

S241825

IN THE
SUPREME COURT OF CALIFORNIA

VINCENT E. SHOLES,
Plaintiff and Appellant,

SUPREME COURT
LODGED EXHIBITS

DEC 15 2017

v.

Deputy

LAMBIRTH TRUCKING COMPANY,
Defendant and Respondent.

AFTER A DECISION BY THE COURT OF APPEAL, THIRD APPELLATE DISTRICT
CASE No. C070770

EXHIBITS TO MOTION FOR JUDICIAL NOTICE
[VOLUME 1 OF 2 • Pages 1-270]

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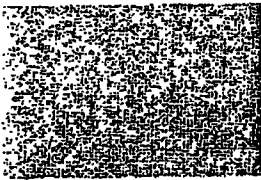
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PACIFIC GAS AND ELECTRIC COMPANY

SCHOLES V. LAMBIRTH TRUCKING CO.
CASE NO. S241825

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LEGISLATIVE INTENT SERVICE, INC.

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DECLARATION OF FILOMENA M. YEROSHEK

I, Filomena M. Yeroshek, declare:

I am an attorney licensed to practice before the courts of the State of California, State Bar No. 125625, and am employed by Legislative Intent Service, Inc. a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the 1872 enactment of Political Code section 3344.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on 1872 enactment of Political Code section 3344. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the 1872 enactment of the code section.

1872 POLITICAL CODE SECTION 3344:

1. Procedural history of the 1872 California Political Code, prepared by Legislative Intent Service;
2. Report of the Joint Committee of the Political Code, 1871-72;
- x 3. Excerpt regarding former Political Code section 3344 from the Revised Laws of the State of California, Political Code, January 1872;
- x 4. Excerpt regarding former Political Code section 3344 from The Political Code of the State of California, annotated by Haymond and Burch, Volumes I and II, September 1872;
- x 5. Excerpt regarding New York Political Code section 763 from The Political Code of the State of New York, reported complete by the Commissioners of the Code, 1859;
6. California Code Commentary, by Charles Lindley, (1872) a summary prepared by Legislative Intent Service, focusing on the Political Code;
- x 7. Excerpt regarding Penal Code section 384 from The Penal

Code of California, 1872.

x

Exhibits preceded by an "x" are excerpted.
The original exhibit is lengthy and may not contain
any further discussion relevant to your concern.
The entire exhibit, or further portions of it, will be
made available on your request.

I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct. Executed this 8th day of September, 2008 at
Woodland, California.

Filomena M. Yeroshek

FILOMENA M. YEROSHEK

**THE PROCEDURAL HISTORY OF
THE 1872 CALIFORNIA POLITICAL CODE**
(Prepared by Legislative Intent Service)

DOCUMENTS AVAILABLE UPON REQUEST

1. Excerpt of the preface and amendments from the "rejected edition" of the Revised Laws of the State of California, Political Code, January 1872;
2. Excerpt of the preface from the Political Code of the State of California, annotated by Haymond and Burch, Volume I, September 1872;
3. Report of the Joint Committee on the Revision of the Political Code, 1871-72;
4. Excerpt regarding Senate Bill 375 from the Journal of the Senate, 1871-72;
5. Excerpt regarding Senate Bill 375 from the Journal of the Assembly, 1871-72;
6. News articles regarding the Revision Commission from the Sacramento Daily Union, November 13, 1871 and January 1, 1872;
7. News articles regarding Senate Bill 375 from the Sacramento Daily Union, March 8, 9, and 13, 1872.

The California Political Code was adopted in 1872 following the enactment of Senate Bill 375, "An Act to Establish a Political Code." (See Exhibit #4)

The Political Code was prepared by the California Code Commission, also known as the Revision Commission, which began its work on May 4, 1870. The Commission completed the Political Code by January of 1872. The California Political Code was modeled after the New York Political Code.

