

Inaugural Address

OF

Governor S. R. McKelvie

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DELIVERED TO THE

Fortieth Session

Nebraska State Legislature

INAUGURAL ADDRESS OF GOVERNOR S. R. McKELVIE

To the Fortieth Session of the Nebraska State Legislature:

We are met upon this important occasion charged with the duty of acting upon legislation designed to support and promote popular government the foundations of which were laid when this Republic was established. Our duty is a solemn one, but the way is clearly marked and we need only adhere to first principles as they were enunciated by the Fathers if we would progress along safe and sane lines.

The hour of our meeting is an auspicious one. We have passed through a period of great stress, during which the strength that is in us as a nation has been sore tried by the problems that have gathered about us. Now we can see the rift in the clouds. Out of the great test to which we have been put we shall come rejuvenated in the faith that has consumed our every effort, and we shall rededicate ourselves to the undying task of preserving here a free government, of, for and by the people.

As a commonwealth we are prosperous—not as much so perhaps as we have been at some times in the past, but comfortably situated, and our resources are unimpaired. We need, now, only employ the age old principles of thrift, industry and unselfishness of purpose in order that we may go forward at a rapid rate. This I think we will do, and it is my sincere hope and belief that we are entering upon an era of unprecedented good feeling.

Before cataloging the recommendation that I shall have to make to you bearing upon specific subjects, permit me to make a few general observations regarding legislation:

First: Let us enact just as few laws as possible. Our statute books are encumbered now with laws that are obsolete and unenforceable. Moreover, we have legislated so much that the people have come to feel they have a never-ending source of relief from their ills through the enactment of new laws. Such a condition of reliance upon the state destroys initiative in the individual, and develops a citizenship that is dependent, flabby and discontented.

Second: Let our legislative acts be stimulated by a desire to serve all the people without regard to class or creed. We must constantly bear in mind that regardless of vocation, station or religion there exists among us a bond of interdependence which means that when an imposition is worked upon the least of us, the ills that result are felt by the rest of us. In other words, the little benefit that we may derive as

a class today, if it works an injustice or hardship upon anyone else, comes back to plague us tomorrow.

Third: We must not mistake agitation for progress. And we should not forget that the only worth while progress we have ever made has been built upon the firm foundations that underlie our republican form of government.

CONFERENCES

The specific recommendations that I shall have to make to you have been developed principally through two sources: (1) My experience as governor during the past two years; (2)- Conferences which I have had with the governors of other states, and with the representatives of nearly every organized interest in the state, including agriculture, trade and commerce, labor, law enforcement officials, district judges, ex-service men, commercial travelers, banking and insurance interests, sportsmen, women's organizations, professional groups, and officials in the different departments of the state government. These conferences have been held within the last thirty days and were attended by no less than 500 people from all parts of the state. Thus I am enabled to reflect to you in these recommendations the general desires of the people of the state regarding legislation.

CONSTITUTIONAL AMENDMENTS

The work of this session of the legislature is made peculiarly important in that since the last session was held a constitutional convention met and submitted to the people forty-one amendments to the constitution. All of those amendments were approved. Those amendments should be carefully studied in relation to the work of this session so that their full purpose may be carried out, and that your acts may not be declared unconstitutional.

TAXATION

Taxation is perhaps the most important subject that you will be called upon to consider during the entire session. Our tax laws have long been obsolete and in their operation have worked many inequalities among the people. Heretofore the way to their proper revision has been effectually closed by the limitations of the old constitution. Now, however, under the amended constitution the way to adequate administration and wise revision of the tax laws is opened.

At once I would recommend that the complete revision of the tax laws of the state be not undertaken at this session. This subject is so filled with ramifications and is so far reaching in its effect that I think you may be fairly satisfied with a few initial revisions, contenting yourselves beyond this with the setting up of adequate administrative machinery.

The amended constitution provides for the office of tax commissioner. This is a very important department and should be set up for operation entirely outside of any other department. The tax commissioner should have wide powers of investigation and review and should be given sufficient operatives not only to enforce the tax laws and get the maximum amount of taxable property upon the assessment rolls, but to gather during the present biennium the information that will enable a thoroughly wise and complete revision of the tax laws at the next general session of the legislature.

One of the fundamental changes that might be made in the law at this session in harmony with the amended constitution would be the classification of intangibles. We are convinced that a relatively small amount of these assets have been listed for taxation in the past, and small blame could be attached to those who did not list them, for if they were listed it must be at their full, face value while tangibles have generally been listed at a much less percentage. Now these intangibles may be classified upon a percentage or low flat rate basis, and if this is done the experience of other states will no doubt be felt here through a very largely increased listing of such properties for taxation.

Allow me to recommend further that in considering this subject the committees on revenue and taxation in both houses of the legislature sit jointly and recommend a committee bill carrying all of the amendments and new legislation that you would have enacted now.

CORPORATION LAWS

I would recommend the following changes in the corporation laws of the state.

First: Inasmuch as non-profit corporations are permitted to file articles of incorporation for a fee of \$2.00, under the present statutes and are charged with a fee of \$5.00, the same as corporations for profit, for filing an amendment, no matter how brief, we suggest that section 2324, which provides for these fees be so amended as to permit non-profit corporations to file an amendment for \$1.00.

Second: In the matter of dissolutions, the books of the Secretary of State are encumbered with a large number of corporations who are practically defunct, and have been so for a number of years. That office does not have the address of any members of the company and cannot succeed in reaching them with any kind of a notice, and often when some member of such company is found, he declares they have no organization, are doing no business, and have no officers. For this reason, we suggest that the statutes be so amended that the articles of incorporation be automatically canceled upon the non-payment of occupation taxes for three successive years, and that a statement from any member of such corporation, or attorney for such corporation that the corporation is not doing busi-

ness and has not been doing business for two years last passed, and that it has held no meetings, and expects to hold no meeting to perpetuate the organization, may be filed by the Secretary of State as a certificate of dissolution of the said corporation.

