



C.12

IN THIS ISSUE



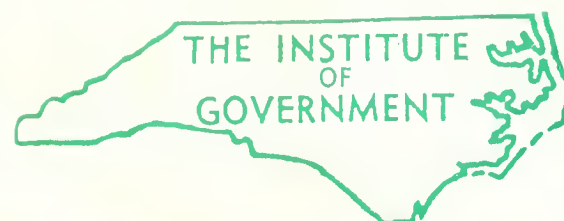
CAMDEN'S HISTORIC COURT HOUSE
(Cover Picture)

Dug

A Comprehensive
SUMMARY
of the
NEW STATE LAWS
Passed by the
1937 LEGISLATURE

Prepared by the Staff of the Institute of
Government's Legislative Office

NEWS AND RULINGS OF INTEREST TO
PUBLIC OFFICIALS AND LAWYERS



STORAGE COPY

POPULAR GOVERNMENT



88 County and 185 City Members

Recent Publications

Guidebook Series

The Listing and Assessing of Property for County and City Taxes—By Henry Brandis, Jr.

The Collection and Foreclosure of County and City Taxes—by Henry Brandis, Jr.

Organization Manuals

The Structure and Organization of the Sheriff's Office—By Dillard S. Gardner.

The Structure and Organization of the Office of Clerk of Superior Court—By Dillard S. Gardner.

Financial Series

A Summary of City and County Financial Problems Raised by the New Constitutional Amendments—By T. N. Grice.

Local Governmental Debt Problems in North Carolina—By T. N. Grice.

Special Studies

Summary of New Laws Passed by 1937 General Assembly.

Liquor and the Law in North Carolina: 1795-1937.

Federal and State Services to Local Units and Officials—By M. R. Alexander.

Guides to Highway Safety—By Harry W. McGalliard.
(Available for distribution in quantity in schools or with city auto tags.)

Directory Series

Directory of State and County Officials Elected November, 1936.

Directory of N. C. City Officials.

Recent Monographs and Articles of Particular Interest

The New Unemployment Compensation Act.

Revaluation Year Brings Counties Choice of Methods.

Traffic Bureaus for Minor Violations.

Permanent Listing in Mecklenburg.

Tax Mapping a City and County.

Asheville's City Real Estate Bureau.

The Fire Department: Its Relation and Value to Its City.

Are Now Providing These Services For Their Officials and Taxpayers

This is a remarkable record of growth in members for the first year under the new County and City Membership Plan. But it illustrates better than anything else what local units and officials think of the advantages available through this co-operative, non-partisan, and non-profit organization of counties and cities. Your County and City can not go wrong in following the action of the 273 units which have already placed their stamp of approval on the importance and value of these services, and you owe it to your unit and your taxpayers to

See That a Membership in the Institute Is Included in Your New Budget

Two new services are now ready, and many others are coming. The current issue brings member counties and cities the first Summary of the New Laws affecting them and their officials. Also ready is the manual of instruction for city election officials. Those in preparation and soon to be out include: Summaries of the new local acts affecting each county and town; a Guidebook for Law Enforcing Officers, City and County, covering both law and practice; and a Directory of the numerous State and Federal Services available to local units and officials.

Your City and County, and Their Officials, can not Afford To Be Without These Services

For Full Information
Write

The Institute of Government

Chapel Hill, N. C.

POPULAR GOVERNMENT

VOLUME 4
NUMBER 6

PUBLISHED MONTHLY BY THE INSTITUTE OF GOVERNMENT

MARCH-APRIL
1937

THE NEW STATE LAWS

EDITOR'S NOTE: *A Table of Contents for this Summary will be found on page 2. Wherever laws had been definitely assigned chapter numbers up to press time, these have been used instead of the bill numbers, and all such citations are to the Public Laws of 1937. Bill numbers are used for other laws with "H. B." standing for House Bill and "S. B." for Senate Bill. "C. S." refers to the Consolidated Statutes, the latest unofficial version of which is Michie's North Carolina Code of 1935.*

THE 1937 GENERAL ASSEMBLY lasted 66 days, considered 1313 House bills and 491 Senate bills, and passed 1223 acts, of which 839 were local and 384 were public. This was only 189 short of the 1412 passed by the 1935 session. Yet the 1937 Legislature, thanks to a combination of harmony, close application to work, and able leadership, completed its work in 39 less days and set something of a record, at least for recent years, as to the shortness of the session.

Because of the great sums of money involved, the biennial Revenue and Appropriation Acts, providing for the largest budget in the State's history, retain their position as the most important legislation enacted. Likewise of major importance are the School Machinery Act, the Tax Machinery Act, and several measures affecting highways and the highway fund. To some extent, however, all of these laws are old friends—legislation which, in some form or another, North Carolina legislatures have been passing for years.

To those interested in new governmental trends the most significant feature of the new legislation was undoubtedly the Social Security measures. The State and Federal acts, providing for Federal-State-Local co-operation in unemployment compensation, old age benefits, aid to dependent children, and other public health and welfare services, mark the greatest effort the State and country have made to provide for the welfare and security of the masses and particularly the "little man."

Other new acts of particular interest and significance included the Liquor Control Act, Soil Conservation Act, child labor and maximum hour laws, and the Tobacco Compact Act, which, however, went for naught when a sufficient number of other tobacco-producing states failed to take similar action.

In this summary of the new public laws, the 384

A Comprehensive Summary prepared by the staff of the Institute of Government

such acts are arranged in more or less arbitrary groupings, according to their subject matter, without any attempt to present bills in the order of their importance.

I. Social Security

Under this section will be found a discussion of the basic provisions of the Social Security Laws. The appropriations for this purpose are taken up along with the other appropriations from the State general fund.

(Continued on page three)

INFORMATION SERVICE ON NEW LAWS

Following the policy of making available information about new legislation, inaugurated by the Institute of Government in 1933, the accompanying Summary is designed to provide officials, lawyers, and citizens a broad-gauge picture of all State-wide laws enacted by the 1937 General Assembly.

Though space does not permit more than a digest of the major provisions of laws of general interest, laws affecting any local officials have been treated in some detail, and an attempt has been made to include at least the chief information which the particular officials will need to know in connection therewith.

The Institute will be glad to be of any service it can to local officials in procuring additional information concerning specific public laws covered in this Summary or concerning local acts in which they are interested. Summaries of the new local acts affecting each county and municipality are now in preparation and will be mailed to member cities and counties at an early date. The next issue of this magazine will carry additional information on the interpretation and effect and on specific administrative problems raised by some of the new laws.

TABLE OF CONTENTS

I. SOCIAL SECURITY	1	B. State Educational Institutions	15
A. Aid to Needy Aged and to Dependent Children	3	C. Private Schools and Educational Institutions	15
B. Aid to the Blind	4	V. ALCOHOLIC BEVERAGES	16
C. Unemployment Compensation	4	VI. LAWS AFFECTING COUNTY AND CITY GOVERNMENT	17
D. Boards of Charities and Public Welfare and Commission for the Blind	4	A. Laws Affecting Tax Matters	17
II. STATE GOVERNMENT (not including highway and prison system)	4	1. Listing and Assessing	17
A. Revenue	4	2. Levy and Collection	18
B. Appropriations (other than from bond proceeds)	6	3. Special Assessments	18
1. The Appropriation Act	6	B. Laws Affecting Other Fiscal Matters	18
2. Other Laws Involving Appropriations	6	C. Other Laws	19
3. Salaries and Compensation	7	VII. CONSTITUTIONAL AMENDMENTS	20
4. Retirements and Pensions	8	VIII. CONSERVATION AND DEVELOPMENT	20
C. Bond Appropriations	8	IX. PUBLIC HEALTH AND WELFARE	21
D. Other State Fiscal Matters	8	X. INDUSTRY, LABOR AND BUSINESS	21
E. State Departments and Agencies	8	A. Labor Laws	21
F. Miscellaneous Commissions	9	B. Building and Loan Associations and Banks	22
III. HIGHWAY AND PRISON SYSTEM	9	C. Insurance	23
A. Highway Fund Revenue	9	D. Corporations and Businesses	24
B. Highway Fund Appropriations	10	E. Public Utilities	25
C. Other Highway Laws	10	XI. PROFESSIONS	25
1. New Highway and Public Works Commission	10	A. Lawyers	25
2. Gasoline and Oil Inspection	11	B. Other Professions	26
3. Highway Patrol	11	XII. AGRICULTURE	27
4. Parkways	11	XIII. COURTS AND JUDGES	28
5. Motor Vehicle Code and Road Regulations	11	XIV. ESTATES, TRUSTS AND GUARDIANSHIPS	29
D. Probation, Prisons and Correctional Institutions	12	XV. CIVIL PROCEDURE AND OTHER MATTERS AFFECTING COURT OFFICIALS	30
IV. EDUCATION	13	XVI. PROBATE AND REGISTRATION	31
A. Public Schools	13	XVII. CRIMINAL LAWS	31
1. School Machinery Act	13	XVIII. CRIMINAL PROCEDURE	32
2. Textbooks	14	XIX. ELECTION LAWS	33
3. School Transportation	14	XX. MISCELLANEOUS	33
4. School Fiscal Matters	14	A. Laws	33
5. Teachers' Pensions	15	B. Resolutions	33
6. Other School Laws	15		

A. Aid to Needy Aged and Dependent Children.

As part of the Social Security program, under S. B. 58 and S. B. 484, a Division of Public Assistance is set up in the State Board of Charities and Public Welfare to administer (1) Old Age Assistance and (2) Aid to Dependent Children. Benefits may not exceed (1) \$30.00 per month to an aged needy person, nor (2) \$18.00 per month for one dependent child, and \$12.00 per month for each additional dependent child in the same home, with the total to dependent children in a single home limited to \$65.00 per month, unless the State Board determines a larger sum is necessary. *Old Age Assistance* may be granted to any citizen of the United States who: (1) is over sixty-five years of age; (2) has been a resident of North Carolina five out of the nine years preceding and for one year immediately preceding his application; (3) has not a sufficient income or other resources to provide a reasonable subsistence compatible with health and decency; (4) is not an inmate of a public institution at the time of receiving assistance; and (5) has not transferred property within two years preceding his application in order to render himself eligible for old age assistance. *Old Age Assistance* should not be confused with *Federal Old Age Benefits*, which latter will be administered entirely by the Federal Government, beginning January 1, 1942 (independent of need) on the basis of wages earned as a covered employee.

Aid to dependent children will be granted for the support of any child under sixteen years of age who: (1) is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt in a place of residence maintained by one or more of them as a home; (2) has resided in this State for one year immediately preceding application, or has been born within one year immediately preceding application of a mother who has resided in this State for one year immediately preceding application; (3) has been deprived of parental support as result of death, physical or mental incapacity, or continued absence from the home; and (4) has no adequate means of support. The relative with whom the child resides is entitled to continued receipt of benefits only if he maintains a safe and proper home.

The County Boards of Charities and Public Welfare receive and—with the Public Welfare Officer—investigate all applications of both types, pass upon them and certify the applicants to the State Board. Prior laws providing for "Mother's Aid" are repealed. Grants of assistance by a County Board of Welfare are subject to review by the County Commissioners, if they choose, and by the State Board of Allotments and Appeal (hereinafter mentioned), whose decision is final. Any award of assistance may be reconsidered from time to time, and the award modified or cancelled, as the change of circumstances may warrant.

The Federal Government supplies one-half, the State one-fourth, and the county one-fourth of the funds used for Old Age Assistance. The Federal Government supplies one-third, the State one-third, and the county one-third of the funds used for Aid to Dependent

Children. In either case, the ratio may be changed by the equalization hereinafter mentioned. On or before June 1, 1937, and annually thereafter on or before May 1, each County Board of Welfare is required to furnish to the County Commissioners an estimate of the amount of money necessary to pay the awards granted, during the ensuing fiscal year, together with detailed supporting data. On the basis of this and any other data available, the County Commissioners are required to make and submit to the State Board of Allotments and Appeal (consisting of the Chairman of the State Board of Charities and Public Welfare, the Commissioner of Welfare, and the Director of Public Assistance) an estimate of the total amount necessary for awards in the county during the ensuing year, and, separately stated, the amount necessary to be raised by county taxation. Such reports, as to Old Age Assistance, are to be made on or before June 1, 1937, and on or before May 1 annually thereafter; and, as to Dependent Children, they are to be made on or before April 1 annually. (This latter provision is apparently in conflict with the provisions as to the time for Welfare Board reports.) The State Board of Allotments and Appeal is directed to determine the amount of State and Federal funds available for distribution in the counties and to determine the amounts to be raised by each county, which latter is made a part of the county budget, and must be raised. The county may levy taxes for this special purpose at the same time other taxes are levied, or it may provide the sum from any other sources of county income or revenue (including borrowing in anticipation of collection of taxes) which may be available for use for such purposes by the county. The State Board of Allotments is empowered to make advances to any county, during the first quarter of the fiscal year, of the county's part of awards (to be deducted from later allotments for the same year).

The State and county share the county administration expenses equally, over and above the Federal funds allotted for that purpose. The county budget for administration expense is determined by the State Board of Allotments on the basis of estimates submitted by the County Board of Welfare, and the county must provide the money, either by special taxation or otherwise.

The State Board of Allotments and Appeal is directed to reserve from the State appropriations made under the Act such amount as it may find necessary to set up an equalizing fund, to be distributed among the counties on the basis of need. But no county is entitled to share in this fund unless the tax rate to raise funds to comply with the Act exceeds 10c on each \$100 of taxable property. Furthermore, no county may be allotted more than three-fourths of the cost to such county in excess of the amount produced in the county by a levy and collection of taxes at the 10c rate.

In case there should be a termination of Federal aid, on the proclamation of that fact by the Governor, the State Act would become inoperative, and the State funds on hand would be converted into the State general fund, and all county funds accumulated would be converted into the county general funds.

One other law (H. B. 333), dealing with allied subject matter, provides that an appropriation shall be

made to the State Board of Charities and Public Welfare to provide for the care in boarding homes of children ineligible for aid under the "Aid to Dependent Children" Act, and to provide for other ineligible children committed to the Board by the juvenile courts under C. S. 5047; and the Appropriation Act carries \$7,500 for this purpose.

B. Aid to the Blind.

Chapter 124 provides for payment of direct benefits, not to exceed \$30.00 per month, to the needy blind. Any person is eligible for this assistance: (1) who has been a resident of this State for five out of the nine years preceding application, and one year immediately preceding application; (2) whose vision is 20 200 or less in the better eye with correcting glasses; (3) who is unable to provide for his subsistence; (4) who has no relatives in this State able to provide, and legally responsible, for him; and (5) who is not an inmate of any charitable or correctional institution (unless he is able to maintain himself outside the institution upon receiving benefits). Applications for assistance must be made in duplicate to the County Commissioners and to the State Commission for the Blind, and awards are made by the Commissioners under rules and regulations promulgated by the State Commission. Either the applicant or the Commissioners may appeal to the State Commission and its decision is final. Each county must pay, and is authorized to levy taxes to cover, one-fourth of all payments to be made to the needy blind. The county funds are supplemented by State and Federal funds, with the State appropriations set at \$85,180 per annum.

C. Unemployment Compensation.

Three laws were enacted amending the Unemployment Compensation Act, passed by the special session in 1936 and summarized in the December issue of POPULAR GOVERNMENT: the first, H. B. 1079, allows the Unemployment Compensation Commission to use its discretion in determining the record forms and systems to be used in recording an employee's earnings. It also provides that an unemployed person is disqualified for benefits (in addition to disqualifications set out in the original Act) if the Commission finds that he is customarily self-employable and can reasonably return to self-employment, if unemployment is caused by commitment to a penal institution, or if unemployment is due to fire, flood, cyclone or tornado amounting to a catastrophe or any other catastrophe. The Commission is authorized when deemed expedient to provide group hearings of cases of disputed claims on review. Some further technical amendments were also included in this law. The second amending law, H. B. 569, provides that an attorney representing the Commission on an appeal from its decision to the courts or in civil actions to enforce the Act need not be a regular salaried employee of the Commission. The right of a person claiming benefits to be represented before the Commission or a court by another person is limited to "counsel," and provision for representation by any "other duly authorized agent" is repealed (Along

the same line, see H. B. 633, under "Lawyers.") Finally, H. B. 839 provides for the discontinuance of the Act if the Federal taxes as imposed in Titles III and IX of the Federal Social Security Act should be discontinued either because of unconstitutionality or Congressional repeal. In such event, money on hand, after payment of all awards, would be refunded to employers. The State Employment Service, now consolidated with the Unemployment Compensation Commission, would be restored to its status prior to passage of the Unemployment Compensation Act.

D. Boards of Charities and Public Welfare and Commission for the Blind.

In providing for the administration of the Social Security laws, some changes were made in the organization of the State and County Welfare Boards by S. B. 98. It provides that the Governor shall designate the Chairman of the State Board of Charities and Public Welfare, and that the appointment of the Welfare Commissioner shall be subject to the approval of the Governor. Each County Board shall consist of three members: one appointed by the County Commissioners for a term of two years, one by the State Board for a term of one year, and the third by the first two appointees (or, in case of disagreement, by the resident judge) for a term of three years. Thereafter, successors shall be appointed for a term of three years. Members are ineligible to succeed themselves after two successive terms. The County Superintendent of Public Welfare must be appointed on the first Monday in June, 1937, and biennially thereafter, by the County Commissioners and the County Board of Charities and Public Welfare acting in joint session. This appointment is subject to the approval of the State Board. The County Board and the Commissioners are required, jointly, to act as an advisory committee to local officials carrying out provisions of the Social Security Act. The Superintendent's salary is fixed by the County Commissioners, and a special tax levy for this purpose is authorized. When necessary, the State Board may pay the salary.

Changes were also made with respect to the State Commission for the Blind by S. B. 404, which provides for six additional members of the Commission: three appointed by the Governor plus the Secretary of the State Board of Health, the Director of the N. C. Employment Service and the Commissioner of Public Welfare.

II. State Government

(not including the highway and prison system)

A. Revenue.

The State Revenue Act, 1937 model (Chapter 127), as amended by H. B. 838 (pamphlet copies of both being now available), expanded from a long law to a longer one, thanks to the inclusion of three new schedules. These three new schedules, together with changes in taxes already levied, surplus on hand and anticipated increases in collections due to improving business conditions, are estimated by State authorities

LIEUT.-GOV. W. P. HORTON
who presided over the Senate and received much of the credit for the speed and smoothness with which its work moved. (Home, Pittsboro.)



to produce enough to offset any possible decrease in sales tax collections and still balance the State's budget.

New Schedule F deals with beer, wine and whiskey taxes. Of these, beer taxes were already being levied, but were previously not incorporated in the Revenue Act. The whiskey tax, as such, is new, and consists of 7% tax on the retail sales of county ABC stores. Actually, this represents a new levy of 4% on such sales, as the State was already collecting the 3% sales tax and the 7% is in lieu of the sales tax. The wine taxes are new. They consist of State license taxes, in varying amounts, on manufacturers, bottlers, wholesales, retailers for "on premises" and retailers for "off premises" consumption, plus a stamp tax of 10c per gallon on unfortified wines (5%-14% alcohol by volume) and 30c per gallon on fortified wines (14%-24% by volume). These are in addition to the sales tax. Detailed provisions are provided for enforcement.

New Schedule G levies gift taxes. The tax is graduated according to the amount of the gift and the relationship of the donee to the donor, with the rates, brackets and exemptions being the same as those already in force as to the inheritance tax, except that each child of the donor has an exemption of \$5,000 annually. However, total exemptions may not exceed eight times the maximum exemption for a single year. Further, the tax is cumulative. That is, where two or more gifts are made in excess of the exemptions allowed, the tax is to be calculated on the total amount of the gifts. The tax is levied on the donor, but the donees become liable to the extent of gifts made to them, if the donor fails to pay it.

New Schedule H levies a State tax on intangible property, this being the legislature's first move to exercise the power granted to it by the recently adopted constitutional amendment authorizing classification. The rates of tax are: on bank deposits, other than deposits of other banks and deposits of Federal, State and local governments—10c on each \$100, with accounts of less than \$100 disregarded; money on hand—20c on each \$100 over \$300; accounts receivable—25c on each \$100 (in excess of current bills payable) over \$300; certain deposits with insurance companies, obligations of building and loan associations other than those con-

nected with stock, and money held as trust funds (other than bank deposits) by Clerks, trustees and fiduciaries—25c on each \$100; bonds, notes and other evidences of debt, other than Federal, North Carolina State, and North Carolina city and county obligations, and other than accounts receivable otherwise taxed—40c on each \$100 over \$300, after deducting the taxpayer's debts other than current bills payable; shares of stock, except shares in corporations paying income, franchise and property taxes in this State—30c on each \$100 over \$300, after deducting debts incurred to purchase the stock for which the stock is pledged.

All of these intangible taxes are to be reported and paid by the property owner or fiduciary annually, except the bank deposit tax, which is collected from the bank. This bank deposit tax is based on the average of deposits in the bank on the fifteenth of March, June, September and December, and is deductible from the depositor's account as of December 31 annually. All other intangible taxes are payable annually on the basis of such property owned or held on December 31. All taxes under this Schedule are first payable by March 15, 1938. *In 1937 all taxable intangibles must be listed for city and county taxes, but thereafter such property will not be listed for local taxation.*

If taxpayers make proper reports to the State in 1938 and annually, they cannot, after March 15, 1938, be held liable for any failure to list such intangibles for local taxation in previous years.

Fifty per cent of total revenues received from intangible taxes (after deduction of administration expense of not more than 4%) will be returned to counties and cities, on the following basis: (1) The total amount returnable to a county and all cities therein will be determined by (a) assigning to it 50% of all taxes on money on hand, accounts receivable, bonds, notes, debts and corporate stock collected from taxpayers in that county; and (b) assigning to it, on a population basis, its proportion of 50% of the entire amount collected throughout the State from the other intangible taxes. (2) The total thus assigned to a county and cities therein will be divided between the county and all such cities in proportion to the total amount of ad valorem taxes on real and tangible personal property levied by each during the preceding fiscal year. The State Board of Assessment, which is the agency charged with the duty of making the distribution, will have to determine whether special district taxes will be considered in this connection, as well as several other problems. The Board will require reports from counties and cities to secure the information as to tax levies on which the distribution will be based, and any city or county failing to report may be disregarded.

All revenue produced by the intangible tax is earmarked for schools, and cities and counties are directed to use their part for school debt service or other school purposes. Just how this will work out in cities which, as such, have no school expenditures, is somewhat problematical. Another open question is the status of the various exemptions of \$100 or \$300 allowed, as there is a possibility that the State Constitution limits total personal property exemptions to \$300—an amount allowed as to tangible personal property under the Machinery Act.

Perhaps the major changes made in taxes with which the State was already familiar were: (1) restoration, under the sales tax, of the exemptions for flour, meal, meat, lard, milk, molasses, salt, sugar and coffee, with the addition of bread and rolls; (2) imposition of the sales tax on certain types of building materials; (3) increase of the individual income tax from 6% to 7% on any excess of taxable net income over \$10,000; and (4) substitution for the chain filling station tax of a tax on wholesale gasoline distributors at the rate of \$4 on each pump owned or leased by the distributor through which gasoline is retailed.

There were, of course, numerous more minor changes in the Revenue Act which it is impossible to mention here. Other than this Act and H. B. 838, amending it, few laws affect general fund taxes. H. B. 1273, also amending it, limits to \$50 the tax on credit reporting agencies operating in only one city or county. Referred to elsewhere is S. B. 237, which provides for the mechanics of handling taxes on bank deposits made by Clerks. Another law (S. B. 264) authorizes the Commissioner of Revenue to prescribe regulations under which merchants are to collect the sales tax from the purchasers, allowing use of tokens or stamps if the Commissioner thinks it desirable. Violation of such regulations by a merchant will be a misdemeanor punishable by fine of \$5 to \$500 or imprisonment up to 6 months, or both.

House Bill 649 levied a tax of \$1,000 per county on each person engaged in the business of buying or selling scrap or untied tobacco, but this is more for regulatory than revenue purposes. License taxes on seed dealers are levied by H. B. 654, and H. B. 875 levies a tax on agricultural lime, but these are in the nature of inspection fees. All three of these are discussed under the section on "Agriculture."

The law (H. B. 115) providing for a commission to study exemption and classification for tax purposes, is discussed under the section dealing with county and city tax matters.

B. Appropriations (other than those from bond proceeds).

1. The Appropriation Act.

Faced with the task of providing funds partially to meet the demands of all State departments and institutions for increased facilities, for increased appropriations in order to keep abreast of the rapid rise in commodity prices, and to provide salary increases, the 1937 Assembly was called upon to enact the largest spending bill in the State's history. The general fund section of the Appropriation Act of 1937 (Chapter 99) authorizes the spending of \$37,305,929 for the first year of the ensuing biennium and \$38,145,661 for the second year. These amounts are exclusive of appropriations for Social Security and numerous other activities, made by separate laws discussed in the other subdivisions of this section.

While appropriations were generally increased all along the line, the largest single increase was for public schools. It amounts to some \$3,496,000 for the first year of the biennium (including the \$600,000 for school bus replacements made available as an advance against next year's appropriations by Chapter 2) and some

\$4,086,000 for the second year of the biennium, both increases being computed by comparison to the amount appropriated for the year 1936-37. These increases are calculated, among other things, to give teachers a raise of 10% over salaries in effect January 1, 1937. The same percentage of salary increase was provided for the rank and file of other State employees, modified by H. B. 1291, which declares the intent of the legislature to be that first consideration be given those employees in the lower salary brackets. The accompanying table gives comparative appropriations as contained in the Appropriation Acts of 1935 and 1937 for general fund purposes.

