

California Legislation in 1931: A Review

THE FACT that the 1931 legislature of California passed 1220 statutes caused many an editor to pound his typewriter in alarm, and led many a citizen to make sarcastic reflections to his fellows regarding the unreasonableness of what "they" expect of the citizenry in the way of knowledge and observance of the law.

Fortunately, however, the alarm and the sarcasm aroused by that fact were both without good cause, as any editor or any citizen can determine for himself by even a cursory examination of the 3,326 page volume issued by the state printing office and known as the *Statutes of California, 1931*. Such an examination will disclose in the first place that there is no such quantity as "a law", because some laws are only a few lines long, while others extend to nearly a hundred pages, and because some laws say more in a few lines than others do in a hundred pages. Hence a mere count of the laws can mean very little. It will also disclose that the great mass of legislation is of no general concern whatever, and that the important portion of that which was early and more or less satisfactorily brought to the attention of the public, thanks to the existence of various organized interest groups, the service of newspapers, and the opportunities afforded by the split-session device.

A more careful examination will also show that very few of the statutes establish any new principle or rule: the worst that may be said against most of them is that they "tinker" with the details of existing laws. Some of these details are extremely important, of course, and one detail "tinkered" with for the worse might justify serious alarm and the most biting of sarcasm, but the cause would be qualitative, not quantitative, in character.

Then, again, it will be observed by the careful examiner that the total number of statutes passed includes a number of outright repeals: statutes which in fact decrease the number of statutes. These should delight the quantitative critic, instead of irritating him, and he should also be delighted by the revisions which substitute a single act for any number of scattered acts and amendments.

The very careful observer will consider, too, that even the general laws, as distinguished from the special laws, have widely differing "pressure points". Some will be directed to members of the public as automobilists, or as hunters or fishermen, or as parents, while others will concern the individual as a property owner or a proprietor of a particular business. Not every person will be affected by every general law.

It is apparent, then, that the quantity of the output of the 1931 legislature is not in itself a proper cause for alarm or censure; con-

sideration must be given to the subject matter and the quality of the legislation.

However, before proceeding to an examination of the subject matter of the laws passed in 1931 in California (this review will not attempt to discuss the quality of the measures), perhaps the statistically minded should be given a preliminary morsel to whet their appetites. So here is a resumé of the action on bills introduced in the 1931 session compared with the 1929 session:

| ACTION | 1929 | 1931 |
|----------------------------|------|------|
| Bills introduced | 2086 | 2921 |
| Passed | 1106 | 1316 |
| Signed | 891 | 1220 |
| Vetoed | 35 | 20 |
| Pocket vetoed | 180 | 76 |

However, a word of caution should be given to those inclined to attach significance to these figures: the 1931 session reclassified the fifty-eight counties according to the 1930 census, and to make sure that the salaries of all the officers of every county would be properly attended to, a large number of extra bills were introduced in January, the first part of the session, merely to reserve bill numbers for potential legislation in the second part,¹ which somewhat misleadingly swells the total of bills introduced. On the other hand, many bills suffered a complete change of subject matter while in process, so that in effect additional bills were introduced. The net result does not seem worth digging out, but probably favors a slight reduction in the number of bills introduced. Moreover, the number of bills passed and signed was also affected by the reclassification of counties, as the change in class number necessitated many changes in the statutes in order to retain the *status quo*. Nor should it be forgotten that the subject matter of bills introduced has a direct bearing on the action taken. It is only in the light of these and other less obvious factors that the figures given above can be accurately interpreted.

