

THE LEGISLATION OF THE FORTIETH GENERAL ASSEMBLY OF IOWA

It is provided in the Constitution of Iowa that "the sessions of the General Assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members".¹ In accordance with this provision the Senate and the House of Representatives of the Fortieth General Assembly convened in the State House at Des Moines on January 8, 1923. They adjourned one hundred days later, on April 17th. With one exception this was the longest regular session of the State legislature in the history of Iowa: in 1872 one hundred and seven days elapsed between the convening and adjournment of the General Assembly.

The length of the session of the Fortieth General Assembly may be contrasted with the eighty-nine days consumed by the Thirty-ninth General Assembly — which was the shortest session since 1909 when the Thirty-third General Assembly also remained in session eighty-nine days. The Thirty-fourth General Assembly, which met in 1911, consumed ninety-four days; while the sessions of the Thirty-fifth, Thirty-sixth, Thirty-seventh, and Thirty-eighth General Assemblies lasted ninety-seven days each. Although one hundred days elapsed between the convening and the adjournment of the Fortieth General Assembly, both houses were in actual session only seventy-five days. Besides the fourteen Sundays and the customary spring recess, which was taken from February 24th to March 5th

¹ *Constitution of Iowa*, Art. III, Sec. 2.

inclusive in order that the members might attend to business matters at home, the legislature also recessed on January 12th, 13th, and 14th. On the basis of the number of days actually in session the members of this General Assembly received slightly over \$13.33 a day for their services.²

The total cost of the Fortieth General Assembly, exclusive of printing, was \$241,809.89. This included the salary and mileage of members, the salaries of employees during the session and after adjournment, chaplains' fees, and sums spent for extra help in the administrative departments made necessary because the legislature was in session. Thus the session occasioned an expenditure of \$2418.10 per day. Although the total cost of the Fortieth General Assembly was greater than that of its predecessor, the cost per day was slightly less. The session of the legislature which met in 1921 cost \$228,868.70, or \$2571.56 per day. If the cost per day is computed on the basis of the number of days actually in session, the daily cost of the Fortieth General Assembly was approximately \$3224; while the cost per day of the Thirty-ninth General Assembly was \$3415.95.³

THE WORK OF THE SESSION

Some idea of the work of the Fortieth General Assembly may be obtained from a summary of the number of bills considered. During the session no less than 1606 measures

² *Acts of the Fortieth General Assembly*, p. 1; *Senate Journal*, 1923, pp. 162, 644; *House Journal*, 1923, pp. 164, 165, 709, 710.

³ The data on the cost of the legislature was furnished by the office of the Auditor of State and the facts from which the statistical information in the following paragraphs was compiled were obtained from the bill files and *Acts of the Fortieth General Assembly*, the *Senate Journal* and *House Journal* of the Fortieth General Assembly, and the *Index and History of Senate and House Bills*, 1923. All tabulations and summaries were carefully checked.

were introduced.⁴ Of these, 760 bills and 4 joint resolutions originated in the Senate and 832 bills and 10 joint resolutions originated in the House of Representatives. The unusually large number of bills introduced in both houses can be accounted for by the fact that 262 code revision bills were introduced as companion bills in both houses on January 18th and 19th. If allowance is made for these bills it will be seen that the number of measures introduced was 1082, of which 498 bills and 4 joint resolutions were Senate measures and 570 bills and 10 joint resolutions were measures originating in the House of Representatives. Thus the number of measures introduced in the Fortieth General Assembly is not very different from the number introduced in the Thirty-eighth and Thirty-ninth General Assemblies when the totals were 1134 and 1147 respectively.

The fact that the code revision bills were introduced in both houses makes exact comparisons of the work of the Fortieth General Assembly with the work of other legislatures of recent years impossible in some respects. For this reason the code bills will be ignored in the statistical statements that follow unless it is specifically stated that they are included. At the same time action upon the code revision bills did represent an important part of the work of the regular session of the Fortieth General Assembly and consumed a great amount of time. A statement of what happened to the proposed code legislation will therefore not be out of place in this connection.

Of the 262 code revision bills that were introduced, 54 passed both houses and were signed by the Governor; 162 were lost in committee — of which 116 were lost in the com-

⁴ Although a total of file numbers and joint resolutions would indicate that 1607 measures, including the 524 code revision bills, were introduced, there were actually only 1606 because Senate File Number 467 was declared void and therefore not counted.

mittee to which they were originally referred, 33 were reported to the house by the committee, re-referred to another committee, and lost there, and 13 passed one house, were sent to the other chamber, and were lost in the committee to which they were there referred; 8 code revision bills were lost because the originating house to which the bill was reported failed to take action; and 19 were lost because the Senate failed to act on bills that had passed the House and were reported to the Senate by its committee. The House disposed of no code revision bills in the latter manner. Moreover, 12 code revision bills were withdrawn because they were superseded by legislation of the Thirty-ninth or Fortieth General Assemblies, 4 were indefinitely postponed in the house in which they originated, 2 were indefinitely postponed after having passed one house, and 1 was lost in conference committee.⁵

Of the 1082 measures that were introduced, exclusive of code revision bills, 502 originated in the Senate and 580 in the House of Representatives. The House took action upon 373 of its own measures; and 212 of these were also acted upon by the Senate. The Senate took action upon 347 of its own measures; and 206 of these were also acted upon by the House.⁶ In all, 393 measures (387 acts and 6

⁵ In general the odd numbered code revision bills were regarded as Senate files and the even numbered ones were regarded as House files. There were some exceptions to this rule, however, for at least two odd numbered code revision bills that were enacted are listed among the House files. For this reason in making the above tabulation the bills were treated as belonging to the files of the house in which they made most progress.

⁶ Action in this case is construed to mean that a bill has come to or beyond the stage of being placed on the calendar. This means, in most cases, that a committee report recommending final action has been adopted or rejected, which implies that the whole house has expressed an opinion on the merits of the measure. When a bill was merely passed on file, re-referred, or substituted before or after a committee report such disposition has not been regarded as action by the house.

joint resolutions), including the 54 code bills enacted, passed both houses and 388 of them became laws. In other words, five measures were vetoed by the Governor. One hundred and seven measures received the executive signature after the date of adjournment, all but one being signed during the four days following the close of the session and that one on April 24th.

Three of the measures vetoed by the Governor were Senate files — the gasoline tax bill, a measure to amend that bill, and a bill to change the time for the payment of taxes. Two of the vetoed measures originated in the House of Representatives — one designed to amend the law relative to the powers of the Board of Railroad Commissioners over long and short haul rates of common carriers⁷ and the other proposing State aid to private colleges for teacher training. The long and short haul bill received formal executive disapproval on April 4th; the two gasoline tax bills were vetoed on April 23rd; while the other two measures, which are listed with proper notations in the session laws as chapters 64 and 150 respectively, were filed with the Secretary of State on May 8th and May 2nd respectively unsigned by the Governor and consequently did not become law.

Exclusive of code revision bills, 160 measures that gained enactment originated in the Senate and the remaining 174 in the House of Representatives. There were 44 Senate bills and one Senate joint resolution which failed to pass the House; while 79 House bills and 2 House joint resolutions failed to pass the Senate. During the last two sessions of the legislature it seems that the Senate has been less considerate of measures that have already passed the

⁷ Senate File Nos. 273, 739, 759; House File Nos. 285, 352. House File No. 1 of the extra session which was another "follow-up" of the gasoline tax measure was also vetoed by the Governor.— See *Index and History of Senate and House Bills*, 1923, p. 4.

House than the lower branch of the legislature has been of measures originating in the upper chamber. In 1921 the Senate failed to pass 103 measures that had passed the House; while the House failed to pass only 45 of the measures that had passed the Senate.⁸ In the Thirty-eighth General Assembly, however, nearly twice as many Senate bills failed to pass the House as House bills failed to pass the Senate.

Slightly more than twenty-four per cent of all measures introduced in the Fortieth General Assembly became laws. This percentage is much lower than in the two preceding General Assemblies when the number of measures enacted was approximately thirty-six per cent of the number introduced. If, however, the code revision bills are not considered the percentage of measures passed is raised to over thirty per cent. The Senate passed slightly more than forty-one per cent of its measures, exclusive of code bills; while the House passed slightly more than forty-three per cent of the measures it originated. Although the lower house passed a somewhat larger percentage of its measures than did the Senate, the difference is not so great as was the case in the Thirty-ninth General Assembly when the Senate passed approximately forty-six per cent of its own measures and the House passed nearly fifty-two per cent of the House measures. The situation in this regard in the Thirty-eighth General Assembly was almost the exact reverse of that in the Thirty-ninth General Assembly. From the record made by the two chambers it appears that during the last two sessions of the legislature the House has been able to dispose of business with as much or more expedition than the Senate. Perhaps this may be attributed to

⁸ This same tendency is manifest in regard to code revision bills of which 32 were lost in the Senate after having passed the House and only 2 were lost in the House after having passed the Senate.

the installation of the electrical voting mechanism which was first used in 1921.

One hundred and twenty-nine acts (including two joint resolutions) — a third of all the laws passed by both houses and signed by the Governor — were deemed of immediate importance and declared to be in effect upon publication. Although this number is less than were declared in effect on publication by the Thirty-ninth General Assembly when no less than 191 acts (over forty-six per cent) were declared in effect after being published, it is a larger number than were treated in this manner by the Thirty-eighth General Assembly which deemed 116 measures of immediate importance.⁹ The remaining measures became effective on July 4, 1923, unless otherwise provided. It is also significant that all except 6 of the 43 legalizing acts passed in 1923 were declared in effect upon publication.

As was the case with the legislation that failed of passage in the Thirty-ninth General Assembly, by far the greater number of measures were defeated in the chamber where they were introduced. Of the 406 House measures that failed, 81 were lost in the Senate, 2 were vetoed by the Governor, while the remaining 323 were lost in the House itself. Of the 342 Senate measures that failed of enactment, 45 were lost in the House, 1 was lost in conference committee, the Governor vetoed 3, while the remaining 293 were lost in the Senate.

There was nothing unusual about the methods used by the Fortieth General Assembly in defeating measures, except perhaps that no bills were defeated by striking out the enacting clause. Two hundred and sixteen bills and 3 joint resolutions of the 748 measures that failed of enactment were withdrawn. Many of these were withdrawn because

⁹ In three instances a separate act was used to provide for the publication of a statute.

a companion bill had been introduced in the other house and had been substituted for the measure. Moreover, this practice has the parliamentary advantage of disposing of a bill without prejudice and leaves the way open for reintroduction in the same or another session when the chances for its enactment seem more favorable. In the Thirty-ninth General Assembly more measures were disposed of in this way than by any other method; but in the Fortieth General Assembly more measures were lost in committee than in any other way. Two hundred and twenty-eight measures were disposed of in committee, as compared with 174 by the legislature which met in 1921. Moreover, 175 measures were indefinitely postponed, and 17 were lost because one of the houses failed to take action. Only 55 measures were lost by an adverse vote when put on final passage. This is 14 less than the number of bills which failed to receive the constitutional majority on final vote in the Thirty-ninth General Assembly. A few bills were lost by being passed on file or placed on the calendar and no further action taken; while several were lost because other bills on the same subject were substituted for them.¹⁰

Of the total number of measures (exclusive of code revision bills) introduced in both houses, only 142 were introduced by committees (80 by Senate committees and 62 by House committees); while 940, or almost eighty-seven per cent, were introduced by individual members. Of these, 422 were introduced by Senators and 518 by members of the House of Representatives. The average number of bills per member introduced in the Fortieth General Assembly was approximately eight and two-fifths for the Senate,

¹⁰ Judging from the content of the session laws, it appears that in a number of instances the substance of a bill was included in another although no formal statement of the substitution was made. In these cases the bills were counted among those that failed although in substance they really were enacted.

while for the House the average was approximately four and four-fifths. As usual the number of bills introduced by individual members was, roughly speaking, inversely proportional to the size of the house.¹¹

The largest number of bills introduced in the Senate by one member was 28 by Senator J. D. Buser, who also holds the record of the whole Assembly in the introduction of bills. Representative Volney Diltz holds the record in the House, having introduced 24 bills, in spite of the fact that he was serving his first term in the legislature. Senators W. J. Goodwin, B. M. Stoddard, and D. W. Kimberly having introduced 17, 16, and 15 bills respectively are entitled to second, third, and fourth places on the list of those who introduced the largest number of bills in the Senate. Senators T. C. Cessna, F. C. Gilchrist, P. C. Holdoegel, B. J. Horchem, and E. W. Romkey each introduced fourteen measures. Senators William Schmedika, R. P. Scott, and J. M. Slosson are each credited with having introduced only one bill; while Senators J. K. Hale, W. G. Haskell, J. A. Nelson, and Frank Shane introduced two each. As has been mentioned Representative Diltz holds first place for introducing most bills in the House. Next highest is Representative W. C. Children who introduced 22; third, Representative A. O. Hauge with 19 measures; and fourth, Representative L. B. Forsling who introduced 18 measures. It is interesting to note that in the last three sessions of the legislature the first place for introducing the largest number of bills in both houses has been held, with one exception, by members from Polk County. In the Thirty-eighth and Thirty-ninth General Assemblies the place was held in the Senate by Addison M. Parker, but in the Fortieth, as has been mentioned, it was held by J. D. Buser from Musca-

¹¹ Some members introduced measures as committee bills which, of course, are not counted in the following summary.

tine County. In the House of Representatives, first place was held by A. O. Hauge in 1919 and also in 1921. In 1923, Mr. Hauge occupied third place; while his colleague from Polk County, Mr. Diltz, held first place. Although every Senator introduced at least one measure, there were sixteen members of the lower house who introduced none and nineteen who introduced only one measure each.

Only two bills were introduced by request in the Senate and only 15 in the House. Of these, four (one Senate measure and three House measures) became law. The largest number of pages contained in any single bill was 45. One bill of this length was introduced in each chamber and another, containing 44 pages, was introduced in the House. Several bills contained between 30 and 40 pages.

As has usually been the case, most of the legislation of the Fortieth General Assembly was passed before the last week of the session.¹² Before April 11th action up to the stage of enrollment had been taken on 182 measures, exclusive of code bills — a little over fifty-four per cent of the total number of ordinary enactments. This percentage is lower than in the case of the Thirty-eighth and Thirty-ninth General Assemblies when sixty-eight and fifty-six per cent of enactments respectively passed before the last week. While 152 measures passed the Fortieth General Assembly during the last week, only 71 measures passed both houses during that time. In 1921 only 45 out of 179 measures enacted during the last week passed both houses during that period. Of the 152 measures that passed one or both houses during the last week in 1923, it appears that 13 were introduced in January, 45 in February, 62 in March, and 32 in April. From this record it appears that, although almost half of the laws enacted passed one or both houses during

¹² The last week of the session has been taken to include April 11th, 12th, 13th, 14th, 16th, and 17th.

the last week, the great majority of measures that became law were under consideration in one or both houses for a much longer period of time. The only action on twenty-three of the bills that passed one or both houses during the last week was to concur in amendments made by the other house. Only 16 measures ran the entire course from introduction through passage after April 10th.¹³

As usual, sifting committees for the purpose of selecting the important measures from the bills remaining in the legislative hopper near the close of the session were appointed by both houses of the Fortieth General Assembly. The committee to act in this capacity for the Senate was announced on April 4th and six days later, on April 10th, the Speaker of the House announced the members who were to act as the House Sifting Committee. Two hundred and eighty-one measures were referred to these committees.¹⁴ One hundred and eighty-seven of these were referred to the Senate Sifting Committee — 80 being Senate files, 103 House files, and 4 House joint resolutions. Of these 80 Senate files, 12 were reported out, 3 of which became law; while of the 107 House measures (103 House bills and 4 House joint resolutions), 65 were reported out and 56 were enacted. The Sifting Committee in the House had 94 measures referred to it — 32 Senate bills and 62 House bills. Of the 62 House bills not a single one was reported out; but

¹³ To bring this out more clearly it might be mentioned that the Senate took action on 39 House files during the last week (32 of these became law) and of these, 19 passed the lower house in March and 20 in April prior to April 11th. Likewise the House acted upon 55 Senate files during the last week (48 of these became law) and of these, 30 passed the Senate in March and 25 in April prior to April 11th. This goes to show that these measures were under consideration for some time before the last week of the session and final vote.

¹⁴ *Senate Journal*, 1923, p. 1286; *House Journal*, 1923, pp. 1607, 1608. This number represents four duplications in that four Senate bills were first considered by the Senate Sifting Committee and later by the Sifting Committee in the House.

12 of the 32 Senate bills were reported out, and 6 of these became law. It may be inferred from these figures and from the experience in previous sessions of the legislature that the measures which have already passed one branch of the legislature are favored by the sifting committees. This fact was brought out more clearly by the action of the Senate Sifting Committee in the Thirty-ninth General Assembly which considered 143 bills and reported out 55, of which 50 were House bills and only 5 Senate files.

The character of the statutes enacted by the Fortieth General Assembly does not differ materially from the legislation enacted at other sessions in recent years, even though an important part of the accomplishment relates to code revision. Only 147 enactments out of a total of 388 measures signed by the Governor may be considered new legislation in the sense that they do not specifically amend or repeal existing statutes. Among these 147 there are 43 legalizing acts and 64 are classed as appropriation acts and special acts.¹⁵ Moreover, many of the remaining 40 enactments, as well as most of the appropriation acts, relate to subjects upon which there was previous legislation so that the absolutely new legislation consists, in the main, of legalizing acts and of appropriation acts for the purpose of settling claims against the State. The number of legalizing acts passed by the Fortieth General Assembly is considerably less than the number passed in 1921 when the Thirty-ninth General Assembly passed 68 such measures as compared with 39 by the legislature which met in 1919 and 102 by the General Assembly in 1917.

Two hundred and forty-one measures passed by the For-

¹⁵ No separate statement of the number of appropriation acts as distinguished from the special acts is given because many classed in the latter category in the session laws are in reality appropriation acts.

tieth General Assembly amend or repeal existing law.¹⁶ This number represents over sixty-two per cent of the total output. Slightly more than sixty per cent of the acts of the Thirty-ninth General Assembly may be classed as amendatory acts in that they specifically repeal or amend other statutes. A more accurate idea of the amount of change made in the law by the Fortieth General Assembly as well as the methods used in making the change may be given by summarizing the number of sections that were altered or repealed.

Of the *Code of 1897* it appears that one section was repealed; 26 sections were amended by adding or inserting words, phrases, or clauses;¹⁷ 2 sections were amended by striking out parts; 15 were amended by the substitution of words, phrases, or clauses; 17 sections were struck out and new sections substituted; and in 3 cases one or more sections were added to existing law — making a total of 64 sections amended.

Of the *Supplement to the Code of Iowa, 1913*, 2 sections were repealed; 16 were amended by adding or inserting words, phrases, or clauses; 4 were amended by striking out parts; 22 were amended by the substitution of words, phrases, or clauses; 5 sections were struck out and new ones substituted; and in 3 cases one or more sections were added to existing law — making a total of 52 sections amended.

Of the *Supplemental Supplement to the Code of Iowa, 1915*, 7 sections were amended by inserting or adding words, phrases, or clauses; 3 were amended by striking out

¹⁶ This number includes the 54 code revision acts, one joint resolution proposing an amendment to the Constitution, and two joint resolutions providing for the publication of acts of the Fortieth General Assembly.

¹⁷ This statement should be interpreted to mean anything less than a whole section.

parts; 13 were amended by the substitution of words, phrases, or clauses; and 8 sections were struck out and new ones inserted — making a total of 31 sections amended.

Of the legislation of the Thirty-seventh General Assembly, 2 sections were amended by adding or inserting words, phrases, or clauses; 2 were amended by striking out parts; 5 were amended by the substitution of words, phrases, or clauses; and 15 sections were struck out and new ones substituted — making a total of 24 sections amended.

Of the legislation of the Thirty-eighth General Assembly, 19 sections were amended by inserting or adding words, phrases, or clauses; 2 were amended by striking out parts; 24 were amended by the substitution of words, phrases, or clauses; 11 sections were struck out and new ones substituted; and in 2 cases one or more sections were added to existing law — making a total of 58 sections amended.

Of the legislation of the Thirty-ninth General Assembly, 15 sections were repealed; 18 were amended by adding or inserting words, phrases, or clauses; 4 were amended by striking out parts; 15 were amended by the substitution of words, phrases, or clauses; 33 sections were struck out and new ones substituted; and in one case one or more sections were added to existing law — making a total of 86 sections amended.

Moreover the Fortieth General Assembly also made some changes in its own enactments. In two instances it added one or more sections to its previous enactments; it amended one section by adding or inserting words, phrases, or clauses; one by striking out parts; and another by substituting a part of a section for a new part — making a total of 5 sections amended.

In addition to the laws which specifically amend the existing statutes, there are three acts which contain sections for

indefinite or blanket repeal of all provisions which conflict with the new law. It is almost impossible to discover the number of sections which were changed or repealed by these acts.

Aside from the indefinite repeals and amendments, 320 sections of law were specifically affected by the legislation of the Fortieth General Assembly.¹⁸ This number is less than half of the number of sections amended by the General Assembly which met in 1921 when 700 sections were altered. It must be remembered, however, that 54 code revision acts were also passed by the Fortieth General Assembly and by these acts no less than 357 sections were amended, revised, and codified.¹⁹ If these are added it is obvious that the entire output of the Fortieth General Assembly affects 677 sections of existing law as compared with 700 sections affected by the laws of the Thirty-ninth General Assembly, 426 by the Thirty-eighth General Assembly, and 364 by the General Assembly which met in 1917.

The favorite method of amendment used by the Fortieth General Assembly was to strike out words, phrases, or clauses and insert others, that is, to substitute parts of sections. This method was used in 95 instances. This is one of the forms of "blind amendment" because, except in rare instances, it gives no idea of the change that has been made in the law. A better form that was used, though not the best possible method, was to repeal a whole section and

¹⁸ This number represents some duplication because in a few instances the same section was amended more than once or by different methods, and thus counted more than once.

¹⁹ According to the "Table of Sections Repealed or Amended" in the *Laws of Iowa*, 1923, these 357 sections are distributed as follows: *Code of 1897*, 110 sections; *Supplement to the Code of Iowa, 1913*, 100 sections; *Supplemental Supplement to the Code of Iowa, 1915*, 46 sections; *Acts of the Thirty-seventh General Assembly*, 20 sections; *Acts of the Thirty-eighth General Assembly*, 38 sections; and *Acts of the Thirty-ninth General Assembly*, 43 sections.

enact a new one, which was done in 89 instances.²⁰ There were also 89 instances of sections which were amended by adding or inserting parts of sections; in 11 instances one or more sections were added to existing law; and 18 sections were amended by striking out parts. Finally, it is significant to note that only 18 sections of law were completely stricken from the statutes by the Fortieth General Assembly.

CODIFICATION OF THE LAWS

One of the most important problems confronting the Fortieth General Assembly was the codification of the laws — an undertaking which has been in progress since 1919. Members of the General Assembly hoped that codification could be left to a special session, but Governor W. L. Harding failed to call an extra session in 1920 and Governor N. E. Kendall refrained from taking the step in either 1921 or 1922. In his biennial message Governor Kendall stated that study of the subject had confirmed his conviction that code revision could be effected at the regular session without dislocating other necessary business. He pointed out that much of the normal work of the legislature in amending and repealing existing statute law was actually code revision, and he felt that the magnitude of the task had been “vastly exaggerated”.

After a hot debate in both houses it was agreed to undertake the work of code revision with the understanding that if the work could not be completed during the regular session without detriment to general legislation the Governor should call a special session for the purpose of completing

²⁰ The best method of amendment is to make a statement of the words to be omitted or inserted and the place of omission or insertion, and then to reenact the section with the changes made.— See *Iowa Applied History*, Vol. III, especially pp. 332-342.

the codification. The 262 code revision bills were introduced in both houses, and the Senate adopted a resolution to give them precedence until February 1st. Long before the end of the session it was apparent that code revision would not be completed; and on April 16th Governor Kendall called a special session of the legislature, which convened on April 18th and, after transacting a little emergency business, adjourned until December 4, 1923. Fifty-four code bills were passed at the regular session.²¹

The first of the code revision acts specifies the form of the code bills and designates the proper citation of previous codes, code supplements, and session laws. The *Compiled Code of 1919* and the *Supplement to the Compiled Code, 1921*, were adopted as official for the purposes of citation in code revision. Wherever practicable, sections in the new code are not to exceed sixteen lines in length.²²

For the purpose of keeping the work of codification up to date the Supreme Court Reporter was directed to prepare a supplement to the *Compiled Code of 1919* containing the legislation of the Thirty-ninth and Fortieth General Assemblies arranged according to the titles, chapters, and sections of the *Compiled Code of 1919*. As in 1921 the Committee on Retrenchment and Reform was authorized to provide for and supervise the preparation of amendments to the Code Commission bills to harmonize them with the legislation of the Fortieth General Assembly. The former Code Commissioners might be called upon to aid in this work, and a sum sufficient to cover all expenses was appropriated.²³

²¹ *House Journal*, 1923, pp. 31, 202-215, 218-258; *Senate Journal*, 1923, pp. 183, 186, 187, 194-208, 216-256; *The Des Moines Register*, April 19, 1923.

²² *Acts of the Fortieth General Assembly*, Ch. 223.

²³ *Acts of the Fortieth General Assembly*, Ch. 330.

SUFFRAGE AND ELECTIONS

Any political reform as revolutionary as equal suffrage causes considerable disturbance of related legislation. Some adjustments were made in 1921 and the Fortieth General Assembly effected some additional changes in 1923. The so-called fifty-fifty bill seems to have interested women voters more than any other measure affecting their political party activities. According to this act the size of each county central committee was doubled and, instead of one member being elected from each precinct as heretofore, the law now stipulates that one man and one woman shall be elected from each precinct. The State central committee was also doubled in the same manner. This arrangement is presumed to give women an equal share in the control of the party organization and activities.²⁴

Before the adoption of the Nineteenth Amendment to the Federal Constitution women in Iowa were entitled to vote on certain financial questions, and separate ballots and ballot boxes were furnished for that purpose. Since the franchise is now the same for men and women there is no reason for separate ballots and ballot boxes, and so that statute was repealed.²⁵

The alphabetical lists of registered voters may now be bound in three separate parts if desired.²⁶

Under previous legislation, voters who changed their residence from one precinct to another in cities or towns within ten days of a municipal election have been thereby disqualified from participating. So far as the selection of municipal officers at large is concerned residence in any particular

²⁴ *Acts of the Fortieth General Assembly*, Ch. 7.

²⁵ *Acts of the Fortieth General Assembly*, Ch. 9.

²⁶ *Acts of the Fortieth General Assembly*, Ch. 8.

part of the city or town has no merit as a proper qualification. To prevent change of residence from entirely disqualifying a voter, an amendment was adopted to permit electors who move to another precinct within ten days before election to vote in the precinct where they are registered if ward councilmen are not to be chosen at the election. This change affects all elections in towns, commission governed cities, and in cities not divided into wards, but in other cities the amendment applies only to special elections.²⁷

That the county auditor might have more time in which to prepare election ballots, the Thirty-ninth General Assembly fixed the time for candidates to file withdrawal requests with the auditor at twenty days before election. This allowed ten days before the ballots were to be ready for absent voters. The Fortieth General Assembly, however, changed the law so that absent voters may apply for a ballot twenty, instead of fifteen, days before election and the auditor may mail the ballots fifteen, instead of ten, days before election. This amendment extends the time for handling the absent voters, but the time for preparing the ballots is reduced to five days as it was before 1921. The Thirty-ninth General Assembly, in prescribing the procedure for recording absent voters' ballots upon voting machines, provided that it might be done any time while the polls were open on election day. It was found, however, that registering these ballots during polling hours often caused delay in the regular voting, and so the law was changed to require the registration of the absent voters' ballots just after the polls close.²⁸

To make the use of voting machines less confusing a

²⁷ *Acts of the Fortieth General Assembly*, Ch. 115.

²⁸ *Acts of the Fortieth General Assembly*, Chs. 10, 11.

Senate bill proposed that the levers on new machines be placed at least an inch nearer the names of the candidates to which they refer than to those of the other political parties. This bill passed the Senate but was indefinitely postponed by the House.²⁹

Three bills relating to election boards and their work failed to be enacted. Senator J. A. McIntosh attempted to provide for double election boards in all precincts, not merely in those polling three hundred votes or more, but the Senate voted negatively. Two measures introduced by Senator George S. Banta — one to require the county auditor to conduct a school of instruction for election clerks and judges and the other to repeal the penalty of five years disfranchisement for disclosing election returns before the closing of the polls — were passed by the Senate but were lost in the House.³⁰

The usual attempts were made to change the system of primary elections, without success. Senator C. J. Fulton sponsored a bill to give political parties more control and responsibility in the nomination of candidates for public office. According to his plan party members would elect delegates to the county convention at precinct elections, the county convention would select delegates to district and State conventions and nominate one or two candidates for each county office, and the district and State conventions would nominate one or two candidates for district and State offices. Independent candidates could get their names on the ballot by petition. The voters, irrespective of party affiliation, would then choose the candidates to run in the general election at a State-wide primary on the last Mon-

²⁹ Senate File No. 599; *Senate Journal*, 1923, p. 1064; *House Journal*, 1923, p. 1648.

³⁰ Senate File Nos. 264, 501, 502; *Senate Journal*, 1923, pp. 499, 897-899; *House Journal*, 1923, p. 1648.

day in August. Only the two candidates not of the same political party, receiving the highest number of votes at the primary, would be considered in the general election, thus practically eliminating minor parties. This bill failed to pass the Senate by a vote of ten to twenty-one.³¹

In the House J. C. McClune voiced the opinion that voters should not be allowed to change their party affiliation within two months of the primary election. His bill to that effect was reported for indefinite postponement by the majority of the Committee on Elections, but the House adopted the minority report recommending passage. The measure was eventually defeated, however, by a vote of forty-two to fifty, a motion to reconsider being lost. Representative Fred Himebauch proposed a preferential scheme of voting in the primary, but later withdrew the bill.³²

Senator J. A. McIntosh introduced a bill to change the date of the primary from the first Monday in June to the first Monday in August. The committee recommended its passage. Senator J. L. Brookhart then offered an amendment providing for a presidential preference primary and fixing the date of the primary in presidential years on the last Monday in April and in other years on the first Monday in August. After a spirited debate this amendment was defeated by a close vote and a few minutes later the bill was lost by a vote of twenty-two to twenty-four. An attempt to repeal the requirement that a candidate, to be nominated by the primary election, must receive thirty-five per cent of the party vote cast for the year also failed.³³

³¹ Senate File No. 410; *Senate Journal*, 1923, pp. 1409-1411.

³² House File Nos. 265, 500; *House Journal*, 1923, pp. 461, 462, 463, 781, 782, 1543

³³ Senate File Nos. 298, 299; *Senate Journal*, 1923, pp. 528, 529, 554, 696, 722-725, 1151, 1152.

