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POPULAR GOVERNMENT



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W. A. Coble, North Carolina representative, Automobile Underwriters Detective Bureau.
Judge William M. York, Juvenile Court, Greensboro.
The staff will also include prominent visiting Judges and solicitors of the North Carolina courts, and other speakers.

The Director of the National Police Academy, Hugh H. Clegg (right), heads the strong staff of Federal, State, and Local Instructors.

Eligibles for Attendance.—Any police chief, officer, sheriff, deputy, State patrolman, federal agent, or other law-enforcing officer in North Carolina is eligible. The selection of the individual officer to attend rests with the department concerned.

Cost of Attendance.—There will be no registration fee or other charge in connection with the training course. The only expense will be the officer's room and board while in Chapel Hill.

FOR DETAILED PROGRAM AND INFORMATION

—write—

The Institute of Government

CHAPEL HILL, N. C.

Announcing North Carolina's First Ten-Day

School for Law-Enforcing Officers



Chapel Hill, N. C. --- January 5-14, 1937

Purpose.—To make available to outstanding officers in each department the best police instruction available, in order not only to aid them in the performance of their duties but also to train them to act as instructors in their own departments.

Scope.—The ten-day school is designed to provide thorough and balanced instruction in the most important phases of law enforcement work in North Carolina.



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CRIME PREVENTION.—The Law Enforcement Officer and Crime Prevention.

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FIREARMS INSTRUCTION.—Care and Use of Firearms.

FIRST AID.—Treatment of Wounds and Injuries, Artificial Respiration, Transporting the Injured.

POLICE ADMINISTRATION AND RECORDS.—Police Organization, Administration, and Records; Police Problems in Small Towns; Crime Statistics; Problems of Ethics.

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New Legislature Has Work Cut Out for It

THE 1937 Legislature must decide to what extent North Carolina will participate in the several phases of Social Security not considered by the Special Session, in soil conservation and crop control, and in several expanded Federal-State activities. It may be called upon to set up the machinery for carrying into effect the five new Constitutional Amendments. It must determine the important matters under study by the County Road Debt, Liquor Control, and Gasoline Terminal commissions. And it must, in addition to these new problems, handle the usual number and variety of matters which face each Legislature, headed by the task of squaring revenues with increased budget requests in an era of improved times following depression years.

The impending tug-of-war between the State and its cities and counties over numerous debt, revenue, and expenditure items adds to the interest in the forthcoming session. Highway debts, gasoline taxes, liquor profits, tax classification schedules, and cost of relief and Social Security are only a few of the things in which all three levels of government are interested and with respect to which they may be expected to have somewhat different viewpoints.

Legislative Headache Number 1 may well turn out to be the settlement of the new budget. State appropriations for the current fiscal year total roughly 58½ million dollars. The requests of State departments and institutions to the Budget Commission for 1937-38, with the State's requirements for debt service, are placed by unofficial newspaper reports at around 67 millions. And this does not include any expenditures for Social Security ac-

A BRIEF SUMMARY OF SOME OF ITS MAJOR PROBLEMS AND TASKS

By M. R.
ALEXANDER

of the Staff of
The Institute of
Government



tivities in which North Carolina is not now participating and which it is estimated would cost from 2 to 3 millions. Nor does it include the 7½ millions requested for permanent improvements to State institutions. The Budget Commission, of course, may not grant the full 67 millions requested. But assuming that any permanent improvements were financed by bond issues, the State, to meet the requests of its various agencies, would have to raise at least 8½ and possibly up to 11½ millions more than it had to raise this year.

On the revenue side, if the Democratic party fulfills its pledge to take the sales tax off necessities, it is unofficially estimated that annual revenue would be reduced by 2½ to 3 millions. All of which, in the absence of new revenues, would throw the budget out of balance by a sizeable number of millions, not counting for any action on the clamors which crop up about this time every two years to reduce gasoline, auto license, and other taxes. Where to get the additional revenue? From

new taxes under the authority of the new Classification Amendment? From an increase in income tax rates under the new constitutional amendment authorizing the Legislature to hike the maximum rate from 6 to 10%? From increases in other existing State taxes? Or from some system of State liquor control or other source? The answer will have to await the action of the Legislature, but it might be pointed out that there have been increasing rumors in capitol circles of a small State tax on intangibles.

The Highway Fund Scrap

The largest single appropriation, the Highway Fund, which stands at roughly 25 millions for 1936-37, promises to be one of the storm centers. On one side is the State, faced with the necessity of providing for maintenance, improvements, extensions, and debt service on a highway system which already numbers 58,000 miles, and swamped with requests for new construction and betterments. On the second, the cities are asking at least 10% of all highway revenues for use on *all city streets* instead of the \$500,000 allocated to them for maintenance of *highway streets* this year. In addition, they ask that city gasoline purchases be exempt from gasoline tax. On the third, the counties are seeking \$61,000,000 in claims for roads constructed by the counties and turned over to the State and for "advances" toward the construction of State highways. The county road debts, if assumed, of course would not have to be paid immediately but could be paid as the bonds matured, or these might even be refunded. However, it is generally assumed that they would be paid out of the Highway Fund, which would affect highway expenditures for many

years to come. The highway situation also has a State-Federal angle. The State has been balancing the General Fund budget by taking approximately 1 million a year from the Highway Fund for the General Fund. The Federal Congress has already started out to place limits on state diversion of highway taxes by tying strings to grants of Federal construction money. The present restriction would not interfere with continuance of the present transfer, but it is conceivable that the Federal restrictions might be tightened.

Liquor Control and Profits

The question of liquor control presents another knotty problem. The 17 counties with A.B.C. stores, profiting to the tune of close to a million a year, may be expected to urge continued county control, and may be counted on to persuade a number of other counties to the same viewpoint. Representatives of the cities have gone on record in favor of taking the profits out of whiskey in an attempt to drive out the bootlegger, but are insisting on a share in the control—and profits, if any. The State has its own interests in a system of State control; and whether there is State control or not, the Assembly might be asked to provide for State sharing in profits or State taxes to help to solve its budget-balancing problem.

Federal Grants and Strings

Provision for co-operation with federal programs undoubtedly will consume a large part of the Legislature's time. The December, 1936, Special Session settled the major provisions of the Unemployment Compensation Act, but a number of important details were left to the regular session. Several major amendments may be expected, including one in particular prescribing the number of employees necessary to bring an employer under the Act. One phase of the Social Security Program, Old Age Annuities, is federally-administered and requires no State action. The State was already participating in five of the phases: Extensions of Public Health Services, Vocational Rehabilitation, Maternal and Child Health, Crippled Children, and Child Welfare Services. However, increased appropriations will be necessary to enable the State to make full use of these extended services

during the coming year. This leaves three other Social Security enterprises—Relief for Dependent Children, the Blind, and the Aged (not to be confused with Old Age Annuities or Pensions)—and the Legislature must determine whether the State will pass laws, work out plans of administration, and appropriate funds to match Federal grants to provide these services. On the basis of North Carolina's eligible needy, Mrs. May Thompson Evans, Director of the State Employment Service, in a detailed article on Social Security in the November POPULAR GOVERNMENT, estimated that these additional Social Security enterprises in North Carolina would cost \$5,118,320, which would be divided as follows:

	Federal	State	Counties
Old Age Relief	\$1,724,800	\$1,724,800	•
Dependent Children	440,000	440,000	\$440,000
Blind Relief	174,360	87,180	87,180
Totals	\$2,339,160	\$2,251,980	\$527,180

Soil Conservation Payments

The 1937 Legislature is faced, in addition, with the necessity of adopting a soil conservation program and providing an agency for its administration if the farmers of the State are to continue to receive some 10 millions in Federal A.A.A. payments annually. The A.A.A. substitute or Soil Conservation and Domestic Allotment program up to now has been Federally-administered and financed. However, after January 1, 1938, expenditures for this purpose will be through allocation of funds to States which have set up soil-benefitting programs and administrative agencies that meet the approval of the Secretary of Agriculture.

The shift from Federal to State plans and administration for Soil Conservation may not make a great deal of difference for the present. The Act does not require any specified State contribution, and its administration will not require a new State agency but can be left with the State-Federal Agricultural Extension Service if desired. However, it is not impossible that the change may be the opening wedge for sizeable State appropriations in the future. The Act contemplates the creation of a permanent State-

Federal program of soil conservation and crop control, modeled along the general lines of other Federal Aid enterprises which do require matching of Federal grants.

With the Legislature also rests the decision as to whether the State will accept—and match—the increased Federal grants for several other co-operative enterprises, including Vocational Education and Rehabilitation, Agricultural Experiment Stations, and Agricultural Extension. There is a possibility that the Extension Service might be able to continue meeting the matching requirements through increased contributions from the counties. But the State would likely have to increase its appropriations to the other two services in order to secure the increased Federal grants, and it is possible that it would have to do likewise in the case of the Extension Service.

Unemployables and Relief

The foregoing naturally does not take into account any new Federal programs or enterprises which may be launched by the Federal Congress or Administration during the coming session and which may require State co-operation and appropriations. Nor does it cover the mooted question of relief, slumbering for the time being. However, The Federal Government has definitely turned the care of unemployables back to the states and their local units, and some co-operative system for financing the cost is not at all impossible. In fact, the representatives of at least one group of local units, the cities, have a plank in their legislative program calling for State aid for direct relief, plus authorization of county-wide taxes for the same purpose. It is also certain that either the State or the counties will have to provide additional funds if the expanded local welfare services, made possible by the \$200,000 earmarked for this purpose in the final E.R.A. grant to this State, are to be continued.

Tax Laws in for Going Over

The Revenue Act and other fiscal laws will claim another major share of the Legislature's attention. There will be the usual number of suggested amendments to particular sections of the Revenue Act, and there will be suggestions for in-

(Continued on page 12)

The North Carolina System of Unemployment Compensation

A Summary of the New Act, for Employer and Employee

Prepared by HENRY BRANDIS, JR., of the Staff of the Institute of Government

THE North Carolina Unemployment Compensation Law, as introduced at the special session of the legislature and passed without amendment by the House and Senate, runs to 56 pages. The following is a summary of some of the principal provisions for the benefit of those who will not have an early opportunity to read and analyze the bill itself.

1. THE MONEY COMES: From a compulsory "contribution" or tax payable by employers of eight or more people amounting to 9/10 of 1% of 1936 payrolls, 1.8% of 1937 payrolls, and 2.7% of 1938 and subsequent payrolls. Employees contribute nothing, and the State contributes nothing. Employers are prohibited from deducting the payments from the wages of their employees. Employers of less than eight may voluntarily come under the Act. Overdue contributions bear interest at 1% per month and may be collected by civil action or by issue of certificates which are docketed as judgments by Clerks of Superior Courts and handled as executions by Sheriffs.

2. THE MONEY GOES: First, into a clearing account, where it stays only while checks are being collected; then, as soon as cleared, into an unemployment trust fund account maintained by the Federal Government in Washington, where it is not mingled with funds from other states, but is held for the sole purpose of paying benefits under the North Carolina law; and finally, back to a benefit account in North Carolina to pay the actual benefits, the funds for the benefit account being requisitioned from the trust account as needed. The cost of administration is to be paid from separate monies furnished by the Federal Government and, to a lesser extent, by the State Government.

3. THE LAW IS TO BE ADMINISTERED BY: An Unemployment Compensation Commission composed of the Commissioner of Labor and two members appointed by the Governor. The Governor designates the Chairman and fixes the salaries of the two appointees. The work of the Commission is to be handled by two Divisions—the Unemployment Compensation Division and the Employment Service Division. The latter is already functioning, as it is to be formed by transferring the present State Employment Service to the Commission. Employees of the Commission must be selected on the civil service principle, with political party officials expressly barred.

4. EXCEPTED FROM THE LAW ARE: (1) Employees of Federal, State, and Local governments and their instrumentalities; (2) employees covered by an existing unemployment compensation system established by Act of Congress; (3) agricultural labor; (4) domestic servants in private homes; (5) officers and crew members of vessels on navigable waters of the United States; (6) employment by son, daughter or spouse and employment of minor child by parent; (7) employees of non-profit religious, charitable, scientific institutions. Employers in these excluded groups can voluntarily come under the act so far as the act itself is concerned. However, there is considerable doubt as to the constitutional power of a county or city to elect to come under the act, and it seems very unlikely that any appropriation for this purpose would be construed by our courts as a necessary expense.

5. WEEKLY BENEFITS TO UNEMPLOYED WILL BEGIN: Not earlier than January 1, 1938.

6. WEEKLY BENEFITS FOR TOTAL UNEMPLOYMENT WILL AMOUNT TO: (1) 50% of weekly wage; or (2) a maximum of \$15 per week; or (3) a minimum of \$5 or three-fourth of weekly wage, whichever is the lower. Exact payment to each unemployed worker is to depend upon: (1) weekly wage; (2) credits accumulated by work; and (3) the reasons for his unemployment.

7. WEEKLY BENEFITS FOR PARTIAL UNEMPLOYMENT WILL AMOUNT TO: The difference between compensation for a week's total unemployment and five-sixths of actual remuneration for the particular week.

8. THE EMPLOYEE MAY LOSE: (1) from one to five weeks' compensation by quitting work without good cause; (2) from one to nine weeks' compensation by being discharged for good cause; (3) compensation for unemployment caused by labor disputes in which he or his class of workers are participating or directly interested.

9. THE MAXIMUM AN UNEMPLOYED WORKER MAY RECEIVE IN ANY ONE YEAR IS: 16 weeks' compensation for total unemployment or the amounts credited to him on the basis of wages received, whichever is the lower.

10. TO RECEIVE BENEFITS AT ALL THE UNEMPLOYED WORKER MUST SHOW AT LEAST: (a) That he has, during the first four of the five completed calendar quarters preceding the payment, earned at least 16 times his weekly compensation for total unemployment (a maximum of \$240); (b) that he has been totally unemployed for two weeks (which need not be consecutive), with two weeks of partial unemployment counting as one week of total unemployment; (c) that he has registered with an employment office and is available for suitable work, in accordance with the Commission's regulations; (d) that he has filed a proper claim for benefits.

11. PAYMENTS WILL BE MADE THROUGH: The employment offices.

12. BENEFITS PAYABLE ARE EXEMPT: from execution. Benefits paid are likewise exempt, so long as not mingled with other property, except for debts incurred for necessities furnished during unemployment.

