

THE LEGISLATION OF THE FORTY-SIXTH GENERAL ASSEMBLY OF IOWA

The Constitution of Iowa provides that the General Assembly shall convene biennially, commencing on the second Monday in January following each general election unless otherwise convened by proclamation of the Governor.¹ In pursuance of this provision the Forty-sixth General Assembly convened at the State Capitol in Des Moines on Monday, January 14, 1935. It remained in session until May 3rd, a period of one hundred and ten days. During this period there were fifteen Sundays and eighteen other days — including eleven Saturdays and an entire week of spring vacation — when the General Assembly did not convene. Accordingly the houses were actually in session only seventy-seven days.

The Forty-sixth General Assembly was typical of Iowa assemblies in that it was composed largely of farmers and attorneys. The House of Representatives consists of one hundred and eight members. Of these forty-eight were farmers and fourteen were attorneys. The Senate consists of fifty members. In the Forty-sixth General Assembly eighteen Senators were farmers and twelve were attorneys. Usually the Iowa General Assembly has been predominantly Republican. In recent years, however, the Democratic party has controlled both houses. In the House of Representatives of the Forty-sixth General Assembly there were fifty-eight Democrats and fifty Republicans. In the Senate there were twenty-seven Democrats and twenty-three Republicans.

During the legislative session, 412 bills and 12 joint

¹ *Constitution of Iowa*, Article III, Section 2.

resolutions were introduced in the Senate, and 521 bills and 8 joint resolutions in the House — a total of 933 bills and 20 joint resolutions. Of this number 121 Senate bills and 3 Senate joint resolutions, and 101 House bills and 2 House joint resolutions — a total of 227 measures — were passed and became operative. Sixty of these measures were appropriation bills to provide funds for the administration of State government and for the adjustment of claims against the State. Thirty-four of the measures were legalizing acts, passed to clarify matters of procedure in corporate bodies and to make adjustments in local government. At least ten measures were passed solely for the purpose of making corrections in the Code and session laws previously enacted and two were enactments of special laws.²

TAXATION AND FINANCE

The Extra Session of the Forty-fifth General Assembly passed a three-way tax bill which provided for a personal net income tax, a business tax on corporations, and a retail sales tax. In allocating the funds derived from this tax, the law provided that the first three per cent be transferred to the general fund of the State as collected. Of the remaining collections during 1934, \$3,000,000 was to be placed in an emergency relief fund. On January 1, 1935, and quarterly thereafter not to exceed \$1,500,000 was to be paid into the general fund of the State and the balance, if any, was to be allocated to the several counties.

The Forty-sixth General Assembly amended this law to provide for a new allocation of funds, but retained the provision of the former law assigning the first three per cent to the general fund of the State. The amended law

² *Index and History of Senate and House Bills and Joint Resolutions of the Forty-sixth General Assembly; Legislative Directory Forty-sixth General Assembly.*

provides that on July 1, 1935, and quarterly thereafter, up to and including April 1, 1937, the Board of Assessment and Review shall set aside \$1,000,000 for direct relief and for work relief and expenses incidental thereto. In like manner on July 1, 1935, and semi-annually thereafter, up to and including January 1, 1937, the Board shall set aside \$125,000 for Iowa emergency conservation work. In addition to these sums the law provides that on July 1, 1935, and on October 1, 1935, the Board shall set aside \$1,500,000 on each date to be paid into the general fund of the State. These latter sums are to be used to pay the general expenses of the State from July 1 to December 31, 1935, as authorized and appropriated by the General Assembly.

Under a provision of the former law which was not repealed, all money not otherwise allocated is to be returned to the counties to be credited against the second installment of the tax bill of each taxpayer for the next preceding tax year. It appears, therefore, that under the amendment, the proceeds of the three-way tax for 1935-1937 are to be distributed as follows: three per cent each year to the general fund of the State; \$4,000,000 each year for direct and work relief; \$250,000 each year for emergency conservation work; \$3,000,000 to the State government in 1935; and the balance (including the \$3,000,000 not to be paid to the State in 1936) to the counties to be substituted for property taxes.³

The Chain Store Tax Act was another of the outstanding pieces of legislation passed by the Forty-sixth General Assembly. It created widespread interest throughout the State at the time it was enacted and has been the center of much controversy since it became law. Seventeen States of the Union have passed chain store tax acts, while eight

³ *Acts of the Forty-sixth General Assembly, Ch. 76.*

other States have some sort of license features of a minor nature. Of the seventeen States which have enacted tax legislation, fourteen have provided for a single graduated occupation tax system based upon the number of stores in operation. In addition to this tax, three States — Minnesota, Wisconsin, and Iowa — have provided for a gross sales tax, which in Iowa, at least, is much more severe and more difficult to pay than the relatively small occupation tax. The combined tax upon chain stores in Iowa is the highest of any State in the Union.

Under the Iowa law the occupation tax is payable annually beginning on July 1, 1935, the rate of taxation being as follows:

For each store in excess of one and not in excess of ten	\$5
For each store in excess of ten and not in excess of twenty	15
For each store in excess of twenty and not in excess of thirty	35
For each store in excess of thirty and not in excess of forty	65
For each store in excess of forty and not in excess of fifty	105
For each store in excess of fifty	155

The gross receipts tax is also payable annually, beginning on August 1, 1936, when payment is to be made on the income for the preceding year. This is graduated and is based upon the combined gross receipts of all stores or other mercantile establishments, including oil stations, in the chain. The amount of tax added for each \$10,000 of receipts or fraction thereof varies from \$10 for each \$10,000 between \$50,000 and \$100,000 to \$1000 for each \$10,000 or fraction thereof over \$9,000,000. The amount of tax due

on gross receipts in the various brackets is indicated by the following figures:

\$50,000 or less.....	\$25
\$100,000	75
\$150,000	200
\$200,000	500
\$300,000	1,250
\$400,000	2,250
\$500,000	3,500
\$600,000	5,000
\$700,000	6,750
\$800,000	8,750
\$900,000	11,000
\$1,000,000	13,500
\$1,250,000	20,375
\$1,500,000	27,875
\$1,750,000	36,000
\$2,000,000	44,750
\$3,000,000	83,500
\$4,000,000	127,250
\$5,000,000	176,000
\$6,000,000	236,000
\$7,000,000	306,000
\$8,000,000	386,000
\$9,000,000	476,000

The law does not apply to the following:

(a) Coöperative associations not organized for profit and operating in good faith under the laws of Iowa.

(b) Persons exclusively engaged in gardening or farming, selling in this State products of their own raising.

(c) Persons selling at retail one or more of the following products: coal, ice, lumber, grain, feed, building materials (not including builders and general hardware, glass,

and paints) if the total retail sales by such persons of such products within the State shall, during the tax year, "exceed ninety-five (95) per cent of the total retail sales of all sources within the state of any such person or persons".

(d) Liquor stores, established and operated by the State Liquor Control Commission.

(e) Hotels or rooming houses, including dining rooms and cafes operated in connection therewith.

The State Board of Assessment and Review is charged with the administration and enforcement of this law. It may make and publish rules and regulations and distribute the same throughout the State, but failure to receive or secure a copy of such rules shall not relieve any person from the obligation of complying with the law. An appropriation of \$25,000 was made for the purpose of administering the law.⁴

The law relative to the taxing of bank stock was amended by the Forty-sixth General Assembly. The new law provides that whenever a bank operated within this State has been heretofore or shall hereafter be closed and placed in the hands of a receiver, "the board of supervisors shall remit all unpaid taxes on the capital stock".⁵

For many years it has been the policy of the State of Iowa to permit the board of supervisors to suspend, remit, or cancel taxes on real and personal property belonging to indigent persons upon petition and proof that the petitioner is unable to contribute to the support of public activi-

⁴ *Acts of the Forty-sixth General Assembly*, Ch. 75; *The Des Moines Register*, May 20, 1935. In November, 1935, in the case of the Great Atlantic and Pacific Tea Company v. Valentine, the United States District Court decided that this tax, in so far as it applies to gross sales is unconstitutional. Such a tax, it was held, is in violation of the Fourteenth Amendment to the Federal Constitution. All other provisions of the law were upheld.

⁵ *Acts of the Forty-sixth General Assembly*, Ch. 78.

ties. Under the provisions of an amendment to the law as passed by the Forty-sixth General Assembly suspension is automatic in the case of persons receiving old age assistance and need not be petitioned for. It is still necessary, however, to petition the board for a remittance or cancellation of taxes. The Old Age Assistance Commission shall notify the board of supervisors of the county in which any assisted person owns property, and it shall then be the duty of the board of supervisors to order the county treasurer to suspend the collection of the taxes assessed against such person.⁶

To allow an extension of time for the payment of taxes in 1935 without the payment of a penalty, the Forty-sixth General Assembly provided that the first installment of taxes for that year should not be deemed delinquent until July 1, 1935, and might be paid at any time prior to that date without interest as a penalty. If the first installment were not paid prior to July 1st, it was to draw interest from April 1, 1935, at a rate of three-fourths of one per cent per month until paid.⁷

The Forty-second General Assembly in 1927 authorized counties to purchase real estate at tax sales as a protection to the county against persons who sought to avoid tax payments. This section of the law — Section 7255-bl of the *Code of 1931* — has now been repealed and a substitute section enacted which provides that at a tax sale, if “no bid is received, or if the bid received is less than the total amount of the delinquent general taxes, interest, penalties and costs”, the county shall bid for the real estate “a sum equal to the total amount of all delinquent general taxes, interest, penalties and costs” charged against the real estate. No money shall be paid by the county or

⁶ *Acts of the Forty-sixth General Assembly, Ch. 77.*

⁷ *Acts of the Forty-sixth General Assembly, Ch. 79.*

other tax levying and tax certifying body for such purchase, but each of the tax levying and tax certifying bodies having any interest in the taxes for which the property is sold shall be charged with the full amount of all delinquent general taxes due such body, as its just share of the purchase price.

When the title to real estate has been acquired by virtue of a tax deed the property shall be controlled, managed, and sold by the county board of supervisors in a manner prescribed by law. In case of sale, however, it shall be for cash and for a sum not less than the total amount stated in the tax sale certificate, including subsequent taxes, interest, and costs. Provision is made, however, that general taxes and special assessments levied by a special charter city levying and collecting its own taxes and assessments shall not be affected by any such sale to the county in which the real estate is located.⁸

Section 7244 of the *Code of 1931* provides that annually on the first Monday in December, the county treasurer shall offer at public sale "all lands, town lots, or other real property" on which taxes for the preceding year or years are delinquent. This law was amended by the Forty-sixth General Assembly to provide "that no property against which the county holds a tax sale certificate, shall be offered or sold" under this law.⁹

Under the provisions of a new law it shall be the duty of the county treasurer to segregate any tax money received in 1935 which was due and payable prior to the beginning of that year. Out of the funds thus segregated the treasurer shall pay any taxing body the amount of taxes due the taxing district and designate the payment as having been due prior to January 1, 1935. When all

⁸ *Acts of the Forty-sixth General Assembly*, Ch. 83.

⁹ *Acts of the Forty-sixth General Assembly*, Ch. 82.

warrants that have been stamped "unpaid for lack of funds" have been paid from this segregated fund any balance remaining shall then be used in the same manner as though no segregation had been made. In the event that there is not enough money collected from back taxes to pay the warrants outstanding, the taxing bodies are authorized to issue bonds on January 1, 1936, sufficient to pay such outstanding warrants and interest.¹⁰

Prior to 1935 the county board of supervisors might levy "a poll tax of fifty cents on each male resident over twenty-one years of age". This provision of the law has now been repealed, and the assessment of county poll taxes has been discontinued.¹¹

House File No. 88, designed to exempt homesteads from taxation to the extent of \$2500, was one of the two bills vetoed. There were many objections to this measure. In his veto message Governor Herring expressed the belief that it "would be unequal and discriminatory, not uniform in operation and would work an injustice as between various counties". The measure was also considered as favorable to non-resident owners and unfavorable to renters. It did not provide for a reduction of taxes but rather for a shifting of the tax burden. Because of its "lack of uniform application", and its "arbitrary and capricious classifications", Governor Herring doubted its constitutionality and accordingly returned it to the General Assembly without his signature.¹²

APPROPRIATIONS

The appropriations made by the Forty-sixth General Assembly are presented in the following tables.

¹⁰ *Acts of the Forty-sixth General Assembly*, Ch. 52.

¹¹ *Acts of the Forty-sixth General Assembly*, Ch. 81.

¹² *Journal of the House of Representatives*, 1935, pp. 1172-1176.

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APPROPRIATIONS BY THE FORTY-SIXTH GENERAL ASSEMBLY			
FOR MAINTENANCE OF STATE GOVERNMENT AND STATE OFFICERS FOR EACH YEAR OF THE BIENNIUM			
CHAPTER	FOR WHAT	1933-1935	1935-1937
126	Department of Agriculture Agricultural Department Animal Health and Veterinary Beef Producers Association Corn and Small Grain Growers Association Iowa State Dairy Association Horticultural Society Poultry Association Board of Veterinary Examiners Horse Breeders Association Weather and Crops Bureau State Entomologist Total		121,215 137,500 5,000 2,500 5,000 5,000 17,500 400 5,000 7,634 7,400 \$315,051 \$314,149
138	Iowa State Dairy Association 4-H calf clubs		2,000
126	Agricultural Societies	105,000	120,000
126	Board of Assessment and Review	75,000	64,543
75	Board of Assessment and Review To administer chain store tax		25,000 (lump sum)
126	Attorney General and Department of Justice Litigation concerning highways (From primary road fund)	86,974	93,500 15,000
124	Attorney General Radio broadcasting system		20,000 (lump sum)
126	Auditor of State	24,000	90,000
126	Auditor of State County and Municipal examiners		\$7 per diem
126	Board of Barber Examiners	15,150	15,520
126	Commission for the Blind	9,348	10,000

CHAPTER	FOR WHAT	1933-1935	1935-1937
132	Commission for the Blind Summer school for blind		1,500 (lump sum)
126	Board of Chiropractic Examiners	1,560	1,680
126	State Comptroller Salaries and expenses Refunding warrants (from motor vehicle fuel tax)	17,719	40,365 2,500
126	Board of Conservation	85,000	110,000
126	Board of Cosmetology Examiners	11,360	12,040
133	Board of Cosmetology Examiners Additional appropriation		1,000 (lump sum)
126	Custodian	53,217	75,810
126	Board of Dental Examiners	2,400	2,400
126	District Court Judges	372,500	372,500
139	District Court Judges Additional appropriation		10,000
126	Board of Embalming Examiners	970	970
126	Board of Engineering Examiners		900
126	Executive Council	220,000	250,235
126	State Fair Board Public works project	50,000	60,000 26,250
126	State Fire Marshal	16,000	17,000
126	General Contingent Fund		80,000
126	Geological Survey	5,000	10,000
126	Governor (salary and expenses)	18,168	20,406
126	Department of Health	75,050	76,880
	State Highway Commission ¹³		
48	Highway Safety Patrol (Motor Vehicle Department, Office of Secretary of State)		Amount Necessary

¹³ See pages 22 and 23.

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CHAPTER	FOR WHAT	1933-1935	1935-1937
126	Historical Department	28,979	29,300
126	Historical Society	25,000	28,000
126	Industrial Commission To pay claims for highway employees (From primary road fund)	25,902	25,900 15,000
126	Insurance Department	46,000	44,125
126	Insurance Department Examiners		per diem
126	Bureau of Labor	18,467	18,240
141	Bureau of Labor Public employment office		60,450
126	Library Commission	18,568	19,500
126	State Library	41,000	41,916
126	Board of Medical Examiners	900	1,000
126	Board of Mine Inspectors		1,500
126	Mine Inspectors		16,500
126	National Guard		212,650
131	National Guard Additional armory rentals		4,160 (lump sum)
135	National Guard Camp Dodge fire loss		25,000 (lump sum)
126	Board of Nurses Examiners	5,280	5,400
143	Old Age Assistance Commission Pension fund		1,000,000
55	Old Age Assistance Commission Revolving fund		25,000 (lump sum)
126	Board of Optometry Examiners	750	750
126	Board of Osteopathic Examiners	1,560	1,560
126	Board of Parole	26,920	27,910
126	Board of Pharmacy Examiners	10,080	14,400
126	Pioneer Lawmakers		75
126	Board of Podiatry Examiners	395	395
126	Presidential Electors		150

CHAPTER	FOR WHAT	1933-1935	1935-1937
126	State Printing Board		
	Salaries	14,178	14,620
	State printing	120,000	129,150
126	Superintendent of Public Instruction		
	Salaries and expenses	26,361	39,434
	State aid	401,450	401,450
126	Board of Railroad Commissioners	60,000	60,600
126	Secretary of State ¹⁴	49,046	48,700
126	Supreme Court	83,400	83,400
126	Clerk of Supreme Court	8,965	9,090
126	Reporter of Supreme Court and Code Editor	11,676	11,676
126	Treasurer of State	85,916	81,500
126	Board of Vocational Education	33,055	35,040
FOR THE BOARD OF CONTROL AND THE INSTITUTIONS UNDER IT			
CHAPTER	FOR WHAT	1933-1935	1935-1937
126	Board of Control	\$74,500	\$72,466
126	State Hospital and Colony at Woodward	224,000	250,522
	Public works project		61,250
126	Institution for Feeble-Minded at Glenwood	228,536	327,484
126	State Hospital for Insane at Cherokee	272,500	348,461
	Public works project		26,250
126	State Hospital for Insane at Clarinda	275,000	293,317
	Public works project		99,750
126	State Hospital for Insane at Independence	275,000	329,878
126	State Hospital for Insane at Mt. Pleasant	275,000	319,140
126	State Juvenile Home at Toledo	99,900	119,069
126	State Penitentiary at Fort Madison	436,023	469,151
	Public works project		4,375

¹⁴ See pages 23 and 30.