THE STATE ADMINISTRATION

Governor Kendall recommended to the Thirty-ninth General Assembly the reorganization of a number of the State administrative offices, boards, and commissions. While none of his suggestions were adopted in 1921, he reiterated the same program in his message to the Fortieth General Assembly. Specifically he proposed that the Board of Agriculture should be enlarged to include the Iowa State Poultry Association, the Horticultural Society, the Weather and Crop Service, the State Apiarist, the Commission of Animal Health, the State Entomologist, the State Dairy Association, the Beef Cattle Breeders' Association, the State Veterinarian, and the Corn and Small Grain Producers' Association; that the State Board of Health should be enlarged to include the State Food and Dairy Commission, the Commission of Pharmacy, the State Oil Inspector, the State Board of Dental Examiners, the State Mine Inspectors, the State Board of Optometry Examiners, the State Fire Marshal, and the State Boat Inspectors; that the State Library should be enlarged to include the State Historical Department, the State Library, the Library Commission, the Bureau of Public Archives, the Academy of Sciences, and the State Conservation Commission; and that the Board of Parole should be merged with the Board of Control which should be enlarged to four members one of whom should be a woman. In addition to administrative reorganization the Governor advocated the establishment of an effective budget and a thorough audit of all State finances.³⁴

Several of these recommendations were incorporated in bills, but the only important change accomplished was the

³⁴ *House Journal*, 1923, pp. 26-30.

reorganization of the Department of Agriculture.³⁵ The new Department of Agriculture includes all of the State officials enumerated by the Governor except the State Apiarist and the State Entomologist who retain their connection with the State College of Agriculture and Mechanic Arts. Moreover, the new Department includes the offices of the Food and Dairy Commissioner and the Oil Inspector which the Governor had suggested should be in the reorganized Department of Health, and the office of the Hotel Inspector which he omitted in his recommendations. The various agricultural associations, which have hitherto been quasi-official independent organizations whose only connection with the Department of Agriculture was their participation in the election of members of the Board of Agriculture at the annual agricultural convention, were made an integral part of the new Department on the same basis as the purely public officers. The offices of the State Dairy and Food Commissioner, the State Veterinarian, the Commission of Animal Health, the Inspector of Petroleum Products (including the Chief Oil Inspector), and the Hotel Inspector were specifically abolished and their functions transferred to the Department of Agriculture. The original bill proposed to abolish also the Geological Survey, the Board of Conservation, and the Forestry Commission, but they were preserved by a Senate amendment. The old State Board of Agriculture was not abolished, but its only functions now relate to the control of the State Fair Grounds and the conduct of the State Fair, over which the Department of Agriculture has no jurisdiction. Representative A. O. Hauge endeavored without success to keep the Oil Inspector and Hotel Inspector out of the Department of Agriculture. A faction in both houses opposed the

³⁵ *Acts of the Fortieth General Assembly*, Ch. 46.

inclusion of any State inspectors and advocated an alternative plan of establishing an inspection department which would coördinate the entire State inspection service under the Attorney General, but this suggestion was also defeated.³⁶

At the head of the reorganized Department of Agriculture is the Secretary of Agriculture who is to be elected by popular vote and whose salary is fixed at \$4000 a year. The Governor has appointed R. W. Cassady, a well-known stock raiser of Whiting, to serve until January 2, 1925.³⁷ The duties of the Secretary are to promote the interests of agriculture in all of its phases, to devise methods of increasing production and facilitating distribution, to compile and publish official agricultural statistics, to coöperate with the agricultural college, and to perform the functions formerly performed by the State Dairy and Food Commissioner, the State Veterinarian, the Commission of Animal Health, the Inspector of Petroleum Products, the Hotel Inspector, and the State Board of Agriculture. No attempt was made to specifically repeal or coördinate the many pages of existing statute law relating to the consolidated offices, boards, and commissions. That task was apparently left for code revision.

An act which was approved ten days after the one creating the Department of Agriculture appropriated \$65,000 to "the Iowa department of agriculture" for improvements on the State Fair Grounds, over which the new Department of Agriculture has no control. These funds are to be drawn from the State Treasury, however, "upon the order of the state board of agriculture" which still exists with the sole

³⁶ Senate File No. 594; *Senate Journal*, 1923, pp. 783, 789, 947, 998; *House Journal*, 1923, pp. 1252, 1271, 1272; *The Des Moines Register*, March 24, 30, 1923.

³⁷ *The Des Moines Register*, April 13, 1923.

function, according to the reorganization law, of maintaining the State Fair Grounds and managing the Fair.³⁸

One of the significant results of the reorganization was to place a representative of the agricultural interests upon the Executive Council, for by another act the Secretary of Agriculture was made a member of that body. It was with this in view that the office was made elective.³⁹

An effort was made in 1921 to place the rooms in the State House occupied by the Department of Agriculture under the control of the Executive Council, but only one of the two sections of the statute assigning the space to the Department was repealed so the quarters were retained by the Department. The Fortieth General Assembly repealed the other provision of the law, however, and the new Department of Agriculture, like other State officials with offices in the Capitol, will depend upon the Executive Council for an assignment of office space.⁴⁰

The Governor's recommendations and the action of the legislature relating to the establishment of an improved budget system are discussed below in connection with the topic of taxation and finance.

Senator J. D. Buser sponsored a bill requiring the State Auditor to examine the accounts of the Board of Agriculture, the Board of Education, the Board of Control, and the Highway Commission. The measure passed the Senate, but after having been substituted for a similar House bill it failed by three votes to receive a majority in the House.⁴¹

³⁸ *Acts of the Fortieth General Assembly*, Chs. 46, 287.

³⁹ *Senate Journal*, 1923, pp. 1003, 1004; *Acts of the Fortieth General Assembly*, Ch. 3.

⁴⁰ *Acts of the Thirty-ninth General Assembly*, Ch. 134; *Acts of the Fortieth General Assembly*, Ch. 45.

⁴¹ Senate File No. 375; *Senate Journal*, 1923, pp. 603, 676, 1143, 1144; *House Journal*, 1923, pp. 1662, 1663.

The Thirty-ninth General Assembly passed a law requiring all public officers, boards, commissions, departments, and institutions of the State, counties, townships, municipalities, school corporations, and public libraries to file an annual inventory of all public property under their control. This statute was unpopular among those affected by its provisions. It was criticized because the inventory consumed much time, was inevitably inaccurate, was out of date as soon as it was filed, and served no useful purpose afterward. The only visible benefits were said to be derived by the book-makers who supplied the required blank forms. Many public officials found the law quite impracticable, and so it was repealed by the Fortieth General Assembly.⁴²

A bill to abolish the Board of Parole and impose its duties on the Board of Control was indefinitely postponed. Another bill providing that the Board of Parole be composed of one member of the Board of Control, the Warden of the Penitentiary or Reformatory in which the person proposed to be paroled is an inmate, and a citizen of the State to be appointed by the Governor was withdrawn by the author.⁴³

Several significant changes in State educational administrative agencies were proposed though none gained enactment. Senator B. J. Horchem wanted to consolidate the Board of Educational Examiners, the Board for Vocational Education, and the Department of Public Instruction with the Board of Education, but his bill was lost in the Sifting Committee. A bill to reorganize the Board of Educational Examiners passed the House but was indefinitely postponed in the Senate. Companion bills to establish a department

⁴² *Acts of the Fortieth General Assembly*, Ch. 13; *The Des Moines Register*, January 20, 1923.

⁴³ Senate File No. 693; House File No. 648; *Senate Journal*, 1923, p. 1271; *House Journal*, 1923, p. 885.

of physical education were both withdrawn; an attempt to reduce the term of the Superintendent of Public Instruction from four to two years was indefinitely postponed; and a bill to make the State Board of Education elective and reduce the number of members from nine to seven met the same fate.⁴⁴

Formerly the term of the Commissioner of Insurance, whose appointment must be confirmed by the Senate, expired on January 31st of every second odd numbered year. Chapter 169 of the 1923 legislation extends the tenure of the present Commissioner to June 30, 1927, and makes June 30th the date when the term of the Commissioner of Insurance shall expire thereafter. This change was made because it was found that a new Commissioner who took office during the session of the legislature was not able to furnish the advice and counsel which the General Assembly needed in respect to proposed insurance legislation.⁴⁵

The annual appropriation for the State Entomologist was increased from \$4500 to \$6500 and the maximum fee that may be charged for the inspection of a nursery or fruit farm was raised from \$15 to \$40.⁴⁶

The Missouri River has always been notorious for its meandering and there are tracts of land which are first on one side of the river and then on the other. The people who live there are sometimes uncertain whether they are inhabitants of Iowa or Nebraska, and so are the tax assessors. To settle the question the Fortieth General Assembly created a Boundary Commission to draft a compact definitely locating the boundary between the two States. This com-

⁴⁴ Senate File Nos. 426, 445, 541; House File Nos. 463, 550, 555; *Senate Journal*, 1923, pp. 786, 1060; *House Journal*, 1923, pp. 982, 1051.

⁴⁵ *Acts of the Fortieth General Assembly*, Ch. 169.

⁴⁶ *Acts of the Fortieth General Assembly*, Ch. 65.

pact is to be submitted to the Governors and General Assemblies of Iowa and Nebraska for approval.⁴⁷

For the maintenance of the office of the State Fire Marshal, the annual appropriation, which in 1921 was reduced from \$13,500 to \$6500 because that sum was to be used only for the payment of expenses and not for salaries, was increased to \$7500 by the Fortieth General Assembly. A technical amendment in regard to the reporting of fires makes it clear that township clerks may collect mileage from as well as to the place of the fire.⁴⁸

The salary of each member of the Board of Dental Examiners, including the secretary and treasurer, has been fixed at \$7.50 a day, while the sum of \$600 is provided for the treasurer, presumably in addition to his per diem. The statute has been thus construed, but to remove any possible ambiguity Chapter 40 of the *Acts of the Fortieth General Assembly* specifically provides that the \$600 shall be in addition to the per diem.⁴⁹

The Secretary of the Executive Council was made ex officio the secretary of the State Board of Engineering Examiners and may designate one of his assistants to do the work. Formerly one of the members of the Board served as secretary. The change was made because of criticism of the conduct of the office, caused mainly by the fact that the secretary had no permanent quarters in which to maintain his office and was compelled to find accommodations in his own residence. The opposition went so far as to propose the abolition of the Board of Engineering Examiners, and such a bill passed the House. In order to preserve the

⁴⁷ *Acts of the Fortieth General Assembly*, Ch. 313.

⁴⁸ *Acts of the Fortieth General Assembly*, Chs. 26, 27.

⁴⁹ Executive Council's *Report of Expenses*, 1920-1922, p. 50; *Acts of the Fortieth General Assembly*, Ch. 40.

Board and at the same time to allay criticism and provide permanent quarters for the records of the organization, the present arrangement was effected.⁵⁰

An act to prevent nepotism in public offices was placed on the statute books by the Fortieth General Assembly. It is now unlawful for any elected or appointed officer to employ as deputy or clerk in his office any relative of closer consanguinity than the third degree, unless the appointment is approved by the officials whose duty it is to approve of the bond of the principal. This law does not vacate any position nor does it apply to persons whose compensation is less than \$600 a year.⁵¹

THE STATE LEGISLATURE

The only public office for which women are constitutionally ineligible in Iowa is that of membership in the General Assembly. With equal suffrage has come a demand that women be allowed to serve as State Senators and Representatives. The Fortieth General Assembly, without a dissenting vote in either house, took the first step toward removing the restriction in the Constitution that only male citizens are qualified for the legislative branch of the State government. Before becoming effective as a part of the Constitution, the amendment proposed in the joint resolution of the Fortieth General Assembly must be passed by the Forty-first General Assembly and approved by a majority of the people voting on the question at an election thereafter.⁵²

⁵⁰ House File No. 58; *House Journal*, 1923, pp. 686, 724, 725; *Acts of the Fortieth General Assembly*, Ch. 35.

⁵¹ *Acts of the Fortieth General Assembly*, Ch. 15.

⁵² *Senate Journal*, 1923, p. 504; *House Journal*, 1923, p. 284; *Acts of the Fortieth General Assembly*, Ch. 387.

Another constitutional amendment relating to the legislative branch of the State government was proposed by Senator J. O. Shaff of Camanche. He wanted to make the regular session of the General Assembly quadrennial and increase the term of Representatives to four years and that of Senators to eight. The report of the Committee on Judiciary, recommending indefinite postponement of the resolution, was adopted without debate.⁵³

Each house is the judge of the qualification, election, and return of its own members. In case a seat is contested the law specifies the method of conducting the contest and securing evidence, but the General Assembly may reach a decision in any manner it pleases. Though many contested elections to the General Assembly have occurred in the past there have been relatively few in recent years. In the Fortieth General Assembly R. L. Rumley of Decatur County contested the election of M. F. Springer to the House as Representative by a majority of nine votes. A recount was made which resulted in a tie, each candidate having received 2730 votes — the first tie for a seat in the legislature in the history of Iowa. In such a contingency the law provides that the decision shall be made by lot. In this instance ten slips of paper of uniform size, one of them bearing the name of the contestant and another the name of the incumbent, were placed in a box. The box was then held above the Speaker's head while he drew out the slips, one by one. Dead silence prevailed in the chamber as the drawing began. The first three slips were blank. Then Speaker Anderson accidentally drew two slips. They were returned to the box and reshuffled. Two more blanks were drawn and then the Speaker drew out the sixth slip and read the name of Rumley; and so Mr. Rumley was seated on January 30th.

⁵³ *Senate Journal*, 1923, p. 1083; *The Des Moines Register*, March 21, 1923.

The contest, including \$500 salary for Mr. Springer, cost the State \$1254.85.⁵⁴

The Fortieth General Assembly provided for the usual number of extra janitors and other assistants. To the list employed by the Thirty-ninth General Assembly were added one extra elevator tender, an assistant doorkeeper, and a page. The compensation of the officers, employees, and the extra help was fixed at the same wages as that provided by the previous Assembly, except that the salary of the assistant sergeant-at-arms was made \$5 a day on account of additional duties assigned to him, the salary of the elevator tenders was raised from \$80 a month to \$100, and the wages of the assistant to the State House postmaster were changed from \$75 a month to \$3 a day.⁵⁵

One of the chief duties of the Committee on Retrenchment and Reform is to examine the reports and activities of the administrative officers and report its findings to the General Assembly. There seems to have been some dissatisfaction with this work of the Committee as expressed in a bill introduced by Senator Fulton to transfer the function to the Executive Council. The measure encountered stormy weather. On the first vote in the Senate the bill failed to pass, but on the following day the vote was reconsidered and the bill received a bare constitutional majority. Later it was recalled from the House and a publication clause added to give the act immediate effect; but the House killed the whole proposition by indefinite postponement.⁵⁶

Two bills calculated to regulate lobbying were introduced — one in each house. One of these bills was indefinitely

⁵⁴ *House Journal*, 1923, pp. 303-305, 340-345; *Acts of the Fortieth General Assembly*, Ch. 298; *The Des Moines Register*, January 31, 1923.

⁵⁵ *Acts of the Fortieth General Assembly*, Chs. 385, 386.

⁵⁶ Senate File No. 388; *Senate Journal*, 1923, pp. 764, 779, 826, 880; *House Journal*, 1923, pp. 927, 1197.

postponed and the other was lost in the sifting committee. A more radical proposal was made by Senator A. J. Shinn who offered a resolution that "no professor, teacher or instructor from any of the state educational institutions, nor any employee thereof; that no member of the state highway commission or any other board or commission or any employee or any public official thereof shall be permitted while in the employment of the state and receiving compensation therefrom, to appear on the floor of the Senate, unless requested by the Senate or some committee thereof so to do." This resolution never came before the Senate for consideration.⁵⁷

THE STATE JUDICIARY

The erection of a judiciary building to be known as "The Temple of Justice", after having been under consideration by several General Assemblies, was authorized in 1919, and as much as a million dollars was made available for the purpose. The Thirty-ninth General Assembly, however, ordered the building deferred until 1923 and transferred the previous appropriation to the general funds of the State with the provision that half of the amount should again be available for the Temple of Justice on July 1, 1923, and the remainder on July 1, 1924.⁵⁸ The building committee was instructed to defer all further activity until July 1, 1923. The Fortieth General Assembly found that the funds in the Treasury were still low and building costs high; and so the building committee was ordered to postpone action until the General Assembly should appropriate sufficient funds to build and complete the Temple of Justice. All records,

⁵⁷ Senate File No. 623; House File No. 296; *Senate Journal*, 1923, p. 460; *House Journal*, 1923, p. 360.

⁵⁸ *Acts of the Thirty-eighth General Assembly*, Ch. 349; *Acts of the Thirty-ninth General Assembly*, Ch. 336.

plans, and specifications are to be deposited with the Executive Council for future reference.⁵⁹

One additional judgeship was created in each of three judicial districts—the fourth, twelfth, and thirteenth. These acts were all deemed of immediate importance but after the bill providing for three judges in the thirteenth district had been sent to the Governor the absence of a publication clause was discovered and a joint resolution was passed directing the Secretary of State to publish the act at once so as to give it immediate effect. This will make sixty-seven judges for the twenty-one judicial districts in Iowa. The suggestion that the State should be redistricted for judicial purposes was not adopted.⁶⁰

The salary schedule of superior court judges was revised so as to raise the compensation of the judge of the superior court in Council Bluffs (all cities with a population between 25,000 and 45,000) from \$2000 to \$3000 a year. In the cities of less than 25,000 inhabitants where there is a superior court (Grinnell, Keokuk, Oelwein, Perry, and Shenandoah) the salary remains \$2000 as before. The Thirty-ninth General Assembly fixed the salary of the judge of the superior court in Cedar Rapids (over 45,000 population) at \$3750.⁶¹

Although the municipal court was established in 1915, the statute providing for the distribution of the Supreme Court Reports was not amended to include the judges of the municipal court on the list of the public officials entitled to receive copies. This oversight was remedied by the Fortieth General Assembly.⁶²

⁵⁹ *Acts of the Fortieth General Assembly*, Ch. 312.

⁶⁰ *Acts of the Fortieth General Assembly*, Chs. 201, 202, 203, 390; *The Des Moines Register*, January 30, 1923.

⁶¹ *Acts of the Thirty-ninth General Assembly*, Ch. 128; *Acts of the Fortieth General Assembly*, Ch. 200.

⁶² *Acts of the Fortieth General Assembly*, Ch. 2.

Ten or more bills relating to juries were introduced but only three became laws, though four others passed one house.⁶³ The exemption from jury service was extended to include licensed embalmers, registered nurses, chiropractors, and osteopaths. It was proposed to exempt all women from jury service; but one bill to that effect was indefinitely postponed, another was withdrawn, and a third, having passed the House, was lost in the Senate Sifting Committee. The jury fee to be paid by the party demanding a jury trial in civil cases was increased in 1921 from \$6 to \$10. Two bills were introduced in the Fortieth General Assembly to increase the jury fee — one to \$20 and the other to \$25. The former passed the House but failed in the Senate, while the latter was indefinitely postponed by the Senate where it originated and thus did not come to a vote in the House.⁶⁴

The lists of petit jurors and talesmen are made up of a certain percentage of the qualified voters. Since the electorate was doubled the stipulated twenty-five per cent of the electors to serve as petit jurors and thirty per cent to serve as talesmen have produced longer lists than necessary. Consequently the percentages were reduced by half so as to result in approximately the same number of names being placed on the lists of jurors and talesmen as formerly.⁶⁵

In order to maintain a full grand jury panel the Fortieth General Assembly authorized district judges to order additional names to be drawn from the grand jury list, and such

⁶³ See the *Index and History of Senate and House Bills*, 1923.

⁶⁴ Senate File No. 377; House File Nos. 339, 404, 515, 598; *Senate Journal*, 1923, p. 383; *House Journal*, 1923, pp. 893, 1093, 1149, 1380; *Acts of the Fortieth General Assembly*, Ch. 204; *Acts of the Thirty-ninth General Assembly*, Ch. 275.

⁶⁵ *Acts of the Fortieth General Assembly*, Ch. 205.

new grand jurors may be required to serve as regular grand jurors for the remainder of the year.⁶⁶

COMPENSATION OF STATE OFFICIALS

Following the practice established by the two preceding General Assemblies, the legislature in 1923 fixed the salaries and compensation of most of the State officials in a general salary act. The bill was framed by the Committee on Retrenchment and Reform which has authority to provide for extra assistants and to increase or reduce salaries at any time. There was no general increase in the compensation of State officials, such as was made in response to post-war prices in 1919, nor were the specific instances of increased salary as numerous in 1923 as in 1921.

On the other hand there was no general reduction of salaries, but the number of specific instances of this was larger than in 1921. The changes were doubtless based chiefly upon the qualifications of the incumbents of particular offices. In general the officials who have served efficiently in the same capacity for several years received the increases, while the salary attached to a newly filled office was likely to be decreased. The only head of a department whose salary was changed was the Curator of the Historical, Memorial, and Art Department whose salary was fixed at \$3600 — an increase of \$600.⁶⁷

The most notable change in the salary act was due to the reorganization of the Department of Agriculture. In place of the one clerk and janitor listed in 1921, the statute now provides for a Secretary of Agriculture at a salary of \$4000 a year and establishes a salary budget of \$150,000 for other employees who are to be selected and whose salaries are to

⁶⁶ *Acts of the Fortieth General Assembly*, Ch. 220.

⁶⁷ *Acts of the Fortieth General Assembly*, Ch. 334.

be fixed by the Secretary with the approval of the Committee on Retrenchment and Reform. This budget will include the officials formerly constituting the Food and Dairy Department, the office of State Veterinarian, the office of Oil Inspector, and the Iowa Weather and Crop Service Bureau.

A similar arrangement was made in the Department of Justice to which the enforcement of the motor vehicle and cigarette laws was transferred. The Attorney General was given the power to select the necessary special agents and inspectors and to fix their salaries with the approval of the Committee on Retrenchment and Reform. For this purpose a salary budget of \$75,000 was provided. Another change shifted the members of the Board of Parole from a per diem compensation to an annual salary of \$3000.

A number of additional officials were included in the salary act, among the more important of which were a Board of Conservation Clerk at \$1800 a year (who supplants the former Assistant Secretary of the Board); a Bonus Clerk at \$1400; a Cigarette Revenue Department in the office of State Treasurer including a Superintendent, four clerks, and two stenographers with a maximum salary budget of \$10,500; an Assistant Accountant in the Auditor's office at \$2000; an Assistant Librarian in the medical department of the State Library at \$1400; and a clerk in the Sioux City office of the Labor Commissioner at \$1800. The only important positions that seem to have been abandoned are the Land Office Clerk in the office of the Secretary of State and an Inspector in the office of the Superintendent of Public Instruction.

THE STATE INSTITUTIONS

Institutions under the Board of Control.— The method of paying the officers and employees at institutions under the

Board of Control was altered. Whereas the State Treasurer formerly paid these employees by check upon receipt of a warrant from the State Auditor for the gross amount, he is now relieved of this work and the State Auditor issues warrants directly to the claimants through the Board of Control or pays the employees of each institution by a single warrant sent to the superintendent or other officer. The Auditor is also authorized to combine the balances of all specific appropriations into a special account for each institution and to keep separate accounts of the support funds of each institution.⁶⁸

The sum of \$1,388,900 was appropriated for buildings, equipment, repairs and other expenses at the institutions under the Board of Control — \$35,200 more than in 1921.⁶⁹

For the first time in many years the legislature made some reductions in the monthly support funds granted to certain State institutions.⁷⁰

At the four hospitals for the insane the monthly support was decreased from \$24 to \$20 for each patient.

The monthly support for each inmate of the Soldiers' Orphans' Home was reduced from \$25 to \$24. The population of the Home has increased, however, so that the minimum monthly support allowed to the institution was increased from \$10,000 to \$12,000 if the average monthly attendance falls below five hundred children. Formerly the minimum allowance was based on an average monthly attendance of four hundred.

The minimum monthly support of the Training School for Girls was changed from \$5520 in any month when there might be less than two hundred and thirty inmates to \$7500

⁶⁸ *Acts of the Fortieth General Assembly*, Ch. 53.

⁶⁹ *Acts of the Fortieth General Assembly*, Ch. 309.

⁷⁰ *Acts of the Fortieth General Assembly*, Ch. 55.

monthly if the number of inmates should fall below three hundred and twelve. There was no change in the monthly support of \$24 per inmate.

The support for each child in the newly established Juvenile Home at Toledo was decreased from \$25 to \$24 a month, while the total minimum monthly support was also reduced from \$9000 to \$7000 if the average monthly population falls below two hundred and ninety-two. The amount charged for the support of children maintained by counties was changed in accordance with the general minimum support allowance.

In 1921 the Board of Control was authorized to commit feeble-minded persons to the Hospital and Colony for Epileptics at Woodward. Since a large proportion of the inmates are feeble-minded and the practice of keeping both epileptics and feeble-minded persons at this institution seems to be established, the name was changed to "Hospital for Epileptics and School for Feeble Minded".⁷¹

The general rule in Iowa has been that a girl reaches her majority at the age of eighteen. In connection with the law regulating the commitment of delinquent children to custodial institutions the courts have not been able to make commitments extending beyond the minority of the boy or girl — that is, eighteen years for girls and twenty-one for boys. The Fortieth General Assembly made the age limit twenty-one years for both. This act was rendered unnecessary by another measure, approved twelve days later, which specifically extends the minority of women to the age of twenty-one, except that women may still contract marriage as adults after the age of eighteen and attain majority by marriage.⁷²

⁷¹ *Acts of the Fortieth General Assembly*, Ch. 54.

⁷² *Acts of the Fortieth General Assembly*, Chs. 56, 198.

Hereafter all married women who are convicted and sentenced to imprisonment in a State penal institution must, it seems, be sentenced to the Reformatory for Women, even though they are under sixteen years of age and irrespective of the term of their imprisonment. No distinction had hitherto been made between married and unmarried female convicts; and of those between the ages of sixteen and twelve only girls sentenced to life imprisonment might, at the discretion of the court, be committed to the Reformatory. The amendment made by the Fortieth General Assembly leaves the law somewhat ambiguous, for it first states that all married women *shall* be sent to the Reformatory and then adds that *any* girl between twelve and sixteen punishable by life imprisonment *may* be sent to either the Reformatory or the Training School for Girls.⁷³

Bills were introduced in both houses to forbid the parole of any except first term convicts from the Penitentiary or Men's Reformatory and those who have not previously violated a parole; and such a measure did actually pass the House.⁷⁴

An eight hour day was established for the receiving clerk, record clerk, captains, turnkeys, and guards at the Reformatory for Men and at the Penitentiary.⁷⁵

The Flynn Farm located near Clive and operated in connection with the Penitentiary as a custodial farm proved to be so distant that the products had to be sold instead of being used at the institution. Consequently the Executive Council was ordered in 1921 to sell the land. This, however, could not be accomplished; accordingly the Fortieth General Assembly authorized the Executive Council to trade

⁷³ *Acts of the Fortieth General Assembly*, Ch. 58.

⁷⁴ Senate File No. 291; House File No. 594; *House Journal*, 1923, p. 938.

⁷⁵ *Acts of the Fortieth General Assembly*, Ch. 59.

the farm for a tract now being leased near the Hospital for the Insane at Mount Pleasant.⁷⁶

Educational Institutions.— During almost its whole existence Iowa has been committed to the principle of State supported institutions of higher education. In recent years the problem of maintaining the State University, the College of Agriculture, and the Teachers College in a manner commensurate with the demand for the training they afford has been one of the most difficult questions confronting the legislature.

The General Assembly has confined its attention chiefly to appropriations, leaving the details of administration and curricula to the State Board of Education. While a few bills which might be regarded as exceptions to this rule were introduced in the Fortieth General Assembly, only one (in a modified form) gained enactment. Representative W. C. Criswell introduced a bill requiring that all building, repair, and improvement work in excess of \$2500 at the State educational institutions be done under contract. Such work has previously been done by contract or day labor, whichever seemed advisable. The bill was opposed by members of the Board of Education, and the compromise which became a law provides that all construction, repair, and improvement of buildings or grounds costing over \$10,000 must be submitted for bids, but the Board may reject all bids and proceed by any method it may choose.⁷⁷

A joint resolution passed the House recommending that the Board of Education materially increase the tuition at

⁷⁶ *Acts of the Thirty-ninth General Assembly*, Ch. 325; *Acts of the Fortieth General Assembly*, Ch. 315; *Biennial Report of the Board of Control*, 1918-1920, p. 17.

⁷⁷ House File No. 299; *Acts of the Fortieth General Assembly*, Ch. 62; *The Des Moines Register*, January 31, February 21, 1923.

the three principal educational institutions so that the students would bear a greater share of the cost of maintenance. The measure was lost in the Senate Sifting Committee, but since the Assembly adjourned the Board of Education has followed the suggestion contained in the resolution. Another joint resolution, which passed the House but failed in the Senate by six votes, authorized the appointment of a joint legislative committee to investigate the advisability of coördinating the work of the three institutions with a view to eliminating duplication and reducing the cost of operation as low as would be compatible with efficiency and proper support.⁷⁸

While eloquently voicing the needs of the three major State educational institutions, Governor Kendall in his inaugural address made a special plea, with the sanction of the Board of Education, for the establishment during the next six years of three normal schools located in the northwest, southwest, and southeast parts of the State. These schools were to be devoted exclusively to the preparation of rural school teachers. Companion bills embodying these recommendations and appropriating — in one case \$250,000 and in the other \$275,000 for the establishment of each normal school and \$100,000 annually for maintenance — were introduced. The schools were to be located at Storm Lake, Red Oak, and Washington. After considerable debate the Senate approved the measure, but the session ended before the bill received consideration in the House.⁷⁹

The appropriation bills for the maintenance of the State educational institutions precipitated an ardent debate in both branches of the General Assembly and near the close

⁷⁸ *Senate Journal*, 1923, pp. 1609, 1687; *House Journal*, 1923, pp. 1673, 1805, 1818, 1857.

⁷⁹ Senate File No. 370; House File No. 361; *Senate Journal*, 1923, pp. 1468-1471; *House Journal*, 1923, pp. 163, 164.

of the session resulted in a deadlock between the two houses lasting several days. The desired appropriations for the State University, the College of Agriculture, the Teachers College, the College for the Blind, and the School for the Deaf were originally incorporated in six bills. One bill proposed the reënactment of the general maintenance and building appropriations made in 1921 (with the exception of changes in two items) which involved a sum of \$7,413,294 for the biennium; a second bill requested \$2,190,300 during the biennium for additional support and equipment at the University, the College of Agriculture, Teachers College, and the School for the Deaf; another asked \$800,000 annually for the construction of buildings and the purchase of sites at the University and the Agricultural College, making a total of \$3,200,000 for the biennium at both places; a fourth bill provided for the appropriation of \$450,000 annually for five years for the erection and equipment of a hospital and college of medicine at the University, contingent upon the granting of \$2,250,000 by the General Education Board and the Rockefeller Foundation for the same purpose; another bill proposed the appropriation of \$500,000 annually hereafter for the erection of dormitories at Iowa City and Ames with the proviso that these dormitories should be operated at a four per cent profit which should be paid into the State Treasury until the principal expended should be repaid; and the sixth bill contained an appropriation of \$160,000 to rebuild the armory at the College of Agriculture. Thus the total askings for the biennium amounted to \$14,863,594.⁸⁰

The armory appropriation was allowed after being reduced to \$125,000.⁸¹ The two and a quarter million dollar

⁸⁰ Senate File Nos. 453, 458, 462, 464, 465; House File No. 270.

