, 1919, quotes Mr. Kent as saying: "I will seek the Republican nomination." Mr. Wallace did not make his ambitions known until early in 1920, fully six months after Mr. Kent's candidacy had been announced. On the title page of The Liberator for March, 1920, Mr. Wallace's name appeared as State President of the Anti-Saloon League, but did not so appear in the April, 1920, issue. "Immediately on becoming a candidate for the United States Senate," says the April, 1920, Liberator, "A. J. Wallace resigned the presidency of the Anti-Saloon League. This resignation was accepted at the meeting of the State Board of Directors held in Los Angeles March 25. The unvarying custom of the Anti-Saloon League is to retire any officer who may become a candidate for public office." After Mr. Wallace's defeat for the Senate nomination, his name once more appeared in the published list of Anti-Saloon League officials as State President.

192 This was well shown by the Stockton Record in refusing to support Mr. Wallace. The Record is the principal anti-liquor daily paper published in northern California. It had been Wallace's strongest newspaper supporter in northern California when he ran for Lieutenant-Governor in 1910. But the Record refused to support Wallace's candidacy for nomination on the ground that he could not be elected if nominated. The Record said: "In nominating a candidate there is another important thing to be considered. Can he be elected? The Record believes that William Kent can easily be elected. It is not so sure about any of the other aspirants for the Republican nomination."

keep out of the fight. Others, while supporting him on account of friendship, recognized that he was not so strong a candidate as Mr. Kent, and announced their intention of supporting Kent at the finals if Kent were nominated. Still others, who, as candidates for office had in the past had the effective support of the Anti-Saloon League, felt themselves under obligation to support the president of that organization when he entered the campaign. The fact that the Anti-Saloon League of 1920 was a different organization from what it had been in 1916 and 1918 had not yet become generally recognized. In the same way, candidates in the 1920 campaign, seeking the support of the supposedly effective "dry" organization, were naturally slow to withhold support of the League's president. Thus, the announcement of Mr. Wallace's candidacy increased the complications of a much confused situation.

Late in March, 1920, members of the so-called Ratification Committee of the campaign of two years before, received notice [193] that the committee would meet at Fresno on April 1 "to complete plans for the most effective campaign in the interests of the Harris law, the State Legislature, and the National Congress."

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193 The notice was written on a California Anti-Saloon League stationery, Hon. A. J. Wallace, State President, and was signed by A. H. Briggs. It read as follows: "At an informal conference of representatives of the various dry groups of California, held in Los Angeles, March 25th, the undersigned was requested to call a meeting of the Ratification Committee of 1918, to meet in the First Christian Church, Fresno, Calif., April 1st, at 9:30 a. m., to complete plans for the most effective campaign in the interests of the Harris law, the State Legislature, and the National Congress. You are a member of that committee. The importance of the campaign would justify your presence, even at personal sacrifice."

This committee had, in November, 1918, at the close of the campaign of that year, passed out of existence, the purposes for which it had been appointed having been carried out. The committee had been named at the Anti-Liquor Convention held at Fresno early in 1918. The convention had by resolution defined the committee's powers, none of them extending beyond the 1918 campaign.[194]

This committee had become one of the things forgotten in politics. That it should be called together created surprise. Nevertheless, practical "drys" who had for a year been impatiently watching the aimless drift of the anti-liquor campaign, were hopeful that something in the nature of definite plan or representative convention would be initiated at the Fresno gathering.

Less than twenty persons attended the meeting. The majority of them were from Los Angeles, and friends of President Wallace of the Anti-Saloon League. Mr. Wallace went to Fresno with them, but kept in the background. He did not attend the conference. Dr. Briggs and Mr. Montgomery, posing as Dr. Gandier's direct representatives, assumed charge

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194 The resolution adopted by the 1918 convention defining the powers of this committee read as follows: "To discover and officially recommend to voters, candidates who can be depended upon to favor ratification of the national prohibition amendment by California's Legislature at its next session (1919); to secure the closest possible co-operation of all existing temperance organizations, each using its own machinery, to insure the election of candidates recommended by said ratification committee, it being understood that these recommendations shall extend only to candidates for Governor, Lieutenant-Governor, State Senators and Assemblymen; to settle and adjust questions of policy and procedure on which a difference of opinion may arise among the co-operating temperance organizations."

of the meeting. Mr. Montgomery was particularly insistent in the statement that Dr. Gandier had so far recovered his strength as to be active in the councils of the campaign. Both Dr. Briggs and Mr. Montgomery, salaried employes of the Anti-Saloon League, supported Mr. Wallace's candidacy.

It soon became evident to those who were not on the inside that the Wallace supporters, who were in the majority, proposed to take upon themselves the responsibility of setting Mr. Wallace up as the choice of the united "dry" forces for the Republican nomination for United States Senator.

When a motion to that end was finally made, the minority pointed out that the handful of men and women present had no authority to take such action; that it would bring ridicule and confusion upon the anti-liquor forces, and contribute to their defeat. As a substitute, the minority suggested that before the committee endorse any of the several Republican candidates, if it were determined to take such unwarranted action that:

(a) Thorough canvass of the situation be made;

(b) Efforts be made to secure the retirement of all the "dry" Republican candidates but one;

(c) In the event of failure to secure such retirement, the committee, regardless of considerations of friendship, endorse that "dry" candidate who had been shown to be the stronger.

The minority's warning that with two "dry" candidates in the field, the chances of the success of either would be greatly reduced was unheeded. Mr. Wallace's

friends on the committee went through the form of endorsing his candidacy.

After Wallace had been "endorsed" the minority further recommended that an anti-liquor Democrat be induced to contest the Democratic nomination with Senator Phelan, pointing out that if Senator Phelan were allowed to take the nomination by default, the "wet" Democrats, with the nomination of a "wet" Democrat assured, would register for the Republican primaries, vote for the Republican "wet" candidate, and perhaps throw enough votes to such "wet" Republican to nominate him. In that event at the November finals the "drys" would be given choice between a "wet" Democrat and a "wet" Republican.

This suggestion, as the others had been, was rejected.[195]

On the "authority" of the committee's "endorsement" of Wallace, the Anti-Saloon League announced that Mr. Wallace had been named by the "united anti-liquor forces of California" for the Republican nomination for United States Senator, and attempted to commit all anti-liquor voters to his candidacy.

As could have been expected, the committee's attempt to commit the half-million "dry" voters of California to President Wallace's candidacy failed utterly.

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195 Just what the minority on the committee predicted came to pass. Democrats, with no important contest within their own party, registered as Republicans to vote for the nomination of Mr. Shortridge, the pro-liquor candidate. In a circular letter, under date of July 8, 1920, signed by S. T. Montgomery, who had charge of the Anti-Saloon League department of Mr. Wallace's campaign in the South, appears the statement that "we are creditably informed that the 'wet' Democrats are registering Republican so as to nominate Sam Shortridge." The San Francisco press made similar allegations.

The anti-liquor forces divided, one faction staying by Kent and the second supporting Wallace. A third candidate entered the list for the Republican nomination, Sam Shortridge. Shortridge had been prominent in California politics in the old days of machine domination. The pro-liquor people got behind Shortridge. From the standpoint of the liquor interests the situation was ideal. One candidate supported by the pro-liquor group was opposed by two candidates definitely committed to prohibition-enforcement policies.

From the standpoint of the "drys" the situation was bad enough. But it was to be made much worse. The Anti-Saloon League management, despite the previous promise of their National leaders that they would hold Kent "in grateful remembrance" for his championship of the "dry" cause in Congress, instituted a series of extraordinary attacks upon Kent which drove the already unnecessarily divided anti-liquor forces further apart than ever.

Practical men on each side of this row, which President Wallace's late entrance into the fight had brought on within the "dry" ranks, recognized the suicidal folly of such tactics. Even though Shortridge were to be defeated at the primaries, only one of the two anti-liquor candidates could be nominated; the successful candidate would be opposed to Senator Phelan at the November finals. To defeat Phelan, the "dry" Republican would require every vote he could get. Kent, nominated, would need the support of Wallace supporters; Wallace, nominated, would require the assistance of the Kent people.

Even those who were supporting Wallace pointed out to the Anti-Saloon League management that a fatal mistake was being made in the character of the campaign which they were carrying on against Kent; that such a course played into the hands of the common enemy,[196] and would result in the election of either Senator Phelan or Mr. Shortridge, both of whom were out of sympathy with prohibition policies.

But in spite of these warnings, the extraordinary campaign of vilification which the Anti-Saloon League management had opened against Kent was continued.

Such a course was as distasteful to informed supporters of Wallace as it was to supporters of Kent who were laboring to secure united action of the two groups at the final election regardless of whether Kent or Wallace were nominated. Dr. E. R. Dille, one of the leaders in the Methodist Episcopal Church, who had for years labored at Kent's side for clean conditions in California, while, because of friendship, continuing his support of Wallace, issued a statement,[197]

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196 In July when indignation over the Anti-Saloon League's attacks on Kent was at its height, Dr. E. R. Dille, pastor of the Alameda Methodist Church, a life-long friend of Wallace and one of his strongest supporters for nomination for the Senate, wrote to Dr. Arthur H. Briggs of the Anti-Saloon League that it is "poor politics as well as poor morals to wage a campaign of asperity and bitterness, as neither Kent nor Wallace can be elected without the support of the other's friends," and added, "we can afford to give Kent a square deal." Dr. Dille insisted in another letter that "a grave mistake had been made by the Wallace people in attacking Kent at all, that it was playing into the hands of the common enemy, and meant the election of Phelan or worse than all, Shortridge."

197 Dr. Dille's tribute to Mr. Kent was as follows: "I have this tribute to pay to Hon. Wm. Kent. I first came to know him during the Graft Prosecution in San Francisco—a time that tried men's souls and when it cost something to fight the allied villainies that had corrupted the courts, suborned juries, subsidized the press and dragged the good name of the city in the

as an "act of simple justice," as he termed it, showing the attacks upon Kent to be unwarranted. Nevertheless, the attacks continued.

Eventually, the anti-liquor pre-primary campaign degenerated into a scramble to nominate Wallace to the exclusion of other issues.

Although the vote on the Harris bill was only three months off, and candidates for Congress and the Legislature were to be nominated, the Anti-Saloon League's eight-page publication, The Liberator, in its issue before the primaries, was, with the exception of fifteen lines, given over entirely to Wallace's candidacy.[198] Down to the day of the primaries, the Anti-

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dust. His voice rang out like a clarion then, and he stood beside such men as Hiram Johnson, Matt I. Sullivan and Francis J. Heney in doing valiant service as a Soldier of the Common Good. I know also of his sympathy and support and of his large contribution of influence and aid to the campaign for the destruction of the Race-Track and prize-fight infamies, and of his support of the Red Light Abatement law, and to his practical support of the Eighteenth Amendment. I bear this testimony not as a politician nor for political ends but as an act of simple justice to a man who has never failed in times of public danger to throw his whole weight of influence and support to the things that make for the public weal, and for righteousness in public and private life."

198 The Liberator for August 1920, page 1 was occupied by a picture of Wallace; pages 2 and 3 were devoted to articles on Wallace with the exception of an eleven-line statement in small type that Congressman Barbour had been endorsed by Fresno County 'drys' for Congress, and Stanley Moffatt and B. W. McKeen for the Assembly. This was the only reference in the entire paper to congressional or legislative candidates. Page 4 contained an appeal to vote for Wallace, and a statement of his alleged responsibility for the social creed of the churches. Page 5 had an account of Wallace's alleged strength, and an article on Wallace as a "Practical Idealist". Page 6 contained a statement of Wallace's alleged strength in Alameda County. (Incidentally, it may be said, that the Alameda County vote of 41,259 for prohibition in 1916 fell to 10,057, for Mr. Wallace in 1920.) On this page was the only reference in the entire issue to the Harris bill. It contained four lines. Page 7 was given over entirely to a statement signed by Bishop Adna W. Leonard of the Methodist Episcopal Church and others, setting forth among other things, that it is "our duty as Christian citizens," "our big

Saloon League representatives gave out the most extravagant statements of Wallace's strength. On the day of the primaries they claimed, for example, that Wallace would *carry* Los Angeles County by 80,000 majority. Practical observers knew, of course, that Wallace would poll no such vote, but unquestionably many were influenced by the League's unwarranted statements of Wallace's strength into voting for him as the only "dry" candidate who could be nominated.

Far from securing a *majority* of 80,000 in Los Angeles County, Wallace in the entire county polled only 28,920 votes.[199]

job in the primary election" to nominate Hon. A. J. Wallace; that "Mr. Wallace carries the endorsement of the . . . Ratification Committee representing the united dry forces of California." Page 8 was devoted to a statement headed "Sure, we'll finish the job." "Three men," one paragraph of this statement set forth, "seek the Republican nomination to the United States Senate. One is a reactionary and wet. Another is an erratic radical and has never yet said squarely that he would oppose any weakening of the Volstead Act (compare with footnote 189). The third is A. J. Wallace, A PROGRESSIVE REPUBLICAN AND AN OUT AND OUT DRY. We have kicked the kick out of booze. All that remains now is to kick the kick out of the brewers. The one way to do it is to GO TO THE POLLS AND VOTE FOR WALLACE. Wallace is the only candidate for the United States Senate who is DRY. He is the only candidate who has the support of the united dry forces of California and he has their support absolutely and unqualifiedly. A vote against Wallace is a vote for the return of the brewers. A vote for Wallace is the only way a vote can be cast for the strong enforcement of the unweakened Volstead act." Such was the official paper on the eve of the primaries of an organization that was being liberally financed by the anti-liquor advocates of California to uphold the Harris law at the polls; hold the gains which by good fighting and competent management the "drys" had made in the State Legislature; elect members of Congress in sympathy with prohibition enforcement, and a member of the United States Senate committed to such policy.

199 Mr. Wallace's demonstrated weakness in his own county, while it amazed those who were not familiar with the situation there, was not unexpected by the more practical of both sides. Wallace was the only Southern Californian running against two northern candidates; his home county had four years before cast 138,214 votes for absolute prohibition. Out of this tremendous prohibition vote, Mr. Wallace's home county gave him, the one Southern California candidate, only 28,920.

While Wallace's weakness as a candidate was generally recognized, the public, remembering the effectiveness of the Anti-Saloon League organization in 1916, 1917, and 1918, looked to see it get out a large primary vote for the one candidate to whose nomination it had devoted its energy and resources. But this expectation was without foundation. The vote not only confirmed the judgment of those who recognized Mr. Wallace's weakness as a candidate, but demonstrated what many had begun to fear, that the Anti-Saloon League under its then management had practically ceased to be a factor in California.

Of the 436,639 California voters, who, in 1916, had given the Anti-Saloon League their support and vote for absolute prohibition, only 84,711 voted for Mr. Wallace. Mr. Wallace ran a bad third. The fears of those who had advised against his candidacy were entirely justified; the folly of his supporters at the 1920 meeting of the defunct 1918 Ratification Committee at Fresno in refusing to assist in putting the campaign on a practical basis, was clearly shown. But Wallace did secure enough "dry" votes to prevent Kent's nomination. Wallace received 84,711 votes; Shortridge, who had the support of the pro-liquor groups, defeated Mr. Kent for the nomination by a plurality of 21,896. California "drys," who, before Mr. Wallace announced his candidacy, could, with intelligent direction, have nominated and elected an effective supporter of prohibition-enforcement, were, as a result of the primaries, given the choice at the November final election of voting for a "wet" Re-

publican [200] or a "wet" Democrat for United States Senator.

Steps were taken, however, to put a "dry" candidate in the field against Mr. Shortridge and Mr. Phelan. Mr. James S. Edwards of Redlands, one of the largest citrus fruit growers in the State, was named for the place. Had there been immediate response from the various "dry" organizations of the State, the mistake of Mr. Wallace's candidacy might have been overcome. The one "dry" organization of the State which failed of immediate response was the Anti-Saloon League.

When the League finally issued a statement, it was in the form of regret that Mr. Edwards could not be elected. Such a statement was deadly. Again were the anti-liquor forces thrown into doubt and confusion. Mr. Wallace sent congratulations to his successful "wet" opponent. This act of courtesy was taken in many quarters as an endorsement from the "dry" Mr. Wallace of the "wet" Mr. Shortridge. After that, there wasn't much left of the "dry" campaign. Whatever chances Mr. Edwards might have had of polling a large vote vanished with the issuance of the Anti-Saloon League's statement.