The Political Code was reviewed by the Advisory Committee on the Revision of the Laws and the Joint Committee on Revision of the Political Code. (See Exhibits #3 and #7) The Advisory Committee recommended the adoption of the Code after carefully examining it and comparing it section by section with California's then existing laws and the laws of the most populous states. (See Exhibit #7)

The Joint Committee on Revision also, after careful examination,

recommended the adoption of the Political Code.

The California Political Code was introduced in bill form on March 7, 1872 by former Senator Irwin as Senate Bill 375, "An Act to Establish a Political Code." (See Exhibit #4)

Senate Bill 375 was introduced in the Senate, Senator Irwin lengthy remarks were reproduced in the Sacramento Union the following day.

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REPORT

OF

THE JOINT COMMITTEE

ON THE

POLITICAL CODE.

CALIFORNIA
STATE
LIBRARY
LAW DEPT.

*Submitted to 19th (1971-2) session of Legislature and
published in Appendix to Journals of Senate and Assembly,
19th session, vol. 2, no. 19.*

REPORT.

TO THE HONORABLE THE LEGISLATURE OF THE STATE OF CALIFORNIA:

The Joint Committee on Revision appointed by the Legislature to examine the Political Code prepared by the Revision Commission make the following report:

Your committee met on the day of January and have held sessions almost daily since. During this time it has given to the Code a careful examination, reading it line by line, and comparing it with the statutes of this State, and when necessary with the laws of other States. This Code makes an octavo volume of seven hundred pages, the whole of which would be comprised within two hundred and fifty pages of Hittell's Digest. It is divided into five Parts as follows: Part I. Of the sovereignty and people of the State, and of the political rights and duties of all persons subject to its jurisdiction; II. Of the chief political divisions, seat of government, and legal distances of the State; III. Of the government of the State; IV. Of the Government of Counties, Cities, and Towns; V. Of the definition and sources of law, the common law, the publication and effect of the Codes, and the express repeal of statutes.

T. A. SPRINGER, STATE PRINTER.

PART I

is divided into three short Titles, occupying in all six pages and a half. It provides that the sovereignty and jurisdiction of the State extend to all space within its limits; gives the legislative consent to the purchase or condemnation by the United States of lands for governmental purposes (following our statutes); prescribes the rights of the people as to holding office, etc. This part is but preliminary, containing a few plain, general rules upon the subjects included within it, not of any great importance either way, except so far as they give the legislative consent to the purchase or condemnation of property by the Federal Government.

PART II

Commences on page thirty-five, and gives the political divisions of the State, counties, Senatorial, Judicial Districts, etc., the seat of Government and legal distances in the State, following existing laws.

Contains nine titles, as follows: Title I. Public officers; II. Elections; III. Education; IV. Militia; V. Public institutions; VI. Public works; VII. General police of the State; VIII. Property of the State; IX. Revenue of the State. Title I is divided into seven Chapters. The first gives the classification of public officers. Chapter II relates to the Legislative Department, and is divided into twelve articles, as follows: Article I. Number, designation, and term of office and election of members of the Legislature; II. Meeting and organization of the Legislature; III. Number, designation, election, and appointment of officers and employes of the Legislature; IV. Powers and duties of officers and employes of the Legislature; V. Compensation of members, officers, and employes of the Legislature; VI. Contesting elections for members of the Legislature; VII. Contesting elections for Governor or Lieutenant Governor; VIII. Attendance and examination of witnesses before the Legislature and committees thereof; IX. Enactment of statutes; X. Promulgation of statutes; XI. Operation of statutes; XII. Public reports.

These articles include all the various provisions of law relative to the subject matter thereof. These statutes have been gathered together, pruned of redundant matter, some new sections added on minor points, and the whole systematically arranged. The nature of the additions may be well illustrated by referring to section three hundred and twelve, and the reasons that led to its introduction. The section is as follows:

Sec. 312. If on the day the Governor desires to return a bill without his approval and with his objections thereto to the House in which it originated that House has adjourned for the day (but not for the session), he may deliver the bill with his message to the presiding officer, Secretary, Clerk, or any member of such House, and such delivery is as effective as though returned in open session, if the Governor on the first day the House is again in session by message notifies it of such delivery, and of the time when and the person to whom such delivery was made.