Third: In the matter of collecting occupation tax from foreign corporations, as provided in paragraph 766, Revised Statutes of Nebraska for 1913, there is apparent contradiction, and this section with Section 779 are so complicated that I would respectfully advise a restatement of the entire proposition. Paragraph 766 plainly states that the occupation tax of a foreign corporation shall be based upon its entire paid up capital stock. Paragraph 779, however, has been interpreted by the courts to mean a pro-rata, rather than the entire amount of capital stock, is the basis for computing such occupation tax. This was clearly brought out in the recent Rock Island case, in which Judge Clements of the Lancaster district court handed down an opinion sustaining this interpretation. For this reason paragraph 766 should be clearly restated, even if the basis of taxation is not changed.

In view, however, of the fact that large foreign corporations with paid up capital stock reaching into the millions, who do a large business in this state, get by on the payment of a very small tax, in some instances as low as \$5.00, we would suggest that a new basis for the computing of occupation tax for foreign corporations be provided and suggest that these companies in making their annual report, instead of being required to show what portion of their capital stock is used for doing business in Nebraska, be required to show the gross receipts of their Nebraska business and that the tax be based upon this showing, rather than upon their paid up capital stock.

Fourth: The administration of the corporation laws is distributed among so many departments of government that some change ought to be made providing for co-ordinated and unified administration of all these laws.

EXPERT ACCOUNTANT

Inasmuch as it is provided that an expert accountant shall be employed, whose services shall be devoted to the state under the direction of the State Auditor, I recommend that the law be changed so that the appointment of that official shall be made by the State Auditor without the approval of the Governor.

LAW ENFORCEMENT

Law enforcement lies at the very foundation of good government. To the extent that there is a proper respect for and enforcement of the law, we are made secure in the rights of life and property. These ends can only be attained through the support of an enlightened, intelligent, unprejudiced public opinion.

In point of public respect for the law, Nebraska is more than a measurably good state. The people generally are law abiding and there is a disposition to support public officials who are charged with the responsibility of enforcing the laws. Recently, however, we have been passing through a crime era that has crowded our penitentiary to the guards and has created in the public mind a determination to see the maximum of penalty imposed upon all offenders against the law.

This latter conditions has assumed such proportions that it has become well nigh impossible to properly execute practical reform measures in handling prisoners.

Pardons, Paroles and Commutations.

Elsewhere in this message you will find a list of those who have been granted pardons, commutations or reprieves during the past biennium. For your further information I here give the figures by two year periods, which show the number of prisoners released from the penitentiary or shown clemency through pardon, parole, commutation or furlough during the last ten years:

	1911-12	1913-14	1915-16	1917-18	1919-20
Pardons	32	2	1	3	3
Commutations	16	2	3	13	4
Furloughs	1	37	30	23	12
Paroles	114	361	428	590	306
	—	—	—	—	—
Totals	163	402	462	629	325

Of those on parole during the last biennium only 6 per cent violated their paroles by committing other offenses. This, I think, is the smallest percentage of parole violations in the history of the state and it is probably the lowest of any state in the Union having the indeterminate sentence law.

Thus it is seen that the late outburst of public disapproval of paroles cannot be the outgrowth of a lax administration of the law. It comes about, no doubt, from two sources—first, the prevalence of crime, and second, the play that has been made upon this subject by unscrupulous, sensational newspapers. But the source of the protest is not of such great importance as is the fact that any law which elicits the general condemnation of the people when it is properly enforced becomes unworkable, and this, I think, is the condition of the present indeterminate sentence act in this State.

The general disapproval of the parole of prisoners has moved me at times to recommend the entire repeal of the indeterminate sentence law, but knowing the good that it has done, not only in this but in other states, I cannot satisfy my conscience to pursue such a course. Instead I shall

recommend to you certain amendments to the law that I consider imperative if it is to be continued upon the statute books.

First: I would remove from the list of parolable offenses all crimes or attempts at crime against the person. It has been my observation that public opinion will not tolerate the release of such criminals except upon the terms that are specifically imposed by the court. Especially is this true of crimes against women, and I hold that it is utterly unreasonable to impose upon public officials, other than those upon the bench, the responsibility for disposing of such criminals.

Second: I would remove from the parolable list any except first offenders.

Third: I would leave to the discretion of the court the question of whether to impose a determinate or indeterminate sentence, and if the latter, the court should be allowed to fix the period of the indeterminate sentence within maximums and minimums provided by law.

Fourth: I would require that no one might be subject to consideration for parole except that his formal application be made in writing and that it be approved in writing by the prosecuting attorney and the trial judge.

Fifth: I would make it a felony for anyone to approach any member of the Board of Pardons and Paroles or any of its employes upon the subject of granting a parole, pardon or commutation, except at a public hearing of that board.

Sixth: All hearings of the Board of Pardons and Paroles should be public and should be announced at least two weeks in advance of the date of hearing. At such hearings any citizen ought to be given the right to appear and be heard and the board should be given the power to issue subpoenas for witnesses and to compel their attendance.

Seventh: The board ought to be provided with a reporter, who would make a transcript of the proceedings at such hearings, and all of the recommendations, investigations and testimonies that are considered by the board, in regard to such application, should be reduced to the form of a single, complete, permanent record in the office of the secretary of the board. The board should be its own judge as to what testimony it would receive.

Eighth: A heavy penalty should be imposed against any one, who, by the printed or spoken word, makes a misleading statement regarding the acts of public officials in the administration of this law.

Ninth: The administrative machinery of the Board of Pardons and Paroles should be set up entirely apart from any other department, and should be provided with sufficient funds and help to properly carry on its work.

Capital Punishment.

I would repeal the law which provides the death penalty, except as it applies to criminals, who, after being sentenced, commit another capital offense, and I would not permit the Governor or any one else but the court to alter the sentence pronounced by the court for such crimes. In addition to this the way should be left open for a rehearing, should new evidence of a material nature be developed.

Prison Reformatory.

The need for a prison reformatory for first offenders is partially indicated by the following figures: Within the two year period beginning January 7th, 1919, the number of men in the penitentiary has been increased from 283 to 550. This means not only that the present quarters are crowded beyond the point of properly meeting the housing requirements, but it renders almost impossible the segregation of young and first offenders from the older and professional criminals. Under such conditions prison reform cannot possibly be carried on properly, and it is of the utmost importance that relief be afforded at once. Therefore, I shall include in the budget a recommendation for an appropriation for such a reformatory. I am greatly in hopes that it will meet with your approval. I might add that an appropriation of \$150,000.00 was made for this purpose by the Legislature of 1913, but the reformatory was never built.

