Lorenzo Dow Lewelling

MESSAGE OF L. D. LEWELLING, GOVERNOR TO THE LEGISLATURE OF KANSAS, 1893.

To the Legislature:

The biennial meeting of the chosen representatives of the people, pursuant to the requirements of the constitution, is an occurrence so frequent and usual as not of itself to attract more than ordinary attention; but the political contests which marked the election at which you were chosen were such as to engage the attention of the people of the whole state in a most unusual manner. The interest which attended upon the late political campaign has been kept alive not only as regards the results of the election, but so far as it may be likely to affect the future policy of the state. contemporaneous with your election the people selected from among their numbers an entire set of state officers who enter for the first time upon the great duty of administering the government, indicating a purpose on the part of the people to secure such changes in the management of public affairs as they deemed to be necessary for their safety and protection. Beneath the surface of all political or social agitation there has developed a conviction that the essential strength of every state must depend upon its justice in dealing with all persons and with all interests. The relations of authority and service, of capital and labor, are daily appealing to higher elements than force for the adjustment of differences, while the artificial and fluctuating relations of money and power are proportionately weakened. Immunity from responsibility for violated trusts, and immunity from the penalty of great social and moral wrongs are yielding to the demand for reform. The great political parties have become so intermingled in opinion upon economic questions that opportunity has been found for more deliberate inquiry into apparent abuses of official position and power. Not only good-will in words, but good will in deeds among men, and on the part of those in authority, always tend alike to the safety and protection of the individual and of the public.

Your selection as the constituent members of the law-making department of the state, and your due organization having been accomplished, the whole machinery of state government is moving onward in its accustomed manner; and with a sincere purpose on your part to give the people the laws which they demand, and to which they are entitled, which effects and purposes will be cordially supported by the other departments of the government, it is believed that an era of general prosperity will be realized. Let us all endeavor in our respective places to discharge the duties devolved upon us by our common constituency in such manner as to deserve their intelligent approval.

In obedience to the requirement of the constitution, that the executive shall at the commencement of each session communicate to the legislature such information as he may possess in reference to the condition of the state, and recommend such measures as he may deem expedient, I proceed to submit some suggestions for your consideration:

FINANCE.

An ancient adage, "Out of debt, out of danger," has been supplanted in some circles in these modern days by "Our debts stand for our investments." The late Governor John A. Martin, in his

message to the state legislature on January 11, 1887, presented the following startling thoughts: "The aggregate of municipal indebtedness is rapidly and enormously swelling, until it has reached proportions that should alarm every citizen who has at heart the prosperity of the state and the well-being of its people.

"The municipal subdivisions of the state have gone on voting bonds and piling up interestbearing debts that will in a few years cripple and dishearten every energy and ambition of their people and paralyze all public spirit.

"If all the bonds voted were issued, the municipal indebtedness of Kansas would be: County, \$14,373,651; township, \$9,415,306; city, \$3,975,484; school district, \$2,885,410; total, \$30,619,851."

It would be but an axiomatic statement to make the declaration that ex-Governor Martin would, were he still on earth, instinctively and intuitively repudiate the vaunted boast so boldly made, "Our debts stand for our investments." But the following comparison of municipal indebtedness may be appropriate and pertinent:

VARIOUS KINDS OF INDEBTEDNESS.		
Amount of county bonds in 1890	\$14,732,929.49	
Amount of county bonds in 1892	\$15,023,356.90	
Increase in county bonds in two years		\$290,427.41
Amount of township bonds in 1890	\$8,040,626.67	
Amount of township bonds in 1892	\$8,082,870.00	
Increase in township bonds in two years		\$42,243.33
Amount of city bonds in 1890	\$7,732,749.86	
Amount of city bonds in 1892	\$9,841,520.59	
Increase in city bonds in two years		\$2,108,770.73
Amount of school district bonds in 1890	\$5,810,022.37	
Amount of school district bonds in 1892	\$4,181,671.46	
Decrease in school district bonds in two years		\$1,628,410.91

It may here be seen that the aggregate increase in county, township and city bonds during the last two years is \$2,441,441.57.

THE STATE'S ASSESSED VALUATIONS.		
The total assessed valuation of all property in 1890	\$347,717,218.00	
The total assessed valuation of all property in 1892	\$334,204,666.45	
Decrease in valuation in two years		\$13,512,548.55
Assessed valuation of all lands taxable in 1890	\$168,285,199.17	
Assessed valuation of all lands taxable in 1892	\$171,167,129.85	
Increase in value in two years		\$2,881,930.68

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Assessed valuation of all personal property taxable in 1890	\$48,750,913.68	
Assessed valuation of all personal property taxable in 1892	\$46,315,463.78	
Decrease in value in two years		\$2,435,449.60
Assessed valuation of live stock for 1890	\$31,247,861.55	
Assessed valuation of live stock for 1892	\$31,033,422.00	
Decrease in value in two years		\$214,439.55
Assessed valuation of railroad property in 1890	\$57,866,232.57	
Assessed valuation of railroad property in 1892	\$51,404,543.74	
Decrease in value in two years		\$6,461,688.83
Assessed valuation of all town lots taxable in 1890	\$72,814,873.70	
Assessed valuation of all town lots taxable in 1892	\$65,317,532.08	
Decrease in value in two years		\$7,497,341.62

It is quite noticeable that the decrease in the assessment of live stock, personal property, railroads and town lots in the last two years has, in the aggregate, decreased \$16,608,919.60, while there has been an increase in the assessment of farms, improved and unimproved lands, of \$2,881,930.68.

From the first report of the state bank commissioner, it may be seen that the total resources of state and private banks in October, 1891, was \$30,257,981.27, and that in June, 1892, their resources were \$33,062,781.06, which shows an increase in eight months' time of \$2,804,419.79.

RECEIPTS AND DISBURSMENTS.