13. CLAIM PROCEDURE WILL BE: (a) Filing of claim; (b) investigation and decision by deputy commissioner; (c) appeal, if desired, to an appeal tribunal to be established by the Commission; (d) appeal to or review of its own motion by the Commission; (e) appeal to Superior Court of county of claimant's residence; (f) appeal, without bond, to Supreme Court. Claimants may have counsel, but counsel fees are subject to approval by the Commission. No fees may be charged the claimant by any representative of the Commission, by any court or by any court official. Court actions have preference as to time of trial.

14. VIOLATIONS OF THE LAW: Are made the subject of various criminal penalties, with prosecutions to be conducted by the Solicitor or by the Prosecuting Attorney of any city or county court having jurisdiction.

15. THE COMMISSION MUST KEEP ACCOUNTS FOR: (a) Each employee (which is credited as he earns wages and which furnishes a guide to his maximum compensation); (b) each employer (which is credited with his payments and debited with payments made to workers last employed by him). Exhaustion of the credit on a particular employer's account apparently will not prevent his former workers from drawing compensation, nor will it cause the tax of the particular employer to increase. However, the Commission is directed to study the possibility of establishing a merit rating or reserve account system under which employers with stable employment records would make lower payments.

16. THE COMMISSION IS DIRECTED TO ENCOURAGE STABILIZATION OF EMPLOYMENT BY: (a) Assisting in programs for vocational training and guidance; (b) assisting in establishing municipal, county, and State reserves for public works to be used in times of unemployment, and (c) carrying on and publishing results of all necessary studies.

Notes from the Cities and Counties

The approach of the New Year finds North Carolina cities and counties rushing arrangements to put their financial houses in order, clear up pending projects involving federal grants, and perfect organizations and plans for the coming year. The long list of new P.W.A. and W.P.A. approvals will be found on another page. November brought a special rush on the part of many units to deliver bond issues for previously contracted obligations before the new Debt Limitation Amendment went into effect. The public installations of new county officials, described elsewhere in this issue, and the organization of the new boards constituted another event of note.

* * *

Scattered and unofficial newspaper reports on local finances, tax collections, and tax valuations indicated a generally sound position for local government in this State. Gleanings from the headlines included: Durham County Shows \$95,876 Surplus for 1935-36. Greensboro Collects 91.38% of 1935 Tax Levy. Mecklenburg Ends Fourth Month \$26,988 Under Budget. Work of Guilford Tax Office Increases Valuations by More than 3 Millions.

* * *

Charlotte's enlarged and renovated police station was opened this month with a public reception, while the city's new W.P.A. airport is rapidly nearing completion. Guilford County has let the contract for \$10,000 worth of equipment designed to provide the Greensboro-High Point airport with the most modern lighting system available. Wake's new tuberculosis sanitarium is expected to be ready soon after the first of the year. A drive is under way to secure a new court house for Forsyth by selling the old structure in the heart of the city and securing a grant from W.P.A. for the balance.

* * *

Most significant local development of the month perhaps is the Guilford County Commissioners' approval of plans to build a \$100,000 branch of the court house in High

Point. Guilford stands in a unique position in that it is the only North Carolina county containing two cities the size of Greensboro and High Point. The County had previously found it necessary to maintain branches of the tax, welfare, and sheriff's offices in High Point. Consolidation of these agencies in a county building is expected to make for efficiency in administration and service as well as saving a tidy rental each year. The extent to which other county functions will be duplicated in the branch at High Point remains to be worked out.

* * *

School notes: Special taxes for ninth month carry in Tarboro (10 cents) and Rockingham (not exceeding 25 cents). Fayetteville, Goldsboro, Greensboro, Hamlet, Lumberton, Mount Airy, Salisbury, and Wilmington re-admitted to Southern Association of Colleges and Secondary Schools after complying with minimum requirement of 175-day term. Monroe, Badin, and North and South Highs of Winston become members for first time. Durham leads State's cities in per pupil expenditure for public education with \$31.73; average for State is \$25.95. Raleigh high schools to inaugurate trade courses in a dozen or more trades and businesses.

* * *

Outstanding among special Christmas efforts of public officials and organizations this year are the toy collecting and repairing project being carried on by the Charlotte Fire Department and the book-sharing campaign recently completed by several Raleigh organizations headed by the Junior Chamber of Commerce. The latter brought in 4,000 books for the two Raleigh libraries and the State Prison library, while the Charlotte firemen are gathering and repairing hundreds of toys to gladden the hearts of the city's poor children at Christmas.

* * *

Law enforcement notes: Grand jury in Wayne suggests one-year term with half of members retiring each six months. Peachland delegation asks county commission-

ers to ban sale of wine and beer after tragedy in community. Raleigh begins strict enforcement of new through street and parking ordinances; safety meeting for local commercial drivers packs courtroom. Police halt Sunday shows in Greenville. Charlotte quieter as anti-noise campaign shows results.

* * *

Greensboro holds the spotlight for recent refunding operations. Taking advantage of present financial conditions, the city replaced \$6,450,000 in callable 4½-5% bonds with a new issue which sold for an interest rate of 3.72%. Principal credit for the move, which is expected to save the city around a million dollars over the life of the bonds, goes to City Manager Andrew Joyner, Jr.—G. C. Eichhorn, City Clerk.

* * *

Oxford estimates to save \$30,000 or more by a similar plan, recommended by Auditor S. S. Farabow, by which the city is paying off \$45,000 of its indebtedness in cash on January 1 and refunding another \$48,000 at lower interest rates. The town is also experimenting with a reduction in water rates, but the new charges will not apply to property outside the town limits, and their continuation will depend on the securing of new customers. The charge for new water and sewer taps was set at cost plus 10%. After a thorough investigation, the Board has decided against the advisability of going into the gas business as a result of the discontinuance of service by the local company. It now appears possible that another company may take over the franchise, but the plans are incomplete and the outcome uncertain.

* * *

Wallace is one of the few smaller towns which can boast an up-to-date tax map correlated with its permanent tax scroll. The town also has a tentative scroll for 1934 and prior taxes with debit and credit columns and with the total of all taxes due in the last column of each page. This avoids referring to each year's scroll or abstract to secure a complete list for an individual. A card index file, which will itemize each parcel of real estate alphabetically and numerically, is now being added to the system.—W. N. Rose, City Clerk.

New Projects and Procedures

WPA

The approach of Christmas brings a welter of conflicting rumors and predictions as to the amount of Federal aid that Congress will make available for W. P. A. work relief projects during the coming year. One dispatch from Washington is headlined, "Retention of Rate for WPA Indicated," and the next, "33 Per Cent Cut in Relief Costs Seen." Meanwhile the State office has announced the consolidation of the Greensboro office with that at Winston-Salem and the consolidation and removal of the Raleigh and Fayetteville offices to Wilmington, plus a reduction in administrative personnel of 80 persons. The resulting uncertainty may help to explain North Carolina cities' and counties' rush for projects during November, which saw State Administrator George W. Coan, Jr., approve and announce a total of 148 projects involving a total cost of close to two million dollars. A summary of the new projects, of which the largest were a \$215,917 sewing room project for Guilford and a \$209,387 airport for Durham, follows:

Public Buildings

	Total Cost
Burgaw, Pender County: Vocational Training Bldg.	\$ 3,385.00
Flat Creek, Buncombe County: Agricultural Bldg.	2,847.00
Valley Springs, Buncombe Co.: Agricultural Bldg.	2,998.00
Buncombe County, Fairview: Community Bldg.	9,803.00
Caldwell County, Lenoir: Addition to Agricultural Bldg.	7,746.00

School Buildings, Grounds, Additions and Improvements

	Total Cost
Alleghany County, Sparta	\$ 3,116.09
Blowing Rock, Watauga Co.	4,640.30
Brevard, Transylvania Co.	8,710.00
Carthage, Moore County	1,590.00
Charlotte	4,625.00
Elkin, Surry County	2,279.75
Fig, Ashe County	3,308.00
Greensboro	10,543.48
Raleigh: N. C. State Col.	9,544.00
White Plains, Surry Co.	3,265.00
Yadkinville, Yadkin Co.	3,538.00
Avery County	3,610.00
Buncombe County	13,717.00
Guilford County	13,827.22
Jones County, Pollocksville	10,118.00
McDowell County	3,866.00
Mitchell County, Spruce Pine	2,451.00
Stokes County	4,976.00
Yancey County	5,624.00
Watauga County	8,471.70
Watauga County, Boone	24,359.81
Wilkes County	3,116.09

Repairing, Cleaning, Painting, and Renovating Public Structures

	Total Cost
Charlotte	\$ 6,788.00
Greensboro	8,185.03
Morganton	1,934.00
Raleigh	34,250.00
Wilkesboro	1,409.30
Cleveland County, Shelby	3,220.00
Durham County	36,302.00
Guilford County	6,328.00
Guilford County	3,044.50
Lee County	719.77
Martin County	626.88
Pitt County	1,890.00
Surry County	3,281.60

County Road Improvements

	Total Cost
Avery County	\$ 27,110.00
Buncombe County	54,133.00
Cabarrus County	35,926.00
Clay County	25,571.00
Gaston County	10,713.00
Lincoln County	13,609.00

Grading, Paving, and Surfacing Streets and Sidewalks

	Total Cost
Cooleemee	\$ 1,770.25
East Bend	2,785.00
Edenton	11,381.92
Enfield	7,744.00
Gastonia	41,611.00
Gibsonville	4,375.80
Hazelwood	18,823.00
Hertford	4,455.50
Pinetops	5,356.00
Windsor	1,777.10
Buncombe County, Asheville	2,496.00
Gaston County, Gastonia	7,868.00

Utility Projects and Improvements

	Total Cost
Dillsboro, Jackson County	\$ 2,632.00
Dunn	9,558.00
Elizabeth City	3,886.26
Raleigh	23,175.25
Rocky Mount	8,261.00
Roseboro	3,779.00
Shelby	18,457.00
Southport	2,520.02
Statesville: Water Plant	2,601.00
Statesville: Abattoir	4,602.60
Tabor City	5,693.40
Wilson	8,665.00
Winston-Salem	25,519.67
Winston-Salem: Sanitary and Clean-up	31,347.85
Buncombe County Asheville: Water and Sewer Lines	23,719.00
Rutherford County, Forest City	2,270.00

Clerical Projects in Public Offices: Re-Indexing, etc.

	Total Cost
Bakersville, Mitchell County	\$ 980.00
Charlotte	7,576.00
New Bern	1,296.00
Swan Quarter	1,080.00
Wilmington, New Hanover Co.	4,060.00
Beaufort County	1,989.00
Camden County	420.00
Carteret County	1,260.00
Guilford County	5,731.00
Martin County	600.00
Mecklenburg County	2,780.00
Pasquotank County	3,534.00
Washington County	643.44

Library Projects: Maintenance, Repairs, Filing, etc.

	Total Cost
Chapel Hill	\$ 6,188.00
Gastonia	936.40

Hamlet	10,161.20
Mocksville, Davie County	3,608.75
New Bern	5,260.00
Swan Quarter	1,146.72
Wilkesboro	4,839.27
Beaufort County	4,738.80
Caldwell County, Lenoir	1,561.00
Craven County	3,532.00
Davie County, Mocksville	3,147.44
Edgecombe County	9,308.00
Forsyth County	8,946.81
Granville County	7,143.00
Iredell County	10,652.56
Pasquotank County	3,534.00
Randolph County	2,764.10
Rockingham County	2,656.00
Surry County	5,699.00
Wake County	16,295.00
Watauga County	2,961.35

(Continued on page six)

PWA

High Point's application for a 45% grant toward the construction of a six-million dollar power plant on the Yadkin River received the approval of the P. W. A. last month along with eight smaller projects involving total grants of \$191,155 and a total cost of \$424,790. Wide interest centers in the High Point project due to the fact that it brings a test of the constitutionality of the Revenue Bond Act of 1935, authorizing a municipality to issue revenue bonds, without a vote of the people, for revenue-producing enterprises, the project standing as sole security for the bonds. A friendly suit has already been brought by a taxpayer, the power company now serving the city has intervened, and the hearing in Superior Court has been set for December 18. An appeal to the Supreme Court is seen as certain, and the result is expected to determine the constitutionality of the Revenue Bond Act, which has been little used to date but which, if upheld, may prove of great importance in view of the new Debt Limitation Amendment. The P. W. A. grants for November are as follows:

	Grant	Est. Cost
Caswell Training School:		
Heating and Refrigeration	\$ 17,591	\$ 39,090
Columbus Co. Home	24,545	54,545
Dare Co. Schools		
(Loan of \$36,000)	29,454	65,454
Durham Library	22,500	50,000
Fayetteville State		
Normal School Lib.	16,200	36,000
High Pt. Power Plant	2,595,000	5,766,750
Leaksville Waterworks		
(Loan of \$29,000)	23,727	52,727
Thomasville Municipal Bldg.	45,818	101,818
Wilmington Waterworks Extension	11,320	25,156

Keep Your Citizens Informed!

And One of the Best Ways
to Do It Is through Attractive,
Interesting and Understand-
able Public Reports

By T. N. GRICE

of the Staff of the Institute of Government

EVERY stockholder of practically every private corporation receives, at least once each year, a report of the operations and the financial condition of the corporation in which he has capital invested. Every taxpayer is a stockholder in the governmental unit to which he pays taxes, but instead of making a single capital investment and receiving periodic dividends he makes periodic payments and receives in return governmental services. This fundamental difference does not alter the fact that he is a stockholder and as such should know something of the purposes for which his money is used and the financial condition of the agency which renders the services. Government is a public business, and with the expansion of governmental services in the past few years, it is fast becoming our largest single enterprise. Many public managers are already taking a leaf from the book of their brother private managers who have long realized that it is only through well informed and sympathetic stockholders that their jobs can be made secure and their policies can be put into operation. But many others forget this important fact and fail properly to inform their stockholders as to what is going on within the corporation.

Our local government laws recognize that each taxpayer should have periodic information on his local government and require officials to publish summaries of past operations and proposed budgets. However, condensed summaries do not give the average lay citizen-taxpayer an understandable picture of his government. Many citizens do

not completely understand financial data, nor are they able to interpret it. Consequently, the wise official is putting his reports in such form that the lay citizen can readily understand them. The use of charts and graphs is a simple and adequate method of accomplishing this end. Charts of revenues and expenditures travel from the eye to the brain quicker and are retained there longer than the printed page or the nicely arranged operating statement or balance sheet.

