POPULAR GOVERNMENT

Prepare in Duplicate

(Local Board Date Stamp With Code)

(Date of mailing)

ORDER TO REPORT FOR INDUCTION

The President of the United States,

To _____
(First name) (Middle name) (Last name)

Order No. _____

GREETING:

Having submitted yourself to a local board composed of your neighbors for the purpose of determining your availability for training and service in the land or naval forces of the United States, you are hereby notified that you have now been selected for training and service therein.

You will, therefore, report to the local board named above at _____
(Place of reporting)

at _____ m., on the _____ day of _____, 19___
(Hour of reporting)

This local board will furnish transportation to an induction station. You will there be examined, and, if accepted for training and service, you will then be inducted into the land or naval forces.

Persons reporting to the induction station in some instances may be rejected for physical or other reasons. It is well to keep this in mind in arranging your affairs, to prevent any undue hardship if you are rejected at the induction station. If you are employed, you should advise your employer of this notice and of the possibility that you may not be accepted at the induction station. Your employer can then be prepared to replace you if you are accepted, or to continue your employment if you are rejected.

Willful failure to report promptly to this local board at the hour and on the day named in this notice is a violation of the Selective Training and Service Act of 1940, as amended, and subjects the violator to fine and imprisonment.

If you are so far removed from your own local board that reporting in compliance with this order will be a serious hardship and you desire to report to a local board in the area of which you are now located, go immediately to that local board and make written request for transfer of your delivery for induction, taking this order with you.

_____
Member or clerk of the local board.

U. S. GOVERNMENT PRINTING OFFICE 16—12271-2

D. S. S. Form 150
(Revised 1-15-43)

DECEMBER 7, 1941

Army of the United States

Honorable Discharge

This is to certify that

Army of the United States

is hereby Honorably Discharged from the military service of the United States of America.

This certificate is awarded as a testimonial of Honest and Faithful Service to this country.

Given at

Date

_____

AUGUST 14, 1945

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INSTITUTE OF GOVERNMENT
UNIVERSITY OF NORTH CAROLINA

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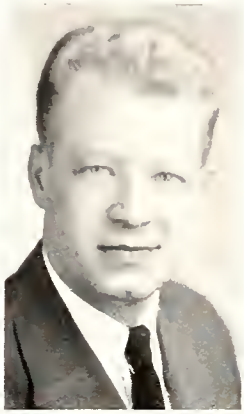
JOHN FRIES BLAIR
Assistant Director



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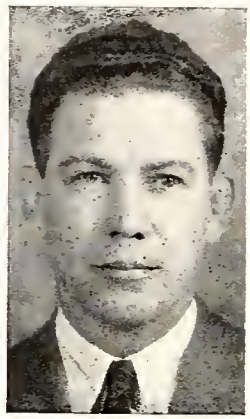
Director



PEYTON B. ABBOTT
Assistant Director

LOUIS A. CHERRY
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W. M. COCHRANE
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Assistant Director

POPULAR GOVERNMENT is published monthly by the Institute of Government, University of North Carolina, Chapel Hill. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscriptions: per year, $2.00. Single copies, 25 cents each. Advertising rates will be furnished on request. Address all communications to Box 990, Chapel Hill, N. C. Entered as second class matter at the Post Office at Chapel Hill, N. C.

The Institute of Government in War and Peace

War Front Staff

Six Institute staff members joined the military forces of the United States in the months that followed Pearl Harbor: *in the Navy,* Henry Brandis, Jr., W. M. Cochrane, and Tom Long; *in the Marines,* Samray Smith; *in the Army,* Terry Sanford and W. B. Parker.

Long served on a landing craft; Cochrane on a mine sweeper; Brandis as intelligence officer on the U. S. S. Texas; Smith in the aerial reconnaissance with the Marines; Sanford with the Parachute Infantry and Parker with the Army Air Forces.

These men fought in North Africa, Sicily, Italy, Normandy, Southern France, Belgium, Germany, and in the Battle of the Bulge; in Burma, India, China, Okinawa and other operations in the Pacific.

Brandis came out of the Navy with the rank of Lieutenant Commander; Cochrane with the rank of Lieutenant; Long with the rank of Lieutenant (j.g.); Smith with the rank of First Lieutenant in the Marines; Sanford with the rank of First Lieutenant in the Parachute Infantry and Parker with the rank of Major in the Army Air Forces and Squadron Commander.

In addition to awards for meritorious service, between them they brought back the Purple Heart, the Bronze Star, the Air Medal for Combat Flying with the first and second Oak Leaf Clusters, the Presidential Unit Citation, the Distinguished Flying Cross with the first and second Oak Leaf Clusters, and numerous battlestars from all theaters.

Home Front Staff

The home front staff, including Albert Coates, Clifford Pace, Peyton Abbott, Louis A. Cherry and John Fries Blair threw themselves with the Institute of Government into:

Supporting war activities—organizing and conducting statewide, district and local training schools for volunteers in the Citizens Defense Corps, and the Victory Speakers Corps, of the Office of Civilian Defense, and in the preparation of guidebooks used by leaders in the civilian war activities throughout the State.

We in the home front staff of the Institute of Government pledge to our comrades in the fighting forces that our sweat shall follow their blood; that the hours of our toiling shall match the hours of their fighting; that their dangers shall be equalled by our anxieties; and that both dangers and anxieties shall be overcome in overwhelming efforts to match the spirit of fight in men who are closer to us than brothers and nearer than hands and feet.—Albert Coates in "Guide to Victory," May, 1943.

Soldiers on the steps of the Institute of Government building during one of the weekend recreation periods of the 1941 fall maneuvers in the Carolinas.

Preparation for postwar activities—organizing and conducting postwar institutes for city, county and state officials and members of the respective planning boards in the fall of 1943 and publishing the proceedings for their guidance during the months that followed; institutes for traffic law enforcing officers and traffic engineers in the fall and winter of 1944 looking toward the problems to come with the lifting of speed, tire and gas restrictions and the return of traffic to the streets and highways in the days beyond the war; a veterans service officer institute in the fall of 1945, training officials of State, district and local veterans service centers for the assistance of returning members of the military forces.

Postwar activities during the winter and early spring of 1946 will include: thirteen district institutes for local and district veteran service officers and their office helpers, to be followed with local institutes for volunteer assistants in all sections of the State, supplemented with guidebooks now being written by Institute staff members, outlining the returning veterans' rights and privileges under the law; district and local training schools in each Highway Patrol Troop area with the purpose of uniting city, county and state officials and traffic law enforcing officers in a program of traffic law enforcement, accident prevention and street and highway safety, supplemented with guidebooks on the motor vehicle laws and their administration in the cities, the counties and the State of North Carolina, to be followed with other programs in other fields of government and its administration as rapidly as returning members of the Institute staff can put their programs into practice.

Veteran Service Officers School

Shown on the steps of the Institute of Government building are the approximately eighty-five city, county and state service officers who attended the school for veterans service officers conducted by the Institute of Government for the North Carolina Veterans Commission on November 25-30.

Front row, left to right: Peyton B. Abbott, W. M. Cochrane and Albert Coates, of the Institute of Government; Wiley M. Pickens, Director of the Veterans Commission; Frank Sasser, State Service Officer; Jack Pamplin, Assistant Director of the Veterans Commission; Louis Cherry, James B. McMillan and Clifford Pace of the Institute of Government.

Second row: John Clay, Neill Blue, D. E. Sigmon, M. J. Stokes, R. L. Davis, Eugene D. Caldwell, Frank T. Farrell, Jack L. Winchester, Leonard W. Barrett, Walker L. Tucker, Wm. Victor Workman, W. H. Dunn, and Walter C. Mahaley, Assistant State Service Officers.

Third row: Martin N. McKimmon, Doris Byrd, Merle Ramsey, Mary Dale, Mrs. F. W. Swan, Gladys H. Jordan, Justine Johnson, Radie Hughes Loflin, Mrs. Louise Holland, Macie Duncan, Mrs. Albert Coates, Louise W. Clarke, John Z. McBrayer, and Lionel Ward.

Fourth row: Capt. F. W. Swan, H. S. Cody, Jr., W. E. Baggs, Walter C. Cox, Nathan Patla, John N. Clark, James R. Clark, W. D. Gregson, E. A. Pipkin, T. L. McGill, L. B. McLean, K. L. Haga, B. Ray Cahoon, and G. D. Greer.

Fifth row: Ralph L. Thomas, Paul Swanson, Lt. A. G. Swan, Wm. F. Tyndall, W. H. Huggins, J. H. Hemingway, B. W. Miller, E. C. Blunk, F. Scarr Morrison, John F. Williams, Hanley H. Painter, W. L. Brown, Paul M. Whitmire, W. M. Gaskin, and G. A. Warlick.

The instruction staff for the week's school was made up of the following:

From the Institute of Government

Albert Coates, Director; W. M. Cochrane, Clifford Pace, Louis Cherry and James B. McMillan, Assistant Directors.

From Federal agencies

J. S. Pittman, Manager of the Regional Office at Fayetteville, P. L. Lindley, J. T. Lloyd, Cecil Pate, Ben Husbands, Charles G. Montgomery, and C. H. Ball, from the Veterans Administration; W. W. Christian, from the U. S. Employment Service; and M. B. McCallum, from the Smaller War Plants Corporation.

From State agencies

Wiley M. Pickens, Director of the Veterans Commission; Lt. Col. Charles R. Jonas, from State Selective Service Headquarters; Dr. Ellen Winston, Commissioner of Public Welfare; George H. Lawrence, from the University of North Carolina's Sociology Department; Frank Sasser, State Service Officer, and W. H. Dunn and Eugene D. Caldwell, Assistant State Service Officers; and Cale K. Burgess and S. F. Teague, from the Unemployment Compensation Commission.

From local agencies

Judge W. W. York, Chairman of the Greensboro Veterans Committee.

The North Carolina Veterans Commission Meets with the Institute of Government Staff

Present for the opening session of the school, at which Mr. Coates outlined the background of the school and the plan of instruction, were the chairman and members of the State Veterans Commission shown above with staff members of the Institute of Government. First row, left to right: Albert Coates, Director of the Institute of Government; Burgin Pennell, Chairman; Colonel Wiley M. Pickens, Director of the Commission. Second row: Josiah A. Maultsby, Amos Maynard, and W. A. Moore, Commission members, and W. M. Cochrane of the Institute staff. Third row: Peyton Abbott, Louis Cherry, James B. McMillan and Clifford Pace of the Institute staff.

The People Serve the Serviceman

The veteran has been an ever present element in civilization since civilization itself has existed. There has been no period in history when there was no veteran, and no time in American history when her veterans were not a matter of concern to the American people and their government. Working through their organizations, the veterans have wielded their influence to demand their rights and obtain their benefits to such an extent that they have been better served than the veterans of any other age or nation. However, services to the veterans of this war will continue to be rendered for at least a hundred years, if the past record of veterans' benefits is any indication.

