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POPULAR GOVERNMENT

VOLUME 4
NUMBER 9

PUBLISHED MONTHLY BY THE INSTITUTE OF GOVERNMENT

AUGUST
1937

The 150th Anniversary of the Constitution

SEPTEMBER 17, 1937

--- Highlights of Constitutional History from North Carolina's Standpoint

THE Constitution, consisting of a preamble and seven Articles, was adopted at Philadelphia on September 17, 1787, by the favorable vote of thirty-nine of the fifty-five delegates. Twelve states were represented; Rhode Island sent no delegates. Only three of the delegates — Gerry (Mass.), Mason (Va.), and Randolph (Va.) — expressly voted against the Constitution.

Three delegates from North Carolina voted for the Constitution — William Blount, Richard Spaight, and Hugh Williamson. The two other North Carolina delegates—William R. Davie and Alexander Martin—left the Convention before its work was completed. Davie favored a revision of the Articles of Confederation, but Martin stood alone in the North Carolina delegation in opposing the new Constitution.

The sentiment in the State was in favor of changing the Articles of Confederation; North Carolina and Delaware were the only states which approved all of the changes recommended in 1783 by Congress.

In the Convention the North Carolina delegates joined with the large states against the small states in favoring nationalism and representation on a population basis. However, in order to break the deadlock over the basis of representation in the Senate, North Carolina (the third largest state in

By DILLARD S. GARDNER

population) joined the small states in favoring equal representation in the Senate and in counting five negroes as equal to three whites in apportioning representation in the House. Again, in arriving at a compromise whereby prohibition of the importation of slaves was made possible, the North Carolina dele-

gates placed union above sectional interests and, refraining from stubborn dogmatism, worked for a compromise.

The North Carolina delegates favored election of the President by Congress, but the electoral system was finally victorious. They also favored a long term for the President and thought that he ought not to be allowed to succeed himself.

Brain Teasers on the Constitution

How many do you know? The answers will be found in the accompanying article.

1. How old is the Constitution of the United States?

2. How many states shared in its original adoption? How many delegates were present? How many voted for it? How many voted against it?

3. How many delegates from North Carolina were present at the Convention? How many actually voted for the Constitution? How many opposed its adoption?

4. What was the sentiment of the people of North Carolina with respect to changes in the Articles of Confederation?

5. Did the North Carolina delegation side with the small states or the large states in the Convention? Were the delegates adamant in their views or did they indicate a willingness to compromise in

order to attain a national union?

6. Name specific ideas which the North Carolina delegation sought to have embodied in the Constitution.

7. Did the people of North Carolina accept or reject the original Constitution when it was submitted to them? When did North Carolina enter the Union?

8. Name a North Carolina leader who favored the adoption of the Federal Constitution? Name one who opposed it?

9. How did North Carolina rank in population at the time of the adoption of the Constitution? Compare this with its present rank in population. Compare the present population of North Carolina with that of the nation in 1790.

Williamson, the most active North Carolina delegate, suggested the provision permitting impeachment of the President and also the provision which permits a two-thirds vote (three-fourths had been proposed) to over-ride the Presidential veto.

In the vote for the Constitutional Convention (Hillsboro) of 1788 those opposing the new Federal Constitution won by a majority of 100 delegates. In the Convention ratification was refused and it was recommended that a Declaration of Rights and twenty-six amendments be incorporated in the Constitution. After the Madison administration embodied ten amendments which met most of the objections raised at Hillsboro, the Constitution was adopted at the Fayetteville Convention on November 22, 1789. From the formation of the United States in March, 1789, until November 22, 1789, North Carolina was a sovereign power beyond the operation of the Federal judiciary act, was treated by the Federal tariff laws as a foreign country, and was represented at the seat of the national government by an "ambassador," Hugh Williamson.

North Carolina was next to the last of the thirteen original colonies to ratify the Constitution (November, 1789); Rhode Island was the last (May, 1790). However, North Carolina was the last of the colonies which had participated in the drafting of the Constitution; Rhode Island, the thirteenth, did not send delegates to the Constitutional Convention. The President,

on January 28, 1790, informed Congress that North Carolina had adopted the Constitution and on June 1, 1790, announced the adoption of the Constitution by Rhode Island.

James Iredell had been the leading advocate of a Federal Constitution, and he was later the leader of the Federalist forces favoring the Constitution, while Willie Jones and Samuel Spencer were probably the outstanding leaders of the opposition.

At the time the State entered the Union, its population was 393,751, and it was the third largest State.

The 1930 census listed North Carolina as having 3,170,276 persons and ranked it twelfth among the States in population. North Carolina today contains almost as many people as there were in the entire country in 1790, the official census that year at 3,929,214.

Vermont was not one of the thirteen original colonies which drafted the Constitution, but it ratified the Constitution on January 10, 1789, ten months before North Carolina, and seventeen months before Rhode Island, ratified it. Vermont was admitted into the Union February 19, 1789, and was followed by Kentucky on February 4, 1791.

NOTABLES AT MEETING OF COUNTY COMMISSIONERS

The candid camera caught these interesting snapshots at the annual meeting at Wrightsville Beach, August 10-12 (see page 7 for story).

Left to right: Top row—John A. Orrell of New Hanover, who was elected to head the County Auditors for the eleventh time, and the Northampton delegation after a fishing trip squeezed in between sessions.

Middle row—State Treasurer and Mrs. Charles M. Johnson, newly-elected president W. W. Watson of Hyde and Governor and Mrs. Clyde R. Hoey.

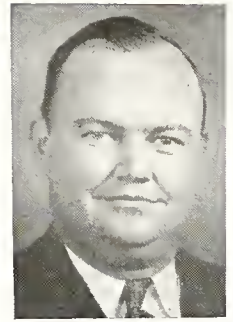
Bottom row—Tom Woodard of Wilson, new Chairman of the Executive Committee, and Thomas O'Berry of Goldsboro; Secretary and Mrs. John L. Skinner of Warren; and the Cumberland (above) and Rowan County delegations.



Protecting the Gasoline Buyer

THE PLANS AND WORK OF THE STATE'S NEW GASOLINE AND OIL INSPECTION SET-UP

By H. L. Shankle, Director, as Told to Harry W. McGalliard
of The Institute of Government Staff



GIVE me five gallons of gasoline," is the daily order of hundreds of thousands of motorists at the twelve thousand and more service stations scattered throughout North Carolina. All too frequently, the motorist either does *not* receive the full five gallons he pays for, or the 'gasoline' may be adulterated with kerosene, or the gasoline advertised as a *best* grade gasoline may be of very inferior quality. Some dealers scheme to defraud the state of revenue. Occasionally gasoline is accidentally mixed with kerosene, and such a liquid when used as kerosene may explode—as did happen not so long ago in the eastern part of the state at the cost of several human lives.

Purposes of Inspection

To prevent such occurrences and protect the public is the job of the Gasoline and Oil Inspection Division under the Motor Vehicle Bureau of the State Revenue Department. The present organization is the outgrowth of State activities in that field dating from 1909 when the inspection of illuminating oils was made one of the duties of the Department of Agriculture. No provision was made for the inspection of motor fuels until 1917, when this duty was also placed upon the Department of Agriculture. The same personnel fulfilled these additional duties, but the two phases of work were not formally co-ordinated into one division by the Legislature until the gasoline and oil inspection act of 1929. In 1933, the actual inspection work as to the collection of samples of gasoline was transferred to the State Highway Patrol in the Revenue Department, with the Department of Agriculture still testing measuring devices and performing all chemical analyses. In 1935, the Highway Patrol was relieved of its inspection duties and special inspectors were provided. Under that plan the department consisted of the chief chemist, two

junior chemists, seven inspectors, and one stenographer.