2. Other Laws Involving Appropriations.

The most important law making supplemental appropriations is H. B. 1195, which appropriates \$1,000,000 for each year of the next biennium for Old Age Assistance and \$500,000 each year for Aid to Dependent Children. This latter represents an annual increase of some \$450,000 over amounts previously allocated for Mothers' Aid, a similar activity carried on by the State, which is to be discontinued in favor of the new program. In addition, this law appropriates \$150,000 annually to cover county administrative expenses payable by the State; \$80,000 annually for the administrative expenses of the State Board of Charities and Public Welfare; \$185,000 annually to be used, in addition to the equalization fund provided by the Social

COMPARATIVE APPROPRIATIONS FROM GENERAL FUND

(Regular Biennial Appropriation Acts Only.—Does Not Include Social Security.)

1935-36	1936-37	1937-38	1938-39
Legislative			
...	\$ 181,000	...	\$ 200,000
Judicial			
\$ 369,850	369,945	\$ 396,925	393,325
Executive and Administrative			
1,569,352	1,596,062	1,998,031	2,000,765
Educational Institutions			
1,951,522	2,025,380	2,424,731	2,391,998
Charitable and Correctional Institutions			
1,810,275	1,586,983	2,097,482	1,973,920
State Aid and Obligations			
213,500	227,500	344,322	344,322
Pensions			
675,955	653,300	587,160	595,720
Contingency and Emergency			
500,000	500,000	500,000	500,000
Public Schools			
20,031,000	20,900,000	24,396,367*	24,986,160
Agriculture			
290,260	296,665	338,211	338,211
Debt Service			
4,350,285	5,062,435	4,222,700	4,421,240
\$31,761,999	\$33,399,270	\$37,305,929*	\$38,145,661

* Includes \$600,000 of 1937-38 appropriation made available during present fiscal year for school bus replacements.

Security laws, further to equalize the burdens as between counties, to be made available only if the Director of the Budget finds that emergency conditions justify its use; up to \$70,000 for the biennium for the administration of the provisions authorizing the State Board to accept donations of money and commodities from Federal, State and local governments and distribute the same for relief purposes; up to \$74,000 for the biennium for the administration of the provisions authorizing the State Board to furnish information to federal authorities as to persons eligible to receive jobs in and commodities from federal relief agencies. This law also appropriates \$137,500 to be used for the completion of the Western North Carolina Tubercular Sanatorium. This latter appropriation may be withheld by the Director of the Budget pending a Federal grant of 45% of the cost of completion. Another part of the Social Security Program is Chapter 124 (discussed under the section on Social Security) which appropriates \$85,180 annually for assistance to the needy blind of the State. S. B. 476 appropriates whatever funds may be needed in carrying out the provisions of the Social Security Program until July 1, 1937, the date next year's appropriations go into effect.

Irvin S. Cobb stated some years ago that North Carolina had everything but a press agent. If such a condition continues, blame cannot be placed on the 1937 Assembly which, under the provisions of S. B. 158, appropriated \$250,000 to advertise North Carolina. The Department of Conservation and Development with the approval of the Governor, is directed to map out and carry into effect a systematic plan for nation-wide advertising.

Further laws involving appropriations are: (1) H. B. 180, which authorizes the Governor and Council of State to expend up to \$100,000 to establish a State gasoline terminal when and if deemed necessary. (2) H. B. 282, which appropriates \$50,000 annually to finance a program of adult education in the State. (3) H. B. 471, which appropriates a maximum of \$30,000 for the purchase of additional lands for the Morrow Mountain State Park in Stanly County. (4) H. B. 717, which appropriates \$25,000 for the purchase and maintenance of a patrol boat to be used in enforcing the State's commercial fishing laws. (5) S. B. 311, which appropriates an additional \$13,500 and \$5,000 for maintenance at the State Hospital at Morganton and the State Farm Colony at Kinston, respectively. (6) S. B. 153, which appropriates \$10,000, available when a like appropriation is made by Tennessee, for the joint erection of a memorial to the late Mrs. Laura Spillman Rockefeller, mother of John D. Rockefeller, Jr., as a token of appreciation of the generosity of the Rockefeller Foundation for grants made in connection with the Smoky Mountain Park. (7) H. B. 164, which appropriates not over \$7,500 to the State Planning Board. (8) S. B. 336, which appropriates \$500 for the erection of a memorial in the North Carolina Hall of History to the late Colonel Fred A. Olds. (9) S. B. 383, which authorizes the Governor and Council of State to transfer from the contingency and emergency fund such amount as may be necessary for the Department of Labor to administer new labor regulations enacted by the 1937 Assembly. (10) S. B. 442, which provides that, unless

specifically excepted, all appropriations made by the 1937 Assembly shall be subject to the Executive Budget and Personnel Acts. (11) S. B. 236 appropriates \$10,000 for purchase of land for land use projects such as reforestation and soil conservation.

In addition to these laws, the Revenue Act, Chapter 127, in Section 519½ appropriates 1/14th of the revenue received from the tax on whiskey to the State ABC Board to cover the expense of administering the Alcoholic Beverages Control Act, and in Section 716 appropriates 4% of the revenues received from the tax on intangibles to the Department of Revenue for the administration of the tax. Also, S. B. 127 authorizes the purchase of land for use as a peanut experiment farm.

Numerous other laws were enacted involving minor appropriations such as authorizing the printing of the Revenue, Social Security, Liquor Control, Tax and School Machinery Acts in pamphlet form, and authorizing payment of the expenses of various commissions and legislative committees. Largest specific appropriations among these are \$2,500 carried by S. B. 458 for the Commission on Revision of the Estate Laws, and a like amount under H. B. 1200 to the World's Fair Commission. There are also H. B. 624, which authorizes payment of \$108.50 to C. N. Mease, Chief State Refuge Warden, for an exhibit of wild life destroyed in the State Fair fire in 1934 and H. B. 1313, which authorizes the payment of the balance of March salary to the widow of the late Wiley H. Pittman, Director of the Division of Purchase and Contract. Some ten different laws appropriate a total of \$7,300 as compensation to parents for the death of or injuries to their children resulting from school bus accidents.

3. Salaries and Compensation.

In addition to the 10% increase in salaries provided by the Appropriation Act, numerous other laws provide for increased salaries of particular officials or payments to individuals. The best known of the salary laws is H. B. 160, which appropriates an unspecified sum to repay State employees that portion of salaries withheld by the State in April, May and June of 1933. H. B. 762 fixes the annual salary of the Commissioner of Labor at \$5,200 and of the Commissioner of Agriculture and Adjutant General at \$5,000 each. S. B. 451 fixes the annual salary of the Commissioner of Insurance at \$6,000. All of these increases are effective from April 1, 1937, and the former salary of each of these officials was \$4,500. S. B. 391 authorizes the Governor, after July 1, 1937, to fix the salary of the Commissioner of Paroles at an amount not to exceed the amount appropriated therefor by the Assembly. S. B. 355 fixes the salary of the Commissioner of the World War Veterans Loan Fund, which is paid from this fund, at \$4,200 per year. H. B. 388 increases the total compensation of Solicitors by providing for an annual expense allowance of \$500, thus bringing their total compensation to \$5,000 per year as against a previous total of \$4,500. Chapter 1 fixed the per diem compensation of the secretaries to the Finance and Appropriations Committees at \$5. This was raised to \$6 by H. B. 1131, which also restored the compensation of all legislative help to the 1929 level as of the beginning of the 1937 session.

4. Retirements and Pensions.

The 1937 Assembly enacted some 28 different laws placing names of Confederate widows on the pension rolls or authorizing the payment of previously issued warrants to the heirs of deceased pensioners. S. B. 82 rewrites the qualifications necessary for widows of Confederate soldiers to be entitled to a Class A pension of \$300 per year so as to eliminate the requirements that they be confined to the house and that they married the veteran before or during the Civil War. H. B. 425 provides that all widows of Confederate soldiers who lived with such soldiers for a period of ten years before the death of such soldiers, if such death occurred since 1889, shall be entitled to Class B pensions. This law was amended by H. B. 1292, which provides that any new pensioners shall be entitled to share, with pensioners already on the rolls, in sums appropriated for Class B pensions. S. B. 232 requires all County Pension Boards to make an investigation of all Class B Confederate pensioners and report as to their eligibility for Old Age Assistance. If such pensioners qualify for Old Age Assistance they shall be removed from the pension rolls. S. B. 42 authorizes the Directors of the N. C. School for Deaf at Morganton to retire Dr. E. McKee Goodwin and pay him as Superintendent Emeritus for life not more than \$3,000 annually. H. B. 693 authorizes the payment of annual pensions of \$1,200 to widows of former Governors of the State when it is found by the Governor and Council of State that their financial circumstances are such as to warrant assistance.

Other than highway fund appropriations, which will be treated separately, and laws making changes in administrative duties of departments and creating new departments which indirectly affect State appropriations, the above summary covers appropriations made by the 1937 Assembly from current revenues during the ensuing biennium.

C. Bond Appropriations.

The major bond appropriations are contained in H. B. 36, known as the Budget Permanent Improvement Appropriation Act. This law authorizes the issuance of \$2,344,500 in State bonds to finance specified permanent improvements at various State institutions. The University gets \$890,000, which is allocated to the Chapel Hill, Raleigh and Greensboro units at \$434,000, \$381,000 and \$75,000, respectively. Most of the other State institutions participate in these appropriations in amounts ranging from \$7,000 to \$160,000. Included in the total is \$60,000 for an annex to the Revenue Building in Raleigh, \$160,000 for Appalachian State Teachers' College at Boone, and \$155,000 for the North Carolina College for Negroes at Durham. This latter amount is to be used to repay the general fund for a like amount made available in advance by Chapter 67 in order to take advantage of a Federal grant. H. B. 1281 authorizes State institutions receiving appropriations under the Permanent Improvement Act to accept Works Progress Administration or other Federal grants and use any remainder from State appropriations, if approved by the Budget Director and Commission, for other purposes.

The new textbook law, H. B. 48, authorizes the issuance of \$1,500,000 in State bonds to finance the furnishing of free basal textbooks in the elementary schools. H. B. 868, following the recommendations of the committee appointed under H. B. 216, authorizes the issuance of a maximum of \$675,000 in State bonds to finance the construction of an office building in Raleigh. At the present time the State is paying between \$25,000 and \$30,000 annually for rented space, and the construction of a new building to house various departments is calculated to eliminate these rentals.

In addition to the bond appropriations mentioned above, for which the general credit of the State will be pledged, S. B. 424 extends to June 1, 1939, the time to take action under Chapter 479, Public Laws, 1935, which authorizes the State to issue revenue bonds. Also, S. B. 425 authorizes the State Board of Health to issue up to \$160,000 in revenue bonds to finance improvements of the facilities of the State Laboratory of Hygiene. These bonds must be financed by fees charged for services and serums, etc., and are not to pledge the credit of the State.

D. Other State Fiscal Matters.

There are three other laws which directly affect the State's fiscal affairs: (1) Chapter 82 is discussed under the section dealing with local fiscal matters. (2) H. B. 149 directs the State Treasurer to pay a total of \$4,670, plus accrued interest at date of payment, for \$4,000 face amount of State registered bonds stolen from the Bank of Ashe (Jefferson, N. C.), where they had been deposited for safekeeping by the owner. The total includes \$670 premium. (3) H. B. 720 is the customary law authorizing the State Treasurer, with the approval of the Governor and Council of State, to issue revenue and tax anticipation notes to finance appropriations for the ensuing biennium pending the collection of revenues.

E. State Departments and Agencies.

A substantial percentage of all new State-wide laws affect the organization, powers or duties of various State Departments and agencies. Of these, the great majority are discussed elsewhere in this summary under topical classifications. Omitted from this section, for this reason, are such important measures as those dealing with Social Security administrative agencies, reorganization of the Highway Commission and of the Board of Agriculture, administration of the new Liquor Control Act, creation of a Probation Commission, authorization for a State Bureau of Identification, revision of the gasoline inspection laws, authorization for a State-owned gasoline terminal, and many other laws too numerous to mention here, such as the large number creating special commissions for special studies or purposes.

Under this section will be mentioned only those miscellaneous laws not discussed elsewhere. (1) H. B. 164 revises the personnel of the State Planning Board and provides for a Board of nine, consisting of the Director of the Department of Conservation and Development, one representative from the University of North Caro-

lina, and four other State officials and three citizens appointed by the Governor to serve at his pleasure. The Board is to study and make recommendations with respect to the general development of the State, the region of which the State is a part, or areas within the State, looking to a coordinated, adjusted and efficient development of the State's human and material resources. A maximum appropriation of \$7,500 is made to it. (2) S. B. 300 requires the heads of State Departments, beginning June 1, 1937, to furnish each field agent or deputy with an identification card carrying a photograph of the agent. (3) H. B. 363 made it mandatory for State Departments, upon request, to furnish members of the legislature information in their possession. (4) H. B. 1248 authorized the Governor to appoint some suitable State official to serve ex officio as Director of the Division of Purchase and Contract until the vacancy in that office, caused by the death of the late Wiley H. Pittman, could be filled on a permanent basis. (5) H. B. 204 extends the power of the N. C. Library Commission to include authority to receive gifts or grants from the Federal Government or public or private agencies, the funds received to be used in stimulating and equalizing the library services in the State. (6) H. B. 1157 abolished the Transportation Advisory Commission and transferred its duties to the Utilities Commission. (7) H. B. 1116 transferred the administration of the Capital Issues Law from the Utilities Commission to the Secretary of State. (8) H. B. 721 added the Assistant Director of the Budget to the membership of the Board of Public Buildings and Grounds, and gives that Board supervision of the location, planning and construction of State buildings hereafter erected in Raleigh. (9) H. B. 510 provides for furnishing of Supreme Court reports to the Industrial Commission. (10) Chapter 44 permits the use of a portion of the State Fair Ground property for the erection of a building in which documents and other property of the State may be stored.

F. Miscellaneous Commissions.

In addition to the numerous Commissions discussed elsewhere under topical headings, the following commissions for specific, temporary purposes were provided for: (1) S. B. 303 authorizes a Home Ownership Commission to study the tenant problem in North Carolina and to co-operate with Federal and other agencies in their efforts to encourage home ownership. The Commission is to consist of the Commissioner of Agriculture, the Director of Agricultural Extension, the Director of Vocational Education and two members appointed by the Governor. (2) H. B. 498 authorizes the Governor and a committee of six appointed by him to represent the State at and lend their support to the celebration of the 350th Anniversary of the birth of Virginia Dare to be held on Roanoke Island during the summer of 1937. (3) H. B. 648 provides for a Commission of three, appointed by the Governor, to determine the State's responsibility for any damage done the Ferry Company by the building of the Chowan River and Albemarle Sound bridges. (4) H. B. 998 provides for a Commission on Interstate Co-operation, to be composed of the Senate's, the House's and the

REP. R. GREGG CHERRY
Speaker of the House, who was generally acclaimed as one of the most able, popular and forceful presiding officers of recent years. (Gaston County; home, Gastonia.)



Governor's Committees on Interstate Co-operation, each of these Committees having five members. The purpose of the Commission is to participate in the Council of State Governments, encourage co-operation and interchange of ideas between North Carolina officials and those of the Federal and other state governments, to facilitate the adoption of compacts and uniform or reciprocal statutes and administrative rulings. (5) H. B. 1200 provides for a World's Fair Commission of five, appointed by the Governor, to consider the advantages of having North Carolina buildings at the New York World's Fair and the San Francisco Golden Gate International Exposition, with power to make plans and contracts for such purposes. A maximum appropriation of \$2,500 is provided. Authority is given the Commission to seek subscriptions and donations.

III. Highway and Prison System

A. Highway Fund Revenue.

House Bill 497, which rewrites and consolidates the laws regulating the registration and licensing of motor vehicles, makes several changes in license fees. License fees for private passenger vehicles are reduced from 40c to 35c per hundred pounds (a reduction of 12½%) with a minimum fee of \$7 instead of \$8. This means that the number of private passenger vehicles licensed must increase slightly over 14% or revenue from this source will decline. The reduction is the second consecutive one, as the 1935 Assembly reduced the rates from 55c to 40c per hundred pounds.

The fees for "dealer's plates" remain unchanged at \$25 for the first set of plates and \$1 for each additional set. The base rates per hundred pounds gross weight for property haulers are:

Gross weight	Private haulers	Contract haulers	Franchise haulers
Not over 4500 lbs.	\$0.30	\$0.75	\$0.60
4,501 to 8500 lbs.	.40	.75	.60
8,501 to 12,500 lbs.	.50	1.00	.60
12,501 to 16,500 lbs.	.70	1.15	.60
Over 16,500 lbs.	.80	1.40	.60

Compared with the former law this means that the license taxes on the lighter weight private and contract haulers are reduced, and the tax on the higher weight haulers in such classes is increased. The base rate per hundred pounds gross weight for franchise haulers remains unchanged. Franchise bus carriers are required to pay an annual license tax of ninety cents per hundred pounds. Franchise haulers and franchise bus carriers are also required to pay six per cent of the gross revenue derived from operation, but the annual base license tax is credited on the gross receipts tax. All license fees fixed by this law become effective with the calendar year 1938.

Chapter 111 amends Chapter 145, Public Laws of 1931, by providing that the provisions for refund of the gasoline tax contained in that Act and the amendments thereto shall extend to motor vehicles "designed but not used upon the highways" of this State. Formerly this part of the provisions for refund of the gasoline tax was limited to gasoline purchased for and used in vehicles not designed for use upon the highways.

B. Highway Fund Appropriations.

Highway appropriations were largely confined to the Appropriation Act, which authorizes the spending of \$27,158,309 for highway purposes the first year of the biennium and \$25,870,881 the second year. As can be seen from the accompanying comparative table of appropriations, the total appropriations for highway purposes for the ensuing biennium are not greatly in excess of those for the present biennium, although there are changes in the amounts allocated for different activities. The increased appropriations are calculated to give the rank and file of highway employees a 10% increase in salaries. Another law affecting the highway fund, the law respecting county highway claims, is discussed under the section dealing with local government.

The 1937 Appropriation Act, like the 1935 Act, authorizes the Governor to increase spending for maintenance, construction and betterment of State and county highways if revenues exceed the amounts appropriated. The amount by which available revenues will exceed appropriations depends largely upon the amount transferred from the highway fund to the general fund under the authority to make such transfers up to an amount which would be produced by a three per cent sales tax on gasoline (if necessary to balance the general fund budget).

Aside from the Appropriation Act there were four laws authorizing the spending of highway funds either directly or indirectly, all of which involve minor amounts. (1) H. B. 196 authorizes a \$70 gas tax refund. (2) H. B. 362 directs the purchase and maintenance of an artificial limb for an injured State patrolman, and the payment of \$1,189 in compensation, hospitalization and surgeon's fees. (3) H. B. 909 authorizes the payment of \$169.40 for personal property destroyed in a fire in the gasoline inspection laboratory. (4) H. B. 912 authorizes the payment of \$488.10 for hospital and medical treatment of a highway truck driver injured in an accident.

COMPARATIVE APPROPRIATIONS FROM HIGHWAY FUND

1935-36	1936-37	1937-38	1938-39
Administrative			
\$ 151,835	\$ 155,370	\$ 162,549	\$ 162,549
Motor Vehicle Bureau, Highway Patrol and Drivers' License Law			
891,920	784,920	893,768	847,793
Maintenance of State Highways			
3,500,000	3,500,000	4,000,000	4,000,000
Maintenance and Construction of County Highways			
(1) Regular			
5,000,000	5,000,000	5,800,000	5,800,000
(2) Relief			
1,000,000	1,000,000		
Betterments			
2,000,000	2,000,000	1,500,000	1,500,000
Construction of State and County Highways			
3,200,000	3,200,000	3,800,000	3,800,000
Scenic Parkway			
150,000	150,000	150,000	150,000
Maintenance of City Streets			
500,000	500,000	500,000	500,000
Deficit under Federal Construction			
500,000		500,000	
Debt Service			
(1) Interest			
4,211,302	4,023,084	3,831,833	3,617,020
(2) Sinking Fund			
500,000	500,000	500,000	500,000
(3) Redemption of Bonds			
4,375,000	4,400,000	5,000,000	4,550,000
(4) County Loan Repayments			
548,357	478,000	520,159	443,519
\$26,528,414	\$25,691,374	\$27,158,309	\$25,870,881

C. Other Highway Laws.

1. New Highway and Public Works Commission.

The 1937 Assembly made several important changes in the organization of the Highway and Public Works Commission. H. B. 249 provides that the Commission shall be composed of a Chairman and ten members. The Governor originally appoints the Chairman and three members for six years, three members for four years and three members for two years, with all successors being appointed for six years. Original terms begin May 1, 1937. The Chairman is to receive not over \$7,500 annually, and the Commissioners receive \$10 per diem and actual traveling expenses.

Commissioners are to be so selected as to render it possible to divide the State into ten divisions substantially equal on the bases of area, population and highway mileage. The new Commissioners, on or before July 1, 1937, are to designate the boundary lines in such manner as to have a Commissioner resident in each division. Each Commissioner must keep informed

as to the road needs in his division and, from time to time, present such needs to the full Commission; and each calendar month he must designate a time and place to hold a hearing at which the governing bodies of the counties in the division may present matters for his consideration. Division lines, once fixed, may be changed only by a two-thirds vote of the Commission and with the consent of the County Commissioners of the counties immediately affected by the change.

The new law also authorizes the Commission, on request, to allow County Commissioners to use county prisoners, on terms agreed upon, for the maintenance of neighborhood roads not part of the system under control of the State Commission, but no local taxes may be levied for these roads. Similar authority is granted with respect to the use of prisoners by Drainage Commissioners for the maintenance of drainage districts.

2. Gasoline and Oil Inspection.

A new law, H. B. 177, largely supersedes prior laws with respect to gasoline and oil inspection. It creates a Gasoline and Oil Inspection Division of the Revenue Department's Motor Vehicle Bureau, the Board to consist of the Commissioner of Revenue and three members appointed by the Governor. The Board will supervise inspection of and adoption of standards, by grades, for motor fuels and possible substitutes. The Commissioner may appoint inspectors, clerks and assistants as necessary.

Pump labels must show the grade of fuel sold, and unless sealed samples, taken at the time of delivery by the distributor, show the gasoline to be of an inferior quality, the retailer is responsible for the quality. Inspection samples taken by State Inspectors must, upon demand, be paid for at market price. All measuring devices, such as pumps, are likewise to be inspected. Numerous other provisions deal with special permits for those using motor fuels for exclusively industrial purposes, allow condemnation of defective measuring devices, allow seizure of vehicles illegally transporting fuels, and prescribe penalties for violations.

Of course, gasoline and oil inspection is not a new activity for the State; but the new law will permit greatly expanded inspection activities, and it may result in a much larger percentage of total inspection fees (which remain at $\frac{1}{4}$ c per gallon) being expended for inspection purposes.

Another law, H. B. 586, authorizes the Inspection Division, on request of the proper State authority, to analyze all fuels purchased by the State for any of its agencies. A third law dealing with gasoline, H. B. 180, authorizing a State-owned terminal, is mentioned under "Appropriations" (general fund); and two others, Chapter 108 and S. B. 359, dealing with petroleum pipe lines, are discussed under "Public Utilities."

3. Highway Patrol.

Under H. B. 1272 the Highway Patrol is to consist of a Major and such additional officers and men as the Commissioner of Revenue, with the approval of the Governor and Budget Commission, may direct (thus eliminating the prior limit of 121). The law also authorizes the Commissioner, with the approval of the Governor and Council of State, to do all things neces-

sary to comply with U. S. Senate Bill 106, making appropriations for the establishment and maintenance of state highway patrols.

4. Parkways.

Chapter 42 provides that 125 acres per mile of parkway is to be considered reasonable acquisition of rights-of-way for scenic parkways, this amount to include roadway proper and recreational and scenic areas on either side. It also ratifies the action of the Highway Commission in acquiring areas for the Blue Ridge Parkway. Further, it prohibits the cutting of timber from areas under consideration by the Federal Government for use as parkways, after notice of such fact by the Commission; but those so notified whose lands are not finally included in the area selected are given the right to compensation for the temporary restraint.

By H. B. 485 President Roosevelt was memorialized to make Federal funds available to continue the work on the Blue Ridge Parkway until Congress should make an appropriation for its completion, and the Governor and State Highway Commission were requested to put the intersecting highways in first class condition.

For laws dealing with parks, as distinguished from parkways, see "Appropriations" (general fund) and "Conservation and Development."

5. Motor Vehicle Code and Regulations.

House Bill 497 rewrites and consolidates most of the laws relating to the registration of motor vehicles, the issuance of titles, motor vehicle thefts and theft investigation, the powers and duties of the Motor Vehicle Bureau, and the regulation of the operation of motor vehicles upon the highways. The law is a lengthy one of 112 pages, and no attempt is made to summarize all its provisions. Provisions relating to the size and loads of vehicles, types of compulsory and permissive vehicular equipment, and the rules of the road remain practically unchanged. Windshield wipers are made compulsory, and the standards for brake equipment are specifically set out.

The Motor Vehicle Commissioner, inspectors and deputies designated by him and all members of the Highway Patrol are given the power of peace officers in enforcing the act; the power to serve warrants, and the power: to arrest without warrant for violations (committed in their presence) of all laws regulating the operation of motor vehicles and the use of highways; to inspect vehicles in garages and other public places where cars are held for repair or sale to the end that stolen vehicles may be discovered; to investigate traffic accidents and secure testimony of persons involved; and to investigate reported vehicle thefts.

The Commissioner is empowered to summons witnesses and take testimony under oath upon any matter relating to or under the jurisdiction of the department.

All city police officers, marshals, watchmen and all constables, sheriffs and other officers are specifically authorized and directed to arrest without a warrant within the limits of their jurisdiction any person known personally to the officer to have violated, or any per-

son accused under oath by a "credible" witness with having violated, any of the provisions of the act.