Revolutionary War

Laws and benefits. Pensions had become an American institution in the colonies from the first Indian Wars; there were pension laws at Plymouth in 1636 and in Virginia in 1644. The Continental Congress first provided for support not exceeding half-pay for disabled soldiers in 1776, retroactive to April 19, 1775, partly to keep the army together. It extended the provisions in 1778, 1780, 1783 and 1785, and the U. S. Congress assumed the burden of pensions in 1789. From then there was a series of generous laws until 1820, in which year more was spent for pensions ($2,766,440) than had been spent from 1789 to 1817, inclusive. The amounts of the pensions for the Revolutionary War veterans were increased and the eligibility qualifications again broadened in 1818 to include veterans with as little as nine months service; in 1828, to provide pensions, to those veterans who served to the end of the war, to the amount of their full pay; and in 1832, to include veterans with not less than 6 months service. By 1836 the widows of the veterans were provided for and the program for them enlarged in 1853 by including the widows of officers and men of the army married after January 1, 1800; in 1855, by including the widows of officers and men of the navy; in 1868, by providing a guarantee of a minimum of $8.00 to all pensioners; in 1878, by making a period of fourteen days' service the basis of pensions; and in 1886, by awarding $12.00 per month to widows.

In addition to pensions, millions of acres of land were granted to soldiers and sailors after 1776 and on up until 1855.

Veteran organizations. The Order of the Cincinnati, formed in 1783 by American officers with the approval of the army, was composed of officers of the army and navy. Its aristocratic tone brought forth widespread criticism, but its political influence was great, and it accomplished much in obtaining benefits and pensions in spite of its undemocratic nature. It lasted through the lives of its members and exerted its influence as long as it lived.

Costs of benefits. The last survivor of the Revolutionary War to receive a pension died in 1869 at the age of 109 years; he was receiving a pension of $500 a year at that time. The last widow receiving a Revolutionary War pension died in 1906 at the age of 92, and the last daughter of a Revolutionary soldier to receive a pension died in 1911. Through that year, which marked the end of pension payments, 128 years after the day the last shot was fired, some $70,000,000 had been paid out in pensions alone.

Civil War

Laws and benefits. The Act of 1862, which constitutes the general pension law, fixed rates for total disability, based on the rank held in the service, and other rates which were proportioned to the degree of disability. Other rates were etsablished in 1866, and specific pension legislation for veterans of the Civil War, first passed in 1890 and based on ninety days service, awarded $6 to $12 per month. This legislation was extended in 1892 to include army nurses; in 1895 to include noncitizens; in 1900, to provide for the rating of disabilities; in 1902 to include Confederate veterans who later enlisted in the Union armies; in 1906, to make the age of 62 years a disability; in 1907 and 1912 to increase the pension rates; in 1916, to redefine, more leniently, the word "disloyalty"; and in 1918, 1920, 1926 and 1930, to further increase the pension rates.

The first service pension law for the widows and children of Civil War veterans was passed in 1890 and the provisions for their benefits grew by the acts of 1895, which extended the provisions of the law to Missouri; of 1900, which included more widows; of 1902, which brought in Confederate veterans who later enlisted in the Union armies; of 1906, which included commissioned officers; of 1908, which raised the monthly pension to $12; of 1916, which redefined the word "disloyalty"; and of 1917, 1920, 1926, 1928 and 1930 which increased the pension rates.

The Southern states have provided for pensions for the Confederate soldiers, ranging from $600 a year in Alabama, Florida and Kentucky to $100 in Arkansas, in spite of the fact that they were poor and already burdened with the high cost of their contributions to the federal pensions.

The other chief form of benefits to veterans at this period of our history was the old soldiers' home. First mention of such a home in the law had been in 1851, and the Act of 1865 establishing a military asylum for offiicers and men of the volunteer forces of the United States who were totally disabled in line of duty was amended in 1866 to provide for the administrative reorganization of the Board. Further provisions, enlarging the program of setting up homes for veterans came in the thirty-four laws passed from 1867 to 1930.

Veteran organizations. The Grand Army of the Republic was an organization of Union veterans founded after the Civil War, and its program was already underway in 1866. Including privates as well as officers in its membership, its announced purpose was to "commemorate the gallantry and sufferings of our comrades, give aid to bereaved families, cultivate fraternal sympathy among

ourselves, [and] find employment for the idle . . ." It is noted for its success in raiding the Treasury during the seventies, when its popularity was great, and in the eighties it worked closely with the Congress, almost having the Congress coming to work for it rather than with it. In the nineties it had over 400,000 members, and continued to work with the Republican Party which it had befriended because of its high tariff policy which produced a treasury surplus that in turn provided a grab bag for pensions. The climax of this driving "a six-mule team through the Treasury" came in 1893, when there were 935,084 pension awards. The GAR practiced effective pressure politics, but failed to obtain a guarantee of veterans' preference in the civil service system, though it obtained veteran preference laws in some states. In addition to its concern for pensions, the GAR supported institutions for the orphans of deceased veterans.

While the ex-soldiers of the Union were concentrating their efforts on pensions, the Confederate veterans were less free to organize, as they were under suspicion, so that there was no organization comparable to the GAR. Due to the different circumstances that were forced upon them, they were forced, in turn, to organize, on a local basis, secret societies such as the Ku Klux Klan in order to restore "white supremacy." Veterans took the leading part in these societies, and it was not until 1889 that they formed an open organization known as the United Confederate Veterans.

Costs of benefits. Of the 2,213,365 soldiers who served in the Civil War, there were 110,070 Union men killed in battle, and 74,524 Confederate dead. The peak of the number of Union pensions came in 1901, when there were 970,352 on the rolls, though it remained above 800,000 from 1892 up until 1912. The cost of the actual fighting to the North was $3,037,400,000, but the expenditure for Civil War pensions alone has amounted to more than 8 billion dollars. In 1943 pensions were being paid to 625 veterans, and at present the annual cost of pensions to the 229 veterans and the 24,521 widows and children still on the pension lists is over $11,500,000.

Minor Wars

Just as startling and indicative are the situations that have resulted from our minor conflicts. The cost of pensions as a result of the War of 1812 has been $46,000,000, only $14,000,000 less than the actual cost of the war itself. In 1945, 130 years after the fighting, a daughter of a soldier of this war is still on the pension list. The Mexican War, which involved about 139,000 men with 1,721 killed in battle, cost some $86,000,000, while the cost of the pensions resulting from the war has been $61,000,000 to date. In 1944, 98 years after the war's end, 65 veterans' widows and one child were still receiving their government checks, and there are now 55 on the lists. The Indian Wars which were fought between 1840 and 1871 have accounted for $95,700,774 being spent for benefits, and still receiving their pension checks regularly, as a result of these wars, are 1115 veterans and 2673 widows and children. The Spanish American War, which had lasted for 120 days, left 345 men killed, and cost $361,000,000. The cost of pensions resulting from it has been over $2,000,000,000 to date, being $142,797,472 in 1944 alone. Another interesting fact is that these pensions in 1944 went to 130,000 veterans, 65,000 widows, 5,000 children and 100 parents, whose total number adds up to 56,000 more than the 144,000 soldiers engaged in the war. (The total number in 1945 is only slightly less.)

World War I

Laws and benefits. Far reaching changes were made in the laws and regulations granting benefits to World War veterans and their dependents, both to enlarge the scope of the benefits and to emphasize relief to those veterans (and their dependents) who were disabled as a result of active service in the armed forces during wartime. Prior to this time pensions, land bounties and some burial benefits had constituted the chief benefits.

In order to avoid the pension evils of the past, the government enacted a series of service benefits consisting of insurance, compensation for disability and death, allotments for dependents, medical treatment and vocational rehabilitation of the disabled.

War risk insurance was first provided for in 1914, and it was amended and extended in 1916 and 1917, to provide for wartime term insurance, allotments and allowances, for compensation for death or a disability resulting from personal injury or disease contracted in line of duty, and benefits to dependents upon the death of a soldier from a service-connected disability. Acts in 1918, 1921, 1922 and 1923 amended the law further and extended its provisions.

The War Risk Insurance Act had provided that re-education and vocational training should be provided for veterans incapacitated by dis-

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	1910	1917	1921	1926	1933	1945
War of 1812	$ 51,279.90	$ 18,701.94	$ 24,160.21	$ 7,400.00	$ 3,906.67	$ 240.00
Mexican War	1,463,984.65	842,055.39	888,024.64	434,792.69	285,218.68	31,129.24
Indian Wars	621,509.53	413,997.38	1,565,862.41	1,900,185.94	4,715,707.57	2,261,440.30
Civil War	151,026,331.07	152,170,578.57	246,584,639.64	171,605,623.27	98,272,576.43	11,873,097.83
Spanish American War	3,807,919.91	3,783,679.94	6,171,569.82	30,223,218.67	125,305,652.48**	142,797,472.04
World War I		348,608.58*	121,330,447.80	164,454,467.82	315,575,802.34**	312,244,322.31
World War II						245,474,186.53

Veterans Benefits Payments since 1910

Figures are for the fiscal years, ending on June 30 of each year, and include all benefits paid out to living veterans and deceased veterans' dependents. The amounts paid out for benefits as a result of the War of 1812, the Mexican War, Indian Wars and the Civil War have reached their peak and now grow less each year, but those for the Spanish American War and World War I are still climbing and are to reach their high mark in the future.

* This figure is for 1918.

** This figure is higher than normal, due to the payment of the bonus. The total for 1934 was considerably less, and the more gradual increase continued thereafter.

North Carolina Services to Veterans

The present benefits which North Carolina is providing for her ex-servicemen are not new to her, for when it comes to dealing with veterans, she is a veteran herself. Almost since the early Indian skirmishes soon after the first colonists settled on her shores, there have been veterans in the State, and in the very early acts regulating the militia there are provisions which indicate a concern for these veterans and an attempt to provide for them.

Revolutionary War

Before the colony had become unified, or even completely settled, North Carolina had passed laws bestowing specific benefits on the veterans. Section 4 of an act entitled "An Act for the better Regulation of the Militia, and for other Purposes," passed in 1756 reads as follows:

> "IV. And be it Enacted by the Authority aforesaid, That if any Person shall be disabled in the Service of his Country, so that he cannot acquire a Livelihood, he shall have a good Negro Man purchased and given him, at the Public Charge, for his Maintenance; and if any Man shall be killed in the said Service, leaving behind him a poor Wife or Family, the same Provision shall be made for her or them."

A similar law had been passed ten years earlier. In 1781 there was a law providing for the "County courts, on application of such wounded and disabled persons, in their counties, setting forth what sum shall be necessary for their support and maintenance, as the nature of the case may require." A provision in 1783 stated that officers who had served two years were entitled to a grant of land proportionate to those grants that officers who served during the entire war were entitled to, computing their time of service at seven years. The following year a law was passed for the relief of persons disabled by wounds and providing for the widows and orphans of veterans. The county court was to certify the request to the General Assembly, but the same year the authority was placed back into the hands of the justices of the county court.