In *Harpending vs. Haight*, April term, eighteen hundred and seventy, which was a case founded on the following facts: a bill originated in the Senate providing for the opening of New Montgomery street, and had passed both branches of the Legislature, and was transmitted to the Governor; on the last day allowed by law for its return the Governor attempted to return the bill with a veto message by his Private Secretary, but when the Secretary reached the Senate Chamber the Senate had adjourned for the day; after the adjournment of the Legislature the Governor, claiming that the return of the bill had been prevented by the adjournment of the Senate, and that the bill had not become a law, refused to endorse the Secretary of State to certify it as such; whereupon Harpending applied to the Supreme Court for a mandate compelling the Governor to endorse the certificate to be made. Upon this application the Court held that the bill had become a law, and the certificate must be made. In the opinion of the Court it is said that the Governor might have returned the bill to any officer, member, or attaché of the Senate, and such is the law of this State to-day. It is obvious that the Governor might, by collusion with a member or officer of the Senate, defeat any bill. He could return privately to a Senator or officer, and though

in contemplation of law it would be in custody of the Senate, yet the Senate might never know that fact; hence the Commissioners have framed the section quoted, requiring the Governor to notify the body in which the bill originated, of the mode and manner of its return, in which event the body could control the bill if desirable. This illustration clearly presents the character of the changes made in this part of the work. Instead of using the word "change" in this connection it would be more appropriate to say that omissions have been supplied.

EXECUTIVE OFFICERS.

Chapter III deals with executive officers, and is divided into nineteen articles. This Chapter is a revision of the existing laws of the State. The provisions of law relative to each officer have been collected from the body of the statutes, and plainly and concisely stated. If any one interested in the matter will take the pains to compare either article with the laws as they now stand, the merit of the work will be apparent.

Chapter VII is divided into five articles, as follows: Article I. Clerk of the Supreme Court; II. Reporters of the Supreme Court; III. Notaries Public; IV. Commissioners of Deeds; V. Other officers. Promising that the duties of Notaries in both instances are fixed by sections preceding, we insert, for the purpose of showing the character of the revision, a section from Article III of Chapter VI of the Code and the section as it now stands upon the statute book:

Section 801 of the Political Code.

Sec. 801. For the official misconduct or neglect of a Notary Public, he and the parties injured thereby for all the damages sustained.

Section 18 of the Act of April 25, 1862 (Statute 1862, p. 445).

Sec. 18. For any misconduct or neglect of duty in any of the cases in which any Notary Public, appointed under the authority of the State, is authorized to act, either by the law of this State, or by any other State, Government, or country, or by the law of nations, or by commercial usage, he shall be liable on his official bond, to the parties injured thereby, for all the damages sustained.

The penal clause of section thirteen has been carried into the Penal Code. A comparison of other sections in this Chapter with the Chapters from which they have been drawn, will show that the comparison above made is not an unfair one.

Chapter VII is divided into twelve Articles, as follows: Article I. Disqualifications; II. Restrictions upon the residence of officers; III. Powers of deputies; IV. Appointment and duration of term; V. Non-fulfillment of commissions; VI. Oath of office; VII. Prohibitions applicable to certain officers; VIII. Salaries, when title is contested; IX. Bonds of officers; X. Resignations, vacancies, and the mode of supplying them; XI. Proceedings to compel delivery of books and papers; XII. Miscellaneous provisions. The remarks relative to the two preceding Chapters apply with equal force to this.

In relation to portions of this Title, Controller James J. Green, under date of January sixteenth, writes to the Commission as follows:

"I have carefully examined the Political Code prepared, so far as it relates to the duties of the office of Controller. It strikes the law clearly and concisely, and receives my hearty approval. I trust the Legislature

will adopt the same. I would also suggest that it would be well to put the provisions relating to State officers in force at once.

OF ELECTIONS.