The State Highway Commission or local authorities are authorized to prohibit the operation of vehicles, or to impose restrictions as to weight of vehicles operated on any highway (under the jurisdiction of the Commission or local governing body imposing the restrictions), whenever rain, snow or other climatic condition will damage the road if unlimited use is allowed. The period of such restrictions must not exceed ninety days in one calendar year. H. B. 376 amends C. S. 3846(j) by providing that where there are two roads of approximately the same construction and distance between two points, the Highway Commission may designate one road as a heavy traffic road, and post designating signs. Operation of a vehicle with gross weight exceeding the designated amount is made a misdemeanor, except when the destination of the vehicle is located solely on the light traffic road. The Highway and Public Works Commission is given power under H. B. 249 to designate truck routes, and to acquire by eminent domain parcels of land to be exchanged for other land to be used for establishing and widening rights of way. The speed of trucks having a gross weight in excess of three tons per axle traveling over highways not designated as truck routes is limited to twenty miles per hour. Finally, H. B. 143 amends the hit-and-run drivers' law to change the punishment for failure to stop, in cases of damage to property only, by repealing the provisions for a scale of graduated maximum fines or terms of imprisonment as provided under the 1927 law and providing for punishment by fine or imprisonment in the discretion of the court.

House Bill 583, amending the "Bus Law," is discussed in the section on "Public Utilities."

D. Probation, Prisons and Correctional Institutions.

For several years the State has had a Pardon and Parole System. For some years the State has also provided for placing juvenile offenders on probation. But not until this year has the State set up the machinery for, or authorized the courts to use, a system of probation for adult offenders. The General Assembly under H. B. 301 authorizes the judge of any court of record to suspend sentence or put the defendant on probation for not more than five years, except in capital and life imprisonment cases. The Governor is directed to appoint a Probation Commission of five members who may be persons holding other state offices. The Commission will appoint (subject to the approval of the Governor) a full-time Director, who is authorized to appoint probation officers. The Commission is directed to cooperate with the Commissioner of Paroles, county welfare officers, the State Board of Charities and Public Welfare and other agencies. County Commissioners are directed to furnish probation officers with suitable office space. The budget of the Probation Commission must be approved by the State Highway and Public Works Commission and the Director of the Budget before funds will be made available. All salaries and expenses are to be paid by the State Highway and Pub-

lic Works Commission. Among the conditions which the court may impose respecting probation are that the probationer shall: (1) avoid injurious or vicious habits; (2) avoid persons or places of disreputable or harmful character; (3) report to the probation officer as directed; (4) permit the probation officer to visit at his home or elsewhere; (5) work faithfully at suitable employment as far as possible; (6) remain within a specified area; (7) pay a fine in one or several sums as directed by the court; (8) make reparation or restitution to the aggrieved party for the damage or loss caused by his offense, in an amount to be determined by the court; (9) support his dependents. Other sections enumerate provisions for re-arrest on violation of the conditions of probation, the termination of probation, and make provision for keeping records and information received by probation officers confidential.

Only one bill deals directly and only with the State Prison. H. B. 185 repeals all mandatory provisions as to use of felon's stripes, and allows the prison authorities of the State Highway and Public Works Commission discretion in the use of stripes for disciplinary purposes.

Section 7194 of the Consolidated Statutes, which provides for the examination and treatment for venereal diseases, and if necessary the isolation, of all persons confined in any State, county or city prison, is amended by S. B. 245 to provide that no infected person shall be freed until he is treated, or gives a bond satisfactory to the Clerk of Court conditioned on taking treatment satisfactory to the County Health Officer.

Several laws affect various correctional institutions. Two laws deal with escapes: (1) H. B. 548 amends Chapter 307, Public Laws of 1935, which makes it a misdemeanor to aid in the escape of inmates who have been committed to a State institution by the court, so as to include any inmates admitted under a suspended sentence. (2) S. B. 301, applicable to the Caswell Training School, prohibits advising or soliciting of escape or transportation of inmates, engaging in or soliciting for prostitution of inmates, or receiving inmates for that purpose, and concealing or furnishing clothing to help conceal the identity of an escaped inmate. S. B. 308 authorizes the superintendent of the Caswell Training School to pay not more than \$1,000.00 annually for student self-help. H. B. 550 allows the admission at the Eastern Carolina Training School of boys under twenty, instead of eighteen. S. B. 349 prohibits the admission of epileptics, insane women, and those markedly psychopathic to the Industrial Farm Colony for Women.

Two laws affect the Eastern Carolina Training School for Boys, the Stonewall Jackson Training School, the Morrison Training School, and the State Home and Industrial School for Girls. H. B. 547 authorizes the superintendent of an institution, under rules adopted by the Trustees or Managers, to grant to inmates conditional releases, terminable upon written revocations which would authorize any peace officer to apprehend a released inmate and return him to the institution. Superintendents may, under rules of the

Trustees, issue final releases at any time, but they must be issued before an inmate becomes twenty-one years of age. H. B. 1155 provides that persons who have forfeited citizenship on conviction of crime and have



SENATOR JAMES A.
BELL

Chairman of the Senate Appropriations Committee, which had the responsibility for handling the largest appropriation bill in the State's history. (Twentieth District; home, Charlotte.)

remained in one of the these institutions as a condition of a suspended sentence, may at any time after one year from the time of lawful discharge from the institution, petition a judge presiding at a term of superior court in the county where the crime was committed. The petition must show that the costs of the case have been paid, and must be accompanied by the affidavits of ten reputable citizens of the county recommending the restoration of citizenship. The judge must hear the petition during a term of court, and, if satisfied of the truth of the matter alleged in it, shall decree the restoration of citizenship, and the clerk must spread the decree upon his minute dockets. H. B. 549 changes the name of "The State Training School for Negro Boys" to "The Morrison Training School." H. B. 551 changes the name of the "State Home and Industrial School for Girls and Women" by omitting the words "and Women," and the reference to women as among those who may be admitted to the institution is omitted.

IV. Education

A. Public Schools.

1. School Machinery Act.

The greater part of the School Machinery Act of 1937 (H. B. 406) remains unchanged from that of 1935. However, some of the changes made are significant and justify mentioning. The much talked of changes in the State School Commission did not materialize, but by way of compromise an executive committee was created consisting of the Lieutenant Governor, the State Superintendent of Public Instruction, the State Treasurer and two members of the Commission selected by the Commission. The executive committee is designated as an agency for consultation and advice as to questions arising between meetings of the Commission and for effectuating a closer unity between the different agencies dealing with public schools. The Secretary is required to keep a record of the proceed-

ings of any meetings of the executive committee in the same manner as proceedings of the full Commission are recorded.

The new Act provides that meetings of the County Boards of Education for the purpose of electing county superintendents be held in April instead of May as heretofore. The method of selection of teachers is changed to provide that principals of the districts are required to nominate and the district committees to elect teachers subject, as heretofore, to the approval of the county superintendent and County Board of Education. In the event the local school authorities are unable to agree upon the nomination and election of teachers the matter shall be appealed to the State Superintendent of Public Instruction who is authorized to certify to the county superintendent the name of the person to be employed. The new Act also provides that all principals and teachers desiring election or re-election shall file written application with the county superintendent or the head of an administrative unit and such officials are to notify applicants of election or rejection within a period of thirty days. No specific time is designated in the Act as to when such applications shall be filed. Further, all principals and teachers are required to enter into written contracts, upon forms furnished by the State Superintendent, before they are eligible for compensation from State funds. The duty of causing such contracts to be executed is placed upon the County Board of Education in the case of a county unit and in the case of a city administrative unit, upon the governing body of such unit.

Several changes are made in school fiscal matters. (1) Local supplements are specifically confined to administrative units having a school population of 1,000 or more. (2) Local taxing authorities are not only empowered but are directed to make provision in the capital outlay budget for the purchase of busses necessary to relieve overcrowding and to transport children not transported in 1936-37. (3) The section dealing with the allocation of county-wide school funds between county and city administrative units has been rewritten to provide that: (a) county-wide current expense funds shall be allocated upon a per capita enrollment basis; (b) county-wide capital outlay funds shall be allocated upon the basis of budgets submitted to and approved by the County Commissioners, with the provision that any funds derived from payments on insurance losses shall be used in the replacement of the property destroyed and if such property is not replaced such funds are to be used to reduce the indebtedness of the administrative unit or to purchase other capital outlay items; (c) county-wide debt service funds shall be allocated upon the basis of per capita enrollment during the preceding year, but payments to any unit shall not exceed actual debt service needs of the unit, including sinking fund requirements. (4) Audits of school funds are to be under the supervision of the State Commission in cooperation with the State Auditor rather than with the Local Government Commission as heretofore. (5) The provision allowing any special charter district with a school population of 1,000 or more during 1934-35 to be designated and dealt with as a city administrative unit is eliminated. And (6)

"health" is designated as an item under "Auxiliary Agencies" for which State funds may be spent.

The new Act provides that children to be eligible for enrollment in 1937-38 and thereafter must be six years of age on or before October first of the year in which they enroll and must enroll during the first month of the school year. This provision apparently settles the question, for two years at least, of when a child may enter our public schools.

Further changes in the school law are: (1) the elimination of the provision allowing school busses to be used to transport children to commencement exercises; (2) a new provision authorizing the State Commission and County Boards of Education to promulgate rules by which school buildings may be used for other purposes; (3) a new provision that the State Commission shall cooperate with the district principals and committees in designating bus routes and that all such routes shall be subject to the approval of the County Board of Education, and, when not approved, an appeal and hearing may be had before the State executive committee; (4) a provision that high schools with less than 60 average daily attendance and elementary schools with less than 25 average daily attendance shall be established only after a careful survey by the State Superintendent and State School Commission reveals that geographic or other conditions make it impracticable to provide for them otherwise; and (5) the elimination of the provision allowing the State Commission to establish city administrative units in districts having a resort town when such district has a school population of 850 or more.

2. Textbooks.

Certainly one of the most important school measures enacted by the 1937 Assembly was H. B. 48 which provides for free basal textbooks in the elementary schools. The law creates a State Textbook Commission composed of the State Superintendent of Public Instruction as ex-officio chairman, the Attorney General, the Director of the Division of Purchase and Contract, and two members appointed by the Governor for terms of two years. The new Commission succeeds to all the powers of the State Textbook Purchase and Rental Commission created in 1935, and all basal elementary textbooks now in the hands of the latter Commission are to become a part of the stock of books needed to carry out the provisions of the new law. The Commission is empowered to: (1) acquire adopted textbooks by contract or purchase, and provide a system of distribution in the public schools during the school year 1937-38; (2) provide for the free use of elementary basal textbooks in the elementary grades (grades from one to seven, inclusive); (3) provide books for high school children on a rental basis as now provided by law, and, if sufficient funds are available and the Commission finds it advisable, to furnish free basal high school books; (4) provide supplementary readers for the elementary grades on a rental basis; (5) provide for the keeping of records concerning the use and state of repair of books.

The County Boards of Education in county units and the governing boards of city units are to be legal custodians of all books furnished by the State, either for

free use or on a rental basis, and these local authorities are required to provide adequate storage facilities for the proper care of books. The superintendent in each administrative unit is to act as ex-officio agent of the Commission in carrying out the system and seeing that all books and moneys are properly accounted for to the Commission.

The law authorizes the issuance of \$1,500,000 in State bonds to inaugurate the system. Presumably, replacements, additions and repairs will be taken care of out of biennial revenue appropriations in the future.

3. School Transportation.

There were two laws, in addition to the School Machinery Act, relative to the transportation facilities of the public school system. The first, S. B. 7, started out to set up age and other qualifications of school bus drivers and to provide that busses be equipped with safety glass and governors limiting their maximum speed. This law ended by providing that each school bus driver be fully trained in the operation of motor vehicles and shall furnish to the county superintendent of schools a certificate stating that he has been examined by a member of the Highway Patrol and found fit and competent to operate or drive a school bus over the public roads of the State. The law further provides a penalty of not more than \$50 or 30 days for operating a school bus loaded with children over the public roads of the State at a speed greater than thirty-five miles per hour. The second, Chapter 2, previously mentioned under "Appropriations," makes immediately available \$600,000 of next year's school appropriation for the purpose of purchasing school bus replacements. The announced purpose of this law was to remedy the situations arising during the winter when schools were closed in some localities because of the collapse of transportation equipment. However, in spite of the quick action by the legislature, few if any of the replacements will be available for the current school year.

Another law which may be mentioned here is S. B. 289, which amends the Boys Road Patrol Law by eliminating the restriction that patrols be organized only in rural schools. This law also authorizes the patrol to study safety rules and methods to the end of removing hazards from the highways.

4. School Fiscal Matters.

Aside from the School Machinery Act and the Appropriations Act which have been previously mentioned, there are two other laws which directly or indirectly deal with school fiscal affairs. (1) Chapter 117 amends Chapter 494, Public Laws, 1933, which provides for the public sale of school property no longer necessary for school purposes, by authorizing the County Board of Education to reject the public bid and sell property at private sale in cases where the Board finds the public bid inadequate. The private sale price must be in excess of the public bid. (2) H. B. 663 provides that in special charter districts, as defined by subsection 3 of section 3 of Chapter 136, Public Laws, 1923, the building of new schools and the repairing of old schools shall be under the control and direction of and by contract with the Board of Education or the Board

of Trustees having jurisdiction over the special charter district. This law further provides that full payment for the erection of a new building in a special charter district shall not be made until the building has been inspected and approved by the superintendent of schools in the district. Heretofore construction and repairing was under the control of the County Board of Education and the inspecting and approving of new buildings was a duty of the county superintendent.

5. Teachers' Pensions.

No proposal introduced in the 1937 Assembly was more completely emasculated than H. B. 479. As introduced it was a 40 page bill designed to provide for retirement of teachers in the public schools and educational institutions of the State under a system similar to that of New York State providing for joint contributions to the fund, the State underwriting accrued liability on an actuarial basis and setting up a rather complex structure involving previous service credits, payments upon leaving the employment of the State before retirement age, etc. As finally passed it was a single page affair empowering and directing the Governor to appoint a commission of five members to study plans in other states and report its recommendations at least 30 days before the convening of the 1939 Assembly. An appropriation of \$1,500 is provided for this job.

6. Other School Laws.

Another important school measure is H. B. 282 which authorizes the State Board of Education to provide rules and regulations for establishing and conducting schools to teach adults as a part of the public school system of the State. The law appropriates \$50,000 annually to carry out the program under the supervision of the State Superintendent of Public Instruction.

The usual County Board of Education omnibus bill (H. B. 846) appoints and fixes the terms of members of the Boards of Education in the various counties of the State.

The 1937 Assembly provided for three commissions to make studies relative to the public school system. (1) H. B. 1129 directs the Governor to appoint a commission to make a thorough investigation of the State's

school system and school laws and report its findings and recommendations to the 1939 Assembly. (2) H. B. 1172 provides for a commission to study ways and means of providing more suitable instruction for exceptional children. (3) H. B. 297 provides for a commission to study the State's educational program for the colored.

Two other laws relate to schools. S. B. 48 provides for the observance of the 100th anniversary of the passage of the 1837 act relating to common schools, including a pageant portraying the State's educational progress; and H. B. 921 makes April 23, 1937, a State holiday for public schools so as to permit teachers and students to attend.

B. State Educational Institutions.

In addition to the appropriation laws already mentioned, another law relating to the State's higher educational institutions is S. B. 133 which provides free tuition for World War orphans in State educational institutions. Free tuition, limited to four years, is authorized for children who have resided in the State for two years, and whose fathers died or were killed between April 6, 1917, and July 2, 1921, while members of the armed forces of the United States. Those securing certificates of financial need from the Commander of the local American Legion Post and Clerk of Superior Court will also be entitled to free board and room in State-operated dormitories and eating halls. The institutions will be permitted to certify the charges to the Director of the Budget for checking and submission to the Council of State for payment out of the contingency and emergency fund.

There are three other laws relating to educational institutions. (1) S. B. 195 provides for a commission to study the possibility of establishing a State 4-year medical school. (2) H. B. 420 declares that trustees of the University and other State institutions are commissioners of public charities so as to be excepted from the constitutional prohibition against double office holding. (3) H. B. 320 authorizes the Executive Committee of the University Trustees to surrender the University's interest under the will of the late Judge William Preston Bynum to the widow of the deceased.

C. Private Schools and Educational Institutions.

Senate Bill 179 provides for the furnishing of copies of the various State laws, journals, reports and publications to Duke University library. H. B. 408 authorizes the furnishing of past and future issues of the Supreme Court Reports, if available, to Davidson and Catawba Colleges.

Important changes in the law governing the operation of commercial colleges and business schools are made by H. B. 488. Individuals and operators of correspondence schools teaching any of the subjects named in the act to more than five students are brought under the provisions of the law. The number of school owners and operators whom the Governor is to appoint to the State Board of Commercial Education is increased to two, and the State Superintendent of Public Instruction, as a member, is given voting power. Applications



REP. VICTOR S. BRYANT
Chairman of the House Finance Committee, on which fell the responsibility of devising a system to raise the revenue and balance the State's largest budget. (Durham County; home, Durham.)

for permits to operate such schools are to be made to the State Board rather than the county superintendent; the requirements of a \$1,000 bond is made to apply to each branch; and a new requirement is added providing for licensing persons soliciting students.

V. Alcoholic Beverages

The new liquor laws, H. B. 55 (as amended by H. B. 504, H. B. 997 and S. B. 325) and S. B. 286, permitting local option elections as to setting up county liquor stores, provide that county election must be called in any county by the County Board of Elections on petition of the County Commissioners or upon a petition signed by voters equal in number to 15% of those voting in the last election for Governor. In calling a special liquor election, the Board of Elections must give twenty days public notice prior to the opening of the registration books, and the registration books must remain open for the same period of time, prior to the liquor election, as is required for them to remain open for a regular election (a 15-day period). New registration is not necessary for a voter already regularly registered. County elections may not be held oftener than once every three years. Counties that now have liquor stores may continue without an election.

Supervision and control of the administration of the liquor laws is exercised through a State Board of Alcoholic Control, appointed by the Governor, and County Boards of Alcoholic Control, elected jointly by the County Boards of Commissioners, Health and Education. The State and County Boards are to have three members each, with the Chairman appointed for three years, one original member for one year, one original member for two years, and their successors for three years.

The State Board is empowered: to see that all laws relating to the sale and control of liquor are observed; to examine and audit, or cause to be audited, all accounts and records of local stores; to approve retail prices; to remove members of County Boards of Alcoholic Control or their employees for cause; to set up a testing laboratory to make tests and analyses of beverages, or (S. B. 325) with the approval of the Governor and the Commissioner of Agriculture to arrange for the State Chemist to make tests and analyses; to supervise local purchases; to approve or disapprove regulations made by County Boards; to require not less than 5% nor more than 10% of net profits be used for law enforcement purposes; to approve or disapprove the opening of local stores, except that each wet county shall be entitled to at least one store; to require persons or corporations selling to local stores to obtain a permit; and to permit the establishment of a warehouse for storage.

County Boards of Alcoholic Control, subject to the powers of the State Board, are given control and jurisdiction over the sale and distribution of alcoholic beverages within the county, and have the power: to buy and sell alcoholic beverages; to adopt rules and regulations governing the operation of stores within the county; to regulate the duties and services of all employees; to fix business hours within the limits of 9 A. M. and 9 P. M.; to fix days stores shall be closed

SENATOR ERNEST V. WEBB

Chairman of the Senate Finance Committee, whose task it was to find the revenue with which to meet the State's largest appropriation bill. (Seventh District; home, Kingston.)



other than those fixed by law, which are Sundays, election days, New Year's, Fourth of July, Labor Day, Armistice Day, Thanksgiving and Christmas; to purchase or lease property and furnish buildings required for the sale and storage of beverages; to locate stores, giving due consideration to results of voting in particular communities; to appoint employees and store managers; to expend enforcement funds; to borrow money; and to make rules and regulations concerning sales and persons to whom sales may be made.

The advertising of liquor by county stores, or by any person through bill boards or through radio broadcasts originating in North Carolina, is prohibited (H. B. 55, S. B. 286), and County Boards may promulgate additional regulations.

Any resident of the State may purchase outside of and bring into the State for his own private use a maximum of one gallon of liquor. Persons in dry counties may also purchase liquor at county stores in wet counties and transport it to a dry county for private consumption in amounts not exceeding one gallon, providing the seal remains unbroken while the liquor is being transported. The Turlington Act, as modified by the provisions of the new laws, remains in force where counties do not vote for liquor stores, and, as so modified, it will be revived in counties abandoning liquor stores after having once had them.

With the liberalization of the laws affecting the sale of liquor, the legislature also provided that it should be unlawful to display intoxicating beverages or to be intoxicated at athletic contests or other public places, and violation of this provision is made punishable by a fine of not more than \$50 or imprisonment for not more than 30 days.

The State is to receive 7% of the gross sales as provided in the Revenue Act. All net profits go to the county, except where 1935 or 1937 local laws, of which there are a number, allow cities to share in the liquor profits.

Senate Bills 365 and 429 permit the manufacture, transportation and sale of wines as defined in the Revenue Act, which, as amended by H. B. 838, legalizes wines containing a maximum of 24% alcohol by volume. Any beverage containing more than 24% can be

sold only by County ABC stores. The wines are divided into "fortified" and "unfortified" wines.

Dealers in beer and wines must comply with substantially the same procedure prescribed under previous laws for securing beer licenses, except that "on premises" licenses to sell wines containing more than 5% alcohol may be granted only to bona fide hotels, cafeterias and restaurants which have been given a Grade A rating by the State Department of Health. License provisions and definitions are set forth in detail in the Revenue Act, as amended, pamphlet copies of which are now available.

Common carriers, and persons transporting wines over the public highways of the State, must keep records of shipments of wines, and must make such reports as may be required by the Commissioner of Revenue. Persons intending to transport wines over the public highways must first secure a certificate from the Commissioner of Revenue, which is issued without charge. While a person is engaged in transporting beers and wines over the highways, he must have in his possession a bill of sales, invoice or other record showing the character and quantity of the shipment, the name and address of the person or firm from whom received and for whom intended. Any person may transport wine for his own use without restriction or regulation. Finally, S. B. 429 and S. B. 365 change the 1935 laws, which restricted the sale of light wines containing more than 5% alcohol to those of domestic manufacture, by permitting the importation, transportation and sale of wines manufactured outside of this State.

VI. Laws Affecting County and City Government

In addition to the acts affecting local governmental units taken up in the following section, a great number of other acts which affect State as well as local functions and agencies and which are taken up under the topical classifications in which they fall, are of direct concern and importance to local officials. The provisions in the Social Security laws for county levies and co-operation, the Revenue Act provisions relating to State and local-sharing of the intangibles tax, the provisions for local hearings and representation under the new Highway Commission organization, and the new Highway Code are only a few examples of such acts. Others will be of chief interest to particular officials, such as the changes in the School Machinery Act to school officials, the State Bureau of Identification Act to law enforcing officers, and the new laws relating to courts and public recording to Clerks of Court and Registers of Deeds. Local officials are urged for this reason not to confine their study of this summary to this section, but to go over the complete summary and pick out every topic and act affecting their offices and duties. Each topical section will be found, almost without exception, to contain acts which directly and importantly affect local units and officials, and only by going through the whole can the official be certain that he is apprised of all new acts which concern him. In this way also he will find many laws of interest to him, even though they do not directly affect him.

A. Laws Affecting Tax Matters.

1. Listing and Assessing.

The biennial Tax Machinery Act (H. B. 345) was not passed until very late in the session. Consequently, it was necessary to rush through S. B. 221, which authorized appointment of Supervisors and list takers in March, and the beginning of listing and assessing in April, 1937. These provisions are consistent with the provisions of the new Machinery Act.

The new Act is completely revised and re-arranged, and space limits here do not permit mention of all changes effected. Among the more important changes are: (1) County Commissioners are given power to defer the quadrennial assessment of realty to 1938, in their discretion; (2) Commissioners are given power, in their discretion, to conduct the revaluation of realty by using actual appraisals in some townships and horizontal changes in others; (3) in years when no complete revaluation is had, County Boards of Equalization and Review are given power to adjust valuations of specific parcels which are obviously unjust by comparison to assessments on other similar property in the county; (4) the compensation of Supervisors and list takers and assessors is left entirely within the discretion of County Commissioners; (5) the power of the Supervisor to require statements of assets and liabilities to be submitted with abstracts by corporations and business firms is clarified, but it is made unlawful to divulge information so obtained except as necessary for tax purposes; (6) in revaluation years in which the horizontal method is used, less than three list takers and assessors per township may be appointed, and even if actual appraisals are made, authorities may, in their discretion, appoint only one list taker and assessor per township if at least two county-wide assessors are appointed; (7) exemptions for religious, charitable, educational and benevolent institutions are placed largely on the same basis, eliminating some previous minor differences, and foreign institutions of this character are given the same exemptions as similar domestic institutions if their property or the income therefrom is used exclusively for exempt purposes in this State; (8) the existence of repurchase agreements in connection with tax-exempt bonds purchased by taxpayers is made prima facie evidence that the purchase is made to evade taxation; (9) taxes owed by the taxpayer, debts incurred to purchase nontaxable assets, reserves and contingent liabilities, and certain debts owed by corporations to other corporations with which they are affiliated are not deductible from the tax value of solvent credits; (10) owners of separate timber or other rights in land, and owners of improvements on leased land, are not allowed to list the land itself, and taxes on such rights and improvements are made a lien on the land; (11) the requirement that Supervisor and list takers have a joint post-listing meeting to review valuations is eliminated, though the Supervisor is still required to examine the abstracts turned in by each list taker and see that the law has been complied with before authorizing payment; (12) the tax record provisions are revised to allow more flexibility, subject to the approval of the State Board of Assessment; (13) it is made clear that assessments of discovered property, if not

made by agreement with the taxpayer, are to be made by the Board of Equalization and Review unless it has adjourned, in which case such assessments are to be made by the Commissioners; (14) after adjournment of the Board of Equalization, County Commissioners are permitted to change valuations if the Supervisor reports that, since such adjournment, facts (existing prior to April 1) have come to his attention which render such a change advisable; (15) a penalty of 10%, which applies to polls as well as property, may be charged for failure to list for the current year, the minimum penalty is reduced from \$2 to \$1, and provisions with respect to listing property for previous years are clarified; (16) discovered property and property carried forward may be listed by the list takers, Supervisor or his clerical assistants, as the Supervisor may designate; (17) appeals with respect to discovered property are to go to the State Board of Assessment; (18) failure to list poll is made a misdemeanor; (19) cities and towns are given express power to secure their tax lists from the county lists, without securing separate abstracts; (20) the tax lien is made to attach on April 1 instead of July 1; (21) any county may, in the discretion of its Commissioners, adopt a permanent listing system for realty; and (22) the State Board of Assessment is authorized to make available to local tax authorities helpful information contained in reports made to the State (such information not to be divulged except as necessary for tax purposes).