Practical supporters of prohibition, of course, recog-

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200 Shortridge, nominated in a three-cornered fight by a plurality, had no real strength. Under ordinary conditions he could not have been nominated. But for the Republican land-slide in 1920 he could not, even with the Republican nomination, have been elected. The highest vote for Republican (Harding) presidential elector was 624,992. Shortridge's total vote was 447,876. Thus Shortridge ran 177,116 behind his ticket. But for the unfortunate incident of Mr. Wallace's candidacy, Mr. Shortridge could neither have been nominated nor elected.

nized that in this primary failure they had suffered an almost irretrievable defeat. They had clearly been weakened in the Legislature, while opportunity to nominate an effective anti-liquor candidate in at least one Congressional District, the Eighth, had been lost. As for the important Harris prohibition enforcement law, it had all but been lost sight of in the drive for Wallace's nomination. Many staunch supporters of prohibition scarcely knew that such a measure was on the ballot. And yet the Anti-Saloon League management announced that at the primary election no ground had been lost, but some gained.[202]

After the primaries, the aimless drift of the anti-liquor campaign continued, until a committee of members of the Legislature and others who had been active in the State campaign for prohibition, organized to save, if possible, the Harris act from the wreck. The

202 The statement was published in The Liberator for September, 1920. It was headed "No Ground Lost—Some Gained," and was as follows: "It is only within the past day or two that an accurate analysis of the primary election could be made. We did not succeed in nominating A. J. Wallace on the Republican Senatorial ticket. That seat is now held by a "wet", Senator Phelan, and his opponent is a "wet." It would have been a distinct gain for us had we won it, but the defeat of Mr. Wallace lost us nothing that was previously ours. As to the California Congressional delegation, the 'drys' have lost nothing. There will be just as many dry votes from California in the next Congress as in the last. Accurate figures on the State Senate and Assembly arrived more slowly than other results, but it is certain now that the State Senate is safely 'dry' and that in the Assembly, allowing every possible doubtful vote to the 'wets', there will be a 'dry' majority. These 'doubtful cases' are not conceded to the 'wets', and will be fought for in the coming November election. Our main effort, however, will be directed toward winning the referendum on the Harris bill. It is a great satisfaction to know that on this measure the various prohibition organizations in California will have the co-operation of voters and organizations who are not primarily 'dry', but who are anxious that California's good name be preserved and that the State shall handle its own internal affairs in matters of prohibition as in other matters." This statement was issued with the November election less than two months away.

committee was known as the Citizens' Committee for the Harris Bill.

The hurried survey made by this committee showed how readily a majority could have been secured for the Harris bill had a practical campaign been made for it from the beginning. Chambers of Commerce in Northern California, for example, had always gone on record against anything that savored of prohibition, and unquestionably influenced many to vote in the negative. But when a member of the committee presented the matter to the Oakland Chamber of Commerce, that body endorsed the Harris act and advised its following to support the measure. The San Francisco Chamber, always opposed to prohibition, refused, when the Citizens' committee presented the case of the Harris act, to go on record against the measure, although the San Francisco body withheld its endorsement. But this neutral attitude was a distinct advance for San Francisco. Curiously enough, the State Federation of Labor, always on record against prohibition, when shown by representatives of the Citizens' committee that the Harris act was merely a law-enforcement measure, followed the neutral course of the San Francisco Chamber of Commerce, refusing to oppose the measure, but withholding support.

On the other hand, evidences of neglect of the measure were everywhere. In Southern California, active Prohibitionists were found who had not so much as heard that the bill was on the ballot. The situation was even worse in the North. Had the committee had seven months instead of seven weeks, the

task of awakening the anti-liquor voters to the importance of putting the act over could have been accomplished.

But the committee found that it could not overcome in seven weeks the effects of the two-year's campaign of misrepresentation of the Harris act which the pro-liquor element had so aggressively and effectively carried on, nor could the "dry" voters of the State be shown the importance of supporting the measure in a period of less than two months. The committee unquestionably reduced very materially the majority which would, but for the committee's efforts, have been cast against the bill. But the entire majority which the practically unopposed campaign of the "wets" had been able to pile up against the measure could not be wiped out in seven weeks.

The Harris bill was defeated with a majority of 65,062 against it. What practical "drys" had feared from the time it became evident, early in 1919, that the Anti-Saloon League management was not meeting the situation, had been realized; the anti-liquor forces had been overwhelmingly defeated at every point.

The vote showed conclusively that the Harris bill could have been carried by a good majority had there been anything like a practical campaign for it. In spite of the admirable pro-liquor campaign, the "wet" vote fell from 538,200 for prohibition in 1916 to 465,537, a loss of 72,663. Had the anti-liquor forces cast their 1916 vote of 436,639, and made no other gains than the 72,663 loss sustained by the "wets," the "dry" vote would have been 509,302, and the act

would have been sustained with a majority above 40,000. But had the aggressive campaign for the Harris bill which Gandier and his aides planned while the bill was going through the 1919 Legislature been carried out, not only would the "wet" loss have been many thousands above 72,663, but thousands of new voters, who remained indifferent to the point of not voting at all, would have cast their ballots for the Harris act, and the majority for the measure would have probably gone beyond 100,000. As it was, practically every strongly anti-liquor county in the State gave a lower vote for prohibition enforcement in 1920 than it had given for absolute prohibition in 1916. The Los Angeles "dry" vote, for example, fell off 13,095, San Bernardino 2,481, San Diego 5,612, Santa Clara 1,430, Butte 1,138. On the other hand, several strongly "wet" counties gave a larger vote for prohibition enforcement than they had in 1916 cast for prohibition. The San Francisco vote, for example, showed an increase of 888.

The Anti-Saloon League management had, however, other excuses for this general defeat. In a published statement the League management set forth that the defeat had been due "to the great emotional reaction from the high idealism of the war period"; "a stubborn moral and spiritual inertia which it was extremely difficult to stir"; and "a revival of denominationalism in the Church and of partisanship in the State." [203]

The issue of The Liberator in which these "reasons

[203] See The Liberator for December, 1920.

for defeat" were published, showed that New Jersey had elected a 100 per cent "dry" Legislature; New York a governor pledged to prohibition-enforcement; Michigan an overwhelmingly "dry" Legislature and State officials. Apparently outside California there had been no "emotional reaction," no "spiritual inertia," no "revival of denominationalism and partisanship" strong enough to commit the people to defeat of the prohibition-enforcement program.

When the 1921 Legislature convened it was found that the dependable anti-liquor majority of 47 in the Assembly of two years before had dwindled to a minority of 36.

CHAPTER XIX.

The Liquor Issue in the 1921 Legislature.

Practical men and women on viewing the wreck of the 1920 anti-liquor campaign realized that the failure of an impossible candidacy for United States Senator, and the defeat of the Harris prohibition-enforcement act were not the most significant features of the apparent "dry" defeat. More significant were the facts:

(1) That, after the most effective hunt for votes the pro-liquor people had ever carried on in California, their State vote had fallen away nearly 73,000.

(2) That in spite of this decrease in the "wet" vote the anti-liquor forces had not only failed to poll their vote of four years before, but had actually cast fewer votes for prohibition-enforcement than they had cast for prohibition.

There had been no reaction against prohibition in California—the reaction, as the vote viewed in the light of the campaign showed, had been against the liquor traffic—and yet the "drys" had suffered overwhelming defeat. Informed supporters of prohibition recognized that an efficiently conducted campaign would have resulted in the carrying of the Harris act by a substantial majority. They recognized that, properly supported, such a measure would have the endorsement of the majority of California electors in 1922. The demand was general, therefore, that the 1921

Legislature enact such a law. The contention of the pro-liquor groups that the defeat of the Harris law settled the question of prohibition enforcement in California forever was not, of course, taken seriously.

Senator M. B. Harris of Fresno, author of the 1919 measure, announced that he would see to it that such a measure was introduced at the 1921 session.[204]

But canvass of the Legislature showed that the effective act which Senator Harris had introduced in 1919, and which had received the instant support of both houses, could not be passed. The naive conten-

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204 Senator Harris in a letter to Mrs. Sara J. Dorr, president of the Woman's Christian Temperance Union, under date of November 23, 1920, expressed the opinion of informed advocates of prohibition throughout the State: "The defeat of the so-called Harris bill at the November election," said Senator Harris, "was only the beginning of a campaign which will end in California passing an enforcement law as required by the Constitution of the United States. The defeat in November was due to a well-organized campaign of misrepresentation by our opponents. The people were misled. They were made to believe that the Harris law contained many things which it did not contain. So far as I am concerned, I feel no discouragement at the result. Our people are now wide awake. I shall see to it that another enforcement measure is introduced at the legislative session in January. If the Legislature passes it, no doubt it will be subjected to referendum. If the Legislature does not pass it, then we will put it on the ballot by the initiative. In either event we will have another campaign. This campaign must begin now and must continue unremittingly until the next election. The history of the enforcement law in Ohio should encourage our friends. The so-called Crabbe Enforcement Law in Ohio passed by the Legislature, was defeated by the people by about 26,000 majority at the election following its passage. The next Legislature immediately repassed it. It was again submitted to the referendum and at the November election this year was sustained by the people by a majority of nearly 300,000. It took two elections to kill off the lies circulated by its opponents. In California the ingenuity of the prevaricators has, I believe, been exhausted. We know the limit of their untruthfulness and are prepared now to agitate and educate to overcome it. I am in favor of raising a fund as large as we can possibly get; of putting out organizers and workers who shall constantly be in the field; of calling to our aid every organization in the State that will help; of providing new organizations that we do not now have, and of fighting these law and Constitution defiers until we wear them out. We can do it and we will do it."

tion of the Anti-Saloon League management that no ground had been lost under its direction of the 1920 campaign, was not borne out by the situation which the canvass of the Legislature revealed.

But whether or not the Anti-Saloon League management could grasp the fact that the "dry" reverses meant ground lost, State politicians did.

The "dry" showing of strength in 1918 had reduced the former opposition to prohibition of these politicians to neutrality in most cases, and even support in a few. But the 1920 "dry" reverses swept them back again to their original attitude of hostility. They unquestionably decided in 1919 to keep hands off, with the result that the "dry" program was carried through the Legislature of that year. It was quite as apparent, at the opening of the 1921 session, that these potent politicians had decided upon "no prohibition-enforcement legislation." The "wise" soon took their cue from the unmistakable attitude of the powers back of the Legislature. This, coupled with the fact that the "dry" majority in the Assembly had been wiped out, was evidence enough to the old-timers that "dry" legislation was not to be enacted.[205]

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205 Such for example, was the view of that veteran reporter of Legislatures and competent observer, Edward H. Hamilton of the San Francisco Examiner: "In my visit to San Francisco," said Mr. Hamilton in the Examiner, for March 22, after the "soaking wet" Badaracco resolution had passed the Assembly, "I found the chief topic of conversation the idea that the 'wets' had won a famous victory on the Badaracco resolution. Now the cold fact is that the 'wets' have won no victory at all except to show conclusively that they control the Assembly. It is just as certain that the 'drys' control the Senate. So no resolution passed by the 'wets' in the Assembly will ever pass the Senate. Result, nothing. Reverse the reasoning and you will find that the Harris act, or any similar dry measure, that may get by in the Senate will never pass the wet Assembly. Result, again

In such a situation, a measure based on the merits of prohibition could not have been put through as had been done in 1919. The only hope for "dry" success was to fall back to the position that the Constitution and laws of the United States must be upheld.

Senator Harris introduced his prohibition-enforcement bill as he had stated he would.[206] It was not, however, the act of 1919. It merely vested California State courts with jurisdiction, and made it the duty of prosecuting attorneys, sheriffs, and other peace officers, to enforce, as if a law of California, any law of the United States enacted under the authority of the Eighteenth Amendment.

The question thus put to the Legislature was not, "Do you want to see prohibition enforced in California?" but "Do you want to see the Constitution of the United States upheld, and the laws of the United States respected?"

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nothing. The wise people who work and plot outside of Legislatures long ago made up a program in which it was decided there would be no wet or dry legislation at this session. What is going on in the Assembly now is merely 'playing to the gallery' and an effort to secure limelight."

206 Senate Bill 4, 1921 series. The measure, as originally introduced, read as follows:

"Section 1. California hereby recognizes the requirements of the Eighteenth Amendment to the Constitution of the United States for its concurrent enforcement by the Congress and the several States; and to that end the courts of this State are hereby vested with the jurisdiction, and the duty is hereby imposed upon all prosecuting attorneys, sheriffs, grand juries and peace officers in the State, to enforce, as if a law of this State, any law of the United States enacted under the authority of said amendment and subsisting at the time of the violation charged.

"Sec. 2. All fines and forfeitures collected in any court of the State of California for a violation of such laws shall be paid to the county treasurer of the county in which the court is held.

"Sec. 3. Nothing in this Act shall be construed as limiting the power of any city or county, or city and county, to prohibit the manufacture, or sale of intoxicating liquors for beverage purposes within its corporate limits."

To be sure, it all amounted to the same thing, namely, prohibition enforcement. But the new Harris bill put the issue on a basis that even the dullest, except perhaps those elected to the Legislature from San Francisco, could understand.

The new bill was given the closest scrutiny by the various law-enforcement organizations of the State. Some offered minor amendments.

The State Law Enforcement League, for example, through its president, Edwin E. Grant, suggested that the limiting word "penal," which in the course of amending had got into the bill, be eliminated, thus making the measure applicable to the civil as well as criminal proceedings under the Volstead Act.

"With the amendments I have given you," wrote Mr. Grant to Senator Harris during the legislative recess, "I am strongly in favor of the bill as you have drawn it, as I think from a practical standpoint it best meets the present situation."

Chauncey H. Dunn, one of the most prominent legal authorities on such questions in the State, and who had been one of Dr. Gandier's advisors in legal matters, passing upon the measure for the Sacramento Church Federation, declared that its constitutionality could not be successfully attacked.[207] The Woman's

207 Mr. Dunn's opinion was in full as follows: "The new Harris dry law just introduced into the Legislature (Senate Bill No. 4), to my mind, is the simplest and most logical bill that could be adopted by the State of California, at this time under the concurrent authority vested in the State of California, by the Eighteenth Amendment to the Federal Constitution. It will, when enacted into law, impose upon prosecuting attorneys, sheriffs, grand juries, and peace officers of this State the duty of enforcing as if a law of this State, any law of the United States enacted by Congress under the authority of the Eighteenth Amendment,

Christian Temperance Union, through its State president, Mrs. Sara J. Dorr, went on record strongly in the measure's favor. While individuals, looking at the situation broadly, would have preferred a State measure in complete form, such as Ohio, Missouri, and other important States had adopted, they realized that after the disaster of the 1920 campaign, no other than a "statute by reference," such as Senator Harris proposed, could be expected of the 1921 Legislature, and that there was grave danger of even this "statute by reference" being defeated.

Fully aware of the confusion which defeat at the polls had brought upon the "drys," but failing to appreciate the untenable position in which resistance of the provisions of the Constitution of the United States placed opponents of prohibition enforcement, the pro-liquor members proceeded to force the issue. Crowley in the Senate and Hornblower in the Assembly introduced a Senate Joint Resolution memorializing Congress for modification of the Federal law defining intoxicating liquor so as to permit wines and beers; while Canepa in the Senate and Badaracco in the Assembly offered a similar joint resolution calling upon Congress to fix the alcoholic content of beer at four and one-half per cent and of wine at fifteen.

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thus by reference making such law, a law of the State of California, and changing with changes made by Congress from time to time, if any. The constitutionality of the Act cannot be successfully attacked. The decisions of our own Supreme Court and of the Supreme Court of other States and of the United States are all unanimous that one law can refer to another law, or general laws, local or foreign, and by this reference adopt such law or laws and make them a part of the law so referring to them. For the present at least it will greatly simplify the enforcement of prohibition to have our State law refer to and adopt the law of Congress, with its amendment if any, upon the subject."

Now it was quite evident that no Legislature, however "pro-liquor," would adopt such resolutions, or refuse to pass such a measure as the Harris bill, if the people of a constitution-respecting and law-abiding State could be informed of the situation, and the influence of public opinion brought to bear on the Legislature. The Woman's Christian Temperance Union, always dependable in an emergency, undertook a State campaign to awake the public to the meaning of the 1921 Harris act, such as they had carried on so effectively for the Redlight Abatement Act and other measures.

Mrs. Sara J. Dorr assumed charge of the work. For a time good progress was shown. Then, out of a clear sky, came word from Mrs. Helen M. Stoddard, President of the Woman's Christian Temperance Union of Southern California, that the southern branch of the Anti-Saloon League was advising against the new Harris Act, and, after an interview with these Anti-Saloon League officials, she feared the Harris Act indicated "an enemy is lurking somewhere." [208]

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208 Mrs. Stoddard's letter, addressed to Mrs. Dorr under date of January 12, was in full as follows: "Your letter with enclosures of copies of the new Harris bill, No. 4 Senate, is received, and I have just been doing some phoning to the Anti-saloon League of our part of the State, and am informed that the bill is extremely defective and if passed would not be of any value whatever. This is the complaint that they make—the bill refers to the national law and instead the bill should contain that law and also the Volstead enforcement law or such portions thereof that our State will enact. They say they have referred it to a committee of legal men who will be able to get in a substitute bill by the time the present part of the session closes and the men go back home to hear what their constituents think about it all. Now, dear Mrs. Dorr, I fear an enemy is lurking somewhere and ask you who are on the ground to find out about all this, and see Mr. Harris yourself and ask him if it is unlawful to refer to another higher law when a State law is enacted. The complaint is that everything that is needed to enforce a law must be written in

Naturally Mrs. Stoddard's letter threw the anti-liquor forces at Sacramento into confusion. The work of creating public opinion for the Harris bill slowed down to the stopping point. "Drys" at Sacramento, knowing the situation and the difficulties of it, realized that if word of the division over the bill got into the papers, there would be no prohibition-enforcement legislation at the 1921 session of the Legislature. Every precaution was taken to keep the matter out of the papers. Arrangements were made for a conference to get the faction of the Anti-Saloon League opposing the measure to join with the other progressive groups to put it through. But during the remainder of the first part of the session, and during the constitutional recess, little progress was made. In this way, six valuable weeks were lost. The pro-liquor legislators returned to Sacramento after the recess even more confident of success than when the session opened. The anti-liquor members were correspondingly depressed.