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CHAPTER	FOR WHAT	1933-1935	1935-1937
126	Men's Reformatory at Anamosa	340,067	375,451
126	Women's Reformatory at Rockwell City	49,700	56,610
126	State Sanitarium at Oakdale	217,000	219,494
	Public works project		43,750
126	Iowa Soldiers' Home at Marshalltown	200,000	205,595
126	Iowa Soldiers' Orphans' Home at Dav- enport	162,900	188,060
126	Training School for Boys at Eldora	167,500	177,585
126	Training School for Girls at Mitchell- ville	75,736	76,961
	Public works project		7,000
126	Emergency Fund	14,000	14,000
126	Additional Emergency Fund		100,000
126	Road Fund	10,000	10,000
	Total for Board of Control	3,415,362	3,880,777

FOR BOARD OF EDUCATION AND SUPPORT OF
INSTITUTIONS UNDER IT

CHAPTER	FOR WHAT	1933-1935	1935-1937
126	Board of Education	50,566	\$54,712
126	State University of Iowa	1,790,000	1,950,000
	President	10,000	10,000
	Public works project		60,000
126	Medical and Surgical Treatment of In- digents	900,000	940,994
126	Iowa State College of Agriculture	1,771,000	1,931,000
	President	9,000	9,000
	Public works project		60,000
126	Iowa State Teachers College	473,000	563,000
	President	7,000	7,000
	Public works project		30,000
136	Iowa State Teachers College		60,000
	Deficiency appropriation		(lump sum)
126	Iowa State School for the Deaf	195,000	207,000
	Public works project		15,750

CHAPTER	FOR WHAT	1933-1935	1935-1937
126	Iowa School for the Blind	105,000	105,000
	Public works project		21,000
126	Psychopathic Hospital	100,000	100,000
126	Bacteriological Laboratory	12,226	12,226
126	Soldiers' Tuition	6,000	4,000
126	World War Orphans' Aid		2,500
137	Aid for blind students		1,000
			(lump sum)

MISCELLANEOUS EXPENSES CONNECTED WITH THE
LEGISLATIVE SESSION ¹⁵

CHAPTER	TO WHOM AND FOR WHAT	AMOUNT
129	Miller vs. Zeigler election contest	\$265.00
130	Pelzer vs. Malone election contest	778.81
128	Miscellaneous Expenses of General Assembly	
	Royal Typewriter Company	262.50
	General Typewriter Exchange	180.00
	Gaar Brothers Typewriter Company	315.00
	Underwood Elliott Fisher Company	63.00
	Des Moines Rubber Stamp Works	147.45
	Interstate Transit Lines	25.00
	Van Ginkle Athletic Manufacturing Company	60.00
	Wingate Costume Company	50.00
	Walter Beam, service	28.35
	Margaret Mathis, service	28.35
	Ray Sheehan, service	28.35
	Hedo M. Zacherle, supplies	16.34
	Officers, after adjournment	Amount
		necessary
	Vergil Lakin, supplies	43.40
	Legislative emergency fund	5,000.00
	Hedo M. Zacherle, supplies	50.00
	Vergil Lakin, supplies	50.00
	Vergil Lakin, services	63.00
	Jennie Gregg, services	81.90
	Peter Russell, services	14.40
	Yunker Brothers	129.35

¹⁵ Salaries of members amount to about \$161,000.

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CHAPTER	TO WHOM AND FOR WHAT	AMOUNT
	Zaisers, office outfitting rental	75.30
	George M. Hamilton, services	16.20
	Frank Shaffer, services	16.20
	Clyde L. Herring, money advanced by him	210.00
	Officers of General Assembly	per diem
148	Gordon L. Elliott, report of work on legislative committee	30.00
154	For services and expense in connection with legislative investigation of sale of State warrants as follows:	
	T. E. Diamond	
	Attorney fees	\$225.00
	Expenses	85.50
	Henry C. Schull, Witness	
	Mileage	20.00
	James F. Toy, witness	
	Mileage	20.00
	Leone Webster	
	Clerical help	32.50
	Frank C. Walrath	
	Reporting	759.60
	Total	1142.60
MISCELLANEOUS APPROPRIATIONS FOR PUBLIC PURPOSES		
CHAPTER	FOR WHAT	AMOUNT
127	Inaugural expenses	\$389.50
134	G. A. R. history	2,500.00
140	Emergency relief to school districts	10,000.00
142	Muscatine County, drainage tax on State land	1,319.47
144	Polk County, pavement along State fair grounds	4,606.78
146	Jones County, expenses in convicting State employee	873.50
177	John H. Mitchell	
	Expenses to Interstate Assembly	100.00
	Garritt E. Roelofs	
	Expenses to Interstate Assembly	100.00

APPROPRIATIONS FOR CLAIMS CONNECTED WITH HIGHWAY CONSTRUCTION AND MAINTENANCE		
CHAPTER	TO WHOM AND FOR WHAT	AMOUNT
145	Dolan Allen, collision with State truck	\$213.28
147	Mrs. J. W. Kinney, for death of husband, employee of Highway Commission	1,000.00
	Maude Emerson Barnhart, collision with State truck	55.00
	William A. Emerson, administrator, damages for death due to collision with State truck	416.05
	Roy Lowrey, collision with State truck	77.25
	Fred Spatz, collision with road maintainer	50.00
	Harry Lund, collision with State truck	63.95
	J. W. Daniels, collision with road maintainer	25.00
	H. F. Carr, collision with automobile	350.00
	Elton L. Titus, accident due to roll of snow fence	18.00
	Labor on highway	
	R. W. Maples	\$3.50
	Earl Connell	2.28
	Ivan A. Connell	2.48
	Orville Connell	2.80
	Rollin Connell	3.13
	Ross Connell	2.80
	Total	16.98
148	Martin Borlang, collapse of bridge	500.00
151	W. J. Conley, loss of horse on defective bridge	500.00
155	Carl Feucht, collision with State truck	27.90
	National Refining Company, collision with State truck	67.30
156	John F. Fisher, crop injury due to highway con- struction	200.00
158	Ralph Foster, collision with State truck	52.99
159	R. E. Frisby, collision with State truck	7.10
	D. A. Luing, collision with State truck	102.00
161	A. C. Green, collision with State truck	26.80
	Hans Boeck, collision with State truck	23.25
162	Mamie B. Grimso, for death of husband by collapse of bridge	1,600.00
163	Robert Hall, collision with snow plow	\$15.00

CHAPTER	TO WHOM AND FOR WHAT	AMOUNT
163	Anderson Auto Exchange, collision with snow plow	6.48
	Roy Veldhuizen, collision with snow plow	7.61
	Total	29.09
165	Charles Hazen, damage by snow plow	\$2.30
	J. F. Hollingsworth, damage by snow plow	13.50
	O. P. M. Criley, damage by snow plow	1.12
	Sunshine Store, damage by snow plow	12.48
	Total	29.40
166	H. L. Heller, collision with snow plow	2.00
	M. V. Harmon, collision with State truck	19.00
	L. C. Syfert, collision with State car	33.44
	W. M. Cutter, collision with State truck	10.43
	Carl Weeks, collision with State car	8.34
	Walter Kiser, collision with State car	24.26
	Joe Michels, collision with State car	4.25
	E. E. Peterson, collision with State car	36.58
	Ed Kennedy, collision with State car	10.00
	Carl R. Ryder, collision with State car	19.37
	Elsie Maden, collision with State car	8.50
	Mrs. J. H. Kelley and H. M. Kelley, collision with snow plow	354.40
167	Lee Hurlburt, collision with State truck	51.48
168	Herman Jordan, property damaged by highway commission	\$71.55
	Will Ager, property damaged by highway commission	42.82
	Total	114.37
169	George Kanak, collision with State tractor	2,500.00
170	John Kanak, collision with State tractor	500.00
173	James Knox, collision with State truck	63.59
174	C. A. Lenz, collision with State truck	50.40
175	Reed McMurray, collision with unlighted barricade	155.00
	Roy Marinelli, collision with unlighted barricade	28.57
176	Craig Miller, collision with State truck	20.77
178	Horace Palmer, reason not given	7.00
179	Arthur H. Peterson, injured on defective highway	30.00

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CHAPTER	TO WHOM AND FOR WHAT	AMOUNT
180	Doris Sovereign, collision with State tractor	\$25.00
	W. H. Bongartz, collision with State tractor	8.00
	Total	33.00
181	James Spain, injury to land by building highway nearby	100.00
183	E. A. Summerville, collision with State truck	48.02
185	Clarence A. Altimeir, collision with State truck	75.00
	Harold Manders, collision with State truck	150.00
	Dorothy Manders, collision with State truck	150.00
	Faye Elizabeth Tollari, collision with State truck	125.00
	Julia E. Bell, skidding of car on pavement	1,075.00
	James E. Bell, skidding of car on pavement	500.00
	Andrew Florine, injury because of barricade removed from bridge	300.00
Frank Comp, collision with State grader	30.00	
TO PAY MISCELLANEOUS CLAIMS		
CHAPTER	TO WHOM AND FOR WHAT	AMOUNT
126	Frederick M. Hull (Annual appropriation since 1894)	360.00
	Marjorie Ball, injury on State fair grounds (since 1927)	200.00
146	Homer Ashmore, military service	\$44.00
	Mrs. Blanche Capps, death of husband, FERA employee	1,000.00
	Property destroyed by fire at Women's Reformatory	
	Ray Murtogh	137.57
	Berandine Mitzkowski	.35
	Minnie Baars	.59
	Stella Kayser	18.35
	Olga Gomez	21.10
	Carrie Louise Baars	3.00
Esther Mason	6.60	
148	Mrs. Oscar Barnes, injury at State Fair grounds	100.00
	O. D. Albrecht, use of motorcycle by State troops	35.00
	O. Evald Olson, medical service to State troops	15.00

CHAPTER	TO WHOM AND FOR WHAT	AMOUNT
	Adolph Wiese, injury at State Penitentiary	300.00
	J. C. Robinson, collision with car of State	975.00
	Henry G. Peterson, injury at State House	100.00
	Everett Harris, injury at State Reformatory	500.00
	W. C. Johnson, collision with car of Bureau of Labor	26.00
149	Guy Boyles, for injury sustained as employee at State reformatory	1,000.00
150	Ethel Conner Carlson, for death of her husband, employee at Camp Dodge	1,000.00
152	J. M. Cree, for damages due to collision with Bureau of Labor car	91.50
153	J. T. Davenport, refund on auto license	36.50
157	Charles Flinchum, for injury sustained at prison laundry	50.00
160	H. J. Goerner, refund of auto licenses	18.00
164	H. W. Hanson, guardian, soldier's bonus for Cleo D. Allen	289.00
171	Clarence R. Killion, soldier's bonus	350.00
172	W. B. King, for injury sustained at Iowa State College of Agriculture	100.00
182	Marion Stephens, for injury by assault while acting as State agent at sheriff's sale	250.00
184	J. N. Vernon, veterinary service for the State	33.55
	Edd Scantlebury, veterinary service for the State	10.60
	Miles Baier, for the destruction of horses	250.00
185	Simon Warner, service on tile contract	\$60.00
	Daniel Warner, service on tile contract	60.00
	L. C. Meader, service on tile contract	67.00
	Total	187.00
186	Earl Wymore, collision with State truck	125.00

The State Highway Commission and its work are financed by the tax on motor vehicles and motor vehicle fuel. Of the tax imposed on motor vehicles, 2½ per cent goes to the maintenance fund of the Highway Commission; 3 per cent goes to the maintenance fund of the Motor Vehicle Department in the office of the Secretary of State;

and the remainder goes into the primary road fund.—*Code of 1931*, Sec. 4999. The cost of the Iowa Highway Safety Patrol is paid from the maintenance fund of the Motor Vehicle Department. The two cent motor fuel tax is divided — 1/3 going to the primary road fund and 2/3 to the secondary roads. The one cent tax on motor vehicle fuel added later all goes to the primary road fund. The Forty-sixth General Assembly made several specific allocations of these funds.

Section 19 of the *Code of 1931* provides that the compensation of the officers and employees of the General Assembly shall be fixed by joint resolution of the House of Representatives and the Senate at the opening of the session or as soon thereafter as conveniently can be done.

Compensations provided for by this Assembly include the following: Secretary of the Senate and Chief Clerk of the House, each \$9.00 per day; Assistant Secretary and Assistant Chief Clerk, reading clerks, engrossing clerks, enrolling clerks, and general clerks, each \$6.30; assistant general clerks, bill clerks, filing clerks, and sergeant-at-arms, \$4.50; matrons, janitors, and messengers, each \$3.60, and pages, each \$2.50 per day.¹⁶

A very brief resolution which was destined to cause considerable comment and discussion in the General Assembly was House Joint Resolution No. 1, which provided compensation of five dollars a day to clergymen for opening the sessions of the Senate and House of Representatives with prayer. Some members of the General Assembly contended that ministers should not be paid for this service. An effort was also made "to substitute two minutes of silence for ministerial prayer". In the end, however, the resolution was adopted.¹⁷

¹⁶ *Acts of the Forty-sixth General Assembly*, Ch. 226.

¹⁷ *Acts of the Forty-sixth General Assembly*, Ch. 225.

STATE GOVERNMENT AND ADMINISTRATION

For some years there has been some agitation to discontinue the taking of the State census. The Forty-fifth General Assembly, in 1933, passed a joint resolution to repeal Article III, Section 33 of the State Constitution. To carry forward this amendment, as required by the Constitution, the Forty-sixth General Assembly voted in favor of the proposed repeal. As provided in the Code, the question will now be submitted to a vote of the people at the general election in 1936, and if the amendment is approved by a majority vote the taking of a State census will be discontinued.¹⁸

Another joint resolution passed by the Forty-sixth General Assembly approves an amendment to Article I, Section 9 of the Constitution of Iowa, adding thereto the provision that "The General Assembly may authorize the return of verdicts in civil cases upon the concurrence of not less than nine (9) members of the jury". This proposed amendment will be referred to the General Assembly to be chosen in the fall of 1936.¹⁹

Section 7420-b3 of the *Code of 1931* provides for the issuance of anticipatory warrants for the payment of claims against the State Sinking Fund. This law was amended by the Forty-fifth General Assembly. The amended section was repealed by the Forty-sixth General Assembly and a substitute section was enacted. The present law provides that whenever duly allowed and certified claims are on file with the Treasurer of State to the amount of fifty thousand dollars or more and the State Sinking Fund for public deposits contains insufficient funds for immediate payment of the claims, the Treasurer of State may issue anticipatory warrants for the purpose of

¹⁸ *Acts of the Forty-sixth General Assembly*, Ch. 223; *Code of 1931*, Sec. 72.

¹⁹ *Acts of the Forty-sixth General Assembly*, Ch. 224.

raising funds for the immediate payment of such claims. The warrants outstanding and unpaid, however, shall not exceed at any one time the sum of \$3,500,000. The Treasurer of State, with the approval of the Executive Council, was authorized, however, to exceed the stipulated amount if necessary to pay claims pending at the time of the passage of this act.

Warrants issued for this purpose shall be offered by the Treasurer of State at public sale and shall be sold at a price not less than par plus accrued interest to the date when the Treasurer of State shall actually receive payment for the warrants and make delivery of them to the purchaser. The proposed sale of anticipatory warrants shall be advertised in at least two daily papers (one of which must be in Des Moines) for two or more successive weeks, giving ten days notice of the time and place of the sale. Bids may be either sealed or open, but the open bids are not to be received until after all the sealed bids have been deposited. The best one of the open bids is then recorded by the secretary of the Executive Council and after that the sealed bids are opened by the secretary in the presence of the Executive Council and the best bid noted. Any or all bids may be rejected and new bids asked for, or the warrants or any portion of them thereafter may be sold at private sale to any one or more of the bidders or other persons, provided that preference shall be given to persons, firms or corporations in Iowa in so far as it is possible to do so.

No commission shall be paid directly or indirectly in connection with the sale of any anticipatory warrants, and no expense shall be incurred in connection with the sale except that incurred in advertising.²⁰

Section 1216 of the *Code of 1931* designates certain offi-

²⁰ *Acts of the Forty-sixth General Assembly, Ch. 87.*

cial and persons who are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office, position, or appointment. This law was amended to include among the persons thus empowered, all investigators of old age assistance as provided in the Old Age Assistance Law passed by the extra session of the Forty-fifth General Assembly.²¹

Section 4072 of the *Code of 1931* provides that the Superintendent of the School for the Deaf shall on the first days of April and October of each year, certify to the State Comptroller the amounts of money due the school from the several counties of the State. This law has now been amended so as to require these reports on the first days of June and December instead of in April and October.²²

During the last decade at least three measures have been introduced to provide that October 12th — Columbus Day — be made a legal holiday. Such a measure was introduced in the Forty-sixth General Assembly. As finally passed it provides for an observance of the day, but does not make it a legal holiday. The Governor is authorized and requested to issue annually a proclamation calling upon State officials to display the American flag on all State and school buildings and urging the people to display the flag in their "homes, lodges, churches, and places of business" on that day, "to commemorate the life and history of Christopher Columbus and to urge that services and exercises be had in churches, halls and other suitable places expressive of the public sentiment befitting the anniversary of the discovery of America."²³

House File No. 141, dealing with the compensation of public officers, was passed by the General Assembly and

²¹ *Acts of the Forty-sixth General Assembly*, Ch. 8.