Aside from financial charts and graphs, statistics on the services performed by a local unit give a clearer picture of what is actually being done by the unit. Many officials feel, however, that such statistics as the number of arrests made, the number of miles of streets cleaned, the number of fire alarms answered, and the number of tons of garbage removed or disposed of, are useless and boring to the citizens. They forget that citizens have become so accustomed to governmental services that they take them for granted much the same as air and sunshine. Citizens have seen the policeman on the corner so long, heard the fire trucks answer calls so often, had their garbage collected and their streets cleaned so regularly that they forget that all of these services cost money. In other words most citizens do not correlate governmental services with their tax dollar. Few realize that the maintenance of an efficient fire department saves them more in insurance premiums than they pay for the maintenance of such a department, or that street cleaning and garbage removal and disposal saves them more in doctor and hospital bills than they pay for these services, or that without police protection their annual bill for crime would be multiplied many times.

Government today is about 98 per cent service and 2 per cent governing. These services should consist of those things people can better do collectively than separately, and when the cost of rendering these services collectively is more than it would be if performed by each individual separately they should not

continue as governmental services. Show the taxpayer that for the amount he pays in taxes and other service charges he could not privately have his garbage removed, streets cleaned and lighted, water purified, and home protected from burglary and fire, and you will find fewer kicks over the payment of the bill. And one of the easiest and most economical methods of accomplishing this is through the publication of attractive, interesting, and understandable public reports.

NEW WPA PROJECTS

(Continued from page five)

<i>Recreational Activities and Supervision</i>	
	<i>Total Cost</i>
Burlington	\$ 6,490.60
Charlotte	6,848.32
Avery County	5,173.70
Macon County	3,241.85
Pasquotank County	1,219.80
Rutherford County	4,471.85
State-wide	2,995.00

<i>Sewing Rooms</i>	
	<i>Total Cost</i>
Bakersville, Mitchell County	\$ 11,928.00
Rocky Mount	26,880.00
Winston-Salem	108,550.80
Durham County	76,691.00
Forsyth County	9,942.34
Guilford County	215,917.20
Moore County	26,820.60
Richmond County	45,162.50

<i>Hot School Lunches</i>	
	<i>Total Cost</i>
Gastonia	\$ 5,012.00
Lenoir	5,229.00
Shelby	3,939.20
Alamance County, Mebane	780.85
Camden County	582.48
Clay County	6,539.00
Dare County	733.44
Haywood County	7,200.00
Johnston County	3,409.00
McDowell County	7,876.00
Nash County	1,023.80
Person County	1,096.00
Warren County	1,053.00

<i>Miscellaneous Projects and Improvements</i>	
	<i>Total Cost</i>
Andrews: Cemetery Improvements	\$ 4,383.00
Charlotte: Playground Beautification	10,860.00
Mount Airy: Cemetery Improvements	2,040.98
Salisbury: Municipal Lake	2,028.25
Wilmington: Creek Flood Gates and Spillway	8,306.00
Anson County: Housework Assistance in Needy Homes	5,529.00
Beaufort County: Swamp Drainage	9,952.60
Durham County: Airport for City of Durham	209,387.00
Forsyth County: Swamp Drainage	41,222.50
Lee County: Highway Traverses and Monumentation	
Mecklenburg County: Sawing Fuel for Needy Families	8,375.00
Turnersburg, Iredell County: Hydro-dynamic Studies	36,049.90

Revaluation Year Brings Counties Choice of Methods

**Actual Revaluation or Horizontal Increase
or Decrease Are Options -- Decision
May Have Important Effect on Tax
Valuations and Revenues**

By HENRY BRANDIS, JR., of the Staff
of the Institute of Government



THE theory of our laws is that all real estate, including both land and buildings, shall be revalued for property tax purposes every fourth year. During the ordinary years which intervene between these revaluation, or quadrennial, years, realty is supposed to retain its same tax valuation except for new buildings, destroyed buildings, realty whose value has been influenced by "extraordinary circumstances of unusual occurrence in trade or business," and land subdivided from acreage into lots.

In recent years this quadrennial revaluation theory has broken down, both in the statutes and in practice. In most counties in the State the last actual revaluation of all real property took place in 1927. The year 1931 was the next quadrennial year, but at that time the legislature denied the privilege of complete revaluation, allowing only adjustments which could not lower total realty values for tax purposes by more than 10%. In 1933 (which was not originally scheduled to be a quadrennial year), the legislature offered counties a choice: actual revaluation by appraisal of all realty, parcel by parcel; or increase or reduction of all existing valuations by a uniformly applied percentage, with the particular percentage being selected by the county authorities. The overwhelming majority of counties chose the latter alternative and made horizontal reductions. They did this primarily because it offered a cheaper course than actual

revaluation, as it required neither so many employees nor so much clerical work.

Choice of Actual or Horizontal

Our present laws make 1937 a revaluation year, and again county authorities are offered a choice between actual revaluation and the horizontal method. Every Board of Commissioners must decide this important matter, if it has not already done so, within the next few weeks. Some counties, such as Durham, have already decided upon actual revaluation and have started preparations for it.

Since 1927, in the days when Calvin Coolidge looked down the most prominent part of his New England profile at a country brimming with prosperity, there have been shifts in building styles, shifts in housing standards, shifts in construction costs, shifts in land values—in fact, shifts in practically everything that enters into the value of real estate. Of course, the horizontal reductions made in 1933 recognized the general downward trend of values and seriously deflated total tax valuations in North Carolina. But merely because Mr. Smith's property was worth just half the value of Mr. John's property in 1927, it does not follow that it is still worth just half as much in 1937. Both are probably worth less than they were worth in 1927, but the Smith property may be worth one-fourth or three-fourths the value of the John property. The horizontal method of adjusting valuations does not take account of

these changes in the comparative values of individual properties. If one parcel is overvalued or undervalued by comparison to similar parcels it will still be just as far out of line after application of a percentage decrease or increase to all.

Inequalities Hard to Keep Out

Of course, since 1927, thousands of adjustments have been made in the tax valuations of individual properties. In fact, it has been common practice in many counties to make such adjustments in ordinary years, regardless of whether or not they were made for reasons sanctioned by the law. This breakdown of the quadrennial theory has, to some extent, served to counteract the other type of breakdown caused by introduction of the horizontal method. However, it has certainly not sufficed to put all realty on an equitable basis with respect to taxes. There are still many thousands of individual parcels and many hundreds of areas which are valued at a figure which is, by comparison, far too low or far too high.

Certainly every county in the State which did not have an actual revaluation in 1933 needs one in 1937, assuming it can get a good one, and even those which revalued by actual appraisal in 1933 will find a repetition useful. Despite the disparity in cost between the horizontal method and actual revaluation, County Commissioners should ponder long before rejecting the latter.

Of course, they must consider the result which will be obtained if actual revaluation is to be tried. By this is not meant simply the prospective new total valuation, with its attendant possibilities for allowing reduction or requiring increase in the tax rate. It means the result in terms of eliminating inequalities in assessments, placing property on the books at a fair value both by comparison to its true worth and by comparison to the values assigned to other properties, and leaving property owners convinced that they have been fairly and intelligently treated. It is useless to spend money for actual revaluation if the result is not fairly certain to be an improvement over horizontal reduction or increase. Therefore, careful consideration should be given to the particular system of actual revalu-

ation which would be followed before one of the two main alternatives is chosen.

First Need Is Able Staff

Obviously, the first requirement of a good revaluation is a staff of experienced, able, honest men to supervise it and put it into effect. Some one in authority must have had a broad experience with local real estate and be familiar with construction costs and rates of depreciation of various types of buildings. To insure a good job these qualifications are highly desirable in each individual appraiser and are indispensable in those in charge. They inevitably point to real estate men, building contractors, architects, and tax men with long experience in appraisal of land and buildings in the particular locality.

The second requirement is choice, in advance, of guiding principles which will insure equality of result. Experienced men appraising a parcel individually will often reach different results. Experienced men appraising different parcels individually will often reach highly inconsistent results. The same man might appraise the same parcel differently on different days. Even though our present law contemplates appraisal of each parcel by a group of three assessors, if there are no specific guiding principles, the assessors working in different townships or different parts of cities may easily reach results which will distribute the tax burden inequitably. Nor will it be easy for the County Commissioners, sitting as a Board of Equalization and Review, to eliminate all the inequalities.

The Buncombe and Forsyth Jobs

Two outstanding revaluation jobs carried through in the State in 1933 were in Forsyth and Buncombe Counties. In both instances the supervisory authority was delegated to men of long experience with real estate. In both instances the supervisory authority had decided upon a revaluation plan before the appraisers of individual properties started to work. The plans used in the two places were very different indeed, and there is not space to describe them here in detail. Suffice it to say that in Forsyth, the central authority decided upon the total valuation for all real estate in each

ward or township. This was based upon sample appraisals made by the Central Committee. The assessors were then sent out with instructions to concentrate solely on equalization as between properties in their townships or wards, without reference to whether all their values were high or low. After they were through the Central Committee adjusted the valuations to equal the total already selected for the particular ward or township.

On the other hand, in Buncombe, basic land values were actually fixed by the Central Committee, which also prepared a manual incorporating very specific rules for the valuation of all buildings on a square foot or cubic foot basis. The replacement costs for various types of buildings, the adjustments to be made for such matters as extra bath rooms, depreciation schedules, and many other factors were carefully worked out. The job of the assessors was to measure, diagram and classify each building and note physical peculiarities of the land. Once this basic information was secured, the valuation was (subject to review, of course) largely a matter of mathematical calculations. The Buncombe system is similar to revaluation systems used in large metropolitan centers. Commissioners considering actual revaluation could profitably go to Buncombe and Forsyth and study the systems used. The Institute has collected considerable information about them, and it will gladly make this available to any officials interested.

Effect of Recent Amendments

One as yet unknown quantity may enter into the 1937 revaluation picture. This lies in the fact that it is as yet uncertain what action the legislature will take under the new homestead exemption and classification of property amendments to the State Constitution. However, it seems highly improbable that any action could be taken which would render revaluation unnecessary; and it seems very likely that any action taken will render a revaluation even more desirable than it otherwise would be. It is conceivable that it could be a disturbing influence by requiring that additional information be secured after revaluation had been begun; but, if the appraisals are based on full infor-

mation and the information is properly recorded, even that seems somewhat doubtful.

Space limits permit no further discussion of the problem here. There seems no better way to bring it to a close than to repeat that acceptable results will depend in the first instance on the men retained to supervise the revaluation. It is much more likely that an experienced man who knows real estate can choose, learn and administer a sound revaluation system than there is that a man who knows a sound system can apply it successfully without a background of actual experience with real property.

Speeding Up Tax Billing

Douglas Bradshaw, Mecklenburg County's Accountant, recently has come forward with two suggestions which give promise of allowing the beginning of tax billing to be moved forward at least several weeks. His first suggestion is that the bills be printed without the rate and delivered before the rate is fixed. As soon as the rate is fixed the billing can begin. When bills are mailed, printed slips will be inserted setting forth the rate; and when bills are paid a gummed label, setting forth the rate in detail, will be affixed to the receipt, thus complying with the technicalities of the law.

The second suggestion advanced by Mr. Bradshaw is designed to advance the date when the tax rate is fixed. He believes that all salary and similar questions could be settled by the Commissioners in April or early May, and that proceeding from this beginning the new year's budget could be virtually complete by the end of the old fiscal year. The tax rate could then be fixed not later than the fourth Monday in July and possibly as early as the first Monday. With the rate fixed and the bills already on hand the bills could be put in the hands of the taxpayers, and collections thereby encouraged, in record time.

Traffic Bureaus Set Up to Handle Minor Violations

SUPPOSE you park your car downtown, but are detained in a barber shop, at the dentist's or in a store, and return to find your car has been tagged. Or suppose you park inadvertently too near a fire hydrant, or a corner, or commit some other minor infraction of the traffic code. Your offense is not great, and your excuse may be a good one, but without traffic regulations automobiles could hardly be permitted in business sections. Yet, many citizens who are hailed into court as traffic offenders resent the implication that they are criminals, are nettled by the time lost waiting for the trial of their cases, and are outraged at the size of the penalty. The result often is that public opinion demands that traffic codes be enforced with increasing leniency, until traffic congestion or an epidemic of accidents force the police to "make examples" of all offenders by hurrying them into court.

Recently municipal authorities in this State have been seeking a middle ground position between the chaos of little or no traffic regulation, on the one hand, and the unsatisfactory features of police court enforcement of motor vehicle ordinances on the other. Traffic Courts, or Traffic Bureaus, of varying types, have appeared in Raleigh, Greensboro, and Winston-Salem, and variations of these plans are, doubtless, in operation in other cities and towns of the State.

The Traffic Bureau at Work

How does the plan work? Briefly, a deputy or clerk is placed in charge of the Bureau, and a fixed penalty of from \$1.00 to \$3.00 is prescribed by ordinance for all minor traffic violations, such as overtime parking or parking in a prohibited area.

The offender cited takes his ticket to the Bureau, admits his guilt and, usually, signs a form to this effect, pays the penalty fixed by the ordinance, receives his receipt, and goes his way. If he denies his guilt or objects to settling the case in this manner, a warrant is prepared, and the case is handled in the orthodox way in the local court.

The Bureau does not handle the more serious traffic violations which

By **DILLARD GARDNER**

of the Staff of
the Institute of
Government



directly affect public safety. Such offenses as running through a red light, reckless or drunken driving or injury to person or property are handled, as formerly, by the regular courts. Frequent offenders against minor rules are likewise sent to the regular courts.

Where these Bureaus are functioning, both citizens and officials seem to favor them. Citizens look on them as a cheap, speedy, and relatively painless means for settling cases against them. And officials seem to be of the opinion that they furnish the means of more effectively enforcing traffic laws while eliminating the annoyance of persons seeking to "fix" traffic tickets. The revenue collected by the Bureaus as a rule also pays a large part, or all, of the costs of their operation.

