A LEGAL RIGHT TO COMPULSORY VACCINATION

Our Supreme Court has just rendered a decision affirming the right of county and municipal authorities to enforce compulsory vaccination—greatly to our satisfaction, for an adverse decision would have been fraught with the gravest consequences to our people. It gives us, therefore, much pleasure to print below the able opinion of the Court as delivered by Justice Clark. Bearing, as it does, upon an always important and now especially interesting subject, we hope the newspapers of the State will give it wider publicity by printing it in their columns:

No. 169.

N. C. Supreme Court—Feb. Term, 1900.

Alamance County.

State, Appellant, v. W. E. Hay,

Attorney-General for the State.

Defendant not represented.

Clark, J. Chapter 214 of the Laws of 1893 is a well considered and carefully drawn statute for the preservation of the public health. Section 23 thereof, which is specifically in regard to vaccination, contains among other provisions this clause: "The authorities of any city or town or the board of county commissioners of any county may make such regulations and provisions for the vaccination of its inhabitants under the direction of the local or county board of health or a committee chosen for the purpose, and impose such penalties as they deem necessary to protect the public health." There is no provision of the Constitution which forbids the Legislature to enact, and it is indeed an exercise of that governmental police power to legislate for the public welfare, which is inherent in the General Assembly, except when restrained by some express constitutional provision.

Salus populi suprema lex, "the public welfare is the highest law," is the foundation principle of all civil government. It is the urgent cause why any government is established, for, as Burke says, "any government is a necessary evil." It is, however, a much lesser evil than the intolerable state of things which would exist if there were no government to bridle the absolute right of every man to do "that which seems right in his own eyes," like the Israelites in days of Micah. The above maxim, quoted from Lord Bacon, is placed appropriately first by Broom in his treatise on "Legal Maxims" with this just observation, "There is an implied assent on the part of every member of society that his own individual welfare shall, in case of necessity, yield to that of the community, and that his property, liberty and life shall under certain circumstances be placed in jeopardy or even sacrificed for the public good." This observation, which is almost a literal translation from Grotius, he fortifies by quotations from Montesquieu, Lord Hale and many opinions from both sides of the Atlantic. But it needs none, for it is everyday common sense that if people can draft or conscript its citizens to defend its borders from invasion it can protect itself from the deadly pestilence that walketh by noonday by such measures as medical science has found most efficacious for that purpose. We know as an historical fact that prior to the discovery 101 years ago of vaccination by Edward Jenner, smallpox often destroyed a third or more of the population of a country which it attacked, and so futile was every precaution and the most careful seclusion, that the greatest sovereigns fell victims to this loathsome disease, which Macaulay has styled "the most terrible of all ministers of death." If this was so in days of imperfect communication, the present rapid means of intercourse between most distant points would so spread the disease as to quickly paralyze commerce and all public business, if government could not at once stamp out the disease by compelling all alike, for the public good as much as for their own, to submit to vaccination. Statistics taken by governmental authority show that while 400 out of every 1,000 unvaccinated persons exposed to the contagion are attacked by it, less than two in a thousand take the disease when protected by vaccination within a reasonable period. There are those, notwithstanding these well ascertained facts, who deny the efficacy of vaccination, as there are always some who will deny any other result of human experience, however well established, but the Legislature, acting in their best judgment for the public welfare, upon the information before them, has deemed vaccination necessary for public protection, and their decision, being within the scope of their functions, must stand until repealed by the same power.

The power of the Legislature to authorize county and municipal authorities to require compulsory vaccination has been exercised by nearly every State and has been recently sustained by the highest courts of two of our sister States. Morris vs. Columbus, 102 Ga., 792; Blue vs. Beach (Supreme Court, Indiana, February 1, 1900), 56 N. E. Rep., 89 and there are no decisions to the contrary. In reply to the argument that such exercise of power by the Legislature may in some cases infringe upon individual rights, Cobb, J., in the Georgia case just cited, well says: "No law which infringes upon the natural rights of man can be long enforced. Under our system of government, the remedy of the people, in that class of cases where the courts are not authorized to interfere, is at the ballot-box. Any law which violates reason and is contrary to the popular conception of right and justice, will not remain in operation for any length of time, but courts have no authority to declare it void merely because it does not measure up to their ideas of abstract justice. The motive which doubtless actuated the Legislature in the passage of the act now under consideration was that vaccination was for the public good. In this the General Assembly is sustained by the opinion of a great majority of the men of medical science, both in this country and in Europe."