From the report of the state treasurer, we learn that the---

Amount in the state treasury on July 1, 1890 was	\$715,138.13
Received by the state treasury from July 1, 1890 to June 30, 1892	\$5,392,531.10
Making a total of	\$6,107,669.24
Disbursements by the state treasurer from July 1, 1890, to June 30, 1892	\$5,380,506.72
Leaving a balance in the treasury, July 1, 1892, of	\$721,162.52

PUBLISHING CONSTITUTIONAL AMENDMENTS.

In the eighth biennial report of the auditor of state, the fact appears that 161 newspapers of the state were paid \$119.60 each for publishing proposed sundry amendments to the constitution of the state, making, in the aggregate, \$19,255.60.

One person's name, who appears as "manager," is on the list 25 times, and this gentlemen drew out of the treasury the munificent sum of \$2,990, which may serve to show, in a pecuniary way,

at least, the most astounding "power of the press." If the Kansas statutes really provide for such an extended publication of proposed "amendments," it might be well to modify them so as to pile less of a burden in this direction upon the tax-payers of this commonwealth.

PUBLIC EDUCATION.

The constitution of the state of Kansas literally declares: "The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement by establishing a uniform system of common schools, and schools of higher grade, embracing normal, preparatory, collegiate and university departments."

Our educational system embraces the common school, the higher school, the Normal School, the Agricultural College, and the State University.

The eighth biennial report of the state superintendent of public instruction is commended to the careful attention of the legislature for its detailed interesting and valuable matter, and for certain practical suggestions. From it we learn that in 1892 there are 9,123 school districts in the state, and 9,088 school buildings. The remote and sparsely settled county of Morton contains 19 school districts and 13 school buildings, while the expansive and well-settled county of Sumner has 197 school districts and 200 school buildings.

The persons of school age in the state for 1892 are reported to be 498,801; the number of different pupils enrolled in the public schools, 382,225, which is 7,345 less than the enrollment for 1891. The average daily attendance was 239,299, which is 6,803 less than it was in 1891. The common schools may be regarded as the people's colleges, and, hence, worthy of all needful care on the part of the law-making power of the state; and therefore attention is called to the following from the afore said report: "It is quite evident that the law relating to compulsory attendance at school is susceptible of improvement," and "the time has come in the history of our state for the establishment of truant schools for the already large and constantly increasing number of pupils who are in the streets when they ought to be in school."

Female teachers are largely in excess of male teachers in the state, and while males receive on an average \$42.15 per month, and females \$35.42, yet in Sumner county the average pay is the same for each sex, and in Sedgwick females lead the males on an average of \$2.08 per month. In the list of county superintendents of public instruction for 1893-'94, there are 23 females, which is an indication of the increasing power of women in educational work, and of the coming solution of the problem of equal pay for the same work, without reference to who may perform it.

There are 257 school districts, extending through 55 counties in the state, which have not sustained at least three-months school in the year, and 22 of these districts are in one county. From the beginning of the existence of Kansas as a state, up to 1879, there had been an annual levy of a tax of 1 mill on each dollar's valuation of the assessed property of the state for school purposes. But by an act of the legislature of that year it was abolished.

From the report of the superintendent of public instruction the following extract is made, which bears on this subject: "I believe that the legislature should, at the earliest day practicable, restore the 1-mill levy by the state, to be distributed as the annual school fund is now apportioned. And if the legislature would make the levy 2 mills, or even 3 mills, their action would go quite a long way toward correcting our present unequal and unjust distribution of the money raised for the support of our schools by the district plan of taxation."

The amount of money of the semi-annual apportionment of the state annual school fund

distributed among the schools of the state for 1891 was \$489,229.44, which was 53 cents per capita for the February apportionment, and 52 cents per capita for the August apportionment, making a total of \$1.05 per capita.

The total amount of money received during the year 1891 for school purposes was \$4,044,299.66, of which the sum of \$3,538,450.91 was received from county treasurers from district-school taxes. In 1892 the whole amount received was \$5,010,891.97, of which \$3,539,986.11 was received from the treasurers of the several counties of the state from district-school taxes.

CHANGE OF TIME OF ANNUAL SCHOOL MEETINGS.

The statute providing for annual meetings in district schools on the last Thursday of July was perhaps enacted on the theory that it would give the county clerk of each county sufficient time to furnish the several district-school clerks the amount of taxable property in their respective districts, so that a suitable levy of district-school taxes might thereby be made, but the state superintendent of public instruction, in his report, says the annual school meeting should be held at an earlier date in cities of the third class. He gives as a reason for the change that in these cities from 3 to 12 teachers are employed, and it would be better for the schools and the teachers if teachers could be employed at an earlier date than is possible as the law now stands; and it may be further remarked that, were such a change made, cities of the first and second class would not be given the first choice of teachers by reason of their school boards being elected at an earlier date.

COUNTY NORMAL INSTITUTES.

These institutes, brought into life by the action of the legislature of 1877, have been so extended as to have an existence in every county of the state. They have had such a beneficent influence upon the educational work of this great commonwealth as to be a permanent part of what may be called our symmetrical common-school system, so helpful to the great body of the energetic, plain, toiling people of Kansas. At the sessions of the institute in 1892, the average daily attendance was 14 in Morton county and 400 in the county of Jewell. The sessions have been 30 days in length in most of the 106 counties. In 1891 there were 210 evening lectures, independent of the general work of the institutes, and in 1892 the crops of instructors at these institutes reached the number of 333. The state superintendent of public instruction deemed it proper to require county commissioners to appropriate not less than \$50 for each institute of four weeks.

THE PERMANENT SCHOOL FUND.

