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POPULAR GOVERNMENT

VOLUME II

NOVEMBER, 1934

NUMBER 1

THE WHITE HOUSE

WASHINGTON

May 29, 1933.

My dear Governor:

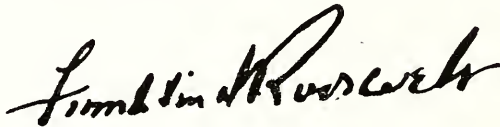
To you and my many friends in North Carolina who have been good enough to invite me to attend the first meeting of The Institute of Government, I can but express my very real regret that conditions over which I have no control literally make me a prisoner in the White House and make impossible even a twenty-four hour escape.

I have been looking forward with genuine anticipation to the pleasure of participating with you in the meeting of The Institute and my inability to do so is consequently a deep disappointment. The Institute of Government, its purposes and its organization, as conceived and established in North Carolina, has and will render fine service to the State and the Nation.

It is my hope that other States will recognize the leadership of North Carolina in what it is doing through this Institute and that States having no comparable agency will accept and follow your leadership. Some of the most progressive and original developments in the whole field of education have been in North Carolina and I take this occasion to congratulate you on that as well as on The Institute itself.

Will you, in my behalf, extend greetings and best wishes to those who have the good fortune of attending these sessions of The Institute.

Very sincerely yours,

A handwritten signature in dark ink, reading "Woodrow Wilson". The signature is written in a cursive, flowing style with a large, prominent "W" and "L".

Hon. John C. B. Ehringhaus,
Governor of North Carolina,
Raleigh, North Carolina.

POPULAR GOVERNMENT

VOLUME 2
NUMBER 1

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NOVEMBER
1934

The Institute of Government

What It Is and Why It Was Organized

By ALBERT COATES

Director

The Public Officers' Division

IN the political campaign of 1932 the following advertisement appeared in a North Carolina newspaper: "I hereby announce my candidacy for the office of County Surveyor. My father was County Surveyor for twenty years and I inherited at birth all the qualifications for this office."

Most officials, however, are not born with a knowledge of the powers and duties of the offices to which they are elected. Nor do they acquire this knowledge from their private occupations and professions.

Friendship or efficiency?

"How long have you been in office?" a visitor asked a Clerk of Court one day not long ago. "Going on four years." "Did you know anything about the office when you were elected?" "No. I'm here because I got the most votes." "Did the man you beat out help you to catch on to your work?" "Lord, no. He didn't even want to give me the keys. Got other jobs for all the stenographers and clerks and left me here holding the bag instead of the office. I had to start from scratch." "Anybody running against you this fall?" "Yes. Two of 'em." "What do they know about the office?" "Well, times are hard and they know they want it. That's about all I knew when I ran before and if they can beat me I reckon turn about is fair play." "Do you know how the clerks in the next counties are running their offices?" "Not much. I'm too busy to find out."

The visitor went out with a mental picture of thousands of officials in the one hundred counties, five hundred towns, and dozens of state departments, every two or four years going into office to learn by mistakes which might have been avoided and for which the people pay. The learning they acquire in this expensive fashion too often goes out of office with them at the end of their official terms. Incoming officers start, not where their predecessors left off, but almost, if not quite, where they began.

"No people can ever become a great people by exchanging its own individuality, but only by encouraging and developing it. We must build on our own foundation of character, temperament and inherited traits. We must not repudiate, but develop. We must seek out and appreciate our own distinctive traits, our own traditions, our own deep-rooted tendencies and read our destiny in their interpretation."

—Charles B. Aycock

Popular government, like the frog in the well—an illustration trite to everybody but the frog—is continually going forward three feet and falling back two. Government is forever in the hands of beginners.

A pyramid of units

Another condition, no less compelling in its appeal to united action on the part of the public officers of North Carolina grows out of the fact that in the last hundred and fifty years we have built a pyramid of overlapping town, township, county, state, and federal governmental units, with the result that the power to investigate crime and apprehend criminals is divided among the town police, the township constable, the county sheriff, the state patrol, and the federal agent. The judicial power is divided between justice's courts, juvenile courts, city courts, county courts, state courts, and federal courts. The legislative power is divided between city aldermen, county commissioners, state legislators and federal representatives. For a hundred and fifty years these officers have been working on the same problems, for the same people, in the same territory without ever coming together in the practice of coordinated effort.

The Public Officers' Division of The Institute of Government was organized: (1) To cut down the lost time, lost motion and lost money attending every rotation of officers in every general election; (2) to collect and transmit to successive generations of public officers the experience

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The above officials represent their respective organizations on the State Board of Advisers, The Institute of Government: (1) Judge W. A. Devin, Oxford, President of the Judicial Officers Division; (2) Judge M. V. Barnhill, Rocky Mount, Vice President of the Judicial Officers Division; (3) E. B. Jeffress, Greensboro, President of the Street and Highway Safety Division; (4) Charles M. Johnson, Raleigh, President of the Public Treasurers Division; (5) Major L. P. McLendon, Greensboro, President of the Election Officers Division; (6) Clawson L. Williams, Sanford, President of the Prosecuting Attorneys Division; (7) N. E. Aydtlett, Elizabeth City, President of the Clerks of Court Division; (8) J. G. Wooten, Winston-Salem, President of the Police Officers Division; (9) Oscar F. Adkins, Marion, President of the Sheriffs Division; (10) Dr. C. R. Wharton, Knolin, President of the Coroners Division; (11) George Lawrence, Chapel Hill, President of the Welfare Officers Division; (12) J. B. Roach, Raleigh, President of the Prison Officers Division; (13) Samuel E. Leonard, Rocky Mount, President of the Correctional Officers Division; (14) Captain Charles D. Farmer, Raleigh, Head of the State Highway Patrol.

rience of those who have gone before them, of other officers in similar offices in this and other states, and enable them to start nearer where their predecessors left off than where they began; (3) to coordinate the efforts of city, county, state, and federal officials working on the same problems for the same people in overlapping and adjoining governmental units, and thus eliminate the duplication, confusion, friction, and waste now existing in a welter of interlocking, overlapping, and conflicting interests.

A movement starts

In 1908 eleven County Commissioners met at New Bern to discuss the problems of County government and to exchange ideas, methods, and practices existing in different sections of the state. In 1917 this example was followed by the Clerks of the Superior Court and later by the Sheriffs, Chiefs of Police, Firemen, Municipal Officers, County Accountants, Welfare Officers and others. In 1931 other groups began to organize: Legislators, Judges, Election Officials, Prosecuting Attorneys, City Attorneys, County Attorneys, Registers of Deeds, Coroners, Prison Officials, Tax Officials, Treasurers, Purchasing Agents, and the like. On May 6, 1932, three hundred representatives of all groups of city, county, state, and federal officials in North Carolina met to pool their knowledge and coordinate their efforts in the Public Officers' Division of The Institute of Government.

The movement progresses

The plan of organization agreed upon brings together in the Law Enforcing Officers' Division of The Institute: City Police, County Sheriffs, State Highway Patrolmen, and Federal Agents. In the Legislators' Division: City Councilmen, County Commissioners, State Legislators, and Federal Representatives. In the Judicial Division: Judges of City, County, State, and Federal Courts. Along the same unifying lines Prosecuting Attorneys, Accountants, Clerks of Court, Election Officials, Tax Officials, Welfare Officials, State and Highway Safety Officials, and all other official groups in overlapping and adjacent governmental units are joining together in building their respective divisions. The accredited leaders of these groups, elected by the officers themselves, represent the public officials of North Carolina on the State Board of Advisers of The Institute of Government.

Citizens' Division Organized

"Shall I pay my taxes this year?"

THIS question was put to a Superior Court judge by a prominent North Carolina woman a year ago. "Why, my dear lady," the judge replied, "What do you mean?" "Well," she answered, "last year I paid my taxes. Half the people in the county didn't pay theirs. And this year it looks like I'm going to have to pay mine and theirs too."

This incident takes on added significance as newspapers carry the story of taxpayers in an eastern county resisting by injunction the levy of a higher tax rate on the ground that half a million dollars in uncollected taxes are still on the books. Certainly the time has come when officials and citizens must understand each other and both must understand the practical problems of the government

of which they are a part. Taxpayers' strikes create as many governmental problems as tax spenders' follies.

A return from slumberland

Few of the citizens' organizations, which have multiplied across the state within the last two decades, had taken any consistent and constructive interest in the workings of their government until depression cut their profits and they were forced to cut their costs. They ran into their tax bill with the impact of a seemingly irresistible force upon a seemingly immovable object. "We have cut to the blood and to the bone in our homes and in our business," they said. "and we want to do the same thing in our government." Every committee on public affairs in every civic group awakened with a start. Citizens' committees were formed and taxpayers' leagues sprang up throughout the state. They went their several ways and because they did not hang together they, for the most part, hanged separately.

One of the weaknesses of these early depression enthusiasms was that these committees were not organized in a way that would permit them to go to the bottom of things. Citizens with worries of their own could hardly take more than a week at most for the personal examination of governmental affairs and they too often found themselves helpless to help themselves in the presence of experienced officials who too often felt that more truth than poetry was involved in these investigations. The employment of occasional "experts" to spend thirty to sixty days accomplished little more than the citizens themselves had accomplished and for the same reasons. Even when they got to the bottom of affairs at home they were handicapped by the lack of comparative governmental costs in other communities of similar size and situation.

Three meanings in one

To illustrate: The words "street department" in the budgets of three cities may mean three different things. In one they may mean the maintenance of street surfaces; in another they may include maintenance of street surfaces plus curbing and guttering; in another they may include maintenance of street surfaces plus curbing and guttering plus street cleaning. Thus, to the lack of co-ordinated effort within communities was added the lack of co-ordinated effort between communities. Thousands of dollars have been spent without actually putting citizens in touch with their government today and without providing the machinery to keep them in touch with it in the future. The pull of habit still runs strong: As good times appear, interest in government disappears. It reappears when hard times come again and citizens return to the pursuit of their time honored custom of locking the stable door after the horse is gone. These conditions were steadily breeding public distrust of public officials throughout the commonwealth.

To remedy these conditions, to put citizens in touch with their government now and build the machinery for keeping them in touch with it in the future, to co-ordinate their governmental efforts and activities and turn them into constructive channels the public officers of North Carolina invited representative Citizens' Groups throughout the State to join them in building the Citizens' Division of The Institute of Government.

The fourteen officials shown below represent their respective divisions on the State Board of Advisers, The Institute of Government: (1) A. H. Graham, Hillsboro, President of the Legislators Division; (2) R. L. Harris, Roxboro, Vice President of the Legislators Division; (3) Andrew Joyner, Jr., Greensboro, Vice President of the City Attorneys Division and President of the North Carolina League of Municipalities; (4) John L. Skinner, Littleton, Secretary of the County Commissioners Division; (5) R. L. Stowe, Belmont, President of the County Commissioners Division; (6) Clarence E. Blackstock, Asheville, President of the City Attorneys Division; (7) J. Wallace Wimborne, Marion, President of the County Attorneys Division; (8) D. W. Newsom, Durham, President of the County Managers Division; (9) A. C. Hudson, Greensboro, President of the Tax Supervisors Division; (10) J. A. Orrell, Wilmington, President of the Accountants Division; (11) R. H. Wharton, Greensboro, President of the Registers of Deeds Division; (12) George C. Eichhorn, Greensboro, Vice President of the Street and Safety Division; (13) C. W. Smedburg, Greensboro, President of the Engineers Division; (14) A. S. Brower, Raleigh, President of the Purchasing Agents Division.



Many groups now participating

Among the groups who have accepted this invitation and are actively participating today are: Civic clubs—Rotary, Kiwanis, Lions, Civitan, American Business Clubs; Associations of Lawyers, Bankers, Merchants, Manufacturers, Farmers, Laborers, Physicians, Teachers, Election officials, Chambers of Commerce, American Legion, the State Federation of Women's Clubs, American Association of University Women, League of Women Voters, American Legion Auxiliary. Other groups are being added to the Citizens' Division of The Institute as they express their interest in this program. The accredited leaders of these groups, elected by the citizens themselves, represent the citizens of North Carolina on the State Board of Advisers of The Institute of Government.

Schools and Colleges Enter the Picture

Four-tenths of one per cent cause insomnia

A TEACHER of criminal law in North Carolina not long ago found that only four-tenths of one per cent of the criminal cases tried in the criminal courts during the past thirty years had gone to the Supreme Court on appeal. His sleep that night was troubled by thoughts like these: "Supreme Court decisions constitute ninety-nine per cent of my teaching material. Does this mean I am trying to teach practically one hundred per cent of a course out of four-tenths of one per cent of the knowledge?" He examined the civics books used in the high schools and the texts on government used in the colleges and found them as far from the realities as his own.

To the lack of adequate teaching materials, add the lack of even academic governmental training on the part of many teachers, add the lack of practical governmental experience on the part of practically all and you symbolize the gap between law in theory and law in practice, between government in books and government in action, between the schools and the people. With the result that around twenty thousand students are going out of the high schools and colleges each year knowing all about civics and nothing about government. With the result that thousands of boys and girls are yearly coming to the ballot box ignorant of the structure and the workings of the governmental institutions whose destinies they determine.

Student government

Around forty thousand students in the colleges and high schools of North Carolina are living under some form of student self-government. On at least one college campus, student government officers are doing as good a job governing twenty-five hundred students as the town authorities in governing twenty-five hundred citizens. Comparisons of the student government with the city government show the same types of problems to be dealt with and the same types of cases to be tried: Larceny, forgery, embezzlement, drunkenness, disorderly conduct, assault and battery, election frauds, and the like. They have worked out methods of dealing with these problems that the criminal courts might envy.

This is not child's play, it is not "juvenile" government. It is adult government. Partly because it has won its place through over a century and a quarter of struggle of successive generations of students, partly because it is today successfully handling a considerable portion of the problem of law and order, partly because the increasing sense of responsibility it brings to youth is laying the basis for responsible citizenship, partly because both officers and citizens are recruited from the ranks of youth, the student government officers of the twenty-seven colleges and nine hundred high schools of North Carolina were invited to join with the public officers and private citizens on equal terms and with equal voting power.

Colleges co-operate

There are twenty-seven junior and senior colleges in North Carolina. They are bringing to their respective centers students from all sections of the State to meet and mingle. In varying degrees boys and girls who go to these separate centers with the viewpoint of a locality come away with a vision of a commonwealth, transformed from citizens of sections into citizens of North Carolina. Thus each institution has in its own way become a unifying influence in our life.

In the professional schools, graduate schools and departments of government and political science of these institutions, there is skill and knowledge in the science of government which can be coordinated to the advantage of each institution and to the advantage of the people they serve.

In the teachers of civics and government in the nine hundred high schools of North Carolina, there are potential sources of governmental skill and knowledge which can be developed and coordinated to the advantage of the students in their classrooms and the people of their respective communities.

In recognition of these conditions the public officers and private citizens of North Carolina invited the accredited leaders of the schools and colleges of the state to join them in the effort: (1) To eliminate the gaps in knowledge between government as it is taught in the schools and government as it is practiced in the offices of the commonwealth; (2) to give some practical insight into the workings of their government to the successive thousands of students who are yearly going out of the high schools and colleges of North Carolina to take their place in the ranks of citizens; (3) to coordinate all the resources of all the institutions of all the people upon the governmental problems of the people. The accredited leaders of the students and teachers of civics and government in the high schools and colleges of North Carolina represent their respective groups on the State Board of Advisers of The Institute of Government.

The Composite Picture

IN the closing days of December, 1931, fifty people from thirty towns and counties in all sections of North Carolina laid plans to bring together in the building of The Institute of Government the rank and file of public officers, private citizens, and the schools of the people.



Above are shown eight of the educational leaders of the colleges and public schools of North Carolina who are cooperating with the officers and citizens in building The Institute of Government: (1) Dr. Frank P. Graham, President of the Greater University of North Carolina; (2) Dr. Thurman D. Kitchin, President of Wake Forest College; (3) Dr. Walter W. Lingle, President of Davidson College; (4) Dr. W. P. Few, President of Duke University; (5) A. T. Allen, State Superintendent of Public Instruction; (6) G. B. Phillips, of Greensboro, President of the North Carolina Education Association; (7) Paul S. Daniel, of Raleigh, President of the City and County Superintendents organization; (8) Needham Y. Gullett, Dean of the Wake Forest Law School and Chairman of the City and County Boards of Education Division of The Institute.

In the organization meeting on May 6, 1932, this number swelled to three hundred people from fifty-four counties and seventy-nine towns; in the first annual session on September 10, 1932, to seven hundred from ninety-one counties and one hundred and twenty-one towns; in the second annual session on June 23, 1933, to over one thousand from ninety-eight counties and one hundred seventy-four towns.