⁸¹ *Acts of the Fortieth General Assembly*, Ch. 316.

donation by the General Education Board and the Rockefeller Foundation for the college of medicine and hospital at the University was matched by an equal amount from the State distributed over a period of five years — \$900,000 to be available during the biennium.⁸² The proposed loan for the erection of dormitories, after \$125,000 annually for dormitories at the Teachers College had been added, passed the Senate but the companion bill in the House met such determined opposition that both measures were withdrawn on April 13th.⁸³ In regard to the large building appropriation bill, the Senate approved of \$250,000 annually for the University and \$500,000 annually for the College of Agriculture, but the measure was withdrawn when the companion bill in the House was killed.⁸⁴ A similar fate also befell the bill providing for additional maintenance and equipment funds. That bill, having passed the Senate after a reduction in the total appropriations from \$2,190,300 to \$1,886,300 for the biennium, was withdrawn in both houses.⁸⁵ The Senate also passed the bill renewing the general support appropriations of 1921 after making a total reduction of \$160,000 for the biennium. Thus the six bills passed the Senate, with appropriations for the biennium totalling \$13,124,594.

The explanation of the withdrawal of three of the bills is to be found in the action of the House. On April 9th the bill renewing the 1921 appropriations was taken from the Committee on Appropriations and placed on the calendar. After an executive session, the majority of the Committee

⁸² *Acts of the Fortieth General Assembly*, Ch. 63.

⁸³ *Senate Journal*, 1923, pp. 1464, 1465, 1519; *House Journal*, 1923, p. 1727.

⁸⁴ *Senate Journal*, 1923, pp. 1459, 1461, 1462, 1519; *House Journal*, 1923, p. 1727.

⁸⁵ *Senate Journal*, 1923, pp. 1448, 1455–1459, 1519; *House Journal*, 1923, p. 1727.

on Appropriations reported the three remaining bills for indefinite postponement on April 10th, while a minority of fifteen members filed reports recommending amendments and passage. On April 12th, however, the House passed a substitute for the 1921 appropriations renewal bill as amended by the Senate, which omitted the items for summer school support at the University and the College of Agriculture, decreased some amounts and increased others, and added \$500,000 for buildings at Ames, \$85,000 for the heating plant at the Teachers College, and \$3300 to pay a drainage assessment against the School for the Deaf. This measure, known as the Harrison Bill, carrying a total appropriation of \$7,092,300 for the biennium, was intended to be a substitute for all four of the pending educational appropriation bills. It decreased the total biennial appropriations \$370,994 below the amount in 1921, fell \$7,771,294 short of the total askings and \$6,032,294 less than the Senate had approved.⁸⁶

The Senate accepted the Harrison Bill as a substitute for the four educational appropriation bills still pending and proceeded to amend it so as to bring the amounts more nearly in accord with what the other bills included. When returned to the House on April 13th the measure carried appropriations totalling \$11,889,594 for the biennium — an increase of \$4,797,294 over the amount previously approved by the House. The House refused to concur and the Assembly remained in a deadlock on the subject for five days until finally a compromise suggested by the third conference committee was accepted on April 18th, over thirty hours after the clocks in the legislative chambers had been stopped at 11:30 A. M. on April 17th. The General Assembly appropriated \$3,584,576 to the University, \$4,046,576 to the

⁸⁶ *House Journal*, 1923, pp. 1540, 1541, 1559-1563, 1601-1605, 1631, 1654-1657, 1659.

College of Agriculture, \$894,548 to the Teachers College, \$106,000 to the College for the Blind, and \$359,300 to the School for the Deaf for the ensuing biennium — a total of \$8,991,000.⁸⁷

A measure closely associated with the maintenance of the University was an appropriation of \$50,000 to complete the fireproofing and preservation of the Old Stone Capitol.⁸⁸

A more effective method of securing the attendance of deaf children at the School for the Deaf and blind children at the College for the Blind was provided by the legislation of the Fortieth General Assembly. Hitherto a person having the custody of such a child who did not send the child to the proper State institution was liable to be brought into court and, if convicted, to be put in jail or fined. It was very difficult, however, to obtain convictions, and consequently the law was amended to give the juvenile or district court authority to order the attendance of the child. Failure to comply with the order of the court would subject the person having control of the child to punishment for contempt of court.⁸⁹

APPROPRIATIONS

APPROPRIATIONS BY THE FORTIETH GENERAL ASSEMBLY			
FOR THE MAINTENANCE OF STATE GOVERNMENT AND STATE OFFICERS			
CHAPTER	FOR WHAT	AMOUNT	PERIOD
19	Inspection of Petroleum products	\$ 17,500	Annually
27	State Fire Marshal, expenses and fees	7,500	Annually

⁸⁷ *Senate Journal*, 1923, pp. 1498-1504; *Acts of the Fortieth General Assembly*, Ch. 308; *The Des Moines Register*, April 19, 1923.

⁸⁸ *Acts of the Fortieth General Assembly*, Ch. 325.

⁸⁹ *Acts of the Fortieth General Assembly*, Ch. 78.

CHAPTER	FOR WHAT	AMOUNT	PERIOD
34	Purchase and maintenance of State parks	\$ 75,000	Annually
65	State Entomologist, per diem and expenses	6,500	Annually
160	State Railroad Commission	25,000	Annually
277	Bonus Board, salaries and expenses: a loan to be paid upon receipt of funds from the sale of bonds	20,000	Lump sum
280	Bureau for control of venereal diseases, salaries and expenses	25,000	Annually for two years
302	John Hammill, Lieutenant Governor as President of the Senate	2,000	Lump sum
302	J. H. Anderson, Speaker of the House of Representatives, in addition to salary as member	1,000	Lump sum
302	Secretary of Agriculture, expenses of organization and salary from May 1, 1923, to July 1, 1923	2,500	Lump sum
302	Chaplains' fees for Fortieth General Assembly	800	Lump sum
302	Board of Engineering Examiners, expenses of L. M. Martin as member	62.98	Lump sum
302	Board of Dental Examiners, expenses of C. B. Miller as secretary-treasurer	165	Lump sum
303	Pay for employees after adjournment of the Fortieth General Assembly	Amount necessary ⁹⁰	
305	State Railroad Commission, motor bus administration	\$ 10,000	Annually
307	Executive Council, necessary expenses for which no other appropriation has been made	3,000	Biennium
307	Executive Council, providential contingencies	100,000	Biennium

⁹⁰ The amount necessary for this purpose according to information from the office of the Auditor of State was \$436.

CHAPTER	FOR WHAT	AMOUNT	PERIOD
307	Executive Council, supervision, services, and supplies in Capitol	\$325,000	Biennium
307	State Board of Education, office expense of the president	500	Biennium
307	Clerk of the Supreme Court, contingent fund	600	Biennium
307	Office of Governor, contingent and expense fund	5,000	Biennium
	Additional counsel when necessary	2,500	Biennium
	Investigation of pardon and parole cases	200	Biennium
	Publication of notices	800	Biennium
307	Office of State Treasurer, contingent fund	10,000	Biennium
307	State Board of Control, contingent fund	4,000	Biennium
307	State Food and Dairy Commission, contingent fund	2,000	Biennium
307	Retrenchment and Reform Committee, contingent fund	40,000	Biennium
307	Custodian, extra carpenter, painter, and other labor	5,000	Biennium
307	Supreme Court, contingent fund	2,000	Biennium
307	Superintendent of Public Instruction, contingent fund	3,000	Biennium
307	Law Library, legislative reference work	2,000	Annually for the biennium
307	Office of Attorney General, contingent fund	7,500	Annually for the biennium
307	State Fire Marshal, contingent fund	2,000	Biennium
307	Office of State Auditor, contingent fund	3,000	Biennium
307	Reporter of the Supreme Court, contingent fund	600	Biennium

CHAPTER	FOR WHAT	AMOUNT	PERIOD
318	State Board of Railroad Commissioners, to continue investigation of the valuation of the property of common carriers up to July 1, 1923	\$ 6,666.67	Lump sum
318	State Board of Railroad Commissioners, to continue investigation of the valuation of the property of common carriers	20,000	Annually for two years
334	State Officers' Salary Act	877,125 ⁹¹	Annually for two years
FOR SUPPORT AND MAINTENANCE OF STATE INSTITUTIONS			
CHAPTER	FOR WHAT	AMOUNT	PERIOD
47	Iowa State Dairy Association, inspectors	\$ 12,500	Biennially
47	Iowa Beef Cattle Producers' Association, inspectors	12,500	Biennially
47	Iowa Corn and Small Grain Growers' Association, inspector	7,500	Biennially
55	Soldiers' Orphans' Home	\$24 per inmate ⁹²	Monthly
55	Asylums for insane	\$20 per inmate ⁹³	Monthly
55	Juvenile Home	\$24 per inmate ⁹⁴	Monthly
63	College of Medicine at the State University of Iowa to accept the Rockefeller Foundation and General Education Board gift	\$450,000	Annually for five years

⁹¹ Maximum salaries were used in computing this total and no per diem salaries were included. The total amount that will be paid for all salaries of State officers during the biennium ending on June 30, 1925, according to estimates prepared in the office of the Auditor of State, will amount to \$1,533,150.

⁹² This represents a decrease of \$1 per inmate.

⁹³ This represents a decrease of \$4 per inmate.

⁹⁴ This represents a decrease of \$1 per inmate.

CHAPTER	FOR WHAT	AMOUNT	PERIOD
234	State Horticultural Society, general support	\$ 3,750	Annually
234	State Horticultural Society, State aid for exposition	14,000	Biennium
307	State Board of Education, manufacture of garments for use in the hospital for crippled children	500	Biennium
307	State Board of Control, expenses for medical attention and treatment of friendless girls	5,000	Biennium
307	Curator of Historical Department: Expenses of persons coöperating with the department	250	Biennium
	Traveling expenses	500	Biennium
	Historic motion pictures	750	Biennium
	Binding and supplies for archives	500	Biennium
	Portraits	1,500	Biennium
308	State University of Iowa, support	1,181,000	Annually for two years
308	State University of Iowa, maintenance or buildings	471,288	Annually for two years
308	State University of Iowa, paving, equipment, etc.	280,000	Biennium
308	Iowa State College, support	1,169,500	Annually for two years
308	Iowa State College, maintenance or buildings	471,288	Annually for two years
308	Iowa State College, equipment, construction, etc.	265,000	Biennium
308	Iowa State College, construction and purchase of land	500,000	Lump sum
308	Iowa State Teachers College, support	398,000	Annually for two years
308	Iowa State Teachers College, maintenance or buildings	39,274	Annually for two years

CHAPTER	FOR WHAT	AMOUNT	PERIOD
308	Iowa State Teachers College, improvement and equipment of heating plant	\$ 20,000	Biennium
308	Iowa State College for the Blind, support, repair, and contingent	43,500	Annually for two years
308	Iowa State College for the Blind, furniture, equipment, and buildings	19,000	Biennium
308	Iowa School for the Deaf, support and scholarships	142,500	Annually for two years
308	Iowa School for the Deaf, contingent, repair, equipment, and bookbinding	71,000	Biennium
308	Iowa School for the Deaf, drainage assessments	3,300	Lump sum
309	Iowa Soldiers' Home at Marshalltown, contingent, repair, etc.	31,500	Biennium
309	Soldiers' Orphans' Home at Davenport, contingent, repair, medical supplies, etc.	29,600	Biennium
309	Juvenile Home at Toledo, contingent, repair, building, medical supplies, etc.	114,000	Biennium
309	Institution for Feeble-minded Children at Glenwood, contingent, repair, building, etc.	216,500	Biennium
309	Sanatorium for Tuberculosis at Oakdale, contingent, repair, equipment, etc.	31,500	Biennium
309	Training School for Boys at Eldora, contingent, repair, equipment, etc.	41,900	Biennium
309	Training School for Girls at Mitchellville, contingent, repair, furnishings, etc.	31,900	Biennium
309	Mt. Pleasant State Hospital, contingent, repair, etc.	50,500	Biennium
309	State Hospital at Independence, contingent and repair	30,000	Biennium

CHAPTER	FOR WHAT	AMOUNT	PERIOD
309	State Hospital at Clarinda, contingent, repair, building, etc.	\$160,000	Biennium
309	State Hospital at Cherokee, contingent, repair, building, etc.	205,500	Biennium
309	Colony for Epileptics at Woodward, contingent, repair, equipment, building, etc.	186,500	Biennium
309	State Penitentiary at Fort Madison, contingent, repair, building, etc.	169,000	Biennium
309	Men's Reformatory at Anamosa, contingent, repair, medical services and supplies, etc.	28,500	Biennium
309	Women's Reformatory at Rockwell City, contingent and repair	12,000	Biennium
309	State Board of Control, extra appropriation to be used at its discretion at the State charitable, correctional, and penal institutions	50,000	Biennium
316	Iowa State College, to replace armory destroyed by fire	125,000	Lump sum
TO SATISFY CLAIMS ⁹⁵			
CHAPTER	FOR WHAT	AMOUNT	PERIOD
282	Ardis Roberdee, compensation for injuries received while on national guard duty	\$ 7,500	Lump sum
284	Carl F. Schatz and Laura Schatz, compensation for son killed by State Highway Commission automobile	5,400	Lump sum
285	George W. Metcalf, editor of the <i>Lansing Mirror</i> , for printing done for State Council of Defense	326.95	Lump sum

⁹⁵ Chapter 1 of the *Acts of the Fortieth General Assembly* prescribes a definite procedure for filing claims against the State.

CHAPTER	FOR WHAT	AMOUNT	PERIOD
288	John Young and Retta Young for damages sustained when their son was killed while on national guard duty	\$ 3,000.00	Lump sum
289	Jones County, to reimburse for expenses in the trial of prison breach cases	321.90	Lump sum
290	Woodbury County, for money advanced to pay transportation of patients to State Hospital at Cherokee	770.05	Lump sum
292	Charles R. Messett, compensation for losses caused by injuries while on national guard duty	2,543.50	Lump sum
294	George A. Gardner, for injuries sustained while showing a dairy herd of the Mount Pleasant State Hospital at the Jefferson County Fair	1,375.50	Lump sum
296	Joe Banoch, for injuries sustained while performing duty at the State Reformatory at Anamosa	855.00	Lump sum
297	Ross Seward, for injuries sustained at the State Penitentiary at Fort Madison	2,000.00	Lump sum
299	John S. Young, damages sustained when his automobile collided with a Capitol Extension truck	150.00	Lump sum
301	Lee County, reimbursement for expenses incurred in trial of prison breach cases	689.50	Lump sum
302	R. F. Wolfe, claim	17.20	Lump sum
302	Globe Machinery and Supply Company, claim	13.27	Lump sum
302	<i>The Clinton Advertiser</i> , claim	8.95	Lump sum
302	McNamara Office Supply Company, claim	32.25	Lump sum

CHAPTER	FOR WHAT	AMOUNT	PERIOD
302	C. M. Meusel, claim	\$ 29.50	Lump sum
302	Board of Parole, expenses incident to the attempted suicide of Clifford I. Berry, a paroled convict	121.96	Lump sum
302	John C. Bradbury, compensation for services as captain of troop "F", first Iowa cavalry	47.79	Lump sum
302	George Judish, extra compensation for seven days' service as member of State Board of Pharmacy	70.00	Lump sum
302	George S. Banta, traveling expense in attendance at conference	23.79	Lump sum
302	A. V. Brady, traveling expense in attendance at conference	20.79	Lump sum
302	J. D. Buser, traveling expense in attendance at funeral of Senator D. C. Chase	20.06	Lump sum
302	F. C. Gilchrist, traveling expense in attendance at funeral of Senator D. C. Chase	8.65	Lump sum
302	J. R. Price, traveling expense in attendance at funeral of Senator D. C. Chase	9.85	Lump sum
302	William Schmedika, mileage	6.30	Lump sum
302	L. W. Ainsworth, postage, telephone, telegraph, badges, and miscellaneous expense	67.66	Lump sum
302	J. H. McFarland, services for 8 days as doorkeeper	32.00	Lump sum
302	G. L. Steinhilber, extra salary as file clerk	100.00	Lump sum
302	Paul Sims, extra salary as bill clerk	100.00	Lump sum
302	Don Winterrowd, extra salary as file clerk	100.00	Lump sum
302	H. L. Gordon, extra salary as bill clerk	100.00	Lump sum

CHAPTER	FOR WHAT	AMOUNT	PERIOD
302	Charles Lindenau, extra salary as file clerk	\$ 100.00	Lump sum
302	C. M. Roggensack, services rendered under Fish and Game Department	68.74	Lump sum
302	Koch Brothers, supplies for Board of Engineering Examiners	93.39	Lump sum
303	W. C. Ramsay, reimbursement for loss incurred in deposit of a check on the State Treasury	46.00	Lump sum
303	Lieutenant Governor Hammill, expenses	3.50	Lump sum
303	A. C. Gustafson, postage, telegraph and telephone expense	33.78	Lump sum
303	Executive Council, cost of installing Edison battery on voting machine	615.00	Lump sum
303	Des Moines Rubber Stamp Works, badges	54.35	Lump sum
304	Fort Dodge, Des Moines, and Southern Railroad Company, expenses in removing material from tracks at Capitol Extension grounds	6,029.62	Lump sum
310	John W. Martin, medical treatment of a national guard member	250.00	Lump sum
FOR THE IMPROVEMENT OF STATE PROPERTY			
CHAPTER	FOR WHAT	AMOUNT	PERIOD
283	Payment of drainage assessments against State owned lands in Emmet County	\$ 12,379.96	Lump sum
287	Department of Agriculture, to complete sheep barn at the State Fair Grounds	35,000	Lump sum
287	Department of Agriculture, maintenance and improvement of State Fair Grounds	15,000	Annually for two years

CHAPTER	FOR WHAT	AMOUNT	PERIOD
293	Payment of drainage assessments against State owned lands in Greene County	Amount necessary ⁹⁶	
300	Payment of drainage assessments against State owned lands in Clay County	\$ 9,792.33	Lump sum
303	Curator of Historical Department, maintenance of Okoboji monument and grounds	250.00	Lump sum
306	Maintenance and improvement of State Capitol grounds	23,089.97	Biennium
325	Fire-proofing the Old Capitol at Iowa City	50,000.00	Lump sum
349	Payment of drainage assessments against State owned lands in Muscatine and Louisa Counties	75,053.63	Lump sum
FOR MISCELLANEOUS PURPOSES			
CHAPTER	FOR WHAT	AMOUNT	PERIOD
5	Maintenance of Camp Dodge	\$ 10,000	Annually
6	Pensions for survivors or widows of members of John Mitchell's company of Iowa volunteers	Amount necessary ⁹⁷	
17	Pensions for peace officers killed or disabled while performing duty	Amount necessary ⁹⁸	
60	Vocational training, administration expense	\$ 10,000	Annually
61	Acceptance of Federal aid for the promotion of the welfare and hygiene of maternity and infancy	21,213.60	Annually

⁹⁶ The amount necessary for this purpose, according to estimates made in the office of the Auditor of State, will be \$80,000.

⁹⁷ The amount necessary for this purpose for the next biennium, according to estimates made in the office of the Auditor of State, will be \$1440.

⁹⁸ The amount necessary for this purpose for the next biennium, according to estimates made in the office of the Auditor of State, will be \$10,000.

CHAPTER	FOR WHAT	AMOUNT	PERIOD
163	Committee to protect the State against "Pittsburgh Plus" methods	\$ 10,000	Lump sum
224	Preparing volume of session laws for publication	1,200	For each regular or special session of the General Assembly
225	Salaries for help in preparing Supreme Court reports and annotations	5,000	Annually
278	Independent school districts of Des Moines, Dubuque, and Ottumwa for instruction of deaf children	600	Lump sum
279	Inaugural ceremonies and reception expense	444.50	Lump sum
281	Chair and Furniture Industry at the State Penitentiary at Fort Madison, chairs purchased for committee clerks in the General Assembly	891.68	Lump sum
286	Improvement of school conditions in mining camps	50,000	Annually for two years
291	Coöperation in the movement for water transportation from the Atlantic Ocean to the Mississippi River	5,000	Annually for two years
295	Vocational rehabilitation education	22,836.45	Annually for two years
295	State Board for Vocational Education, office equipment and expense of administration	500	Lump sum
298	Rumley-Springer election contest, expenses	1,254.85	Lump sum
303	Advertising laws of the Fortieth General Assembly	5,000	Lump sum
303	Executive Council, to pay cost of laundering towels for the Fortieth General Assembly	200	Lump sum

CHAPTER	FOR WHAT	AMOUNT	PERIOD
303	Executive Council, to pay cost of inspection and repair of passenger elevators in the State Capitol	\$ 1,500	Lump sum
307	Pioneer Law-makers Association, expense of publishing proceedings	100	Biennium
307	Executive Council, assessment for expenses of Governors' conference	500	Biennium
307	Executive Council, express, freight, and drayage for State departments located at the Capitol	10,000	Biennium
307	Executive Council, laundering of towels	700	Biennium
311	Executive Council, expense of taking census for 1925	40,000	Lump sum
321	Marker for grave of William Alexander Scott	500	Lump sum
330	Expenses connected with preparing and printing the <i>Supplement to the Compiled Code</i> and revising code commission bills	Amount necessary ⁹⁹	
332	Portrait of Jonathan P. Dolliver	500	Lump sum
335	Sums erroneously collected by the State as taxes from insurance companies	Unexpended balance of the \$125,000 appropriated by the 39th General Assembly	Lump sum
336	Expenses for appraisal and sale of Goose Lake	Amount necessary ¹⁰⁰	

⁹⁹ The amount necessary for this purpose, according to the estimate made in the office of the Auditor of State, will be \$20,000.

¹⁰⁰ The amount necessary for this purpose, according to the estimate made in the office of the Auditor of State, will be \$5000.

TAXATION AND FINANCE

Due to the depressing economic conditions existing in the country at large, and especially in agricultural areas, nearly all of the members of the Fortieth General Assembly of Iowa went to Des Moines pledged to a program of economy and many of them were determined to reduce the burden of taxation. The legislators, however, devoted more attention to equalizing the burden of taxation than to its reduction. The Fortieth General Assembly was unusually well equipped to do something of that nature because the report and recommendations of the Joint Legislative Committee on Taxation of the Thirty-ninth General Assembly were submitted to it. The Governor, in his inaugural address, also devoted no little attention to suggestions for reform that would equalize the burden of taxation. He insisted that visible property is bearing a larger measure of the burdens of government than should equitably be imposed upon it and that hitherto untapped sources of revenue should be made available. In support of this view he pointed out that six per cent of the gross income from farm lands was consumed by taxes in 1921 as compared with one and one-half per cent in 1919.¹⁰¹

The Joint Legislative Committee on Taxation submitted its report to the legislature on January 30th, and six thousand copies were ordered to be printed. Provision was also made for the distribution of the report to county auditors, county agents, and newspapers in Iowa. The Committee not only recommended improvements in the methods of raising revenue but also in disbursements. It proposed that the financial affairs of the State and local government be conducted on a budget basis and recommended the creation of a State tax commission to have general direction

¹⁰¹ *House Journal*, 1923, pp. 158-161.

of taxation throughout the State and to take over from the Executive Council the function of equalizing property values between counties. A county assessor system was to take the place of local assessors. The Committee also advocated the taxation of property on its actual value instead of one-fourth of that amount as at present. Besides these changes in the methods of taxation the Committee also suggested the availability of sources of revenue hitherto unused in Iowa. It proposed a tax on gasoline; an amusement tax; the taxation of bank stock, surplus, and individual profits at full value; and the abolition of tax exemptions for certain classes of people. The last proposal was made because it was felt that such exemptions did not benefit the class, but only those members of the group who owned property. The Committee did not submit an income tax bill but strongly recommended such a tax as the "latest step in the evolution of the effort to secure contribution to the support of government in proportion to ability to pay".¹⁰²

Five bills embodying the recommendations of the committee accompanied the report. Three of these — one providing for a State Board of Assessment and Review, a county assessor, and assessment of property at actual value; the second creating a State Budget Board; and the third creating local budget committees — were introduced in the Senate as committee bills on March 16th. The substance of the gasoline tax bill was contained in several bills proposed by various members, and a measure identical with the committee bill on the amusement tax was introduced by the House Committee on Ways and Means. None of these measures became law. The three tax committee measures were withdrawn on April 11th because friends of

¹⁰² *Report of the Joint Legislative Committee on Taxation, 1923; Senate Journal, 1923, pp. 313, 314; House Journal, 1923, p. 339.*

these bills felt that the people of Iowa had not had sufficient information to be in favor of them at that time, and it was believed that the better course would be to defer the matter of tax reform to the special session of the Fortieth General Assembly or even to the next meeting of the legislature rather than to risk defeat of the bills in either house. The amusement tax measure was not acted upon and was finally lost in the sifting committee.¹⁰³

The gasoline tax bill had a most adventurous career. In the end the measure was vetoed by the Governor after having been modified so as to be quite different from the bill originally introduced by Senator W. A. Caldwell of Mahaska County on January 18th. The amended measure passed the Senate on March 20th, and after further modification was adopted by the House of Representatives on April 4th. A conference committee adjusted the differences between the two houses, and on April 17th the measure was sent to the Governor. Six days later the Governor announced his veto of the measure, along with two other bills designed to perfect it, one of which had been passed at the special session.¹⁰⁴

The vetoed gasoline tax measures provided for a tax of two cents on each gallon of gasoline or other derivative of petroleum suitable for generating power, but it excepted kerosene devoted to purposes other than the operation of motor vehicles. The revenue thus obtained was to take the place of money derived from the county and township road taxes which were to be abolished. In his letter of veto to the Secretary of State the Governor explained that his

¹⁰³ Senate File Nos. 625, 626, 627; House File Nos. 736, 812; *Senate Journal*, 1923, pp. 831, 1443; *The Des Moines Register*, April 12, 1923.

¹⁰⁴ Senate File Nos. 273, 759; House File No. 1 (Extra Session); *Senate Journal*, 1923, pp. 932, 1526-1528; *House Journal*, 1923, pp. 1445, 1811, 1812; *Index and History of Senate and House Bills*, 1923, p. 2.

action was prompted by the fact that the tax was nothing else than a sales tax and although designed to require those who travel the highways to contribute especially to their construction and maintenance would not serve as such because it taxed gasoline used for generating light and power as well.¹⁰⁵

An income tax — which was endorsed in principle by the Joint Legislative Committee on Taxation and the advisability of which was subsequently mentioned in the Governor's letter vetoing the gasoline tax bill — was proposed in a measure introduced by Representative G. W. Patterson of Kossuth County. It provided not only for taxing individual incomes but those of firms, partnerships, and corporations as well. The bill was introduced on February 12th, considered in detail by the lower chamber, and amended but, when put on its passage, was lost by a vote of 54 to 41 — one vote less than the constitutional majority required to pass the measure — on Friday, April 13th. Several other new forms of taxation were also proposed. A Senate bill providing for a tax on corporations was indefinitely postponed and companion bills for a tax on cigars, tobacco, and snuff were lost in the sifting committee.¹⁰⁶

Another measure, passed by the Fortieth General Assembly but vetoed by the Governor, provided that the first and second installments of taxes should become finally due on the first of May and the first of November instead of on the first of April and the first of October respectively. It was urged that this extension of time in which to pay taxes would enable the farmers to meet these obligations without

¹⁰⁵ *The Des Moines Register*, April 24, 1923.

¹⁰⁶ Senate File Nos. 380, 482; House File Nos. 458, 534; *Senate Journal*, 1923, p. 1098; *House Journal*, 1923, pp. 494, 1683, 1685. The corporation tax bill was considered in the Senate as File No. 380, but the printed bill was numbered 379.

borrowing money for the purpose as many of them are now obliged to do. If penalties were to accrue on delinquent taxes a month later than at present it would be possible for the farmer to sell certain products to a better advantage before each installment of taxes became payable whereas now he is in a position to sell nothing advantageously prior to April 1st and only his oats before October 1st when the second installment of taxes must be paid.

On the other hand, in a hearing before Governor Kendall it was brought out that this change would disrupt the financial business of the local governmental areas by making it necessary for them to default on payments of interest and principal of bonds coming due on the first of May. In his letter to the Secretary of State, the Governor gave two reasons for vetoing the measure: first, because the work connected with tax sales on the third Monday in December could not be completed by the county treasurer if taxes were not delinquent until the first of November, since most of his clerical force were busy renewing automobile licenses at that time; and second, because cities and towns, townships, and school districts would not receive their share of the revenue in time to meet bonded obligations maturing on the first of May. He expressed himself as being in sympathy with the extension of time for paying taxes, but he pointed out that before such a change could be made it was imperative that the whole body of law governing collection, apportionment, and disbursement of taxes should be modified so as to accommodate the change.¹⁰⁷

Although the Fortieth General Assembly considered many tax measures without enactment, one of its first acts was to pass a concurrent resolution memorializing Congress to propose an amendment to the Constitution of the United

¹⁰⁷ Senate File No. 739; *The Des Moines Register*, May 1, 3, 1923.

States prohibiting the issue of tax free securities. Copies of the resolution were transmitted to the President of the United States and to the Senators and Representatives from Iowa in Congress.¹⁰⁸

Two acts passed in 1923 relate to the assessment of property for taxation. According to the laws of Iowa, commission merchants, brokers, and all other persons selling goods on commission as well as assignees authorized to sell, and other persons having in their possession goods belonging to another are taxed as owners if the person to whom the property belongs does not reside in the county where the goods are situated. This provision was amended so that it does not apply to warehousemen lawfully engaged in storing goods for profit. Such warehousemen are required, however, to file with the assessor an inventory of all goods in storage with the name and addresses of the several owners. If they fail to do so they are themselves liable for the taxes.¹⁰⁹

The second act in this category relates to the assessment of buildings erected on leased lands. In Iowa, real estate is assessed every two years and personal property every year. According to the law as amended by the Fortieth General Assembly, buildings and fixtures erected on real estate held under a lease of longer than three years duration are now to be assessed as real estate. This provision was made to apply to assessments of 1923, and boards of equalization were authorized to meet for the purpose of correcting tax lists accordingly if necessary.¹¹⁰

If the owners of real estate that has been divided and sold after assessment can not agree on the portion of tax

¹⁰⁸ *Senate Journal*, 1923, pp. 173, 174; *House Journal*, 1923, p. 193.

¹⁰⁹ *Acts of the Fortieth General Assembly*, Ch. 147.