²² *Acts of the Forty-sixth General Assembly*, Ch. 34.

²³ *Acts of the Forty-sixth General Assembly*, Ch. 4.

signed by the presiding officers but was vetoed by the Governor. The Forty-fifth General Assembly in 1933 passed a measure which purported to reduce the salary of certain State and local officers. Subsequently the Supreme Court of Iowa held that this law was not properly passed and was, therefore, of no force and effect. When the Forty-sixth General Assembly convened it seemed certain that these public officers would attempt to collect the full amount of their salary. The Forty-sixth General Assembly passed a measure to legalize the former law and to provide that payments made under it should be considered payments in full.

Governor Clyde L. Herring, doubting the constitutionality of this latter measure, submitted it to the Attorney General for an opinion. The Attorney General gave it as his opinion that although the legislature might properly change salary schedules, it did not in fact properly do so, and that services now having been rendered, the reduction could not be made effective by attempting to ratify, confirm, or legalize the salary reduction act which never had been legally operative.

Upon this theory and in accordance with the advice of the Attorney General, Governor Herring returned this measure to the General Assembly without his signature.²⁴

CODE REVISION

In almost every session of the General Assembly attention is called to obvious errors in the Code or in session laws not yet codified. Three acts provided for changes made necessary by the law substituting the office of State Comptroller for the office of State Budget Director.²⁵ Another substituted the Auditor of State for "state account-

²⁴ *Journal of the House of Representatives*, 1935, pp. 990-992.

²⁵ *Acts of the Forty-sixth General Assembly*, Chs. 11, 28, 53.

ant" in Section 342 of the *Code of 1931*.²⁶ A fifth act provides that the county treasurer shall file his tax list with the "State Board of Assessment and Review" instead of with the "Auditor of State".²⁷

Section 3244-b6 of the *Code of 1931*, which deals with the duty of the Secretary of Agriculture in enforcing the law relative to the standard weight of bread, was amended by the Extra Session of the Forty-fifth General Assembly. In writing that bill an error was made and the law as passed was not clear. To clarify the law, the Forty-sixth General Assembly rewrote that section. The law as amended provides that the Secretary of Agriculture shall enforce the provisions of Section 3244-b1 to 3244-f1 inclusive. He shall make rules and regulations not inconsistent with these sections, "and such rules and regulations shall include reasonable variations and tolerances".²⁸

Under Section 7420-d1 of the *Code of 1931* the Treasurer of State, the treasurer of each county, city, town, and school corporation, other county officers, township clerk, and each secretary of a school board are to deposit public funds in their hands in banks which have been approved by the various governing boards. Section 7420-d8 provides that "No treasurer or other county officer or township clerk" shall be liable for the loss of funds thus deposited because of the insolvency of the depository bank. Obviously it was not the intention of the legislature to exclude the secretary of a school board from the list of exemptions and the Forty-sixth General Assembly amended the law to provide exemption from liability for all officers mentioned in Section 7420-d1.²⁹

²⁶ *Acts of the Forty-sixth General Assembly*, Ch. 2.

²⁷ *Acts of the Forty-sixth General Assembly*, Ch. 80.

²⁸ *Acts of the Forty-sixth General Assembly*, Ch. 31.

²⁹ *Acts of the Forty-sixth General Assembly*, Ch. 86.

Chapter 473 of the *Code of 1931* was adopted for the purpose of providing a uniform system of adoption of children by decree of court. Sections 3714 and 3715 of the Code refer to another form of adoption which has long since been discarded. To make the law uniform on this subject the Forty-sixth General Assembly repealed Sections 3714 and 3715 and amended three other sections of the Code to make them conform with the approved method of adoption as provided for in Chapter 473.³⁰

Sections 4440 to 4445 inclusive of the *Code of 1931* provide for the maintenance of school gardens or farms to be paid for from the "state school fund". There is, however, no "state school fund" provided for in the laws of Iowa. Accordingly this law is and always has been inoperative. To clarify this matter and to delete from the Code inoperative provisions, the Forty-sixth General Assembly repealed these sections.³¹

The Forty-third General Assembly in 1929 passed a bill which in a large measure rewrote the statutes relating to banking. The legislature, however, inadvertently failed to repeal Sections 9189, 9214, 9215, 9217, 9301, and 9302 and these contradictory and confused provisions were codified in the *Code of 1931*. To clarify this matter the Forty-sixth General Assembly passed a measure to repeal the above named sections. This measure does not affect the substantive law as amended in 1929.³²

HIGHWAYS

One of the most significant measures passed by the Forty-sixth General Assembly in connection with highway legislation was a bill to create an Iowa Highway Safety Patrol

³⁰ *Acts of the Forty-sixth General Assembly*, Ch. 32.

³¹ *Acts of the Forty-sixth General Assembly*, Ch. 41.

³² *Acts of the Forty-sixth General Assembly*, Ch. 99.

in the Motor Vehicle Department under the Secretary of State. The law authorizes the Secretary of State to employ not to exceed fifty-three highway patrolmen. Appointees shall be selected after an examination as to physical and mental fitness. They shall be citizens of the State of Iowa, of good moral character, not less than twenty-five years of age, and not more than sixty per cent of such employees shall at any time be members of the same political party. Provision is also made that no member of the patrol shall, while in such position, be a candidate for any political office, or take part in or contribute, directly or indirectly, to any political campaign or to any candidate for public office.

During the period of six months after appointment any member of the patrol may be dismissed at the will of the Secretary of State. After the six months, dismissal shall be made only after charges have been filed with the Secretary of the Executive Council, showing cause for dismissal, and upon a hearing as provided by law.

The duties of the patrol shall be the enforcement of the provisions of the law relating to the operation of motor vehicles on the highways. Patrolmen shall also have power and it shall be their duty "to arrest without warrant any person or persons committing or attempting to commit within their presence or view a breach of peace or other violation of the law".

The salary of patrolmen was fixed at \$100 per month with a five dollar increase each year until the maximum of \$125 is reached. The chief's salary was fixed at \$200 per month and an assistant chief's at \$165. A training school for patrolmen was also authorized. Salaries and expenses, including uniforms, equipment, and the cost of the training school, are to be paid from the maintenance fund of the Motor Vehicle Department. A bond of \$5000

is required of each member of the patrol. Patrolmen may not wear uniforms of the United States Army, Navy, Marine Corps, or National Guard.³³

Chapter 237 of the *Acts of the Thirty-eighth General Assembly*, also Section 4708 of the *Code of 1924*, and Sections 4755-b21 to 4755-b25 of the *Code of 1931* inclusive provided for funding or refunding primary road bonds. The provisions of the first two of these laws having previously been repealed, the Forty-sixth General Assembly repealed the sections of the *Code of 1931* and enacted new legislation upon this subject. The new law provides that if any county, which made assessments under the provisions of any of the above mentioned laws, has a balance or balances remaining, "such balance or balances shall be transferred to the primary road fund". The State Highway Commission was directed by this law to check special assessment refund accounts in each such county to determine the amount of remaining balances.

If any county has levied special assessments for primary road paving under the above mentioned laws and there are now outstanding certificates or bonds issued in anticipation of such assessments, all such certificates or bonds shall be called in and paid out of the primary road fund.³⁴

In accordance with a new provision of the law any county which has primary road bonded indebtedness outstanding is authorized to issue and sell primary road refunding bonds, "notwithstanding that at the time of such issuance and sale the indebtedness of such county may be in excess of its legal limitations". The proceeds of these bonds together with all other funds coming into the hands of the county treasurer for the purpose of paying interest on or principal of primary road bonded indebtedness shall

³³ *Acts of the Forty-sixth General Assembly*, Ch. 48.

³⁴ *Acts of the Forty-sixth General Assembly*, Ch. 44.

be placed in a separate account, and any of it that may be deposited "in an otherwise qualified county depository" shall be designated and held by that depository without interest as a special trust fund deposit.

The issuance of primary road refunding bonds and the conversion of the proceeds into a separate account in accordance with this law "shall not be regarded as the incurring of indebtedness by such county within the meaning of any constitutional or statutory limitation."³⁵

Section 388 of the *Code of 1931* provides that upon the approval of the State Comptroller it shall be lawful for a county or municipality to make certain temporary or permanent transfers of money from one fund to another. This law was amended by the Forty-sixth General Assembly to provide that "in no event shall there be transferred for any purpose any of the funds collected and received for the construction and maintenance of secondary roads".³⁶

For some time there has been agitation for diagonal roads leading into Des Moines. While these would shorten the direct route to Des Moines the plan met with considerable opposition in various other parts of the State. To prevent the building of such roads a special act was passed by the Forty-sixth General Assembly prohibiting the State Highway Commission from purchasing right of way, grading, bridging, or surfacing a new system of diagonal highways radiating from any city with a population of over 100,000 (Des Moines). Provision was made, however, that that portion of Highway No. 88 already under construction between Des Moines and Marshalltown might be completed.³⁷

³⁵ *Acts of the Forty-sixth General Assembly*, Ch. 42. The General Assembly can not, however, remove a constitutional limitation.

³⁶ *Acts of the Forty-sixth General Assembly*, Ch. 3.

³⁷ *Acts of the Forty-sixth General Assembly*, Ch. 43.

MOTOR VEHICLES

Under a new provision of the law dealing with the registration of motor vehicles any motor vehicle, originally registered as a passenger car and thereafter converted into a truck with a loading capacity of less than one thousand pounds, shall continue to be registered as a passenger car.³⁸

The Secretary of State is authorized by law to designate sheriffs, chiefs of police, or town marshals, or to appoint other persons, to serve as examiners of applicants for operators' and chauffeurs' licenses. The Forty-sixth General Assembly amended this law to provide that examiners so appointed "shall have the authority of peace officers for the purpose of enforcing the laws relating to motor vehicles and the operation thereof". The law was also amended to provide that a portion of the fees collected for licenses (ten cents in the case of operator's licenses and a dollar and fifty cents of a chauffeur's license fee) shall be transferred to the Motor Vehicle Department and shall be used for the purpose of making effective the uniform operators' and chauffeurs' license law. The remainder of the fees (fifteen cents for each operator's license and fifty cents for each chauffeur's license) goes to the officer or person issuing the license and this, as well as the fees noted above, now goes into the special fund for the enforcement of the drivers' license law. Any surplus will be used to finance the Highway Patrol. All operators are now charged a fee of 25 cents for a new license, and all licenses shall expire on June thirtieth of each odd-numbered year.³⁹

³⁸ *Acts of the Forty-sixth General Assembly*, Ch. 45.

³⁹ *Acts of the Forty-fifth General Assembly*, Ch. 77; *Acts of the Forty-sixth General Assembly*, Ch. 46; *Code of 1931*, Secs. 4960-a1 — 4960-d31; letter from Lew E. Wallace, Superintendent of the Motor Vehicle Department, dated November 17, 1935.

Section 4992 of the *Code of 1931* which deals with the powers of local authorities in the matter of motor vehicle regulation was amended to provide that all cities and towns, including cities operating under special charter, shall have the power to acquire, erect, equip, operate, and maintain motor vehicle testing stations, and pay for them out of the proceeds of the collection of fees charged for testing motor vehicles and trucks. A service fee of not to exceed twenty-five cents per test or fifty cents per year may be fixed for the inspection of any motor vehicle for any defect prohibited by law. Such limitation of fee shall not, however, apply in cities having a population of more than 100,000 (Des Moines). Cities and towns may set aside the funds collected for this service, pay the cost of service from this fund, and at the end of the fiscal year transfer any balance into the general fund of the city or town.

The State Motor Vehicle Department has supervision and control over the type of testing and the facilities for testing, and before establishing a station a city or town shall procure the approval of the State Department. Stickers indicating that cars have been tested shall be furnished at cost by the Motor Vehicle Department.

Cities and towns shall have authority to enforce the ordinance for testing by a fine of not to exceed \$25 or, upon failure to pay a fine, imprisonment for not to exceed seven days may be imposed upon "either the owner or operator" of any vehicle not tested as required by the ordinance.⁴⁰

According to Section 5029 of the *Code of 1931* any person driving a motor vehicle on a highway shall drive at a careful and prudent speed not greater than nor less than is reasonable and proper, and "no person shall drive any

⁴⁰ *Acts of the Forty-sixth General Assembly, Ch. 47.*

vehicle upon a highway at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead". A measure was introduced in the Forty-sixth General Assembly to substitute the provision that "no person shall drive any vehicle upon any highway within the state at a speed greater than fifty miles per hour." In the end the bill was passed without striking any words from the original law but with the addition of a provision that a driver shall have "the right to assume . . . that all persons using said highway, will observe the law". This is a striking example of the almost complete rewriting of a measure during the course of its passage.

This same section of the Code — Section 5029 — does, however, specify a maximum speed limit for a "freight carrying vehicle". This provision of the law was not changed.⁴¹

Chapter 56 of the *Acts of the Extra Session of the Forty-fifth General Assembly* was passed to amend, revise, and codify the law relative to motor vehicle fuel. Section 30 of that chapter provides that applicants claiming a refund under the provision of the law, shall obtain "an annual" permit from the Treasurer of State. The Forty-sixth General Assembly amended this section of the law to provide for permits which need not be renewed annually.⁴²

LIQUOR LEGISLATION

The Forty-fifth General Assembly in 1933 passed a measure consisting of forty sections dealing with beer and other malt liquors. This law provided that the words "liquor" or "intoxicating liquor" as used in the *Code of 1931* should not include beer or other malt liquors con-

⁴¹ *Acts of the Forty-sixth General Assembly*, Ch. 49.

⁴² *Acts of the Forty-sixth General Assembly*, Ch. 50.

taining not more than 3.2 per cent of alcohol by weight. It also provided for the sale of beer under three classes of permits. Class A permits allowed the holder to manufacture or sell beer at wholesale. Class B permits authorized the sale of beer for consumption on or off the premises. Class C permits allowed the sale of beer for consumption off the premises. Permits were issued by the Treasurer of State or by the city or town council of any city or town.

The Extra Session of the Forty-fifth General Assembly, after much deliberation, passed a second measure, of forty-two sections, which materially amended the beer law, but did not change the general plan.

Objections having arisen as to the manner in which this law was administered, the Forty-sixth General Assembly in 1935 again rewrote the beer law and provided for a Permit Board composed of the Treasurer of State, the Secretary of State, and the Auditor of State.

Under this new law power was granted to the Treasurer of State to issue the class "A" permits and to revoke them when sufficient cause shall arise. Power was given cities and towns, including special charter cities, to issue class "B" permits and class "C" permits within their respective limits and to revoke such permits for causes stated in the law. Power was also given to boards of supervisors to grant "B" and "C" permits in their respective counties in villages platted prior to January, 1934, and to revoke the same. Upon the issuance of a permit by the city council or board of supervisors notice shall be sent to the State Permit Board, which shall in turn issue a State permit. In like manner when a permit is revoked by the city council or by the board of supervisors this fact is certified to the State Permit Board which shall immediately cancel the permit and such action by the State Board shall be final.

Under the amended law cities and towns are authorized to pass ordinances providing for the limitation of class "B" permits. If such an ordinance is passed only one class "B" permit shall be issued for each 500 population or fraction thereof, up to 2500, and one for each additional 750 persons. Provision is made, however, that in towns having a population of 1000 or less, two permits shall be allowed if proper application is made. In determining the number of permits to be issued in accordance with this law, permits issued to hotels and clubs shall not be considered.

The annual permit fee for class "B" permits, except permits issued to hotels and clubs, shall not be less than \$100 nor more than \$300. The State law provides that beer shall not be sold on Sunday nor shall it be sold between one o'clock and six o'clock A. M. City councils or boards of supervisors may, however, fix other hours for opening and closing, not contrary to the State law. Thus an earlier closing hour and a later opening hour may be fixed, but a later closing hour and an earlier opening hour is prohibited. The city councils or boards of supervisors are authorized to adopt other ordinances "not in conflict with the provisions of this chapter . . . governing any other activities or matters which may affect the sale and distribution of beer under class "B" permits and the welfare and morals of the community involved."

This latter provision is a comprehensive one and makes it possible for local authorities to assume much responsibility in the regulation of the sale of beer.⁴³

The Extra Session of the Forty-fifth General Assembly passed a Liquor Control Act and established a Liquor Control Commission. Criticism having arisen about the administration of this law by the Liquor Control Com-

⁴³ *Acts of the Forty-sixth General Assembly, Ch. 16.*

mission, the Forty-sixth General Assembly adopted a joint resolution creating a joint committee consisting of six members of the General Assembly. Three of these were to be appointed by the President of the Senate and three by the Speaker of the House. In each case members were to be selected from both political parties.

This committee was directed and empowered to investigate the operation of the Liquor Control Act, the administration of the act by State officials, the transactions of any individual, firm, or corporation with the Liquor Commission, and the individual acts of members of the Commission. Each member of the investigating committee was authorized to subpoena witnesses, administer oaths, and require the production of books and records pertaining to liquor transactions with or by the Liquor Commission.

The resolution also provided that in the event any person, firm, or corporation, or officer failed or refused to produce records, books, or papers showing the nature of transactions with or by the Commission, when requested to do so, he should thereafter be barred and prohibited from transacting any business with the Iowa Liquor Commission. An appropriation of \$10,000 was made by the General Assembly to carry this resolution into effect.

