



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 2 | Number 4

Article 2

1924

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Recommended Citation

William J. Adams, *The Life and Influence of John Manning*, 2 N.C. L. REV. 218 (1924).

Available at: <http://scholarship.law.unc.edu/nclr/vol2/iss4/2>

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THE LIFE AND INFLUENCE OF JOHN MANNING*

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IN ONE OF HIS Letters, the great Roman orator wrote Lucceius, the historian, "The thought of being spoken of by future ages makes me snatch at what seems to be a hope of immortality." Veiled in these words are the haunting fear of being forgotten and the inspiring hope of being remembered after the journey shall have ended not without dust and heat. Cicero's experience was not unique. The desire to survive life's final day and to live on in the lives of kindred spirits is thought of as well-nigh universal. It incites to altruistic service and to the incidental attainment of high repute. So when one who has moved among us passes into the common night, having achieved a name which through years to come shall "still flit among the mouths of men," we cease our daily toil and assume to appraise his deeds and to take thought of his stature. Such is our instant office. We are bidden to pause that we may contribute our share of honor to the memory of one who in an hour that was epochal turned from his chosen life-work to the novel experience of instructing young men in the basic principles of the law and the native duties of the patriotic citizen. It is highly fitting that his achievements should be reviewed in the building which bears his name and that its walls should be adorned with the portrait, which, by the grace of his family, it is my high privilege to present to the Law Department of the University.

This distinguished lawyer and teacher was Dr. John Manning. He was born at Edenton, N. C., July 30, 1830, and died at Chapel Hill, N. C., February 12, 1899. His grandfather, Joseph Manning, was the first of the family to settle in North Carolina. In 1803, he left the old plantation, known as the Manning Manor, near Norfolk, Virginia, and moved first to Currituck County and thence to Edenton, where he embarked in the business of a merchant. He reared a large family, some of his sons attaining positions of responsibility and honor. Among these were Thomas C. Manning, Chief Justice of the Supreme Court of Louisiana and Minister to Mexico; Dr. Joseph F. Manning, a physician of Louisiana; David A. Manning, who after his graduation from West Point, became an officer in the Seminole War; William H. Manning, Representative in the House of Commons from Gates County; and John Manning, Sr., who from the place of midshipman in the United States Navy rose to the rank of Commander and who at the beginning of the civil war withdrew from the Federal service and afterwards received the appointment of Commander in the Navy of the Confederate States. He died in 1872.

In 1829, John Manning, Sr., married Tamar Haughton Leary, a member of one of the oldest families of Chowan County. Their only children were John

* This address was delivered on November 6, 1924 on the occasion of the presentation of the portrait of the late John Hall Manning to the School of Law of the University of North Carolina.

Manning Jr., and Joseph Alonzo Manning. Joseph was born in 1832, was graduated from the University in 1852, was admitted to the medical profession in Norfolk, and died in the twenty-sixth year of his age.

John Manning Jr. spent his early years in Edenton. He attended the old Edenton Academy, which under the management of Charles Disbrow had gained wide recognition; but in course of time his parents removed to Norfolk and entered him in the Norfolk Military Academy. Here under the tuition of Prof. Hopkins, who had been in the service of the United States Military Academy, he made steady progress and in his senior year was promoted to the rank of Captain of Cadets.

In 1847 he entered the sophomore class of the University of North Carolina and thenceforth pursued his studies with characteristic industry and concentration. He exercised himself also in the art of disputation. He was regarded as one of the most forceful debaters in the Philanthropic Society; and his pleasing manner, clear utterance, and impressive delivery assured his appointment as one of the sophomore declaimers at the commencement of 1848. Two years afterwards he was graduated in a class of twenty-five members, among whom were Washington C. Kerr, State Geologist; Benjamin R. Huske, a prominent lawyer and a Major in the Confederate Army; Richard Hines, a distinguished clergyman in the Episcopal Church; and Thomas Settle, a Confederate Captain, Speaker of the State Senate, Judge of the Supreme Court of North Carolina, and Judge of the United States District Court of Florida. The subject of his graduating speech was "The Influence of Religion on Law."