There are in the treasury of the state certain fraudulent district-school bonds, purporting to have been issued by the authority of school districts organized in the counties of Comanche, Norton, and Rice, which aggregate \$15,900, and of which the state can have no possible prospect of collecting any part of the principal or interest of the same. Inasmuch as the constitution of the state expressly declares that the permanent school fund shall not be diminished, I would recommend legislation authorizing the state treasurer and auditor of state to cancel these fraudulent bonds, and duly provide for a reimbursement of the funds to the amount of these bonds.

HIGHER EDUCATION.

Aside from the Normal School, the Agricultural College, and the University of the state, the state superintendent, in his report, presents brief abstracts of 30 other educational institutions, which include high schools, academies, colleges, seminaries and universities of different classes.

The State Normal School.----The reports of the president and board of regents of this institution will amply repay one's perusal for the interesting and valuable matter they contain. The legislature will be asked to appropriate for the fiscal year ending June 30, 1894, the amount of \$50,000, for an additional wing and assembly-room. The pupils from the institution come from 88 counties of the state, and outside of the state from sixteen states and territories.

Mrs. Carrie S. Plumb and family have kindly donated to the school the valuable private library of selected public documents which the late United States Senator Preston B. Plumb had collected during his public life, which gift embraces nearly 1,000 volumes, for the most part handsomely bound in sheep, but for which the institution has absolutely no room.

The State Agricultural College.----The board of regents of this institution in their eighth biennial report declared: "The past two years have shown more than ususal prosperity in the growth of the institution, as well as in its administration. Although crowded beyond the capacity of the buildings for most satisfactory work, the college in every department has been well maintained, and the work of educating the sons and daughters of farmers and mechanics in line with prominent industries of the state is so well maintained as to make the Kansas State Agricultural College the largest of such institutions in the country, or even in the world."

Instructive matter in the report is found under several headings, and particularly under those of "Experiment Station" and "Farmers' Institutes."

President Fairchild, in his report to the board of regents, says: "Fully 70 per cent. of the students are shown by the records to be from farmers' homes, so that of all such colleges in the United States this stands among the most representative in relation to the farmers' interest throughout the state. No other has so large an attendance, and no other has so large a proportion of farmers' children. There are pupils from 82 counties of the state. Industrial training is making its mark not only upon the students as they go from the college, but in the ingenuity of the state from the influence of the multitudes who have gone out from us."

The needs of the institution for 1893-'95 are set forth as viewed by the board of regents, and are worthy the careful scrutiny of members of the legislature.

The University of Kansas.----The report of the board of regents and of the chancellor of this institution merit a careful examination at your hands. The imperfect, incomplete and restricted work of the University is thus spoken of by the regents: "The exact status of the University may perhaps be best epitomized by saying that it is abreast of the highest institutions of the country in the quality of that work of whatsoever nature which it is equipped to do, and therefore proposes to do. As regards the whole range of possible university work, the equipment of the institution is of course deficient. Many branches of learning are yet to be taken up."

Chancellor Snow, in instituting comparisons of certain appropriations made by the Kansas legislature with those of Minnesota and Kansas, says: "Kansas cannot afford to be outstripped by her northern neighbors in the equipment of her University. State pride may here find a legitimate field for exercise. The young men and women of Kansas are as worthy of the best educational advantages as are the sons and daughters of Nebraska and Minnesota."

I would respectfully call attention to an issue of State University bonds, which are held in the state treasury, to the amount of \$100,000 against the city of Lawrence, and whether or not the

city of Lawrence or the State University should in justice be held for them. If not, whether it be the duty of the Legislature to reimburse the university fund to that amount.

TEXT-BOOKS.

The parents and guardians of the children in our public schools have long complained of the exorbitant cost of text-books, and this subject should command your serious attention. I would earnestly recommend that some method be devised for supplying the necessary books free of cost to the school children of the state.

To this end, it might be well that the county superintendent of public instruction and the directors or other school officers of the school districts should, in each county, be empowered to purchase all the necessary text-books for the schools of their respective counties, at a price not much in advance of the actual cost of the books.

By reason of some such legislation, it is believed that the crying complaint of very expensive school books could be largely mitigated and, in time, measurably abolished.

Some of the states of this union have adopted legislation substantially of this class, and, where successfully tried, it has met the approval of the people affected by it, and there is a growing sentiment in favor of such a system.

THE STATE LIBRARY.

It appears from the eighth biennial report of the state librarian that the accessions to the library for the past 12 years have been 14,952 volumes. The appropriations for the purpose of books have fluctuated between \$1,000 and \$2,000 per annum, except that from 1888 to 1890 no appropriation was made.

Mrs. Jane C. Stormont has made the generous donation of the "Stormont medical collection," which now embraces 1,193 volumes, representing more than \$4,000 in value. She intends to make further personal purchases for the collection, and she has also paid into the treasury of the state \$5,000, as a permanent donation for the use of the state.

The librarian expresses the hope that the appropriation for the purchase of books may again be placed at \$2,000 per annum.

The suggestion is made that all moneys received from the sale of the supreme court reports, as now provided by law, and all money hereafter paid in on such account, shall constitute a library fund, in the hands of the state librarian, to be applied to the purchase of reports and books for the state, to be selected by the justices of the supreme court and the librarian, and that it shall be the duty of the librarian to pay over to the state treasurer any balance of such money remaining in his hands and not applied as above provided for.

Chapter 112 of the laws of 1870, chapter 143 of the laws of 1871, and chapter 136 of the laws of 1875, contain acts of the legislature regulating the state library, and as these several acts in some measure duplicate each other, and in other respects are inharmonious with each other, it might be well to revise the legislation bearing upon this subject, and thereby place the state library upon a footing that will make it truly subserve the best interests of the state.

STATE HISTORICAL SOCIETY.

The State Historical Society has demonstrated its great usefulness. The records of the past history of Kansas collected by this society during the 17 years of its existence are now found essential to the full examination of any subject pertaining to the affairs of the state or any of its localities. The state can make no better provision for the education of its people than that of collecting and preserving the materials of its own history. In the completion of the capitol building, ample provision should be made for the housing of the library and collections of the society, now crowded into very inadequate quarters.

