

# Review of the Legislature of 1899

(Continued From First Page.)

... courage to oppose a measure when it declared in its title a purpose to repeal or amend an act of the Legislature of 1897.

They were met at the outset with a demand for such amendment to the organic law in regard to the subject of the suffrage-law of the State as would prevent a repetition of the evils and dangers through which they had lately passed. To this difficult and delicate task long and anxious thought and investigation was given. If their work in this respect shall receive as it should, the approval of the people and the benefits which I most earnestly and sincerely believe will come from it, the time will come when the labors of the men who formulated and secured the passage of the amendment should be known, and the honor and gratitude which they justly merit, awarded them. The amendment introduced by Mr. Winston, after thorough examination by the committee and legislature was passed. I do not think that more honest and arduous public service was ever rendered than by the members of the Legislature of 1899. The reports show a careful consideration of bills. The committee meetings were attended and the roll calls will compare favorably with any legislative body in the country.

The Railroad Commission was abolished and the act repealed. In lieu thereof a corporation commission was established, composed of three members elected by the General Assembly to hold their places until the next general election, when their successors will be elected by the people for a term of six years. To this Commission is given the control of railroad, steamboat and other transportation companies, of telegraph and telephone companies, banking and building and loan associations. The act was drawn with much care by two of the ablest lawyers of the Assembly, and I am sure will by its enforcement secure the supervision and control of corporations engaged in quasi-public duties, which has become the well-settled policy of our own and other States.

The frequency with which litigation between foreign corporations and our own citizens was removed into the Federal courts with attendant delays and expense created a demand for some preventive legislation. This demand was met by the preparation and passage of an act entitled "An act to provide a manner in which foreign corporation may become domestic corporation." One might think from its title that those bodies corporate having their origin in other States and having partaken of the benefit of being with us had a desire to become of us, and that in response to this wish we with our usual hospitality, politely provided a way of entrance. To those of us who know, only to love and admire the gentleman whose name is given to the law, it is not surprising that with his usual amiable disposition and charming manner he gave those whom he would if necessary compel to go his way, an opportunity of accepting a polite invitation. If any of the "soulless bodies" affected should hesitate about accepting they would find that it would be well to read beyond the title. The act might appropriately be called one to compel foreign corporations to domesticate. That such has been its effect commands its provisions to the citizens of the State. The "Craig Law" as it is appropriately called, is destined to give rise to many novel and interesting questions. It is in line with the policy of most of the States of the Union, and is but another expression of the jealousy on the part of the States of the encroachments of the Federal Judiciary and the fears entertained on account of the rapid growth of corporate power. Many of those who are invited to come in are anxious to know if there is any way to get out. I presume that Mr. Craig's love and loyalty to the State is so intense that it did not occur to him that anybody, either natural or corporate, ever enjoying the domestication here would wish to become undomesticated. It may be that some provision should be made for contingencies. The law is a wise and wholesome one and will remain on the statute book of the State.

The insurance laws were consolidated and by an act prepared by the committee, the Insurance Department was established, presided over by a Commissioner. It is believed by those who gave the subject careful consideration that the provisions of the law will protect the rights of the citizen and bring into the Treasury large revenue. The rapid increase of the insurance business in its various forms demanded special attention. Provision was made also for the formation of home companies. It is hoped that the subject will attract capital and that a part at least of the immense amount of money yearly expended for life and fire insurance will be kept at home.

The Agricultural Department was re-organized and provision made for the election of the Commissioner by the people. It was deemed wise to bring this department into close touch with the people, whose interests it has in charge.

After much discussion an anti-trust law was enacted. This subject was found much more difficult than was at one time supposed. While the legislature was in harmony and sympathy with the sentiment of the people in regard to combinations of capital and desired as far as possible to emphasize and give life to this sentiment, many perplexing and serious difficulties presented themselves when the attempt was made to frame a statute. It was found that a number of local industries, important in their nature, would be seriously affected by any drastic legislation of this character. The act as passed is not satisfactory to the legislature, but indicates the purpose and opinion of the people on this subject. There should be an effort made to secure a uniform system of legislation on this subject throughout the Union.

In obedience to the will of the white people of the State a separate car law was passed. Framing this statute in a satisfactory manner was a much more difficult task than the authors or the people supposed. A vast deal of thought and labor was devoted to it. That the law as finally passed is not perfect is recognized by all. Observation and experience will enable future legislators to correct errors and bring the law in har-

mony with the will of the people and make it meet the conditions of this State.

Legislation along new lines is always experimental and must under the constructive mind of the legislature and the courts be moulded into form to meet the will and needs of the people.