After receiving his diploma Mr. Manning made a voyage with his father to South America. Sailing on the *Bainbridge*, a United States brig commanded by his father, he visited cities in Brazil, Uruguay, and Argentina. He was not enraptured by the thought of a life on the ocean wave. So when the *Bainbridge* was ordered to the coast of Africa the captain's clerk, with his father's approval, returned to Norfolk on another vessel.

Upon his return he determined to make the practice and the study of the law his life-work; and this determination in the one phase or the other he never abandoned. In the town of Pittsboro lived his kinsman, John H. Haughton, a lawyer of extensive practice, under whose tuition he was prepared for the bar. In 1852 he was licensed to practice in the courts of pleas and quarter sessions, and, after the statutory period of a twelve-month had intervened, he was given leave to appear in the Superior and Supreme courts. He then formed a partnership with his preceptor and at once entered with bounding energy upon the course he had chosen. For twenty-nine years this one thing he did: he practiced law. He had no distracting political ambition and refused time after time to be enticed by the tinsel of public office. The tender of an appointment to the office of Secretary of State or Judge of the Superior Court was not alluring. In early life he was a Whig and like many Southern leaders he trusted civil strife might be averted and the Union of the States peaceably preserved. It was decreed

otherwise, and, at the beginning of the war, he joined the Chatham Rifles as a volunteer and was elected first lieutenant. He was promoted to the position of adjutant, and, while with his regiment at Yorktown, he was appointed as a receiver under the Sequestration Acts, and this position he held until arms were finally laid down.

On May 17, 1861, while holding this position he went as a delegate to the Secession Convention which met in Raleigh on May 20, pledging himself to the policy of meeting force with force. The records of this assembly make known the part he took in its deliberations and his deep concern in the trend of public thought. Soon after the organization of the Convention Judge Badger introduced a resolution to "declare all connection of government between this State and the United States of America dissolved and abrogated; and Mr. Craige offered as a substitute a resolution that the ordinance of 1789 ratifying the Constitution of the United States be repealed and the Union between North Carolina and the other States be dissolved. Mr. Craige's resolution—said to have been written by Judah P. Benjamin and sent to Governor Ellis—was based on the alleged right of secession and Judge Badger's on the right of revolution. Reluctant at first Mr. Manning finally voted for the Craige resolution, although meanwhile he had supported Judge Ruffin's proposal to retain the ordinance of 1789. He deplored the haste with which the Convention adopted the Constitution of the Provisional Government and the Constitution of the Confederate States; but having made known his position on the constitutional questions involved he advocated the adoption of such measures as he deemed essential to aggressive and vigorous warfare.

When the armies were dispersed the State was crushed, its social system was swept away, and almost every household was faced by the grim specter of want. Under these conditions Mr. Manning returned to his office and for the next five years prosecuted his practice with unrelaxing persistence.

In November, 1879, he was elected a member of the Forty-first Congress to fill out the unexpired term of the Hon. Robert Gilliam, who had died. In the next Congress he was succeeded by Sion H. Rogers, of Wake County. His tenure of office, therefore, was short. It was also in a sense unpleasing to him; for his training and temperament were not easily to be adapted to the demands of congressional life. His service, not the less, was characterized by fidelity and courage. Its influence was not bounded by State lines. When the odious *Force Bill* was under consideration he was one of the first to raise his voice in defense of the South, delivering a speech which was afterwards circulated as a campaign document through the North and West.

On the expiration of this short term, which was his only experience of congressional life, he again returned to his office and maintained the unbroken practice of his profession until he was elected a delegate to the Constitutional Convention of 1875. This Convention met on the 6th day of September. Owing to its restricted powers and to the close division between the political parties

comparatively few changes were made in the Constitution of 1868. The most important of these affected the judicial department and the system of county government. The number of Supreme Court justices was reduced from five to three, and the number of judges of the Superior Court from twelve to nine. The jurisdiction of the Supreme Court was enlarged by restoring the power to decide questions of fact which had formerly been exercised by the courts of equity; the General Assembly was authorized to distribute the judicial power among the courts other than the Supreme Court; the system of rotation among the Superior Court judges, which had prevailed prior to 1868, was restored; judges were to be chosen for a term of eight years, and for mental or physical incapacity might be removed from office.