¹¹⁰ *Acts of the Fortieth General Assembly*, Ch. 146.

that each should pay, the board of supervisors, upon application of one of the parties, is now authorized to make an apportionment after giving notice to interested parties and affording an opportunity for each of them to be heard. An appeal from the decision of the board may be taken to the district court. Auditors and treasurers are directed to correct tax books in accordance with the apportionment when necessary. Members of boards of review aggrieved by the action of the board of which they are members were given the same right to make complaint against the action of the board and to appeal as any other taxpayers.¹¹¹

A bill introduced by Representative O. A. Ontjes of Grundy County provided for the repeal of all tax exemptions granted to ex-soldiers. Action of this kind was also recommended by the joint committee on taxation. It was pointed out that such exemptions do not benefit old soldiers as a class but only those who own property and these are the ones who least need the exemption, while the old soldiers who own no property usually pay taxes in the form of rents. The suggestion was made that a county would do better to establish a soldiers' aid fund for the needy than to allow these tax exemptions. According to estimates presented, the State would receive between three and four million dollars additional taxes if the exemptions were repealed. The American Legion, however, was very determined in its opposition to the measure, which when put on its final passage received only three affirmative votes.¹¹²

Although this bill was defeated, two laws relative to soldiers tax exemptions were passed. One of these provides that the exemptions authorized by the Thirty-ninth

¹¹¹ *Acts of the Fortieth General Assembly*, Chs. 148, 152.

¹¹² House File No. 341; *House Journal*, 1923, p. 833; *Report of the Joint Legislative Committee on Taxation*, 1923, pp. 44-46; *The Des Moines Register*, January 26, February 16, 1923.

General Assembly which have not been claimed for 1922 may be allowed by the county treasurer if the taxes from which they should be deducted have not been paid. If they have been paid, the board of supervisors may refund the amount. The second measure provides that a veteran claiming an exemption need no longer make his declaration of ownership of property but may simply file a written statement to that effect with the assessor. Another act very closely related to the two just described exempts from taxation the buildings, grounds, furniture, and household equipment of homes owned and operated by organizations of United States soldiers, sailors, or marines, when used as a home for disabled war veterans and not operated for pecuniary profit.¹¹³

The last act passed by the Fortieth General Assembly at its regular session was the measure setting forth the amount to be raised by taxes for general State purposes during the next two years. It is upon these figures that the number of mills in the State levy is computed. The sum to be raised by the levy of 1923 was fixed at \$11,163,000 and a like amount by the levy of 1924. The sum for each of the two preceding years fixed by the Thirty-ninth General Assembly was \$10,072,000.¹¹⁴

The tax rate which counties are permitted to levy for poor relief was increased from two to three mills, and all counties are now authorized to levy a six mill tax for general county revenue in addition to the poll tax of fifty cents on each male resident over twenty-one years of age. Prior to the enactment of this law counties with more than forty thousand population were restricted to a levy of not

¹¹³ *Acts of the Fortieth General Assembly*, Chs. 144, 145, 324.

¹¹⁴ *Acts of the Thirty-ninth General Assembly*, Ch. 341; *Acts of the Fortieth General Assembly*, Ch. 340.

over four mills and the poll tax, unless the board of supervisors was authorized by a vote of the people to levy a greater amount, not to exceed six mills. Thus the tax rate of six mills for general revenue is now uniform in all counties regardless of population.¹¹⁵

Until a few years ago nearly all taxes were paid in one installment, but since taxes have mounted rapidly almost all taxpayers now avail themselves of the opportunity to defer payment of the second half of their taxes until September. As a result, the Fortieth General Assembly passed an act requiring the county auditor to make out the tax lists so as to show the amount due on each installment.¹¹⁶

The Fortieth General Assembly provided that delinquent personal property taxes for the current year shall not be turned over to collectors until the first of November, thus giving an extra month for the taxpayer to make payment without the additional penalty of five per cent for collection.¹¹⁷

Two laws passed by the Fortieth General Assembly relate to dog licenses. License certificates will no longer be issued, but the tag to be worn by the dog will have the name of the county, the year for which the license is issued, and the serial number of the dog's license stamped upon it. The serial number is to correspond to the number in the auditor's record referring to the name of the dog's owner and to descriptive data relative to the dog. Several modifications in the law were necessary to make its language conform to this change.¹¹⁸

The second act amending the dog license law provides

¹¹⁵ *Acts of the Fortieth General Assembly*, Chs. 75, 110.

¹¹⁶ *Acts of the Fortieth General Assembly*, Ch. 149.

¹¹⁷ *Acts of the Fortieth General Assembly*, Ch. 151.

¹¹⁸ *Acts of the Fortieth General Assembly*, Ch. 99.

that the tag shall be issued by the auditor upon receipt of application therefor accompanied by the prescribed fee. The twenty-five cent fee for acknowledging the application was abolished, because of its unpopularity. Moreover, county auditors who failed to collect this fee in the past were relieved from responsibility for their negligence.¹¹⁹

Not only did the Fortieth General Assembly alter the law relative to the collection of revenue, but a number of changes concerning the custody and disbursement of public funds were also made. By virtue of one of these changes county treasurers must make monthly statements of State funds in the county treasury to the Auditor and Treasurer of State, and upon the order from the latter they must pay the prescribed amounts into the State Treasury. Moreover, the Treasurer of State is required to maintain a fund of not less than two million dollars or more than three million dollars in the State Treasury. Before the passage of this law the county treasurer was to make such reports only to the Auditor of State and, on or before the fifteenth day of each month, was to pay all funds belonging to the State into the State Treasury. Furthermore, the State Auditor could order the transfer of State funds from a county treasury to the State or another county treasury at any time. The object of the change is to retain public funds in the county as long as possible in order that the locality through its banks may be benefited thereby. The penalty — a forfeiture amounting to not less than one hundred dollars nor more than five hundred dollars — if a county treasurer fails to pay money upon order was left the same as under the old law.¹²⁰

According to another act all warrants issued by the Aud-

¹¹⁹ *Acts of the Fortieth General Assembly*, Ch. 100.

¹²⁰ *Acts of the Fortieth General Assembly*, Ch. 153.

itor of State prior to June 30, 1922, that were not redeemed within one year from that date were invalidated. When such a warrant is presented to the Treasurer of State he must send it to the Auditor who is authorized to issue a new one and retain the invalidated warrant as his receipt therefor.¹²¹

Several enactments of 1923 relate to bonds. One of these provides that all contracts made for the sale of bonds issued by the State of Iowa must be approved by the Executive Council before being valid. County, city, town, township, and school district officers are no longer permitted to sell bonds for less than par and accrued interest and are specifically forbidden to pay a commission or bonus for the sale of bonds. The demand for this law arose because officials in several localities were in the habit of paying liberal sums to bond companies for handling the sale of bonds. The maximum rate of interest that may be allowed on municipal bonds, garbage disposal plant bonds, park bonds, bridge bonds, street improvement and sewer bonds, waterworks bonds, waterworks mortgages, city, town, or county funding bonds, drainage bonds, and county public hospital bonds was fixed at five per cent. The maximum rate of interest on all of these bonds prior to the passage of this law was six per cent, except on bonds for drainage or levee systems along highways in which case it was eight per cent. The fourth act in this group provides that the surplus remaining in a fund obtained from the sale of bonds issued upon authorization of a vote by the people may be transferred to the general county fund after the purpose for which they were issued has been realized.¹²²

Few measures passed by the Fortieth General Assembly

¹²¹ *Acts of the Fortieth General Assembly*, Ch. 333.

¹²² *Acts of the Fortieth General Assembly*, Chs. 4, 14, 108, 109.

created greater interest throughout the State at large or more anxiety among county supervisors than the "Tuck Bill" which is now part of the statute law of Iowa. This legislation is designed to curb the alleged practice of county boards of issuing warrants for expenditures indiscriminately without regard to whether funds were available or would be forthcoming from taxes. If the cash was not available the boards were then accustomed to issue bonds funding the indebtedness. The act makes it unlawful "for any county, or for any officer thereof to allow any claim, or to issue any warrant, or to enter into any contract, which will result, during said year, in an expenditure from any county fund" of a greater sum than is available from a surplus or from taxes. The original law does not apply to expenditures for bridges or buildings destroyed by fire or flood or other extraordinary casualty, expenses for the operation of the courts, expenditures made necessary in any year for construction of bridges made necessary by a public drainage improvement, expenditures for the benefit of any person entitled to receive help from public funds, and expenditures authorized by a vote of the people. The bill was passed by the Senate on February 7th, and on March 8th it passed the House of Representatives in spite of the protest, raised particularly by county supervisors who maintained that the measure, if enacted, would compel counties to go out of business because they could not obtain sufficient money from the tax levies authorized.

At this juncture Representative W. C. Edson of Buena Vista County introduced a resolution to recall the bill for further consideration by the House. But the bill was returned to the Senate and dispatched to the Governor for his signature. Efforts were then made to influence the Governor to veto the measure, and a public hearing for this purpose was held on March 19th. Supervisors and repre-

representatives of bond firms, as well as members of the legislature who opposed the bill, were present and pointed out the impracticability of the measure because of the great number of the outstanding warrants and the impossibility of meeting obligations from current tax receipts. In spite of these protests the Governor signed the bill on March 19th.

It soon became evident, however, that the enforcement of the law might have serious effects especially in some of the larger counties. Accordingly, Senator Perry C. Holdoegel of Calhoun County introduced another measure providing that the "Tuck Bill" should not go into effect until January 1, 1924. This bill was passed after several amendments modifying its original content had been incorporated.¹²³ Four types of expenditures to which the "Tuck Bill" does not apply were added to those already noted: expenditures contracted prior to July 4, 1923, for and on account of county activities authorized by law; expenditures contracted prior to July 4, 1923, of every kind and character for the funding and refunding of legal obligations or indebtedness of the county by bonding or otherwise as provided by law; expenditures from the county funds which are to be refunded from primary road funds; and expenditures from the county general fund legally payable from that fund and contracted prior to January 1, 1924. Thus instead of making it necessary for counties to cease business it may now only be necessary for them to curb some of their activities.¹²⁴

COUNTY OFFICERS AND GOVERNMENT

The compensation of county officers has been a subject of legislation at every session of the General Assembly

¹²³ *Senate Journal*, 1923, pp. 405, 406; *House Journal*, 1923, pp. 765, 766, 783, 784; *The Des Moines Register*, February 8, 9, March 17, 20, 22, 1923.

¹²⁴ *Acts of the Fortieth General Assembly*, Chs. 104, 105.

since the enactment of the *Code of 1897*. In 1919 the whole problem was reviewed in the light of the high cost of living

TABLE SHOWING SALARIES OF COUNTY OFFICERS

COUNTIES WITH A POPULATION OF	AUDITOR	TREASURER	RECORDER	SHERIFF	ATTORNEY	CLERK
Less than 10,000	\$1700	\$1700				\$1700
Less than 15,000			\$1600	\$1700	\$1100	
10,000 to 15,000	1800	1800				1800
15,000 to 20,000	1900	1900	1700	1800	1400	1900
20,000 to 25,000	2000	2000	1800	1900	1600	2000
25,000 to 30,000	2100	2100	1900			2100
30,000 to 35,000	2200	2200	2000			2200
25,000 to 35,000				2000	1700	
35,000 to 40,000	2400	2400	2100	2100		2400
35,000 to 45,000					2000	
40,000 to 50,000	2800	2800	2200	2200		2800
45,000 to 55,000					2200	
50,000 to 58,000	3050	3050	2300	2400		3050
55,000 to 65,000					2500	
58,000 to 65,000	3300	3300		2600		3300
65,000 or over	3400	3400		2800	3000	3400
58,000 to 70,000			2400			
70,000 to 90,000			2500			
90,000 or over			3100			
In counties where the District Court is held in two places	500 addi- tional	500 addi- tional	500 addi- tional	300 addi- tional	500 addi- tional	400 addi- tional

and a proper basis of compensation, with the result that a temporary scale of salaries was established for most of the county officers and their deputies. This schedule, with a few modifications, was extended to 1923 by the Thirty-ninth General Assembly. When the Fortieth General Assembly convened there was some discussion of a general reduction of county officers' salaries. Indeed, a bill introduced by Senator Ben C. Abben of Lyon County extending the time in which the salary schedule adopted in 1919 should remain in effect until 1925 was lost in committee.¹²⁵

The problem was finally settled, however, by the enactment of a code revision bill which retained practically the same schedule of salaries that has been in existence since 1921. The annual salaries as fixed by the Fortieth General Assembly, with the exception of the compensation of the county superintendent of schools and that of the coroner are based as heretofore upon the population of the county and are shown in the table on the preceding page.¹²⁶

In addition to the salary schedule set forth in the table the auditor of a county which has over twenty-five thousand inhabitants and contains a special charter city of more than five thousand population within its boundaries is to receive \$300 in addition to his regular compensation if he makes up the tax books for the city. The treasurer of a county with over twenty-five thousand population and a special charter city for which he collects the taxes within its boundaries is also entitled to \$300 additional compensation regardless of the population of the special charter city. The officers which come under these provisions are the auditor of Muscatine County and the treasurers of Clinton, Louisa, and Muscatine counties.¹²⁷ A section added to the law by

¹²⁵ Senate File No. 323.

¹²⁶ *Acts of the Fortieth General Assembly*, Ch. 250.

¹²⁷ *Iowa Official Register*, 1921-1922, pp. 547, 551-566.

This would have included Mills County but Glenwood abandoned its special

the Fortieth General Assembly provides that in counties with over forty thousand population containing a city of the first class the board of supervisors may allow additional compensation to the county treasurer to the extent of fifty dollars per year for each five thousand population of the city. The counties to which this applies are Linn, Clinton, Pottawattamie, Scott, Polk, Dubuque, Woodbury, and Black Hawk.¹²⁸ The sheriff is allowed an additional sum of \$300 in counties that do not furnish an official residence for him. In addition to his regular salary, the county attorney is allowed fees in suits for the county on written instruments and his actual and necessary expenses while attending to his duties at places other than his residence or the county seat.

The most noticeable change in the new salary act is a shift in the class of counties which formerly included all those with from fifty to sixty thousand population. The upper limit of this class was fixed at fifty-eight thousand instead of the sixty thousand. This change affected the offices of auditor, treasurer, recorder, sheriff, and the clerk of the district court; but the only county in which the salaries of these officers were increased by placing them in the next higher salary class is Dubuque with a population of 58,262. Several changes in the classification of counties make changes in the compensation of the county attorney.

The compensation of the coroner is derived from fees, and the amounts which he receives for various purposes are the same as those fixed by the Thirty-eighth¹²⁹ General charter on April 1, 1923, and is now governed according to the general municipal incorporation law as a city of the second class. In Scott County the auditor does not make up the tax books for the special charter city of Davenport, nor does the county treasurer collect Davenport taxes.

¹²⁸ *Iowa Official Register*, 1921-1922, pp. 549, 550.

¹²⁹ *Acts of the Thirty-eighth General Assembly*, Ch. 122; *Iowa Official Register*, 1921-1922, pp. 549, 550.

Assembly. The General Assembly which met in 1921 provided that the salary for the county superintendent of schools should be not less than \$1800 nor more than \$3000 per year — the exact sum to be fixed by the county board of supervisors.¹³⁰ This was also left unchanged by the Fortieth General Assembly. The compensation of members of the board of supervisors, which is five dollars per day for time spent in service and ten cents a mile for expenses, was also left unchanged, although a bill was introduced by Representative C. G. Oliver of Monona County to reduce the mileage allowance of supervisors and sheriffs from ten cents to five cents a mile. The measure was withdrawn by the author.¹³¹

In general the compensation provided for deputy county officers is similar to that provided in 1919.¹³² In counties with less than fifty thousand inhabitants the deputy auditor, treasurer, clerk of the district court, and recorder is each to receive one-half the amount of the salary of his principal unless that would make the deputy's salary less than \$1500, in which case it may be increased to that amount by the board of supervisors. In counties with more than fifty thousand inhabitants the salary of the first deputy in the offices of auditor, treasurer, clerk of the district court, and recorder is fixed at one-half of the amount received by the principal officer, but if that makes the deputy's salary less than \$1750 it may be increased to that amount by the county board. The compensation for the second deputy in these offices is one-half the amount received by the principal, but may never be more than \$1500.

¹³⁰ *Acts of the Thirty-ninth General Assembly*, Ch. 112.

¹³¹ *Compiled Code, 1919*, Sec. 3127; House File No. 305; *House Journal*, 1923, p. 454.

¹³² *Acts of the Thirty-eighth General Assembly*, Ch. 278; *Acts of the Fortieth General Assembly*, Ch. 250.

In counties with a population less than fifty thousand the salary of the deputy sheriff is fixed by the board of supervisors at any amount not exceeding \$1500. The salary of the deputy sheriff in counties with a population of more than fifty thousand is fixed at sixty-five per cent of the salary of the sheriff but is never to be over \$1800. In the counties with two county seats — Lee and Pottawattamie — the salary of the deputies in charge of the offices of auditor, treasurer, recorder, clerk of the district court, and sheriff not at the county seat is fixed at sixty-five per cent of the amount of the salary of their respective principals.¹³³

If a county contains a city of at least forty-five thousand population the salary of the first and second deputies in the offices of auditor, treasurer, recorder, and clerk is to be sixty-five per cent of the amount of compensation received by their principals, and that of the third and fourth deputies is to be one-half the amount of their principal's salary. If more than four deputies are required the county board of supervisors has the authority to fix the amount of compensation for the additional assistants. Provision is also made that if a county with more than fifty-three thousand inhabitants contains a city not the county seat with a population of over six thousand then the treasurer of that county may appoint a resident collector of taxes for the city and this collector is to receive the same amount of compensation as the deputy treasurer in a county with less than fifty thousand inhabitants. This provision undoubtedly was incorporated in the law for the benefit of Black Hawk County which contains the city of Cedar Falls where a local tax

¹³³ Apparently there is an inconsistency in the law with regard to the deputy in charge of the office of clerk of the district court not at the county seat. In section 15a, which was added to the law as an amendment, his salary is fixed at sixty-five per cent of the amount of the clerk's salary but in paragraph 4 of section 12 it is fixed at one-half the amount of the principal's salary.

collector has functioned for a number of years. The compensation of assistants to the county attorney is based upon the population of the county. In counties with less than thirty-six thousand population the deputy or assistant is entitled to no salary; in those with from thirty-six thousand to forty-five thousand inhabitants it is \$1000; in those with from forty-five thousand to seventy thousand inhabitants it is \$1500; and in all counties with a population larger than seventy thousand it is fixed at \$2000. The compensation of the deputy superintendent of schools is fixed by the county board of education in accordance with the provisions of the minimum wage law for teachers.

In addition to the law passed relative to the salaries of county officers several other measures relating to various phases of county government were enacted by the Fortieth General Assembly. Two of these acts relate to the collection and custody of fees by the county sheriff. The law passed by the Thirty-seventh General Assembly which revised the schedule of fees to be collected by the sheriff was amended, so that he no longer has authority to charge fees for collecting and paying money from property sold at sheriff's sales. Not only was that section in the law repealed but provision was also made for refunding the fees collected on property which had been sold if the time for redemption had not expired when the amendment went into effect.¹³⁴

An act proposed by Senator J. E. Wichman requires the sheriff to make an annual report of all condemnation funds paid to him. These are divided into two classes: first, those in cases which have been finally adjudicated; and second, those in cases where an appeal has been taken and the case is still pending. A report of all funds in the first class

¹³⁴ *Acts of the Fortieth General Assembly*, Ch. 102.

not paid to the parties entitled to them must be made to the county treasurer before the first day of January of each year and the money reported must be paid into the county treasury. The funds in the latter class remaining in the possession of the sheriff must be reported to the county auditor for examination and checking by the county board of supervisors and the amount reported must be paid to the sheriff's successor when his term of office expires. There are instances of sheriffs who retained condemnation funds after they were no longer in office, collected interest on such funds, and retained the money that was never claimed by the persons to whom it was due. Two notable instances of this practice were the actions of ex-sheriffs Charles Save-rude and W. E. Robb, both of Polk County. It appears, however, that there was some justification for the retention of this money, since it was not clear that under the old law the sheriff and his bondsmen were released from liability for the funds in his possession if paid to his successor. To obviate the recurrence of the practice and to remedy present conditions a section was included in the law which requires ex-sheriffs who have condemnation funds in their possession to make a report thereof and then pay the amounts to the sheriff within thirty days after the passage of the law. This provision has failed to cause such funds to be paid over — perhaps because no penalty for non-compliance is included in the law. No doubt the situation could be remedied by mandamus and contempt proceedings, but thus far no definite action has been taken.¹³⁵

Several acts of the Fortieth General Assembly relate to the powers of the county board of supervisors. Since the office of county surveyor was abolished the county board

¹³⁵ *Acts of the Fortieth General Assembly*, Ch. 103; *The Des Moines Register*, February 23, March 18, 1923.

has been required to employ a competent engineer to perform substantially the same duties required of the elective county surveyor. Due to many complaints of inefficiency of the engineers who presented themselves for appointments, as well as alleged interference by the State Highway Commission in the matter of appointment, this action on the part of the supervisors was made optional, so that the county board may now employ engineers for any specific project rather than one engineer for all the county work, or may even refuse to employ an engineer at all.¹³⁶

The board of supervisors may no longer allow the expenses of county officers for attending their State or district conventions. Should the supervisors authorize the issuance of a warrant and should it be issued by the auditor in defiance of the law then the county treasurer is instructed to refuse to honor the warrant when presented to him for payment.¹³⁷

Another act, though one of a special nature enacted for the immediate benefit of Fayette County, provides that if a county whose courthouse has been destroyed by fire has received at least one hundred thousand dollars from popular subscriptions for the construction of a courthouse, then the county board may use the money so subscribed and appropriate in addition not to exceed one-half the amount of the donations from the general county fund for the construction of the courthouse, provided there is a sufficient unexpended balance in that fund.¹³⁸

The Cosson Law provided that all popularly elected county, city, or town officers may be removed from office by an order of the district court in accordance with the find-

¹³⁶ *Acts of the Fortieth General Assembly*, Ch. 82.

¹³⁷ *Acts of the Fortieth General Assembly*, Ch. 106.

¹³⁸ *Acts of the Fortieth General Assembly*, Ch. 107.

ings of a trial. In 1923 this method of removal was made applicable to the appointive officers of these governmental areas as well as the elective ones.¹³⁹

A new duty was added to those to be performed by the county recorder. That officer is now required to file, record, and index notice of liens on property within the county in favor of the United States government and also the release of such liens. This act was passed undoubtedly for the purpose of aiding in the collection of the income tax. It is another instance of the Federal government using the governmental machinery of the county for the enforcement of its statutes — as it does in enforcing the prohibition laws.¹⁴⁰

Among the important measures relative to county officers and government which failed of enactment was one introduced by Representative John M. Rankin of Lee County to increase the term of office of the county auditor, treasurer, clerk of the district court, sheriff, recorder, and coroner to four years. This bill was referred to the House Committee on Elections. On April 11th it was reported without recommendation, but was withdrawn by its author.¹⁴¹

A bill to remedy a situation created by a Supreme Court ruling that boards of supervisors can not be held responsible for damages from accidents occurring on county bridges was introduced by Senator I. N. Snook of Lee County. He proposed that counties should be liable for damages resulting from accidents caused by defective bridges due to negligence of the supervisors, in spite of the fact that the State Highway Commission has been given considerable authority over bridge construction. The bill was sponsored by the State Threshermen's Association. It

¹³⁹ *Acts of the Fortieth General Assembly*, Ch. 12.

¹⁴⁰ *Acts of the Fortieth General Assembly*, Ch. 101.

¹⁴¹ House File No. 625; *House Journal*, 1923, pp. 752, 1611.

failed to pass the Senate on March 23rd by a vote of eighteen to twenty-one.¹⁴² Another measure, sponsored by Representative W. S. Criswell of Boone County, proposed to transfer the duty of issuing hunting licenses from the office of auditor to that of the recorder. Although this measure passed the House by the substantial majority of eighty-one to four it was indefinitely postponed in the Senate.¹⁴³

A defeated measure which created widespread interest throughout the State was a bill introduced by Representative H. S. Berry of Monroe County proposing to make the county superintendent of schools a popularly elected officer. Another bill of a similar nature was introduced by Representative Fred Rewoldt, Jr., but this measure was withdrawn by its author after the Berry bill had been defeated in the Senate. At every session of the General Assembly, since the office was made appointive in 1913, efforts have been made to change back to the elective basis, but each time the Senate has frustrated such efforts. No little antagonism was aroused over the matter.

The bill referred to was introduced on January 18th and referred to the Committee on Elections. Six days later the committee reported the measure for passage, but the House voted to re-refer it to the Committee on Schools and Text Books. After several delays this vote was reconsidered on February 7th and the bill was taken up on the following day. A very spirited debate ensued. Because of its opposition to the bill the Iowa State Teachers Association was scored by the advocates of the measure and was character-

¹⁴² Senate File No. 495; *Senate Journal*, 1923, pp. 1012, 1013; *The Des Moines Register*, February 9, 1923.

¹⁴³ House File No. 304; *Senate Journal*, 1923, p. 1276; *House Journal*, 1923, p. 851.

ized as an "autocratic association, not in the interests of the children". Representative Berry declared that although the education of the children had been delegated largely to women, the selection of the county superintendent was performed by the men and that the opponents of his bill were going against the wishes of the women of the State who desired to take a direct hand in the selection of the county superintendent. The measure finally passed the House on February 8th by a vote of fifty-six to forty-seven — one vote more than the necessary majority.¹⁴⁴

The bill was sent to the Senate and came up as a special order on February 20th. The contest in the upper house was no less keen than in the lower chamber. Senators Buser, Price, and Smith were most active in its defense, while the opposition was led by Senators Baird, Banta, Bowman, Horchem, and Mantz. The "teachers' union" was again scored by the advocates of the bill and referred to as "the greatest trust in the United States". County superintendents were severely criticised for carrying on other occupations — such as selling life insurance, conducting teachers' agencies, and lecturing — and receiving compensation for such work while holding the office. It was said that "there was no blacker chapter in the history of the legislature than that of the Thirty-fifth General Assembly when the present law was passed" which provided that the county superintendent be appointed by the school board presidents in the county. Debate on the measure lasted from ten-thirty o'clock in the morning until three-fifteen in the afternoon, and when the final vote on the passage of the bill was counted it was found that twenty-

¹⁴⁴ House File Nos. 286, 302; *House Journal*, 1923, pp. 200, 287, 306, 317, 363, 390, 437, 438, 441, 448, 453, 1099; *The Des Moines Register*, February 9, 1923.

two Senators had voted for the measure and twenty-six had cast their votes against it: a majority of four votes kept the county superintendents on the appointive basis.¹⁴⁵

Finally, the bill introduced by Senator A. H. Bergman, which would have made it possible for any county to adopt the manager plan of county government, should be mentioned. This measure was introduced on March 20th; on April 12th it was placed on the calendar but was not taken up for consideration; and on April 16th it was withdrawn by its author. According to its provisions an election to determine whether the county manager plan should be adopted for a particular county was to be held upon petition of twenty-five per cent of the local voters. If the results of the election were favorable to the adoption of the manager plan the only county officers to be elected by the people at the next election would be the county supervisors, attorney, sheriff, and coroner. It would be the duty of the board of supervisors to select a county manager. This manager would have power to appoint all necessary county officers and in general have authority to direct the county government under supervision of the county board. His compensation was to be fixed by that body between \$3000 and \$5000 annually.¹⁴⁶

MUNICIPAL LEGISLATION

True to the practice of previous General Assemblies, the acts of the Fortieth relating to cities and towns bulk larger than the legislation on any other particular subject: no less than thirty-eight acts deal directly with municipal affairs, others touch municipalities indirectly, while in addi-

¹⁴⁵ *Senate Journal*, 1923, pp. 565, 582, 586, 588; *The Des Moines Register*, February 21, 1923.

¹⁴⁶ Senate File No. 697; *Senate Journal*, 1923, pp. 945, 1475, 1620.

tion sixteen acts were required to validate the actions of cities and towns about which doubts of legality had arisen.

Municipal Officials.—The Thirty-ninth General Assembly passed a law requiring candidates for the office of commissioner in commission governed cities to announce the department of which they desired to be superintendent, instead of simply running for election to the commission, if the voters should approve of such a change at an election. The Fortieth General Assembly made this reform mandatory on all commission governed cities without the approval of the voters at an election. In commission governed cities with less than twenty-five thousand population (Burlington, Fort Dodge, Keokuk, Marshalltown, Mason City, and Ottumwa) the departments of “accounts and finances” and “parks and public property” have previously been combined under one commissioner, and those of “public safety” and “streets and public improvements” under another. This combination was changed. One commissioner will henceforth be “superintendent of accounts, finances and public safety” while another will be “superintendent of parks, public property, streets and improvements”, thus unifying the departments and making a more logical combination of functions.¹⁴⁷

Special charter cities in Iowa, if held for damages on account of injury to person or property resulting from the alleged negligence of the city, may sue the person or corporation whose actual negligence caused the injury and collect the amount of the judgment against the city. Dubuque, having changed from the special charter to the manager form of government but still desiring the benefit of this section of the Code, succeeded, through the efforts of

¹⁴⁷ *Acts of the Fortieth General Assembly, Ch. 135.*

the members of the General Assembly from Dubuque, in having the section made applicable to all cities and towns governed under the manager plan.¹⁴⁸

Two new acts were passed which provide compensation for policemen injured in the line of duty. Upon the instigation of the Iowa Bankers Association the workmen's compensation law was made applicable to any policeman (except those pensioned under the policemen's pension fund), sheriff, marshal, constable, their deputies, and all other law-enforcing officers who are killed or disabled while performing the duties which involve the peril peculiar to their office. According to the provisions of another act all municipalities in the State are empowered to furnish hospital, medical, and nursing attention to policemen and firemen who are injured in the performance of their duties. Any amounts received from the State under the workmen's compensation law or from any other source for that purpose are to be deducted, however, from the amount the city would otherwise be required to pay.¹⁴⁹

Ordinances.—For many years municipalities were required to publish certain ordinances in a local newspaper; or if there was no such newspaper then the ordinance could be published by posting it in three public places, two of which were the post office and the mayor's office. The Thirty-ninth General Assembly struck out the requirement of posting ordinances in the post office and mayor's office, so that if not published in a newspaper they could be posted in any three public places. The attention of the Fortieth General Assembly, however, was called to the town of

¹⁴⁸ *Acts of the Fortieth General Assembly*, Ch. 143.

¹⁴⁹ *Acts of the Fortieth General Assembly*, Chs. 17, 133; *The Northwestern Banker*, May, 1923.