Under competent leadership, the anti-liquor members would have forced the fight in the Senate where they were strong. Such were the tactics in Gandier's time. But there was no such leadership. Besides, the "dry" forces had not recovered from the setback caused by the differences over their prohibition-enforcement measure.

The pro-liquor group was quick to seize the advantage. They proceeded in the Assembly where they

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the law. If that is so, this bill is not a legal one in form and should contain pages of additional matter. Do have interviews with FRIENDS and write me at ONCE."

were strong, to force the Badaracco and Hornblower joint resolutions.

The two measures had been referred to the Committee on Federal Relations. Badaracco and Hornblower appealed to this committee to send the measures back to the Assembly. To the consternation of the "drys," it was found that the only member of the committee present opposed to such action was Wendering. Senator Harris hearing what was going on, hurried to the committee to protest that the resolutions asked Congress to do a thing prohibited by the Constitution of the United States. "You are," he insisted, "asking your members in Congress to 'scuttle the Constitution,' and to stultify yourself and them by calling for action by Congress which on the face of the Constitution itself, the action of Congress and the decision of the United States Supreme Court in the Rhode Island case, is unconstitutional!"

But such arguments had apparently no effect on the committee. Both resolutions were sent back to the Assembly with recommendation that they be adopted.

This signal success for the "wets," while most depressing to the "drys" who saw the streets and corridors ablaze with newspaper headlines, "Wets Control the Assembly,"[209] brought unexpected confusion to the winners.

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209 One of the excuses given by the Anti-saloon League management for its troubles in and out of the Legislature is, that certain "drys" "made a mistake," by admitting that the "wets" controlled the Assembly. It does not seem to occur to these astute officials of the Anti-saloon League that the "wets" keep themselves posted on such matters, and that every roll-call on a dry

Both Badaracco and Hornblower were from San Francisco. It was evident that but one of the resolutions would go through. That San Francisco member whose name appeared on the successful measure would be a hero in the curious circles in which San Francisco legislators move. At once, strong rivalry sprang up between the two, each intent upon getting his own measure through.

Hornblower was the first to act. The day his resolution reached the Assembly from the Federal Relations' Committee he moved that the rules be suspended, and his resolution put to immediate vote. Fifty-four of the eighty Assembly votes are required to suspend the rules.

Such a wet vote, even in the 1921 Assembly, was impossible. The "drys" were surprised at the stupidity of the move; the Badaracco "wets" were exasperated. Hornblower was defeated by a vote of 33 to 33.[210] This was twenty-one votes less than the fifty-four necessary to force immediate vote on the resolution.

This defeat made it possible for the "drys" to play

measure in the 1921 Assembly published to the world that the Anti-saloon League management was mistaken when it reported to its following that no ground had been lost in the dry defeat of 1920.

210 This was the first vote showing the wet and dry Assembly line-up. It was as follows:

To suspend the rules (wet)—Badaracco, Beal, Bishop, Burns, Christian, Cleveland, Coombs, Eksward, Fellom, Gray, Greene, Hawes, Heck, Hornblower, Hurley, Lee, G. W.; Lewis, Manning, McCloskey, McGee, McPherson, Morrison, Parker, Pedrotti, Ream, Rosenshine, Ross, Schmidt, Spence, Stevens, Warren, Webster, and West—33.

Against suspending the rules (dry)—Badham, Baker, Benton, Bernard, Brooks, Cleary, Colburn, Crittenden, Cummings, Fulwider, Graves, Hart, Heisinger, Hume, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Lyons, Mather, McDowell, McKeen, Parkinson, Roberts, Saylor, Spalding, Weber, Wendering, White, Windrem, Wright, H. M.; Wright, T. M.—33.

Hornblower against Badaracco, a pastime which created amusement, laughter, and newspaper stories, without bringing anything important in the way of results. While the "drys" were congratulating themselves over Hornblower's failure to do something that could not be done, the "wets" were preparing to force the adoption of the Badaracco resolution.

When in the regular course of legislative business that measure came up for vote, T. M. Wright attempted to have it sent back to committee. But the best Wright could do was to get twenty-five votes for his motion. Forty-seven Assemblymen voted against him. This brought Badaracco's resolution [211] to immediate vote. It carried. Forty-three members voted for it; thirty-four against it.[212]

For the first time in ten years the "drys" saw a

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211 The Badaracco resolution for which forty-three members of the Assembly voted, concluded: "Resolved by the Assembly and Senate, jointly, That the Legislature of the State of California hereby memorializes the Congress of the United States to immediately consider a modification of the Act known as 'Public Sixty-six of the Sixty-sixth Congress,' to the end that the definition of intoxicating beverages as therein contained be changed to allow the manufacture and sale of four and one-half per cent beer, and fifteen per cent wine; be it further Resolved, That California's senators and representatives in Congress be, and they are hereby requested to use their utmost endeavor to secure the modification of said Act herein set forth."

212 The vote by which the Badaracco resolution was passed was as follows:

For the resolution—Anderson, Badaracco, Baker, Beal, Bishop, Burns, Christian, Cleveland, Colburn, Coombs, Eksward, Fellom, Fulwider, Gray, Greene, Hawes, Heck, Hornblower, Hurley, Johnston, Lee, G. W.; Lewis, Long, Loucks, Lyons, Manning, McCloskey, McGee, McPherson, Mitchell, Morris, Morrison, Parker, Pedrotti, Prendergast, Ream, Rosenshine, Ross, Schmidt, Spence, Stevens, Warren, and West—43.

Against the resolution — Badham, Bernard, Bromley, Brooks, Broughton, Cleary, Crittenden, Cummings, Graves, Hart, Heisinger, Hughes, Hume, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Mather, McDowell, McKeen, Merriam, Parkinson, Pettis, Roberts, Saylor, Spalding, Weber, Webster, Wendering, White, Windrem, Wright, H. W.; Wright, T. M.—34.

pro-liquor measure receive a majority vote in a house of the California Legislature. The liquor people had been able to block "dry" measures, but they had not been able in a decade to secure a majority in either house for one of their own.[213]

Having been adopted in the Assembly, the resolution went to the Senate.

While the contest was going on in the Assembly over the Badaracco resolution, the "drys," supporting the Harris Act, were employing valuable time trying to convince the faction of the Anti-Saloon League opposing the Harris measure, that "no enemy lurking about" was responsible for its introduction, but that it was as effective as any which could pass the Assembly could be made, and there was no assurance that even it could be passed. Gradually, the difficulties were ironed out, all factions of the Anti-Saloon League finally joining with the other "dry" organizations of the State in support of the measure.

Fear of the "lurking enemy" having thus been satisfactorily allayed, it was possible to work out a definite plan for defeat of the "wet" resolutions and passage of the prohibition-enforcement act.

All recognized that "dry" success could be secured by getting the facts before the public that the "wet" resolutions were virtually an appeal to Congress to ignore the Constitution of the United States, and that

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213 The adoption of the Badaracco resolution was taken as forerunner of the defeat of the prohibition enforcement act. "Either the dry political machine has gone to pieces in the State," said Edgar T. Gleason in the San Francisco Call for March 21, "or the citizens have been getting just a little bit more repressive legislation than they can stand."

the prohibition-enforcement measure merely facilitated the enforcement in California of laws enacted by Congress. To that end, it was decided to force public hearings on the several wine-and-beer resolutions about the time the prohibition-enforcement measure came up in the Assembly for vote. T. M. Wright was selected to direct the "dry" fight in the Assembly.

As the "wets" were in majority in the Assembly, no public hearing could be hoped for in that body. But in the "dry" Senate, the hearing was not only possible, but easy. The Badaracco resolution having gone triumphantly through the Assembly was before the Senate Committee on Federal Relations. The Crowley and Canepa resolutions were also pending before that committee. A public hearing on the three resolutions was decided upon. But the several authors of the pro-liquor resolutions didn't want a public hearing. They protested against it. They begged to be excused, insisted that such procedure was unnecessary and unfair. But Senator M. B. Harris of Fresno, "dry" leader in the Senate, was obdurate. And Harris had his way. Very much against their will, the authors of wine-and-beer resolutions were forced before a public gathering to defend their measures.

The "wet" members at this hearing had as their spokesmen, Eugene Pfaeffle, who served in the Assembly in the old Abe Ruef days; Harry Hutton, who had been a San Francisco police commissioner under Mayor Eugene Schmitz; P. A. Fitzgerald, president of the Order of Camels, and Secretary Kloos of that organization. Senator McDonald also lent a helping hand.

Matched against this strange assortment, was Chester H. Rowell, perhaps the most effective debater in California.[214]

It was a sorry affair for the "wets". The evening was one wild riot of laughter at their expense.[215] "The

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214 By way of comparison see "Story of the California Legislature for 1911," page 203, which contains an account of the public hearing on the Wylie Local Option law. Chester H. Rowell was the principal speaker in support of the "dry" measure on that occasion, as he was at the 1921 hearing. A great change had come in the ten years that intervened between the two hearings. In 1921, Rowell spoke for prohibition as provided in the fundamental law of the country. In 1911, he stuck to the principle that the people have the right to regulate the conduct of any business which exists through public grant of license. "The right to run a saloon," he declared in 1911, "is a public right not a private right. Any community that wants them ought to be permitted to have them; and any community that does not want them should have the right not to have them." Mr. Rowell's "wet" opponents at that hearing of ten years before seriously contended that Rowell's position was unreasonable. Indeed, in 1911, Rowell was regarded as one of the State's most radical opponents of the liquor traffic.

215 Edgar T. Gleason of the San Francisco Call wrote the following description of the "wet" performance: "New wet propaganda has made its appearance and the enforcement bill will be bitterly fought. A study of the election tables shows that in November the constituents in twenty-eight of the senatorial districts cast majorities against the Harris act. In only twelve senatorial districts were dry majorities polled. This is interesting, particularly after what happened in the passage of words between Senator Harris and Assemblyman Hornblower at the big wet hearing. In his large way, the San Francisco statesman was describing the indifference of the people to dry legislation. 'Why,' he said, 'the people of San Francisco and the entire State are rejoicing in their violations of the Volstead act.' The statement brought Harris to his feet. He was trembling with amazement. 'Do you mean to say, Mr. Hornblower, that the people of San Francisco are rejoicing in a violation of the Constitution of the United States,' asked Harris. It probably was an unhappy choice of a word by Hornblower, but he made no effort to correct his statement. 'It's no secret,' he said. 'They're violating the law all over the State. Why, Senator, they're violating it right down in your own county—Fresno County.' Harris arose again. He put up a detaining hand. But Hornblower had warmed to his task. 'Only the other day,' he continued, 'I read where a man in your county was putting out a syrup. You fill a bottle with water, let it stand a few hours, remove the cork and you have wine.' Hornblower grinned at the simplicity of the process. Badaracco joined Hornblower and began to wave a Fresno newspaper in Harris' face. It contained a photographic reproduction of a cache of several hundred dollars' worth of liquor discovered in

'wets' never did anything right," commented Edward H. Hamilton in describing the hearing as a "fiasco," where "the 'wet' spokesmen were put in a low comedy attitude and their cause threatened to become a jest." "To be laughed at," observed Hamilton, "is far more dangerous than to be derided or denounced." "As a thoroughly developed 'wet'," Hamilton concluded, "I fear I must say the gods intend to destroy us because

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a building that was threatened by fire. 'But we have enacted an enforcement ordinance down there,' Harris protested. 'Fresno is already enforcing the law. The ordinance prohibits just that very thing.' Hornblower was equal to the remark. 'Senator, what you say is probably true. But remember, you can prohibit a thing, but you can't prevent it.' Gales of laughter swept the room. 'I'll say this,' Hornblower managed to offer, 'I'm one of those lads, Senator, who will take a drink if I can get it.' Applause from the gallery and frowns from the main floor. 'But if you got it from a bootlegger you would be violating the Constitution,' remonstrated the Senator. 'I don't drink bootleg whisky,' said Hornblower. 'Well, how do you get it then?' asked Harris. 'Oh, I don't know,' was Hornblower's reply, 'I might get a prescription from my friend, Dr. Crowley.' 'But you can only get a prescription if you are sick,' Harris added. 'I know that.' Hornblower's smile spread to his ears. 'But any time anybody is around with a prescription I can get sick.' Hornblower also addressed himself to the constitutional phase of the question. He put great emphasis on the fact that even Chester H. Rowell, who appeared for the drys, had admitted that while 4 per cent beer had been defined by the courts as intoxicating, one-half of 1 per cent was defined as non-intoxicating. The statesman from the Twenty-fifth District absorbed practically all of the limelight. What remained was shared by Badaracco, P. A. Fitzgerald of Sacramento, president of the Camels; Eugene Pfaeffle, J. C. Kloos, secretary of the Camels, and Senator Victor Canepa. The latter had a hard time with the Volstead act. Each time he referred to it, he pronounced it differently. Sometimes it was Volstecher, sometimes Vogelsteck. He also called it Vogelsang and Vogelsnack. His act was a riot, and had the members of the audience falling out of their chairs. The wets opened with Fitzgerald, who called upon the Senators to obey the Latin motto over the speaker's desk. 'Senatoris est civitatis libertatem tueri,' he quoted, with an expanse of arms. 'Meaning,' he went on, 'it is the duty of the Legislature to establish just laws.' Fitzgerald spoke at length on alcoholic content in beer and wine, but before he finished he again laid stress upon the duty of the Legislature to establish just laws—in this case a law that would meet with the favor of the "wets." Chester Rowell came up smiling in his turn. He said he hoped Fitzgerald had been more nearly correct in the other things he said than he had been in his translation of the Latin quotation."

they have first made us silly. For us, it certainly was all-fools' eve."

The hearing resulted precisely as the "drys" had anticipated. The capital was alaugh over it; members of both houses identified with the "wet" side began to look for opportunity to get away. Senator Harris, who had quietly directed the affair, had cleared the road, not only for defeat of the "wet" resolutions, but had made the passage of the prohibition-enforcement law possible.

To add to the discomfiture of the "wets," the discovery was made that the Badaracco resolution, as it had been adopted in the Assembly, made no provision for its transmission to Congress. Therefore, even though the Senate might adopt it, it would never get beyond the State printer. The tide was clearly turning for the "drys."

Under the advantage which the discomfiture of the "wets" at the public hearing had given them, the "drys" proceeded to put the prohibition enforcement bill, which Wright had introduced in the Assembly, through that body.

But again confusion came upon the Assembly's "dry" minority. The public hearing that turned the laugh upon the "wets," had made several members of the Assembly who had supported the Badaracco amendment very doubtful about voting against law enforcement. They accordingly proceeded to load the enforcement act down with an impossible amendment.

When the bill came up, Eksward of San Mateo moved that it be amended so as to prevent its going

into effect until it had been voted upon at the general election in November, 1922.[216] The "drys" contended that this amendment, if adopted, would defeat the purpose of the bill. But the "wets" gave little heed to such an argument. When the question of the amendment came up they had one more vote in the Assembly chamber than the "drys." With that majority of one, they adopted the Eksward amendment.[217] This, from the "dry" standpoint, rendered the enforcement act practically useless.

The passage of the measure after this amendment was only a matter of form. The "drys" all voted for it, on the expectation that the unfortunate amendment would be taken out in the Senate.[218] Several who had

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216 There has been some dispute as to who offered this amendment. The Assembly Journal for April 7 shows that "During third reading of the bill, Mr. Eksward moved the Speaker appoint a select committee of one to amend the bill as follows, etc." Eksward was granted permission to withdraw this first amendment. The Journal shows that he at once introduced a second amendment, covering the same ground as the first, but with different wording. It was on this second amendment that the vote was taken.

217 The vote by which the Eksward amendment was adopted was as follows:

For the amendment—Anderson, Badaracco, Beal, Benton, Bishop, Burns, Christian, Cleveland, Crittenden, Eksward, Fellom, Fulwider, Graves, Gray, Greene, Hawes, Hornblower, Hurley, Johnston, Lee, G. W.; Lewis, Long, Loucks, Manning, McCloskey, McPherson, Mitchell, Morris, Morrison, Parker, Pedrotti, Pettis, Ream, Rosenshine, Ross, Schmidt, Spence, Stevens, Warren, and West—40.