To date more than five thousand people representing practically every group of officials, citizens, and students in the State have joined together in formulating The Institute's program. Through their own organizations they elect their own leaders. These leaders constitute the State Board of Advisers of The Institute of Government. The State Board of Advisers elects the Board of Trustees. The Board of Trustees selects The Institute staff. The Institute staff carries out The Institute's program. The Board of Trustees will be installed, the staff will be announced, and the complete plan of organization submitted for approval in the 1934 session of The Institute to be held at the State Capital on November 15, 16 and 17.

THE INSTITUTE AT WORK

HOW can we cut down the lost time, lost motion, and lost money involved in a rotating governmental personnel? How can we put the people in touch with their government and keep them in touch with it? How can we bridge the gap between government as it is taught in the schools and government as it is practiced in the forums of the people? These are questions that go to the heart of popular government itself? They are questions that officers, citizens, and the youth of North Carolina in the name of popular government are undertaking

to answer today through the Institute of Government in a cooperative governmental program rooted in necessities as old as government of the people and the logical outgrowth of our life and history.

An official's dilemma

"When I was elected to public office," said a prominent official not long ago, "I learned I didn't know as much as I thought I knew about the duties I was called on to perform. Worse than that, there was no place I could go to find out. The laws affecting the powers and duties of my office were scattered in different places to the point of practical inaccessibility: in constitutional provisions, in public laws, public-local laws, private laws, minutes of commissioners' meetings, municipal ordinances, administrative rulings, court decisions, and special studies or reports."

"The laws in the books," interrupted his companion, "do not tell half the story. The rest of it is scattered through the records, equipment, and routine of hundreds of governmental offices in every town, county and state department, through the unrecorded practices and the accumulated experiences of hundreds of officials throughout the state. These practices have not yet found their way into printed pages but they represent the government as it works in action."

"Yes," was the reply, "and we officials coming into office every two years all over the state are not the only ones suffering from this condition. When citizens know no more about the problems facing their representatives than I knew when they elected me to represent them, it is easy for misunderstandings and suspicions to arise and friction to develop. And for the schools to send out students ignorant of the workings of the government they have got to run, is like pushing biddies in the creek—or maybe it is pushing government in the creek."

What Can Be Done About It?

Under the direction and supervision of city, county and state officials in North Carolina members of the staff of The Institute of Government are going from county to county and from town to town, learning at first hand the structure and workings of their government in theory and in practice, in books and action. They are collecting, comparing and classifying the laws, methods and practices in use. Officers out of their experience have more to teach the schools than the schools out of their books have to teach the officers. We are going to school to the officers.

The results of these comparative studies will be set forth in guidebooks for officers, pamphlets and programs for citizens and in supplementary texts and source materials for students and teachers of civics and government in the high schools and colleges of the state. They will be illustrated in central demonstration offices to which officers, citizens and students alike may come to see actual demonstrations of the governmental methods and practices in use in the city halls, county courthouses and State departments. They will be taught in county, district and state-wide schools of officers, citizens, and students and transmitted to them at monthly intervals through the pages of "Popular Government."

Law enforcement

To illustrate the plan of work: Under the direction of the law enforcing officers of North Carolina, Albert Coates is working successively on the forces of police officers, sheriffs, highway patrolmen, and federal agents; of city, county, state and federal prosecuting attorneys; of corresponding agencies for the administration of punishment, pardon and parole, learning at first hand their methods, practices, and problems.

Tax administration

Under the direction of tax officials, Henry Brandis, Jr., is working along the same lines in the offices of tax listers, tax assessors, tax collectors; learning at first hand the methods and practices employed in tax listing, tax valuation, tax collecting, and safe guarding public funds on hand.

Administration of justice

Under the direction of court officials, Dillard S. Gardner is working as an apprentice with the judges, clerks of the court, sheriffs, registers of deeds, and local bar officials, learning at first hand the methods and practices in the administration of justice in city, county, state, and federal courts.

Accounting methods and practices

Under the direction of state and local governmental accountants, T. N. Grice is studying the accounting methods and practices of state and local governmental units, literally following the tracks made by public moneys as they go from the pockets of the taxpayers into the public treasury and from the public treasury into governmental services.

Purchasing agencies

George W. Bradham is studying the methods, practices and problems of purchasing agencies of governmental units throughout the state under the direction of official purchasing agents. Mr. Bradham is also serving as business manager of "Popular Government."

Street and highway safety

Members of The Institute Staff under the direction of the officials of the Street and Highway Safety Division of The Institute are studying the methods of regulating traffic now in use in this and other states by public and private agencies, in the effort to correlate their ideas and efforts in a safety program which will go as far as it is humanly possible to go in cutting down the loss of life and property on the public highways.

Other activities

Special studies are being carried on by members of local bars as part of the Institute's program. Under the direction of the Election Officers' Division of The Institute, Mr. George C. Hampton, Jr., of the Greensboro bar, with the assistance of Mr. R. C. Maxwell, of the Raleigh bar, is making a state-wide study of laws and practices in special elections, primaries, city elections, and general elections. Parts of these studies are complete and in use. Mr. Charles T. Boyd, of the Greensboro bar, assisted by Mr. D. E. Hudgins, Mr. Gilbert Powell, and the office staff of the Guilford County Register of Deeds, is studying the laws and practices involved in the administration of the office of Register of Deeds.

Malcolm Seawell is tracing out the history and present status of the Intermediate Courts in North Carolina as they are recorded in Constitutional provisions, public laws, public-local laws, municipal ordinances, administrative rulings and court decisions. Harry McGalliard is studying the evolution of the family as a governmental unit as reflected in the statutes, decisions, and Constitutional provisions of North Carolina from Colonial days to the present time. The first phase of this study outlining the changing status of women in the laws of North Carolina is practically complete.

Guidebooks

"Public Officers," said a County Commissioner, "for the most part learn their powers and duties as they go along. When my predecessor went out of office he carried all he had learned out with him, and I had to pick up not where he stopped but where he started. Hundreds of new officials throughout the State are continually finding themselves in the same fix on every election day."

Knowledge promotes economy

Through the practical processes outlined above the public officials of North Carolina are equipping a staff of men with the knowledge and experience to write guidebooks which will bring to every official now in office and to incoming officers in the future, a clear and concise picture of the powers and duties of their respective offices together with the methods and practices of their predecessors and other officers in similar offices in this and other states.

Guidebooks have thus far been prepared for Registers of Deeds and for Election Officials: in Special Elections, Primaries, City Elections, and General Elections. They have met with universal approval and have demonstrated the soundness of the plan. Guidebooks are now being prepared for Clerks of Court, Sheriffs, Police Officers, Prison Officials, Coroners, Welfare Officers, Juvenile Court Officials, Tax Officials, Accountants, Purchasing Agents, City Councilmen, and County Commissioners, and officials concerned with street and highway safety. Guide books for other groups will be prepared from time to time as studies in different fields are completed.

The information going into these guide books is being prepared in less technical form in a series of pamphlet- and programs for citizens generally and for students and teachers in the schools. This work is going on with the coöperation of public affairs committees in citizens groups and teachers of civics and government in the schools.

The Laboratory of Governmental Units

"If my business methods and practices become archaic and cumbersome," said a business man not long ago, "my rival will put me out of business. Competition furnishes us the incentive to maintain industrial laboratories to study new manufacturing processes as they develop throughout the state and country in the constant effort to improve our own technique. But, there is no competition between adjoining governmental units to keep them forever on their toes. No laboratory through which they can study new and improving governmental processes developing in other governmental units as aids to the improvement of their own technique."



In the group above are shown the members of the staff, The Institute of Government:

(1) Albert Coates, of Smithfield, for ten years student and teacher of city, county and state government and its administration; for the last five years working in co-operation with state and local officials on the practical problems of government. Director of The Institute.

(2) Henry Brandis, Jr., of Salisbury, member of the North Carolina Bar; for two years engaged in the active practice of law; since April, 1933, Associate Director of The Institute of Government studying the methods and practices of tax administration under the direction of tax officials.

(3) Dillard S. Gardner, of Marion, for five years a member of the North Carolina Bar engaged in the active practice of law; since November, 1933, Associate Director of The Institute of Government studying the administration of justice in the courts under the direction of court officials.

(4) T. N. Grice, of Elizabeth City, formerly on the staff of Price, Waterhouse and Co. of N. Y.; Certified Public Accountant in N. Y. and N. C.; since February, 1934, Associate Director of The Institute of Government studying accounting methods and practices.

(5) George W. Bradham, New Bern, for three years member of the editorial and advertising staffs of the Greensboro Daily News and since August, 1934, Associate Director of The Institute of Government and Business and Advertising Manager of POPULAR GOVERNMENT.

The business man was wrong in one respect. Every office in every city, in every county, and in every state department in North Carolina is a potential governmental laboratory where officers are free to try their hands at improving their own methods, practices, and technique. Out of the initiative, resourcefulness, and judgment of individual officers improvements are constantly being made.

Members of The Institute staff going from one governmental unit to another are collecting, comparing, and classifying these illustrative materials, filling them out with the appropriate entries to demonstrate their uses and supplementing them by adequate descriptions.

These materials are being brought from all the offices of all the governmental units into central demonstration offices to which present and future generations of officials, citizens, students and teachers from one hundred counties and five hundred towns may go to see demonstrated what they would now have to go to hundreds of places to find and would not find available when they got there.

Out of these assembled materials, we can build a practical working governmental laboratory for city halls, county courthouses, state departments, and the schools of the people. They will furnish the basis on which we can work toward a uniformity of standards which will lift the poorest governmental practices to the level of the best.

Towns and counties throughout the state together with publishing houses are assisting in the building of this laboratory. Around five thousand documents have already been contributed to it.

Governmental Schools

Officers, Citizens, Students and Teachers

More than common honesty is required in public office and likewise more than common sense. A hundred thousand dollars lost through honest inefficiency is as great a burden to the taxpayer as a hundred thousand dollars lost through conscious fraud. Knowledge is no guarantee of character, we are told. Neither is ignorance. The best

of governmental systems may be wrecked by men who do not understand it.

Members of The Institute staff, going from one city and county to another, acquainting themselves with the problems of these governmental units, learning at first hand their methods and practices in the administration of public affairs are laying the basis for county, district, and statewide schools: (1) Of public officers; (2) of private citizens; (3) of students and teachers of civics and government.

Officers

These schools are already being developed in conferences of police officers, sheriffs, clerks of court, registers of deeds, coroners, accountants, prison officials, welfare officers, tax officials, purchasing agents, city and county attorneys, city councilmen, county commissioners, state legislators, and federal representatives, and other groups of city, county, and state officials.

Citizens

Through this practical training process these men will be equipped to organize and conduct governmental schools for public affairs committees in citizens' groups now organized throughout the state and provide them with materials for systematic governmental programs for meetings of their respective groups throughout the year. Beginnings of these citizens' schools have been made in the annual sessions of The Institute of Government. During the coming year they will be organized in systematic fashion to fill the long-felt gap between the citizen and his government.

Students and teachers

Through this apprentice training with officials and citizens, members of The Institute staff will be equipped to cooperate with students and teachers of civics and government in the high schools and colleges in conducting practical seminar courses in the structure and the workings of state and local governmental units. Beginnings along these lines have already been made and during the coming year will be extended throughout the state.

"Popular Government"

A Monthly Magazine

WITH this issue, "Popular Government," heretofore a quarterly, becomes a monthly magazine, and will take its place as a clearing house of governmental information for officials, citizens, students, and teachers throughout the state.

This magazine will carry:

Analyses of governmental problems

Analyses of government problems along the lines heretofore carried in the quarterly: (1) Crime and Punishment in North Carolina; (2) Our State and Local Government Structure; (3) Legislation of the General Assembly of 1933; (4) The Proposed Constitution for North Carolina. Already prepared and ready for publication in the magazine are analyses of the Gasoline Tax in North Carolina and the Funding and Refunding of Governmental Debts.

Bulletin service

The bi-weekly bulletin service, which has been in operation since January 1, will also be incorporated in the magazine. This bulletin service carries the rulings of the Attorney General, the Local Government Commission, the Utilities Commissioner, the Industrial Commission and other state departments. This service has received such wide public acceptance that the editors expect it to be one of the most important features of "Popular Government."

Governmental methods and practices

The magazine will be the focal point through which current methods and practices of governmental units as they develop throughout the country may be brought home to state and local governmental units in North Carolina. This is made possible through exchanges with over one hundred governmental publications from states in all sections of the union and from membership in the following governmental organizations: The National Municipal League, The American Municipal Association, The Governmental Research Association, The International City Managers' Association, The American Public Welfare Association, the Public Administration Clearing House, and the bureaus of governmental research.

It will be the focal point of information gathered in comparative studies by members of the staff going from county to county and from town to town, as well as news of governmental affairs garnered from the daily and weekly press and through organized contacts with local governmental units throughout the state.

Articles

The magazine will carry articles prepared by officials throughout the state and nation, by teachers of civics and government in the schools and colleges of the state, and by interested citizens. Appropriate illustrations will be an important part of the magazine.

Inquiries

An increasing number of inquiries about governmental affairs and problems are being received by The Institute of Government. These inquiries, which are gladly solicited, have grown to such volume that a separate depart-



Above are shown accredited leaders of various citizens groups who are serving on the State Board of Advisers, The Institute of Government: (1) Harold D. Cooley, Nashville, President of the Local Bar Officials Division; (2) C. W. Tillet, Jr., Charlotte, President of the State Bar Association; (3) I. M. Bailey, Raleigh, President of the North Carolina Incorporated Bar; (4) Rev. T. A. Sykes, High Point, District Governor, 57th District of Rotary International; (5) Ralph C. Barker, Durham, Governor, Carolinas Kiwanis District; (6) Guy O. Bagwell, Charlotte, District Governor, Lions Clubs; (7) O. Arthur Kirkman, High Point, Lieutenant-Governor, American Business Clubs; (8) D. Hiden Ramsey, Asheville, President of the State Press Association; (9) H. E. Olive, Statesville, Department Commander, the American Legion; (10) Arnold Schiffman, Greensboro, Past President, North Carolina Merchants Association; (11) W. C. Denmark, Goldsboro, President of the North Carolina Commercial Secretaries Association; (12) Dr. Paul P. McCain, Sanatorium, President of the State Medical Society.

ment in the magazine will be devoted to discussions of these questions.

Governmental programs for use in meetings of civic and professional groups of men and women and classes in civics and government in the schools will be included in each issue.

Legislative Service

THE Legislative Service, planned and carried out under the direction of the Legislators' Division of The Institute, includes services rendered before, during and after each legislative session.

Before legislative sessions

Meetings of the legislative nominees of both parties will be held after the fall elections to hear the accredited representatives of officers' and citizens' groups outline their respective legislative programs. This will be a distinct service to the groups which in the past have been able to get their programs before only a sub-committee of the Legislature. Also, it will be a help to the legislators in that it will acquaint them in advance with the problems they will confront when the General Assembly convenes. This plan will be followed for the first time in the 1934 sessions of The Institute of Government.

City, county, state and federal legislators will come together in central statewide meetings in advance of legislative sessions to discuss joint legislative problems. These statewide meetings will be followed after the November elections by local conferences between the city councilmen, the county commissioners and the state legislators within each county. This plan was followed in a number of localities in the state prior to the General Assembly of 1933. The results justify its extension to the state as a whole during the current year.

During legislative sessions

All members of The Institute staff will be on hand during each legislative session to analyze all bills, both local and general, and classify them according to governmental units and official groups affected. They will mail typewritten summaries at weekly intervals to the press, to all legislators and to representatives of every town, county and official group in the state. Members of The Institute staff will cooperate with the Legislative Reference Bureau in its legislative drafting service. This service was initiated in part during the General Assembly of 1933 with results which justify the extensions outlined above.

After legislative sessions

By keeping up this analysis of local and general legislation from day to day, the Institute staff will be able to summarize within ten days after the adjournment of the Legislature the laws affecting each state and local governmental unit and officers' and citizens' groups and thus cut down the gap of two or three months heretofore existing between the end of the session and the printing of the laws.

Meetings of The Institute held following legislative sessions will afford an opportunity for the interpretation of the laws enacted to officials who have the responsibility for their administration. This plan was followed with satisfying results in the sessions of The Institute following the General Assembly of 1933.

Interpretations of these legislative enactments in state department rulings and Supreme Court decisions will go to state and local officials concerned in the bulletin service included as a feature of "Popular Government."

These services should go a long way toward cutting down the length of Legislative sessions and toward clearing up confusion after the sessions are over.