New Commission Set-up

The Gasoline Terminal Commission recommended to the 1937 General Assembly a consolidation of all analytical and inspection work in one division under the Revenue Department, and pointed out that the existing equipment and the small personnel were hopelessly inadequate to perform a thorough job. Pursuant to this, the Legislature created a Gasoline and Oil Inspection Board which was given broad powers in adopting standards of quality under the new inspection act. The present members of the Board are Mr. A. J. Maxwell, Commissioner of Revenue, Mr. H. L. Shankle, Director of the Gasoline and Oil Inspection Division, Mr. David M. Buck of Bald Mountain, Mr. R. M. Cox of Winston-Salem, and Mr. Thomas S. Royster of Oxford.

The new act which provides for more adequate facilities and a larger personnel with increased powers sets out as its purpose to make ample provision for systematic and frequent inspection "to the end that the public may be protected in the quality of petroleum products it buys, that the State's revenue may be protected, and that frauds, substitutions, adulterations and other reprehensible practices may be prevented."

Under the new set-up the staff is composed of the chief chemist, ten junior chemists, seventeen inspectors, and one stenographer. But even with this enlarged staff, the task ahead is no easy one. Last year, according to the Gasoline Tax Division of the Department of Revenue, more than 350,000,000 gallons of gasoline were sold in the state, and a total of approximately 42,000,000 gallons of kerosene was sold. There are more than 60,000 oil pumps of which around 26,000 are gasoline pumps. In the past, inspectors have been able to make the

rounds only once in about every fourteen months; under the new set-up it is believed that an inspection can be made every seven and one-half months.

Plan of Operations

To speed up the schedule of inspections, the State has been divided into seven districts. One district will consist of New Hanover County because the heavy work entailed in New Hanover at the gasoline terminal requires a disproportionate amount of time for the area covered. Likewise Wake County will constitute an entire district, but this will be operated in connection with the central office and persons assigned to this district will be used somewhat generally as "troubleshooters" throughout the entire state. The rest of the state will be divided into five districts of approximately the same size on the basis of the number of service stations in the district. Into each of these last five districts will be sent a chemical laboratory on wheels—specially designed trailers. One chemist and three inspectors will be assigned to each trailer-laboratory. This trailer will anchor somewhere in its district and the men will work the surrounding area, bringing back each day samples to be analyzed for the most part, right on the spot.

Testing Pumps for Accuracy

Specifically, the duties of this department fall into two classes: inspections to determine the *quantity* (whether pumps give accurate measures) and *quality* (the grade and purity of the petroleum products). As a first step in insuring accurate inspection records, a number tag, somewhat similar to a small automobile license tag, is to be affixed on every service station when a number is assigned it as the inspections get under way. The Division has secured up-to-date measuring equipment so that accurate checks can be made on all pumps. All incorrect measuring devices not susceptible

of satisfactory repair may be confiscated. All incorrect devices, capable of repair, must on order of the Division be repaired within ten days. At the time such an order is made, the pump is tagged "Condemned for Repairs" and it is unlawful to use the pump before it is repaired and approved. When a pump is tested and approved, it is likewise tagged with a shellaced water-proof tag showing the dealer's name and address, the pump number, the inspector's number, the station number and the date of the inspection; this tag is affixed to the pump by means of a lead seal bearing the stamp of the Revenue Department and the inspector's identification number. If, on future inspection, the pump is found to be inaccurate but the inspection seal, which is locked around the measure adjustment device, is *not* broken, the pump is ordered to be repaired if it can be. But if the pump is found to be inaccurate *and* the inspection seal *has been* broken, this creates a prima facie case of intent to defraud and is punishable by a fine of not less than \$200 nor more than \$1,000 or imprisonment for not less than six months or both in the discretion of the court. The advantages of such an inspection do not always accrue to the motorist; mechanical measuring devices are not perfect, and it is not unusual to find a pump which gives an over-measure—sometimes at the rate of an extra three quarts for every five gallons.

Grading Gasoline

The most important phase of the inspection work is the analysis and grading of gasoline. These analyses are made from samples taken at the terminals when gasoline first comes into the state; at bulk distributing stations where it is stored for local distribution; and at the service station where it is retailed to the consumer. A new set of standards for gasoline is expected to be adopted by the State Board in the near future. These standards will be much more stringent than those which have hitherto been used, and they will furnish the basis for grading gasoline in a manner that will assure the consumer that he is getting the grade he wants. After an inspection, each pump will be labelled to the effect: "Gas contained is North Carolina

—(grade) gasoline." Regardless of what "grade" the gasoline may be advertised as being with reference to brands or a loose use of technical trade terms, the label on the pump stating the grade of the gasoline will assure the buyer of receiving the same quality of gasoline when ever he buys from tanks officially labelled as containing the same grade of gasoline.

As already suggested, when gasoline becomes mixed with kerosene, there is danger of explosions in using the resulting mixture for kerosene purposes. Such mixing is accidental, but the fact that it does happen is shown by the discovery last year in some 26 different localities of approximately 50,000 gallons of kerosene containing gasoline.

Gasoline Frauds

On the other hand, kerosene is often deliberately mixed with gasoline. Sale of this adulterated product yields the dishonest dealer a handsome profit because kerosene, not carrying such a heavy tax as gasoline, costs much less. For example, the wholesale price of one brand of gasoline in Raleigh was recently quoted at 19c as against 12.1c for a gallon of kerosene. Prior to the increase in the division's facilities under the 1937 law, the division only had two machines for detecting the presence of gasoline in kerosene; now it has fifteen.

Octane is an important factor in motor fuels. The higher the octane rating, the less 'knock' in the motor. Chemical analysis may show no difference between two particular brands of gasoline, but a new machine purchased by the Gasoline Inspection division, and soon to be installed, will enable the division to determine octane ratings in the future. Motorists frequently complain of too much 'gum' in gasoline clogging the pistons. Another new machine recently installed will determine the 'gum' content of gasoline. These last two tests will be made only in Raleigh because the division owns only one machine of each type. All other routine testing and grading will be done in the movable laboratories. The central laboratory in Raleigh will also continue its work along research lines in studying petroleum products standards.

Law Enforcing Powers

Heretofore, samples taken from dealers were not paid for. Under the new law, all samples of gasoline and oil will be paid for at the current market price. The inspectors have broader powers than ever before. Inspectors are given the same powers as peace and police officers in the enforcement of the inspection laws, along with the power to arrest with or without warrant. Prior to the 1937 law, a pump could be closed only after a test showing failure to comply with the law had been made; now pumps may be closed in doubtful cases pending the outcome of an analysis, thus preventing a dishonest dealer from continuing to make fraudulent sales during the time required to complete the analysis. At the same time, tests can be made more quickly through the field laboratories. The confiscating power extends to mislabeled gasoline, 'bootlegged' gasoline (brought into this state without payment of the tax), adulterated gasoline, and measuring devices and vehicles used in violating the inspection law.

Costs of Operation

The cost of operating the Inspection Division is covered by a 1/4c per gallon tax on gasoline, kerosene and other motor fuels. This is collected by the Gasoline Tax Division of the Revenue Department, which deducts a small per cent as a collection fee. The Division is authorized to make analyses for private persons at a reasonable charge. Tests are made for cities and counties without charge when officially required.

Other states are watching with considerable interest North Carolina's program for gasoline and oil inspection. It is probably more far-reaching than that of any other state. The machinery has at last been provided for performing a much needed service in this field and the vast majority of gasoline and oil dealers approve the program. Honest dealers have nothing to fear and much to gain. But as for the crooked dealer, the division arranges to visit suspicious stations not only irregularly but also much oftener than once every seven and a half months—and the new law has teeth in it!

Recent Trends in Local Legislation

Special Acts or "Home Rule"? Here Is a Discussion of the Background and Problems Facing the New Commission Appointed by the Legislature to Study This Important Subject



By HENRY BRANDIS, Jr.

