

Inaugural address

of

George H. Prouty

As it appears in the

Journal

of the

**JOINT ASSEMBLY**

**BIENNIAL SESSION**

**1908**

**Thursday, October 8, 1908**

**Inaugural Message**

*Gentlemen of the Senate and House of Representatives:*

You are convened here today according to the constitution of this state and for the performance of a most important duty—to enact such laws as may seem in your best judgment wise and proper and to administer the affairs of state in such manner as may seem to you best. It is your duty to see that no law is passed which is not in conformity with the constitution, and that no order shall be made for the administration of the State's business which is not for the best welfare of the whole of the people. It is my duty under the constitution to call your attention to such matters as I think are of importance in connection with the work before you. I know of no available statistics showing the last two years, but I believe if such figures could be obtained they would show that the growth of our business interests have been steady; that the products of our farms have been greater, and that the number of men employed in our shops and factories has materially increased. This would certainly be true up to last October. At that time you will recall, we were enjoying as a nation the greatest prosperity in our history, but the widespread business depression which soon followed was felt in our State to a certain extent. I believe, however, we suffered as little as any section, and that a large number of our citizens, especially the farmers, were only slightly affected by the hard times. We may congratulate ourselves to-day that in all lines of business prosperity is returning, and we may confidently anticipate in the near future a return to normal business conditions as they existed before the occurrence of this wholly unnecessary panic.

During the last session of the Legislature a great deal of progressive legislation was passed which has proved of great benefit to the State. Our schools, our highways, our courts, and the general administration of the affairs of state have been greatly improved thereby, and it should be your duty to see that no backward step is taken so far as these reforms are concerned, but on the contrary you should use every endeavor to see that every advantage gained is retained, and such improvements made along these lines as may seem to you proper.

**TAXATION.**

For some time there has been a feeling that there is something radically wrong with our system of taxation, and there has been much discussion as to the proper remedy. During the last session of the Legislature it became apparent that something should be done to remedy the ills which exist, and after careful consideration it was decided that the matter needed a very thorough investigation before final action should be taken. For that purpose a commission was appointed to study the matter in all its phases, and report to this Legislature their findings with such recommendations as they saw fit to make. They have made a very careful study of the question and have made an exhaustive report, and that report should have your most careful attention and consideration.

The question about which there has been the most discussion is that of double taxation, but in my judgment the chief evil is not double taxation, but evasion of taxation. To show the correctness of this view, it is only necessary to call your attention to a few facts as shown by the report of the Commissioner of State Taxes for 1908. That report shows that in 1900 personal property to the value of \$40,881,676 was returned with offsets for debts owing of \$27,177,289, leaving an amount of personal property which was taxed of \$13,704,387. In 1908 there was returned personal property to the value of \$43,369,964, but there were offsets for debts owing of \$31,772,542, leaving \$11,597,420 which was taxed, \$2,106,967 less in 1908 than in 1900, showing conclusively that the evasion of taxation of personal property is gradually increasing; because we cannot believe that, with the general prosperity which has been experienced during the past eight years, the amount of personal property actually owned within the state has decreased in value to this amount. On the contrary we are forced to the conclusion that taxpayers have not been honest in their returns, but have sought in various ways either to decrease the amount of personal property returned or to increase the amount of offsets claimed as deductions for debts owing. Having reached this conclusion, and believing that such a state of affairs should not be allowed to exist, I recommend that all offsets for debts owing should be abolished. I do this fully realizing that in some cases this may work hardship and that in theory it is not absolutely correct, but I believe in practice that it will come nearer being just and equitable to the whole body of tax payers than the present law. This

recommendation is in harmony with that of the commission on taxation who investigated the matter to the best of their ability and reached this conclusion after the most thorough consideration.