Above are shown representatives of various citizens groups who are serving on the State Board of Advisers, The Institute of Government: (1) Mrs. W. B. Aycock, Raleigh, President of the North Carolina Parent-Teachers Association; (2) Mrs. J. Frank Spruill, Lexington, Citizenship Chairman, Parent-Teachers Association; (3) Mrs. R. H. Latham, Asheville, President of the North Carolina Federation of Womens Clubs; (4) Mrs. Clyde A. Milner, Guilford College, President of the North Carolina Division of the American Association of University Women; (5) Miss Mae Reynolds, Raleigh, President, Business and Professional Womens Clubs; (6) Mrs. M. H. Shumway, Lexington, President of the American Legion Auxiliary, Department of North Carolina; (7) Millard F. Jones, Rocky Mount, President of the State Bankers Association; (8) R. R. Lawrence, Winston-Salem, President of the State Federation of Labor; (9) Earl S. Vanatta, University Station, Master of the North Carolina State Grange; (10) W. C. Meekins, Hendersonville; (11) Dr. L. M. Edwards, Durham; (12) Eugene F. Rimmer, Charlotte.

Pictures of the following were not received in time to be included in this edition: Mrs. Charles W. Tillett, Jr., Charlotte, President of the League of Women Voters; Frederick L. Willis, Asheville, District Governor of the Civitan Club; Mrs. W. R. Absher, North Wilkesboro, retiring President of the American Legion Auxiliary; Neal S. Zeigler, Charlotte, representing the Certified Public Accountants of North Carolina.

Financing the Program

**Fifty Thousand Dollars Cannot Make a Movement, But
Fifty Thousand Men and Women Can**

THE Institute of Government began in the scattered efforts of men and women working without pay—at nights after the day's work was over and on week-ends after the week's work was done. Increasing hundreds from all sections of the state have participated in the formulation of its plans. They have drawn its outlines, sketched in its features and breathed into them the breath of life.

Guarantee of \$50,000

In appreciation of these efforts, a number of public spirited citizens—for the most part college mates, former students and personal friends of the participants in this movement—offered a guarantee of fifty thousand dollars to carry this program forward over a period of three years, on the following terms: (1) That the accredited leaders of all groups of officers joining together in building The Institute show their faith in their own program by agreeing to contribute annually to its support any amount of their own choosing from one dollar a year up, and (2) that they join together in asking the rank and file of officials and citizens throughout the state to do the same thing.

This guarantee was unanimously accepted by these leaders. It was approved by over one thousand representatives of their respective groups from every section of the state in the 1933 sessions of The Institute. Since that time it has been approved by more than five thousand people in the cities, the counties and the state of North Carolina.

Guarantee may become gift

The response has been so widespread and spontaneous that the guarantors have made the further proposition—that if the officers and citizens throughout the state through their own contributions make the movement self-supporting from the start, then at the end of three years the fifty thousand dollar guarantee instead of going back into the pockets of the guarantors will become a fifty thousand dollar gift toward a permanent endowment. Thus every officer's dollar will be matched by a citizen's dollar and the youth of North Carolina will be the beneficiaries of both. The invitation of the public officers to the private citizens of North Carolina to join them in building The Institute of Government has been met in spirit and in truth.

Will the people pull together?

"I'm nothing but an ordinary policeman with a third grade education," said a law enforcing officer not long ago, "but I'd hate to think we couldn't find fifty thousand people with enough interest in their government to contribute at least a dollar a year to this program." Fifty thousand people giving one dollar a year will mean infinitely more than one person giving fifty thousand dollars a year. Fifty thousand dollars cannot make a movement, but fifty thousand men and women can.

A judge's contribution

"It gives me pleasure," writes a Judge of the Superior Court, distinguished by a quarter of a century of service on the bench, "to agree to contribute to The Institute of Government \$25.00 annually for three years and I enclose check to cover one year's contribution. I have been and am in hearty sympathy with the work of The Institute."

In one locality, city and county officials are offering \$6.00 each per year toward the program and are undertaking to persuade every officer and citizen in their locality interested in government to do likewise. "How did you arrive at the figure six instead of the figure five or some round number?" they were asked. "Well," they answered, "we wanted to put in one dollar each toward the guidebooks, the demonstration offices, the schools of officers, the pamphlets and programs for citizens and for students and teachers in the schools, and the magazine of "Popular Government."

Concerted effort necessary

No one group of officers alone can carry out this program; no one group of citizens alone can do it; nor can the schools and colleges alone. No one city, no one county, nor the state alone can do it, but all together can.

In this coöperative spirit this program began. In this spirit it will go on until it brings the rank and file of officers and citizens into active participation in this movement, removing the listlessness, lethargy, and indifference to governmental affairs which give free rein alike to the tyrant and the demagogue.

The following card will be found in this issue of "Popular Government":

THE INSTITUTE OF GOVERNMENT NORTH CAROLINA

I hereby join with public officers and private citizens in building THE INSTITUTE OF GOVERNMENT, for continuous comparative studies of the structure and workings of government in the cities, the counties and the state of North Carolina—the results of these studies to be (1) set forth in guidebooks, (2) illustrated in demonstration offices, (3) taught in schools of governmental officers, (4) made available in supplementary texts and source materials for the use of teachers and students of civics and government in the schools and (5) in study and discussion programs for all groups of citizens, (6) transmitted periodically to all groups of officers, citizens and students through the JOURNAL OF POPULAR GOVERNMENT.

For these purposes I agree to contribute annually, subject to revocation at will, the following amount \$..... The first \$1.00 will go for the JOURNAL OF POPULAR GOVERNMENT. The remainder, unless otherwise specified by the donor, will be allocated to the purposes listed above.

Date..... Name.....

Address.....

Make all checks payable to M. E. HOGAN, Treasurer,
THE INSTITUTE OF GOVERNMENT, CHAPEL HILL, N. C.

Is the Program Worth the Cost?

In Dollars and Cents

(1) "If I had known at the beginning of my term of office what I knew at the end," said a prominent county commissioner, "I would have been a better commissioner and I could have saved my county some thousands of dollars." Multiply this experience by even a fraction of the offices in state and local governmental units and the significance of his statement is apparent. It is certainly understandable from the viewpoint of a business man. If a business changed hands as often as a government changes hands, there would be grave danger of its going bankrupt before the incoming executive learned to manage its affairs.

Here in North Carolina, we are committed by two hundred years of political history to elective offices, short terms of office and rotation of officers. The people do not intend to surrender popular control of public affairs. They do intend to make popular government safe for the people. In making the comparative studies of the laws and practices for the guidance of their governmental officers, setting forth the results in guidebooks, demonstrating them in laboratory offices, teaching them in schools of governmental officers, keeping them up to date in the magazine of "Popular Government," they are going as far as it is humanly possible to go to enable every incoming officer to pick up where his predecessor stopped, instead of where he started, and in cutting down the lost time, lost motion, and lost money involved in a rotating governmental personnel.

There is no doubt about the fact that the people pay for the training of their officials—either before or after they go into office. Public officials, for the most part, think it will cost less before than after; that foresight is less expensive than hindsight; that a stitch in time may well save nine; that the governmental program of The Institute of Government here outlined will cost less than the lack of it is costing now.

From the poorest to the best

(2) There are one hundred counties in North Carolina and around five hundred towns. They have developed different methods of doing similar things. Some of these methods are better than others. To illustrate: The tax supervisor in one North Carolina county improved tax listing methods to the point that in one year he added four thousand new taxpayers and five million dollars in newly discovered property to the tax books to lighten the load on thousands already there.

The officials in one North Carolina city reorganized their machinery for tax collections, reduced the steps in use from six to two, improved the service and reduced the cost of administration \$6,500 annually.

Some of the accounting systems of local governmental units are excellent, others are in confusion, in others confusion is itself confounded. It cost one municipality four thousand dollars to find out its books were in such shape no one could tell the shape they were in. It cost another municipality six thousand dollars on the longest criminal

trial in its history to reach the same conclusion. Citizens' committees and taxpayers' leagues have spent thousands of dollars in fruitless efforts to plumb the depths of municipal affairs, with only the scars of futile strife to show for their reward. Nobody knows, and everybody understands, that under these circumstances public money is lost, private character is destroyed, and popular confidence in popular government undermined. Experience demonstrates that standard accounting practices will reduce shortages, cut the cost of public audits, lower the premiums on official bonds and effect tremendous savings.

Officials throughout the state are satisfied that it will cost less to collect, compare and classify the methods and practices of governmental units and lift the poorest to the level of the best through the program of The Institute of Government than we are losing under conditions existing today.

The cost of experts

(3) Within the last ten years, city after city and county after county in North Carolina have been forced to call for assistance from governmental experts beyond the border of the state in dealing with governmental problems. Some years ago the Governor of North Carolina had to call in outside experts to assist him with the plans for the reorganization of various units of state and county government. Later another Governor of North Carolina had to go beyond the borders of the state to get a group of men sufficiently equipped with knowledge and experience to survey the structure of state and local government and submit proposals for its reorganization.

It is no discounting of the value of these governmental experts, called in by our leaders to do for us that which we have not yet developed agencies for doing for ourselves, to point out the weakness in the practice of relying on them: (1) That through no fault of theirs they come to us ignorant of our local governmental institutions, the conditions out of which they have grown, the people of which they are a part and among whom they must operate; (2) that they write their conclusions into a report which too soon goes upon the shelf to be read by all too few, and have no part in or responsibility for the practical operation of their recommended changes; (3) that as soon as their report is written they leave and carry away with them the most valuable results of all their work—the personal knowledge and experience gained in doing it.

Through the program of The Institute of Government we can carry on the comparative studies, write the guidebooks, build the demonstration offices, conduct the schools of governmental officers, build our own staff of governmental advisers, put citizens, teachers, and students in touch with the workings of their government and keep them in touch with it for less money than we have been paying for the published reports of governmental experts from afar.

If the governmental program here outlined will cost less than we are now spending, if for less money we can get more and better services, if these services will save many

times their cost in the machinery for carrying our present governmental load, then the debt, the deficit and the depression are compelling arguments for the launching of this program now.

More Than Money is at Stake

"I have a boy, fifteen years old," said a king of England to one of his most learned scholars some hundreds of years ago. "In the course of time he will succeed me on the throne. I want you to teach him the laws and customs of his country."

In the course of his lectures, the old scholar asked the young prince: "Who has the most power, the king of England or the kings on the continent?" "The kings on the continent, of course," answered the young prince. "They have the people under their heel and can do with them as they please. My father is hedged around to the point that he has to ask Parliament what he can do."

The combined power of a free people

The old scholar came back with an answer which grounds the belief that popular governmental institutions will stand and strengthen after Stalin, Mussolini, Hitler, and their breed have vanished from the earth. "No," he said, "the king of England has the most power. For a king has no more power than the people behind him. On the continent, as you say, the people are under the heel of the king. Their initiative, energy and resourcefulness is cramped and stifled. In England the people have some measure of freedom. Every common man can within limits draw a ring around himself and tell the king to keep out. Within those limits he is free to develop his initiative and resourcefulness so that when the king of England speaks, he speaks with the combined power of a free people."

This margin of freedom has steadily widened through the centuries. The year 1215 and the Magna Carta, 1689 and the Bill of Rights, 1776 and the American Revolution are milestones in the path which has led from serfdom to freedom, from subject to citizen, from absolute monarchy to constitutional law.

Here in North Carolina we can trace it: In the removal of the property line between the citizen and the ballot in the early days of the last century; in the removal of the color line in 1868; in the removal of the sex line in 1919. Every one of these advancing steps has brought more people to participation in the government and has correspondingly increased their power of control.

Disillusionments

The triumphal march of popular government has not been without its disillusionments. Within the limits of our governmental experience we have seen the political pendulum swing the balance of power from the king to the subject; from officers appointed by the crown to officers elected by the people; from the continuity of long-time tenure to the rotation of short-term officers; from the belief that the common man could do nothing to the belief that he can do anything; from the naïve notion of birth as the entitlement to office to the equally naïve notion of birth as a qualification for it; from the aristocratic notion that some men are born to fill an office to the democratic notion that all men are born knowing how to fill it; from the antiquated notion that some men are not as good as

other men to the current notion that every man is as good as every other man and better.

Within that span of time we have lived to learn that the Commonwealth may be plundered by favorites of the people as well as by favorites of the king; that "to the victor belongs the spoils" may be alike the doctrine of hereditary rulers and elected office holders; that shades of ancient spoilsmen may still gather in the modern sheriff's eyes; that remnants of the divine right of kings may still crack down in a policeman's billy; that the Constitutions of the State and the United States do not change the constitution of human nature; that mere forms of government guarantee neither the character nor the competence of the men in office nor the people who elect them.

The rock whence we were hewn

Today with communism sweeping through Russia into southern Europe, with Fascism sweeping through Italy through northern Europe, with both of these forces contending for supremacy in Germany, with English institutions striving to withstand the rising tide of Socialism, with the repercussions of these movements breaking on American shores and raising their heads in scattered centers in American life, we are called upon to reexamine the foundations and the superstructure of popular governmental institutions, too look to the rock whence we were hewn and build upon it.

In the words of Aycock at the turn of the century, "We must not repudiate but develop—we must seek out and appreciate our own distinctive traits, our own traditions, our own deep rooted tendencies, and read our destiny in their interpretation."

In the spirit of this tradition, city, county, state, and federal officials working on the same problems for the same people in overlapping governmental units are coming together in the practice of concerted action; citizens in different organizations with overlapping functions in the same communities are coming together to coordinate their governmental interests on a statewide scale; teachers and the youth of North Carolina are making a united and systematic effort to bridge the gap between government as it is taught in the schools and as it is practiced in the forums of the people; all the institutions of all the people are being focused upon the governmental problems of all the people.

Out of our own sweat and toil

This is a vast, coöperative enterprise. As vast as government of the people, but no vaster. With as good a chance of success and no better. Here among a homogeneous people scattered through a country state with concentration into cities just beginning, with two hundred years of common ancestry and traditions, with a life as yet not deeply scarred by the hard and bitter fighting lines which have too often divided the people of other sections into hostile factions, North Carolina offers opportunities for coöperative effort unexcelled in American life today. Out of our own sweat and toil we can together build a unique and distinctive governmental movement—the gift of North Carolina, her governmental institutions and her people, to America and the world as the South after seventy years of war, reconstruction and rebuilding swims back into the full tide of American life.

PROGRAM

1934 Sessions, The Institute of Government, Raleigh, November 15, 16, 17

THURSDAY, NOVEMBER 15

AFTERNOON:

Place: Memorial Auditorium
Time: Afternoon

EVENING:

Place: Memorial Auditorium
Time: 7:30 o'clock

REGISTRATION opens at 2 o'clock. Formal opening of Demonstration Offices and Clearing House of Governmental Information.

"The Conduct of Elections in North Carolina and Proposed Changes in the Election Laws."

SPEAKER: Maj. L. P. McLendon, of Greensboro, Chairman State Board of Elections.

Two prominent members of the Republican and Democratic parties will participate in the discussion of the following topics:

1. Absentee voting.
2. Separate registration and registration books for party primaries.
3. Size of voting precincts with relation to the orderly voting at elections.
4. Frequency of new registrations.
5. Selection of local election officials.
6. Supervisory powers and authority of the State Board of Elections.
7. Rules and procedure for conduct of election contests.
8. Criminal prosecution of election law violations.

FRIDAY, NOVEMBER 16

MORNING:

Place: To be announced
Time: Starting at 9:30 a.m. and lasting throughout the day with the exception of the Joint Session at Noon

Schools of Officers

Public officials of North Carolina will inaugurate statewide schools of newly elected officials to be held in this state between the day of election and the day of going into office.

Schools of Citizens

Public Affairs Committees and officials of all citizens' groups, together with interested citizens, will inaugurate schools of citizens to put the people in touch with their government and keep them in touch with it.

School and College Seminars

Students and teachers from the high schools, colleges and professional schools, together with student government officers, will analyze current methods and practices of teaching civics and government looking toward curriculum revision in the public schools.

Legislative Programs

Groups of officials and citizens will formulate their respective legislative programs and outline them to the newly elected members of the General Assembly.

NOON:

Place: Memorial Auditorium
Time: 12 o'clock

Joint Session, All Groups

City Councilmen, County Commissioners and State Legislators will meet with the Congressional Representatives to discuss the relations of Federal, State and Local Governments under the New Deal, with particular reference to Taxation, Unemployment Relief and the provisions and implications of the Summer Wilcox Municipal Bankruptcy Bill.

(All groups of officials and citizens invited to attend this session.)

EVENING:

Place: Memorial Auditorium
Time: 7:30 o'clock

Address by Judge Florence E. Allen, of the United States Circuit Court of Appeals of Ohio.