Against the amendment — Badham, Baker, Bernard, Bromley, Brooks, Broughton, Cleary, Colburn, Coombs, Cummings, Hart, Heisinger, Hughes, Hume, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Lyons, Mather, McDowell, McGee, McKeen, Merriam, Parkinson, Powers, Prendergast, Roberts, Saylor, Smith, Spalding, Weber, Webster, Wendering, White, Windrem, Wright, H. W.; Wright, T. M.—39.

218 "I am not clear," said T. M. Wright, dry leader, in discussing the amended bill, "that it would be definitely decided at the next general election, but I am asking that the bill pass and, if it be necessary, the measure can be amended in the Senate rather than delay it further." Assemblyman Merriam, another

been voting with the pro-liquor group voted for it, because they regarded the bill as amended harmless. By voting for this harmless measure they were in no way assisting the cause of prohibition while saving themselves from going on record against law enforcement. Fifty Assemblymen voted for the amended bill; only twenty-four voted against it.[219]

The unfortunate uncovering of the weakness of the "drys" in the Assembly had begun to influence certain members of the Senate majority who were not particularly concerned about prohibition, but who had swung into line when the entire country turned against the liquor traffic. By leaving the Eksward amendment in the bill, the hesitating Senators could keep their record straight on law enforcement by voting for a measure that was not at all offensive to the "wets."

The anti-liquor Senators were accordingly given the task of holding their majority intact to:

1. Vote the Eksward amendment out of the enforcement measure;

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prominent prohibitionist, stated that he rather figured the bill as it had been amended was a "cuckoo" bird the "wets" had thrust into the "dry" nest. But he, too, wanted the bill passed and said that, anyhow, if it were ultimately beaten the "drys" would go to the initiative for an enforcement act.

219 The vote by which the Assembly prohibition-enforcement bill passed the Assembly was:

For the bill—Anderson, Badham, Baker, Beal, Benton, Bernard, Bromley, Brooks, Broughton, Cleary, Cleveland, Colburn, Crittenden, Cummings, Graves, Hart, Heisinger, Hughes, Hume, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Lewis, Loucks, Lyons, Mather, McDowell, McGee, McKeen, Merriam, Parkinson, Pettis, Powers, Prendergast, Roberts, Ross, Saylor, Smith, Spalding, Spence, Weber, Webster, Wendering, West, White, Windrem, Wright, H. M.; Wright, T. M.—50

Against the bill—Badaracco, Bishop, Burns, Christian, Coombs, Fellom, Gray, Greene, Hawes, Heck, Hornblower, Hurley, Johnston, Lee, G. W.; Long, Manning, McCloskey, McPherson, Mitchell, Pedrotti, Rosenshine, Schmidt, Stevens, and Warren—24.

2. Secure a majority vote for the measure as it was originally introduced in the Assembly.

The job was given over to Senator Herbert C. Jones of Santa Clara. The first skirmish came in the Senate Public Morals Committee to which the measure had been referred.

Senator Jones opened by moving that the Eksward amendment be stricken from the bill. In this he was opposed by Senator Chamberlin of Los Angeles and Senator Crowley of San Francisco. Senator Chamberlin was one of the few Los Angeles members who at the 1919 session voted against ratification of the Eighteenth Amendment. Senator Crowley was author of one of the wine and beer measures which, at the public hearing, had brought the laugh on the pro-liquor group. These gentlemen were no more convincing before the Public Morals Committee, of which they were members, than Dr. (Senator) Crowley and Mr. Pfaeffle had been at the public hearing on Dr. Crowley's resolution.

Both Senators went over the much-traveled ground that the people had voted against State prohibition enforcement, and that, therefore, the Legislature should not concern itself about such enforcement. But Jones easily showed that loyalty to the Constitution of the United States required such legislation, and the committee took Jones' view of it. Five members—Arbuckle, Boggs, Eden, Jones, and Ingram—voted to strike the Eksward amendment from the bill. Chamberlin and Crowley voted alone in the negative. This restored the measure to the form in which Assembly-

man Wright had introduced it in the Assembly. By the same vote, 5 to 2, the committee sent the restored bill back to the Senate with recommendation that it do pass.

The next step was to induce a majority of the Senate to accept the committee's recommendation that the Eksward amendment be dropped.

In the debate that ensued on this question, Senator Jones made it clear that an effective law was of immediate necessity in order that the Constitution of the United States, which every member of the Senate is sworn to support, may be upheld in California.

The term "lawless element" crept into Jones' address, and to this the gentlemen who were opposing the bill took quick and almost tearful exception. They squirmed under the whip of the charge of lawlessness. The supporters of the measure, quick to see their advantage, allowed this feature to drag out by irritating the opposition to defend their position.

"Lawless element," declared Senator Duncan of Butte, "may be defined as that element which does not respect the law—the fundamental law of the land for example, the Constitution of the United States."

The "wets" wrestled with that unhappily for some time.

"Our country," declared Senator Jones in closing, "is not big enough to harbor people who disregard the Constitution of the United States. There is but one term to apply to them—anarchists."

McDonald of San Francisco was much concerned lest some of his "wet" associates might vote "dry"

by mistake. To make the issue perfectly clear he made the statement just before the vote was taken: "The liberal element will vote 'no,' and the moral element will vote 'yes' on this question."

And so they voted. The "moral element," as Senator McDonald called them, beat the other kind, six votes,[220] therewith striking the Eksward amendment out of the bill.

Senator Chamberlin offered an amendment similar in many respects to Eksward's, which would also have prevented the measure going into effect until a State vote could be taken on it. Chamberlin's amendment was rejected by a vote of 17 to 21.[221]

Four days later, without debate, the measure was put on its passage. It was passed with 24 voting for it to 15 against it.[222]

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220 The vote by which the Senate rejected the Eksward amendment was as follows:

Against the Eksward amendment — Senators Allen, Arbuckle, Boggs, Breed, Carr, W. J.; Chamberlin, Dennett, Duncan, Eden, Gates, Harris, Hart, Ingram, Irwin, Johnson, Jones, King, Lyon, Nelson, Osborne, Rominger, and Yonkin—22.

For the Eksward amendment—Senators Burnett, Canepa, Crowley, Flaherty, Godsil, Inman, McDonald, Otis, Purkitt, Rigdon, Rush, Sample, Scott, Shearer, and Slater—15.

221 The vote by which the Chamberlin amendment was rejected was:

For the Chamberlin amendment — Senators Burnett, Canepa, Carr, F. M.; Chamberlin, Crowley, Flaherty, Godsil, Hart, Inman, McDonald, Otis, Purkitt, Rigdon, Sample, Scott, Shearer, and Slater—17.

Against the Chamberlin amendment—Senators Allen, Arbuckle, Boggs, Breed, Carr, W. J.; Dennett, Duncan, Eden, Gates, Harris, Ingram, Irwin, Johnson, Jones, King, Lyon, Nelson, Osborne, Rominger, Rush, and Yonkin—21.

222 The vote by which the prohibition-enforcement bill passed the Senate was:

For the bill—Senators Allen, Arbuckle, Boggs, Breed, Carr, W. J.; Dennett, Duncan, Eden, Gates, Harris, Hart, Ingram, Irwin, Johnson, Jones, King, Lyon, Nelson, Osborne, Otis, Rigdon, Rominger, Sample, and Yonkin—24.

Against the bill — Senators Anderson, Burnett, Canepa, Carr, F. M.; Chamberlin, Crowley, Flaherty, Godsil, Inman, McDonald, Rush, Scott, Sharkey, Shearer, and Slater—15.

After passing the Senate, the status of the bill was:

It had passed the Senate just as the "drys" had introduced it in the Assembly, which was as the "drys" wanted it.

It had passed the Assembly in the same form plus the Eksward amendment, which was just as the "wets" wanted it.

The job of the "drys" was to get a majority of the Assembly to agree to the Senate's course in dropping the Eksward amendment.

This they finally succeeded in doing. The Assembly, by a vote of 42 to 34, concurred in the Senate's action.[223]

The prohibition enforcement measure having passed both Houses was sent to the Governor for his signature.

The Hornblower, Crowley, Canepa, and Badaracco resolutions still remain to be accounted for.

The four gentlemen who introduced these measures are from San Francisco. To thoroughly appreciate the humor of it all, one must know the seriousness with which the type of legislators San Francisco sends to Sacramento take the rights of liquor.

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223 The vote by which the Assembly accepted the elimination of the Eksward amendment was as follows:

For elimination—Assemblymen Anderson, Badham, Baker, Benton, Bernard, Bromley, Brooks, Broughton, Cleary, Colburn, Cummings, Graves, Hart, Heisinger, Hughes, Hume, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Loucks, Lyons, Mather, McDowell, McGee, McKeen, Merriam, Parkinson, Powers, Prendergast, Roberts, Ross, Saylor, Smith, Spalding, Weber, Webster, White, Windrem, Wright, H. M.; Wright, T. M.—42.

Against elimination — Assemblymen Badaracco, Beal, Bishop, Christian, Cleveland, Coombs, Crittenden, Eksward, Fellom, Fulwider, Gray, Greene, Hawes, Heck, Hornblower, Hurley, Johnston, Lee, G. W.; Lewis, Manning, McCloskey, McPherson, Mitchell, Morris, Morrison, Parker, Pedrotti, Pettis, Ream, Rosenshine, Schmidt, Stevens, Warren, and West—34.

After the Badaracco resolution, solemnly adopted in the Assembly, reached the Senate, the Senate Committee on Federal Relations, to which it had been referred, got Crowley, Canepa and Badaracco before it, and agreed to send to the Senate for action one of the resolutions, leaving the three to decide which.

Canepa, whose resolution was a duplicate of Badaracco's, was willing that Badaracco's should be the one selected. But not so Crowley. Crowley insisted that his resolution differed from and was better than the others. Senator Gates moved that all the resolutions be tabled. This Senator Breed, a warm friend of Senator Crowley, and closely connected with him socially and politically, hastened to second. Breed could appreciate the fun of the situation, even though his friend Crowley could not, and no doubt wanted to save his friend from further exhibition. But Senator M. B. Harris, bone-dry, acting upon the fully justified assumption that continued discussion of the resolutions was the best thing that could happen for the "dry" cause, and Senator J. M. Inman of Sacramento, whose outlook on the liquor question was about that of Dr. Crowley, insisted that at least one of the resolutions be reported out, and the several authors be given a day to decide which. This course the committee followed.

But the several San Francisco members to whom the resolutions meant so much do not seem to have reached an agreement. At any rate, the Canepa and Crowley resolutions were not reported out of committee at all, while the Badaracco resolution was held in com-

mittee until the last day of the session, and then sent out without recommendation. It did not come to vote.

In the "wet" Assembly, the Hornblower resolution had clear sailing for awhile, but after the "wets" had been made ridiculous at the public hearing in the Senate, and the accompanying breaking of their ranks, the adoption of this resolution became impossible. Before the "wet" ranks broke, however, some curious records were made on this measure, which will be found in the table of votes on liquor issues.[224]

The vote on T. M. Wright's motion to amend the measure deserves special mention.

The Constitution of the United States prohibits the manufacture, sale or transportation of intoxicating liquors for beverage purposes.

The Hornblower resolution memorialized Congress to increase the present defined alcoholic content of alcoholic liquor.

Wright's amendment provided "that in no event shall the alcoholic content be sufficient to produce an intoxicating beverage."

The Assembly refused to adopt Mr. Wright's amendment. The vote was 34 for the amendment to 39 against. The vote by which the Wright amendment was lost is well worth considering and remembering.[225]

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224 See tables of votes in the Appendix.

225 The vote by which the Wright amendment was defeated was:
For the amendment—Assemblymen Anderson, Badham, Baker, Bernard, Bromley, Brooks, Broughton, Cleary, Colburn, Crittenden, Graves, Hart, Heisinger, Hughes, Hume, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A.; Loucks, Mather, McDowell, McKeen,

But in spite of this extraordinary vote, the Hornblower resolution, when it came up for final consideration one week after the Senate public hearing on such measures, was defeated by a narrow margin of two votes. Forty-one votes were necessary for its adoption. The vote stood 39 to 39.[226]

Merriam, Parkinson, Roberts, Saylor, Spalding, Weber, Wendering, Windrem, Wright, H. W.; Wright, T. M.—34.

Against the amendment—Assemblymen Badaracco, Beal, Benton, Bishop, Burns, Christian, Cleveland, Eksward, Fellom, Fulwider, Gray, Greene, Hawes, Heck, Hornblower, Hurley, Johnston, Lee, G. W.; Lewis, Long, Manning, McCloskey, McGee, McPherson, Mitchell, Morris, Morrison, Parker, Pedrotti, Prendergast, Ream, Rosenshine, Ross, Schmidt, Spence, Stevens, Warren, Webster, and West—39.

226 See tables of votes in the Appendix for this vote.

CHAPTER XX.

Attack Upon the Farm for Abandoned Women.

Characteristic of the methods of the reactionary forces at the 1921 session were the attempts to force the State to abandon its policy of providing delinquent women with shelter and opportunity for rehabilitation.

Largely through the efforts of the Women's Legislative Council.[227] the 1919 Legislature authorized an appropriation of $150,000 to establish this institution.[228]

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227 The Women's Legislative Council represents the various women's organizations of the State with membership approaching 100,000. Each year, the Council selects three measures of interest to women to be supported before the Legislature. Representatives of the Council remain at Sacramento during the session, concerning themselves only with the three measures the organization has decided to support. One of their three measures at the 1919 session was the bill providing for the farm for delinquent women. To women is due the credit for its passage. Nothing illustrates better the failure of reactionary elements to grasp present-day conditions and advancement than the comment of the so-called Better America Federation upon the Women's Legislative Council. The New York State League of Women Voters, through its executive council, of which Mrs. Frank A. Vanderlip was chairman, had denounced the methods of the notorious Daly lobby in the New York Legislature. Commenting upon this incident, the Better America Federation, then working under the name of Commercial Federation of California, in its "Weekly Letter No. 24," warned its members against the activities of the Women's Legislative Council, as follows: "This incident should serve as a warning to all members of the Federation whose womenfolk belong to women's clubs in California. They maintain a legislative lobby at Sacramento and take a referendum vote on issues which their lobby shall support. This is, of course, their right. But the women should be informed about the true intent of the measures they are asked to support. Our members will find they can do some excellent missionary work in their own homes. **If Frank A. Vanderlip had done so, the attitude of the executive council of the 'New York State League of Women's Voters' might have been different. This is just a supposition, of course, but think it over."**

228 The purpose of the institution, as defined by the Legislature, is to provide custody, care, protection, industrial and other training, and reformatory help for delinquent women. The insti-

The work had the support of Dean Charles N. Lathrop of the Episcopal Church, Rev. Paul Smith of the Methodist Church, the Federal authorities functioning through the Commission on Training Camp Activities,[229] the American Social Hygiene Association, and other organizations and persons familiar with the modern treatment of the problem. It had the opposition of exploiting underworld interests and more respectable agencies and individuals who have never succeeded in getting above the thought of Lecky on this subject, and the methods of the nineteenth century.

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tution is in charge of a board of five trustees, at least three of whom are required to be women. The provision is definitely made that the site shall comprise not less than 200 acres. The superintendent must be a woman, as are, so far as practical, all other employes who deal with the inmates. Entrance to the institution is made: (1) Through the courts—Courts are authorized to commit to the institution any woman eighteen years of age or over who may be convicted of prostitution, soliciting, keeping or residing in a house of ill fame, frequenting public places for the purpose of prostitution, or of vagrancy because of being a common prostitute. The sentence authorized is for an indeterminate term of from six months to five years. (2) By transfer from other institutions. Any woman eighteen years of age or over, under sentence in any of the State's penal or reformatory institutions, may be transferred to the institution on order of the officials of the place in which she is confined. (3) By request of the woman. Any woman over eighteen years of age may be admitted on her own written request, if the trustees believe there is danger of her becoming a prostitute, common drunkard, or criminal. Broad powers are given the trustees in dealing with the inmates. They are authorized to give honorable discharge to any inmate, except those transferred from other institutions, when in their judgment such action can be taken with reasonable safety and benefit to the woman and the public at large, or they may parole any inmate on such terms as they may deem wise, and recall such parole at any time. Authorization is given for employment of parole agents for the purpose of affording protection, assistance, and guidance to women on parole."

229 The army gave similar assistance in other States. The results secured in other Western States were not so satisfactory as those in California. Nevada legislators flatly announced that Nevada was not ready to banish the social evil. In one Western State, the bill having been passed by the Legislature, was found to be fatally defective because of the omission of an important sentence. Such omissions are not unknown in Western legislatures, when the vice problem is made a subject of legislation.

The passage of the bill placed California in the first ranks of States that are dealing intelligently—and humanely—with the problem.[230]

When the utility corporations and allied interests undertook to turn back to conditions prior to 1911, it was to be expected that the State's attempt to deal with unfortunates of the underworld would be one of the first policies attacked.