Of course the ever-recurring subject of public roads received due consideration. Under the guidance of Prof. Holmes an act was framed, which it is believed if given a fair trial, will adjust itself to the various conditions and needs of the State. Road-building is the work of years and not of days. Military necessity or the most enlightened public sentiment must exist to bring about this most important work in the economy of civilization. The law enacted is elastic and can be enforced only as demanded by the local constituencies. The importance of good roads in North Carolina cannot be exaggerated and the man who shall succeed in arousing the people to a recognition of the necessity for work on this line will be entitled to, and after wearing his life out in their service will probably have a monument.

As an indication of public sentiment in regard to the liquor traffic we find that thirteen dispensaries were established. To this subject the legislature gave much thought. It refused to repeal any laws or take any step backward, and may look for a continued agitation, and probably an increasing demand for legislation of this character. Like all subjects involving and arousing the moral sentiment of the people there must be a recognition of the fact that it will not down at any man's bidding. It may be that a statute providing for local elections will afford a solution of it.

It is a significant fact that the number of dispensaries and the number of graded school acts enacted were the same. Thirteen towns and cities were given permission to vote upon the establishment of these schools. I think that every election held during the past spring has resulted favorably to the schools.

The general school law received careful consideration and attention and the objectionable features of the law of 1897 were repealed or amended. It is to be hoped that the school men at some time in the near future will discover the secret for making a school law which will meet the demands of the people and promote public education. It would seem that some plain and simple provision was sufficient and when adopted should be given a fair trial.

The subject of municipal government by reason of recent events has become one of intense interest. A large number of charters were revised. Many towns and cities secured new charters. There has probably not been so large a demand for legislation upon this subject for many years. 106 charters were enacted or amended. The Supreme Court having held that under the Constitution of 1875 systems of county government were required to be uniform, and that the Eastern counties demanded special acts increasing the numbers of commissioners and magistrates and filling the vacancies by the Legislature; to the system of county government established in 1877. While the peculiar conditions temporarily existing would seem to justify this class of legislation it must be conceded that upon principle it is not to be commended as a permanent system. While there should be a sufficient elasticity to secure local government to meet local conditions there should be a constant effort to bring about practical uniformity. The election of magistrates and commissioners in one county by popular vote and by the General Assembly for a neighboring county, and this subject to constant change, is open to serious objections. The desiring of the part of towns for local improvements such as water works, lights, paving the streets, etc., is shown by the large number of acts passed permitting the people to vote upon the proposition for issuing bonds for such purposes. The Constitutional provision in regard to the method of enacting this class of legislation was carefully observed and we hope that the public credit may not receive further attacks by repudiation of municipal indebtedness by reason of the intimacy of the acts under which the bonds were issued.

The health officers of the State called for several measures. A carefully prepared law for preventing the sale of adulterated food was enacted. A law was also passed for better securing pure water for the people.

The industrial revival in the State called for the passage of more than the usual number of charters. Of these 102 were enacted, providing for the building of railroads, cotton mills and other industrial enterprises. Twenty banks were incorporated. The Bar Association can render no greater service to the State than by instructing its committee on legislation to prepare for the consideration of the next General Assembly a company or corporation act. The vast number of bills of this character, usually prepared by the attorneys for the promoters cannot in the limited time given to the General Assembly receive the careful consideration which the best interest of the State demands. As is well known to the profession quite a number of the States have found it necessary to prohibit the granting of charters by special acts. It frequently happens that extensive and dangerous powers are given to corporations by these special enactments, which would never find their way into the charters granted under the general law which should be carefully examined by the Attorney General before being issued by the Secretary of State.

Private legislation is a serious hindrance to the proper consideration of important public measures. Unless some means can be devised for relieving the Legislature of this work there should be a constitutional amendment upon the length of the session. The passage of an act codifying the law of negotiable instruments and bringing our law on this important subject into harmony with that of many States was brought about largely by Mr. Bonshal of the Wake delegation. It simplifies and makes clear many principles of the law in regard to negotiable instruments which were heretofore doubtful. The North Carolina Bankers' Association have caused the act to be carefully annotated by Mr. S. F. Mordecai, an eminent member of the Raleigh bar. To the business men of the State this is a most valuable service and deserves an expression of appreciation.

The revision and codification of the law regulating the probate of deeds and other instruments requiring registration meets an urgent demand. The numerous statutes which had been passed from time to time prescribing the mode for taking the probate of such instruments together with the number of validating

and curative acts had brought this much important subject into great confusion. It was becoming difficult for even the most careful lawyer to pass upon the title to real property; especially was this the case in regard to deeds executed by married women. The act of 1899 coupled with the registration laws in force secure to us a simple and safe method of securing title to real estate. There are few subjects in the law more interesting than the history of legislation in regard to the registration of deeds. We find that in his day Sir Matthew Hale was wrestling with this subject. An act was passed for the investigation of incendiary fires, giving to the Commissioner of Insurance large powers. The expense incident to the enforcement of the law is paid by a small tax levied upon insurance companies.