Prison Labor on Roads.

During the past year, Nebraska made its initial attempt in the use of prison labor on roads. 103 men were placed out in road camps under guard, being given, in the camps and at work, practically the same liberties as free labor. Of this number only four attempted to escape, and the work done by the men was of an exceptionally high order. It is doubtful that any state has ever conducted such a successful initial experiment, and it is highly important that legislation be enacted that will encourage the extension of this policy. It is the experience of prison officials that nothing serves quite so well to enhance the good behavior of prisoners as the assurance that faithful service and trustworthiness will hasten the day of their release. Therefore, I recommend that legislative provision be made for the granting of additional good time, to be deducted from the terms of those who prove trustworthy in this capacity.

Further Provisions for Law Enforcement.

The budget will contain a provision for a continuation of the Law Enforcement Division. This, I think, is highly important, not only in

order that the prohibition and automobile theft laws of the state may be adequately enforced, but in order that professional assistance may be given to local officials in certain matters of law enforcement and the apprehension of criminals.

It is of more than passing interest to note that during the past biennium the activity of the State Law Enforcement Division in cooperation with other law enforcement officials against violators of the liquor laws has resulted in returning to the county school funds of the state, fines of \$387,221.00 and stolen automobiles of the value of \$145,960.00 have been recovered and returned to their owners. It is also an interesting fact that in spite of the general wave of crime that has been sweeping the country during the past two years, automobile thefts in Lincoln and Omaha have been reduced 26% during the past year, while recovery of stolen cars has been increased 9%. It is fair to assume that this percentage has been maintained throughout the entire state.

It is the opinion of the Attorney General, and I am inclined to agree with him, that it will be well to establish in the Department of Justice a Bureau of Investigation, composed of professional investigators and detectives, much along the same lines as the Federal government now provides. These operatives would serve in a purely secret service capacity and their work should not be confused with that of policemen, sheriffs or other law enforcement officials.

As a further aid in enforcing the law, I believe it would be well to give to county attorneys practically the same inquisitorial powers as are now given to grand juries. Not only would this result in a very great saving to the counties that must now call grand juries for such inquisitions, but it would greatly facilitate the gathering of necessary information for prosecutions and would speed up the work of law enforcement.

AN AGRICULTURAL PROGRAM

Two years ago I called into conference the representatives of all state-wide farmers' organizations in the state and consulted their opinions before making my recommendations to the Legislature. As a result of this conference, an agricultural program was prepared and the recommendations there contained were enacted into law, with a single exception. Such a conference has again been held and the recommendations that follow are largely the outgrowth of the opinions there expressed.

Cooperation.

- (1) Prohibition should be imposed against the use of the term

"cooperative," except as it may be rightfully applied to any concern organized under and within the cooperative laws of Nebraska.

(2) The organization of banks on a purely cooperative basis should be legalized. However, in justice to banks that are obliged to operate under certain restrictions of the present state guaranty fund law, it is obvious that cooperative banks may not share the benefits of that law, for true cooperation means the distribution of benefits on a patronage basis, and this might easily violate the percentage limit that is placed upon the payment of interests on deposits.

(3) Further encouragement should be given to the organization and work of county farm bureaus. A recommendation regarding this will be contained in the budget.

(4) To facilitate the distribution of farm products over the consuming period and avoid gluts upon the market, it is necessary that every practical aid be given to the farmer to hold that portion of his crop which consumption does not demand. This will be encouraged through the issuance of warehouse receipts as a basis for credit. I would recommend, therefore, that a law be passed enabling the issuance of warehouse receipts against grain that is stored in warehouses on the farm or in other privately owned warehouses.

(5) The Railway Commission should exercise control over sites for elevators on railroads.

(6) The law should more clearly define as cooperative concerns those that are constituted of a collection of cooperative companies.

(7) Farmers' elevator concerns should be privileged to carry their insurance mutually.

(8) The University regents should be authorized to make, buy or sell serum for emergency purposes.

(9) Bovine Tuberculosis has become so prevalent and the effects of this disease are so disastrous to domestic and human life that the state is justified in redoubling its efforts to eradicate it. I shall, therefore, recommend in the executive budget an increased sum for the indemnification of owners of cattle, who meet the requirements of this law. Furthermore, proper restrictions should be thrown about the use of Tuberculin, both as a safeguard to the State in indemnifying owners, and against its use by ones who are not trained to properly apply it.

(10) The present pure seed law is impractical of enforcement. It should be amended to protect the interests of farmers and growers of the state against unscrupulous methods of dealers from without as well as within the state.

(11) The redistricting law should be amended to meet the obstacles that have developed in its administration. This is a very valuable law and every practical thing should be done to make it workable and fair.

(12) I shall recommend in the budget that the appropriations for the several agricultural groups that are conducted for purely promotional purposes, be consolidated for administration under the State Board of Agriculture. I think this will effect a decided economy and may greatly enhance the efficiency of the work that is now being done along this line.

WAR VETERANS

The obligation of the state to its ex-service people is not easily discharged nor can it be discharged through the mere rendering of material aid. The state should hold these people in the deepest regard for the patriotic service they have rendered, and no opportunity should be lost to honor them as the defenders of the nation.

Our duty lies first to those who are sick or disabled as a result of military services. Hospital facilities should be provided to adequately care for their every need, and entrance to those institutions should be encouraged in every practical way.

The state has been maintaining two homes for veterans of our past wars. These have been used principally for civil war veterans. We view with deepest sorrow the narrowing thread of blue and of gray that marks the passing of this body of gallant veterans, and nothing should be left undone to provide for their comfort while they remain.

In making provision for the members of the more recent wars, it is the general opinion of ex-service men that home and hospital facilities should be developed at the beautiful site of the Soldier's Home at Milford. Nor would I ignore the needs of the Soldiers' and Sailors' Home at Grand Island, so far as concerns the comforts of those civil war veterans who have come to look upon it as their home so long as they live.

Of next importance are the interests of our ex-service men and women in a way that will enable them to re-establish themselves as a part of the material life of our commonwealth. It has been our custom in the past to provide homesteads for ex-service people. That was at a time when there was an abundance of free land to be had merely for reclaiming it. Now relatively little such land exists and it devolves upon us to provide some other means for the procurement of these homesteads.