Lisbon in which no newspaper is published and a provision was added so that, in the absence of a local newspaper, ordinances may be published in any newspaper of general circulation in the city or town which the council may designate. Moreover, in rewriting this section of statute law the provision that the post office and the mayor's office shall be two of the three public places in which ordinances may be published by posting was restored — perhaps inadvertently.¹⁵⁰

Zoning.— If city planning is to amount to much municipalities must have power to establish districts for various purposes. A beginning in this connection was made in 1917 when cities of the first class were empowered to establish restricted residence districts upon petition of sixty per cent of the real estate owners in the district.¹⁵¹

For the purpose of “promoting the health, safety, morals or the general welfare of the community, any city or town” in Iowa was empowered by the Fortieth General Assembly to “regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.” Moreover, the council may district the city or town according to a comprehensive plan and make uniform regulations for the class of buildings in each district. Such districting or zoning must take into consideration fire protection, health, concentration of population, transportation, water, sewerage, schools, parks,

¹⁵⁰ *Acts of the Thirty-ninth General Assembly, Ch. 84; Acts of the Fortieth General Assembly, Ch. 116.*

¹⁵¹ *Acts of the Thirty-seventh General Assembly, Ch. 138.*

the suitability of each area for particular uses, conservation of the value of existing buildings, and the most appropriate use of land throughout the city. A zoning commission appointed by the council is to recommend to the council the boundaries of the districts and the regulations to be enforced. The council must also provide for a permanent board of adjustment of five members with power to make exceptions in harmony with the general purpose for the benefit of aggrieved property owners.¹⁵²

Street Improvements.—The problem of coördinating rural and municipal paving on primary roads necessitated two additional acts on the part of the Fortieth General Assembly. By virtue of laws enacted in 1919 county boards, with the approval of town councils, were authorized to drain, grade, gravel, or hard surface continuations of primary roads in towns. The county board was specifically forbidden to undertake improvements of this kind within cities, and any pavement constructed by that body within the limits of a town was not to be over eighteen feet wide. According to a law passed by the Fortieth General Assembly the county board, with consent of the city council, may also grade, drain, gravel, or pave roads which are continuations of primary roads within any city whose population is not over twenty-five hundred. Before hard surfacing in such cities and towns may be undertaken, however, it must be authorized by the voters of the county. The supervisors have the same power to condemn and purchase land for right of way for these undertakings as they have for those outside of cities and towns. The width of the pavement within the corporate limits must be the same as on the primary road in the rural area. After its comple-

¹⁵² *Acts of the Fortieth General Assembly, Ch. 134.*

tion the maintenance of the project rests with the council of the city.¹⁵³

Another measure enacted by the Fortieth General Assembly was added to the law just described. It provides that town councils may petition the board of supervisors to drain, grade, gravel, or pave the continuation of a primary road running along or within its corporate limits. The supervisors must examine the petition, render a decision within thirty days, and report their action to the State Highway Commission for final review. One month later the Commission must report its action to the council and the board. In counties where hard surfacing of primary roads has not been authorized by a vote of the people and where the primary system has not been fully drained or graded the State Highway Commission must give preference to the grading and drainage projects. Not more than twenty per cent of a county's annual allotment of the primary road fund may be spent on projects within towns in this manner.¹⁵⁴

In 1921 the county was made optionally liable for that part of the cost of hard surfacing on primary roads in cities which is not assessable on adjacent property, provided the paving was not over eighteen feet wide. The restriction in regard to the width of the paving was removed in 1923, and the law was also made specifically applicable to special charter cities.¹⁵⁵

The fourth act relative to the improvement of roads within city or town limits by county boards of supervisors provides that if the county board wishes to pave or gravel the continuation of a secondary road adjacent to lands used

¹⁵³ *Acts of the Fortieth General Assembly*, Ch. 87.

¹⁵⁴ *Acts of the Fortieth General Assembly*, Ch. 88.

¹⁵⁵ *Acts of the Fortieth General Assembly*, Chs. 126, 127.

for horticulture or agriculture that have not been divided into parcels of ten acres or less but are situated within the limits of a city or town with less than thirty-five hundred inhabitants it may, with the consent of the city or town, include such a road within the project and levy assessments against adjacent property as against property in rural areas.¹⁵⁶

The council in all special charter cities has been required to divide the municipality into three or more districts for street cleaning, sprinkling, and repair work and provide a separate road fund for each district. This arrangement was obviously too elaborate for the two smaller special charter cities and involved unnecessarily complex book-keeping in the larger places; accordingly the division of the cities into districts was made permissive and a proviso was added so that the entire city may be made into a general road district.¹⁵⁷

In 1919 an act was passed which required contractors to keep street improvements in repair not less than four years. The following General Assembly made an exception in the case of graveling, and the Fortieth General Assembly added oiling and street repair work to the list of exceptions of kinds of improvements which do not need to be kept in repair for four years.¹⁵⁸

The Thirty-eighth General Assembly empowered the board of health in all cities and towns to compel the installation of sanitary toilet facilities wherever there was a sanitary sewer in the street upon which the property abutted. A technical amendment of the Fortieth General Assembly gave the board the same authority in respect to

¹⁵⁶ *Acts of the Fortieth General Assembly*, Ch. 90.

¹⁵⁷ *Acts of the Fortieth General Assembly*, Ch. 140.

¹⁵⁸ *Acts of the Fortieth General Assembly*, Ch. 124.

property abutting on alleys in which there is a sanitary sewer.¹⁵⁹

Public Utilities.—In 1919 any town, city of the second class (except special charter cities), and commission governed cities whose population did not exceed 35,000 were empowered to place the management of municipal owned waterworks, heating plants, gas works, or electric plants in the hands of a board of trustees. Chapter 129 of the Fortieth General Assembly raises the population limit on the commission governed cities which may take advantage of this statute to 50,000 — thus including the city of Cedar Rapids.¹⁶⁰

Another act provided for substantially the same arrangement in special charter cities having less than 35,000 population where the people have authorized the purchase or erection of a heating plant, gas works, or electric light or power plant. The board of trustees in special charter cities may be created, however, without submitting that question to the voters as is required in other cities and towns and they have power to purchase or erect, in addition to managing and controlling, the utilities specified, and on that account they must furnish bonds of \$10,000 instead of \$2500 as is required of boards of public utilities trustees in other municipalities. This statute was for the special benefit of Muscatine, which voted in 1922 to erect a municipal electric light and power plant. This act was deemed to be of immediate importance, but after it had been approved the omission of a publication clause was discovered so another act was necessary to provide for publication in order that the law might take effect at once. The

¹⁵⁹ *Acts of the Fortieth General Assembly, Ch. 118.*

¹⁶⁰ *Acts of the Fortieth General Assembly, Ch. 129.*

Muscatine board of electric light and power trustees was created in April, 1923.¹⁶¹

In 1919 the city of Des Moines was authorized to buy and operate the waterworks and to create a board of waterworks trustees. This board, conceiving itself non-political and more or less independent of interference from the city council, proceeded to operate the public utility on purely business principles. A new plant was built without additional charges for service. From time to time, however, the authority of the board has been challenged and its work hindered. Moreover, the board decided that the city should pay for the water it used. In order to give the water board full control of the waterworks an act was passed by the Fortieth General Assembly which clarifies the powers of the board and specifically states that the board shall have complete management of the waterworks with the right to make contracts relating thereto and to sue and be sued. The rules governing rate making were revised. The sum of \$350 annually per mile of pipe main was specified as the maximum charge for water furnished to the city, and a tax may be levied to pay for such water. The water board must lay water pipes before paving is done. Furthermore, a working capital of from \$50,000 to \$125,000 is to be created out of surplus from the revenue collected from private water consumers.¹⁶²

Parks and Playgrounds.— Since 1916 Council Bluffs has had authority to levy a special tax for the maintenance of a lake park. The year 1925 was fixed as the limit of the period during which this tax could be collected, but the Fortieth General Assembly extended the time until 1935.¹⁶³

¹⁶¹ *Acts of the Fortieth General Assembly*, Chs. 138, 139.

¹⁶² *Acts of the Fortieth General Assembly*, Ch. 130.

¹⁶³ *Acts of the Fortieth General Assembly*, Ch. 121.

All commission governed cities "which have their corporate limits divided by a meandered stream, and which have a population of thirty-five thousand (35,000) or more according to the last preceding state or federal census" — that is, Cedar Rapids, Sioux City, and Des Moines — were given power to acquire land along the meandered stream for park purposes, for sites of public buildings, or for the improvement of the channel and banks of the stream. If approved by the voters, bonds may be issued to pay for the land.¹⁶⁴

Since 1915 all Iowa cities have had authority to establish playgrounds if the proposition carries at an election. The old law, however, contemplated the purchase of land; and a new act was passed by the Fortieth General Assembly making it perfectly clear that cities may now establish and maintain playgrounds on land already owned or leased by the city if the people approve at an election. Moreover, the law was broadened to include the maintenance of recreation centers in buildings owned by the city.¹⁶⁵

Another act made the playground maintenance fund, in cities that have voted to establish a municipal playground, available for coöperation with the school corporation in the joint operation and maintenance, under unified control, of all public playgrounds in the city.¹⁶⁶

Cemeteries.— The provisions of an act of the Thirty-ninth General Assembly which permits cities, towns, and townships to use funds raised by taxation for the maintenance of cemeteries in other counties were greatly extended in 1923, so that cities, towns, and townships may now use

¹⁶⁴ *Acts of the Fortieth General Assembly*, Ch. 137.

¹⁶⁵ *Acts of the Fortieth General Assembly*, Ch. 122.

¹⁶⁶ *Acts of the Fortieth General Assembly*, Ch. 123.

funds raised by taxation to support a cemetery in another city, town, or township in the same or another county if the cemetery is not over a mile away. This act was especially designed to meet the needs of the many municipalities which use township cemeteries. Whenever a city or town utilizes a township cemetery the council and the board of trustees may arrange for joint maintenance, in which event they constitute a joint cemetery board with equal voting strength.¹⁶⁷

Cities and towns were also given the power of transferring by ordinance the management of cemeteries and duties relating to the disposition of the dead to a board of trustees.¹⁶⁸

Finance.— A very large part of the legislation relating to municipalities has to do with problems of finance. It would be difficult to estimate the importance of some of these laws, but probably one of the most far-reaching was an act authorizing all cities and towns, except special charter cities, to levy an additional two mill tax in 1923 and 1924 to meet any deficiency in the ten mill general fund levy. This is probably the beginning of a permanent increase in the general fund levy. At all events the general fund levy in special charter cities was also increased two mills, making it ten mills, while the maximum levy for all purposes in special charter cities was raised from sixteen to twenty-six mills.¹⁶⁹

Upon the strength of a Supreme Court decision, as construed by an Attorney General, some cities and towns hard pressed for funds have developed the practice of subjecting

¹⁶⁷ *Acts of the Fortieth General Assembly*, Ch. 113.

¹⁶⁸ *Acts of the Fortieth General Assembly*, Ch. 117.

¹⁶⁹ *Acts of the Fortieth General Assembly*, Chs. 141, 338.

The act allowing all cities and towns to levy an additional two mill tax during the next biennium appears to be of general application yet it is printed in the section of the session laws devoted to special legislation.

agricultural lands within the original municipal limits to municipal taxation though the law specifically exempts such land from municipal taxation in extended limits. An act was passed, therefore, to exempt such farm land within the original limits of cities and towns whose population is less than five thousand. While the situation in Audubon was the immediate cause of this legislation, it will have the effect of clarifying the law relating to the taxation of agricultural land in other municipalities. By implication, however, such land within the original limits of a city of over five thousand population may be taxed by the city.¹⁷⁰

That a large percentage of municipal poll taxes are not collected is a well-known fact. An amendment calculated to facilitate collection makes such taxes payable within fifteen days after the receipt of a demand for payment which may now be made by the clerk serving a personal notice or by a notice through the mail as formerly. Moreover, the city may now collect a penalty of not over two dollars for non-payment of poll taxes.¹⁷¹

The procedure governing appeals from special assessments was made much more explicit, the time for serving notice of appeal was extended from ten to fifteen days, and the minimum amount of the plaintiff's bond for the payment of costs was fixed at five per cent of his assessment, but not less than \$250.¹⁷²

The privilege of levying a special tax of one mill for the purchase and maintenance of police service equipment and apparatus was extended to Sioux City. Hitherto Des Moines was the only city allowed to levy such a tax.¹⁷³

¹⁷⁰ *Acts of the Fortieth General Assembly*, Ch. 114.

¹⁷¹ *Acts of the Fortieth General Assembly*, Ch. 131.

¹⁷² *Acts of the Fortieth General Assembly*, Ch. 125.

¹⁷³ *Acts of the Fortieth General Assembly*, Ch. 136.

An act which empowered cities to alter and improve water courses to prevent floods, passed in 1919 for the immediate benefit of Sioux City, was amended by the Fortieth General Assembly so that assessments against benefited property to pay the cost of filling the abandoned channel of the stream could be made independently of other costs. Moreover, the general rule that such assessments should not exceed one-fourth of the actual value of the benefited property was made inapplicable though the provision that the assessment should not exceed the benefits conferred was retained. There are no less than seven technical errors in this measure.¹⁷⁴

The period during which certain cities may continue to levy an additional yearly tax of one mill for grading, beautifying, and improving parks was extended from 1924 to 1935. Bonds for park purposes have hitherto matured in from fifteen to thirty years after the date of issue, but an amendment now makes it possible to borrow money for as short a period as five years.¹⁷⁵

In 1917 cities and towns of less than four thousand population were limited in the issuance of bonds for the erection of a hall for community and municipal purposes to an amount not exceeding five per cent of the actual value of the taxable property of the municipality. In 1921 some city, probably Harlan, authorized the expenditure of \$40,000 for a city hall, an amount in excess of what the law allowed the city to raise by taxation or by borrowing. The Fortieth General Assembly granted permission to issue not over \$10,000 additional bonds so as to raise the total sum of \$40,000 authorized.¹⁷⁶

¹⁷⁴ *Acts of the Fortieth General Assembly*, Ch. 128.

¹⁷⁵ *Acts of the Fortieth General Assembly*, Chs. 119, 120.

¹⁷⁶ *Acts of the Thirty-seventh General Assembly*, Ch. 182; *Acts of the Fortieth General Assembly*, Ch. 323.

The Thirty-ninth General Assembly gave municipalities permission to pay annuities to donors of gifts to the city and authorized a tax levy for that purpose. The Fortieth General Assembly specified that any surplus remaining from this tax after the payment of the annuity should be used for the purpose for which the bequest was made and may be transferred to any fund.¹⁷⁷

The transition of a special charter city to the manager form of government involves many readjustments. One such problem was taken care of by an act which authorizes the transfer of money on hand to appropriate funds under the new organization in such proportions as the council may determine.¹⁷⁸

Rock Rapids was given permission to transfer \$10,000 from the sewer fund and \$4000 from the improvement fund to the general fund. These amounts were raised by the sale of bonds and were not needed for the special purposes for which they were originally intended.¹⁷⁹

The State Constitution limits the indebtedness of all cities, including those under special charter, to five per cent of the value of the taxable property therein. By statute all municipalities except special charter cities have been further limited to one and one-fourth per cent for general purposes, while the additional three and three-fourths per cent of indebtedness can be incurred only for the purchase and operation of certain public utilities. These restrictions have now been made applicable to all special charter cities having less than two thousand population — Camanche and Wapello.¹⁸⁰

¹⁷⁷ *Acts of the Fortieth General Assembly*, Ch. 193.

¹⁷⁸ *Acts of the Fortieth General Assembly*, Ch. 142.

¹⁷⁹ *Acts of the Fortieth General Assembly*, Ch. 331.

¹⁸⁰ *Constitution of Iowa*, Art. XI, Sec. 3; *Acts of the Fortieth General Assembly*, Ch. 132.

SCHOOL LEGISLATION

Seldom in the history of Iowa did the cause of public education have as much at stake as during the regular session of the Fortieth General Assembly. Approximately seventy-five bills affecting the public schools were introduced and much of the progressive legislation secured during the past fifteen years was threatened; yet the General Assembly adjourned without seriously handicapping the schools, although few of the score or more measures which became law can be regarded as particularly constructive.

Among the important bills which failed to pass were those relating to the method of selecting county superintendents, the limitation of high school courses of study and the prohibition of athletic contests between high schools, the establishment of State uniform textbooks, and the repeal of the teachers' minimum wage law. Perhaps the greatest disappointment to those interested came when the teachers' annuity bill was withdrawn to save it from defeat.

Schools and School Districts.—The Ethell law providing that rural school boards should organize on the third Monday of March — the same time as urban boards — instead of on the first day of July, became a law on July 4, 1923. The tenure of directors whose terms would have expired on July 1, 1924, will be extended to the third Monday of March, 1925, and this arrangement dispenses with the election of March, 1924, except to fill vacancies. This law allows rural boards to secure teachers for the succeeding year at the same time as the urban boards and to contract for the entire year beginning July 1st following their organization.¹⁸¹

The statute governing the transportation of pupils in

¹⁸¹ *Acts of the Fortieth General Assembly, Ch. 67.*

districts where the schools have been closed was amended so that the board is now compelled to furnish transportation only where the distance is two miles or over. Formerly transportation had been furnished for pupils who lived one and one-half miles from the school to which they were assigned.¹⁸²

Several city school districts in Iowa have established or hope to establish junior college courses. The Fortieth General Assembly took cognizance of this situation by allowing such school districts in cities of twenty thousand inhabitants or more to charge graduates of a regular four year high school course sufficient tuition to maintain the junior college. This is an exception to the general rule that no tuition may be charged to residents under twenty-one years of age.¹⁸³

As usual a number of bills relating to the qualifications and certification of teachers were introduced. According to the provisions of an act, which was approved by the Governor after the legislature had adjourned, applicants for teachers' certificates may submit college credits in rural school management, rural sociology, and rural school methods in lieu of the examination in algebra, civics, economics, and physics when securing a first grade uniform county certificate.¹⁸⁴

School Finance. — In order to bring the laws regulating the issuance of school building bonds into harmony with the needs and practices of the larger districts, an amendment was passed making it possible to pay for the construction and equipment of more than one schoolhouse out of the pro-

¹⁸² *Acts of the Fortieth General Assembly, Ch. 73.*

¹⁸³ *Acts of the Fortieth General Assembly, Ch. 72.*

¹⁸⁴ *Acts of the Fortieth General Assembly, Ch. 66.*

ceeds of a single bond issue.¹⁸⁵ Due to the wording of the old law there was some doubt as to this point.

A measure introduced by Representative Thomas Parsons repealed the emergency act of the Thirty-ninth General Assembly which had allowed school bonds issued or voted between February 21, 1921, and January 1, 1923, to bear interest at the rate of six per cent per annum, and to be redeemable after five years. Thus the statute relating to the interest rate and the maturity of school building bonds now stands as it was prior to 1921.¹⁸⁶ However, to relieve districts where buildings were in process of construction, or to be constructed to replace buildings destroyed by fire, and for the relief of districts having outstanding school-house fund warrants an enabling act was passed. This act allows such districts to call a special election to vote a tax of not to exceed twenty mills on the dollar of taxable property for a period not to exceed fifteen years. When this tax has been voted and levied the board may anticipate the income by issuing special school building bonds or certificates. Such a tax, however, could not be authorized later than September 1, 1923.¹⁸⁷

Five days after the passage of this act the General Assembly enacted a measure allowing school districts, in case of an emergency arising prior to September 1, 1923, to hold an emergency election upon seven days' notice. The purpose of this law was to hasten the process of bonding and to enable the erection of structures to replace those destroyed by fire.¹⁸⁸

Special relief was granted to the consolidated independent school district of Carpenter by an act authorizing that

¹⁸⁵ *Acts of the Fortieth General Assembly*, Ch. 76.

¹⁸⁶ *Acts of the Fortieth General Assembly*, Ch. 77.

¹⁸⁷ *Acts of the Fortieth General Assembly*, Ch. 319.

¹⁸⁸ *Acts of the Fortieth General Assembly*, Ch. 320.

district to issue warrants for \$6000 in excess of the funds available and to levy a tax to redeem the same. This was done to correct a mistake in the enumeration of the school population and in the amount of the tax levy for the current year.¹⁸⁹

Owners of property to be condemned for school purposes now have the privilege of selecting one of the appraisers, the county superintendent now selects one — instead of all three — and these two appoint the third appraiser. If the owner can not be found the county auditor is authorized to appoint an appraiser for him. The act is so worded and punctuated that it is open to the interpretation that the county superintendent shall appoint the owner as one of the appraisers.¹⁹⁰

An act of the Thirty-ninth General Assembly required the boards of all consolidated and urban school districts to publish annually in July a detailed statement of all expenditures showing the name of person to whom paid and the amount and purpose of each claim, and to publish a detailed estimate of funds required for the succeeding year. The administration of law involved so much work and expense that the Fortieth General Assembly amended it so as to require boards to publish only the name of each payee and the amount of the claim, and to allow boards to publish a summarized rather than a detailed estimate of funds needed.¹⁹¹

It would appear that there were school districts in Iowa fortunate enough to have an excess of money in their general fund on April 1, 1923. An act was passed enabling such districts to transfer any part of such excess, not to

¹⁸⁹ *Acts of the Fortieth General Assembly*, Ch. 327.

¹⁹⁰ *Acts of the Fortieth General Assembly*, Ch. 74.

¹⁹¹ *Acts of the Fortieth General Assembly*, Ch. 69.

exceed \$7000, to the schoolhouse fund upon approval by the district court after proper application, publication, and hearing. This is, however, only a temporary measure.¹⁹²

State Aid. — In the past Iowa has granted State aid for educational purposes under eight heads: teachers' normal institutes, normal training high schools, consolidated schools, standard rural schools, education of deaf children, mining camp schools, vocational rehabilitation education, and vocational training. The appropriations for the first five are continuing and, with the exception of an emergency appropriation for the education of deaf children, were not affected by any legislation of the Fortieth General Assembly. The funds for mining camp schools, vocational rehabilitation, and vocational training were subject to considerable discussion and amendment. The appropriation of \$50,000 a year for mining camp schools was renewed, and the appropriation for vocational rehabilitation was continued for the next biennium at the same amount—that is, \$22,836.45 annually. In regard to vocational training, however, the legislature repealed the State aid appropriation which has ranged from \$40,000 in 1919-1920 to \$60,000 for the year ending June 30, 1923. Thus the burden of matching dollar for dollar the Federal aid offered under the Smith-Hughes Act is shifted entirely to the local school districts.¹⁹³

When the Thirty-ninth General Assembly undertook to increase the age limit of deaf children for whom State aid is available, the word ten was changed to twelve in only one of the two places where it appeared in the statute. This made the law read that State aid could be paid for the instruction of deaf children up to the age of ten but that no

¹⁹² *Acts of the Fortieth General Assembly*, Ch. 337.

¹⁹³ *Acts of the Fortieth General Assembly*, Chs. 60, 286, 295.

deaf child over twelve should be eligible to special instruction. Thus the State could not legally give aid for the instruction of any older deaf children than it could before. Several of the larger school districts which had been active in having the age limit increased proceeded to give instruction to deaf children up to the age of twelve on the strength of the intent of the amendment. Consequently the Fortieth General Assembly passed a special appropriation of \$600 to compensate the school districts of Des Moines, Dubuque, and Ottumwa for the instruction they had provided during the years 1921 and 1922. Moreover, the ambiguity in the statute as to the age limit was removed so that State aid will now certainly be available for all deaf children up to the age of twelve.¹⁹⁴

A bill, sponsored chiefly by John A. Storey, was passed appropriating the sum of \$50,000 a year to provide for normal training courses in private colleges under the direction of the State Board of Education. The measure was, no doubt, intended to appease the proponents of additional normal schools. Governor Kendall, however, vetoed this bill after the close of the session on the grounds that the bill did not receive the necessary two-thirds majority for an appropriation of public funds for private purposes, that the act was in violation of the Constitution, and that it tended to establish a dangerous partnership between the State and the sectarian colleges. He felt also that the appropriation was inadequate for effective work.¹⁹⁵

One of the most constructive measures enacted by the Fortieth General Assembly provided that physical education be introduced and required of all pupils in public ele-

¹⁹⁴ *Acts of the Thirty-ninth General Assembly*, Ch. 98; *Acts of the Fortieth General Assembly*, Chs. 71, 278.

¹⁹⁵ *Acts of the Fortieth General Assembly*, Ch. 64; *The Des Moines Register*, May 9, 1923.

mentary and secondary schools after September 1, 1924. In preparation for such instruction every State college and high school which offers teacher training must provide courses in physical training beginning on September 1, 1923.¹⁹⁶

Ideals.—Three laws evidently intended to inspire higher ideals and appreciation were enacted. One made services in connection with the raising of the flag in schools compulsory rather than optional. Another fittingly requires officials to raise the flag over schools and other public buildings on Mother's Day. The third act designates March 21st as State Bird Day and makes it the duty of all public schools to observe the day by a special study of birds and their protection.¹⁹⁷

SOCIAL WELFARE

Doubtless the most prominent measure in the field of social welfare was the act to promote the welfare and hygiene of maternity and infancy which made funds appropriated by the Sheppard-Towner law available in Iowa. In January, 1922, Governor Kendall had accepted the terms of the Federal act on behalf of the State for a period extending to six months after the adjournment of the regular session of the Fortieth General Assembly, and he heartily recommended continued coöperation with the Federal government in "the great and humanitarian enterprises". The measure, which carried an annual appropriation of \$21,213.60 to match an equal amount from the Federal government, had the support of the Iowa League of Women Voters. It was opposed by legislators who were pledged to a program

¹⁹⁶ *Acts of the Fortieth General Assembly*, Ch. 68.

¹⁹⁷ *Acts of the Fortieth General Assembly*, Chs. 70, 79, 388.

of economy and those who felt that the whole system of Federal aid was a dangerous innovation in the American system of government. Nevertheless, after being amended to exempt Christian Scientists and others from compulsory acceptance of proffered aid, the bill passed. The State Board of Education, acting through the State University, is charged with the administration of the terms of the law for promoting the welfare and hygiene of maternity and infancy; the work has been assigned to the University Extension Division.¹⁹⁸

The widow's pension law was rewritten and some of its more important defects were remedied. Residence of one year in the county is now required; no allowance can be made until the board of supervisors have had ten days in which to show why it should not be granted; no allowance can be effective for more than two years, and all pensions now in effect cease automatically at the end of 1923; no allowance can continue after the mother has remarried or moved to another county or State; and the maximum allowance per week for each child was reduced from \$3.00 to \$2.50. These changes will prevent many of the abuses that had developed.¹⁹⁹

The usual attempt to limit the hours of work for women was defeated. The bill before the Fortieth General Assembly proposed to establish a nine hour day for women employed in mechanical and mercantile establishments, factories, laundries, hotels, restaurants, in any express, transportation, or public utility business, and in telephone or telegraph offices. Supported by labor and club women as a protective measure, and opposed by women in execu-

¹⁹⁸ *House Journal*, 1923, pp. 32, 1065; *Acts of the Fortieth General Assembly*, Ch. 61.

¹⁹⁹ *Acts of the Fortieth General Assembly*, Ch. 57.

tive positions as placing unfair restrictions upon women competing with men in business and industry, the bill provoked one of the longest and most oratorical debates of the session. After the adoption of numerous amendments which practically nullified the purpose of the bill it was defeated by a vote of twenty-six to eighty.²⁰⁰

Since 1917 persons operating pool or billiard tables or bowling alleys outside the limits of cities or towns have been required to obtain a license from the county. This law was changed in 1923 to include theaters and the license is now issued by the township trustees who may prescribe the conditions under which such places of amusement shall be operated. The license fee of \$5 a month for each table or bowling alley was abolished but the penalty for violating the law remains a maximum fine of \$25. This act will serve to localize the control of such amusements.²⁰¹

Representative J. P. Gallagher tried to establish a State board to censor motion picture films, but neither of the bills he introduced received favorable consideration.²⁰²

On March 24, 1923, a loaded elevator in the Randolph Hotel in Des Moines fell eight stories and resulted in several fatalities. In the week following this accident, bills were introduced in both houses of the legislature regulating the construction and operation of elevators. A law passed without opposition provides for the adoption by a conference board of a code of standards for the construction, equipment, and operation of elevators and for inspection by the Commissioner of the Bureau of Labor Statistics.²⁰³

²⁰⁰ House File No. 478; *House Journal*, 1923, pp. 1462-1465.

²⁰¹ *Acts of the Fortieth General Assembly*, Ch. 98.

²⁰² House File Nos. 325, 569.

²⁰³ *Acts of the Fortieth General Assembly*, Ch. 18; *The Des Moines Register*, March 26, 1923.

Representative L. B. Forsling introduced five bills embodying changes in the workmen's compensation law recommended by the Industrial Commissioner. The amendments included a fifty per cent reduction of compensation to aliens; a requirement that employers providing their own compensation must show their ability to do so every year; changes in the amount of compensation in certain circumstances; a provision classifying industrial diseases as injuries under the law; the limitation of the period for filing claims for indemnity to two years; and the reduction of the waiting period from two weeks to one. All of these bills were indefinitely postponed.²⁰⁴

Although some of the weak places in the workmen's compensation law were not strengthened, the general terms of the law were extended to peace officers injured in the performance of their duties. The State is made liable for the payment of such indemnity.²⁰⁵ (This act is also discussed in connection with municipal legislation.)

Another law in the interest of public safety requires that mine inspectors shall post a summary report of the condition of the mine in some place where the employees have free access to it.²⁰⁶

LIQUOR LEGISLATION

Since national prohibition went into effect State legislation relating to the traffic in intoxicating liquor has been confined chiefly to measures for the enforcement of the prohibition laws. Six acts on this subject were placed on the Iowa statute books by the Fortieth General Assembly. The

²⁰⁴ House File Nos. 319, 320, 321, 322, 323.

²⁰⁵ *Acts of the Fortieth General Assembly*, Ch. 17; *The Northwestern Banker*, May, 1923.

²⁰⁶ *Acts of the Fortieth General Assembly*, Ch. 16.

longest, and probably the most important of them, was a comprehensive measure of twenty-one sections introduced by the Senate Committee on Suppression of Intemperance and aimed to put a stop to home brewing. This act repeals the former law regulating the search of premises and the seizure of intoxicating liquor, the trial of the alleged guilty parties, and the disposition of the liquor seized, and substitutes more effective procedure. Premises may now be searched not only for liquor but also for "instruments and material" used in the manufacture of liquor. The instruments seized are to be converted into junk, the materials that are of no value for anything but liquor-making are to be destroyed and other materials are to be sold, while the liquor is to be disposed of as formerly. According to the provisions of Chapter 20, which had been approved two weeks earlier, the possession, manufacture, and sale of home brewing instruments was made unlawful.²⁰⁷

The definition of a bootlegger was broadened by specifically including those who procure for, sell, or give liquor to minors, drunkards, or intoxicated persons. Moreover, a penalty of from \$300 to \$1000 fine, jail imprisonment from three to twelve months, or both, was prescribed for the misdemeanor of bootlegging. Inasmuch as this act included the content of two existing sections of the liquor law they were later repealed.²⁰⁸

Another act establishes procedure for the seizure and sale of any vehicles including automobiles, boats, and airplanes, used in the illicit transportation of intoxicating liquor. The law is designed to curb the bootleggers' traffic by making the transportation of liquor dangerous and expensive.²⁰⁹

²⁰⁷ *Acts of the Fortieth General Assembly*, Chs. 20, 23.