IN recent years there has been much criticism of the volume of local legislation enacted by the North Carolina legislature. In the main, the criticism has been of two types. First, it has been argued that a disproportionate and unnecessary amount of time and energy is consumed by the legislature in handling local matters. Second, many local officials feel that in many cases the legislators, in enacting measures affecting county and city government, are interfering with or usurping the powers and discretion which should be exercised by the local governing authorities.

There is a provision in the State Constitution which attempts to restrict local legislation, and occasionally it is invoked by the courts to render some local law invalid. However, the accompanying figures on the recent volume of local laws are plenary evidence of the fact that the present constitutional provision is not a serious restriction on the volume of such laws. City officials, through the League of Municipalities' legislative program, have at each of the past two sessions attempted to secure submission to the voters of a constitutional amendment for "home rule," restricting legislative action affecting local governments to general laws and insuring less interference with local governing bodies. The Assembly has not as yet seen fit to submit such an amendment, though in 1937 it did create a commission to study the problem and report its findings in 1939.

It is not the purpose of this article to discuss the wisdom of restricting local legislation or the necessity for a constitutional amendment; nor is it proposed to discuss the legal difficulties involved in drafting effective restrictions, due to the comparative ease with

which laws can be made local in effect though supposedly general. The sole purpose is to examine very briefly the quantity and subject matter of local laws introduced and passed at the 1935 and 1937 sessions.

Two-Thirds of Laws Are Local

Examination of the accompanying table will show that in the former year 1,270 local laws were introduced, (representing 59% of all introductions), and 1,009 of them were passed, (representing 71% of all laws passed). In the recent 1937 session, 1,044 local measures were introduced (or 58% of total introductions) and 813 were passed (representing 66% of all new laws). The decrease in the number introduced is in part accounted for by the difference in the length of the sessions and is probably also due, in part, to more prosperous economic conditions prevailing in 1937.

It is obvious from the percentages given above that the mortality rate is much lower for local bills than for public bills. In fact, in 1935, approximately 79% of all local measures introduced were passed, as against 45% of the public bills; and in 1937 local bills showed a 78% survival rate as against 54% for public measures. The majority of local bills which failed to pass died simply because their sponsors so willed it, as, thanks to "legislative courtesy," members of the majority party have real opposition on local bills but rarely.

Exemptions from Public Laws

These figures do not tell the complete story, because, in addition to the local bills, local exceptions are frequently written into public laws. In 1935 there were 23 bills which carried 420 exemptions or exceptions for counties or cities. In other words, the average county was

TABLE SHOWING SUBJECT MATTER OF LOCAL LEGISLATION IN 1935 AND 1937

Subject matter	1935		1937	
	No. bills introduced	No. passed	No. bills introduced	No. passed
Compensation of county officials	177	152	144	119
Compensation of city officials	10	7	26	25
Duties and terms of county officials	191	133	142	111
Duties and terms of city officials	82	71	59	49
County and Superior Court matters	109	101	96	85
City court matters	16	10	8	6
Extending time for tax sales and foreclosures and validating previous extensions	95	90	53	47
Other concessions to delinquent taxpayers	118	93	50	37
Validating local debts	27	26	30	29
Criminal statutes—county-wide	54	31	62	40
Criminal statutes—particular areas smaller than county	29	18	44	24
Game laws	72	42	36	16
Liquor profits	2	2	35	28
Allowing school districts to vote supplements or building bonds	7	1	17	13
Miscellaneous	281	232	242	184
TOTALS	1,270	1,009	1,044	813

exempted from 4 public laws. The record in this respect was greatly improved in 1937, as seven public laws carried a total of 137 exemptions. The law creating the new Real Estate Commission, the law validating tax listings of property carried forward, and the law validating tax foreclosure notices are the only 1937 laws which carry any appreciable number of exemptions. Between them they account for 130 exemptions. In 1935 there were 13 laws having more than 10 exemptions each.

The table shows, under very general topics, the subject matter of the local laws passed. Of course, a number of laws deal with more than one of these topics and, in such cases, to avoid duplication, the law has been classified in accordance with its most important provisions.

Counties Head Cities in Number

Two things are immediately revealed by even the most hasty glance at the table. The first is that a very appreciable proportion of all local legislation deals directly with the compensation, duties and terms of local officials. Excluding the court and tax bills, which to some extent affect the same subjects, these bills accounted for 36% of local laws in 1935 and 37% in 1937—the ratio being surprisingly similar for the two sessions. The second thing is that, although cities outnumber counties more than three to one, three times as many laws deal with the compensation, terms and duties of county officials as deal with compensation, duties and terms of city officials. The legislative powers of city governing authorities are much broader than those of county commissioners, and it might therefore be argued that more county legislation is necessary. However, this will not explain the great discrepancy in the figures, as a majority of the county laws deal with matters upon which county commissioners can legislate—or could if it were not for the local laws. Exclusion of city election laws from this classification may account in part for the result, but there are comparable exclusions from the county list.

Bills extending the time for tax sales and foreclosures, validating extensions made by local authorities, and making various types of conces-

sions to delinquent taxpayers (including the laws allowing acceptance of bonds and notes in payment of taxes) declined materially in number and importance. They constituted 18% of all local laws in 1935 and only 10% in 1937. Obviously, this reflects improved economic conditions.

Local game laws likewise declined in number and importance, and this, as well as the high mortality rate for game bills, reflects a strengthened determination to have hunting and fishing regulated by general laws since a new State-wide law was passed in the 1935 session. The criminal statutes for particular areas include the local prohibition laws, and this accounts for the high percentage of failures among them in 1937.

Liquor and School Laws on Increase

In addition to the matters already discussed, the table shows on its face two important new trends in local legislation. One is the great increase in laws dealing with the distribution between counties and cities of the profits from ABC stores brought about by the new ABC Act. The Liquor Commission itself recommended that this be handled by local laws due to the great variety of views on the subject held by local officials. The second is the smaller, but still very noticeable increase in local laws permitting school districts to vote either operating supplements or school building bonds. In 1935, only one out of seven such laws was passed, while in 1937, 13 of the 17 introduced were passed. This marks a distinct departure from the policy adopted by the legislature in 1933, when all old school districts were abolished except for debt service purposes and school financing was confined to the State, the counties and the new administrative units. In so far as these local laws permit the issue of district school building bonds they present a strange problem. Under recent court decisions some of the old school districts have been allowed to compel the county to assume their indebtedness. It would be a peculiar result if a district, under one of these new laws, could vote to issue bonds, to be repaid by a district tax, and could then immediately compel the county to as-

sume the debt and levy a county-wide tax for its repayment.

Space does not permit a detailed analysis of the subject matter of the local laws within the various classes listed on the table. However, a few things are worth mentioning. Among local officials whose compensation is affected by these local laws, sheriffs hold an undisputed lead with 30 bills in 1935 and 32 in 1937. For county commissioners the record is 16 and 11, for Clerks 22 and 20, and for Registers 20 and 15. Some of these laws, however, simply prescribe fee schedules for officers who are on salary and whose personal compensation is, therefore, not directly affected.

The Old Standbys

Trends which continue include: laws providing for appointive county tax collectors, there being 10 in 1935 and 9 in 1937; laws providing for election of county commissioners or boards of education by districts, with 6 in 1935 and 10 in 1937; laws increasing and staggering the terms of grand jurors; laws banning sale of fireworks, with 7 in 1935 and 8 in 1937; laws authorizing special tax levies by counties, with 16 in 1935 and 7 in 1937; and laws exempting counties from the requirement that damages done by stray dogs be paid for with dog tax funds, with 4 in 1935 and 8 in 1937.

