

1950

# The First Legislature of California

Senator Herbert C. Jones  
*California State Senate*

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# THE FIRST LEGISLATURE OF CALIFORNIA

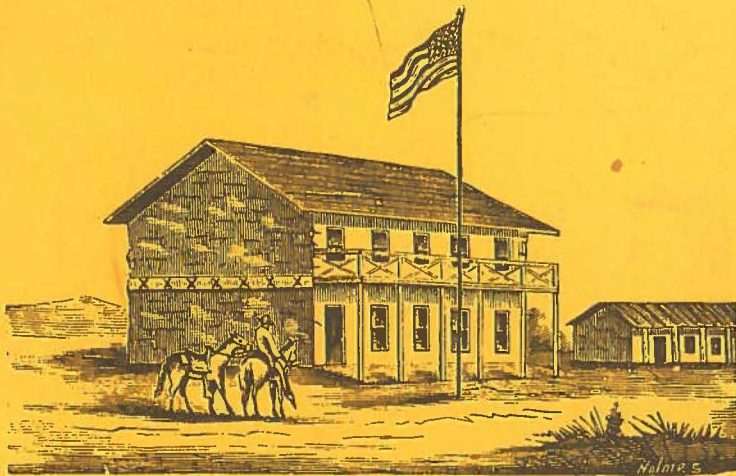
*Address by*

SENATOR HERBERT C. JONES

*before*

CALIFORNIA HISTORICAL SOCIETY

San Jose, December 10, 1949



Engraved by Charles H. Holmes, of Sacramento, in 1858; copied from an old print in an early California magazine.  
Capitol at San Jose—1849-1851.

*Published by the*

SENATE  
OF THE STATE OF CALIFORNIA

SENATOR DAVID ROBERTI  
*President pro Tempore*

DARRYL R. WHITE  
*Secretary of the Senate*

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*The author, Senator Herbert Coffin Jones of San Jose, died in 1970, his ninetieth year. Born in 1880, he attended public schools in San Jose, graduated from Stanford University in 1902 and its law school in 1904.*

*First elected to the Senate at this State's first recall election in 1913, he was so well liked that he won re-election at the 1914 primary as the candidate of all five parties—Republican, Democratic, Prohibition, Progressive and Socialist! He served the people of Santa Clara County as their Senator for 22 consecutive years.*

*This little pamphlet was first published in the Senate in 1950, and has been in steady demand ever since.*

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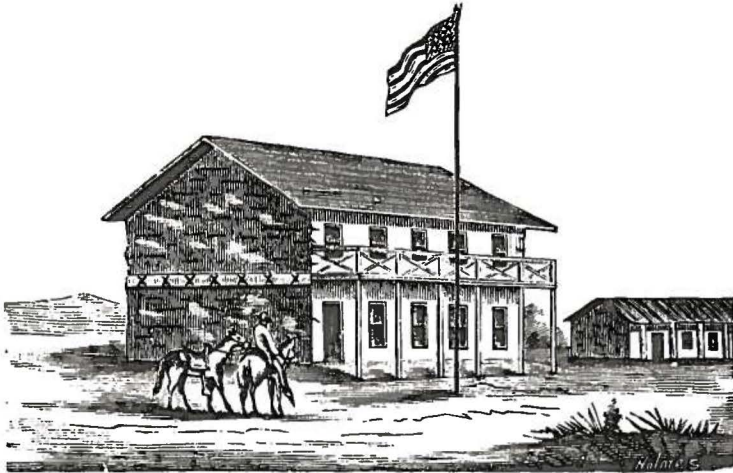
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82-9-22

## THE FIRST LEGISLATURE OF CALIFORNIA

An Address by Senator Herbert C. Jones Before the California Historical Society Given at San Jose, December 10, 1949

A deep sense of reverence, a sense of solemnity, a feeling akin to awe, comes over one as he stands almost on the very spot where the First Legislature of California met, and realizes that here a hundred years ago to the week the foundations were laid for California's State Government. Within a stone's throw there has been erected during the past few days a replica of the Capitol Building which housed our First Legislature. It is indeed fitting that this organization commemorates in this city and at this time, this historic event marking the commencement of our life as a State.

The story is fraught with drama unique in the history of our Nation. We elected a Governor, a Legislature and state officials; the Legislature met, passed laws and adjourned—California functioned as a state almost a whole year before it was a state. Not until September 9, 1850, were we admitted into the Union.