One of the greatest evils of the present system is the manner of its administration. This is shown by the fact that upon investigation it was ascertained that only about three per cent of all the inventories examined by the commission were found to be legal. This results from several causes. First, ignorance on the part of the listers. Our present inventory is somewhat complicated, and only those who have had experience are fully competent to understand just what is required. Second, carelessness on their part, as it was ascertained that in thousands of cases no inventory had been taken as required by law, and in other cases unsigned and unverified inventories had been taken, showing such general laxity in administering the law as should not be tolerated. Third, a lack of uniformity in the appraisal of real estate. Upon investigation it was shown that in some counties the average valuation was fifty per cent, while others it was seventy-five per cent, and in still other cases it was found to be even higher. Of course, so far as the raising of taxes for town or county purposes is concerned, this would make no difference, providing all the property in a certain town or county was assessed on the same basis, but in the collection of the state school and highway taxes which are uniform all over the State, it would work a manifest wrong, because the county where the valuation was only fifty per cent would not be paying in the same proportion as that wherein the valuation was higher. Aside from this, each lister makes oath that he will appraise all personal and real property at its true value in money, and any variation from this rule tends to increase laxity in the enforcement of the law. All this strongly suggests that there should be created a central body or commission whose duty it shall be to have in charge the administration of the law, and act as a board of equalization, thus insuring the greatest possible uniformity. Such a body should hold meetings annually before April 1, which every lister should be compelled to attend for the purpose of receiving instruction as to the administration of the law. Such a commission might also be empowered to collect such statistics and information as would be of benefit in further perfecting the law. I, therefore, recommend that such a commission be created, to consist of three members of which the Commissioner of State Taxes shall be the chairman. I also recommend that the present law taxing intangible property such as stocks, bonds, and similar evidences of debt, except the stock of national banks, be repealed and that a law be enacted taxing this kind of property at a uniform low rate throughout the state, the tax to be collected as a state tax. I am well aware that this is another case that theoretically may not seem right, but I believe that, in practice, it will work out with much better results than does the present law. In other states experience has shown that a very large amount of this class of property now pays taxes which previous to the enactment of such a law had never been returned in any form. Money which is loaned at the ordinary rate of interest, say five or six per cent will not pay the taxes assessed in most of the towns in the state, but will in some way avoid such payment. The commission recommends such a tax, specifying five tenths of one per cent, as a fair rate. It is impossible to say how much of the personal property now returned for taxation is of this intangible kind, but it is safe to say it is only a small percentage, and therefore that the loss to the town will be comparatively small, which loss will be much more than made up by the increase resulting from abolishing offsets. Let me also call your attention to the recommendations of the commission as to the collection of taxes on stock in private corporations; to their recommendation for the separate appraisal of buildings and land; publicity of inventories; and appraisal of exempt real estate. These matters are all of importance, and should have your consideration. In calling these matters to your attention, I have not tried to make any lengthy argument, because that is done so very much better than I could do it by the commission in their report that it has seemed necessary only to emphasize some few things. I again urge upon you the careful study of this report, because I believe it contains information which is invaluable to the proper consideration of this question.

#### COURT PROCEDURE.

During the last session of the Legislature great changes were made in our system of courts, and I believe that such changes have proven to be of great benefit and should be continued along the present lines. Such changes have, however, resulted in increased expense, and it should be your duty to decrease this expense, providing it can be one without interfering in any way with the proper administration of justice.

With this end in view, it seems to me that you may well consider the question as to whether the former system of referees and masters in chancery cannot be brought back with benefit. It was thought when the new

system was inaugurated that the work formerly done by referees would be taken care of by the superior court judges, but in practice it has been shown that nearly all cases are tried by jury at the regular term of county court, thus causing the lengthening of the terms at a greatly increased expense, the cost of running on of our courts being about \$100 a day. If these cases could be tried before a referee it would be at an expense of probably not more than \$15 pre day which would, of course, be a great saving. I call this to your attention in order that you may consider the matter and see if it will not be wise to return to the old system.

Another matter which deserves your attention is that the superior court dockets are loaded with small cases which come from either the justice or municipal courts. Many of these cases should never be brought to the county court because they are unimportant and should be determined in the lower courts. In my opinion it will be well for the State to establish a system of district courts, giving them exclusive jurisdiction up to say \$300 and in all petty crimes, with the right of appeal on points of law only, directly to the Supreme Court, and providing for a common law jury when demanded. We should then give the right of appeal from all justice courts directly to these district courts, thus insuring a prompt determination of all the smaller cases and at a very much less expense to all parties than if you tried in the county courts. It is a fact of which you should take notice that at the present time in some of the cities where municipal courts are established a very larger portion of the business is done by a justice of the peace, thus causing the State very heavy extra expense.