An election law was prepared with great care and after thorough discussion passed. It will probably receive the usual criticism by the minority and be vigorously defended by the majority. It has been to me a mystery that gathering the sense of the people cannot be provided for by a simpler mode than the legislators of the past twenty-five years have prescribed. It is, I trust, not Utopian fancy that some day we may have an election law so simple that all can understand it, and so fair that all will commend it. There are a number of excellent features in the law of 1899. Its length is probably its most objectionable feature. It is certainly a marked improvement upon that of 1897.

The statutes in regard to the regulation of the insane asylums were carefully revised and consolidated. Provision was made for the care of the criminal insane.

An act was passed requiring the cross indexing of wills, providing that the name of each devise and legatee to appear in the index. This will prove of much service in tracing titles.

The act of 1897 permitting the defendant in civil causes to demur to the plaintiff's evidence and move for judgment upon the close of the plaintiff's evidence known as the "Hinsdale Act," was so amended that if the motion is refused he may except and appeal, or if he so elect, proceed to introduce his evidence, in which event he shall be deemed to have waived his motion when all the evidence is in. If the verdict of the jury is adverse he shall have the benefit of his exception on appeal. This change in the law of procedure does not seem to have the approval of the court. It is certainly a departure from the theory upon which trials in civil actions have been conducted in this State. By it a party may take up the entire evidence and have the court search for "a needle in a haystack" for error. When court stenographers shall once come with the march of progress and every word of the witness be taken down the records will be very long and the expense incident to an appeal much increased. The law has some advantages over the old mode of trial, but it is by no means certain that better or more certain and satisfactory results will be attained. It will be well, however, to give the new law a trial.

By chapter 161 clerks are prohibited from appointing themselves or their deputies commissioners for the sale of land in proceedings pending before them. By chapter 57 a promise to pay a debt discharged in bankruptcy is required to be in writing. The law regulating the legal rights of married women was changed in only one particular. The disability clause in the statute of limitations was repealed as regards married women. This I conceive to be eminently wise. We should either return to the old testament view of husband and wife and make him the responsible head of the family or make our modern conception which converts him either into an overseer or steward of his wife's estate with abundant power to contract debts and absolutely no liability to pay them consistent. The wife should either be permitted or compelled to pay her debts as a feme sole or be deprived of the power to contract them. It may be that my ideas are out of date, but I cannot help thinking that when the future historian shall write the history of the people of North Carolina and seek to know something of our moral conception in respect to the transactions of married women he will find much in our statute and Supreme Court Reports on the subject which will not be a source of pride to our children. The tendency is very strong to make husband and wife two instead of one.

The very significant law in force in this State for many years placing a prohibitory tax upon emigration agents was repealed.

The legislation looking to the change in the management of our penal and other State institutions found its way into the court. The celebrated case of Hoke vs. Henderson, said by Judge Pearson to contain a "mine of learning" was very thoroughly discussed and reviewed. The old so-called argument of the demagogue that lawyers wish to so legislate as to confuse the law and increase litigation has ceased to promote the ambition or interests of those who made it. I am sure that nine-tenths of the legislation simplifying the law and removing obstructions and uncertainties has emanated from lawyers. The haste with which most of the legislation is done renders it next to impossible to avoid mistakes. I am of the opinion that some measures should be adopted looking to the prevention of errors in statutes. Every bill before it is passed from the branch of the General Assembly from which it originated should be printed and copies furnished to the introducer and each member of the Committee on Enrolled Bills. After its final passage and before receiving the signature of the presiding officers it should be printed and examined by some expert practical proof reader. The Bar Association through its several committees should give this subject careful attention and make such suggestions as will bring about reform along this line. Having discharged the duty imposed upon me I desire to express my sense of appreciation of the kind consideration which prompted its imposition.

When New York's junior senator takes his seat his colleagues will probably greet him with "Hello, Central."

## Miss Lockheart's LETTER TO MRS. PINKHAM.

[LETTER TO MRS. PINKHAM NO. 67,104]  
"I cannot express my gratitude to you for the good that Lydia E. Pinkham's Vegetable Compound has done for me. I have taken five bottles of the Compound and two boxes of Liver Pills and feel better in every respect. I had suffered for years with dropsy; the veins in my limbs burst, caused from the pressure of the water. I had the worst kind of kidney trouble, fainting spells, and I could not stand long at a time. I also had female weakness and the doctor said there was a tumor in my left side. The pains I had to stand were something dreadful. A friend handed me a little book of yours, so I got your medicine and it has saved my life. I felt better from the first bottle. The bloating and the tumors have all gone and I do not suffer any more. I am still using the Vegetable Compound and hope others may find relief as I have done from its use."  
—Miss N. J. LOCKHEART, Box 16, ELIZABETH, PA.