It is to review these events of a hundred years ago that we are assembled today. We draw aside the curtain of the past and before us pass in review the men and the events of that earlier day.

### ADMIRATION FOR MEN OF THE FIRST ERA

It is said that no true history can ever be written; that the sympathies or the prejudices of the historian unconsciously affect his attitude. It is difficult for one with an absorbing love of California and an abiding admiration for those who laid the foundations of our State Government, to be entirely objective. On the other hand, there were contemporaries—Members of the First Legislature itself—who disparaged its efforts and its personnel. Too often and too lightly this First Legislature is referred to as "The Legislature of a Thousand Drinks." One of the members of this First Senate, Thomas Jefferson Green, is responsible for this title. History records that he was fond of drinking and that after each session he invited his colleagues to "have a drink—a thousand drinks." Some five months before the convening of the Legislature he was in trouble with the miners of the Mother Lode due to filing mining claims in the names of 15 slaves along the Yuba River. However, he and his slaves departed after being visited by a deputation of miners. Bancroft says of him: "Green, the irrepressible Senator to whom everything was a huge joke, who had been elected in a frolic, had very inappropriately been placed at the head of the Finance Committee."

### HISTORICAL BACKGROUND

In order to fully understand the problems of the First Legislature, and the atmosphere in which it met, it is necessary to keep in mind the historical background.

This background is admirably portrayed in Cleland's *History of California*.

In the 1840's came a series of fast-moving events. They ended a century of quiet, pastoral life devoted to cattle raising and the hide and tallow trade. They moved with the strength and swiftness of destiny. They shaped the future history of California—history in which California played not only a local part but also a part in the great national and international drama.

On February 2, 1848, the far-flung province of California, long the outpost of Spanish advance on the Pacific, passed into the hands of the United States. The story is known to all. It is not necessary to recount the forces which brought this about.

The American acquisition of the Pacific Coast was hastened by two events. First was the Mexican War, and second was the gold rush. Gold had been discovered on January 24, 1848. Pressing and vexatious problems were presented by the new population rushing in from all parts of the globe to the gold fields, and by the failure of Congress to give California even a territorial civil government.

The land acquired from Mexico had a series of rapidly changing military governors. On July 7, 1846, when the American Flag was raised at Monterey, Commodore Sloat became the first Military Governor. Before a month was out he was succeeded by Commodore Stockton, who remained Military Governor until January, 1847. He in turn was followed by General Frémont who served until March of that year. He was succeeded by General Kearny who in turn was succeeded by General Mason. Then on April 12, 1849, when Mason resigned, General Riley became the Military Governor.

More serious, however, than this rapidly changing personnel was the fact that there was no established or recognized universal law for California. In some sections the Pike County Code of Missouri was followed; in other sections the New York Code. In the southern part of the State the old Mexican law was observed, and in the northern part the English common law was used, with the exception of the vicinity of Monterey. In some parts of the State the miner's code prevailed as the law; and in the cattle country the law of the plains governed. It was part military government, part civil government, and part no government at all. Some of the courts were Mexican, others were military seeking to enforce civil law. In some communities the alcalde assumed wide authority, and in other sections squatter sovereignty or vigilante law prevailed.

Amidst such confusion, the business man had no assurance. The banker and the merchant knew not when debts would outlaw or what was the law of commercial paper. There was no standard by which to determine the requirements for deeds and land titles. There was no competent court to enforce the law or preserve the peace. Twenty-nine thirtieths of the population were American, and contemptuous of Mexican laws and tribunals.

#### DEMAND FOR ESTABLISHED GOVERNMENT

Under these conditions there prevailed a widespread and increasing restlessness—a demand for established government. Some even talked of following the example of Texas and setting up an independent nation on the Pacific Coast.

General Riley, aware of this restlessness and sympathetic with the grievances of the people, moved swiftly. He had the backing, at least secret and possibly open, of President Zachary Taylor. On June 3, 1849, he issued a call for the election of delegates to draft a Constitution for the State. August 1st was fixed as the date of election. September 1st the Constitutional Convention met in Monterey, October 13th it completed its labors. On November 14th an election was held to ratify the Constitution and to elect a Governor, Legislature and state officers. The Constitution was ratified by a vote of 12,061 to 811. Peter H. Burnett was elected Governor, receiving more votes than all three of his opponents put together—6,783 as against 6,040 for his combined opponents. His opponents were John A. Sutter, W. Scott Sherwood, and William Stewart. Contemporaries record that one thing which contributed to the size of Governor Burnett's vote was the fact that he had two beautiful daughters!