Turning now to an examination of the subject matter of the bills which became law, something should first be said regarding the method of classification and allocation used here. Rather than attempt a "scientific" classification, it was decided to select obvious classes and to allocate only roughly, assigning each chapter to the class to which it most naturally belongs, that is, to which its principal import sends it. Such a classification and allocation creates a number of conflicts and makes it impossible to have accurate totals in any given class, but it

¹ It will be remembered that under the constitution, each legislator may introduce only two new bills in the second part of the session. CALIF. CONST. Art. IV, § 2.

presents a better picture of the legislative product as a whole than would a detailed analysis, which, incidentally, can be secured by anyone interested simply by examining the index of the statutes volume. Two examples should suffice to make this clear. Sixteen acts are classified in the following tabulation under "Liability", while the index lists forty items, which means that most of the liability features were included in acts classified elsewhere in the tabulation, because the principal import of the acts required such classification. Again, only forty items are assigned to "Crimes, prisoners, etc.", while the index devotes more than two pages to the same subjects, as it lists pertinent details of acts which are primarily concerned with other subjects. With this explanation, and the repeated cautions that as to most of the classes quantity means nothing, quality everything, and that even quantity is measured only on the basis of what is in practically all of the classes an extremely variable unit, the chapter, there is now offered for what it may be worth the following

CLASSIFICATION OF 1931 CALIFORNIA STATUTES

| | |
|--|------|
| Total | 1220 |
| General | 134 |
| Property rights, personal status, etc. | 29 |
| Liability | 16 |
| Paupers, narcotics, insane, etc. | 14 |
| Crimes, prisoners, etc. | 40 |
| Fish and game | 35 |
| Business and professional | 121 |
| Agriculture | 22 |
| All other | 66 |
| Corporation organization, etc. | 11 |
| Transactions and rights | 22 |
| Government | 965 |
| State | 314 |
| Organizations and agencies | 20 |
| Tenure | 18 |
| Administrative matters | 77 |
| Property | 35 |
| Appropriations | 164 |
| Counties | 225 |
| Administration | 40 |
| Salaries | 185 |
| Cities | 14 |
| Districts | 85 |
| New | 8 |
| Water | 53 |
| All Other | 24 |
| General | 85 |
| Administration | 18 |
| Validations | 21 |
| Taxation | 22 |
| United States relationships | 5 |
| Elections | 19 |
| Special Services | 242 |
| Schools | 104 |
| Courts | 114 |
| Highways and streets | 24.. |

A brief review of the more important pieces of legislation may be of value, to give some idea of the significance of the 1931 session.

Several comprehensive revisions were approved, consolidating and organizing the statute law relating to the various subjects. Among these should be mentioned the Probate Code, the General Corporation Law, the General Nonprofit Corporation Law, the Building and Loan Association Act, and the Uniform Sales Act.

Other extensive revisions and amendments affected the Corporate Securities Act, the Cooperative Marketing Act, and the Vehicle Act, as well as some which will be listed later.

Some rather interesting items regarding various varieties of liability deserve mention. The so-called "dog-bite bill"² establishing the liability of a dog owner to a person bitten by the dog, regardless of the dog's former viciousness, is especially interesting, upsetting as it does an old rule of liability. But as if to afford some consolation to dog owners, the legislature also amended section 596 of the Penal Code, so as to extend the protection of that section to include the poisoning of any animal the property of another, as well as the poisoning of cattle. The rule of liability applying to the failure of a bank to stop payment on a check after proper notice, is now fixed by an amendment to section 3265g of the Civil Code to be the "actual loss incurred"; and an excavator's liability is no longer limited to the support of the adjacent land merely, but involves support of the neighboring buildings or other structures in certain cases.³ The motor vehicle owner's liability to his guest is modified by the removal of "gross negligence"⁴ as a basis for recovery for injuries to a guest; but on the other hand, the vehicle owner's license is suspended unless or until he shows that he is financially responsible, if he is convicted of certain violations of the Vehicle Act,⁵ which tends to eliminate the irresponsible, reckless driver. Yet another interesting new provision regarding liability is that added to the Civil Code⁶ relating to newspaper libel, whereby the newspaper's liability is limited to "actual damages" if it can show that the libel was due to a *bona fide* mistake, and if it has on request retracted the libel "in as conspicuous a place and type in said newspaper as were the statements complained of, in a regular issue thereof, published within two weeks after such service." Chapters 1167 and 1168 deal with the procedure to be followed in enforcing the liability of political subdivisions, and of their officers and of officers of the state, for injuries caused by the defective condition of public property. There are several other interesting acts

² Cal. Stats. 1931, c. 503.