Representatives of the corporations who appeared before the Senate at the budget hearing were particularly insistent that the institution should be abandoned. Mr. Herbert W. Clark, President of the Tax Investigation and Economy League, and counsel for the San Francisco-Oakland Terminal Railways, described it as a duplication of Pacific Colony (an institution he stated could also be done away with) which he thought "is due largely to political expediency, and is a very costly duplication, and one that will become more costly all the time."

Mr. Wiggington E. Creed, President of the Pacific Gas and Electric Company insisted, when discussing the institution, that he did "not believe this is a time for embarking upon new fads or fancies or social experiments," and that in his opinion the home for women is hardly necessary. As for Mr. Thelen, he recommended that the appropriations for the institution be cut to $25,000 a year; that the directors be given a trial for two years with that amount to meet all salaries, expenses, upkeep, getting the place started, etc.,

230 Social Hygiene, published by the American Social Hygiene Association, for April and July 1920, deals exhaustively with California's advance work in meeting this problem.

"and" to quote Mr. Thelen, "see whether the institution really works out any sensible result, and whether they can swing the thing, and then at the end of two years everyone will know better what is the sensible thing to do."

Captain Duncan Matheson, whose long connection with the San Francisco Police Department has for a quarter of a century brought him into daily contact with the problem, did not share in the opinion that the institution should be abandoned.

"The necessity for this institution," said Captain Matheson, "is very great." He warned the Senate that neglect of the problem had filled the insane asylums and the homes for the feeble-minded, making a constant burden of expense to the State. The institution, Captain Matheson insisted, is preventive, a policy which California cannot afford to ignore.[231]

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231 "Many people," said Captain Matheson, "don't understand the problem, and for this reason: I was listening to the figures that were given here by those representing the Home for the Feeble Minded at Eldridge, some 1600 or 1700 inmates there. I want to tell you that the condition of a very definite percentage of these unfortunates is due to social diseases. That is one of the things that we have got to correct. I want to say we have more than 6700 inmates in our State hospitals for the insane, and the condition of a very definite percentage of the insane is also there due to social diseases. I want to tell you the victims of these diseases are on the hands of the State until their death. Now, that is what we are trying to reach and to prevent. In the bill provided for this farm, it would take care of girls, or women rather, from the ages of 18 to 25. Now, in getting down to the facts of this matter the situation is simply this: We have those unfortunates between these ages: 70 per cent from 17 to 21½ years of age; 20 per cent from 21½ years to 25, and only 10 per cent over 25. So you can very readily see if we can take care of the young girl from 17 to 25 that we will solve 90 per cent of the problem. But that is not all. When we run over the percentage of social diseases among them, we found during the war period that we had 92 per cent infected. That was not only the case in the hospitals in San Francisco, but it is the case in hospitals all over the country. The records show that. And it didn't vary one-quarter of one per cent in all the cities where these statistics were taken, and they were taken in all of the large cities of the United States."

Mrs. Aaron Sloss, past president of the California Federation of Women's Clubs, from an entirely different viewpoint, presented the matter in practically the same way as had Captain Matheson. She was before the Senate in the interests of another matter, but repeated criticism of the plan of the institution for women, brought from her the following protest:

"I cannot," she said, "let this occasion go by without referring to a remark of the former speaker, who said something about the farm for delinquent women, that he knew of no one who was interested in that bill, or that farm. I want to assure you, gentlemen, that there are people in this State who are very much interested in that farm for delinquent women, and that if you are going to take care of all of the animals in California, is it not necessary that we should take care of the human race in California, and is it not a detriment to have our men and women diseased as well as the animals on the farms? I appeal to you gentlemen that the cleanliness and the purity of the human race is just as important, and other States have demonstrated that that sort of a farm does help. We will not have so many feeble-minded perhaps in the future to take care of, to take so much money from our State, if we begin at the beginning. I leave this with you to think of when you think of curtailing the expenses in certain directions."

Opposition to the farm took definite form in Assembly Bill 1261 introduced by Assemblyman Carlton Greene of Paso Robles to abolish the institution.

The Committee on Public Charities and Corrections

to which Greene's bill was referred, refused to recommend it for passage. The committee was, however, finally prevailed upon to return it to the Assembly without recommendation. When the bill came to vote, only twenty-one of the eighty Assemblymen voted for it; forty-one affirmative votes were necessary for its passage.[232]

Still another attempt was made to abolish the institution.

When the general appropriation bill was before the Senate, an amendment was offered to withhold all appropriations for the support of the farm. This would have been as fatal as the passage of the Greene bill itself.

The Senate by a vote of 21 to 19 [233] adopted this amendment. But the Assembly refused to concur and the Senate finally receded from its amendment.

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232 The vote by which Mr. Greene's attempt to abolish the Farm for Delinquent Women was defeated was:

To abolish the farm — Assemblymen Baker, Beal, Christian, Cleveland, Eksward, Graves, Gray, Greene, Johnston, Lee, G. W.; Loucks, Manning, McCloskey, Mitchell, Parker, Prendergast, Ream, Ross, Smith, Stevens, and West—21.

Against abolishing the farm—Assemblymen Anderson, Badham, Benton, Bernard, Brooks, Broughton, Cleary, Colburn, Coombs, Crittenden, Cummings, Fellom, Fulwider, Hart, Heck, Heisinger, Hughes, Hume, Hurley, Johnson, Jones, G. L.; Jones, I.; Kline, Lee, I. A;. Long, Lyons, Mather, McDowell, McGee, McKeen, McPherson, Merriam, Morris, Morrison, Parkinson, Pettis, Roberts, Rosenshine, Saylor, Spalding, Spence, Weber, Wendering, White, Windrem, Wright, H. W., Wright, T. M.—47.

233 The vote by which this last attack on the Farm for Delinquent Women was carried was:

For the amendment, and to deny the farm necessary appropriation—Senators Boggs, Burnett, Canepa, Chamberlin, Crowley, Eden, Godsil, Hart, Inman, Irwin, King, McDonald, Nelson, Osborne, Purkitt, Rominger, Sample, Sharkey, Shearer, Slater, and Yonkin—21.

Against the amendment and in favor of the necessary appropriations—Senators Allen, Anderson, Arbuckle, Breed, Carr, F. M.; Carr, W. J.; Dennett, Duncan, Flaherty, Gates, Harris, Ingram, Johnson, Jones, Lyon, Otis, Rigdon, Rush, and Scott—19.

Thus, the several attempts to abolish the institution failed. Nevertheless, the Legislature placed the handicap of inadequate support upon it. The management of the farm had asked for $318,000 for two years for maintenance, hospital, etc. The Budget Board reduced this, recommending only $109,000. The Legislature cut the $109,000 to $85,000, or $42,500 a year for two years. This, it may be added, is $17,500 a year more than the $25,000 Mr. Thelen proposed.

CHAPTER XXI.

Labor and the 1921 Session.

Had the reactionary influences, which were felt all through the 1921 session, had complete sway, Labor would have lost about all it has gained during the last ten years of forward-looking rule in California. Bills were introduced, for example, striking at the Eight-hour Law for Women and the Workmen's Compensation, Insurance and Safety Act. But such measures either "died" in committee, or were denied passage, usually in the Senate. Labor and the anti-liquor group were equally weak in the Assembly. It is significant that whenever Labor has been weak in the Legislature, the prohibitionists have been weak also. The gains Labor has achieved in California have been made in Legislatures when the so-called "drys" were well represented.[234] The "drys" found themselves weaker in the 1921 Legislature than they have been at any session that has convened since the overthrow of the machine in 1910. Labor had the same experience. The "drys" closed the session with the least they could

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234 The Legislature of 1911, for example. Labor received more at the hands of the 1911 Legislature than any other that has met in California. At the 1911 session the backbone of the liquor traffic in California was broken by the passage of the Wylie Local Option Law. See Story of the California Legislature of 1911. Labor and the prohibition group were equally interested in the adoption of the Initiative and Referendum. The ablest men who have sat in the California Legislature during the last twelve years, have supported both advanced labor policies and prohibition. See footnote 186.

get short of overwhelming defeat. The Labor legislative representatives left Sacramento, confessing they had failed to move some of their most important bills through committees, but finding some comfort in the reflection that attacks on Labor gains had had the same fate. Here again, we have a stale-mate at the 1921 session. The opposition to Labor, functioning through the Better America Federation, collapsed; Labor, on the other hand, in its attempts to strengthen the Workmen's Compensation Act, to correct alleged abuses of private employment bureaus, to establish an eight-hour law for street-car men, etc., failed also.

The Labor group did, however, succeed in getting through a number of what they probably regarded as minor measures. One of these repealed a curious statute passed a half century ago, which provided that "the entire time of a domestic servant belongs to the master." Another limited the working hours of drug clerks to nine a day instead of ten, and for a six-day week. Senator Jones got through a bill appropriating $35,000 per annum to permit the State to co-operate with the Federal Government in promoting vocational rehabilitation for persons disabled in industry. Assemblywoman Broughton rather strengthened the laws governing the employment of women by putting through a bill prohibiting employers from requiring or permitting female employes lifting boxes, etc., weighing over seventy-five pounds. The abuse of deducting several hours' pay for a few minutes' tardiness was corrected by limiting such deduction to the time actually lost. The law prohibiting fraudulent use of the

union label was strengthened; a small claims court was established; the office of public defender was authorized for the counties but not made obligatory.

Such measures were supported by the Labor groups. Measures establishing sanitary facilities for moving-picture operators, foundry workers, and for labor camps were supported by Labor, and became law, but only after weakening amendments, particularly in the case of the moving-picture operators.

In the matter of education, Labor supported the Flaherty bill, increasing the appropriation for University Extension work from $70,000 to $170,000 a year, and did much to secure its passage. Another appropriation of $10,000 was secured, largely through the efforts of the Labor group, to make a start in the education of migratory workers.

Such measures, in the aggregate important, were not, however, the "big things" which the Labor group supported.

Perhaps the most important of these was Senate Bill 259 introduced by Senator Herbert C. Jones.

This measure made important changes in the Workmen's Compensation, Insurance, and Safety Act.

The Jones bill proposed a new plan for paying death benefits, making dependency the basis. The plan of paying three years' average annual earning, with $5000 as the maximum, it was claimed, works hardship, especially when the breadwinner's wage is low and the family large. The Jones plan gave a widow with children an amount calculated on a percentage for each child during dependency, but not to exceed full wages

received by the husband. Other changes fixed the burial benefit at $150, an increase of $50, increased compensation payments from 65 to 75 per cent, and provided for a 2 per cent assessment on accident insurance premiums for rehabilitation and safety work.

This measure had the opposition of the large interests that had opposed the King tax bill, plus the special opposition of the insurance lobby, one of the most effective groups that hangs on the outskirts of legislative gatherings. The measure did not get to vote. It came to decision in the Senate Judiciary Committee toward the end of the session. Up to that time, a majority of the committee had been counted as favoring it. But of the seventeen members only six at the test voted for it—W. J. Carr, Dennett, Eden, Inman, Johnson, and Jones. Duncan and Harris, who were for the measure, were unavoidably absent. Those who voted in the negative were Burnett, F. M. Carr, Chamberlin, Irwin, Nelson, Otis, Purkitt, and Sample.

Another measure which Labor supported but lost was the Harris law, providing an eight-hour day for street-car men. The same measure had been introduced in the Assembly by West, but the Assembly bill stuck in committee. The Senate Committee, however, returned it to the Senate with recommendation that it be passed. But the Senate by a vote of 16 to 22 refused it passage.[235]

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235 The vote by which the Harris eight-hour law was defeated was:

For the bill—Senators Anderson, Canepa, Carr, F. M.; Crowley, Dennett, Flaherty, Godsil, Harris, Ingram, Inman, Jones, McDonald, Rigdon, Rush, Scott, Sharkey, and Slater—17.

Against the bill—Senators Allen, Arbuckle, Boggs, Breed, Burnett, Chamberlin, Duncan, Eden, Gates, Hart, Irwin, Johnson,

Two bills opposed by Labor were aimed at the eight-hour law for women. Since the enactment of this measure in 1911, repeated attacks had been made on it, but none of them quite so far-reaching as that of the bill (Assembly Bill 1088) introduced by Parkinson of Stockton.

This measure was not unjustly described as virtually repealing the woman eight-hour law. It provided that no female should be employed to labor more than forty-eight hours in any one week, but fixed no limit on the day's work. Indeed, the bill provided that "the hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than forty-eight hours during any one week." Under the bill, a female employe could be compelled to work forty-eight consecutive hours, and then be laid off for the remaining five days of the week.

The bill got no further than the committee. Such, too, was the record of the Bishop bill (Assembly Bill 506), which modified the eight-hour law in the case of women employes engaged in acting a part in a play or drama. This measure was supposed to have the support of moving picture concerns. But nothing came of it.

The Labor group, as did the anti-liquor group, opposed as part of their program the constitutional amendments to limit the initiative.[236] In the case of

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King, Lyon, Nelson, Otis, Purkitt, Rominger, Sample, Shearer, and Yonkin—21. Harris changed his vote to "no" to give notice to reconsider.

236 For discussion of these proposed amendments, see Chapter on attempt to limit the Initiative.

Labor, the division was clean-cut. All the authors of these amendments—Senator Burnett, and Assemblymen Greene, Manning, and Benton—were in opposition to the labor program.

But on the liquor issue, three of the four—Burnett, Greene, and Manning—were decidedly "wet," while Benton voted with the "drys." Had any of the initiative-limiting measures come to vote, Labor would have been found 100 per cent against them; while the anti-liquor opposition would probably not have been more than 80 per cent. "Dry" support given recognized reactionaries, who, running in districts where opposition to the liquor traffic is strong, glibly promise to support "dry" measures, is doing much to shake confidence in the "dry" organization. Once the reactionaries are in control as they were prior to 1911, not only will further prohibition legislation be prevented, but the anti-gambling, prizefight-prohibiting, vice-abatement and similar measures made possible by ten years of forward-looking State administration, will be broken down. But for the initiative, the prohibitionists would not have made much progress in California. "Dry" leaders of the type of D. M. Gandier, Arthur Arlett, Mrs. Sara J. Dorr and Lieutenant-Governor C. C. Young made support of the initiative part of their campaign. Under the new dry leadership, endorsement of proponents of initiative-limiting measures and other reactionary policies is not infrequent. Of the seven members of the 1921 session who voted for the only measure that could be regarded as opposing the initiative that came to vote, the Arbuckle

resolution,[237] five—Burnett, Godsil, Hart, Purkitt, and Scott,[238] were "wet," while Arbuckle and Gates were "dry."

Not quite so clean-cut was the Labor line-up in favor of the King tax bill. The Labor group went on record for the bill; in fact, gave it all the support of a Labor measure. Nevertheless, McDonald and Godsil in the Senate, and such men as Badaracco, Burns, Hurley, Morris, and Ream in the Assembly, usually counted with Labor, joined with such pronounced anti-Labor members as Senators Arbuckle, Gates, Hart, Lyon, Purkitt, Rominger, Shearer, and Yonkin, and Assemblymen Badham, Baker, Benton, Bishop, Bromley, Brooks, Graves, Greene, Hart, Loucks, Stevens, and Weber, in opposing the King bill.

In the same way, Labor supported the Johnson Water Power Act.[239] But as in the case of the King bill, a minority of that legislative group, which ordinarily supported Labor policies, joined with the Better America Federation and corporations in opposition to this measure.

Labor had one curious victory over the Better America Federation, however, which gave Labor leaders rather more satisfaction than would appear to be warranted. Yielding to the propaganda charging waste

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237 See Chapter XVI.

238 Scott was counted as pro-labor. Nevertheless, the report of the State Federation of Labor on the 1921 Legislature charges Scott as one of the two Senators responsible "for emasculating" Senate Bill 130 in committee. This Senate measure requires the installation of sanitary facilities in the operating-room of theaters and moving picture houses.

239 See Chapter XIV.

in State government which the corporations and the Better America Federation group under its various aliases carried on, the Legislature undertook to reorganize the State government. Among the new departments thus created, is that of "Labor and Industrial relations." But the committee which got the measure into shape did not report it back to the Senate until after Labor representatives had pronounced the section dealing with the Department of Labor and Industrial Relations satisfactory.

Labor accomplished little at the 1921 session; its representatives were obliged to fight hard to hold humanitarian legislation already gained. What Labor was really resisting, however, was return to conditions which obtained in California prior to 1911. That will be the issue at the 1922 elections. In a hundred ways will the issue be obscured, and the people confused and divided. But that will be the issue, and in meeting it, laborer, mechanic, orchardist, farmer, householder, merchant, will have common cause.

CHAPTER XXII.

Failure of Reapportionment.

Under the State Constitution it is made the duty of the Legislature at each session following the Federal census to reapportion the Congressional, Equalization, Senate and Assembly districts on the basis of population, to the end that all portions of the State may have equal representation. Inasmuch as this means that some counties lose legislative representation and others gain, such readjustment is met each ten years with the most extraordinary opposition. The 1921 session was no exception. The legislators failed to agree upon a reapportionment measure, and the adjournment came without reapportionment having been accomplished.