#### FIRST LEGISLATURE CONVENES

Thus was brought into being the First California Legislature. The day appointed for convening was Saturday, December 15, 1849, and the place chosen was San Jose. That winter was an unusually wet one, with a rainfall upward of 36 inches for the season. Compare this with our present average of 14 inches. The rains began on the night of October 28th, and by the 15th of December, the roads were so muddy that not enough Legislators were able to reach San Jose by that first day. The following Monday, however, December 17th, a quorum had arrived and the Legislature officially convened.

#### THE SAN JOSE OF 1849

The San Jose of those days was just emerging from the quiet, drowsy pueblo of Spanish and Mexican rule. Its population was beginning to grow, there being then some 3,000 people in the town. The gold



rush was turning it into a trading center. Tents and wooden shacks were springing up around the existing adobe dwellings. However, much of the pueblo flavor still prevailed. The plaza of those days was of a general rectangular shape, extending from the present San Carlos Street north to St. John Street—from the location of this hotel (Sainte Claire) on the south to the Peralta adobe on San Augustine Street on the north. This Plaza had none of the romance with which we sometimes picture it. It was dry, sun-baked adobe in the summer, and bottomless mud in the winter. The native Californian, when he came to build his adobe house, dug the adobe from the Plaza, leaving great depressions. A resident of the time saw cattle and horses roaming the streets of the town at will.

To the east of First Street the land was then covered with the bleaching bones of cattle which had been slaughtered for their hides. The slaughtering of cattle occurred even in the Plaza. The first City Council of San Jose, in 1850 had to pass ordinances against the digging of adobe, or the skinning of cattle, in the Plaza.

Judge E. W. McKinstry, a Member of the First Assembly, who was the orator of the day at the semi-centennial celebration of the First Legislature, held in this city in December, 1899, thus describes the San Jose of 100 years ago:

“The first State House of California, a two-story adobe building with a wooden piazza running along its front, stood on the side of the Plaza. On one end (to the north) was the church (St. Joseph’s).

“When the Legislature met in 1849, the Mexican town extended for a little space beyond the church. Nearly all the houses were made of adobe, with tiled roofs, and of but one story in elevation. There were *tiendas* offering for sale their variety of dry goods and groceries consumed by the natives; and *fondas*, which the ambitious American “hotels” had not yet driven out of business. At a prominent corner was the *panaderia*, exhibiting the tempting loaves of the country; and a very important industry to people who spent much of their time on horseback was that of the *sillero*, or saddler. I am sorry to add the *carcel* occupied a convenient place. I do not apologize for using Spanish words of the Mexican-California dialect, because before the winter was over these and many other terms had become thoroughly Americanized.”

#### THE CAPITOL BUILDING

During the convention in Monterey a committee of San Jose citizens headed by Charles White and James F. Reed had persuaded the convention to name San Jose as the state capital. This committee had promised a suitable building by the fifteenth of December. This was indeed a rash promise, when it is considered that San Jose at that time had no building adequate for the purpose. However, there stood on the

east side of the market square a large adobe structure erected in 1849 by Sainsevain and Rochon, intended by them for a hotel. If it were standing today it would be just across Market Street to the east from the site of the replica recently constructed. Since this edifice was the most suitable one the town could use for a state house, the town council proposed to rent it for the Legislature. However, the rental price asked, namely \$4,000 per month, was so exorbitant that it was deemed best to purchase the building outright.

Here the owners declared themselves unwilling to take the town authorities as security. Happily, some of the leading citizens of San Jose, rather than see the "pristine glories attendant on the presence of the Legislature in San Jose glide from them" with public-spirited generosity, came forward to save the honor of the town, and 19 of them executed a note for the price asked, namely, \$34,000, with interest at the rate of 8 percent per month!

The building was a two-story structure of adobe, 60 feet in length by 40 feet in width, with a piazza in front. The upper floor was not partitioned but consisted of one room with a high ceiling. This was occupied by the Assembly.

The lower portion, intended for the Senate, was divided into four rooms. The largest one, 40 feet by 20 feet, was fitted up for the Senate Chamber. The other rooms were used by the Secretary of State and various committees. As this lower portion of the building was not ready when the Legislature met, the Senate held its sessions for a short period in the home of Issac Branham, located at the southwest corner of the market square, where the municipal auditorium now stands.

