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REGULATION OF PUBLIC UTILITIES

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But, to make the section available to counties composed of a mixed urban and rural population, especially counties containing several incorporated municipalities, slight changes in its provisions seem indispensable.

The change here contemplated is contained in the paragraph numbered 4j, which reads as follows:

"Section 4j. For the assumption and discharge by county officers of certain of the municipal functions of the cities and towns within the county, whenever, in the case of cities and towns incorporated under general laws, the discharge by county officers of such municipal functions is authorized by general law, or whenever, in the case of cities and towns organized under section eight of this article, the discharge by county officers of such municipal functions is authorized by provisions of the charters, or by amendments thereto, of such cities or towns."

The counterpart of this provision is to be found in Assembly Constitutional Amendment No. 81, where cities are authorized to delegate certain of their functions to county officers. There are two classes of cities in California: (1) those organized under general laws, and (2) those operating under freeholders' charters. For the discharge of any municipal functions by county officials, the provisions of this amendment, as well as those of Assembly Constitutional Amendment No. 81, authorize the legislature to take action with reference to the former class of cities, and for

the local communities themselves to take action in the case of the latter class.

The adoption of the change here proposed will permit the welding together of all the people of the county in carrying out such matters as are of common interest. In counties containing but one or two or three municipalities, it will work towards economy in the administration of public affairs. In a county where there are a number of municipalities and where a large proportion of the population is urban, the proposed change opens the door to practical consolidation of a county and the cities within its borders in the administration of their common business, while leaving each city as an entirely distinct and independent political unit.

There is nothing in this amendment which trenches upon the county's position as a political division of the state. The state's interests in the administration of its affairs, through counties, are left unimpaired. The whole aim and purpose of the change proposed is to allow the people of the several counties to organize their government, whether of the county type or of the city type, in the interest of the most efficient and economical administration. At the same time, there is nothing compulsory on any municipality to surrender to a county official the discharge of any function except upon its most deliberate determination.

WM. C. CLARK,

Assemblyman Thirty-seventh District.

HERBERT W. SLATER,

Assemblyman Thirteenth District.

REGULATION OF PUBLIC UTILITIES.

Assembly Constitutional Amendment 62 amending section 23 of article XII of constitution.

Present section unchanged except in following particulars: Railroad commission given exclusive power to fix public utility rates in all incorporated municipalities; such municipalities, by vote of voters thereof, may retain that control over public utilities which relates to local, police, sanitary, and other regulations only, or surrender same to railroad commission; omits provision authorizing such municipalities to reinvest themselves with powers so surrendered; declares right of incorporated municipalities to grant public utility franchises not affected by section.

Assembly Constitutional Amendment No. 62, a resolution to propose to the people of the State of California an amendment to the Constitution of the State of California by amending section 23 of article XII, relating to public utilities, their supervision and regulation.

The legislature of the State of California at its regular session commencing on the 6th day of January, in the year one thousand nine hundred and thirteen, two thirds of all the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes to the qualified electors of the State of California, the following amendment to the Constitution of the State of California so that section 23 of article XII of said Constitution shall read as follows:

PROPOSED LAW.

Section 23. Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, or any part of such railroad, canal, pipe line, plant or equipment within this state, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every public utility subject to such control and regulation by the railroad commission as may be provided by the legislature, and every class of private corporations, individuals, or associations of indi-

viduals hereafter declared by the legislature to be public utilities shall likewise be subject to such control and regulation. The railroad commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon the railroad commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution. From and after the passage by the legislature of laws conferring powers upon the railroad commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns, in this state, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the railroad commission; provided, however, that this section shall not affect such powers of control over public utilities as relate to the making and enforcement of local, police, sanitary and other regulations, other than the fixing of rates, vested in any city and county or incorporated city or town as, at an election to be held pursuant to law, a majority of the qualified electors of such city and county, or incorporated city or town, voting thereon, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the railroad commission as provided by law; and provided, further, that where any such city and county or incorporated city or town shall have elected to continue any of its powers to

make and enforce such local, police, sanitary and other regulations, other than the fixing of rates, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the railroad commission in the manner prescribed by the legislature; and provided, further, that this section shall not affect the right of any city and county or incorporated city or town to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law. Nothing in this section shall be construed as a limitation upon any power conferred upon the railroad commission by any provision of this constitution now existing or adopted concurrently herewith.