If a system was inaugurated such as I have suggested, I believe it would do away with a very large portion of the justice business as now handled in these places, but whether this is done or not, I believe you should in some way try to provide for the trial of more of these cases before the municipal courts or else take into consideration the small amount of business which is done by these courts and provide for the expense accordingly.

#### EMPLOYERS' LIABILITY ACT.

The wonderful growth of the industrial and transportation business of this country, the vast and constantly increasing amount of corporate wealth centralized in those activities, the great army of laborers engaged therein, and the startling number of workmen annually killed or maimed for life as a sacrifice to our commercial prosperity, presents a situation unknown to, and not contemplated by, the common law governing the relative rights and liabilities of master and servant.

A realization of this fact has resulted in the passage by the Federal Congress, and by most of the State Legislatures, of statutes known as "Employers' Liability" acts that so modify the rigor of the common law of master and servant as to adapt it to the demands of justice in our changed industrial conditions.

1. Under the existing law, if an employee of a railroad or of any of our great industrial corporations, is killed or injured by the combined negligence of himself and his employer, however gross the negligence of the latter may be, recovery of damages is barred. In the words of our Supreme Court, if the employee is guilty of contributory negligence "in the least degree," there can be no recovery.

The mere statement of this proposition demonstrates the injustice of that feature of the existing law as applied to our present industrial situation.

2. Under the existing law, if an employee is killed or injured by the negligence of a fellow servant, no recovery can be had, unless it can be shown that the employer failed to exercise reasonable care to insure the competency of the offending fellow servant.

This also is unjust in view of our present industrial conditions and tends to induce less vigilance on the part of corporations in the employment of competent men. In other departments of business an employer is held responsible for the acts of his employee done within the scope of his employment, and there is no just reason why the same doctrine should not prevail as between master and servant in respect of the acts of a fellow servant. Moreover, the existing fellow servant law affords the various labor organizations very reasonable ground for insisting that their employer shall engage as their fellow servants only members of their order; for if they are substantially without remedy when injured through the carelessness of their fellow servants, they should be consulted, they may well argue, as to the character and ability of those with whom they are compelled to work.

An employer's liability law should be passed, applicable to all corporations organized or doing business in this State, which shall at least remedy the two objectionable features of the existing law to which reference has just been made, and should provide, First: That in all actions by a servant or his representative, for death or injuries resulting from a corporation's alleged negligence, "contributory negligence" shall not bar recovery, but shall go only in mitigation of damages; any contract to the contrary notwithstanding. Second: That in all such actions, the fact that the injury complained of resulted from the carelessness of a fellow servant shall be no defense; any contract to the contrary notwithstanding.

#### PUBLIC SERVICE COMMISSION.

The law passed during the last session of the Legislature providing for the regulation of railroads and the abolishing of grade crossings has met with such universal favor and has proved of such great benefit, that a demand has sprung up that all public service corporation should have similar state supervision.

The work of our railroad commission has shown what may be done by wise supervision, backed by proper authority for the enforcement of such regulations as they think proper to make. We have seen many of our dangerous grade crossings abolished and a general improvement in the service rendered the public, not only as regards safety, but also convenience. This is as it should be.

When any corporation receives a charter from this State or comes here to do business, such a corporation becomes a child of the State and the only supervision which can be exercised over that body being through the State, the State is under moral obligations to see that it carries on its business in a proper manner, subject to the right of the people. The number of public service corporations doing business in our State is increasing rapidly, and it is the part of wisdom at this time to place them under such control as shall retain for the people their full rights.

I wish more especially to call your attention to conditions existing regarding telegraph and telephone companies. At the present time there is practically no competition among the telegraph companies, the result being such rates are charged as are fixed by the company. It should be the duty of a telegraph company receiving a message to attend to its prompt delivery. They receive compensation for doing this, and this obligation should be as binding on them as any other. At the present time they are practically a law unto themselves. No one can obtain any redress except by their acquiescence or in a court of law. I believe with the proper supervision of a commission given suitable authority, that this state of affairs could be very largely done away with, and that the service could be much improved even if the rates were maintained as at present.

