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State of Iowa
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BIENNIAL MESSAGE

OF

N. E. KENDALL

GOVERNOR OF IOWA

TO THE

Forty-first General Assembly in Joint Session

DES MOINES, JANUARY 13, 1925

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GOVERNOR'S BIENNIAL MESSAGE

N. E. KENDALL, GOVERNOR

To the Forty-first General Assembly of Iowa:

PRELIMINARY

The Twelfth Section of the Fourth Article of the Constitution of Iowa requires that the Chief Executive "shall communicate by message, to the General Assembly at every regular session the condition of the State, and recommend such matters as he shall deem expedient." In compliance with this provision I am happy to submit that the State is unembarrassed by any outstanding obligation, except the bonus indebtedness, and that on January 1, 1925, it maintained in its treasury an unencumbered balance of \$6,815,592.44 as compared with \$5,866,169.28 on January 1, 1921. All the manifold activities of the State, what it has cost to operate them the past two years, and what should be appropriated to continue them throughout the ensuing biennium, are exhibited in extended detail in the report of the Budget Director now available for your examination. The Director has also prepared a State Appropriation Bill which is herewith transmitted, together with the memoranda to accompany it as specified by law. The report, the bill and the data command your careful and scrutinous study.

The people of Iowa may well rejoice in the felicitous environments by which they are surrounded. The general health of our population is excellent. Agriculture is steadily reviving, business displays unusual confidence, labor is measurably well employed, and the prosperity which disappeared during the past four years is slowly but gradually returning. The Commonwealth is solvent. It is a time to hope, and not to despair.

PARDONS, COMMUTATIONS, SUSPENSIONS AND REMISSIONS

In the past two years I have issued pardons, commutations, suspensions and remissions, as explained fully in a separate mem-

orandum presented to the General Assembly for its examination as provided by law. I have taken such action in each individual case as I believed the circumstances warranted, and as was recommended by the Board of Control, the Board of Parole, or the Judge who presided at the trial and the County Attorney who conducted the prosecution. Generally, indeed almost uniformly, such leniency was also advised by a number of representative and disinterested citizens residing in the community where the crime was committed, and having personal knowledge of the facts entering into it. I have recognized the theory that where a man has been convicted of crime after a competent defense and an impartial trial the question of guilt or innocence is foreclosed, and the Executive sworn by solemn oath to the enforcement of the law should proceed with reluctant caution in interfering with the judgment so pronounced. Very frequently men remonstrate to me against the discharge of a prisoner so long before the expiration of his sentence. I am, of course, compelled to inform them that under the statute the Governor has no more influence in such matters than he has over the procession of the equinoxes. No clemency has been extended in any case upon my own initiative, nor except as expressly recommended as above stated.

PITTSBURGH PLUS

With the money heretofore appropriated for the purpose of defeating the "Pittsburgh Plus" system, the State co-operated with other States with the result that that nefarious practise has been completely abandoned by the manufacturers. This is an unusual victory, and implies a substantial reduction in material cost to users of iron and steel products. The people as well as the Attorney General are to be congratulated.

THE CODE

The last Legislature inherited from its predecessors the revision of the Code—a task of immense magnitude and incalculable importance which could not be longer deferred. Thirteen General Assemblies had intervened since the last compilation was attempted. The law as recorded in the Code of 1897 had been amended, modified, amplified, substituted and repealed, until it was almost im-

possible even for the skilled practitioner to ascertain certainly what it was, or precisely how it should be interpreted. The whole body of our statutory enactments was in inextricable confusion, and such codification was demanded as would enable the average citizen without professional assistance to become familiar with its provisions. The vast work was undertaken and completed by the 40th General Assembly and the Code of 1924 has been published for distribution. Since the men who performed the gigantic labor were fallible mortals, a perfect product could not reasonably be expected, and a few negligible errors have therefore been disclosed. They are, however, of such minor nature that they can be speedily corrected without difficulty. I have examined the volume with as much care as I could, consistently with other engagements, bestow upon it, and I entertain no doubt that it will be received favorably by the bench, the bar and the public. I am constrained to refer to the subject only to convey to the commissioners and to the General Assembly the sincere gratitude of the State which they have so faithfully and so unselfishly served.

SLACKERS IN VOTING

It ought not to be necessary to insist that the duty devolving upon the elector to exercise his privilege of suffrage at party primary and general election is one of the most important to be performed under our Constitution. While the people of this State are the most intelligent and patriotic beneath the stars and stripes, they have been woefully derelict in the discharge of this paramount obligation. The returns of the last three national elections present an appalling record of indifference or laziness or both. On the whole they reveal that in the United States fewer than one-half and in the State of Iowa fewer than two-thirds of those entitled to vote sought the ballot box, notwithstanding that Presidents, Governors, Congresses and General Assemblies were selected. It is remarkable that the government endures and functions as effectively as it does when those whose welfare is most vitally concerned manifest so little interest in safeguarding it. This condition cannot be allowed to continue, for the destiny of the Republic will be secure only when it is directed by a majority, and not by a plurality of a minority. The agitation for a full expression of the sovereign will at every opportunity should proceed until not to vote when properly qualified

will be made as discreditable as not to pay debts when honestly incurred. I am obliged to admit that I have not been able to devise any specific measure which will address itself to the situation. A premium for voting and a penalty for not voting have been suggested, but I doubt the feasibility of either expedient. If any legislation can be formulated which will insure more general participation in all elections, it should be enacted without delay.

AGRICULTURE

The condition of agriculture, the fundamental industry of the State, has improved somewhat since I last addressed the General Assembly, but it still suffers serious depression. In the year 1924 Iowa grew 326,000,000 bushels of corn on 10,900,000 acres at a cost of \$30.00 per acre. Of this vast aggregate scarcely 55% was salable, and that at only 98 cents on the December market while the balance is estimated to be worth not to exceed 50% of the value of sound corn. The seasons of the year were particularly unfavorable—illustrating again that every crop is an adventure of uncertain issue. But the shortage in yield has not been compensated, as is usual, by a corresponding advance in the price of that which remains. For the past three years the farming business has been a precarious undertaking, for the farmer has received a price for his product ruinously less than the cost of production. It is not difficult to apprehend the destructive consequences which this economic injustice entails. They are reflected in the discouragement which at this moment darkens so many family homes in our State. The farmer is the only producer of a commodity of first importance who exercises no influence whatever over disposing prices or purchasing costs. He must sell where he encounters unlimited competition, and buy where he confronts unrestrained combination. As an inevitable result he is not awarded a proximately fair share of what his labor produces, and his income has gone down while his outgo has gone up. The problem of the marketing of farm products after such fashion as shall eliminate the spread between the producer and the consumer cannot be further postponed. Of the dollar which is paid for any staple of Mississippi Valley culture less than 33 cents reverts to the man whose industry brought it into existence, the balance being absorbed by agencies which intervene between raiser and eater. We have largely mastered the best practises for production,

but we have not yet conquered the profitable distribution of our accumulated surplus. Some arrangement must be perfected whereby the products of agriculture may be procured direct from the original producer and delivered direct to the ultimate consumer without intermediate charges except for operating overhead. Cognizance must be taken of the fact that while the first seller gets too little the last buyer pays too much, and machinery must be erected to remedy this mischief. The farmer cannot be expected to go on indefinitely year after year impairing the principal capital of his investment to defray his current expenditures. Unless in the long run he is assured a fair prosperity, transportation, manufacturing, mining, banking and merchandising must divide with him the adversity by which he will be overwhelmed.

The problem is one for National rather than State legislation. The President has appointed a Commission composed of men supposed to be possessed of expert information respecting agriculture in all its ramifications, and it will report to Congress in the near future what may be done to relieve the present unsatisfactory situation. It is regrettable that the great corn, hog and beef sections of the country, where the distress is most aggravated, are not represented in the membership of the Commission. The public will await with hopeful solicitude the recommendations of this official body. In the meantime the most welcome service you can render to the people of Iowa is to cut the expenses of the State not merely to the quick but to the bone. The demand of the hour is for retrenchment, rather than for expansion.

TAXATION

Two years ago in discussing the subject of taxation I said in the Inaugural:

"The statutory levy upon monies and credits, as compared with the levy on other forms of property, is far more generous to the holder than it should be. * * * Notwithstanding this, it is notorious that a volume of monies and credits almost incredible in its dimensions is at present undisclosed to the assessor. This evil should be dealt with in a summary manner. * * * The collectibility of notes, mortgages and negotiable paper might well be made dependent upon their having been reported for taxation."