Senators M. X. Geske, D. W. Kimberly, and Andrew Bell, and Representatives Curtis L. McKinnon, Dewey E. Goode, and Don W. Burrington were appointed members of the investigation committee.⁴⁴

SCHOOL LEGISLATION

To prevent the establishment of school districts too small for practical purposes, the Forty-sixth General Assembly

⁴⁴ *Acts of the Forty-sixth General Assembly*, Ch. 227. The report of this committee may be found in the *Journal of the House of Representatives*, 1935, pp. 1868-1898.

passed a law which provides that no new school district shall be formed, nor shall the boundary lines of any existing school district be so changed, as to make it contain an area less than four square miles. This shall not be construed, however, to prevent the boundary lines of an existing school district from being changed so that it shall be included in and consolidated with other districts, or joined to another district to form a single school district, nor shall it be construed to permit the formation of a consolidated district with an area of less than sixteen square miles of land, or to permit the reduction of an existing consolidated district below an area of sixteen square miles.

When the boundary lines of school districts have been changed in accordance with the law, because of natural obstacles, and when such natural obstacles have been removed, the law as now amended makes provision for procedure to restore the original boundaries. Provision is also made for sub-division of an independent district into two or more new districts. Such districts shall not be smaller, however, than the areas prescribed above.⁴⁵

Section 4223-a2 of the *Code of 1931* dealing with vacancies in school boards was repealed by the Forty-sixth General Assembly and a new section was enacted in lieu thereof. The new law provides that vacancies occurring among the officers or members of a school board shall be filled by appointment by the board. A person so appointed to fill a vacancy in an elective office shall hold until the organization of the board on the third Monday in March immediately following the next regular election and until his successor is elected and qualified. A person appointed to fill a vacancy in an appointive office shall hold such office for the residue of the unexpired term and until his successor is appointed and qualified. Any person so ap-

⁴⁵ *Acts of the Forty-sixth General Assembly, Ch. 35.*

pointed shall qualify within ten days in the manner prescribed by law.

Provision is also made for filling vacancies by a special election, if the board is reduced below a quorum, or if for any other reason it fails to fill the vacancy within ten days after its occurrence. An appointment by the board to fill any vacancy in an elective office on or after the date on which notice has been given for a special election to fill such vacancy shall be null and void. The form of oath required of school officers is set forth in the law. The regulations relative to voting — the establishment of polling places, the hours of opening and closing the polls, and the selection of judges — are also provided for in this law.⁴⁶

Section 4239 of the *Code of 1931* which deals with claims against school corporations provides that the board of directors shall audit and allow all just claims against the corporation, and no order shall be drawn upon the treasury until the claim has been audited and allowed. This law was amended by the Forty-sixth General Assembly to provide that the board of directors may, by resolution, authorize the secretary to issue warrants when the board is not in session, in payment of freight, drayage, express, postage, printing, water, light, and telephone rent, but only upon duly verified bills filed with the secretary. The secretary may also be authorized to pay salaries pursuant to the terms of a written contract. All bills and salaries paid prior to audit "shall be passed upon by the board of directors at the first meeting thereafter and shall be entered of record in the regular minutes of the secretary".⁴⁷

Any person of school age who resides in a school corporation where a high school is not maintained and who has completed the course of study offered in that school

⁴⁶ *Acts of the Forty-sixth General Assembly*, Ch. 36.

⁴⁷ *Acts of the Forty-sixth General Assembly*, Ch. 37.

district is permitted to attend a high school in another school corporation and the tuition up to the amount of nine dollars per month for the school year over a period of four years must be paid by the resident school corporation.

The Forty-sixth General Assembly amended this law to provide that it shall be unlawful for any school district to provide non-resident high school pupils with transportation unless the district is fully reimbursed therefor as provided by law, or to rebate to such pupils or their parents, directly or indirectly, any portion of the high school tuition collected or to be collected from the home district, or to authorize or permit any such pupil to receive at the expense of the district any special compensation, or thing of value, that can not legally be made available to all other pupils enrolled in the high school. Any superintendent or board member responsible for such unlawful act shall be personally liable to a fine of not to exceed one hundred dollars. The purpose of the recent amendment to this law is, apparently, to prevent high schools from offering special inducements to athletes.⁴⁸

The Forty-fifth General Assembly in 1933 amended the teachers' minimum wage law and fixed forty dollars per month as the minimum compensation to be paid teachers regardless of the kind of certificate involved. It provided further that the county board of education might temporarily suspend the minimum feature of the law, if in its judgment the financial conditions of the school district required it. The Forty-sixth General Assembly amended this law to make fifty dollars per month the minimum salary, but the restrictive feature of the law may still be suspended if necessity requires.⁴⁹

⁴⁸ *Acts of the Forty-sixth General Assembly, Ch. 38.*

⁴⁹ *Acts of the Forty-sixth General Assembly, Ch. 39.*

Any independent school district located in whole or in part within a city having a population of 25,100 or more may establish a pension and annuity retirement system for public school teachers. The manner of raising funds for this purpose was changed by the Forty-sixth General Assembly. The new law provides that funds shall be created from the following sources:

(1) Assessment of teachers, not exceeding one per cent of their salaries, or such greater percentage as the board of directors may authorize and a majority of the teachers shall agree to pay.

(2) The proceeds of an annual tax levy, not exceeding the amount produced in the current school year by the assessment of teachers.

(3) The interest on any permanent fund which may be created by gift, bequest, or otherwise.⁵⁰

The bonds to be given by certain designated State officers are fixed by Section 1063 of the *Code of 1931*. Paragraph five of this section deals with the bond required of each treasurer of a State institution under the control of the State Board of Education. A recent amendment to this paragraph provides that the treasurer of such institution "shall furnish a surety bond", the amount of which shall be determined by the Board of Education.⁵¹

Section 3926 of the *Code of 1931* provides that, subject to certain restrictions, the finance committee of the State Board of Education may loan funds belonging to a State institution. An amendment to this law provides that the rate of interest be not less than four per cent per annum. Provision is also made that funds may be invested in bonds of the United States, the State of Iowa, or any county within the State, the rate of interest in such case to be

⁵⁰ *Acts of the Forty-sixth General Assembly*, Ch. 40.

⁵¹ *Acts of the Forty-sixth General Assembly*, Ch. 6.

determined by the State Board of Education. Prior to 1935 this provision concerning investment in such bonds applied only to funds "not otherwise invested and any surplus income on funds not immediately required for other purposes". An amendment passed by the Forty-sixth General Assembly removed this restriction from the law.⁵²

BANKS AND BANKING

According to Section 9183 of the *Code of 1931* a savings bank shall invest its funds or capital, all moneys deposited therein, and all its undivided profits in certain designated securities. An amendment to this law includes among the approved investments the Federal Housing Securities. Not more than twenty-five per cent (25%) of the assets of the bank or trust company shall, however, consist of such investments.

Sub-division 6 of Section 9183, dealing with investments made in Federal reserve and land bank stock, was amended to provide that investments may also be made by banks, in an amount not in excess of fifteen per cent (15%) of their capital stock and surplus, in the capital stock of any national mortgage association authorized under Title III of the National Housing Act approved on June 27, 1934.⁵³

Four sections of the *Code of 1931* were amended to permit payment of dividends on preferred stock sold by Iowa banks to the Reconstruction Finance Corporation, without compliance with the requirement that a surplus of 20 per cent of its capital be built up by a bank before payment of dividends. Section 9262-c1 of the Code provides that no banking institution organized under the laws of Iowa shall declare or pay any dividend "until it has first established a surplus of at least twenty per cent of its capital".

⁵² *Acts of the Forty-sixth General Assembly*, Ch. 33.

⁵³ *Acts of the Forty-sixth General Assembly*, Ch. 98.

Similar provisions are found in Sections 9189, 9217, and 9301. The Forty-sixth General Assembly passed a measure that amended each of these sections to provide that this rule shall not apply to dividends required to be paid on class "A" preferred stock issued by a bank or banking institution to the Reconstruction Finance Corporation or any other governmental agency.⁵⁴

Another measure passed by the Forty-sixth General Assembly which dealt with the subject of banking was one which authorized Iowa banks to enter into contracts necessary to comply with requirements set up by the Federal Deposit Insurance Corporation. Provision is made that whenever the Federal Deposit Insurance Corporation shall pay the insured deposit liabilities of any closed bank, it shall be subrogated to all rights of the depositor to the extent of such payment. The Federal Deposit Insurance Corporation may, at any time, make an examination of any bank or trust company that is or becomes "a member of its fund" or files application for membership. This apparently refers to the purchase of stock of the Federal Deposit Insurance Corporation or the deposit of the required funds to pay for insurance. A copy of the report on such examination shall be sent by the Federal Corporation to the Superintendent of Banking.

Under the provision of this law any banking institution that is closed for lack of funds to pay depositors, or by order of the Superintendent of Banking, may borrow money from the Federal Deposit Insurance Corporation and furnish any part or all of the assets of the institution as security for the loan. If, however, the bank is in the hands of the receiver an order must first be obtained from a court of record.⁵⁵

⁵⁴ *Acts of the Forty-sixth General Assembly, Ch. 100.*

⁵⁵ *Acts of the Forty-sixth General Assembly, Ch. 101.*

Chapter 119 of the *Acts of the Extra Session of the Forty-fifth General Assembly* authorizes any savings bank, State bank, or trust company to create and issue preferred stock of one or more classes, and to fix the rights, privileges, limitations, and conditions of such stock. The Forty-sixth General Assembly amended this law to provide that any preferred stock lawfully issued pursuant to the provisions of this act shall be included in determining whether such banking institution has complied with the minimum capital requirements provided by law.⁵⁶

Sections 9404 and 9405 of the *Code of 1931* made the legal rate of interest six per cent, unless the contracting parties should agree in writing for a higher rate, in which case a maximum rate of eight per cent might be charged. This law was amended by the Forty-sixth General Assembly to provide that the maximum legal rate shall be five per cent, and the maximum rate which may be contracted for seven per cent.⁵⁷

Section 7420-d6 of the *Code of 1931* provided that public funds deposited in banks "shall draw interest at the rate of not less than two per cent per annum on ninety per cent of the collected daily balances". In 1935 many public bodies had funds to deposit and banks frequently had little use for the money and could not afford to pay two per cent on all public moneys offered for deposit. Some banks refused to accept such deposits. Accordingly, the Forty-sixth General Assembly passed a measure which amended this law to provide that the Treasurer of State, with the approval of the Executive Council, may from time to time adjust the rate of interest payable on public funds throughout Iowa, but in no event shall such rate be adjusted below one per cent on ninety per cent of the collected daily

⁵⁶ *Acts of the Forty-sixth General Assembly*, Ch. 102; *Code of 1931*, Sec. 9217-c1.

⁵⁷ *Acts of the Forty-sixth General Assembly*, Ch. 103.

balances. Provision was also made that henceforth public funds shall be deposited with reasonable promptness and shall be evidenced by pass book entry by the depository legally designated. This act has a preamble or explanatory section three times as long as the law proper.⁵⁸

By Chapter 138, *Acts of the Forty-fifth General Assembly*, the legislature sought to make provision for securing sufficient cash to replace all necessary funds tied up in the State sinking fund. In the case of *Hubbell v. Herring et al*, 216 Iowa 728, this law was declared to be unconstitutional. In order that this inoperative law should not be printed in the *Code of 1935* the Forty-sixth General Assembly repealed it.⁵⁹

The legislature also provided for the remission of taxes on stock of banks closed and in the hands of receivers.

CORPORATIONS

To prevent corporations from being compelled to liquidate or sell their corporate stock or property during the period of economic depression, the Forty-sixth General Assembly amended Section 8364 of the *Code of 1931* to provide that any corporation whose charter expired during the year 1934 and was not renewed, and any corporation whose charter expired in 1935 or 1936 should be given an extended corporate existence for a period of two years from the date of expiration. Provision was also made that no corporate charter of any such corporation shall be renewed under the general law for a period of two years following the date of expiration. It was specifically provided that this amendment shall not be operative after December 31, 1938.⁶⁰

⁵⁸ *Acts of the Forty-sixth General Assembly*, Ch. 85.

⁵⁹ *Acts of the Forty-sixth General Assembly*, Ch. 84.

⁶⁰ *Acts of the Forty-sixth General Assembly*, Ch. 93.

An act of sixty-one sections was passed by the Forty-sixth General Assembly to revise and modernize the laws relating to coöperative corporations with or without capital stock. An association as defined in this law may be formed to conduct a mercantile, manufacturing, mechanical, or mining business; to construct or operate telephone or electric transmission lines; to produce, grade, store, market, sell, or handle any agricultural product or by-product; or to purchase, sell, or produce machinery or equipment for those engaged in agricultural pursuits. A "coöperative association" is one which serves some of the purposes above enumerated, and "distributes its net earnings among its members in proportion to their dealings with it, except for limited dividends or other items permitted in this act; and in which each voting member has one vote and no more".

Under this law five or more individuals, or two or more associations may organize an association. All individual incorporators of agricultural associations must be engaged in producing agricultural products, which term shall include landlords and tenants as specified by law. Provision is made for the issuing of stock and of membership certificates. No common stock shall be transferable, unless the articles expressly provide for transfers to other eligible members. No non-stock membership shall be transferable, and all certificates shall be surrendered to the association on the member's voluntary withdrawal. Moreover, the directors may expel any member if he has attempted to transfer his membership or stock in violation of its terms, or has wilfully violated any article or by-law which provides for such penalty.

Associations with capital stock may divide the shares into common and preferred stock. Par value stock shall not be issued for less than par. The general corporation laws shall govern the consideration for which no-par stock

is issued. If the articles so provide, common stock may be issued in two classes, voting and non-voting. Voting stock shall be issued to all agricultural producers and non-voting stock to all other members. Non-voting stock shall have all privileges of membership except the right to vote. Preferred stock held by non-members shall not exceed in amount that held by members.

The affairs of each association shall be managed by a board of not less than five directors, who must be members of the association or officers or members of a member-association. They shall be elected by the members as the articles prescribe.

Provisions are made for the removal of officers and directors, a referendum, amendments to the articles of incorporation, and a dissolution of the association.⁶¹

INSURANCE

The Iowa law formerly provided that any condition in an application, policy, or contract of insurance, making the policy void before the loss occurs, shall not prevent recovery thereon by the insured, if it shall be shown by the plaintiff that the failure to observe such provision or the violation thereof did not contribute to the loss.

This provision, however, did not apply to a stipulation referring to a lien, or incumbrances thereon created by voluntary act of the insured and within his control. This law was amended by the Forty-sixth General Assembly to except from this latter provision of the law "a lien accruing to the benefit of the old age pension fund" as provided for in sections 15 and 16 of the old age assistance law as passed by the Extra Session of the Forty-fifth General Assembly. This amendment is intended to prevent the invalidation of an insurance policy by reason of the crea-

⁶¹ *Acts of the Forty-sixth General Assembly, Ch. 94.*

tion of a lien under the provisions of the old age assistance law.⁶²

Section 8940 of the *Code of 1931* provides that a policy of automobile liability insurance inures to the benefit of an injured party who has obtained a judgment against the insured. In the case of *Schmid v. Automobile Underwriters, Inc.*, 215 Iowa 170, attention was called to the fact that an injured party does not have such a right if the policy is written under Chapter 406 or 408 of the Code which deal with mutual insurance or inter-insurance respectively.

To make the law clear and specific and to secure the desired protection to the person injured, the Forty-sixth General Assembly passed a new law which provides that all policies insuring the legal liability of the insured, issued in this State by any company, association, or reciprocal exchange "shall . . . contain a provision providing that, in event an execution on a judgment against the insured be returned unsatisfied in an action by a person who is injured or whose property is damaged, the judgment creditor shall have a right of action against the insurer to the same extent that such insured could have enforced his claim against such insurer had such insured paid such judgment". No settlement between the insurer and insured, after loss, shall bar this action unless consented to by the judgment plaintiff.

Action for recovery under this law may be brought against the insurer within one hundred and eighty days from the entry of judgment in case no appeal is taken, and, in case of appeal, within one hundred and eighty days after the judgment is affirmed on appeal.⁶³

The Forty-sixth General Assembly passed an act to pro-

⁶² *Acts of the Forty-sixth General Assembly*, Ch. 96; *Code of 1931*, Secs. 8980, 8981.

⁶³ *Acts of the Forty-sixth General Assembly*, Ch. 97.

mote the objects of the National Housing Act, by authorizing insurance companies and building and loan associations to make loans in accordance with the provisions of the National Housing Act. Insurance companies, building and loan associations, trustees, guardians, executors, administrators, and other fiduciaries were authorized to invest their funds and the moneys in their custody in "bonds and notes secured by mortgage or trust deed insured by the federal housing administrator, and in debentures issued by the federal housing administrator", and in securities issued by the national mortgage associations or similar credit institutions now or hereafter organized under the National Housing Act.⁶⁴

Section 8829 of the *Code of 1931* which deals with the investment of the funds of fraternal beneficiary societies refers to Section 8825. The reference is, manifestly, an error — evidently the intent was to refer to Section 8830. With the approval of the Commissioner of Insurance an act was passed by the Forty-sixth General Assembly to correct this error.⁶⁵

DEBTS AND INVESTMENTS

Section 11784 of the *Code of 1931* provides that the holder of title of land which has been sold at an execution sale may redeem his property by paying into the office of the clerk of the district court the amount of the lien and the costs that accrued in accordance with the law. This law was amended by the Forty-sixth General Assembly by adding thereto a provision that redemption "may also be made by the title holder presenting to the clerk of the district court sheriff's certificate of sale properly assigned to the title holder".⁶⁶

⁶⁴ *Acts of the Forty-sixth General Assembly*, Ch. 120.

⁶⁵ *Acts of the Forty-sixth General Assembly*, Ch. 95.