In 1785 there were three laws. One awarded to widows and children for a period of seven years a sum equal to half of the pay to which officers had been entitled at the time of their death. Another provided disabled soldiers who were incapable of military duty a yearly pension of $5.00 a month. The same year there was another law enacted for officers, soldiers and seamen disabled in the service, in order to make the provisions uniform with the federal laws.

Civil War

North Carolina has shown concern for her Confederate soldiers almost from the very beginning of the Civil War. The General Assembly appropriated money for their families in 1862, and (twice in 1863 and twice in 1864) appropriated a total of over 6 million dollars for their support. The pension law of 1865 provided $30 annually for veterans who had lost a leg, eye, or arm or had otherwise been wounded.

A home for helpless and disabled veterans was opened in Raleigh in 1890, and enlarged in 1892, 1893 and 1900. The pension program for Confederate veterans has grown steadily ever since it first began to develop in the eighties; even as late as the twenties and thirties, Confederate veterans came in for a large amount of legislation. In fact, the last law passed by the State concerning them was at the 1945 session of the Legislature, when their pensions were raised to $864 per year.

World War I

North Carolina's legislation following the first World War began in 1919 and has continued through every session of the General Assembly. The benefits granted the veterans have ranged from mere tokens and gestures to very substantial benefits. In 1919 there was an appropriation of $20,000 for medals to be given North Carolina soldiers and sailors for their war service, and legislation dealing with the probating of wills, and memorial associations. The 1921 session provided for the registration of discharges in the office of the register of deeds and exempted the property of the American Legion from taxation. At the extra session that year, the time permitted for the probate of wills of soldiers and sailors was extended.

In 1923 there was an act to prevent the commercialization of the American Legion emblem and its wearing by non-members; burial of indigent veterans was provided for, and pensions were exempted from taxation. Medical schools were forbidden to dissect the bodies of veterans of the World War, and steps were taken to provide homes for veterans. In 1925 the Commissioner of Labor was designated to aid veterans in claims against the federal government, and insane veterans were removed from the care of the state hospitals to that of the Veterans Bureau. The World War Veterans Loan Act sought to provide loans for them for homes and farms. In 1927, it was arranged that loans could be made on the N. C. Veteran Loan Bonds. Legislation in 1929 was concerned with the guardianship of incompetent veterans, a $2,000,000 appropriation for the loan fund, and the exemption of insurance and compensation payments from the income tax.

The 1931 session brought the provisions of free birth and death certificates, the exemption of injured veterans from the poll tax, free tuition for children of disabled veterans in the State institutions of educa-

(Continued on page 8)

The Energies of Peacetime

By R. B. House

Chancellor of the University of North Carolina at Chapel Hill

On July 20, 1945, in a two-minute speech, President Truman said: "We propose to release in peace the energies we know so well how to release in war." He has repeated this sentiment several times since then. In fact, he made similar remarks of this nature several times while he was Vice-President. Let us hope that the sentiment has passed into a deeper realm of his spirit and become an idea,—a much more lasting and powerful thing than a sentiment. And, above all, let us hope, study, and work to understand and implement this idea. It should be the controlling purpose of our peace-time living.

For, let us remember, we expressed a sentiment like this during World War I. But it never took national shape as an idea, it never became a controlling purpose. When the danger of World War I passed, our tired idealism took a rest. In the variety and freedom we thought the peace had established we relaxed our internal spiritual guard and fell into the greatest moral, mental, and spiritual slump which history has record of. Political deadness and economic depression followed in relentless order. We turned the world over to anybody who had the energy to run it. And the bad folks seemed to have more energy for twenty years than the good folks. As we expressed it, "The war took it out of our generation."

In my boyhood neighborhood one day at Johnston's Mill, the conversation turned on The Civil War and then on war in general. Antny Johnston, the miller, summed up the discussion: "I ain't never seen two good men fight yit but what it looked to me like both of 'em got whipped." I think there is no doubt that in World War II the Germans and the Japanese got whipped. What we had better watch out for is wherein we may have got whipped more than we

realize in the present flush of victory. Our war-weariness may surprise us if we over-relax. For instance, we seem to be tired of self-control when we drive automobiles. Each week-end since Japan's surrender has seen a leap in traffic deaths. There is a value in self-control, which is necessary to traffic control, over and above the value of saving our tires and conserving our gas. But the spiritual energy necessary to such self-control is at once on the wane. Of what value is it to fix it so that the Germans and the Japs can't kill us if we proceed at once to kill ourselves on the highways?

Of course it was to be expected that billions of dollars' worth of war contracts would close and that millions of men would be temporarily unemployed until our productive energies could be turned, say, to building some of the houses needed in every community of the land. But there is expressed here and there, and all too frequently, the sentiment that "this is not the time" to build houses, or to do anything else to meet needs rather than to make money. In war we seem to mobilize man-power and material to meet needs. In peace we seem to subordinate need and use to somebody's calculation about whether or not it will make money. In war money flows like water. In peace somebody, somewhere, has power to freeze it. A lot of talk now sounds more like the depression than like the war. I don't pretend to understand money. In the thirties it was logically demonstrated that it would never flow again; in the forties it nevertheless did flow. But now I hear many people say we are in for a terrible depression. While I am no economist, I have always believed that the depression did not happen to us as a natural and unpreventable event; it was a made thing, made by the power of evil men as a step in economic war. We helped these evil men by talking of the depression as something inevitable. We should keep our governmental control of economic forces and use them constructively or we will see them used again by evil men to create another depression.

The war set a fast pace. I believe we are wise in our desire to slow the pace down to a rhythm of work and play more consonant with human powers. But there is a vast difference between such a wise change of pace and "a terrible depression."

I realize that I am over my head in discussing economics. But I believe economic conditions are subordinate to the spiritual law: "Seek ye first the kingdom of God and its righteousness, and all these things (the economic benefits) shall be added to you." The popularizers of scientific mysteries are now busy predicting in terms of atomic energy. That is also over my head. But I believe religious energy, intellectual energy, moral energy, imaginative energy are creative forces out of which even atomic energy takes form. I believe that faith, work, and play were at the controls of the power by which we won the war. I believe they are the forms of energy by which we may keep it won and by which we may win the benefits of a just and lasting peace.

Tax Supervisors Prepare for 1946 Listings

Tax Supervisors and Officials

Front row, left to right: W. M. Cochrane, Assistant Director; Henry Brandis, Consultant; Louis Cherry, Assistant Director; Virgil Joyce, Forsyth County, Retiring President; John McGoogan, Hoke County, President; M. L. Laughlin, Edgecombe County, 2nd Vice President; Eugene Irvin, Rockingham County, 1st Vice President; Peyton Abbott, James B. McMillan, Assistant Directors; Albert Coates, Director; and Clifford Pace, Assistant Director of the Institute of Government.

Second row: M. L. Peel, Martin County; W. Z. Penland, Buncombe County; Lillian Ross, Burke County; M. G. Williams, Lenoir County; C. E. Gwin, Catawba County; J. T. Pratt, Jr., Lenoir County; Lloyd Williamson, Rutherford County; R. P. Spell, Sampson County; R. B. Gates, Lincoln County; J. T. Ellington, Warren County; T. C. Brooks, Person County; Mrs. F. A. McJunkin, Iredell County.

Third row: Tazewell D. Eure, Gates County; Flora E. Wyche, Lee County; Mrs. J. C. Spencer, Caldwell County; James H. Sherrill, Caldwell County; Mark Goforth, Caldwell County; Berles C. Johnson, Harnett County; H. D. Carson, Jr., Harnett County; Mary Helen Sides, Iredell County; Inez Naylor, Davie County; J. E. Simmons, Mecklenburg County; J. P. Fulk, Surry County; J. F. McWhirter, Mecklenburg County; P. G. Cain, Bladen County.

Fourth row: T. M. Condon, Hertford County; James Bowen; R. N. Williams, Mecklenburg County; C. D. Stevenson, Iredell County; R. L. Smith, Stokes County; G. W. Ray, Orange County; U. V. Hawkins, Mecklenburg County; J. H. Boone, Franklin County; J. Marvin Johnson, Johnston County; J. W. Emerson, Jr., Chatham County; J. C. Grayson, Wilkes County; Leslie Calhoun, Edgecombe County; W. A. Blount, Beaufort County.

Attending the meeting but not present for the picture were: George J. Dowell, Wake County; J. C. Ellis, Nash County; C. N. Field, Cabarrus County; D. B. Harrison, Wake County; J. H. Hawley, Jr., Wayne County; J. S. Holmes, Wayne County; Lawrence Lane, Burke County; Parks McGimsey, Burke County; F. E. Liles, Anson County; Dorothy McLawhorn, Guilford County; P. S. McMullan, Chowan County; Mrs. P. S. McMullan, Chowan County; W. C. Mangum, Anson County; J. C. Moore, Warren County; R. J. Moore, Union County; J. E. Only, Pasquotank County; Magnolia Owens, Tyrrell County; J. R. Pendry, Yadkin County; E. Y. Ratliff, Anson County; Woodson Ray, Madison County; R. E. Richardson, Jr., Wake County; J. I. Saunders, Pasquotank County; T. R. Short, Guilford County; C. V. Smith, Wadesboro; Mrs. Clarence Smith, Guilford; E. J. Spruill, Washington County; R. W. Stanford, Guilford County; W. O. Suitor, State Department of Tax Research; W. J. Webb, Granville County; W. Y. Wilkins, Polk County; and H. A. Wood, Guilford County.

Tax superivsors from all sections of North Carolina convened at the Institute of Government in Chapel Hill on December 6 and 7 for a consideration and discussion of ways and means of promoting the quality and efficiency of the tax listing and assessing process in the various counties of the State. The meeting drew larger attendance than any tax supervisors' institute since pre-war days.

The program, prepared and conducted by Peyton B. Abbott, Assistant Director of the Institute of Government, was designed to bring up for review and discussion all phases of the work of listing and assessing property for taxation. Major topics considered during the two-day meeting included preparation for the tax listing period, methods and procedures used in discoveries, statutory authority for refunds and releases, tax situs of real estate and personal property, exemptions and deductions, and the standardization of assessment procedure. Many questions were raised by individual supervisors concerning particular problems, and participation in the discussions was general.

Henry Brandis, Jr., a former member of the staff of the Institute of Government who pioneered the Institute's studies in the field of local taxation, attended all sessions and joined in the discussion of various questions. Mr. Brandis has just rejoined the faculty of the University's School of Law following his release from the navy in which he held the rank of Lieutenant Commander.