A visitor of that day who looked in upon the sessions of the Senate and the Assembly, thus further described the building and furnishings:

"The Senate room is ill-lighted, badly ventilated with a low ceiling; and rough railing a little inside the door, beyond which none but members and officials could pass. Every member has a rush-bottomed armchair and a small desk with stationery. At the farther end the Speaker is perched in a species of pulpit. The floor is covered with a number of little carpets of various shapes and patterns, looking as if every member has contributed a piece to make up the robe which had quite a mosaic appearance. An impression of antiquity is produced by the threadbare state of the floor covering. The upper floor occupied by the Assembly has the advantage of greater loftiness and exhibits at once the difference of grade between the two bodies in the style of furniture. Here plain common chairs, flat deal tables, and a strip of matting are the extent of the accommodation.

"The legislature meets about 10:00 in the morning and is let out for dinner at 1:00, when the members come out with a rush.

“It is unnecessary to add that smoking, chewing and whittling do not constitute an infraction of the rules of either house.”

The building was destroyed by fire on April 29, 1853. The loss was stated to be \$5,000—contrasted with the \$34,000 which the committee of San Jose citizens paid for it!

#### HOTEL ACCOMMODATIONS

The problem of providing suitable living accommodations for the members proved as difficult as providing an adequate meeting place. Most of the lawmakers crowded into the City Hotel. This was a frame building which stood on the west side of First Street about where the Victory Theatre now stands. With the shortage of accommodations, beds were laid down at night in the dining room. A few weeks later, however, another hotel was completed, known as the Mansion House. This stood on the opposite side of First Street, just north of the present Commercial Building.

Members also obtained board and room in private homes. One of these homes was that of “Grandma” Bascom. She arrived in San Jose on December 10, 1849, by boat from San Francisco to Alviso and thence by the Pioneer Stage “through fearful mud and pouring rain.” The home of Dr. and “Grandma” Bascom was at the corner of Second and San Fernando Streets. In an account of her life published in the *Overland Monthly* of May, 1887, she describes the opening of private homes to accommodate legislators:

“Everybody had to be hospitable. The Legislature was in session and the town was more than full. The first time I knew I had thirteen boarders—senators, assemblymen, ministers and teachers. No one who came would go away. \* \* \* They all said they would help in all sorts of ways. Mr. Leake (Charles A. Leake, enrolling clerk in the Legislature) was a wonderful hand to make battercakes. We got up a reputation for battercakes, and our house was dubbed “Slapjack Hall”. Mr. Bradford (J. S. Bradford, assemblyman from Sonoma) could brew coffee to perfection \* \* \*

She speaks of two senators who always brought the water from a well. “I used to think they liked the job because there was a pretty girl in the house where they got the water.”

She said several families got their water from the same well which was a hole in the ground about 10 feet deep, with no curb around it.”

Each lawmaker received \$16 a day during the session together with \$16 for every 20 miles in travelling to and from the capitol. This mileage of 80 cents per mile contrasts with the present rate of 5 cents per mile, and illustrates the expense of travelling by stage in those early days.

The cost of food was high in 1849, so it can well be realized that the legislators were not able to save anything out of their per diem. Meat was 75 cents a pound, butter \$1 a pound, eggs \$3 a dozen, milk \$1 a quart. Meals at hotels cost \$2 each, while boiled eggs for breakfast cost 50 cents apiece.

The crowded and uncomfortable conditions early gave rise among the legislative members to a demand to move the capital, an agitation which the citizens of San Jose temporarily allayed by giving a grand ball in honor of the Legislature!

#### A LEGISLATURE OF YOUNG MEN

Now that we have a picture of the pueblo of those days, the Capitol Building, and the hotel accommodations, let us consider the members. When we recall that the lure of gold which brought the rush of immigrants from the east had begun only the year before, we can understand that the men of the First Legislature were recent comers to the State. In this respect they resembled the members of the Constitutional Convention which had met three months before in Monterey, a majority of whom had resided in the State less than two years. Their outlook was optimistic. They had little training in law-making, but were imbued with courage and confidence. They afford a magnificent illustration of the capacity of the American people for self-government.