Several other provisions of the Machinery Act affecting tax collection will subsequently be mentioned. All provisions of the Act dealing with intangible property are made subordinate to Schedule H of the Revenue Act, which means that such property will not be locally listed after 1937. For discussion of the intangible taxes and their distribution between State and local units, see "Revenue" under "State Government."

The only other laws dealing directly with tax listing and assessing were H. B. 90 and Chapter 15. The latter, effective with April 1, 1936, allows adjustments to be made in tax valuations when property is damaged, between April 1 and June 30, by a tornado or wind storm. While Statewide in application, this law was designed primarily to take care of the April, 1936, tornado which struck Greensboro. H. B. 90, covering the period from May 1, 1927 through May 11, 1935, validates all listing of realty where the property was carried forward at a correct valuation by the Supervisor, list taker or assessor. From it 38 counties are excepted.

Of more importance in connection with local listing, assessing and tax valuation than in any other field will be the activities of the commission of seven, to be appointed by the Governor, authorized by H. B. 115. This commission will, when appointed, be charged with the duty of studying and making recommendations with respect to classification of property and homestead exemptions under the recent constitutional amendments. It is to consider laws of this and other states, statistical data which may be available, potential revenues, incidence of taxes and economic effects thereof, the proper division between the State and local units of revenues derived from a classified property tax, and other related matters.

2. Levy and Collections.

Other than the Social Security laws and the intangible tax discussed elsewhere, only one Statewide law directly deals with the amount of ad valorem taxes which may be levied. S. B. 260 authorizes counties maintaining tuberculosis hospitals to levy a maximum rate of 8c on each \$100, instead of 5c, for such purpose.

The Revenue Act (Chapter 127), as amended by H. B. 838, authorizes new county and city license taxes on wine retailers, incorporates such taxes on beer retailers and makes some changes in permissible local license taxes under Schedule B. No changes under Schedule C seriously affect local taxes, nor were the powers of the local units to levy license taxes under Schedule B materially increased. The details of these matters will not be given here, as the Revenue Act, with the amendments, is available in pamphlet form and can be obtained from the Department of Revenue or the Secretary of State. S. B. 73, discussed under "Criminal Law," prohibits license taxes on illegal slot machines.

There were few tax collection laws of Statewide importance. The Machinery Act (H. B. 345), in addition to making April 1 the lien date, requires, after 1937, that tax books be turned over to the Sheriff or collector on the first Monday in September instead of October; and it also provides that, in addition to the penalty of 4% accruing on May 2, penalties at the rate of $\frac{1}{2}$ of 1% per month shall be charged beginning with June 2. On taxes eventually incorporated in tax sale certificates, this penalty ceases to accrue at the date of the certificate, when the certificate interest begins. On taxes never included in a certificate, this additional penalty accrues indefinitely.

No new foreclosure law was forthcoming, and the only Statewide laws dealing with sales and foreclosure were: (1) Chapter 114, postponing advertisement of 1936 and 1937 taxes from May to August, sales of certificates from June to September, and settlements from July to October (not applicable to counties and cities excepted from Chapter 560, Public Laws of 1933); and (2) H. B. 91, validating tax foreclosure sales (if not involved in pending litigation) as to publication of notice, when the sale was advertised 4 successive weeks and any re-sale was advertised 2 successive weeks, if such publication was completed within 10 days of the sale. From this latter law 31 counties were excepted.

3. Special Assessments.

Only one Statewide law (H. B. 210) deals with special assessments. It extends to July 1, 1938, the time within which action may be taken by city governing authorities under Chapter 126, Public Laws of 1935. The effect of this is to allow, until the date mentioned, extension of the due date of unpaid special assessments by arranging the unpaid amount, with accrued interest, into a new series of 10 annual interest-bearing instalments, provided there is no discrimination between properties on the same assessment roll.

B. Laws Affecting Other Fiscal Matters.

There were very few Statewide laws enacted affecting the fiscal affairs of local governmental units. No amendments were made to the Local Government,

REP. D. L. WARD
*Chairman of the
 House Appropriation
 Committee which
 represented the House
 in framing the State's
 largest appropriation
 bill to date. (Craven
 County; home, New
 Bern.)*



County Fiscal Control, County Finance and Municipal Finance acts to bring their provisions into conformity with the recently adopted constitutional amendment limiting local governmental debts.

In addition to laws mentioned in this summary under "Revenue," "Highways," "Social Security" and "Alcoholic Beverages" which have some bearing on local fiscal affairs, there are 10 other laws which may be of particular interest to local finance officials. Three of these affect both counties and cities. (1) H. B. 463, commonly known as the PWA Bond Validating Act, started out to validate all bonds already issued, and bonds to be issued if proceedings had previously been started, in connection with PWA projects. The law was amended so as to validate only those bonds already sold at date of ratification (March 23) to the United States Government and its agencies or which were sold with the approval of the Local Government Commission. The law contains a specific clause providing that it shall not affect pending litigation. (2) Chapter 80 amends section 4 of Chapter 186, Public Laws, 1931, which sets up the procedure by which the issuance of bonds or notes of a unit may be validated by court action, by allowing intervention in such action within 20 days from date of last publication rather than 20 days after full publication. Apparently, there was some question as to just what constituted full publication. The amendment is effective as to all future proceedings as well as to proceedings heretofore instituted in which a decree has not been rendered. (3) H. B. 692 amends Chapter 400, Public Laws, 1933, which requires a cash deposit or certified check to accompany bids for certain construction, repair work, apparatus, supplies, etc., for the State or subdivisions, so as to prohibit the consideration of any proposal that is not accompanied by the deposit or check specified by law.

One other law, S. B. 320, dealing with FHA mortgages and bonds as investments and security, is taken up under "Building and Loan Associations and Banks."

Four laws affect county fiscal matters. (1) Chapter 82 authorizes the investing of State sinking funds in county highway contracts, which are loans made by counties to the State for highway construction, and provides that the purchase price must first be applied to obligations of the payee county due State Literary

and Revolving Funds and the balance to county debt service. (2) The new State Highway and Public Works Commission, under the provisions of H. B. 778, is authorized to examine the claims filed with the Commission on the Adjustment of Highway Claims appointed under Chapter 206, Public Laws of 1935, and to take other evidence and determine which claims are meritorious, the amounts which should be refunded, and the methods of making payments. The findings of the Highway Commission are final, but no final settlement may be made without the approval of the Governor and the Council of State. (3) The State Board of Education, under the provisions of H. B. 541, is authorized to accept full payment, before maturity, of amounts due the State under the Special Building Funds of 1921, 1923, 1925 and 1927. Such payments are to be reloaned to other counties at the same interest rate and for the same period of time that the loans would have run had they not been paid before maturity. (4) The remaining law which may have some effect upon county fiscal matters is H. B. 1215 which authorizes and empowers county commissioners to pay premiums on the bonds of those county officers required to give bond for the faithful performance of their duties when such officers are paid a fixed salary. One other law, S. B. 231, dealing with county payments to lawyers defending paupers, is discussed under "Lawyers."

There are three laws which may be of interest to municipal finance officials. (1) Chapter 126 amends Chapter 450, Public Laws, 1935, which authorizes the County Commissioners of a county in which a school district is located to issue funding and refunding bonds in the name of the school district. The amendment authorizes municipal authorities in cases where the boundaries of a school district are coterminous with the municipality to issue funding and refunding bonds in the name of the district. Such bonds are to be issued under the provisions of the Local Government Act and the Municipal Finance Act except that the provisions contained in Sections 2938 and 2943 of the Municipal Finance Act requiring the filing of a debt statement shall not apply. (2) Effective May 1, 1937, H. B. 1005 provides that a municipality which purchases electric current from a private utility and resells it to another municipality, over the latter's lines, cannot charge the purchasing municipality more than 10% above the cost of the current. (3) Continuing the policy inaugurated in 1935, the Appropriation Act (Chapter 99), continues the annual appropriation of \$500,000 for the maintenance of city streets and highways.

C. Other Laws.

Other laws affecting counties and cities and their officials, not dealt with elsewhere, include: (1) S. B. 450, providing for a Commission of five, appointed by the Governor, to study and report to the next legislature upon the advisability of further amending the State Constitution so as to relieve the Assembly of the necessity of enacting special, public-local and private laws; (2) H. B. 134, applying to State and local officials, making it a misdemeanor for an official to demand or receive, directly or indirectly, for himself or another, any part of the compensation of any of his subordinates as the price of appointment or retention

of such subordinate (not applying to cases in which an official receives an allowance for his office out of which he is allowed to compensate himself and his subordinates as he sees fit): (3) H. B. 1218, which permits any county, city or town to which property has been conveyed without consideration to be used for a specific purpose, upon determining that such property will not be so used and upon publication of notice of reconveyance, to re-convey the property to the grantor, his heirs, assigns or nominees; (4) Chapter 57, which allows County Commissioners, in their discretion, to provide for electrical inspection and appoint an inspection official (who may also be a city or town inspector or inspector for another county) to inspect wiring and installations in buildings in rural areas and towns of less than 1,000 population, and to provide for inspection certificates and fees; (5) S. B. 321, which permits municipalities to become parties to and to file petitions for investigations and determinations by the Utilities Commission of matters affecting rates for transportation of property by railroads to and from such municipalities; (6) H. B. 1311 (amending H. B. 43), which fixes the time for voting in municipal and local elections at 7 A. M. to 7 P. M., provided no polls remain open after sunset; (7) H. B. 728, which excepts suits based on bonds, notes and interest coupons from the two-year statute of limitations, provided by C. S. 442, for claims against counties, cities and towns.

Local officials are again cautioned to read the entire summary in order to find *all* bills of interest and importance to them.

VII. Constitutional Amendments

Only two laws were passed submitting amendments to the State Constitution. S. B. 131 provides for submission at the 1938 general election of an amendment to Art. IV, sec. 24. This amendment, if adopted, would increase the terms of Sheriffs and Coroners from two years to four years, but would continue the provision for two year terms of Township Constables.

House Bill 1045 provides for submission to vote at the next general election of an amendment to Art. III. This amendment, if adopted, would add a new section, section 18, which would empower the General Assembly to create a Department of Justice under the supervision and direction of the Attorney General and would also empower the General Assembly "to enact suitable laws defining the authority of the Attorney General, and other officers and agencies concerning the prosecution of crime and the administration of the criminal laws of the State." (The legislature also, by H. B. 520, created a Commission to study the advisability of having a State Department of Justice.)

VIII. Conservation and Development

Numerous laws affecting conservation and development are discussed elsewhere. These include: S. B. 158, appropriating \$250,000 for advertising the State, and H. B. 471, appropriating up to \$30,000 for completion of Morrow Mountain State Park, discussed under "Appropriations" (general fund); S. B. 343, the Soil Conservation Act, discussed under "Agriculture";

measures affecting parkways, discussed under "Parkways," and others.

Laws affecting parks not dealt with elsewhere are: (1) S. B. 447, which authorizes the Federal Government to acquire certain additional lands as part of the Great Smoky Mountains National Park, such acquisitions to be subject to the same reservation of concurrent jurisdiction of State and Federal Governments, in the matter of police protection, as applies to the original acquisitions for the Park; and (2) H. B. 1282, which authorizes the State Department of Conservation and Development to acquire Smith's Island at the mouth of the Cape Fear River, with the approval of its Board and the Council of State, out of fees, regular appropriations or donations, but makes no specific appropriation for the purpose.

The Department is authorized, by S. B. 236, to acquire, by purchase or eminent domain proceedings, land to be used for U. S. projects for reforestation, soil erosion control or recreational centers. Such lands may be leased, sold or given to the U. S. Government, but the State would retain concurrent jurisdiction. Particular mention is made of land near Jones and Singletary lakes in Bladen County. The act appropriates \$10,000.

Game laws were scarce, and only two general laws affect fishing and hunting: (1) H. B. 581, which makes the possession of any firearm equipped with a silencer, while hunting, punishable by a fine of not less than \$100 or imprisonment for not less than 60 days, or both; and (2) H. B. 491, which repeals that part of C. S. 1965 (a) which allowed the Fisheries Commissioner, in cases of violation of the prohibition against fishing with nets by non-residents, to compromise instead of condemning and selling the captured boat. This new law also fixes penalties for violation of the prohibition at a fine of \$500 to \$1,000 or sentence of 6 to 12 months, or both, for the first offense, and at \$1,000 to \$2,000 or 1 to 2 years, or both, for subsequent offenses. Finally, it provides that any boat found with nets and fresh fish aboard within the 3-mile limit shall be *prima facie* guilty of a violation.

To bolster enforcement of the fishing laws, H. B. 717 appropriates up to \$25,000 to the Division of Commercial Fisheries to purchase and operate a patrol boat.

Other laws affecting conservation and development are: (1) H. B. 372, which makes it a misdemeanor to set out a fire in or within 500 feet of woodlands under the protection of the State Forest Service between April 1 and June 15 and between October 15 and December 1, except upon permit from the State Forester or his agents; (2) H. B. 1194, which authorizes the Department of Conservation and Development to sell or lease any mineral deposits belonging to the State in State waters and use the funds so secured for conservation purposes, with both the contracts of sale or lease and the use of the proceeds being subject to approval of the Governor and Council of State; (3) H. B. 1082, which permits persons mining mica, as well as kaolin, to allow waste, water and sediment to run off in natural streams; and (4) H. B. 1037, which strikes out the provision in C. S. 7583 giving to the Federal Government title to adjacent lands created by improving waterways other than specified inland waterways.

IX. Public Health and Welfare

Two laws amending the sterilization law were enacted. The County Superintendent of Public Welfare of the county in which the person to be sterilized is resident, under S. B. 168, may act as prosecutor or petitioner in instituting sterilization proceedings in the case of any feeble minded, epileptic or mentally diseased person who is (1) on parole from a State institution or (2) an inmate of the institution (if authorized by the superintendent of the institution). S. B. 167 authorizes the superintendents of State hospitals, on order of the State Eugenics Board, to receive feeble-minded, epileptic or mentally diseased persons for sterilization operations, and to collect the expenses of the operation and care for the patient if the operation is performed under agreement with any county or State institution. The order of the Eugenics Board and the agreement of the superintendent of the hospital to admit the patient is sufficient authority for the prosecutor or sheriff of the county to deliver the patient to the proper State hospital.

Domestic servants seeking employment are required by S. B. 380 to furnish their employer a physician's certificate or a certificate from the public health officer of the county in which they reside, certifying freedom from contagious and communicable diseases and accompanied by the original report from a laboratory approved by the State Board of Health. The examination must have been made within two weeks of the time of presentation. Re-examinations are required once every year, or as often as the employer may require. No penal provisions are made for non-compliance with this act. Provisions made by S. B. 245 for compulsory treatment of prisoners infected with venereal diseases are discussed under "Probation, Prisons and Correctional Institutions."

The State Board of Health is directed by S. B. 246 to make and enforce rules and regulations governing the sanitation of meat markets, and other places where meat or meat products are prepared, stored, handled or sold, and to assign a sanitary rating. No meat market or abattoir with less than 70% sanitary rating may operate. Where towns and counties have a system of meat inspection, the persons responsible for the inspection must file a copy of reports and other official data with the city or county health officer. In towns and counties having no organized health department, copies of all inspection reports must be filed with the State Health Officer. This new act does not repeal Chapter 181, Public Laws of 1925, regulating slaughtering and providing for municipal and county meat inspection. Further, the new law does not apply to farmers or others who raise, butcher and sell their own meat. Violation is punishable by a fine of not less than \$10 or more than \$50, or by imprisonment for not less than thirty days, in the discretion of the court.

Under H. B. 552 every manufacturer and renovator of mattresses is required to secure a license, at an annual fee of \$25, from the State Health Officer. Blind persons operating under the direction of the State Commission for the Blind are exempt from these license fees. Renovation of used mattresses and manufacture of new mattresses from previously used material is prohibited except after sterilization of the

mattresses or material by an approved process. All mattresses must be tagged with descriptive tags, and also with tags sold by the State Health Officer at \$10 per 500. All receipts under the act accrue to the State Bedding Fund, which is appropriated to the State Board of Health for use in inspections and in law enforcing. The 1935 bedding law is repealed. Violations are punishable by fine of not more than \$50 or imprisonment in the county jail for not more than 30 days.

The laws regulating the sterilization of soft drink containers with a solution of not less than 8% alkali are amended by S. B. 249 to permit the use of other solutions of equivalent sterilizing effect. Chapter 59, applicable only to registered drug stores and their employees, makes it a misdemeanor to sell drugs, medicines, chemicals, etc., neither recognized by the latest edition of the U. S. Pharmacopoeia and National Formulary, nor in accordance with the private formula called for by the purchaser, nor called for in a physician's prescription.

Under S. B. 488 it is provided that the new wing of Western N. C. Tubercular Sanatorium be named for Mrs. Clarke Gravely, wife of State Senator Lee Gravely.

Two laws in the field of public welfare may be mentioned here. Under the first, the Directors of the Soldiers Home are authorized in their discretion by H. B. 1294 to discontinue operation of the Home and to furnish the handful of inmates accommodations elsewhere. By the second, two changes were made in the bastardy laws. Under prior laws, the father of an illegitimate child could not be compelled to support the child after the child reached the age of ten. Under H. B. 1093, the age is raised to fourteen; and it is further provided that bastardy proceedings may be instituted only in Superior, county recorder's, city recorder's or municipal courts.

X. Industry, Labor and Business

A. Labor Laws.

While the Assembly turned thumbs down on the Child Labor Amendment to the Federal Constitution, it enacted an elaborate child labor law, S. B. 50. The basic minimum age is sixteen for any minor engaged in any gainful occupation except domestic or farm work in connection with his parent or guardian. Minors between fourteen and sixteen years of age may be employed outside of school hours and during school vacation, if not in a factory or other occupation prohibited by law. Boys fourteen years of age and older and girls eighteen years of age and older may sell newspapers, magazines, etc., in public places, but boys under sixteen must secure a certificate from the Department of Labor in order to engage in such work before 6 A. M. or after 7 P. M. Boys over fourteen may distribute newspapers and periodicals over fixed routes between 5 A. M. and 8 P. M. provided they do not work over four hours per day or twenty-four hours per week. Boys between twelve and fourteen who secure special certificates from the Department of Labor are also allowed to engage in the work mentioned in the two preceding sentences.

Persons under eighteen must not work over six

consecutive days or more than forty hours in a week, or more than eight hours in any one day. No person between sixteen and eighteen years of age (with the exception of boys working on newspaper routes) may work before 6 A. M.; no girl between sixteen and eighteen may work later than 9 P. M.; and no boy between sixteen and eighteen may work later than midnight, except that messenger boys may work until 1 A. M. when the offices in which they work do not close before that hour. Persons under sixteen must not work before 7 A. M. or after 6 P. M. (excepting newsboys) and combined school and work hours must not total more than eight per day. Girls under eighteen cannot serve as regular messengers.

Minors under sixteen may not be employed to work in connection with power driven machinery, in construction work of any kind, or in other enumerated occupations. Minors under eighteen cannot work on construction work; in foundries; on logging or lumbering; on punching or stamping machines; on meat grinding and certain other machines, with certain exceptions as to bona fide apprentices; at any process which exposes them to silicon dioxide, asbestos silicate in powdered form, lead or any of its compounds, benzol, or benzol compounds which are volatile; in spray-painting; in distilleries or dispensaries of alcoholic beverages; or in public bowling alleys or pool or billiard parlors.

The Department of Labor is empowered to prohibit the employment of any person under eighteen years of age in any occupation which is hazardous or injurious to life, health, safety or welfare.

Every employer of a person under eighteen must keep records showing the name and address of each minor under eighteen employed, the hours worked per day, rest periods, lunch periods, etc.

The legislature enacted another labor law, H. B. 280, limiting maximum working hours: *for women*, to forty-eight hours per week, nine hours per day, and six days in seven consecutive days; *for men*, fifty-five hours per week, ten hours per day or twelve days in fourteen consecutive days, with provisions for allowing a person (working where a system of shifts of eight hours each or less per day is used) to work not more than double his regular shift hours when another employee is kept from work by illness or other cause. Numerous other exemptions appear in the law. (Boys over fourteen delivering newspapers are allowed a seven day week, but prohibited from working more than twenty-four hours per week—subject to the provisions of the Child Labor Laws.) Women over sixteen employed in mercantile establishments may work a maximum of ten hours per day during the Christmas rush period, and during a two-week inventory period. Women engaged in seasonal conditioning and preserving of perishables may work a maximum of ten hours a day, not to exceed fifty-five hours per week. In emergencies, repair crews, engineers, electricians, watchmen, firemen, etc., are allowed to work sixty hours a week, for not more than one week in every four. The ten hours per day maximum does not apply when longer hours of employment are necessary because of an emergency due to breakdown, installation or alteration of equipment. Watchmen may work seven days per week. Telegraph

operators and clerks at offices employing three or less persons may also be employed seven days per week.

When the work day is divided into two or more periods for the same employee, all periods must fall within twelve consecutive hours, except that in the case of employees of restaurants, dining rooms and public eating places, such periods may fall within fourteen consecutive hours. The Commissioner of Labor is charged with the enforcement of this act. Employers are required to post hour schedules and keep time records. Violations of the act are misdemeanors. The act becomes effective on July 1, 1937.

Numerous trades, occupations and businesses are exempted completely from the act. It does not apply to the employment of persons in agricultural occupations, ice plants, cotton gins and cotton seed mills or in domestic service in private homes and boarding houses; or to the work of persons over eighteen years of age in bona fide office, foremanship, clerical or supervisory capacity; executive positions; learned professions; commercial travellers; motion picture theatres; seasonal hotels and club houses; commercial fishing; tobacco redrying plants; tobacco warehouses; employers employing a total of not more than eight persons in each place of business; charitable institutions and hospitals; railroads, common carriers or public utilities subject to the jurisdiction of the Interstate Commerce Commission or the North Carolina Utilities Commission, and utilities operated by municipalities or any transportation agencies now regulated by the Federal Government; municipal corporations or their employees; hotels or their employees; outside salesmen on a commission basis; or to male clerks in mercantile establishments (S. B. 491).

B. Building and Loan Associations and Banks.

In addition to laws affecting banks as fiduciaries, discussed elsewhere, there are twelve new laws directly affecting banks and building and loan associations. Of these, four are of primary concern to building and loan associations.

(1) Chapter 11 allows the board of directors of building and loan associations to appoint an executive committee of not less than three from its membership to make loans in lieu of the full board. Loans made by the executive committee must be by unanimous vote of members present and must be reported to the board of directors at its next meeting. This law also provides that general obligations of the State may be used as security for loans up to 90% of their face value.

(2) Chapter 18 authorizes building and loan associations to permit borrowing members to repay their indebtedness by a direct monthly or periodical reduction of principal method. No plan of payment shall be adopted which will not mature the loan within twenty years from date made.

(3) Chapter 12 authorizes Federal savings and loan associations to convert into building and loan associations under State laws when approved by the Federal Authority, the State Insurance Commissioner and at least 51% of the members present at a meeting called after at least ten days written notice to members.

(4) Chapter 14 allows fiduciaries to invest funds held by them in that capacity in stock of any Federal savings and loan association upon the approval of an officer of the Home Loan Bank or other governmental agency hereafter having supervision of such associations.

Senate Bill 320 adds building and loan associations to the list of financial institutions and fiduciaries in C. S. 220 (a) 2 which may make loans secured by real estate and insured by the Federal Housing Administration, and which may invest funds in FHA-insured mortgages, bonds or notes secured by such mortgages, and in obligations of national mortgage associations. The act also amends C. S. 220 (a) 2 by striking out all reference to particular titles of the National Housing Act; by repealing the provision that the general laws of the State shall not apply to loans or investments pursuant to this section; and by broadening the definition of items which are eligible as security to substitute FHA bonds and notes for FHA mortgages, while retaining FHA debentures and national mortgage association obligations. Under the section as rewritten, such items will be eligible as security in all cases where by statute collateral is required on deposits, where deposits are required to be made with public officials or departments, or where an investment, reserve or other fund is required to be maintained consisting of designated securities.

The remaining seven laws are of primary concern to banks. (1) H. B. 509 exempts obligations issued under authority of the Federal Farm Loan Act, or issued by the Federal Home Loan Banks or the Home Owners' Loan Corporation from the limitations of C. S. 220 (b) as to the amount which can be invested by banks in securities of any one person, firm or corporation. (2) H. B. 823 exempts loans or portions of loans secured by a guarantee or a commitment made either separately or jointly by the Federal Reserve Bank and the Reconstruction Finance Corporation from the limitations of C. S. 220 (d) as to the amount which can be loaned to any person, firm or corporation.

