

# Ben Sanford Paulen

## MESSAGE OF GOVERNOR BEN S. PAULEN To the Legislature of 1929.

To the Members of the Legislature:

In my message of 1925 and 1927 your attention was called to certain measures which in my opinion should have your consideration. In the limited time at your disposal many important matters were properly disposed of but several topics should again be mentioned. Your favorable action for beneficial legislation will be the most convincing proof of zealous and unselfish devotion to your duties.

### **TAXATION.**

Taxation has in all countries since the beginning of civilization been unpopular and difficult to administer to the satisfaction of those who are compelled to pay a portion of their earnings to the support of the government. Taxes are charges imposed by the legislative power on persons and property to raise money for public purposes. In the United States taxes are fixed by direct representatives of the people who pay them, and they increase or decrease according to the demands of the taxpayer in the matter of governmental service.

Governor-elect Reed has made an exhaustive study of this question and will no doubt present his views very fully to you in his message. Taxation is not an evil if it is uniformly and equitably levied. We boast of the best government on earth and we are not good citizens unless, and until, we are willing to bear our share of the cost of government.

In our efforts to secure a reasonable revenue from intangibles which would be fair and just we are confronted with a federal law which places national banks on the same basis as intangibles with reference to taxation. The people of Kansas should not, and in my opinion will not, permit national banks to be taxed at one rate and state banks at a higher rate. It is apparent that unless some method can be devised which will place all banks on the same basis with reference to taxation, our mortgage registration law, intangible tax law and other laws which conflict with section 5219 of the federal law must be remedied. It is a situation which now exists and must be corrected. The special tax committee appointed by Governor-elect Reed will no doubt present a bill which will merit your serious consideration. A proper solution of our tax problem will be one of your most important duties at this session.

### **STATE HIGHWAYS.**

One of the chief questions to come before you in this session will be that of perfecting a state system of highways. This problem has disturbed other sessions, in fact, almost every session during the past eight or ten years. Heretofore there has been a sharp division of sentiment on the subject with the result that our road laws have been the product more or less of compromise. Your duty has been outlined so clearly to you in the recent mandate from the people in the adoption of a constitutional amendment providing for a state system, that there probably will be no particular division of opinion on the question.

A brief review of the highway situation may not be out of place here, as a means of aiding you in

following the trend of public sentiment in the state during the agitation over the period in which highways have played an important part in our state policy.

In the beginning, the Kansas constitution provided that the state should "never be a party in carrying on any works of internal improvement." That provision precluded the state from taking direct control of the work of highway improvement. The state went as far as it could go under the constitution in aiding the counties in road building, having in view the general object of a state system. It provided a state engineer whose duties it was to pass upon contracts for bridges and for certain other features of its road construction. As the demand for connecting through roads increased, Kansas added to its state organization such duties as it could under the constitution, all for the purpose of extending its highway system as rapidly as possible.

In 1920, a constitutional amendment was adopted which modified the old constitutional bar to some extent. It provided that the state should never become a party to any works of internal improvement "except to aid in the construction of roads and highways, and the reimbursement for the cost of permanent improvements of roads and highway constructed after March 1, 1919; but such aid and reimbursement shall not be granted in any county for more than 25 per cent of the cost of such road or highway, nor for more than \$10,000 per mile, nor for more than 100 miles in any one county; except that in counties having an assessed valuation of more than \$100,000,000 such aid and reimbursement may be granted for not more than 150 miles of road or highway; and the restrictions and limitations of sections 5 and 6 of article 11 of the constitution, relating to debts and internal improvement, shall not be construed to limit the authority retained or conferred by this amendment."

The above constitutional amendment was another compromise between the two lines of sentiment in the state—the sentiment for a clear cut state system and the sentiment for retaining within the counties the power to control and direct in road building.

Under that provision of the constitution the state created a state highway commission, granting to it, under the laws, all the authority that could be bestowed by virtue of the constitution.

The state has made great improvement in its road building under the state commission as formed under that constitutional amendment. I cannot overstate the work of the state highway department, especially during the past four years. It has completed a state organization including the county commissioners that has worked in harmony, where, heretofore there had been conflict and friction. The commission has unified the highway work of the state to a remarkable degree, considering the divided authority that existed under the terms of the state constitution.

Still, the constitutional provision which placed a bar in the way of the state assuming control of its road work prevented the completion of a state highway system of connecting roads to the satisfaction of the public or in keeping with the rapidly increasing demands of the growing traffic of the state.

Under the above provision of the constitution, likewise, the state found that it could not meet the demands of the federal aid laws of the United States. Under the federal provision for aiding the various states in road building, Kansas had been receiving a sum which, in round numbers, equaled \$2,000,000 each year for the building of federal highways in the state.

The federal laws provided that federal aid could be granted only to such states as operated through a state highway commission in road work, and that this state commission must have direct control of the roads upon which the federal aid was spent. For three years Kansas drew its federal aid fund under a special provision of the law which gave an extension of time to those states that had not had sufficient time in which to change their constitutions and their laws to meet the federal requirement.

In the appropriation bill passed by the last session of congress, that special provision of the federal law was omitted. When the special provision was omitted, we found that Kansas could not longer share in the federal aid fund.