Therefore, I recommend to you the raising of a fund from which loans can be made to ex-service men and women for the building of homes. For this purpose, I believe it will be entirely practical to place at

the disposal of the proper officials the money that is derived from the sale of school lands, and I would recommend that the school lands of the state be sold and the money turned into this fund. Not only will this ultimately provide an ample fund, but it will very greatly enhance the income from the investment that these lands represent. If the school lands are sold, it should be at public auction to the highest bidder and at an amount not less than a legally established percentage of an appraised value fixed by competent public officials.

Pending the receipt of returns from the school lands, it might even be practical to encourage the sale of certain low rate, interest-bearing securities, in which the state now has some of its school funds invested. I have in mind now that the state owns about \$800,000.00 of Massachusetts bonds, bearing only $3\frac{1}{2}\%$ interest. If these bonds could be disposed of at a discount that would enable their reloan at a nominal rate, no loss would accrue to the state and the soldiers' home building fund would be promptly started toward establishment.

The veterans of the world war are very earnest in requesting that boxing, under proper supervision, be legalized. If this is to be done, I feel that the enforcement of the law should be fixed in local officials under the supervision of the Department of Public Welfare, without the creation of a separate department for this purpose.

THE CIVIL ADMINISTRATIVE CODE

The last Legislature enacted a Civil Administrative Code and set up in it the machinery for the administration and enforcement of certain laws, the responsibility for which was theretofore largely fixed in the Governor. The operations of this plan of administrative organization have proven its practicability. Not only has it added greatly to efficiency in the administration of the state's business, but it has effected a genuine economy in the cost of administrative government within these departments. Moreover it has provided for an adequate control over reporting, auditing and expending the public money, so that I am able to report to you that for the first time in years the cost of government in these departments has been kept within the appropriations made by the Legislature, and a balance of \$135,644.80 will have been saved, to be returned into the various funds at the end of the biennium.

A few minor changes need to be made in some of these departments. I shall discuss these under the department heads as they shall occur in the following:

Department of Finance.

The Budget. In a few days I shall present to you the budget, containing my recommendations for appropriations to be made by your

honorable body. The information in this budget has been gathered and compiled by the Department of Finance. Of the character of the work done, you shall be able to judge later for yourselves. Meanwhile, permit me to recommend that the preparation of the budget (now authorized by Constitutional act) be continued in this department, and in order that the work may be improved, I recommend that legislation be added making it mandatory upon all spending agencies of the state to report their expenditures monthly to the Department of Finance, distributed according to expenditure accounts and forms approved by the Department of Finance.

Reports. The present system of printing the reports for the different state officers and departments is very unsatisfactory and unnecessarily expensive. I think it would be well if the Legislature should provide that the Department of Finance be required to prepare a year book of Nebraska, which would contain the reports of all the units of government of the state in a single volume. This would enable the building of a real history of Nebraska state government.

The law now provides that the Department of Finance shall assemble, classify and arrange for publication the laws, joint resolutions and memorials passed at each session of the Legislature. This activity properly belongs with the Secretary of State and provision should be so made.

Civil Service. Civil service requirements, as they have been generally applied to the public business, have not operated in the interests of efficiency or economy in government. I think, however, that a system of limited civil service could be worked out for the civil administrative code departments so that standard qualifications and eligible lists could be maintained for positions with the state of those who may pass satisfactory examinations, or qualify under the standard qualifications, and eligible lists could be maintained for positions with the state of those who may pass satisfactory examinations or qualify under the standard requirements.

If this is done, employes should come into the state's service for one year's probation, and after one year's time it should be provided that they could not be discharged except for cause, with a further provision that any employe thus discharged could have, at his request, a public hearing before a board of review.

Central Purchase of Supplies. The law now provides that, with the exception of the normal schools and the university, all printing and office supplies be purchased through the Division of Purchases and Supplies in the Department of Finance.

Under a cooperative arrangement, we have extended this work to include all purchases for the Civil Administrative Code departments.

This has worked exceedingly well and the plan should be legalized, not only to include the Civil Administrative Code departments, but all state activities, other than the normal schools, university, Board of Control and possibly one or two others.

Central Bookkeeping and Accounting. Under a cooperative agreement, the Department of Finance has been doing the bookkeeping for the different Civil Administrative Code departments. This plan secures uniformity in accounting and bookkeeping and it should be legalized within these departments.

Department of Agriculture.

Dairy Laws. It appears that some changes ought to be made in the laws affecting dairying and allied industries in the state.

(1) The coloring of substitutes for butter enables manufacturers of these products to engage in an unfair competition against the dairy farmer. While I would not deprive anyone of the privilege of using any product he may choose, I do feel it to be highly important that these substitutes should be sold and consumed upon their merits.

(2) The present law requires that temporary permits to cream station operators may be issued for a period of only two weeks. This period should be extended to thirty days or left in the discretion of the Department of Agriculture, in that it is, in many instances, impractical, if not almost impossible, to examine these operators for licensing within so short a period.

(3) There is a good deal of opposition to the present law which requires the licensing of dairy herds, but I am not prepared to say that the law is not a good one. If the small fee of \$1.00 each for these licenses seems burdensome, it may be removed, but inasmuch as dairy products are the most easily contaminated of all food products and serve as the medium through which many dangerous diseased germs are most easily conveyed, it is of the utmost importance to the public health that inspection should be carried along the entire line from the farm to the factory. The Department of Agriculture has inspected during the past biennium 1920 dairy farms, and this at no cost to the producers except for the \$1.00 license fee. I cannot help feeling that this is a service that contributes to the general public health and ought to be continued.

(4) It is now required that ice cream shall contain 14% butter fat. This requirement seems too high to be of practical benefit, either to the producer of dairy products, or the consumer of ice cream. It is quite apparent that ice cream is not consumed for the food properties contained in it, but rather as a refreshment. Therefore, the more fat that it contains, the greater the heat produced. Also, this requirement

necessitates the manufacturer or distributor of ice cream to sell his product at so high a price that the consumption of ice cream is thereby greatly lessened, and this in turn is reflected in a reduced consumption of cream. It therefore seems practical that this percentage be materially lowered.