Formal Installation, Board of Trustees, The Institute of Government.

Address by Dean Roscoe Pound, of the Harvard Law School, Cambridge, Mass.

SATURDAY, NOVEMBER 17

MORNING:

Place: Memorial Auditorium
Time: 9:30 o'clock

REPORTS OF COMMITTEES and formulation of programs for all groups for the coming year.

JOINT MEETING of the State Board of Advisers and the Board of Trustees of THE INSTITUTE OF GOVERNMENT.

Three Prominent Speakers

Judge Florence E. Allen, Dean Roscoe Pound and Capt. Albert B. Moore Coming to Raleigh for 1934 Sessions of The Institute of Government

Judge Florence E. Allen

Judge Florence E. Allen, of Ohio, first woman judge of the United States Circuit Court of Appeals, will be heard Friday evening, November 16, at the 1934 Sessions of The Institute of Government in Raleigh. The prominent woman jurist will speak at the Memorial Auditorium at 7:30 o'clock.

Leaving a musical career at the call of the first national suffrage campaigns, Judge Allen entered into study of the law, a profession then masculine. As a suffragette, she learned about practical politics from the bosses and the liquor crowd as well as from her sister campaigners.

After a course at Western Reserve, Miss Allen went to Berlin with her sister Esther to study music. Returning to Cleveland she became a music critic and teacher, but not for long. Woman's suffrage and other social issues were in the air.

She found herself making speeches to small groups on the questions of the day. There were two years of law study at the University of Chicago, then a period of social work among immigrants in New York. She took part in Manhattan suffrage rallies, won a law degree at New York University, then came home to Ohio with fire for the suffrage crosses.

Miss Allen had a difficult time finding a law berth in Cleveland. However, the directors of the Cleveland Legal Aid Society, organized to fight poor people's court battles, proved to be generous, and Miss Allen moved into a room with a desk and two chairs in their modest offices as the league's attorney. She soon became the outstanding suffrage lawyer and one of the Cleveland league's campaign leaders.

In 1916 three Ohio cities gave the municipal ballot to women. The prerogative was challenged. Florence Allen took up the fight. When the elections authorities ruled out the women's votes she carried the case to the Ohio Supreme Court and won it on law.

In 1919 Miss Allen was known as the best woman lawyer in Ohio. She was appointed to the prosecuting attorney's staff and a year in this office was enough to build a solid reputation. In 1920 she was elected to the Common Pleas bench. In 1922, running as a non-partisan, she was elected to the Ohio Supreme Court, and in 1928 she was reelected. Judge Allen has worked tirelessly for the League of Nations, the World Court and disarmament.

Dean Roscoe Pound

Roscoe Pound, Dean of the Harvard Law School and nationally and internationally known author in government and law is coming to North Carolina to address the 1934 sessions of The Institute of Government at the Memorial Auditorium in Raleigh Friday evening, November 16.

Dean Pound is recognized as one of the foremost authorities in the world on legal and governmental problems, his wide acquaintance with this field being indicated by his affiliation with numerous legal organizations in the United States and in France, England, Italy and other foreign countries. He is a member of the Royal Academy of Palermo, Societa Reale di Napoli, Academic International de Droit Compare and of the Institut International de Droit Public.

In this country Dean Pound has served as professor of law at the University of Nebraska, Northwestern University, and the University of Chicago.

His books include *The Spirit of the Common Law*, 1921; *An Introduction to the Philosophy of Law*, 1922; *Law and Morals*, 2nd Ed. 1926; *Criminal Justice in America*, 1930; *Lectures on the Philosophy of Freemasonry*, 1915; *Lectures on Masonic Jurisprudence*, 1920; *Readings in Roman Law*, 1915; *Pound's Edition, Ames and Smith's Cases on Torts*, 1917; *Outlines of Lectures on Jurisprudence*, 4th Ed. 1928.

Even though his activities have been largely confined to the teaching of law, Dean Pound has been actively identified with some of the most important cases in law of the past three decades. He has appeared before State Appellate Courts and the Supreme Court of the United States on numerous occasions.

A man of wide personality, Dean Pound is both a prominent Mason and a well known botanist. He has lectured frequently on the Philosophy of Freemasonry, Masonic Jurisprudence and other Masonic subjects, and at one time he served as Director of the Botanical Survey of Nebraska.

Dean Pound has been one of the national figures interested in the work of The Institute of Government. When plans for The Institute were in process of formulation he extended the Director of The Institute an invitation to study correlated subjects at Harvard University for a year. This offer carried a scholarship with a yearly stipend of \$2,700.

In September, 1932, Dean Pound spoke at the First Annual Session of The Institute of Government, telling 700 North Carolinians gathered from 90 counties that he expected to see other states follow North Carolina's lead in this coöperative governmental program. It is only fitting that he return to this state to speak at the Formal Installation of the Board of Trustees of The Institute at Raleigh on November 16.

Capt. Albert B. Moore

Capt. Albert B. Moore, President of the New York State Association, Chiefs of Police, and nationally known as a director of police schools, will be the chief instructor at the School for City, County, State and Federal Law Enforcing Officers to be conducted by The Institute of Government at Raleigh, November 12-17.

Captain Moore, who also holds a commission as captain in the Reserve Corps of the United States Army, has been a member of the State Police in New York for almost 20 years. He enlisted as a private and went through all the grades to inspector. He has been director of the New York State School of Police since November, 1921, approximately 2,000 men having been graduated from that school since its inception.

He has also served as technical adviser to the President of the Republic of Cuba on police matters and has been supervisor of training schools for that country. Since 1932, Captain Moore has served as director of the Municipal Zone Police Training Schools, State of Virginia, under the auspices of the League of Virginia Municipalities. He has also assisted in training the State Police forces of Maryland and New Jersey.

A writer of no mean ability, Captain Moore was co-author of "The Policeman's Art," and the author of the New York State Troopers Manual. He is also a student of law, serving as legal adviser to the Superintendent of the New York State Police and chairman of the Law and Legislative Committee of the New York State Association, Chiefs of Police, of which he was recently elected president.

Captain Moore is a member of the following organizations: National Conference on Street and Highway Safety; Highway Safety Council, State of New York; New York State Grange; President, Police Instructors Association, State of New York; Mayors Committee, State of New York, Police Training.

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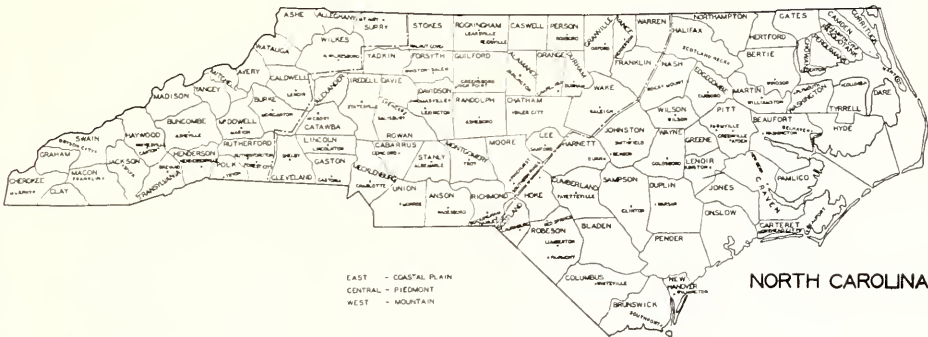
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CAPUS WAYNICK, of High Point, member of the State Senate and Chairman of the Joint Legislative Committee on Constitutional Amendments in the General Assembly of 1933.



THE opponents of the revised Constitution are attacking under the banner of the People, claiming "local government" is in danger and popular control of the agencies of government is threatened. It will be amazing if this audacious distortion remains impressive after the people examine the facts.

The revised Constitution is a thoughtful, conservative effort to strengthen popular control of government in

Campaigns for and against the Revised Constitution came to an end with the Supreme Court's decision that it could not be submitted to the people in the November election. But the issues raised by this document have not come to an end. They did not originate with the Revised Constitution and they did not end with it. They have been fighting issues in North Carolina for more than a decade. They will be fighting issues for years to come. They are thrown by the Supreme Court into the lap of the General Assembly of 1935. The articles here presented, written while the controversy was raging, are none the less pertinent to living issues.

North Carolina. It seeks to reduce some of the barriers to such control as now exist, and to enable the people to regulate their own affairs more efficiently. No popular rights are threatened; all popular guarantees are preserved; but some privileges of constitutionally bulwarked office-holding and some privileges of constitutionally protected property would be removed by adoption of the revised Constitution.

Requiescat Not Dead Constitutional FOR

By CAPUS M. WAYNICK

Constitutions originally were concessions from kings. Now they are restraints on popular sovereignty. They should restrict office-holders most and the will of the people least. That principle animated the commission in writing the revised Constitution of North Carolina. Somewhat less of the structure of government would be preserved against the will of the people to modernize their institutions if the revised Constitution should be adopted. It will be strange, indeed, if those who view these amendments with alarm succeed in convincing the masses of North Carolina voters that they cannot trust themselves in self-government.

Of course, opponents of the revision are not admitting—and doubtless in many instances not seeing—that they are trying to perpetuate privilege either of office-holding or property, and they indulge in vast misgivings about what the General Assembly might do with its increased power under the revised Constitution. They even attack the check on legislative prerogative that the executive veto would be.

Pertinent facts to consider

Can the opposition delude the people into overlooking—

(1) The fact that the General Assembly is the political instrumentality of the people most directly under popular control.

(2) That the General Assembly is as nearly the people in convention as they come in the ordinary course of political events.

(3) That the revised Constitution would remove the present chief inducement to a legislator to forget his role as representative, through the provision that a legislator may not be named to office he helped create or aggrandize.

(4) That the General Assembly of this state has proved its conservative character in the past even with this temptation of possible personal reward and has never exercised its present constitutional power to do with "local government" that which practically all the opponents of the revised Constitution say it would be empowered to do by that document.

The second reconstruction

In 1868 North Carolina was painfully picking itself out of the ruins of the greatest catastrophe in its history. It was told that it needed a new constitution and a new constitution it received, whether it willed or not. In 1934,

(Continued on page eighteen)

In Pace But Sleeping Revision

AGAINST

By L. I. MOORE



LARRY I. MOORE, of New Bern, member of the State Senate and member of the Joint Legislative Committee on Constitutional Amendments in the General Assembly of 1933.



UNDER the modern ruling of our courts it seems now to be effectively established that the State Constitution is a restriction of the powers of the General Assembly, and that its limitations are intended for the protection and preservation of the rights of a minority, against measures of oppression, injustice or favoritism which a majority might adopt for the sake of expediency or for extension of power to oppress or destroy such minority.

In this condition, it becomes apparent that inroads upon these limitations fixed by the Constitution are essentially dangerous and should never be permitted to any material extent except as required, and essential, *to the preservation of the government itself* and then only in the manner in which the people have contemplated that these material changes should be effected.

Open forum recommended

The securities that are provided by the Constitution for personal liberty and preservation of private property are such as experience and wisdom have demonstrated to be necessary, and so strong is the feeling of their importance and so jealous the people, that these rights shall be preserved, I cannot conceive that they would be willing to have these limitations materially altered and their Constitution rewritten except by *their* representatives duly chosen as provided by the Constitution, and assembled where full discussion of the merits of any material change might be held in the convention thus assembled, where every section of the State, every school of thought, as well as the wisdom and experience of these representatives of the people, might be brought to bear upon any proposed change in the Constitution so that its weakness might be exposed and its possibilities for abuse fully discussed in this open forum.

The Constitution contemplates in its formation that troublous times might arise "when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends, deemed just and proper and that the provisions of constitutional liberty would be imperiled unless established by irrevocable law."

A dangerous precedent

I can imagine no precedent more dangerous than that which would permit an appointive commission however honest, however wise and learned in the law and experienced in constitutional rights, to be appointed by any man

to re-write the constitution, extending the powers of the executive or legislative departments of government without limitation, or extend these limitations to such an extent as to vest in these respective departments unlimited power, without first having had every material change suggested studied and discussed by their representatives chosen for that purpose, and such changes reconciled to the absolute preservation of the rights and liberties of the whole people to the end that these rights may be protected

"The next General Assembly should submit to the people the many excellent provisions which were embedded with the bad in the solid mass of the (Proposed) Constitution."—JONATHAN DANIELS in *The News and Observer*.

As to what is "bad" and what is "good"; whether the Proposed Constitution should be resubmitted—as a unit, or item by item, or at all; whether there was need for revision in the first place; whether the Revised Constitution met this need or whether there is need for revision of the Revised Constitution, honest men may honestly differ. Now and not later is the time for expressing these differences.

"in all classes and at all times and under all circumstances."

For the above reasons as well as for my opposition to some of the material changes that are suggested in the Constitution, I opposed its submission in the Senate and insisted that a Constitutional Convention should be called to make these material changes, if the same should be deemed necessary, and I was not willing to submit to the people of the State proposed material changes in their

(Continued on page twenty-four)

CONSTITUTIONAL REVISION

(Continued from page sixteen)

North Carolina, engaged with its sister states in pulling itself by its own bootstraps from the abyss of the second greatest economic catastrophe in its history, undoubtedly needs a new constitution; but there be those now prominent in our midst, who tell us that we can't have it.

There are three general reasons why we are told we can't have it, and any number of specific reasons. I propose to examine the general reasons before passing to the more important of the specific ones.

What would Jefferson say?

In the first place, we are told that the proposed Constitution is founded upon the wrong theories and philosophies of government; that it provides for too much centralizing of power; that it violates the noble principles laid down by the founding fathers in general and Thomas Jefferson in particular.

That part of this criticism which pretends there is an over-centralization will be thoroughly exploded in the more specific discussion to follow.

That part of the criticism which calls upon the shades of Thomas Jefferson is pure force of habit—the commonest weapon in the bag of tricks of every Fourth of July orator in the country who has a weather eye on the ballot box. In this instance, it falls of its own weight for all those who examine into it. A comparison will show that the proposed new Constitution is much more similar in fundamentals to the Constitution of 1776 adopted by the founding fathers than is the present Constitution. Thomas Jefferson, charged with the paternity of the proposed constitution, might raise an inquiring eyebrow; charged with the paternity of the present one he would surely sue for slander. In his own hands he wrote a Constitution for the State of Virginia which contains none of the helter-skelter substitutes for legislative discretion now sought to be perpetuated in North Carolina.

Do the worthy opponents know their history?

If Jefferson's probable judgment of this Constitutional disagreement is important, can it not be said that they belittle the political wisdom of Jefferson who would try to crowd his philosophy into the narrow confines the opposition allots it in this debate? Jefferson's Virginia constitution provided for the election merely of the members of the General Assembly and even allowed the General Assembly to elect the governor. Isn't it a strained concept of Jefferson's views of popular government to represent his shade as horrified by substitution of an appointive board of education for an elective one?

Jefferson sought to make government flexible to the people's will. He wrote that "the earth belongs in usufruct to the living generation" and advocated, in his own writings, the revision of constitutions every 19 years in order to insure their flexibility and their service of the purposes of the living generation. Jefferson apparently really believed in the capacity of the people for self-government. Those who point in this controversy to the possibilities of the abuse of power by the people's representatives are kindred spirits not of Thomas Jefferson but of those who opposed democratic constitu-

tions originally and sought to keep stable, autocratic government in power.

No rights of the people endangered

None of the guarantees of the bill of rights has been eliminated from the constitution by the revision. None of the people's rights is endangered. Certain privileges of the few are proposed for removal—privileges of office-holders in some cases and of property owners in others, and that's what should be made clear to the people before they harken to the call of those who have the nerve to advance themselves as champions of popular government while really arguing that the people require protection against themselves!

It is not the wisdom of Jefferson and his political school which we abandon if we abandon our present Constitution.

Second, we are told that the proposed Constitution is a shield for "the interests." What "interests?" They have not been specified, for those who conjure them up know full well that no names can be so sinister and effective as the mystic mention of some hidden force—powerful, villainous, but nameless. Perhaps we can name "the interests" and their tools who would grind down upon the poor people of North Carolina the eternal yoke of poverty and desperation. There is Frank Graham, President of the University, who has fought in the cause of social reform in the state ever since he put on lounge pants. Ah, he is Public Enemy No. 1. There is Governor Ehringhaus, who has spared no efforts to obtain reasonable prices for North Carolina tobacco and cotton farmers and who is now trying to secure cheaper gasoline

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for the citizens of the State. Ah, "the interests" also have him in the bag. There is Clarence Poe, who spends half his waking hours striving for more widespread home ownership in the state and who has fought the farmers' fight when the farmers were face to face with the wolf, the tax collector and the mortgage company. Ah, he, too, is in the bag of "the interests." These are but three true men among many who favor the proposal; and if these be the interests for whose sponsorship the proposal is damned, such damnation but entitles it to unanimous adoption.