The character of the laws passed indicates that very probably the responsibility for the large volume of local legislation does not rest on the legislature, as it seems likely that the majority of the laws do not originate with the legislators. The writer has also received this impression while following the activities of the last three sessions. It may be that some of the bills which cause most unfavorable comment originate with the legislator or his particular political faction, and often these are the laws which interfere most with the powers and discretion of local officials. However, the volume of local laws is largely attributable to the fact that the legislators' constituents, and in particular the local officials themselves, request the passage of such laws. It seems safe to say that more than half of all local laws are pass-

(Continued on page eight)



County Commissioners Hold Annual Convention

The State Association of County Commissioners mustered a large attendance on August 10, 11, and 12 at Wrightsville Beach to hear Governor Hoey, State Treasurer Johnson, Secretary of the Local Government Commission Easterling and others discuss current governmental problems. To succeed outgoing President T. R. Wolfe of Stanly, they elevated Warren W. Watson of Hyde from the Vice-Presidency, and elected as new Vice-President H. W. Harkey of Mecklenburg. John L. Skinner, of Warren, erroneously attributed by the press to Buncombe, was again elected Secretary and Treasurer.

The Accountants, meeting in conjunction with the Commissioners, re-elected J. A. Orrell of New Hanover to serve his eleventh term as President, assigning the Vice-Presidency to Willis Booth of Guilford and the Secretaryship to Troy V. McKinney of Cleveland. Between them, Orrell and Booth represent close to fifty years of county accounting.

At the final session the adoption of resolutions, a number of which followed closely suggestions made

by the various speakers, served to sum up the sentiments of the meeting. The resolutions are as follows:

1. Resolved that since for two-thirds of the life of this republic the Boards of County Commissioners have not only appointed all county officials but fixed their fees, and since local self government has been a fundamental principle of our national life, and there appears to be a strong tendency to limit the powers and duties of our local officials, we feel that it has become necessary to voice protest against restrictions by legislative action, especially in view of the fact that County Commissioners are responsible to the local communities, and the tax money comes from and belongs to the local communities.

2. That this Association favors and requests an immediate ruling from the Attorney General concerning the debt limitation amendment.

3. That we believe it to be to the best interests of county government in this state that the collection of taxes be divorced from the hands of the sheriff, and we heartily endorse and urge the appoint-

ment of tax collectors in the various counties of the state.

4. That this Association pledge its hearty cooperation to the Tax Classification Commission in its efforts to arrive at a proper report to be made to the 1939 legislature. We urge every county in the state to furnish the Commission all information requested, and to furnish it promptly, and if necessary, to go to some expense in securing the necessary information for this Commission.

5. That this Association express to Mr. John L. Skinner and his committee the appreciation of the County Commissioners for the fine work done by them during the last legislature, and especially for their success in getting the legislature to postpone action on the Tax Classification Amendment until proper information could be secured on the subject.

6. That this Association favors the creation of a Standing Advisory Committee consisting of the President, the out-going President and the Secretary, together with one County Commissioner from the East and one from the West, so

that the Association can always have the advice and suggestions of men who have had experience in the affairs of the Association.

7. That the Association unhesitatingly condemns the practice of donating money to outside agencies for advertising purposes and for lobbying at the General Assembly, since the legislative committee of this Association is able and willing to attend to all such matters and has had marked success with our legislative program.

8. That we regret the tendency on the part of the judiciary to grant temporary injunctions restraining the collection of taxes. It is our opinion that this practice tends to break down our efforts to raise sufficient revenues and discourages the honest tax payer in the performance of his duty. We respectfully suggest to the judiciary of the State that this practice is not in our opinion in the best interests of the individual tax payer, but is decidedly detrimental.

9. That in our opinion an act requiring the payment of the preceding year's taxes before any license, other than marriage licenses, is issued by the State, would greatly improve the collection of taxes.

10. That this Association express its appreciation of the fine service rendered to the counties of the State by the Institute of Government, and we urge all counties of the State to avail themselves of membership and of the excellent service which the Institute is rendering in matters of practical governmental administration.

RECENT TRENDS IN LOCAL LEGISLATION

(Continued from page six)

ed at the express request of local officials.

This may not be altogether the fault of the local officials. Local legislation breeds more local legislation. This is true not only because one county will often copy another county's law—a matter to be referred to again. It is true because when a local law is passed it takes another to change it. This is particularly obvious with respect to laws regulating salaries of local officials. Once a salary is fixed by

(Continued on page twenty-two)

Keeping Up with Washington

By M. R. ALEXANDER, of the Staff of The Institute of Government

News on Federal Laws and Activities of Interest to North Carolina Cities and Counties

Charlotte Airport. Final statistics reveal that the Charlotte Municipal Airport project cost the W. P. A. Funds, services, materials, and the airport site contributed by



JNO. D. THOMPSON, New Mayor of Mount Airy

the city bring the total airport investment up to an estimated \$400,000.

Loopholes Plugged? In Congress, the House pushed through a taxation bill designed to plug eight loopholes in the tax law: domestic personal holding companies; incorporated yachts, country estates, city residences; incorporated talent, such as that of actors or radio stars; artificial deductions for losses from sales or exchanges of property; artificial deductions for interest and business expense; multiple trusts; foreign personal holding companies; non-resident aliens. The bill passed by the house would provide for higher taxes and greater restrictions on domestic personal holding companies; no allowance would be made for capital losses or debt retirement. These changes, it is estimated, will save the Federal government \$100,000 a year.

CCC Compulsory Saving. Heretofore members of CCC camps have been required to turn over most of their earnings to their families. Beginning this month, boys without families or dependents will have to turn over \$22 of each month's \$30 pay check to a camp officer to be kept until the enrollment period is over.

PWA. It is estimated that between six and seven hundred million dollars will be spent on PWA

during the coming fiscal year. The funds for the continuation of PWA were secured through the sale of municipal bonds taken as security for previous loans and now held by the PWA and RFC. Restrictions governing the use of relief labor have been removed. Once more the practice of making 45% grants and 55% loans has been set up.

Municipal Bankruptcy. A new municipal bankruptcy law has been passed, with the objectionable features—which led the Supreme Court to hold the 1934 act unconstitutional—removed, it is hoped. The new law provides that insolvent taxing agencies, including municipalities and special districts, may effect compositions with creditors. The district or municipality, to take advantage of the act, would be required to file voluntary proceedings in bankruptcy along with plans approved by 51% of the unit's creditors. The plan of composition could be confirmed only upon the showing of an acceptance of the plan (in writing) by creditors holding at least two-thirds of the amount of indebtedness of the unit *except* where the court finds that the plan is fair and to the best interest of the creditors.

WPA Funds Allocated. The State WPA Administrator has announced the allocation of funds for a number of new projects, among which are the following: Buncombe county, \$142,006.50 for the operation of sewing rooms; Lenoir county, clean and renovate public buildings, \$4,722; Martin county, care of shrubs, \$6,014; Pasquotank county, operation of gardens, \$2,841; Carteret county, operation of gardens, \$3,081; Greene county, clean and renovate public buildings, \$2,887; Hyde county, operation of gardens, \$3,081; Gaston county, Belmont, street improvements, \$27,312; Gates county, clean and renovate public buildings, \$1,267; Forest City, care of flowers and shrubs, \$1,990.50.

Monthly Survey - - -

News and Developments from Here and There in the Major Governmental Fields.

Courts and Records

By DILLARD S. GARDNER

Modern Juries. "We commonly strive to assemble 12 persons colossally ignorant of all practical matters, fill their vacuous heads with law which they cannot comprehend, obfuscate their seldom intellects with testimony which they are incompetent to analyze or unable to remember, permit partisan lawyers to bewilder them with their meaningless sophistry, then lock them up until the most obstinate of their number coerce the others into submission or drive them into open revolt. The average citizen rebels at the very thought of being forced to participate in such proceedings, and regards jury duty as an irksome and humiliating task, to be avoided if possible."—Hon. Benton S. Oppenheimer.