The telephone companies are in a somewhat different position inasmuch as many different companies have been established throughout the State, resulting in many cases in sharp competition. This results usually in excellent service and in reasonable rates. In other cases where there is no competition the service is not as good and the rates are higher. In these days the trend in cases like this is towards consolidation, and I am of the opinion that this is bound to occur in many places before a very long time. It is also my opinion that when such consolidations take place, they may be beneficial to the communities; that one company giving suitable service at a fair price will be much better than two companies even though the cost of each is less. For the above reasons I believe that these consolidations may be made of benefit to the public, but only when made under the supervision of the State and under such conditions as will prevent over-capitalization on which the public must pay dividends, with the immediate result of excessive charges.

I have spoken particularly of these two classes of corporations because they are perhaps more prominently before the public than any others at this time, but the same arguments apply to other public service corporations and should be applied to them. For the purpose, therefore, of providing such supervision, I recommend that the name of the railroad commission be changed to that of Public Service Commission, and be given supervision over all public service corporations, with such power and authority as are now given this commission for the supervision and control of railroads. This will, of course, increase the work of the commission very materially and their salaries should be increased in proportion. They should also be given such clerical assistance as is necessary for the proper carrying on of this work.

## INSURANCE DEPARTMENT.

It would seem as if the time had definitely arrived when the State Legislature should establish an independent insurance department, taking the duties now assigned to that public business from the Secretary of State and the State Treasurer. All the older state of New England and the Middle States have Insurance Commissioners and all have independent departments on account of the enormous detail connected with insurance supervision and the technical and large experience it requires. This is especially true of states within whose borders are domiciled large institutions chartered by themselves and for the careful supervision of which by themselves and for the careful supervision of which they are responsible to the rest of the world. It is equally important that the utmost care should be taken in the admission of foreign companies, in order that our people may buy insurance protection of every nature and variety safely and economically, and that all should be effectively supervised at all times under a full execution of the insurance laws. The last report of the Insurance Commissioners, containing nearly 1,000 pages, deals with something like 69 fire and marine companies, 26 life companies, 41 fidelity and casualty companies and some 24 orders and associations of other type. At the close of 1907, it appeared that the fire insurance risks written had increased from \$35,892,510 in 1885 to \$78,414,273, and that the life insurance risks outstanding on citizens in this State amounted to \$59,931,125. The total premium received last year on Vermont business by fidelity and casualty companies equaled \$235,020.50, while accident companies collected \$134,633.92. In my judgment these figures and all that they imply warrant the definite consideration by the Legislature of an insurance department, which I recommend, and the creation of which is fully sustained at the present time by reason of the large income which the State is now deriving from that business.

## BOARD OF HEALTH.

To my mind there is no work being done in the State which is of more benefit and the practical results of which are any greater than that performed by the Board of Health.

The exceedingly active and conscientious manner in which this work is carried on has produced results which are of the greatest benefit to the whole community.

The scope of their work has been increased from time to time until today it practically controls all matters touching the public health, and through the state laboratory it is constantly making examination and rendering decisions which are of the most vital importance.

This applies not only to the general health of the public, but also to a great amount of work which has been done in criminal matters. Without doubt this has been a great saving to the State, and the money expended has been returned to us many times. As bearing on this question, let me call your attention to the report of the Board which shows that figuring the work accomplished during the last twelve months on the basis of ordinary charges for such work in private laboratories, it would amount to \$42,088. This work was accomplished at the state laboratory at an expense of \$12,500. It is probably true that if the laboratory was not a state institution, we should not have had this amount of work done, but it is also true that the work was necessary and ought to have been done.

It is impossible to state the great benefit which has been received from the enforcement of the pure food law. I believe this has been done as thoroughly as possible with the means which were provided and we ought to continue this work and increase its scope.

During the last session of the Legislature a special appropriation of \$2,500 was made for the purpose of enforcing the pure food law, and through the wise expenditure of this sum a great deal has been accomplished.

The condition of the milk found in many localities leads us to believe that this branch of supply should be very closely cared for. We cannot be too careful as to the quality of milk which is provided, especially for children. I believe you should provide for adequate inspection of all sources of supply and wherever any question exists as to the quality of the milk sold, there should be a rigid inspection of the conditions under which it is produced and provision made for its improvement.