CHARITABLE INSTITUTIONS.

The report of the trustees of state charitable institutions will be laid before you, and in it you will find complete and detailed information of the needs of these various institutions, together with information of a general character for the benefit of the public. The successful care and management of these institutions should be matters of great concern to every intelligent citizen of the state. Their existence marks an era of progress in the development of Christian civilization, and a desire to approximate perfection in their administration should be the commendable zeal of true statesmanship.

The institutions embraced in the report are as follows: State Insane Asylum, Topeka; State Insane Asylum, Osawatomie; State Reform School, Topeka; Institution for the Education of the Deaf and Dumb, Olathe; Institution for the Education of the Blind, Kansas City; State Asylum for Idiotic and Imbecile Youth, Winfield; Soldiers' Orphans' Home, Atchison, and Industrial School for Girls, Beloit.

It will be observed that a number of these institutions are already crowded with inmates, and more room is in some cases imperative. It is difficult to choose our course when necessity dictates, but if it shall be found impossible to make such improvements and enlargements as suggested by the board, appropriations should be made for the more pressing needs of all, and especial consideration given to the care of the helplessly insane.

THE STATE REFORMATORY.

The legislature of 1885 made an enactment providing for a state reformatory for male criminals between the ages of 16 and 18.

Propositions came from several cities of the state for the location of this institution, and the commission appointed to locate the same made Hutchinson their selection. and a structure there exists in an unfinished condition, although \$260,000 has been expended in its erection. There can be no question as to the wisdom of establishing such institutions, when the financial resources of a state are sufficient to justify the cost of erection and maintenance. If in your judgment the time is ripe for such an institution in Kansas, an appropriation should be made sufficient for the completion and occupancy of the present buildings.

THE PENITENTIARY.

The eighth biennial report of the directors and warden of the State Penitentiary covers a mass of details that are included in a pamphlet of about 60 pages. It is seen from the warden's report that there are unexpected balances of the appropriation made for the fiscal years of 1891 and 1892 remaining in the treasury of the state of \$75,790.80. Permanent improvements, costing

\$50,060.92, have been made in the shape of brick buildings, a one-story brick dwelling-house, the completion of the east wall of the prison yard, a foundation for the cells of the new cell house, and the construction of circular brick air-ducts therein, and in the corridors the cutting and laying of flagging, and additions to the electric-light plant.

The directors of the Penitentiary have instituted a suit against W. E. Thomas, on a coal contract, to recover a balance due of \$947.31, and this suit is pending in the district court of Leavenworth county.

A contract was made with the Kansas Manufacturing Company, of which Alexander Caldwell was president, for convict labor, and this contract, which was of 19 years' duration, terminated on February 1, 1892. Mr. Caldwell, under an article of the contract made with him, makes certain demands upon the state. This matter is now in controversy, and may require some legislative examination.

Contracts have been made for five years from February 1, 1892, for surplus prison labor, in accordance with the following statement: L. Kiper & Sons, 50 men, at 67 cents per day; Helmers Manufacturing Company, 65 men, at 66 cents per day; H. S. Burr & Co., 50 men, at 65 cents per day.

The board of directors have adopted the rule of buying all supplies for the Penitentiary by advertising for competitive bids, which is claimed to be quite a saving to the state. It is recommended that attention be given to the matter of determining whether a plant may be established in connection with the Penitentiary for the manufacture of binding twine.

PROHIBITION.

Prohibition is a part of the law of Kansas; not only statutory law, but a part of the constitution of the state. It is not a question whether this administration is for or against prohibition, but whether it is in favor of respect for and obedience to all the laws on the statute books. A very large class of our people earnestly believe in the efficiency of the law, while a respectable element are not personally in favor of prohibition. Many of those who live in the larger towns and cities believe that the expense resulting from an honest, faithful effort to enforce the law exceeds the good results obtained, and is greater than the people should be made to bear. In the rural districts the law seems to be generally enforced; but it is not so well supported by public sentiment in the centers of population. Extraordinary powers have been placed in the hands of the executive for the enforcement of the law in cities of the first class through the metropolitan police system. It is unfortunate but true that these powers have in great measure been nullified by various lawevading devices, while serious evils have followed, almost if not quite as objectionable as the one sought to be destroyed. In many places public sentiment seems to have encouraged and connived at the open violation of the law, and thus contempt is brought upon the authority of the state. This system, apart from its relation to prohibition, seems to have developed into a sort of corrupt political adjunct of the party in power, so that venal methods for the control of local and state politics have been more considered than matters of duty under the law. Appointments under this system are often made as a reward for party service more than fitness for the duty to be performed; and thus the support of additional officials is added to the burdens of the tax-payer, to say nothing of the methods of extortion approximating black-mail which are said to prevail under the practical operations of the law.

It may be said that a judicious exercise of the appointing power should result in securing complete obedience to the law; but practical experience and observation lead to other

conclusions. While this is true, it still remains that none of these difficulties nor all of them warrant the citizens of the state, much less the officers of the law, in disregarding the law of the land, nor in suffering its violation with impunity. Nothing can be more demoralizing in a community than the open violation of a law, unaccompanied by a wholesome effort for its enforcement; and however lame or inadequate it may be, the duty of those who administer the laws is clearly indicated.

RAILROAD LEGISLATION.