Title II, treating of elections, has been before the public for a long time and has met with universal approval. Its provisions are plain and simple, and although it is much broader in its scope than the present law, it is compressed within less than half the space.

Your committee believe that its provisions will tend to the purity of the elective franchise, and will prove of lasting benefit to the State.

Title III is devoted to

EDUCATION.

It is divided into three Chapters: Chapter I, University of California; II, State Normal School; III, Public Schools. This title is a strict revision of the present laws upon the same subjects, reworded and condensed most materially. Professor Bolander and ex-Superintendent Swett have given this portion of the work a close examination, and have expressed the most favorable opinions as to the manner in which it has been done.

Title IV,

STATE MILITIA,

Embodies in the main provisions of existing laws. It is divided into five Chapters. Of this Title Adjutant General Fiske, in a note addressed to the Commissioners, under date of January eighteenth, says:

"I have received a copy of the Political Code containing the militia law as codified, and have examined it with care. In point of arrangement it seems to me complete. I have also compared the militia law of the statutes with the codified law, and find that while the provisions of the statutes have been carefully preserved, much verbiage has been omitted, things that were obscure have been made plain, and some seeming conflicts have been harmonized. Great credit is certainly due the Commission for the manner in which this labor has been performed."

Title V, on

PUBLIC INSTITUTIONS,

is divided into five Chapters, containing a logical arrangement of existing laws.

Title VI,

OF PUBLIC WORKS,

is divided into seven Chapters, including substantially our statutes upon the various subjects, with some few new provisions to supply omissions, save Chapters II and III. In relation to the former the Commissioners say: "Roads and high ways present another subject of difficulty. Not less than one hundred and twenty-five Acts concerning roads and high ways have been placed upon the statute books. We have prepared a general law, and inserted it as a Chapter, under Title VI, of Part III. It is doubtful whether the condition of the State admits to-day of a general road law; if it does, the policy of enacting one is not a debatable question. In order that a difference of opinion on this question may not

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separatize the adoption of this Code we have prepared an alternate Chapter, continuing in force the existing laws."

Your committee have deemed it advisable to report the road law as part of the Code, and have amended it, with the concurrence of the Commissioners, in several particulars; and a provision has been inserted making it applicable only to such counties as have no special road law. It does not affect any county to which any existing law is made applicable by name, but such counties may at any time in the future by a repeal of the laws applicable to them come under the provisions of the Code.

Chapter I of this Title covers fifty pages, and is divided into eleven Articles, as follows:

Article I. General Provisions respecting Public Works; II. Navigation; III. Floating lumber; IV. Wrecks and wrecked property; V. Piers and Pilot Commissioners; VI. Pilot Regulations for San Francisco, Benicia, and Mare Island; VII. Pilot Regulations for Humboldt Bay and Bar; VIII. Port Warrants; IX. San Francisco Harbor and State Harbor Commissioners; X. Harbor Commissioners for Port of Eureka; XI. Sailors and sailor boarding houses. The titles of the Articles indicate the matter contained and the laws that have been taken into this Chapter.

OF THE POLICE OF THE STATE,

is divided into fifteen Chapters, as follows: Chapter I. Immigration; II. Preservation of the public health; III. Registry of births, marriages, and deaths; IV. Dissection; V. Cemeteries and sepulture; VI. Lost and unclaimed property; VII. Marks and brands; VIII. Weights and measures; IX. Labor and materials on public buildings; X. Hours of labor; XI. Time; XII. Money of account; XIII. Auctions; XIV. Fires and firemen; XV. Licenses. Of these, with the exception of Chapters III and IX, it may also be said that it embodies substantially the present laws, carefully revised and arranged.

OF THE PROPERTY OF THE STATE,

is divided into three chapters, as follows: I. Public lands; II. Yosemite Valley and the Mariposa Big Tree Grove; III. The State Buying Ground. Chapter II, the principal one of the Title, is a close revision and arrangement of existing laws.

The last Title of this Part is Title IX.

OF REVENUE.