To the layman the wrangle over reapportionment is one of those unnecessarily silly things in politics which means next to nothing. The average citizen does not care particularly who represents him in the Legislature so long as he be well represented. He hails with delight the legislator who represents what he stands for, whether that legislator hails from San Diego County or from Shasta. But not so the local politician. The local politician is very much concerned lest his county suffer a reduction in legislative representation. And as the local politician usually makes the noise for his community, any move to reduce local representation calls forth quick protest.

San Francisco has for two sessions been the chief protestor. In the 1911 reapportionment, San Francisco lost five Assemblymen and two Senators. That city's representation of 18 Assemblymen and 9 Senators, which had obtained for twenty years, was, in 1911, reduced from 18 to 13 Assemblymen and from 9 to 7 Senators. Under the principal reapportionment bill introduced at the 1921 session, San Francisco suffered further reduction in her legislative delegation, the number being reduced to 12 Assemblymen and 6 Senators. This excited San Francisco politicians, although the bill gave that city all the representation it was entitled to under the State Constitution.

This reapportionment bill, Senate Bill 1, was introduced by Senator Boggs of San Joaquin. He had given the subject close study. Indeed, it developed that he had been working on his measure since the first publication of the census returns, early in 1920. His bill showed a conscientious attempt to follow out to the letter the provisions of the Constitution, cutting down representation in sections of the State where growth in population had been retarded, and correspondingly increasing it where growth had been rapid. As for the three large counties of Alameda, Los Angeles, and San Francisco, it was found that the population of Alameda County had increased in almost exactly the same ratio as that of the State as a whole, and the representation in Alameda was accordingly left as in the previous decade, 4 Senators and 8 Assemblymen. It was found that in Los Angeles County, where the population had increased from 504,131 in

1910 to 936,455 in 1920, the growth had been much more rapid than in the State as a whole, and the representation was accordingly raised from 8 Senators and 15 Assemblymen, to 10 Senators and 21 Assemblymen. In San Francisco, where the population had increased from 416,912 in 1910 to 506,676 in 1920, it was found that this growth, though substantial, was less rapid than the State's growth. The reduction in San Francisco's legislative representation was accordingly made.

It will be noted that:

(1) These three large counties were given representation comprising over half of the legislative districts of the State;

(2) The Boggs bill, drawn strictly according to population, while naturally displeasing to the San Francisco delegation, where 1 Senator and 1 Assemblyman were lost, would seemingly not be displeasing to Alameda, which held its own, and would seemingly be very pleasing to Los Angeles, with a gain of 2 Senators and 6 Assemblymen.

Moreover, it also appeared in the districts outside of these three counties that 5 Senatorial and 2 Assembly districts in the more rapidly growing portions of the State were benefited by the Boggs plan of reapportionment; that 5 Senatorial and 27 Assembly districts were unaffected by it, as was the case of Alameda County; while 11 Senatorial and 15 Assembly districts in the more slowly growing agricultural, and in the mining districts, were, like San Francisco, adversely affected, and from this standpoint might be counted against the bill.

Adding to these outside districts the districts of the three large counties, and regarding as potentially favoring the bill those districts which had gained or were unaffected, and against the bill those districts which had lost, it would seem that had a vote been taken early in the session the result might have been for the Boggs bill, 22 in the Senate and 52 in the Assembly, and against the Boggs bill, 18 in the Senate and 28 in the Assembly. To pass the bill 41 affirmative votes were required in the Assembly and 21 in the Senate.

It was quite plain, therefore, that the move of those who wanted reapportionment was to force the bill to immediate vote before the complications of the session increased the difficulties of the measure's passage.

This was recognized by the alert members from Southern California, who wanted reapportionment because it would increase their legislative representation. It was also recognized by the leaders of the San Francisco and other delegations that would lose under apportionment on the basis of population.

The Southern members, appreciating the necessity for prompt action, got together in caucus the day after the measure was introduced to perfect plans to secure its passage at the earliest possible moment before complications could arise to wipe out their paper majority.

Senator Lyon presided over the caucus. Senator Boggs was invited in to explain the bill's provisions. Representatives from Ventura and Riverside, which had their special problem, offered objections, but the majority favored the measure. But the controversy

grew so heated that it was determined to increase the caucus representation, taking in everything south of Monterey and Fresno counties. It was thought that such a meeting would permit of some definite agreement. Senator Carr of Pasadena undertook to secure full attendance.

Few, if any, members from the territory included were absent when the meeting was called to order. Assemblyman Merriam of Long Beach presided.

The Los Angeles delegation, the largest represented, finally reached the conclusion that the bill was about as good as could be drawn. In this they were joined by members from Orange, San Diego and San Bernardino. It looked as though the caucus would swing in behind the bill. In that event, its early passage was practically assured. But before the question of its ratification could be put, Senator Rominger of Los Angeles County, who had not been heard up to that time, raised a delaying finger.

Rominger took the position that the caucus was acting too hastily. He pointed out that the session was as yet not a week old; that other reapportionment bills might be introduced; that time should be taken to study a measure so important; that other reapportionment bills might yet be introduced that would give Southern California even larger representation than it would have under the Boggs bill. Senator Rominger urged that they wait until they had heard from the folks at home.

Rominger's eloquence prevailed, although members more farseeing than he pointed out that delay might

prove fatal and play into the hands of San Francisco members who were known to oppose the enactment of any reapportionment bill at all.

Senator Rominger's success that evening in delaying action meant the ending of all hope for reapportionment that session. The caucus adjourned. It did not meet again. The favorable moment for enactment of the Boggs bill had passed. The measure lay in committee until a few days before adjournment, when it was sent to the Senate for action. When the bill came up on second reading, the San Francisco delegation started obstruction. In the absence of several Senators, the 21 votes necessary for its passage could not be secured. A day was lost in wrangling. Just before adjournment, the bill was re-referred to committee. The committee sent the bill back to the Senate. For a time the blocking of other legislation because of the opposition that had been worked up against reapportionment threatened. Senators favorable to reapportionment, but seeing their favorite measures threatened because of the feeling anent the issue, urged Senator Boggs to abandon the fight. This he finally did. The bill was once more sent back to committee, where it remained until adjournment.

Such an outcome could scarcely have been avoided after the opportunity which had been presented in the Southern California caucus had been allowed to pass.

CHAPTER XXIII.

Conclusion.

"In some form or other," said Hiram Johnson in his 1911 inaugural address, "nearly every governmental problem that involves the health, the happiness, or the prosperity of the State has arisen because some private interest has intervened or has sought for its own gain to exploit either the resources or the politics of the State."

To the question heard at the close of each session, What did the Legislature accomplish? the answer can be given of the 1921 session—Comparatively little, because both Senate and Assembly were occupied in defending the State against effectively represented interests intent upon securing special privileges, evading their responsibilities to the people and to the State, and exploiting the State's resources. Not only did these interests at the 1921 session seek release from obligations, and to tighten their stranglehold upon the State, but they attempted to discourage and pull down the forward-looking work of the last decade which has made California a leader among the States of the Union. Had their representatives had their way, educational, curative and corrective work would have been limited to the point of abandonment of modern methods, while development work—the genuine kind, such as is performed by the State Agricultural Department, for example—would have been starved at

the risk of enormous loss to the State. That California is not today threatened with fruit-pest visitation, such as has brought ruin to thousands of Florida citrus fruit groves, for example, is due to defeat of the reactionary policies at the 1921 session.

The Legislature had to meet the attacks of these grasping, privilege-seeking, obligation-evading interests. For a month of the short three months' session, the Senate devoted most of its energies to hearing the attempted justification by the utility corporations and their hired men of their charges that the State budget was inordinately high. Both houses devoted a month to meeting the attacks upon the King tax equalization bill. Days were spent in consideration of the Indeterminate Franchise bill. The opposition of the corporations to the Johnson power development act took up hours of time of the members and of Senate and Assembly.

Because of such time-consuming issues, little opportunity was left for constructive work at a season when, above all else, constructive work was necessary.

It is not surprising that so little constructive work was accomplished; the marvel is that there was anything constructive at all. Nevertheless, important gains were made in the State educational program; there was advance in State plans for agricultural development, while relief projects for veterans of the World War went through both houses and were approved by the Governor. A fourth group of bills regarded as constructive were the Harris-Carr measures for the reorganization of State departments.

In educational development the line between those who would have the State University part of the public school system with its advantages extended Statewide, and those who would have the University a thing apart, a pile of steel and concrete and imposing enrollment at Berkeley,[240] became more clearly defined than ever. The steel-and-concrete conception of the University is not so compelling as it once was. While enormous enrollment at Berkeley looks well in comparative statistics, there was a feeling that more important is the bringing of educational facilities within reach of the largest possible number of California young men and women. It would, of course, sound well to report 20,000 or 30,000 students enrolled at Berkeley, and great university buildings would appear well in advertising and promotion pamphlets; but if the number of young people receiving higher educational advantages could be doubled or tripled by the Statewide plan, the tendency at the 1921 session was to give the Statewide plan the preference. There was increasing opinion, too, that the University should be made part of the public school system, and the Board of Regents and University itself brought into the same relationships to the head of the State School Department as the Normal School Boards, and Teachers' Colleges.

240 The report of the special Legislative Committee on Education says of the State University: "This institution, unlike in most other States, is not included as a part of the public school system, but exists separate and apart. It has no legally conferred power to in any way control the public schools, though it has in the past exercised large control over the high schools. Conversely, the public school authorities have no power to control any function of the university. The only legal connection existing at present between it and the public school system lies in that the Superintendent of Public Instruction is ex-officio a member of the Board of Regents for the University."

Had the Legislature been given adequate time and left unobstructed to work out this problem, much would have been accomplished. As it was, the Legislature went further than it was thought, when the session opened, would be possible.

The suggestions of the representatives of the utility corporations that the support of the Agricultural Department could be materially reduced went unheeded. Adequate support for this department was continued. The whole tendency on the part of the Legislature was to extend the department's activities—to strengthen rather than weaken its organization.

None of the Agricultural Department bills passed at the 1921 session was particularly important in itself, but in the aggregate they unquestionably built up the department and increased its effectiveness.

The Legislature met the problem of relief for veterans, by adopting a policy of land and home settlement for California veterans on much the same basis as the State land settlement colony at Durham. To that end, several measures were enacted.

The first of these created a Veterans' Welfare Board, and provided for assistance to veterans in securing farms not to exceed $15,000 for unimproved land, $5000 for buildings and $3000 for implements, the three loans to bear interest at 5 per cent. They were made payable in forty, twenty, and five years, respectively. For the purpose of carrying out the provisions of this act and pending a proposed bond issue, $1,000,000 was appropriated to be used as a revolving fund.

A second measure authorizes the Veterans' Welfare Board to purchase for California veterans, inducted into the army from this State and citizens at the time of their induction, land for agricultural purposes, not to exceed $7500, or a home not to exceed $5000. The veteran under this act selects the property he desires. The board, after examining the property, considering the ability of the applicant to meet his obligations, etc., purchases it upon payment by the applicant of 10 per cent of the purchase price in the case of a farm, and 5 per cent if the selection be a home. The remainder of the purchase price can be extended over a period not to exceed forty years, with interest at 5 per cent. A revolving fund of $2,000,000 was provided for the purpose of carrying out the purposes of this measure.

A third measure provides for educational opportunities for California veterans. Here, the State provides for transportation to and from schools, payment of the entire tuition fee, purchase of books, and $40 a month for maintenance. Such assistance is not to exceed $1000 for each veteran thus helped.

Finally, a fourth measure, upon which the farm and home settlement plan depends, submits to the voters for their approval, a $10,000,000 bond issue to provide a fund to enable the Veterans' Welfare Board to carry on its work.

The plan of re-organization of the State government by the 1921 Legislature has yet to demonstrate its success or even its desirability. The announced purpose of this reorganization was to promote economy, but that economy is the real purpose back of the

agitation may very well be questioned. Some such reorganization has been urged by every extravagant, tax-dodging public utility corporation in the State for five years. It is now known as well as anything in which public utilities participate can be known, that the corporations were largely responsible for the attempted reorganization in 1919, and that the committees which had in charge matters in which the corporations were interested were made up largely of corporation agents. The origin, support and purposes of such organizations as the Taxpayers' Association are now known, and the character of such "patriotic" concerns as the Better America Federation is established. The gentlemen connected with such societies for "the betterment of the public service," have long clamored for State reorganization. That the sort of organization which they would have is for the best interests of the State may, in view of the revelations of the budget hearing, very well be questioned.

That such reorganization will result in any material saving to the State, therefore, is doubtful; that it may work confusion, and slow down needed work, is possible. At worst, the reorganization may be regarded as a weak yielding to importunities of special-privilege seeking interests not remarkable for singleness of purpose, good citizenship, or loyalty to American traditions and standards; at best, as a doubtful experiment.

So much for the accomplishment of the 1921 session. It was not remarkable as measured in terms of the acts of the session of 1911 and 1913. But, in the face of the opposition of the irresponsible, well-

financed, special-privilege seeking class to good legislation, and its support of bad, it is extraordinary that anything constructive was accomplished at all.

And this brings us to the outstanding feature of the 1921 session—the enormous waste entailed in the interference of utility corporations and allied interests in public affairs.

The agents of these interests, who flocked to Sacramento to the number of several hundred, received for their services from $300 a month in the case of clever clerks, to more than $5000 a month—as much as the Governor of the State receives in a half year—for men of ordinary ability of the type of William Sproule of the Southern Pacific Co. Three thousand dollars a month is not an unusual salary for public utility agents. In addition to such generous compensations, they are allowed expense accounts over which the State Railroad Commission has apparently no jurisdiction, and certainly does not enjoy supervision. Fully one-quarter of the time of these high-salaried, liberally financed men during the year 1921 was employed in opposing such measures as the King tax equalization bill, and supporting policies of the character of the Graves Indeterminate Franchise scheme. The time of such well-paid men could—if they are worth their wage—very well be devoted to work more advantageous to the State.

The public is interested in the salaries paid these men and what they do to earn their salaries, for the public is taxed to pay them. In the same way, the public is interested in the items of their generous

expense accounts, for those expense accounts, as are the salaries, are allowed as the corporations' operating expenses, and for them, once more, the public is taxed to pay.

During the last five years, the utility rate taxes imposed upon the public have been increased enormously in everything from the charge for a street-car ride or a telephone message, to the month's gas, or electric-light bill, or railroad ticket. The large salaries paid the corporation agents who flock to Sacramento during legislative sessions, is one of the items which go to swell the total of the corporations' expenses. These expenses give the excuse for increases in the corporations' rate taxes imposed upon the public.

However valuable to the public the services of this increasing host of utility rate-eaters may be, payment for such work as they do at legislative sessions represents waste.

But the waste does not stop with salaries paid and expenses allowed men to do what had better be left undone. The waste of the time of the Legislature is an important item.

These well-paid corporation agents, for example, occupied the Legislature for weeks with their opposition to the King tax bill. The Legislature could, during that period, very well have been occupied with constructive work. But constructive work is out of the question when the agents of special privilege fill lobbies and corridors, and invade the Senate and Assembly chambers.

The first cost to the State for salaries of legisla-

tors and attaches is about $3000 a day.[241] Every day the Legislature is occupied in meeting the attempts of public utilities to secure special privileges, or to evade responsibilities, or to impose disastrous policies upon the State—such as limiting fruit-quarantine service or neglecting the tuberculosis problem—involves a money cost of $3000. Probably three-fourths of the days the 1921 Legislature was in session were taken up in meeting such corporation activities.

Again, here is waste, the cost of which the public pays.

But by far the greatest waste resulting from special-privilege interference with the Legislature, comes in the prevention of constructive work. Such work is blocked:

1. Directly, by interference of public utility agents.
2. Indirectly, by occupying the Legislature with other matters, which leaves no time for consideration of constructive policies.

The cost of this to California, the waste of it, cannot be estimated in dollars and cents. We can only speculate upon what a Legislature, truly representative of the people of California, would be able to accomplish for the State if left to itself, unhampered by special-interest interference.

The 1921 session marked a turning point in the politics of the State, perhaps the most important in the State's history. The 1922 general election will decide largely whether the special interests are to be

241 This is based on $100 a week each for the legislators. They actually received $1000 for the session and mileage. The attaches receive $1000 a day as the maximum for the two Houses.

kept out of State affairs, or whether there is to be a return of corporation-vice domination, more complete, more intolerant, more irresponsible, more blighting to the real development of the State than was that of the old Southern Pacific machine, twelve years ago repudiated.

APPENDIX

Conflicting Opinions Worth Studying

(See Page 101)

Opinion of Attorney General U. S. Webb

State of California, Office of Attorney-General
Sacramento, February 25, 1921.

Hon. Frank L. Coombs, Chairman, Joint Committee, Revenue and Taxation, Sacramento.

My Dear Mr. Coombs:—The King bill, now under consideration by the Joint Committee on Revenue and Taxation, is designed to change the rates of taxation upon the properties assessed under the provisions of Section 14 of Article XIII of the State Constitution.