No subject has claimed more legislative attention during the past decade than that relating to state regulation and control of railroads. In nearly if not all the states of the union, some legislation has been enacted giving to some person, commission or court power to super vise, regulate or control these great thoroughfares of commerce. This growing sentiment has taken root in Kansas, as well as elsewhere, and in 1883 its fruits were the present commission law. It would be going too far, perhaps, to say that this law has been wholly barren of good results. The people expected vast benefits from it, but have profited little in the correction of abuses. To the casual observer it may appear laden with all the remedies necessary to cure the ills complained of, but its provisions only "keep the word of promise to our ear, and break it to our hope." The great difficulty with this law is the limited power it gives to the commission. The supreme court, in the proceedings against the Kansas Central Railroad Company, in November, 1891, assure us the question was bitterly contested in the legislature at the time of the passage of the law "as to what powers should be conferred upon or delegated to the commission," some favoring "the delegation to the commissioners and courts full authority for the enforcement of their orders; others, and a majority, opposed the delegation of such powers; and the result was that advisory action only on the part of the commissioners was provided for." Thus, then, with reference to some important matters, such as that involved in the case referred to, we find that the commissioners can simply advise the railroad companies, and we may presume that the companies will be governed by such advice, if in their judgment it shall be deemed profitable for them to do so. Thus the law is rendered useless for lack of authority in the commissioners to enforce its provisions or compel obedience to their orders.

But, on the other hand, the supreme court in the case referred to cities the decision of the United States supreme court wherein the Minnesota law of 1887 is declared to be unconstitutional, because it clothed the commissioners with full power and sought to make their orders final and conclusive.

Here, then, is the Scylla and Charybdis of legislative action: the inefficacy of too little power on one hand, and the unconstitutionality of too much power on the other hand. To avoid these obstacles must be the care of the legislature in amending this law so as to make it more effectual in righting wrongs. And it should be amended so as to confer on the commissioners authority to make orders, and clothe them with power to enforce such orders by mandamus or other proper proceedings. On the other hand, the right of the railroads to be heard on appeal to the supreme court should not be denied them, and provision should be made looking to the prompt and speedy determination of such matters.

The right of the state to control the operation of railroads, and to regulate, within just and reasonable bounds, their freight and passenger tariffs, is no longer questioned.

There is also a growing demand that the railroad commissioners (as, indeed, all other important officers of the state) shall be elected by the people. This is in accordance with the theory of

popular government. It is safe to trust the people in all matters pertaining to their own welfare. It is objected that the election of these commissioners would result in a board of political partisans. But there is no reason for believing that persons so elected would prove less faithful to the business and commercial interests of the state than if elected from opposing parties. But if a method could be devised by which a majority party might be represented on elective boards, it would seem to be desirable.

It has been suggested that a cumulative method of voting, by which minority representation is secured, might be applied in cases where non-partisan boards are desired. But however the commissioners are to be elected, they should have power to frame such schedule of freight charges between all shipping points as will insure fair treatment to the shipper and just compensation to the carrier, with authority to enforce such rates and prohibit the unjust discrimination now made against some places and in favor of others.

The liberal bestowal of free passes upon certain classes of our citizens is pernicious and corrupting in its tendency and should be prohibited. At the recent general election, and the campaign which preceded it, great scandals arose by reason of the plentitude of railroad passes as a potent factor in securing attendance at certain conventions, and transporting voters.

STATUTORY REVISION.

The statutes of Kansas are in great need of intelligent revision. The shortness of the biennial legislative session has apparently operated to prevent systematic and careful effort in the work of amendment. Amendments hastily and inconsiderately made are often of doubtful utility. Many of our statutes are obscure; many are cumbersome; some are obsolete. Others, while accomplishing the purpose for which they were designed, nevertheless entail useless costs and expenses, and sometimes promote instead of lessening litigation. The civil and criminal procedure laws, the corporation law, the law regulating assessment and taxation, and many others, demand the most careful and critical consideration and amendment. A systematic revision of the entire statutes, reducing them in bulk, simplifying that which is obscure, and reducing, where practicable, expenses of administration in the various branches of state, county and city government, would be of great and lasting benefit to the state, in comparison with which the cost would be trifling. It is hardly necessary to say that such a revision should be prepared by men selected solely with reference to their adaptability to the work to be done.

I would therefore recommend the enactment of a law authorizing a thorough revision of the general laws of the state, such revision to be submitted to the legislature for examination and enactment, with such amendments thereto as the legislature may deem proper to make. Should such a bill be passed, I would recommend that provision be made for the printing by the state printer of such revision in chapters or divisions, as rapidly as they may be prepared by the revisers, and copies furnished to members of the legislature and judges of the courts for examination, and that such persons be requested to call the attention of the revisers to any defect or omission appearing therein before such revision shall be finally printed for the use of the legislature.

CONSTITUTIONAL REVISION.

The people of this state are still confronted with the necessity of remedying certain admitted defects in our present constitution; and if the recent vote upon the proposition for a constitutional

convention be regarded as so far final as to render a further submission of it inadvisable, it will become the duty of the two houses to consider what proposed amendments to the constitution should be submitted to the people at this session.

Governor Humphrey, in his first message to the legislature, discussed at length certain questions relating to the time and manner of submitting amendments to the constitution, and argued that the true construction of that instrument would permit the submitting of a proposition for amendment at the November election in any year. If this construction be accepted, the present legislature can submit amendments to be voted on in November next; at which time, there being no state or congressional election pending, the amendments submitted will receive more careful consideration at the hands of the people than would be otherwise possible. The constitution permits but three propositions for amendment at one time; but if the present legislature should deem it advisable, three proposed amendments could be submitted to be voted upon in November next, and also three others in November, 1894, which, if wisely prepared, would doubtless meet with the popular approval, and go far towards remedying some of the defects in our present constitutional convention, it is the plain duty of the present legislature to take the initiative in this work.

Among the changes demanded, section 3 of the legislative article should be amended. I am fully satisfied that it is neither wisdom nor economy to limit the pay of legislators to \$3 a day for 50 days only. The practical effect is to limit the session to less than 40 working days. In a new and growing state, a certain amount of legislation is absolutely required; and it is not for the public interest that it should be hastily and inconsiderately attended to. It is the judgment of those who have given study to this question that the present system is not productive of either the best legislation or the best results.