But even if we were of opinion with the small number of medical men who contend that vaccination is dangerous to health and not a preventive of the disease, the court is not a paternal despotism, gifted with infallible wisdom, whose function is to correct the errors and mistakes of the Legislature. Brodnax vs. Groom, 64 N. C., 250. Our people are self-governing, and themselves correct the mistakes of their representatives. The function of the courts is to construe and apply the laws, and they can hold a satute nugatory only when plainly and clearly violative of some provision of the organic law which has restrained the legislative power. Sutton vs. Phillips, 116 N. C., 502; White vs. Murray, at this term.

Nor does section 23 of the act require that the Board of Aldermen shall pass such ordinance in conjunction with the Board of Health (as defendant contends). It merely provides that the execution of the ordinance, i. e., the vaccination, shall be under the direction of the local board of health or a committee appointed by the aldermen.

While the Legislature has power to authorize municipal bodies to provide compulsory vaccination, and the defendant did not comply with the ordinance enacted by the town of Burlington, in pursuance of such authority, though afforded opportunity to do so, it is true that there may be some conditions of a person's health when it would be unsafe to submit to vaccination, and which therefore would be a sufficient excuse for non-compliance, but it does not vitiate the ordinance that such exception is not provided for and specified therein. It is not a defence that a person bona fide believes that it will be dangerous for him to be vaccinated or believes that he is already sufficiently protected by former vaccination; nor would the opinion of his personal physician on either point be conclusive (though it would naturally have weight with the jury), for there may be evidence or circumstances tending to the contrary. Indeed, as to a former vaccination being sufficient protection, the opinion of the official physician supervising the vaccination should be presumptively correct. That which would relieve from a compliance with the ordinance is a matter of defence, the burden of which is upon the defendant, and is a fact to be found by the jury. The special verdict is ambiguous and defective in this particular and is set aside. Let there be a new trial.

DIGEST OF SUPREME COURT DECISIONS.

STATE vs. UTLEY. Affirmed.

In an indictment for attempting to poison, an averment that the prisoner knew the deadly character of the substance is not essential.

The weight of the evidence and the credibility of the witness are for the jury to consider, and not the court.

HALL vs. FISHER. Error.

Plaintiff alleged that he sold a lot to defendant for $1,000, and took in part payment another lot owned by defendant; that as a part of the consideration of purchase by plaintiff of defendant's lot, the defendant agreed verbally at the time, that he would open a street leading to the lot conveyed to plaintiff; that defendant has failed to comply with this agreement, and the complaint prays for damages. The answer denies the agreement and alleges that defendant did not own the property over which the street would have to be run; that defendant was anxious to open the street and endeavored to purchase the right of way but was unable to do so. Held, that as the plaintiff contends that the agreement to open the street was a part of the purchase price of the land conveyed to plaintiff, the agreement is void under the Statute of Frauds and cannot be enforced, nor damages awarded against defendant for failure to comply therewith.

CHEEK vs. SYKES. Error.

The plaintiff Cheek contracted to sell a tract of land to one Pickett and took Pickett's note for the purchase money and gave him a bond to make title upon payment of same. Picket made some payments upon the price of the land and rented the land to Sykes, agreeing that Sykes might pay the rent to Cheek to be credited on the purchase price. Thereafter, without Pickett's knowledge, Sykes rented the land from Cheek, agreeing to become Cheek's tenant. When this became known to Pickett he forbade Sykes to pay the rent to Cheek; Held, in an action by Cheek to oust Sykes, that the trial judge committed error in refusing Pickett's motion to intervene and defend his interest in the land.

KING vs. FOUNTAIN. Reversed.