The Commission have adopted a plan which embodies some of the suggestions of the Board of Equalization, and those of Controllers Vats and Green, and other gentlemen who have given the matter much attention. Of this the Commissioners say: "The subject of revenue presented serious difficulties. Each legislative year brings with it changes and amendments in the revenue laws, and it may well be doubted whether anything permanent can be adopted without changes in the State Constitution. In obedience to the law creating this Commission, we have inserted as Title IX of Part III a revenue law, and have also placed an alternate Title in relation to revenue, which continues in force the present law, remitting the question to the wisdom of the Legislature."

Your committee have no hesitation in recommending the revenue law as it now stands in the Political Code. It is, as your committee believe, far superior to any Act upon the subject that has ever been devised in this State. And we would recommend, upon the adoption of this Code, the passage of an Act putting the Title relative to revenue and kindred provisions of the Penal Code into effect at once. We believe that under the law proposed in the Code the rate of State taxation for the present year would fall to sixty cents on the one hundred dollars; that thousand dollars would be saved to the citizens of the State, and at the same time the revenue be more effectually collected.

Part IV, of

THE GOVERNMENT OF COUNTIES, CITIES, AND TOWNS.

Title I, of counties, is divided into two Chapters; the first relates to the boundaries and county seats of counties, and the second to general provisions concerning counties. No changes worthy of note have been made. Title II, of the government of counties, is divided into five Chapters, as follows: Chapter I. Counties as bodies corporate; II. The Board of Supervisors; III. County officers; IV. Salaries and fees of office; V. Other county charges.

These Chapters, in the main, are but the result of revisions of existing laws, and the only material change worthy of note is the attempted solution of

THE FENCE QUESTION.

This subject the Code, as reported, leaves in its present condition. The Commissioners had prepared a plan. Their plan provided in substance that the whole question should be remitted to the Boards of Supervisors of the several counties, who might, upon the petition of a majority of the electors of the county or of a district thereof, in the first event declare the whole county a fence district, and in the latter, the district a fence district, and "adopt and provide for the enforcement of rules and regulations for the government of landowners and residents of such districts, in the erection and maintenance of fences, prescribe their character and the materials of which they must be composed, and define the rights secured by an observance of such rules and regulations, and the forfeitures and penalties for their non-observance." It also provided that fence districts and fence regulations once ordained and established, must not be abrogated or abolished for a period of five years. We thought it advisable to omit this from the Code and leave it as a separate subject for consideration.

FEES AND SALARIES.

Upon this topic the Commissioners say: "We have not attempted to do anything relative to the fees and salaries of county officers, except to recapitulate the salaries of County Judges and District Attorneys as the law fixes them. It would be impossible at this day to establish a uniform and permanent system of fees and salaries. Each legislative year will bring contacts over this subject, and it was deemed advisable to let the matter rest in the statutes, rather than to carry the present fee bills, at great expense, into a Code intended to be permanent."

Title III,

THE GOVERNMENT OF CITIES,

Embodies existing laws, and is divided into five Chapters, as follows: Chapter I. Cities as bodies corporate; II. Executive powers; III. Legislative powers; IV. Judicial powers; V. Certain statutes relating to cities and towns and existing corporations continued.

Cities acting under special charters or laws are not affected by the provisions of the Code, but may with the consent of the Legislature adopt such provisions.

GENERAL PROVISIONS.

Part V contains provisions which will apply to all the Codes. It relates to the definition and sources of law; the common law; the publication and effect of the Codes, and the express repeal of statutes. It is there provided that with relation to the Acts passed at this session of the Legislature the Codes must be construed as though they had been passed on the first day of the session; or, in other words, all laws passed at the present session prevail over laws upon the same subject in the Codes. With relation to each other, the Codes must be construed as though they had all been passed upon the same day and were parts of the same Acts. This Part also contains the rules by which conflicting sections—if any should be found—are to be harmonized.

If the provisions of different Titles of the Codes conflict with or contravene the provisions of other Titles, the provisions of each Title must prevail as to all matters and questions arising out of the subject matter of such Title.