The sins of omission

The third general reason advanced against the proposal is a will-o-the-wisp. It consists in saying, "I oppose the proposal as much because of what it doesn't say as because of what it does say." This, gentle reader, is a criticism which cannot be answered. As fast as one omission is explained and justified, another is brought forth to the slaughter. Such a process can be continued as long as the mind of a determined die-hard has left a spark of imagination, ingenuity or hallucination. Suffice it to say that those who now complain of these omissions were invited, nay urged, to contribute their ideas to the Commission,—and they harkened not. After the Commission had finished its work and before the legislature met, did these gentlemen specify wherein the proposal lacked? They did not. During the long days of the 1933 legislature, did these gentlemen appear and contribute of their wisdom to the men who had power to change the proposal? They did not. But now, when the proposal must be submitted without the benefit of the advice which they could have given, they drag forth these alleged omissions in an attempt to ride the bandwagon of political prestige while beating loudly upon the empty drums of prejudice and apathy. Their love for the people developed only after their opportunity to build for the people had passed, and when nothing remained for them except to build for themselves.

What is meant by "useful"

What, now, are the more specific reasons why we are told that we cannot have the proposal? First, say its opponents, because it would remove "every definite and useful restriction on the power of taxation." Note that word "useful." Does it refer to the famous 15c limitation on the county tax rate? The legislature can change that. The average county tax rate last year was over a dollar. Extraordinarily useful, that limitation. Does it refer to the limitations on city tax rates or on city and county business license taxes? There are no such limitations. Does it refer to the limitation that local taxes can be levied without a vote of the people, only for "necessary expenses?" Under that limitation, more than one hundred and fifty towns in this state have found



Financial Statement—June 30, 1934

ASSETS

Cash	\$ 808,993
First Mortgage Loans.....	16,408,536
These loans were made on a basis not to exceed 50% of a conservative valuation.	
Bonds and Stocks.....	9,945,065
Bonds carried on amortized basis. Listed securities at market value as of June 30, 1934.	
Real Estate	8,290,723
This includes our seventeen-story Home Office Building.	
Loans to Our Policyholders.....	13,222,083
Fully secured by the cash values of their policies.	
Premium Notes and Liens.....	4,680,153
Fully secured by cash values of policies.	
Interest Due and Accrued.....	930,753
Net Premiums in Course of Collection.....	1,904,379
All Other Assets.....	293,607
Total Admitted Assets.....	\$56,484,292

LIABILITIES

Policy Reserves	\$50,552,842
This amount represents the reserve required by law to assure prompt payment of policy obligations.	
Reserve for Policy Claims.....	392,000
Claims in course of settlement on which proofs have not been received.	
Reserve for Taxes.....	239,971
Premiums and Interest Paid in Advance...	445,763
Dividends Left at Interest.....	537,820
Reserve for All Other Liabilities.....	43,639
Medical and inspection fees, bills not yet presented, etc.	
Dividends for Policyholders.....	572,257
Special Reserve	1,000,000
A fund to take care of depreciation on real estate and investment fluctuations.	
Total	\$53,784,292
Capital and Surplus.....	2,700,000
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To Balance Assets.....	\$56,484,292

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enough necessary expenses to require them to borrow more than they can repay, and now, despite the levy of taxes as high as their authorities dare to make them, are in default upon their obligations. Can anything be more mirthlessly ridiculous than the spectacle of our opponents appealing for the retention of this "useful" limitation when their audience, in order to hear the appeal at all, must first free their ears of the resounding echoes emanating from the crash of our municipal credit? The proposal would place in the people and in the people alone the power to authorize any increase in local debts. Yet now come the opponents of the proposal, those eminent champions of the people, urging that the people accept not this power to control their own debts, but rather retain those present "useful" limitations which have brought us to the core of disaster and the brink of repudiation.

The poll tax! Well, what of it?

"But, ah," say our opponents, "you have forgotten about the poll tax. There is a definite restriction." Dear me, there has been some wild talk about the poll tax. Our opponents have urged that under the proposal the legislature could raise the poll tax so high as to disfranchise all but a few of the wealthy. In the first place, this shows shocking ignorance of our present system; for payment of poll tax is no prerequisite to voting. But, forgetting this minor, though wilful, perversion of the issue, and conceding that it would be annoying if it took a year's salary to pay poll tax, is it conceivable that a legislator, who receives more votes from those who pay poll tax than from any other type of taxpayer, would discriminate against these the most numerous of his constituents? Would an entire legislature thus commit political suicide en masse?

The "uniform rule" has failed

Let's consider for a moment the "usefulness" of the "Uniform Rule" in the ad valorem taxation of property in North Carolina. We have been told that we should worship this rule, because it is a guarantee of just and equitable treatment of property owners. What are the facts?

In the present constitution this rule requires that "laws shall be passed taxing by uniform rule all moneys, credits, investments in bonds, stocks, joint-stock companies, or

otherwise; and also, all real and personal property, according to its true value in money." This rule has not prevented:

(1) The exemption of all corporation stocks from ad valorem taxation.

(2) The exemption of all growing crops from ad valorem taxation.

(3) The exemption of municipal bonds from ad valorem taxation.

(4) Permission to deduct the taxpayer's debts from the value of his intangible property and from the value of his own farm produce without any corresponding permission to deduct debts from the value of other tangible property.

(5) The use of one system of valuing property owned by individual taxpayers; a second system for valuing property owned by ordinary corporations; and still a third system for valuing the property of railroads and other utilities.

(6) The lodgment of power to assess property for taxation in the hands of more than one hundred assessment boards acting independently of one another.

The present constitution does prevent and the revised constitution would permit the classification of property for taxation in such manner as to encourage home ownership and to promote the protection and development of the natural resources of the state.

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As a matter of fact, of course, the present constitution neither contemplated nor accomplished anything remotely resembling uniform ad valorem taxation of North Carolina property. All ad valorem taxation now is imposed in the sub-divisions of the state, and the rates vary from \$.36 in Cleveland County to \$100.00 of value to \$.23 in Clay on the \$100.00. The "Uniform Rule" by any test has been of little practical importance to the taxpayer as a protection against injustice. While it has presented no barrier to semi-classifications of property which are haphazard at their best and discriminatory at their worst, it nevertheless presents a barrier to constructive progress.

In 1932, the commission set up by the National Tax Association to formulate a model state and local tax plan reported its plan to the Association, and in connection with that report directed attention to the fact that the "Uniform Rule" remains in the constitutions of several states and would need to be eliminated before any scientific, modernized plan of taxation could be adopted by those states.

Limitations on what?

It is apparent that these "useful" restrictions, so highly touted, have nothing to do with local taxes and debts. Perhaps they were intended to refer to state taxes and debts. Do they refer to limitations on the sales tax, the gasoline tax, the automobile license tax, the business license tax, the franchise tax or the inheritance tax? There is not a single limitation on any of those taxes. Do they refer to the limitation on the state property tax? The legislature under the present limitation could undertake to support the entire, state-wide, six months school term out of a state property tax, and then levy 5c additional for good measure. Do they refer to the limitations on the state's debt? The proposal restricts the power to contract state debt more stringently. They must refer, then, only to the 6 per cent limitation on the rate of the income tax. But to whom is that limitation "useful?" The present maximum 6 per cent rate is being levied only on corporations and on individuals having more than \$6,000 per year in net income. It is to these taxpayers and these only that this 6 per cent limitation is "useful." Truly, now, "the interests" seem to be in strange company.

Would you elect legislators from Dix Hill?

Secondly, we are told that under the proposed Constitution the legislature could take away from the people the privilege of electing any local officers, that the governor could be permitted to appoint all such officers, and thus build a political machine which could dominate the state for its own sinister purposes. Here is an argument inconsistent upon its face and belied by the whole current of our history—a raw, unreasoning demagogic appeal fit to take its place alongside the famous promise of forty acres and a mule. Ever since 1868 our legislature has had the power to allow the Governor to appoint every city and town official and every county official except the clerks of the Superior Court, the Sheriffs, constables, coroners and some Justices of the Peace. Has it exercised that power? Has it given any indication that it was inclined to exercise it? It has not. Nor will it ever be inclined to do so unless the people of the state comb the

cells of the state's hospitals for the insane for their legislative nominees.

At present, safeguards are lacking

Take the matter from another angle. Does this provision take away any safeguards on the right of the people to elect county commissioners or city aldermen—the officials who run our local governments who levy our taxes and hold the public money bags? It cannot, for the present Constitution contains no such safeguards. Does it take away any safeguards on the compensation of Clerks, Sheriffs, Coroners, Constables and Justices of the Peace? There are no such safeguards; and the legislature could now reduce the compensation of these offices to such a point that no responsible citizen would seek them, and the right of the people to elect would become a farce. And having reduced their salaries to a nominal sum, the legislature could transfer many of their duties to other appointed officials.

An inconsistent argument

Finally, this argument is inconsistent upon its face. The gentlemen of the opposition are deposing, in effect, as follows: the legislators, though elected by the people, cannot be trusted to preserve the right of the people to elect a reasonable number of their local officers. This means that the Constitution should guarantee the right of the people to elect other officers because the people cannot be trusted to elect sane legislators. The opposition thus starts from the premise that the right to elect legislators, which is guaranteed, means nothing because the people cannot be trusted. Why, then, are these so-called friends of the people, who yet distrust the people in this respect, so insistent upon guaranteeing the right of the people to elect other officials who, according to their own line of reasoning, might well be crazy also. Here, indeed, is a riddle which the gentlemen of the opposition should have answered for the Commission when they had such an ample opportunity.

Waving a red flag

Thirdly, we are told that the proposal involves a "short ballot." The purpose of using this argument is simple. When a bull sees a red flag he does not think—he charges. The same principle is involved here. The opposition is crying "short ballot" in the hope that every voter who hears that phrase will not pause to examine into its cor-

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rectness, but will charge to the polls and vote against the proposal. To lend the argument the color of reason and a surface appearance of sanity, the opposition cites two things. One is the right of the people to elect their local officers, which has just been relegated to a place low enough to approximate its true position. The other is the fact that the proposal provides for an appointive Board of Education. This argument is both devious and preposterous. The present Board of Education consists of the Governor, the Lieutenant Governor, the Secretary of State, the Treasurer, the Auditor, the Attorney-General and the Superintendent of Public Instruction. Under the proposal the people will continue to elect all of those officers. There is thus clearly no numerical shortening of the ballot. "Short ballot" is cried solely because these officers, other than the Superintendent of Public Instruction, will be deprived of their educational duties. The matter becomes more and more preposterous.

Under the present system, 95 per cent or more of the duties of these officers have nothing to do with educational duties. In electing them, the people must look to their qualifications for their major duties and must trust to pure chance as to whether they are qualified to serve on the Board of Education. How many campaigns for Governor or Attorney-General or State Treasurer have hinged on a candidate's qualifications to sit on the Board of Education? None in your memory or mine. Under the present system it is true beyond doubt that the people, though they elect the members of the Board of Education, are denied any opportunity of weighing the qualifications

of members of the Board. Under the proposal, on the contrary, the people, through their duly elected representatives, must approve every man appointed to the Board, and will have an opportunity to judge of his particular qualifications. It is this provision, which gives to the people a greater opportunity to pick and choose the Board of Education than they have ever had before, which the gentlemen of the opposition have chosen to decry as embodying the "short ballot."

No ballot to be shortened

Before leaving this subject, witness also this fact. The real executive authority in our state school system today is the state School Commission—not the ex officio Board of Education; and eleven of the fifteen members of that Commission are appointed by the Governor, without the legislature having any chance to reject or confirm his appointees. Here, indeed, is a ballot so short as to be non-existent. Our learned friends are barking up the wrong tree when they cry "short ballot" here. There "ain't" any ballot to be shortened.

No dictatorship anticipated

Fourth, we are told that by giving the Governor a veto power and failing to safeguard the appointive power properly, the Governor will be enabled to twist the entire legislature around his grasping fingers and prostitute all the power in the state for his private, political purposes. Already we have seen that our opponents distrust the ability of the people to elect a legislature. Now we find that they distrust the ability of the people to elect a Governor. In what do they trust?

Note that this argument assumes that the Governor and at least a majority of the legislature will come to Raleigh with an intent to engage only in bribery and corruption; that they will become conscious plotters against the welfare of the people. If this be true, it has been true for the past one hundred and fifty years, our forefathers were wrong in the first place for adopting our representative system of government and we are wrong in retaining it. Passing this by as the absurdity it is, what does the veto power mean? It means that the Governor should have some responsibility for legislation for which his administration must take the credit or the blame. It means that he should have some means of requiring the legislature to reconsider hasty or ill-considered legislation. If he vetoes an act, a majority of the membership of each house may pass it over his objection. Here obviously there is no sinister possibility of dictatorship such as our friends are insinuating. Here is only a constructive addition to our system—a device for requiring the legislature to reconsider its actions in the spotlight of public attention which has been directed to that action by the Governor's veto.

Trading votes for offices

Now about that appointive power. The Governor alone now has the appointive power. Under the proposal the Senate would have to approve his general appointments. Under the present system, a member of the General Assembly can be appointed to any office during his term. Under the proposal he could not be appointed to any

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office created during his term nor to any office the salary for which was increased during his term. It is perfectly clear that the proposal alone contains safeguards against nefarious trading by which a legislator votes for the Governor's measures in return for a promise of appointment to a state office. And the proposal alone will completely prevent a legislator from urging creation of a new office in the hope that he will be appointed to fill it.

Appealing to ignorance

Finally, we are told that the proposal writes into the Constitution the principle of the absentee ballot. Here again is a place in which our opponents rely solely upon the hope that many in their audience will merely accept the statement as true without investigation. It is an attempt to marshal the forces of ignorance to march under the banner of the opposition beside the forces of prejudice and apathy. The truth is that under the present Constitution there are no restrictions on the absentee ballot. Such restrictions as are now placed on its use are placed there solely because the legislature willed it so. The legislature can take them off if it so desires and, if our opponents' opinion of the untrustworthiness of the legislature is correct, some day it probably will take them off. The proposal merely writes into the constitution the present legislative restrictions on the use of the absentee ballot. It would forever prevent removal of those restrictions; but it does not require that the absentee ballot be retained. It does not even insinuate that it should be retained. Here again, our opponents, loudest in their denunciations of the evils inherent in the absentee ballot, loudest in their avowals of love for the people, come now and advise the people to refuse the only direct opportunity the people have ever had to restrict its use.

Objections without end

So much for the specific objections of our opponents. We have dealt with the most important of them. There will be new ones tomorrow. There will be newer ones produced from time to time right up to the eve of the election. If the future character of the opposition is to be judged upon its past record and leadership, these new objections will be just as devoid of the saving qualities of logic as are those we have discussed.

The great tragedy of this campaign has been that the proponents of the new Constitution have had to spend the greater part of their time, as we have had to do in this article, sweeping away the imaginative objections of the opposition, which have no other claim to dignity than that of constant repetition. In no other way can these fallacies be cleared from the minds of those who have not the time nor the opportunity to analyze the two documents for themselves.

A constructive constitution

Before closing, however, I wish to present a few of the many constructive things in the proposal. We have already touched upon the Governor's veto and the new Board of Education. Those things are constructive—the first because it provides a recocking process for legislation jerked from the griddle raw; the second because it places the management of our public school system in the

hands of a group specially qualified and approved by our elected representatives. Further, the proposal would allow the state, for the first time, to adopt a sound, scientific, modern system of taxation; it would write the principle of the executive budget into our fundamental law; it would place in the hands of the people alone the power to increase our local debts; it would specifically direct the legislature to encourage home ownership, the conservation of soil and all natural resources, and to use the taxing power to attain those ends; it would direct the legislature to adopt a broad, modern social welfare program; and it would provide us with much needed reforms in a court system weighted down with the press of twentieth century business while bound by the chains of nineteenth century regulations.

Assuring tomorrow's progress

In Constitutions man looks to the future. Because of the limitations of his own mind he regards the future in the light of the present. The chief essential difference—almost the only essential difference—between the proposed and the present Constitutions is that the proposed looks to a future regarded in the light of a modern-day present, whereas the present Constitution looks to a future regarded in the light of a present dead and gone sixty-six years. The proposal looks to a future which is still a future; the present Constitution looks to a future which is now a past. Will your vote be cast to live in a progressive future or in a glorious, but recumbent past?

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CONSTITUTIONAL REVISION

(Continued from page seventeen)

Constitution, to many of which I was myself opposed, and the manner in which they were suggested was not in my view the method which should be pursued if these changes were to be adopted.