Questions of Constitutionality

But what of the legality of these Bureaus? Are they courts, and if so, are they such courts as cities have authority to establish? Although Traffic Bureaus have been functioning in Greensboro since January, 1934, in Winston-Salem since May, 1935, and in Raleigh since September, 1935, their legal status has not been passed upon by the courts. Unless a test case is purposely carried before the higher courts on appeal, their legality might never be effectively questioned, as the Bureaus act only by consent of the offender who admits his guilt.

The theory embodied in the establishment of each of the three Bureaus differs slightly from the oth-

ers. In Greensboro the Bureau clerk has no judicial authority in fixing the penalties, but is merely a clerical assistant, subordinate to the Municipal Court, with authority to accept the tickets, receive the scheduled fees, and issue receipts. In Raleigh the clerk not only accepts the tickets, receives the scheduled costs, and issues receipts, but also takes from the offender a written statement which (a) pleads guilty to the charge, (b) waives a hearing in court, and (c) gives the clerk power of attorney to make such a plea and pay the costs into court. In Winston-Salem the Bureau clerk has authority to hear and determine the facts, and to punish by taxing the offender with all or part of the costs; he may even remit all costs in the case of a first offender.

The Winston-Salem Bureau clerk is thus treated as a separate court, provision being made for "appeal" from his judgments to the Municipal Court. The Greensboro plan requires merely a receiving clerk. The Raleigh plan calls for a receiving clerk with written authority as attorney to appear in court and enter a plea of guilty for the offender. The Winston-Salem plan demands a receiving clerk with limited authority as an inferior court judge. All three plans are set up by ordinances, the Winston-Salem Bureau also being authorized by a public-local law.

The Attorney General's Ruling

The Attorney-General recently ruled that no court with jurisdiction to deal with any violation of law, even minor traffic violations, can be created except under general laws enacted by the General Assembly. As North Carolina now has no general law permitting "traffic courts," it seems clear that any traffic court, or traffic bureau exercising a judicial function, even though created under a public-local law, is unconstitutional.

Some of these traffic bureaus, however, make no legal adjudication, but merely enter a plea of guilty and accept a specified fee as settlement. It may be argued with some force that they exercise no ju-

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A County Manager Sees His Job

AN ABLE and successful county manager must be prepared to go far beyond the brief mandates of the law and often far beyond the vision of the county board. The manager must be ready to hold daily conferences with members of his board concerning the affairs of the county and with county departmental officers who want advice and authority in various matters. He must preserve the harmony, peace, and good will of the official family so that the governmental machinery may function without loss or friction through departmental jealousies or obstruction. He must see that departmental requests are in line with necessary public services, yet do not threaten the possibility of a fair tax rate, and must require adequate daily, weekly, and monthly reports from all departments so that he may have at all times a bird's-eye view of the county's financial position.

The Manager must not only be the co-ordinator among the county departments; he must also be the point of contact with other units of government, city, state, and federal. He must keep posted as to the doings of these other units to the end that the county may co-operate in activities of mutual benefit, and he must prepare and handle applications to state and federal governments for participation in allotted funds.

He must see that the changing laws of the General Assembly are put in force in the county and that its peace and order are preserved. And he must see that proper steps are taken to secure necessary new laws for the county.

The Manager must prepare the annual budget, anticipate the annual revenues and expenditures, and see that all required budget resolutions are properly prepared and recorded. He must watch the progress of the collection of taxes and other revenues under the budget; see that all funds in the hands of the county treasurer and other officials are properly deposited and safeguarded in the official depositories; work out arrangements with the banks whereby each gets its proportionate share

Durham adopted the County Manager plan in 1930 and appointed D. W. Newsom to the post. Since then the County has reduced its indebtedness by three-quarters of a million dollars and cut its tax rate from \$1.10 to 50c.



of county deposits, and see that all funds not immediately needed for governmental operations are kept on savings. He must see that cash is on hand at all times in the various funds to meet the county's obligations and take advantage of the savings offered through commercial discounts. And he must see that all insurance policies, bonds of county officials, and securities covering bank deposits are adequate and are properly recorded, along with other public instruments, and kept in force.

He must see that the taxables of the county are located and preserved; that assessed values are fair alike to the citizen and to the county, and that tax listing is done as thoroughly and economically as possible. He must discuss with the county attorney matters concerning foreclosure proceedings and the interpretation of tax and other laws and possible remedies for existing

situations.

He must see that the physical properties of the county are kept in proper repair and that the various courts, the jails, the county home, and county infirmary are operated as efficiently and economically as possible. This includes the responsibility for the purchase of the county's supplies and equipment at the lowest possible prices. He must see that the Welfare Department and the Juvenile Court properly handle the delinquent, dependent, and neglected, and that prisoners receive proper food, clothing, shelter, and treatment. He must visit with the County Commissioners the various charitable and benevolent institutions to which the county contributes and see that the County fulfills its obligations for providing for the poor and for the treatment of inebriates, feeble-minded, and insane.

He must see that the public is protected against impure food, milk, and water and unsanitary conditions; that the rural population are provided educational facilities and farm and home demonstration services; and that programs of soil conservation, crop rotation, poultry and livestock production, and forest protection are encouraged in the county.

He must see that proper notices are sent out for all joint meetings of the county commissioners and the city council and that notices of all special terms of court are published as required by law, and must handle the general correspondence of the county, including the furnishing of detailed information to inquiring officials, investment houses, etc.

In addition, he must confer with the general public on matters in which they are concerned; must be the point of contact for the registration of all complaints and grievances and for the effecting of adjustments; and must prepare news statements for the press and keep the public fully informed as to the policies and operations of the government. He must attend public meetings; arrange for meetings at the court house so as to avoid conflicts with the court; write letters of recommendation; hold conferences with people seeking jobs, and hear the daily complaints of the distressed.

The growing interest in the adaptation of the manager plan to county government led POPULAR GOVERNMENT to invite an outstanding North Carolina official to tell its readers how he "had done it" and what functions and duties were performed by the Manager in his county. The resulting outline of Mr. Newsom's work is such an elaboration of the few duties imposed on this official by the North Carolina enabling act that many will wonder how one official finds time to do so much. And it should serve not only as an outline for the State's handful of county managers but also as a check-list of duties for fiscal and administrative officials generally in non-manager counties.

Training of Officials Stressed at Public Installations

The public installations of new officials inaugurated by the Institute of Government four years ago with 80 counties participating, were made a permanent feature this year, when virtually all the counties took part in the State-wide radio broadcast and ceremonies. Governor-Elect Hoey, Mr. Wolfe, and Albert Coates, Director of The Institute, were the principal speakers. Mr. Wolfe's remarks on the training of officials, which sounded the keynote of the program, are re-printed below.

THE old practice of installing public officers in private may have given some of us the notion we could act in private. The practice of public installations ought to impress every incoming public official with the fact that public office is a public trust and that he has been put where he is to serve the people and not to serve himself.

The authorities of the World's Fair put on a demonstration of a transparent man, so people could see before their eyes the circulation of the blood, the digestion of food, and all the workings of the human body. During the next two years, county authorities all over North Carolina have the chance to put on a demonstration of public business carried on in public, of public money kept in public view as it moves from the pockets of the taxpayer into the public treasury and out of the public treasury to the purposes for which it was appropriated.

County officials have had plenty to do in the past. They have plenty more to do in the future. During the next two years we have to do more than run our offices and handle the work that comes before us every day. We have to tackle such things as social security, highway debt problems, liquor store problems, homestead exemptions, debt limitations, classification of property, and the Lord knows what else. We have to levy, collect, and spend millions of dollars in taxes and do our best to see that

By THOMAS R. WOLFE, Pres.,
State Association, County Commissioners

every dollar brings a dollar's worth. In short, the oath of office we will take this morning puts on us the solemn obligation to keep a county's conscience, safeguard its lives, protect its property, promote its welfare, and keep its records straight.

No man has a right to run for public office unless he is willing to give what it takes. No man has a right to take the oath of office unless he is prepared to take the time and go to the trouble of running his office like it ought to be run. And it's going to take plenty of time and trouble because a lot of us are starting from scratch. We can't learn our jobs while we are in school be-



GOVERNOR-ELECT CLYDE HOEY'S GREETINGS
TO NEW OFFICIALS

"There are no small offices . . . Cleveland said, 'The public office is a public trust and not a private snap.' . . . Intelligence, industry and integrity are the essentials . . . and the greatest is integrity . . . Any man who possesses integrity will find that it still stands 100 in all the market places of the world . . . Not alone are these things necessary. The officer who measures up to the highest is the one who conceives that he . . . is a public servant to serve his people's needs as far as his office will go . . . There are two classes of officers. President Wilson defined them . . . as those who grew in office and those who swelled up . . . Let every man who comes into office today say, 'I shall do the best I can today, and tomorrow I shall be a better officer than today.'—Excerpts from radio address of Governor-Elect Clyde Hoey at public installation of new county officials, December 7.

cause we don't know who is going to hold public office, nor what office we are going to hold. We don't learn them before election day because we don't know who is going to be elected. The result is that most of us have come into office in the past knowing mighty little about what we have to do, or how to go about doing it, or where to turn for help.

But we don't have to do that any longer. County officials are joining with city officials in sending members of the staff of The Institute of Government to all sections of the State to study the different things officials have to do and the different ways they have of doing them. With their help we are getting into a position where we will be able to put the experience of outgoing officials in the hands of incoming officials, and the experience of every county official in the state in the hands of every other county official, every day in the year. No one county official, and no one county knows it all, and we should learn from each other. Some folks say we can't lift ourselves by our own bootstraps, but I think we cannot lift ourselves in any other way.

We have already started lifting. We have started training schools for tax supervisors, for tax collecting officials, for sheriffs, registers of deeds and clerks of court, for finance officers, law enforcing officers and commissioners.

We have started writing guidebooks for the use of different groups of officials and these guidebooks are in use in nearly every city hall and county courthouse in the State. We have started a clearing house of governmental information which officials are using more and more every day. During these next two years we expect to set up more training schools, write additional guidebooks, and expand the clearing house of information until they reach every group of county officials and employees in the State, in the effort to lift the poorest county practices to the level of the best.

(Continued on page 19)

HERE AND THERE

—With Progressive Officials

Ignoring of traffic tickets is fast coming to an end in Newark, N. J. If the offender fails to respond after due notice, his name is sent to the State Motor Vehicle Department, which sends him another notice. If he still does not appear in the Newark Traffic Court within 10 days, the State sends an inspector to take up his driver's license, and the Court issues a warrant for his arrest.—*Public Management.*

* * *

A growing number of cities are setting up full-time real estate agencies to look after their increased real estate holdings, due to tax foreclosures, as well as their permanent public property and build-

ings. In addition to keeping complete records and assisting in condemnation and purchase proceedings, the new agencies work to increase revenues from such property while in city ownership and watch for favorable opportunities for sales or exchanges.—*National Municipal Review.*

* * *

A new and organized system for the handling of complaints has been worked out in South Milwaukee, Wisc. All complaints are made to the City Clerk, who has a special book of complaint blanks in duplicate, and who distributes copies twice daily to the departments concerned.

NEW LEGISLATURE HAS WORK CUT OUT FOR IT

(Continued from page two)

crease or decrease of particular existing taxes, in addition to the new revenue problems already mentioned. The Legislature must consider possible action under the new Income Tax Amendment. It must determine whether to grant the authorized new homestead exemption from property taxation, and if so, set the exact figure, which may run anywhere from nothing to \$1,000. It must decide whether to exercise its new authority to classify property for taxation, and if so, work out the exact system of classification. It must weigh numerous suggestions of Tax Supervisors and others for revisions in the Machinery Act which governs the listing and assessing of property for county and city taxes. And it must pass on the demands and proposals which are being urged by local units for a new and simplified tax collection and foreclosure law. The resultant action holds the possibilities of almost a complete revision of the State's tax laws.

While the new Debt Limitation Amendment went into effect immediately upon certification, and required no action by the Legislature

as did the other four Amendments, numerous details under the new debt restrictions remain to be worked out by the Legislature. One piece of legislation that may result is a substitute for the Emergency Municipal and County Bond Acts with abbreviated and simplified election machinery. These acts were intended to provide a simplified procedure for issuing bonds to finance Federally-aided projects for *necessary expenses* which did not require elections, and so contained no election machinery. The Legislature must also decide as to the advisability of a new Revenue Bond Act which would definitely exempt bonds for revenue-producing projects from the new debt limitations by removing any doubt as to the fact that they shall not be general obligations or debts of the issuing units. This is the majority rule in other states, and while the question is yet to be decided by the North Carolina Supreme Court, an expression by the Legislature in favor of one policy or the other might be given weight.

No large-scale legislative re-organization of the various State departments and agencies seems to be contemplated. However, one or two scattered proposals have been heard, the chief of which concerns the State Highway and Public Works Commis-

sion. The creation on a conservative scale of a State law-enforcing agency or Department of Justice, either under the Office of the Governor or the Attorney General, will undoubtedly come up. And the Legislature, under the recent Amendment, may in its discretion increase the Supreme Court from 5 to 7 members and permit it to sit in divisions.

In addition to the measures previously mentioned, the Legislature must pass on the subject of tobacco compact laws, which have provoked a sharp difference of opinion among tobacco men and which are sure to result in a sharp discussion. It must weigh and determine a number of suggestions for changes in the election laws. A few suggestions that may come up include a new State-wide registration, separation of registration books for primaries and elections, addition of restrictions to use of absentee ballots, and measures to confine primaries more closely to bona fide party members. It must pass on requests of the cities for (1) Constitutional home rule for cities and towns; (2) tightening up on tax exemptions of religious and fraternal property; (3) removal of restrictions on city license taxes; and (4) repeal of restrictions on right of municipalities to tax utilities. A 4-year term is being asked for city governing boards, county sheriffs, and perhaps other officials. City officials, teachers, and certain other groups of State and local officials, omitted from the provisions of the Social Security Act, are desirous of pension and retirement acts. The cities are asking for county assumption of the debts of all school districts. And so on, ad infinitum, if it is attempted to list the legislation which is being sponsored by special or local groups and interests.

The foregoing summary covers only the major problems of general interest which the Legislature is reasonably certain to face. How many equally important and difficult problems may pop up unexpectedly, there is little means of predicting. However, this short and non-inclusive list should be sufficient, without attempting to anticipate further possible troubles, to give the average citizen a reasonable amount of sympathy for the average legislator.