The Senate consisted of 16 members, and the Assembly of 36. The representation of the various portions of the State in the Senate (there were as yet no counties) was as follows:

Sacramento .....	4
San Joaquin .....	4
San Francisco .....	2
Monterey .....	1
San Jose .....	1
Sonoma .....	1
San Diego and Los Angeles .....	2
Santa Barbara and San Luis Obispo .....	1

The Assembly representation was as follows:

Sacramento .....	9
San Joaquin .....	9
San Francisco .....	5
San Jose .....	3
Monterey .....	2
Santa Barbara .....	2
Los Angeles .....	2
Sonoma .....	2
Others .....	2

## ANTISLAVERY BACKGROUNDS

The question of slavery in California had been settled a few months earlier by the Constitutional Convention which had forever barred it in this State. However, the issue of slavery was already beginning to divide the Nation and there were repercussions of this in the First Legislature of California. It came up in the question of whether free Negroes should be admitted to California and also in the election of United States Senators. In order to throw light on this issue, the segregation of those who came from northern states and from southern states is revealing. After certain early changes in the personnel of the Legislature due chiefly to the appointment of some of the members as state officials, the final list of the members, as set forth by Goodwin in his "*Establishment of State Government in California*," and the states from which they came was as follows:

## Senate

San Diego	E. Kirby Chamberlain	Conn.
Los Angeles	Alexander W. Hoppe	Va.
Santa Barbara and		
San Luis Obispo	Pablo de la Guerra	Cal.
Monterey	S. E. Woodworth (son of author of "Old Oaken Bucket")	N. Y.
San Jose	W. R. Bassham	Tenn.
San Francisco	David C. Broderick	N. Y.
	E. Heydenfeldt	S. C.
Sonoma	Mariano G. Vallejo	Cal.
Sacramento	John Bidwell	N. Y.
	E. O. Crosby	N. Y.
	Henry E. Robinson	Conn.
	Thomas J. Green	N. C.
San Joaquin	David F. Douglass	Tenn.
	Benjamin S. Lippincott	N. Y.
	W. D. Fair	Va.
	Thomas A. Vermeule	N. J.

As finally organized there were nine northerners, five southerners and two native Californians.

## Assembly

San Diego	Oliver S. Witherby	Ohio
San Luis Obispo	Henry A. Tefft	Wis.
Los Angeles	Alexander P. Crittenden	Ky.
	Montgomery Martin	Unknown
Santa Barbara	John Scott	Scotland
	J. M. Covarrubias	France
Monterey	T. R. Per Lee	N. Y.
	J. S. Gray	Pa.

Sonoma	J. E. Brackett	N. Y.
	John S. Bradford	Ill.
San Jose	Joseph Aram	N. Y.
	Benjamin Cory	Ohio
	Elam Brown	N. Y.
San Francisco	Edmund Randolph	Va.
	Alexander Patterson	N. Y.
	Levi Stowell	probably Washington, D.C.
	Samuel J. Clarke	probably N. Y.
	Alfred Wheeler	probably N. Y.
Sacramento	H. C. Cardwell	Vt.
	John T. Hughes	Ky.
	E. W. McKinstry	Mich.
	John Bigler	Pa.
	George B. Tingley	Ohio
	Madison Walthall	Va.
	John F. Williams	N. Y.
	William G. Deal	Pa.
Thomas J. Henley	Ind.	
San Joaquin	John Cave	Ky.
	Richard W. Heath	Md.
	Drury P. Baldwin	Ala.
	C. M. Creamer	Pa. (long a resident of La.)
	Benjamin F. Moore	Fla.
	Isaac S. K. Ogier	S. C.
	James C. Morehead	Ky.
W. M. Shepherd	Unknown	
	E. B. Bateman	Mo.

Of the First Assembly, 19 were northerners, 10 were southerners, four were not positively known, and two were of foreign birth. Of the group, one-half the members came from the mining districts of Sacramento and San Joaquin.

#### ORGANIZATION

Such were the men of the First Legislature. Let us now see what were their tasks and how they met them.