Every good citizen will agree that equality of tax burden should be approximated as nearly as possible, and that no variety of property should be permitted to escape its fair contribution to the public treasury. If one species of holding is allowed to sequester itself the imposition upon all others is correspondingly augmented, and this constitutes an injustice no longer to be tolerated. Every dollar in the State, no matter how invested, nor where secluded, should be required to answer the tax levy precisely as it is answered by every other form of property. No argument is necessary to sustain the foregoing proposition, and yet it is undeniable that a vast aggregate of monies and credits in Iowa utterly evades the tax gatherer. The injustice can be substantially remedied by providing that in all actions for the collection of a note, or for the foreclosure of a mortgage, the petition shall contain a verified allegation that the evidence of the indebtedness has been reported for taxation. A law of this character is in operation in Virginia, and Governor Trinkle of that state is authority for the statement that in a single year the taxable property of that commonwealth was increased many millions of dollars in consequence. The General Assembly may well study the advisability of establishing a graduated tax on incomes, commencing with a low levy on the smaller incomes and advancing to a more substantial return on the larger. Such a tax would be bot-tomed upon a standard of ability to pay which could not be chal-lenged. All business expenses would be deducted and just ex-emptions allowed before it would attach, and it would never be paid in the absence of an income from which to pay it. From him who hath, a modest portion of that which he hath would be taken, but from him who hath nothing, nothing would be sought. The tax would be collectible only in the event that the enterprise of the taxpayer is reasonably lucrative. It has been frequently alleged that the levy of such a tax would discourage the development of industries in the State, but this has been demonstrated untrue by the experience of other communities where the experiment has been tested. In a late report the Secretary of the Wisconsin Tax Com-mission says:

"We are familiar with the common rumor that our in-come tax has driven industry out of the State, but we have failed to discover a single instance to substantiate the claim. * * * Indeed the federal census bureau has re-cently reported that Wisconsin's progress in manufacturing from 1910 to 1920 is quite above the average for any adjoining State except Michigan * * * although Wis-

consin had an income tax during all that time and those States had not. This does not harmonize accurately with the claim of discouraging industry so loudly made."

This ought to be fairly conclusive to the most skeptical. But with that objection exploded it is asserted that if the tax were laid upon the income of a manufacturer, for instance, he would simply increase the selling price of the article he fabricates by the amount of the tax, and pass it on to be borne at the last by the ultimate con-sumer. This assumption is fully answered by the fact that the average retail market price of manufactured commodities is no higher in Wisconsin than it is in Iowa. In noticing this favorite contention of those opposed to such a tax Mr. T. S. Adams, the great professor of Economics at Yale, says:

"The repeated charge that business men figure income tax as part of their costs, and then charge the customary per cent of profit on the costs, is absurd. * * The cost of living went up before tax rates were increased. It stayed up when tax rates were reduced."

Certainly nobody is credulous enough to suppose that any industry would be expelled from the State if, by any legerdemain, its taxes could be unloaded on the final purchaser of its product. The last argument contradicts and nullifies the first, but they are both equally fallacious. A state income tax does not imply a duplication of taxes nor a larger total of taxes. It simply signifies another and a fairer method of realizing the money the Legislature spends, and it would relieve the burden on general property to the extent of the revenues derived from it. If you are inclined toward such a tax, a material difference should be recognized between incomes from fixed investments and those derived from personal earnings. How-ever, the latter should not be allowed complete immunity. A medical specialist in one of the chief cities of the State boasted in a recent conversation that he was earning \$25,000 per annum from his pro-fession, but an inspection of the treasurer's records for the past four years disclosed that in that quadrennium he had paid only a total of \$76.24 as taxes. The farm lands and live stock of the State from which 66% of all taxes is raised did not so easily escape the importunities of the tax gatherer. I have concluded after a good deal of deliberation that our visible property is impressed with a larger measure of the burdens of government than should be im-posed upon it, and that additional sources of revenue which have heretofore been unexplored should be discovered and made avail-able.

In the instant circumstances it is exceedingly difficult, indeed almost impossible, to arrive at the accurate and equitable assessment of railroad property. The duty is confided to the Executive Council, and it is no discredit to the excellent men who always occupy that body to confess that they are possessed of no unusual qualifications for the technical and intricate labor thus enjoined upon them. They do simply the best they can, and that best is never very satisfactory even to themselves. By and large, the inquiry is a perplexing one, and challenges the best equipped intelligence that can be obtained in the country. The method of assessing public utility properties adopted in Connecticut, Minnesota, California, and many other States is that of a definite percentage of the earnings of the companies, with suitable allocation in the case of interstate corporations. The tax levied by Connecticut is 3½%; that by Minnesota 5%; that by California 7%; all calculated upon gross earnings. In the year 1923 the taxes actually paid by the greater railway systems in Iowa, measured by gross earnings, were:

Burlington0064%
Milwaukee0076%
Northwestern0085%
Rock Island0108%

Measured by their net earnings the same roads in the same year paid:

Burlington0308
Milwaukee0372
Northwestern0490
Rock Island0552

Undoubtedly an outstanding incident in recent tax history is the gradual concentration of opinion toward levies upon incomes. The relative merits of net and gross earnings as a basis for assessment is a subject of legitimate discussion. It may be conceded freely and unreservedly that net earnings, when they can be authentically ascertained, furnish the most accurate measure of ability to pay taxes, and that is an important advantage of that system. But determination of net earning requires the deduction of a multiplicity of expenses, involving the almost certainty of radical disagreement. The net earnings tax is especially logical if the obligation to pay is limited to those corporations that reveal a profit in operation. But if taxes are to be regarded as a necessary incident of business, and corporations are to be expected to contribute whether their immediate business is profitable or profitless, the tax on gross earnings is warranted. It is evident that the government must

function in periods of depression as well as in periods of prosperity. The farmer, the merchant, the factory owner, and other taxpayers are not relieved in any year in which they may have sustained a reverse, rather than enjoyed a reward. The whole subject is one of infinite complexity, and little assistance is contributed by the companies themselves. Under Section 15a of the Congressional Act of 1920 the Interstate Commerce Commission is directed to ratify such freight and passenger schedules as will produce for the carrier a return of 5½ to 6 per cent on the value of its property employed in transportation. In order to command compensation equivalent to all that the traffic will bear, the company resorts to its imagination rather than to its memory and magnifies its valuations far beyond the true level of their worth. The Commission as at present composed has generally allowed the grossly fictitious figures thus presented, thereby authorizing many charges which are excessive when the real cost of the service is considered. The shipping and traveling public is compelled to stand and deliver to the limit of its endurance, there remaining to it only the empty recourse of registering an emphatic protest against the extortion. But when the Executive Council undertakes the appraisal of the railroads, the representatives of the companies appear and with stoic countenance assert an estimate many millions of dollars below what they themselves have reported to the Interstate Commerce Commission. The anomaly is therefore created of an inflated valuation for rate-making purposes, and a deflated valuation for tax fixing purposes, widely separated in amount, but both solemnly certified as true and correct by the carrier affected. It is obvious that so flagrant a discrepancy manifest as respects any other description of property would not be countenanced for a moment. Of course these valuations are, and ought to be, identical. It would require a metaphysics more refined than that ascribed to Hudibras which could

"Distinguish and divide
A hair twixt south and southwest side,"

to satisfy sensible men of so material a difference in the real value of these properties. So far, however, the carrier companies have been influential enough to chloroform all legislation designed to relieve the iniquity of confiscatory rates, and to countervail all efforts intended to extract from them a commensurate taxation. The sinister power they exercise cannot be overstated. The government ownership of railroads may be bad, but the railroad dominance of government is worse. If the Council refuses to accept the

valuations insisted upon by the companies the latter reject the tribunals instituted by the state for the adjudication of controversies arising between citizens, and speedily repair to a federal forum which is always open to issue injunctive process upon *ex parte* application. The dispute is one over a matter wholly domestic and it ought to be within the exclusive jurisdiction of the state courts. If it were so confined much annoying litigation would be averted and the assessments of the citizens and of the corporation would be equalized more satisfactorily and more justly.

After most serious reflection, I am much impressed by the persuasive arguments of the New York Tax Commission advocating the introduction of a percentage tax on the net-gross incomes of the railway companies. In the application of such a system rates are levied whereby when the net earnings of a carrier company equal a given per cent of its gross earnings, the latter are taxed a certain per cent. When the net earnings arise to a greater per cent of the gross earnings, the tax rate is greater; when they recede to a less per cent, the tax rate is less. The precise levy prescribed is thereby a varying rate on gross earnings, the variation depending upon the relation of net to gross; the corporation paying more taxes as its profits increase, and less taxes as they decline. This is altogether reasonable, and violates no sound canon of taxation. In the year 1923 the net earnings of the trunk lines traversing Iowa, as compared to their gross earnings, were (approximately):

Northwestern	17%
Rock Island	19%
Milwaukee	20%
Burlington	20%

By the simple theory sponsored by the New York Commission the taxes assessed against the property of the company are bottomed upon the real value of the investment as reflected by the profits of the enterprise, and ability to pay is a material element in the assessment. As respects interstate railways the Commission tentatively favors the allocation of gross earnings to a state in the proportion that the mileage within such state bears to the total mileage in all the states served by the company. I am not prepared to give unqualified indorsement to this formula of allotment as the best that can be arrived at, for I have not sufficiently studied it to become of fixed opinion. It is, however, worthy of your scrutinous investigation because of the ability of its proponents.