Mental Qualifications of Jurors. The Jury Commission of Cuyahoga County, Ohio, made a systematic study of the 5,541 jurors who served in the county in 1936. Under the classification of the Commission, only 329 were ranked as Grade A, and 897 as Grade B jurors. In other words only about two out of every five were high type jurors, or fewer than three high type jurors per jury. Actually the picture was even more alarming, as the Commission found that nearly one-fifth of the 5,541 were excused by the court, and all who are familiar with the operations of courts know that the group excused usually is composed largely of the highest type of jury material.

Improving Juries. Among suggestions looking to improvements in the functioning of the jury system are the following: (1) Reduction in the number and scope of statutory exemptions from jury service; (2) strict limitations on
(Continued on page twenty-eight)

Taxation and Finance

By HENRY BRANDIS, JR.

Annual Reports. County Auditor J. A. Orrell of New Hanover has forwarded to the editors copies of his annual report for the year ending June 30, 1937. This serves as a reminder that the preparation of a neat, readily understandable report on a county or city's financial operations for the preceding year is one of the most valuable services an auditor or accountant can perform. It is useful alike to the governing body, officials, the student of government and, above all, to the interested citizen. Clarity and simplicity are prime virtues in such reports; and charts, diagrams and pictures help to make them at once more interesting and more intelligible to the average taxpayer. Properly prepared reports make excellent bases for school and civic club programs and newspaper articles. The money spent on a good report is usually money well spent.

Gleanings from the New Hanover report show that: the County did not borrow any money from 1927 to June 30, 1937; during the past year gross debt was reduced \$119,000 and as of June 30 stood at \$1,326,600, or 2.58% of total valuation; net debt was reduced \$106,416 and as of June 30 stood at \$879,737, or 1.71% of total valuation; and revenues exceeded budget estimates by approximately \$30,000, while expenditures were approximately \$7,500 less than the budget allowed.

County and city auditors, accountants, and treasurers who issue reports are requested to remember to mail copies to POPULAR GOVERNMENT.

Classification Amendment Commission. The new Classification Amendment Commission, created
(Continued on page twelve)

Law Enforcement

By ALBERT COATES

G-Man Promoted. Edward Scheidt of the Federal Bureau of Investigation has been made special agent in charge of the field office at Charlotte, which covers the two Carolinas. Mr. Scheidt was on leave from the Bureau during the winter to work with the Institute of Government in the preparation of its Guidebook for Law Enforcing Officers.

The Prisoner's Keep. A total of 14,375 persons were confined in the New Hanover County jail at one time or another during the last fiscal year. The average cost per prisoner per day was eighty-six and a fraction cents.

Philadelphia Approves Durham Plan. The Philadelphia *Record* writes: "Durham, N. C., a city of some 50,000 population, has inaugurated a police training system that has the marks of good invention . . . Durham, under City Management, is organizing a junior police corps for a training period of two years with less pay than regulars receive. If the men, aged 25 to 27 when enrolled, pass the probationary period successfully they will be assigned to regular posts.

"This method is the oldest form of training, long known as the apprentice system, but its adoption with carefully organized details is recognized as an innovation in building an adequate police force. Philadelphia has 'rookies' who are paid less than seasoned policemen but perform the same duties as the older hands. The Durham plan is to provide extra police for simple responsibilities at lower cost. This gives police heads a chance to improve the best material and weed out the incapable, and insures the city against inefficient policing of

posts of new men placed in tough spots without preparation."

Law Observance. At a meeting in Charlotte recently, citizens of Mecklenburg County organized the Mecklenburg Association for Law Enforcement for the purpose of promoting—as its name indicates—better observance of the law and the curbing of criminal activities.

Education for Prisoners. An educational program for state prisoners has recently been inaugurated. With teachers supplied by the educational division of the WPA and by the National Youth Administration, teaching has already begun at the Camp Polk prison farm near Cary and at the women's prison unit in Wake County.

Police Records. Preparations are under way in Charlotte for setting up a central record office and statistical bureau at police headquarters. According to the *Charlotte News*, "Detailed records of all activities of members of the department will be kept in the central filing office and the records will be cross-indexed so that information may be secured through several different approaches. The record system will be fashioned along lines recommended by the Federal Bureau of Investigation and will be set up under the direction of Mr. Lineberry, who recently graduated from a public training school conducted by the FBI.

Whiskey or Beer. The distinction between a beer breath and a whisky breath was brought out in Recorder's Court by a Durham policeman last week: "Whisky smells like alcohol," he said, "but beer smells like something rotten."

Cocktails again. According to a recent ruling of the Attorney General, wine may legally be sold in this State even though it is both fortified by the addition of brandy or alcohol and diluted by the addition of fruit juices or flavoring extracts provided that "the finished product consists of not less than 60 per cent by volume of wine; that none of the alcoholic content is produced by the added fruit juice and flavoring materials; and that the labels used on such product shall show that it contains at least 60 per cent wine and that the labels used on the product have been ap-

proved by the federal alcohol administration division." And of course provided the alcoholic content of the finished product does not exceed 24% by volume.

Police Ailments. According to a Police Department, policemen suffer most from the following abnormal conditions, listed in the order of their frequency: overweight, rapid heart, low blood pressure, hemorrhoids, defective teeth, flat feet.

Health and Welfare

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

Free Food and Clothing. Food, clothing, and household furnishings were distributed free during the fiscal year 1936-37 to 166,294 persons in North Carolina, or to about one person out of every 20, according to the State Board of Charities and Public Welfare. The cost of these goods, which were distributed among 35,741 families, totalled almost one and a half million dollars.

The food distributed amounted to 7,826,174 pounds valued at \$622,525.50; clothing allotments consisted of 1,350,477 articles valued at \$749,514.73; household furnishings (such as quilts, blankets, sheets and mattresses) consisted of 389,500 articles, costing \$122,692.50. No one in Burke County required any aid, and only .61% of the population of Johnston and Union received any free commodities. On the other hand, 28.93% of the population of Dare County (more than one out of every four persons) received aid in the form of commodities.

County Homes. On June 30, 1937, a total of 3,045 persons were lodged in the 85 county homes in North Carolina. At the beginning of the last fiscal year, there were 86 county homes, but the home in Mitchell county was closed because of lack of inmates for three months. It is believed that the social security program will further reduce both the number of county homes and the inmates of homes.

Full-Time Welfare Officers. Since the enactment of the 1937 welfare department law, the following 17 counties which formerly had no full-

time welfare officers, have provided for full-time officers: Alleghany, Ashe, Bertie, Camden, Chowan, Clay, Davie, Gates, Graham, Henderson, Jackson, Jones, Lincoln, Madison, Transylvania, Tyrrell and Yadkin.

Equalization Fund. The Attorney General has recently ruled that a county is eligible to share in the social security equalization fund when the amount raised by the county exceeds the *equivalent* of a ten cent tax rate. Under this ruling, a county is eligible even though the funds are in part provided from a source other than taxation such, for example, as liquor store profits. Furthermore, tax rates necessary to raise funds for "Old Age Assistance" and "Aid to Dependent Children" and the administrative expenses of furnishing the assistance may all be combined for the purpose of determining a county's eligibility to share in the equalization fund.

CCC Enrollments. The Civilian Conservation Corps enrollment of North Carolina recruits for the quarter beginning July 1 was only 486. However, it is expected that the number which will be eligible for enrollment for the quarter beginning October 1 will exceed 1200.

County Health Departments. The three North Carolina counties with the lowest taxable wealth (Dare, Tyrrell, and Clay) have recently added full-time organized public health work as part of their services to the people living in those counties.