Another matter of great importance is to see that the slaughter houses are properly inspected and that they comply with the law in every respect. For this purpose I believe that you should provide for an inspector whose duty it should be to investigate these matters, either on complaint or where there is a suspicion that conditions are not satisfactory. In many cases it is an extremely disagreeable task for a local health officer to undertake these matters and do his full duty, and in consequence the work is not done.

Where such cases exist, an inspector such as I have suggested would be able to handle the matter with very little difficulty.

It is necessary that constant care be exercised to prevent the sale of adulterated articles, and this matter being so important should have constant supervision.

I recommend that you investigate these matters with great care, and that such changes in the law as are necessary be made. If larger appropriations are needed for the proper carrying on of the work, such appropriations should be provided.

#### RENEWAL OF BONDS.

By act of Congress, approved July 2, 1862, Chapter 130, second session, 37th Congress, an amount of land scrip was donated by the National Government to the State. The sum realized from the sale of this scrip amounted to \$135,500. Section 4 of the Act under consideration reads as follows:

“Sec. 4. And be it further enacted, That all moneys derived from the sale of the lands aforesaid by the states to which the lands are apportioned, and from the sales of land scrip hereinbefore provided for, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per cent upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, (except so far as may be provided in section fifth of this act) and the interest of which shall be inviolably appropriated by each State which may take and claim the benefit of this act, to the endowment, support and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches as are related to agriculture and the mechanic arts, in such manner as the Legislature of the States may respectively prescribe in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.”

In conformity with this act, the State issued registered bonds to the extent of \$135,500, which mature June 1, 1910. It will, therefore, be your duty to provide for a reissue of these bonds, or for some other investment consistent with the act.

#### ELECTION OF SENATORS IN CONGRESS.

Let me call your attention to the duty which devolves upon you to elect a Senator in Congress to succeed Hon. William P. Dillingham whose term expires March 4, 1909.

It is also my painful duty to remind you that on March 4, 1908, occurred the death of the Hon. Redfield Proctor, senior Senator from this state. By this sad event Vermont lost her first citizen and the nation one of her greatest legislators. For more than forty-six years he gave much of his time to the service of the state or nation, and whether as a soldier, town official, legislator, Governor, Cabinet officer or Senator, he always gave to the public service the best that was in him. As governor he instituted reforms of which we see the effects to-day. As a member of President Harrison's cabinet he again showed wonderful executive ability, becoming a great administrator of the War department, as well as one of the President's most trusted advisers. But it is as "Senator Proctor" that we know him and love, him best, for during the past sixteen years he has been so close to us as our counselor, adviser and friend, that the entire citizenship of the state felt it as a distinct personal loss when he was called Home. No man ever loved the State of Vermont more; no one ever worked harder for its interests and advancement, and few, if any, ever left behind them a greater record of achievements.

“The monarch oak, the patriarch of trees,  
Shoots rising up \* \* \*  
Supreme in state \* \* \*  
Senator of mighty woods.”

His was a generous nature, constantly striving for the betterment of conditions in all walks of life. And when in the fullness of years, and as the culmination of the desire of a lifetime, he gave to the people of the State that splendid institution at Pittsford, where those threatened with that dread disease, tuberculosis, may learn to make a successful fight for life, without ostentation and with no desire on his part that such should be the case, he erected a monument by which he will ever be held in loving remembrance.

On March 24, 1908, Governor Proctor appointed the Hon. John W. Stewart of Middlebury to fill the position of Senator, and it will be your duty to elect at this session of the Legislature some one to serve during the unexpired term ending March 4, 1911. As the Nestor of the upper branch in Congress, Senator Stewart at once took an active and influential part in all the Senate proceedings. His long public service and ripe judgment splendidly equipped him for a trying place which he has filled with lasting credit both to himself and the state,

#### ADVERTISING VERMONT.

Vermont. I need hardly remind you, is a beautiful state. We are proud of her forest clad hills and charming vales; her lovely lakes and her fertile farms. These natural resources, furnished by nature's lavish hand, have made our State one of the fairest spots on earth. Our streams, in their winding journeys from their mountain sources to the greater river and lakes, furnish the power that is developing not only natural resources, but all the industries that contribute so largely to our material wealth and prosperity. Vermont has the largest granite and marble quarries in the world and is second in the United States in its annual output of slate. Yet there are many mines and quarries undeveloped, only waiting for enterprise and capital to transform stone and metal into evidences of material wealth.