There is no purpose anywhere unjustly to discriminate against the railway corporations of the United States. Their systems of

transportation are admitted to be indispensable to the development of every section of the country, but since they are guaranteed the full protection of the government they should contribute justly toward its maintenance. On the whole they have been munificently subsidized by the people. Many communities have taxed themselves to assist in the construction of their roads. The right of eminent domain has been enjoyed, a concession of inestimable value. Immense land grants totalling millions of acres worth hundreds of millions of dollars have been freely conferred upon them. They ought to be subservient to the law, and not superior to it. I dismiss the subject with the suggestion that if you are to embark upon a program of constructive and beneficial legislation, no field of labor is more inviting at the present moment than the statutes prescribing the assessment of railways.

STATE INSTITUTIONS

The detailed report of the Board of Control deserves your particular attention. During the past biennial period there has been under cultivation at the fifteen institutions, 13,527 acres of land which yielded farm and garden produce and poultry aggregating \$717,421.92. There was marketed live stock amounting to \$191,090.05 and the consumption of dressed meats, largely raised and slaughtered at the institutions, was \$459,072.40. Several valuable herds of cows are maintained, supplying milk of the value of \$383,989.95, all used at the institutions except that produced on the farm at Clive. The prison industries operated at Fort Madison and Anamosa net the state a revenue of about \$18,000 per month. The chair factory at the penitentiary which was destroyed by fire has been re-placed by a four-story fire-proof building at a cost of \$206,396.43. During the biennial period the board has covered back into the treasury \$155,560.94 of unused appropriations heretofore granted which has, by careful and discreet management, been conserved to the state. It has conveyed the Knoxville farm to the Federal Government for \$195,648.26. There was on June 30th of this year to the credit of the board in its industrial fund \$325,397.55. On the same date there were in all the institutions under the direction of the board, 6,916 men and boys and 4,197 women and girls; a total population of 11,113 people. The state is to be congratulated upon its provision for the insane, the defective and the afflicted.

The restraint and punishment of the incorrigible and the criminal are humane and reformatory. All the activities of the board are so acceptably conducted that I can conceive of no criticism that I think might improve their administration.

I renew with increased earnestness the proposal I have heretofore made to the General Assembly that the Board of Control be increased in its membership to four and that one member thereof be a woman citizen of the state. It must be admitted that women equally with men bear the burdens and obligations of government and it cannot be challenged that they are entitled to share equally with men in the honors and distinctions of government. I recommend that you submit to the people an amendment to the constitution striking the word "male" from Sections 4 and 5 of Article 3 thereof, thus completing the emancipation of the sex. Since I have occupied the Executive Office I have selected representative and able women of the state for responsible positions on the Board of Education, the Conservation Commission, the Board of Educational Examiners, the Illiteracy Commission, the Library Board, the Child Welfare Commission, the Historical Society, and the Board of Chiropractic Examiners. Every one of those thus designated has illustrated efficiency in administration fully parallel to that of her masculine associates. The state will be advantaged by the untrammelled feminine participation in all civic affairs. The daughters of the commonwealth when summoned to the discharge of public duties carry thereto the same intelligence and fidelity and idealism which have so signalized their conduct in all private relations. In the various institutions over which the Board of Control has exclusive supervision there are now 4,995 females as employees, patients, inmates or prisoners. The Training School for Girls at Mitchellville and the Reformatory for Women at Rockwell City, occupied entirely by those of the female sex, and the Hospitals for the Insane at Mt. Pleasant, Independence, Cherokee and Clarinda where a large feminine population is detained, would be vastly benefited by the provision I have suggested. Other states surrounding us have established women on their Control Boards, and Iowa cannot consent to be distanced in the salutary reform.

I reiterate my recommendation advanced to the 40th General Assembly that the duties now devolved by the statute upon the Board of Parole be transferred to the Board of Control as thus enlarged. The latter body, by reason of its jurisdiction over those incarcerated at Anamosa, Fort Madison and Rockwell City, can

easily acquire perfect familiarity with the facts of each individual case, with the circumstances connected with the crime, and with the propriety of extending or denying clemency to the prisoner. And this can be accomplished at an expense many thousands of dollars per annum below that now incurred. The parole system must be retained in the penal and reformatory machinery of the state, but it should be so limited in its application that no person convicted for the second time be permitted to avail of its provisions. It must not be forgotten that the objective of criminal punishment is not alone the reformation of the malefactor who has offended, but the protection of the society he has outraged. In the past four years, by their voluntary confession or after impartial trials, seven men adjudged guilty of willful, felonious, deliberate and premeditated murder committed with malice aforethought or in the perpetration of rape or robbery, have been executed according to law in the penitentiary at Fort Madison. In each instance the sentence was pronounced after an able defense before a capable court. Every presumption of innocence was indulged, and every doubt resolved in favor of the accused. The entire record was declared by the Supreme Court on appeal to be free of reversible error. Profoundly believing that the law will be most highly respected when it is most rigidly enforced, I conceived it my duty under my oath, to order the death penalty as decreed by the legal tribunals of the state. Parents, wives and children were necessarily bereaved—it is one of the infirmities of our system that the innocent must suffer equally with the culpable. In any event, the result of my action is reflected in the noteworthy diminishment of violent crime in the commonwealth.

WATERWAYS

In the protracted contest for a deep waterway from the Great Lakes through the St. Lawrence to the sea, Iowa is profoundly concerned. The establishment of such an avenue to the markets of the world would advance the value of every bushel of our corn 10 cents, and the value of other cereals in proportion. It is of imperative importance that the state continue its co-operation with Ohio, Indiana, Illinois, Michigan, Wisconsin and Minnesota in the effort to secure the favorable action of Congress on the proposition and a suitable appropriation therefor is necessary.

DEPARTMENTAL REFORM

When the Fortieth General Assembly convened, it was confronted by a multitude of boards, bureaus and commissions, all functioning as instrumentalities of the commonwealth. They had been erected from time to time as the years elapsed and as the state had embarked in original and additional activities. Each was independent of the others and none subject to any central authority. They were not properly related or coordinated, nor could they be under the law as it then existed, and as was unavoidable there was a duplication of powers, an overlapping of duties and a confusion of authority, with the extravagant waste inevitably incident to such disorder. The legislature, with full realization of the difficulty, established the Department of Agriculture and conferred upon it jurisdiction over many of the agencies to which I have referred. The Department was organized under the consummate leadership of the lamented Cassady, assisted by his able successor, Thornburg, and justified itself from the beginning. The result of this legislation has been the rendering of vastly more acceptable service at less than one-half of the previous cost. One of the most important projects devolved by law upon the Department is the eradication of bovine tuberculosis. The extirpation of this baneful malady is imperative, not only because of its menace to humanity but because of the economic loss it entails upon the live stock industry. The 40th General Assembly inaugurated the county area plan providing that any county enrolled thereunder may levy not to exceed three mills to be used in conjunction with state and federal funds for the control of contagious and infectious diseases. In all, forty-five counties have embraced this opportunity, and within another year a large proportion of these counties will be recognized as modified areas. During the fiscal year, July 1, 1923, to June 30, 1924, a total of 584,838 cattle were tested, of which 16,105 were condemned as reactors. Up to the present time, in the accredited herd work, 3,958 herds, representing 94,849 cattle, have been fully accredited; and 34,985 herds, representing 592,049 cattle, have passed the preliminary test. There are 52,105 herds, representing 948,771 cattle under supervision in the herd work and 416,518 cattle under supervision in the area work. On this date owners of 5,339 herds, representing 98,985 cattle have made application for accrediting. The demand for tuberculosis eradication under the county area plan can best be illustrated by the appropriations levied by the boards of supervisors to be used with state and federal funds in this behalf.

From comparisons which have been instituted, it has been ascertained that the cost of testing under the county area plan is materially below the cost of testing under the accredited herd plan.

In the effort to enable the grain producers of the state to hold their crops for more commensurate prices, the 40th General Assembly enacted the Warehouse Act, and devolved its administration upon the Department of Agriculture. The *modus operandi* embodied in the law is for the farmer to store his grain under seal on his farm and procure a certificate therefor, which may be collateralized for loans he must negotiate to cancel his maturing indebtedness without sacrificing his crops on a bottom market. To the limited extent the statute has been invoked, it has afforded the relief anticipated. Boards have been created in nearly one-half the counties, and the results, while not as far-reaching as was expected, have been on the whole encouraging. In the year just passed, about 300,000 bushels of corn were sealed under 250 certificates at an expense of 1 cent a bushel for sealing. This corn was hypothecated at two-thirds of its market value which then was 60 cents a bushel, and was finally sold at 97 cents a bushel—a clear net gain of 36 cents a bushel, or \$108,000. The departure was somewhat novel, and one season was required to vindicate its workability. As time elapses and the sealing certificates become better acknowledged as reliable security, they will be more readily accepted by the banks, and a larger number of farmers will embrace the provisions of the law. A well known farm newspaper has said:

“Other corn belt states could profitably follow Iowa’s example and model a bill after the Iowa Warehouse Act. In a few years there will be warehouse boards in every community and warehouse receipts will be negotiated freely among individuals, as they will represent a first-class short term investment.”