Health Officers Needed. Dr. Carl Reynolds, State Health Officer, has announced that there are vacancies in public health work which could be filled with trained men, if these were available. "We would like," Dr. Reynolds said, "to contact doctors under thirty-five years of age of outstanding personality and professional fitness who would like to take up public health work as a specialty and not as a stepping stone to curative medicine." He called special attention to the fact that funds are now available for the training of eligibles, and that two special courses are now given at Chapel Hill each year for the training of public health special-

(Continued on page twenty-two)

The Control Behind ABC Stores

---The Numerous Powers and Duties of the State Board as Exercised over an Increasing Wet Territory

Left: CUTLAR MOORE, Chairman of the State ABC Board.

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



THE State A. B. C. Board exercises general supervision over the local A. B. C. Boards functioning in some 27 counties in North Carolina which have voted in favor of county liquor stores. Except for the right to set up a liquor store in the county seat of a county voting for liquor, almost all other acts of a county A. B. C. Board are subject to the approval of the State Board. According to Mr. Cutlar Moore, Chairman of the State A. B. C. Board, the state and county boards have, on the whole, been working together quite harmoniously.

The State Board is charged with supervising the auditing of county stores; a uniform auditing system, already adopted by a majority, must be adopted by all A. B. C. counties before September 1. In supervising the purchasing of liquor by the various counties, the State Board arranges for chemical analyses by the State Chemist in cases of liquor of doubtful quality.

Thus far the State Board has approved 190 brands of liquor which, multiplied by the different size containers (pint, fifth, quart, etc.), brings up to a total of 380 the number of brands and container-sizes (items) approved. To prevent overloading, no store is permitted to stock more than 275 items, which, for example, would furnish a variety of around 92 brands, stocked in pints, fifths and quarts.

As already pointed out, each

county voting in favor of liquor is entitled by law to at least one store located at the county seat. Beyond that, the local board must secure the approval of the State Board in establishing and locating additional stores. The Board always tries to take into account the vote of the people in a particular locality in determining where to set up a store. Of course, the availability of store space at a reasonable rent is an important factor, but stores are usually not set up in the vicinity of churches or schools.

The State Chairman has indicated further that he would not approve, and he did not think the State Board would approve, setting up stores in towns which are primarily college communities, such as Wake Forest or Chapel Hill or Elon College—even if Guilford and Orange should vote for A. B. C. stores. Of course, in cases where the college is in the town rather than the town at the college, as in Greensboro or Raleigh, it would be different; and furthermore, these two particular towns, as county seats, would be entitled to at least one store each in any case.

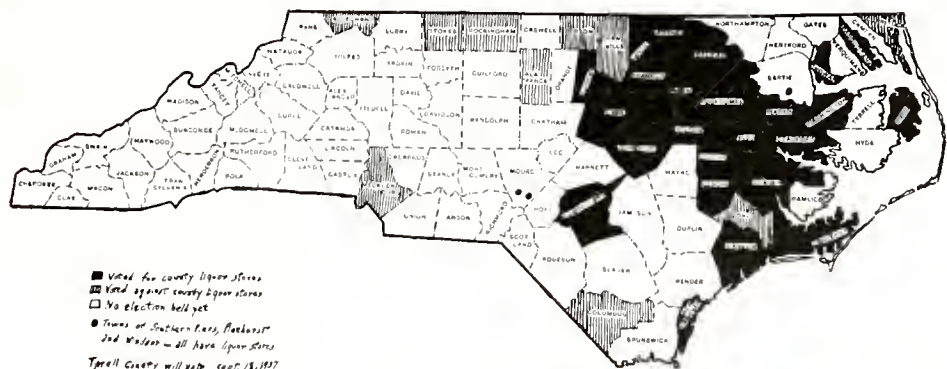
Two liquor warehouses are maintained in the State, one at Tarboro and one at Wilson. These are located in the East for convenience because the A. B. C. counties are thus far centered in the eastern part of the State also.

The State Chairman has indicated also that stores located in rural areas near the county lines of "dry" counties would not be approved. The Board would not condone such an attempt at merchandising when the purpose of the law is control.

The State Board is empowered to prescribe and approve rules and regulations governing the operation of liquor stores. Pursuant to this authority it has issued a number of rules and regulations. These are the minimum restrictions. Local boards are at liberty to add further restrictions. Employees are strictly forbidden to recommend any particular brand of liquor. The customer must call for liquor by a brand name. Employees are not permitted to give out information as to whether a particular person buys liquor at that store. Telephones are not permitted in liquor stores, and all stores having phones were forced to discontinue them before June 1st.

In Durham, a store located in the negro area with a negro manager and manned by negro employees has been established. Due to the success of this system, the possibility of a similar store in Raleigh is being considered.

Each liquor store in the state (and there were 82 at the last count) sells the same brand of liquor for the same price as every



LIQUOR CONTROL IN NORTH CAROLINA—AUGUST 20, 1937

other store in the State. Thus, a pint of X brand liquor selling for 90c in Wilmington will sell for 90c in Elizabeth City or Durham. Arrangements have been made with the liquor companies whereby wholesale prices are quoted on the basis of delivery anywhere in the state. Thus a Buncombe A. B. C. Board—if there were one—and the New Hanover A. B. C. Board would pay the same price for whiskey delivered to the county. Freight differences do not enter into the cost as between different counties; each county pays the same; and in selling at a uniform price each county receives the same margin of profit.

Except for a few local laws, each county A. B. C. Board is required to devote not less than five per cent and not more than ten per cent to enforcement purposes. The five per cent is mandatory; whether it be more than five rests in the discretion of the county A. B. C. Board. Pursuant to this requirement a total of fifty-two special enforcement officers have thus far been appointed in the A. B. C. counties. Three special officers have been appointed by the State Board. All of these officers work on a co-ordinated program of enforcement centrally directed. In many counties, additional officers will be added in the near future.

As shown by the accompanying map, the territory over which the State Board has supervisory control is increasing steadily. But if the cooperation manifested thus far by local boards and officers continues, the administration of the new law promises to be continued on a basis designed to serve the best interests of all.

TAXATION AND FINANCE

(Continued from page nine)

by the legislature to study classification of property and homestead exemption and make recommendations to the 1939 Assembly, was recently named by the Governor. Chairmaned by A. J. Maxwell, Commissioner of Revenue, the Commission consists of Vernon Flynt, Forsyth Tax Supervisor; Marvin K. Blount, Mayor of Greenville; Dr. Clarence Poe, Editor of the *Progressive Farmer*; Dr. S. H. Hobbs,

Jr., University Professor; B. B. Gossett, textile manufacturer; and Verne Rhoades, expert on forest and property management. Local officials will follow the work of the Commission with great interest, as its recommendations may have an important bearing on future local revenues. The chances are that the Commission will, from time to time, call for the co-operation of local officials in securing necessary information about taxes and fiscal affairs. It is of vital importance to local government that full cooperation be given whenever requested, and the County Commissioners and Accountants, at their recent meeting, pledged their help.

Motor Vehicle Taxes. Several states have recently abandoned the regular property tax on automobiles in favor of a tax payable at the time of registration. Such taxes are levied at a uniform rate throughout the State. Colorado's 1937 law levies a 3% tax on 70% of factory list price for the first year, 50% for the second year, 40% for the third year, 30% for the fourth year, 15% for the fifth year, and at varying rates for older vehicles. Revenues go to State and local governments in proportion to the property tax rates. Washington's law, likewise adopted in 1937, is at the rate of 1.5% on fair market value.

1937 Tax Legislation. Those interested in a bird's eye view of 1937 State tax legislation will find a summary in the July issue of "Tax Policy." The survey shows that 1,300 tax laws have been enacted by 45 state legislatures in 53 sessions. Five thousand tax bills were presented. Of those passed, 424 dealt with property taxes, 190 with motor fuel and vehicle taxes, 176 with license taxes, 93 with liquor taxes, and the remainder were concerned with various other types of levies. In addition, many states have already voted or will soon vote on constitutional amendments affecting taxes. All indications are that North Carolina's state and local tax problems find worthy counterparts in 47 sister states.