The general rule that contracts in restraint of trade are void as against public policy, will be modified in order to protect the business of the covenantee or promise when this can be done without detriment to the public interest. Here, the defendant who was engaged in the livery business at Greenville, sold his teams and vehicles to the plaintiff for a valuable consideration and agreed with plaintiff that he would not engage in any other livery business in Greenville for the period of three years. Soon thereafter the defendant's wife engaged in the livery business in said town and employed the defendant to superintend the business. Held, that the contract was valid and that the defendant's employment by his wife amounted to a breach thereof. Baker vs. Cordon, 86 N. C., 116.

MOREHEAD vs. HALL. New trial.

Where a deed on its face conveys only one-half of a well described tract and fails to describe the particular part conveyed, the deed will be construed as conveying a one-half undivided interest in the land. Grogan vs. Bache, 45 Cal., 610.

A joint demurrer by all defendants will be overruled if the complaint sets forth a good cause of action as to any one of the defendants. 103 N. C., 315; N. C. 423.

STATE vs. HAY. New trial.

The legislature has power to authorize county and municipal authorities to require compulsory vaccination, and Chapter 214 of the Laws 1893, providing that the execution of a town ordinance requiring compulsory vaccination shall be under the direction of the local board of health or committee appointed by the aldermen, does not imply that such ordinance shall be passed in conjunction with the board of health.

The condition of one's health may be a sufficient excuse for failing to comply with an ordinance requiring compulsory vaccination, but the fact that the ordinance, and it is not a sufficient defense for its violation that one has a bona fide belief that it would be dangerous for him to be vaccinated or that he believes he has been sufficiently vaccinated, but the opinion of the official physician supervising the vaccination tht one has been sufficiently vaccinated, would be presumptively correct. That which would relieve from a compliance with the ordinance is a matter of defence, the burden of which is upon the defendant, and is a fact to be found by the jury.

MARCOM vs. R. & A. A. L. RAILROAD Co. Affirmed.

It is a settled rule of law that a railroad company must provide and maintain a safe roadbed, and its negligent failure to do so is negligence per se. But it cannot be held responsible, in an action for damages resulting from the wanton and malicious act of an outsider, unles it could by the exercise of reasonable diligence have prevented the consequences of such act. Here the accident occurred by the act of some outside party in pulling out the spikes, thus making what is called in railroad parlance a "jack-switch." The burden of proving failure of legal duty in such cases rests upon the plaintiff, but when that fact is proved or admitted, then the burden of proving all such facts as are relied on by the company to excuse its failure, rests upon the company.

STATE vs. IRVIN. No error.

A provision in a town charter conferring upon it "the power to levy and collect taxes on all persons and subjects of taxation which it is the power of the General Assembly to tax for State and county purposes under the Constitution," is not repugnant to section 4, article VIII of the Constitution, as not restricting the limit of taxation (State vs. Worth, 116 N. C. 1007), nor in violation of section 9, article VII of the Constitution, in reference to uniformity of taxation (Rosenbaum vs. Newbern, 118 N. C. 83), and it is competent under such provision in the charter, for the aldermen to levy a tax of $10 upon tobacco buyers within the town, without stating in the ordinance for what purpose the tax is imposed; and such ordinance and the provision in the charted authorizing the same are not in violation of section 7, article VII of the Constitution, that no tax shall "be levied or collected by any town except for the necessary expenses therof, unless by a vote of the majority of the qualified voters therein."

Defendant was charged with violating a town ordinance imposing a privilege tax of $10 upon tobacco buyers in the town of Kinston. There was no specific fine or penalty imposed by the ordinance for its violation, but before the passage of the ordinance the board had passed an ordinance providing that "the violation of any ordinance to which no specific fine or penalty is fixed is a misdemeanor and shall subject the offender to a fine of not more than $50 or imprisonment for thirty days." The defendant was convicted and appealed. Held, that the ordinance imposing the fine is void by reason of the uncertainty in the amount of the fine (94 N. C. 877 and 383; 97 N. C. 424), but the defendant is guilty of a misdemeanor under section 3820 of The Code for violating a valid town ordinance.

Upon the objection that a town ordinance was not passed as required by its charter, it is competent to produce, in support of its validity, the record of the meeting of the board of aldermen at which the ordinance was passed.

McLAMB et al., vs. McPHAIL et al. Error.