Section 8 of the legislative article should be amended so as to authorize the legislature to provide some method for the investigation and determination of controversies over contested seats in both branches of the legislature. The right of a constituency to be represented in the legislature by the person receiving a majority of the honest votes cast is sacred, and should not be vitiated by fraud, nor trifled away by a throw of dice or the chance of a lottery. Other important changes will doubtless suggest themselves.

Section 14 of the legislative article should be amended so as to permit the Governor to veto an objectionable article in an appropriation bill without disapproving the entire bill.

If deemed wise, the judges of the supreme court might be authorized to assign (under conditions to be prescribed by statute) the judge of one district to sit as judge in any other district. The remedy by impeachment, in the case of a district judge guilty of misbehavior in office, is enormously cumbersome and expensive, and, owning to the long interval between the sessions of the legislature, may, under certain circumstances, be wholly inadequate. The constitution should provide for the suspension from office of a district judge guilty of gross misconduct by order of the supreme court, concurred in by all the judges. Such a change can probably be brought about only by an amendment to the constitution. But in view of the saving to be effected in every county by the change, the people would probably approve such an amendment if submitted. I would submit in this convention that the term of office of county attorney might be extended to four (4) years, and that he should be ineligible for immediate reelection. Such a provision would tend to make such officers fearless and independent in the performance of duty, and to some extent free them from influences to which very good men are sometimes unconsciously susceptible.

APPELLATE COURT.

It is a theory of our state government that for every wrong there must be provided a remedy by due course of law, and justice be administered without delay. Our constitution, adopted when the state was in its infancy, and its judicial business correspondingly light, provided for a court of last resort consisting of one chief justice and two associate justices. As the state has grown and litigation increased, it has been clearly demonstrated that three judges are unable to keep abreast of the ever-increasing business. Proposed amendments to the constitution, increasing the number of judges, have been defeated. Finally, in 1887, business had so far increased beyond the ability of the court to dispose of it, that a bill was passed authorizing the executive to appoint three commissioners of said court to aid the court in the disposition of the numerous cases then pending. These commissioners were appointed for three years. In 1889 the law was reenacted, and in 1890 three commissioners were again appointed, whose terms of office will expire on the last day of next February and the commission cease to exist unless the law be reenacted. Much good has doubtless resulted from the creation of this commission. It has not, however, enabled the court to get any nearer the current business of the day than it was when the commission began its work. It has not more than kept pace with the increasing business. The best information is to the effect that this court is so far behind its work at the present time that persons seeking a determination there may not hope for it inside of three years. Great evils come from these vexatious delays. Wealthy corporations, with no difficulty in giving the required bond, possess advantages over poorer litigants; and whether there be merit in their cause or not, they are likely to appeal from the adverse decision of the trail court in order to take advantage of the overcrowded condition of the supreme court, and thus delay for years the final determination of causes and defeat the ends of justice. Such legislation should be enacted as will give the humblest citizen assurance of a speedy determination of his controversy, and guarantee to him prompt administration of justice.

How best to relieve this overcrowded condition of the supreme court is a grave question, demanding the best legislative thought. Some objections have been urged against the continuance of the commission. The conclusions of the commissioners not being final, but being subject to review by the supreme judges, much time and labor seems to be unnecessarily consumed.

I therefore recommend the creation of an intermediate "court of appeals," which should have final jurisdiction upon appeals from the district courts in civil actions where the amount in controversy does not exceed a given sum. This "court of appeals" might also have jurisdiction to hear and determine appeals in cases of misdemeanor, and appeals from convictions of felony where the imprisonment fixed by the judgment does not exceed three years. Provision should perhaps be made for a review by the supreme court of the judgments of such intermediate court in cases involving grave questions of constitutional law or the construction of statutes.

ELECTION LAWS.

The election laws should be carefully revised and amended. As the law stands, the judges of election may utterly disregard the plain provisions of the statute respecting the rights of candidates and of electors to be present at the counting an canvassing of votes without incurring any liability, either civil or criminal.

Public safety requires that the Legislature should also prescribe certain forms to be used by

returning officers and canvassing boards; and provision ought to be made whereby ministerial officers should be compelled to perform their duties promptly and in accordance with law, in order that legal effect may be given to the will of the people expressed through the ballot-box. The success of republican institutions can be assured only through honest and untrammeled elections.

Marvelous reforms have been witnessed in the United States in the last few years in the methods of exercising the elective franchise, and all tending, it is confidently believed, toward purer elections. No effort in this direction should be relaxed. Every safeguard possible, should be thrown around the ballot-box, to the end that all electors may enjoy perfect freedom in exercising this right, and that all who are not legal electors may be prevented from or punished for illegal voting. It is a matter of regret that Kansas has fallen far behind in these reform measures, and now stands almost alone among her northern sisters. The method of reform generally adopted is that usually known as the Australian system, and there is no doubt but some modification of this system should be adopted in Kansas. It is argued that considerable expense would attend this change if applied to all the voting precincts of the state, and perhaps satisfactory results might be obtained by introducing the Australian ballot in the cities and larger towns of the state. But no change or modification should be considered that would in any measure lessen the jealous care with which all good citizens should guard the purity of the ballot-box.

Some effort should also be made to protect primary elections in the work of selecting candidates. After a corrupt primary shall have sent forth tainted results, no general election law can wholly cleanse the stain. I would, therefore, submit for your consideration whether it might not be wise to require a longer residence in the wards or voting precincts of cities to entitle a citizen to the privileges of the ballot. It has been demonstrated that the law, as at present, requiring a residence of only 30 days prior to election, is subject to great abuses, and, as mercenary voters are mostly found in the floating population of our cities and larger towns, it seems imperative that some measures shall be adopted to protect the interests of law-abiding citizens from the malign influences of this class of persons. In our larger cities provision should be made for publishing alphabetical lists of persons registered as voters. These lists should be arranged by wards or precincts, showing each person's age, the number and street of his residence, and should be published a sufficient time before each election to enable proofs to be made of illegal registrations and the striking off the names of those not legally entitled to vote. Employes should be protected by the most stringent laws in the free exercise of their rights as electors, and severest penalties imposed on employers, whether individuals, companies, or corporations, who shall seek in any manner to use such employment as a means of influencing votes.

