PROPOSED TO THE PEOPLE BY THE LEGISLATURE

Referendum Bill No. 3

BALLOT TITLE

AN ACT authorizing the sale and disposal of surplus electric energy by cities and towns outside their corporate limits; authorizing the construction, betterment or extension of electric plants and the acquisition and maintenance of transmission lines, distribution system and equipment necessary therefor; providing the manner and form in which accounts and reports of such sales shall be kept and made, and for the payment monthly to the State Treasurer for state purposes of a tax of five per cent of the gross receipts of such sales, and providing penalties.

AN ACT relating to and authorizing the sale of electric light, power, current and energy by cities and towns, providing for the payment and collection of an excise tax thereon and referring this Act to the people for their ratification.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Any city or town within the State of Washington now or hereafter owning or operating its own electric plant, shall have the right to sell and dispose of any surplus energy that it may generate to any other city or town or other municipal corporation, governmental agency, firm, person or corporation for use outside the corporate limits of such city or town.

SEC. 2. For the purpose of carrying out the provisions of Section 1 hereof, any city or town or other municipal corporation, governmental agency, firm, person or corporation intending to sell or purchase such electric energy may, in the manner provided by law for the construction of electric plants or for the making of additions and betterments thereto or extensions thereof, construct, acquire and maintain all the necessary transmission lines, distribution system and other equipment necessary to conduct such electric energy to its point of consumption and to distribute the same.

SEC. 3. Any city or town generating for sale and selling electric light, power, current or energy under the provisions of this act shall keep books of account in such manner and form as may be prescribed by the director of taxation and examination, showing in detail all receipts from sales of electric light, power, current or energy both within and without its corporate limits and shall remit and pay to the state treasurer monthly for state purposes, on or before the tenth day of each calendar month, five per cent (5%) of the gross receipts of all such sales so made during the preceding calendar month, and file with the state treasurer a detailed report verified under oath by the officer of such city or town charged with the duty of collecting such receipts, on a form to be prescribed by the director of taxation and examination, and it shall be the duty of the state treasurer on the next business day after the receipt of any such report and remittance, to transmit the report, accompanied by his duplicate receipt for the remittance, to the department of taxation and examination, and to deposit in the state treasury to the credit of the general fund the moneys on hand at the close of the preceding business day, received from such city or town, after making all corrections and refunding all overpayments, and the director of taxation

and examination, shall have access to the books and records of such city or town, for the purpose of determining the amount due and payable to the state and verifying the correctness of the payments made.

SEC. 4. Any officer of any city or town which shall be liable for the payment of the tax provided for in Section 3 hereof, who shall fail, neglect or refuse to comply with the provisions of this act shall forfeit to the State of Washington the sum of twenty dollars ($20.00) per day for each and every day of such failure, neglect or refusal, which penalty shall be recovered in a civil action to be brought by the attorney general in the name of the State of Washington in the superior court of Thurston county. The attorney general is also authorized to institute other appropriate legal proceedings against any city or town, or the officers thereof, to compel the payment of said tax, which proceedings may be instituted in the superior court of Thurston county.

SEC. 5. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole, or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SEC. 6. This act shall be submitted to the people for their ratification at the next general election in accordance with the provisions of Section 1 of Article II of the State Constitution, as amended at the general election held in November, 1912, and the laws adopted to facilitate the operation thereof.

Passed the House February 16, 1923.—Mark E. Reed, Speaker.

Passed the Senate, February 28, 1923.—Wm. J. Coyle, President.

Filed without the signature of the Governor.—J. Grant Hinkle, Secretary of State.

STATE OF WASHINGTON—*ss.*

Filed in the office of the Secretary of State, March 14, 1923, at 9:30 a. m.

J. GRANT HINKLE, *Secretary of State.*

ARGUMENT FOR REFERENDUM BILL NO. 3

This act permits any city or town operating an electric plant to sell any surplus energy it may generate to any other city or town or to private individuals or corporations for use outside of the limits of the city owning the plant. This is a right which cities do not possess under the existing law. For this privilege of engaging in the general light and power business and as compensation to the state for its exercise the act also provides that any city which shall sell light and power outside its limits shall pay into the State Treasury for state purposes a license fee or excise of 5% of its gross receipts.