²⁰⁸ *Acts of the Fortieth General Assembly*, Chs. 22, 25.

²⁰⁹ *Acts of the Fortieth General Assembly*, Ch. 24.

The definition of a "persistent violator" of the liquor law was clarified and the penalty changed. Instead of a year sentence to the penitentiary for each offense after the first, such a person is subject to a fine of from \$500 to \$1000 or imprisonment in the county jail for the second offense, while for subsequent offenses the maximum penalty is now three years in the penitentiary.²¹⁰

PUBLIC HEALTH

The Fortieth General Assembly is notable for the enactment of several new laws relating to public health. Health officers and the medical profession are well satisfied with the results. Probably one of the most important measures was an act calculated to prevent the pollution of streams and lakes, by making it the duty of the State Board of Health to investigate complaints and order the discontinuance of the discharge into such waters of any sewage or other befouling matter which renders the water impure, pollutes the source of any public water supply, or is deleterious to fish life. This act is in addition to the provisions of the law relating to the abatement of nuisances and is designed particularly to prevent cities and towns from discharging sewage into rivers.²¹¹

When the new vital statistics law was passed in 1921 the regulations contained in the former vital statistics law relating to the disinterment of dead bodies were inadvertently repealed. This situation was remedied by the Fortieth General Assembly in an act making disinterment unlawful except with the written permission of the State Board of Health or the district court after thorough investigation and under "circumstances of extreme exigency". Violation

²¹⁰ *Acts of the Fortieth General Assembly*, Ch. 21.

²¹¹ *Acts of the Fortieth General Assembly*, Ch. 37; *The Des Moines Register*, April 25, 1923.

of this act is a felony punishable by a maximum term of two years in the penitentiary, a fine not exceeding \$2500, or both.²¹²

Another important measure in the interest of public health is an act to discourage the manufacture and sale of bed mattresses and comforts which are made of infectious, insanitary, unhealthful, or secondhand materials. This end is to be accomplished by requiring all such articles manufactured or sold in the State to be labeled with a true description of the materials used. The State Board of Health is charged with the inspection of mattress and comfort factories and the enforcement of the law. Violations are defined as misdemeanors punishable by fine and imprisonment. The act will be especially useful in preventing the spread of such diseases as leprosy and anthrax.²¹³

In 1919 a law was passed which permitted the manufacture and sale of "Imitation Evaporated Milk" and "Imitation Ice Cream" if so labeled. This provision was repealed in 1923 and it is now unlawful to manufacture or sell under any label "milk, cream, ice cream, skim milk, buttermilk, condensed or evaporated milk, powdered or dessicated milk, condensed skim milk, or any fluid derivatives of any of them to which has been added any fat or oil other than milk fat". The enforcement of this law will fall to the Secretary of Agriculture though the act specifies the Dairy and Food Commissioner whose office was abolished.²¹⁴

Until the Fortieth General Assembly passed a comprehensive and stringent law on the subject, there was no adequate means of controlling the sale and use of narcotic drugs in Iowa. The possession, importation, manufacture,

²¹² *Acts of the Fortieth General Assembly*, Ch. 39.

²¹³ *Acts of the Fortieth General Assembly*, Ch. 36.

²¹⁴ *Acts of the Fortieth General Assembly*, Ch. 44.

and sale of opium, coca leaves, or their derivatives including cocaine, morphine, heroin, and codeine, are now prohibited, with specified exceptions. Vehicles and containers used in the transportation of such drugs are subject to seizure and condemnation, while a building in which such drugs are kept, sold, or used may be deemed a nuisance and abated. Heavy penalties are prescribed for violations.²¹⁵

STATE PARKS

In recent years much attention has been paid to the conservation of natural resources and particularly the preservation and development of a system of State parks in Iowa. The Thirty-seventh General Assembly created the State Board of Conservation, and in 1919 control over the State park system was given to that body.²¹⁶ The annual appropriation of \$50,000 for the use of the Board was more than doubled by the Thirty-eighth General Assembly and left unchanged until 1923 when the Fortieth General Assembly decreased the amount \$25,000 per year.²¹⁷

Another act passed by the legislature in 1923 revised and codified the law relative to the organization and functions of the State Board of Conservation. In general its powers were left unchanged and a few were added. The Board is ordered to undertake surveys to establish boundary lines between State-owned lands and private property and is authorized to call upon one of the State Highway Commission engineers and the county engineers to assist in making the surveys. The greatest change made by the law was the reorganization of the Board itself. Instead of a board com-

²¹⁵ *Acts of the Fortieth General Assembly*, Ch. 43.

²¹⁶ *Acts of the Thirty-seventh General Assembly*, Ch. 236; *Acts of the Thirty-eighth General Assembly*, Ch. 368.

²¹⁷ *Acts of the Thirty-eighth General Assembly*, Ch. 368; *Acts of the Fortieth General Assembly*, Ch. 34.

posed of the Curator of the Historical Department and three members appointed by the Governor, the Board is now made up of five members appointed by the Governor, and the Secretary of the Executive Council will act as its secretary. Moreover, the term of office of the members is fixed at three years; and since not more than two go out of office at the same time, it is now a continuing body. The Board may make arrangements with a county board of supervisors or a city or town council, subject to the approval of the Executive Council, whereby the board of supervisors or city council will maintain a State park situated within their respective jurisdictions, and the expense of maintenance is to be paid out of the general county or city fund. The provision authorizing a board of supervisors to purchase land for park purposes upon authorization by vote of the people and then transfer the title thereto to the State Board of Conservation was left out of the revised law.²¹⁸

The Executive Council was authorized to exchange Wood Lake in Hancock County for real estate bordering on Eagle Lake also in Hancock County. The two lakes are only about six hundred feet apart and the action of the legislature can be explained by the fact that Wood Lake, which contains only forty-two acres and is dry most of the time, will be of little value as a preservatory of natural resources, whereas there is a great desire to preserve Eagle Lake and make it available to the public as a State park. Additional land would be required for a park and for a connecting road.²¹⁹

FISH AND GAME

The ownership of mussels, clams, and frogs in Iowa was

²¹⁸ *Acts of the Thirty-ninth General Assembly*, Ch. 135; *Acts of the Fortieth General Assembly*, Ch. 33.

²¹⁹ *Acts of the Fortieth General Assembly*, Ch. 322; *Report of the State Highway Commission on the Iowa Lakes and Lake Beds*, 1917, pp. 87-90.

said to be vested in the State just as the ownership of all wild game, animals, birds, and fish has been heretofore.²²⁰

The Thirty-ninth General Assembly made it unlawful to kill raccoons between the first day of February and the fifteenth day of October. The closed season on these animals was extended to November 15th, and skunks were given the same protection by the Fortieth General Assembly. The shooting of ruffed grouse and pheasants is prohibited until November 1, 1932. Provisions of the game law were repealed so that it is no longer unlawful to shoot game birds from an artificial ambush.²²¹

The law relative to letting contracts for fishing with nets by private parties was revised. The State Fish and Game Warden was formerly authorized to enter into written contracts with private persons or corporations for the taking of buffalo, carp, quilback, redhorse, suckers, and gar with a seine or net from certain lakes with an area of not less than two square miles. Dogfish were added to this list by the Fortieth General Assembly, and contracts may now extend to the public waters of the State. As heretofore the agreements must state specifically the waters to which they apply and the compensation to be paid to the State. The fishing may be carried on only in the presence of the Warden or one of his deputies and the holder of the contract must pay all expenses of the Warden as well as the fees for inspection. A new provision requires that no fishing may be done under the agreement until the holder has deposited a bond of at least \$500 conditioned upon the faithful performance of the contract and the payment of damages resulting in a breach thereof. According to the provisions of the revised law contracts may apply from June 15th to March 1st of the

²²⁰ *Acts of the Fortieth General Assembly*, Ch. 32.

²²¹ *Acts of the Thirty-ninth General Assembly*, Ch. 87; *Acts of the Fortieth General Assembly*, Chs. 29, 30, 31.

following year. Formerly they applied only from June 15th to the first day of December of the same year. This extension is not as great as it might indicate since fishing with nets or seines from December 1st to March 1st is often beset with difficulties. The provision authorizing the Warden to take fish from the rivers and lakes in Iowa at any time for the purpose of propagation or restocking other waters in the State or for exchanging them for other fish to be used for those purposes is not included in the revised act.²²²

A number of measures relative to fish and game failed to be enacted. One of these, a House bill, proposed to make unlawful all fishing in the State with hook and line or trot line unless a license had been secured from the county recorder. The license fee for non-residents was to be two dollars, while residents of Iowa were to pay one-half that amount. Another measure containing eighty sections was introduced by the House Committee on Fish and Game. It embodied a license feature similar to the one described and proposed to revise and codify the fish and game protection laws now in force. A Senate bill prohibiting hunting or shooting upon public highways passed the upper house but was referred to the sifting committee in the lower chamber where apparently it was lost. It prescribed a penalty of thirty days imprisonment in the county jail or a fine of one hundred dollars or both and revocation of the hunting license held by the guilty party.²²³

AGRICULTURE AND ANIMAL HUSBANDRY

Governor Kendall, in his inaugural address, devoted more attention to the needs of agriculture than to any other subject. He pointed out that during the past three years the

²²² *Acts of the Fortieth General Assembly*, Ch. 28.

²²³ Senate File No. 723; House File Nos. 796, 802; *Senate Journal*, 1923, p. 1557; *House Journal*, 1923, p. 1801.

farmers of Iowa have been operating at a loss, due to their inability to control the price of their products. There has been too much disparity between the price of the things they sell and the cost of what they buy. Already deeply in debt and with credit facilities exhausted, the farmers have been unable to hold their stock and grain for a good market. In view of these facts the Governor earnestly advocated the establishment of better marketing methods and the creation of additional rural credit facilities. He especially favored a new warehousing law whereby the farmer could certificate against grain in his own crib or granary and thus obtain additional credit and develop a system of commodity exchanges. Such a scheme, he thought, would have a tendency to make it practicable to deal in agricultural products on paper and the commodities could then be moved directly from the area of production to the place of consumption. This paper, the Governor thought, should be eligible for discount through the Federal reserve system. Moreover, he proposed that the State should follow the example of South Dakota in loaning money to actual farmers upon an amortization plan. Most of these suggestions were founded on the report of a commission, which the Governor had appointed in compliance with a recommendation in the Republican State platform of 1922, to investigate rural credit systems and coöperative associations in neighboring States.²²⁴

The first move in the legislature toward financial assistance to farmers was the introduction and adoption of a resolution memorializing the Iowa delegation in Congress to use all honorable means in securing the adoption of the amendment of the Federal Farm Loan Act for the establishment of Federal intermediate credit banks.²²⁵

²²⁴ *House Journal*, 1923, pp. 154-158.

²²⁵ *House Journal*, 1923, pp. 98, 181.

On January 19th Senator M. L. Bowman introduced a joint resolution to amend the Constitution so that the State might become indebted for the purpose of maintaining a system of rural credits and loaning money to resident citizens upon rural real estate security located in Iowa. Constitutional amendment, however, would afford no immediate relief and efforts were directed toward emergency legislation. On January 20th the Governor was requested to appoint a legislative committee to attend an inter-State conference at Sioux City, held for the purpose of investigating methods of stabilizing the prices of agricultural products. A joint committee was also appointed to consider the feasibility of establishing a State rural credit system. This committee reported on February 15th that the best method of relieving the burden of excessive interest on farm land loans was for the State to go into the business of loaning money on real estate security, but inasmuch as this could not be done without changing the Constitution the committee recommended the passage of the Bowman amendment. Later on the same day the Senate passed the constitutional amendment, but in the House, action having been deferred until April 12th, the amendment failed by three votes.²²⁶

The only relief measure which did gain enactment was an agricultural warehouse act calculated to furnish additional credit to farmers and possibly to improve marketing conditions. This act provides for the issuance of warehouse certificates against grain stored on the farm. The general administration of the law is under the direction of the State Secretary of Agriculture. He appoints local supervisory boards of from three to seven members with authority to supervise the storage of grain and the issuance of the cer-

²²⁶ *Senate Journal*, 1923, pp. 213, 263, 266, 267, 268, 496, 505; *House Journal*, 1923, p. 1667.

tificates, which may be either negotiable or non-negotiable. Some local person who is a good judge of grain and who is approved by the Secretary of Agriculture acts as sealer of granaries, cribs, and bins and inspector of the stored grain. A maximum fee of one cent a bushel may be charged for these services. For the purpose of affording a higher degree of security grain owners may organize and store their grain jointly, in which case "group certificates" are issued. All grain stored and sealed under the provisions of this act must be insured against fire and windstorm. There are also guarantees against the issuance of false certificates, the breaking of seals, and the sale, mortgaging, or delivery of stored grain which would seem to make agricultural warehouse certificates very good security for loans. If, however, the law was intended to promote the marketing of grain through the sale of these certificates and thus save transportation and other costs by direct delivery, the provisions in regard to grading and proper storage of the grain appear to be too meager to permit trading in grain on the basis of the certificates.²²⁷

County boards of supervisors have the authority to furnish financial aid out of the general fund to farm improvement associations. An effort to require this money to be raised by a special tax levy approved at a county election provoked a spirited debate in the Senate over the activities of the Farm Bureau Federation. The proposition was indefinitely postponed by a vote of thirty-four to five.²²⁸

Since 1917 the State has provided financial aid to the Iowa State Dairy Association, the Iowa Beef Cattle Producers' Association, and the Iowa Corn and Small Grain Growers' Association for furnishing instruction in prac-

²²⁷ *Acts of the Fortieth General Assembly*, Ch. 191.

²²⁸ Senate File No. 294; *Senate Journal*, 1923, pp. 424-426; *Acts of the Thirty-seventh General Assembly*, Ch. 90.

tical and scientific agricultural methods. The Fortieth General Assembly renewed the biennial appropriation of \$32,500 for this purpose.²²⁹

A statute reputed to be, "the most comprehensive legislation that has yet been enacted in any state" for the elimination of bovine tuberculosis was passed by the Fortieth General Assembly. The new law provides that when fifty-one per cent of the owners of breeding cattle in a county sign agreements to have their herds tuberculin tested the county may be enrolled under the county area testing plan by the Commission of Animal Health (the State Secretary of Agriculture under the new reorganization law). If seventy-five per cent of the owners of breeding cattle in any county operating under the county area plan sign such agreements the county must be declared an accredited area and it then becomes the duty of every owner of breeding cattle in the county to have his cattle tested. This will comply with the requirements of the United States Department of Agriculture for accredited counties. One or more accredited veterinarians are appointed by the Secretary of Agriculture to act as tuberculosis inspectors in each area. Funds from both the State and Federal government are available to pay for the inspection and the indemnity for slaughtered animals. In addition, a county tuberculosis eradication fund may be created from the proceeds of a maximum three mills property tax if the proposal to levy such a tax carries at a general election. This is for the purpose of supplementing the State and Federal funds, which will be insufficient in some counties.²³⁰

Heretofore the work of bovine tuberculosis eradication has been seriously handicapped in Iowa on account of in-

²²⁹ *Acts of the Fortieth General Assembly*, Ch. 47.

²³⁰ *Acts of the Fortieth General Assembly*, Ch. 48; *The Des Moines Register*, April 16, 1923.

adequate funds to pay the indemnities on infected cattle which were slaughtered. The owner was allowed a maximum of \$80 for each purebred animal and \$40 for a grade animal. The Governor recommended a liberal increase of State funds for this purpose and a bill to double the annual appropriation of \$250,000 was introduced but defeated. To make the available funds go farther, and in consideration of the free inspection service, the maximum indemnities were reduced to \$50 for purebred and \$25 for grade cattle. Moreover, five per cent of the appraised value of the herd will be deducted from the amount of the indemnity claim. This will place the burden of a slight loss upon the owner and still protect the heavy loser.²³¹

The hog cholera law was extensively amended in 1921, yet the Fortieth General Assembly found occasion to pass two acts further amending that statute. The object of the amendments is to further facilitate the use of the serum or virus by hog raisers. The procedure by which farmers may secure instruction through the Extension Department of the College of Agriculture in the administration of the serum was simplified. Though there must now be ten applicants instead of seven for such a local school of instruction, the fee has been reduced from \$5 to \$3. Under the former provisions of the law farmers with permits to administer the serum could not purchase it directly from the manufacturer. To remedy this situation the definition of a "dealer" in hog cholera serum or virus was broadened to include manufacturers who sell their products directly to the consumer. This provision is intended to diminish the monopoly of the veterinarians. Moreover, lists of authorized manufacturers and dealers in serum are to be furnished to

²³¹ Senate File No. 472; *Senate Journal*, 1923, p. 1487; *Acts of the Fortieth General Assembly*, Chs. 48, 49.

permit holders, and lists of permit holders are in turn supplied to manufacturers and dealers. Another new section requires all permit holders to report their activities in the use of hog cholera serum annually to the Secretary of Agriculture (the Commission of Animal Health is still designated as the agency in charge of the administration of the hog cholera serum law), and it is thought that these statistics will be valuable in the fight to prevent the ravages of hog cholera.²³²

An amendment to the law relating to the registration of animals is designed to prevent the use for breeding purposes of stallions which are not purebred. The enrollment of any stallion which is not purebred is prohibited and no unenrolled stallion can be offered for service.²³³

DRAINAGE

Due to the technical procedure that must be followed in the establishment and maintenance of drainage or levee systems and the detailed legal provisions by which drainage authorities are hedged about in the exercise of their duties, there is a necessity for constant revision of the law relative to these improvements. Consequently each session of the legislature contributes its share of amendments made necessary by some unforeseen exigency. The acts passed by the Fortieth General Assembly contain a number of such provisions.

The boards of supervisors are now forbidden to spend more for the preliminary expenses incident to the establishment of a drainage district than the amount of the bond filed by the petitioners. Should it become necessary to pay out a greater sum the board is authorized to require an

²³² *Acts of the Fortieth General Assembly*, Chs. 50, 51.

²³³ *Acts of the Fortieth General Assembly*, Ch. 52.

additional bond from the petitioners, but until that bond is filed all preliminary work must cease.²³⁴

In the past some assessments levied on lands for drainage purposes have been cancelled after the project was completed because of some jurisdictional defect or because of some illegality as to the terms of the contract. By virtue of an act passed by the Fortieth General Assembly the board of supervisors may, under those circumstances, correct the defects or irregularities and relevy the assessments if the contractor gives his consent. Such assessments are then just as legal as if no irregularity had existed.²³⁵

In cases where laterals to open or closed main drainage ditches are constructed for a less cost than the amount assessed upon the property benefited, the drainage authorities of the district concerned may refund a proportional share of the surplus to the various landowners if the amount of excess can be ascertained. Special drainage assessments, when no waiver for deferred payments has been made, may now be paid in two installments at the same time as other taxes. The installments are not necessarily equal, however, since the county treasurer is authorized to collect in March only such part of the assessments as will be needed to pay the interest and amount of maturing bonds or certificates up to the time of paying the second installment of taxes. The balance of the assessments then become due, without penalty, in September as other taxes.²³⁶

If the indebtedness of a drainage or levee district operating a pumping station is more than \$1000, bonds may be issued to refund the amount of the debt. These bonds may be issued by the board of supervisors only after the owners

²³⁴ *Acts of the Fortieth General Assembly*, Ch. 154.

²³⁵ *Acts of the Fortieth General Assembly*, Ch. 155.

²³⁶ *Acts of the Fortieth General Assembly*, Chs. 156, 157.

of ten per cent of the land within the district have petitioned to extend the time for the payment of their assessments. A resolution of the county board must provide for the issue of the bonds, they may not run for more than twenty years, the interest rate may not be more than six per cent, and they must be in the form prescribed in the law. The duty of selling the bonds devolves upon the county treasurer who is directed to dispose of them for cash on the best available terms.²³⁷

Levees constructed by the United States government on the banks of the Mississippi and Missouri rivers in Iowa may now be controlled by boards composed of three popularly elected trustees instead of by the county supervisors, if the majority of the persons owning land in the district desire that form of control. This was already possible for some types of drainage or levee districts.²³⁸

No less than four separate acts were passed by the Fortieth General Assembly to appropriate funds for the payment of drainage assessments levied against lands owned by the State of Iowa. The assessment on State property in Clay County arising out of the drainage of Mud Lake amounted to \$9792.33 and this sum was appropriated for that purpose. The sum of \$12,379.96 was made available for paying the assessments against State owned lands in Emmet County. The necessity for this appropriation arose out of the project undertaken for the draining of East Swan Lake. Odessa Lake in Louisa County and Keokuk Lake in Muscatine County are contained in a joint drainage district. The assessments levied against the land in these lakes amounted to \$75,053.63 and this sum was appropriated by the Fortieth General Assembly. Funds suffi-

²³⁷ *Acts of the Fortieth General Assembly*, Ch. 159.

²³⁸ *Acts of the Fortieth General Assembly*, Ch. 158.

cient to pay Iowa's share of the expense in draining Goose Lake in Greene County were also made available. According to estimates compiled in the office of the Auditor of State about \$80,000 will be needed for this purpose.²³⁹

HIGHWAY LEGISLATION

As in other recent sessions of the legislature, considerable attention was paid to highway problems by the Fortieth General Assembly and several changes were made in the road improvement laws of Iowa. In his biennial message to the legislature, delivered on January 9th, Governor Kendall called attention to deficiencies in the primary road law which should be remedied if Iowa expected to continue receiving aid for road building from the national government. He pointed out the requirement in the Federal law that selection of types of surfacing for Federal roads, as well as their maintenance, be entrusted to the State Highway Department. The Iowa laws vest both of these powers in the county boards of supervisors.²⁴⁰

Thirteen days later the recommendations of the State Highway Commission were presented to the House of Representatives by W. C. Edson of Buena Vista County, chairman of the House Committee on Roads and Highways, and were read into the journal of that chamber. Not only did the Commission recommend that the primary law be amended so as to conform to Federal aid requirements, but it requested also that the law be changed so as to permit payments for the right of way from the primary road fund; that special assessments for paving be abolished; that additional power be given to secure the right of way for primary roads through orchard lands and in towns; that it be

²³⁹ *Acts of the Fortieth General Assembly*, Chs. 283, 293, 300, 349.

²⁴⁰ *House Journal*, 1923, pp. 36, 37.

made lawful to pay the cost of improving or eliminating dangerous railroad crossings on extensions of primary roads in cities out of the primary road fund; that the issue of funding bonds by county boards for road and bridge building purposes without a vote of the people be made illegal; that the law be broadened so that grading and draining as well as surfacing might be included in secondary road improvement projects; that the Commission be given authority to remove advertising signs within the right of way; that a tax be levied on gasoline; and that an occupational tax be levied on motor vehicle carriers.²⁴¹

Later on the same day Representative J. P. Gallagher proposed a concurrent resolution memorializing the members of Congress from Iowa to oppose the granting of any further Federal aid to States for any purpose. According to this resolution a continuation of the practice would lead to the substitution of bureaucracy for democracy. The resolution further declared that "it is deemed unwise, dangerous, unpatriotic and openly and offensively antagonistic to the spirit and genius of the American form of state government to sanction, endorse, or to co-operate with to the extent of accepting any plan, policy, offering, or tender of federal aid in the conduct, handling or performing of any work, function or obligation constitutionally set apart as the inherent and inviolable right, or rights, of the several sovereign states".²⁴²

The resolution was called up for final consideration on February 2nd, and the vote was preceded by spirited debate in which the theory of State rights was invoked in defense of the resolution. It was pointed out, however, that according to John Marshall the United States Constitution gives

²⁴¹ *House Journal*, 1923, pp. 267-271.

²⁴² *House Journal*, 1923, p. 274.

the central government of the United States implied powers, and that the strict adherence to the principle of State rights for which the advocates of the resolution were contending had caused the secession of southern States and resulted in the Civil War. The logic of repealing all laws under which Federal aid was being received, if the resolution were passed, was pointed out. It would mean discontinuing not only the Federal aid for highway construction, but that for vocational education and the county agent system as well. Moreover, the legislature could not then logically accept aid from the United States government for maternity and child welfare under the Sheppard-Towner Act, the acceptance of which was pending at the time in the Fortieth General Assembly. The resolution was defeated by a vote of twenty-seven to seventy-five.²⁴³

Although the resolution was defeated, the Fortieth General Assembly did not amend the Iowa primary road law so as to make it conform to the requirements for aid from congressional appropriations. Hearings were held before joint sessions of the House and Senate Roads and Highways Committees. Members of the State Highway Commission, as well as the Secretary of Agriculture, Henry C. Wallace, were called in to explain the effects of the law and to give information on the subject in general. Moreover, a subcommittee of seven members of the House Committee on Roads and Highways was appointed to draft committee bills embracing the recommendations of the State Highway Commission. On February 23rd, however, Representative J. C. McClune presented a bill proposing to coördinate the primary road law of Iowa with the requirements of the Federal Aid Road Act. No action had been taken on this measure by April 10th and it was then withdrawn by its

²⁴³ *House Journal*, 1923, pp. 377, 378; *The Des Moines Register*, February 3, 1923.

author. Since in any event Iowa will not lose Federal aid for highway construction until 1926, the legislature will have two more opportunities to change the law and provide for its continuance if it sees fit to do so — one during the special session of the Fortieth General Assembly and the other in 1925 when the Forty-first General Assembly convenes.²⁴⁴

A number of bills to reorganize the State Highway Commission and the system of road administration in general were also introduced. Representative William C. Children of Pottawattamie County presented a measure looking toward the appointment by the Governor of a State Commissioner of Highways for a term of four years. His office was to be at Des Moines and he was to be the head of a Highway Department composed of all the boards of supervisors in Iowa. This bill was apparently designed to comply with the Federal requirement of State maintenance of highways without abandoning county control. Representative Children also proposed to divide the roads in Iowa into three systems — State, county, and township. A bill introduced by Senator A. J. Shinn also proposed the creation of a State Highway Department to be headed by one man appointed by the Governor for a four year term. He in turn was to appoint the heads of four divisions into which the Department would be divided, namely, division of highway construction, division of bridge and culvert construction, division of maintenance, and division of auditing. The House measures were withdrawn on April 10th and the Senate bill was lost in the Senate Sifting Committee.²⁴⁵

²⁴⁴ House File No. 570; *House Journal*, 1923, pp. 689, 1586; *The Des Moines Register*, February 2, 20, March 17, 1923.

²⁴⁵ Senate File No. 648; House File Nos. 590, 591; *House Journal*, 1923, p. 1586.

Although the request of the State Highway Commission that the primary road law be amended so as to conform to the Federal aid statute was not acted upon favorably by the Fortieth General Assembly a number of the Commission's recommendations were accepted, and several additional measures not mentioned in its recommendations also became part of the law.

In 1886 the Twenty-first General Assembly authorized county boards of supervisors to alter or establish highways along river banks in order to avoid expensive bridge construction. The supervisors were also given power to appoint a board of three appraisers to assess damages due landowners occasioned by the establishment or change of the road. The power to appoint these appraisers was partially taken from the supervisors in 1923. According to the law as amended by the Fortieth General Assembly the board, if unable to agree with the landowners as to the amount of damages, appoints only one appraiser, the landowners appoint another, and these two appraisers select a third. Similar provisions were made for the appointment of appraisers in case the change in the highway is made for the purpose of increasing the safety and convenience of travel or for economy in road building. In this instance the appraisers were formerly appointed by the county auditor. At present the law also provides, in both of these cases, that if the owners fail to appoint an appraiser the duty to do so devolves upon the board of supervisors.²⁴⁶

Several changes were made in the law relative to the expenditure of the primary road funds. It will be remembered that the State Highway Commission recommended the discontinuance of special assessments for paving benefits. This was not done, but the amount of the cost of

²⁴⁶ *Acts of the Fortieth General Assembly, Chs. 80, 81.*

paving primary roads which may be paid out of primary road funds, where the work is being done without a bond issue, was increased from seventy-five per cent to eighty-seven and one-half per cent. Thus only twelve and one-half per cent, instead of twenty-five per cent, of the cost of hard surfacing will be assessed against abutting lands. Not only was the proportion of the cost of hard surfacing to be borne by adjacent property reduced but the amount of assessment may not represent more than two per cent of the market value of the land. Formerly this was four per cent. Moreover, provision was made that where twenty-five per cent of the cost of paving a primary road had been assessed against property since 1919, one-half of that amount must be refunded. Money for this purpose is to be taken from the primary road fund or from the proceeds of bond sales. No interest is to be allowed and the board of supervisors may determine whether to pay the refund in one payment or in not to exceed ten annual installments. A clause relative to serving notice of assessments for paving benefits was added to the law. It provides specifically that a published notice of hearing on such assessments constitutes service of notice upon all persons owning property against which the assessments are levied.²⁴⁷

Primary road funds may now be used to purchase the right of way as well as for draining, grading, or surfacing highways. In counties where right of way has been purchased since 1919 with money from other funds, the board of supervisors is authorized to transfer from the primary road fund the amount spent for the right of way to the fund from which it was taken. In accordance with this provision, acquiring a right of way was included with grading and drainage, making the first of the three options for which

²⁴⁷ *Acts of the Fortieth General Assembly, Chs. 85, 86.*

the county may elect to spend its share of the primary road funds.²⁴⁸

According to a law passed by the Thirty-eighth General Assembly the board of supervisors was to recommend lateral highways for addition to the primary road system after all primary roads in the county were fully improved. It then became the duty of the State Highway Commission to declare these highways part of the primary system. This having been done the county board was authorized to use the primary road fund for the improvement of the added roads by paving or gravelling just as in the case of the other highways in the primary system. This section of the law was repealed and another substituted. According to the present law, after the primary roads are fully improved the State Highway Commission must appropriate a sufficient amount from a county's allotment of primary road funds to pay for the maintenance of the whole primary system and to meet the principal and interest due on outstanding certificates and bonds that have been issued for its improvement. The balance of the allotment may be used to drain, grade, or gravel such secondary roads as are "laterals" or "feeders" to primary roads. In such projects the boards of supervisors must follow the same procedure as for primary road improvements. Surveys and plans are to be made by the county engineer and must be approved by the State Highway Commission. The county engineer also supervises the construction work, while the State Highway Commission inspects the project and may refuse to allow claims for work that is not done according to contract. A county board may, however, elect to spend the surplus of its primary road fund for any year on the primary roads.²⁴⁹

²⁴⁸ *Acts of the Fortieth General Assembly*, Ch. 84.

²⁴⁹ *Acts of the Fortieth General Assembly*, Ch. 89.

Although this new law does not make a very great change in the manner of improving highways it will make considerable difference in the method of road maintenance. Primary roads are all maintained under the direction of the county board of supervisors, and the maintenance of county roads in the secondary system is also entrusted to that body; but the maintenance of township roads in the secondary system is entrusted to the township trustees. Thus there is likely to be a division of authority in maintaining improved secondary roads which would not occur if these were added to the primary system as under the old law. Although power to add secondary roads to the primary system has been taken from the State Highway Commission, that body may now designate as primary roads the highways which will make cities and towns more accessible. It has had this power to increase the accessibility of parks and recreation centers since 1919.²⁵⁰ These roads are then maintained by the county boards of supervisors.