The law by which the election of an officer is determined by casting lots, in case of a tie vote, should be repealed, and all such cases should be referred back to the people for a new election. The preservation of the state must be secured by a most rigid and honest observance of duty by those entrusted with the exercise of such grave powers and responsibilities as the holding and conducting of popular elections.

MORTGAGE LAWS.

The legislature of 1872 provided that if the words "appraisement waived," or other words of similar import, be inserted on any deed bond, mortgage, note, bill or written contract thereafter made, it shall be ordered in any judgment rendered thereon that lands sold to satisfy the same

may be sold without appraisement, order of sale being withheld for a period of six months. Under the operation of this statute great abuses have crept into our practice. There usually being no competition at sheriff sales, lands mortgaged for one-half their value are not infrequently struck off to the judgment creditor for only a small fraction of the judgment debt--in many instances sufficient only to pay the costs of the court proceedings. Notwithstanding the property is taken from the debtor for the purpose of paying his indebtedness, the debt, or the major portion of it, still remains unsatisfied against him and may be enforced should he then have, or afterwards acquire, any real or personal property not exempt from seizure. This law is wrong and should be repealed. No property should be sold at forced sale except for a price commensurate with its value, as shown by appraisement, and thereafter the debtor should be given a reasonable time to redeem from such sale, the proper safeguards being provided for the protection of the creditor from any loss by reason of delay.

While the repeal of the "waiver of appraisement" could perhaps only operate upon future contracts, yet it is believed that a substantially similar effect as to existing contracts can be secured by the enactment of a law empowering the district courts to vacate sheriff sales for inadequacy of price. As the law now stands, a sheriff's sale of real estate cannot be set aside for inadequacy of price alone. In rare cases it may be taken into account, along with other equitable circumstances justifying the vacation of such sales. The insufficiency of the law in this respect must be apparent to every one. And if the enactment of such law be within constitutional powers as to existing contracts, it is recommended, as a measure just to the debtor, and beneficial also to the creditor, whose interest it is to secure the full payment of his debt, and not the land of his debtor.

Such law, it is believed by eminent legal gentlemen, will constitute no impairment of the contract, because no creditor has contracted for the right to sell his debtor's property for an insufficient sum. The most he has contracted for is the right to dispense with an appraisement, otherwise to be had, to compel the realization of a specific sum.

The waiver of a right to establish a minimum selling price is not the waiver of a right to insist upon an adequate selling price. Such measure as herein suggested was passed by one of the legislative houses at its last session, and one of similar character originating in the other house was passed by it, but being taken under reconsideration, failed of enactment into law because of the close of the session.

Under this head, I would also suggest that the gold clause in mortgages and securities should be absolutely prohibited. Either gold, silver or national treasury notes should be made legal tender for all obligations in Kansas.

TAXATION.

All taxation is necessarily burdensome, and should be imposed as lightly as is consistent with efficient public service and good government. That system of taxation is best that shall distribute most equally the necessary burdens on all persons according to their ability to bear them and the measure of protection they receive from them. One class of property should not be taxed while another class escapes. It is true in this state, and perhaps in all others, that a large proportion of personal property escapes taxation, and its owner thus shirks his share of the public burden. This is especially true of moneys and credits. It is difficult to see any justice in a law which taxes the owner of real estate and allows the holder of a mortgage, whether residing in this or another state, to hold a mortgage on it and escape untaxed; and this, too, when these untaxed mortgages

may invoke the aid of our courts to enforce payment, and thus add largely to the expense of government. Real estate encumbered with mortgage should be taxed less than its value, in proportion to the amount of the debt resting thereon; the holders of mortgages should be subjected to their just proportion of taxes.

Section 4 of article XIII of the constitution of California is said to offer a satisfactory remedy for this double taxation, and reads as follows:

SEC. 4. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purpose of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroad and other quasi public corporations, in case of debts so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to te owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city or district in which the property affected thereby is situated. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security. If paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured. If the owner of the property shall pay the tax so levied upon such security, it shall constitute a payment thereon, and to the extent of such payment a full discharge thereof: Provided, That if any such security or indebtedness shall be paid by any such debtor or debtors, after the assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to tax levy for the preceding year.

Attention is also called to the excessive penalties and interest that are charged up against property delinquent for taxes. These excessive charges are usual and perhaps necessary in the earlier years of statehood. But is believed that the necessity for penalties and for high rates fo interest passes away as the state becomes older and its population denser. People do not allow their taxes to become delinquent from choice, but from necessity. To impose upon such unfortunate persons penalties of 15 per cent. before sale, and 24 per cent, per annum on both original tax and penalty after sale, savors of oppression rather than justice.

Many neighboring states have greatly reduced their interest charges in these respects without imperiling their revenue, and it is believed that a reduction could safely be made in Kansas.

RATES OF INTEREST.

The attention of the legislature is especially called to the open violation of existing statutes, and to the merciless abuses so often practiced upon those who are under the pressing necessity of procuring money on short-time loans from greedy brokers. The present legal rate of 10 per cent. interest is considered ample by all banks and bankers of good business standing, nor is there any wide-spread complaint among borrowers of money on any bankable time of 30 or 90 days, relative to such a rate for loans.