Constitutional convention

It was never contemplated and I respectfully submit should never be allowed that any one man should appoint a commission to rewrite the Constitution and that this should be adopted without being first considered by a regularly elected, organized and qualified Constitutional Convention elected and assembled for that purpose.

When the General Assembly had the question of submitting this Constitution before it for consideration, it was urged upon the membership that the vote to submit the Constitution to a vote of the people would not in any respect compel the members to support it when so submitted; this was not my view and I then announced that I could not vote for the submission to the people of a Constitution for the State for their adoption, which I could not myself support.

The work of the Commission which was appointed by the Governor was not confined to preparing amendments to the Constitution, but the entire instrument was rewritten with material changes in every important article of the original Constitution, and the powers that would be granted by the new Constitution to the legislative and executive

departments of government without limitations impose few safe guards against their abuse, and the fact that we may have confidence in the present body or present officers is no protection against the abuse of these powers.

The views of Jefferson

Thomas Jefferson in writing on this question said: "It would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights. Confidence is everywhere the parent of despotism; free government is founded in jealousy, not in confidence, which prescribes limited constitutions, to bind down those whom we are obliged to trust with power. Our Constitution has accordingly fixed the limits to which, and no further, our confidence may go. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

In the present Constitution it is provided: "All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole." And it is further provided: "All powers not herein delegated remain with the people."

Power to the legislature

These provisions are not carried forward in the proposed New Constitution, but it is in this instrument proposed that the legislative authority "shall be full and complete, except as limited in this Constitution." This change shows that it was the purpose of the Commission to practically give to the Legislature uncontrolled and unlimited authority. When we review the history of the decay of all democratic governments, it is instantly recognized that this procedure has been the beginning of the destruction of democracy.

It is proposed in the New Constitution to practically destroy local self-government and make it subjective to the control of appointive commissions and the fiscal affairs of local units of government as well as the local government itself would be under control of a central power exercised by an appointive commission with controlling authority instead of advisory power.

Under the proposed Constitution even the Supreme Court itself, the bulwark of protection in the construction of the Constitution, would be subjected to any will of autocratic government, and the executive and legislative departments could change the membership of that Court at their will, if such change was necessary to procure a favorable opinion on the great questions of government that might come before it.

The power of taxation

The power of taxation is left to the Legislature without any material limitation and under the provisions of this New Constitution, the General Assembly would be vested with the power to destroy any particular species of property by taxation and by classifications which they might adopt, and by fixing a rate of taxation on other property without limit, and the proposed New Constitution would destroy all protection which the people now have against the confiscation of their property by means of excessive

Government--

What are the functions of government? Should it be designed for the purpose of making and enforcing laws regulating the conduct of its subjects, or should it deal principally with expensive ventures into private business and thereby stifle the initiative of its citizens?

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taxation. The present Constitution requires the "taxation of property by uniform rule according to its true value in money." The proposed New Constitution destroys this provision which is the safe-guard against the special privilege and favoritism of particular groups.

Serious opposition to various other sections of the proposed New Constitution in detail have been made and urged as reasons why the electorate should refuse to adopt this Constitution. With many of these reasons and arguments I fully concur. I am in accord with some of the proposed changes in the Constitution when properly made by a convention called for that purpose. As time has passed and thought and consideration have been given to the proposed changes, opposition thereto by thoughtful men has increased, and there is a constantly increasing feeling that the merits or demerits of these various provisions cannot be adequately discussed and decided by the electorate and that the only safe course for the people of the State to follow is to defeat the proposed Constitution in toto.

Provisions for revision

It was never contemplated that the Constitution should be written by any commission nor that it should be rewritten in any manner except as is provided in the Constitution itself, that is by a convention duly assembled as required by this instrument. Section 1, Article XIII of the Constitution provides: "Section 1. *Convention, How Called.* No convention of the people of this State shall ever be called by the General Assembly, unless by the concurrence of two-thirds of all the members of each House of the General Assembly, and except the proposition, Convention or No Convention, be first submitted to the qualified voters of the whole State, at the next general election, in a manner to be prescribed by law. And should a majority of the votes be cast in favor of said convention, it shall assemble on such day as may be prescribed by the General Assembly."

This is the manner in which any Constitution should be rewritten. It is not contemplated in any section of the Constitution that a New Constitution should be drafted and submitted to the people without having first their approval for a convention through the General Assembly and after submission to a vote of the whole people of the State. The calling of this convention is made more difficult by the provisions of this section for the clear purpose of preventing ill-advised, unconsidered or impulsive procedure in redrafting this vital and important instrument, and requires first the two-thirds vote of the members of the House and then that the proposition shall be submitted to the entire people of the State before a convention shall be assembled to rewrite the instrument.

Should these safe-guards be disregarded by the method and in the manner that is now proposed?

No other provision

There is no other provision in the Constitution for a manner of rewriting this instrument. Section 2 of Article XIII does provide that it *may be amended* and the manner in which these amendments shall be adopted, and clearly these provisions relate only to amendments and not to a redrafting of the instrument. Section 2, Article XIII provides: "Sec. 2. *How the Constitution May Be Altered.* No part of the Constitution of this State shall be altered unless

a bill to alter the same shall have been agreed to by three-fifths of each House of the General Assembly. *And the amendment or amendments so agreed to shall be submitted at the next general election to the qualified voters of the whole State, in such manner as may be prescribed by law. And in the event of their adoption by a majority of the votes cast, such amendment or amendments shall become a part of the Constitution of this State.*" This clause clearly was intended to limit any alterations that might be made and was never intended to cover a rewriting of the entire Constitution.

It is not a question but that in calm and orderly times the administration of increased powers and authority as allowed by the New Constitution, without limitation, might not be abused; but there come times in the life of the State when changing political control or unlimited executive or legislative authority might be abused and it has frequently occurred that those in position of power have assumed and reached out for an extension of their authority and control with a reckless disregard of the minority in their liberty and property which in calmer periods would not be thought of or suggested, and it is against this time and condition that these rights should be preserved and unless they are retained in limitations in the Constitution itself, the people have forever sacrificed the possibility of their protection.

An old question

For twenty years or more there has existed a sentiment that a convention should be called to revise the Constitution; and during this same period there has also been a

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growing tendency to reach out for extended authority and power in the various divisions of the government and the departments thereof, the contention being made that these extensions of power and authority were made necessary by the changed conditions of the times; still, there has been a continued refusal to call a constitutional convention in the manner provided, and in attempting to meet the condition, without allowing the people of the State to have their own representatives duly elected for that purpose to frame, rewrite or amend the Constitution, the General Assembly of 1931 provided for the appointment of a Commission by the Governor to rewrite the Constitution, instead of calling for the convention and submitting this call to the people for their approval. I repeat that this is a most dangerous precedent in democratic government and its approval at the polls will in my view result in ultimate disappointment, if not disaster.

Eight Objections

By JAMES H. POUL

I HAVE carefully read the proposed submission for our present Constitution. I have compared the said proposal with our present organic laws. I see in the proposal a number of propositions for which I would be glad to vote, if submitted upon their separate merits. Among the provisions for which I would be glad to vote are the following:

(a) The proposition to limit the making of new debts by any of the subdivisions of the state.

(b) I would favor the changes in criminal procedure.

(c) I would favor prohibiting the appointment of a member of the General Assembly to any office created, or the salary of which was increased, by the General Assembly of which he was a member.

(d) I would be glad to support the budget provision, if it were to provide that the budget should be submitted to the members of the General Assembly ten, or even thirty, days before the General Assembly meets. It seems strange that the budget should be submitted within the first ten days of the session.

(e) I would favor the transfer from the Governor to the Supreme Court of the right to designate judges to hold special terms of court, etc. It seems to me that this is a function which naturally belongs to the Supreme Court and should be performed by the Court in banc during term, and by the Justices of the Supreme Court, beginning with the Chief Justice; then following in the order of priority during vacation. I regret that this provision was not made more elaborate.

(f) I like the proposed Judicial Council and giving it the power to prescribe practice and procedure. Congress has given the Supreme Court of the United States the right to prescribe procedure and rules in equity, and it has worked splendidly. Recently, Congress has given the Supreme Court the right to prescribe rules of practice in law matters, and I am hoping much from it.

(g) I like the change in the insurance section, Article VIII, Section 7. My friends, Hon. H. S. Ward and Hon. John W. Hinsdale, secured Constitutional Amendments and Acts which greatly improved the former law. The

change in the proposed Constitution improves their work and, I think, makes it perfect.

Eight objections

There are other proposals in the new Constitution which, in principle, I favor, but not in the form presented. My objections to the proposed Constitution are:

1. A tendency—I might go further and say an urge or an impulse—toward the short ballot and the reduction of the number of officers for whom we can vote. I like to vote for those who are to enforce the laws; and I have found officers selected by the people fully up to the standard of those selected for the people. I am old fashioned enough to believe that the people are competent to select their officers; and I am opposed to any tendency to diminish the number of elective officers. I agree that the new Constitution does not require an increase in the appointive and a decrease in the elective officers, but it encourages a tendency toward the short ballot.

2. For the first time, the absentee ballot is recognized by the new Constitution. It seems to me the absentee ballot should be restricted to its original purpose—that is, to allow soldiers required to leave home and serve their country to exercise the ballot. Instead of endorsing it by placing it in the Constitution, I would favor suspending the operation of the absentee ballot unless or until war should break out. Then, let it be put into effect by proclamation of the Governor and apply to soldiers away from home.

3. I would not favor the proposition to remove the Constitutional status of clerks of the courts and sheriffs. Those officers are very near the people. We must come in contact with them throughout life. They have long been officers of dignity and importance. They have represented in every county the sovereignty of the State. They are grounded in the Constitution as much as are the Governor, the Judges, and the General Assembly. I see no reason why these offices should be changed in their dignity and made amenable to any whim of the General Assembly. I fear that we have in the United States entirely too many officers; but I do not think we will be helped by lessening the dignity or authority of those we have. We should add to their responsibilities and require of them more service.

4. Another proposal I regret is that to place the number and personnel of the Supreme Court in the hands of the General Assembly and of the Governor. Now, the people control the number of the Supreme Court Judges and select those to fill positions if any increases be made. This seems to me to be the quintessence of wisdom. The new Constitution will permit the General Assembly to increase the number of Supreme Court Judges to any extent it thinks proper, and will authorize the Governor to fill positions with Judges until the next election, perhaps eighteen months distant. This has never been the policy in this state. The people have retained the right to control the number of the Supreme Court and to select persons to fill the positions, if any increase should be ordered by them. I should regret a change. It is probable that an increase in the number of Judges of the Supreme Court is necessary—certainly, unless the number of trifling appeals to that Court be restricted. I should be willing to vote for such increase in the number



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of Judges as the work may require; and, at the same time, I would like to be permitted to vote for the persons who are to serve on the Supreme Court after the increase is directed.

5. I do not think the change in the method of apportioning seats in the State Senate is wise. Clearly, our Constitution contemplates fifty senatorial districts, each with one senator. The proposed change does not tend to bring about anything like equality in the distribution of the senatorial power. Under the proposed plan, it would be possible to divide the State into two districts and give each district twenty-five senators, thus removing the senators as far as possible from their constituents.

6. I do not see any wisdom in the change which will allow a married woman to divest herself of all her real estate, without the consent of her husband, or even the knowledge of her husband. It seems to me that this will work badly, certainly from a financial and probably from a social standpoint.

7. I think it is unfortunate that almost all restrictions upon the amount of taxation which can be imposed, or the rate or exemption from taxation, should be left wide open to the General Assembly. I think the taxpayer is entitled to some restriction upon the amount which may be levied against him.

8. The tendency of the new Constitution seems to be toward an increase in the power of the general government at the consequent expense of the local government. The centripetal force will be increased and encouraged; and I am a believer in local self-government. There is a school of thought now which goes so far as to say the states are not necessary; and some say the states are nuisances. I believe the states are the foundation of American liberty; and I further believe that counties and municipalities serve a most useful purpose and should not be degraded.

A valuable document

A Constitution is immensely valuable as an instrument of government. It provides stability and regularity. But limitations and restrictions on government are highly desirable; and they are of particular benefit to the protection of the citizen in his rights. The proposed Constitution contains too few of these limitations.

In conclusion, I wish to point out what may happen sometime, in the event of a catastrophic change in social conditions, if the new Constitution is adopted. The General Assembly will have the right to declare vacant all county and municipal offices, including school, road and health departments, and provide for the election of the said officers and the appointment of other officers by the Governor.

I know this is not likely to occur; certainly not in the lifetime of the present generation. But it is possible under the new Constitution; and I think we just as well avoid that possibility.

The two principal offices in each county, the Clerk of the Superior Court and the Sheriff, are Constitutional offices; and can not be abolished or vacated by the General Assembly. Our Supreme Court is a Constitutional body, with its number limited and not subject to increase or change except by the vote of the people. These two provisions of our Constitution are stabilizers. They are balance wheels. They are brakes, as it were, against too rapid innovations; and I do not favor the proposed changes in those offices.

Item By Item

By JONATHAN DANIELS

FOR the time being at least the North Carolina Supreme Court has dispelled the bewilderment of the average voter who was faced with the question as to whether he should vote for or against an entirely new Constitution for his State. The issue is postponed but its importance is not lessened. The North Carolinian knows that his constitution is the basis, the plan and pattern of his civilization. He knows that change in the fundamental law of his State will profoundly affect his own life and the lives of his children. If change is necessary he wishes to make it wisely, thoughtfully, in the full consciousness of the meaning of every change he authorizes by his ballot.

Many similarities

As to two-thirds of the articles in the Constitution which was proposed there was and is no difference of opinion, for in essence these articles are the same in the present and the proposed constitutions. Many of the new articles proposed, retaining the spirit of the old ones, were better phrased.

Desirable changes

Several excellent changes were proposed in the new document. Many of them should be added to our Constitution. Certainly there is a growing unanimity that the six per cent limitation upon the taxation of incomes must be brought to an end. It is increasingly obvious that it ought not to be necessary to elect as many solicitors as there are Superior Court judges. Even the veto power, which North Carolinians have been singularly reluctant to grant to their executives, was in the form proposed, an instrument of great possible value and little possible danger. That provision prohibiting the appointment of any member of the Legislature to an office created by the General Assembly of which he was a member would end a practice which in the past has approximated scandal in the State. Of great appeal and virtue, too, is the fact which Dr. Clarence Poe stressed so vigorously that the proposed Constitution would make it possible for the Legislature to exempt small farms and homes from taxation just as small incomes are now exempt.

Centralization

The debate in the campaign which ended with the court's decision ranged around a comparatively few provisions. Attorney-General Dennis G. Brummitt, who led the attack on the Proposed Constitution and made the chief defense of the old, opposed ratification chiefly because, among other objections, he thought the changes proposed gave too much power to the Chief Executive and centralized control of all governmental agencies in Raleigh. Certainly, whether the proposed Constitution furthered it or not, this tendency to centralization of power in North Carolina has already advanced to such an extent that schools and roads and the collection of taxation to support them have become activities of the State and are directed by State agencies, most of them headed by appointees of the Governor and not by

elective constitutional officers. Indeed, many of the duties formerly performed by constitutional officers have been taken from them by the Legislature and conferred upon officials of the Governor's personal choice; the State Treasurer has been relieved of the right and duty to collect the State's taxes, the State Auditor's functions have in large part been given to the Budget Bureau. Educational direction is not now under the true direction of the State Superintendent of Public Instruction, a constitutional officer, but under a board named by the Governor.

Those who object to centralization of power in the Chief Executive think this policy has already gone too far, and declared that the Proposed Constitution gave new impetus to this tendency.

Uniformity

There remains a further fundamental controversy between those who favored and those who opposed the revised Constitution. The present Constitution says in effect that all property and all citizens shall be taxed alike. The Proposed Constitution says in effect that all property and citizens shall be taxed justly. The old is tangible and certain. The new provides a latitude as wide as man's thinking about what may constitute justice. The essential language of the two provisions at issue in Article V of both the existing and the suggested Constitutions is as follows:

Present Constitution: *Laws shall be passed taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and, also, all real and personal property, according to its true value in money.*

Proposed Constitution: *The power of taxation shall be exercised in a just and equitable manner, and shall never be surrendered, suspended or contracted away.*

In these two clauses lies the fundamental conflict, the true issue between that which is and that which was proposed. The people had a choice before them between "equitable" and "uniform." There is a world of difference between the two words. There is no possible doubt about the meaning of "uniform." It is defined as "not varying or variable, conforming to one rule or mode." Under the present Constitution, for example, the Legislature could not impose a tax of 50 cents on the \$100 valuation of stocks and bonds or any intangible security, and impose, or permit the imposition, of a higher rate on land, homes or other visible property. The present Constitution forbids one measure of tax rate for owners of one class of property and another rate for another class.