The verification of an answer that "the foregoing answer of the defendant is true of his own knowledge, except those matters stated on information and belief and he believes these to be true," is a substantial compliance with section 258 of The Code. Cole vs. Boyd, 125 N. C., 496; Payne, Ibid 499; Phifer vs. Insurance Co., 123 N. C., 410.

Plaintiffs sue for recovery of real estate as the heirs at law of Felix Fleming, who conveyed the land to his wife Ailey in 1841, but without using the words "her heirs" in the deed. Ailey married one Tew after the death of her husband Fleming, and the complaint alleges that the defendants are holding under mesne conveyances from Ailey, who died in 1895.

Among other defences the defendants alleged that the deed from Felix Fleming to Ailey Fleming, was intended by the parties thereto to convey a fee simple, that the words "her heirs" were omitted by mutual mistake and inadvertance, and ask for a correction and reformation of the deed so as to make it convey a fee simple. The plaintiffs failed to reply to the allegation of grounds for a decree for reformation of the deed and the judge gave judgment by default. Plaintiffs contend that this was error as the allegation of grounds for correction of the deed was not a counter-claim because the defendants could not have maintained an independent action therefor.

Held, that by virtue of Chapter 6 of the Acts 1893, the defendants though in possession, could have brought an action to remove a cloud upon their title, and the allegation of grounds for correction is therefore a valid counter claim and not mere matter of defence. The judgment by default was erroneous, however, for the reason that under the law in 1841 governing the property riohts of married women, the conveyance from Felix Fleming to his wife Ailey, if it had been executed as a fee simple deed, would have been void at law, and sustainable in equity only upon meritorious consideration, and the answer contains no averment of meritorious consideration. Taking the answer in this respect to be true, because undenied by a reply, it did not authorize the judgment rendered by default for correction of the deed.

A defendant may plead inconsistent defences if separately stated. Clark's Code (3d Ed.) section 245.

London is twelve miles broad one way and seventeen the other, and every year sees about twenty miles of new streets added to it.

THE LADIES' MEMORIAL ASSOCIATION

A History of the Splendid Services of This Noble Band in Caring for Our Heroic Dead.

To credit of account January 1, 1899	$151.56
March 26, 1899—To credit by Miss Devereaux	6.00
April 28, 1899—To cash received Mrs. G. Jones	15.00
May 5, 1899—To cash received Mrs. G. Jones	20.50
June 30, 1899—Interest to July 1, 1899	3.00
Sept 28, 1899—To credit by Miss Devereux	4.00
Sept 7, 1899—To cash received Mrs. G. Jones	6.00
Oct. 30, 1899—To cash by Miss Devereaux	3.00
Dec. 31, 1899—Interest to Jan. 1, 1900	3.20
Total	$212.26
Paid out to bearer, Jan. 30, 1899.	.50
W. C. Stronach & Sons, Feb. 10, 1899	$1.52
W. C. Stronach & Sons June 3, 1899	3.90
J. L. O'Quinn June 13, 1899	11.70
Upchurch & Holder June 17, 1899	2.00
W. C. Stronach & Sons, July 11, 1899	1.00
J. L. O'Quinn, July 15, 1899	15.00
J. L. O'Quinn, Jan. 27, 1900	12.55
J. L. Hardware Co., Jan. 13, 1900	85
J. L. O'Quinn, March 21, 1900	16.40
Total paid out	$ 65.42
To credit of account, March 20, 1900	$146.84

JNO. T. PULLEN, Treas.

As a desire has been expressed by some members of the Memorial Association to know just how the annual dues are expended, I beg leave to submit the following report:

The history of the Wake County Memorial Association is perhaps the most interesting in North Carolina—as under its auspices much outside work has been accomplished. It was through its efforts the Soldier's Home was built, and through efforts the magnificent monument that stands at the western gate of the capitol was erected, the Monumental Association having been formed of members of the Memorial Association.

When the remains of our beloved President Davis were carried through Raleigh to the re-interment in Richmond, the Memorial Association, acting with a committee of Confederate Veterans, had the honor of receiving them; at which time, on learning at a late hour, that the Governor was not authorized to invite the militia of the State to be present, the president, acting for the association sent out personal invitations to each military organization to attend. Several companies accepted the invitation, and were handsomely entertained at the Yarborough House.