In connection with the subject of standardized assessment procedure, Virgil Joyce, Forsyth County Tax Supervisor and President of the Tax Supervisors' Division of the Institute of Government, exhibited a copy of a county-wide map which he had

prepared for use in the tax office. The map, which is a key map drawn on a sufficiently large scale to show all water courses, railroads, highways and roads, power lines and other physical features such as churches, schools, etc., and all township and municipal boundaries, was compiled from a set of aerial maps in the local office of the Agricultural Adjustment Administration. While the key map is in such detail that almost any parcel of rural real estate with its approximate boundaries can be located on it, Mr. Joyce plans to prepare maps for each township similar to the lot and block maps already in use for city and suburban development lots, except that the rural tax plats will be drawn to a scale of 1 inch to 400 feet, thus providing a complete set of tax maps for the entire county. He suggested that anyone who is familiar with the principles of surveying and is a good draftsman could prepare such maps from the aerial surveys to be found in his county. He stated that the county key map had already proven to be well worth the time and trouble spent in preparing it, and that he expected the township tax maps to pay for themselves in years to come, besides giving the county the basis for a modern and complete assessment system. A set of tax maps is, of course, a prime necessity in standardized assessment practice. It makes possible practical county-wide uniformity in assessments and renders more certain the process of equalization, besides providing the best means of seeing that no taxable real estate is left off the tax books.

Mr. W. O. Suiter, Assistant Director of the State Department of Tax Research, discussed the problem of the ratio of real estate assessments to market value in view of the present inflated market. He stated that in his opinion it would be a mistake to raise assessments too much and try to keep them in line with today's prices, as was done, with an unhappy aftermath, in the twenties. At the same time, he stated, he felt that it would be an equally bad mistake to keep assessments at too low a level. He pointed out that real estate prices are related directly to construction costs, that all indications pointed to the probability that construction costs were going to continue to increase for some time to come, and that there didn't seem to be much likelihood that real estate prices would return to 1940 levels for some years to come. He suggested that by failing to reflect some of the market advances in tax assessments, the county might find itself in the position of trying for several years to meet its own increased costs of operation with a budget scaled to 1940 revenues.

Officials of Tax Supervisors Division

Front row, left to right: Virgil Joyce, Forsyth County, Retiring President; John McGoogan, Hoke County, President; second row: M. L. Laughlin, Edgecombe County, 2nd Vice President; Peyton B. Abbott; and Eugene Irvin, Rockingham County, 1st Vice President.

The tax supervisors present at the meeting endorsed a plan of holding meetings of list takers and assessors in the one hundred county courthouses on the same day, the meetings to be tied together into a State-wide school through a radio program directed toward the list takers and assessors and the citizens of the State. Due to the fact, however, that many of the supervisors had already set the date for their schools and the time for arranging radio time was too short, plans for the simultaneous State-wide meetings were deferred. It was suggested that in 1946 the supervisors meeting be held earlier, perhaps in the latter part of October, so that plans may be perfected in time for the December meetings of list takers and assessors.

North Carolina Services to Veterans

(Continued from page 5)

tion, and a provision concerning veterans standing the pharmacy examinations. In 1933 the loans were extended and provisions were laid down concerning investments by the guardians of the children of veterans receiving federal monies. In 1935 there was appropriated $500 as an emergency fund for medical examinations and the transportation of indigent sick veterans to hospitals and an amendment was made to the Loan Fund Act. In 1937 free tuition in State educational institutions was extended to world war orphans, and in 1939 the eligibility was again broadened and the benefits increased. Employment preference for unemployed war veterans was also established that year.

In 1941 there were three laws broadening the eligibility of free tuition to veterans' children, and the 1943 Legislature established a veterans service officer and moved to bring World War II veterans in on the benefits already set up for those of World War I by extending the employment preference, and free tuition to their children. It also provided free privilege licenses for visually handicapped veterans. The principal provision in 1945 was the creation of the North Carolina Veterans Commission to administer the State's program for veterans.

Recent Supreme Court Decisions

Of Interest to City, County and State Officials

"Ignorance of the law excuses no one."

Many of the questions arising in city halls, county courthouses and state departments go beyond the inferior and Superior courts and on to the Supreme Court for final adjudication. This Court of last resort may find it unnecessary to pass upon particular questions in the form they are presented; it may refuse to consider them as unnecessary to the disposition of the cases at hand; or it may meet them squarely and blaze new trails for the guidance of officials.

The Supreme Court of North Carolina has recently:

Refused to decide whether one of the forty-odd local wine bills enacted by the 1945 legislature was valid. One of these bills (H.B. 652, ratified March 20, 1945) purported to authorize the Surry County Commissioners to regulate or prohibit the sale of wine in that part of Mount Airy Township outside of the corporate limits of Mount Airy. Acting under authority of that bill, the Commissioners adopted a resolution on May 6 (some forty-five days after the effective date of the local act, and six days after new wine licenses were due to be issued) prohibiting the sale of wine in that territory. On June 7, the Commissioners notified one Jarrell (who apparently had in the meantime applied for and received a state and county license for the year 1945-1946) of the action of the board, and requested that he surrender his license for cancellation. Jarrell not only refused to comply, but asked the Superior Court for a "mandatory order" to compel the Commissioners to rescind its request of June 7 and leave his off-premises wine license in full force and effect on the ground that H.B. 652 and the resolution adopted under its authority were invalid. The Superior Court refused to grant the relief asked, and Jarrell appealed. The decision of the Supreme Court (*Jarrell v. Snow et al.*, 225 N.C. 430, September, 1945) does not set out Jarrell's reasons for the alleged invalidity of the local act, unless the reason is suggested by the recital that the State-wide Beverage Control Act of 1939 is applicable to Surry County. Neither does the decision give any intimation as to how the Court felt about the validity of H.B. 652. The Court merely pointed out (1) that if the resolution prohibiting the sale of wine is valid, a court of equity will not interfere with its enforcement; (2) if the resolution is invalid, equity will not interfere, as Jarrell has an adequate remedy at law (presumably by getting himself arrested by ignoring the resolution and testing its validity through a plea of "not guilty"); and (3) that "absolute necessity is the moving cause for decision." Which means that the Supreme Court will not pass upon the validity of a municipal ordinance or order of a county governing board if it can avoid it. All of which is good law and backed up by countless cases from all jurisdictions, but not very helpful to the litigants in the particular case or to attorneys and officials generally who have to deal with one of the local wine acts.

Decided that a person who is indicted for the possession of illicit liquor for the purpose of sale cannot be convicted upon evidence showing mere possession of illicit liquor, although such mere possession is an offense under a different statute. In *State v. McNeill*, 225 N.C. 560 (October, 1945), possession for the purpose of sale was charged (G.S. 18-50) but only possession of illicit liquor (G.S. 18-48) was shown by the evidence, and conviction in the lower court was reversed on appeal. The court held that the two statutes define misdemeanors which are on an equal footing, although the evidence in the case would have supported a conviction upon a charge of possession of non-tax-paid (and therefore illicit) liquor. Another peculiar twist to the case lay in the fact that the State's own evidence, by incorporating a statement of the defendant that she had the whiskey (three pints) for a sick child, was held to negative the necessary element of possession for the purpose of sale. Moral: don't allege too much in the indictment, but if you do, don't prove too much.

Law Enforcement

Ruled, perhaps for the last time, that the State may not appeal from a judgment dismissing a criminal case (or a judgment of "not guilty") entered by the Superior Court on the ground of the unconstitutionality of the statute which the defendant was charged with violating. State v. Mitchell, 225 N.C. 42, so holding, was filed February 28, 1945. Fifteen days earlier a bill had been introduced in the Senate (S.B. 189) to add to G.S. 15-179, which sets out the instances in which the State may appeal in criminal cases, the right for the State to appeal "upon declaring a statute unconstitutional," and the bill passed and was duly ratified seventeen days after the decision was filed. (It also added the right to appeal "upon a motion for a new trial on the ground of newly discovered evidence, but only on questions of law.") This additional statutory right of appeal (and they are all statutory) certainly seems to be a desirable one, as it should tend to speed up the determination of the validity of criminal statutes of doubtful constitutionality.

Decided that moulage casts of footprints were admissible in evidence on the same theory that it first held photographs to be admissible. In discussing such evidence, in *State v. Mays*, 225 N.C. 486 (October 1945), the Court said: "It was likewise permissible for the State to offer in evidence a cast or moulage of such footprints. This is just another way of recording or 'photographing' the appearance, shape, form and contour of this particular type of object." Thus, just as photographs were first admitted on the theory that they were merely another form of chart or diagram, which were already admissible for the purpose of illustrating testimony, the Court

now authorizes the admission of moulage casts on the theory that they are another form of "photographing."

Refused to set aside a verdict of guilty in a criminal case for the reason that two lady newspaper reporters had wandered into the jury room to compare notes during the deliberations of the jury. The lower court had found, in *State v. Hill*, 225 N.C. 74, March, 1945, that the intrusion of the ladies was unintentional, that they spoke to none of the jury and were spoken to by none, and that the jury was in no way influenced by the incident.

Public Contracts

Apparently decided that a board of county commissioners can not bind the county to a contract by anything less than a formal act of the board done in a regularly constituted meeting. In *Insurance Company v. Guilford County*, 225 N.C. 293 (June, 1945) the Guilford County Commissioners, by resolution adopted at an adjourned meeting, authorized the chairman of the board to negotiate a contract for the purchase of a lot upon which to erect a county building, the grantor to obtain a loan in the amount of $100,000 to be used in constructing the building and for the purchase price of the lot, and to execute his note and deed of trust to the lender, the county thereafter to accept a deed from the grantor and assume the payment of the note and deed of trust. Actually the grantor, one Connor, was acting as an agent for the county in purchasing the lot and obtaining a loan to finance the transaction, and the deal appears to have been carried through by the parties as contemplated. The county made some payments on the note and then refused to make others, leaving a balance of some $79,000 due thereon, on the grounds (a) that the county had no right to mortgage or otherwise to create a lien on county property, (b) that the county was prohibited under Article V, Section 4 of the Constitution from contracting a debt of $100,000 without a vote of the people as that amount exceeded two-thirds of the amount by which the outstanding county indebtedness had been reduced the preceding fiscal year, and (c) that the procedure prescribed by the County Finance Act and the Local Government Act had not been complied with. The Superior Court found, among other facts, that "it was the judgment of the several members of the board of county commissioners of Guilford County that such a public building for the city of High Point was necessary and the erection of such a building would be for the best interests of Guilford County," and it rendered judgment against the county for the balance due on the note, with interest. The Supreme Court held that the lower court erred, and while it pointed to plaintiffs' "legal remedy of foreclosure under the terms of the deed of trust" executed by Connor, and discussed the machinery by which counties may incur obligations, it chose to rest its decision on the lack of any "corporate finding" by the board of county commissioners that the proposed undertaking was "necessary or needed" for county governmental purposes. And it declined to accept the fact stipulated by the parties and found by the lower court that "it was the judgment of the several members of the board" that such project was necessary as equivalent to or as meeting the requirements of a corporate finding by the board on this essential point.