As governor of the state I personally took up the question with the federal highway department. Hon. William M. Jardine, secretary of agriculture, himself a distinguished Kansan, came to Topeka for the purpose of conferring with the governor and the state highway department. In that conference we were informed that the constitution and the laws of the state seemed to bar Kansas from any part in federal aid. In this opinion both Senator Charles Curtis and Senator Arthur Capper shared.

Acting upon the advice of the federal highway department, and the advice of the two United States senators from Kansas, and after consultation with the legal department of the state, I called a special session of the legislature which met in Topeka last July. Two constitutional amendments were submitted to the people for their approval at the November election. One amendment provided for a state highway system; one amendment provided that the state should have the power to tax motor cars and motor fuel for the purpose of creating a highway fund. This latter provision merely confirmed in the constitution what we have been doing in Kansas for the past three years—taxing motor cars and motor fuel, and applying the money so derived to the state highway fund. The constitutional amendment on this subject was thought wise because the law under which we were operating had been attacked in the courts, and the amendment placed the law beyond any shadow of legal doubt.

Both of the amendments submitted were adopted by the people of the state at the November election by majorities that were so overwhelming as to leave no doubt in the mind of any reasonable man as to what the people of Kansas desire this legislature to do.

It is significant, from your viewpoint, perhaps, to call your attention to the fact that of the two amendments submitted, the one providing for a state highway system received even a larger and more emphatic indorsement than the one providing for the motor car and motor fuel license.

It will be recalled that in my message to the legislature of 1927 I urged a constitutional amendment for the creating of a state system. The legislature in its regular session voted down the suggestion. Accepting the verdict of the legislature in good faith, we proceeded under the law enacted at that session to strengthen the highway department, and to push the work of road construction with all possible haste. In separate reports you will no doubt be informed of the detailed progress we have made. I speak with pride of the record made, notwithstanding the handicap under which we labored with the divided constitutional authority as between the state and the counties.

A year ago I appointed a committee of citizens to make a survey of the conditions in the state as they pertained to the highways, and for the purpose of studying the laws governing highway construction, and, at the same time, to gather from the people of the state their sentiments and suggestions for improvements in the laws.

This committee has spent a year in faithful service to the state. It has held public meetings, and hearings, all of which were well attended and in which full and frank discussions were held. It has made a careful study of all the road laws of the state. It has made a concise report to me, which I have transmitted to you, in which it has made recommendations for change in the present road laws—changes that will meet all the demands of the federal highway laws for the distribution of the federal aid fund, and, at the same time, it provides a state highway system that will give to every county in the state the same apportionment of funds for local and state road work within the counties that they now receive under the present law.

The legislature will bear in mind, I am sure, the importance of local, county road system in connection with the completion of the state system. Under the administration of the present highway commission we have constantly had in mind the relative importance of both systems. There can be no perfect system of roads for the state that does not provide for the local, market roads, connecting with the through state roads. The report of the committee above mentioned makes ample provision for both local and state roads, the one to be under the control of the state, the other to be in control of the county commissioners, which recommendation I most heartily indorse and approve.

Guided by the overwhelming vote of the people in the election which named you as members of the legislature on the question of the creation of a state system, and aided in your work by the careful and exhaustive report of the committee, I anticipate that this session of the legislature will enact road laws that will mark a distinct epoch in advance for Kansas, and give this session a particular and peculiar place in the history of the state.

## **FLOODS.**

Floods have during the past two years continued to occur with distressing frequency. Beginning in September of 1926 and continuing until October, 1927, a series of destructive floods visited the water-sheds of these streams; the Neosho, Marais des Cygnes, Verdigris, Arkansas, Smoky Hill and Saline. With the cooperation of the division of water resources of the State Board of Agriculture. I made an investigation of the loss during this period. Five hundred and sixty thousand acres of land were overflowed, some of it a number of times, and the reported loss reached a total of \$15,466,310,74 per cent of which was sustained by farm property. This figures takes no account of loss of life, sickness as a result of the floods, nor losses caused by suspension of business.

Floods occurred again during the spring and summer of 1928 on the Smoky Hill, Solomon, Arkansas, Neosho, Verdigris and Marais des Cygnes rivers, and in November a flood of unprecedented magnitude occurred on all streams in the southeast part of the state, causing the loss of a number of lives and the destruction of a great deal of property. An investigation was immediately begun to determine, if possible, the loss caused by the November flood, and a report thereof will soon be available.

The frequency with which floods have occurred, the poor progress made in their control, and the fact that floods from year to year become more destructive of life and property as population and property values increase, serves to emphasize the necessity of taking steps to bring about a greater measure of flood control. No one who has been in touch with the problem can fail to be impressed with the seriousness and the magnitude of it.

In December, 1927, I called a state wide conference to consider the problem, and later, acting upon a resolution adopted by the conference, I appointed a committee to make a complete study of the situation, and recommend such legislation as is needed to correct it.

This committee has been at work throughout the year. It has held hearings and conferences, and by field trips examined most of the streams in the state. Its report has been submitted to me, and is now being printed for your information.