The Department has managed the difficult details of the matter admirably, and any county can avail of the service upon application. I am satisfied that the warehouse legislation will become increasingly useful in the future to assist farmers in withholding their crops from sale until a remunerative market is offered.

The conspicuous success achieved by the Department of Agriculture in every direction may well compel the satisfaction of all the people of the state. It is confidently believed that still further savings can be effected in the state service, and I direct your attention to the matter in the hope that other consolidations than those herein referred to may be safely ordered.

THE BUDGET SYSTEM

In advocating a budget system for the control of the disbursements of the General Assembly, I said in my last biennial message:

"In my opinion one of the most imperative obligations imposed upon us at this session is the establishment of a comprehensive and thoroughgoing budget system which shall include an intelligent and disinterested survey of what is being done with the cost of doing it, and what it is proposed to do with the cost of doing it; all in such concise and simplified terms that the average taxpayer may understand readily and exactly the disbursement of every dollar collected from him as taxes, and the object of its disbursement."

In response to this recommendation a Budget Director was created, entirely disconnected from the legislature or any department, to which each department has reported the amount provided for its support by the last General Assembly and for what purpose, the amount expended by it and for what purpose, and the amount estimated for the ensuing biennium and for what purpose; all carefully itemized to the last detail with full and extended explanations in writing of the necessity for all and singular of the sums asked for the future. The Director is, of course, thoroughly familiar with the available revenues of the state, since he has accurate knowledge of the income to be anticipated from all sources, and he knows what the state can afford to do without disturbing the current levy. Thus fortified he has examined, considered and reviewed all the information, data, estimates and requests of the various departments and after the most rigid scrutiny thereof, has prepared and submitted to the executive a report embodying the askings of each, together with his specific advice with reference thereto. In addition to this he has, as the law provides, formulated a bill and with it has furnished reliable information which will enable you to legislate justly and wisely for the maintenance of the state's activities for the next two years. It is yet too early to anticipate definitely the advantages which will accrue from the budget, but I venture the prediction that when the system is fully developed, it will, under competent management, reduce the current expenses of the state to the minimum sanctioned by conservative business management, without militating in the slightest degree against the usefulness of any department. I have said that to effectuate the purposes desired, the conduct of the budget bureau must be competent: it must also be courageous. The insistence for increased salaries and augmented

appropriations is tremendous in almost every branch of the state service, and it can be resisted only by the rigid determination of the director, supplemented by the loyal co-operation of the General Assembly. The best method of lowering taxation is by curtailing expenditures, as has been finely demonstrated by President Coolidge and the National Congress. At the termination of the World War the country was overwhelmed with a vast indebtedness. Encouraging progress is reported by the Secretary of the Treasury in the extinguishment of this debt, but the sub-divisions of the federal government are increasing their indebtedness at the rate of \$1,000,000,000 per annum. This is a regrettable improvidence, and Iowa ought to afford a redeeming exception to the heedless profligacy of her sister commonwealths. To every appropriation asked let this relentless criterion be applied: (1) Is it necessary that it be granted at all? (2) Is it necessary that it be granted to this extent? (3) Is it necessary that it be granted now? If, without serious injury to any interest it can be denied altogether, or materially diminished, or seasonably postponed, the alternative as the case may be should be unhesitatingly embraced. We are so accustomed to calculate in billions that it is a humiliation to be dragooned into computing in thousands, and yet there are certain foundation principles which must not be overlooked. One is that honesty, efficiency and economy are the three primary and indispensable elements which must characterize all successful administration. It is impressed as a maxim of government in Iowa—it ought to be recognized everywhere—that a public office is not a private enterprise for personal enrichment, but a public trust to be discharged for the general benefit. Every spending agency must remember always that every dollar disbursed from the treasury represents a fund derived from popular taxation in some form, and that the corrupt or reckless or wasteful dissipation of the people's money by any official, high or low, is a criminal betrayal of the interests of his constituency. I am much gratified by the conviction that more and more as the years elapse all monies allotted for the prosecution of the state's business are carefully, wisely and judiciously dispensed for the purpose intended by the faithful men and women charged with that responsibility.

CAPTURED FLAGS

I venture to renew the recommendations submitted by me to the last General Assembly that the Confederate flags, colors and emblems captured on the field of battle by Iowa soldiers during the Civil War and now reposing in the Historical Department, be suitably encased in glass receptacles. These precious trophies, illustrating the valor of our troops in the great collision between the states, are now exposed to the open air, and they are rapidly yielding to the ravages of time. They ought to be preserved forever to future generations to evidence our conspicuous part in the great conflict by which the permanence of an indissoluble Union was irrevocably established through the shot and shell and saberstroke of unconquerable men. I ask that a sufficient appropriation for such purpose be authorized.

VICKSBURG

On October 17, 1924, the Quartermaster General of the War Department notified the Adjutant General of Iowa that the monument erected by the state on the battlefield at Vicksburg, has been considerably defaced, probably by relic hunters. The extent of the depredations committed is reported by the Resident Commissioner:

"Beginning at the left, from the third panel, '17th Iowa Jackson May 14th,' one bayonet gone. The bronze letters and figures that record the casualties of the Iowa commands engaged in the Vicksburg operations on the center panel are attached to the marble slab by dowels and ten of these letters have been forcibly removed. And from the third panel, '23rd Iowa, Big Black River Bridge May 17th,' three bayonets and one sword are gone."

Mr. Henry H. Kitson, of Framingham, Massachusetts, the sculptor who designed the monument in the first instance, has offered to repair the disfigurements above recited for the sum of \$500, of which \$250 is to be paid when the work is cast in bronze and the remainder when it is completed and located. Iowa had more than a score of splendid regiments under Grant at the siege of Vicksburg, and every one of them achieved imperishable renown. The state which experiences such profound pride in the valor, endurance and heroism displayed by her troops in that immortal battle-place should proceed at once to restore to its original perfection the

beautiful and inspiring memorial she has erected in their honor. In this connection I cannot forego expressing the sincere hope that this General Assembly may authorize a suitable statue in the Vicksburg National Park commemorating the distinguished service rendered the state and the country by the great War Governor of Iowa, the Honorable Samuel J. Kirkwood. As he proclaimed of our soldiers who struggled so gloriously on that sanguinary field—"They make us all proud to be citizens of Iowa"—so we may declare of him that at the crucial period when armed secession threatened the perpetuity of the Republic, he was our most potential individual influence for the preservation of the Union and the emancipation of the slave. Andrew of Massachusetts, Curtin of Pennsylvania, Morton of Indiana, and Kirkwood of Iowa, constitute a quartet of patriotic executives whose honorable fame is secure in the recollections of men and in the records of history. I earnestly invoke your early and favorable attention to the matters herein discussed.

WAR TROPHIES

A recent Act of Congress has made available for distribution among the several states a vast amount of war materials captured from the enemy by the troops of the United States during the recent conflict. Of this about 345,000 pounds consisting of guns (mounted and unmounted), bayonets, helmets, lances, swords, sabers, armor, etc., has been allocated to Iowa as her apportionment. Under the provisions of the federal law referred to, the government obligates itself to pack and crate the material, and deposit it with the railroad company for shipment; but the state is required to defray the expense of transportation to Des Moines. It is assumed that the various localities in the commonwealth desiring trophies will pay freight charges from Des Moines to destination, but individual allotments must be prepared by the state for delivery. The War Department has calculated that the aggregate of freight expense from Washington to Camp Dodge will be \$5,500. The Adjutant General believes that the whole allocation can be packed and crated for shipment throughout the state for \$9,300. The interest of the public in these memorials which must always be remindful of the invincible prowess of the American soldier is universal and enthusiastic. A large number of applications for such material are now on file in the Executive Office, and the number will undoubtedly

be increased as the people become aware that the trophies may be obtained. The appropriation asked should be granted at as early a date as possible, so that the Adjutant General may proceed with final arrangements with the War Department.

THE GUARD

What I said on an occasion similar to this two years ago in respect of the Iowa National Guard may be repeated today with emphasis. It is in excellent condition, with an efficiency unsurpassed by any like organization in the country, and it is suitably financed at a cost not exceeding eleven cents per capita of our citizenship. During the period that I have occupied the Executive Office by the practice of rigid economies three headquarters buildings and fifty mess halls have been erected and a commodious swimming pool has been constructed without a dollar of appropriation additional to the sum already awarded by the General Assembly. The next war, if there is one, which God forbid! will be won by superiority in air equipment. Iowa ought promptly and fully to second the government for an army aviation station at Camp Dodge now allotted to the state. In extending commensurate support to the guard we are but co-operating with the federal government in the effort to provide an adequate military force for national defense, equipped and prepared under the direct supervision of the War Department, which force may be depended upon if any emergency shall present itself. We deprecate a large professional army, but our country demands a sufficient citizen soldiery ready to function efficiently when the need arises, but whose membership returns to the normal duties of producers and wage earners when the need has been answered.