Decided that the wholesale purchase of electric power by a municipality for resale to its citizens does not come within the provisions of G.S. 143-129 relative to letting contracts for purchases of $1,000 or over. (*Mullen v. Louisburg*, 225 N.C. 53, March, 1945.) Reasons: there can be no competitive bidding because only one power company has authority to operate in a given territory, and an agency of the State fixes the price the company may charge for its power. Said the Court: "The better reason dictates the conclusion that the statute applies only to contracts in relation to supplies and materials where the bidders have the right to name the price for which they are willing to furnish the same. It has no application whatever to a contract between a municipality and a public utility where there could be no competition between bidders because the municipality or the State has the power and authority to fix the price of the service to be rendered or the commodity to be furnished . . . . It seems clear that such provisions are intended to apply to contracts where the public policy requires that competition be had to obtain a reasonable charge for work performed or for materials and the like supplied to municipal corporations . . . . It does not apply when competition would be impossible or unavailing, or as to a monopoly." (The 1945 Legislature, S.B. 41, excepted from the operation of G.S. 143-129 purchases of surplus war goods from the Federal government or its agencies.)

Public Welfare

Held that the three-year statute of limitations applied to a suit by a county against an indigent person for reimbursement for costs of support and maintenance. In *Guilford County v. Hampton*, 224 N.C. 817 (January, 1945), one Saferight had been maintained in the county home since 1909, and the reasonable cost of this support up to the time of filing suit was $8,100. In 1943 the county brought an action under G.S. 153-156 to sell a tract of land belonging to Saferight in order to reimburse the county for its expenditure. The land, which was carried on the tax books at $100, brought $8,137.50. The Court, however, decided that the county was only entitled to $1,080 of this money, being the value of support and maintenance for the last three years.

Tort Liability

Reaffirmed the rule that municipal corporations, when engaged in the exercise of powers and in the performance of duties conferred and enjoined upon them for the public benefit (in other words, in exercising governmental powers and functions) may not be held liable for torts and wrongs of their employees and agents, unless made so by statute, in *Beach v. Tarboro*, 225 N.C. 26 (February 1945). The Court added that in determining whether the town's agent is engaged in governmental activity or in furthering the proprietary interests of the town, the activity at the time of the injury complained of is the deciding factor. For example, in the instant case the town's employee worked generally as an electrical mainten-

(Continued on page 16)

The Attorney General Rules

Recent opinions and rulings of the Attorney General of special interest to local officials

HARRY McMULLAN
Attorney General of North Carolina

The Attorney General's rulings never served better as "signs of the times" in revealing the problems confronting the officials of counties, cities and towns in the State. The war's end, and the questions which it created, makes itself very apparent in the inquiries addressed to the Attorney General's office in recent weeks.

Veterans—Although veterans' affairs are necessarily dealt with on the national level, principally, the cities and counties have exhibited a desire to participate in the program of assistance to their returning veterans insofar as they are capable. The 1945 General Assembly, by numerous local acts applicable to particular counties and by a general act applicable to all the counties and cities in the State, authorized them to employ local "veterans' service officers" and to expend funds for their quarters, equipment and supplies.

The genesis of this new type of local official has produced several questions. First among these, because relating to the creation of the job itself, has already been partially answered: May a county, in the absence of a local act specifically authorizing the employment of a veterans' service officer, employ and pay such an officer out of county funds? The Attorney General pointed out, in reply to this inquiry, that a Statewide act, H.B. 436, authorizes the appropriation of funds for a veterans' service officer, provided the persons so employed act under the supervision of the State Veterans Commission and in conformity with its directions in carrying out the state program.

Since the job of "veterans' service officer" can be created, does it constitute an office within the meaning of our constitutional prohibition against double office holding? This is the question that can be, and usually is, asked concerning every public position. The Attorney General gives this answer: if the duties to be performed by such a person are merely those of contact man to advise and fill out blanks or applications on behalf of service men for the benefits which they may obtain through State and Federal laws, the position would not be an office; however, if the duties assigned to the veteran's service officer are such as to require him to exercise "a portion of the sovereignty of the county, either legislative or judicial, for the benefit of the public," then he falls within the definition of public officers established in the decisions of our Court.

Finally, where is the money coming from to support the "veterans' service officer?" Does a county have the right to levy a valid tax on all the property in the county for the maintenance of the office? The Attorney General replied to these inquiries that he was unable to find any law, either general or public-local, authorizing county commissioners to make a special levy for the purpose of paying a salary to a veterans service officer and equipping and maintaining his office. The expenditure of surplus funds or unexpended balances in the general fund not already allocated is authorized, but not a special levy.

Other rulings signaling the return of North Carolina's warrior-citizens are these: the enabling legislation enacted by the 1945 General Assembly to assist minor veterans is not sufficiently broad to authorize the probate of a will made by a minor; Registers of Deeds may not charge a fee for the issuance of a certified copy of a military discharge, but, under the provisions of a 1945 act, county commissioners are authorized to appropriate from the general fund an amount sufficient to cover any additional expense incurred by the Register of Deeds in providing this service; and compensation received by a discharged veteran, if awarded to him as the result of injuries sustained while in the armed forces and based on physical disability, is not subject to State income tax.

Manpower shortage—While it is true that the war is over, it is not true that all the symptoms and earmarks of the war period are gone. One of the most familiar of these—the difficulty of locating and keeping competent employees — seems certainly to linger on for the towns and counties. Asked if a superintendent of county schools may employ a teacher who is under eighteen years of age, the Attorney General pointed out that the school law provides that no certificate to teach shall be issued to any person under eighteen. And he ruled that a chief of police has no authority to deputize a man to assist him during a busy Saturday afternoon or for a given period of time when there is no emergency as set out in G.S. 15-5 (suppressing riots, routs, etc.); such assistants should be appointed and compensated by the town commissioners.

Plans and buildings—As building restrictions have vanished, counties and cities have begun turning to the long-awaited construction and reconstruction of public facilities. The many questions which are arising in connection with the construction of school buildings are indicated in the rulings which follow under the section on public schools. Of particular interest is the ruling that advances made to counties, cities and towns by the Federal government,

under authority of Title 5 of the War Mobilization and Reconversion Act of 1944, for preparation of plans for their public works, can be accepted under the conditions set out in that authority.

I. AD VALOREM TAXES

A. Matters Relating to Listing and Assessing

50. Listing and assessment of property

To Taliaferro and Clarkson.

Inquiry: Are airlines, such as Eastern Air Lines, doing an interstate business but having an office and property in a county, taxable locally, and if so, on what basis?

(A.G.) There is no provision made in the Machinery Act for the taxation of airlines by assessment of corporate excess in the same manner as is provided for telephone companies, railroads, etc. Therefore, the only taxes which may be imposed are those which should be applicable to the property, real and personal, of the airline located in a county which would be taxed as is property of any other corporation.

Inquiry: Should automobiles owned by express companies, telephone companies, and other public service companies, be returned by the county for ad valorem taxes in the county where located or should they be returned in the company's report to the State Board of Assessment to be used in ascertaining the per-mile basis for assessment of the company?

(A.G.) The practice has been to treat the automobiles and trucks of such companies as not being within the designation of the type of property which should be locally taxed. The statute is not as specific as it might be and some question as to its meaning could be raised. But I think the practice is correct.

B. Matters Affecting Tax Collection

9. Tax refunds by local units

To Henry L. Kiser.

Inquiry: May a municipality refund to protesting taxpayers such sums as were paid by them through error when they did not at the time pay the taxes under protest?

(A.G.) The only authority for making refunds to taxpayers by county and municipal authorities is found in Chapter 709 of the Public Laws of 1943, which provides that as a condition precedent to the remission or refund of tax funds received by a county or municipality, the governing body thereof must pass a resolution so finding and a demand in writing to the board must have been made within two years from the date the same was due to be paid. I am of the opinion that the governing body of your municipality may refund to the taxpayers only such funds as were demanded by the taxpayer in writing and then only such funds coming within two years from the date they are due to be paid.

10. Penalties, interest and costs

To A. V. Thomas.

(A.G.) Under the provisions of H.B. 712, it is entirely a matter within the discretion of the governing body of a county or of a municipality as to whether or not members of the armed forces may be relieved of interest or penalties on delinquent ad valorem taxes assessed against the property of such member of the armed forces.

II. POLL TAXES AND DOG TAXES

A. Levy

1. Exemptions

To Thomas C. Hoyle.

(A.G.) I believe that Ch. 3, Session Laws of 1943, exempts the members of the armed forces and merchant marine from listing their poll taxes only during the time that they are in the service and, if they are not in the service at the tax listing date, January 1, 1946, they would be liable to list and pay the poll tax. The exemption extends to those coming within the provisions of the chapter only while the existing state of war continues and for the next listing period thereafter, but it is not applicable to those members of the service who have been discharged at the tax listing date.

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES

A. Levy of Such Taxes

2. Exemptions—veterans

To Mrs. D. E. Parrish.

Inquiry: Is a veteran exempt of privilege license for speculators on a tobacco market under the GI Bill of Rights?

(A.G.) If the veteran is not a warehouseman or a dealer in scrap tobacco, there is no State statute which imposes a license tax on him for the privilege of buying and reselling tobacco at auction sales on warehouse floors. I assume that you are speaking of the fee imposed on individuals who become members of tobacco boards of trade as authorized by G.S. 106-465. Acting upon this assumption, I advise that there is no exemption provided for veterans in the "G.I. Bill of Rights" nor in any State statute.

53. License tax on photographers

To J. R. Morgan.

Inquiry: Does a municipal corporation have authority to levy a tax on itinerant photographers?

(A.G.) G.S. 105-41 requires persons engaged in certain professions, including photographers, to apply for and procure from the Commissioner of Revenue a license. This section provides in subsection (c) that counties, cities and towns shall not levy any license tax on the businesses and professions taxed therein. This subsection further provides that the license procured pursuant to the section shall privilege the licensees to engage in such business or profession in every county, city or town in the State. This section makes no distinction between itinerant photographers and photographers who remain within the municipal corporation throughout the year; therefore, I think that the prohibitory provisions of subsection (c) are aplicable to municipal corporations attempting to levy a tax on itinerant photographers, and the town would not be authorized to levy a license tax on itinerant photographers.

IV. PUBLIC SCHOOLS

B. Powers and Duties of Counties

4. Supervision over capital outlay expenditures in city unit

To Dr. Clyde A. Erwin.

Inquiry: Does a county board of education have any supervision over the expenditure of capital outlay set up for buildings in the city administrative unit?