(5) An egg candling law ought to be enacted. It is figured that at the present time there is 15 to 20% loss of eggs for food purposes through improper handling. Compulsory candling would encourage improved methods of handling and would stimulate the price in foreign markets for Nebraska eggs. Several states have such a law now.

Fish and Game. The fish and game laws should be entirely rewritten. Some of the necessary changes that appear to me are these:

(1) The open season for Prairie Chickens should be made to conform to the open season on Ducks. This would greatly facilitate the enforcement of the law and would not necessarily mean too great a destruction of these birds. The same is true of the open season on Plover and Doves.

(2) Permits for taking Beaver should be issued only in instances in which these animals are proving destructive to property, and it should be required that the one who takes Beaver should divide equally with the state the proceeds from the sale of Beaver pelts.

(3) A size limit should be fixed on fish that is taken for food purposes. Under the proper protection, certain kinds of fish will make a liberal contribution to the food supply of the state.

(4) At the thirty-seventh session of the Legislature, a law was enacted providing for the establishment and marking of all school sections as game reserves. If the school lands are to be sold, then this provision should be protected to the state. Also, it seems highly desirable that certain lakes in the sand hills region be designated as bird sanctuaries where the birds may rest without disturbance during the day.

(5) I would recommend, also, that certain lakes be designated as public waters where anyone may be permitted to hunt or fish. Unless this is done, we shall soon find that the numerous lakes in the sand hills region of the state will have been taken over by private individuals and one of the avenues for recreation and sport will then have been closed to the general public.

(6) We should proceed at once to establish about the state of Nebraska a system of parks and recreation places that may be later developed in the interests of all the people of the state. I think the law that now provides for a forestry commission may well be amended to place the administration of this subject in the Department of Agricul-

ture, not with a view to entering now upon any large expenditure of money in the development of forestry or public parks and recreation places, but with a view that trees may be cultivated and protected and recreation places designated, which, as our highway system is developed, may be made accessible to the people and developed as the conditions seem to warrant.

Department of Trade and Commerce.

Bureau of Banking. It is gratifying that during the present period of financial stress Nebraska should have had so small a number of bank failures, and those failures that did occur were the direct result of unscrupulous and, in some instances, criminal practices on the part of bank officials.

The Bureau of Banking has been greatly hampered in its work through inability to establish a corps of permanent examiners. The compensation for the services of examiners has been so small that many changes in the force have resulted and this has made it extremely difficult to maintain a well trained force of experienced men. I shall recommend in the budget an increase in salaries for examiners.

I recommend these further changes in the present banking laws:

(1) Active officers should all be required to give fidelity bonds in the sum of not less than \$5,000.00, these bonds after being approved by the board of directors, to be filed with the Department of Trade and Commerce.

(2) The minimum capital should be raised to \$25,000.00, in the granting of all new charters, and all existing banks with a less capital should be required to increase their capital to this minimum within five years.

(3) Sale and transfers of shares of bank stock should be approved by the board of directors and should be made a matter of record. Directors should be held personally responsible for any transfers of stock approved to one who is unable to show the required, legal, financial responsibility over and above all debts, liabilities and exemptions required by Section 35 of the banking code nor should the seller be released from his double liability until this is done, and in no event should he be released if the bank's capital was impaired at the time of sale until such impairment is restored to the satisfaction of the Department of Trade and Commerce.

(4) No organization, association, corporation or individual other than chartered banks should be permitted to use the word "bank," "bankers" or "banking" as a part of their business name or title, or to designate their official position or business.

(5) The Department of Trade and Commerce should have authority to suspend the functions of bank officials who wilfully or persistently violate any section of the banking law, after such wilful or persistent violations have been called to the attention of the majority of the board of directors. Failure or refusal of the board of directors to act, after having been duly notified of such violations, should be justification for the Department of Trade and Commerce to take the action herein contemplated and continue to supervise the transaction of the bank's business until such time as the cause for complaint shall have been removed.

(6) The depositor's guaranty law should be so amended that the guaranty fund, after paying the deposits of a failed bank, would have a first lien on all the assets of the bank, including the stockholders' double liability, until the fund was fully restored. This was evidently the intention when the law was passed, but the phraseology of the law and the court decisions have made the guaranty fund a common creditor in the distribution of the bank's resources.

(7) The Department of Trade and Commerce should have authority to require banks, building and loan associations and trust companies to adopt and maintain systems of uniform accounting for convenient auditing and checking by examiners and for a permanent, comprehensive record of the bank's business.

Building and Loan Associations. The law requires that the funds of building and loan associations shall be loaned on real estate and on their own stock. Inasmuch as real estate is taxed, it would appear that to tax all of the stock of these companies results in double taxation. To remove this condition without removing from the assessment roll the property of ones who ought properly to bear a share of the tax burdens of the state may be accomplished only through the application of an income tax. This is a subject that should be considered under the head of taxation.

Temporary relief against this condition might be effected by removing from taxation, installment stocks of building and loan associations while continuing their paid up stocks for taxation at a classified rate as intangibles.

Insurance. It is generally admitted that Nebraska has a splendid insurance code, and I have only a few recommendations to make for amendments to it.

(1) Section 28 of the insurance code should be repealed and in its place provision made giving the Department of Trade and Commerce the power to prescribe the form upon which an agent shall apply to the Insurance Department for license to write insurance in this state.

(2) A short rate table of cancelation should be contained in all in-

insurance policy contracts, with the exception of life insurance. The law now permits the use of any short rate table of cancelation and as a result, there is no uniformity in the various tables applied.

(3) Insurance companies organizing under the laws of this state should be required to have as their executive officers ones who are known to be capable of running the affairs of an insurance company. The requirements of good character and known business ability, as well as a practical knowledge of the executive duties of the insurance business, might well be demanded of executive officers, in the interests of stockholders and policy holders.

(4) The retention of premiums collected by agents should be deemed larceny.

Hail Insurance. The hail insurance law in this state has never operated satisfactorily to the insured, and the amendments that were made to it at the last session of the legislature made it even more unsatisfactory. This law should be entirely rewritten in an effort to overcome the obstacles that have been encountered in the state's practical experience in writing hail insurance, and if it cannot be made to be self-sustaining and capable of practical operation, it should be repealed.