During the past year Brigadier General Mathew A. Tinley, the senior officer of the guard, was promoted by the War Department to the position of Major General having jurisdiction over the units of Iowa, Minnesota, North Dakota and South Dakota. This was a deserved tribute to him, and a worthy compliment to Iowa. Last August at the annual encampment the state was honored by a visit from General John J. Pershing, commanding all the armies of the United States. He is a distinguished soldier, and as our troops filed past him in brigade review, he was unrestrained in praise of their personnel and discipline. Our National Guard is composed

of the highest character, courage and patriotism in the state, and it is entitled to our liberal encouragement.

BOILERS AND ELEVATORS

Stimulated to action by the elevator tragedy at the Randolph Hotel in the city of Des Moines, the Fortieth General Assembly enacted a statute providing that:

"Every elevator and the machinery connected therewith in every elevator, hoistway, hatchway and wellhole shall be so constructed, guarded, equipped, maintained and operated as to render it safe for the purposes for which it is used," and directing the Governor to appoint a Conference Board to adopt regulations to render the law effective. The board in question was promptly appointed and I am informed has but recently issued a code covering the subject. With the completion of this work it is believed that Iowa will have a supervision over elevators that will preclude similar catastrophies in the future.

In his 20th Biennial Report the Honorable A. L. Urick, Commissioner of Labor, embodied a quotation from a previous report:

"Attention has upon several occasions been called to the need of boiler inspection, pointing out the fact that the only statute relating to boilers is an enactment of the Fifteenth General Assembly, and which provides that boilers shall be equipped with a steam gauge, safety valve and water gauge, so that excepting these three particulars no part of a boiler is subject to inspection on the part of the state. The only inspection service is that by casualty insurance companies, and when a boiler is rejected by them as too unsafe for them to assume responsibility of insurance, the owner thereof may continue to operate it at his own sweet will and thus jeopardize not only the lives of those in the establishment but also those within the danger zone outside, and certainly endangering adjoining properties.

"There should be enacted a code fixing standards both for construction, installation and maintenance of boilers and high pressure tanks, such as has the support and encouragement of all of the better type of boiler manufacturers, and based upon a code drawn by the American Society of Mechanical Engineers."

Since the last report was submitted the disaster at the Vallandigham store has occurred, resulting in the death of eleven persons and in the permanent disablement and indescribable suffering of many

others. The experts in high pressure equipment who testified at the examination conducted by the coroner of Polk county all asserted unhesitatingly that the tank which exploded was improperly designed, constructed and installed, and that the corrections attempted by the owner substantially increased the hazard. Undoubtedly the recommendation of the commissioner is valid that the law governing the inspection of boilers and high pressure tanks be re-written and broadened. I ask your consideration of this subject so vitally important to public and private safety.

INSURANCE

The elaborate report of the Commissioner of Insurance is before you, and you will carefully digest the recommendations he submits. Unquestionably the time for issuing annual licenses and of his report to the governor should be extended as he suggests. All voluntary liquidations undertaken by companies should be under his exclusive management, and he should be invested with power to institute proceedings for the displacement of any officer or director for misfeasance or malfeasance. Whenever it is necessary that a receiver be appointed, the commissioner should act in that capacity without additional compensation. Adjusters operating in this state, and brokers negotiating stocks in insurance companies should be required to obtain a license from him, and their transactions should be under his supervision. The cardinal object of insurance regulation is the protection of the policyholders, and the law should be strengthened in such fashion as more perfectly to attain that end. Securities are now in the custody of the commissioner aggregating nearly \$200,000,000 and his vault facilities should be enlarged to furnish ample safety therefor.

BANKS

During the biennial period numerous bank failures have occurred, occasioning much distress, and these failures are attributable, I think, to two chief causes: (1) Excessive loans to individual borrowers and to officers and directors of the bank; (2) Acceptance as security of second and third mortgages on real estate already too heavily encumbered. The present law prohibits a loan to any one

person of an amount exceeding 20% of the capital and surplus of the bank, but the penalties for its violation are so inadequate that the statute is frequently ignored. In some cases such borrowings have equalled the capital stock and in one instance largely exceeded it. The danger inherent in this practice is that if the borrower becomes bankrupt, the bank which has favored him becomes insolvent and its depositors suffer. To cover delinquencies of this character such punishment or forfeiture should be imposed as will terminate the evil. Again loans are allowable under certain conditions and circumstances to the officers of the bank, and this privilege has been flagrantly abused. The statute should be amended either:

- (1) By prohibiting such loans directly or indirectly in their entirety, or
- (a) By permitting them only within very narrow restrictions under effective penalties.

The prohibition of loans to directors of corporations is not an innovation. The insurance laws of Iowa and the banking laws of many states so provide. As a corollary of the foregoing, loans should be controlled or denied to companies or corporations in which the officers or directors of the bank are financially interested. Such enactment would estop the employment of bank assets for purposes purely speculative. The rate of interest demanded of a depository of state funds should be fixed by the Executive Council. Where a personal bond is tendered the surety should be required to file a verified schedule of his real estate, its extent, value, the encumbrances thereon, and in what county located, and the proceeding should then be transcribed to such county for record as a lien on said real estate.

Under the doctrine of Section 12719 of the Code as enunciated by the Supreme Court in *Re Marathon Savings bank*, 197 N. W. 729 and 200 N. W. 199, a priority is guaranteed to any municipality in the distribution of the assets of an insolvent bank which had been the custodian of its public funds. Although the court in interpreting this statute has pronounced it "salutary," and has discovered its "foundation in strong sense and stern political morality," I must be permitted respectfully to dissent from such flattering encomium. The preference it contemplates inevitably eventuates in a substantial injustice to the private depositor who, in good faith, has been induced to patronize the staggering institution believing its solvency be unassailable because it is advertising its selection

as a repository of the public money. The assumption of the uninitiated customer that a larger security for his modest accumulations is assured by reason of the fact that the state, city or county is participating with him as a creditor is to some extent justified. In any event if a bank over which the state exercises supervision is carried into enforced liquidation, the commonwealth nor any of its subdivisions should be allowed to assert any advantage over an uninformed citizen who has an equity in the deposits as *bona fide* as its own. In addition to this, the state requires an ample bond protecting it against the loss of any funds entering its treasury, and, by direction of the General Assembly, itself pays the premium exacted for such bond. The treasurer demands a similar bond from the depository entrusted with money, and it furnishes it at its own expense. The taxpayer's funds are therefore abundantly safeguarded in any contingency. The ordinary and orderly course to be pursued in case of a bank failure would be, after defraying the necessary expenses, to *pro rate* the remaining resources among the depositors, the state included, and then for the treasurer to proceed for the recoupment of any deficit against the indemnifying companies which have been compensated for embracing the hazard of defalcation. But by reason of the precedence granted to municipalities under the law aforesaid, upon the failure of a banking institution the state may interpose the statute and thereby recover the full measure of its deposits, while the farmer, merchant or laboring man whose claims upon the fund are precisely as meritorious, are oftentimes remitted to a partial or complete loss of their meager and hard-earned savings. In the city of Des Moines a State bank in which the state had a credit of more than \$285,000 evidenced by certificates of deposit has lately suspended, and its affairs are now in process of legal adjustment. The bank had furnished and paid a comfortable premium for a sufficient bond so that every dollar of the money might be absolutely ensured. Hundreds of small depositors suffer grievously by the state's withdrawal of this substantial sum, thus reducing the assets of the bank and relieving the obligors in the bond of all liability. This instance is only typical of numerous others that might be mentioned. It is indisputable that the practical operation of Section 12719 is in no degree in the interest of the people, but wholly for the benefit of the surety companies, and I recommend its repeal insofar as its provisions affect the matters herein discussed.

LAND TITLES

The Land Title Commission created by the 39th General Assembly has presented its detailed report, which is transmitted herewith. After extended investigation the commission has recommended the establishment in Iowa of the Torrens title system, as it is in operation in many states of the union; the substitution of simpler forms of conveyance in deeds and mortgages for the cumbersome phraseology at present required; and the elimination of all unnecessary or superfluous recitals in decrees and records. Hon. E. W. Vincent has filed minority views, disagreeing to the first recommendation foregoing. The commission has devoted prolonged and conscientious study to the entire subject, and has prepared a series of measures to effectuate the reforms it believes can be accomplished. I invite your careful survey of the conclusions at which it has arrived.

ILLITERACY

In my first biennial message I directed the attention of the General Assembly to the lamentable fact that although as disclosed by the federal census of 1920, Iowa was the lowest in percentage of illiteracy among her sister states, there yet remained within the commonwealth 20,680 people over the age of ten years who could not read or write in any language. I further suggested that acting upon my own initiative I had appointed a commission composed of the most forward looking men and women in the state to investigate the situation, and that without any expense to the commonwealth whatever the members of such commission had enlisted for the organization of an intensive campaign to eradicate the stigma which disfigures our escutcheon. The detailed report of such commission is now submitted to you, together with its specific recommendations in the premises, and I am proud to know that you will accord them that sympathetic consideration which the importance of the whole matter justifies. Iowa cannot afford to be merely first; she must be fully 100% in the enlightenment of her citizens.