Charlotte's Water and Sewer Systems

By W. E. VEST, Superintendent

THE CITY of Charlotte takes water from Catawba River for its public supply as the river passes through the great storage lake of Mountain Island hydro-electric plant, owned and operated by the Duke Power Company, at a point twelve miles northwest of the center of the city.

Observations made over a period of more than fifty years prior to the building of the many large storage lakes of the Duke Power Company on the upstream side of the intake, show the lowest flow of the Catawba in abnormally dry periods to have been half a billion gallons per day at the point where the river passes the City's intake. The large storage reservoirs make it possible to regulate the flow and to pass much more than half a billion gallons per day thru the Mountain Island lake if desired.

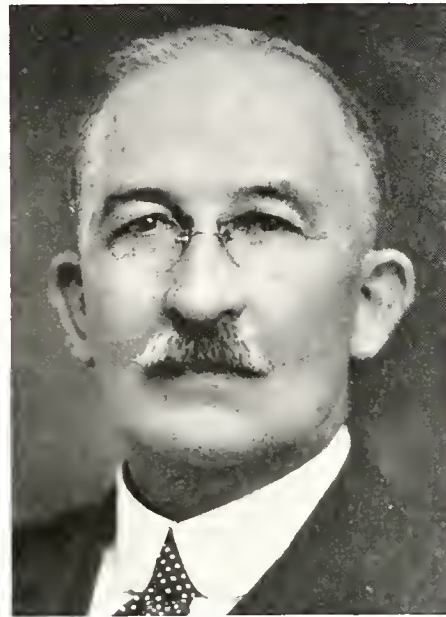
A continuous line of 24 inch pipe spans the distance of nine miles from the river to the filtration plant located near the northwestern limits of the City. At the intake is located the raw water pumping plant named Catawba Station. A storage reservoir of 60,000,000 gallons holding capacity is located at the summit of the divide between the river and the City. From Catawba Station to the reservoir is 5.4 miles, and this part of the 24 inch line is used as a force main. The 3.6 miles between the storage reservoir and filtration plant has a 30 inch main, as well as a 24 inch line that is a part of the nine miles heretofore mentioned. Water flows the 3.6 miles by gravity.

The storage reservoir is what its name implies plus a sort of settling basin and a place where the less turbid and more turbid waters have a chance to mix and become more nearly uniform than would be the case if water were pumped direct from the river to the purification works.

Catawba Station's equipment and the single line of force main have a delivery capacity of 10,000,000 gallons of raw water per day. The dual mains entering the filtration plant have a delivery capacity of

19,000,000 gallons daily out of the storage reservoir.

The filtration plant, named Vest Station, is rated at 8,000,000 gallons per day, though during the hot summer months of 1936 had to carry an overload on many days. This condition prevailed 43 out of the 92



Mr. Vest has served as Superintendent of the Charlotte water works for 26 years. He is a charter member of the North Carolina Section of the American Waterworks Association, which gave a special dinner in his honor at its annual meeting recently.

days between April 30, and August 1.

For many years the raw water has been treated with sulphate alumina as a coagulant and with activated carbon to void disagreeable taste and odor. After filtration the treatment has been, and is now, with lime and chlorine. Equipment for pre-treatment with chlorine and ammonia has recently been put into service and is now in use. Operation of the plant is under laboratory control at all times.

The maximum amount passed thru the filters and delivered into the City during a 24 hour period was 9,150,000 gallons. This record was made June 3, 1936.

The average amount filtered daily during the months of May, June,

July, August and September, 1936, was 7,569,000 gallons of which 3.8% was used for washing filters.

Water is distributed to the 90,000 people served through 237 miles of mains, of which 20 miles are outside the City limits. Monthly bills to the extent of a little more than 15,000 are made to the consumers who have accounts. Many water users do not have accounts. These live in apartment houses and tenant sections of the City where one service furnishes water to a multiple of families ranging from two to eighty.

City authorities see the necessity for expansion of the water plant and are now making a study of ways and means to carry out a large program of improvements that will adequately fill the needs of this fast growing municipality.

Sewer Collection and Disposal

The City is built on rolling ground and has two (2) small streams passing through it and one that passes by the eastern border. The eastern border stream joins one of the other streams at five (5) miles from the center of the City.

Two plants having a combined capacity of 12,000,000 gallons, each one of which is located six (6) miles from the City, treat and dispose of the sewage that reaches them through 239 miles of collection mains and 15.5 miles of outfall lines.

Each plant is of the activated-sludge type and operates much like the other from the beginning at the screen house until the final settling tanks are reached. One plant passes the sludge from its final settling tanks to digestion tanks, where it remains through the digestion period and then is pumped on to open drying beds from which it is removed by a fertilizer processing company. The other plant de-waters sludge by vacuum filtration after it is passed from the final settling tanks to a conditioning tank, where a coagulant chemical is administered. The sludge from this plant is usually ploughed into the soil at once. Temperature conditions and the proximity to homes are large factors entering into the question: How long may it be left uncovered before being declared a nuisance?

Publication of Statutes Claims Lawyers' Attention

Illinois lawyers consulting the state statutes find that the four publications in current use have three different arrangements and numberings resulting in what is sometimes called the "duplicate citation nuisance." As the previous publications are widely circulated and in general use, their arrangement or numbering can not be changed or harmonized. The *Illinois Bar Journal* recently carried a comment by the Chairman of the Bar Section on State Statutes; his suggestion is that the Bar adopt one of the existing arrangements for the current and future biennial revisions, each statute in the future publications carrying the citations to the appropriate sections of the older volumes.

Although competition among the law book publishers has not produced the confusion here which is troubling Illinois lawyers, their activity in this field suggests that if North Carolina lawyers interested themselves in the subject, improvements could be made in the arrangement, numbering and indexing of the State's private, public-local, and public laws. One of the more conservative changes which might be considered is a standardized topical index modeled after the topical index of one of the elaborate legal reference works in general use and the grouping of the laws in the volume by related topics instead of chronologically by ratification dates. Although the indices in recent years are far superior to the indices formerly, a statute on a relatively new subject which does not definitely fall under any recognized head may be buried in the index so completely that even a careful lawyer may overlook it. If the indices were based on a master model and the chapters arranged by topical groupings, the specific sections could be located more easily and with greater speed, and the chance of overlooking an important statute would be reduced materially.

If a more radical departure is to be considered, forms could be prepared for the first and last sheets of all legislative bills (these might

OFFICIAL STATE BAR NEWS AND VIEWS

Editorial Committee: Julius C. Smith, President; Henry M. London, Secretary; Charles A. Hines, and Dillard S. Gardner of the staff of the Institute of Government.

be furnished the representatives and senators or possibly used only in the enrolling or engrossing offices) for use in all public laws. In this way the bill would show on the first page a reference to and the substance of the law to be amended or affected and, briefly, the purpose of the new law, and the last page would show the repealing or saving clauses and the effective date of the measure. Any such innovation as

this would require the co-operation of both the Senate and House and would call for new House and Senate Rules, but if such a practice were adopted abbreviations and small type could be used in the published volumes for these routine matters and certainly the size of the books could be materially reduced, particularly if these items were carried on the margins of the pages. With the savings resulting more copies could be distributed, the price of the volumes reduced or official annotations added, or the State could pocket the difference. However, the greatest value would be the long-time value to lawyers and to those who refer to the books frequently.

As it is now when the unofficial, annotated supplements are published every two years, those who must remain familiar with the laws pay four or five times as much as the cost of the official volume for a more compact, and more valuable, re-arrangement (with annotations) of the same laws found in the official publications. The result is that the official volumes, except as original source material, become obsolete almost as soon as they are published, and even during the short period in which they enjoy no competition, often the task of finding a particular law is a relatively slow and uncertain process. These suggestions as to changes are not in any sense final proposals. Doubtless, individual lawyers could make suggestions of even greater value. The point is that much could be done—particularly with the public laws—to render the biennial, official publications more convenient to use and more permanently valuable. This is but another instance (shown by the activity of the Illinois lawyers) of the service which an organized bar can render the profession and the public. If enough lawyers are sufficiently interested to give voice to their ideas on the subject, it seems reasonable to assume that the immediate and permanent value of the State's biennial publications of statutes can be materially increased, at a saving to all concerned.

STATE BAR AMENDMENTS

The State Bar and the North Carolina Bar Association have appointed a joint Committee on Legislation and Law Reform to go over the State Bar Act and frame any necessary amendments to meet constitutional objections, and particularly the one with reference to the procedure for disbarring attorneys. The amendments will be presented to the State Bar Council for final approval at its meeting early in January, after which they will be introduced in the General Assembly.

The personnel of the committee is as follows: Julius C. Smith, President of the State Bar; B. S. Womble, President of the Bar Association; I. M. Bailey and J. M. Broughton of Raleigh; Judge L. R. Varner of Lumberton; E. L. Cannon of Durham; Hayden Clement of Salisbury; W. C. Feimster of Newton; S. W. Black of Bryson City; J. E. Shipman of Hendersonville, and B. H. Perry of Henderson.



DISTRICT INSTITUTES DRAW LARGE ATTENDANCE

Sheriffs and deputies from nineteen counties attended the Sheriffs' Institute at Greensboro (above). This meeting inaugurated a series of five District Institutes for each the Sheriffs, Registers of Deeds, and Clerks of the Superior Court, held throughout the State during the past thirty days. Sheriff Joe S. Phipps, of Guilford, who served as host to the visiting officers, is shown on the front row, extreme right.

Local Officials Study Their Jobs

DURING the past thirty days there has been a significant development in local government in North Carolina. With the tumult of elections behind them, the Sheriffs, Registers, and Clerks of the Superior Court have turned quietly to the task of studying systematically the powers, functions, and duties of their offices. For this purpose the State was divided into five districts, each containing from 15 to 25 counties. Three series of district training schools or institutes were arranged, the five meeting places for each group of officials being near the center of the district, to the end that the officers might attend with a minimum of inconvenience.

At the five institutes for Sheriffs there were present two hundred fifty-seven Sheriffs and deputies representing sixty-five counties. At the Registers' conferences forty-nine Registers of Deeds from as many counties met, despite the recent period of rain and inclement weather, to study their jobs. As we go to press two of the five institutes for Clerks have been held; these two meetings, held in the east during a flurry of pre-Christmas court terms and a season of heavy rains, brought out thirty-four Clerks and deputies from nineteen counties. Local lawyers were present during parts of practically every meeting and in many instances requested permis-

Lawyers Commend Efforts to Improve Work of Offices

By DILLARD S. GARDNER,
Of the Staff of the Institute of Government

sion to commend the training program of The Institute to the officers present. Wherever the Superior Court was in session, the presiding judge either brought, or sent, greetings to the officers and urged them to avail themselves, to the fullest extent possible, of the benefits of these institutes.

After each meeting adjourned, late in the afternoon, officers lingered to talk over specific problems which troubled them. Everywhere was manifest a serious and sincere purpose to carry back to their people a clearer understanding of the duties of their office and more effective methods of administering those functions. By auto, by bus and by train; through fog, rain, sleet and snow; traveling at their own expense; leaving home at day-break and returning late at night; leaving work piled high in their offices and knowing that many hours of night labor would be necessary to off-set the loss of the absence of a day,—they came to study their

particular tasks in the administration of justice among the people of the State.

There probably has never been in North Carolina a finer justification of the faith of the people in the democratic government. Here were office-holders—the much-maligned “local politicians”—“going to school to their jobs,” and at considerable, personal inconvenience. Already lawyers and judges in all parts of the State are noting, sometimes with surprise, improvements in the functioning of the offices of Sheriff, Register of Deeds, and Clerk of the Superior Court. And they are predicting as a result that the day is not far off when every local officer will be expected to attend these training schools or institutes for his particular group. To the extent that the Sheriffs, Registers and Clerks master their offices, and the law regulating the conduct of their offices, they will become more precise instruments in the administration of justice in behalf of the people. In this improved functioning of these important subsidiary agencies of the judicial process in North Carolina, every lawyer is vitally interested.

To Sheriff Clyde O. Robinson, of Gastonia, went the title of “honor host” among the Sheriffs; twelve of the fifteen Sheriffs in the Southern District were present at Gastonia. Sheriff Joe S. Phipps, of Greensboro, in a larger district, was a close second with nineteen of the twenty-four Sheriffs in the Northern District. Sheriff Phipps also had the largest total attendance of any meeting of Sheriffs—seventy Sheriffs and deputies.

To Register of Deeds J. W. Johnson, of Fayetteville, went the title, “honor host” among the Registers; twelve of the seventeen Registers of the Southeastern District were pres-

ent at the Fayetteville institute. Register John R. Boger, of Concord, was second, with eight out of fifteen Registers in the Southern District.

For the two institutes for Clerks that have been held to date, Clerk R. V. Wells, of Kenansville, with ten Clerks from seventeen counties of the Southeastern District, is ahead of N. H. Moore of Washington.

The discussions in each of the three meetings focused upon the organization and structure of the particular office, with emphasis upon oaths, bonds, assistants and deputies, disqualifications, and criminal and civil liability, but many other questions, raised by those present, were discussed. Among the Sheriffs the handling of summary ejectments, executions, and search warrants forged to the front. The Registers manifested especial interest in the issuance of marriage licenses, cancellation of instruments, indexing, and methods of checking indexing and re-indexing. The Clerks gave particular attention to the non-delegable duties of the Clerk and to financial records and filing systems.

In each group the officers used the "case system," stating troublesome cases which they had faced, after which the other officers present indicated the manner in which they had solved similar problems and the law relative to the particular matter was outlined. At the end of each meeting there were officers present who voiced regret that more time was not available in which to continue the discussions, but all felt that such one-day meetings in each district twice each year were superior to longer State-wide meetings held annually.

Attention was called at each meeting to the value of close co-operation between each officer and the local bar organization. Greater standardization of forms, re-adjustments of fee schedules, better care of records, closer supervision of official papers on file, and more satisfactory provision for record and plat books were among the subjects in which the need was voiced for a closer co-operation generally between local officers and the attorneys of their respective counties.

the continuance of the act complained of. Held, The two forms of relief are consistent. Nor is the pleading rendered bad by an allegation of another cause of action based on Plaintiff's claims for damages for permanent injuries which have resulted, and will result, to her property from its taking by the town under the right of eminent domain. —*Poovey v. Hickory*, 210 N. C. 630.