Presently it is provided by the law that the premiums on hail insurance shall be payable at the time when personal taxes are paid. This means that the return of these funds to the State Treasurer comes at such a late date that a very great delay is necessitated in making the returns on losses to the insured.

This condition might be overcome by providing a revolving fund out of which the losses could be paid, pending the return of the premiums to reimburse the state. But even more business-like would be the requirement that the premium be paid in cash at the time when the insurance is applied for. The necessity for this is indicated by the fact that the state already has, in uncollected premiums and commissions charged by County Treasurers, the neat sum of \$16,271.64 yet to be paid.

The relation between premiums and hail losses for the past biennium are as follows:

1919 premiums	\$782,714.47
1919 losses	687,732.20
	<hr/>
Total excess premiums over losses..	\$ 94,982.27
1920 premiums	\$615,937.51
1920 losses	760,441.78
	<hr/>
Excess losses over premiums.....	\$144,504.27

For the biennium the total losses exceed the total premiums to the amount of \$49,522.00.

The inability of the state to pay losses in full for the year 1920 will undoubtedly result in widespread complaint among the insured, but it was inevitable that it should be so, for, on the one hand the rates charged have been too low in some zones, and on the other hand the system of adjusting the losses through local adjusters has been reckless and unbusiness-like in the extreme.

The Department of Trade and Commerce should be given authority to adjust and equalize the rates to be charged in each zone on an estimated basis that would yield a surplus, until such time as a fund could be created that would serve as a revolving fund for the purpose of operation.

Also, provision should be made for a chief adjuster to take charge of the work during the hail season. The chief adjuster should be appointed for a term of one year at least, and should be an experienced hail insurance man with authority and means to employ assistants by the day during the season for adjusting losses.

Securities. The present law governing the sale of securities in this state is in its operation in many instances much worse than no law. The issuance of permits for the sale of certain securities that have been passed by the Bureau of Securities is regarded by purchasers as a guarantee of the worth of these securities, and securities salesmen are making the most of this opportunity to appropriate the name of the state to their own selfish purposes. This in spite of the fact that every permit for the sale of stock issued by the Bureau of Securities has printed across its face in large red type the following: "The Bureau of Securities does not recommend nor disparage investments in any securities licensed by it."

Also, in the administration of the law the necessity for carefully investigating applicant concerns has imposed not a little loss and hardship and inconvenience upon legitimate concerns through the delays that are thus occasioned.

Again, after securities have been legitimately sold under the authority of the state, it is not unusual that companies have been systematically robbed from within. Consequently, if the state is going to assume responsibility in these matters, it is just as important that it should be given authority over the conduct of these concerns after they are organized as it is to authorize the sale of their securities.

The present Bureau of Securities has done splendid work considering the limited funds with which it has had to do, but it has been sadly handicapped in its work by the hampering restrictions that have resulted from insufficient funds to employ adequate and competent operatives.

But in spite of these handicaps it is an illuminating fact that of

the \$80,286,553.96 of securities, the sale of which has been authorized by the present Bureau of Securities, less than \$200,000.00 is represented in companies that have since become bankrupt. Also, permits for the sale of approximately \$50,000,000.00 in securities have been denied. All of this has been accomplished at a net cost of less than \$20,000.00 to the state during the past biennium.

The principal losses that have resulted to security purchasers in this state during the past two years have come from two sources: (1) Foreign securities over which we have no control; (2) Local securities that were authorized before the present law was enacted and the present Bureau of Securities came into existence.

The biennial report of the Bureau of Securities should be carefully studied for it contains very valuable data and abundant valuable information bearing upon this entire subject.

These are only a few of the many important criticisms that are made against the present law. I believe that these defects in the law and in its enforcement can all be remedied through the enactment of an entirely new statute, which shall contain the modern remedies for governing the sale of securities, and provide adequate punishment for fraud. Publicity of an educational nature should also be enabled.

Bonds. Surety companies should be released from liability when the principals of the bond request that the same be cancelled. Also, surety companies should be allowed to write bankers' blanket bonds.

Department of Labor.

It is generally conceded that Nebraska has an unusually practical and up-to-date group of laws relating to the subject of labor, and I have only a few amendments to recommend. The thing of greatest importance is a full enforcement of the labor laws that we already have. Great progress has been made in this direction during the past biennium, as is shown by the figures covering the administration of the workmen's compensation act alone. The activity of the Labor Department, as compared with former years, is quite clearly shown in a comparative table which sets forth the compensation, medical and hospital expenses paid to injured employes in the various years since this law was placed upon the statute books:

1915	\$ 51,167.37
1916	116,958.34
1917	153,031.73
1918	141,777.47
1919	345,476.24
1920	540,213.08

In order that the labor laws of the state may be properly adminis-

tered and enforced, I shall recommend in the budget an increased appropriation for the Labor Department.

As a result of a recent supreme court decision in this state, certain employes in the public service are removed from protection under the employes' liability and the workmen's compensation act. This condition should be removed by an amendment to the present law, making employes in the public service compensable the same as those who are privately employed.

Occupational diseases should be made compensable.

As a measure of public safety, there should be state inspection of boilers.

The safety and health laws of the state should be extended to apply to proper protection for workers in excavations, wells, etc.

An amendment has been made to the Constitution, enabling the Legislature to create an Industrial Court. I am not prepared to recommend such legislation at this time, unless such a body should be provided to sit in a purely inquisitorial capacity. Public opinion is the greatest deterrent to a continuation of those unfriendly relations between employer and employe, which result in an injury to the public. It is, therefore, of first importance that the facts in each case should be developed, meanwhile, protecting the legal rights of life and property. We now have provision for a Board of Mediation, and I have no doubt that this will suffice to cover the requirements of Nebraska for the present, at least.

Department of Public Welfare.

Bureau of Child Welfare. The last regular session of the Legislature created a Children's Code Commission and charged it with the duty of preparing and recommending to this session of the Legislature an entire code of laws relating to the subject of child welfare. This commission has done a tremendous amount of work and is entitled to unbounded praise for its industry and integrity of purpose. I think it has formulated some well worth while recommendations for legislation, and in order that this entire subject may be properly considered, I recommend that there be created a special committee upon this subject in each branch of the Legislature.