The same rule is applied to Chapters and Articles. If conflicting provisions are found in different sections of the same Chapter or Article, the section last in numerical order prevails.

These provisions seem to have been inserted out of abundant caution, and are the ready remedies for almost any defect inherent.

It is also provided "that the common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States or the Constitution or laws of this State, is the rule of decision in all the Courts of this State." (Statutes 1850, p. 210.)

In conclusion, your committee may say of the bill for a Political Code that it has been prepared with great care; is a work worthy of our State; that its adoption will confer a lasting benefit upon the people.

We report the bill to the Legislature with our unqualified approval, and earnestly recommend its passage.

WILLIAM IRWIN,
Chairman,
SENATE COMMITTEE,
GEORGE OULTON,
M. P. O'CONNOR,
GEORGE C. PERKINS,
S. C. HUTCHINGS.

WILLIAM R. WHEATON,
Chairman,
ASSEMBLY COMMITTEE,
J. K. TUTTLELL,
J. A. EAGAN,
E. B. MOTT, JR.,
W. N. DE HAVERN.

REVISED LAWS

OF THE

STATE OF CALIFORNIA;

IN FOUR CODES:

POLITICAL, CIVIL, CIVIL PROCEDURE, AND PENAL.

POLITICAL CODE.

SACRAMENTO:
T. A. SPRINGER, STATE PRINTER.
1872.

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INTRODUCTORY NOTE.

This volume nearly completes the work of the Commission. It has yet to undergo that final revision which has been bestowed upon each Code. The Codes are numbered from one to four, inclusive, in the following order: Political, Civil, Civil Procedure, and Penal. They, however, bear no dependent relation toward each other; each work is complete in itself, and each constitutes a separate Act; they were, in fact, completed—as in our opinion they ought to be examined and adopted—in the inverse order of their numbering.

We have not attempted to do anything relative to the Fees and Salaries of County Officers, except to recapitulate the salaries of County Judges and District Attorneys as the law fixes them.

It would be impossible at this day to establish a uniform and permanent system of fees and salaries. Each legislative year will bring contests over this subject, and it was deemed advisable to let the matter rest in the statutes, rather than to carry the present fee bills, at great expense, into a Code intended to be permanent.

Roads and Highways presented another subject of difficulty. Not less than one hundred and twenty-five Acts concerning roads and highways have been placed upon the statute books. We have prepared a general law, and inserted it as a chapter under Title VI of Part III. It is doubtful whether the condition of the State admits to-day of a general Road Law; if it does, the policy of enacting one is not a debatable question. In order that a difference of opinion on this question may not jeopardize the adoption of this Code, we have prepared an alternate chapter continuing in force the existing laws.

The subject of Revenue presented serious difficulties. Each

legislative year brings with it changes and amendments in the Revenue Laws, and it may well be doubted whether anything permanent can be adopted until we have changes in the State Constitution. In obedience to the law creating this Commission, we have inserted as Title IX of Part III a Revenue Law, and have also placed an alternate title in relation to Revenue which continues in force the present law, remitting the question to the wisdom of the Legislature.

Leaving out of consideration the subject of Fees and Salaries of County Officers, Roads and Highways, and Revenue, this Code is broader in its scope and leaves less to rest in yearly statutes than any Political Code ever presented for the consideration of a legislative body in a common law country.

Part V of this Code contains provisions which will apply to all the Codes. It relates to the definition and sources of law; the common law; the publication and effect of the Codes; and the express repeal of statutes.

It is there provided that with relation to the Acts passed at this session of the Legislature the Codes must be construed as though they had been passed on the first day of the session; or, in other words, all laws passed at the present session prevail over laws upon the same subject in the Codes.

With relation to each other, the Codes must be construed as though they had all been passed upon the same day and were parts of the same Acts.

This part also contains the rules by which conflicting sections (if any should be found) are to be harmonized. It provides for the publication of the Code, and expressly repeals all general laws the subject matter of which has been taken into the Codes.