(3) An important law (H. B. 620) permits National banks and State banks and trust companies, in making loans or discounts not exceeding \$1,500, to deduct in advance interest not exceeding 6% per annum from the date of the loan until maturity of the final installment, notwithstanding the fact that it is payable in installments.

(4) Under S. B. 314, bank deposits under \$5 will be paid to the University as derelict property where no debits or credits have been entered in five years and the bank is unable to locate the owner. The receipt of the University discharges the bank. The University will hold the funds until claimed, and if there is no claim within ten years they become the University's absolute property.

(5) By S. B. 160 the limitations upon the length of time industrial banks loans may run were repealed. Formerly real estate loans were limited to two years and other loans to one year. (6) H. B. 439, affecting bank notaries, is discussed under "Probate and Registration"; and (7) S. B. 237, affecting liability of banks for intangible tax on Clerk's deposits, is discussed under "Estates, Trusts and Guardianships."

C. Insurance.

The nine new insurance laws run the gamut of general, fraternal and mutual burial, with one act thrown in as to inter-insurance exchanges. Two acts extend the jurisdiction of the State Insurance Department: (1) by requiring all companies maintaining an office in North Carolina to qualify and secure a license regardless of whether they solicit business in this State (Chapter 39); and (2) by placing all mutual burial associations operating in the State under its supervision and control (S. B. 122). The latter is a lengthy act, setting forth in detail the requirements as to content of by-laws and penalties for violations, and requiring a State charter and a deposit with the Banking Commissioner of security for \$5,000.

An enabling act (S. B. 252) permits a domestic stock life insurance corporation to become a mutual life insurance company upon the approval of a majority of its directors, the holders of two-thirds of the outstanding stock, and a majority of the holders of policies in force for one year or more. The change also requires the written approval of the Insurance Commissioner, whose department is given direction of the procedure at the meeting of stock and policy holders, canvass of votes, etc. Stock may be acquired by purchase or gift and is to be turned over to a voting trust until all stock is acquired, when the entire capital stock may be retired and the corporation made a mutual company without capital stock.

The troublesome problem of small payments to minor beneficiaries is dealt with by H. B. 677. Where the amount of the insurance is less than \$500, payment may be made to the County's Public Guardian or Clerk of Court for the minor's benefit, and his receipt discharges the insurer. Another act tightens up the law as to false and fraudulent insurance claims. Under H. B. 593, the offense covers a willfully false or fraudulent account, certificate, affidavit or proof of loss, or other written document as well as the claim itself. It includes the preparation, making, presentation or causing to be presented of such a statement as well as the subscribing or swearing thereto. And the punishment is changed from that for perjury to a specified penalty of up to \$500 or 5 years or both.

A 1913 statute (C. S. 6398) permits insurers to subscribe to inter-insurance exchanges and exchange contracts, providing indemnity among themselves from any loss which may be insured against, excepting life insurance. H. B. 118 amends this statute to require a copy of the power of attorney secured from the subscribers to be made a part of all contracts or policies issued to subscribers in this State as well as to be kept on file at the exchange and in the office of the Insurance Commissioner.

The statute on public liability and property damage insurance of motor vehicle carriers is amended by S. B. 480 to provide that the Utilities Commissioner may allow a licensed assurer to file a uniform master policy covering all contracts which it files for carriers. Instead of having to file separate individual policies carriers may then file certificates of fleet coverage under such master contract. Brokers and forwarders not operating under a certificate arrangement are required to file a bond for financial responsibility not in excess

of that required by the Interstate Commerce Commission.

Two important changes are made in the laws relating to fraternal benefit societies. H. B. 430 amends C. S. 6530, which limited the issuing of insurance to children under 16 to dependents of members and further limited the amounts that may be sold to children of each age. Under the new act certain societies may accept members at such ages and issue certificates to children for such amounts as their constitution and by-laws permit. To be entitled to this privilege, however, a society must maintain the reserves required by the American Experience Table of Mortality with an interest assumption of not more than 4%. H. B. 377 changes C. S. 6508, which limited beneficiaries under fraternal policies to spouses, relatives by blood and marriage, dependents and charitable institutions of the society. Under the new statute, a member who has neither spouse nor offspring may make or change the beneficiary to his estate or a trustee regardless of the charter and rules of the society. It is also provided that an absolute divorce automatically annuls the designation of a husband or wife as a beneficiary.

D. Corporations and Businesses.

Eight new laws directly affecting corporations generally were enacted by the 1937 Assembly. (1) S. B. 423 requires every foreign corporation doing business in the State to file a copy of its charter or articles of agreement as provided in C. S. 1181, and otherwise to comply with said law, including the payment of the fees for doing business in the State. It authorized the Secretary of State to employ all necessary assistance to ascertain what foreign corporations are doing business in the State. (2) S. B. 59 amended Section 451, Chapter 371, Public Laws 1935 (the 1935 Revenue Act), which provided for the cancellation of corporate charters upon failure to make reports required under Schedules B and C. The amending law provides that such cancellation shall not be effective as to parties dealing with the corporation without notice until a copy of the cancellation is filed with the Clerk of the Superior Court in the county where the corporation has its principal office, and it further provides that the Clerk's filing fee shall be 50c, collectible when the certificate of restoration is filed. The effect of this amending law is somewhat problematical, as the same subject matter is covered by Section 801 of the 1937 Revenue Act which, while requiring the Secretary of State to notify the Clerk of charter suspensions, mentions neither the rights of third parties nor the Clerk's filing fee. (3) H. B. 191 amended C. S. 218 to prohibit the Secretary of State from filing any certificates, reports or other papers relating to corporations until all fees, taxes and charges connected therewith have been paid. (4) H. B. 473 requires every corporation chartered under the laws of North Carolina to maintain an officer or agent, in the county where its principal office is located, for process purposes, and also to keep on file with the Secretary of State the name and address of such process officer or agent; upon the return of the sheriff or other officer that such process officer can not be found, service may be made by mailing the process to the Secretary of State with \$1.

Service is complete when the copy is left with the Secretary of State, but the law instructs the Secretary to mail the process to the process officer or agent at the address last given him or, if none, to the corporation at the charter address. (5) H. B. 745 validated all corporate conveyances of land executed in this State prior to January 1, 1935, where made in the corporate name and signed and attested by the proper officer, but from which the corporate seal was omitted. (6) H. B. 1193 permits partially-merged private, non-religious, charitable, educational or social corporations, to return to their former, separate status, by proper resolution of the governing body, the restoration of property, shares, etc., to the former owners, ratification by the stockholders, and the filing of a certificate of severance with the Clerk of the Superior Court of the county. (7) H. B. 270 re-writes C. S. 1177, which heretofore gave Superior Court judges jurisdiction at chambers to settle disputes as to corporate elections, so as to eliminate the authority of judges to appoint receivers in such cases. (8) H. B. 407 amends C. S. 1144 to permit a guardian, executor or administrator of a bona fide stockholder, or a director of a corporation which is a bona fide stockholder, to serve as a director in a corporation. The former law required each director to be a stockholder individually.

In addition to these laws affecting corporations generally, and in addition to laws discussed elsewhere, such as some of those mentioned under "Public Health and Welfare" and under "Professions," five other laws affect business matters. (1) H. B. 435, the Fair Trade Act, specifically announces its purpose as the protection of producers and distributors of trade-marked or labeled goods sold in free and open competition, and the protection of the public in the purchase of such goods. It permits contracts fixing minimum re-sale prices of such goods, both retail and wholesale, and prohibits evasion of such contracts by giving premiums or concessions or offering combinations including the article. Minimum sale prices will not apply to cases where businesses are being closed out, where the trade-mark or label is obliterated before sale, where the goods are damaged or altered, where the sale is under court order, or where the sale is to the State, its subdivisions or agencies, or religious, charitable or educational institutions. Actions for damages will lie for wilful violation of the minimum price contracts.

(2) Chapter 62 provides that every dealer in used cars who is a non-resident or who does not have a permanent place of business in this State, and every person who brings a used car into this State for the purpose of selling it (excepting trade-ins on purchase of another vehicle), must register the vehicle with the Commissioner of Revenue within ten days of the entry of the vehicle into the State and file a surety bond for the full sale price of the car (not exceeding \$1,000 per car) to pay any damages sustained by the purchaser by fraud or breach of warranty. The vendor must pay the regular registration fee and an additional \$10 for each bond filed. Every seller of a used car is required to deliver certificate of title within twenty-four hours after delivery of the car. Failure to comply with the law will bar the right to recover the car or the sale price, and is made a misdemeanor.

(3) Chapter 125 amends the State Boiler and Inspection Law (Chapter 326, Public Laws of 1935) so as to make it applicable to heating boilers and ground saw mills; to eliminate the \$1 original inspection fee required of steam boiler owners; to increase the inspection fees for fire-tube boilers from \$2 and \$3 to \$4 and \$6; to increase the maximum annual fees per boiler from \$5 to \$10; and to eliminate prior provisions exempting certain counties from application of the Law.

(4) By H. B. 1035, C. S. 3258, 3259 and 3262 were amended to permit general partnerships to be converted into limited partnerships; to permit special partners to contribute property at its fair cash value; and to permit the affidavit to the certificate to refer to "property at its fair cash value."

(5) House Bill 872, amending the Revenue Act, provides that where motion picture theatres operate under percentage royalty contracts, the gross receipts tax shall be deducted before the royalty is computed.

E. Public Utilities.

Some laws affecting utilities are discussed under other headings, such as H. B. 497 under "Revenue" (highway fund), S. B. 480 under "Insurance," S. B. 321 under "Laws Affecting City and County Government," and others. Among those not mentioned elsewhere are the following: (1) The Tax Machinery Act (H. B. 345), by Section 1608, renders somewhat more flexible the principles of assessment to be used by the State Board of Assessment in valuing the utilities subject to that Section.

(2) Restricted common carriers, forwarders, and brokers are added to the statute on motor bus and freight companies and brought under the regulation of the Utilities Commissioner by H. B. 583. The definition of motor vehicle carrier is also changed slightly. The new act requires brokers to secure licenses and restricted carriers and forwarders to secure certificates from the Utilities Commissioner, who may grant or withhold a certificate depending on whether the service is deemed consistent with public interest. Enforcement is to be covered by fees fixed for original applications and renewals. The Commissioner is also authorized to confer and hold joint hearings with the Interstate Commerce Commission and commissions of other States with reference to matters arising under the 1935 Federal Motor Carrier Act, or in establishing jurisdiction under the State or Federal acts.

(3) Senate Bill 359 amends Chapter 67, Consolidated Statutes, relating to "Railroads and Other Carriers," so as to add a new article dealing with pipe line companies. Such companies are declared public service companies, and those with lines originating in this State are given the right of eminent domain and the same construction and maintenance rights allowed railroads. (4) The power of eminent domain is also given to companies operating petroleum pipe lines originating in North Carolina by Chapter 108, and the Utilities Commissioner is given general supervision over their rates and services.

(5) One other act affecting utilities is S. B. 306, authorizing the Commissioner to approve rail rate in-

creases, without hearing, in individual cases not involving increases above the normal rate structure.

XI. Professions

A. Lawyers.

As usual, more new laws affect lawyers than any other single profession. The 1937 Assembly passed six such laws. The first, Chapter 51, amended the State Bar Act (Chapter 210, Public Laws of 1933). The new law adds as new grounds of suspension or disbarment: (a) detention, without bona fide claim, of property or money received or collected in any fiduciary capacity; and (b) violation of any of the canons of ethics adopted by the Council. As to original trials, it provides: (a) that such trial be in the county of the lawyer's residence, but permits removal of hearing to any county in which a part of any offense has been committed where required by convenience or justice; and (b) that trial procedure adopted by the Council shall conform as near as may be to the procedure for hearings before referees in compulsory references, and must include notice, opportunity to be heard, and complete record of hearing for use in Superior Court appeal. As to appeals, it: (a) provides that appeals lie to the Superior Court of the lawyer's residence instead of to the judge holding courts in the county; (b) guarantees jury trial in Superior Court on issues of fact raised by the pleadings, but limits the jury consideration to the written evidence taken before the trial committee or Council on the original hearing; and (c) allows appeal by either party from the Superior to the Supreme Court.

Another law dealing with the organized Bar is Chapter 35, allowing each Bar Examiner, for each examination, \$50 and all actual expense of travel and subsistence, with travel allowance for a private automobile limited to 5c per mile. The former law limited the expense allowance to \$4 per day.

Two new laws affect lawyers' fees. (1) S. B. 231 amends C. S. 4516, which heretofore provided for the allowance of a fee not exceeding \$25 to be paid by the county to the attorney appointed by the court to defend a pauper charged with a capital offense. The new law strikes out the \$25 limitation and permits the fixing of the amount to be left in the discretion of the judge. (2) H. B. 480 amends C. S. 1244, which empowers the court to tax the costs against the parties, as the court sees fit, in certain matters. The new law provides that "costs," in applications for year's support, caveats to wills, habeas corpus proceedings, divorce or alimony actions, cartway proceedings, compensation of referees and commissioners to take depositions, partition and drainage proceedings, and proceedings to re-allot homesteads, shall include reasonable attorneys' fees in such amounts as the court may allow.

Finally, two laws affect authorized and unauthorized practice. (1) H. B. 633 prohibits anyone except licensed attorneys from representing other persons before the Unemployment Compensation Commission, this being accomplished by amending Chapter 157, Public Laws of 1931. (2) H. B. 569, by direct amendment to the Unemployment Compensation Law, does virtually the same thing; and it also provides that the Commission

may be represented, in appeals from its decisions to the courts and in court actions brought to enforce the Law, by attorneys other than attorneys who are salaried employees of the Commission.

B. Other Professions.

Two new laws affecting pharmacists were enacted. (1) S. B. 373 prohibits the issuance by the State Board of Pharmacy of an original assistant pharmacist's certificate after January 1, 1939, and allows any person holding such certificates prior to that date to take the registered pharmacist's examination. Such certificate holders may continue to practice as assistants. (2) H. B. 387 amended Chapter 206, Public Laws of 1933, so as to permit pharmacists who have been licensed by another state and who have had fifteen continuous years experience under a licensed pharmacist in this State, to file application at any time to take the North Carolina examination.

Four new laws affecting contractors were passed. (1) Chapter 86 created the N. C. Licensing Board of Tile Contractors to consist of five reputable N. C. tile contractors, who have been engaged in the business for at least five years, appointed by the Governor. This Board is to organize, to meet twice each year, and to prescribe rules and by-laws for the government and examination of applicants. Examination fee: \$25; annual dues: \$50. Present tile contractors are to be licensed without examination. A firm or corporation may engage in business if one member is licensed. Practicing without license, and allied offenses, are misdemeanors punishable by fine not exceeding \$200, or imprisonment not exceeding two years, or both. (2) H. B. 169 created a State Board of Examiners of Electrical Contractors, consisting of the State Electrical Engineer, as Chairman, the Secretary of the Association of N. C. Electrical Contractors, one from faculty of U. N. C. Engineering School, one chief inspector of a municipality, and one electrical contractor, each of last three named by the Governor. The Board is to meet quarterly, and is to license, after examination, persons to install, maintain, alter and repair electrical wiring and equipment for which a permit is issued under State law or local ordinance. Persons now engaged in such business may be licensed upon application before June 1, 1937. Annual Statewide license: \$25; county-wide: \$5. Practicing without license, and kindred offenses, are misdemeanors punishable by fine of from \$25 to \$50. The act does not apply to persons engaged in installation, maintenance or construction of power systems distributing current ahead of customer's meter, or to persons employed by telephone, telegraph or signal companies, or to mechanics employed by a licensee, or to temporary wiring and equipment, or equipment and wiring on one's property under care of a full-time electrician, or to State institutions and private educational institutions having electrical departments. (3) S. B. 441 amended Chapter 62, Public Laws of 1931, to permit the licensing Board of General Contractors to hear and pass upon applications within 30 days after they have been filed. (4) H. B. 641 also amended the general contracting law so as to require applicants to file application, with \$20 fee, 30 days before a Board meeting: to permit the issuance

of limited licenses specifying the type of work for which licensed; to fix the annual renewal fee at \$10; to prohibit bidding on public contracts over \$10,000 without furnishing proof that the contractor is duly licensed; to require the contractor to notify the secretary to the Board before he makes any bid in excess of \$7,500; and to make a number of minor changes.

House Bill 833 increases the annual optometrist's license fee payable to the Board of Examiners from \$10 to not exceeding \$15, beginning in 1938; and prohibits the practice of optometry by those not licensed but who seek to evade the law by employing one licensed to practice optometry or medicine.

Senate Bill 454 amends C. S. 6715 and 6726 so as to provide: (a) that the State Board of Chiropractic Examiners before licensing by reciprocity must be satisfied as to the educational qualifications of the applicant, that applicant has a good moral character, and that applicant has already practiced under license one year; and (b) that the annual renewal license fee be \$10 instead of \$2 and the fee for restoration of a license be \$15 instead of \$10. H. B. 837 amends C. S. 6701, 6704 and 6708 so as: (a) to repeal the former provisions making other non-drug giving medical practitioners subject to the Osteopaths' License Law; (b) to repeal the former law making fraudulent practice of osteopathy a misdemeanor, and to substitute new provisions permitting suspension of license for felony, fraudulent practice, gross malpractice, advertising falsely, practicing under another's name, or habitual drunkenness or drug addiction; and also to make practice without license, obtaining license by fraud, false swearing in application, or practice under another's name, a misdemeanor punishable by fine of from \$25 to \$200, or imprisonment from 30 days to one year, or both; and (c) to add new provisions as to appeal and restoration of license.

Two laws were enacted relating to the N. C. Real Estate Commission. (1) H. B. 82, reciting that Chapter 241, Public-Local Laws 1927, creating the Real Estate Commission, had been declared unconstitutional, validated the previous collections and expenditures of the Commission and gave it 90 days within which to complete all unfinished business, including the payment of outstanding bills. (2) S. B. 145 created a new Commission of three members, appointed by the Governor, to regulate the real estate business after June 1, 1937. Applicant must be recommended as to honesty, fair dealing, etc., by two realty owners. Annual licenses: Brokers—\$10, salesmen—\$5. Applicants in business one year prior to ratification, applying within six months, are exempt from examination. License may be refused or revoked for specified causes. Fees, charges and penalties go to the general fund of the State, but Commission may draw on this for expenses not exceeding the total of such revenue. Approximately two-thirds of the counties were exempted from this law.

The State Barbers' License Law (Chapter 119, Public Laws 1929) was amended by H. B. 371 so as to make it apply to all barbers and to raise the application and license fees for apprentices from \$3 to \$5, and of barbers from \$5 to \$15. Those brought under the provisions of the law who have practiced barbering in the

State for 18 months may be registered without examination if the application is made by January 1, 1938. Practice without license and similar offenses are covered.

Chapter 30 created a State Dry Cleaners' Commission, composed of five members (three dry cleaners and two others) appointed by the Governor. The Commission is to adopt rules for the business in the State and conduct examinations for dry cleaners' licenses. All persons engaged in business at the time of ratification of the act receive license without examination. Annual license fee schedule is as follows: Retail outlet—\$5, press shop—\$10, retail plant—\$25, wholesale plant—\$50, and non-resident outlet—\$60. Practice without license is made a misdemeanor, punishable by a fine of from \$10 to \$100.

XII. Agriculture

In the forefront of the new laws on agriculture are those relating to the re-organization and powers of the State Board. H. B. 266 provides for a new and enlarged Board, to take office on the expiration of the terms of the present members, and to consist of the Commissioner as Chairman and 10 members, appointed by the Governor from the ranks of practical farmers and so distributed as to represent the different sections and agricultural interests of the State. H. B. 265 restores former authority to the Board by repealing Chapter 174, Public Laws of 1925. The 1925 act provided that when the context of the laws on agriculture contemplated executive action, such as appointing workers and enforcing laws and regulations, the words "Commissioner of Agriculture" were to be substituted for "Board of Agriculture."

By H. B. 275 the Board is authorized to make regulations and cooperate with the U. S. Department in a program for the control and eradication of Bang's disease. Provision is made for testing, branding, quarantining and disposing of diseased cattle, and counties are authorized to appropriate funds to aid in the program. H. B. 274 authorizes the Commissioner, with the consent of the Board, to make and enforce regulations for transportation of livestock by motor vehicle if it becomes necessary to prevent the spread of animal diseases. (This act does not apply to counties having local laws for the vaccination of hogs against cholera.) And S. B. 127 authorizes the Department to establish and operate a test farm for the study of peanut growing.

The Tobacco Compact Act and Amendment (H. B. 20 and S. B. 97), providing for inter-state co-operation in regulating the production, sale, marketing and distribution of tobacco, went for nought—at least as far as this year is concerned—when the legislatures of a sufficient number of other tobacco-producing states failed to take the similar action required to make them operative.

Two other acts, however, provide for co-operation with Federal programs and qualify the State to receive its share of Uncle Sam's dollars for agriculture. The first was a very short bill (H. B. 295), expressing the assent of the legislature to the purpose and provisions of the Bankhead-Jones Act, an assent that was gladly given in view of the fact that the 1935 Act of Congress

appropriates millions of dollars for grants to the states for agricultural education, experiment and extension. The second was a very lengthy bill (S. B. 343), providing the machinery for soil conservation districts and programs in this State, an activity which seems necessary if the State's farmers are to continue receiving their share of Federal grants for soil conservation and benefit payments.

This act sets up a State Soil Conservation Committee composed of the State Directors of Extension, Experiment, and Forestry, and some North Carolinian appointed by the U. S. Secretary of Agriculture if the Committee so requests. This Committee is to develop the State program in co-operation with State College; encourage, assist and co-ordinate the work of local conservation districts, and secure the co-operation and assistance of Federal and State agencies with local programs. Local districts may be organized by a majority vote of the land occupiers, following a petition of 25 land occupiers, and are made governmental subdivisions and public bodies when application is filed and recorded with the Secretary of State.

Each district is to be governed by a Board of Supervisors, three of whom are to be elected by the qualified voters of the district and two by the State Committee. It is empowered to develop its own plan for soil conservation; administer erosion and waste preventive measures with the consent of land owners; enter agreements with and furnish financial or other aid, within the appropriations made available to it, to land occupiers for such purposes; and accept and use Federal and State grants and act as the agent for Federal agencies in administering any soil conservation program within its boundaries.

The District Board may require contributions in money, services or materials from land owners, or agreements as to land use, as a condition to receiving benefits. And it may prescribe land-use regulations for the district if approved by a local referendum. Other clauses of interest provide for: petitions for inclusion of additional territory within a district; abolition of a district after 5 years, if approved by a referendum; and advising with cities and counties as to matters affecting their property, water supply or other interests. No State appropriation being provided for the purposes of the Act, the inference is that Federal grants and contributions by land owners are expected to meet both the expenses for administration and for the assistance to land owners which is mentioned.

Three acts make important changes in existing regulatory laws. (1) H. B. 654, amending the Pure Seed Law, provides for two samples for analysis, one for the vendor and one for the Department; specifies the tolerance allowances for purity and germination guarantees; and provides for seizure and condemnation of seed for violations. Farmers selling seed raised on their own farms are exempted, and the annual license tax to provide enforcement funds is set at \$25 for wholesalers and \$10 for retailers. (2) The amendment to the Fertilizer Law (H. B. 764) makes a number of changes in the information as to plant food required in registration statements and on labels; changes the registration period from one to five years, beginning December 1, 1937, with a \$5 fee for each registration;

and provides additional penalties for plant food deficiency in registered fertilizers. (3) H. B. 875 amends the statute on agricultural lime to provide a tax of 5c a ton (except on sales to fertilizer manufacturers) to pay the cost of inspections and analyses.

Other new agricultural measures include: (1) H. B. 649, which provides for the licensing and regulation of scrap tobacco buyers, carrying a tax of \$1,000 for each county in which the buyer operates and requiring monthly reports of purchases and prices to the Commissioner; (2) H. B. 1220, which authorizes a Commission to study fertilizer prices and price-fixing agreements; (3) H. B. 661, amending C. S. 8060, which sets up standard weights and measures. The new law strikes out the standard weight with respect to shucked and unshucked corn; fixes the weight of sorghum molasses at 12 pounds per gallon instead of bushel, and provides that all articles covered by the Section shall be sold either on the basis set out therein or by weight avoirdupois standard; and (4) S. B. 392, amending C. S. 7251 (t), relating to bakery inspection fees, to exempt farm women making and selling cakes and breads on Home Demonstration markets.

XIII. Courts and Judges

Of the new acts relating to courts three provide relief through additional help for the State's Supreme Court and legal staff. The number of Associate Justices of the Supreme Court is increased, effective July 1, 1937, from four to six by Chapter 16, which also makes four justices a quorum for the transaction of business. H. B. 215 authorizes the Court to appoint an Assistant Librarian, while H. B. 700 provides for a third Assistant Attorney General.

Four acts deal with Superior Court districts, calendars and judges. H. B. 554 creates a new Judicial District (the 21st) composed of Caswell, Rockingham, Stokes and Surry, leaving Davidson and Guilford as District 12 and Alleghany, Ashe and Forsyth as District 11. H. B. 755 authorizes the Governor to appoint a Commission to study the whole problem of the advisability of changing the number and arrangement of districts and to report to the next legislature. A Court Calendar Commission, composed of the Chief Justice and four Superior Court judges named by the Governor, and authorized to revise the court schedule and increase or decrease the terms as appears advisable, is also provided for by S. B. 486. In addition, the Governor is authorized by Chapter 72 to appoint two special judges from the Eastern and two from the Western divisions to serve until June 30, 1939, and, if necessary, one additional judge for each division to serve until June 30, 1939. Such special judges will receive the same salaries and expenses as regular judges and will have the same jurisdiction, including jurisdiction of injunctions, receivers, motions, habeas corpus, special proceedings or appeals. They may hear injunctions, orders to show cause, and other remedial and amendatory writs and orders only in the county where the suit is pending, except when they are holding courts for the entire district.