Special School Tax Elections — Remedy to Test Validity — Plaintiff taxpayers instituted suit to restrain the levy of a school tax in a special tax district on the ground that the result of the election was erroneous because the votes of disqualified persons were included and a majority of the qualified voters did not vote in favor of the tax. The defendants demurred on the grounds that there was a defect of parties plaintiff and that the sole remedy to test the validity of such an election is by quo warranto. Held, The demurrer was properly overruled. Unless otherwise provided by statute, injunction at the instance of a taxpayer is an appropriate remedy to resist the levy of a tax upon a prima facie showing of illegality. Quo warranto is the sole remedy to test the validity of an election to public office but not to test the validity of a tax even though it is levied under the authority of a public election.—*Barbee v. Commissioners of Wake County*, 210 N. C. 717.

Streets and Sidewalks — Personal Injuries — Negligence and Contributory Negligence — Plaintiff sued the city for damages sustained in a fall when she caught her foot in a small, and not an obvious, break in the cement of a sidewalk over a drain pipe. The street was a heavily traveled one, and there was evidence that the edges of the broken place in the pipe were rusty, indicating that the defect had existed for a long period of time. The action was non-suited in Superior Court. The Supreme Court held by a 3-2 vote that the evidence was sufficient to go to the jury on both the issue of the negligence of the Defendant and the contributory negligence of the Plaintiff. The Court distinguished the case of *Burns v. Charlotte*, 210 N. C. 48, in that the defect in that case was obvious and was on a street where the traffic was light.—*Doyle v. Charlotte*, 210 N. C. 709.

Case and Comment

Arrest — Suit for Damages — In an action for wrongful assault, it was held that officers attempting to make an arrest without a warrant outside the territory in which they are authorized to arrest without a warrant are liable in damages for shooting Plaintiff's tires in order to stop him.

Clerk of Superior Court — Delegable Duties — Petitioners sought to have voided the appointment of a guardian by an assistant clerk on the ground that the statute permitting the delegation of the powers and duties of the Clerk is unconstitutional. Held, While the Clerk's is a constitutional office, the duties are prescribed by statute, except for the duty to fill vacancies in the office of justice of the peace. The Legislature, as creator of the statutory duties of clerks, may prescribe that such duties may be performed by assistant clerks.—*In re Barker*, 210 N. C. 617.

Municipal Sewage Plants — Damages from Operation — Measure of Damages — Plaintiff brought an

action to recover damages to land resulting from the operation of a town sewage disposal plant. The lower court instructed the jury that the damages would be the difference in the market value of the land on the date of the institution of the action and the date 3 years prior. The Plaintiff was in possession of the land throughout this period but did not have the title for a part of the time, having executed a deed of trust on the same and later deeded his equity of redemption to his sons. Held, The measure of damages should have been the difference in the market value of the land, as a result of the operation of the sewage disposal plant, at the time Plaintiff re-acquired the title thereto and the market value at the time of the institution of the action.—*Ballard v. Cherryville*, 210 N. C. 728.

Municipal Sewage Plants — Damages—Remedies—Plaintiff brought an action to recover damages for injury to land caused by deposits of sewage thereon from a town's plant and to secure an injunction against

New Legal Publication Popular

TO a steadily increasing degree, legal problems today cannot be solved by recourse to law report, statute-book, and treatise alone. With the developments in law which the complexities in modern life have dictated, there has come a necessity for the understanding not only of the rules of law but also of how these rules are administered and the economic and social implications of their operation. To meet these needs and to supplement the important work which the law school and the conventional law review have been doing, new institutions are essential. The Institute of Government and POPULAR GOVERNMENT represent one response to this demand. *Law and Contemporary Problems*, published quarterly by the Duke University School of Law, constitutes another attack on the same problem.

Although now in its third volume, the latter periodical cannot be said as yet to be widely known in this state, and, accordingly, as its editor, I am happy to take advantage of the invitation of the editors of POPULAR GOVERNMENT to describe briefly what *Law and Contemporary Problems* is seeking to do and what it has thus far done.

The objective of the Duke Law School quarterly has been to broaden the consideration of modern problems which possess significant legal aspects by providing for the discussion not only of their legal phases but also of their related administrative, economic, and social aspects. This is done by the use of the symposium form. Each issue is devoted to the treatment of a single problem, discussed in from eight to sixteen articles by writers of competence in their respective fields. The average length of issues to date has been about 130 pages.

The diversity of subjects treated in the eleven issues of *Law and Contemporary Problems* thus far published may best be indicated by the following list of symposium titles:

The Protection of the Consumer of Food and Drugs (December, 1933).

Low-Cost Housing and Slum

By D. F. CAVERS

Clearance (March, 1934).

Agricultural Readjustment in the South: Cotton and Tobacco (June, 1934).

Extending Federal Powers Over Crime (October, 1934).

The Wage-Earner's Life Insurance (January, 1935).

Installment Selling (April, 1935).

Migratory Divorce (June, 1935).

Expert Testimony (October, 1935).

Unemployment Compensation (January, 1936).

The Old-Age Security and The Welfare Titles of the Social Security Act (April, 1936).

The Collection of Real Property Taxes (June, 1936).

The October, 1936, issue discussed the problem of assuring financial protection to the motor accident victim; the January, 1937, issue, the operation of the Securities Act of 1933. Future topics include the control of price-cutting and the investment of trust funds.

The periodical's subscription list has steadily expanded, and subscribers are now found in practically every state in the country. Although lawyers and law libraries preponderate, an encouraging number of laymen and of public and general university libraries are included. However, the most gratifying feature of the response accorded the periodical has been the demand for single copies by persons interested in the subject of individual issues.

A late issue, published earlier in the summer, exemplifies the manner in which subjects are developed in this periodical. The subject chosen was "The Collection of Real Property Taxes," a segment of the vitally important real property tax problem, but which has been given but little attention in legal writings. The table of contents of this issue follows:

"Extent and Distribution of Urban Tax Delinquency," Frederick L. Bird, Director of Municipal Research, Dun and Bradstreet, Inc.

"Tax Delinquency of Rural Real

Estate," Donald Jackson, Division of Agricultural Finance, Bureau of Agricultural Economics, U. S. Department of Agriculture.

"The Tax Calendar and the Use of Instalment Payments, Penalties and Discounts," Prof. Jens P. Jensen, University of Kansas, author of "Property Taxation in the United States."

"A New Plan for the Private Financing of Delinquent Tax Payments," Prof. Paul Studenski, New York University, Vice-President of the Tax Research Foundation.

"Recent Legislative Indulgencies to Delinquent Taxpayers," Wade S. Smith, National Municipal League.

"Tax Receiverships," Earl H. De Long, Department of Political Science, Northwestern University, and Brendan Q. O'Brien, Assistant State's Attorney, Cook County, Illinois.

"Collection of Delinquent Taxes by Recourse to the Taxed Property," H. K. Allen, Supervisor of Area Policies and Programs, Land Use Planning Section, Region III, Resettlement Administration.

"Tax Sales and Foreclosures under the Model Tax Collection Law," Henry Brandis, Jr., Associate Director, the Institute of Government.

"Collection of Delinquent Real Property Taxes by Action in *Personam*," Edward Rubin, honor student, Duke University Law School.

"The Tax Lien Investor's Relation to the Collection of Delinquent Taxes," A. U. Rodney, President and Director, Bonded Municipal Corporation, New York City.

"An Approach to a System of 'Perfect' Municipal Tax Collections," Raymond M. Greer, Comptroller of Jersey City.

"Impediments to Tax Collection Outside the Tax Law," Philip H. Cornick, The Institute of Public Administration.

"Utilization of Reverted Tax Delinquent Land in Rural Areas," Prof. Paul W. Wager, University of North Carolina, Chief, Land Use Planning Section, Region IV, Resettlement Administration.

"Topical Index."

Wives, Deeds and Mortgages

THE LAW has chosen to assume for well over 200 years, whether wisely or unwisely, that many a husband would cheat his wife out of her property if afforded an opportunity. The matter of making a valid deed or mortgage to land is, therefore, not so simple for a married woman as it is for a man. The law requires an extra procedure in the case of a wife, designed to protect her by making sure that she signs the instrument of her own free will, without coercion from her husband.

This procedure has changed down through the years in North Carolina from a statement by the wife in open court in 1715 to a private examination by a notary public in 1936. And the law requires that it be followed in every transfer of land by a married woman—whether it be a sale or mortgage of her own separate property or merely a joining with her husband in a deed or mortgage so as to release her possible dower rights in the property. If not followed to the letter, the instrument, even though it bears the wife's signature, will be held void in as far as the wife's interests are concerned.

Varying Forms

The acknowledgment of a married woman's deeds in open court, as required by the acts of 1715 and 1751, was intended to preclude coercion of the wife by the husband. One of the judges was also required to take the wife aside and ask her whether she had signed the deed of her own free will and accord.

If the wife resided outside of the county in which the land was located or was too aged or infirm to travel to court, the Act of 1751 provided that the husband could appear alone in court and acknowledge his own signature, the court *would* appoint *two* commissioners to take the wife's acknowledgment and private examination at her home. The Legislature took no chance on the husband's "framing up" with the commissioner; it required two commissioners as a double check.

These statutes were strictly enforced, too. If a certificate of a private examination taken by a commissioner did not state that the wife

The Safeguards Provided by Law in the Transfer of Married Women's Property

By HARRY W. McGALLIARD
of the Staff of the Institute of Government

was (1) too aged or infirm to travel to court or (2) was a resident of another county, the certificate and the wife's deed were invalid. Or if the commission authorized to take the acknowledgment and private examination relating to one deed took the acknowledgment and private examination of another, the deed was no good.

In 1836, a deed was held inoperative if the examination preceded the acknowledgment. The private examination had to be the last act in making a deed.

The wording of the certificate certifying the private examination caused considerable trouble. To state that the examination of the wife had been taken, omitting the word "private" before examination, was held a fatal defect, and a deed thereunder was invalid.

The statement in a certificate that a married woman "acknowledged the same to be her act and deed in due form" was held *not* sufficient compliance with the act of 1810 requiring the statement that the married woman had executed the deed freely "and doth voluntarily assent thereto." Later it was held sufficient if the certificates stated the wife *had* voluntarily executed the deed. A certificate containing the words "private examination taken in open court" was held invalid: the examination could not possibly have been taken in open court and been private at the same time, explained the Supreme Court.

Simplify Requirements

After a century of confusion over the technicalities as to who must sign a deed first, who may take the private examination of a married woman, and when he may take it, the Legislature through a series of

laws finally simplified matters by providing,

(1) *in 1868* that any Clerk of Court or Justice of the Peace may take the private examination of a married woman, but only the Clerk of Court may take the acknowledgment;

(2) *in 1876-77*, that any justice of the peace, or any court of record having a seal or any judge, justice or clerk of any such court in the county where the land is located may take the private examination and acknowledgment of married women;

(3) *in 1879*, that any notary public in the county where the land is located shall be qualified;

(4) *in 1891*, that any of these above-listed officers in any county in the state are qualified;

(5) *in 1893*, that deputy clerks of Superior Court are qualified;

(6) *in 1895*, that the acknowledgments of husband and wife may be taken at different times, and that it is immaterial whether the husband's acknowledgment precedes or follows the wife's private examination.

If a married woman in another state wishes to make a deed to lands in North Carolina, her private examination and acknowledgment must be taken by some officer of that state: (1) a judge, (2) clerk of a court of record, (3) notary public having a notarial seal, (4) mayor of a city having a seal, or (5) a justice of the peace.

Present-Day Form

The present statutory form of the certificate of a married woman's acknowledgment and private examination must be in substance as follows:

"North Carolina, _____ County.

I (name of official and title) do hereby certify that (name of married woman), wife of (husband's name), personally appeared before me this day and acknowledged the due execution of the foregoing (or annexed) instrument; and the said (name of married woman) being by me privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband or any other person, and that she doth still voluntarily assent thereto."

The private examination must be taken in person. An examination taken over the telephone is invalid. The phrase "separate and apart from her husband" has caused some trouble. In several instances examinations have been held valid—even with the husband in the same room—particularly if the room is large and it is possible for the officer to speak to the woman privately, out of the husband's hearing.

TRAINING OF OFFICIALS STRESSED AT INSTALLATIONS

(Continued from page 11)

In the words of the Director of The Institute of Government: "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 deliberate fraud. Knowledge is no guarantee of character. Neither is ignorance. After two hundred years of building governmental machinery here in North Carolina we propose to go into the training of the men who run it."

No one of us who swears to perform the duties of his office this morning will live up to his obligations if he forgets that there are other officers in the courthouse whom he must work with; that there are other counties he must work with; that there are cities and towns, the state, and the United States that he must work with.

Take the highway fund for illustration. The federal government by tying strings to its road money regulates the use of state highway funds for other than highway purposes. The cities want a larger part for the maintenance of city streets. The counties want a part of it to pay their road debts. The state wants it to keep up its highway construction, maintenance, and debt service. In this problem, and in a lot of others, federal, state, and local governments are forever rubbing elbows. We must all pull together to see that we keep on rubbing elbows and don't start to sticking ribs. The same people put us all in office and they have a right to expect us to work together for the common good.

Bulletin Service

Opinions and rulings in this issue are from rulings of Attorney General and State Departments from November 1 to December 1

★
Prepared by
M. R. ALEXANDER

Key:

(A.G.) Attorney General.
(L.G.C.) Local Government Commission.
(S.P.I.) Superintendent of Public Instruction.
(U.C.) Utilities Commission.

1. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

19. To whom property is assessed.

To C. S. Vinson. (A.G.) This Office is of the opinion that merchants who have farm machinery on hand for sale, even though it is with them on consignment, would be required to list such property for ad valorem taxation along with their other stock of goods.

73. Solvent credits—taxability of funds in hands of clerk.

To A. Wayland Cooke. Inquiry: Should the Clerk of Court list for taxation a fund in his office, the possession of which is in dispute between a domestic and foreign corporation and which has not been judicially determined?

(A.G.) We assume that your doubt in this matter arises from the supposition that such part of the fund as might under a final determination belong to the non-resident would not be taxable here. However, it is the well settled law that such situs of taxation would be the residence of the trustee.

B. Matters affecting tax collection.

10. Penalties, interest, and costs.

To Roberts and Baley. Inquiry: Which statute governs the present schedule of tax penalties and discounts—C. S. 7994 or C. S. 8011 (Chapter 417, Public Laws of 1935)?