The thing of first importance in connection with all such legislation is to set up a practical, workable, administrative plan. The work should be continued in the Department of Public Welfare, as it now is, and those in charge should not be unduly hampered in the administration and enforcement of the law.

I would make the general observation that child welfare laws should

not in any sense be designed to relieve parents of the responsibility, which they properly owe their children; nor should the state assume such an attitude of paternalism that the more substantial elements of industry and thrift will have been neglected, discouraged or abridged.

The children of today represent the men and women upon whom the success of our government is dependent tomorrow. Therefore, they should not be environed with such an atmosphere of dependence that they will lose the qualities that make for independence. When parents properly supervise the welfare of their children, there will be little need for legislation affecting the outward influences that contribute to their delinquency.

I am hopeful that an effort will not be made to enact too many laws bearing upon this subject just now. Let us address ourselves to the fundamental task of developing the home and surrounding it with the proper environment. When we have done this, we shall have taken a long step forward in removing the ills that today threaten the generation of tomorrow.

Our duty just now is to the unfortunate ones who do not and cannot care for themselves. This, with sane laws governing health and marital relations together with encouragement to parents to do their duty, will largely suffice for the present.

Health. The placing of the administration of the health laws of the state and the grouping of the professional examining boards under the **Department of Public Welfare** has proven highly satisfactory in the enforcement and administration of the health laws of the state. It is gratifying to note that through the activities of the Bureau of Vital Statistics Nebraska has been placed within the registered area of the Federal government. The law relating to this subject ought to be strengthened so that those who are charged with the responsibility of making vital returns could in no sense avoid the discharge of their duty.

The scope of the activities of the sanitary engineer should be extended. Also, something ought to be done by way of requiring the municipalities of the state to provide and care for public comfort stations. This supervision should, no doubt, be accomplished through the local boards of health.

The state should encourage any practical raising of the standards of the professions that have to do with the public health. The members of practically all professions in this state are agreed upon this point, and amendments to the present laws, looking in this direction, ought to be carefully considered by your honorable body.

Five of the professional groups now require annual renewals of licenses. This ought to be a requirement in all professions. In turn,

the budget for the Bureau of Examining Boards should cover the full amount of the fees paid in. The members of all examining boards should be placed on a flat per diem basis of \$10.00 with necessary expenses.

Department of Public Works.

Roads. The thirty-seventh session of the Legislature enacted the most comprehensive group of road laws the state has ever had, and under this legislation, supported by adequate appropriations and careful supervision of the work Nebraska has made as much progress in road development during the last biennium as was made during the previous decade. If we are to have a continuation of this program of progress and development, it means a continuation of appropriations for carrying on the work, as well as practical distribution of and supervision over the expenditure of the funds.

Under the present law, the money that is received for automobile license taxes is paid into the County Treasurer and then forwarded to the State Treasurer. I would recommend that, inasmuch as all of this money, with the exception of 5 per cent for purposes of administration, is spent in the county in which it originates, it should be left with the County Treasurer, to be paid out on warrants approved by the State Department of Public Works. This would remove an unnecessary transfer of these funds and would allay a criticism that now exists.

The criticism is also made that a larger percentage of the automobile license tax money should be spent on county roads, other than the federal and state aid roads. This may be accomplished in a sense, but it would be highly unwise to designate by law a much lower per cent of this money than is now provided for use on the federal and state highways.

In my opinion, it should be provided that up to, perhaps, the present percentage county boards and the Department of Public Works may use this fund for the maintenance of the state and federal highway system, but that at their discretion a smaller percentage might be used and the balance returned for use on other county highways.

My reason for making this recommendation is that there is a wide variation in the cost of maintaining roads, dependent upon the length of time that they have been built, conditions of soil and weather and other elements. No one can anticipate exactly what these conditions will be or what the cost will be to maintain the roads generally throughout the state. Therefore, maintenance being of at least 50 per cent importance in any good road program, it would be most unwise to hamper the proper authorities in maintaining our state and federal highway system after the money has been spent to build these roads.

Irrigation. There is little need for amendment to the present irrigation laws and such amendments as should be made will, in due time, be brought to your attention by the secretary of the Department of Public Works.

One quite important thing is that a law should be enacted providing that plans and specifications for improvements contemplated in connection with public waterways shall be approved by the Department of Public Works before the state purchases the bonds issued therefor.

THE DIRECT PRIMARY.

The Republican party platform, adopted at the state convention held in Lincoln May 18th, 1920, contained this pledge:

"We favor material amendments to the primary election laws, which will increase the functions and broaden the jurisdiction of the county and state conventions, and we favor further amendments to prevent the manifest abuses of said primary."

The thirty-seventh session of the Legislature amended the primary law in such a way as to provide for the nomination of all state officers under Governor at a state convention, with the further provision that delegates to precinct and county conventions should be elected by the direct vote of the people, and in turn only those elected to the county convention might be eligible for election to the state convention.

These amendments were made in good faith to extend the operations of the direct primary in such a way as to make it more practical in effect than under the present system. It remained, however, for the referendum to be exercised against a certain section of this law, thus rendering the balance of it practically inoperative, in that when the incentive was removed to nominate these certain state officers in the state convention, the incentive was also removed to be a candidate to the local or state conventions. Although only about two-fifths of the vote for president was cast on the referendum, the fact that it prevailed by so large a majority may be taken by some as significant that the present primary law is in high favor. The very opposite is true, and the advocates of representative government by majority expression can not approve its operations.

It is not necessary to enter into an extended discussion of this subject to remind even the most casual observer that under the present system the nominees for the major offices are minority candidates, and as these minorities become better organized, it at once becomes possible for them to practically dominate the election of the principal public officials. Such a system is just as dangerous to popular government as was the old system of nomination by the special interests and may even be much more far-reaching in its harmful effects.

Upon this point there is, of course, no arguing with those who do not believe in political parties. They admit their adherence to action through minorities, a system that is absolutely contrary in principal to the fundamentals upon which our form of government has been built. To be sure I would not ignore the rights of a minority, but political parties, under the present disposition of the people to vote independently, are sufficiently responsive to any real demands for governmental reforms that these rights will be amply protected.

I believe in political parties and in party responsibility. And the only way to obtain it is to give political parties an opportunity to present their principles of government and their candidates for office, through the expression of a majority of their adherents.