Three acts relate to procedure in general county courts. Under Chapter 56 the demand for a jury trial

must now be made when the pleadings are filed. Chapter 58 gives such courts jurisdiction concurrent with the Superior Court in the appointment of receivers under C. S. 859. The record on appeal from such courts, under Chapter 84, must now be docketed before the next term of Superior Court following the settlement of the case on appeal by agreement or order. The case must also stand for argument at the term next ensuing after the record has been docketed 10 days, unless the court orders otherwise. However, cases tried and appealed before March 1, 1937, where time for settling the case was extended by consent under order of the court, will not be affected by the new law.

The establishment of a second type of county civil court is provided for by H. B. 1196. The court is set up by the County Commissioners, but the judge is appointed by the Governor for two years, at a salary fixed by the Commissioners for each term in advance. The Clerk of Superior Court is *ex officio* Clerk, and his compensation is fixed by the Commissioners. The Clerk may appoint deputies. The Commissioners also fix the Sheriff's additional compensation. The Commissioners may appoint a court stenographer. Jury trial is waived unless demanded in the pleadings. A jury of six is provided for, unless there is a demand for a jury of twelve and a deposit of \$5 made. Terms are fixed by the judge. The civil jurisdiction is: (a) concurrent with justices of peace, (b) concurrent with Superior Court in actions in contract and not in contract where demand does not exceed \$1,500, exclusive of interest and costs, (c) concurrent with Superior Court in all actions to try title to lands, prevent trespass, and restrain waste when value of land does not exceed \$1,500, and (d) concurrent with Superior Court in actions and proceedings for divorce and alimony, and in orders respecting the care, custody, tuition and maintenance of the minor children of the marriage. Appeals from justices of the peace are to the County rather than the Superior Court. Appeals from the court to the Superior Court are on the record and for errors of law only. Costs and fees are the same as those for the court having concurrent jurisdiction. The court may be abolished by the Commissioners after notice six months prior to the end of the terms of the officers.

A majority of the Justices of the Peace appointed by the legislature for the various counties are found in the biennial omnibus bill (H. B. 1256).

Other laws relating to courts and court officials include: (1) H. B. 388, providing an expense allowance of \$500 per year for Solicitors; (2) H. B. 458, permitting the retirement at the end of his term of any Supreme or Superior Court Judge who has served one full term and has become totally disabled through accident or disease incurred without fault on his part; (3) and H. B. 575, permitting Clerks of Superior Court to excuse from jury service, prior to the convening of the term, any persons in the exempted classes of employment. These include: physicians, druggists, telegraph operators, train dispatchers, licensed pilots, ministers, firemen, funeral directors, embalmers, printers, linotype operators, railway postal clerks, rural mail carriers, railroad conductors and brakemen, officers and employees of State insane hospitals, millers, locomotive engineers and National Guardsmen.

XIV. Estates, Guardianships and Trusts

Nine laws relating to trust funds, investments and other fiscal duties were enacted. (1) Under H. B. 1056, C. S. 2195, which governs the procedure in transferring funds of infants, insane persons, etc., from this State to the state of their residences, is amended to allow the transfer (when no guardian has been appointed for the person) directly to the court or officer authorized by the law of the particular state, territory, district or country to receive moneys belonging to such persons.

(2) H. B. 546 amends Section 2 (e), Chapter 281, Public Laws of 1931, which designates approved types of investments Clerks of the Superior Courts may make with trust funds. Under the change Clerks may invest in North Carolina county or municipal bonds which have been approved by the Local Government Commission instead of by the Sinking Fund Commission. (3) H. B. 1135 amends Chapter 164, Public Laws of 1935, to allow fiduciaries, in settlements, to treat as cash, to the amount actually paid therefor, including the premium, bonds issued or guaranteed by the Federal Government. (4) Chapter 14, regarding investments in Federal savings and loan association stock, and (5) S. B. 320, regarding Housing Administration obligations as investments and as security for deposits, etc., are discussed under "Building and Loan Associations and Banks."

(6) The new Uniform Principal and Income Act, H. B. 572, as amended by (7) H. B. 1274, provides for the ascertainment of principal and income and apportionment of receipts and expenses among tenants and remaindermen, in specific types of situations. For example, rent of realty, hire of personalty, dividends of corporations, interest on money loaned, and damages for property withheld are ordinarily to be deemed income. Receipts in consideration of sale or transfer, repayments of loans, liquidation of a corporation's assets, and certain proceeds from insurance and eminent domain proceedings are to be treated as principal. Specific provision is made for such apportionments as to corporate dividends and share rights, premium and discount bonds, principal used in business, principal comprising animals, natural resources, principal subject to depletion, unproductive realty, and expenses of trust and non-trust estates. The law applies to all estates of tenants and remaindermen which become legally effective after the date of ratification.

(8) Under H. B. 646 executors and administrators, upon stating their belief, under oath, that any person, firm or corporation is withholding property belonging to the estate, may require the Clerk of Superior Court in the county where the party resides or does business to issue notice for hearing within not less than three days for discovery of the property. Where such property is discovered and no satisfactory reason for retaining the property is given, the Clerk may compel its delivery by contempt orders. Appeals from such orders lie within five days, to the resident judge or judge holding the next term of Superior Court, upon giving a justified bond in a sum double the value of the property conditioned upon the safe delivery of the property and the payment of damages for its detention. Upon failure to dispose of an appeal at the next term

(or within thirty days before the resident judge) the Clerk may re-commit appellant. The losing party is liable for costs.

(9) The Revenue Act (Chapter 127) includes new provisions relating to Clerks and estates, in addition to the regular inheritance and other tax provisions. Section 21½, dealing with the transfer of lock boxes of decedents in the presence of the Clerk of the county where the box is located and with his duty to make inventory of the boxes, is changed to provide that the Clerk be paid \$2.00, and the same mileage allowed witnesses, payable by the estate representative upon qualification, for these services. These fees are in addition to other salary or fee compensation.

Schedule H, providing taxes on intangibles, levies a 10c per \$100 tax on bank deposits, with deposits of less than \$100 exempted. Deposits of governments and their agencies are exempted, but deposits of Clerks and other fiduciaries are subject to this tax unless they are county or school funds. A supplementary law (S. B. 237) provides that, upon certificate of the Department of Revenue based on application of the Clerk, the bank is relieved of the duty to collect taxes on the intangibles of Clerks of Superior Court (whether on deposit or not) held in a fiduciary capacity. This supplementary law does not apply to other fiduciaries. It requires the Clerk, in such cases, to keep a record, compute, collect and remit the taxes and, for failure to do so, their bonds are made liable for the taxes. Presumably the Clerks will have to consult the Revenue Commissioner with reference to the handling of this tax, particularly as to such matters as the necessity for computing the tax on a quarterly average basis, proper treatment of accounts of less than \$100, and proper treatment of accounts closed during the year.

Money held in trust by Clerks, executors, administrators and other fiduciaries (not on deposit) is made liable, by Schedule H, to a tax of 25c on each \$100, without deduction or exemption. The Schedule also taxes bonds, notes, stocks and other intangibles at the rates and with the deductions and exemptions set out in this summary under "Revenue" (State general fund). It is not altogether clear whether investments of fiduciaries are to be taxed at the 25c rate or at the specific rates provided for particular types of investments; but Section 704, levying the 25c rate, does not mention "investments," referring only to "money." It therefore seems entirely probable that all intangibles, held by fiduciaries, of types specifically taxable under other sections will be taxed at the rates provided by such sections, rather than under Section 704. Clerks and fiduciaries must report to the Commissioner of Revenue on March 15, 1938, and annually thereafter, the sums in hand, as of the preceding December 31, and must pay the taxes then due. Such Clerks and fiduciaries are to charge these tax items to the particular accounts on December 31, 1937, and annually thereafter, but they may vary this time where another date may be more convenient.

Two laws relating to the rights of widows were enacted. (1) H. B. 927 amends C. S. 437, the ten-year statute of limitations, so as to bar after ten years an action for the allotment of dower in lands not in the actual possession of the widow following the death

of the husband. (2) S. B. 214 amends C. S. 4109 so as to increase the year's allowance to a widow from \$300 to \$500 and to increase the allowances to her, for each child, from \$100 to \$150.

There were two new laws concerning wills. (1) H. B. 1163 requires Clerks of Superior Court to keep a depository in which any person, on payment of 50c filing fee, may place his or her will for safe-keeping. A will so deposited is not to be open to inspection by anyone except the testator or his authorized agent. (2) H. B. 1164 provides that when any action is instituted to contest a will the Clerk of the Superior Court shall require the same prosecution bond demanded in other civil actions, unless the action is brought within the terms of the pauper act.

The continuance of the Commission on the Revision of Estate Laws until the 1939 General Assembly is provided for by S. B. 458. This act also makes provision for an additional Clerk of the Superior Court on the Commission, appropriates \$2,500 to cover its expenses, fixes the compensation of the Commissioners at \$7 per day and actual expenses, and orders the Governor to publish the Commission's report and distribute it to the members of the 1939 General Assembly.

There was little change made in the adoption law. H. B. 862 amends Chapter 243, Public Laws, 1935, so as to eliminate the requirement that a child must be a resident of the State for one year in order to be eligible for adoption.

House Bill 1209 amends C. S. 2287, which heretofore failed to specify who may file a petition for restoration to sanity. The new law permits such petition (a) by the person formerly adjudged insane, incompetent, etc., (b) by any friend or relative or (c) by the guardian.

Senate Bill 125 amends Art. 13, Chap. 1, C. S., which formerly provided that land lying in two or more counties, in a sale to make assets, be sold at the courthouse door in the county where the proceeding was instituted. The new law permits the court to fix the time and the place of such sales.

XV. Civil Procedure and Other Matters Affecting Court Officials

Four laws were enacted affecting partitions and sales. (1) Under Chapter 71 the period for which sales in partition proceedings remain open before the order of confirmation is permitted under C. S. 3243 is changed from 20 to 10 days. (2) As to sales made by receivers or commissioners appointed by the Superior Court, H. B. 733 adds to C. S. 598 a provision that after 10 days the resident judge or judge holding courts may confirm such sale or, where there is an objection or raise in bid, may order a re-sale, in chambers in any county in the judicial district in which the proceedings are pending. (3) In partition proceedings, where (a) two or more tenants in common request it, (b) the court approves, and (c) the allotment is not detrimental to or injurious to other tenants, H. B. 470 (amending C. S. 3225) permits the Commissioners to allot the shares of the petitioning tenants as one parcel. (4) Chapter 26, amending C. S. 690, provides that a sale or re-sale of real property under power contained in a deed of trust or mortgage shall not be required to be made on

any particular day of the week or month. It also validates all such sales or re-sales under court order or power heretofore made on any day other than a first Monday of a month, unless such sales were involved in litigation pending February 8, 1937.

Two laws were enacted affecting divorce. (1) Chapter 100 amends C. S. 1659 (a), which permits divorce where husband and wife have lived separate and apart for two years, "either under deed of separation or otherwise," by eliminating the quoted phrase. (2) Chapter 53 permits a woman, after an absolute divorce, to resume the use of her maiden name upon application to the Clerk of Superior Court in the county of her residence. The application must set forth (a) the intention to resume the use of her maiden name, (b) the county where the divorce was granted, (c) the term at which the divorce was granted, and (d) the signed, full maiden name of the applicant. (Previous instances of divorcees adopting the names of prior, deceased husbands are validated.) The Clerk must keep a permanent book for recording the applications and must index them under the names of both the wife and former husband. The fee for recording and indexing such an application is \$1.00.

Several acts were passed relating to miscellaneous procedural matters. (1) S. B. 267 provides that when a Referee in Bankruptcy furnishes a Clerk of the Superior Court a certificate that judgments docketed in the Clerk's office against the bankrupt have been discharged, the Clerk must, on receipt of a fee of \$1.00, file the certificate and enter a notation of its contents on the record margin of the particular judgment. This act applies to judgments docketed prior to March 17, 1937, and thereafter, but excepts litigation pending on that date so far as the authority of the Clerk to make such notations is concerned. (2) H. B. 728 amends C. S. 442, which provides for a two-year statute of limitations as to claims against counties, cities and towns, by excepting from that bar claims based upon bonds, notes and interest coupons. (3) C. S. 1197 gives employees of corporations liens for wages due for services within two months of the beginning of insolvency proceedings; S. B. 193 extends this lien to regular employees of insolvent individuals and partnerships. (4) Chapter 93 amends C. S. 952 (4) so as to require the Clerk of the Superior Court, after May 1, 1937, to maintain a temporary index in which he is to index alphabetically, as soon as a judgment is received, the names of all parties against whom it has been rendered or entered. This temporary index of each judgment is to be open to the public until the names of the parties have been permanently cross-indexed.

(5) Chapter 89 amends C. S. 649, which governs pauper appeals, to permit counsel to correct errors or omissions in the certificate of counsel, after it has been filed in the Supreme Court but before the argument of the case, if the error of omission is called to the attention of the Court. (6) Chapter 10 validates deeds to the State for Smoky Mountain Park lands recorded in Haywood and Swain counties where the seal of acknowledgment is omitted, validates the probate orders of clerks, and confirms all acquisitions and conveyances by the State of lands in the Smoky Mountain Park. Clerks of Court are authorized to record copies

of papers introduced in special proceedings without signature if the copies were found in the records of the North Carolina Park Commission or of an attorney in the action. Pending litigation is not affected.

Clerks will also be interested in two laws discussed herein with other laws more particularly affecting the legal profession. (1) S. B. 231 removes the former \$25 limitation on the maximum fee permitted counsel for pauper defendants charged with capital offenses. (2) H. B. 480 permits attorneys' fees to be treated as costs in the proceedings specified in C. S. 1244.

In addition to laws discussed under "Courts and Judges," "Estates, Trusts and Guardianships", "Probate and Registration", "Criminal Law" and "Criminal Procedure", the following laws, treated more comprehensively under other topics, contain provisions directly affecting Clerks. (1) S. B. 59 (see "Corporations and Businesses") provides for the filing of a notice of cancellation of a corporation charter. (2) H. B. 1215 (see "County Fiscal Matters") authorizes counties to pay the bond premiums of Clerks and other county officials receiving set or fixed salaries. (3) H. B. 677 (see "Insurance") allows the payment of insurance policy proceeds not exceeding \$500 to the Clerk in the county of residence of a minor beneficiary to discharge the insurance company.

The following laws, treated more comprehensively under other topics, contain provisions incidentally affecting Clerks. (1) S. B. 232 provides new duties of the County Pension Board with respect to certifying pensioners for old age assistance. (2) S. B. 131, dealing with the education of World War orphans, provides for a certificate from the Clerk. (3) H. B. 1155 provides for the discharge of women from State industrial schools. (4) Chapter 32 prohibits county officers from requiring rebates or contributions from their subordinates. (5) S. B. 245, regulating the control of venereal disease, provides for bonds to be approved by the Clerk.

XVI. Probate and Registration

Chapter 69 amends Chapter 123, Public Laws of 1919, to permit a married woman under 21 years of age to renounce her dower in and join her husband in conveyance of the home site. It also validates all such prior acts of minor wives in waiving their dower rights by joining in the conveyances of their husbands.

Chapter 7 re-writes Chapter 168, Public Laws of 1935 (C. S. 3303), to provide that no instrument may be probated or ordered registered on the oath or examination of a subscribing witness who is also a grantee in the instrument. Such probates or orders of registration are declared void, but instruments registered prior to April 9, 1935, are excepted from the operation of the Act.

Chapter 5 permits the probate and registration of any copy of a deed made by the United States Alien Property Custodian, when (a) the copy is certified by the U. S. Department of Justice and reveals that (b) the original was acknowledged by the Custodian before a Notary of the District of Columbia, (c) bears the seal of the Custodian, (d) has been approved as to form by "general counsel," (e) was signed by the act-

ing chief of the Division of Trusts, and (f) was witnessed by two witnesses. Such copies are to be indexed and cross-indexed in the customary manner, and the registered copies are to be admissible in evidence in the State or Federal courts.

Chapter 91 validates all deeds, mortgages and other conveyances of land, where the acknowledgments or private examinations of the grantors were taken by one of the grantors in the instrument, in those instances in which the instruments were both dated, and registered in the county where the land lies, prior to January 1, 1926.

Senate Bill 403 validates all acknowledgments heretofore taken by any Notary Public who at the time held another office where the instruments were duly probated and acknowledged prior to March 20, 1937. Such validation would not apply to pending litigation, nor would it affect any vested rights.

House Bill 439 authorizes any Notary Public who is a stockholder, officer or employee of a bank or other corporation to take acknowledgments, to administer oaths, and to protest negotiable instruments, unless he is individually a party to such instruments.

XVII. Criminal Laws

The General Assembly once more enacted a slot machine law which covers all the machines embraced under previous laws and is designed to cover other machines and games which had a questionable status under prior laws. The new law, S. B. 73, prohibits the manufacture, sale or possession of all slot machines operated by the insertion of a coin or other object: (1) yielding (or so constructed as to be readily converted into a machine that will yield) any money, credit or value, or any memorandum or token exchangeable for anything of value or through which the operator secures additional rights to operate the machines, or (2) permitting the operator to play any game on which varying scores may be made, in such a way that the outcome might be wagered upon, irrespective of whether such machines (apart from any element of chance or unpredictable outcome of operation) may deliver some merchandise, indicate weight, or furnish entertainment or other thing of value. Excepted from the act are weighing, music, picture, stencil making and bona fide vending machines, and coin-operated locks provided such machines and locks make the same return of value on every operation, and *never* offer the operator any additional value, or token or memorandum exchangeable for value, or additional chances to operate the machine, and which do not permit the operator to make varying scores. It is unlawful to enter into any agreement by which the user of any slot machine or device may become entitled to anything either of value, or exchangeable for value or entitling the holder to additional use of the machine. No State, county or municipal privilege tax may be levied on a prohibited machine. The act becomes effective after June 30, and violation is made a misdemeanor punishable by fine or imprisonment in the discretion of the court.

By H. B. 666, the definition of lotteries in C. S. 4428 is amended to include the distribution of prizes on bot-

tle crowns, bottle caps, seals on containers and other devices.

Under S. B. 273 it is made a misdemeanor for any person maliciously to carry off or destroy any bottle or other property of any company engaged in bottling or distributing soft drinks.

Chapter 112 makes it unlawful to tattoo any minor, and violation of this act is punishable by fine or imprisonment in the discretion of the court.

Numerous criminal provisions are also contained in the various regulatory laws, particularly the motor vehicle code and the liquor laws.

XVIII. Criminal Procedure

Two extradition laws were enacted by the 1937 Legislature. One (S. B. 101), known as "The Uniform Act to Secure the Attendance of Witnesses from without a State in Criminal Proceedings," provides machinery for the extradition of witnesses in criminal cases, which is permitted under the Federal Act of 1933 authorizing interstate compacts for the better enforcement of criminal laws.

To extradite North Carolinians wanted as witnesses in criminal cases in another state, any judge of a court of record of the demanding state may issue a certificate under seal, stating that a specified person is a material witness in a criminal prosecution pending in the court or in a grand jury investigation, begun or about to begin, and that his presence is required for a specified number of days. This certificate must be sent to a judge of a court of record in the county where the witness is. On a determination at a hearing that the witness is material and necessary, that his attendance will not cause him undue hardship, and that he will be protected from arrest or service of civil or criminal process in the demanding state and the states through which he must travel, the judge must issue a summons directing the attendance of the witness at the trial or investigation in the demanding state. If a witness thus summoned fails to attend and testify, after being paid or offered witness fees of \$5.00 per day and travelling expenses (at the rate of ten cents a mile) he is subject to the same punishment as for failure to disobey any other witness summons issued by a court of record in this State.

If the certificate of the judge of the demanding state recommends that the witness be taken into custody and delivered to an officer of the demanding state, the judge in this State may, after hearing, if satisfied of the desirability of such action, order that the witness be sent in the custody of such officer. The certificate of the demanding state is made *prima facie* evidence of such desirability.

Similar provisions provide for the return of witnesses to this State from other states having similar laws; and exempt from arrest or service of civil or criminal process any person brought into this State to testify, or passing through this State while going to or returning from another state in which he has been summoned to testify, under similar laws. The act is reciprocal, and witnesses in North Carolina will be ordered only to states which provide machinery for sending witnesses to North Carolina.

The second extradition law (S. B. 99), similar to the 1931 law in most respects, provides for the extradition of persons who have committed any crime in this State and fled to another state, and the return to other states of persons who have committed crimes and fled to this State, with the State bearing the expense of securing the return of persons accused of felonies, and the county bearing such expense as to all other crimes. The new law differs from the 1931 law, which is repealed, chiefly in that it: (1) clearly authorizes the extradition of a person accused of *any* crime, misdemeanor as well as felony; (2) authorizes the extradition of persons who violate conditions of probation or parole; (3) authorizes the return to a demanding state of persons who (while in this State or some third state) have intentionally committed an act resulting in a crime in the demanding state; (4) authorizes, prior to requisition, any officer or citizen to make an arrest *without a warrant* upon reasonable information that the accused stands charged in the courts of another state with a crime punishable in that state by death or imprisonment for more than one year.

Further efforts to increase the efficiency of law enforcing work were made by the legislature through: an act permitting the establishment of a larger Identification Bureau (H. B. 393); an act submitting a constitutional amendment permitting a State Department of Justice (H. B. 1045); and an act directing the appointment of a Commission to study the advantage of such a department (H. B. 520). The last-mentioned two will be found under "Constitutional Amendments." The creation of a State Bureau of Identification is authorized by H. B. 393 to take over the work of the Identification Bureau at the State Prison and the crime statistics work of the Attorney General, with the additional provision that it may set up a crime laboratory. The creation of this Bureau is left to the Governor, but postponement is authorized until fees covered by the act (\$1 tax in each criminal case) are sufficient to cover the expenses thereof.

At the same time two laws were enacted affecting the powers of law enforcing officers. (1) After May 1, 1939, every Highway Patrolman and every other peace officer employed by the State shall, under the terms of S. B. 387, give a bond of not less than \$1,000 or more than \$2,500 conditioned on the faithful discharge of duty as well as for collecting money and paying over all sums of money received. The act further provides that any officer (not expressly limited to officers employed by the State) who signs and issues or causes to be signed and issued any search warrant without requiring the complainant or other person to sign an affidavit under oath, and without examining such person or complainant, shall be guilty of a misdemeanor. No facts discovered by reason of the issuance of a search warrant in violation of the act are admissible in evidence. (2) Every officer upon making an arrest or otherwise restraining a person of his liberty is required by H. B. 1177 to inform the person, who is being arrested or detained, of the charge against him, and, except in capital cases, to have bail fixed at a reasonable sum and permit him to give bail bond. The officer must permit the person arrested to communicate with

counsel and friends immediately. Violation of this act is a misdemeanor punishable by fine or imprisonment in the discretion of the court.

Other procedural laws include: (1) Section 4651 of the Consolidated Statutes making provisions for pauper appeals to the Supreme Court by persons convicted of capital crimes is amended by S. B. 290 to include persons charged with capital crimes, but convicted of lesser offenses. (2) Provision is made under S. B. 131, discussed under "Constitutional Amendments," for the submission of an amendment to extend sheriffs' terms to four years. (3) Finally, H. B. 1215, discussed under "County Fiscal Matters," authorizes counties to pay the bond premiums of Sheriffs, and other county officers, receiving fixed salaries.

XIX. Election Laws

The number of election bills introduced was many, and the changes proposed were great, but the Legislature was not inclined to disturb the status quo and turned thumbs down on all State-wide election proposals, including the bills embodying the comprehensive changes recommended by the State Democratic Executive Committee, except for three acts making only minor changes. Of these, H. B. 43 fixed the hours for holding all primaries at 7 A. M. to 7 P. M., provided that no polls are to remain open after sunset. H. B. 1311 made the same change as to municipal and local elections, and specifically retains sunrise to sunset as the hours for general elections. And H. B. 851 changed the filing time for candidates for State offices from the 7th to the 10th Saturday before the primary and for candidates for county and township offices from the 4th to the 6th Saturday before the primary.

XX. Miscellaneous

A. Laws.

Six new laws remain to be mentioned: (1) Chapter 8 provided that a silver plate bearing the names of the Governors be attached to the Governor's chair and desk. (2) S. B. 199 provided that five shares of stock in the North Carolina Railroad Company be placed in the name of each of the eight directors appointed by the Governor, in order that they may comply with the law requiring all directors to be stock-owners in the company in which they are directors. The stock so earmarked is to be held for the State and all dividends thereon will be paid to the State.

(3) Senate Bill 217 amends C. S. 6869 and 6870, so as to permit State officers and employees who are members of the Officers, Enlisted or Naval Reserves leaves of absence without loss of pay, time or rating, while engaged in training; and to exempt such reserves from road and jury duty on the same basis as previously allowed National Guardsmen. (4) H. B. 1111, designed to promote rifle marksmanship, authorizes the Adjutant General to detail an officer of the National Guard or a member of the unorganized militia to organize and supervise rifle clubs in schools, colleges and other groups under regulations promulgated by the Adjutant General, and in such manner as to make these clubs acceptable for membership in the National Rifle Club.

A maximum of \$200 is appropriated for expenses. (5) Chapter 3 amends C. S. 5030 to permit the removal of graves for the purpose of erecting a new church, parish house or parsonage. (6) H. B. 1039 amends the original charter of the N. C. Grand Lodge of the Knights of Pythias to permit the order to establish and maintain an orphan home for minors and for aged Pythians and wives, to maintain an endowment fund for such homes, and to increase permissible property holdings from \$100,000 to \$500,000.