Money for Municipal Advertising. North Carolinians, familiar with the legislature's recent appropriation of \$250,000 to advertise the State, will be interested in a recent Wisconsin law authorizing

cities and towns to appropriate for advertising purposes up to one-tenth of one per cent of their assessed valuation.

Budgeting. Pennsylvania in 1937 added three new laws to seven passed in 1935 dealing with local budgeting and financial reporting, and every subdivision of Pennsylvania is now subject to such laws except three large cities. The acts require adoption of and adherence to an annual budget, uniformity in budgeting and reporting, and establishment of a central, permanent record of local financial history through filing of budgets and reports with the State. Much of this will have a familiar ring to North Carolina officials.

Homestead Exemption. On June 8 the voters of the neighboring State of Georgia adopted a constitutional amendment exempting homesteads from property taxes to the value of \$2,000, beginning in 1938. Debt service taxes are excepted. At the same time amendments were adopted granting a \$300 personal property exemption and permitting classification by dividing property into tangible property and one or more classes of intangibles. The Georgia voters must have been in much the same mood as were the North Carolina voters in November, 1936.

Schools for Tax Assessors. The Missouri Tax Commission has recommended compulsory schools for local tax assessors, the assessors to be allowed \$5 per day and mileage while in attendance, payable one-half by the State and one-half by the county. This is but one of a number of recent reports of Tax Commissions calling attention to the lack of trained assessors and the consequent uneven calibre of the assessors' work.

County Tax Rates. Indications are that some of the wealthier as well as some of the poorer counties are finding that the social security burden and other increased costs necessitate higher tax rates. Information reaching Chapel Hill is to the effect that this year will see Forsyth's rate, long stationary at 50c, upped to 55c, Durham's raised from 50c to 60c and Mecklenburg's from 64c to 82c. County rates and the total county tax levy are certain to take a sharp rise throughout the State.

Durham Center of Industry, Business, Education



City's Population Increases
250-Fold in 60 Years---
Advantages to Resident
and Visitor Many
and Great

By FRANK PIERSON
Secretary, Chamber of Commerce

Left: The office of Liggett & Myers' huge Durham plant, which with the American Tobacco Co.'s local plant, manufactures 24% of the cigarettes in the United States.

Right: The handsome Chapel at Duke University, which with five other institutions of higher learning and 20 public schools, makes Durham a center of education as well as business.



DURHAM is today the third city in North Carolina in point of population, having approximately 67,000 inhabitants, and is second in both industrial payrolls and in the value of its manufactured products. It is also a leader in educational facilities, having an unexcelled public school system and Duke University and the North Carolina College for Negroes within its corporate limits, and having within a radius of a few miles the University of North Carolina, Wake Forest College, Meredith College, North Carolina State College, Peace Institute, St. Mary's, and the Southern Conservatory of Music.

Such is Durham's growth from a village of 200 in 1869.

Durham is situated in the geographical center of North Carolina, a few miles north of the center of population of the State. The city's retail area has a radius of 25 miles and a population of 148,000; the wholesale area, a radius of 50 miles and a population of 508,000.

Eighty-eight manufacturing establishments, employing 13,350 persons and paying annual wages of \$13,000,000, testify to Durham's natural advantages and business facilities. The total value of Durham's manufactured articles last year reached the sum of more than \$160,000,000. This is not surprising when one considers that 24% of the cigarettes made in the nation are manufactured in Durham.

As might be expected, the financial institutions of Durham are especially strong. Our city's eight banks, with total deposits of over twenty-five million dollars, last year cleared checks and drafts amounting to \$193,516,365.58. Four Building and Loan Associations flourish here. Four hundred and fifty-four building permits were issued in 1936, and 287

new dwellings were erected. We are proud that in Durham 40% of our 11,180 homes are owned by their occupants. The assessed valuation of property in the city is \$76,450,000, the bonded debt

SPECIAL DURHAM SECTION

Durham is an apt example of a county and city where the forces of business and government have combined to produce a remarkable record of growth and progress. The two join together again in presenting, in this special section, some of the highlights of their county and city and their two governments, and some of their many advantages alike to the resident and visitor.

is small, and the tax rate is low—\$1.64 for the City (including the special school supplement) and 60c for the County.

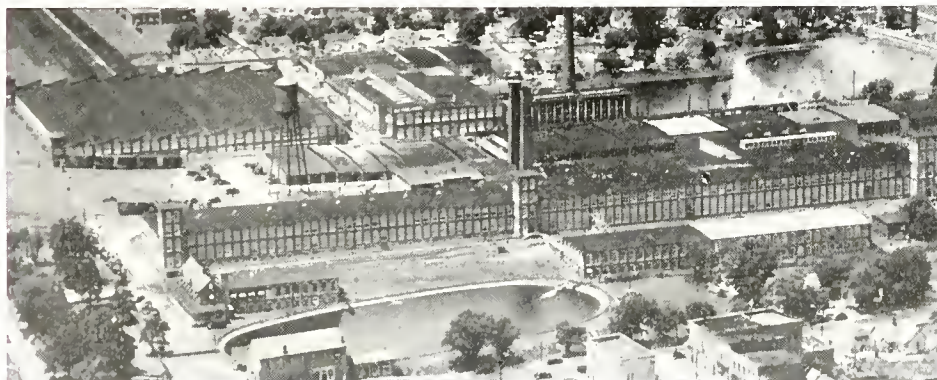
The present estimated population of the County is 78,000, its area is 312 square miles, and its altitude is 406 feet. The city's area is 12.8, and 99.3% of its population is American-born. Durham's mean annual temperature is 59.6 F.; its

average annual rainfall is 47.19 inches.

Five railroads serve Durham—the Southern, Seaboard Air Line, Norfolk & Western, Durham & Southern, and Norfolk Southern—along with an equal number of U. S. and State Highways.

Durham has 86 churches, nine hotels, two airports, four hospitals, two daily and five weekly newspapers, two golf courses, seven theatres, five public libraries, 20 public schools, seven parks (totaling 117 acres), and twelve city playgrounds. Six institutions of higher learning are situated here. Duke University, founded by the tobacco family, is nationally famous, both for its scholastic and athletic achievements. The Duke University Stadium, a beauty spot in this part of the country, is the largest in the South, seating 40,000 people.

Durham is also extremely civic-minded. Rotary, Kiwanis, Lions, Monarch, Woman's, Business & Professional Woman's Clubs, the Durham Merchants' Association, the Durham Chamber of Commerce, and eight social agencies each take an active interest in the progress and betterment of our city.



The Durham plant of the Erwin Mills represents another of Durham's great industries—textiles and hosiery.

Growth and Progress Mark Durham's History

THE death of the Confederacy gave birth to the city of Durham, four miles from the Bennett Place, where Johnston surrendered to Sherman in April, 1865, and out of the ashes of the hopes of the Southern people has been built a great and beautiful city. In 1865, Durham Station was a small and insignificant point on the North Carolina Railroad, inhabited by less than 100 persons. There was one lone business enterprise here, a crude and unimportant tobacco factory with total assets of less than \$2,000, including not only products on hand, but representing also the entire investment and replacement. History and tradition unite in saying that this factory was broken into by Sherman's soldiers and a large part of the stock carried away. Tradition further says that the product carried away was so well made and of such quality that when the soldiers returned to the pursuit of civil life, letters came back to Durham to ascertain if there was more of the product upon the market. To supply this demand, a broken business was rebuilt.

In 1865, Washington Duke, a Confederate soldier, walked from New Bern to his home in Durham, and with the same stout heart that had carried him through the vicissitudes of a lost cause, turned his attention to the battle for bread. He built the second factory in Durham, composed of a log cabin 20 x 30 feet, and with his own hands manufactured a product out of a small supply of tobacco that the Federal soldiers had not found. This he called Pro Bono Publico. The annual output of his factory, originally four or five hundred pounds, had grown by 1872 to 125,000 pounds.

