

# The Work of the California Legislature During 1944

*Hon. Earl Warren\**

THE Third Extraordinary Session of the 55th California Legislature, held January 27 to 31, 1944, and the Fourth, held June 5 to 13, 1944, were primarily war sessions. Most of the items included in the call for these sessions arose directly or indirectly from the existence of wartime conditions. One of the direct results of war activity in this state has been a substantial increase in state revenue. The state has a substantial surplus and many measures dealt with the use to be made of such surplus.

Seventy-five million dollars was set aside as an addition to the Post War Employment Reserve, which already amounted to \$31,778,000 by tax diversions.

Thirty million dollars was set aside to insure the solvency of the teachers retirement system.

To prepare the way for an extensive state building program to follow the war, the sum of \$4,891,000 was appropriated for the acquisition of sites for state buildings of all types.

The legislature provided for the acquisition of such real property by a Property Acquisition Board (Chap. 18, 4th Ex. Sess.). The Director of Finance, the Director of Public Works and the Real Estate Commissioner make up the Board. To the extent it is constitutionally possible for them to do so, the chairman and one member of the Senate Committee on Postwar Construction, and the chairman and one member of the Assembly Committee on Postwar Rehabilitation meet with and participate in the work of the Board. It is the duty of the Board to select the sites to be used and to acquire them by condemnation which is required in each case.

The state has assumed its share of responsibility for the war rationing program by the enactment of the Black Market Bill (Chap. 42, 4th Ex. Sess.). This bill adds Sections 540, 541, 542 and 543 to the Penal Code making it a crime to counterfeit, buy, sell, or steal ration coupons or tokens. The crime is made either a felony or a misdemeanor in the alternative.

It was my privilege to include in the call for the Third Extraor-

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dinary Session a provision for changing our Election Code (Chap. 1, 3rd Ex. Sess.) to make it possible for our service men to vote. The bill passed by the legislature and signed by me increased the time for applying for absentee ballots and for returning them after the election. It was necessary to combine the August Primary with the May Presidential Primary because there was not sufficient time to hold three elections and afford the extra time necessary for sending ballots to the far corners of the world. An important incidental effect of such consolidation was the very substantial saving of the expense of elections.

At the same session the legislature submitted to the voters a constitutional amendment to remove the tax exemption of federally owned property (Chap. 5, 3rd Ex. Sess.) from our constitution. This was necessary to enable California to take advantage of the policy of Congress in waiving the federal exemption in certain cases. The voters approved the amendment at the special election held in conjunction with the May primary.

Directly attributable to the war situation were two measures, one freezing the values of motor vehicles for purposes of motor vehicle taxation (Chap. 4, 4th Ex. Sess.), and the second extending the time for the payment of gift taxes by members of the military forces (Chap. 46, 4th Ex. Sess.).

The first of these extends to the year 1946 the previous law freezing the valuation of motor vehicles for purposes of state taxation. Such value is to be taken as being the same as fixed by the Department of Motor Vehicles on January 1, 1943, for vehicles sold prior to that time. For vehicles sold thereafter such valuation is to be determined by the Department on the basis of the selling price of such vehicles.

The second adds a section to the Gift Tax Act of 1939 permitting the Controller to adopt rules extending the time for filing returns required by the Act for the payment of gift taxes. Such rules are limited to members of the armed forces or the merchant marine serving outside the United States. Any extension is limited to 180 days after discharge from service. Similar regulations have been adopted by the federal government.

For years it has been known that the teachers' retirement system of the state was unsound. The legislature acted to remedy this situation by the enactment of a thorough revision of the system (Chap.

13, 4th Ex. Sess.). A satisfactory and more adequate system has been established. The allowances payable to teachers already retired were increased from \$50.00 to \$60.00 per month for those with 30 years of service. For those retiring hereafter with 30 years of service the retirement allowance will be at least \$60.00 per month. Member contributions are increased from \$24.00 per year to \$60.00 per year, and state contributions are increased from 5% of the inheritance or transfer tax to an accrual amount required as the liability accrues. The system has been strengthened by the establishment of the \$30,000,000 reserve.

One of the most interesting bills adopted during 1944 was the act appropriating \$10,000,000 for allocation to cities and to counties for the preparation of plans and the acquisition of sites for public improvements as postwar projects (Chap. 47, 4th Ex. Sess.). A Post War Public Works Review Board is established consisting of:

1. Director of Finance, as chairman
2. Director of Public Works
3. Director of Reconstruction and Reemployment  
Commission
4. Legislative Auditor

It is made the duty of this Board to pass upon all applications for allotments under the act. With certain minor exceptions all funds allotted are to be on a matching basis. In other words, the cities and the counties are expected to furnish one-half the cost of acquiring sites and rights of way and one-half the cost of preparing plans.

The interest of the legal profession arises from the question raised as to the constitutionality of this act. The act appropriates money to be used by cities and by counties. Under Art. IV, Sec. 22 and 31, and Art. XI, Sec. 12 of the constitution, the state cannot give money to counties or cities to be used purely for local purposes, because such an appropriation might constitute a gift of public money or violate the provision prohibiting the state from levying taxes for local purposes.

However, the state may appropriate money to counties or cities to be expended by such counties or cities for statewide purposes. The act does not expressly limit the preparation of plans or the acquisition of sites to projects which in themselves have a statewide interest. The question, therefore, is whether the purpose stated in Sec. 1 of

the Act—to provide a public works program to meet the danger of postwar unemployment—constitutes a statewide purpose. I believe the act is valid. No money, however, is being allocated until a judicial determination has been obtained. Such a proceeding is now pending and the legal profession should look forward with interest to a determination of this interesting problem.

Many other bills were passed and signed, but these were largely appropriation bills and not primarily of interest to the legal profession. Likewise, there has been no reference to the Prison Reform Bill (Chap. 2, 3rd Ex. Sess.) for the reason that an article on this bill appeared in the *California Law Review* for September, 1944.