(A.G.) We think the penalties and discounts should be in accordance with the 1935 law, which repeals all inconsistent acts. The schedule prescribed by this section is: October discount 1%, November discount one-half of 1%, December and January par, February penalty 1%, etc.

22. Delinquent taxes—time for sale and foreclosure.

To J. A. Orrell. Inquiry: Please advise the time for selling property for unpaid taxes under the present law applying to this county? (A.G.) In the absence of public-local legislation to the contrary, the time for selling real estate for taxes in New Hanover County is governed by Chapter 234, Public Laws of 1935 and acts amendatory thereto.

31. Tax foreclosure—procedural aspects.

To L. T. Hammond. (A.G.) This Office is of the opinion that when land is sold under execution for unpaid taxes that it is in the sound discretion of the court to allow an upset bid to be placed after the time is out but before the sale is confirmed.

The highest bidder at the sale, in our opinion, is only a preferred bidder, and is entitled to a deed to the property only after the sale is confirmed by the court.

We are of the opinion, if the Commissioner appointed by the court to sell the property should recommend to the court that an upset bid be allowed, that the court would have a right to order a re-sale.

33. Statute of limitations.

To A. R. House. (A.G.) Chapter 180, Public Laws of 1933, provides that taxes for 1926 and prior years are not collectible. We are of the opinion, therefore, that you can not go back further than 1927 in instituting garnishment proceedings for the collection of back taxes.

51. Tax collection—acceptance of deeds of trust or mortgages.

To W. D. Langston. Inquiry: Please advise if any statute prohibits a municipality from surrendering tax sales certificates to a taxpayer in exchange for a deed of trust from the taxpayer to the commissioner of the city sinking fund? Our city is foreclosing a great number of tax sales certificates, and several cases have arisen where it would be advantageous to use some plan whereby the taxpayer could gradually pay off the taxes rather than for the city to take over the property.

(A.G.) We are of the opinion that a city is not authorized by law to exchange sales certificates for delinquent taxes for a deed of trust upon the land. The law provides two methods by which the municipality may collect its taxes through foreclosure of the tax lien (C. S. 8730 and 7990), and my opinion is that these are exclusive of all other methods. It is not desirable that a county or municipality should acquire title to property sold for delinquent taxes, and every opportunity should be given for outside purchase. In addition, the procedure you suggest would extend the time for the payment of the tax and change the character of the obligation of the taxpayer.

To J. S. Bryan. Inquiry: A wants to assume B's taxes and give the town a note secured by a first mortgage which the town officials deem adequate and which they feel will result in the collection of B's taxes without the necessity of selling the property. May the town legally agree to such action, and would it relieve B's property of the tax lien?

(A.G.) In our opinion, the town officials have no statutory authority to release taxes due by a taxpayer upon the assumption of such taxes by another party even though secured by a satisfactory first mortgage. The tax lien due by the taxpayer can be satisfied only by payment of the taxes, and until paid the city authorities would have no right to release the lien.

65. Tax collection—garnishment.

To W. P. Kelly. Inquiry: a partnership was dissolved in July. One partner has paid half the taxes levied against its property. May the town garnishee the sal-

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ary of the second partner for the balance?

(A.G.) In our opinion, you would be fully authorized to proceed against any partnership property until the taxes have been paid in full, and if none can be found, to garnishee the wages of the individual. Section 516 (4) of the 1935 Machinery Act provides for the purpose of listing and assessing property that a co-partnership shall be treated as an individual, and the property, real and personal, shall be listed in the name of the firm. You are not required to deal with the questions arising between the partners after the dissolution.

II. Poll taxes and dog taxes.

C. Municipal poll and dog taxes.

To R. C. Harrelson. Inquiry: How much poll tax can a town legally levy and collect? (A.G.) C. S. 2679 limits the amount which may be levied by cities and towns to \$2. Sections 1 and 2 of Article V and Section 4 of Article VI of the Constitution also place limitations upon the poll tax which may be charged.

III. County and city license or privilege taxes.

A. Levy of such taxes.

15. Privilege licenses on businesses, trades, and professions.

To E. O. Ayscue. (A.G.) In our opinion, a person who delivers gas and oil to one customer in your town daily, but to no others, would not be "doing business" within the purview of a municipal ordinance levying a tax on all persons doing business in your town.

47. License tax on slot machines.

To E. A. Russell. (A.G.) Chapter 371, Public Laws of 1935, levying a tax on slot machines, does not have the effect, when such tax is paid, of legalizing the operation of such machine if it is in fact a gambling device. Section 130 (c) provides that when application is made for a license to operate a slot machine, the Commissioner of Revenue is authorized to presume that the operation of such machine is lawful, and if it is subsequently declared to be unlawful, no refund of the tax shall be allowed.

64. License tax on out-of-town businesses.

To P. G. Crumpler. Inquiry: Section 139 (b) of the 1935 Revenue Act provides that cities and towns may levy a tax on dry cleaning and pressing plants not in excess of that levied by the State and may levy a tax up to \$100 in the case of persons soliciting business for services to be performed outside the county. However, I understand that your office has ruled that a county can not legally levy a higher tax on an out-of-town business. Is this correct?

(A.G.) Yes, as the question might arise as to whether such action would be a discrimination. However, this suggestion is purely advisory.

B. Collection of license taxes.

15. Penalties for non-payment.

To W. G. Royster. Inquiry: What are the penalties for non-payment of Schedule "B" license taxes?

(A.G.) The penalty schedule will be found in Section 187 of the 1935 Revenue Act. In addition to making failure to pay license taxes a misdemeanor, the person liable is subject to penalties at the rate of 5% of the amount of the tax for each 30 days it remains unpaid. This provision applies to taxes levied by the State and by counties but not by cities and towns.

The authority of the city to levy privilege taxes is controlled by the Revenue Act and C. S. 2677. If the particular sub-

ject of privilege tax is covered by the Revenue Act, we are of the opinion that no penalties could be imposed except those prescribed by the Act itself, and none are imposed in favor of cities and towns. If the privilege tax is not embraced in the Revenue Act, but there are privileges taxed under C. S. 2677, no penalties are provided unless they are set out in the charter of the city or town. If set out in the charter, this and C. S. 2677 are to be construed together in determining the legislative grant of power to the municipality. *Hilton v. Harris*, 207 N. C. 465.

20. Discoveries or unlisted charges.

To W. G. Royster. Inquiry: How many

Municipal Bond Trends

North Carolina Bond Quotations

Security	Bid	Asked
N. C. Gen. Fund, 2½'s, 1945	2.15%	2.05%
N. C. Gen. Fund, 3½'s, 1946	2.40%	2.30%
N. C. Hwy. 4's, 7-1-50	3.00%	2.90%
N. C. Hwy. 4¼'s, 1-1-51	3.05%	2.95%
N. C. Hwy. 4½'s, 1-1-58	3.10%	3.00%
Buncombe County, C/D's	37F.	38F.
Catawba County, Rd. 4¾'s		
3-1-52	3.75%	3.60%
Craven County, Various		
C/D's	57F.	60F.
Durham County, R. & B., 6's,		
1-1-45	3.25%	3.15%
Forsyth County, Ref., 4¾'s,		
7-1-54	3.30%	3.20%
Gaston County, R. & B., 5's,		
10-1-49	3.45%	3.30%
Guilford County, Hwy., 5¼'s,		
3-1-43	3.20%	3.10%
Haywood County, R. & B., 5's,		
7-1-54	4.70%	4.60%
Johnston County, Hwy., 5's,		
4-1-50	97	100
Mecklenburg County, Jail,		
4¼'s, 5-1-55	3.15%	3.00%
New Hanover County, Court-		
house, 5's, 1-1-48	3.35%	3.25%
Pasquotank County, Road,		
4¾'s, 7-1-50	4.40%	4.20%
Robeson County, R. & B., Ref.,		
4¾'s, 5-1-49	3.70%	3.60%
Rowan County, Fdg., 4¼'s,		
5-1-55	3.75%	3.60%
Rutherford County, Sch.,		
4½'s, 1-1-40	95	97
Wake County, Rd., 4¾'s,		
1950	3.75%	3.60%
Wayne County, Road, 4¾'s,		
12-1-55	4.15%	4.05%
Asheville, Various C/D's	37F.	38F.
Charlotte, Water, 4¼'s,		
5-1-57	3.30%	3.20%
Durham, W. and S., 4½'s,		
1-1-54	3.30%	3.20%
Fayetteville, W. & S., 5's,		
2-1-51	3.85%	3.70%
Goldsboro, Str., 5's, 1-1-50	4.10%	4.00%
Greensboro, Ref., 4's, 1948	3.70%	3.60%
Greenville, Sch. Bldg., 5's		
7-1-45	3.70%	3.60%
Hickory, Sch., 5½'s, 1-1-52	4.20%	4.10%
High Point, Sch., 5's, 9-1-48	99	101
New Bern. Sch. Fdg., 5's,		
11-1-50	84F.	87F.
Raleigh, St. Imp., 4½'s,		
10-1-43	3.50%	3.40%
Wilmington, P. L., 4½'s,		
1-1-51	3.50%	3.40%

Quotations through Courtesy of
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years may a town go back and assess and collect privilege license taxes against a delinquent taxpayer?

(A.G.) There is no definite limitation in the law, but we are of the opinion that the 5-year rule provided by the 1935 Machinery Act as to unlisted property would afford a reasonable guide to taxing authorities on license taxes.

IV. Public schools.

A. Mechanics of handling school funds.

25. School audits.

Inquiry: May the county accountant audit the accounts of the board of education? (L.G.C.) You are referred to Chapter 239, Section 19, substitute section 198, Public Laws of 1927, which reads: "On or before the first day of August of each year the County Board of Education shall cause to be audited the books of the Treasurer of the County School Fund and the accounts of the County Board of Education and shall provide for the cost of same, where a County Auditor is not provided by the statute, out of the current expense fund."

At the time of the passage of this act the creation of the office of county accountant by the County Fiscal Control Act was not given consideration, but it is our opinion that the effect of this Act permits the audit to be made by the County Accountant.

B. Powers and duties of counties.

17. Apportionment of funds.

To E. S. Johnson. (A.G.) Section 15 of the School Machinery Act, providing for the distribution of capital outlay funds, reads in part as follows: "All county-wide school funds shall be apportioned to the county and city administrative units and administered monthly on a per capita basis."

It has been held by this Office that this provision is subject to the qualification that in case a per capita distribution results in giving a city administrative unit more funds than are actually required, this method of distribution will be followed only to the extent of the amount actually needed.

To C. H. Twiddy. (A.G.) If there is any surplus in the capital outlay fund to which you refer after the proper expenditure for the objects named in the budget upon the basis of which the levy was made and the funds collected, you would have a right to expend such surplus in purchasing the property necessary for school development.

D. Powers and duties of present school districts and agencies.

5. Erection of school buildings.

Inquiry: The local school building is in dangerous shape. What agency is responsible for correcting such conditions? (S.P.I.) The Constitution places upon the commissioners in each county the responsibility for providing school buildings and equipment, and there is no other agency that can assume this responsibility. We suggest that you see the county authorities.

7. Attendance districts.

To J. M. Gwynn. (A.G.) Ownership of property inside a school district where they do not reside and payment of taxes thereon does not give parents a right to have their children attend an elementary school in such district.

E. Status of former school districts and their funds.

10. To F. M. Waters. Inquiry: What is the procedure for a city administrative unit to compel a county to assume its ob-

ligations assumed for the construction of school buildings?

(A.G.) C. S. 5599 provides that the County Board of Education, with the approval of the Board of County Commissioners, may include in its budget funds for the payment of such indebtedness of all districts. The obligation may be assumed without a vote of the people, but the approval of the County Commissioners is required.

F. School officials.

61. State School Commission—rules as to age.

To J. M. Mecum. Inquiry: May the State School Commission make and enforce a ruling that a child who had not reached the age of 6 before October 1 could not enter school this school year?

(A.G.) The legality of this ruling is now pending in the Superior Court, and we prefer not to render an opinion on the question.

G. Poll taxes, dog taxes, fines and forfeitures accruing to schools.

1. Poll taxes—percentage accruing to schools.

To J. H. Gilley. (A.G.) Except for that part devoted to the support of the poor, poll taxes remain in the county and are applied to school purposes under the 1935 School Machinery Act, Chapter 455, Section 9.

50. Objects for which such funds may be spent.

To L. B. Pendergraph. Inquiry: The County constructed a \$7,500 addition to one of the school buildings in a city administrative unit. May it withhold the city administrative unit's share of fines, forfeitures, poll taxes, and dog taxes until the County is reimbursed?

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(A.G.) No. The duty of constructing buildings in the city unit, when necessary, legally rested on the Board of County Commissioners, on application of the County Board of Education, as the County now has the sole responsibility of erecting such buildings.

The funds you mention are expressly allocated by the 1935 School Machinery Act to objects of maintenance of plant and fixed charges; except when necessity is shown, the State School Commission may approve the use of such funds in any administrative unit to supplement any object or item of the *current expense budget*. Chapter 445, Public Laws of 1935, Section 9 contains no authority of law for withholding the proceeds of such funds from a city administrative unit to reimburse a county for a building it has erected in a city administrative unit.

I. School property.

11. Proceeds from sale.

To E. S. Johnson. Inquiry: Please advise as to the distribution of proceeds derived from the sale of a school building formerly in a County Administrative Unit but now located within the boundaries of a City Administrative Unit?

(A.G.) This Office is of the opinion that the proceeds should go into the hands of the county for distribution as capital outlay funds.

J. School books.

5. Required instruction.

Inquiry: Please advise if the new book on "Alcohol and the Habit Forming Drugs" is now in use in the public schools? (S.P.I.) This book has just come from the press and is now available for distribution. Its use is required by law in every sixth grade in the State. The law

states further that "the work in the subject of alcoholism and narcotism shall be a part of the work required for promotion from one grade to another."

Inquiry: What are the requirements of law as to instruction in safety and fire drills in the schools? (S.P.I.) The Superintendent or Principal of every public school are required to conduct at least one fire drill each month to include all children and teachers and to make use of all ways of egress. The law also requires the Commissioner of Insurance and the Superintendent of Public Instruction to provide a pamphlet containing printed instructions for conducting fire drills, copies of which may be secured by writing the Insurance Commissioner.