The Commission are of the opinion that the Codes should take effect upon the first day of January, eighteen hundred and seventy-three, thus giving one year in which to publish and circulate them, and one year for their operation before the next Legislature assembles. In the last year the imperfections and incongruities which necessarily attend a work of this character will be apparent, and can then be remedied.

A singular misapprehension exists in circles that ought to be better informed, both as to the duties of and as to what the Commission has done. The statute of March twenty-eighth, eighteen hundred and sixty-eight, created a Commission to effect a revision

of the laws, and provided among other things that it should "supply such additional provisions as may be required for the public welfare." The Act of April fourth, eighteen hundred and seventy, under which the present Commission was created, provides that this Commission should continue the labors of the one formed under the first Act, and should also "recommend all such enactments as shall in the judgment of the Commission be necessary to supply the defects of and give completeness to the existing legislation of the State, and prepare and present bills therefor."

It will be seen that there was no limit set to the power of either Commission; the discretion of the Commissioners, and that alone, marked the extent of their powers.

Pressing from the question of power to what we deemed " requisite for the public welfare," or as to what would give "completeness to existing legislation," it will be found that we contented ourselves in the main with an adherence to existing laws. The Penal Code, Code of Civil Procedure, and Political Code, embody existing laws, arranged in a convenient and logical form. Some slight additions have been made to give completeness to certain subjects; and the practice in civil actions, after judgment, has been simplified. We had but few laws that related to the civil rights of "persons and things"—such as the laws relating to the tenure, transfer, and mortgage of property; corporations, descents, and distributions; wills, notes, and bills of exchange, etc. All of these we have substantially retained, but they have been taken into what we present as the "Civil Code."

That Code is chiefly the work of the New York Commission. We took the New York Civil Code, and in place of the corresponding chapters, inserted our own laws, modified the rest of it to harmonize with our system, and recommend its adoption as a whole. It embodies the elementary principles of the common law relating to the ordinary business transactions of life; and while it would, if adopted, lighten the labors of the Bench and Bar, it would also give to the business man, in an accessible form, plain and simple rules for the conduct of his affairs. If any valid objections are urged to it, we have our own laws, that make part of the bill for a "Civil Code" as we have presented it, so well in hand that they can be drawn from the bill in a few hours, and, if adopted, would make a Civil Code of about one hundred and fifty pages, and thus the whole work would be in fact a revision.

The title of our work is "The Revised Statutes of California, in four Codes" (naming them). As the work is divided into volumes, it was necessary to give to each a name. We might have called them "The Revised Statutes of California, Vols. I, II, III, and IV," but this title would not at first call the attention to the particular volume to which one desired to refer; besides, if amended or cited, the title was not concise enough. For these, among other reasons, we called them respectively Political, Penal, Civil Code, and Code of Civil Procedure—names pointing at once to the contents of each volume, and only rendering a short reference necessary either for the purpose of citation or amendment. It is really not a matter of much moment. Nearly all the States have works similar in character. In some the word "Code" is used; in others "Revised Statutes." It is more a matter of taste or of convenience than a question of serious importance.

It may not in this connection be out of place to say that great injustice has been done the Commission which preceded this. That Commission cheerfully turned over to us the result of its labors. The plan adopted by us precluded the use of much of its work in the precise form in which it was presented, but we have availed ourselves of it in very many respects, to the material advantage and advancement of our work. It is but simple justice to the members of that Commission to make this statement and acknowledgment.

We have given to the duties of the Commission our best efforts. The work has been done as well as we could do it, and must speak for itself. We believe that if adopted it will prove of great benefit to the people, and save to them many times its cost every year. With its completion our duties and responsibilities cease, and those of the law making power begin.

We are soon to sever our official connection with the people of this State, and take this occasion to return our acknowledgments for aid extended to us by the public officers, press, profession, and citizens generally.

January, 1872.

GREED HAYMOND,
JOHN C. BURCH,

Commissioners.

CAMERON H. KING,
WILL J. BEARRY,

Secretaries.

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