Proposed Legislation: Possible Governmental Changes Through Legislation in Kentucky

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NOTICE

The Law School Library lacks the following Kentucky Statutes, and is seeking to acquire a complete set. Any information as to where these missing volumes can be obtained, will be greatly appreciated by the Librarian.

Bradfords Laws, 3 volumes ............................................ 1799-1817
General Statutes (Bullitt & Feland) .................................. 1877
General Statutes (Bullitt & Feland) .................................. 1879
General Statutes (Bullitt & Feland) .................................. 1883
General Statutes (Bullitt & Feland) .................................. 1887
Kentucky Statutes (Barbour & Carroll) ................................ 1899
Supplement to Kentucky Statutes (Caldwell's) ....................... 1899
Kentucky Statutes (Carroll) ........................................... 1903
Thum's Supplement to Kentucky Statutes ............................. 1909-1915

Annette Zink Davis, Law Librarian.

PROPOSED LEGISLATION

POSSIBLE GOVERNMENTAL CHANGES THROUGH LEGISLATION IN KENTUCKY

The legislature of the state might adopt measures which would enable it to understand its problems more readily and deal with those problems more effectively. In every other branch of the government services are performed by persons admittedly more or less expert in their particular functions. But the undertakings of government depend almost exclusively upon the statutory enactments of a body of men untrained in the theory or practice of legislation. Every subject however urgent or complicated in its nature must be handled by a popularly-elected group which meets for two or three months and passes hundreds of bills. The committee system is the only solution for such a situation. Our “representatives” are forced to vote according to committee reports without any intelligent understanding of the matter in hand. Nor is there any adequate information service in our state of which the committee might seek advice. Two proposals are submitted:

(1) The establishment of an interim legislative committee; and (2) the authorization of a legislative reference service. There is no provision in our present constitution which would directly preclude the selection of 7 or 8 members of the legislature for the legislative commission. Their duty would be investi-
igation of proposed legislation and of administration. They would meet at frequent regular intervals throughout the year; they should be empowered to conduct hearings on matters which are to come up in the ensuing session; above all, they would offer official, and therefore legitimate channels for cooperation with the executive department. The second suggestion has been sufficiently tested in many states (among them Wis., Ohio, Ill., Neb., N. J., N. Y., Pa., Va.) to prove itself. It would be a library service which could render expert legal advice in the drafting of bills (Does anybody doubt the importance of eliminating inconsistencies and duplications in state statutes?) and in furnishing information on any subject. "It is safe to assert that the right sort of installation and maintenance in Kentucky of such service would pay for itself many times over in the course of a few years in the prevention of litigation arising from questions of constitutionality."

In the administrative structure of our state, there is obvious duplication and inefficiency. Many of the objectionable features cannot be changed without amendments to the constitution. Yet it should be noted that some far reaching reforms are possible by legislative action. Among them are the following: (1) Combination of such offices as that of jailer and sheriff in the counties; (2) grouping of state departments and statutory agencies so as to give some central control.

Section 104 of the present constitution provides that the General Assembly may abolish the office of assessor and the assessment of property shall be made by other officers. Section 105 authorizes the General Assembly at its discretion to consolidate the offices of jailer and sheriff, with the condition that the office of jailer be discontinued, that of sheriff maintained. It is proposed that the legislature pass an enabling act to this effect, leaving the execution of this consolidation to each county. In regard to the state administration, it should be said that at least one attempt has been made to pass a reorganization bill (House of Representatives, 1930; the Denny Smith Bill).

Space will not permit discussion of the provisions of proposed measures and the objections offered by opponents; but there is little doubt of the desirability of establishing official means for making cooperation and responsibility possible. Recently adopted administrative codes of other states should be
studied critically as a requisite for drafting a new bill. (Georgia, 1931; Tennessee, 1924; Nebraska, 1919; Illinois, 1917, and others.)

There has developed in Kentucky, as elsewhere, an apparent need for some new regulatory commissions. The need has arisen largely from the intricacies of partisan and business controls. It is especially desirable to set up a civil service commission and a public utility commission.

New York, Massachusetts, Wisconsin, Illinois, Colorado, New Jersey, Connecticut, California, Ohio, Kansas and Maryland have civil service regulations applying to state or city employees or to both. The new tendency to go further than merely frustrating the spoils system, and to establish centrally-supervised employment conditions in which classification, standardization and retirement are no less important than initial selection is best exemplified by the laws of California and Wisconsin, passed in 1929.1

As is already well known, virtually all the states have established control over some utility, but the commissions vary in kind and extent of power. Most of the states have replaced railroad commissions with public service commissions. Kentucky's Railroad Commission is a Constitutional body; its functions are specifically defined. It is, therefore, impossible to set up a regulatory body which could exert unified control over all public utilities. However, it is doubtless desirable to extend state control over electric, gas, and other public service enterprises. It is admitted that such a law would be exceedingly difficult to draft. Every public service commission is faced at the outset with the uncertain attitude of the U. S. Supreme Court in regard to basis for rate fixing and by lack of authority over interstate motor carriers and interstate gas and electricity transmission. Furthermore, it would be necessary to consider the peculiar needs of utility regulation in our own state.

These general suggestions are offered from the standpoint of the citizen who recognizes some obvious needs in the structure of our state government. A small but interested portion of the citizenry feels that the responsibility for such measures should rest, in large part, with the lawyers. Not only do

1 See Wisconsin Statutes, 1929, I, Chap. 16; also California Statutes and Amendments to the Codes, 1931, pp. 2021-2022.
they furnish the preponderance of legislative personnel but they should be in a position to know exactly what legal objections, results, and applications would have to be considered. May I venture to say that much of the community leadership and accepted influence of the members of the bar of a few decades ago depended upon their sponsoring just such forward-looking proposals?

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