V. Matters affecting county and city finance.

1. Issue of bonds.

2. Debt limitation amendment of 1936.

To R. M. Cooksey. Inquiry: When does the new debt limitation amendment go into effect, and what is the effect on a city project pending with the P.W.A. for some time but just approved?

(A.G.) The amendment became effective at 12 o'clock noon, November 25. This Department has held that it has the effect of arresting all authority for the issuance of such bonds without a vote of the people where the amount of bonds issued by the unit during the year exceeds two-thirds of the amount by which its outstanding indebtedness was reduced during the preceding fiscal year.

To C. M. Abernethy. Inquiry: Does the new debt limitation amendment apply to proposed county bond issues for school buildings?

(A.G.) After a careful examination, we

have come to the conclusion that the limitation covers the issuance of bonds for this purpose, and a county can not issue bonds for school buildings beyond two-thirds of the total reduction in the outstanding indebtedness of the county for the preceding fiscal year without a vote of the people.

In any event, the case of Hemric v. Commissioners of Yadkin County, 206 N. C. 845, places a construction upon the Constitution which renders it necessary

UNAUTHORIZED PRACTICE

To I. C. Moser. (A.G.) This Office is of the opinion that any magistrate who engages in preparing mortgages, deeds of trust, and deeds, and charges therefor, is engaged in unauthorized practice of law and is criminally liable under Chapter 157, Public Laws of 1931.

to submit the issuance of such bonds to a vote of the people when they demand it.

To C. A. Erwin. Inquiry: Is the authority of the State Board of Education to make loans to counties from the State Literary Fund subject to the provisions of the new debt limitation amendment?

(A.G.) Yes, in our opinion. In the case of Brockenbrough v. Board of Commissioners, 134 N. C. 1, it was held by our court that "debt" as used in Article VII of the Constitution means a general obligation by the terms of which the credit of the municipality is pledged. This decision concurs with those from other states. From this I would conclude that the court, when it comes to consider this word as employed in the debt limitation amendment, will give it the same construction.

The question would then arise as to whether loans from the Literary and Special Building Funds constitute general obligations of the county or municipality. It has been suggested that the obligation might be upon the school district to which the money ultimately went rather than upon the county. A study of the statutes under which these funds were created indicates that where the special district is liable to the county for the amount expended within its borders, the county is directly responsible to the State.

A study of these sections seems to show that, where the general taxing power of the county is not pledged to the payment of these loans, it does constitute a general obligation of the county. Under the terms of the statute all of the taxes collected for school purposes, with the exception of those imposed for the purpose of paying bonds already issued, are pledged to payment of these loans. My opinion is that this is sufficient to constitute them debts.

The loans made under authority of the act creating a Special Building Fund are essentially the same in character as those under the Literary Fund, except that in the former the county is required to impose a special tax for the purpose of meeting payment. C. S. 5692.

Inquiry 2: May the State Board of Education continue to make loans from the State Literary Fund to counties after November 24 provided the amount of each loan is within the limit set by the Constitutional amendment, that is, two-thirds of the amount that the debt of the county

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was decreased during the preceding fiscal year? (A.G.) Yes.

Inquiry 3: Who is the proper county official to certify to the State Board of Education, or to bond buyers, the amount that the county or municipality has reduced its indebtedness during the preceding fiscal year?

(A.G.) The proper county official is the auditor, or in counties without auditors, the Chairman of the Board of Commissioners and the County Treasurer. Certified copies of the minutes or proceedings of the Board of Commissioners authorizing the loans should in all cases be certified by the Clerk to the Board and the Chairman of the Board.

Inquiry 4: It is now the obligation of the several counties to construct school

created under the police power of the State for the purpose of controlling the traffic in intoxicating liquor, so that public inconvenience and hurt will not result therefrom. We do not think it is within the power of the United States Government to tax such a State agency. We realize that the question has not been settled anywhere with respect to A.B.C. boards, but we feel that the principle is rather clear. **H. Public welfare and safety.**

15. Regulation of carnivals.

To D. W. Newsom. (A.G.) We know of no authority, except that which is conveyed to certain counties by C. S. 1298, under which county commissioners might prohibit carnivals or amusement enterprises within their counties.

X. Grants and contributions by counties.

6. Public libraries.

To J. P. Bunn. Inquiry: Can County Commissioners make a donation to a township library?

(A.G.) While the question is a close one, I think the better opinion is that such a contribution is authorized by C. S. 1298 (42) and C. S. 2702. In my opinion, if the authority exists to make annual appropriations to libraries, it also exists to make a single donation. The only trouble is that the library does not seem to be a county or city but a township library. But the word "town" is probably broad enough to cover the subject as used in this connection.

7. Municipal buildings.

To W. T. Hannah. Inquiry: Would a county appropriation for the construction of municipal buildings for its two chief towns be a necessary expense within the meaning of the Constitution in view of the fact that the construction would provide labor for people on relief in the county?

(A.G.) While I am fully in sympathy with the purposes sought to be served by raising and expending the funds you mention, nevertheless I am of the opinion that the construction of these municipal buildings by contribution from the county can not, as to the participation of the county, be considered a necessary purpose so as to dispense with the necessity of a popular vote. I take it that there is no connection between such buildings and the purposes for which the county is organized to support or maintain except that some portion of the county's poor will be employed in their construction.

VIII. Matters affecting chiefly particular local officials.

B. Clerks of the Superior Court.

6. Witness fees.

To T. A. Henley. (A.G.) As a general rule salaried officers are not permitted to demand witness fees in the courts. Chapter 40, Public Laws of 1933. However, Chapter 93, Public Laws of 1935 repeals the foregoing law in Wayne County to the extent that such officers may receive witness fees when the costs are paid by the Defendant.

8. Acknowledgment and probate of instruments.

To A. L. Hux. (A.G.) Chapter 168, Public Laws of 1935 makes void a probate or certificate of acknowledgment taken upon the oath of a subscribing witness to any document who is an employee, agent or servant of any person or concern who is a grantee in such instrument.

When an instrument of this sort is presented to you for probate, I think you have an undeniable right to refuse to probate it. But on the other hand it would be equally proper for you to notify any-

UNAUTHORIZED PRACTICE

To Leo Carr. Inquiry: The Secretary and other employees of certain production credit associations, engaged in lending money to farmers, recently have been searching the public records, making certificates as to priority of liens, and charging borrowers the same fees heretofore allowed attorneys for doing such work.

(A.G.) This practice, in our opinion, is in violation of the provisions of C. S. 199 (a). The Associations would undoubtedly have the right to examine the records for their own information as to any loans which they might make. But when they undertake to perform the service of examining the records and charging a fee therefor, it would constitute a direct violation of C. S. 199 (a). That is, the Associations would be "acting as attorney or counsellor at law" and "furnishing the services of a lawyer or lawyers" and "for a fee or any consideration" would be giving "legal advice or counsel" or "performing for or furnishing to another legal service."

buildings in the city administrative units, in the county administrative districts, and in the special taxing districts. In planning future loans, may the county authorities take into consideration the reductions in indebtedness in all of these units during the preceding fiscal year?

(A.G.) In my opinion, the county borrowing the money can consider only the total reduction in indebtedness of the county during the preceding fiscal year. If the county has assumed the debts of special districts, these debts would be considered to the extent to which they were reduced during the preceding year. Unless district debts have been assumed by the county, retirements by the units would not be taken into consideration as a part of the debt reduction of the county during the preceding year.

VI. Miscellaneous matters affecting counties.

B. County agencies.

10. A.B.C. Stores.

To H. G. Connor, Jr. Inquiry: Are County A.B.C. stores subject to payroll taxes under the Social Security Act?

(A.G.) No, in my judgment. Even if the Board employs a sufficient number of people (eight) to bring it under the act, nevertheless I regard it as a State agency

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one who desires to probate such an instrument that the record will be invalid. If he insists on the probate, he does so at his own risk. You would not be violating the law by signing the certificate.

11. Collection of process tax — Clerk's Commission.

To C. B. Skipper. Inquiry: Is a Clerk on salary entitled to retain the 5% allowed him for collection of the State process tax or should he turn this in to the county?

(A.G.) Chapter 157, Public Laws of 1935, subsection (d), provides that the Clerk, whether on fee or salary basis, may retain the 5% in addition to his compensation as Clerk.

20. Criminal appeals.

To F. F. Church. (A.G.) An appeal may be withdrawn by a Defendant in a criminal action after it has been docketed in the Supreme Court, but this can be done only in the Supreme Court. That is, application must be made to this court by the Defendant for permission to do so.

C. Sheriffs.

2. Deputy Sheriff's fees.

To W. E. Church. (A.G.) In my opinion, a Sheriff arresting a man and bringing him to jail has a right to charge his mileage for so doing. Later, if he returns to court at all, he returns in the capacity of a witness and is entitled to his witness fees.

10. Executions.

To A. J. Maxwell. Inquiry: Two executions for sales taxes due the State have been returned by a county sheriff as not executed because of the demand on the part of the Defendants in execution that a \$500 personal property exemption be allotted to them.

(A.G.) The exemption provided in the Constitution, Article X, Sec. 1, against an execution for the collection of debt does not apply to an execution for the collection of taxes due the State.

In my opinion, there is no personal property exemption against an execution properly issued by the Commissioner of Revenue for the collection of taxes due the State.

11. Penalties for failure to serve.

To A. B. Adams. Inquiry: Please advise what course to pursue to force an officer to serve papers, after he has had them more than a reasonable length of time, or make him return them.

(A.G.) C. S. 3936-7 provides that any sheriff or other officer shall be amerced for failure to make due return of any execution or other process placed in his hands.

L. Local law enforcement officers.

25. Prohibition—wine law.

To J. A. Wilkins. (A.G.) The Domestic Wine Act permits the manufacture and sale in North Carolina of wine manufactured in this State, under rules and regulations approved by the Commissioner of Revenue, from natural berries, grapes or other fruit, and of an alcoholic content not greater than that which is produced by natural fermentation.

T. Justices of the Peace.

10. Jurisdiction.

To J. Y. Chandler. Inquiry: Does a Justice have jurisdiction of a driving license violation? (A.G.) No, as a general proposition, because under C. S. 1481 his jurisdiction in criminal actions is limited to cases where the punishment does not exceed a fine of \$50 or imprisonment of 30 days. If the punishment for

the offense can under any circumstances exceed these limits, a Justice does not have jurisdiction.

U. Notary public.

1. Fees.

To M. B. Oberholser. Inquiry: Please advise what fees are legal for a Notary Public? (A.G.) You will find the schedule in C. S. 3178.

IX. Double office holding.

2. Notary public.

To C. F. Rice. Inquiry: Would appointment as a Notary Public conflict with the office of Clerk of Superior Court?

(A.G.) Yes. See *Wilson v. Jordan*, 124 N. C. 683 and *Harris v. Watson*, holding the positions of Clerk and Notary, respectively, to be public offices, and Article XIV, Sec. 7, of the Constitution prohibiting double office holding.

6. Justice of the Peace.

To J. A. Patterson. (A.G.) Magistrates are excepted from the clause in the North Carolina Constitution which prohibits double office holding. I know no reason, therefore, why you could not legally perform the duties of a magistrate while holding the office of Judge of Recorder's Court.

XI. General and special elections.

H. Municipal elections.

20. Absentee voting.

To J. R. Benson. (A.G.) For a long while it was held that the absentee ballot law did not apply to municipal elections. But the Supreme Court decided otherwise in *Phillips v. Slaughter*, 209 N. C. 543, which plainly states that the absentee ballot law applies.

XIII. Utilities Commission.

B. Railway and motor vehicle carriers.

20. Franchises—restraint of violations.

To A. B. Carter. Inquiry: A local bus company operating under franchises from the Utilities Commission as well as the town has reported numerous violations of its franchise by certain companies without franchises. What is the procedure to restrain such violations?

(A.G.) Suits for restraint of violations of franchises issued by the Utilities Commission are instituted by the Attorney General's Office at the request of the Utilities Commissioner. This official must first pass on the question, and if he desires that any action be taken, he requests the Attorney General to proceed.

TRAFFIC BUREAUS SET UP TO HANDLE MINOR VIOLATIONS

(Continued from page 9)

dicial function but merely accept the tendered fee subject to the approval of the Municipal Court. However, this would mean that every such disposition would be docketed in the Municipal Court and be the subject of review and judgment of that court. If this were the practice, such bureau disposition of traffic offenders might be upheld.

It must be borne in mind that the Constitution provides that no man can be "compelled to pay costs, jail

fees, . . . unless found guilty" (Art. I, s. 11). He can not be tried for any criminal offense except by indictment, presentment or impeachment (Art. I, s. 12); or, where the right of appeal is preserved, by special municipal courts (Art. IV, s. 14) or inferior courts, established by general laws (Art. IV, s. 12). It is clear, then, that the payment of fines, costs, and fees in settlement of a criminal charge can be compelled by a court only after that court has found the offender guilty. If it is concluded that these Bureaus are not courts, it must still be decided whether their effect is to "compel" the payment of costs, etc., in settlement of criminal offenses. That is, are the advantages tending to make offenders go before the Bureau sufficient to coerce the offender into paying a penalty outside of court. This is a question upon which lawyers and judges may well differ.

Two Possible Solutions

Traffic bureaus exercising the powers of courts appear to be unconstitutional, and a doubt may even be raised as to the constitutionality of bureaus which do not perform any judicial function. Two alternatives are possible: (1) A general law, permitting traffic courts with limited judicial powers in motor vehicle misdemeanors, could be enacted by the General Assembly. There appears to be little doubt that courts established under such a law would be constitutional. (2) The laws and ordinances governing traffic bureaus could be re-drafted so as to provide for the Municipal Court to pass upon each such minor offense, upon an agreed statement of facts or possibly upon the admission of a person with sealed power of attorney from the offender, and enter judgment in each case in accordance with the penalty schedule provided. Such provisions, apparently, would answer the chief constitutional objections to the practice in those bureaus which now are performing judicial or quasi-judicial functions.

POPULAR GOVERNMENT is indebted and expresses its appreciation to Mayor W. T. Wilson and City Clerks Joe Sawyer and George Eichhorn for the data on the operation of the traffic courts in Winston-Salem, Raleigh, and Greensboro, respectively.

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