While a member of the General Assembly of 1881 Mr. Manning took an active part in securing for the University its first annual appropriation. At this session William T. Dortch, John Manning, and John S. Henderson were chosen as commissioners to revise and consolidate the public laws of the State, and such was their diligence that on the 2nd day of March, 1883 *The Code of North Carolina* was ratified as law.

In 1881 after unanimous election by the board of trustees he took charge of the Law Department of the University, and retained the position until his death. His previous relation to the University had been close and cordial. He had been active in reviving the institution and for twenty years had served as one of its trustees. He received the academic degrees of A.B. and A.M. and in 1883 the honorary degree of LL.D. was conferred upon him, as Dr. Battle observed, not only as a tribute to his learning, but as a recognition of his valuable services in behalf of his Alma Mater.

In his family relations Mr. Manning was singularly happy. On June 5, 1856, he married Miss Louisa J. Hall, a daughter of Dr. Isaac Hall and a granddaughter of John Hall, one of the first three justices of the Supreme Court presiding after its permanent organization. Eight children grew up to maturity, receiving and rewarding parental love and care and living lives of distinguished usefulness.

Every man has his atmosphere as nature's forces have theirs. He may exhale an influence of evil, as Apollyon's nostrils emitted flame. He may send forth warmth and light and beauty and truth. "If light is in him he shines; if darkness rules he shades; if his heart glows with love he warms; if frozen with selfishness he chills; if corrupt he poisons; if purehearted he cleanses." Mr. Manning's out-reaching influence was refining; his moral energy commanded respect; his life was a rebuke to injustice and wrong.

When Coke was made Attorney-General, Archbishop Whitgift sent him a Greek Testament with the message that he had studied the common law long enough and that he should thenceforth study the law of God. He whose memory we honor needed not such an admonition. Reared in the faith of the Protestant

Episcopal Church, he was never diverted from the beaten track into the paths of speculation trodden by scientists of the radical type, but was content to lead the simple life and to nourish his deep religious convictions.

Fortune favored the reputation of Dr. Manning in exacting service in the dual capacity of a practicing attorney and a professional teacher. Each of these positions called into play the exercise of gifts peculiar to itself and each rewarded his toil with marked success. As a lawyer he ranked with the foremost in the State. Beginning his practice many years prior to the abolition of the distinctions between actions at law and suits in equity he pondered, not only the principles of substantive law as taught by Coke and Blackstone, but remedies and forms of pleading as developed by Chitty and Stephen. Hence it is easy to see that transition from the old procedure to the new required mental readjustment; but one can hardly appreciate the difficulty experienced by the ante-bellum lawyers in actually applying the novelties of the Code of Civil Procedure. Many of them concluded in the words of one who referred to another subject, "It will be harder alchemy than Lullius ever knew to sublimate any good use out of such an invention." But Mr. Manning adjusted himself to the change. His surroundings were propitious. He had time for reflection and the advantage derived from association with thoughtful men who were studiously endeavoring to assimilate the new practice and procedure.

For the demands alike of the office and the forum he was thoroughly furnished by nature and training. He was qualified for achievement by the texture of his mind, by his power of concentration and his capacity for research, by his personality, his purpose, and his conscience. He treated the law, not as a "wilderness of single instances," but as a branch of systematized knowledge. He traced the development of the common law and reflected upon its history. He found the study of its obsolete forms and its antiquated "rights" not without profit. He did not scorn to bestow profound thought upon such subjects as the feudal system and ancient as well as modern legal tenures, though he knew that almost every vestige of the old feudal land law had disappeared. While he did not care to

"—keep an ancient form

Through which the spirit breathes no more,"

he had no fear of "losing his memory by reading tombstones."

For the wholesome traditions of the bar he had profound respect. He could tolerate Mr. Bumble's assertion that "the law is a ass, a idiot" only in case it "supposed" that which it never supposes; and his exalted conception of ethics was a sharp condemnation of Charles Macklin's aspersion, "The Law is a sort of hocus-pocus science, that smiles in yer face while it picks yer pocket."