Death has sadly thinned our ranks, until now only about seventy-five of that noble band of women who organized the association remain, and from this number about sixty-three dollars are annually collected. Out of this amount the cemetery is kept in order and the necessary expense of Memorial Day are borne. Yet, having to our credit, as the treasurer's report will show, an amount varying from one hundred and forty to two hundred dollars. To keep in good condition a lot of about three acres, containing some seven hundred graves, necessarily requires some expenditure of money.

The hedges and shrubbery are to be kept trimmed and in order, underbrush cleared away, young trees to supply the fast decaying forest, and every year set out such flowers as are suitable to the place are kept growing. From May until October the grass is to be cut once a month.

A mound of beautiful growing flowers has been made of a once unsightly spot. The walks that run being badly washed have been graded, crushed gravel being used for the purpose, and about seven thousand brick used in draining them. The original growth of grass was being choked out by the very objectionable Johnson grass. In order to get rid of this the turf has been taken up and carted away, the ground graded, and fresh grass seed sown. Headstones have been placed over the Arlington dead. The pavillion has been reopened and repainted. In fact, a great deal of much-needed work is every year done at the cemetery, and much remains to be done before we can make the last resting place of our fallen heroes the beautiful spot we would have it.

I have endeavored, conscientiously, to keep up the good work commenced by my predecessors, and for this purpose, with the exception of the necessary expense of Memorial Day, the annual dues of the patriotic, faithful members of the association are expended.

Since the organization of the Daughters of the Confederacy in this city the Memorial Association has always united with the Daughters in all patriotic work, and under their united effort a great deal has been accomplished, both for the Soldiers' Home and for the Confederate Veterans. The very successful bazar held in our city more than a year ago for the veterans was under the auspices of the Memorial Association and Daughters of Confederacy.

MRS. GARLAND JONES,
Pres. L. M. A.

ANNIE L. DEVEREAUX,
Secretary.

Sketch of the Association.

[By a Charter Member.]

Very soon after the conclusion of the war between the States, involving as it did ruin to our county and bitter disappointment and humiliation to our people the hearts and minds of the women of the South turned to the duty of caring for the bodies of our soldiers, who lay on a hundred battlefields, or who were scattered in cemeteries rudely laid out near hospitals or the sites of former camps, in many cases exposed to desecration or in danger of being confused with the Federal dead.

The women of Raleigh were no laggards in this sacred task, and at a meeting held in the Commons Hall of the capitol, May 23d, 1866, a society was formed called the "Wake County Ladies' Memorial Association," the object of the association being to protect and care for thee graves of our Confederate soldiers.

After prayer and an address by the late Rev. Dr. Lacy, the following officers were chosen:

Mrs. L. O'B. Branch, President.

Mrs. Henry Miller, First Vice-President.

Mrs. Lucy Evans, Second Vice-President.

Mrs. Robert Lewis, Third Vice-President.

Mrs. Mary Lacy, Fourth Vice-President.

Miss Sophie Partridge, Secretary.

Miss Minnie Mason, Treasurer.

The first business of the association was to choose a suitable spot for the proposed cemetery; several meetings were held at the residence of Mrs. L. O'B. Branch at which various lots were offered by friends of the cause, one by the late Mr. G. W. Mordecai, one by the late Maj. John Devereaux, and one by the late Mr. Henry Mordecai, the latter was finally accepted by the association, being in many respects the most available for the purposes of the L. M. A.

The gentlemen of Raleigh and of the county gave help in money, time and advice. Conspicuous among these active friends were the late Mr. Geo. W. Mordecai, Mr. P. F. Pescud, Maj. Husted, Maj. B. C. Manly and Mr. Chas. B. Root, who still survives, a useful citizen and a friend to every good work. Capt. G. M. Whitney as the representative of the young men of Raleigh offered their services "to assist in caring for our fallen defenders." Capt. Whiting has long since passed away; he is at rest in the Confederate Cemetery, and a verse from one of his poems is engraved on a face of the Confederate monument which stands in the northeast corner of the cemetery.

On June 16th, 1866, a constitution, prepared by Mrs. H. W. Miller, Mrs. Annie Busbee and Mrs. Mary Lacy was read and adopted.