The State Highway Commission is housed in buildings which belong to the College of Agriculture and Mechanic Arts. Since the enrollment of students at this institution has become so large as to demand all available space, the State Highway Commission has been authorized to expend for construction of office buildings not over \$125,000 from the surplus remaining in its maintenance fund at the close of the biennial periods ending in December, 1923, and December, 1925. The rooms now occupied by the Commission are to be vacated as rapidly as the construction of new buildings will permit in order that the space may become available for offices and laboratories of the engineering department. Not over \$50,000 may be expended in any one year and none until after land for the purpose has been acquired without expense to the State. The State Highway

²⁵⁰ *Acts of the Fortieth General Assembly, Ch. 83.*

Commission was authorized to accept a suitable site for this purpose if donated by the city of Ames.²⁵¹

When the government of the United States began the distribution of surplus war equipment in 1919 it became necessary to have suitable facilities for storage and repair of the equipment donated. Accordingly, the State Highway Commission leased a tract of land containing about eighteen acres and favorably located with respect to railroads and highways. The rent is \$600 annually and the lease will expire in 1926. The Commission, however, has the option of purchasing this land for \$12,000. In view of the fact that eight large hollow tile sheds, representing an investment of \$75,000, have been constructed on this land, the State Highway Commission was authorized to expend a sum not greater than the option price for the purchase of the area.²⁵²

With a view to increasing the safety of motor vehicle traffic on highways the State Highway Commission and boards of supervisors in Iowa have been given authority to order the removal of billboards where the view of any portion of the highway or railroad track is obstructed by their presence. The order for removal may be issued to the owner of the property upon which the sign is erected or to the person responsible for its existence. If the billboard is not removed within ten days after the order has been received the board of supervisors or the Highway Commission may remove it and pay the expense out of the primary road fund or county road fund according to whether the sign was located along a primary or secondary road. The costs are then recoverable in an action against the party refusing to remove the billboard. The negligent person is

²⁵¹ *Acts of the Fortieth General Assembly*, Ch. 328.

²⁵² *Acts of the Fortieth General Assembly*, Ch. 329; *House Journal*, 1923, p. 269.

also declared to be guilty of misdemeanor and may be fined any sum between \$5 and \$25.²⁵³

Finally the Fortieth General Assembly repealed the standard "draft sleigh" act passed by the Thirty-ninth General Assembly in 1921. It provided that every new bob-sled or "draft sleigh" sold in Iowa should have its opposite runners four feet and eight inches apart.²⁵⁴

MOTOR VEHICLES

The most important law relative to motor vehicles enacted by the Fortieth General Assembly is the act regulating motor vehicle passenger and freight carrier lines,²⁵⁵ introduced jointly by Senators B. W. Newberry and J. E. Wichman. Motor carriers are now required to secure from the Railroad Commission a certificate permitting them to operate, but this does not include any motor vehicles engaged in the transportation of live stock or farm products from the place of production to market. This certificate may be granted after the carrier has filed an application setting forth the proposed route, the schedule, and the property to be used in its operation, provided the Commission decides, after a hearing, that the proposed bus line will serve the public convenience. The carrier must also file a liability insurance bond to cover damages that may result to persons or property through the operation of the carrier. The Commission is required to grant the certificate to a carrier which was in operation prior to April 14, 1923. Appeals from decisions may be taken to the district court.

In addition to the regular license fees for automobiles and trucks every motor carrier is required to pay a tax of

²⁵³ *Acts of the Fortieth General Assembly*, Ch. 91.

²⁵⁴ *Acts of the Fortieth General Assembly*, Ch. 92.

²⁵⁵ *Acts of the Fortieth General Assembly*, Ch. 97.

one-eighth cent per ton mile for each vehicle equipped with pneumatic tires and one-fourth cent per ton mile for each vehicle equipped with hard-rubber or solid tires. The ton mile is computed on the basis of distance travelled and the maximum carrying capacity of the bus, truck, or trailer. Motor carriers are required to keep and preserve for five years daily records of schedules maintained and to certify to the Commission, before the tenth day of each month, the number of miles which each of its vehicles has travelled as well as its capacity and a statement of the equipment that has been inactive during the preceding month. The amount of taxes to be paid by each carrier is calculated by the Railroad Commission and certified to the various county treasurers concerned. Taxes are payable to the county treasurer on or before the fifteenth day of each month. Provision is made for inspection of records kept by the carriers, and the revenue to be derived from these taxes is to be used for the improvement and maintenance of the roads and streets over which carriers operate.

Cities and towns are given authority to designate streets to be used by motor carriers and to adopt general rules of operation. Although the act contains a number of safety rules and regulations prescribing the qualifications for drivers, limiting the speed at which the vehicles may travel, and other related matters, the Railroad Commission is given authority to prescribe additional rules. Certificates may be revoked for violation of the motor carrier regulation act or the rules of the Railroad Commission. An appropriation of \$10,000 annually was made for the purpose of administering the law.²⁵⁶

All the other acts passed in 1923 relative to motor vehicles are amendatory to previously enacted statutes on

²⁵⁶ *Acts of the Fortieth General Assembly, Ch. 305.*

that subject. The amount of the license fee to be paid by automobile owners will no longer be based upon the retail price of the vehicle when new, but rather upon its current factory price. Manufacturers are required to keep the Motor Vehicle Department informed as to changes in the prices of their automobiles, and the Department in turn notifies the various county treasurers who must use the new quotations in computing the license fees to be paid.²⁵⁷

According to another provision enacted by the Fortieth General Assembly the Motor Vehicle Department is authorized to refund one-half of the license fee paid on a car which, during the first six months of the period for which the car was registered, has been stolen, sold for continuous use outside of Iowa, or accidentally destroyed. The refund will be made by the Department on the first of January following certification by the county treasurer of such loss, theft, or sale.²⁵⁸

The fee for publishing delinquent motor vehicle tax lists was increased from fifty cents to two dollars, and it was made unlawful to wilfully deface an automobile license plate, just as it has been unlawful to deface the serial or assembling number of the engine or the registration number of the vehicle.²⁵⁹

A bill introduced by Senator O. L. Mead of Butler County provided for issuing automobile license plates which could be used for five years. These plates would be made so as to permit the bolting of the insert year numbers to the plate proper. It was variously estimated that the adoption of such a system would result in an annual saving from \$50,000 to \$150,000 to the State. Although the measure passed the

²⁵⁷ *Acts of the Fortieth General Assembly*, Ch. 93.

²⁵⁸ *Acts of the Fortieth General Assembly*, Ch. 94.

²⁵⁹ *Acts of the Fortieth General Assembly*, Ch. 95.

Senate with only one dissenting vote it was lost in the House Sifting Committee.²⁶⁰

The operating of an automobile by anyone while in a state of intoxication was made a penitentiary offense and is now punishable by imprisonment in the State penitentiary for as long as one year or by a fine of not more than \$1000 or both. Prior to 1923 this offense was only a misdemeanor punishable by imprisonment for not over one year in the county jail or a fine of not to exceed \$500 or both.²⁶¹ Under the new law it is a felony.

The toll of automobile accidents is steadily mounting, and that fact was reflected in the General Assembly by the introduction of bills calculated to compel drivers of automobiles to exercise more care. One measure provided that every person driving an automobile should obtain a license, good for a lifetime unless forfeited by reckless driving. Senator J. O. Shaff pointed out that fines were no deterrent to the wealthy. Moreover, it is practically impossible to punish a reckless driver until he has injured someone in an accident. Only four Senators could be mustered to vote for the bill. Another bill proposed the filing of a surety bond of \$500 by every automobile owner to cover judgments for damages recovered on account of the death or injury of any one caused by the operation of the machine. This measure was indefinitely postponed. Several bills sought to promote safety at railroad crossings by requiring motor vehicles to slow down to ten miles an hour, by requiring them to stop before crossing, by requiring the railroad companies to maintain electric signs and gongs at crossings, by erecting white and red crossing signs on a mound in the middle of the highway, and by eliminating dangerous crossings.

²⁶⁰ Senate File No. 514; *Senate Journal*, 1923, p. 1317.

²⁶¹ *Acts of the Fortieth General Assembly*, Ch. 96.

None of these proposals appear to have received serious consideration.²⁶²

RAILROADS

An act which permits a long line carrier to meet the rate of its short line competitor between two cities, after authorization by the Railroad Commission, is among the most important acts passed by the Fortieth General Assembly. In fact two measures permitting this practice were passed, but the first of these was vetoed by Governor Kendall because it did not sufficiently protect small shippers in that it repealed certain provisions of a time-honored law which prohibited unjust discrimination between large and small shippers. Moreover, the Governor deemed the measure objectionable because it contained no stipulation that the rate for the longer distance between the two shipping points should be compensatory for the service rendered. "It is evident", said he, "that if the lower rate allowed shippers at a competitive point is less than compensatory a loss is sustained by the carrier in the traffic transported, and it is equally evident that such loss must be recouped by an additional levy upon shippers elsewhere on the system."²⁶³

A bill without these objectionable features was introduced by the Committee on Railroads in the House of Representatives on April 9th. It passed the lower chamber on April 14th and was favorably acted upon by the Senate two days later. Executive approval was given on April 21st. As a result, the State Railroad Commission has been vested with power to authorize a less charge for a longer than for

²⁶² Senate File Nos. 391, 425, 676; House File Nos. 347, 556, 606; *Senate Journal*, 1923, p. 1053; *House Journal*, 1923, p. 1358; *The Des Moines Register*, March 27, 1923.

²⁶³ House File No. 285; *House Journal*, 1923, pp. 1425-1430.

a shorter haul between two shipping points in Iowa, but the rate authorized must be compensatory for the service performed. The Interstate Commerce Commission has been given similar power over interstate commerce by an act of Congress. The enactment of this measure marks the culmination of a number of attempts to change this provision in the old "Larrabee Law", as it is known, since its passage in 1888. Governor Cummins, in 1906, vetoed a measure similar to the one vetoed by Governor Kendall. The large majorities by which the law passed in 1923 is evidence of the change in sentiment that has taken place on the subject since Governor Larrabee's famous railroad legislation was enacted. The willingness to amend the law in this particular, however, is clearly attributable to the shortage of cars which has worked a hardship on shippers, who in many instances were forced to use the longer routes and consequently pay additional freight charges.²⁶⁴

The law relating to the publication of rate schedules by common carriers and the powers and duties of the Railroad Commission was made more detailed and specific, and some additional powers were granted to the Commission. It may require railroads to specifically include terminal, storage, and icing charges as well as other matters in the published schedules. Moreover, the Commission may also conduct hearings as to the propriety of proposed rates. Instead of being composed of one long section, these provisions are now contained in fourteen sections of the law.²⁶⁵

Three acts were passed for the purpose of investigating certain practices and property valuations of common carriers. The Thirty-seventh General Assembly directed the

²⁶⁴ *Senate Journal*, 1923, pp. 1597-1599; *House Journal*, 1923, pp. 1543, 1739, 1740; *Acts of the Fortieth General Assembly*, Ch. 161; *The Des Moines Register*, March 15, 1923.

²⁶⁵ *Acts of the Fortieth General Assembly*, Ch. 162.

Governor to investigate the valuations put upon railroad property in Iowa by the Interstate Commerce Commission. An appropriation of \$40,000 was made for that purpose. At the instigation of the Chief Executive this duty was transferred to the Railroad Commission in 1921. The railroads, particularly the Rock Island Company, are contesting the evaluations of the Interstate Commerce Commission and the 1917 appropriation was spent to represent the interests of Iowa in the contest. In his message the Governor pointed out the importance of having sufficient and accurate evaluations assigned to the railroad property in Iowa because the data secured by the Interstate Commerce Commission would be used by the Executive Council as a basis for the assessment of railway property for taxation. He therefore requested the legislature to make a sufficient appropriation to carry on the work. Accordingly the sum of \$6666.67 was appropriated to be used for the purpose until July 1, 1923, and \$20,000 annually was made available for the next two years.²⁶⁶

An annual appropriation of \$30,000 was made by the Thirty-ninth General Assembly to enable the Railroad Commission to prepare and submit cases involving rates or services affecting Iowa, to investigate and determine cases within its jurisdiction, and to defray the general expenses of the Commission. This appropriation was reduced to \$25,000 annually.²⁶⁷

The Governor and the Attorney General were constituted a committee to investigate and to take action for the protection of the people of Iowa against the steel-trade practice commonly known as "Pittsburgh Plus", and other similar

²⁶⁶ *House Journal*, 1923, pp. 32, 33; *Acts of the Fortieth General Assembly*, Ch. 318.

²⁶⁷ *Acts of the Fortieth General Assembly*, Ch. 160.

practices. An appropriation of \$10,000 was made to carry on the work.²⁶⁸

In 1921 the legislature appropriated \$5000 annually for the ensuing two years for the purpose of coöperating with other States in the Great Lakes-St. Lawrence Tide Water Association to encourage the movement for the construction of a waterway that would make it possible to transport the products of the Mississippi Valley States to the ocean by way of the Great Lakes and the St. Lawrence River. A similar act appropriating the same sum for the years 1923 and 1924 was passed by the Fortieth General Assembly.²⁶⁹

BUSINESS, TRADE, AND COMMERCE

Practically all the acts relative to business, trade, and commerce enacted by the Fortieth General Assembly are technical amendments to former laws on that subject. The definition of "stocks, bonds, and other securities", adopted in 1921 for the purpose of regulating their sale by investment companies, was extended so as to include interest in or liens upon estates, shares of participation, and Common Law trust agreements.²⁷⁰

The law relative to the bond which stock brokers or dealers must give before a certificate authorizing them to carry on their business will be issued by the Secretary of State was revised. The sum of the bond, \$5000, was not changed, and it must still be approved by the Executive Council and filed with the Secretary of State; but changes were made in the clauses stating the conditions of forfeiture and liability under the bond. Action upon the bond may now be brought in the county where the plaintiff resides, in any

²⁶⁸ *Acts of the Fortieth General Assembly*, Ch. 163.

²⁶⁹ *Acts of the Fortieth General Assembly*, Ch. 291.

²⁷⁰ *Acts of the Fortieth General Assembly*, Ch. 167.

county where the defendants may be sued, or in any county in the State where the transactions to which the case relates transpired.²⁷¹

A bill, introduced by Senator T. C. Cessna, proposed to repeal the small loan act, passed by the Thirty-ninth General Assembly, according to the provisions of which all loan companies and alleged loan sharks were put under the supervision of the Superintendent of Banking. This law when passed was sponsored by the Russell Sage Foundation and was backed by social workers, the Iowa State Federation of Labor, and numerous public welfare organizations. It is in force in about twenty States and is intended to eliminate the loan shark, thus saving small borrowers thousands of dollars in interest. Senator Cessna felt, however, that the interest rate of three and one-half per cent a month was too high. The measure was never acted upon by the Senate and the small loan law still stands.²⁷²

The law requiring coöperative associations to file an annual report with the Secretary of State was made more specific. According to the amendment passed in 1923 the report must relate to the fiscal year or the calendar year preceding the first of March when the report is due. The penalty for failure to file the report on the required date was fixed at ten dollars, instead of ten dollars for each month or part of a month that the report was delinquent.²⁷³

The annual appropriation to defray expenses of the oil inspection department was reduced from \$20,000 to \$17,500.²⁷⁴

A number of important measures relating to the regulation

²⁷¹ *Acts of the Fortieth General Assembly*, Ch. 168.

²⁷² Senate File No. 413; *The Northwestern Banker*, May, 1923.

²⁷³ *Acts of the Fortieth General Assembly*, Ch. 166.

²⁷⁴ *Acts of the Fortieth General Assembly*, Ch. 19.

of telephone companies were considered by the Fortieth General Assembly. In his biennial message to the legislature, Governor Kendall called attention to the fact that no control over telephone companies was exercised by any governmental agency. He pointed out that cities and towns have authority to regulate rates charged by other public utilities and recommended that this power be extended so as to apply also to telephone companies. He pointed out that the "temptation to impose unreasonable rates is always present and sometimes irresistible" in the absence of regulation, and that there were many complaints that telephone companies were charging exorbitant fees for services.²⁷⁵

Accordingly a number of bills were introduced, two of which were considered in the House of Representatives. A bill introduced by Representatives W. E. G. Saunders of Palo Alto County and C. F. Clark of Linn County proposed to vest control over telephone companies in the Railroad Commission; and another, sponsored by Representative Frank C. Lake of Woodbury County, would give cities and towns control over this type of public utility. The former was substituted for the Lake bill and when put to a vote it failed to pass the House.²⁷⁶

No less than four measures were introduced in the upper house. Senator M. L. Bowman of Black Hawk County introduced two measures proposing to give cities and towns control over telephone rates. One of these, a companion bill to the measure introduced in the House by Representative Lake, was ordered to the foot of the calendar on March 30th and was finally lost in the Sifting Committee. The second bill introduced by Senator Bowman and another introduced by Senator J. D. Buser of Muscatine County, proposing to

²⁷⁵ *House Journal*, 1923, p. 35.

²⁷⁶ House File Nos. 418, 623; *House Journal*, 1923, p. 1204.

vest control over telephone companies in city and town councils, county boards of supervisors, and the Railroad Commission, were lost because they failed to receive the necessary number of votes when put on final passage. A measure introduced by Senator E. H. Campbell proposing to regulate telephone companies through the Railroad Commission met a similar fate. As a result telephone companies operating in Iowa are still without legal regulation.²⁷⁷

Although the Governor did not mention the conservation of water power sites in his biennial message, he called the attention of the legislature to the problem on March 8th in his first special message to the General Assembly. In this communication he recommended the passage of a law giving the Executive Council exclusive authority to permit the location of plants for the generation of hydro-electric energy; to limit the permit so issued to a reasonable duration of time; and to prescribe the conditions and terms upon which the grant allowed by the permit might be enjoyed. This recommendation on the part of the Governor was in strict accord with his action in 1921 when he vetoed the Springer Public Utilities Commission bill because it contained perpetual franchise grants. A bill, drafted on the plan outlined by the Governor, was introduced in the House of Representatives by the Committee on Conservation. In spite of the fact that the measure passed the lower chamber by a considerable majority, it was lost in the Senate Sifting Committee. The inaction of the Senate was perhaps due to the fact that the bill was not received in that chamber until April 16th, the day before the date set for the final adjournment of the Fortieth General Assembly.²⁷⁸

²⁷⁷ Senate File Nos. 266, 412, 436, 552; *Senate Journal*, 1923, pp. 1152, 1337-1340.

²⁷⁸ House File No. 820; *Senate Journal*, 1923, p. 1608; *House Journal*, 1923, pp. 771, 1807-1809; *The Des Moines Register*, March 9, 1923.

CORPORATIONS

One of the three general measures relating to corporations passed in 1923 legalizes acts of corporations. The Thirty-sixth General Assembly legalized the renewal of a corporation organized for pecuniary profit if properly made prior to February 1, 1915, even though the certificate setting forth the proceedings and the certificate of incorporation had not been filed in the offices of the Secretary of State and the county recorder within the time fixed by law, if the papers had been properly filed at a later date. This act was amended by the Fortieth General Assembly so as to apply to all renewals made prior to July 1, 1923.²⁷⁹

Notices of incorporation should be published within three months after the certificate of incorporation has been issued by the Secretary of State. Sometimes this is not done within the prescribed time; and so the Fortieth General Assembly passed a law validating all acts of corporations performed after the delayed publication of such notice.²⁸⁰

The Fortieth General Assembly also repealed the provision that only officers of a corporation are required to sign articles of dissolution when a corporation is dissolved by unanimous consent prior to the expiration of the articles of incorporation. Inasmuch as "articles of dissolution" are not mentioned elsewhere in the statutes this requirement seemed unnecessary. A number of additional acts passed in 1923 relate to particular kinds of corporations. Such laws are reviewed under their various subjects.²⁸¹

BANKS AND BANKING

One of the most puzzling problems of legislation affect-

²⁷⁹ *Acts of the Fortieth General Assembly*, Ch. 196.

²⁸⁰ *Acts of the Fortieth General Assembly*, Ch. 164.

²⁸¹ *Acts of the Fortieth General Assembly*, Ch. 165.

ing banks is that of devising an equitable method of taxation. In Iowa, banks are taxed on twenty per cent of their capital and surplus; while real estate is taxed on one-fourth of its assessed value; and moneys and credits are taxed only five mills on the dollar. Thus banks are taxed at a higher rate than other property. This matter gained special prominence on account of a decision of the United States Supreme Court in 1921 to the effect that bank capital should not be taxed differently than other capital similarly employed. Congress having amended the Federal statute to conform to this decision in March, 1923, the Iowa Senate Committee on Ways and Means introduced a bill increasing the moneys and credits tax to seven mills and proposing to tax banks, investment companies, building and loan associations, mortgage companies, and other corporations doing a similar business on twenty per cent of their dividends if incorporated, and twenty per cent of their net income if unincorporated (private banks). The Senate, however, substituted for the proposed income tax, a bill introduced by Senator C. M. Dutcher which was designed to tax all moneyed capital in the same relative ratio as real estate. After considerable debate further action was deferred until the special session of the General Assembly to meet in December, 1923.²⁸²

An act drafted by the Iowa Bankers Association and characterized as "one of the most constructive pieces of legislation passed in years" makes the Superintendent of Banking the receiver for all insolvent banks, upon appointment by the district court. He is to serve without additional compensation, and the office of the Attorney General is to furnish counsel. This change will tend to conserve the assets of insolvent banks for the benefit of depositors and will

²⁸² Senate File No. 713; *Senate Journal*, 1923, pp. 1506-1512, 1593, 1594; *Iowa Bankers Association Bulletin*, No. 1403.

eliminate the appointment of receivers who are poorly qualified for handling such problems.²⁸³

The new bank receiver law was approved on March 20th and would have gone into effect on July 4th; but on April 5th a joint resolution ordering the Secretary of State to publish the act was introduced and after having passed the Assembly was approved on April 11th. This resolution was calculated to cause the original act to take effect as soon as published. Afterwards it was discovered that the joint resolution contained no publication clause and hence would not take effect until the 4th of July. Consequently, on April 17th a bill amending the bank receiver act by adding a publication clause and providing for its own publication was introduced and passed by the Assembly.²⁸⁴

Another act of the Fortieth General Assembly amendatory to the section of the Code relating to bank receiverships adds the provision that the district court may examine any person suspected of having taken wrongful possession of any of the effects of an insolvent bank and, if the suspicion appears well founded, the court may order the delivery of such effects to the receiver. Failure to comply with any order of the court makes the person liable to commitment to the county jail until he does.²⁸⁵

Bank examination fees were increased from two to three cents per \$1000 of assets in excess of \$25,000 because it was found that the former amount was insufficient to cover the expense of examining banks in the larger cities.²⁸⁶

An amendment to the Federal banking law reduced the

²⁸³ *Acts of the Fortieth General Assembly*, Ch. 189; *The Northwestern Banker*, May, 1923.

²⁸⁴ *Acts of the Fortieth General Assembly*, Chs. 190, 389.

²⁸⁵ *Acts of the Fortieth General Assembly*, Ch. 188.

²⁸⁶ *Acts of the Fortieth General Assembly*, Ch. 185; *The Northwestern Banker*, May, 1923.

number of calls for published reports from national banks from a minimum of five to three annually. For that reason an act proposed by the Iowa Bankers Association brings the State law respecting the number of published reports which the Superintendent of Banking may require from savings or State banks into conformity with the Federal law relating to national banks. Most of the States do not require over four calls in a year.²⁸⁷

Finally, a measure sanctioned by the Iowa Bankers Association requires that all State and savings banks must build up a surplus equal to twenty per cent of their capital stock by setting aside ten per cent of the net profits before a dividend is declared, and no dividend in excess of eight per cent can be paid until the twenty per cent surplus is established. This law makes the surplus requirement uniform with that of national banks.²⁸⁸

Banking experts are generally agreed that Iowa is blessed with too many banks, yet a bill introduced by the House Committee on Agriculture proposed the establishment of coöperative banks. This was one of the recommendations of the commission appointed by the Governor to investigate rural credit conditions. The organization of banks on the coöperative plan was supported by the Farm Bureau Federation and the Iowa Farm Credit Corporation. The measure failed once to pass the House, but on reconsideration it carried by a vote of sixty-two to thirty-four, only to die in the Senate Sifting Committee.²⁸⁹

A bill to place all private banks under the supervision of the State Superintendent of Banking was indefinitely post-

²⁸⁷ *Acts of the Fortieth General Assembly*, Ch. 187.

²⁸⁸ *Acts of the Fortieth General Assembly*, Ch. 186.

²⁸⁹ House File No. 790; *Senate Journal*, 1923, p. 1428; *House Journal*, 1923, pp. 1598, 1600.

poned by the Senate. Senator J. L. Brookhart wanted to reduce the maximum legal rate of interest from eight to seven per cent but his bill was also indefinitely postponed.²⁹⁰

INSURANCE

The most general law relative to insurance passed by the Fortieth General Assembly provides that domestic insurance societies which limit their membership to a particular city or town or to the employees of a designated business institution are exempt from the law governing insurance companies unless specifically mentioned. The Commissioner of Insurance, however, may require information which will enable him to determine whether or not a society is entitled to the exemption.²⁹¹ Several other laws enacted in 1923 relate to particular kinds of insurance organizations.

Assessment Life Insurance Associations.—Prior to 1923 assessment life insurance associations were permitted to issue certificates of membership only to persons between the ages of fifteen and sixty-five years and then only if the beneficiary were the wife, husband, relative, heir, legal representative, creditor, or legatee of the insured member. Moreover, such certificates could not be assigned. The insured person was given the privilege of changing the beneficiary at any time in accordance with the rules of the association, but no certificate issued to benefit a wife or children might be changed in favor of a creditor. These provisions were made inapplicable to certificates issued by assessment life insurance associations after July 4, 1923. The effect of this act is to permit members of such associations to select any person as beneficiary hereafter. The

²⁹⁰ Senate File Nos. 352, 650; *Senate Journal*, 1923, pp. 495, 1264.

²⁹¹ *Acts of the Fortieth General Assembly*, Ch. 170.

law requiring such associations to state in their articles of incorporation, by-laws, and notices of assessments the objects to which money collected is to be devoted was changed so as to require this statement to appear only in the articles of incorporation and by-laws. Furthermore, organizations of this character, except fraternal beneficiary societies, have been given authority to establish a separate class of members or policy holders to whom they will issue policies on the legal reserve or level premium plan.²⁹²

Insurance other than Life.— A large number of rather technical changes were made in the law relative to companies engaged in forms of insurance other than life. The annual statement made by such companies to the Commissioner of Insurance is now due before the first of March instead of any time during the month of January. The Commissioner of Insurance issues a certificate to each of these companies every year and this authorizes them to conduct business in Iowa. The date when these certificates expire was changed from the first of March to the first of April. Accordingly, the certificates and agents' licenses expiring on March 1, 1924, were extended to April 1st of that year.²⁹³

The law providing that directors of insurance companies other than life be elected at the annual meeting held in January was modified so as to permit a company to divide its board of directors into classes holding terms of office not exceeding three years and that only the members of one class be elected each year.²⁹⁴

The provision which limited the maximum amount of

²⁹² *Acts of the Fortieth General Assembly*, Ch. 171.

²⁹³ *Acts of the Fortieth General Assembly*, Ch. 176.

²⁹⁴ *Acts of the Fortieth General Assembly*, Ch. 174.

capital with which an insurance company issuing forms of insurance other than life could be incorporated to one million dollars was repealed, but the minimum amount of fifty thousand dollars necessary for incorporation was left unchanged. Moreover, Federal farm loan bonds were added to the list of securities in which the funds of these companies may be invested.²⁹⁵

A number of provisions relative to the types of loss for which these companies may sell insurance were amended. In addition to insurance authority previously granted they may now insure property against loss occasioned by flood, rain, earthquake, hail, frost or snow, drought, "rising of the waters of the ocean or its tributaries", bombardment, invasion, riot, civil war or commotion, military or usurped power, explosion; crops against loss by insects or disease; landowners against loss of rental value of land; persons and property against the explosion or rupture of pipes, flywheels, engines, and machinery; and persons against the loss of property caused by larceny. Airplanes, seaplanes, dirigibles, and other craft were added to the class of property that may be insured; while vandalism, malicious mischief, wrongful conversion, disposal, or concealment of automobiles, whether held under conditional sale, contract, or subject to chattel mortgages, were added to the contingencies against which the property in this class may be insured. The provision prohibiting issuance of policies by mutual insurance companies against burglary and robbery to any person, firm, or corporation other than banks, bankers, loan companies, trust companies, and county treasurers was repealed. Now such a company may insure any person or corporation against burglary, robbery, and larceny.²⁹⁶

²⁹⁵ *Acts of the Fortieth General Assembly*, Chs. 173, 175.

²⁹⁶ *Acts of the Fortieth General Assembly*, Ch. 177.

Fidelity and surety companies may now expose themselves on any one risk or hazard to any amount up to ten per cent of their surplus as well as their paid-up capital. Domestic or foreign insurance companies possessed of five hundred thousand dollars worth of paid-up capital stock and authorized to go bond for persons holding positions of public or private trust, may also sell credit insurance to merchants or traders against loss from bad debts.²⁹⁷

The law relative to conditions under which coinsurance clauses in a policy will be considered valid was rewritten. Only a few minor changes were made, however. The amount of insurance that must be maintained and the amount of damages for which the company will be liable if it is not maintained must now be stated in the coinsurance rider only in terms of percentage of the value of the insured property at the time when the loss was incurred. Formerly this liability had to be stated also in terms of a portion of a previously determined sum of money. The kind of insurance specified in the policy must be maintained in order to make the coinsurance clause applicable. Moreover, the provision stating that coinsurance clauses could not apply to any risk where the total value of the property is less than twenty-five thousand dollars except grain elevators and their contents was repealed. Finally, a provision was added to the effect that the rider and request for coinsurance shall now be permitted when used in connection with insurance contracts issued in Iowa against the hazards of lightning, tornadoes, cyclones, windstorms, and sprinkler leakage, as well as fire.²⁹⁸

Companies which insure employers against loss by accidents to employees must maintain separate reserves to meet

²⁹⁷ *Acts of the Fortieth General Assembly*, Ch. 179.