⁶⁶ *Acts of the Forty-sixth General Assembly*, Ch. 111.

To encourage the refinancing of debts secured by homes through Federal funds, the Forty-sixth General Assembly passed two acts which authorize guardians, executors, and administrators to mortgage real estate even though it may be exempt as a homestead or otherwise if the court or judge having jurisdiction is satisfied that it is for the best interest of the estate or any interest therein. Any such mortgage shall have the effect of waiving any exemptions as a homestead or otherwise of any minor, incompetent person, or person under legal disability owning an interest in the real estate as fully as such owner could do if he were *sui juris*. A similar measure was passed to permit guardians, administrators, or other fiduciaries to purchase stock in government loan corporations.⁶⁷

Because of the unusual number of foreclosures of real estate mortgages, trust deeds, and notes secured by real estate, the Forty-fifth General Assembly in 1933 postponed foreclosures until 1935. Declaring that an emergency still existed, the Forty-sixth General Assembly passed two measures which were designed to extend the operation of the former laws until 1937.

These continuing acts provide that in all actions for the foreclosure of real estate mortgages or deeds of trust now pending in which decrees have not been entered and in all actions hereafter commenced, the court, upon the application of the owner or owners of such real estate who are defendants, or at the request of person or persons liable on the mortgages or trust deeds or notes secured thereby, shall upon hearing an application filed for a continuance, order the cause continued until March 1, 1937, unless good cause is shown to the contrary. Upon the entry of such order of continuance, the court shall direct who shall have possession of the property during the interval, determine

⁶⁷ Acts of the Forty-sixth General Assembly, Chs. 112, 113, 114; Code of 1931, Secs. 11935-11951.

fair rental terms, and designate the distribution of rents, income, and profits, and make such provision for the preservation of property as will be just to the parties concerned.

This law provides, however, that it shall not apply to any mortgage or trust deed executed subsequent to January 1, 1934, nor to mortgagors who acquired property in question subsequent to that date, except in cases where continuance had already been granted by the court. Provision is also made that the law shall not apply to any mortgages or trust deeds "executed prior to January 1, 1934, and subsequently renewed."⁶⁸

Another enactment by the Forty-sixth General Assembly provides that in any action for the foreclosure of a real estate mortgage or a deed of trust, which has been commenced prior to March 1, 1935, and the redemption period for which has not expired, the court shall, upon application of the owner of such real estate, unless good cause be shown to the contrary, order that no sheriff's deed shall be issued until March 1, 1937. The court having jurisdiction of the case shall direct that a part of the income from the property be used for the payment of taxes and the balance shall be distributed in such just and equitable manner as the court may direct. During the period of extension of redemption the owner of the real estate shall have possession and the exclusive right to redeem, and the rights of redemption of subsequent mortgages, junior lienholders, and creditors shall terminate within the period as provided by law.

The provisions of this act shall not apply to any mortgages or deeds of trust executed subsequent to March 1, 1934, nor to those executed prior to that date and subsequently renewed. All applications which have been filed for extension of redemption and upon which no hearings

⁶⁸ *Acts of the Forty-sixth General Assembly, Chs. 115, 116.*

have been held shall be in full force and effect under the provisions of this law.⁶⁹

Another moratorium act passed by the Forty-sixth General Assembly was one applicable to contracts for the sale of real estate, executed prior to January 1, 1934, wherein the vendor has retained legal title. This law provides that in any case where such real estate contract is sought to be foreclosed or forfeited, the vendee or his heirs or assigns shall be entitled to have his or their rights and equities preserved until March 1, 1937. The court, in determining upon a continuance in accordance with this law, shall make an order relative to possession of the real estate, giving preference to the vendee. He shall also determine upon a fair rental to be paid, make an order relative to the distribution of rents and profits, and make provisions for the preservation of the property during the continuation of the case.

Sections of the law which may be in conflict with this act are suspended by this measure. Provision is made, however, that this law shall not be effective after March 1, 1937.⁷⁰

Section 12772 of the *Code of 1931* provides that all proposed investments of trust funds by fiduciaries shall first be reported to the court or judge for approval, and unless otherwise directed, a trustee, executor, administrator, or guardian shall invest all moneys in certain designated bonds. In this group of investments are included: Federal bonds; Federal land bank bonds; and State, municipal, and corporate bonds. This law was amended by the Forty-sixth General Assembly to add to the approved investments, bonds issued by "the Federal Farm Mortgage Corporation or any corporation or governmental agency or

⁶⁹ *Acts of the Forty-sixth General Assembly*, Ch. 110.

⁷⁰ *Acts of the Forty-sixth General Assembly*, Ch. 117.

instrumentality authorized to issue bonds, or debentures." Bonds, debentures, or other interest bearing obligations guaranteed by the Federal government and stocks in Federal government instrumentalities were likewise included. Guardians of veterans were also required to make investments under Section 12772 instead of Section 12644-c14.⁷¹

Section 11760 of the *Code of 1931* sets forth an extensive list of articles which are exempt from execution in actions for the payment of debts. The Forty-fifth General Assembly in 1933 enacted a measure which provided that in addition to these exemptions, a debtor who is a resident of this State and a head of a family, might hold exempt from general execution certain other items until March 1, 1935. The Forty-sixth General Assembly passed a similar measure which provides that the debtor may "select and have set off to him livestock, farm products, farm utensils or machinery, household goods, or other property owned by him", in the aggregate value not to exceed the sum of \$500, and hold such property exempt until March 1, 1937. Moreover, the debtor may include, as a part of this exemption, household goods of his own selection of value not to exceed \$100, notwithstanding the fact that this may have been pledged for debt. The law also provides that property set off under the law passed by the Forty-fifth General Assembly may continue to be exempt until March 1, 1937. Provision is made, however, that this law shall not apply to executions or attachments that were levied on or before the 16th of March, 1933, "nor shall it affect the remedies for existing obligations as against property then in existence", except household goods not to exceed \$100 as provided above.⁷²

⁷¹ *Acts of the Forty-sixth General Assembly*, Chs. 118, 119.

⁷² *Acts of the Forty-sixth General Assembly*, Ch. 109.

A new mortgage relief act passed by the Forty-sixth General Assembly provides that judgments hereafter rendered on promissory obligations secured by mortgage or deed of trust of real estate, but without foreclosure against the security, shall not be subject to renewal, and after the lapse of two years from the date of rendition shall be without force for any purpose except as a set-off or counterclaim.

The holder of a note secured by a mortgage may sue either on the note or on the note and mortgage. A measure to abolish this choice of actions was introduced in the Forty-sixth General Assembly, but failed of passage.⁷³

AGRICULTURE

Since Chapter 426 of the *Code of 1931* dealing with bonded warehouses for agricultural products needed revision at many points, the Forty-sixth General Assembly passed a measure of thirty-eight sections to repeal this chapter and enact a substitute for it. In accordance with this law any warehouseman in this State before receiving agricultural products into grain elevators for storage must first procure a bonded warehouse license from the Board of Railroad Commissioners or be licensed and bonded under the provisions of this act relating to temporary permits. Upon the filing of a bond by the warehouseman with the Railroad Commissioners in compliance with the law, for the conduct of a warehouse, the warehouse shall be designated as "bonded".

The Railroad Commissioners shall from time to time make such rules and regulations as they may deem necessary for the efficient execution of this law. Provisions are made for the granting of licenses, and for the filing of such bonds as the Railroad Commissioners may deem neces-

⁷³ *Acts of the Forty-sixth General Assembly*, Ch. 108.

sary. All agricultural products in storage, except those owned by the warehouseman, shall be kept fully insured by the warehouseman against loss by fire, inherent explosion, or windstorms.

Every grain elevator not operating under a license issued under the United States Warehouse Act is required to display in a conspicuous place a sign containing the words "licensed storage warehouse", "grain storage not accepted", or "storage warehouse license applied for" according to its true status.

Every warehouseman conducting a bonded warehouse under the provisions of this law shall receive for storage any agricultural product of the kind customarily stored that may be tendered to him "without making any discrimination between persons desiring to avail themselves of warehouse facilities". The warehouseman shall at all times keep the agricultural products of one depositor separate from those of another.

Receipts shall be issued for all agricultural products received. Original receipts shall not be negotiable if there is any doubt as to the ownership of title. Negotiable receipts may under proper circumstances and upon proof of title be issued in exchange for non-negotiable receipts. Duplicate receipts may be issued in case the original receipt is lost or destroyed, but in case of the loss of negotiable receipts, no new receipts shall be issued unless indemnity bonds are given to protect all rights under the missing original receipts.

The Railroad Commissioners are authorized to inspect the records of warehousemen and to suspend or revoke licenses when necessity requires.⁷⁴

The Forty-sixth General Assembly also passed a measure consisting of nineteen sections to amend, revise, and re-

⁷⁴ *Acts of the Forty-sixth General Assembly, Ch. 104.*

codify the laws relative to "Unbonded Agricultural Warehouses". Under the provisions of this law a local supervisory board consisting of not less than three nor more than seven members shall be appointed by the Secretary of Agriculture in any county, upon the application of one or more citizens.

The members of the supervisory board shall at the time of their appointment be producers of grain in the State and residents of the county in which they are appointed. Each board shall select from its own members a president, vice president, and a secretary-treasurer, and with the approval of the Secretary of Agriculture they shall designate one or more sealers from without their membership.

It shall be the duty of the sealers under the direction of the Secretary of Agriculture to supervise the storage of grain; ascertain the amount stored by each owner; determine, so far as possible, the grade and quality of the grain; and to ascertain that the granary, crib, bin, or other receptacle is satisfactory for storage and conforms to the regulations prescribed by the Department of Agriculture.

The sealer shall issue to the owner one or more certificates, but the aggregate amount of grain represented by such certificate or certificates shall not exceed the amount of grain stored and sealed by the sealer and each certificate shall cover a separate granary, crib, or bin. Certificates shall be negotiable and any provision inserted stating that it is non-negotiable shall be void. Provision is made for duplicate certificates which shall be recorded in the office of the county recorder.

The owner shall, in the absence of a lawful excuse, deliver the grain stored upon demand made by the holder of a certificate for the grain, or for such part as is represented by the certificate if proper demands are made.⁷⁵

⁷⁵ *Acts of the Forty-sixth General Assembly, Ch. 105.*

In the interest of obtaining better seed potatoes in Iowa the Forty-sixth General Assembly passed a measure to regulate the certification and sale of potatoes to be used for seed. It appears that blue tags attached to bags of certified seed have become identified in the minds of the public as evidence of an official certification and a superior quality of seed. To avoid attempts to mislead the public, the new law provides that the sale, or the offering for sale, of potatoes in bags having blue tags or identification marks which indicate that the seed has been certified is forbidden "unless in truth such seed has been certified by duly constituted state authority".

Provision is made, however, that the first crop grown from certified seed may be thus labeled, but must be marked "not certified", and blue tags are not to be used. The Secretary of Agriculture is empowered and directed to prescribe the color, form, and wording of tags and labels used on seed potatoes. Seed potatoes offered for sale in violation of this law shall be confiscated and sold for the benefit of the school funds of the State, and persons selling seed in violation of this law shall be subject to a fine.⁷⁶

In the interest of better dairy products the Forty-sixth General Assembly passed a new law, known as the Cream Grading Law. This law provides that all purchases of cream for butter-making purposes shall be made on the basis of sweet cream, first grade cream, and second grade cream. Moreover, every person owning or operating a creamery, or cream station, or cream vehicle route and engaged in the business of buying two or more grades of cream shall maintain a price differential between the different grades of not less than one cent per pound of butter fat.

The law also provides for the posting of prices, the

⁷⁶ *Acts of the Forty-sixth General Assembly, Ch. 30.*

granting of licenses to testers, and the making of tests. Licenses to operate a creamery are issued by the State Secretary of Agriculture. Licenses may be revoked for any violation of this law or for a violation of any standard of sanitation set up by law, but only after the holder of the license has been given reasonable notice of intention to revoke. Licenses may, however, be summarily suspended for a period of thirty days. The law also sets forth a list of fourteen prohibitions which are enforced in connection with the purchase of cream. Any person who, by himself or by his agent or employee wilfully violates any requirement of this law shall be fined not less than twenty-five dollars nor more than one hundred dollars.⁷⁷

The Iowa State Dairy Association was authorized by the Forty-sixth General Assembly to hold an annual exposition of 4-H dairy calves. The exposition shall include the exhibits of dairy club heifers and the holding of judging contests, demonstration contests, record book contests, and production contests for 4-H dairy club members. After each exposition the president and secretary of the association shall file with the State Secretary of Agriculture a sworn statement of the actual amount of cash premiums, which must correspond with the published offer of premiums by the association. The Department of Agriculture upon receipt of the statement shall certify to the State Comptroller that the named amount is due the association as State aid. The Comptroller upon receipt of the certificate shall draw a warrant payable to the association for 80 per cent of the amount paid for premiums, provided such amount does not exceed \$2000 in any one year. An appropriation of \$2000 annually was made to carry out the provisions of this act.⁷⁸

⁷⁷ *Acts of the Forty-sixth General Assembly, Ch. 29.*

⁷⁸ *Acts of the Forty-sixth General Assembly, Ch. 138.*

The Iowa law provides that upon the application of ten persons in any county provision shall be made by the extension division of the State College of Agriculture and Mechanic Arts for a school of instruction in the use of anti-hog-cholera serum and virus. An amendment to this law limits this school of instruction to one day. Formerly a fee of three dollars was charged each person attending the school. A maximum total of thirty dollars for the whole number enrolled is now allowed. Accordingly, an individual fee may be a pro rata amount somewhat less than three dollars if the entire number attending exceeds ten.⁷⁹

DRAINAGE

In order to expedite matters in drainage areas a law was passed to abandon and dissolve drainage and levee districts that are no longer needed, if they are free from indebtedness. The board of supervisors or board of trustees, as the case may be, shall have power and jurisdiction, upon petition of a majority of the owners of 60 per cent of all the land in the district, to abandon, dissolve, and discontinue the district.

Provision is made for notice of hearing, hearing on petition, and appeal. Provision is also made for the payment of expenses incurred in the abandonment procedure, and for a distribution of any funds that may be left after the payment of all bills incurred.⁸⁰

Section 7590-c1 of the *Code of 1931* which deals with the purchase of tax certificates in levee and drainage districts was amended to give the holder of bonds the right to purchase tax sale certificates to protect investments if, upon the request of the holder of any bond issued by any drainage district, the board of supervisors shall fail, neglect,

⁷⁹ *Acts of the Forty-sixth General Assembly*, Ch. 27.

⁸⁰ *Acts of the Forty-sixth General Assembly*, Ch. 89.

or refuse to purchase the certificate of sale issued by the county treasurer as provided by law. Such certificates are held in trust for the district, but the holder shall have a lien upon the certificate or any interest on it for his actual outlays including his reasonable expenses and attorney fees, if any have been incurred. Any funds realized from the lease or sale of land shall be first applied in extinguishing the lien of the holder of the certificate, and the balance shall be paid to the drainage bond fund of the district.⁸¹

The Forty-sixth General Assembly passed a measure which authorized all drainage districts in Iowa, with pumping plants or levees, which have power to incur indebtedness "to proceed under and take advantage of all laws enacted by the congress of the United States under the federal bankruptcy powers, which laws have for their object the relief of municipal indebtedness", and the acts amendatory and supplementary thereto. Officials and governing bodies of such drainage, pumping plant, and levee districts are authorized to adopt all proceedings and to do any acts necessary to fully avail such district of the provisions of these Federal bankruptcy laws.⁸²

The Forty-sixth General Assembly authorized trustees of drainage and levee districts or boards of supervisors as the case might be, to negotiate loans with the Reconstruction Finance Corporation for the benefit of such districts. To obtain such a loan the governing body was authorized to issue, and pledge or sell bonds at their face value to the Reconstruction Finance Corporation or other loaning agency, in the amount required for such adjustment. The governing body was also authorized "to cancel the old assessments collectible against the land within the

⁸¹ *Acts of the Forty-sixth General Assembly, Ch. 88.*

⁸² *Acts of the Forty-sixth General Assembly, Ch. 90.*

district, pledged to the payment of its outstanding indebtedness and proportionately and equitably relevy the same, with interest, over the period covered by the new bonds". Provision was made, however, that the new assessments created against the land shall not be in excess of the unpaid assessments before the readjustment is made, and that the new and extended assessment shall fully replace the old assessment. The time of payment for drainage assessments was extended from twenty to forty years.⁸³

CONSERVATION

In the interest of conservation of natural resources and the protection of wild life, the Forty-sixth General Assembly passed a measure which created a State Conservation Commission to assume the duties heretofore performed by the Board of Conservation and the Fish and Game Commission. The new Commission consists of seven citizens of the State, not more than four of whom shall, when appointed, belong to the same political party. No person appointed to this Commission shall during his term hold any other State or Federal office. Members shall be appointed by the Governor with the approval of two-thirds of the Senate. The first appointments shall be for two, four, and six years respectively. After the expiration of the first terms, appointments shall be for six years. Compensation of members shall be at the rate of \$7.50 per day for the time actually and necessarily employed, but such sum shall not exceed \$500 for each fiscal year.

The Commission shall employ an administrative head who shall be known as State Conservation Director. He shall serve during the pleasure of the Commission and shall receive an annual salary, not to exceed \$4000 per

⁸³ *Acts of the Forty-sixth General Assembly, Ch. 91; Acts of the Extra Session of the Forty-fifth General Assembly, Ch. 101.*

year, to be fixed by the Commission. The Director with the approval of the Commission shall appoint such assistants as may be needed. An assistant shall be paid an annual salary of not to exceed \$1500. Conservation officers shall be appointed only after passing competitive examinations, and when appointed they shall be given the authority of peace officers.