³ CAL. CIV. CODE § 832.

⁴ Cal. Stats. 1931, c. 812.

⁵ Vehicle Act § 73½.

⁶ § 48a.

bearing on liability, but the items mentioned sufficiently indicate the spread and detail of the activity of the 1931 Legislature in this field.

The legislation bearing on charities and social welfare includes an amendment of the aid-to-the-indigent law, whereby the residence requirement in this state is lengthened from one year to three.⁷ This is of considerable importance, in view of current economic conditions.

Among the measures regarding crime and penology, the act which amends sections 1205 and 1446 of the Penal Code so as to permit installment payment of fines in misdemeanor cases, should not be overlooked. Another important measure is that making an appropriation for the teletype system of communication between the key cities in the state, for the purpose of facilitating the apprehension of criminals. The act establishing a Board of Prison Terms and Paroles is yet another significant measure. So also is the act instructing the department of finance to make a study of crime costs and penal methods in this state,⁸ even though the appropriation is only three thousand dollars. Many details deserve attention, but for present purposes only the provision making the unauthorized copying of real property title records a theft,⁹ the punishment of unauthorized publishers and venders of words or music of copyrighted musical compositions,¹⁰ and the provision making it a misdemeanor for a taxi driver to misdirect a prospective hotel or lodging-house guest¹¹ will be mentioned. Governmental control of weapons useful in criminal activity was extended and strengthened by the new tear bombs law and the amendments of the machine gun and pistols laws.

Some rather important matters were involved in the legislation concerning fish and game, and agriculture, but the only noticeable tendencies were for the creation of new refuges, and the extension and tightening of food standardization laws.

Several new business regulation and standards laws were passed, and many existing measures were revised. The new Building and Loan Association Act has been mentioned already. The General Cemetery Act, the cleaning and dyeing shops laws,¹² the gasoline standards law,¹³ the Insurance Agents, Brokers, and Solicitors Qualifications Act,¹⁴ the motor carrier transportation agent law,¹⁵ and the "runners and capers" laws prohibiting certain solicitations of legal business,¹⁶ may be included in this class of legislation. The Bank Act and the personal

⁷ Cal. Stats. 1931, c. 110.

⁸ *Ibid.* c. 440.

⁹ CAL. PEN. CODE § 496c.

¹⁰ *Ibid.* § 367b.

¹¹ Cal. Ctats. 1931, c. 708.

¹² *Ibid.* cs. 424, 425.

¹³ *Ibid.* c. 609.

¹⁴ *Ibid.* c. 277.

¹⁵ *Ibid.* c. 638.

¹⁶ *Ibid.* cs. 1013, 1043.

property brokers law were extensively amended, as were also the law relating to the registration of contractors, the Real Estate Act, the embalmers and funeral directors law, the civil engineers law, and the Act Concerning Cosmetology. The oil conservation law, which may properly be mentioned here, has been subjected to referendum. A measure of special interest is that known as the Fair Trade Act, which declares certain price maintenance contracts to be lawful, contrary to the long established rule against such contracts. The Fair Trade Act is to be distinguished from the unfair competition law of 1913, which, incidentally, was completely amended in 1931.

Laws affecting the organization of the state government were relatively few in 1931 as compared with several previous sessions. One new department, the Motor Vehicles Department, was created; and a bureau of publications and documents was established in the Department of Finance. The provisions relating to the powers and duties of the Department of Professional and Vocational Standards¹⁷ and of the Department of Finance¹⁸ were rewritten. There were also twenty-one measures putting various state boards and commissions on a more or less uniform tenure basis by the institution of a "staggered terms" system, with at least one term on each board beginning a half month after the inauguration of the governor, and other terms beginning on January 15 of successive years, depending on the number of members on the board. Legislative and congressional reapportionment measures, based on the 1930 census, were also passed; and mention might be made here of the new state employees' retirement law, and the county peace officers' retirement law.