²⁹⁸ *Acts of the Fortieth General Assembly*, Ch. 180.

losses arising under various classes of liability policies. The amount of each reserve has been fixed in the statute. Provision is also made for the distribution of unallocated liability loss expense funds. Moreover, each insurer writing liability or compensation policies must make an annual report of his experience to the Insurance Commissioner.²⁹⁹

Mutual Assessment Associations.—Four amendments were made to the act passed by the Thirty-ninth General Assembly rewriting the law on mutual assessment associations. One of these provides that associations using a basis rate whose risks consist chiefly of store buildings and stocks, factories, moving picture houses, and stocks of implements and automobiles must at all times maintain net assets equal to forty per cent of one annual assessment of policies in force, less deductions for reinsurance in authorized companies. Another amendment allows dividends returned to policy holders on property situated within the State to be deducted when computing the amount of gross receipts of which one per cent must be paid to the Commissioner of Insurance. Moreover, hail insurance associations have been given authority to provide in their by-laws and policies for a limited assessment in any year. If the proceeds of such assessments and other funds on hand do not equal the losses and expenses for the year, then the available funds after expenses have been deducted must be prorated among holders of the loss claims. The sums thus given constitute full payment for the loss. According to the law as passed by the Thirty-ninth General Assembly, mutual assessment associations were to elect officers according to the manner prescribed in their articles of incorporation or by-laws. This was changed so as to make the

²⁹⁹ *Acts of the Fortieth General Assembly, Ch. 178.*

provision apply to directors as well as officers. The fourth amendment substituted "theft of personal property" for theft of automobiles in the list of losses which mutual assessment associations may insure.³⁰⁰

Another act provides that actions to collect assessments from any member of an association organized to insure against losses by hailstorms shall be brought in the county where the member resides, regardless of any statement which the insurance contract may contain.³⁰¹

Reciprocal or Interinsurance Contracts.—The Thirty-seventh General Assembly fixed the rate of annual taxation on gross premiums or deposits collected from subscribers under interinsurance contracts at two and one-half per cent for all organizations to be paid in addition to the fees collected from mutual companies transacting the same kind of business. This rate was changed to one per cent on gross premiums or deposits of domestic reciprocal organizations and two and one-half per cent in the case of a foreign organization. In calculating the amount on which this tax must be paid, the amounts actually disbursed on claims for losses of property located in Iowa and the amount returned upon cancelled policies and rejected applications covering property located or business done in the State may be deducted.³⁰²

Insurance Tax Refund.—In accordance with a decision of the Supreme Court of Iowa, the Thirty-ninth General Assembly appropriated \$125,000 for the purpose of refunding taxes on insurance premium receipts erroneously col-

³⁰⁰ *Acts of the Fortieth General Assembly*, Chs. 182, 183.

³⁰¹ *Acts of the Fortieth General Assembly*, Ch. 181.

³⁰² *Acts of the Fortieth General Assembly*, Ch. 184.

lected and paid under protest by insurance companies. The Fortieth General Assembly appropriated the unexpended portion of the sum made available in 1921 for the payment of claims for taxes erroneously collected subsequent to 1913.³⁰³

Fraternal Beneficiary Society Homes.—An act which will enable the Brotherhood of American Yeomen to erect their ten million dollar "City of Childhood" in Iowa was passed by both houses of the Fortieth General Assembly without a dissenting vote. This law authorizes any fraternal beneficiary society, order, or association, organized and authorized to conduct business in Iowa, to build and maintain hospitals, asylums, sanitariums, schools, or homes within the State of Iowa for the benefit of its dependent members, their families, and dependents. These institutions will have the same legal status as other charitable institutions and as such are entitled to the benefits and privileges extended by the laws of this State. On the other hand, the Commissioner of Insurance has been given the same power over such institutions as over fraternal beneficiary societies. He may complain of mismanagement, if any exists, to officers of the organization and to the Attorney General, and ask for the removal of persons responsible for the mismanagement. This measure was passed after the House of Representatives failed to act favorably upon a bill designed to revise the State law on fraternal insurance societies in accordance with the recommendations of the New York conference. One provision of this bill permitted fraternal societies to establish homes as authorized by the law described above.³⁰⁴

³⁰³ *Acts of the Fortieth General Assembly*, Ch. 335.

³⁰⁴ House File No. 752; *Senate Journal*, 1923, pp. 1530, 1531; *House Journal*, 1923, pp. 1250, 1482, 1483; *Acts of the Fortieth General Assembly*, Ch. 172; *The Des Moines Register*, March 29, April 7, 1923.

THE PROFESSIONS

The Practice of Pharmacy.— A penalty of one dollar was authorized to be collected if a pharmacist does not pay his annual registration fee when it is due.³⁰⁵

In regard to the organization of the Commission of Pharmacy, the Governor must hereafter appoint the members from lists of qualified pharmacists furnished by the Iowa Pharmaceutical Association. Moreover, the former arrangement of dividing the State into three districts and requiring that one member of the Commission live in each district was abandoned. This statute was also harmonized with the State Printing Board law by making the Superintendent of Printing, instead of the Secretary of State, responsible for furnishing the supplies needed.³⁰⁶

The Practice of Chiropractic.— The Thirty-ninth General Assembly for the first time recognized chiropractic as a profession and regulated the licensing of practitioners. The Fortieth General Assembly found it necessary to make a number of changes in the law. A person to be eligible for examination must not only be a graduate of a standard school, so recognized by the Board of Chiropractic Examiners, but he must also be at least twenty-one years of age. The power of the Board of Examiners to make necessary rules was enlarged. The time of holding examinations was changed from the first Monday in February, July, and October to the first Monday in April, August, and December and the April and August sessions may now be held at some place in the State other than the capital if twenty or more applications for examination have been made and a differ-

³⁰⁵ *Acts of the Fortieth General Assembly, Ch. 42.*

³⁰⁶ *Acts of the Fortieth General Assembly, Ch. 41.*

ent place would be advantageous. This appears to be primarily for the convenience of graduates of the Palmer School at Davenport. The annual license renewal fee was increased from \$2 to \$3, and it was made a misdemeanor to practice without having paid the renewal fee. The definition of a standard school was modified by adding the requirements of approval by the Board of Examiners and the inclusion of practical clinical instruction in the curriculum. In recognition of this clinical practice an exception was inserted in the section of the law which prescribed penalties for practising without a license. A technical amendment was also made relating to the proper expenses of the Board of Examiners.³⁰⁷

Real Estate Brokers.—As in 1921 a bill was introduced in the Fortieth General Assembly to regulate the real estate business. Representative A. O. Hauge proposed to establish an Iowa Real Estate Commission of three members appointed by the Governor to license real estate dealers. Only persons who “bear a good reputation for honesty, truthfulness and fair dealing” and who are competent to transact business so as to safeguard the interests of the public would be eligible for a license. After January 1, 1924, no one would be allowed to engage in the profession of real estate broker or salesman who did not possess a license. The measure was indefinitely postponed.³⁰⁸

JUDICIAL PROCEDURE AND LEGAL PROCESSES

The law relative to change of venue in criminal cases was rewritten. The principal change makes it possible for the State to petition for a change of venue in cases where the

³⁰⁷ *Acts of the Fortieth General Assembly*, Ch. 38.

³⁰⁸ House File No. 760; *House Journal*, 1923, p. 1258.

defendant is charged with felony, in the same manner and for the same reasons as a defendant accused of a crime may petition for change of venue. When a petition has been granted to one party to the prosecution the other party may petition for a change from the county to which the case has been transferred as though it were the place where the case started. This provision, however, will not permit a change to the county where the case was originally pending.³⁰⁹

Appeals in criminal cases must now be taken within sixty days from the time when judgment was rendered. The time formerly allowed for this process was six months. As originally drafted, however, the bill providing for this amendment limited the time to thirty days. It was maintained that a busy criminal lawyer would not have sufficient time to perfect an appeal in so short a period and so the change to sixty days was made.³¹⁰

The law relative to the procedure in forfeiture of bail was completely revised. As was the case prior to the revision, failure of a defendant to appear in court when his presence is lawfully required makes it necessary for the court to enter that fact in the record. The bail is then declared to be forfeited. In making this record the judge must now also direct the sheriff to give ten days' notice to the defendant or his bondsmen that they appear and show cause why judgment for the amount of the bail should not be rendered. If they fail to appear the judge must enter the judgment. If they do appear, however, the case is set down for immediate hearing and the judge has authority to enter the order warranted by circumstances. Should the forfeiture be entered before a justice of the peace or examining magistrate, or court of limited jurisdiction, the record

³⁰⁹ *Acts of the Fortieth General Assembly*, Ch. 221.

³¹⁰ Senate File No. 433; *Acts of the Fortieth General Assembly*, Ch. 222.

thereof must be certified to the county clerk and the district court then proceeds with the case. Judgment on the forfeiture of a bond may be avoided if the defendant surrenders himself to the sheriff or is delivered to that officer by his bondsmen within sixty days after the forfeiture was entered.³¹¹

According to the law of Iowa a defendant is a competent witness in his own behalf but can not be called by the State. If the defendant refuses to witness in his own behalf that fact has no weight of evidence against him in the trial, nor are the prosecuting attorneys permitted to refer to the fact. Should a prosecuting attorney mention it in spite of this prohibition he is to be declared guilty of misdemeanor and the defendant is entitled to a new trial. A bill was introduced proposing to repeal these safeguards granted a defendant who refuses to testify. The measure passed the Senate, but it never came to a vote in the lower chamber and was finally lost in the House Sifting Committee.³¹²

The provision which authorizes a court to give orders in divorce cases relative to the parties to the case, their property, or their children was amended so as to provide that any person ignoring such an order or secreting his property shall be guilty of contempt of court and may be punished accordingly.³¹³

Provision was made for the disposition of stolen automobiles coming into the hands of peace officers. As in the case of other stolen or embezzled property the peace officer must hold a stolen automobile until he receives an order for its disposal issued by the proper magistrate. If the car is not claimed by its owner before the date on which the per-

³¹¹ *Acts of the Fortieth General Assembly*, Ch. 219.

³¹² Senate File No. 392; *Senate Journal*, 1923, p. 598.

³¹³ *Acts of the Fortieth General Assembly*, Ch. 197.

son charged with its theft is convicted, or if an abandoned motor vehicle is found and not claimed within three days, the officer having custody of it must notify the Secretary of State thereof and also send a description of the vehicle by mail. In case it is possible to ascertain the owner from the records in the office of the Secretary of State, such person must be notified of the whereabouts of his car; but if that is impossible it becomes the duty of the Secretary of State to send a description of the vehicle and other information to every county treasurer in Iowa and also to the State Bureau of Investigation. Should the owner appear within forty days and establish his ownership he may have his automobile upon payment of the costs incurred incident to the apprehension of the vehicle and the location of the owner. In case the owner does not appear, the car must be sold at auction after having been properly advertised. Should the ownership of the vehicle be established within six months after the sale the board of supervisors may direct that the surplus be paid to the owner; otherwise such proceeds accrue to the general county fund.³¹⁴

Workmen's compensation awards were made exempt from garnishment, attachment, and execution.³¹⁵

The law relative to the appointment of guardians for drunkards, spendthrifts, idiots, lunatics, and persons of unsound mind was amended so that any other person may also have a guardian appointed for his person or property. This can be accomplished, upon application of the party desiring the guardian to the district court, if in the opinion of the judge such an appointment is warranted.³¹⁶

³¹⁴ *Acts of the Fortieth General Assembly, Ch. 209.*

³¹⁵ *Acts of the Fortieth General Assembly, Ch. 206.*

³¹⁶ *Acts of the Fortieth General Assembly, Ch. 199.*

Two acts relative to wills were passed by the Fortieth General Assembly. One of these provides that the directions of the court or clerk to executors and administrators to have their appointments published must be made a matter of record. Moreover, this same act legalized all cases of irregular publication of these notices prior to January 1, 1920. The second measure gives the clerk of the district court, as well as the court or judge in vacation, authority to prescribe a notice fixing the time for proving a will.³¹⁷

The establishment of clear land titles in Iowa is becoming yearly a more difficult and expensive process. The problem has been studied by every General Assembly in recent years, and the creation of an office of Commissioner of Land Titles has been proposed and the adoption of the Torrens system has been advocated. By the Fortieth General Assembly the establishment of a commission to investigate the problem and report to the special session was authorized. The system may then be changed in connection with the general revision of the Code. To serve on such Commission the Governor has appointed S. C. Rees, chairman of the Senate Committee on Land Titles, E. W. Vincent, member of the House Committee on Land Titles, H. A. Huff, A. M. Parker, and O. P. Myers.³¹⁸

Two other laws relative to land titles were also passed in 1923. One of these is an amendment to an act passed in 1917 legalizing instruments affecting land titles filed in the recorder's office prior to 1910 even if no acknowledgments or defective acknowledgments were attached to them. This was changed so as to apply also to such instruments filed

³¹⁷ *Acts of the Fortieth General Assembly*, Chs. 207, 208.

³¹⁸ Senate File No. 519, Thirty-ninth General Assembly; Senate File No. 494; House File No. 436; *Acts of the Fortieth General Assembly*, Ch. 326; *The Des Moines Register*, May 8, 1923.

between 1910 and 1915. This amendment will not affect pending litigation.³¹⁹

The second of these two acts provides that if the holder of a junior lien upon any real estate advances payments for delinquent taxes or special assessments against the property or for interest on the senior lien, or if he satisfies broken conditions of the senior lien, he shall have an additional lien of the same priority for the amount of payments made. He must, however, file proper records of his action with the clerk of the district court. If the advancements are made by the holder of a sheriff's sale certificate, the money advanced becomes part of the amount required to redeem the property sold by the sheriff.³²⁰

CRIMINAL LAW

Two acts pertaining to criminal law passed by the Fortieth General Assembly define new crimes and are of special interest because of their timely importance. According to one of these acts any person illegally selling, giving away, or furnishing intoxicating liquor which causes the death of the drinker will be guilty of manslaughter and may be punished accordingly. As originally drawn the measure provided that such an act would constitute murder, but this was changed by Judiciary Committee Number One of the Senate before the bill was reported out for passage. This committee is also responsible for making the act apply only to persons who sell, give, or furnish the liquor contrary to law so that any person who legally furnishes liquor which causes the death of the drinker will not be considered guilty.³²¹

³¹⁹ *Acts of the Fortieth General Assembly*, Ch. 195.

³²⁰ *Acts of the Fortieth General Assembly*, Ch. 192.

³²¹ *Acts of the Fortieth General Assembly*, Ch. 210; *The Des Moines Register*, February 2, 1923.

The second of these two measures is the result of alleged Ku Klux Klan outrages in Louisiana and is aimed to curb the activities of that organization and other similar societies. No little difficulty was experienced in framing a suitable bill since there was no desire to interfere with the initiation ceremonies of any secret order. The difficulty arose because the logical point of attack is the regalia worn by the members of the society. A measure was drafted by Representative Ray A. Yenter of Johnson County and Senator Harry C. White of Benton County. This was introduced in both chambers of the legislature on the fifth of February. The House Judiciary Committee proposed a substitute for the Yenter bill which was finally enacted. The act is modelled after the Tennessee law which has been in effect since 1870 and has, on several occasions, been held valid by Supreme Court decisions. There are only three sections in this law, each succeeding one stronger than its predecessor. The first section provides that anyone, masked or in disguise, who disturbs the peace or intimidates any person shall be guilty of a misdemeanor punishable by a fine of from \$100 to \$500, by imprisonment for any length of time from one to six months, or by both such fine and imprisonment. By virtue of the second section, entering the premises of any person or demanding admission while masked or in disguise is made prima facie evidence of guilt of assault with intent to commit a felony. The penalty upon conviction of this charge is imprisonment in the penitentiary for ten years. The last section provides that assault with a dangerous weapon while masked or in disguise will be deemed assault with intent to commit murder and is punishable by imprisonment for twenty years.³²²

³²² House File No. 402; *Senate Journal*, 1923, p. 374; *House Journal*, 1923, pp. 408, 1138; *Acts of the Fortieth General Assembly*, Ch. 211; *The Des Moines Register*, January 9, March 20, 1923.

The penalties for a number of crimes were modified and in most instances were made more severe by the Fortieth General Assembly. Prior to 1921 any person who committed robbery while armed, or if accompanied by an armed confederate, could be punished by imprisonment for a period of not less than ten years nor more than twenty years. The Thirty-ninth General Assembly removed the minimum penalty, but in 1923 the legislature fixed imprisonment for twenty-five years as the punishment for this offense. A fine of not over \$100 or imprisonment for not exceeding thirty days was fixed as the specific penalty for infringement of the civil right of all persons to equal treatment in certain public places. This was formerly punished as a misdemeanor. The law setting forth the punishment for escaping from a county jail was amended so as to apply to breaking out of any jail.³²³

The penalty to be meted out to any person guilty of ravishing an imbecile or insensible woman was fixed at imprisonment for life or for any term of years. This crime was formerly covered by the same penalty prescribed for rape. According to a code revision bill passed by the Fortieth General Assembly, the commission of immoral and lascivious acts with or in the presence of a child under fourteen years of age was defined as a crime. This retained the same age provision as formerly. A subsequent act passed in 1923 changed the law so as to apply to children less than seventeen years of age.³²⁴

With a view to restraining the practice of gambling, sheriffs and other peace officers have been given authority to seize property or money offered as a stake or paid in connection with any game of chance, lottery, gambling scheme,

³²³ *Acts of the Fortieth General Assembly*, Chs. 213, 216, 217.

³²⁴ *Acts of the Fortieth General Assembly*, Chs. 212, 214, 274.

gift enterprise, or other trade scheme contrary to the laws of Iowa. Notice of the seizure must be given, however, and at a hearing before the district court the owner or person from whom the goods were taken will be given opportunity to show that the property seized was not of the character described. In the event that he is unable to do that the property will be sold if it has any value, but if worthless it will be destroyed. Money, as well as the proceeds from the sale of property, seized in this manner will accrue to the benefit of the school fund.³²⁵

Peace officers, extradition agents, and officers of penal institutions from other States have been given the same authority over their prisoners while transporting them through Iowa as duly constituted peace officers of this State in making arrest under process issued by the courts.³²⁶

A bill introduced by Senator John R. Price aimed to suppress crime by providing a penalty of five years imprisonment in the penitentiary for carrying any concealed weapon in a suit case, vehicle, or automobile or upon one's person, without a permit, and by providing also for a jail sentence for selling or giving away any weapon without a permit from a court of record. Although the measure was recommended by the Attorney General and by the State association of county attorneys, it encountered much opposition in the Senate. Those who opposed the measure felt that it might make criminals out of law-abiding citizens without preventing the crook from obtaining firearms or other weapons. A number of amendments were incorporated in the bill to make it less sweeping. Senator Price pointed out that the measure would enable the authorities to send to the penitentiary known criminals and others against whom

³²⁵ *Acts of the Fortieth General Assembly*, Ch. 215.

³²⁶ *Acts of the Fortieth General Assembly*, Ch. 218.

there was evidence of crime, should they be found with concealed weapons in their possession. The bill was finally passed in the Senate by a vote of twenty-seven to nineteen. It was then sent to the House of Representatives where further changes were made. The Senate failed to concur in these amendments and consequently the measure failed of enactment.³²⁷

MILITARY AFFAIRS

Governor Kendall, in his biennial message to the legislature, spoke very highly of the efficiency and activity of the National Guard organization in Iowa. Being financed at the exceedingly low cost of eleven cents annually per capita of the State and being "composed of the highest character, courage and patriotism in the commonwealth", it was declared to be entitled to the liberal support of the State. Accordingly the Fortieth General Assembly not only allowed previous annual appropriations to the extent of \$265,000 to stand unchanged but passed another law appropriating \$10,000 annually for the support of Camp Dodge which is now a permanent place of encampment for the Iowa National Guard. A bill proposing to appropriate \$12,000 for the completion of the Roster of Iowa Soldiers, Sailors, and Marines was indefinitely postponed by the Senate after having passed the House of Representatives by a vote of ninety-one to nothing.³²⁸

Three acts passed by the legislature in 1923 provide for the payment of sums of money as damages on account of accidents occurring to members of the National Guard while on duty. A trust fund of \$7500 was created for Ardis

³²⁷ Senate File No. 363; *Senate Journal*, 1923, pp. 518, 1654-1656; *House Journal*, 1923, pp. 1860, 1861; *The Des Moines Register*, February 2, 17, 1923.

³²⁸ House File No. 492; *House Journal*, 1923, pp. 34, 35, 1223; *Senate Journal*, 1923, p. 1213; *Acts of the Fortieth General Assembly*, Ch. 5.

Roberdee who was partly paralyzed as a result of being kicked by a horse while on duty. E. R. Moore of Cedar Rapids was appointed trustee of the fund and instructed to invest it in safe securities and to use the interest and principal for the education and care of Mr. Roberdee. An appropriation of \$2543.50 was made to reimburse Second Lieutenant Charles R. Messett for loss of time, hospital services, and medical attention incident to being accidentally wounded while in the services of the Guard. Another act appropriated \$3000 as damages to John Young and Retta Young for the death of their son caused by an accident while serving as a member of the Iowa National Guard.³²⁹

A law was passed providing for the payment of pensions to the survivors of John Mitchell's Company of Iowa Volunteers, a Civil War organization, or to the surviving widows of its members. By the terms of this act such persons are entitled to receive \$240 on June 1, 1923, and twenty dollars per month thereafter for the rest of their lives. Estimates compiled in the office of the Auditor of State indicate that about \$1440 will be needed for this purpose during the current biennium. Another measure of a similar nature was defeated in the Senate. This bill proposed to pay pensions to survivors of John W. Ferguson's Company of State Militia, popularly known as the "Davis County Regulators", or surviving widows of members of that organization.³³⁰

The maximum amount which a county may allow for the burial expenses of an indigent soldier or sailor was increased from \$50 to \$100.³³¹

³²⁹ *Acts of the Fortieth General Assembly*, Chs. 282, 288, 292.

³³⁰ Senate File No. 567; *Senate Journal*, 1923, p. 1545; *Acts of the Fortieth General Assembly*, Ch. 6.

³³¹ *Acts of the Fortieth General Assembly*, Ch. 111.

As the result of a special act passed for the benefit of "all counties having a population of more than one hundred twenty-five thousand (125,000) in which there is located a permanent federal or state institution within a distance of ten (10) miles from the corporate limits of the county seat, and where upon the main traveled thoroughfare leading from said county seat to said institution there is located a water main", the board of supervisors of Polk County is authorized to establish benefited water districts along the road leading from Des Moines to Fort Des Moines. Such districts may be established on either side of the road and include lands within six hundred feet of the highway. The costs of water service and hydrants for fire protection may be levied against the land in the benefited districts, but may not exceed twenty-five per cent of the value of the land at the time the levy is made. The board of supervisors may not only establish the district upon its own initiative as described, but also upon petition of twenty-five resident property owners within the proposed district, and must do so after a hearing when three-fourths of the resident property owners petition for such action. When the district has been established as the result of a petition the total cost of the service may be levied against the real estate even if the amount is more than twenty-five per cent of the value of the land. Taxes for this purpose must be levied upon the land in the district at the September meeting of the county board and the amount necessary is certified to the county auditor by the person or corporation furnishing the water service.³³²

LEGALIZING ACTS

All of the powers exercised by cities and towns, counties, townships, and school districts are delegated to them by the

³³² *Acts of the Fortieth General Assembly, Ch. 112.*

State government. Moreover, the powers granted must be exercised in accordance with detailed directions given by the acts of the General Assembly. Sometimes the officers of these areas of government overstep their authority or exercise their powers in a manner contrary to law. Usually these acts are done in good faith, and in order to obviate any difficulties which might arise out of such illegal acts the General Assembly is asked to legalize the procedure in particular instances. Most of these legalizing acts are related in some manner to the financial transactions of the local areas and particularly to the issuance of bonds. It frequently happens that the defects in the proceedings are discovered by prospective bond purchasers who usually insist that the action be legalized before they will consider purchasing the bonds. As a result each session of the legislature receives a number of requests for validation of acts. The number of these acts passed by the Fortieth General Assembly is not nearly so large as the number passed by the General Assembly which met in 1921. There were enough measures of this character, however, to justify continuance of the practice of devoting an entire section in the session laws to legalizing acts. These acts are similar to those enacted by former legislatures.

Besides the forty-three legalizing acts that were passed in 1923, the Fortieth General Assembly amended the law setting forth the procedure to be followed in proposing legalizing acts. A law passed by the Thirty-ninth General Assembly provided that no bill which proposed to legalize the proceedings, bonds, or warrants of public corporations could be placed upon passage until proof that the bill had been published in a local newspaper, had been entered upon the House or Senate journals. This provision was changed so that the proof of publication must be filed with the Chief Clerk of the House and the Secretary of the Senate, and a

brief minute of the filing entered upon the journals of both houses.³³³

Of the legalizing acts proper, sixteen relate to cities and towns, seven of which have to do with the holding of elections. Doubts had arisen as to whether the proper methods of nominating candidates for mayor and councilman had been used in McCallsburg, and to put at rest all doubts as to the legality of the elections held for these officers the town elections held biennially in that locality from 1911 to 1921 inclusive were legalized. The records of elections, official acts, and resolutions for the town of Kent, from 1903 to 1907 inclusive, were lost and all transactions of the council as well as the elections held during that time were declared to have been valid. It appears that six councilmen instead of five, as provided by law, had served the town of Grand River part of the time since 1914, and in view of the fact that the "acts of the council during this time, were for the best interest of the citizens and there is a general desire to approve all such acts, elections and ordinances", the elections held in 1914, 1918, 1920, and 1922, as well as all ordinances and resolutions passed by the council during that time, were legalized by the General Assembly. An act of a general nature legalized all nomination papers for city or town officers which had been filed in various cities and towns ten days before election instead of fifteen days before that time as required by a law passed in 1915. Three acts declare city elections held for the purpose of issuing bonds to be valid. One of these was for the issue of \$70,000 worth of bonds for the erection of extensions and for additional equipment for the municipal electric light and power plant at Maquoketa; another for a \$7000 bond issue for the Denver city hall; and the third was for the issuance of \$230,000

³³³ *Acts of the Thirty-ninth General Assembly, Ch. 228; Acts of the Fortieth General Assembly, Ch. 194.*

worth of bonds by Oskaloosa for the purchase of the water-works system.³³⁴ Another act growing out of the action suggested in the last law mentioned legalized the transfer of \$4134.77 from the water fund of Oskaloosa to its water-works fund, since after the purchase of the system by the city it was no longer necessary for the municipality to pay directly for the use of water and hence there was no longer any need for a water fund.³³⁵

The *Revised Ordinances of the City of Independence, Iowa, 1917*, chapters one to fifty-nine inclusive, were declared to be legal.³³⁶

Warrants representing the sum of \$50,000 and a bond issue to fund the indebtedness which these warrants represent were legalized for the city of Waterloo, and similar action was taken for \$180,000 worth of warrants and funding bonds issued by the city of Council Bluffs. Bonds to the extent of \$250,000 had been issued by the council of Davenport for the purpose of funding indebtedness of the city and borrowing money. This action was declared to be legal and the city council was authorized to levy additional taxes to pay for the bonds. The other four legalizing acts relative to cities and towns validated the franchises issued by Dolliver, Gruver, Ringsted, and Wallingford to the Armstrong Cement Works for the operation of electric light and power plants within their respective corporate limits.³³⁷

There was some question as to the validity of certain acts of county officials in a number of counties and ten measures were enacted to remove these doubts. Six of these legalized

³³⁴ *Acts of the Fortieth General Assembly*, Chs. 352, 355, 356, 360, 361, 363, 364.

³³⁵ *Acts of the Fortieth General Assembly*, Ch. 362.

³³⁶ *Acts of the Fortieth General Assembly*, Ch. 359.

³³⁷ *Acts of the Fortieth General Assembly*, Chs. 353, 354, 357, 358, 365, 366, 382.

the issue of warrants and authorized the boards of supervisors concerned to issue and sell funding bonds to cover the indebtedness represented by the warrants. Two acts — one relating to \$50,000 worth of bonds for building a county home in Cerro Gordo County and the other to a bond issue of \$15,000 for the purpose of building a jail in Lucas County — validated elections held for the purpose of obtaining popular authorization for the issuance of bonds. All acts relative to the issue of these bonds were legalized and the action of the board of supervisors of the latter county in issuing \$7500 worth of refunding bonds was also declared legal. The ninth act relative to the actions of boards of supervisors legalized the bond issue of \$125,000 for the purpose of constructing a courthouse in Calhoun County in 1912, for the payment of which no sinking fund had been established. The county board was authorized to issue refunding bonds for the amount due. The board of supervisors of Des Moines County and the city council of Burlington had agreed to coöperate in the construction of a primary road project but it appeared that the primary road funds of the county were exhausted. The contract was legalized, however, and the board of supervisors authorized to anticipate sufficient funds to meet the obligations of the county from future installments of primary road funds due the county by the issuance of road certificates.³³⁸

Acts of county officers in regard to drainage districts were legalized in no less than six instances. Four of these drainage districts are in Polk County, one in Marion County, and the sixth is an inter-county project for the drainage of Keokuk Lake in Muscatine County and Odessa Lake in Louisa County. This district was apparently established for the purpose of draining State owned lands

³³⁸ *Acts of the Fortieth General Assembly*, Chs. 341, 342, 343, 344, 345, 346, 347, 348, 350, 351.

and carries with it an appropriation from State funds of \$75,050.63 to pay the assessments against the land owned by Iowa.³³⁹

Eight legalizing acts were required to remedy technical mistakes of authorities in school districts. Seven of these legalize the issue and sale of school building bonds and in three of these the elections held to authorize the bond issue are also validated. The eighth of these acts arose out of the fact that the secretary of independent school district number one of Douglas Township in Bremer County had failed to certify a levy of \$800 to the county auditor in time for publication by that officer. He did so later, however, and the auditor then published the levy as required by law and the board of supervisors levied the taxes as certified. These acts were declared to be legal and the tax levy binding by the Fortieth General Assembly.³⁴⁰

It is significant that no acts to legalize proceedings relative to the establishment of consolidated school districts were passed during the legislative session in 1923. The explanation for this may be found in the fact that comparatively few such districts have been established during the last three years due to economic conditions and the increased difficulty of organization since 1921.

Irregularities in the activities of corporations were the subject of three legalizing acts. Two special acts validating the notices of incorporation of the Grundy Construction Company and of the B and K Coal Company of Burlington were legalized even though they were not published within three months after the certificates had been issued by the Secretary of State. Finally, another legalizing act declared all the proceedings of the Graettinger Tile Works to be

³³⁹ *Acts of the Fortieth General Assembly*, Chs. 349, 375, 376, 377, 378, 379.

³⁴⁰ *Acts of the Fortieth General Assembly*, Chs. 367, 368, 369, 370, 371, 372, 373, 374.

legal in spite of any irregularities that might have occurred in the process of incorporation.³⁴¹

Three acts which have a legalizing effect, though strictly speaking they do not come within the category of legalizing acts, were passed relative to land titles. The Governor and the Secretary of State were authorized to convey by patent certain lands in Audubon County to Walter F. Nelson, certain lands in Dallas County to Martha Viola Neel, and certain lands in Jones County to S. G. Matson.³⁴²

³⁴¹ *Acts of the Fortieth General Assembly*, Chs. 381, 383, 384.

³⁴² *Acts of the Fortieth General Assembly*, Chs. 314, 317, 339.