BOUNDARIES

Pursuant to the authorization contained in Chapter 313, Acts of the 40th General Assembly, a commission consisting of John M. McDonald of Sioux City, E. L. Hogue of Blencoe, and O. W. Crowley of Des Moines, was erected to co-operate with a similar commission from the state of Nebraska to ascertain and locate definitely the boundary line separating the states. The joint commission had one or more meetings, but upon the discovery by the Nebraska commission of the existence of the last clause of Section 2 of said act, exempting the line at Carter Lake from consideration, it peremptorily refused to confer further upon the boundary dispute with the Iowa commission. The report of the latter, exhibiting the facts in detail, is available for your examination, and I recommend such legislation as will enable the work of establishing the permanent dividing line between the two states to go forward to completion as was contemplated when the commission was constituted. Of the Iowa commission Mr. McDonald has deceased, and Mr. Hogue has resigned. In view of the situation as I have outlined it, I have not deemed it expedient that their successors should be appointed until further action respecting the subject should be determined upon by the General Assembly.

CHILD WELFARE

In November, 1923, I named a commission composed of ten well known citizens to consider especially the problems of the handicapped childhood of the state; the neglected, the dependent, the delinquent, the feeble-minded and the illegitimate. In working for a solution of the problems they present, the dominant concern of society is the well-being of the child itself. Not only economic considerations of great moment are involved, but the very social well-being of the state, for much of the crime and poverty and tax which overburden the public has its origin in the inadequate and incompetent treatment of bereft childhood.

In the appointment of this commission we were not pioneering in a new field of endeavor, but were simply uniting ourselves with a nationwide movement. Beginning with Ohio in 1911, thirty-two states have erected similar commissions whose recommendations have in most cases been already crystallized into law. Standards

have been worked out and there is now available for our guidance the enlightened legislation of adjoining states in this field so full of complexity and peril. It is impossible to examine the report filed by the commission without becoming convinced of the existence of certain fundamental principles. Among these is that in the state's relation to the problem there is demanded trained service, persons skilled in this special field, and in the investigation necessary for the protection both of the child and the state. The added powers accorded to the Board of Control, as recommended by the commission, including authority to employ a trained executive in charge of a children's bureau in and under the board, as in surrounding states, meet with my unqualified approval.

The report is full of the folly and cruelty of the policy now pursued, with its heavy economic losses, and the sinister social reactions resulting from lack of knowledge and training in dealing with children suffering from physical, mental or environmental handicaps. By the institutions over which the board has control at Mitchellville, Eldora, Davenport, Toledo and Glenwood, it touches the matter only to a restricted extent. The enlargement of the institutions affords comparatively small benefit, as only a limited number of additional cases can thereby be reached. The board should have contacts before commitment and the state must have the requisite machinery for a constant visualization of the problem of the feeble-minded, for the prevention of dependency and neglect where possible, and for the rehabilitation of the home in the interest of the child. Through the central bureau contemplated, the state could, as in other states, fix the standards for operation and license of all organizations and persons engaged in the business of child placing and child caring, as well as maternity and child boarding homes, and could require judicial sanction in cases of adoption, as is essential in every other state in the union save Louisiana. Every normal child is entitled first of all to home life, and institutional care should be the last resort. It is incumbent upon the state to fulfill its sacred obligation to its helpless childhood, and in doing so to protect itself as well from the flagrant abuses so fully specified in the report of the commission. I call special attention to the data collected on the enormous growth of poor relief, the multiplication of the feeble-minded, the imposition practiced in many cases upon the funds raised by the generous purpose of the state for the amelioration of the unfortunate, the inefficiency of the instrumentalities for the investigation which culminates in commitment to the

state juvenile homes, and most shameful of all the tragic instances of misdirected and sometimes mercenary dealing with the lives of helpless children.

The program presented is evolved after an extensive survey of conditions in Iowa, an examination of the experience of like commissions in over thirty states and of the laws enacted in harmony with their recommendations. The bills prepared by it are ten in number which, if enacted into law, will promote a scientific solution of the difficult problems which now so vex organized society.

I trust I may be permitted to say a word of the commission. It is composed of busy men and busy women, appointed wholly without their solicitation, and acting entirely without compensation. At a very substantial sacrifice to themselves they have devoted the time and labor of a year in a notable service to the state, in a cause that instantly appeals to the heart of humanity. The several measures devised by them deal with fundamentals underlying transcendent issues affecting the health, the happiness and the safety of the citizens of the commonwealth, and since they contemplate an interlocked, interdependent, minimum program, I suggest the propriety of a special joint committee of the two houses to examine the matter in its entirety. There is no subject which may engage your deliberations more vital or carrying a deeper appeal to humane impulses than the proposals of the Child Welfare commission. I earnestly urge the careful study of its report, not only by the legislature but the people of the state generally, and I strongly recommend the legislation it has fashioned for your favorable action:

STATE PARKS

The park movement initiated by the 37th General Assembly, and subsequently indorsed by each legislature following, merits the cordial encouragement of the state. The present conservation law provides for the acquisition of areas for historic, scientific and recreational purposes. Under this authorization thirty-six parks have been created, visited in 1924 by more than 700,000 people, and 1,250,000 men, women and children enjoyed our wondrous lakes during the same period. What does this signify to Iowa? Undoubtedly a better citizenship, with a keener appreciation of the unrivalled glories of the imperial state. The Hawkeye common-

wealth now the setting for fertile farms and thrifty cities was once an immense park from river to river. Since we are essentially a rural community, the recreation areas selected should be widely scattered and of limited acreage, so that many sites may be obtained, all available to the general public. Some part of the streams, the lakes, the woodland and prairie, beautiful and inspiring in their original aspect, should be preserved for the benefit of ourselves and our posterity. It is gratifying to observe the universal interest manifested in the activities of the park commission. Our citizens have devoted liberally of their time and money to co-operate with the state, recognizing the project as a complement to the home, the church, the school and the library, as the best support of our American institutions. It is my fervent hope that Iowa may reach the day when every county within its borders shall have, under public supervision, a suitable reservation of lake front, forest, valley or upland to which the weary sojourner may repair to commune with nature and to invite his soul.

WILD LIFE AND FISH REFUGE

The 68th Congress enacted a law to create the "Upper Mississippi River Wild Life and Fish Refuge," and authorizing the Secretary of Agriculture of the United States to obtain by purchase, gift or lease such areas of land or land and water subject to overflow between Rock Island, Illinois, and Wabasha, Minnesota, as are necessary for the establishment of a refuge for the breeding of migratory birds, fish, fur-bearing animals and other aquatic life. It is further stipulated that no reservation shall be acquired unless the state affected shall signify its coalescence. Sections 2, 3 and 4 of the Act are appended hereto as Exhibit A. The territory in question is of almost negligible value for the cultivation of agricultural products, but it is of supreme importance as a suitable reserve for the propagation of fish, the protection of wild life, and the conservation of the resources of the country. It is obvious that before the purpose of the congress can be effectuated, the acquiescence of the several states bordering upon the proposed reservation must be secured by a resolution of consent thereto, adopted by their respective General Assemblies. I submit the matter for your earnest consideration, therefore, with the hope that it may be acted upon favorably without delay.

DECLARATORY JUDGMENTS

I invite your serious attention to a reform in judicial procedure, adopted in many of the states of the union, whereby the jurisdiction of the courts is enlarged and extended to authorize the rendition of declaratory judgments in proper cases. The object of our law is, of course, to establish, preserve and protect the members of organized society in their persons and in their property. Courts are instituted to vindicate rights invaded and to redress wrongs inflicted, but under our system no litigant may invoke the decision of a court until damage is actually sustained. A right may be disputed, but a wrong must have occurred before the tribunals of justice can be appealed to for a declaration of the right or for a denunciation of the wrong. A difference may arise upon the construction of a simple written instrument. The party of the first part retains a lawyer and receives reassuring advice. The party of the second part consults another lawyer, and receives directly opposite advice. The lawyers are of equal eminence and each may be amply sustained by authority which is often conflicting and irreconcilable. The clients are honest men, anxious to avoid a controversy, each relying upon the opinion of his counsel. In the very nature of the situation both were not correctly advised, and possibly neither was. A legal battle is thus precipitated between the contending parties, the one to maintain his right and to magnify the injury resulting from the breach of it, the other to dispute that any existing right has been trespassed and to minimize the injury which may be alleged. Everybody understands the incidents of a contested lawsuit—I had intimate observation of them for nearly thirty years—charges and counter-charges, crimination and re-crimination, acrimony and protracted delay until the patience of all is exhausted. Would not the courts be more serviceable to the people if they were authorized to adjudicate the issue in advance by a judicial announcement of the rights of the parties before there is actual breach committed by one party and substantial loss suffered by the other? Every case in which the proposed remedy is sought to be invoked would thus be transmuted into a friendly suit. In the present circumstances parties are reluctant to resort to the courts because they recoil from entering upon a state of avowed war; but if the court could be translated into a diplomatic rather than a belligerent agency, less hesitancy would be experienced by those interested, and their relations would be subjected to less severe strain. To sue is to fight, and fights often degenerate into endless feuds. As sug-

gested by a prominent law-writer connected with the University of Michigan, and repeatedly announced by many tribunals:

“There is no doubt that the personal animosities developed by litigation are serious drawbacks to the usefulness of courts. * * * But to ask the courts merely to say whether you have certain contract rights against the defendant is a very different thing from demanding damages against him. When you ask for a declaration of right only, you treat him as a gentleman; when you ask coercive relief, you treat him as a wrongdoer. * * * These considerations alone are enough to recommend the practice in any country where respect for the rights of others is considered a virtue.”