For many years there has been an organized attempt to give a low rate to such property as ownership of notes and securities while leaving higher rates upon farms and factories and homes and other visible property. This proposal to eliminate "uniform" from the Constitution was twice embraced in amendments to the Constitution and twice rejected by the vote of the people. Surrounded as this change was in the revised Constitution by many good provisions, it remained the same old proposal. It opened a door which those desiring favoritism, and other than "uniform" taxation for themselves than for others, could have organized to enter for their own benefit. Privilege never reaches the many. It is always monopolized by the few and the powerful.

Item by item

Fortunately it will not be necessary for the people of North Carolina to cast their votes for all or nothing in this November election. It ought not ever to be necessary for them to cast such a vote. Long ago *The News and Observer* suggested that the article on taxation and other controversial articles be submitted separately so that voters could cast their ballots for and against such sections without having to take or reject an entire document. That suggestion was not heeded. But the temper of the people, which was known long before the Supreme Court made known its decision, demonstrated that it should have been heeded and should be heeded now. Change in the fundamental law of the State should be submitted to the people change by change. In such a way only will the people of the State be able to advance by intelligent decision on every question involved in the alteration of the State's basic law. Such a course may prevent some changes altogether. Any other procedure in changing the Constitution betrays a distrust in the people who after all must live and make their lives within its provisions. Such changes as the people do not wish ought to be prevented. A wise Legislature will let the people speak item by item, article by article. And the people will be wise in making, slowly and only in accordance with their certain will, changes in the whole philosophy and pattern of their life as it is shaped by the fundamental law under which they and their children after them must live.

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Key to abbreviations

- (A.G.) Attorney General.
(D.Ed.) Department of Education.
(L.G.C.) Local Government Commission.

1. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

5. Exemptions—city and county property.

In answer to the inquiry, "Where county purchases land or has lands transferred to it from private persons, such lands situated in another county and the tax lien had already attached before such transfer or purchase, would the property so transferred be subject to the tax?"

(A.G.) My view is that if land is subject to taxation on June the 1st, the date of the beginning of the fiscal year, it does not escape such taxation by being conveyed later to a non-taxpaying owner. (Citing: State v. Fibre Co., 204 N. C. 295.)

Where county owns property in a town can the town tax such property?

(A.G.) In Andrews v. Clay County, 200 N. C. 280, the court there held that under the Constitution, Article V, Section 5, property belonging to the State or municipal corporation is exempt from taxation; that the constitutional provision is self executing; and that the property carries the exemption because of its ownership, and without regard to the purpose for which said property was acquired and was held.

7. Exemptions — property of Federal Farm Subsistence Corporation.

(A.G.) Where the Federal Farm Subsistence Corporation, operated under the Department of the Interior of the Federal Government, purchases land in a county of this State, such land is not subject to taxation, being government property.

11. Exemptions—personal property in the hands of trustee in bankruptcy.

(A.G.) Personal property in the hands of a trustee in bankruptcy for liquidation of the bankrupt estate in Federal Court has not been considered subject to taxation by the county.

12. Exemptions — property purchased with veteran's compensation.

(A.G.) Property purchased by veterans' compensation money is not exempt from taxation.

30. Situs of personal property.

(A.G.) Tangible personal property must be taxed at its actual situs. (A town cannot tax such property where the owner lives in town and his personal property is beyond the town limits.)

SPECIAL NOTE

The favorable response to this bulletin service, carrying to local officials the rulings of state departments which affect their duties, has exceeded our fondest hopes. From the time of its inauguration to date it has been mailed free to every person who requested to be put on the mailing list. Beginning with this issue of this magazine, the bulletin is discontinued as a separate service and becomes a regular feature of the monthly issues of the magazine. We believe that the inclusion of this service alone renders the magazine worth its subscription price to every local official in North Carolina. **We urge all who do not wish to miss an installment of this service to mail their subscriptions immediately to The Institute of Government, State Capitol Building, Raleigh, N. C., so that their names will be on the subscription list for the next issue of the magazine.** A subscription card is enclosed with the magazine.

—The Editors.

10. Penalties, interest and cost before foreclosure.

(A.G.) Under C. S. 8037, the interest and penalties on tax sales certificates is 10 per cent for the first year and 8 per cent per annum thereafter. However, Chapter 560, Public Laws 1933, provides that interest and penalty shall be 8 per cent. We have construed this to mean that only 8 per cent per annum can be charged as penalty and interest accruing after May 15, 1933, the date of ratification of the act.

11. Penalties on municipal tax.

(A.G.) It is our understanding that a municipality may adopt the schedule of county penalties or not, as the commissioners may determine. As to whether the municipality may adopt a different schedule of penalties, seems to me very doubtful. At any rate, they cannot adopt a schedule in excess of the county schedule. This is without reference to any Public-Local Act affecting the situation. Chapter 299, Public Laws 1931, has been construed here to permit the extension of assessments upon application of the taxpayer affected, and not to require an extension upon all assessments as an entirety.

31. Tax foreclosure—procedural aspects.

Can delinquent taxes of subsequent years be included in the procedure when a suit is brought to foreclose the taxes of a particular year?

(A.G.) In my opinion, it would be proper in a complaint filed to foreclose a tax sales certificate of any particular year, or years, to set up taxes which are a lien upon the property, and that it would be proper to have a judgment which would provide for the settlement of the liens of these taxes also in the sale.

(A.G.) C. S. 8037 (fourth paragraph) makes the description in the tax sale certificate sufficient to protect the lien and certificate. A description sufficient in law and in fact is required to be set out in the notice and in the interlocutory and final judgment. It is best that such a description be used in the complaint in the first instance, as title to land may depend on it. It may, however, be done by amendment.

(A.G.) Description of land must be a practical one, through which it is possible to identify the land. A sufficient description ought to be embodied in the complaint from the beginning. This, however, may be supplied by amendment to the pleadings and publication. The publication is part of the pleading and must be sufficient as to description in law and in fact. Reference to "tax

76. Solvent credits—mortgage after land purchased by mortgagee.

"A listed for taxes a certain tract of land in Currituck County. B, on April 1st, listed for taxes a mortgage that he held on this same land. On June the 1st, 1934, B bought the land and will have to pay the taxes on the land which was listed by A. Should B also have to pay the tax on the mortgage?"

(A.G.) At the time A listed the land for taxes, and B listed the mortgage, the mortgage itself was a solvent credit, that is, personal property required to be listed. I assume that the mortgage on the land, or rather the debt, was at an end when B bought the land itself. In my opinion, this does not relieve B from paying the tax on the mortgage as a part of the personal property owned by him on April the 1st.

110. Listing of personal property—consignee.

Who should list personal property which has been consigned to a person in one county but which property is not owned by the consignee?

(A.G.) It is the duty of the consignee to list the property in his own name or in that of the consignor.

B. Matters affecting tax collection.

maps," where on record, is sufficient; also, probably, where the maps are sufficiently well known, in common use, and reasonably accessible, whether on record or not.

Is the mortgagee a necessary party in a tax foreclosure suit?

(A.G.) Tax foreclosure suits under C. S. 8037 can not be said to be so thoroughly *in rem* that mortgagees may not, under certain circumstances, be necessary parties. In some instances tax sales certificates might represent, in part, taxes other than ad valorem, as to which there might be a question of priority between the tax and the mortgage. With respect to the person in whose name the land is listed and the real owner, there might be a question arising out of the fact that lands are often listed to more than one person.

Within what time must such actions be brought? (The question relates to 1930-1931 tax sales certificates.)

(A.G.) Section 8, Chapter 181, Public Laws 1933, merely extends the time in which actions may be brought to October 1, 1934, and does not authorize the bringing of a suit after that date. Therefore it will not prevent the bringing of such suit within 24 months from the date of the tax sales certificate, nor does it authorize the bringing of a suit within that period, if the time within which it should have been brought has expired. (Prior to 1933 amendment the time limit was 18 months.) See *Forester v. Wilkes County*, 204 N. C. 163.

34. Tax foreclosure—re-institution of suit.

(A.G.) In my opinion, where tax foreclosure suits have already been instituted, but proceedings have been suspended under Chapter 181, Public Laws 1933, these suits need not be re-instituted, but all the things which were legally done up to that time may be now available as the suit proceeds to a conclusion.

35. Tax foreclosure—costs.

Does Chapter 560, Public Laws 1933, affect Chapter 331, Public Laws 1929, so as to limit total costs to \$6.00 in a suit for foreclosure of a certificate of sale for special assessments?

(A.G.) We think that it does so limit. Section 3 of said Chapter states: "That suits to foreclose certificates evidencing sales in the year 1931 and prior years for taxes or special assessments on real property." Special assessments are specifically included.

40. Tax foreclosure—special assessment—compromise.

(A.G.) No authority is given by law for towns to accept less than the amount due in payment of special assessments. Such power might exist under certain circumstances when the case is actually

Greensboro, N. C.
May 7, 1934

To The Institute of Government:

I just want to express appreciation and commendation of the initial issue of your State Department Bulletin received Saturday morning. Notwithstanding the fact that my desk is cluttered up with bulletins, pamphlets, "Flashes" and numerous other papers from various sources, I read your bulletin through from "kiver to kiver" at a single sitting. It was most interesting and informative. I truly hope that you will be able to continue the service as I feel that it is eminently worth while.

You may regard these comments as coming from a municipal official or as an official of the Municipal League. In both capacities I extend congratulations and assure you of my personal appreciation.

With kindest regards and best wishes for you and your staff, I am

Very truly yours,
Andrew Joyner, Jr.

(Mr. Joyner is City Manager and City Attorney of Greensboro and President of the North Carolina League of Municipalities.

in litigation and there is danger of the town's being unsuccessful in such litigation.

72. Tax collection—levy on personal property.

(A.G.) Where taxpayer lists goods for taxation and then disposes of the goods without paying the tax, such taxpayer's automobile may be levied on for payment of the tax on the goods.

77. Tax collection—priority of lien.

(A.G.) This office is of the opinion that there is no priority between State, county and municipal taxes, but that they should all share equally in any assets of a corporation which is in the hands of the receivers. A claim for labor would be prior to any taxes, provided it was filed in time.

90. Removal or sale of property prior to time taxes due.

Is it legal to levy on personal property which has changed hands within a family; for example, a father's selling personal property to a son?

(A.G.) The lien of taxes does not attach to personal property until the levy and if there is any bona fide exchange or transfer of such property prior to the levy, no lien will attach and such property would not be subject to a levy.

11. Poll taxes and dog taxes.

C. Use of such taxes.

1. Use of city dog and poll taxes.

(A.G.) In view of Article V, Section 2, Constitution of North Carolina, the School

Machinery Act (Section 15) leaves poll taxes as well as dog taxes in the county for application to maintenance of plant and fixed charges, but neither the Constitution nor statute has any reference to city poll tax and city dog tax. The city administrative unit cannot, as a matter of right, demand these taxes; but if the town turns the proceeds over, they may be used. However, there is nothing in the general law authorizing the town to turn the proceeds over.

111. County and city license or privilege taxes.

A. Levy of such taxes.

21. License tax on doctors and dentists.

(A.G.) If the general law were silent, resident doctors and dentists might be taxed under C. S. 677; however, the Current Revenue Act, Chapter 445, Public Laws 1933, in levying a state-wide tax on professions, including dentists and physicians, expressly provides, (Section 109, subsection (c), "Counties or cities or towns shall not levy any license tax on the business or professions taxed under this section." Physicians and dentists are taxed under that section and, therefore, your town cannot impose any tax upon them.

47. License tax on slot machines.

(A.G.) I interpret Section 130 (f) of Chapter 445, Public Laws 1933, to mean that the tax mentioned is levied upon the business of operating the slot machine, and does not necessarily have anything to do with its ownership. It is my opinion, however, that when the owner of the machine operates it at some other person's place of business, which I think he may do, he has the privilege of moving it elsewhere in the city without paying additional license tax.

60. License tax on laundries—Rev. Act, sec. 150.

(A.G.) It was not the purpose of the State Legislature in passing Section 150 of the Current Revenue Act to provide that municipalities might tax the family "wash woman" who comes into town, gets the laundry, returns to her home and laundries the same.

65. License tax on out of town express companies.

(A.G.) A municipality cannot levy and collect license tax against an express company which has its office in another town and delivers express in the municipality.

69. License tax on ice cream dealers—Rev. Act, sec. 161.

Can a city levy and collect a privilege license tax from a non-resident ice cream distributor at wholesale, a tax being levied against the local manufacturer and distributor?

(A.G.) The provision of the Act ap-

Raleigh, N. C.
Sept. 6, 1934

To The Institute of Government:
Your Bulletin Service carrying the rulings and opinions of State departments is not only a distinct service to city and county officials throughout the state, but is a source of great convenience to State officials and departments in keeping them in touch with each other and with the problems of local governmental units.

I am glad to hear that you are going to incorporate this Bulletin Service as a feature in your new monthly magazine, POPULAR GOVERNMENT.

Yours sincerely,

Chas. M. Johnson,
State Treasurer and Director of
the Local Government Commission.

plies to located business, in reference to the town. There is extreme doubt whether the delivery of the product when done by the manufacturer may be split off and designated as a separate business; but in this case, even if it could be done, that business would have to be one located within the town, in order to justify the tax.

70. License taxes on chain stores—Rev. Act, sec. 162.

(A.G.) Individuals and partnerships (conducting chain store business) are subject to the chain store tax as well as corporations.

100. Eligibility for privilege license.

(A.G.) There is no statute under which a town may deport undesirable families or which would give the town authority to refuse to sell a privilege license if the proper amount of money is presented for such.

IV. Public schools.

B. Powers and duties of counties.

2. Power to issue bonds without vote of the people.

(A.G.) The Board of County Commissioners has authority under the Constitution and the law, to issue bonds to provide school buildings and equipment necessary for the operation and conduct of the constitutional six months term. That Board has authority with respect to such buildings anywhere in the county, whether within or without the city administrative unit. No unit less than the county can issue bonds for such purpose without a vote of the people.

20. School elections—expenses.

(A.G.) Formerly school districts were permitted to hold elections to authorize special taxes in relation to the schools. The law provided that the expenses of such elections, when held in a special

charter district, should be paid out of the funds of the district. The School Machinery Act of 1933, however, abolished all districts of every kind, and set up in lieu thereof two types of administrative units—the city administrative unit and the county administrative unit. As all the old districts were abolished, in my opinion, the provisions for the costs of the school tax elections in those districts went with them, and we are now without any law definitely fixing the costs of such elections when had in a city administrative unit. It is, therefore, my opinion that the costs of such elections must be borne by the county out of the general fund.

36. County-wide tax for vocational education

Do County Commissioners have a legal right to levy a county-wide tax to pay a teacher to teach agriculture in a town school, without a vote of the people?

(A.G.) No authoritative answer can be given except by the court. However, I think the better view is that county-wide tax levy may be made by the Board of County Commissioners for paying the salary of a teacher of vocational agriculture, such salary to be for a six months' term only.

40. Use of county school funds—travel expenses.

The State School Commission advises that it will be possible to pay such items of current expense as the additional expense of the county superintendent and bookkeeper and excess of water and light bills from current expense county supplement, provided there has been no levy for maintenance of plant. In other words, any surplus of funds which are allotted to maintenance of plant, viz: poll taxes, dog taxes, etc., may be used to supplement items of current expense.

C. Powers and duties of city administrative units.

12. Levy of special tax.

(A.G.) The board of a city administrative unit would not have the right to levy a special tax for a city school nurse, all previous taxes having been wiped out by the School Machinery Act of 1933, and the city administrative unit not since having voted a special tax.

21. Erection of building—necessary expense.

(A.G.) Buildings for the six months school term are not necessary expenses within the meaning of Constitution, Article VII, Section 7; and authority for issuance of bonds and levy of taxes for the six months school term is found in Article IX and in Article V, section 6, of the Constitution.

30. Use of funds—balance of uncollected taxes.

(A.G.) Under the School Machinery Act, Section 4 last paragraph, uncollected

taxes, when collected subsequent to the date of the passage of the Act, May 15, 1933, are to be applied on debt service of the district.

D. Powers and duties of present school districts.

30. Levy of special tax for maintenance.

(A.G.) A school district does not now have the power to levy school maintenance taxes except where, by a vote of the people, levy of such has been authorized since passage of the School Machinery Act of 1933. Nor does the administrative school unit, as such, have such right except upon such vote.

E. Status of former school districts and the funds of those districts.

16. Debt service of former school districts—back taxes.

Where old Special Tax Districts have accumulated money collected as back taxes, what is necessary to give the committees in these districts and the Board of Education the right to spend the same? Is it necessary to budget same and who has to approve the budget?