Funds for this Commission shall be designated as: (1) a State fish and game protection fund; (2) a State conservation fund; and (3) an administration fund.

Provision was made to coördinate the sections of the Code so as to make this law the most effective, and to repeal other sections of the Code not in conformity with this law. The former State Board of Conservation and Fish and Game Commission were abolished.⁸⁴

The Forty-sixth General Assembly also authorized the State Conservation Commission to accept gifts, donations, or contributions of land suitable for forestry or conservation purposes and to enter agreements with the Federal government or other agencies for acquiring by lease, purchase, or otherwise, such lands as the Commission thinks are desirable to be used for such purposes.

Lands thus acquired shall be subject to taxation as other real estate, and this provision of the law shall be written into the agreement of purchase or lease. When lands are thus acquired, the Commission is authorized to make such expenditures upon it as may be required. It may also sell the products from such lands, and make such rules and regulations as may be necessary to carry out the intent of this law. All revenues derived from land thus acquired shall be segregated by the Treasurer of State for the use of the State Conservation Commission in the acquisition, management, development, and use of such lands until all

⁸⁴ *Acts of the Forty-sixth General Assembly, Ch. 13.*

obligations are paid. Thereafter fifty per cent shall be paid as the General Assembly may direct and fifty per cent shall be paid into the temporary school fund of the county.⁸⁵

At the Regular Session of the Forty-fifth General Assembly a measure of twenty-six sections was passed to amend, revise, and recodify the law relative to fish and game. Section 10 of that law, which deals with license fees, was amended by the Extra Session of the Forty-fifth General Assembly. This amendment has now been repealed and a substitute section of the law enacted. The new law provides that the fees shall be as follows:

Fishing licenses or hunting licenses for legal residents of the State, except as otherwise provided	\$1.00
Hunting and fishing combined licenses for legal residents of the State, except as otherwise provided	\$1.50 ⁸⁶

COURTS

In accordance with a new provision of the law the State Printing Board is directed to cause to be printed, from time to time, in cumulated, pamphlet form, and from copy to be furnished by the Code Editor, "the skeleton card digest, which covers the current opinions of the supreme court", which is being maintained in the office of the Code Editor. Copies of these pamphlets shall be sold at cost, and free copies shall be furnished to Judges of the Supreme, district, municipal, and superior courts, to the Attorney General and his assistants, and to the Code Editor.⁸⁷

To protect the interests of the State of Iowa, a measure

⁸⁵ *Acts of the Forty-sixth General Assembly*, Ch. 14.

⁸⁶ *Acts of the Forty-sixth General Assembly*, Ch. 15.

⁸⁷ *Acts of the Forty-sixth General Assembly*, Ch. 1.

was passed by the Forty-sixth General Assembly to provide that the State may be made a party in any suit or action in any district court in Iowa, any of the United States district courts within the State, or any other court having jurisdiction of any case of lien, foreclosure, or claim which the State of Iowa may have or claim to have to the real estate involved.

Service upon the State shall be made by serving a copy of the original notice with a copy of the petition upon the county attorney for the county in which the real estate is situated and by sending a copy of the original notice and petition by registered mail to the Attorney General, at Des Moines, at least twenty days before the first day of the next term of court. After compliance with this law the State shall be in the same position as any other defendant in the case.⁸⁸

To facilitate court procedure a measure was passed by the Forty-sixth General Assembly to require that the shorthand reporter's translation of his report of a trial, from which an abstract or an amendment to the abstract has been prepared and served on appeal, "shall be filed with the clerk of the district court" immediately after the abstract has been served on the opposite party. This record shall become a part of the public records and shall be made accessible to all parties to the appeal.⁸⁹

COUNTY GOVERNMENT

The Iowa law provides that county attorneys shall be paid upon a graduated scale to be determined by the population of the county. The Forty-sixth General Assembly amended this law to increase the salaries of county attorneys in all counties having a population less than 60,000.

⁸⁸ *Acts of the Forty-sixth General Assembly*, Ch. 107.

⁸⁹ *Acts of the Forty-sixth General Assembly*, Ch. 121.

In Adair, Adams, Audubon, Chickasaw, Clarke, Davis, Decatur, Dickinson, Emmet, Grundy, Hancock, Howard, Humboldt, Ida, Louisa, Madison, Mitchell, Osceola, Ringgold, Taylor, Van Buren, Wayne, Winnebago, and Worth counties (with a population less than 15,000) the salary of the county attorney was raised from \$1100 to \$1200 per year. In Allamakee, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Cass, Cedar, Cherokee, Clay, Delaware, Floyd, Franklin, Fremont, Greene, Guthrie, Henry, Iowa, Jackson, Jefferson, Jones, Keokuk, Lucas, Lyon, Mills, Monona, Monroe, Montgomery, O'Brien, Palo Alto, Pocahontas, Poweshiek, Sac, Shelby, Union, Warren, and Washington (with populations between 15,000 and 20,000) the salary now fixed is \$1500 instead of \$1400 as before. Counties with a population over 20,000 and less than 25,000—Appanoose, Benton, Carroll, Clayton, Crawford, Hamilton, Hardin, Harrison, Plymouth, Tama, Winneshiek, and Wright—now pay their county attorney \$1700 (instead of \$1600). County attorneys of thirteen counties—Boone, Dallas, Fayette, Jasper, Johnson, Kossuth, Mahaska, Marion, Marshall, Muscatine, Page, Sioux, and Story—with populations between 25,000 and 35,000, now receive \$2000 a year, an increase of \$300. In Cerro Gordo, Clinton, Des Moines, Lee, Wapello, and Webster, the salary was raised from \$2000 to \$2500. The salaries in Black Hawk, Dubuque, Linn, Polk, Pottawattamie, Scott, and Woodbury—all with more than 60,000 population—were not changed.

The new law also provides for an increase in the salary of assistant county attorneys in counties having a population of more than 36,000 and less than 57,000.⁹⁰

The extra session of the Forty-fifth General Assembly provided that in counties having a population above

⁹⁰ *Acts of the Forty-sixth General Assembly*, Ch. 54. For a legalizing act concerning these salaries see Ch. 202.

twenty-five thousand, "having a special charter city of five thousand or over, where the county auditor prepares and makes up the city tax books for such special charter city, he may receive not to exceed three hundred dollars additional compensation". This provision applied to Muscatine. The Forty-sixth General Assembly further amended the law by striking out the words "of five thousand and over" thus making the law applicable to Camanche as well as Muscatine.⁹¹

Section 6238 of the *Code of 1931* provides that no county or other political or municipal corporation shall become indebted in any manner for general or ordinary purposes to an amount exceeding in the aggregate one and one-fourth per cent of the actual value of the taxable property within the corporation. This law was amended to provide that indebtedness incurred by a county for poor relief purposes shall not be construed or regarded as having been incurred for general or ordinary purposes as contemplated in this law.⁹²

CITIES AND TOWNS

Section 5773 of the *Code of 1931* provides that any city or town may, when authorized by the voters, erect, purchase, or remodel a city or town hall, auditorium, armory, or other public building to be used for several community and municipal purposes. The law was amended to provide that cities or towns may, under the terms and conditions prescribed, join with township authorities in erecting and equipping such a building under such terms and conditions as may be mutually agreed upon. Corresponding changes were made in the laws relating to townships.⁹³

⁹¹ *Acts of the Forty-sixth General Assembly*, Ch. 51.

⁹² *Acts of the Forty-sixth General Assembly*, Ch. 69.

⁹³ *Acts of the Forty-sixth General Assembly*, Chs. 57, 58; *Code of 1931*, Secs. 5577, 5578, 5579, 5773.

Section 5813 of the *Code of 1931* provides for the erection of soldiers' monuments in cities and towns. A measure passed by the Forty-sixth General Assembly repealed this latter section and substituted for it a more extensive and inclusive provision of the law. The new law provides that cities and towns, including cities under the commission form of government, when authorized by a vote of the people, may locate and erect a city or town hall in any public park, public square, or public grounds belonging to the city or town, and "the park commission shall grant permission therefor whether or not said ground, park or square is unfit or not desirable for park purposes". Moreover, cities and towns of all classifications may by ordinance permit soldiers' monuments to be located and erected in any public park or public ground of the city.

It appears that this law was designed to meet a particular situation in Waterloo. The law is general in form, however, and applies to all cities except one having a population of 125,000 or more. This has the effect of excluding from the law only the city of Des Moines.⁹⁴

Section 5798 of the *Code of 1931* provides, however, that the board of park commissioners "shall have exclusive control of all parks and pleasure grounds acquired by it or of any ground owned by the city and set apart for like purposes". To avoid a conflict between this section and the new law and to make clear that the provisions in Section 5798 shall be considered as subordinate to the provisions in Section 5813 as amended, the Forty-sixth General Assembly amended Section 5798 to provide that "except as otherwise provided in this chapter", the park board "shall have exclusive control" of parks and pleasure grounds. These amendments make it clear that the city council, when authorized by a vote of the people, has

⁹⁴ *Acts of the Forty-sixth General Assembly, Ch. 63.*

authority superior to that vested in the board of park commissioners.⁹⁵

The new law designated as Section 5654-g1 was passed by the Forty-sixth General Assembly to provide that the bond of the city treasurer "shall be in the sum of not to exceed ten thousand (10,000) dollars". Section 5655 of the *Code of 1931* was amended by striking out the words "one-half of", and under the amended law the city may be required to pay a premium of one per cent of the face of the bond furnished by the treasurer.⁹⁶

Section 5745 of the *Code of 1931* provides that cities and towns shall have power to limit the number of, regulate, license, or prohibit public dance halls. This law was amended by the Forty-sixth General Assembly to provide that any place open to the public where dancing is allowed shall be considered a public dance hall notwithstanding the fact that food is served and a restaurant license is held in accordance with the law. Thus it appears that a dance hall can no longer escape regulation or restriction merely by virtue of its operation in connection with a restaurant, nor may restaurants where dancing is permitted hold class "B" beer permits.⁹⁷

In cities which have a river front improvement commission, the commission may acquire real estate and other rights for river improvement. If such land is acquired the commission shall, subject to the approval of the council, fix a millage levy to pay for the same. Prior to 1935 this levy was limited to one-half mill on the dollar on the taxable value of the property in the city. The Forty-sixth General Assembly amended this law to allow a levy of three-fourths of a mill.⁹⁸

⁹⁵ *Acts of the Forty-sixth General Assembly*, Ch. 62.

⁹⁶ *Acts of the Forty-sixth General Assembly*, Ch. 59.

⁹⁷ *Acts of the Forty-sixth General Assembly*, Ch. 60.

⁹⁸ *Acts of the Forty-sixth General Assembly*, Ch. 64.

Any city having a population of not less than forty-two thousand nor more than forty-five thousand and having a total area of not less than fifteen square miles, was authorized by the Forty-sixth General Assembly to construct storm sewers, to issue bonds, and to levy annually a tax of not to exceed four mills to pay for such improvement. The bonds shall mature serially within twenty years and shall bear interest at a rate not to exceed five per cent per annum.

This law is general in form but was designed to meet the needs of the city of Council Bluffs — this being the only city in the State to which the law applies.⁹⁹

Section 6144 of the *Code of 1931* provides that certain cities and towns which own their own waterworks, heating plant, gasworks, electric light, or electric power plant, may, and upon petition of 10 per cent of the qualified electors, shall, at a general or special election called for that purpose, submit the question as to whether the management and control of such utilities shall be placed in the hands of a board of trustees. Prior to 1935 this law did not apply to cities of the first class, except commission governed cities having a population less than 50,000. This law was amended by the Forty-sixth General Assembly to apply to any city or town.¹⁰⁰

Section 6211 of the *Code of 1931* provides that any city or town shall have power to levy annually a special tax for the establishment of a municipal hospital. This law was amended by the Forty-sixth General Assembly to provide that cities having a population of not less than four thousand and not more than five thousand, in which a municipal hospital has been established, may levy a tax of not to exceed two and one-half mills, for rebuilding, remodel-

⁹⁹ *Acts of the Forty-sixth General Assembly*, Ch. 65.

¹⁰⁰ *Acts of the Forty-sixth General Assembly*, Ch. 66.

ing, or enlarging such hospital. This law is applicable only to the city of Iowa Falls.¹⁰¹

Subdivision 9, Section 6211 of the *Code of 1931*, provides that any city or town regardless of the form of government may levy an annual tax for a fire department maintenance fund. This law was amended by the Forty-sixth General Assembly to provide that in cities of more than eight thousand the tax levy shall not exceed three and one-half mills, in cities of less than eight thousand the levy shall not exceed one and three-fourths mills, and in any town it shall not exceed three-fourths of one mill. These levies shall be used only to maintain a fire department, except that in towns and in cities with a population under three thousand the funds may also be used for the purchase of fire equipment.

Provision is also made in this law that for the years 1936 and 1937 no levy shall exceed two and one-half mills without the approval of the State Comptroller.¹⁰²

Section 6610-c46 of the *Code of 1931*, which deals with assessments and payment for street improvement in commission governed cities, was amended by the Forty-sixth General Assembly to provide that the county treasurer is authorized to transfer to the treasurer of any city or town issuing special assessment certificates all moneys collected by the county treasurer on such certificate, which shall have been in the possession of the county treasurer for a period of four years. The money thus paid to the city treasurer shall be retained by him for the benefit of the owners of certificates and paid to the owners upon demand. If the money is not called for by the owners of the certificates within a period of ten years from the date that the installments become due and payable, the funds thus un-

¹⁰¹ *Acts of the Forty-sixth General Assembly*, Ch. 67.

¹⁰² *Acts of the Forty-sixth General Assembly*, Ch. 68.

called for shall become the property of the municipality and shall be placed in a fund which shall be known as the general default and deficiency fund, from which any defaults or deficiencies on bond schedules may be paid.¹⁰³

Cities incorporated under the general law are permitted to levy a tax of one and one-fourth mills to provide an improvement fund. In cities operating under special charter, however, this fund prior to 1935 was limited to a levy of three-fourths of a mill. As three-fourths of a mill was not sufficient to meet the demands, a measure was introduced in the Forty-sixth General Assembly to raise the tax levy to one and one-fourth mills. This was later amended to allow a levy of one and one-half mills in special charter cities.¹⁰⁴

Prior to 1935 registration of voters was required in all cities having a population of six thousand or more. This law has now been amended so as to be mandatory only for cities of ten thousand population or more. Provision was made, however, that registration of voters may be required by ordinance in any city of not less than six thousand.¹⁰⁵

Cities operating under special charter were authorized by the Forty-sixth General Assembly to levy an additional tax of one mill to be placed in "an emergency fund". The city may then transfer money from this fund to any other fund of the city to meet deficiencies in such other funds if the State Comptroller approves the proposed transfer.¹⁰⁶

In the sale of real property for taxes and assessments in special charter cities, the time and price of sale and a description of the property shall be advertised in accordance with the law. Prior to 1935 notice was given by publication

¹⁰³ *Acts of the Forty-sixth General Assembly*, Ch. 70.

¹⁰⁴ *Acts of the Forty-sixth General Assembly*, Ch. 71; *Code of 1931*, Secs. 6211, 6856.

¹⁰⁵ *Acts of the Forty-sixth General Assembly*, Ch. 5.

¹⁰⁶ *Acts of the Forty-sixth General Assembly*, Ch. 72.

in some newspaper in the city once each week for "three" consecutive weeks, the last of which should be "at least one week" before the date of the sale. This law was amended to provide for publication for "two" weeks, the last of which shall be "not more than two weeks" before the date of the sale. Formerly such publications were paid for by the city at a rate of not to exceed "twenty" cents for each description. The rate has now been increased to "thirty" cents for each description.¹⁰⁷

Section 6909 of the *Code of 1931* provides that property against which any special assessment has been levied for street improvements or services may be sold at a tax sale. The following section (6910) provides that a special charter city may be the purchaser of such property at such a sale. This latter section was amended by the Forty-sixth General Assembly to provide that a special charter city may be a purchaser at "any tax sale, whether such purchase be for ordinary taxes or for special assessments".¹⁰⁸

PROFESSIONS

In the interest of a more thorough preparation of persons who plan to enter the medical and healing professions, the Forty-sixth General Assembly passed a new measure consisting of twenty-four sections to require examinations in the basic sciences. This law provides for the establishment of a board of examiners consisting of six members authorized and directed to conduct written examinations of all persons who shall hereafter apply for a license to practice medicine and surgery, osteopathy, osteopathy and surgery, chiropractic, or any other system or method of healing that may hereafter be legalized in this State. The basic sciences include Anatomy, Physiology, Chemistry,

¹⁰⁷ *Acts of the Forty-sixth General Assembly*, Ch. 73.

¹⁰⁸ *Acts of the Forty-sixth General Assembly*, Ch. 74.

Pathology, Bacteriology, and Hygiene. This requirement shall be in addition to all other requirements now or hereafter in effect with respect to the issuance of such license.

Provision is made, however, that this law shall not apply to any person already licensed to practice his profession. It shall not apply to dentists, dental hygienists, nurses, pharmacists, optometrists, embalmers, podiatrists, barbers or cosmetologists practicing within their respective licenses. Nor shall it apply to students registered in any accredited school of medicine, osteopathy, or chiropractic in the State of Iowa prior to July 1, 1936.