At a meeting held on the 25th of the same month the President's Council was appointed: Mr. G. W. Mordecai, Maj. Husted, Mr. P. F. Pescud, Mr. Wm. Grimes, Maj. B. C. Manly, Gen. W. R. Cox.

During the following months much was accomplished by the association, money was raised in every way, by gifts, by the work of the members, who had organized a sewing society, with Mrs. H. T. Smith as president, and finally by a bazaar held just before Christmas, 1866, at which nearly $1,200 was realized.

"Fourteenth of February, 1867, an appropriation of $1,500 was made by the Legislature for a monument to the Confederate dead."

Meantime the committee appointed to choose a site for the cemetery had been untiring in its labors, and after inspecting many locations it had advised the L. M. A. to content itself for the present with putting in good order the cemetery near the rock quarry at the west side of the city where there were 447 graves. They were advised to mark the graves and to plant a hedge around the spot, thus making a distinct division between the Confederate dead who lay there and the Federal dead whom the United States government had resolved to move to that place from other parts of the State. But before any work of importance could be done the president of the L. M. A. was notified by the United States authorities that "Confederate soldiers buried at the rock quarry, must be removed immediately to make room for the Federal dead." Some of the members of the L. M. A. remember that this order was acompanied by the threat that unless the removal was promptly done the bodies of the Confederate dead would be taken from their graves and thrown into the public road. Arrangements were made to effect this removal as quickly as possible. The lot given by Mr. Henry Mordecai was accepted, and during the early spring weeks of 1867 about 500 dead were taken from the rock quarry cemetery and reinterred in the present Confederate Cemetery. This work was done almost entirely by the young men of Raleigh, with whom it was a labor of love, and each day a certain number of ladies were present at the Confederate Cemetery to remove the coffins as they were brought from the rock quarry, and to keep a watch over them until a sufficient number being on the ground the work of reinterment would begin. The writer remembers one coffin in particular which was a little strained at the joinings of the wood allowing a long, half-curled lock of fair hair to escape which hung down as the coffin was lifted from the wagon. The task was often a trying one to the young men, and a lady seeing them nearly overcome by it begged a cask of beer and walked by the wagon the whole distance from one cemetery to the other giving it to them as she saw they needed it.

The president in her first annual report read the meeting of the L. M. A. on May 3d, 1867, writes: "The spot of ground liberally donated to the association as a cemetery for the Confederate dead, you are aware, had to be put in proper condition by clearing it of trees and stumps before it could be used for the purpose designated, which required quite a heavy expenditure of means; that having been accomplished and the grounds properly enclosed, the work of disinterring and reinterring the bodies was commenced. (In very many instances additional coffins were required at a cost of $1.50 or more a piece to the association.) This work was faithfully and energetically performed, aided by the young gentlemen of our city, who deserve the thanks of the ladies of the association for the zeal manifested in this labor of love.

"There are 538 of our fallen heroes now resting in that sacred spot. Of that number 312 are North Carolinians, 46 from South Carolina, 44 Georgians, 8 Alabamians, 8 Mississippians, 4 Virginians, 2 Floridians, 2 Tennesseeans, 1 Texan, 1 Louisianian, 1 Arkansian, 3 of the Confederate States Navy, and 106 unknown dead. The cemetery is divided into sections, and each State has allotted to it a certain portion. Headboards have already been placed to quite a number of the graves on which are inscribed the name of the soldier, the State from which he came, and each, for future reference, has been numbered."

At this meeting it was decided that the 10th of May, being the anniversary of the death of Stonewall Jackson, should be observed as Memorial Day, and that the exercises should be public, "so far as to meet in the capitol square or in the capitol and proceed from thence to the cemetery." The original minutes of the L. M. A. which have been closely followed so far contain no details of the observance of the first Memorial Day, may 10th, 1867, but the writer well remembers the meeting in the rain at the capitol square of a number of faithful men and women, who walked to the cemetery carrying their garlands and crosses of flowers, and closely followed and watched by several Federal officers, detailed by the military authority who then governed the State, to see that "no procession was formed."

