

# LAST LEGAL DAY FOR LEGISLATURE

Eighth Session Nears End of Work, But Clock Must be Stopped.

## VOTE DOWN GOVERNOR'S VETO

Eminent Domain for Smelters is Provided in Substitute Measure Passed by the House Yesterday.

The last legal day upon which a session of the eighth legislature may be held has arrived; today is the sixteenth day. Viewed from the standpoint of the legislative session, Thursday, March 11, will be a protracted day, extending, it is estimated, according to the Julian calendar reckoning, far into the night of Saturday, Feb. 13, and perhaps even longer; but to prevent the passage of some legislative act, at 11:55 this morning some mysterious influence caused the hands of the house clock to stand still and being that the members of the legislature now have their eyes on their desks and the work facing them, they will never look up to notice the fact that the timepiece has stopped until every bill before both houses has been finally acted upon and the business of the session has been completed.

Included in this business is a vast amount of work. The appropriation bill alone is good for two or three days' hard labor ordinarily, though the committees are said to be pretty well advanced in the consideration of the budget; the Des Moines plan of government, a bill to provide for the election of the senate yesterday, may be reached before adjournment by the house, and then again it may not. A conference of the Salt Lake members of the house was held on the measure last evening and while it is understood that the measure is under consideration of the 10 members of the delegation favored the bill, there was some difference of opinion regarding the police and fire commission bill, house bill No. 147, introduced by Mr. Ashton, Feb. 2, and this measure is disposed of or some agreement reached in regard to the matter, the Des Moines bill will not be considered by the lower branch. In fact, it appears that in the rush to complete the work at the end of the session the bill may not come up for consideration in the house at all, though the measure has many friends who think its provisions should become law. It takes the foot of the calendar.

### RAILROAD COMMISSION.

Nothing has yet been done with the proposed railroad commission bill, which is house bill 145, by Mr. Sanley. It is said that the bill may receive consideration at the hands of the house, according to the press of business at the close of the session; many of the members, it is believed, not taking the initiative of the measure, are waiting for the recommendations of the governor in regard to the proposed creation of a capital building, and providing for the submission of the voters of the state the question of voting an extra tax for the purpose of raising the money for the lower house yesterday. The bill originated in the senate, and, as known as senate bills 140 to 143, by Mr. Marks. The measure now goes to the house, where it will be considered. The senate bill on the floor question, S. B. 148, by Mr. Badger, which passed the senate yesterday, reached the house last evening. The bill, which is referred to the shifting committee. The measure, if reported in by that committee, will go to the foot of the calendar unless made a special order.

### PASSED OVER VETO.

Governor Spry sent his first veto message to the house yesterday, in disapproving of the measure, S. B. 145, by Mr. Sanley, relating to mining and smelting, which was a substitute for several bills on the subject by Mr. Barker, giving smelting companies the right of eminent domain. The house refused to accept the veto, and passed the bill over the head of the governor by the required two-thirds majority.

### DISAPPROVING THE MEASURE.

In disapproving the measure, Governor Spry stated his reason that the measure was unconstitutional. His message to the house was as follows: To the House of Representatives: I return herewith without approval, H. B. No. 85, substitute for H. B. No. 41, by committee on mining and smelting, entitled, "An act amending section 2,585, Compiled Laws of Utah, 1907, in relation to the exercise of the right of eminent domain, by adding thereto the subdivision to be known as subdivision three (3). What may be a public use is a matter of legislative discretion, and such determination on the part of the legislature will be respected, and followed by the courts, unless the act is clearly and palpably unconstitutional, or the necessity for the taking is plainly without reasonable foundation." Highland Boy Mining Co., vs. Strickland, 28 Utah, page 215.

### I DO NOT BELIEVE THAT IN THE CASE OF THIS MEASURE THE NECESSITY IS SO GREAT AS TO PERMIT OF THE DESTRUCTION OF SUCH VAST AREAS OF OUR STATE FOR THE PURPOSE OF BUILDING IN THE CONSTRUCTION OF PLANTATIONS AND OPERATION OF MILLS AND SMELTERS FOR THE REDUCTION OF ORES.