But there exists a well-founded complaint that the existing law is violated and cunningly avoided by a class of brokers at most of our money centers; hence financial disasters to many a helpless borrower. The borrower is often compelled to deposit an excessive amount of collaterals to fortify the extortion of unlawful interest and bonus charged, so that he may finally become utterly helpless. Personal property that would be exempt from levy, and ought to remain

unincumbered for the benefit and proper protection of a household, is too often swept from the grasp of a confiding wife and innocent children. It would be but a proper penalty for these usurious loaners of money to legally forfeit both principal and interest, for receiving either directly or indirectly an amount of interest greater than the law provides; and I would further suggest that prudent and wise legislation might regard such violation of law as a misdemeanor.

THE WORLD'S FAIR.

After a proper examination of vouchers and all just expenditures incurred in conducting the office of the "World's Columbian Exposition," Those who have advanced money to carry on this enterprise should be reimbursed, and the state should take entire charge of the same. Kansas should not be behind her sister states in the manifestation of proper public spirit in this great world-wide enterprise, and necessary appropriations for the same should be made. I would suggest that a commission be appointed to represent the interests of the state in this important matter, and that they be authorized to take entire charge of the movement.

STATE BANKS.

The last Legislature, in its closing hours, passed an enactment on banks, which I regard defective in some of its provisions. It has occurred to me that section 24 of chapter 23 of the session laws of 1891, in providing fees for the examination of banks, puts them too high, and that section 19, which provides that the "official statement" of each bank of its financial condition (of which at least four reports shall be made each year) "shall be published by such bank for one week in a daily newspaper of general circulation, published in the city where the bank is located," makes the advertisement unduly expensive to the bank publishing the same, where its insertion in a weekly newspaper of general circulation might as well suffice. This act might properly come under general review, so that any needful amendments to the same might be enacted. If thorough supervision of these banks is desired, it may be important to authorize the chief examiner to increase the number of deputies, as the present force is insufficient.

STATE HOUSE AND GROUNDS.

The unfinished condition of the state house necessarily suggests that the Legislature should make suitable provision for the prosecution of the work on the capital building, looking toward its completion at the earliest day consistent with the public and general interest of the state. Whether the legislature should provide at the present session for the immediate completion of the capitol, or whether provision should be made to complete and furnish only those portions of the building that seem to be most needed at the present time, is a question which the legislature should carefully consider, and such legislation should be had in the premises as may be necessary. Your attention is also called to the condition of the state-house grounds. Under the laws of the state, the executive council have the charge, care, management of the state house and the state-house grounds, and all other property of the state where no other provision is made by law. In view of the powers thus conferred upon the executive council, and of the completion of the capitol building at no great distant day, adequate appropriations ought to be made to enable the executive council to put the state-house grounds in good order, and to construct proper walks and other such improvements as may be necessary.

SCREEN LAW.

The coal miners in different parts of the state have besought former legislatures to give them some needed relief from the system of coal mining that refuses them pay for a portion of the coal that they mine and prepare for shipment to various places.

Years ago these expressions came from Cherokee county: "Our Kansas legislature should pass a law compelling the weighing of coal before screening, as in Missouri. Why should we not have the same privilege of weighing our product to the buyer as the merchant has the right to weigh his goods to us?" From Crawford county the following complaints were made: "The coal should be weighed at the top, before it is screened, and the price for digging regulated accordingly. The coal is of a soft nature, so that when screened fully one-half goes to nut and slack. The operators sell the nut for about two-thirds as much as they get for the lump, and, as this costs them nothing for digging, it is clear profit; and they get something for the slack, which is also given to them." An Osage county miner says: "In this county we have to give 85 pounds of coal to the bushel, while the operators sell only 80; thus it gives them an average of over a ton of coal to each car." Payment for wages earned, whether made weekly or less frequently, should be made in cash, and the "store order" system of payment should be abolished.

BUREAU OF AGRICULTURE.

Agriculture is the paramount industry of Kansas, and it is reasonable that its interests should be especially considered and assiduously promoted by the state. To this end I would recommend that a bureau or department of agriculture be created, to which shall be referred all agricultural and kindred interests. This bureau or department should be placed under the supervision of a "Secretary of Agriculture" or other department official, who should be appointed by the governor, or elected by the people as other state officers are elected, and with the necessary assistants he should have supervision of all matters pertaining to agriculture, horticulture, bee culture, fish culture, silk culture, forestry, stock raising, cattle inspection, and possibly grain inspection. The duties of state veterinarian should also be performed under direction of this department, and all these various offices as at present constituted should be abolished.

GRAIN INSPECTION.

At the twenty-fourth session of the legislature a bill was passed to regulate warehouses, and to provide for inspecting, grading, weighing and handling grain. Some features of that law are commendable and others objectionable. Under its provisions the governor appoints a state grain inspector. Such inspector appoints, on the nomination of the several boards of trade, the necessary deputy inspectors as therein provided. These boards of trade also appoint a state weighmaster and assistants.

The salaries and fees of all the officers are paid by these several boards of trade, and for the purpose of providing for such payment these organizations are allowed to collect a fee of 25 cents on each carload of grain weighed, and alike fee for each car inspected. It is believed that these fees collected for weighing and inspecting, received from all the places where grain is weighed and inspected, are much more than necessary for the payment of the officers named, and that some of the organizations referred to are accumulating a fund of several thousand dollars annually. If this belief shall be found warranted by the facts, then the law should be so

amended that the fees collected be turned into the state treasury and the officers be paid therefrom; or that the fees be reduced to the minimum charge that will just cover the salaries, and no more. To tax one class of people for the benefit of another class, however light the burden, is wrong in principle and should be promptly corrected. In my opinion it is not wise to delegate to corporations the appointment of important state officials, and if the inspection of grain shall not be placed under the control of a department of agriculture, then the chief inspector, appointed by the governor, should have authority to appoint deputies at all points where they are required, or where the fees will justify such appointment. These are matters of great importance to the agricultural interests of the state, and should command your careful attention.

L. B. LEWELLING, Governor.

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