By this reform the citizen is afforded relief from the uncertainty and the insecurity attendant upon legal controversies without being required so to invade the asserted rights of another as to warrant action therefor. The order entered would operate as *res adjudicata* and would be binding upon the parties precisely as any other judgment. The psychological effect of such a declaration would in a vast majority of cases obviate further litigation, but in the event it became necessary to do so, enforceable judgment or decree could be afterwards obtained.

As heretofore suggested the procedure I have indicated has been vindicated by experience in England, Scotland, Germany and Spain, and in a dozen of the more forward-looking American states. It would undoubtedly develop the enormous possibilities of preventive relief by informing parties definitely of their contract obligations and of their legal rights, without the necessity of resorting to extended and extensive litigation. The American Bar association has devoted prolonged study to the subject, and I venture to present herewith, as Exhibit B of this message, a uniform statute it has formulated embodying the provisions which, it is believed, fully represent the legislation necessary to be enacted to enable the courts of the state to render the important service I have indicated. I commend the whole proposition to your thorough and painstaking examination.

AMENDMENT TO THE CONSTITUTION

I transmit herewith to the General Assembly, as Exhibit C of this message, the certified copy of a joint resolution adopted by

the 68th Congress of the United States at its first session, submitting an amendment to the Constitution empowering the Congress to limit, regulate and prohibit the labor of persons under eighteen years of age. The joint resolution is duly authenticated by the Great Seal of the United States and its certification is executed by the Honorable Charles E. Hughes, Secretary of State. It is hereby delivered to the General Assembly for such disposition as it may deem expedient, with the request that it be entered in full upon the records of the Senate and House respectively, and that after it shall have been acted upon, due notice of such action be transmitted to the Secretary of State at Washington, and the resolution itself be deposited with the secretary of state of the state of Iowa.

There is some division of opinion concerning the merits of the proposed amendment, but I am persuaded that such sentiment as has been aroused against it is manufactured rather than spontaneous. It has been denounced in inspired propaganda as revolutionary and socialistic, but the same arguments were reiterated with tedious energy against the amendment legalizing a tax on incomes and the direct election of United States senators. That is a familiar objection interposed against all enlightened reforms by the cupidity and avarice which sanctifies money at the sacrifice of men in the affairs of the world. I deem it within the legitimate prerogative of the executive to indicate his convictions respecting a subject of such paramount concern. It may be suggested, if it be esteemed of any importance, that the vote to submit the measure for the action of the General Assemblies of the respective states was almost unanimous in the Senate and House at Washington, and remarked, if it be regarded of any consequence, that in the recent campaign it was approved in the platforms of all political parties, and indorsed in the utterance of all presidential candidates. In brief the amendment if adopted will enable Congress to legislate with relation to the labor of persons of immature age—a function which the Supreme Court has repeatedly decided is not now permissible to the law-making body of the United States. The power sought to be conferred upon Congress is no different either in nature or extent from that at present possessed by the legislatures of the states themselves. Many states, among them our own, have exercised it. It is not conceivable that, if granted the authority, Congress will ever enact a statute disturbing the salutary conditions which prevail in Iowa. This state has amply protected its children by restrictions as to their employment age, and as to the character

of the occupations in which they may engage. Some states, however, notably those in the extreme south, have declined to measure the interests of humanity against the accumulation of money, and have refused to establish any limitations upon the sordid greed of the unscrupulous employer. From early morning until late evening, without holidays for recreation, little people of tender years—the pride of the present and the hope of the future—are sentenced to slavish labor which stunts the body, starves the mind and stifles the soul. In those localities the result has been the sweat-shop exploitation of child life, with the illiteracy, ignorance and disease which invariably accompany such abuses. It is to correct such a deplorable situation as this, and to conserve the health, promote the happiness, and assure the education of the nation's youth, that this amendment to the constitution is demanded by the philanthropic impulse of the age. Its provisions are deemed essential by those whose solicitude for the welfare of the child is most enlightened and unselfish, and I cannot believe they will be denied indorsement in progressive Iowa.

HIGHWAYS

The road problem as it is acute today is of paramount importance to the welfare of the state, and for its solution your patient and serious consideration is demanded. The system of primary highways in Iowa was designated by the highway commission after consultation with the supervisors in the respective counties, under authority conferred by the 37th and 38th General Assemblies. As I suggested to your predecessor, the National Department of Agriculture insists that our legislation as respects federal aid projects is in conflict with the law enacted by Congress, and that unless such conflict is removed, contribution by the government will be suspended. It is urged that we are out of harmony in two particulars:

- (1) The Federal law provides that the State Highway Department shall determine the character of surfacing, while the State law reposes such power in the Supervisors.
- (2) The Federal law locates the maintenance of roads with the State Highway Department, while the State law devolves such maintenance upon the Supervisors.

The whole policy of federal aid is repugnant as destroying the theory of self-government but if it is to be continued, there is no alternative except to modify our law to correlate with the law of Congress. All the correspondence on the subject was delivered to the 40th General Assembly, but that body in its discretion omitted action upon it.

Our primary roadway consists of 6,660 miles, connecting all county seats and principal market centers, and it has been treated during the past biennium as follows:

- By paving..... 198 miles
- By gravelling..... 796 miles
- By grading, draining and bridging..... 1279 miles

The present condition of the entire system as revealed by the report of the Highway Commission is:

- Miles paved..... 516
- Miles gravelled..... 2240
- Miles graded, drained and bridged..... 1911
- Miles ungraded..... 1993

Practically two-fifths of our primary roads are now graveled or paved, affording arteries of travel from the capital city to forty-four county seats. All grading, draining, bridging, gravelling or paving must originate with the supervisors, as the commission has no power of initiation in regard thereto. The work has proceeded as rapidly, perhaps, as our finances would warrant, and it is the opinion of the chief engineer that if the present program were prosecuted without intermission all the primary road could be graded, drained and bridged in something more than four years. But he writes me:

"The present rate of progress cannot be maintained unless additional revenue is provided. * * * On November 30, 1920, the primary road fund had a net unobligated balance * * of \$9,000,000. On October 1, 1924, the net indebtedness against the primary road fund, in excess of remaining balances, amounted to \$9,000,000. * * * The construction work which has been accomplished during these four years * * * must be curtailed to approximately one-third the rate during the past four years if additional funds are not provided."

I have undertaken foregoing to furnish the exact status of our primary highway betterment, so that the situation may be thoroughly understood and fearlessly confronted. The secondary roads of the state are of extreme importance to the local communities constantly using them, and they should be carried forward concurrently with the primary system.

Everybody deplores that for a portion of each year the public roads in Iowa are a disparagement to the state, and there is universal agreement that they must be brought to a travelability corresponding with that of our sister commonwealths. The difficulty has been and is to provide the funds for the defrayal of such improvement without unduly burdening the taxpayers already oppressed by existing levies. I am not unaware that many states have adopted what is denominated as a tax on the privilege of occupying the highways, rated at so much per gallon on the oil used for the propulsion of motor vehicles on the roads. This expedient, however disguised, cannot be differentiated from a sales tax on gasoline, and is to be justified only as a similar tax on any other necessity of life can be justified. A proposition will be introduced, as I am informed, to submit to popular vote the issuance of bonds of long deferred maturity, the money realized therefrom to be devoted to the comprehensive improvement of the highways of the State. One outstanding merit of this plan is that it offers those who must "pay the freight" the opportunity to say openly and directly whether or not the obligation contemplated shall be incurred for the purpose defined. This procedure is in perfect harmony with the cardinal principles which underlie republican institutions. We must not abandon the old-fashioned notion that the people may be safely trusted. The proposition will survive, and it ought to survive, if a majority approves it; it will fail, and it ought to fail, if a majority condemns it. If there are those who favor a gasoline tax enacted by the General Assembly without any mandate whatever but who yet oppose a referendum of the bond question to the people themselves who are competent to determine it, there is difficulty in understanding the intellectual processes by which they arrive at such an anomalous conclusion. I do not arrogate to myself a further discussion of the subject than to remind you that ours is still a democratic government exercising power with the consent of the governed, and that in this matter that consent, or its refusal, can be ascertained only by the action of the electorate freely expressed.