B. Resolutions.

Of the resolutions which passed, not elsewhere mentioned, ten dealt with the organization and work of the Assembly. Seven of these were: S. B. 1 informing the Governor that the Assembly was organized; H. B. 4 appointing an inaugural committee; H. B. 8 providing for consideration of public bills at sessions on Saturdays and Mondays; H. B. 1066 calling a joint meeting to elect University Trustees; S. B. 324 and H. B. 1298 on sine die adjournment; and H. B. 9, authorizing printing of the 1936 special session acts and records with those of the regular session. The one-day meeting of the Legislature in Edenton occasioned three others: H. B. 405 authorizing the session, S. B. 463 inviting the Governor and the Mayor of Edenton to address the gathering, and S. B. 464 expressing the Assembly's appreciation to the city for its reception.

Six resolutions expressed the sympathy of the legislature for the death of Major W. C. Heath (S. B. 116), Clem G. Wright (S. B. 118), and Dr. S. E. Douglass (H. B. 850), all former members; for the death of Wiley H. Pittman (H. B. 1247), Director of the State Division of Purchase and Contract; for the death of the grandson of Senator E. G. Flanagan (H. B. 625) and of the father of State Treasurer Charles M. Johnson (H. B. 627); and for the illness of Fred O. Sink (S. B. 465), a former member.

The usual number of endorsements was featured by H. B. 911, approving President Roosevelt's recommendations for reforms in the federal judicial system. Also receiving legislative endorsement were the continuation of soil erosion work by CCC Camps (H. B. 1229) and the Southport port project (H. B. 1276). H. B. 250 provided for a Commission to prepare for the State's observance of the 150th anniversary of the United States Constitution and H. B. 37 for a committee to welcome the submarine "Perch" on its visit to Southport. H. B. 1133 named the new bridge between Hyde and Tyrrell Counties for Congressman Lindsay C. Warren. Two bills requested the State's delegation in Congress to use its influence to have one of the new dreadnaughts named for North Carolina (H. B. 278) and to authorize coinage of a coin commemorating the Mecklenburg Declaration of Independence (H. B. 286). H. B. 1286 authorized the Governor to designate a day to be known as "Indian Day," on which Indian lore shall receive emphasis in the public schools and among the citizens of the State. Rounding out the list were two resolutions inviting dignitaries Paul V. McNutt (H. B. 18) and Frank Bane (H. B. 123) to address the Assembly and a third bill (H. B. 61) inviting Governor Hoey to attend the McNutt session.

Bulletin Service

Opinions and rulings in this issue are from rulings of Attorney General and State Departments from February 1 to April 1

★

Prepared by
M. R. ALEXANDER

1. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

1. Exemptions—religious and educational organizations.

To A. R. House. Please advise if the following property in our town is subject to ad valorem taxation by the town: (1) Property owned and rented by the American Legion which has been taken in by foreclosure of mortgages for unpaid loans; (2) property acquired and used similarly by Meredith College; (3) property owned and rented by the County which has been taken in by tax sales and foreclosure of tax certificates in some cases and foreclosure of mortgages in others.

(A.G.) (1) Subsection (6), Section 304, 1935 Machinery Act is not broad enough to include property of the American Legion which is not used exclusively for lodge purposes or is adjacent thereto. (2) Chapter 204, Public Laws of 1933, section 4 (a) changed the law in regard to the exemption of church property, and it is not necessary any longer for such property to be adjacent to a church to be exempt from taxation. (3) Property acquired by the County in a tax foreclosure suit is subject to municipal taxation on the theory that it is not used for governmental purposes. See *Benson v. Johnston County*, 209 N. C. 751.

2. Exemptions—fraternally owned property.

To J. W. Kelly. (A.G.) The Machinery Act exempts property of a Masonic Lodge from property tax. This does not, however, exempt tenants of a Masonic Building from ad valorem taxes on their equipment and from any privilege taxes for which they may be liable.

3. Exemptions—Federal agencies and Federal lands.

To Mrs. Mary G. Burgin. Inquiry: A owns a building and operates a store on land leased from a National Forest in our County. Is he liable to the County for ad valorem tax on the building and for privilege and sales tax on the business?

(A.G.) This Office is of the opinion, due to the fact that the State did not reserve the right to levy taxes on property ceded to the Federal Government for this National Forest, that the State and its political subdivisions have no taxing power within the limits of this property.

To W. Z. Penland. Inquiry: May the County tax automobiles owned by government employees who work and reside upon a federal reservation at the veterans' hospital located in our County?

(A. G.) No. When the State exercises the right of relinquishing jurisdiction over property to the Federal Government, as sites for custom houses, court houses, Post Offices, arsenals, or other public buildings, or for any other purposes of the govern-

ment, without reservation except for the right to enforce its criminal laws and to serve its processes, all right to tax either realty or personalty located on it is gone. You understand, it is the situs of the property which exempts it and not the fact that the taxpayer is an employee of the Federal Government, which does not bring personal property within any of the exemptions named in C. S. 7971 (19).

5. Exemptions—city and county property.

To O. M. Hooker. (A.G.) This Office has held that stocks of alcoholic beverages in a county-operated A.B.C. store are subject to property tax by the municipality in which the store is located.

30. Situs of personal property.

To A. C. Hudson. (A.G.) In our opinion, an automobile belonging to a person who is not an actual resident of a County or City but who is temporarily domiciled therein for the purpose of carrying on his work or business is not taxable there but in the County or City of his actual residence.

40. Special assessments.

To Mrs. Joyce Haynes. (A.G.) Under the general law the property of churches is not exempt from special assessments for paving streets. We are not advertent to any public-local law such as you mention and suggest that you furnish us a definite citation.

65. Intangibles Tax Laws—1937.

To R. S. Rogers. Inquiry: Does the tax on intangibles, included in the Revenue Act passed by the 1937 Legislature, affect the listing of intangibles as of April 1, 1937? That is, will the owner of cash or mortgages be required to list the same as of April 1?

(A.G.) The Intangibles Law contained in the 1937 Revenue Act does not affect the listing of intangibles until after 1937. The owner of cash or mortgages is required to list these intangibles this year as heretofore.

B. Matters affecting tax collection.

22. Delinquent taxes—time for sale and foreclosure.

To Mrs. Evelyn H. Pleasants. Inquiry: Does our Town have 18 or 24 months in which to file suits on 1934 taxes?

(A.G.) C. S. 8037 provides in part as follows: "Every county or political subdivision of the State, which is now or may hereafter become the holder by purchase at a sheriff's sale of land for taxes or any certificate of sale, shall bring action to foreclose the same within 24 months from the date of the certificate."

31. Tax foreclosure—procedural aspects.

To O. M. Hooker, Jr. Inquiry: The Town advertised no property for delinquent taxes during the years 1928-34. On October 7, 1935, all delinquent taxes were advertised at one time and the tax cer-

tificates made to include all taxes for these years. Please advise whether these certificates are collectible, and if not, what remedy is available. Also, whether a partial payment on a certificate before civil action is taken nullifies the entire certificate.

(A.G.) We are of the opinion that separate certificates would be required for each year in which a delinquent taxpayer's property was sold. C. S. 8024-5.

We think perhaps you might go back to the actual advertising and sale of this property, and if the facts show there was a proper sale for each of these years, remedy the situation by issuing, based on these facts, of a new certificate for each year that the property was sold for taxes.

A partial payment on a certificate before civil action is taken would not nullify the entire certificate. The amount due on the certificate would be the amount for which action should be brought.

50. Tax collection—acceptance of bonds or notes for taxes.

To R. B. Mallard. Inquiry: The Town wants to build a curb and gutter on a certain street with money advanced by the property owners and credit the advances on their taxes as they accrue.

(A.G.) In our opinion the Town has no authority to enter a contract of this nature. There is no provision in our law which contemplates such a method of municipal financing.

65. Tax collection—garnishment.

To M. L. Rhyne. (A.G.) In our opinion, a municipal corporation has authority to attach or garnishee property for failure to pay either poll or personal property taxes. C. S. 8004 gives the Sheriff the right to make an attachment or garnishment for poll and personal property taxes owed the County. And C. S. 2816 confers on the Municipal Tax Collector all the powers which the Sheriff has with reference to county taxes.

To W. A. Blount, Jr. Inquiry: May the County garnishee wages for personal property tax when the taxpayer has moved to another county and taken the personal property with him?

(A.G.) C. S. 8001-2 provides the way taxes can be collected from a person who has moved to another county. The Sheriff of the county to which such person moves is required by C. S. 8002, upon the certificate furnished as required by C. S. 8001, to collect such taxes. And he has the right to garnishee any wages due the taxpayer as provided in C. S. 8004.

77. Tax collection—priority of lien.

To J. Vance Rowe. (A.G.) In our opinion the claim of a town for taxes against property of a decedent accruing during his lifetime would have priority over the claim of the undertaker for burial expenses. See C. S. 7987.

11. Exemptions—property in hands of trustee or administrator.

To W. H. Hammond. Inquiry: Is the purchaser of real estate liable for town taxes on property which accrued (1) during the life of the former owner and (2) after his death and while the estate was in administration?

(A.G.) The purchaser of real property acquires title subject to any outstanding unpaid county and city taxes against such property. If the taxes have not been paid, the county or city can enforce same against the property. This applies to property listed by a decedent person and assessed prior to his death and to taxes levied during administration upon his estate.

Under the circumstances indicated in the case of Farmville Oil and Fertilizer Co. v. Bourne, 205 N. C. 337, a person paying taxes against the property of a deceased person would have rights for reimbursement against other property of the decedent available for payment of his debts, and such taxes so paid would come within the third class of debts to be paid by the administrator under the provisions of our statute.

98. Tax collection—release of particular parcel.

To F. P. Parker, Jr. Inquiry: A owned real and personal property. He mortgaged the real property and conveyed his interest therein to a third party at the request of the mortgagee. Is the realty released upon payment of the taxes due thereon? Or should it be held for the taxes due on both the realty and personalty?

(A.G.) This Office has consistently held that real property is liable for all taxes, including those levied against personal property. The fact that the mortgagor had transferred the real property on which the County holds a tax lien would not destroy the lien for the collection of the personal property tax levied at the same time for the same year. Therefore, under the law, you can hold the real estate for personal property taxes as well as for the taxes due upon the real estate.

II. Poll taxes and dog taxes.

C. Use of poll and dog taxes.

1. Schools and poor.

To W. H. McGinnis. Inquiry: Does a Town Board have authority to collect delinquent poll taxes and turn them over to the local school board for school purposes?

(A.G.) In the absence of statutory provisions, poll taxes levied by the Town would be for general fund purposes of the

Town. There is no provision of law requiring municipal authorities to levy taxes for the support of schools, unless there is some special statute applicable to your Town.

III. County and City license or privilege taxes.

A. Levy.

1. Exemptions—churches and charitable organizations.

To Charles Hughes. (A.G.) This Office is of the opinion, if the charitable organization described in your letter enters into business which is taxable under the Revenue Act, that it would not be exempt from tax liability.

10. City automobile licenses.

To Ravenswood Sidbury. (A.G.) The 1935 Legislature provided in Chapter 52 for a uniform system of licensing motor vehicle operators. It further provided that municipalities should not levy an operator's or chauffeur's license. However, C. S. 2621 (31) (c) provides that cities and towns may levy not more than \$1 a year upon motor vehicles resident therein. This, of course, is a tax against the vehicle and not on the privilege of operating same.

22. License tax on loan and finance companies.

To H. J. Rhodes. Inquiry: Does the license tax on loan agencies and brokers provided by the 1935 Revenue Act apply to a person who engages in another business and does not advertise or hold himself out as a broker but occasionally loans his own money to individuals secured by real estate mortgages? (A.G.) We think the tax does not apply under these circumstances.

40. License tax on peddlers.

To R. T. Wilson. (A.G.) We are of the opinion that a person who canvasses the County, exhibits samples, and takes orders for later delivery, would not be required to pay the peddlers' tax prescribed by C. S. 7880 (51).

48. License tax on oil companies.

To W. A. Dees. Inquiry: C. S. 7880 (68) provides for a city tax upon persons and concerns selling illuminating or lubricating oil or grease, benzine, naphtha, gasoline or other products of like kind. A City taxing ordinance also levies a tax on every person and concern conducting any kind of wholesale or jobbing business "not specifically taxed elsewhere in this ordinance." Does the second tax apply to an oil company which is subject to the tax provided in C. S. 7880 (68) but which also wholesales soaps, greases, insecticides, etc. In other words, does C. S. 7880 (68) embrace wholesale dealing by an oil company in soaps, greases, and insecticides as a side line to its main business so as to prevent the City from classifying it as a wholesale merchant and taxing it under the above ordinance?

(A.G.) In our opinion, soaps, greases, and insecticides are not such "other products of like kind" within the meaning of C. S. 7880 (68), and the ordinance referred to levying a tax on persons, firms or corporations wholesaling soaps, greases, and insecticides is a valid exercise of the taxing power of your City.

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

To I. E. Harris. Inquiry: Would a town privilege tax apply to an out-of-State coffee company which sends its salesmen from house to house in the town, taking orders and coming back later to make deliveries and collect for the merchandise they sell?

(A.G.) There is some doubt as to the constitutionality of a privilege tax upon a business conducted in this manner. Such a business, in our opinion, is inter-state in character. If the company does not maintain an actual place of business in your town, we do not think it would be liable for the tax you mention.

70. License taxes on chain stores.

To R. E. Shervette. Inquiry: Is a town entitled to collect chain store tax under Section 162 of the 1935 Revenue Act? A corporation with a local store has indicated it would attack the constitutionality and demanded a refund.

(A.G.) Chain store legislation, essentially the same as that in Section 162, has been sustained in the following cases: Tax Commissioners v. Jackson, 283 U. S. 527; Liggett Co. v. Lee, 288 U. S. 517; A. & P. Co. v. Maxwell, 199 N. C. 433. No matter what the outcome of the possible attack, our opinion at present is that you will be safe in refusing the company's demand for a refund.

B. Collection of license taxes.

15. Penalties for non-payment.

To W. D. Brown. (A.G.) In our opinion, if a city has an ordinance making it an offense to conduct a business without first securing a license, it could collect a penalty prescribed therein, but otherwise it could not. In our opinion, Section 181 of the 1935 Revenue Act does not apply to city license taxes.

IV. Public schools.

B. Powers and duties of counties.

17. Apportionment of funds.

To H. L. Thomas. Inquiry: Is the County Board of Education required to make per capita allowance for a pupil attending a school in an administrative unit other than the school provided by the County for such pupil?

We assume you refer to per capita allowance for maintenance of plant and capital outlay. Having made provision for per capita maintenance of plant and for capital outlay in the home unit of the pupils, you are not required to provide the same for any other school. The pupils can attend only such schools as are provided for them by the County Board of Education. If they voluntarily attend other schools it imposes no obligation on the County Board.

29. Reimbursement of districts from county levy.

To E. B. Denny. Inquiry: The County Commissioners do not want to take over all district school bonds but would like to know if they legally could, by special act, levy a county-wide tax to provide an equalization fund, which would be distributed among the special chartered districts which have provided school buildings that are being used by students from outside the district?

(A.G.) In our opinion, a properly worded law might permit a county-wide tax levy to lighten the burden in special charter districts indebted for school buildings. But we think this would amount to taking over partially district indebtedness, and the County might be compelled by court process to assume the balance. We do not think the question would have to be submitted to a vote of the people if the obligation incurred comes within the limitations set by the recent Constitutional amendment.

70. Segregation of races.

To C. A. Erwin. (A.G.) With the exception of the Croatians Indians of Rich-

HOMESTEAD EXEMPTION AMENDMENT

To Dr. Clarence Poe. Inquiry: In case any county or municipality is so heavily in debt that to grant an exemption on homesteads will so reduce its taxable values as to make it unlikely that it could pay the principal and interest of its bonds, would the bondholders be able to secure in that county a delay in putting the tax exemption into effect, until such threat to their safety could be removed?

(A.G.) In our opinion, a creditor of a municipality would not be able by injunction or otherwise to prevent the application of any exemption which the Legislature might see fit to make by reason of the recent constitutional amendment relating to homestead exemptions.

While the matter has not been definitely determined in this jurisdiction, I am of the opinion that if the exemption as it applies to a municipality would result in the retirement of taxable property to such an extent as to make collection of a pre-existing debt impossible, the court might consider it in its aspect of the impairment of the obligation of a contract, and it is quite possible, might strike down the law as it applied to the particular pre-existing debtor.

mond, Robeson, and Scotland Counties, and their descendants, Indians are not prohibited from attending schools for the white race. See C. S. 5384.

C. Powers and duties of city administrative units.

10. Elections to supplement State funds.

To Ben Parham. (A.G.) This Office has heretofore ruled that an election in a city administrative unit on the issuance of bonds should be called by the Board of County Commissioners if the boundaries of the unit extend beyond and include property outside the corporate limits of the city or town in the special taxing unit.

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

41. Damages in school bus accidents.

To J. W. Comer. (A.G.) The State is not liable for damages done by a school bus wreck caused by the negligence of the bus driver, nor does the State carry insurance against such liability.

F. School officials.

10. Trustees of city administrative units—election.

To L. M. Query. (A.G.) The 1933 School Machinery Act provides that where a city administrative unit includes the boundaries of a special charter district, the method of selecting the trustees or committeemen in such district before the enactment of the School Machinery Act shall be continued. It has been the ruling of this Office that where a part of the school unit is beyond the town limits, the qualified voters should participate in the election for school officials.

41. School attendance.

To H. L. Thomas. (A.G.) The county attendance officer is required to serve all the schools in the county, and the law does not contemplate that a city administrative unit should employ its own attendance officer.

I. School property.

5. Property deemed to school provisionally.

To J. R. Brown. (A.G.) It is always unsafe to give an official opinion concerning title to property unless one has all the facts, including a copy of the deed, before him. However, assuming that the matter is accurately stated in your letter and that the one-acre site was conveyed to the Board of Education or the County with a clause providing that the property should revert to the seller and his heirs when the building ceased to be used for school purposes, I must advise that the holding therein of community meetings is not such a purpose as would justify continuation of the title in the County or Board of Education, but that the land did revert to the grantor and his heirs.

10. Disposition of school property.

To R. H. Atkinson. (A.G.) In our opinion C. S. 5470 (a) gives the County Board of Education authority to sell school property that is no longer necessary for school purposes. Such property must be sold at public auction. The law is somewhat confused as to the application of the proceeds of school property thus sold. However, we have ruled that the proceeds should go into the hands of the County for distribution as capital outlay funds.

To C. A. Erwin. Inquiry: A County Board of Education wants to know if it has the privilege of rejecting bids in a public sale of school property advertised and sold under Chapter 494, Public Laws of 1933? (A.G.) We think not.

V. Matters affecting County and City finance.

B. Defaults.

12. Payment of interest on past due bond where coupons not paid.

To W. E. Easterling. Inquiry: Is a municipality liable for *accrued interest* on its defaulted bonds *from maturity* when the bonds were not presented for payment at maturity, but neither were funds for payment on hand with the paying agent at the time?

(A.G.) The case of McLendon v. Commissioners, 71 N. C. 38, held a county liable for interest on coupons from the date of maturity. In this, the County did not have funds available for payment of the coupons at the paying agent at the time of maturity. No demand was made upon the Commissioners for payment. The Court held, nevertheless, that the County was liable for interest on the coupons from the date of maturity.

If the facts disclose that a county had funds available with the paying agent for the paying of coupons or interest of bonds at maturity, this would be equivalent to a tender or payment under the provisions of C. S. 3051, and thereafter the holder could not collect interest.

1. Issue of bonds.

2. Debt limitation amendment of 1936.

To L. H. Barbour. (A.G.) The Constitutional Amendment restricting the amount of indebtedness which a municipality may incur to two-thirds of retired indebtedness strictly applies to the indebtedness which has been retired "during the preceding fiscal year." You can not, therefore, take the aggregate from any two fiscal years in order to apply the two-thirds rule.

To C. M. Abernethy. Inquiry: Can interest paid by the County during a particular fiscal year be included as part of debt reduction in determining the obligations which the County may incur without a popular vote under the recent Amendment?

(A.G.) The amendment reads the "amount by which the outstanding indebtedness" of the unit was reduced. The Supreme Court has held that when interest has accrued, it constitutes a "debt" just as much as the principal. For this reason, in our opinion interest payments should be included in considering the amount by which the "outstanding indebtedness" of a particular County has been reduced.

To S. R. Hoyle. Inquiry: How does the new debt limitation amendment affect special or special charter school districts, the bonds of which would be signed by the Board of Commissioners of the County in which the district is situated?

Only two or three school districts in North Carolina are now clothed by law with authority to contract any debt, and I doubt whether we will be able to give you a satisfactory answer.

However, we should say that any debt now contracted by a school district which has been given such authority would come within the restriction of the Amendment, and the question of incurring such debt would have to be submitted to a vote of the people, unless the district has reduced its indebtedness sufficiently for the proposed expenditure to come within the two-thirds restriction. This would mean, of course, that (a) such district must be considered as a municipality, and (b) that if it is a newly created district, the debt

must necessarily be submitted to a vote, because no debt reduction had occurred.

There is a tendency in our Supreme Court Reports to regard debts of school districts for maintaining schools or building school buildings, and of townships for building roads, as debts of the county. You might consult *Hickory v. Catawba County*, 206 N. C. 165, and other cases of the same character and determine for yourself whether or not the Court means to say that the obligations of a district are those of the County.

If so, it would follow that the county might assume the obligations of such districts and refund the same without offense against the Constitution. It would mean also that payment of such obligations should be credited to the County in the total debt reduction.

20. Submission to vote.

To C. A. Swain. Inquiry: The Town is planning a special election on a small bond issue for a W.P.A. street improvement project. Please give us the law on holding such elections?

(A.G.) If the provisions of C. S. 2703 et seq. are complied with, it will not be necessary for a special election to be held in order to issue bonds to pay for local street improvements. Your attention is called to this section, and we suggest that you consult your Town Attorney in this regard.

T. Fire insurance.

10. Policies in mutual companies.

To E. R. Keeter. (A.G.) In the case of *Fuller v. Lockhart*, 209 N. C. 61, the Supreme Court recently held that a County Board of Education was authorized to take out insurance in a mutual company under the form of insurance contract employed in that case.

VI. Miscellaneous matters affecting counties.

B. County agencies.

20. Electric membership corporations.

To J. L. Gibson. (A.G.) Section 2 (g), Chapter 288, Public Laws of 1935, confers on the North Carolina R.E.A. the right of eminent domain, that is, it authorizes that body to condemn property for electrification purposes. Acting through this body, local electric membership corporations also have the authority of eminent domain. Chapter 291, Public Laws of 1935.

Y. Ordinances.

1. Validity.

To S. L. Homewood. (A.G.) This Office is of the opinion that an ordinance passed by your County Board of Health affecting the entire County, requiring payment of a tax by owners of dairy cattle to provide for the expenses of inspecting the cattle for the protection of the public health of the County, is a valid exercise of the police power.

VII. Miscellaneous matters affecting cities.

B. Matters affecting municipal utilities.

6. Collection.

To R. P. Aiken. Inquiry: Since selling its light and water plants, the Town has been experiencing difficulty in collecting sewer charges. Please advise if the statutes provide machinery for collection or if special legislation is necessary?

(A.G.) C. S. 2806 (i) authorizes the governing body of a municipality operating a sewer system to charge for sewer service and fix a schedule for such charges and penalties for non-payment. However,

the Section does not provide the machinery for collecting these charges, and it might be desirable to have some general legislation providing such machinery.

M. Sunday closing laws.

5. Theatres.

To J. M. Foushee. Inquiry: Please give me your opinion as to the right of a Town's aldermen to permit Sunday movies? (A.G.) There is no provision in the State law which would prevent your Board from permitting Sunday movies in the event your Board sees fit to do so.

Q. Town property.

10. Sale of town property.

To W. E. Easterling. Inquiry: Does C. S. 2688, requiring any sales of municipal property to be at public outcry after 30 days' notice, apply to a sale of property taken in by foreclosure of a mortgage securing a loan from the sinking fund?

(A.G.) C. S. 2688 apparently is an enabling statute permitting the mayor and commissioners to sell real or personal property belonging to the town at public auction. In reality, as construed by the courts, however, it must be considered as restricting the manner in which property of a town subject to sale may be sold.

The case of *Southport v. Stanley*, 125 N. C. 464, held that this section does not confer the right upon a town to sell or lease real estate devoted to governmental purposes or held in trust for a special use of the town.

However, under the decision in *Benson v. Johnston County*, real estate purchased by a town upon a foreclosure suit for taxes is not considered to be held for governmental purposes, and in our opinion, the Court would hold the same as to prop-

erty taken in by foreclosure of a mortgage to the sinking fund.

W. City purchases.

5. Effect of Robinson-Patman Act.

To G. C. Eichhorn. (A.G.) We have heretofore expressed the opinion that, under the Robinson-Patman Act, the seller would be justified in recognizing a functional differential in sales to governmental agencies. In the absence of any court construction of the Act, any opinion expressed can not be supported by authority. It is our opinion, however, and we have so advised the State Department of Purchase and Contract, that a seller making sales to a governmental agency is justified in making prices which he is willing to make to other similar governmental agencies. The seller is not compelled to quote prices which would be quoted to retailers or commercial purchasers in general.

We were of the opinion that the ruling of the Attorney General of the United States construing the act as relating to sales to the Federal Government would have similar application to State and Municipal purchases. If the Federal Trade Commission has made an opposite ruling, we are not familiar with it, and we are writing them requesting any rulings they have made on the subject.

Y. Streets and sidewalks.

5. Rights-of-way.

To Mrs. Evelyn H. Pleasants. Inquiry: The Town is paving sidewalks on certain streets with W.P.A. and Town funds and is endeavoring to secure an easement signed by each property owner. Do we have a right to lay sidewalks on property whose owners refuse to sign, or should we skip over such pieces?