This measure was assailed by the chiropractors as a measure designed by the medical profession to place more rigid restrictions upon chiropractors and osteopaths. It was asserted, on the other hand, that "the bill merely would require practitioners of any healing art to be better prepared".¹⁰⁹

The Forty-sixth General Assembly repealed Chapter 118 of the *Code of 1931* dealing with the practice of osteopathy and surgery, and enacted a new chapter in lieu thereof. The first section of the new law defines osteopathy and osteopathic practice and states that osteopathic practice is not the practice of medicine within the meaning of Chapter 116 of the *Code of 1931* and is not subject to the provision of that law.

The new law also provides that every applicant for a license to practice osteopathy shall present evidence of a preliminary education equivalent to graduation from high school and two years of college or university prior to matriculation in a college of osteopathy. The two years of college work shall not be required, however, of any applicant who has matriculated in an accredited college of osteopathy prior to March 1, 1935.

¹⁰⁹ *Acts of the Forty-sixth General Assembly, Ch. 17.*

Applicants for license to practice osteopathy shall also present a diploma issued by an accredited school of osteopathy, and pass an examination in the science of osteopathy as prescribed by the osteopathic examiners of Iowa. To procure a license to practice osteopathy and surgery, an applicant, in addition to the above requirements, must have had two years of post-graduate work, or one year of such post-graduate study and a one year course of training as a surgical assistant in a hospital having at least twenty-five beds for patients and equipped for doing major surgical work.

This law also provides that the board of supervisors of any county may enter into contract with one licensed to practice osteopathy for the care and treatment of its indigent sick.¹¹⁰

Section 2581 of the *Code of 1931* sets forth the requirements for procuring a license to practice pharmacy. This law was amended by the Forty-sixth General Assembly to provide that this section should apply only to persons who prior to July 4, 1936, were actually in attendance at a recognized college of pharmacy. It was also provided that after July 4, 1936, every applicant for license, except those referred to in Section 2581 shall meet the following requirements: (1) be not less than 21 years of age, and of good moral character; (2) be a graduate of an accredited high school, or its equivalent; (3) be a graduate of an approved school or college of pharmacy, or a department of pharmacy of a university; (4) file proof of a minimum of one year practical experience in a pharmacy under the supervision of a licensed pharmacist; and (5) pass an examination prescribed by the board of pharmacy examiners.

Section 2583 was likewise amended to provide that no college of pharmacy shall be approved by the pharmacy

¹¹⁰ *Acts of the Forty-sixth General Assembly, Ch. 23.*

examiners unless the entrance and graduation requirements are equivalent to those prescribed by the American Association of Colleges of Pharmacy.¹¹¹

Section 2522 of the *Code of 1931*, which deals with the subject of penalties for the violation of the law relative to practice acts, provides that any person violating any of the provisions of this law shall be fined "not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment". Section 2583-d1 dealing with the practice of pharmacy, but included under the same general subject as the above mentioned law, provides that any person violating the law relative to pharmacy shall be fined "not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned not more than thirty days in the county jail." The conflict is apparent. To eliminate this incongruity and to clarify the law upon this subject Section 2522 of the Code was amended by the Forty-sixth General Assembly to except from its provisions persons practicing pharmacy, Section 2583-d1 was repealed, and the penalties as prescribed in that section were reenacted as a new section under the general practice acts to be designated as Section 2531-g1.¹¹²

Section 2579 of the *Code of 1931* in the chapter dealing with the practice of pharmacy, provides that "No section in this chapter" shall be construed to include certain designated classes of persons named therein. In reality, however, it was intended that only persons mentioned in Sections 2578 and 2582 should be exempted from the law. Accordingly, to clarify this matter the Forty-sixth General Assembly passed an amendment to Section 2579 to provide that "Neither section twenty-five hundred seventy-

¹¹¹ *Acts of the Forty-sixth General Assembly*, Ch. 22.

¹¹² *Acts of the Forty-sixth General Assembly*, Ch. 20.

eight (2578) nor section twenty-five hundred eighty-two (2582) shall be construed to include" the classes of persons designated in Section 2579.¹¹³

In the interest of higher educational standards and better professional service, the Forty-sixth General Assembly amended the law relative to the practice of embalming. The amended law provides that persons engaged in embalming shall be designated by name and not as a firm, corporation, or association of persons. The law also provides that no applicant shall be issued a license to practice embalming until he has completed the prescribed course of an accredited high school or its equivalent, and has completed a course of training "in an accredited school of embalming".

After graduation from a school of embalming the applicant for license to practice his profession is required to take an examination, the passage of which entitles him to a class "A" certificate of studentship. He shall then be required to "complete one additional year of continuous studentship". The applicant shall, during his training, arterially embalm not less than twenty-five human bodies under the direct supervision of a licensed embalmer.¹¹⁴

Section 2577 of the *Code of 1931* provides that no school of optometry shall be approved by the Board of Optometry Examiners as a school of recognized standing, unless it requires for graduation the completion of a course of study covering a period of at least "two" years of nine months each. This law has been amended to provide for a course of instruction continuing for three years instead of two.¹¹⁵

Several sections of the *Code of 1931* were amended to clarify and make more specific the law relative to the licens-

¹¹³ *Acts of the Forty-sixth General Assembly*, Ch. 21.

¹¹⁴ *Acts of the Forty-sixth General Assembly*, Ch. 26.

¹¹⁵ *Acts of the Forty-sixth General Assembly*, Ch. 25.

ing of dentists and dental hygienists and to prevent unprofessional services in those professions. The amended law provides for the annual renewal of licenses, and for a refusal to renew licenses to any applicant who has been guilty of unprofessional conduct. Whenever unprofessional conduct is reported in accordance with law, provision is made for a hearing, the calling of witnesses, introduction of testimony, and the making and keeping of records in the case. Provisions are also made for appeals and for reinstatement in case the facts warrant such reinstatement.

Unprofessional conduct as redefined in this law is made to include all advertising of any kind other than carrying or publishing a professional card or the display of a window or street sign at the licensee's place of business, which card or sign shall display only the "name, address, profession, office hours and telephone connections of the licensee".¹¹⁶

Four sections of the *Code of 1931* were amended and a new section was added to amend the law with regard to board of nurse examiners. Under the amended law this board shall consist of five members, who shall serve for terms of five years. The State Association of Nurses or its managing board may submit each year to the Governor a list of six persons who are qualified to serve on this board. If such a list is submitted the amended law provides that the Governor "shall" select one of the persons so named.

The board of nurse examiners is authorized to appoint a full time secretary who shall not be a member of the board, and Section 2459 of the *Code of 1931* which provides for a secretary of each of the other examining boards shall not apply to this board. Every application for a

¹¹⁶ *Acts of the Forty-sixth General Assembly, Ch. 24.*

license to practice nursing in this State shall be made to the secretary of the board of nurse examiners, and upon a granting of the license the secretary shall certify to the Department of Health that such license has been granted. Further provision is made that all examination, license, and renewal fees received from persons licensed to practice nursing shall be paid to the secretary of the board, who shall in turn remit it to the State Treasurer to be placed in the "Nurses Fund", to be used by the board to administer the laws relative to nursing, and to promote the educational and professional standards of nursing. Funds not used for this purpose will at the end of the fiscal year be paid into the general fund of the State.¹¹⁷

Section 2455 of the *Code of 1931* provides that no member of the board of examiners of certain designated professions shall be an officer or member of the instructional staff of any school in which such profession is taught. In like manner no member of the board of examiners shall be in any way connected with any wholesale or jobbing house dealing in supplies used in such profession. This law has now been amended to provide specifically that this section of the law "shall not apply to nurse examiners". Accordingly there is nothing in the present law to prevent teachers of a nursing course from serving on the board of nurse examiners.¹¹⁸

In the interest of fair competition in service trades such as barbering, dry cleaning, and other trades where personal services are rendered without the sale of merchandise as such, the Forty-sixth General Assembly passed a measure which authorizes city councils to pass ordinances regulating prices in this field. The new law provides that operators or managers of service trades may apply to the

¹¹⁷ *Acts of the Forty-sixth General Assembly, Ch. 18.*

¹¹⁸ *Acts of the Forty-sixth General Assembly, Ch. 19.*

governing body of a city or town for the enactment of an ordinance "providing for fair competition applicable to such trades" within the city or town. In cities and towns of less than 2500 population application for the passage of such an ordinance shall be signed by 65 per cent of the operators and managers, and in cities of more than 2500 population the signatures of 70 per cent of the operators and managers are required.

The application for an ordinance shall state the number of business establishments in the city engaged in the trade in question, and the signature of only one person in each establishment shall be counted in determining the required number of signers. The application shall set forth the provisions of the requested ordinance. The governing body of the city or town may reject such ordinance or it may enact, in whole or in part, the provisions of such ordinance, and thereafter such adopted ordinance shall regulate as to matter contained therein the conduct of every person engaged in such service trade within its jurisdiction. Rejection shall not, however, prejudice the filing of a new application.¹¹⁹

MINING

The workmen's compensation law was amended by the Forty-sixth General Assembly to provide that the carrying of insurance for employees shall be compulsory upon mine operators, employers, and employees. The law declares that the operation of a coal mine is "an extra hazardous business, enterprise and occupation", and provides that the words "except as provided in this chapter" as they appear in Section 1363 of the *Code of 1931*, in so far as they relate to the right to reject the terms of the compensation law, shall not apply to any employer or employee

¹¹⁹ *Acts of the Forty-sixth General Assembly, Ch. 61.*

of a mine. The law further stipulates that all provisions of Chapters 70, 71, and 72 of the *Code of 1931* relating to compensation for injuries sustained in the course of employment "shall be exclusive, compulsory, and obligatory upon the employer and employee" engaged in mining.

Any violation of this law is a misdemeanor punishable by a fine of from \$10 to \$100. Each day that such offense is committed shall be regarded as a separate offense which may be prosecuted in one proceeding but in separate counts, at the election of the prosecuting attorney. It shall be the duty of the Attorney General or any county attorney where such offense has been committed or where there is reason to believe that such offense is about to be committed, to bring an injunction proceeding in the name of the State to prevent such wrongful act.¹²⁰

In the interest of safety in mining areas the Forty-sixth General Assembly passed a measure which provides that it shall be the duty of the owner, lessee, operator of a mine, or the owner of land on which a mine is located, "to permanently fill, or seal all openings to the same immediately after it is finished or abandoned", so as to prevent any person or animal from falling therein. Before such filling or sealing is commenced the owner or operator shall notify the mine inspector of the district in which the mine is located, and the work shall be subject to the approval of the inspector. The law also provides that it shall be unlawful for any one to break the seal or open any mine that has been thus sealed or closed, without first obtaining permission of the mine inspector. Moreover, it shall be unlawful for any one to remove any machinery, equipment, or materials from any mine thus closed, without first obtaining permission of the mine inspector.¹²¹

¹²⁰ *Acts of the Forty-sixth General Assembly*, Ch. 10.

¹²¹ *Acts of the Forty-sixth General Assembly*, Ch. 9.

OLD AGE ASSISTANCE

One of the most significant measures of legislation passed by the Extra Session of the Forty-fifth General Assembly was a law dealing with the protection, welfare, and assistance of aged persons — commonly known as the "Old Age Assistance Law". In the main this measure has been effective. During the first year of its operation, however, certain difficulties arose which necessitated amendment. Accordingly, there was introduced in the Forty-sixth General Assembly amendments designed to clarify the original act and to make it more workable.

Under the original measure citizenship in the United States for a period of fifteen years was required in order to be eligible for old age assistance. Under the amended law citizenship without regard to length of time is sufficient. This is in conformity with the Federal social security bill, and it was hoped might facilitate the getting of Federal aid for old age assistance. The original law also required residence in the county for two years. The amended law requires merely legal residence and domicile, as far as the county is concerned. Moreover, the amended law makes it possible for the State Commission to take into consideration economic conditions created by loss of employment. The original law based the income eligibility of the applicant on the income during the twelve months preceding application, while the amended law makes provision for resultant loss of income due to loss of employment.

Another important section of the revised measure makes it possible for the Iowa Commission to assist needy and elderly people who have life insurance policies which may be used as security for advancements made. Any person who has been granted a certificate of old age assistance and is receiving payments of assistance from the old age

pension fund "may petition the commission to accept an assignment of any assignable death benefits, loan value, or cash surrender value, of any life insurance policy, death or funeral benefit of any association, society or organization, requiring further payment of premiums or assessments which such person believes he is unable to pay." The Commission may, if it deems it advisable, accept this assignment, and pay the subsequent premiums thus keeping the policy in force. Upon the death of the insured the amount paid for premiums plus the amount of assistance given may be deducted from the insurance money received. Any balance remaining shall be paid to the beneficiary last specified upon the policy. In order to provide for the contingency of making advancements of this kind an appropriation of \$25,000 was made to create an "old age assistance revolving fund".

The amended law gives added protection to the State when an attempt is made to convey or encumber property to establish eligibility for old age assistance. It also makes it illegal to charge for cashing old age assistance warrants.¹²²

Section 5298 of the *Code of 1931* provides that the father, mother, and children of any poor person who is unable to maintain himself or herself shall jointly or severally relieve or maintain such poor person. Section 5301 provides that in the absence or inability of near relatives the same liability shall extend to grandparents, if of ability without personal labor, and to the male grandchildren who are of ability by personal labor or otherwise. The next succeeding section (5302) dealing with enforcement of liability was amended by the Forty-sixth General Assembly to provide that upon the failure of relatives to support persons who apply for relief, "the township trustees, county old

¹²² *Acts of the Forty-sixth General Assembly, Ch. 55.*

age assistance board, or state old age assistance commission" may apply to the district court of the county where the poor person resides or may be, for an order to compel proper support.¹²³

CRIMINAL LAW

Section 12936 which deals with the carrying of dangerous and concealed weapons was repealed by the Forty-sixth General Assembly and a substitute section was enacted. The new law provides that it shall be unlawful for any person, except as hereinafter provided, to go armed with or carry a dirk, sword, pistol, revolver, pocket billy, or other dangerous weapon, concealed about his person, except in his own dwelling or place of business. Moreover, no person shall carry a pistol or revolver, whether concealed or not, in any vehicle operated by him, without a license therefor as provided by law.

Any person who goes armed with pistol, revolver, or other weapon, with intent to use the same unlawfully against any person, shall be guilty of a felony and on the conviction thereof shall be punished by a fine not to exceed \$1000, or imprisonment in the State prison for not more than five years, or by both such fine and imprisonment, in the discretion of the court. Sections 12937 and 12938 dealing with punishment and permits to carry weapons were amended in conformity with the above law, and Section 12950 was amended to provide that "no pistol or revolver shall be sold to any person under the age of twenty-one years".¹²⁴

Section 13008 of the *Code of 1931* provides that if any person in the nighttime commit a larceny in any dwelling house, store, or any public or private building, or in any

¹²³ *Acts of the Forty-sixth General Assembly*, Ch. 56.

¹²⁴ *Acts of the Forty-sixth General Assembly*, Ch. 122.

boat or watercraft, when the value of the stolen property exceeds the sum of twenty dollars, he shall be imprisoned in the penitentiary not exceeding ten years; and when the value of the stolen property does not exceed twenty dollars, he shall be fined not exceeding three hundred dollars and imprisoned in the county jail not exceeding one year. An amendment to this law makes these penalties applicable also to any person who in the nighttime commits larceny in any motor vehicle or trailer.¹²⁵

In the *Code of 1931* there are provisions for five separate and detailed search warrant proceedings. As there was much duplication in these provisions of the law and none of the provisions were sufficiently broad to include all warrants, the Forty-sixth General Assembly passed a measure consisting of forty-eight sections to unify and simplify the whole law relative to search warrants.

The new law defines a search warrant, and sets forth the rules relative to docketing, trial, and the nature of proceedings for the various kinds of properties. It prescribes the law relative to the filing of information, and sets forth the form of warrant which is to be used. The law also prescribes the manner in which search warrants shall be served, the returns to be made, and the inventory of property seized.¹²⁶

LEGALIZING ACTS

Legalizing acts are not of primary importance in the sense that they develop the substantive law, but they are significant in clarifying matters of procedure and in rendering it possible to carry forward many projects that would otherwise fail because of inherent irregularities. In each regular session of the General Assembly a consider-

¹²⁵ *Acts of the Forty-sixth General Assembly*, Ch. 123.

¹²⁶ *Acts of the Forty-sixth General Assembly*, Ch. 125.

able number of such laws are enacted. In the Forty-sixth General Assembly thirty-four such measures were passed. Among these were several bills to renew charters of corporations which had failed to make the renewal at the proper time.

The corporate existence of the Times Company of Davenport expired in October, 1934, and was not renewed within the time designated by statute for renewal of such charters. This company continued to operate, however, and in March, 1935, a special meeting of stockholders was held and papers were filed with the Secretary of State for the renewal of the charter for a term of twenty years from the date of expiration. To validate the proceedings of this company and to secure a valid reincorporation, a legalizing act was passed directing the Secretary of State to issue articles of incorporation to expire in October, 1954. Provision was also made that the corporate acts of this company transacted during the lapse of its charter shall be binding and of full force and effect.¹²⁷

Similar acts were passed for the benefit of the Akron Domestic Local Building and Loan Association,¹²⁸ the Cumberland Telephone Company,¹²⁹ the Lone Rock Telephone Company,¹³⁰ the Davenport Auto Truck Company,¹³¹ the Hawkeye Realty Company,¹³² the Ledyard Co-operative Creamery Company,¹³³ the Ringsted Telephone Company,¹³⁴ the Bagley Water Works Company,¹³⁵ the Farn-

¹²⁷ *Acts of the Forty-sixth General Assembly*, Ch. 201.

¹²⁸ *Acts of the Forty-sixth General Assembly*, Ch. 189.