Cities and towns in the State of Washington have for many years been permitted by statute to own and operate electric plants for furnishing their own citizens with electric light and power. At the last session of the legislature the cities of Seattle and Tacoma asked that this right be extended so as to permit them to engage in the general light and power business and sell outside their limits. Three bills were introduced seeking to grant this right. The Bone Bill which was known as House Bill No. 5 gave this right to the cities with no provision for a license fee. The Davis Bill, House Bill No. 1 granted the right to the cities but imposed a license fee of 5% upon the gross earnings derived by the city from its sales outside the city limits. Senate Bill No. 106 granted the same right to the cities and imposed an annual license fee of 6% upon the gross earnings both within and without the city limits and contained a further provision placing municipal plants selling outside the city limits under the jurisdiction of the Department of Public Works. It soon became apparent that the Legislature was willing to grant this right to the cities only on condition that it did not increase the tremendous amount of property already taken off the tax rolls by the cities of Seattle and Tacoma.

At a public hearing on this question the Speaker of the House, Mr. Reed, voiced the sentiment of the Legislature when he stated that if the cities were given this privilege it should only be upon the condition of their assuming some reasonable share of the tax burden of the state. Mr. Reed said a 5% tax on gross receipt would be just.

The Attorney General was then requested to draft a bill embodying this principle. He did so and this bill was then introduced as House Bill No. 126. Both the Bone and Davis Bills were then indefinitely postponed in the House and the bill drawn by the Attorney General passed. When this bill reached the Senate it was amended so as to place municipal plants selling their product outside the limits of the city owning them under the jurisdiction of the Department of Public Works. The House refused to concur in this amendment and as the Senate refused to recede the bill went to Joint Conference. When it became apparent that the bill could not pass the House with the regulatory amendment attached the Senate receded rather than cause a deadlock and defeat the bill. This bill drawn by the Attorney General and commonly known as the Reed Bill, with a few minor amendments was then passed by both the House and Senate with a referendum clause submitting it to a vote of the people at the next general election.

It will be noted that as long as any city exercises only its function of supplying light and power to its own citizens it is not subject to the license fee imposed by this bill but is only required to bear its fair share of state taxation where it seeks to engage in the general light and power business outside its limits. Even in this case the tax is not a burdensome one and is much less than that paid by private companies engaged in the same business. The privately owned utilities in the State of Washington pay on an average of 8.27% of their gross receipts in taxes for state, county, city, school, road and other purposes while municipal plants under this act are only required to pay 5%. The tax does not pyramid but would only be paid by the city generating and selling the electric energy and is not required

to be paid by any other city which might purchase the energy and resell it to its own citizens.

The reason which caused the members of the Legislature to insist upon this license fee becomes very apparent when it is realized that the city and port of Seattle own over $117,000,000 of tax exempt property consisting mostly of public utilities. This vast amount of property taken from the tax rolls necessarily increases the taxes paid by all the citizens of the State of Washington, including the taxpayers in the cities which operate these utilities. Were the cities permitted to make large additional expenditures outside their city limits without the license fee provided for in this bill it would mean just that much more property taken from the tax rolls with a corresponding increase in the tax burden. Were all of the tax exempt property of the city and port of Seattle upon the tax rolls the state tax alone derived annually from them would equal the state tax now paid by the ten counties of Asotin, Ferry, Garfield, Okanogan, Island, Jefferson, Mason, San Juan, Skamania and Wahkiakum.

The members of the Legislature from the districts outside the cities of Seattle and Tacoma felt that the rest of the state was bearing enough of the burden of the taxes evaded by these cities without any further additions to their tax exempt property.

That the argument that the placing of this annual license fee will increase rates is unsound is shown by the fact that the privately owned companies in Seattle and Tacoma are now paying a much higher tax than this measure imposes on municipal plants and are selling electric power and energy at the same rate as the municipal plants which are now tax exempt.

The passage of this act by the people will therefore accomplish three things,—it will enable the cities owning and operating municipal plants to extend their service outside their city limits without burdensome conditions, it will check the practice of exempting property from taxation and the revenue it produces will apply to the relief of the burden of taxation throughout the entire state.

WM. BISHOP, State Senator,
24th District.

STATE OF WASHINGTON—*ss.*

Filed in the office of the Secretary of State, March 22, 1923.

J. GRANT HINKLE, *Secretary of State.*