(A.G.) G.S. 115-34 provides that the building of all new schoolhouses and the repairing of all old schoolhouses over which the county board of education has jurisdiction shall be under the control and direction of and by contract with the county board of education, provided, however, that in the building of all new schoolhouses and the repairing of all old schoolhouses which may be located in a city administrative unit, the building of such new schoolhouses and the repairing of such old schoolhouses shall be under the control and direction of and by contract with the board of education or the board of trustees having jurisdiction over said city administrative unit.

The words "board of education" appearing in the proviso of this section mean the governing body of the city administrative unit and not the county board of education as shown by the reading of the entire section.

DOUBLE OFFICE HOLDING—VETERANS SERVICE OFFICER

Inquiry: Would a county veterans' service officer be an officer within the meaning of the prohibition against double office holding?

(A.G.) If the duties to be performed by such a person are merely those of contact man to advise and fill out blanks or applications on behalf of service men for the benefits which they may obtain through State and federal laws, I do not think that such position would be an office. However, if the duties assigned to him are such as to require him to exercise "a portion of the sovereignty of the county, either legislative, executive or judicial, for the benefit of the public," then he would fall within the definition of a public officer.

8. Disposal of school buildings when use is discontinued

To T. Ward Guy.

Inquiry: When a school building has been discontinued for school purposes, but is still owned by a county board of education, is it possible for the county board to lease or rent it for an indefinite period of time?

(A.G.) G.S. 115-86 provides for the sale of school property which has become unnecessary for public school purposes. This section does not specifically authorize the leasing of property, and this office has formerly ruled that the power to sell does not include the power to lease. Therefore, I advise that the county board of education is not authorized to lease the property.

26. Tuition charges for non-residents

To L. K. Singley.

(A.G.) It appears that as to whether or not a special tax rate school may prohibit children outside the district from attending the school without the payment of tuition depends on whether or not the transfer of such students has been made by the State Board of Education, or if the children are attending the school voluntarily and without having been transferred by the State Board. If they have been transferred by the State Board, they could not be charged tuition; if they have not been transferred by the Board, it seems that they could be charged tuition.

D. Powers and Duties of Present School Districts and Agencies

8. Authority over pupils

To Dr. Clyde A. Erwin.

Inquiry: Does the County Board of Education have the right to pass a regulation prohibiting the attendance of married pupils in the public schools of the county?

(A.G.) G.S. 115-145 makes it possible to suspend a pupil who wilfully and persistently violates the rules of the school or who may be guilty of immoral or disreputable conduct, or who may be a menace to the school but I do not think that the mere fact that a pupil is married is sufficient within itself to warrant his or her dismissal.

F. School Officials

41. School attendance

To A. C. Moses.

Inquiry: What are the ages included in the compulsory attendance law for the school term 1945-46?

(A.G.) Prior to 1945 the General Statutes required parents of children between the ages of seven and fourteen years to cause such children to attend school. H.B. 113 amended G.S. 115-302 in 1945 to require parents to cause their children to attend school when the children are between the ages of seven and fifteen years, and this provision as to age is effective for the twelve months following July 1, 1945. Thereafter the ages are fixed at seven and sixteen years. These changes do not apply for the duration of the war and six months thereafter to children living on farms or engaged in commercial fishing or fisheries.

43. Vaccinations

To Clyde A Erwin.

Inquiry: May persons of certain religious faiths be required to fully comply with the statutes relating to compulsory vaccination as a condition precedent to entrance into the public schools of the county?

(A.G.) All children of all religious faiths may be required to fully comply with the statutes as to vaccinations for all diseases except that of diphtheria. G.S. 130-190, which deals with the subject of immunization of children as to diphtheria, provides that children whose parents are members of a religious organization whose teachings are contrary to the practices required shall not be made to comply with the statute.

50. Principals and teachers—election and contract

To Dr. Clyde A. Erwin.

Inquiry: May a superintendent of county schools employ a teacher under 18 years of age?

(A.G.) G.S. 115-152 provides that no certificate to teach shall be issued to any person under 18 years of age.

To Fred C. Hobson.

(A.G.) It is my opinion that G.S. 115-359, which provides in part that principals and teachers desiring to resign must give not less than thirty days' written notice prior to the opening of school to the official head of the administrative unit, makes no distinction between vocational teachers and other teachers employed in the schools, and these requirements would alike be applicable to vocational agriculture teachers and vocational home economics teachers.

I. School Property

4. Leasing school property

To A. C. Moses.

(A.G.) I know of no clear-cut authority for a county board of education to rent or lease property under any circumstances, and I am certainly of the opinion that a county board of education does not have the authority to lease a piece of property to someone with the option to purchase it at a later date.

14. Coverage by fire insurance

To H. Lee Thomas.

Inquiry: May a county board of education advertise for bids for fire insurance on public school buildings?

(A.G.) I am of the opinion that a board may not advertise for bids for fire insurance for school buildings as the statutes require fire insurance companies to file with the Commissioner of Insurance rates which are applicable to all persons who have property falling within the same class, so that a fire insurance company could not submit bids for fire insurance lower than that contained in their schedule filed with the Commissioner.

REEMPLOYMENT OF VETERANS BY GOVERNMENTAL UNITS

To W. B. Terrell.

Inquiry: Is a janitor of a city school who was drafted into the armed forces and has now been discharged and is requesting his old job back, entitled to have the job, in view of the fact that it has been filled by some other person?

(A.G.) The so-called G.I. Bill of Rights, guaranteeing to returning servicemen the positions which they held at the time of their induction into the military service, is not binding upon a state or its political subdivisions. However, the policy of the State of North Carolina is to follow this provision of the G.I. Bill insofar as possible.

V. MATTERS AFFECTING COUNTY AND CITY FINANCE

I. Issue of Bonds

22. Registration for election

To Algernon L. Butler.

(A.G.) G.S. 153-94 deals with new registrations to be used in connection with bond elections and makes it a discretionary matter of the board of county commissioners as to whether or not a new registration shall be had for use in the particular bond election at hand. It is my opinion that the new registration referred to is to be used only in the particular election in which the new registration is authorized and that when it has served its purpose in connection with such election it may be discarded and the general registration books should be used in all subsequent primary and general elections in the county.

VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES

A. Contractual Powers

10. Competitive bids

To C. V. Jones.

(A.G.) Architects' fees are not subject to the provisions of G.S. 143-129, which provides that no contract for construction or repair work, or for the purchase of apparatus, supplies, materials or equipment involving the expenditure of public money, the estimated cost of which amounts to or exceeds $1,000, shall be awarded unless proposals for the same shall have been invited by prescribed advertisement.

X. Grants and Contributions by Counties

13. Hospitals

To C. E. Cowan.

(A.G.) Under G.S. 153-152, a county may make annual appropriations, not exceeding $10,000 in any one year, for the medical treatment and hospitalization of the sick and afflicted poor of the county, under contract with a hospital. These appropriations may be used by the hospital for improvements or otherwise. But a county cannot make a direct appropriation to a hospital for the purpose of defraying the cost of construction of an addition, as a contribution for this purpose.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES

J. What Constitutes Necessary Expenses

3. Veterans service officer

To Frank C. Patton.

Inquiry: Would appropriations made by a municipality under the authority of H.B. 436, providing for a service officer for veterans, together with other expenses for quarters, equipment and supplies and incidentals necessary to give proper effect to the act, be a necessary expense within the meaning of Article VII, section 7, of the Constitution?

(A.G.) I would seriously doubt whether or not any citizen would ever question the constitutionality of the appropriations made for the purpose of carrying out the provisions of this veterans legislation, as it would not involve the levying of any special tax or the contracting of any debt. The legislature has authorized these expenditures; they would be for a public expense and, if made within the limitation of the taxing authority of the municipality, would doubtless be free from any attack.

19. Public library

To C. H. Helms.

Inquiry: Do appropriations to a public library constitute a necessary expense of a city?

(A.G.) G.S. 160-75 authorizes appropriations by the governing body of a city or town to libraries whose books are available to the residents of the city, town, or county under such rules and regulations of such libraries, association or corporation as shall be approved by the governing body of such city, town or county. If the appropriations are paid out of the general fund, and not by levying a special tax, such an expenditure would be a public expenditure within the meaning of the law, and the municipality, being authorized in terms by the statute, would be protected in making an appropriation which did not involve the levying of any special tax for this purpose.

K. Grants by Cities and Towns

9. Chamber of Commerce

To Harding and Lee.

(A.G.) I am of the opinion that contributions to a Chamber of Commerce for the purpose of advertising a municipality is not a necessary expense within the mean-

ing of Article VII, Section 7 of the State Constitution and there is serious question in my mind as to whether or not our Court would hold that such contribution is for a public purpose within the meaning of the pertinent section of the Constitution which would justify the expenditure of surplus funds on hand.

N. Police Powers

9. Outside city limits

To L. C. Lawrence.

Inquiry: Where there is a city ordinance prohibiting the sale or discharge of fireworks within the city or within one mile of the city limits, does the city have authority to prohibit such practices without the city but within one mile of the city limits?

(A.G.) G.S. 160-200(17) authorizes municipal corporations to regulate, control, restrict and prohibit the use and explosion of fire crackers within the city, but this section does not authorize the city to take any action concerning such practices outside of the city limits. G.S. 160-203 provides that all ordinances enacted by a municipality in the exercise of the police power given to it for sanitary purposes or for the protection of the property of the city shall apply to the territory outside of the city limits but within one mile thereof. The ordinance might be valid under the above cited section.

15. Regulation of taxicabs

To J. H. Stockton.

Inquiry: Does a municipality have the right to designate a particular parking place for taxicabs on one of its public streets and to give the taxicab company or individual permission to keep others from parking within the designated place by placing "No Parking" signs thereon or by placing "Reserved for Taxi" signs thereon?

(A.G.) Municipal corporations have power to adopt reasonable ordinances regulating the parking of motor vehicles. And this office has previously ruled that although a municipal corporation cannot forbid all parking on the streets by a taxicab, it may validly require that certain designated parts of the streets, and these only, be used as taxi stands. I am of the opinion that this right to require taxicabs to operate from taxi stands carries with it as a necessary corollary the right to forbid parking of other motor vehicles at such taxi stands. This question has not been passed upon by our courts, but I am inclined to the view that our Court would follow the decisions from other jurisdictions so holding should the question be presented to it.

To W. P. Kelly.

(A.G.) While the amendment to G.S. 20-87 contained in Ch. 564 of the 1945 Session Laws, relative to taxicabs, does not, in so many words, require governing bodies of cities and towns to establish a definite limitation on the number of motor vehicles which may be principally operated as taxicabs in such cities or towns, the operation of the statute practically amounts to such a limitation in that a certificate of convenience and necessity from the governing body is a prerequisite to the issuance of the license.

I know of no authority by which such governing bodies could require operators of taxicabs to be residents of the city or town in which they principally operate.

To R. T. Allen.