Although December 15th was the date designated for the convening of the Legislature, a quorum was not then present, and it was not until two days later, Monday, December 17th, that the Legislature organized and elected its officers. Two days later it passed a resolution asking the General Postmaster Agent for California to establish a daily mail from San Francisco to San Jose. On the following day, the twentieth, the Governor was sworn in before Judge Kimball H. Dimmick of the local district court. After Governor Burnett had delivered his inaugural address, the Legislature proceeded with the election of two United States Senators. The two chosen were John C. Frémont and William Gwin. On

December 22d the Legislature in Joint Session elected the following state officers:

Treasurer .....	Richard Roman
Controller .....	John A. Houston
Attorney General .....	E. J. C. Kewen
Surveyor General .....	Charles J. Whitney
Chief Justice .....	S. C. Hastings
Associate Justice .....	Henry A. Lyons
Associate Justice .....	Nathaniel Bennett

That same day it appointed the following committees:

Finance	Engrossed Bills
Judiciary	State Library
Militia	Printing
Counties	Public Buildings
Privileges	Commerce

At the very beginning of the session the Legislature was confronted with the legal question of whether it had a right to proceed until the State was admitted into the Union. With the self-reliance that characterized the pioneers, both Governor Burnett and the Legislature made short shrift of this question. They decided that they had the right to proceed, and so they did proceed!

#### SETTING UP STATE GOVERNMENT

They had to "start from scratch." They had to set up an entirely new State Government. They had to specify the duties of the various state officers. They had to set up a system of courts. They had to enact codes and statutes defining the rights of persons and of property, and defining crimes. They had to enact codes establishing the procedure in civil and criminal courts. They had to deal with the conflict between the mining interest on the one hand, and the agricultural and commercial interests on the other. They had to provide aid for immigrant roads. They had to defend the State's borders from Indian attacks.

How did the new Legislature meet the problems which confronted it?

To finance the State Government was a rather embarrassing problem. The State Government went into operation in December of 1849 without funds to pay even its ordinary expenses or to buy so much as a package of paper or a bottle of ink. It had no credit, and calls for bids for its bonds at first received no response.

#### TAXATION

The issue of taxation was troublesome, involving numerous conflicts between the mining and nonmining sections of the State. The miners objected to any severance tax on gold. In passing, it may be said that their political influence was such that the State has never collected any revenue by way of a severance tax on this great natural asset.

About the only direct revenue ever obtained from gold was through the collection, in later years, of a license on miners, aimed primarily at the Chinese. The Legislature, during this first session, enacted a system of taxation on real and personal property, but exempted churches, libraries, benevolent and charitable institutions, colleges and manual labor schools. This, however, failed to please the southern part of the State as that section soon complained that with a population of 6,000 people its property tax amounted to \$42,000 a year, while the mining districts with 20 times as much population paid only one-half as much in property taxes.

The Legislature also authorized the sale of a \$1,000,000 20-year bond issue.

These appropriations of the First Legislature reflect an unexamined optimism of its members and the fact that they were, for the most part, young men with courage and high vision.

#### THE ENGLISH COMMON LAW

The First Legislature adopted as the basic law of the State the common law of England, instead of the civil law derived from Roman-French-Mexican background. They appreciated the essence of the common law of England with its emphasis on the rights of the individual, as contrasted with the Roman law which emphasizes the right of the State, and its doctrine that "the will of the Prince is the highest law."

The Legislature provided for the admission of free negroes into California. This was over the strong opposition of the miners, who feared that slaves would be brought into California, freed by their masters but in reality used as peons who, at beggarly wages, would be used to work the mining claims of their former masters.

Although the Constitution of the State provided that slavery was prohibited, California (after Frémont's brief term expired) sent back to Washington Senators of proslavery sympathies—Gwin and Weller—feeling that to send strong antislavery Senators would so arouse southern hostility in Congress as to prevent California's admission into the Union. Thus we have an early example of compromise in an effort to achieve a desired end.

#### THE PERMANENT CAPITAL

The subject of the permanent location of the State Government early occupied the attention of the First Legislature. The inferior accommodations which had been provided by the people of San Jose, as well as its then unsatisfactory geographical position, created a strong desire on the part of the members and a great number of the people of the State for a change. Various proposals were made by a number of cities, some of them nonexistent. The proposition of General Vallejo, however, was



the most munificent. He proposed to lay out a city upon the Straits of Carquinez, to grant the State 156 acres of land, and to donate \$370,000 for the erection of public buildings. On April 22, 1850, the Legislature passed, and the Governor approved, an act to submit to the people at the following general election the various proposals which had been made for the location of the capital. At the general state election held on October 7, 1850, the people voted for the propositions with the following results:

Vallejo -----	7,477	Gilroy -----	71
San Jose -----	1,292	Benicia -----	70
James F. Reed proposition_	651	San Francisco -----	25
Monterey -----	399	San Diego -----	14
Eureka -----	301	Yuba City -----	14
Sacramento -----	160	Hamilton -----	10
Downieville -----	150	Stockton -----	6
Nevada City -----	82	Santa Cruz -----	2

The capital was moved from place to place for the next few years—Vallejo, San Jose, Sacramento, Benicia—until it was finally and definitely located in Sacramento in 1854.