But our great natural resources have not been sufficiently exploited and the outside world knows too little of our undeveloped wealth and the scenic attractions of our State, our mountain and lake scenery being practically unknown outside our borders.

We ought, therefore, to first become accurately informed as to our natural advantages both for manufacturing purposes and as a pleasure resort, and then see that these resources are properly advertised so that visitors coming into the State from far and near may realize the opportunities both for summer homes and for the investment of capital. Our sister state of New Hampshire, with no greater advantages than ours, has taken this matter up and the results have been far reaching and most gratifying.

I recommend, therefore, that provision be made for the purpose of gathering information which will be of value, and then advertising our State in a proper manner. I believe that by so doing we shall make a wise expenditure which will be returned to us many fold.

#### TERCENTENARY

The tercentenary of the discovery of Lake Champlain comes in 1909 and it is eminently fitting that such a notable event in the history of this continent should be properly observed. The last Legislature provided for the appointment of a commission to meet with similar boards from our sister state of New York and the Dominion of Canada and consult as to the best method of celebrating the discovery of that intrepid explorer, Samuel Champlain.

The report of that commission is before you and I trust you will give it your earnest attention. The state of New York has already made an appropriation and Vermont is expected to take similar action. I recommend that a reasonable amount be appropriated that such an important event in our history may never be forgotten by succeeding generations.

## FINANCES.

It is very gratifying to report that the finances of the State are in a flourishing condition. We not only were able to pay our running expenses during the last two years but accumulated something of a surplus. I am of the opinion that this amount, or at least a part of it, should be transferred to the permanent school fund as intended by the present law. The revenues of the State at the present time, and under present conditions, are sufficient to pay the necessary expenses and increase the appropriations for schools and highways. Some of my recommendations call for increased appropriations for different departments, but believe they are necessary and in such cases should be provided. In these departments the business has increased to such an extent that it seems impossible to have the work properly done at its present cost. But it is not with such appropriations that we are likely to go beyond what is reasonable and proper. The great danger is in making special appropriations for new matters which are brought up from time to time. In making appropriation of this nature we should use the greatest care. At the present time it would seem that the revenues collected by the State are as large as they can reasonably be expected to be for some time to come unless new sources of revenue are provided. We must therefore, live within our present income which unless some unforeseen cause arises, we should be easily able to do. Let me again recommend the closest scrutiny of all appropriations, having in mind the most rigid economy consistent with the proper carrying on of the business of the State.

## CONCLUSION.

The duty which brings you together is a most important one. The matters which have been brought before you are of the greatest interest and it will require your best efforts to successfully solve the problems presented. It is only by the most faithful attention to business of the session that you can perform your duties within a reasonable time and in a proper manner. I urge upon you that no time be wasted, but that you enter at once upon the business before you and give your undivided attention to its accomplishment. I am well aware that it is necessary that some time be given to organization, but as soon as this is completed the serious work of the session should begin and should be continued until your duties are completed. A time limit for the admission of bills will be fixed by you and you should rigidly adhere to the rule established. I urge especially on the committees that they do not bring in bills after this time limit shall have expired, except in such cases as shall seem necessary and where an injustice will be done if they are not so admitted. Much legislation of a doubtful character is passed because of the short time in which bills may be considered when they are introduced in this manner. The habit is a pernicious one and should not be tolerated except in very important cases. I would not in any way suggest cutting short the time required for full consideration of all bills which are brought before you but simply urge that you give strict attention to the matters presented; and by your presence help to expedite the work. It is your duty to be present at each session of your honorable body and you should allow nothing to interfere with your attendance except such matters as are of vital importance. Both the State and your town are entitled to your service during the entire session and if by your absence you fail to render such service, you are withholding what is rightfully their due. The work for the session is before you and on you is laid the duty of its faithful performance. Your motto should be, For the Public Good Only—with this before you, I have no doubt as to the result.

GEORGE H. PROUTY.

Montpelier, Oct. 8, 1908.