Inquiry: May a city adopt an ordinance prohibiting passengers from riding on the front seat of a taxicab unless the rear seat is filled to capacity?

(A.G.) S.B. 190, enacted by the 1945 General Assembly, provides that the governing board of a municipality may grant franchises to taxicab operators on such terms as it deems advisable. This grant of authority is the broadest that has yet been given to municipal corporations relating to taxicabs, but ordinances must not be arbitrary and unreasonable and they must bear some reasonable relation toward attaining a legitimate end. Since the validity of such an ordinance is pure conjecture, I do not feel justified in expressing an opinion thereon.

To L. F. Klutz.

Inquiry: May a town legally refuse to issue a certificate of convenience and necessity to a taxicab operator who is under indictment in Federal court for a violation of the liquor law and certain other government regulations, though the applicant has previously been operating a cab and has not had his license revoked?

(A.G.) Subsection (c) of G.S. 20-87, as amended by S.B. 190, provides that all persons operating cabs on January 1, 1945, are entitled to a certificate of convenience and necessity for the number of cabs operated on that date unless, since that date, the license has been revoked. I find no provision authorizing a town to refuse to issue a certificate to an operator merely because he is charged with a violation of the criminal laws of the State or Federal Government. It is probable that if the applicant had been convicted of a criminal offense which would have been grounds for revocation of the certificate issued to him the town board would be justified in refusing to issue a license; but the situation stated would not constitute proper grounds for such action.

20. Regulation of trades and businesses

To Wade H. Lefler.

Inquiry: May a town legally permit the owners and operators of pool and billiard parlors to allow minors between the ages of 16 and 18 to play pool in such places where such minors have the written consent of their parents to do so?

(A.G.) In the absence of a municipal ordinance forbidding the operators of pool parlors to permit minors to play pool, such operators may permit minors to play. Municipalities have authority to enact such ordinances (G.S. 160-200(33)), but the state statutes do not prohibit operators from allowing minors to play. The statutes (G.S. 14-317 and 110-6) only make it unlawful for operators to permit minors to enter or remain in the parlor where they have been notified by the parent or guardian of the minor not to allow him to enter or remain, and to employ minors under 18.

21. Sale of wine and beer

To W. M. Howard, Jr.

Inquiry: May the Board of Aldermen prohibit the sale of beer and wine between the hours of 6:00 p.m. Saturday until 7:00 a.m. the following Monday?

(A.G.) G.S. 18-107 provides that "The governing bodies of all municipalities in the State shall have, and they are hereby vested with the full power and authority to regulate and prohibit the sale of beer and/or wine from 11:30 P. M. on each Saturday until 7:00 A. M. on the following Monday." Therefore, the board of aldermen cannot adopt a regulation to prohibit the sale from 6:00 P. M. Saturday until 7:00 A. M. Monday.

TIME OF TRIAL—UNCONTESTED CASES

To Frank M. Armstrong.

(A.G.) H.B. 891 amended G.S. 1-173, requiring every issue of fact joined on the pleadings to be tried at the term of the court next ensuing the joinder of issue if the issue was joined more than ten days before such term as follows: "Provided, that uncontested cases in which no answer has been filed may be tried at any term after the time for filing answers has expired." I believe that the safe practice in interpreting this amendment would be to follow the rule that the term should **commence** after the time for answering has expired. It is my thought that the issues should not be tried at a term which was already in session when the time for answering expired.

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS

B. Clerks of the Superior Court

To W. M. Sherrill.

Inquiry: When a guard is ordered by the presiding judge to guard a jury during a trial, what fee or compensation is allowed the guard?

A.G.) An officer over a jury is provided for by statute and he is an officer of the court. There is no specific statute fixing his fees or compensation and in such cases, therefore, it is an inherent power of the court to fix the amount of compensation that shall be paid such officer. The clerk could draw up an order setting forth the amount of time served by the officer and leaving the amount of compensation blank and send it to the judge who made the appointment and let him fix the amount and sign the order, or he could wait until the next term of court and have the judge holding that term fix the amount due.

6. Witness fees

To W. M. Sherrill.

Inquiry: When a witness comes to court without being subpoenaed, what mileage can be charged by the witness, after he accepts service where the trial of the case will be?

(A.G.) Under G.S. 6-52, witnesses are allowed mileage for every mile **necessarily** traveled from their homes in going to and returning from the place of examination by the ordinary route. In this case, the witness had already for his own reasons traveled to the place of the trial. He was not compelled to travel from his home to the place of trial by reason of any subpoena. Therefore, in my opinion, his traveling from his home to the place of trial being for his own personal reasons and not under the compulsion of the court, this would not be considered as mileage necessarily traveled from his home to the court. He is entitled to mileage from the place of trial on his return home by the ordinary route, since he was subpoenaed at the place of trial.

19. Duties with reference to adoptions

To J. E. Mewborn.

Inquiry: When a child has been separated from its mother according to the provisions of G.S. 14-320, and adoption proceedings have been instituted in another county, should the forms be forwarded to the Clerk of the Superior Court in said county?

(A.G.) There is no provision in Section 14-320 dealing with the custody of or the recording of these forms, but G.S. 2-40 requires a Clerk of the Superior Court to keep a record of all his official acts. I am of the opinion, therefore, that the final order or consent in writing should be retained by you in your office and should be recorded as an official act. If it is necessary that the clerk in another county should have use of this consent in an adoption proceeding, you can certify a copy of this to the clerk or you can furnish a certificate under the seal of your office that such consent was given in writing.

24. Duties with reference to mentally disordered

To George A. Hux.

Inquiry: May the affidavit appearing on the back of a blank for commitment of a mentally disordered person to a State Hospital be acknowledged or sworn to before a Notary Public?

(A.G.) There is no statutory form for this portion of a commitment paper. Prior to the 1945 General Assembly, G.S. 122-49 contained the questions that were to be answered, and the form about which you inquire appeared therein. G.S. 122-49 was repealed by the 1945 General Assembly, and the law does not now require that the questions which formerly appeared in this section be answered. The Hospital authorities have retained these questions on the commitment paper as now used as a matter of convenience. Since the law does not prohibit a notary from taking this acknowledgment, it is my opinion that he is fully authorized to take the same.

D. Registers of Deeds

16. Military discharges

To J. W. Ward.

Inquiry: May a county pay a Register of Deeds who is on a fee basis for recording official discharges of former members of the armed forces?

(A.G.) Unless there is a special act, the fees of the Register of Deeds are fixed by G.S. 161-10. Unless the Legislature has provided additional fees in specific counties, the Register of Deeds is entitled only to the fees authorized in Section 161-10 of the General Statutes. G.S. 47-109 was amended in 1945 to provide that the Register of Deeds shall receive no fees when a certified copy of a discharge is furnished to a member or former member of the armed forces. But, in addition, the 1945 General Assembly added Section 47-114 to Chapter 47 of the General Statutes, providing that "the county commissioners of each county are hereby authorized and empowered in their discretion to appropriate from the general fund of the county an amount sufficient to cover any additional expense incurred by the Register of Deeds of the county in carrying out the purposes of this article.

To Thomas C. Hoyle.

Inquiry: How many certified copies of discharges is a veteran entitled to without the payment of any fee therefor?

(A.G.) The 1945 amendment to G.S. 47-13, providing that the register of deeds should furnish a certified copy of a discharge without charge to a member or former member of the armed forces, was not intended to provide only **one** free copy for a veteran but, on the contrary, to provide that a veteran should receive as many free copies as were necessary. The proviso was intended to strike out the fee of fifty cents as applied to veterans, and was not, because of the way in which the article "a" was used, intended to limit the number of copies.

To Thomas P. Pruitt.

Inquiry: Should the register of deeds furnish certified copies of discharges, birth certificates and marriage licenses when the request comes through the county service officer, who is a full-time employee?

(A.G.) The 1945 law providing that a certified copy shall be furnished without charge to any member or former member of the armed forces who applies therefor makes it immaterial whether the request is made by the veteran in person or through a local service officer. The law provides further that the county commissioners are authorized to appropriate from the general fund of the county an amount sufficient to cover any additional expense incurred by the register of deeds in carrying out the provisions of the act.

Chapter 1064 of the Session Laws of 1945 provides that the register of deeds of each county shall furnish copies of certain records to representatives of North Carolina Veterans Commission, without charge. I am of the opinion that a local service officer is a representative of the North Carolina Veterans Commission.

To Miss Camille Aldridge.

(A.G.) If a photostatic copy of an official discharge is furnished without charge to a member or former member of the armed forces who applies therefor, the register of deeds is not entitled to a fee, regardless of the type of certified copy that he furnishes, even if it be a certified photostatic copy.

J. Veterans Service Officer

1. Authority to appoint

To Sam S. Woodley.

Inquiry: Is a county in the absence of a local act specifically authorizing the employment of a veterans service officer, authorized to employ and pay such an officer out of county funds?

A.G.) H.B. 436 authorizes the appropriation of funds for a veterans service officer, provided the persons so employed act under the supervision of the State Veterans Commission and in conformity with its directions in carrying out the state program.

2. Special tax to support

To Scott and Collier.

Inquiry: Does a county have the right to levy a valid tax on all the property in the county for the maintenance of a "Veteran's Service Office"?

(A.G.) We do not find any law, either general or public-local, that authorizes the county commissioners to make a special levy for the purpose of paying a salary to a veterans service officer and equipping and maintaining his office. H.B. 436 authorizes counties, cities and towns to employ such officers and to expend funds for quarters, equipment and supplies, but this does not mean that there is authority for a special levy. If a unit had surplus funds, or if there were any unexpended balances in the general fund that had not been allocated, I think they could be used to pay the officer and equip his office; but not by special levy.

L. Local Law Enforcement Officers

9. Wine and beer license—granting and revoking

To T. J. Gold, Sr.

Inquiry: Is there any limit on the time when a person convicted of a felony may apply for beer and/or wine license?

(A.G.) G.S. 18-75, paragraph 5, states that applicant must show that he has never been convicted of a felony or other crime involving moral turpitude and that if it appears from the statement of the applicant or otherwise that he has at any time been convicted of a felony or other crime involving moral turpitude, license shall not be granted him. It is apparent from this section that the governing body of a county or city may not issue beer and/or wine license to any person who has ever, at any time, been convicted of a felony or other crime involving moral turpitude.

18. Prohibition law—1937 Liquor Control Act

To Henry L. Williamson.

(A.G.) I do not see in G.S. 18-58, which provides that it shall be unlawful for any person to purchase in or bring into this State any alcoholic beverage from any source except an ABC store, except that a person may purchase legally outside of the State and bring into the State for his own personal use not more than one gallon of such beverage, anything which requires that the person bringing the intoxicating liquor into the State should purchase it from a store operated by or under the authority of another state, and I doubt if the Court would sustain this contention. If the person could show that he has legally purchased the beverage outside the State and was bringing it into the State for his own personal use, I think this would be an adequate defense.