It was believed at the time, and it has never been contradicted, that the threat was made that if the L. M. A., chiefly women and children, did form a procession it would be fired on without further warning. On this day there were no exercises of any kind, not even a prayer, and it demanded some courage and some independence from those who walked under the dripping skies through the ankle-deep mud of the country, which is now Oakwood avenue, to fulfill this poor duty to the dead. Beautiful Oakwood did not then exist, the Confederate cemetery was a solitoary enclosure in the woods, full of newly made graves, scarcely giving promise of the neatness and order which now mark that sacred spot.

In the compass allotted to this article it is impossible to give in detail all the work accomplished by the L. M. A during the first years of its existence; a rapid enumeration of the principal undertakings accomplished will, however, be attempted. The walks were laid out, grass was sown, flowers and shrubs were planted, the Confederate Monument was erected, the handsome iron pavilion was placed in the center of the grounds; the wooden head-boards placed on each grave were exchanged for granite ones—the present system of marking them by numbers and recording both names and numbers in a register; an arrangement was made with the trustees of Oakwood by which the Confederate Cemetery shares in the care bestowed upon Oakwood; many bodies of North Carolina soldiers were removed from distant points; 137 being taken at one time from Gettysburg and reinterred in the soil of their mother State. The exercises of Memorial Day were punctually celebrated with a dignified observance of prayer, oration and procession, the orators being chosen from the men of talent and culture of the State, the chaplains from the clergy and ministers of the city, and the chief marshal and assistants from the Confederate officers and soldiers of Wake county.

October 4th, 1869, Mrs. L. O'B. Branch resigned the office of president which she had exercised with a zeal, trust and ability which had greatly contributed to the success of the association, and Mrs. Selby was elected in her place. Mrs. Selby died in 1870 and Mrs. H. T. Smith was elected; at her death Mrs. Robert Lewis became president. Since that time the presidents have been Mrs. Robert H. Jones, Mrs. Leo. D. Heartt, Mrs. Jos. B. Batchelor and Mrs. Garland Jones, who now fills the office.

At the annual meeting, 27th June, 1883, it was moved by Mr. W. T. Primrose and adopted by the L. M. A. that in future the subject of the oration on Memorial Day be the war services of one of the generals or of some distinguished officer of North Carolina, or else of some regiment belonging to the State, that the orator be chosen by the family of the officer who should be selected as the subject of the address, and that the orations be placed among the archives of the State as material for history. The war records of Gen. L. O'B. Branch was chosen as the subject for Memorial Day, 1884, and Maj. John Hughes of New Bern was requested by Mrs. Branch to deliver the address. For fifteen years the custom has been observed of making the addresses on Memorial Day deal with the character and services of a general of North Carolina, the only exception being that on one occasion the subject was the "Junior Reserves," and on another the "Private Soldier." Most of these addresses are now in the keeping of the L. M. A., being preserved in a box which is kept in the State Library. The president is making every effort to secure the missing ofations in order to put them in the same place of safety.

October 17th, 1883, one hundred and seven Confederate dead were removed from the Federal Cemetery at Arlington and interred in the Confederate Cemetery at Raleigh. They were met at Weldon by a detachment of the Fayetteville I. L. I., and were received in Raleigh by a committee appointed by the L. M. A. The bodies lay in State in the capitol for a fitting length of time, and were carried to the cemetery and laid at rest with all due honor and respect, a short religious service being held with suitable music, and an address delivered by Gov. Jarvis.

Mrs. Jos. B. Batchelor was elected president of the L. M. A. 5th March, 1885. During her term of office, which lasted eight years, little new work of importance was undertaken, the formative period of the association having passed. But interest in the work was kept alive and even increased, and much was done at the cemetery in the way of beautifying the grounds and planting trees and flowers. Mrs. Batchelor resigned her office 17th April, 1893, and Mrs. Garland Jones was elected to fill her place.

Since Mrs. Jones assumed the duties of president the work of the association has been continued with tact and ability; all the records of the association, including a list of the names of all the dead in the cemetery have been carefully copied and deposited in the Citizens' Bank; the graves of the dead brought from Arlington have been marked by suitable stones, and the nucleus of our endowment has been placed at interest. Some slight changes have been made in the details of the exercises of

(Continued on Third Page.)