In my opinion the enactment of such a measure would be extremely injurious to the state, and I therefore return the bill without my approval.

### BAKER URGES PASSAGE.

After the reading of the veto, the measure again came before the house on the question of sustaining the governor's veto. Mr. Baker urged the passage of the bill, notwithstanding the disapproval of the governor, declaring the position of the chief executive was an untenable one. The matter at issue was purely a legal one. Mr. Baker contended, and declared that there would be any devastation of crops and property by smelters, and the exercise of the rights granted in the bill.

### Mr. Holman also urged the passage of the measure over the veto, stating that in many sections where agriculture and mining interests conflicted, mining should have priority.

### Representative McKee strongly opposed the measure.

### State of Ohio, City of Toledo, Lucas County, ss.

Frank J. Cheney makes oath that he is senior partner of the firm of F. J. Cheney & Co., doing business in the City of Toledo, County and State aforesaid, and that said firm will pay the sum of ONE HUNDRED DOLLARS for each and every case of Catarrh cured by the use of HALL'S CATARRH CURE.

### FRANK J. CHENEY.

Signed before me this 6th day of December, A. D. 1908.

Notary Public for Lucas County, Ohio.

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posed the passage of the measure over the governor's veto. He said that smelter smoke had done more damage to the farmers of this valley than could ever be estimated, and the inhabitants of the smelter district know what the result to agriculture and crops and animals and even humans is where the fumes of the smelters pour out continuously upon the herbage and the crops, and for the people to breathe. The previous question being demanded, the bill passed over the veto by a vote of 21 to 10, absent and not voting 4. The vote was as follows: Ayes—McKen, Archibald, Ashton, Barker, Barnett, Cannon, Dorris, Dyreness, Fuller, Funk, Hammond, Hansen, Haycock, Hendie, Hodges, Holman, Holt, Jensen, King, McTearken, Morris, Nelson, Nelson, Partridge, Pope, Russell, Smith, Thompson, Westard, White, Mr. Speaker.

Nays—Chase, Davis, England, McMillan, Williams, McMillin, Hugh A., McKee, Murdoch, Porter, Wood. Absent and not voting—Bower, Hayes, Randall, Thornley.

## LEGISLATIVE DOCKET

### BILLS SIGNED BY THE GOVERNOR

S. B. No. 85, by Fuller—An act amending section 1521, Compiled Laws of Utah, 1907, relating to school sites and buildings that plans and specifications for school buildings be submitted to a commission herein provided.

S. B. No. 108, by Hulanicki—An act providing punishment for the concealment or in any manner interfering with journal bearings, brass or other parts of locomotives, tenders or railroad cars, and for buying or receiving such stolen property, knowing that the same has been stolen.

### NEW BILLS IN SENATE

S. B. No. 262, by the committee on appropriations—Relating to the collection of historical material, providing for the custody of same, and making an appropriation therefor.

S. B. No. 264, by Benner S. Smith, by request—To amend section 124-XI, Compiled Laws of Utah, 1907, prohibiting the taking of various interest and providing a penalty therefor.

S. B. No. 265, by Bullen—Amending section 2075 of the Compiled Laws of Utah, 1907, relating to the appointment of the board of trustees of the Agricultural college and fixing their terms of office.

S. B. No. 267, by Marks—Defining what constitutes a private fish pond, a private fish hatchery and what are public waters, and providing for the regulation of taking from public streams, lakes or reservoirs to feed private ponds, and providing a penalty for violation of the provisions of this act.

### BILLS PASSED BY THE SENATE

S. B. No. 144, by Wilson—Providing for the manner of annexing that part of one or more counties to an adjoining county, and of creating new counties out of existing counties, and repealing sections 45-X3, 45-X4, 45-X5, 45-X6, 45-X7, 45-X8, 45-X9, 45-X10 and 45-X11, Compiled Laws of Utah, 1907.

S. B. No. 109, by Benner S. Smith—To amend sections 1521, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1670, 1671, 1672, 1673, 1674, 1675, 1676, 1677, 1678, 1679, 1680, 1681, 1682, 1683, 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