Briefly stated, the information obtained by the committee shows that as far as the operation of present laws is concerned, drainage districts are (1) often too small to cope with the problems with which they are confronted, (2) boundaries are not always located with due regard to such physical conditions on the stream as should properly determine the boundaries of such districts,

and (3) there is often lack of necessary cooperation between adjacent districts.

The committee has reached the conclusion that if floods are to be successfully controlled, entire watersheds must be considered in the preparation of plans, and the works as built required to conform to such plans, and it emphasizes the necessity for the development of a state policy and plan for the control and use of the water resources of the state. The purpose of such a policy and plan should be to lay the foundation for the systematic control and development of our streams in order that the greatest ultimate benefit may be obtained from them.

The report has been carefully prepared and, I feel, merits your study and thoughtful consideration.

## **THE SCHOOL CODE COMMISSION.**

The constitution of the state enjoins on the legislature the duty of establishing and maintaining a system of "common schools." Our first legislature undertook the task. Each succeeding legislature has contributed its part: Almost sixty-eight years have passed since our common school system was inaugurated. During this time conditions have changed. The outline of the structure contemplated by our ancestors is scarcely discernible. Our school system has become badly complicated. The burden of its support is unequally distributed. Educational opportunities are not equally available. Some of our school laws present a patch-work of contradictions while others are almost meaningless.

The legislature of 1927 was besieged, as had been a number of recent legislatures, with a flood of educational bills each seeking to relieve some local situation. Many of these bills if adopted would hurt rather than help the school situation in other localities. Growing out of the uncertainty of what action to take, the legislature of 1927 provided for the appointment of a School Code Commission to study school conditions in the state, to make recommendations as to changes needed, to recodify the present school laws, and to report to the legislature of 1929. This commission has been at work for many months and its report is ready to submit to the legislature. The commission presents a new school code, plain, simple, and easy to understand, yet up-to-date. It has reclassified school districts without disturbing the entity of any district. It has made the disorganization of what seems to be a large number of unnecessary districts and organizations easy to attain without any compulsory effort on the part of the legislature. The commission has discovered that practically all the undesirable conditions found in our present school system are traceable to a financial source. It has, therefore, recommended a financial plan which will more equitably distribute the burden of school support without adding to its aggregate cost. The work of the commission has been well and faithfully done and its financial plans have been carefully and scientifically worked out and merit your earnest consideration.

## **MOTOR VEHICLE LAWS.**

Our motor-vehicle laws need to be modernized. Kansas should at this session adopt the uniform motor-vehicle code drafted and adopted by the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association.

Uniform regulation of motor cars must come sooner or later. Those who travel in motor cars should not be subjected to unfair and reasonable regulations, yet it must not be overlooked that careless and reckless drivers should be curbed and our laws should provide swift and sure

punishment for those who do not have the proper regard for the safety and welfare of others. This law has been carefully drawn and has the endorsement of those who are charged with the administration of laws governing motor traffic.

I urge your careful consideration of this important and necessary legislation.

## **DISTRIBUTION OF LICENSE PLATES.**

The expense of operating the motor department in the secretary of state's office can be very much lessened by sensible and proper distribution of the license plates. We are now making our plates at the Reformatory. These plates should be shipped direct from Hutchinson to the several county treasurers, and delivered by them to the owners of cars upon payment of the license fee. This work can be handled by our own institution with an expenditure of only a fraction of the present cost. I am certain a study of this problem will result in legislation which will save a great amount of money and at the same time will not lessen the efficiency of handling this important department of the business of the state.

Other important matters which deserve, and no doubt will have your attention will be measures placing the control and management of the State Soldiers' Home and Mother Bickerdyke Home under the Board of Administration; preserving historical places for the benefit of our people; consideration of the suggestions made in the report of the Judicial Council; creating a bureau of criminal identification and investigation in the office of the attorney-general; providing for a codification and revision of our banking laws; and continuing the work of the Forestry, Fish and Game Commission.

## **CONCLUSION.**

It is not my desire to go into a detailed statement of facts to support the suggestions I have made regarding needed and necessary legislation. My worthy successor will of necessity present his views for your consideration. This is his administration not mine. My sole desire is to help—not hinder. You will endear yourselves to your constituents and prove your genuine worth by careful and conscientious study of important and constructive legislation.

Every taxpayer in Kansas is interested in this session of the legislature. Many important measures will be presented for your consideration and you are not unmindful that our citizens are entitled to have the very best service you can render; that economical government and careful expenditure of the taxpayers' money should not be forgotten, neither should your zeal for limited appropriations go far enough to hinder the growth of our educational institutions nor deprive the unfortunate in our charitable or penal institutions of proper housing, decent food and raiment. A continuation of efficient and economical government is essential, and I am firm in the belief that the result of your deliberations in this session will be generally approved by the whole people.

Transcribed from: Message of Governor Ben S. Paulen to the Kansas Legislature: State House, January the ninth, nineteen twenty-nine.

[Topeka, Kan. : Kansas State Printing Plant, 1929]

Transcription by Rita Troxel.

Editing and html work by Victoria A. Wolf,  
State Library of Kansas, April, 2004