Another of the troublesome problems of the First Legislature was the division of the State into counties. The bill for this purpose first provided for 18 counties. Many local areas objected to being included in other counties and wished to be set up as counties of their own. For example, Santa Cruz protested against being incorporated into Monterey County. Finally, the Legislature increased the number to 27 counties, changing certain names at the same time. Oro was changed to Tuolumne, Benicia to Solano, Frémont to Yolo, and Reading to Shasta. The name of Santa Cruz County was permanently fixed as Santa Cruz instead of Branciforte.

One of the outstanding works of the First Legislature was the report of a Special Committee of which General Vallejo was the chairman, giving the derivation of the names of the counties of California, and in many instances the history of their occupation and development. This report is looked upon by historians as a source of invaluable information.

#### VERDICT OF HISTORY

The First Legislature adjourned on April 22, 1850, having been in session a little more than four months. It had passed 146 acts, which were signed by the Governor, and 19 joint resolutions. Much of its work has endured to this day. The basic structure of county governments and for incorporation of cities has continued to the present.

Many of its members for the next half century exerted a potent influence upon the history of the State. While David C. Broderick met an early and tragic death in his historic duel with Terry, other Members

of the Legislature were active in public life for 50 years. They include General Vallejo, Judge McKinstry, Dr. Benjamin Cory of this city, and General Bidwell who was a candidate for the Presidency of the United States upon the Prohibition ticket.

After 100 years we may now call upon history to render its verdict upon the first session.

Governor Burnett, in his "*Memoirs*," states:

"The first session of our legislature was one of the best we have ever had. The members were honest, indefatigable workers. The long-continued rainy season and the want of facilities for dispatching business were great obstacles in their way. Besides they had to begin at the beginning and create an entirely new code of statute law, with but few authorities to consult. Under the circumstances, their labors were most creditable."

Judge E. W. McKinstry, a Member of the First Legislature, in his address in this city in 1899 before mentioned, stated:

"The pioneer legislature passed four-fifths of all the general laws now on the statute books \* \* \* I have yet to learn that it was ever charged that any measure was carried by corrupt or sinister influences."

Professor Rockwell D. Hunt, formerly head of the Department of History at the University of Southern California and now head of the Historical Foundation at the College of the Pacific, is an admirer of some of the men of this first session, and has written of their character and achievements, including particularly Vallejo and Bidwell.

Goodwin, in his volume "*The Establishment of State Government in California*," summarizes the work of the Legislature in these words:

"The number and character of these (laws enacted) in themselves afford adequate testimony to the high ability, sincere earnestness and faithful industry of the members of California's first legislature."

Hittell, in his "*History of California*," says:

"In the slang phrase of the day the legislature of 1850 was called "The Legislature of a Thousand Drinks". Whatever truth there may have been in the designation, it is certain that no legislature has ever sat in the State that did more work, more important work, or better work. If anything is to be said about the drinking of such a body it ought to be something similar to the answer attributed to Lincoln about Grant. When complaint was made that Grant drank too much whiskey Lincoln replied that he would like to get the brand of that whiskey to give to his other generals."

Scherer, author of the "*Thirty-First Star*," aptly summarizes the whole picture of drinking in the first Legislature:

"Even with the inducement of free liquor always on tap, the drinking was not general. The little coterie that Green gathered about him had no influence upon the working members. Well would it have been for California had every succeeding legislature been as honest and as efficient as this pioneer body."

#### THE INTERVENING CENTURY

That was a hundred years ago. In the intervening century there have been 57 sessions. The historian records that some of these sessions reached a low ebb, that others reached high marks of accomplishment. During this period there have been two great popular upheavals. One led to the new Constitution of 1879; the other to the inauguration of a period of reform under Governor Hiram Johnson. But whatever the record of the intervening Legislatures, they have been but a true cross-section of public opinion. When public opinion was indifferent, lax and callous, it was reflected in the Legislature. When public opinion became aroused and demanded reform, it likewise was reflected in the Legislature.