To Malcolm McQueen.

Inquiry: Does a person in possession of more than one gallon of tax paid whiskey raise the presumption of illegal possession for the purpose of sale?

(A.G.) G.S. 18-32 provides that it shall be unlawful to possess spiritous, vinous or malt liquors for the purpose of sale. This section provides that the possession of more than one gallon of spiritous liquors at any one time shall constitute prima facie evidence of the violation thereof. This section, in my opinion, applies to the possession of more than a gallon of liquor in a county which has adopted the provisions of the ABC act.

32. Gambling

To H. D. Stanley.

Inquiry: Is the usual type pin ball game or table legal in this State, if it is a game of skill and nothing is promised or received by the player?

(A.G.) G.S. 14-304 provides that it is unlawful to manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away any slot machine or device. The term "slot machine or device" is defined in G.S. 14-306 to include any machine, apparatus or device in the playing of which the operator has a chance to make varying scores or tallies upon the outcome of which wagers may be made.

If it registers a score, I advise that in my opinion it is unlawful to possess, sell, manufacture, etc. a pin ball machine of the type mentioned.

69. Concealed weapon

To J. W. H. Roberts.

Inquiry: Is there any authority that would support the confiscation of pistols involved in convictions for carrying concealed weapons and transferring the pistols to a city for official use, in view of the shortage of firearms at the present time?

(A.G.) G.S. 14-269 provides that upon conviction or submission the deadly weapon with reference to which a defendant has been convicted shall be condemned and ordered confiscated and destroyed by the judge presiding at the trial. This office has for a long time construe this language to be mandatory, the only allowable disposition of the weapons being destruction.

Y. Game Wardens

5. Powers and duties

To O. L. Williams.

Inquiry: Are game wardens authorized to search automobiles which they believe are being used in connection with game in an illegal way?

(A.G.) Under the statutes stating the authority of game wardens, I am of the opinion that game wardens have no authority to search an automobile without first having procured a search warrant.

VETERANS—EXEMPTION FROM INCOME TAX

To Clifton Beckwith.

(A.G.) In view of G.S. 105-150 and 344, it is my opinion that, if the compensation received by a discharged veteran from the Government was awarded to him as the result of injuries sustained while in the armed forces and is thus based on physical disability, such compensation is not subject to the State income tax.

Z. Constables

12. Special constables

To George A. Harris.

Inquiry: How may a special constable be appointed?

(A.G.) A constable is elected from each township by the qualified voters thereof and holds office for two years. In case of a vacancy in the office of constable, it is filled by the Board of County Commissioners. While G.S. 151-5 provides for the appointment of special constables by a Justice of the Peace, I am of the opinion that the term special constable within the meaning of that section would not give you authority to name any particular person as a special constable to serve the processes issuing out of your court, but that it merely authorizes you to designate some person to serve such processes in extraordinary cases when a constable cannot be located and no other officer is available to serve the same.

XI. GENERAL AND SPECIAL ELECTIONS

B. Ballots

10. Absentee ballots

To Thomas C. Hoyle.

(A.G.) The mechanics of the absentee voting law indicate that the General Assembly did not contemplate making the law applicable to special elections. This office has, therefore, reached the conclusion that absentee voting is not authorized in municipal elections or in special elections.

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Recent Decisions

(Continued from page 10)

ance man, keeping in repair the lines used to conduct electricity to private customers and also maintaining the town's street lighting system. At the time of the injury complained of, resulting from a collision between the town's truck and a taxicab in which plaintiff was riding, the town's employee was on his way to repair overhead street lights. Therefore, said the Supreme Court, a non-suit should have been granted, as the employee was engaged in a governmental activity at the time of the collision.

Decided that a public employee may be individually liable for damages caused others by the negligent performance of his duties. This is so even though the employer (State, county or city) may be immune. In *Miller v. Jones*, 224 N.C. 783 (January, 1945) the defendants were employees of the State Highway and Public Works Commission and were operating a road sweeper with a blower attachment. Plaintiff's evidence showed that the sweeper and blower was driven by his store, that he was given no notice of its coming or opportunity to close his doors and windows, and that before he knew it a great quantity of filth and dirt was blown into his store and damaged his merchandise. The Superior Court granted defendant's motion for nonsuit on the ground that plaintiff's evidence did not show any willfulness, malice or corruption on the part of the defendants. The Supreme Court held that the case should have gone to the jury, and drew a distinction between employees of a governmental unit or agency and officers charged with the performance of governmental duties involving discretion. Mere employees, said the Court, may be held individually liable for their negligence in the performance of their public duties just as if they were doing the same sort of work for private employers, if their negligence results in injury to persons or property. One Justice dissented from the legal reasoning, another from the conclusion that plaintiff had shown enough negligence to take the case to the jury.

The People Serve

(Continued from page 4)

memberment, injuries to sight and hearing, or injuries causing permanent disability. In 1918 the machinery was set up and the training made available to all persons entitled to compensation under the War Risk Insurance Act, and an act of 1919 further rounded out the theory of conservation and rehabilitation of manpower that was one motive for drafting the law. Vocational training after the last war was only moderately successful from its beginning in 1918 to its end in 1928, partly because the administration of the program was inexcusably deficient, and partly because only about 180,000 veterans entered the program while the cost ran to over $644,000,000; at the same time there were 1,141,206 claims for service-connected disabilities by 1932, some 541,000 awards being made.

The laws that guarantee the veteran preference in the civil service were quickly pushed through after World War I, though the GAR had been unable to accomplish this in its day.

By 1921 demands for further veterans' compensation had crystallized, and the veteran began to be a major issue in politics. From 1921 to 1932 a series of laws was passed which liberalized the definition of service-connected disability. The act of 1924 provided for the payment of adjusted compensation to veterans who had performed active service in the military or naval forces during the World War. It was amended each year from 1926 through 1932. In the latter year came the provision for transportation expenses of veterans "temporarily quartered in Washington, D. C." Following the political struggles over the question, the bonus was finally paid in full in 1936.

In June 1924 the World War Veterans Act was passed as the result

of a desire of the U. S. Veterans Bureau, veterans organizations, and Congress to make the existing laws more effective and to codify the laws affecting World War veterans. The result was the incorporation into one law of the pertinent provisions of the various separate acts, resulting in the establishment of regional offices of the Bureau, increased compensation for widows and children, and a broadening of the insurance regulations. Acts liberalizing, extending and enlarging the scope of eligibility were passed in 1925, 1926, 1927, 1928, 1930 and 1932.

Veteran organizations. The veteran was the chief interest after the last war, but was almost shoved aside after the cheers of November 11 had died down, until the veteran organizations, which naturally retained the interest, reawakened the nation on behalf of the veteran by 1923.

It is as instinctive for ex-soldiers to form organizations to protect themselves and provide for their families as it is for an ex-soldier to tell his experiences to his children and grandchildren as long as he lives. And the common experiences have formed a common basis upon which have been built organizations that have not only cushioned the shock of the readjusting to civilian life, but also, by obtaining for him the rights he has demanded, have directly influenced the national policy in its every year since 1776. After World War I many organizations competed for the veteran, and excellent service was rendered by the V. F. W., the D. A. V., and the American Legion. The Legion is the world's largest veterans organization. Founded in 1919, it was nonpartisan and included in its membership all officers and men. In its early years the Legion fought successfully for the disabled veteran, reformed the Veterans Administration, increased the benefits for veterans, and was successful in obtaining the adjusted compensation legislation or bonus; its social services, directed towards needy veterans, have been important; the child welfare program, since its beginning in 1925, has reached 5,900,000 children and cost some $50,000,000.

By the act of July 3, 1930, various activities were consolidated into an establishment to be known as the Veterans Administration, and the same year the Veterans Bureau, the Bureau of Pensions and the National Home for Disabled Volunteer Soldiers were consolidated under the Administrator of Veterans' Affairs.

Costs of benefits. There were some 4,100,000 men in the armed forces in World War I, of which 53,497 died in battle, 81,417 died of disease and 201,471 were wounded. The net cost of the war from 1917 to 1921, after discounting the amount received from the sale of surplus property and the partial repayment of cash advances to the Allies, has been computed to be $27,234,164,855.36. There are now some 587,000 (including veterans, widows, children and parents) who receive over $300,000,000 annually. The amount paid so far for all World War I benefits in the past twenty-seven years has totaled $5,470,958,505.80, as of June 30, 1945.

World War II

The veteran coming back this time will have more companions than any ex-soldier of any previous war with him, and he will observe that what he comes back to will be better than what soldiers have returned to after past wars. It will be a far cry from the middle ages, when the very most the disabled veteran could hope for was that he might be granted the right to beg in the streets for a living. In the very near future, most of the 15,000,000 servicemen and women will turn into veterans, and while the percentage of these who will need to be served may be small in the beginning, that percentage will have to be cared for; and the percentage will grow from year to year. How much it will cost and how long it operates will depend on the future itself.

By June 1944, 208,519 World War II veterans were already receiving service-connected disability allotments, and the number in 1945 is 536,541. The disbursement for 1945 is estimated to be $2,500,000,000, over $245,000,000 having been spent in 1945 by June 30, and the amount can be expected to increase annually. The total amount paid out for World War II benefits by June 30, 1945 was $314,500,952.14. The hospitalization load of this war is expected to reach its peak about 1967 when some 9,000,000 veterans may require beds, examinations, medical service, or dental care. The cost will be $20,000,000 a year for more than a generation, and disability allotments may reach 3,000,000 veterans at a cost of a billion dollars a year. By 1948 the annual cost of veteran benefits is expected to be almost three billion dollars, while $180,000,000,000 will be spent in the next 60 years, even if no more benefits are added. If prosperous times come, this estimate may be sufficient; if times are not good, it will not be. The veterans of this war make a powerful constituency that can move to get them what they want. The entire cost may depend on many different things, but the cost of past wars may help to form a basis for the prediction of the eventual cost of this one. Total federal expenditures for the relief of veterans to date was 25 billion dollars by 1942. Of this amount, 15 billion was for pensions and the rest for bonuses, insurance and other benefits. Land grants and expenditures of state governments are not included in this sum. As to the time we will be servicing this group of veterans, it seems safe to estimate that a hundred years might be even too conservative a guess.

Still left to care for from wars before this past one are 816,242 living persons to whom the government sends hundreds of millions worth of benefits each year. Of course there will be a progressive increase in the future. America has tried many experiments in an attempt to help her ex-soldiers. The past history of these attempts can point the way to what can be expected this time, both in the way of costs and as to the length of time that we will be paying these costs. The fact that this experience may also indicate the things to avoid, the provisions to continue, and the parts of the program to be carried even further makes the future of the veteran of this war considerably brighter than that of his father after the last. Knowledge of this fact, in view of the benefits already promised him and the number of years that they will be given to him, likewise makes our future responsibility greater than after the last.

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