Section 23, article XII, proposed to be amended, now reads as follows:

EXISTING LAW.

Section 23. Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, or any part of such railroad, canal, pipe line, plant or equipment within this state, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power, or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a public utility subject to such control and regulation by the railroad commission as may be provided by the legislature, and every class of private corporations, individuals, or associations of individuals hereafter declared by the legislature to be public utilities shall likewise be subject to such control and regulation. The railroad commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon the railroad commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution.

From and after the passage by the legislature of laws conferring powers upon the railroad commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns, in this state, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the railroad commission; provided, however, that this section shall not affect such powers of control over any public utility vested in any city and county, or incorporated city or town as, at an election to be held pursuant to laws to be passed hereafter by the legislature, a majority of the qualified electors voting thereon of such city and county, or incorporated city or town, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the railroad commission as provided by law; and provided, further, that where any such city and county or incorporated city or town shall have elected to continue any powers respecting public utilities, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the railroad commission in the manner to be prescribed by the legislature; or if such municipal corporation shall have surrendered any powers to the railroad commission, it may, by like vote, thereafter reinvest itself with such power. Nothing in this section shall be

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construed as a limitation upon any power conferred upon the railroad commission by any provision of this constitution now existing or adopted concurrently herewith.

ARGUMENT IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 62.

At the special election held on October 10, 1911, the people voted almost unanimously to give to the railroad commission control over all public service corporations in the state, except in certain matters within incorporated cities. That action has been fully justified by the results attained in less than three years. Intelligent investigation and action by the commission has brought about reductions in rates and improvements in service rendered by all classes of public utilities.

The system is still imperfect, however, in that it leaves certain powers to be exercised by incorporated cities which can better be exercised by the commission. The result has been confusion and uncertainty as to where the commission's jurisdiction ends and a city's jurisdiction begins. It happens more often than otherwise that a public utility, for example, a gas company, will serve patrons inside and outside an incorporated city. The lines serving the suburban population constitute a part of the city plant, and while there is but one public utility and but one plant, under our present system of regulation there are two rate-making powers, the legislative body of the city, fixing rates as to the portion of the plant within the city limits, and the railroad commission, fixing rates as to the portion outside the city limits. Wholly unnecessary confusion is the inevitable result.

It is proposed by this amendment to at once vest in the railroad commission all of the rate-fixing powers now exercised by incorporated cities. There can be absolutely no sound argument against the policy of statewide control of public service corporations; the policy is uniformly considered to be a wise one and has justified itself in every state where it has been tested. Nowhere has this been so convincingly demonstrated as in California. Since the commission has been vested with the power it now has outside of incorporated cities, it has decided hundreds of cases and in less than half a dozen have its decisions been questioned, while, upon the other hand, it rarely happens that a rate fixed by a local body is not attacked in court and in perhaps the majority of cases successfully.

Experience in other states has shown that the engineering force and the corps of experts required to ascertain the facts necessary for intelligent action on the part of the regulating body, are more efficient if they have to deal with every public utility in the state, regardless of its size or the size of the city in which it operates. There is also economy in the system proposed, since the same experts who serve one city will serve every city in the state, and the cities will thus be relieved of the necessity of employing high-salaried experts and assistants. Furthermore, the system will remove public utilities from the sphere of local politics. Again, the action of an impartial central body is more intelligent and just than the actions of the governing bodies of the cities concerned.

It is believed by the proponents of this amendment that it will bring about scientific regulation of public utilities throughout the state, and it should be adopted.

W. A. SUTHERLAND,
Assemblyman Fifth-first District.
ALFRED MORGENSTERN,
Assemblyman Thirty-fifth District.