EDUCATION

The educational interest of the State is of importance infinitely beyond any other which may engross the attention of the General

Assembly. The Superintendent of Public Instruction reports that our school children represent 29% of our total population and that at a fabulous cost per annum about 84% of them are enrolled in some institution of learning supported by the taxpayers. The problem they present in its reaction upon the future well-being of the Commonwealth cannot be overemphasized. The gallant boys and gentle girls immersed in their books today will, in the next generation, arbitrate the destinies of the civilized world. How impressive and unescapable is our duty then to provide abundantly and intelligently for their intellectual cultivation, their moral discipline, and their spiritual arousal in the formative period of their lives. We are proud of the public schools of Iowa, and we rejoice exceedingly at the gratifying results which they manifest annually at the conclusion of each recurring year. Approximately one-half of every tax dollar collected in the State is applied to the overhead of the school system. This is a tremendous expenditure in the aggregate, but however bitterly people may complain of the burdens of taxation, nobody would advocate any curtailment of the amount prudently disbursed for education. The rural school, the grade school, the high school—all available to the common people—must be adequately maintained. After them, the three great centers of classic erudition must be financed at their present level of unchallenged excellence. Each of them is sorely distressed by the pressing need of additional dormitories and cafeterias suitably to house and feed the marvellous increase in student membership, and a policy must be conformed to which shall relieve the congestion which now embarrasses these institutions. I believe that the State may profitably and properly hypothecate its credit for the installation of the accommodations necessary, upon such judicious terms as to extinguish any indebtedness that may be contracted therefor out of the rents and profits accruing from the occupancy and use of the improvements.

No appreciation that I could formulate would overstate the singular efficiency of the Training College for Teachers at Cedar Falls, nor overestimate the invaluable service it has rendered the State. It is indeed the lengthened shadow of one man—its venerable President who has consecrated his adult life to its development. The school of Agriculture and Mechanic Arts at Ames is preeminent in its exclusive field. It is furnishing the young men and young women of the State with thorough preparation in the primary qualification of American citizenship; breadwinning and house-

keeping and homemaking. A beautiful Library costing in the neighborhood of half a million dollars has but lately been completed upon the campus and a commodious new Physics building has kept it company. A New England farmer recently asked if we had an agriculture college in Iowa. His friend was most happy to intimate to the benighted inquirer that we have *the* Agricultural College in Iowa. The University at Iowa City is advancing with unparalleled rapidity to surpass all competitors. I cannot forbear mention of one conspicuous incident of its progress during the biennium. The Fortieth General Assembly assigned the sum of \$2,225,000 in five annual installments for the completion and equipment of the hospital and plant of its College of Medicine; the appropriation being contingent upon the granting of an equal sum by the General Education Board and the Rockefeller Foundation. The conditions imposed by the Legislature have been fully complied with by all the parties concerned, and we have embarked upon the erection of the greatest Medical College on the Western Hemisphere. The wise discrimination exercised by the Board, the lofty philanthropy embodied in the Foundation, and the intelligent generosity displayed by the State, all united to render assured this incomparable accession. While the Medical College located at the institution is already famous everywhere, its service and usefulness will be multiplied immeasurably by the increased equipment, the enlarged faculty, and the expanded opportunity made available by this magnificent benevolence. So long as the art of healing is practised, men and women shall be perfected there in the exalted function of relieving pain, reducing injury, restoring health and prolonging life. In offering to the ages which are to follow the inestimable benefits of this humanitarian enterprise, there is introduced a new epoch in the history of medicine, in the science of surgery, in the hospitalization of the afflicted. No propriety is violated, I trust, when I account the consummation of this sublime project as the one enduring achievement which may entitle the retiring administration to the permanent and approving remembrance of mankind.

CONCLUSION

My poverty of speech is never so painfully embarrassing as when I attempt to acknowledge the gratitude which overflows my heart toward the generous people of Iowa for the distinguished honors

they have repeatedly bestowed upon me. In retiring now from public station into private citizenship I may be permitted to say in retrospect, that I have endeavored earnestly to justify insofar as I imperfectly could the continued confidence they have reposed in me. Four years ago in assuming official duties I pledged that in their discharge I would say always that which I believed to be true, and do always that which I believed to be right:

"Seeking no darkness,
Sophisticating no truth,
Bending to no fear."

Some other and not I must answer whether the subsequent record has redeemed the antecedent resolution. I venture to hope that in the impartial appraisement of history

"Amid much fault some little good"

may be discovered. I am glad to relinquish the functions of the Governorship to the eminent lawyer and statesman who has been selected as my successor. I invoke for him the same kindly consideration, the same friendly tolerance, the same indulgent judgment which always have been extended to me.

Gentlemen of the General Assembly, your legislation will help or hinder all the mighty multitude of whom you are the responsible representatives. I leave you finally in the profound conviction that you will act wisely for the welfare of our beloved State. Imperial Commonwealth of Iowa! May you go forward forever throughout the countless cycles of your shining career, surmounting one obstacle after another in the pathway of your exalted destiny, until the strength, intelligence and righteousness of your noble people shall be a blessing and a benediction upon all mankind!

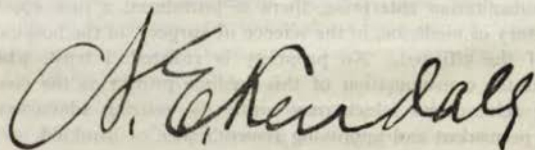


Exhibit A

WILD LIFE AND FISH REFUGE

(Excerpt from Act of Congress)

Sec. 2. "The Secretary of Agriculture is authorized and directed to acquire by purchase, gift, or lease, such areas of land, or of land and water, situated between Rock Island, Illinois, and Wabasha, Minnesota, on either side of or upon islands in the Mississippi River which are subject to overflow by such river and which are not used for agricultural purposes, as he determines suitable for the purposes of this Act."

Sec. 3. "Any such area, when acquired in accordance with the provisions of this Act, shall become a part of the Upper Mississippi River Wild Life and Fish Refuge. The refuge shall be established and maintained (a) as a refuge and breeding place for migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and (b) to such extent as the Secretary of Agriculture may by regulations prescribe, as a refuge and breeding place for other wild birds, game animals, fur-bearing animals, and for the conservation of wild flowers and aquatic plants, and (c) to such extent as the Secretary of Commerce may by regulations prescribe as a refuge and breeding place for fish and other aquatic animal life."

Sec. 4. "(a) No such area shall be acquired by the Secretary of Agriculture until the legislature of each State in which is situated any part of the areas to be acquired under this Act has consented to the acquisition of such part by the United States for the purposes of this Act, and, except in the case of a lease, no payment shall be made by the United States for any such area until title thereto is satisfactory to the Attorney General and is vested in the United States."

Exhibit B

DECLARATORY JUDGMENTS ACT

"Section 1. Courts of record within their respective jurisdiction shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

Sec. 2. Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal

ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status or other legal relations thereunder.

Sec. 3. A contract may be construed either before or after there has been a breach thereof.

Sec. 4. Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto: (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or (b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or (c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Sec. 5. The enumeration in Section 2, 3 and 4 does not limit or restrict the exercises of the general powers conferred in Section 1, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Sec. 6. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Sec. 7. All orders, judgments and decrees under this act may be reviewed as other orders, judgments and decrees.

Sec. 8. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

Sec. 9. When a proceeding under this Act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

Sec. 10. In any proceeding under this act the court may make such award of costs as may seem equitable and just.

Sec. 11. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be

unconstitutional, the Attorney General of the State shall also be served with a copy of the proceeding and be entitled to be heard.

Sec. 12. This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

Sec. 13. The word 'person' wherever used in this act, shall be construed to mean any person, partnership, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.

Sec. 14. The several sections and provisions of this act except Sections 1 and 2, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the act invalid or inoperative."

Exhibit C

RESOLUTION PROPOSING AMENDMENT TO CONSTITUTION

No. 2728

UNITED STATES OF AMERICA

Department of State

TO ALL TO WHOM THESE PRESENTS SHALL COME,
GREETING:

I CERTIFY That the copy hereto attached is a true copy of a Resolution of Congress, entitled "Joint Resolution Proposing an amendment to the Constitution of the United States," the original of which is on file in this Department.

IN TESTIMONY WHEREOF, I, CHARLES E. HUGHES, Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, this sixth day of June, 1924.

(SEAL)

CHARLES E. HUGHES,
Secretary of State.

By EDWIN C. WILSON,
Acting Chief Clerk.

H. J. Res. 184
SIXTY-EIGHTH CONGRESS OF THE UNITED STATES OF
AMERICA; AT THE FIRST SESSION,

Begun and held at the City of Washington on Monday, the third day
of December, one thousand nine hundred and twenty-three.

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the
United States of America in Congress assembled (two-thirds of
each House concurring therein), That the following article is pro-
posed as an amendment to the Constitution of the United States,
which, when ratified by the legislatures of three-fourths of the sev-
eral States, shall be valid to all intents and purposes as a part of
the Constitution:

"ARTICLE —

"Section 1. The Congress shall have power to limit, regulate and
prohibit the labor of persons under eighteen years of age.

"Sec. 2. The power of the several States is unimpaired by this
article except that the operation of State laws shall be suspended to
the extent necessary to give effect to legislation enacted by the
Congress."

F. H. GILLETT,

Speaker of the House of Representatives.

ALBERT B. CUMMINS,

President pro tempore of the Senate.

I certify that this Joint Resolution originated in the House of
Representatives.

WM. TYLER PAGE,
Clerk.