¹²⁹ *Acts of the Forty-sixth General Assembly*, Ch. 192.

¹³⁰ *Acts of the Forty-sixth General Assembly*, Ch. 198.

¹³¹ *Acts of the Forty-sixth General Assembly*, Ch. 193.

¹³² *Acts of the Forty-sixth General Assembly*, Ch. 196.

¹³³ *Acts of the Forty-sixth General Assembly*, Ch. 197.

¹³⁴ *Acts of the Forty-sixth General Assembly*, Ch. 200.

¹³⁵ *Acts of the Forty-sixth General Assembly*, Ch. 191.

hamville Mutual Telephone Company,¹³⁶ the New Non-pareil Company,¹³⁷ and the Ames Tribune Publishing Company.¹³⁸

A somewhat similar measure was passed to legalize the corporate capacity of the Farmers Elevator Company of Northwood. In August, 1911, "The Farmers Coöperative Company" was incorporated. In 1931 attempts were made to renew and amend the charter and to change the name of the organization to "The Farmers Elevator Company". Through some error the record of the Farmers Elevator Company was erroneously cancelled by the Secretary of State. To rectify this error and to reinstate this company in its proper form, an act was passed to legalize and make valid its acts in the same manner as if no cancellation had been ordered, and the Secretary of State was directed to reinstate it in its legal form.¹³⁹

Four measures were passed to legalize the transfer of county funds. Two of these were for transfers from the court expense fund to the poor fund in Clayton County. On December 30, 1932, a temporary transfer of this nature to the extent of \$9300 was made. In December, 1933, a like transfer was made in the sum of \$11,000. Both of these transfers were approved by the State Comptroller, and separate legislative measures were passed by the Forty-sixth General Assembly to make the transfers permanent.¹⁴⁰ The board of supervisors of Pottawattamie County, with the approval of the State Comptroller, had made a temporary transfer of \$45,000 from the maintenance fund to the general fund for emergency poor relief

¹³⁶ *Acts of the Forty-sixth General Assembly*, Ch. 195.

¹³⁷ *Acts of the Forty-sixth General Assembly*, Ch. 199.

¹³⁸ *Acts of the Forty-sixth General Assembly*, Ch. 190.

¹³⁹ *Acts of the Forty-sixth General Assembly*, Ch. 194.

¹⁴⁰ *Acts of the Forty-sixth General Assembly*, Chs. 218, 219.

in the county. A legislative act was passed to make this transfer permanent.¹⁴¹ In like manner a temporary transfer of \$3000 from the bovine tuberculosis fund to the pauper fund in Appanoose County was made permanent by an act passed by the Forty-sixth General Assembly.¹⁴²

Ten legislative measures were passed to legalize financial transactions in counties and cities and towns. The town council of Dallas Center in compliance with the law and in accordance with a vote of the people, in 1934, issued bonds to the extent of \$41,000 for the purpose of erecting a municipal waterworks. In the resolution providing for this bond issue no provision was made for funds with which to pay the interest on such loan for the year 1934. Accordingly, on December 22, 1934, the town council passed a separate resolution to issue additional bonds to the extent of \$1537.50 for the payment of interest for that year. Doubts having arisen as to the validity of this second bond issue a measure was passed by the Forty-sixth General Assembly to confirm and validate the bonds notwithstanding any conflict in the law relative to their issuance.¹⁴³

The board of supervisors in Sac County in August, 1934, held a public meeting to hear objections to the levy of a tax of .054 mills for the purpose of maintaining a county nurse. No objector appeared at the meeting and subsequently the levy was issued, and the taxes in part were collected and used for the purpose designated. Doubts having arisen as to the validity of the levy, a legalizing act was passed by the Forty-sixth General Assembly to establish its legality.¹⁴⁴

In Dallas County the board of supervisors used \$6032.92

¹⁴¹ *Acts of the Forty-sixth General Assembly*, Ch. 222.

¹⁴² *Acts of the Forty-sixth General Assembly*, Ch. 217.

¹⁴³ *Acts of the Forty-sixth General Assembly*, Ch. 207.

¹⁴⁴ *Acts of the Forty-sixth General Assembly*, Ch. 214.

belonging to the county insane fund for the purpose of paying the cost of maintaining the county home for the year 1933. The legality of such expenditure having been questioned, the Forty-sixth General Assembly passed an act to make the expenditures legal and binding.¹⁴⁵

In 1934 the board of supervisors of Audubon County authorized the payment of certain just claims to the amount of \$22,000 against the secondary road maintenance fund of the county. Pursuant to this authorization the county auditor issued warrant against the fund designated. There was, however, no money available for the payment of such claims and accordingly the warrants were stamped by the county treasurer "not paid for want of funds". In 1935 the demands on this fund were too great to allow the payment of these outstanding warrants, if 1935 claims against this fund are given priority. To clarify this matter a measure was passed by the Forty-sixth General Assembly which declared that the proceedings of the county supervisors and the auditor were valid, and the county treasurer was authorized to pay the warrants "out of any funds coming into his hands in 1935 and belonging to the secondary road maintenance fund" of the county. Nothing in this act, however, shall affect pending litigation.¹⁴⁶ A similar case arose in Wayne County where the board of supervisors in 1934 authorized the issuance of warrants for the sum of \$15,000 to be paid from the poor fund of that county. These warrants having been stamped "not paid for want of funds", an act of the Forty-sixth General Assembly authorized their payment out of any money coming into the hands of the county treasurer in 1935 and belonging to the poor fund of that county.¹⁴⁷

¹⁴⁵ *Acts of the Forty-sixth General Assembly*, Ch. 220.

¹⁴⁶ *Acts of the Forty-sixth General Assembly*, Ch. 206.

¹⁴⁷ *Acts of the Forty-sixth General Assembly*, Ch. 216.

In August, 1934, the question of issuing bonds for the building of a swimming pool was submitted to the voters of Grundy Center, and an affirmative vote was received. Pursuant to this authorization the town council in February, 1935, issued swimming pool bonds to the extent of \$10,000. Doubts having arisen concerning the validity and legal sufficiency of the proceedings in this case, a measure was passed by the Forty-sixth General Assembly to validate the proceedings.¹⁴⁸

The city council of Muscatine in 1934, and for some years prior to that time, issued a maximum levy for the fire department fund. This fund being insufficient to meet the needs of that department, the city council by resolution temporarily transferred the sum of \$12,000 from the light fund to the fire department fund. Money not being available for repayment of this sum, the Forty-sixth General Assembly passed a measure to legalize the transfer and to declare valid and binding the obligation of the city to the light and water fund. The law also provides that the city of Muscatine by its officers be authorized to issue funding bonds for \$12,000 and to levy taxes to pay the principal and interest of this indebtedness.¹⁴⁹

During the years 1932, 1933, and 1934 the city of Davenport — a special charter city — published delinquent tax notices, the cost of such publications for the three years being \$1129.60, \$1638.40, and \$1918.80 respectively. These costs of publication were based upon the rate of forty (40) cents per item — the amount allowed for such publication in cities and towns operating under the general law. Section 6874 of the *Code of 1931*, however, fixes the rate of "twenty (20) cents per item" in cities operative under special charters. It appears that the work could not be

¹⁴⁸ *Acts of the Forty-sixth General Assembly*, Ch. 210.

¹⁴⁹ *Acts of the Forty-sixth General Assembly*, Ch. 221.

done at twenty cents per item without "a direct loss" to the publishers, and the bills having been paid at the higher rate by the city council of Davenport, an act was passed by the Forty-sixth General Assembly declaring the payment to be legal and valid. Another measure passed at this session of the General Assembly amended Section 6874 of the Code so as to increase from twenty cents to thirty cents the rate of payment for items thus advertised in special charter cities.¹⁵⁰

The city of Davenport during the years 1929 and 1933 entered into a series of contracts with the Davenport Airways, Incorporated, whereby the city was obligated to pay certain stipulated rental for a municipal airport. By reason of failure of revenues to accrue to the Airways corporation and because of depressed business conditions it became necessary for the city of Davenport to make further payments to the extent of \$13,836.38 in excess of the contract price. Doubts having arisen as to the legality of these latter payments, a measure was passed by the General Assembly to validate the payments and declare that they had been properly made, anything in the contracts to the contrary notwithstanding. It was provided, however, that this law should not affect pending litigation.¹⁵¹

A former county treasurer of Wright County erroneously paid certain bonds and coupons issued against a drainage district, in an amount of \$1378.15, from the general fund of Wright County. The treasurer being no longer in office and his bond being no longer attachable, and it being impossible to levy an assessment against the drainage district for the payment of this amount, the Forty-sixth General Assembly passed an act to legalize and make permanent the payment out of the general funds of the county.¹⁵²

¹⁵⁰ *Acts of the Forty-sixth General Assembly*, Chs. 73, 208.

¹⁵¹ *Acts of the Forty-sixth General Assembly*, Ch. 209.

¹⁵² *Acts of the Forty-sixth General Assembly*, Ch. 215.

In 1933 the board of supervisors of Marion County entered into two contracts for labor upon the roads of that county. After the work was begun the supervisors requested that additional grading and other work be done which was not contemplated in the original contracts. The work was done as requested and bills were submitted for \$3,341.68 and \$3,338.31 respectively. The board did not allow the bills because the total amount due in each case was in excess of \$1500, which is the legal limitation placed upon work which is not contracted at a public letting. The work having been completed in good faith, in a good and workmanlike manner, and at as low a cost as could have been obtained had there been a public letting, an act was passed by the Forty-sixth General Assembly legalizing the claim and authorizing its payment in the same manner as if all the provisions of the law had been complied with in letting the contracts.¹⁵³

In October, 1934, obedient to a petition duly signed and notice given, an election was held in the town of Thor, at which two questions were submitted to the voters: first, shall the town of Thor jointly with Norway Township, in Humboldt County, purchase and maintain fire apparatus and equipment and pay for the same and for service rendered by members of a fire department out of a tax to be levied for that purpose; and secondly, shall the town of Thor coöperate with the township in building a community hall and fire station and issue bonds and levy taxes to pay for such improvements? Both of these propositions were approved by a large majority of the voters. A similar election was held in Norway Township on November 6, 1934. A question has arisen, however, as to whether or not these elections were legal. To clarify this matter and to remove any doubt that might hereafter arise, the Forty-

¹⁵³ *Acts of the Forty-sixth General Assembly, Ch. 213.*

sixth General Assembly passed two legalizing acts validating the elections.¹⁵⁴

The Forty-fifth General Assembly in 1933 passed a measure designated as a salary reduction act. Under the provisions of this law county attorneys in counties of less than sixty thousand (60,000) were granted an increase in salary, based upon the fact that certain sections of the Code which provided for payment of commissions and fees in addition to salaries were repealed. At a later date the Supreme Court of Iowa held the salary reduction act to be unconstitutional. The Forty-sixth General Assembly passed a legalizing act which provides that all salaries paid to county attorneys in counties having a population of less than sixty thousand (60,000) are ratified and confirmed, and the counties in which the salary of the county attorney was increased "shall have no right of recovery for any salary paid" by virtue of the reduction act.¹⁵⁵

Section 7283 of the *Code of 1931* provides for the costs of serving notice, the collection of fees, and the making of reports in connection with the issuing of tax deeds. It appears that frequently these details have not been performed in strict accordance with the law. To remedy cases arising under this contingency, the Forty-sixth General Assembly passed an act which provides that in all instances where tax deeds have been issued by county treasurers in the absence of the report and entry as required by law, "such tax deeds shall not by reason of omission to make such report and entry be held invalid". Nothing in the law, however, shall be construed as curing any other defect in the deeds, and nothing in the law shall affect litigation pending at the time of its passage.¹⁵⁶

¹⁵⁴ *Acts of the Forty-sixth General Assembly*, Chs. 211, 212.

¹⁵⁵ *Acts of the Forty-sixth General Assembly*, Ch. 202.

¹⁵⁶ *Acts of the Forty-sixth General Assembly*, Ch. 203.

Section 4753-a12 of the *Code of 1931* provides for a tax levy for the payment of the principal and interest of primary road bonds. The Forty-sixth General Assembly passed a measure which provided that if a balance is left in this fund it may be "transferred to the county general fund or to such other county fund as the board of supervisors may designate". This law also provides that if any such balance "has heretofore been transferred as herein provided, such transfer as to such excess amount is hereby legalized".¹⁵⁷

The Extra Session of the Forty-fifth General Assembly in 1934 passed a measure which authorized cities and towns to enter into certain written agreements with firemen and policemen for the payment of certain pension funds — the obligation thus incurred being a direct charge upon the city. In accordance with this law the governing bodies of several cities purported to enter into agreements with individuals for their protection. Doubts having arisen about the legality of such agreement, the Forty-sixth General Assembly passed a measure to legalize agreements thus entered into in Des Moines, Council Bluffs, Sioux City, Marshalltown, Cedar Rapids, Burlington, Oskaloosa, Ottumwa, Clinton, Iowa City, Mason City, Keokuk, Muscatine, Waterloo, Fort Dodge, Davenport, and Boone.¹⁵⁸

MISCELLANEOUS

The Forty-third General Assembly in 1929 passed a law which provided for the licensing of aircraft and airmen, and for the establishment of air traffic rules. It also prescribed certain rules and regulations to be followed in the operation of civil aircraft. The Forty-sixth General Assembly amended this law to provide that these require-

¹⁵⁷ *Acts of the Forty-sixth General Assembly*, Ch. 204.

¹⁵⁸ *Acts of the Forty-sixth General Assembly*, Ch. 205.

ments of rules and regulations might be waived in writing by the commission of aeronautics.¹⁵⁹

Whatever is injurious to health, or an obstruction to the free use of property is declared by law to be a nuisance. The *Code of 1931* sets forth certain objectionable acts or conditions which fall within this classification. An amendment to this law, passed by the Forty-fifth General Assembly in the interest of aviation, declared that certain objects located near municipal airports shall be deemed to be a nuisance. Chapter 92 of the *Acts of the Forty-sixth General Assembly* also amended this law to change the definition and make it more specific. Among the objects thus declared to be a nuisance is: "Any object or structure hereafter erected within one thousand feet of the limits of any municipal or regularly established airport or landing place which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located".

In order to protect trademark owners, distributors, and the public against injurious practices the Forty-sixth General Assembly passed a measure to limit resale prices of trademark goods to the price fixed by the manufacturer. This law provides that no contract relating to the sale or resale of a commodity which bears a trademark, brand, or name of the producer, and which is in fair and open competition with commodities of the same general class produced by others shall be deemed a violation of any law of the State of Iowa by reason of a stipulation in the contract: (a) that the buyer will not resell the commodity except at the price fixed by the vendor; or (b) that the vendee or producer require one to whom he may resell to agree that he will not, in turn, resell except at the price fixed.

¹⁵⁹ *Acts of the Forty-sixth General Assembly, Ch. 92.*

If such conditions are stipulated in contracts they are deemed not to apply in a case where the owner sells his stock for the purpose of discontinuing business, or where the goods have been damaged, or where sale is made by an officer under order of the court.

This act shall not apply to any contract or agreement between producers or between wholesalers or between retailers as to sale or resale prices.¹⁶⁰

The Iowa Soldiers' Preference Law provides that in appointments for public service in State departments, and in counties, cities, and towns, honorably discharged soldiers and sailors of good moral character shall be entitled to a preference over other applicants of no greater qualifications.

This law was amended by the Forty-sixth General Assembly to provide that the appointing officer or board shall set forth in writing and file for public inspection, the specific grounds upon which it is held that the person appointed is entitled to the appointment, or in the case such appointment is refused, the specific grounds for the refusal. The law also provides for an appeal from the decision of the appointing body to the district court and a final appeal from the district court to the Supreme Court of the State.¹⁶¹

In the interest of safety against fire hazards the Forty-sixth General Assembly passed a law to regulate the installation of compressed gas systems used for lighting, cooking, or heating. The law requires that all cylinders and regulating equipment used in connection with installations shall be located outside of any building, except buildings specially constructed for the sole purpose of housing the equipment. Many other regulations are pro-

¹⁶⁰ *Acts of the Forty-sixth General Assembly, Ch. 106.*

¹⁶¹ *Acts of the Forty-sixth General Assembly, Ch. 7.*

vided. Any violation of this law shall be punishable by a fine of not to exceed \$500 or imprisonment in the county jail for sixty days or both such fine and imprisonment. It shall be the duty of the office of the State Fire Marshal to oversee and enforce these regulations.¹⁶²

SPECIAL ACTS

Two special acts were passed by the Forty-sixth General Assembly. One of these authorized the Board of Control to use from the funds on hand from the "maintenance of industries of the men's reformatory" the sum of \$60,000 for the building of a hospital, also corn cribs and granaries, and to purchase real estate consisting of certain lots at the Men's Reformatory at Anamosa.¹⁶³

In 1845 the United States, through an act of Congress, granted to the State of Iowa certain school lands. In 1851 certain lands in Keokuk County included in this grant were sold by the State to one Jacob Amburn, but no patent was at that time or at any subsequent time issued by the State to Mr. Amburn or his grantees. In order to clear title to this land the Forty-sixth General Assembly authorized the Governor and Secretary of State to issue a patent to the land to Glen Gott, the present rightful owner.¹⁶⁴

JACOB A. SWISHER

THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY, IOWA

¹⁶² *Acts of the Forty-sixth General Assembly*, Ch. 12.

¹⁶³ *Acts of the Forty-sixth General Assembly*, Ch. 187.

¹⁶⁴ *Acts of the Forty-sixth General Assembly*, Ch. 188.