In the court-room, Mr. Manning bore himself with becoming dignity. To the Court he was deferential, but not subservient; to his brethren always respectful and considerate; to his clients faithful unto the end. He studied his cases with patient attention; never disregarding the law, he was painstaking in learn-

ing the facts. Adept in cross-examination, he readily distinguished between the friendly and the adverse witness, and adroitly assailed the weak points of the opposition. In presenting his case to the jury he was clear and concise. Words of learned length and thundering sound were not his. He preferred the Anglo-Saxon; the epigram; rarely the skit; sometimes his means of offense was an apt stanza from Burns; not infrequently his missile a seasoned arrow from Shakespeare's quiver. But dominant in his thought were the law and the evidence. Accordingly his practice was successful; he won verdicts. But he knew when to quit; and skill in quitting at the right time is akin to genius. When he met his Waterloo—all lawyers meet theirs—he skilfully retired and unlike Napoleon he did not try again to advance as the "somnambulist of a crumbled dream." His reputation grew with the increase of his practice, and for several years he was known as one of the wisest and most trustworthy leaders of the bar.

"He with much care his clyents' wrongs redrest;
By virtue thus he clymede above the rest,
And feared no fall, sith merit was his guide,
When reaching heads oft slip in chiefest pride."

The conditions under which Dr. Manning took control of the Department of Law were not auspicious. The venture, in the words of Dr. Battle, "required faith and pluck of a high order." There was no appropriation for the school; no salary for the teacher. Fees from his students and from his clients were the only source of remuneration. But he was confident. His first class numbered seven students; his last approximately ninety.

Since the death of Judge Pearson there had been in the State only two or three schools of law. The standard of admittance to the bar was not high. The State had recently emerged from the era of Reconstruction, and the profession was not yet immune from the contagion of that direful legislation which authorized the delivery of a license to any applicant who was willing to pay for it with a double eagle. Mr. Manning sought to raise the standard. He stressed the necessity of laying a foundation deep and broad. He taught the law as a science; he avowed its adaptability to the changes wrought by every forward movement; with prophetic vision he foresaw striking advances; legal reforms; changes in the law, in social life, in industry and science; he exhorted his students to a study of the philosophy of the law, and admonished them likewise in the philosophy of their personal and professional conduct. Blackstone's *Commentaries* was one of his textbooks. He was not ignorant of the assault under which this work was languishing or of this celebrated jurist's alleged want of qualification for the arduous task of explaining the reasons, the merits, and the defects of the law; but he was convinced that as an expositor of the English law and its doctrines Blackstone had not been surpassed. Moreover, it was thought, the publication of the *Commentaries* had served as a useful agency in engrafting the

common law upon the jurisprudence of this country. Indeed, it has been said, "For more than a century practically every American lawyer received at least his first impression of law from Blackstone and through him came into a consciousness of heirship to the great traditions of the English Common Law." It detracts nothing from Mr. Manning's thoroughness to admit that the modern methods of teaching law, made most prominent within the last quarter of a century, direct the student not so much to the text books as to the original sources for the attainment of proficiency in his investigations. It was Dr. Manning's purpose to prepare a series of works with a view to adapting Blackstone to modern needs. His *Commentaries on the First Book of Blackstone* was published after his death and gave evidence of the high character of the work he was fitted to do.

But it was not the ancient phases of the law in which Mr. Manning was chiefly interested. He thought of the law as a force which vitally affects the life of the State and Nation. He kept constantly before his eyes the frame of our civil government; he thought gravely on the troublous days in which our own Constitution first came to light, and the later period when the Articles of Confederation, with their outstanding defects, yielded to the Federal Constitution under which the young Republic began its career. He looked upon the Federal Constitution, with the implied powers it gave to the Federal Government, as the supreme law of the land; and upon the Constitution of North Carolina as the State's organic law, subordinate only to the fundamental law of the nation. The notion of congressional review of the decisions of the Supreme Court of the United States would have impressed him as utterly chimerical; the proposal to recall judicial decisions by plebiscite as the first step toward revolution. If he thought of law as the basis of government he regarded the object of government the maintenance of ordered law. Upon this foundation he rested his theory of law and government; and in the exposition of his theory he inspired his students with a keen desire to perceive and to respect the demands of the law as a progressive and expanding science.

As an instructor Mr. Manning was forceful. He possessed the rare gift of clarity of expression. He knew what he wanted to say; his style of exposition had no "adipose deposit." Between him and his students the relation was cordial. He was approachable but not familiar; he impressed his personality more than his methods; he aroused enthusiasm while imparting instruction.

When the end came, he was borne back to his old home and laid to rest.