(A.G.) The question of whether a town has a right to pave sidewalks opposite property depends on whether the part to be paved has definitely become part of the streets, either by purchase or condemnation, or any other way by which a right-of-way could be obtained. If the town has already acquired an easement in the property for public use, it may lay the sidewalk without any further grant, license or permission from the property owner; if not, it can do so only by purchase or condemnation. In our opinion, should the Town "skip" portions of sidewalk opposite property because of objection, this would be rather arbitrary action, although perhaps within the power of the Town authorities.

VIII. Matters affecting chiefly particular local officials.

A. County Commissioners.

5. Trading with member of board.

To Guy Elliott. Inquiry: Does the law allow the County Commissioners to pay a former member an expense account incurred while looking after county affairs?

(A.G.) In our opinion, the expenses of a Commissioner while looking after necessary duties of the Board would not come within the legislative prohibition in C. S. 4388 of a commissioner dealing with his Board.

To Mrs. M. G. Burgin. Inquiry: May a Commissioner operating a store legally fill an order which the Welfare Department gives to a person on relief for a sack of flour at a fixed price to be filled by any store in the County? (A.G.) C. S. 4388 has been construed by the courts so as to prevent such a transaction.



OF RECORDING COST

Receiving time, filing time, typing time, comparing time make up 95% of total recording cost. Permanent loose leaf record binders and permanent record paper are only 5%. But that is the *most important* 5%. Failure of the binder or paper means trouble, time waste, embarrassment and expense for repairs and rebinding of the 95%.

How to avoid failure of the binder and paper, and assure maximum value in that 5%, has been answered for many years by H&M Permanent Public Record Books. It's no secret—just fine materials, skilled workmanship and modern methods which make H&M Record Books give those extra years of durability, fine appearance and trouble-free operation. Recording officers who know this, always specify and use H&M Record Books.

H&M Permanent Loose Leaf Record Books and Permaflex Loose Leaf Indexes are furnished through established North Carolina County Supply Houses.



HALL & McCHESNEY, INC.
SYRACUSE, N. Y.

Piedmont & Northern Railway

3 1/4 % First Mortgage Sinking Fund

Bonds Due December 1, 1966

and

Common Stock

Bought—Sold—Quoted

R. S. DICKSON & COMPANY

INCORPORATED

INVESTMENT R&D SECURITIES



Charlotte New York Chicago Raleigh Columbia

B. Clerks of the Superior Court.**1. Salary, costs, and fees.**

To H. V. Rose. Inquiry: Please construe Chapter 379, Public Laws of 1935, relating to the fees due a Clerk for auditing the final accounts of trustees, mortgages, Commissioners or other persons selling real estate under foreclosure proceedings and required to render final reports.

(A.G.) This section provides that the fee shall be 25c on each \$100 of receipts and disbursements through \$1,000 and 10c on each \$100 for everything above \$1,000, with a minimum of \$1.50 and a maximum of \$25. If the sale price of the property was \$5,000, it appears the fees should be based, within the stipulated minimum and maximum limitations, on the amount of receipts and disbursements, that is, on a total of \$10,000.

To A. W. Cooke. Inquiry: When the charter of a Building and Loan Association is amended, should the tax of \$25 prescribed by C. S. 5170 for incorporating such companies be charged against the corporation?

(A.G.) In our opinion, the legislative intent in C. S. 5170 was to levy the tax upon the original incorporation only and not upon amendments to the charter. All that is required of amendments is that they be "signed, certified, and recorded."

To W. V. Avent. Inquiry: Is the Clerk entitled to the commission on unclaimed bank deposits which escheat to the University or should this go to the County? (A.G.) The Commission should go to the Clerk if he is on a fee basis and to the County if he is on a salary basis.

To F. S. Hutchins. Inquiry: Is the Clerk entitled to interest received by him on investments of general funds in his office which he is not obligated to invest as a matter of law but which he may invest at his own risk and discretion?

(A.G.) We think not. Clerks are not permitted to invest funds in their hands "at their own risk." While they certainly would be held personally liable for an investment made in bad faith, through gross negligence, or for their own personal interest, they do not have a right to deal with such funds as their own, assuming whatever risks may be involved.

Moreover, it is a rule of law that a trustee or fiduciary who puts out money in his custody at interest, although under no legal requirement to do so, is presumed to have made the investment for the benefit of the beneficiary owner, and the interest always belongs to the beneficiary owner.

7. Jury fees.

To C. F. Rice. Inquiry: Who has the right to name the Foreman of the Grand Jury, the Judge or Clerk of Superior Court? (A.G.) The Judge.

8. Acknowledgment and probate of instruments.

To G. W. Howell. (A.G.) Chapter 168, Public Laws of 1935, specifically prohibits the acknowledgment or probate of an instrument required to be registered upon the oath and examination of a subscribing witness who is also the grantee, his agent or servant.

10. Collection of process tax.

To J. H. Miller. Inquiry: Should process tax be assessed in bills of cost in Recorders Court in criminal actions (1) when the Recorder has final jurisdiction and (2) where Justices of the Peace have original and final jurisdiction?

(A.G.) The section on process tax, it is provided in Subsection (e), does not apply to cases in the jurisdiction of magistrates' courts except upon appeals to the Superior Court. If the case is appealed, the process tax does apply except in cases in which the county is required to pay the costs.

To F. F. Church. Inquiry: Please advise whether State tax in suits applies to sci fa judgments. Also, whether the County is allowed to levy a tax on suits in the same amount as the State.

(A.G.) Section 157 of the Revenue Act, subsection (a), provides that "in every indictment or criminal proceeding finally disposed of, the person convicted or adjudged to pay the cost shall pay a tax of \$2. . . ." We are of the opinion that process tax should be levied in a case which is disposed of by a sci fa judgment.

We are of the opinion that counties are not permitted to levy process tax under this section.

12. Costs in suits in forma pauperis.

To F. F. Church. Inquiry: What amount of property can a person possess and still be entitled to bring a suit as a pauper under C. S. 494?

(A.G.) If the Plaintiff has sufficient property to make the deposit required by C. S. 493, he would not be entitled to bring suit as a pauper.

25. Commitment of inebriates to State Hospital.

To B. D. McCubbins. Inquiry: May a veteran who is an inebriate be committed to a United States Hospital by a State court under C. S. 2202 (16) or any other statute?

(A.G.) We do not think C. S. 2202 (16) would serve as authority for the commitment of an inebriate to a U. S. Hospital. In fact, it does not apply to inebriates at all as such, as the definitions of inebriates given in the statutes, C. S. 2284 and 2304 (a), do not fit C. S. 2202.

Of course, a person may be an inebriate, and from inebriety or other cause may also be insane; but the commitment then would be on the ground of mental weakness and not on inebriety as defined in the statutes.

27. Appointment of guardians for insane.

To J. N. Sills. Inquiry: C. S. 2286 provides for the appointment of a guardian for an insane person on an affidavit of the superintendent of the institution in which the person is confined. Can a guardian be appointed under this act for a weak minded person who is an inmate of Caswell Training School? (A.G.) We are of the opinion that such a person comes within the operation of this statute.

50. Costs.

To F. F. Church. Inquiry: Should a motion to retax the cost in a criminal action be heard before the clerk or the judge? (A.G.) The motion to retax the cost in a criminal action should be made before the clerk. See C. S. 1232. From an order made by the clerk an appeal would lie to the judge.

72. Notation of revocation on drivers' licenses.

To E. O. Falkner. (A.G.) Chapter 52, Public Laws of 1935, Section 16, provides that the privilege of driving on the highways of this State is given to non-residents subject to suspension or revocation by the Department in like manner and for like cause as that of a resident. We,

therefore, are of the opinion that you are quite right in making a notation of revocation, as prescribed under Section 18 (a), on a nonresident's driving license.

88. Pensions.

To George Ross Pou. Inquiry: Please advise as to the duties of the State Pen-

UNAUTHORIZED PRACTICE OF LAW

To C. J. Gates. (A.G.) In our opinion, a corporation authorized to make loans may prepare, or cause to be prepared by its agents or employees, mortgages, deeds of trust, and deeds of trust notes, for the signature of persons borrowing money from them without infringement of C. S. 199 (a), relating to the practice of law.

sion Board, State Auditor, and Clerks of Court in regard to applications for State pensions.

(A.G.) C. S. 5168 (a) directs the State Board to examine applications for pensions and, if necessary, take evidence concerning same. Subsection (a) provides that "such applications as are approved by the Board shall be paid by the Treasurer upon the warrant of the Auditor." Subsection (c) provides that after a correct list of pensioners is ascertained, the Auditor shall transmit to the Clerks of Court of the several counties.

Subsequent sections provide generally a method by which applications may be made to the County Board and the eligibility of the applicant determined. While it is not set up in these statutes, with all the precision which could be desired, that the determination of eligibility by the County Board must receive the final approval of the State Board, this is clearly indicated by reading all the statutes together.

100. Escheats.

To T. A. Henderson. Inquiry: Please explain the duties of the Clerk in regard to handling unclaimed bank deposits in defunct banks.

(A.G.) C. S. 218 (c) provides that the liquidating agent of the bank shall make a list of rejected claims and unclaimed funds and pay said funds into the office of the Clerk. The Clerk is ordered to see that the funds are "held for a period of three months after liquidation is completed, and shall then be paid to the Escheator of the University." Claims filed after the expiration of the time for filing shall, if allowed, share pro rata only in the distribution of assets in the hands of the Corporation Commission. "Provided, that when it is made to appear to the Judge of Superior Court, resident in the County, that the claim could not have been filed within the said period, said Judge may permit those creditors or depositors who subsequently file their claim to share as other creditors."

To W. H. Young. (A.G.) The chapter of which C. S. 218 (c) is a part defines banks in such manner as to exclude building and loan associations. For this reason, it is our opinion that funds in such associations escheat under the general law rather than the above statute.

D. Register of Deeds.**9. Marriage—licenses.**

To C. E. Muse. Inquiry: Does a Deputy

Register of Deeds have authority to issue a marriage license?

(A.G.) The effect of the decision in *Coley v. Lewis*, 91 N. C. 21, and *Cole v. Laws*, 108 N. C. 185, was to make a Deputy Register ineligible to issue a marriage license. However, C. S. 2503 has been amended since these decisions were rendered to permit a Deputy Register to make the inquiry necessary for the issuance of a license. We are of the opinion that the effect of this amendment is to give the Deputy Register authority to issue a marriage license.

K. Coroners.

10. Inquests.

To B. A. Cox. Inquiry: Is it the duty of a County Coroner to attend deaths where neither the physician nor the County Health Officer were present at the time of death? Is the Coroner required to attend to matters relating to still-births? And is it necessary for him to impanel a jury and hold an inquest in order to earn his fees?

(A.G.) Under C. S. 1020 it is the duty of the Coroner to make an examination into the cause of death whenever the Coroner has reason to believe that death resulted from a criminal act or default of some person. It appears that whether he should make an examination depends on the circumstances in each case, and no certain and unchangeable rule could be laid down that he should or should not attend all deaths wherein neither the physician or County Health Officer were present at the time of the death. The same thing would apply to still-births.

In our opinion, in order for the Coroner to collect his fee for holding an in-

quest, it would be necessary for him to impanel a jury and hold an inquest. The generally accepted rule is that the definition of an inquest includes a hearing before both the Coroner and a jury impaneled by him.

L. Local law enforcement officers.

18. Prohibition law—1937 Liquor Control Act.

To W. W. Cahoon. Inquiry: Is the possession of "bootleg whiskey" a violation of the 1937 Liquor Control Act? (A.G.) Section 13 makes it a misdemeanor to possess whiskey upon which no State and Federal tax has been paid. Section 15 makes it illegal to possess whiskey of this type for the purpose of sale.

26. Prohibition—Beer Law.

To C. S. Hinson. Inquiry: Please give me your ruling as to the legal distance a beer garden or liquor store can be placed to a school building.

(A.G.) C. S. 3411 (13) provides that the wine and beer permitted to be sold under the act may not be sold within 300 feet of any public or private school building situated *outside the incorporated limits of a town*. The restriction does not apply, however, to unincorporated towns and villages having police protection.

30. Slot machines.

To G. S. Garriss. (A.G.) The General Assembly of 1935 enacted two statutes outlawing slot machines, Chapter 37 and Chapter 282. Our Supreme Court held that the statutes were not in conflict and construed both in the case of *State v. Humphries*, 210 N. C. 406. The opinion by Judge Devin discusses the question at length, and we suggest that you read it before proceeding further.

To W. J. Pinnell. (A.G.) Chapter 371, Public Laws of 1935, Section 130 (d), provides that the Commissioner of Revenue or his agents have the right to confiscate and remove a slot machine upon which the tax has not been paid. If the State tax has been paid, the State has no further interest in the machine. The right of the Sheriff to confiscate the machine now would depend on whether it was an illegal machine; if so, he would have the right, otherwise, the machine should be returned to the owner.

43. Public drunkenness.

To J. C. Strickland. Inquiry: Does C. S. 4458, covering public drunkenness at "any public place or meeting," apply to public drunkenness in a store on a public highway? (A.G.) We think a store to which the public is invited for the purpose of purchasing the goods sold therein constitutes a public place within the meaning of the prohibition of the law.

M. Health and welfare officers.

1. Selection.

To Dr. M. L. Carr. (A.G.) The County Health Officer is elected by the County Board of Health, under C. S. 7067, and not by the Board of County Commissioners. However, if the County Board of Health does not select the County Health Officer within 60 days after the first Monday in January of the odd years, then it becomes the duty of the State Board of Health to select such official.

3. Health measures.

To Junius D. Grimes. Inquiry: Does the County Board of Health have authority under C. S. 7065 to pass a milk and food ordinance applying to all portions of the County?

The authority conferred on the County Board of Health by this statute is essentially the same as that given municipal corporations by C. S. 2795. Construing these two statutes together, it is our opinion that the County Board of Health is limited in the right to make rules and regulations respecting county health to the unincorporated portions of the county. With this exception, it is our opinion that rules and regulations along the lines suggested in your letter would be valid.

To W. H. Booker. Inquiry: Is a tourist camp in a rural section which serves meals to the public subject to the sanitary laws of the State relating to the conduct of hotels and cafes?

(A.G.) The definition of "restaurant" in Section 1, Chapter 186, Public Laws of 1921, includes lunch counters, cafes, and all other establishments whatsoever where lunches, meals, foods, in any form, are prepared for or served to the public for immediate consumption.

We are of the opinion that the establishment you describe comes within the meaning of this law, and the owner should comply with the law and the rules and regulations promulgated by the State Board of Health.

15. Qualifications for county relief.

To R. A. Phillips. Inquiry: North Carolina requires three years' residence to acquire a settlement for the purposes of poor relief, but Pennsylvania requires only one year. Would a person who moves from North Carolina to Pennsylvania and resides for one year lose his settlement here or would it take three years?

(A.G.) C. S. 1342, Subsection 5, provides that a legal settlement continues until a new one is acquired "within or without the State." Under this subsection, our opinion is that as soon as a legal settlement is acquired in Pennsylvania the settlement in North Carolina automatically terminates.

35. Juvenile Delinquency.

To J. B. Hall. Inquiry: Would the County Superintendent of Welfare have authority to commit a minor, convicted of larceny, to jail after his custody is awarded to the Superintendent and pending his admission to a State training school, the County having no detention home?

(A.G.) No. C. S. 5048 directly prohibits placing children in prison. Apparently the only thing you can do is continue your efforts to get the child admitted to the training school.

P. Records' and County Courts.

5. Establishment.

To T. R. Wall. Inquiry: A municipality with a population of a few less than 1,000 by the last Federal census desires to establish a Recorder's Court. Will C. S. 1536 prohibit the establishment of such a court when both the municipality and township are to be included in the jurisdiction of the court?

(A.G.) We think so, and Article 2, Section 29, of the Constitution prohibits the General Assembly from passing any local, private or special act relating to the establishment of courts inferior to the Superior Court.

35. Right to practice law.

To R. P. Burns. (A.G.) We are unable to find any law which would prevent an attorney who practices law in partnership

UNAUTHORIZED PRACTICE OF LAW

To J. G. Carpenter. Inquiry: A motor club, by contract with its members, undertakes to reimburse them for legal fees paid in certain limited cases. Club members select their attorneys without any control by the club. Does this constitute a violation of the statutes against the illegal practice of law?

(A.G.) In our opinion this is not a violation of the statutes. C. S. 199 (a) provides that "it shall be unlawful for any corporation except members of the Bar of the State to appear in any action or to furnish services of a lawyer or lawyers." The sentence quoted comes as near as any provisions of the statute to this question.

Providing a means for the payment of counsel employed by members, it seems to me, would not be within the language or intent of this provision, provided the attorneys were not selected by the club and no means of control was exercised in their selection.

We have many organizations in the State providing for payment of medical, surgical, and hospital expenses incurred by policy holders. Payment of medical and surgical bills would not make the providing organization guilty of practicing medicine or surgery. The same reasoning, it seems to me, applies here.

with another attorney from accepting the position of Prosecuting Attorney in the General County Criminal Court in which his law partner practices. As to whether the practice has the approval of the State Bar as a matter of ethics, we suggest that you write to the Secretary in Raleigh.

S. Mayors and Aldermen. 15. Quorum of Board.

To W. H. Hammond. (A.G.) We are of the opinion that a Mayor, who by virtue of his office is ex officio chairman of the Board of Aldermen, constitutes a regular member of the Board for the purpose of obtaining a quorum.

T. Justices of the Peace.

10. Jurisdiction.

To J. H. Morris. (A.G.) The 1937 Liquor Control Act makes it a misdemeanor, punishable in the discretion of the court, to be found in a drunken condition in any public place. We are of the opinion that this statute deprives magistrates of final jurisdiction over offenses of this nature.

X. A.B.C. Boards. 2. Vacancies.

To W. P. Smith. Inquiry: How are original and vacancy appointments to County A.B.C. Boards made since the 1937 Liquor Control Act (Chapter 49)?

(A.G.) Section 6 provides for appointment by a joint meeting of the County Boards of Commissioners. Health and Education, each member present having one vote. This section provides that the A.B.C. Boards now in existence continue for their full term, but at the expiration their successors are to be appointed as above. Under Section 26, it is provided that A.B.C. stores now being operated shall from the ratification of this Act be operated under its terms. In our opinion a vacancy would now be filled in compliance with the above provision in the 1937 Act.

3. Unemployment Compensation Act.

To C. G. Powell. Inquiry: I understand your Office has ruled that County A.B.C. Boards and employees are exempted from the operation of the Unemployment Compensation Act as public agencies created under the police power of the State for the purpose of controlling the traffic in liquor. (A.G.) This is correct.

9. Hours of sale.

To R. H. Pope. (A.G.) A.B.C. Boards created under the 1935 Acts are now authorized, under the 1937 Act, in their discretion, to permit stores to remain open from 9 A. M. to 9 P. M. Chapter 49, Public Laws of 1937, specifically provides that County Boards of Control appointed under the 1935 Acts shall be governed by the terms, provisions, restrictions, regulations, and requirements of the 1937 Act.

15. Fund for law enforcement.

To Junius D. Grimes. Inquiry: In view of the 1937 Liquor Control Act, what disposition should be made of law-enforcement funds derived from the operation of A.B.C. stores under the 1935 Act?

(A.G.) We are of the opinion that these funds should be expended by the A.B.C. Board in accordance with the provisions of the 1937 law for enforcement purposes. Section 26 of the new Act provides that existing stores are to be operated under the terms of the 1937 Act from the ratification of same.

IX. Double office holding.

9. School committeeman.

To W. A. Young. (A.G.) Under the case of Barnhill v. Thompson, 122 N. C. 493, a member of a local school committee would be a public official within the meaning of the constitutional prohibition against double office holding.

14. Aldermen and commissioners.

To B. H. Perry. (A.G.) This Office has ruled that the positions of City Councilman and County Tax Assessor are both offices. However, this is merely an opinion on the part of this Department, as the Supreme Court does not seem to have passed specifically upon the question.

21. Tax supervisor.

To R. T. Wilson. (A.G.) Under the law of this State, and particularly C. S. 4388, it would not be legal for the County Commissioners to appoint one of their members as Tax Supervisor and pay him a compensation therefor. Besides, both are offices within the meaning of the prohibition against double office holding.

51. Postal employee.

To T. B. Johnson. (A.G.) The positions of rural mail carrier and member of a local school board are both offices and may not be held by the same person at the same time.

60. Game warden.

To R. E. Sentelle. (A.G.) The positions of rural mail carrier and assistant; game warden, assistant, and deputy; fire warden and deputy; and member of County Board of Education or district school committee, are all offices within the meaning of the constitutional prohibition against double office holding.

65. Rabies inspector.

To A. H. Graham. (A.G.) We are of the opinion that the position of rabies inspector is not an office within the meaning of the Constitutional prohibition, and see no reason why a County Commissioner might not serve as rabies inspector, if appointed by the County Health Officer under C. S. 4895 (3). However, if appointed by the County Commissioners, we call your attention to C. S. 4388, which prevents a member of a commission from participating in a contract which inures to his own benefit.

75. Democratic County Chairman.

To H. H. Painter. (A.G.) There is no statute which would prohibit a Chairman of a County Democratic Executive Committee from filing for election to a municipal office. However, under the present party plan, the County Chairman is required to resign his office before offering for election to public office.

100. Ex officio performance of other duties.

To M. A. Abernathy. (A.G.) It is quite consistent with the Constitution to provide that a town treasurer ex officio may collect taxes and assessments for water and light and also act as town clerk. Such would not be a violation of the constitutional provision against double office holding.

XI. General and special elections.

H. Municipal elections.

1. Town election officials.

To H. H. Painter. Inquiry: Who appoints town election officials? (A.G.) In

towns subject to the provisions of C. S. 2652, the election officials are chosen by the governing body of the municipality at least 30 days prior to the election. If a town is not subject thereto, the matter is controlled by Charter or special act.

20. Absentee voting.

To Junius D. Grimes. Inquiry: Can absentee ballots be cast in primaries for city elections? (A.G.) In the absence of special local act, absentee voting in city primary elections is proper under the decision of the court in Phillips v. Slaughter, 209 N. C. 543.

To L. J. Fisher, Jr. Inquiry: Chapter 107, Private Laws of 1931, which is a part of our City Charter, prohibits absentee voting in city elections. Does this apply in the face of the decision in Phillips v. Slaughter, 209 N. C. 543?

(A.G.) This case arose under the general law and decided merely that the absentee ballot law applies to municipal elections. It does not cover a case where the charter of a city itself provides that absentee voting shall not apply to the city's primaries and elections.

Durham Engraving Company

Manufacturing
Photo Engraving

Durham, North Carolina

The Orange Printshop

Chapel Hill, N. C.

The big 3 of good printing

KNOWLEDGE
EQUIPMENT
PERSONNEL

are ours for your use.

Call to see us at 126 E. Rose-
mary Lane

ELECTRIC SERVICE AN AID TO HEALTH

No one would attempt to operate even the poorest sort of a hospital or sanatorium without adequate hot water service, proper refrigeration and proper facilities for cooking.

In the home hot water service, proper facilities for the preparation of meals, and proper refrigeration are just as important to health as it is in hospitals.

The consumption of electricity for cooking, for refrigeration, for water heating, for radio and for household use in general has increased tremendously during recent years. This increased consumption per customer has made possible rate reductions that have brought the cost of electric service today down to the point where, even with increased usage, it is the smallest item in the family budget. The average family in America today pays for electric service per day substantially less than the cost of a pack of cigarettes.

More than 21 thousand families on the Duke Power system are today cooking with electricity and their average cost of cooking is less than \$3.25 per month.

The cost of automatic hot water service through an automatic electric water heater has averaged less than \$4 per month.

No family which desires to live comfortably and healthfully can afford not to investigate what automatic electric cooking and automatic electric water heating will mean to it.

Duke Power Co.

General Office
Charlotte, N. C.

*The Michie Company Has
Supplied Law Books to the
Legal Profession for Over
Forty Years - - - -*

Our North Carolina Publications—

Encyclopedic Digest of North Carolina Reports, 17 Vols.	\$115.00
Jerome's Civil Procedure	9.00
Jones' Quizzer, 3d Ed.	10.00
Law of Automobiles	7.00
North Carolina Code of 1935	45.00
Vartanian's Law of Corporations	8.00
Vartanian's Law of Wills	6.00

We can also supply any general textbooks at the regular retail price

Reasonable terms if desired

Let us know the books in which you are interested and we will supply you with full information.

The Michie Company

LAW PUBLISHERS
Charlottesville, Virginia

"We Can Supply Any Law Book in Print"

The Observer Printing House

INCORPORATED
CHARLOTTE, N. C.

County Record Books Tax Supplies and Systems

LOOSE LEAF OR BOUND

Indexing systems for All County Records

We specialize in special built Furniture and
Filing Equipment for Court Houses

We Invite Your Correspondence



RECONSTRUCT---MAINTAIN **County Roads with a** **“Caterpillar” Diesel Auto Patrol**

Now is the time to think about reconditioning county feeder roads, and the “Caterpillar” Diesel Auto Patrol is just the machine for the job, because—it is built to do all the jobs expected of road maintenance equipment. Because it has the accuracy of control and non-chattering blade action, to shave off the hardest packed washboards—because it will be on the job throughout the year cleaning ditches, shaping shoulders and maintaining long beats off county roads with no delays interrupting its efficient performance. And best of all, road funds will go farther because this all purpose Patrol uses only about half as many gallons of low cost Diesel fuel as a gasoline machine of similar size.

Ask us for facts and figures on low cost road maintenance with “Caterpillar” Diesel Auto Patrols.

Carolina Tractor & Equipment Co.

S. Main Extension — Salisbury, N. C.

CATERPILLAR

REG. U. S. PAT. OFF.

World's Largest Manufacturer of Diesel Engines
Track-Type Tractors and Road Machinery

