

This power was fully exercised, in my opinion, by the Legislature, as contained in subdivision 26 of Sec. 21, chapter xxxi of the laws of 1890. In defining the powers of the board of county commissioners it is provided: "To license for purposes of regulation and revenue, all and every kind of business not prohibited by law, and transacted and carried on in such county outside the limits of incorporate cities * * * to fix the rates of license tax upon the same and to provide for the collection thereof by suit or otherwise."

Under these provisions, I am of opinion that the boards of county commissioners of the respective counties of the State possess the power to enact ordinances containing provisions similar to those of the proposed bill.

It follows, therefore, that no legislation upon this subject is needed for the purpose of raising revenue for the respective counties by the imposition of such a tax.

Very respectfully yours,
A. C. BISHOP,
Attorney General.

The attorney general has submitted an opinion to Secretary of State Hammond on the question of a foreign corporation that had filed original articles of incorporation with the secretary of the Territory of Utah, and who now desires to file in the secretary of state's office, an amendment to its original articles, whether or not they would be required to pay an additional twenty-five cents for each thousand dollars of such increase.

Reference is made to the Constitution of the State which reads:

No corporations organized outside of this State, shall be allowed to transact business within this State, on conditions more favorable than those prescribed by law to similar corporations, organized under the laws of this State.

Attention is called to chapter 61 of the law of 1896, wherein is prescribed the amount of fees to be collected. Proceeding the attorney general says:

Let us suppose that the foreign corporation conceiving it to be to its advantage to increase its capital stock and thus enlarge the scope of its business, presumably to the disadvantage of its competitor. It presents its amended articles for filing to the secretary of State, showing an increase of capital stock from one million dollars to three million, six hundred thousand dollars. Suppose that a fee of twenty-five dollars only is required for the filing of said amendments in the secretary of state's office; on the other hand, suppose the domestic corporation, spurred on by the action of its competitor, and realizing that in order to compete successfully it, too, must increase its capital stock, and thus, the extent of its business. It presents its amended articles increasing its capital stock from one million dollars to three million, six hundred thousand dollars. Under the law as it now stands, there can be no question but that such corporation would be required to pay a fee for the filing of its said amendment increasing its capital stock in the sum of twenty-five cents for each thousand dollars of such increase, which, in the case we have supposed would amount to \$650. Thus it will be seen, that to place such a construction upon the provisions of the statutes would be to discriminate in favor of foreign corporations, which would allow them to transact business within the State upon more favorable conditions than those prescribed by law to similar corporations organized under the laws of this State; as in either case, the payment of the required fee would be a condition

precedent to the transaction of business upon a basis of capitalization resulting from the amended articles to be filed.

It is fair to presume, that in the enactment of these provisions the Legislature intended that they should harmonize with the provision of the Constitution. And reading and construing them together, I am of opinion that the exception in favor of foreign corporations organized prior to the taking effect of said law, is limited to receiving and filing with the secretary of state, their original articles of incorporation, and that they are not entitled to avail themselves of such rule in the matter of filing amendments to their original articles increasing their capital stock.

I am therefore of opinion, that in the case you suggest it would be your duty as secretary of state, to require the payment of twenty-five cents upon each thousand dollars of increase of capital stock, before receiving and filing the said amendments.

EXPERT SMITH'S REPORT.

Elias A. Smith, who was appointed several weeks ago to examine the books and accounts of Salt Lake county, filed a report with the board of county commissioners Saturday afternoon which is as follows:

To the Board of County Commissioners, Salt Lake County, Utah:

Dear Sirs—Herewith I make a report of my examination of the books and accounts of the county and of Salt Lake county, as per appointment of the county commissioners of January, 1897.

First—I find that the tax levy (as per assessment roll) for county purposes for the year 1896 was \$130,066.17. That there was collected from other sources as per statement attached hereto marked exhibit "A," the sum of \$51,541.12, making the total revenue for the year 1896 the sum of \$181,607.29.

Second—That there is due from the State of Utah for one-half of the salaries of the county attorney, county assessor and county treasurer, from January 4, 1896, to December 31, 1896, the sum of \$2,889.50.