Yesterday I expressed before the Joint Committee the view that if this measure should be adopted by the Legislature, the rates of taxation therein prescribed would not become effective for the assessment of the present year unless such Act should be passed by the Legislature and go into effect prior to the first Monday of March, 1921. This view was orally expressed, and you requested that I give you a brief expression in writing, and in compliance I submit the following:

Section 14 of Article XIII of the Constitution, in its original form, prescribed the rates of taxation upon the properties to which the section applied, and expressly declared that the rates therein prescribed were to continue in force "until changed by the Legislature".

As a matter of history, the rates so established continued to be the rates applied until 1913, in which year the Legislature exercised the authority conferred upon it by the Constitution and established different rates upon some of the properties taxed pursuant to the provisions of that section of the Constitution. The same authority was exercised by

the Legislature in 1915 and in 1917, and no question is raised as to the right of the Legislature to establish new or different rates at its present session.

The rates of taxation established in Section 14 of Article XIII of the Constitution continued in force until the enactment of the Legislature at its session of 1913 became effective, and the rates then adopted by the Legislature continued to be the rates until the Legislature, in the exercise of the power conferred upon it, changed the same from time to time as it did in 1915 and in 1917, and the rates fixed by it in the latter year, and which are now in force, will continue to be the rates until the Legislature again changes them.

The pending measure proposes a change in all of the rates now established by the existing law.

Section 14 of Article XIII of the Constitution makes the taxes prescribed by the existing law a lien upon the property assessed, which lien attaches on the first Monday of March of the year of the assessment. The language by which this is accomplished is as follows:

"The taxes herein provided for shall become a lien on the first Monday in March of each year."

The properties assessed through this method comprise operative property of certain utilities, certain property of insurance companies, bank stock and corporate franchises. The rate of taxation upon the properties of the utilities is applied by a percentage of their gross receipts for the calendar year preceding the first Monday in March. Likewise this rate of taxation upon properties of insurance companies is computed upon a percentage of the gross premiums, less certain specified deductions, collected during the calendar year preceding the first Monday in March, while the taxes to be paid by banks is a rate of taxation upon the value of their shares of capital stock upon the first Monday of March, such value being ascertained and computed in the manner and method prescribed by the Constitution.

Pursuant to statute, it is the duty of the State Board of Equalization to make the requisite computations to ascertain the amount of taxes due from the properties assessed under

this method and for which the lien attaches on the first Monday in March. Obviously this labor cannot be performed on the first Monday of March. Section 3668 of the Political Code provides:

"The State Board of Equalization must meet at the State Capitol on the first Monday of March in each year. . . . Between the first Monday in March and the third Monday before the first Monday in July the board must assess and levy the taxes as and in the manner provided for in Section 14, Article XIII of the Constitution of this State, and sections of this Code enacted to carry the same into effect."

The taxes so levied and assessed become due and payable on the first day of July.

There would seem little room for question but that the rates of taxation in force pursuant to existing law on the first Monday of March are the rates to be used by the Board of Equalization in computing the taxes for which the lien attached on that day. The obligation of the taxpayer to the State is the amount secured by this lien, computed at the rates then in force, in the manner provided by the constitutional provision, and it would seem plain that the payment of that amount, when payable, would discharge the taxpayer's obligation, regardless of any change that might be made in the law subsequent to the first Monday in March.

That the tax rate to be applied in the assessment of properties for local purposes is, in accordance with the command of the statute, fixed by the Board of Supervisors in September of each year has been mentioned as a circumstance which it is contended supports the view that if the pending tax measure is not adopted until after the first Monday in March the rates therein prescribed may be legally used as the rates for the present year. This condition, however, I think furnishes no support for such construction. It will be remembered that the tax rate fixed by the Board of Supervisors for local purposes is fixed annually and that it is a rate for the single year only and is applicable to the assessment of that year only. On the

first Monday in March there is not an existing county tax rate and by provision of the statute the tax rate applicable to the assessment which becomes effective as of that date is to be fixed by the Board of Supervisors in September following.

As pointed out to you yesterday, the rate of taxation for State purposes is fixed by law, and is a continuing rate, and exists as the law's rate until changed by the Legislature. If no legislation on the subject be enacted prior to the first Monday in March, on that day there would be in force and effect the rates carried by the present law. For local taxation the rate is an annual one, applicable only to the assessments of the year in which such rate is adopted, while for State purposes the rates fixed by the last legislative enactment on the subject continue from year to year until changed by the Legislature.

It is my conclusion that in the assessment of properties under Section 14 of Article XIII of the Constitution, the rates in force on the first Monday in March would be the rates applicable for the assessment in 1921, and that any change in rates made by the present Legislature through an enactment taking effect subsequent to the first Monday in March, 1921, will be first applicable for the assessment to be made in 1922.

Very truly yours,

U. S. WEBB.

Opinion of Former Supreme Justice M. C. Sloss

Law Offices of Sloss, Ackerman & Bradley,
Mills Building.
San Francisco, February 22, 1921.

Tax Investigation and Economy League, San Francisco.

Gentlemen:—You have asked for my opinion on the following question: The Legislature of 1921, when it reassembles, will have before it a bill to increase the rates of taxation imposed upon certain classes of corporations for State purposes. Does the Constitution require that such bill must

become a law on or before the first Monday of March in order to be effective in fixing the rates of taxation for the fiscal year beginning July 1, 1921?

In my opinion, the Constitution does not so require, and an Act increasing or diminishing the rates now in force would be equally valid and operative whether enacted before or after the first Monday of March.

Section 14 of Article XIII of the Constitution, which created the present method of levying taxes upon certain classes of companies for State purposes, fixes a scale of percentages of gross receipts, gross premiums, or value of shares, as the case may be, to be paid by the several classes of companies as an annual tax. In Subdivision (f) of Section 14, of Article XIII of the Constitution, it is provided that: "The rates of taxation fixed in this section shall remain in force until changed by the Legislature, two-thirds of all the members elected to each of the two houses voting in favor thereof. The taxes herein provided for shall become a lien on the first Monday in March of each year after the adoption of this section, and shall become due and payable on the first Monday in July thereafter."

There is nothing in the language just quoted, or in the framework of the section as a whole, to limit the power of the Legislature in making changes in rates to a period of time prior to the first Monday of March. Those who suggest that such restriction should be read into the Constitution seek to find a basis for their contention in the provision that the taxes become a lien "on the first Monday of March of each year." But the fact that the taxes become a lien at a given time has no bearing on the power of the Legislature to change the rate thereafter.

There is no necessary connection of time between the attaching of the tax lien and the determination of the amount of the tax. A tax may, and, under the general tax system of this State, does become a lien long before the amount of the tax is ascertained. This will readily appear from a consideration of the method of taxation applicable to all property prior to the adoption of Section 14 of Article

XIII of the Constitution, and still applicable to the taxation for county purposes of property not within the scope of that section.

Under the general tax provisions of the Political Code the lien of a tax attaches, like the lien of the taxes under discussion, "as of the first Monday of March in each year." (Political Code, Section 3718.) Yet the assessment is made between the first Monday of March and the first Monday of July (Political Code, Section 3652), the Supervisors equalize the assessments between the first and third Mondays of July (Political Code, Section 3672), and the actual levying of taxes by the Supervisors does not take place until the first Monday of September (Political Code, Section 3714). The amount of the tax is, therefore, not fixed when the lien attaches, but this uncertainty does not prevent the lien from having full force and effect.

If a Legislature may authorize county, and other officers, to fix the rate and amount of tax after the lien has come into being, there is no reason why it, itself, cannot change the rate after the date of the origin of the lien, where it is given constitutional power, unlimited as to time, to make such change.

It is a fundamental rule of interpretation of State Constitutions that the Legislature has all powers except those expressly withheld from it by the organic law, and in the absence of any limitation upon the grant of power to make changes in the rates of taxation, no restrictions upon the full exercise of that power should be raised by construction.

The taxpayer has no vested right in the existing rate, at any time prior, at least, to the time when the tax becomes payable. The lien is created for the protection of the State. Its purpose is to give the State security for such amount of tax as may lawfully be collectible and may subsequently be found to be due.

It may be noted that the prior practice of the Legislature and of the State authorities has been in accord with these views. The rates fixed by Section 14 of Article XIII have been changed by the Legislature on several occasions. The

last changes were those made by an Act approved May 11, 1917, Statutes of 1917, page 336. By this Act the rates of taxation for express companies, telegraph and telephone companies and banks were reduced by various amounts, and the rates for gas and electric companies were increased from 5.25 per cent to 5.6 per cent. This Act, as stated above, was passed in May, long after the first Monday of March. Its validity has never, so far as I am advised, been questioned; yet, if there be merit in the contention that any change of rate must be made by Act adopted on or before the first Monday of March, it must follow that for the past four years, or at any rate, for the year 1917, the State has unlawfully exacted from the gas and electric companies thirty-five one-hundredths of one per cent of their gross receipts, and that it has, likewise, failed to collect the full tax due from express companies, telegraph and telephone companies and banks.

Whatever may seem to be the needs of the present situation, it should not be overlooked that the establishment of the rule limiting the power of the Legislature in this matter would carry with it the danger that at some future time when an emergency may require the raising of additional revenue after the first Monday of March, the Legislature and the fiscal authorities might find themselves unable to take advantage of the broad powers conferred by Section 14 of Article XIII of the Constitution.

The brief time allowed for the preparation of this opinion precludes me from citing and discussing the authorities bearing on the subject.

Very truly yours,

M. C. SLOSS.

Keys to Tables of Votes

KEY TO TABLE I, SHOWING SENATE VOTES ON KING TAX BILLS, S. B. 146 AND S. B. 855

A.—Vote on Section 5 of Committee Amendment No. 12 to the first King Tax bill (Senate bill 146). The supporters of the King Tax bill voted for this amendment; the opponents of the bill voted against it.

B.—Vote on McDonald's motion to postpone action on the first King Tax bill (S. B. 146). The opponents of the bill voted yes on this motion; the supporters of the bill voted no.

C.—Final vote on the first King Tax bill (S. B. 146). The supporters of the bill voted yes; the opponents of the bill voted no.

D.—Final vote on second King Tax bill (S. B. 855). The supporters of the bill voted yes; the opponents voted no.

KEY TO TABLE II, SHOWING SENATE VOTES ON PROHIBITION-ENFORCEMENT ISSUES

A.—When the Prohibition-Enforcement bill (A. B. 849) came up for consideration in the Senate, Inman moved a postponement of one week. This was opposed by supporters of the bill. The opponents to the bill voted in the affirmative, and the supporters in the negative.

B.—Senate vote on committee amendments to the Prohibition-Enforcement bill (A. B. 849) by which the amendments which the opponents of the measure had added in the Assembly were stricken out, and the bill restored to the form in which it had been originally introduced. The supporters of the bill voted in the affirmative, and the opponents of the bill in the negative.

C.—Senator Chamberlin offered an amendment to the Prohibition-Enforcement Act, providing that it should not

go into effect until it could be voted upon at the November election in 1922, and making other amendments. The opponents of the bill voted yes; the supporters of the bill voted no.

D.—Senate vote on the passage of Assembly bill 849. The supporters of the bill voted yes; the opponents, no.

KEY TO TABLE III, SHOWING ASSEMBLY VOTES ON THE FIRST AND SECOND KING TAX BILLS, S. B. 146 AND S. B. 855

A.—When Senate bill 146 was returned from the committee to the Assembly, its supporters attempted to have it voted upon immediately. A motion to that effect was made. The supporters of the bill voted for the motion; the opponents voted against it. A two-thirds vote was necessary to bring the measure to an immediate vote.

B.—Weber moved that S. B. 146 be made a special order for February 28, after the legislative recess. The speaker ruled the motion out of order. Weber then moved to lay the bill on the table. His motion was defeated by a vote of 20 to 47. The opponents of the bill voted for Weber's motion; the supporters of the bill voted against it.

C.—Vote on Hurley's motion to refer S. B. 146 to Committee on Revenue and Taxation with instructions to report the bill back after the legislative recess. The supporters of the bill opposed this motion; the opponents of the bill voted for it.

D.—First vote on passage of S. B. 146. The supporters of the King bill voted yes; the opponents voted no.

E.—Final vote on first King Tax bill (S. B. 146). The supporters of the bill voted yes; the opponents voted no.

F.—Vote on Graves' motion to excuse Cleveland at the time the second King Tax bill (S. B. 855) was pending in the Assembly. Had Cleveland been excused for the week, there would have been but 53 votes in favor of the bill when it came to final vote, and the bill would have been

defeated. The opponents of the bill voted yes on this motion, and the supporters voted no.

G.—First vote on passage of Senate bill 855 in Assembly. The supporters of the bill voted yes; the opponents voted no.

H.—Vote on Pettis' motion to postpone vote on S. B. 855 at a time when vote on bill would have meant its defeat. The supporters of the bill voted yes on Pettis' motion; the opponents voted no.

I.—Final vote on passage of S. B. 855. The supporters of the bill voted yes; the opponents voted no. This is the vote by which the bill finally passed the Assembly.

KEY TO TABLE IV, SHOWING ASSEMBLY VOTES ON PROHIBITION-ENFORCEMENT ISSUES

A.—When the Badaracco Assembly Joint Resolution came up for adoption, Assemblyman T. M. Wright moved that it be re-referred to the Committee on Federal Relations. The "drys" voted in the affirmative, and the "wets" in the negative.

B.—Vote on the Badaracco resolution. The "wets" voted in the affirmative, and the "drys" in the negative.

C.—Vote on Hornblower's motion for immediate adoption of the Hornblower resolution (A. J. R. 22). The "wets" voted for this motion, and the "drys" against it.

D.—Vote on Greene's motion to amend Assembly Joint Resolution 22 by adding a clause providing revenue taxes on liquors. The "wets" supported this amendment; the "drys" voted against it.

E.—Vote on T. M. Wright's motion adding to the Hornblower resolution the following words: "provided, that in no event shall the alcoholic content be sufficient to produce an intoxicating beverage." The "wets" opposed this amendment; the "drys" supported it.

F.—Final vote on adoption of Hornblower resolution.

G.—Vote on Eksward's amendment to the Prohibition-Enforcement bill, by which it was proposed to suspend the operation of the measure until it could be voted upon in November, 1922. The "wets" supported this amendment; the "drys" voted against it.

H.—Vote by which the Prohibition-Enforcement bill was passed as amended by Eksward. Many who had been voting with the "wets" voted with the "drys" for this measure, as it included the provisions of the Eksward amendment.

I.—Vote to concur in Senate amendments to the Prohibition-Enforcement measure, by which the Eksward amendments were stricken from the bill and the Act restored to the form in which the "drys" had introduced it in the Assembly. The "drys" voted yes; the "wets" voted no.

TABLE I—Senate Vote on King Bills

FOR KEY SEE PAGE VIII OF APPENDIX	A		B		C		D		TOTALS		
	Vote on Sec. 5, Amendment 12, S. B. 146.		To postpone vote on S. B. 146.		Vote on Passage S. B. 146.		Vote on Passage S. B. 855.		For King Tax Bills.	Against King Tax Bills	Absent.
Senators	Yes	No	Yes	No	Yes	No	Yes	No	F	A	
Allen	F			F	F		F		4	0	0
Anderson	F		A		F		F		3	1	0
Arbuckle		A	A			A		A	0	4	0
Boggs	F			F	F		F		4	0	0
Breed		A	A			A		A	0	4	0
Burnett		A		F	F		F		3	1	0
Canepa	F		A		F		F		3	1	0
Carr, F. M.	F		A		F		F		3	1	0
Carr, W. J.	F			F	F		F		4	0	0
Chamberlin		A	A		A*		A*		0	4	0
Crowley	F		A		F		F		3	1	0
Dennett	F			F	F		F		4	0	0
Duncan				F	F		F		3	0	1
Eden	F			F	F		F		4	0	0
Flaherty	F			F	F		F		4	0	0
Gates		A	A			A		A	0	4	0
Godsil		A	A		F			A	1	3	0
Harris	F			F	F		F		4	0	0
Hart		A	A			A		A	0	4	0
Ingram	F			F	F		F		4	0	0
Inman	F			F	F		F		4	0	0
Irwin					F		F		2	0	2
Johnson	F			F	F		F		4	0	0
Jones	F			F	F		F		4	0	0
King	F			F	F		F		4	0	0
Lyon		A	A			A		A	0	4	0
McDonald		A	A		F			A	1	3	0
Nelson	F			F	F		F		4	0	0
Osborne	F			F	F		F		4	0	0
Otis	F		A		F		F		3	1	0
Purkitt						A		A	0	2	2
Rigdon	F			F	F		F		4	0	0
Rominger		A	A			A		A	0	4	0
Rush	F			F	F		F		4	0	0
Sample		A	A			A		A	0	4	0
Scott	F			F	F		F		4	0	0
Sharkey	F			F	F		F		4	0	0
Shearer		A	A			A		A			0
Slater	F			F	F		F		4	0	0
Yonkin		A	A			A		A	0	4	0
Totals	24	13	17	21	30	10	28	12	105	50	5

Character "F" indicates vote for King Bills.