Special commissions were not much favored in 1931, the water resources and the unemployment commissions being the only new special investigation commissions. The code commission and the problem children study commission were continued, however, and a World's Fair centennial celebration commission was also created.

Of the special appropriations made by the 1931 legislature, seventy-four were for claims against the state, ranging from less than a dollar to over \$200,000. Practically all of the state institutions received special appropriations for building and improvement purposes. These appropriations, incidentally, were passed as urgency measures, to help relieve the unemployment situation as early as possible.

Considerable legislative activity was devoted to special districts. The old irrigation district bond commission, perhaps better known as the bond certification commission, was reorganized as the district securities commission, and given wider authority over district bond issues. As the

¹⁷ *Ibid.* c. 596.

¹⁸ *Ibid.* cs. 325, 326. The latter, which was intended to amend one feature of the former, has been subjected to referendum.

tabulation shows, most of the acts related to water districts of one kind or another, but there was considerable amendment of other district laws, and several new district laws were passed. Among the latter are those authorizing port districts, harbor districts, creational harbor districts, recreation districts, memorial districts, and resort districts. Many of the water district amendments amount to revisions of the acts.

Taxation is always an important subject, and although the 1931 legislature made no radical changes or moves toward changing the system, it did pass several significant measures. The establishment of a Tax Research Bureau was perhaps not the least important of these measures, but the Special Assessment Investigation, Limitation and Majority Protest Act is also not to be disregarded, and the measures designed to ease the tax and assessment burden and to make redemptions easier, particularly in special districts, are also important. Moreover, extensive amendments to the Bank and Corporation Franchise Tax Act and to the gasoline tax laws were made. The centralization of appraisals was furthered by an act strengthening the powers of the State Board of Equalization in regard to reappraisals and the work of the county assessors;¹⁹ and the machinery was set up for a state *advalorem* tax, in case of a revenue deficiency.²⁰ The ocean marine insurers' tax measure, drafted to put into effect the constitutional amendment adopted on November 4, 1930, was also passed and became law.

This review could be expanded to include more of the material dealt with by the 1931 legislature. For example, many portions of the School Code were revised; extensive changes were made in the laws relating to highways and streets; and the legislation on elections and courts was rather plentiful and quite detailed. The acts permitting certain identifying designations under a candidate's name on the ballot, the increases in compensation to many of the superior court judges, and the provision of additional superior court judges in five of the counties deserve mention even here. However, probably enough has been said to give a fairly good picture of the significance of the session and the scope and type of subjects covered, and any one interested in further details can easily inform himself, as already suggested, by making use of the index of the 1931 statutes volume.²¹

Thomas S. Dabagh.

Fred B. Wood.

BERKELEY, CALIFORNIA.

¹⁹ *Ibid.* c. 694.

²⁰ *Ibid.* c. 422.

²¹ Those interested in the session-by-session work of legislatures or in the general subject of the burden of legislation, will find the following articles of value: Seagle, *Too Many Laws?* (1930) 1 NEW FREEMAN, March 22, p. 36; Bramhall, *This Matter of Over-Legislation* (1930) 3 STATE GOVERNMENT, No. 4, p. 1; *The Scope of Statute Law* (1931) 44 HARV. L. REV. 976, and items there cited, reprinted with comment in (1931) 16 MASS. L. Q. No. 6, p. 1; Dickinson, *Legislation and the Effectiveness of Law* (1931) 17 A. B. A. J. 645; Gillis, *Buried by Laws*, and Lyons, *Bills, Bills, All Kinds of Bills* (1932) 5 STATE GOVERNMENT, No. 1, p. 8, 11, and see also p. 14.