Third—That there was on hand and in the county treasury on January 1, 1896, the sum of \$40,244.52; there was paid to the treasurer on taxes of the years 1894 and 1895 the sum of \$29,280.97, and from redemptions of tax sales the sum of \$11,889.12.

Fourth—There was appropriated by the county commissioners from January 1, 1896, to December 31, 1896, the sum of \$260,472.02; of this sum \$37,897.90 was for claims previous to January 1, 1896, leaving the sum of \$222,616.12 appropriated for services rendered and material furnished during the year 1896, as will appear in the itemized statement hereto attached and marked exhibit "B." (I find a difference of \$42 between these figures and the figures of the auditor, as given in his financial statement, due to his crediting sundry accounts with said amount on warrants over two years old as barred by the statute of limitation.) Of the \$260,472.02, the total appropriations made during the year 1896, the sum of \$91,185.69 was appropriated between January 1, 1896, and June 5, 1896, as follows: For claims previous to January 1, 1896, the sum of \$21,859.23, and for services rendered and material furnished during the year 1896 the sum of \$69,326.46. A statement of the several accounts upon which these amounts were appropriated is attached hereto and marked exhibit "B-2."

Fifth—That on January 2, 1, the 897 county commissioners appropriated and warrants were issued for services rendered and material furnished during the year 1896 in the sum of \$19,786.94.

Sixth—That there has been filed with the auditor claims amounting to \$1,943.33 for services rendered and material furnished during the year 1896.

Seventh—That on December 22, 1896, the auditor had audited (but no warrants have been issued for the same) jury and witness certificates for which the county is liable, certificates to the amount of \$4,390.95.

Eighth—That the auditor has audited claims in favor of the State, the city, the board of education and sundry school districts for amounts due them from redemption of tax sales, the amount of \$12,860.88.

Ninth—I have made an estimate of interest due on warrants outstanding on the 1st day of January, 1896, and upon warrants drawn during the year 1896, and have attached a statement of the same hereto marked exhibit "C," which amounts to the sum of \$28,834.18, after deducting the sum of \$4,537.83, the amount of interest which had accrued on the bonds issued up to the date they were sold.

I attach hereto a statement marked exhibit "D" which shows the amount of the appropriation made and for which warrants have been issued for services rendered and material furnished during the year 1896; the claims presented which have not as yet been acted upon, the amounts due for jury and witness certificates, as per the auditor's books; and the estimate of interest due on warrants and bonds for the year 1896, viz: From January 1, 1896 to January 1, 1897, which shows a total of \$277,571.55; this does not include the amount due the State, the city, the board of education and the school districts on account of tax sale redemption.

I hereto attach a statement marked exhibit "E," which shows the total revenue of Salt Lake county for the years 1894 and 1895, and the different sources from which it was derived.

I attach hereto a statement marked exhibit "F," which shows the indebtedness of Salt Lake county on December 31, 1895. (I have not attempted to estimate the interest due on the outstanding warrants at that date, not deeming it a part of my duty.)

I also attach hereto a statement marked exhibit "G," which shows the revenue received from different sources for the year 1896. (Said amount having been received between January 1, 1896, and June 5, 1896.)

This, I believe, will give you the information you desired. Very respectfully,
ELIAS A. SMITH,
Assistant Auditor.

Attached to the communication are the exhibits of which the foregoing is a summary.

Following the reading of the report the board adopted the following resolution:

Whereas, It appears from a statement by Elias A. Smith, assistant auditor, to the board that a large indebtedness was illegally incurred in 1896 by Salt Lake county, Utah; and,

Whereas, It further appears that it is unwise to attempt to determine which warrants are legal and which illegal, in the absence of judicial determination.

Now, therefore, the proper county officers are directed to pay no county warrants issued in 1896 nor any county warrants issued Jan. 2, 1897; and the county attorney is requested to facilitate an early judicial determination of the questions involved.

Omaha Stockman, Feb. 8: Alex Dobson, a well known patron of this market, brought in seven cats of cattle from Elstucore, Utah.