



# ENGROSSMENT\*

## A PICTURE OF HISTORY

After researching legislative histories for over 35 years, we have acquired likely the largest private collection of bills and histories in the country. We are in the process of digitizing our collection for easier and more affordable distribution of legislative history to our clients. Reflecting on this collection, we see that while these histories represent important changes to statutory laws, they also provide insight as to the state of the nation and the mind of the electorate at the time of enactment. This type of historical review of each bill reveals a snapshot of our society for that specific time period. And, perhaps not surprisingly, these snapshots reveal how we still continue in 2010 to strive to solve many of the same old problems in new ways.

## 100 YEARS OF LEGISLATIVE HISTORY

One hundred years ago, the political issues in California were not that different than many of the issues facing the state in 2010, especially if you exclude the current budget impasse. In his Governor's Message in 1909, Governor James Gillett addressed issues related to state hospitals, the San Francisco Harbor, state prisons, railroads, road improvements, banks, navigable streams improvement, revision of revenue laws, and insurance. In his Message, Gov. Gillett argued for changes to the banks doing business in the state that arose from the 1907 summer and fall monetary deficits in which, as he stated:

... we found ourselves without sufficient funds to carry on our ordinary business and none at all for new enterprises. Our money was locked up in the East and Eastern bankers refused to return it to us. Several banking institutions of the State were forced to close their doors and their affairs are now in the hands of a receiver and are being settled for the benefit of the depositors. In order to protect our banks and prevent great financial

distress among the people, it became necessary to declare a series of holidays, and finally to call an extra session of the legislature. . . .

In this same Message, he offered some practical advice to banks:

Some limitations should be placed upon the amount of money any person, company, corporation, association, or firm can borrow from a bank; otherwise a bank may have all its funds practically loaned to one concern, and if it becomes involved in losses or fails in business then the bank fails, too. . . .

Among the numerous bills presented in 1909 were measures seeking to "prevent false and incorrect representations and advertisements concerning articles offered for sale" (**AB 642**); protection of homeless children and dependents (**SB 21**); the "protection of farm names" (**AB 373**) which related to trademarks and marketing; the "protection of wild birds other than game birds and their nests and eggs" (**AB 650**); a constitutional amendment to place before the voters a proposal to separate state and local taxation (**SCA 1**); protection of certain lands and salt marshes and tidelands in the city of Oakland (**SB 754**); and actions by "taxpayers against officers and agents of county, town, city or city and county" (**AB 1157**).

Below, we present two snapshots of legislative history.

## WATER RIGHTS FLOW THROUGH HISTORY

As far back as 1872, Civil Code §§ 1410 through 1422 were the only statutes addressing the priority of water rights. The annotations for these early statutes cited almost exclusively to California cases. Many other aspects of the Civil Code came from New York or Louisiana, so California's water laws were unique to this state. Four years later, in 1878, the

office of the State Engineer was established and charged with formulating a policy and framing legislation related irrigation matters. This state office failed in enacting any legislation.

When the California Water and Forest Association and the Irrigation Investigations of the U.S. Department of Agriculture conducted a study of water right conditions in 1900, they actually drafted a “water code” in 1902 that was defeated with antagonism by the state legislature.

In 1911, the Conservation Commission of California was created to prepare and recommend to the legislature those laws, statutes, and constitutional amendments revising, systematizing, and reforming the laws of California related to forestry, water, the use of water, water power, electricity, electrical and other power. In 1913, the Conservation Commission successfully proposed legislation. In its 1913 Report, the Conservation Commission observed that:

Water is practically the only natural resource left to the full regulation of the State of California. It is equally with land and even more than the forests, of the greatest necessity for the prosperity and comfort of our people. Neither it nor its use ought to have been permitted to become, in any shape or manner, private property. With that portion of it, or the use of that portion of it, which has already been permitted to become private property, we have, at present, little to do, beyond so regulating the enjoyment of it by its present owners that it will be as little as possible provocative of public distress or inconvenience. But that portion of this natural resource which has not yet fallen into private control or ownership should not be permitted to do so. . . .

This snapshot of water regulation revealed a simpler understanding of what was soon to become a dynamically complicated issue for California.

## **Motoring Through 100+ Years of Legislative History**

California’s first motor vehicle registration law was enacted in 1905. New York and Massachusetts also enacted vehicle registration laws because of large

scale highway construction which, over time, compelled later reconsideration of registration fees for motor vehicles. Significant California motor vehicle legislation can be traced to the 1913 Act “to regulate the use and operation of vehicles upon the public highways and elsewhere,” among other provisions. (**AB 2095**) Over the next ten years, Massachusetts would institute a compulsory automobile insurance law and other states, such as Connecticut, Maine, Minnesota, New Hampshire, Rhode Island and Vermont, would adopt automobile liability security laws. In 1925, the Massachusetts plan of compulsory insurance of all motor vehicles established liability and secured compensation in motor vehicle accidents. Apparently, California was paying attention to these other states’ legislative activities and was prompted by an alarming increase in motor vehicle accidents within the state [approximately 29,900 fatalities and 600,000 injured in 1924] to initiate traffic safety studies in 1924 and 1926.

In his position as U.S. Secretary of Commerce, Herbert Hoover led the First National Conference on Street and Highway Safety. In his address in March of 1926, Mr. Hoover stated:

The outstanding feature in the reports of all our committees last year and in the decisions of the conference itself was the lack of uniformity in our traffic laws and regulations and the failure of many communities to benefit by the experience of others—all of which has a large responsibility in the causes of accidents.

After the initial introduction of the motorized vehicle 100 years ago, almost every legislative session has carried significant bills to address motor vehicles’ operation, insurance, liability, negligence, and even to address what we might in 2010 consider to be obvious rules, such as pedestrians could not walk on highways and right-of-way laws to avoid collisions with horses, buggies, and oncoming traffic from both sides of the street.

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