(A.G.) In the School Machinery Act of 1933, taxes in such districts must be applied to debt service. Where there is no debt, the ruling of this department is to the effect that the money may be used in maintenance. There is no provision in the law with regard to any mention of these taxes in the budget, and no specific authority as to the expenditure. Where the money is in the hands of the county authorities, in my judgment, the Board of Education would have the right to expend the proceeds by such distribution as in their judgment would be most equitable, bearing in mind that where a city administrative unit has taken the place of a Special Charter District, the taxes in question should go to the benefit of these schools. If the debt service of a district has been assumed by the county, in my opinion, such funds ought still to be applied to such debt service.

F. School officials.

6. Liability of county board for tort.

Is a school liable for injury sustained by child while engaged in football game?

(A.G.) Under the general provisions of law and specifically the case of Benton v. Board of Education, 201 N. C. 653, I am of the opinion that neither the County Board of Education nor the local school board is liable for such injuries. The general rule is that the State and its subdivisions are not responsible in tort where such sub-divisions are engaged in the performance of governmental functions.

In answer to the inquiry, "Is Board of Trustees or the Trustees of a District liable for injuries to workmen employed by a contractor in building a school building when such job calls for only four men and does not come under the workmen's Compensation Act?"

(A.G.) No. But it might be well to submit the form of the contract to the Industrial Commission for suggestions.

12. Trustees of city administrative units—building contracts.

(A.G.) It is my judgment that the actual construction of the school building in a special charter district is a matter for the county commissioners, but I think with propriety the Board of Trustees, especially as the title to the property of the district is retained by them, may very properly be designated by the Commissioners as an agency to construct the building, or to let the contract and expend and account for the money. In that event, it would be proper for the county commissioners to make the entire sum available to the local board for such purpose, or see that it was available as needed under such conditions and guarantees as might be proper.

27. School committeemen—supplement to teacher's salary.

Can a salary be supplemented out of the funds especially mentioned in Section 16 of 1933 School Machinery Act, that is to say, fines, forfeitures, penalties, dog tax, poll tax, etc., in excess of that needed for maintenance of plant and fixed charges?

(A.G.) It is my opinion that inasmuch as the payment of the salary is one of the objects of expenditure laid down in the public school law, it will be lawful, with the approval of the School Committee, to supplement out of this fund.

J. School books.

30. School book depositories.

(D.Ed.) The North Carolina School Book Depository will set up local depositories for the various publishers as they have done in the past. All publishers of the recently adopted texts in social science signed retail contracts, and these publishers will operate through the North Carolina School Book Depository. All other publishers of high school textbooks other than social science have entered into an indefinite wholesale contract with the State Board of Education. Some of these publishers will deal through the North Carolina School Book Depository, whereas others will deal direct with the local depositories.

V. Matters affecting county and city finance.

L. Local budgets.

(L.G.C.) The requirements for the publication of Municipal Budgets are contained in Section 7, County Fiscal Control Act, which states that the governing body shall cause to be published in at least one newspaper a summary of the budget estimate, showing at least the total appropriations recommended for each separate fund or function as defined in Section 2 of that Act. Section 2 of the County Fiscal Control Act designates the fund for counties only. However, the municipal funds are

outlined in Section 68 of the Local Government Act. Inasmuch as the budget estimate is open to the public inspection at the office of the city clerk for a period of twenty days prior to the adoption, we are of the opinion that there would be a compliance with the law provided the publication contained the total appropriations recommended for each fund or function as outlined in Section 7, County Fiscal Control Act.

VI. Miscellaneous matters affecting counties.

G. Support of the poor.

20. Care of indigent and delinquent children.

Do Directors of Caswell Training School have the right to charge counties for the support and treatment of children in cases where the parents of such children are unable to pay?

(A.G.) Section 8, Chapter 266, Public Laws of 1915 did provide for payment by counties, but this was repealed by Chapter 224, Section 5, Public Laws of 1919. There has been no Act since requiring counties to be responsible for this cost. Chapter 120, Public Laws of 1925, provides that where inmate, parent or guardian is unable to pay, the cost is to be paid by the State.

Do Superintendent and Board of Directors of Caswell Training School have the sole power to determine who may, or may not, be received as inmates of the institution?

(A.G.) Chapter 34, Public Laws of 1923 repeals Section 2 of Chapter 266, Public Laws of 1915, and provides: "That hereafter there shall be received into Caswell Training School, subject to such rules and regulations as Board of Directors may adopt, feeble-minded and mentally defective persons of any age when in the judgment of the officer of Public Welfare and Board of Directors of said institution it is deemed advisable. All applicants for admission must be approved by the local County Welfare officer and the Judge of Juvenile Court or Clerk of Superior Court in the county where applicant resides."

21. Burial of pauper.

Does the legal liability for the burial of a pauper who died within the city limits rest with the city or the county?

(A.G.) It is my opinion that the duty to care for the poor, bury them upon death, first of all rests upon the county.

VII. Miscellaneous matters affecting cities.

F. Contractual powers of a town or city.

15. Letting of contract—publication.

A town has authority to buy materials and improve its own streets without letting the job to a contractor. C.S. 2830 and 2831 apply to cases where the town lets job to a contractor for over \$1,000 and in that case publication is required; but it does not prevent a town from doing the

work itself without letting a contract and does not, in that case, require publication.

G. Municipal liability for tort.

1. Care of prisoners.

A town wishes to build a town hall which will be used for Mayor's Court, Commissioners' meeting place and for the city jail. A policeman is kept on duty during the day time, but not at night. If the building should catch on fire and burn a prisoner, would the town be liable in damages?

(A.G.) In *Nicholas v. Fountain*, 165 N. C. 116, the court said: "In this State, the general principle as herein stated is recognized and applied and in respect to jails and lock-ups the municipality is held only to the duty of properly constructing and furnishing the prison and in exercising ordinary care in providing the usual necessities of the prisoner."

"It is held that if the municipal authorities comply with these requirements the municipality is not liable in damages for the negligence of its officers to properly care for and administer to the wants of prisoners." (Citing: *Coley v. Statesville*, 121 N. C. 301; *Shields v. Durham*, 116 N. C. 394.)

If the town exercises ordinary and usual care in properly constructing and furnishing a prison, it would not be liable in case the building caught fire accidentally and burned an inmate thereof.

J. What constitutes necessary expense.

25. Armory building.

(A.G.) An armory is not for such a necessary purpose as comes under Constitution, Article VII, Section 7, which allows issuance of bonds for its erection without a vote of the people.

26. Necessary expense—vote.

When Board of Aldermen has determined that a project is a necessary expense, may citizens ask that the bond issue be submitted to a vote?

(A.G.) Under Article VII, Section 7, Constitution, the voters may demand that the question of issuing bonds be submitted to a popular vote.

T. City health matters other than school health.

1. State Board of Health.

(A.G.) C.S. 7050, entitled "duties of board," in my opinion, includes county and municipal institutions within the scope of the duties of the State Board of Health.

X. Ordinances.

1. Validity of ordinances.

(A.G.) A town has no power to make an act an offense against the town ordinance which is already an offense against the State law: *State v. Keith*, 94 N. C. 933; nor is an ordinance of a town valid which does not provide a definite and fixed penalty for violation: *State v. Crenshaw*, 94 N. C. 877.

(A.G.) C.S. 4427, et seq., and Chapter 14, Public Laws of 1931, contain the law in regard to lotteries, slot machines, etc., which do not return the same thing in market value each and every time they are operated. Where the General Assembly has legislated fully upon a subject the town cannot pass ordinances with respect thereto.

(A.G.) An ordinance which provides for a fine upon violation of "not more than \$50.00 nor less than \$10.00," would be void for vagueness and uncertainty. The penalty provided must be fixed in amount. (Citing: *State v. Cainan*, 94 N. C. 883; *State v. Rice*, 97 N. C. 421; *State v. Worth*, 95 N. C. 615.)

Y. Street assessments.

30. Statute of limitations.

(A.G.) The case of *High Point v. Clinard*, 204 N. C. 149, holds that the statute of limitations with respect to actions on street assessments is ten years, and that it runs from date of last payment thereon.

VIII. Matters affecting chiefly particular local officials.

B. Clerks of the Superior Court.

10. Collection of process tax.

Can the \$2.00 process tax be collected in special proceedings?

(A.G.) This office has heretofore advised the Department of Revenue that the process tax imposed by Section 157 of the Revenue Act does not apply to special proceedings.

(A.G.) A city is not required to pay the \$2.00 process tax when instituting a suit, but in my judgment when the suit is instituted by another person and a recovery is had against the city, the process tax paid by the plaintiff in such suit is recoverable against the city as costs. See, Section 157, Subsec. (c), Current Revenue Act.

60. Legal notices.

(A.G.) In my judgment a local newspaper distributing approximately 150 copies could properly be held to be eligible for a legal publication, and a proper notice in such a paper would be a legal publication.

65. Registration of aliens.

(A.G.) C.S. 193, (c), provides that every alien entering the State shall, if remaining in the State for over 90 days, register with the Clerk of Superior Court of the county into which he or she has come to reside, within such ninety days.

82. Decedents' estates—guardian's bond.

(A.G.) The law requires a Clerk of the Superior Court to be diligent in looking after the condition of administrations, and especially it is his duty to see that fiduciary bonds are sufficient to protect the funds of the estate and of wards. See, C.S. 33 to 44 inclusive.

(A.G.) In my opinion the Clerk may, on proper notice to show cause, require bonds already given to be strengthened, or

to file a new one, or give additional surety when it is clear that the existing bond is insolvent or insufficient.

D. Registers of Deeds.

25. Index.

(A.G.) There is no law requiring that documents required to be registered in the office of the Register of Deeds shall be cross-indexed with a typewriter, although, obviously, this would be the better way.

L. Local law enforcement officers.

31. Lotteries.

(A.G.) It is a violation of the lottery law when an owner gives out tickets on which a suit may be won, if such tickets are distributed to customers as they pay for work done by a pressing club.

70. Possession of pistol in home.

(A.G.) When officer searches residence with search warrant and incidentally finds a pistol there, such person is not indictable for possession of the pistol without a permit for it. However, C.S. 5106 makes it unlawful to purchase a pistol without having obtained a permit from the Clerk of Superior Court. A conviction for purchase without a permit might be had. The officers could not confiscate the pistol under the circumstances.

M. Welfare officers.

21. Petitions under 1933 sterilization law.

Would consent of the patient and her husband for an operation under the Eugenics Law constitute ample protection to the surgeon in case a suit was brought for damages?

(A.G.) We do not think so. The sterilization law specifically provides that all the provisions thereof shall be strictly complied with.

O. Juvenile Court Officials.

10. Detention of juveniles.

(A.G.) Where child is 14 years old or upwards, and is charged with a felony, the punishment whereof could not be more than 10 years in prison, in that case the matter should be investigated by the Judge of the Juvenile Court and the probation officer, and unless the Judge of the Juvenile Court should be of the opinion that the case ought to be brought to the attention of the Judge of the Superior Court, the case should proceed in the Juvenile Court as all other cases under his jurisdiction. If, however, he should be of the opinion that it ought to be brought to the attention of the Judge of the Superior Court, it is my judgment that this so differentiates the case from other juvenile cases, that the laws applicable to the detention of other persons charged with crimes apply.

15. Cost of hospitalization of ward.

(A.G.) The payment of a bill for a ward of the juvenile court sent to a hospital, is a matter that does not seem to be taken

care of in the law at all, in so far as the law relating to child welfare and juvenile courts is concerned. Therefore, in my opinion, it is a proper charge against the county.

P. Judges of Recorders' and County Courts.

20. Jurisdiction over particular offenses.

Is offense described in C.S. 4419 within the jurisdiction of the County Court? (This statute applies to the offense of throwing or shooting at trains or passengers.) The statute states, "punished by fine or imprisonment in the county jail or State's Prison, at the discretion of the court."

(A.G.) The offense is a felony. Full discussion of this subject can be found in *State v. Harwood*, 206 N. C. 87. The case should be sent to the Superior Court.

50. Filling of vacancies.

(A.G.) Where no provision is made by act for filling a vacancy caused by the death of the recorder, such vacancy should be filled by the Governor. Constitution, Article IV, Section 2.

T. Justices of the Peace.

1. Fees.

(A.G.) General fee for the issuance of a warrant is 50c. This, however, varies according to the local act. A Justice of the Peace has no right to demand fees in advance for issuing a criminal warrant.

3. Service of process.

(A.G.) A Justice of the Peace has the right, when a proper officer is not available, to deputize any person to serve a warrant, endorsing the authorization on the warrant itself. He might thus deputize a police officer, who could serve such a warrant under such authorization anywhere in the county. He would be serving it by virtue of the authorization of the Justice of the Peace, and not as a public officer. See, C.S. 4534.

12. Jurisdiction over particular offenses.

(A.G.) Ch. 228, Public Laws 1933, which allows the court, after paternity is fixed, "to commit the defendant to prison for a term not to exceed 6 months," has been considered by this department to remove bastardy from the final jurisdiction of Justices of the Peace Courts.

(A.G.) Requirements as to lighting equipment of vehicles are set out in C.S. 2621 (89). Section 58 of C.S. 2621 (100) makes it a misdemeanor to violate any of the provisions of this law, unless such violation is declared to be a felony. See also C.S. 2621 (99.a), taken from Chapter 235, Section 2 of the Public Laws of 1931. In my opinion, driving without proper lights is not within the jurisdiction of a Justice of the Peace.

13. Territorial jurisdiction.

(A.G.) Generally, a Justice of the Peace has the right to hear a criminal case

arising within a town as well as outside of a town.

(A.G.) Under C.S. 1479 and 1481, Justices of the Peace have the right to try a criminal case arising anywhere in their county. That is the general rule. There may be legislation in certain localities restricting certain trials to Recorder's Court.

U. Notary Public.

1. Fees.

(A.G.) The subject of notaries' fees in this State is not very definitely fixed, but usually the fees charged by a notary are the same as other officers authorized to do the same service. C.S. 3178 might apply. "For every necessary service where no fee is fixed, they shall be allowed 20c for every 90 words" (In taking deposition). When depositions are taken before the commissioners, by order of court, the fees of the commissioners are usually fixed by the court requiring the deposition.

Y. Game Wardens.

30. Particular rulings affecting game laws.

(A.G.) Under the North Carolina Game Law Regulations foxes are classed as game animals and open and closed seasons are governed by Public-Local legislation. The State does not place an open or closed season on the hunting of foxes. The only violation of the law in so far as the State is concerned would be the hunting of foxes without having obtained a license.

IX. Double office holding.

20. Vice-Recorder.

(A.G.) A Board of Education member and Vice-Recorder are both public offices in the meaning of Constitution, Article 14, Section 7.

21. Chief of Police.

(A.G.) A chief of police is a public officer under the Constitutional provision. As to whether a deputy sheriff is a public officer or not would depend on the law under which he was appointed. Some Public-Local Act may apply in case of deputy sheriffs.

X. Primaries.

B. Ballots.

10. Absentee ballots.

(A.G.) Written authority was signed (in this case) to an agent to procure from the Registrar an application and ticket for the voter, with the provision, "and I hereby instruct and authorize....., my agent, to make application for me and to endorse my name for me on said application and ticket." The agent thereupon obtained the ballot, signed the voter's name on the ballot, marked the ballot for the voter, put it into an envelope and voted it without the voter's ever having seen the ballot.

Upon these facts the procedure is not in accordance with the Election Law and a ballot so deposited is void as not having been legally voted, and should not be counted.

YOUR PENNY IS BIGGER WHEN SPENT FOR ELECTRICITY



A Penny—One penny—a small copper penny—what can you buy with it? A stick of Gum? A tiny piece of Chocolate? But when it's spent for electricity, the purchasing power of a penny is mightily increased. In fact, one cent becomes quite a big, robust coin. That's because electricity is so cheap.

AFTER the consumption of 30 K. W. hours, which is less than the average family's requirements for lighting alone,

A SINGLE PENNY WILL

Make 37 pieces of golden brown toast.
Keep a 25-watt light burning from dusk 'till daylight (12½ hrs.)
Bring in more than six half-hour programs on average radio.
Fan you for six hours.
Keep food fresh and make ice cubes five hours.
Operate electric iron for half an hour.
Vacuum clean eight room-size rugs (two hours, five minutes).
Operate food mixer five hours.
Wash all dishes for a full week (22½ meals).
Wash 3 ¾ tubs full of clothes.
Give over six hours relief from pain with a heating pad.

SOUTHERN PUBLIC UTILITIES COMPANY

DUKE POWER COMPANY

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