If we are to bring about a majority expression in the nomination of our candidates, then it seems to me that one of two courses must be pursued, and in each of these courses the principle of the direct primary will be preserved: (1) We must have primary nominating conventions to select one candidate for each of the several offices, but leaving the primary open to all other entrants who may not have permitted their names to go before the nominating convention, or (2) we must have two primaries, the first to be an elimination primary out of which two candidates only would be chosen, subject to nomination in the second primary.

It is no longer wise to follow the politically expedient course of avoiding this issue, and I predict that those who come forward with a strong practical solution for this problem will receive the general approbation of the people.

NON-PAID ELECTION OFFICIALS.

We pay our election officials only \$3.00 per day for their services. This is scarcely enough to attract anyone who has anything else to do. Considering, however, the total number of these officials and the many elections held, the expense involved amounts to a tidy sum each year.

I now recommend to you that election officials be drawn for service, much after the plan followed in selecting juries, with certain provisions as to qualifications and exemptions from service, and that they be non-paid.

At least two benefits would result from such a plan. First, but of secondary importance, would be the saving of money thus effected. In the holding of the state-wide elections alone this would probably amount to \$250,000.00 per year.

Second, but of first importance, would be the increased interest thus aroused in governmental affairs. This, I think, strikes at the very

heart of one of our foremost present day ills—the people do not take enough interest in helping to run their government.

To serve the state in such a capacity one day in each year would work no great hardship upon anyone. In many instances it would produce the services of much more competent help than it is possible to obtain at the present low rate of pay, and it would stimulate in the hearts of those who serve a deeper interest and respect for their government.

INLAND WATERWAYS.

Cheaper transportation facilities for the marketing of grain from the great cornbelt is of vital importance, and means a very great deal to the grain producers in Nebraska. The financial saving that would result to Nebraska in the development of a waterways system that would enable the ocean carriers to reach the western ports of the Great Lakes is shown in the following facts which I quote from Julius H. Barnes, former President of the United States Grain corporation:

“The present rail rate from Buffalo to New York is 12c per bushel. Also, to reach Montreal, the rail rate from Georgian Bay is approximately 12c per bushel. Ocean carriers may be secured at the same rate from Montreal as from New York. The opening of the St. Lawrence waterway and the improvement of the Welland canal, already undertaken by Canada, would enable the lake carrier to Buffalo to extend its trip to Montreal—only fortyeight hours longer—at a cost probably not exceeding 2c per bushel. This promises a saving of 10c a bushel during part of the year. Its influence may reasonably be calculated to affect and improve the farm price by 5c a bushel on the entire grain crops of that section of the country, whose arc of competitive rail rate would thus be centered on the Great Lakes ports—Duluth, Chicago, Milwaukee, Detroit, Toledo and Cleveland.”

This would produce an estimated saving to Nebraska of over \$10,000,000.00 a year on shipments of wheat and corn alone.

With these facts before us, it seems to me highly desirable that this state should give substantial support to the movement for the development of the Great Lakes-St. Lawrence Tidewater project. Also we might very properly make recommendations to Congress, bearing upon water transportation to the Gulf of Mexico via the Missouri river.

REVISION OF STATUTES.

The statutes of Nebraska must be revised. They have become so cumbersome that they should be entirely revamped. This ought to be done in a careful and business-like manner under the supervision of the most competent authorities.

STYLE AND PHRASEOLOGY OF LAWS.

The Constitutional Convention included among its committees one on style and phraseology. It was the duty of this committee to pass upon each proposal as to style and phraseology before it came up for final passage. I think this was an excellent provision and I recommend that such a committee be created at this session of the Legislature. This committee might also be charged with the duty of seeing that proper legislation is introduced looking toward the carrying out of the purposes of the recent amendments to the Constitution.

In closing, I commend to your thoughtful consideration the recommendations that I have here made, and if I can be of service to you in the course of your deliberations, I am yours to command.

SAMUEL R. McKELVIE,

Governor.

**MONEY RECEIVED BY THE GOVERNOR FOR BIENNIUM ENDING
DECEMBER 31, 1920.**

Fees for Register of Deeds.....	\$ 20.00
Fees for conducting warehouses.....	24.00
Extradition, fees.....	140.00
Agricultural settlement.....	743.70
Proceeds—Sale of public lands.....	3,815.78
Miscellaneous items.....	19.00
Total	\$4,762.48
For liquor permits to druggists.....	1,548.10
Total	\$6,310.58

REPRIEVES, COMMUTATIONS AND PARDONS.

In keeping with Section 13, Article 5 of the Constitution of Nebraska, I herewith submit a list of the names of those who have been pardoned or whose sentences have been commuted, and those who have been reprieved, giving the name, crime, date of sentence, character of the release and the date thereof:

Chas. F. Hoover, No. 4832; murder; sentenced January 28, 1907; commuted April 14, 1919.

Van Wilson Goodsell, No. 5202; murder second degree; sentenced February 20, 1909; commuted to 15 years April 14, 1919.

Chas. H. Briley, No. 5605; murder 2nd degree; sentenced February 4, 1911; commuted to 20 years May 12, 1919.

Clarence Clawson, No. 6170; murder 2nd degree; sentenced October 24, 1913; commuted to 7 years, 3 months April 15, 1919.

Tom Collins, No. 3548; murder; sentenced January 3, 1900; pardoned July 4, 1919.

Frank Dinsmore, No. 3741; murder; sentenced April 30, 1901; pardoned July 4, 1919.

Alson B. Cole, No. 7298, and Allen Vincent Grammer, No. 7299; murder; sentenced in March, 1918, to be executed on July 12, 1918; reprieved until January 17th, 1919, by Governor Neville, and both have been reprieved from time to time until December 20th, 1920.

Harry Willis, No. 7370; hog stealing; sentenced September 15, 1919; pardoned June 19, 1919, by Acting Governor Barrows on petition of citizens and endorsement of the trial judge.

All of the foregoing have been granted after careful consideration

and on the recommendation of the Advisory Board and the Warden of the Penitentiary.

Ray Sandlovich; receiving stolen property; sentenced from one to two years, June 19, 1918; pardoned by Acting Governor Barrows before entering the Penitentiary.