Only the women who have suffered with female troubles can fully appreciate the gratitude of those who have been restored to health. Mrs. Pinkham responds quickly and without charge to all letters from suffering women. Her address is Lynn, Mass.

viewed. The opinions and dissenting opinions of the justices indicate a very wide divergence of opinion upon the extent of the power of the Legislature to abolish legislative offices and provide new agencies for management and control of State institutions. Without intending to trespass upon the domain of the court or discuss the conclusions reached, it would seem that the doctrine of that case must continue to be open for argument until the court of last resort come nearer being of one mind in regard to it.

It is to be regretted that the divorce law was amended by making an additional cause for an absolute divorce. The act is so guarded that but few cases can come within its provisions. Legislation of this character is to be discouraged. No State can safely weaken the sanctity of the marriage relation.

By Chapter 33 the question as to the power of a judge to restrain by injunction an officer in possession of an office from discharging its duties pending a civil action to try his title is put at rest. Whatever may have been the diversity of opinion in regard to the power the act forbids its exercise.

The revenue act contains but few new features. The merchants' purchase tax in regard to which many petitions have been presented, was omitted and a graduated license tax upon merchants imposed. The tax imposed by the act of 1897 lineal and collateral inheritances was repealed. I think wisely so. Some changes were made in the manner of listing for taxation shares of stock in corporations.

Purchasers of land sold for taxes are not permitted to demand a deed therefor at the expiration of twelve months until personal notice or by publication, is made to the owner or person in possession. Affidavit is required by such purchasers that these provisions of the law have been complied with.

The usual appropriations were made for pensions and Soldiers' Home. A large number of bills were passed for the relief of soldiers of the late war in regard to pensions. The policy of the State in providing for her soldiers is well and wisely fixed. There will be no backward step taken, but there should be some provision made for passing upon and settling claims for pensioners otherwise than by special legislation. It may be that the Veterans' Association should be invited to take the matter under consideration. Every meritorious claim should be allowed, but the State should not be imposed upon. The Legislature is scarcely the proper body for passing upon the merits of each claim.

Recognizing our duty to preserve the memorial of the valor of our soldiers in the war between the States to the end that a truthful history thereof may be written an act was passed authorizing and directing the publication of a sketch of the history of each regiment of the State served in the Confederate army prepared by the authority of the Confederate Veterans' Association under the supervision of Judge Walter Clark.

An appropriation was made for the purpose of erecting a bronze statue of Z. B. Vance on the capitol square in Raleigh. I think that this most appropriate act may mark the recognition and discharge of a too long delayed duty and that at each session of the General Assembly a like appropriation may be made to place statues of those who in war and in peace have served the State and shed honor and lustre upon her name and history.

For the first time in the history of the State in addition to the usual tax levied for public schools the sum of one hundred thousand dollars was appropriated for this purpose. The bill was introduced by Mr. Holman of Iredell and passed with practical unanimity. This is the most substantial evidence of the purpose of the State to do her full duty to her children in making provision for their education. The passage of this measure was to my mind one of the most eventful acts of the General Assembly of 1899. It guarantees the support and improvement of our public schools.

Labor day was made a legal holiday. The criminal courts of the State were reorganized, new districts made and an effort made to give them a strong position in our judicial system. It is probable that these courts will become a permanent feature in our judicial system. The divorce of the criminal and civil district courts with the approval of the bar and the people.

Provision was made for the re-organization of the State Guard which had become somewhat disorganized by the recent Spanish-Cuban War.

I have thus in a general and not very satisfactory manner made a resume of the acts of the General Assembly of 1899. Of course there are a number of statutes of interest to members of the bar, mention of which have been omitted.

The old so-called argument of the demagogue that lawyers wish to so legislate as to confuse the law and increase litigation has ceased to promote the ambition or interests of those who made it. I am sure that nine-tenths of the legislation simplifying the law and removing obstructions and uncertainties has emanated from lawyers. The haste with which most of the legislation is done renders it next to impossible to avoid mistakes. I am of the opinion that some measures should be adopted looking to the prevention of errors in statutes. Every bill before it is passed from the branch of the General Assembly from which it originated should be printed and copies furnished to the introducer and each member of the Committee on Enrolled Bills. After its final passage and before receiving the signature of the presiding officers it should be printed and examined by some expert practical proof reader. The Bar Association through its several committees should give this subject careful attention and make such suggestions as will bring about reform along this line. Having discharged the duty imposed upon me I desire to express my sense of appreciation of the kind consideration which prompted its imposition.

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