Character "A" indicates vote against King Bills.

*Chamberlin, against both King Bills, voted for them to enable him to move to reconsider vote by which they were passed.

TABLE II—Senate Vote on Prohibition Enforcement

FOR KEY SEE PAGE VIII OF APPENDIX	A		B		C		D		TOTALS		
	Inman's motion to delay vote on A. B. 849.		To eliminate Assembly Amendments from A. B. 849.		Chamberlin Amendment to A. B. 849.		Vote on Passage of A. B. 849.		For Prohibition Enforcement.	Against Prohibition Enforcement.	Absent.
Senators	Yes	No	Yes	No	Yes	No	Yes	No	F	A	
Allen		F	F			F	F		4		
Anderson								A		1	3
Arbuckle		F	F			F	F		4		
Boggs		F	F			F	F		4		
Breed		F	F			F	F		4		
Burnett				A	A			A		3	1
Canepa	A			A	A			A		4	
Carr, F. M.	A				A			A		3	1
Carr, W. J.		F	F			F	F		4		
Chamberlin		F	F		A			A	2	2	
Crowley	A			A	A			A		4	
Dennett		F	F			F	F		4		
Duncan		F	F			F	F		4		
Eden		F	F			F	F		4		
Flaherty	A			A	A			A		4	
Gates		F	F			F	F		4		
Godsil				A	A			A		3	1
Harris		F	F			F	F		4		
Hart		F	F		A		F		3	1	
Ingram		F	F			F	F		4		
Inman	A			A	A			A		4	
Irwin		F	F			F	F		4		
Johnson		F	F			F	F		4		
Jones		F	F			F	F		4		
King		F	F			F	F		4		
Lyon			F			F	F		3		1
McDonald				A	A			A		3	1
Nelson		F	F			F	F		4		
Osborne		F	F			F	F		4		
Otis	A			A	A		F		1	3	
Purkitt	A			A	A					3	1
Rigdon	A			A	A		F		1	3	
Rominger		F	F			F	F		4		
Rush	A			A		F		A	1	3	
Sample		F		A	A		F		2	2	
Scott	A			A	A			A		4	
Sharkey								A		1	3
Shearer	A			A	A			A		4	
Slater	A			A	A			A		4	
Yonkin			F			F	F		3		1
Totals	12	21	22	15	17	21	24	15	88	59	13

Character "F" indicates vote for Prohibition Enforcement.
Character "A" indicates vote against Prohibition Enforcement.

TABLE III—Assembly Vote on King Bills

FOR KEY SEE PAGE IX OF APPENDIX	A		B		C		D		E		F		G		H		I		Totals		
	To put S. B. 146 on Immediate Passage		To lay S. B. 146 on Table.		To send S. B. 146 to Committee.		First Vote on S.B. 146.		Final Vote on S. B. 146.		To Excuse Cleveland.		First Vote on S.B. 855.		To Postpone Vote on S. B. 855.		Final Vote S. B. 855.		For King Tax Bills.	Against King Tax Bills.	Absent.
Assemblymen	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No			
Anderson	F			F		F	F		F		A		F		F		F		8	1	0
Badaracco		A	A		A			A		A				A				A	0	7	2
Badham	F		A		A			A		A	A			A		A		A	1	8	0
Baker		A	A		A			A		A	A			A		A		A	0	9	0
Beal		A	A		A			A		A	A			A		A		A	0	9	0
Benton		A	A		A			A		A	A			A		A		A	0	9	0
Bernard	F			F		F	F		F			F	F		F		F		9		0
Bishop		A	A		A			A		A	A			A		A		A	0	9	0
Bromley		A	A		A			A		A	A			A		A		A	0	9	0
Brooks		A	A		A			A		A	A			A		A		A	0	9	0
Broughton	F			F		F	F		F			F	F		F		F		9	0	0
Burns		A	A		A		F			A				A				A	1	6	2
Christian	F			F		F	F		F			F	F		F		F		9	0	0
Cleary	F			F		F	F		F			F	F		F		F		9	0	0
Cleveland		A	A		A		F		F				F			A	F		4	4	1
Colburn	F			F		F	F		F			F	F		F		F		9	0	0
Coombs	F			F		F	F		F			F	F		F		F		9	0	0
Crittenden	F			F		F	F		F			F	F		F		F		9	0	0
Cummings	F			F		F	F		F			F	F		F		F		9	0	0
Eksward		A		F		F	F		F			F	F		F		F		8	1	0
Fellom	F			F		F	F		F		A		F		F		F		8	1	0
Fulwider	F			F		F	F		F			F	F		F		F		9	0	0
Graves		A	A		A			A		A	A			A		A		A	0	9	0
Gray		A	A		A			A		A	A			A		A		A	0	9	0
Greene		A	A		A			A		A	A			A		A		A	0	9	0
Hart		A	A		A			A		A	A			A		A		A	0	9	0
Hawes	F			F		F	F		F		A		F			A	F		7	0	2
Heck		A	A		A			A		A	A			A		A	F		1	8	0
Heisinger	F			F		F	F		F			F	F		F		F		9	0	0
Hornblower	F			F			F		F		A		F				F		6	1	2
Hughes	F			F		F	F		F			F	F		F		F		9	0	0
Hume		A	A		A		F		F			F	F		F		F		6	3	0
Hurley		A	A		A			A		A	A			A		A		A	9	0	0
Johnson	F			F		F	F		F			F	F		F		F		9	0	0
Johnston	F			F		F	F		F			F	F		F		F		9	0	0
Jones, G. L.	F			F		F	F		F			F	F		F		F		9	0	0
Jones, I	F			F		F	F		F			F	F		F		F		9	0	0
Kline	F			F		F	F		F				F		F		F		8	0	1
Lee, G. W.		A		F		F	F		F		A		F		F		F		7	2	0
Lee, I. A	F			F		F	F		F			F	F		F		F		9	0	0
Totals	22	18	17	23	17	22	26	14	25	15	17	18	25	15	22	14	26	14			

Character "F" indicates vote for King Tax Bills.

Character "A" indicates vote against King Tax Bills.

Table Concluded on Next Page

TABLE III Concluded—Assembly Vote on King Bills

FOR KEY SEE PAGE IX OF APPENDIX	A		B		C		D		E		F		G		H		I		Totals		
	To put S. B. 146 on Immediate Passage		To lay S. B. 146 on Table.		To send S. B. 146 to Committee.		First Vote on S.B. 146.		Final Vote on S. B. 146.		To Excuse Cleveland.		First Vote on S.B. 855.		To Postpone Vote on S. B. 855.		Final Vote S. B. 855.		For King Tax Bills.	Against King Tax Bills.	Absent.
Assemblymen	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No			
Lewis	F			F		F	F		F			F	F		F		F		9	0	0
Long		A	A		A			A		A		F	F		F		F		4	5	0
Loucks		A	A		A			A		A	A			A		A		A	0	9	0
Lyons		A	A		A			A		A	A			A		A		A	0	9	0
Manning	F			F	A		F		F			F	F		F		F		8	1	0
Mather	F			F		F	F		F			F	F		F		F		9	0	0
McCloskey		A	A		A			A		A	A		F			A		A	1	8	0
McDowell	F			F		F	F		F			F	F		F		F		9	0	0
Mc Gee	F		A					A		A		F		A		A		A	2	6	1
McKeen	F			F		F	F		F			F	F		F		F		9	0	0
McPherson		A	A		A			F		A	A			A		A	F		2	7	0
Merriam	F			F	A					A	A			A		A		A	2	7	0
Mitchell	F		A		A			A		A				A			F		2	5	2
Morris		A	A		A			A		A				A		A		A	0	8	1
Morrison	F			F		F	F		F				F		F		F		8	0	1
Parker	F			F		F	F		F				F				F		7	0	2
Parkinson	F			F		F	F		F			F	F		F		F		9	0	0
Pedrotti		A			A			A		A	A			A		A		A	0	8	1
Pettis	F			F		F		*F	F			F		*F	F		F		9	0	*0
Powers	F			F		F	F		F			F	F		F		F		9	0	0
Prendergast	F			F		F	F		F			F	F			A	F		8	1	0
Ream	F		A					A		A	A			A				A	1	6	2
Roberts	F			F		F	F		F			F	F		F		F		9	0	0
Rosenshine		A		F		F	F		F			F	F		F		F		8	1	0
Ross	F			F		F	F		F			F	F		F		F		9	0	0
Saylor	F			F		F	F		F			F	F		F		F		9	0	0
Schmidt												F	F		F		F		4	0	5
Smith	F			F		F	F		F			F	F		F		F		9	0	0
Spalding	F			F		F	F		F			F	F		F		F		9	0	0
Spence		A	A		A		F		F			F	F		F		F		6	3	0
Stevens		A	A		A			A		A		F	F			A		A	2	7	0
Warren		A	A		A			A		A	A			A		A		A	0	9	0
Weber		A	A		A			A		A		F		A		A		A	1	8	0
Webster	F			F		F	F		F			F	F		F		F		9	0	0
Wendering		A		F		F	F		F				F		F		F		7	1	1
West	F			F		F	F		F				F		F		F		8	0	1
White	F					F	F												3	4	2
Windrem	F			F		F	F		F			F	F		F		F		9	0	0
Wright, H. W.	F			F		F	F		F			F	F		F		F		9	0	0
Wright, T. M.	F			F		F	F		F			F	F		F		F		9	0	0
Totals	26	13	13	24	14	23	25	14	24	15	8	25	27	13	24	13	28	12			
Brt. Fwd	22	18	17	23	17	22	26	14	25	15	17	18	25	15	22	14	26	14			
Grnd Ttls	48	31	30	47	31	45	51	28	49	30	25	43	52	28	46	27	54	26	438	253	29

Character "F" indicates vote for King Tax Bills.

Character "A" indicates vote against King Tax Bill.

*Pettis, for both King Bills, voted against them to move reconsideration of vote by which they were defeated.

TABLE IV—Assembly Vote on Prohibition

FOR KEY SEE PAGE X OF APPENDIX	A		B		C		D		E		F		G		H		I				
	To Re-Refer A. J. R. 5 to Committee.		Vote on Adoption of A. J. R. 5.		To Vote Immediately on A. J. R. 22.		Vote on Greene Amendment to A. J. R. 22.		Vote on Wright Amendment to A. J. R. 22.		Final Vote on A. J. R. 22.		Vote on Eksward Amendment A. B. 849.		A. B. 849 Passed as Amended.		Vote to Concur in Senate Amendments.		For Prohib. Enforcem.	Against Prohib. Enfmt.	Absent.
Assemblymen	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No			
Anderson		A	A				A		F			F	A		F		F		4	4	1
Badaracco		A	A		A		A			A	A		A			A		A		9	
Badham		A		F		F		F	F			F		F	F		F		8	1	
Baker		A	A			F		F	F			F		F	F		F		7	2	
Beal		A	A		A		A			A	A		A		F			A	1	8	
Benton						F		F		A		F	A		F		F		5	2	2
Bernard	F			F		F		F	F			F		F	F		F		9		
Bishop		A	A		A		A			A	A		A			A		A		9	
Bromley		A		F				F	F			F		F	F		F		7	1	1
Brooks		A		F		F		F	F			F		F	F		F		8	1	
Broughton	F			F				F	F			F		F	F		F		8		1
Burns		A	A		A		A			A	A		A			A				8	1
Christian		A	A		A		A			A	A		A		A		A			9	
Cleary	F			F		F		F	F			F		F	F		F		9		
Cleveland		A	A		A		A			A	A		A		F			A	1	8	
Colburn		A	A			F		F	F			F		F	F		F		7	2	
Coombs		A	A		A						A			F	F	A		A	1	6	2
Crittenden	F			F		F		F	F			F	A		F			A	7	2	
Cummings	F			F		F		F				F		F	F		F		8		1
Eksward		A	A		A		A			A	A		A					A		8	1
Fellom		A	A		A		A			A	A		A			A		A		9	
Fulwider		A	A			F	A			A	A		A					A	1	7	1
Graves		A		F		F	A		F			F	A		F		F		6	3	
Gray		A	A		A		A			A	A		A			A		A		9	
Greene			A		A		A			A	A		A			A		A		8	1
Hart	F			F		F		F	F			F		F	F		F		9		
Hawes			A		A		A			A	A		A			A		A		8	1
Heck		A	A		A		A			A	A					A		A		8	1
Heisinger	F			F		F		F	F			F		F	F		F		9		
Hornblower		A	A		A		A			A	A		A			A		A		9	
Hughes	F			F				F	F			F		F	F		F		8		
Hume	F			F		F		F	F			F		F	F		F		9		
Hurley		A	A		A		A			A	A		A			A		A		9	
Johnson	F			F		F		F	F			F		F	F		F		8		1
Johnston		A	A				A			A	A		A			A		A		8	1
Jones, G. L.	F			F		F		F	F			F		F	F		F		9		
Jones, I		A		F		F	A		F			F		F	F		F		7	2	
Kline		A		F		F		F	F			F		F	F		F		8	1	
Lee, G. W		A	A		A		A			A	A		A			A		A		9	
Lee, I. A	F			F		F		F	F			F		F	F		F		9		
Total	12	25	21	18	16	19	20	19	20	18	18	21	20	19	24	14	21	18			

Character "F" indicates vote for Prohibition Enforcement.
Character "A" indicates vote against Prohibition Enforcement.

Table Concluded on Next Page

TABLE IV Concluded—Assembly Vote on Prohibition

FOR KEY SEE PAGE X OF APPENDIX	A		B		C		D		E		F		G		H		I		Totals		
	To Re-Refer A. J. R. 5 to Committee.		Vote on Adoption of A. J. R. 5.		To Vote Immediately on A. J. R. 22.		Vote on Greene Amendment to A. J. R. 22.		Vote on Wright Amendment to A. J. R. 22.		Final Vote on A. J. R. 22.		Vote on Eksward Amendment A. B. 849.		A. B. 849 Passed as Amended.		Vote to Concur in Senate Amendments.		For Prohib. Enforcem.	Against Prohib. Enfmt.	Absent.
Assemblymen	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No			
Lewis		A	A		A		A		A	A			A		F			A	1	8	
Long		A	A				A			A	A		A			A				7	2
Loucks		A	A					F	F			F	A		F		F		5	3	1
Lyons		A	A			F						F		F	F		F		5	2	2
Manning		A	A		A		A			A	A		A			A		A		9	
Mather				F		F		F	F			F		F	F		F		8		1
McCloskey		A	A		A		A			A	A		A			A		A		9	
McDowell	F			F		F		F	F			F		F	F		F		9		
McGee		A	A		A		A			A	A			F	F		F		3	6	
McKeen	F			F		F		F	F			F		F	F		F		9		
McPherson		A	A		A		A			A	A		A			A		A		9	
Merriam	F			F				F	F			F		F	F		F		8		1
Mitchell		A	A				A			A	A		A			A		A		8	1
Morris		A	A				A			A	A		A					A		7	2
Morrison		A	A		A		A			A	A		A					A		8	1
Parker		A	A		A		A			A	A		A					A		8	1
Parkinson	F			F		F		F	F			F		F	F		F		9		
Pedrotti		A	A		A		A			A	A		A			A		A		9	
Pettis				F								F	A		F			A	3	2	4
Powers								F				F		F	F		F		5		4
Prendergast		A	A					F		A	A			F	F		F		4	4	1
Ream		A	A		A		A			A	A		A					A		8	1
Roberts	F			F		F		F	F			F		F	F		F		9		
Rosenshine		A	A		A		A			A	A		A			A		A		9	
Ross		A	A		A		A			A	A		A		F		F		2	7	
Saylor	F			F		F		F	F			F		F	F		F		9		
Schmidt		A	A		A		A			A	A		A			A		A		9	
Smith								F						F	F		F		4		5
Spalding	F			F		F		F	F			F		F	F		F		9		
Spence		A	A		A		A			A	A		A		F				1	7	1
Stevens			A		A		A			A	A		A			A		A		8	1
Warren		A	A		A		A			A	A		A			A		A		9	
Weber	F			F		F		F	F			F		F	F		F		9		
Webster		A		F	A		A			A	A			F	F		F		4	5	
Wendering	F			F		F		F	F			F		F	F				8		1
West		A	A		A		A			A	A		A		F			A	1	8	
White	F			F		F						F		F	F		F		7		2
Windrem	F			F		F		F	F			F		F	F		F		9		
Wright, H. W.	F			F		F		F	F			F		F	F		F		9		
Wright, T. M.	F			F		F		F	F			F		F	F		F		9		
Totals	13	22	22	16	17	14	20	17	14	21	21	18	20	20	26	10	21	16			
Brt. Fwd.	12	25	21	18	16	19	20	19	20	18	18	21	20	19	24	14	21	18			
Grnd Ttls.	25	47	43	34	33	33	40	36	34	39	39	39	40	39	50	24	42	34	333	339	48

Character "F" indicates vote for Prohibition Enforcement.
Character "A" indicates vote against Prohibition Enforcement.

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