Propositions
1914
REGULATION OF PUBLIC UTILITIES

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REGULATION OF PUBLIC UTILITIES.

Assembly Constitutional Amendment No. 62 amending sections 23 of article XII of the 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 the people, may retain that control over public utilities vested in boards or other governing bodies; 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 measure to provide for 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 5th 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 proceeds to 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, dealing in the building, maintaining, managing, operating, 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 telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power, shall the furnishing of storage or interchange facilities, either directly or indirectly, to or for the public, and every company, or carriers, or any combination of such powers shall continue unimpaired; but if the vote of the people shall be favorable to the continuance of such powers, they shall thereafter be 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 powers as are necessary for the execution of its duties of supervision and regulation, and the legislature shall have exclusive control of the railroad commission and its expenditures.
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 county or incorporated city or town togrand 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 XIX, 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 corporation, shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the manner prescribed, in the State of California, and 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 any public utilities vested in the boards of supervisors, or municipal councils, or other governing bodies of any 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 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 reassert itself with such power. 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.

ARGUMENT IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 62.

At the special election held on October 16, 1911, the people voted almost unanimously to give to the railroad commission control over all public service corporations in the State, excepting matters within incorporated cities. That action has been fully justified by the results attained in less than three years. Interest 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 incorporated limits. 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 the rates of 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 state-wide 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. Now, where 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 years its decisions have been questioned by a very small number. On 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 an intelligently exercised jurisdiction of public utilities throughout the state, and it should be adopted.

W. A. SUTHERLAND, Assemblyman Fifteenth District. ALFRED MORGENSTERN, Assemblyman Thirty-sixth District.