Today burdens undreamed of 100 years ago have been placed upon our State Government. We have advanced in population to the second place in the Union. We have taken on nearly 4,000,000 new population in the last 10 years. Reliable forecasts indicate that we will probably take on another 4,000,000 in the next 10 years. We have in California today 4,540,000 registered motor vehicles. Vast new industries have been established in the State.

This growth has placed great burdens upon the State. We have today over 60,000 students in junior colleges; 41,000 on the campuses of the University of California; 24,000 in state colleges—a total of 125,000. We have over 1,600,000 pupils in our public schools. These place a vast responsibility and cost upon the State for education.

We have over 50,000 wards in our mental hospitals and correctional institutions—in quarters which were designed for less than half that number.

To meet these responsibilities, and under the pressure of public opinion, let us see how the State's expenditures have increased, for easy comparison taking only every tenth year:

1850.....	\$348,165	1910.....	\$18,753,720
1860.....	1,165,718	1920.....	36,125,456
1870.....	3,814,037	1930.....	114,168,650
1880.....	4,019,657	1940.....	282,749,168
1890.....	7,946,616	1950.....	1,079,028,788
1900.....	9,229,322		

The Legislature has been responsive to public opinion. Nevertheless there is a popular tendency to disparage the Legislature. We make a fetish of our courts, yet we ridicule our legislators. When people belittle the Legislature they reflect upon themselves, since the Legislature is simply the voice of the public.

#### THE PRICE OF GOOD GOVERNMENT

Often is heard the advice "keep out of politics." There is no more insidious or dangerous advice. If the good citizens keep out of politics, who gets in? Public affairs have to be run by someone. If it is not done by civic-minded citizens, then it will be by selfish interests. If the citizens do not run our government, political bosses or dictators will do it for us. May the day again come when the term "politician" shall regain its original meaning of one versed in the science of government. Well will it be for the State when "politician" is again a term of respect, a symbol of an ordinary citizen's interest in his government, a life-long opportunity of important service—in short a title to which a young man may aspire.

Too often the citizen says he is "too busy for politics." No man is too busy for politics! It simply means that he cares more for something else—golf, travel, business or profit.

There is a great deal of talk today about lobbyists and pressure groups. There is talk about danger to our country from dictators abroad. It is true that pressure groups are potent in gaining their ends. It is true that lobbyists gain special privileges for their clients. It is true that authoritarianism in government prevails in large areas of the world.

These, however, are not the real threat to our State. The real danger lies in the failure of otherwise good citizens to appreciate what they enjoy under representative government. The real danger is not ideologies or attack from without—it is the surrender of our institutions by the indifference and inaction of Americans themselves.

There is no royal road to good government. There is no panacea that will of itself cure the ills of democracy. Almost any form of government will work well if there is a high degree of alertness on the part of the citizen, and no form will work if the citizen is apathetic. Two things are necessary on the part of the voter, if representative government is to function—an educated intelligence and an unceasing interest. We have to look to our schools to provide the first. We can only look to the individual himself to provide the second.

The price of good government, like the price of liberty, is eternal vigilance.

**THE LEGISLATURE, THE PEOPLE'S SAFEGUARD**

This year we celebrate the completion of a century of constitutional government in California. It is an opportunity to observe the strengths and weaknesses of popular government. The world has tried many forms of government—monarchy (government by one man); aristocracy (government by the few); plutocracy (government by the wealthy). They all are subject to the same human weakness—they who have authority use it. Representative government is the only form which safeguards the liberties of the people. The key to representative government—the key by which it works—is the legislative assembly. So today, if we would honor the First Legislature, the best way is to safeguard and strengthen this institution of representative government.

The liberties which we enjoy today, this government by our own chosen representatives, have been won at a great price. They were wrested by free men from King John at Runnymede; they were won at Lexington and Concord; they were preserved at Shiloh and Gettysburg, at the Argonne and Chateau-Thierry, at Iwo Jima and Tarawa.

Today we Californians glory in our past and look with pride toward the future. We today pause to revere the memory of the men who 100 years ago laid the foundations of our State Government. We can do them no better reverence than to dedicate ourselves to the preservation of our liberties with the same patriotism as the signers of the Declaration of Independence who, to achieve these liberties, resolved that

“We mutually pledge to each other our lives, our fortunes and our sacred honor.”