In the meantime, W. T. Blackwell moved to Durham to engage in the tobacco business. He was to the early development of the tobacco industry in Durham what Napoleon was to France or Caesar to Rome. The Durham Bull got upon the map and in a few brief years his sonorous voice, like the shot at Lexington, was heard around the world. In 1872 the two small tobacco factories had grown into twelve.

James Buchanan Duke, becoming convinced that it was neither practicable nor profitable to compete with Bull Durham Smoking Tobacco, turned the vision of his genius into the cigarette field, and from that day to the present hour the increasing volume of the tobacco industry has become the common property of mankind.

In 1869, when Durham was born, there were less than 258 inhabitants in the village, and the total municipal revenue was \$357.44.

The next step in the industrial and commercial history of the town was the establishment of two banks, and the bringing in of additional railway lines, now totaling five companies with seven lines radiating in every direction. A public school system was created in 1885, and in 1892 Trinity College, now Duke University, was brought to Durham. Following the tobacco industry came cotton mills, hosiery mills, and other industries, including flour mills, fertilizer plants, iron works, woodworking plants, printing establishments, proprietary medicine plants, etc. And in 1914 began the program of civic improvement which now gives Durham all the conveniences of a modern city.

ADVERTISING NORTH CAROLINA AND DURHAM

Through the co-operation of Durham officials and business men, several thousand copies of the SPECIAL DURHAM SECTION are being distributed throughout the State and Nation, advertising Durham to thousands of outsiders and tying in directly with North Carolina's new advertising campaign for the whole State. Durham citizens can multiply the results by sending this section on to a friend elsewhere and by pulling together with their officials and business houses—for progress.



GEO. W. WATTS, First President



B. N. DUKE
Second President



JOHN F. WILY, Third
and Present President

Their Dreams of a City . . Fine, Prosperous and Progressive

In the presidency of The Fidelity Bank have been men who actively aided in the development of Durham. Their dreams of a city . . . fine, prosperous, and soundly progressive . . . have gone a long way toward coming true. The road has not been an easy one; nor has it ended its course. The same courage and hard work that helped make Durham what it is today must distinguish its future. There is as great a need today for civic and business leadership as there was fifty years ago . . . and the responsibility has multiplied twenty-fold.

This institution has been wedded to the progress of Durham and the serving of its citizens. That lock of interest and duty will not be broken.

The FIDELITY Bank

MAIN AND CORCORAN STS.

WEST DURHAM BRANCH
Cor. Ninth and Perry Sts.

EAST DURHAM BRANCH
Cor. Angier and Driver Aves.

Member Federal Deposit Insurance Corporation

Durham Pioneers Business Methods in Government

DURHAM COUNTY NORTH CAROLINA

Only Place in State with Both County and City Manager Government--Results Have Been for Both Efficiency and Economy

DURHAM has pioneered the Manager Plan of government in North Carolina, being the only place in the State with both a City and County Manager government in both name and effect. Davidson County might possibly be considered an exception, as Lexington is a Manager City, and the County Accountant performs many of the functions of a Manager, but does not have the title nor all the powers thereof. There are, of course, a number of other manager cities in the State, but only a handful of counties have taken advantage of the County Manager enabling act, and the Manager counties and cities do not coincide.

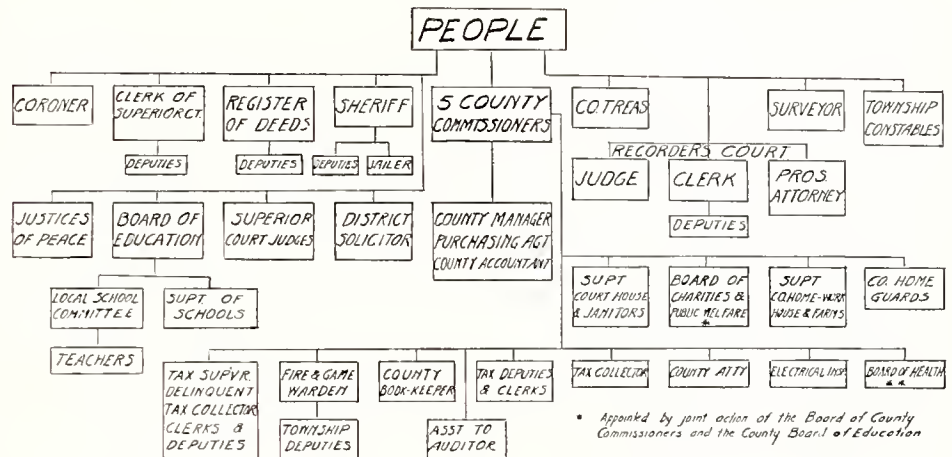
The accompanying charts show the organization of the two governments and how the two Manager systems work in Durham. The cardinal idea, briefly, is a large and representative legislative and policy-making Board, elected by the people and responsible to the people, with a skilled and trained Manager, appointed by the Board and responsible to the Board for carrying out its policies and for the general supervision and control of all departments and activities.

The Mayor and 12 Councilmen constitute the Board in the case of the City and the five Commissioners in the case of the County. The other departments and officials, and the set-up and inter-relationships, are shown below these bodies in the two charts. The chief dif-

ference in the two set-ups, it will be seen, is that the Councilmen and Manager, in the case of the City, have wide power in the appointment and attendant control of subordinates. On the other hand the County Treasurer, Sheriff, Clerk of Court, Register of Deeds, Coroner, Surveyor, Board of Education, Recorders Court and other important officials of the County are still elective and responsible primarily to the voters.

Results Speak for Themselves

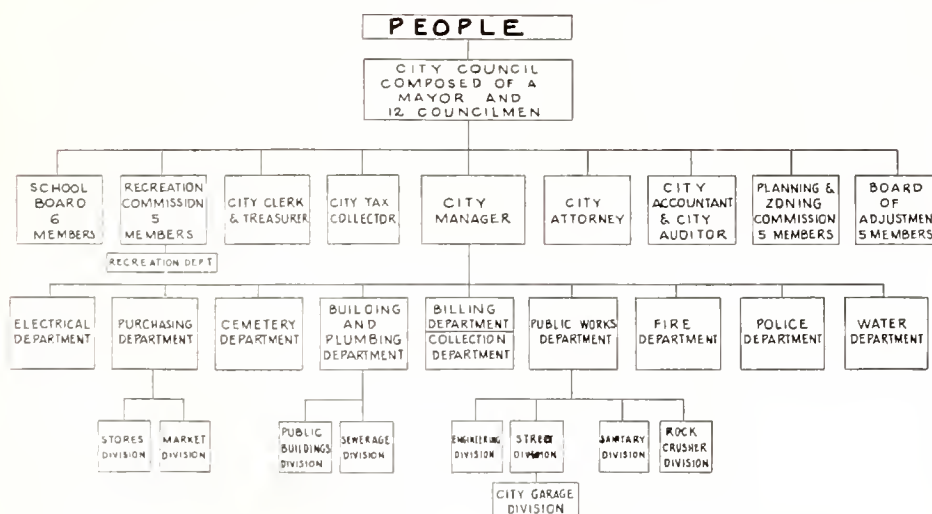
A system and personnel are best judged by their results, and Durham's can speak for themselves. In 1930 the County was faced with an operating deficit of \$33,000, a floating debt of \$533,000, and a bonded debt of \$1,797,000. Delinquent taxes amounted to \$550,000, and on these there was collected only \$6,000 a year. Each department was primarily interested in its own affairs and appropriations, and there was no uniformity or centralized responsibility. The Commissioners, busy



* Appointed by joint action of the Board of County Commissioners and the County Board of Education

** Appointed by joint action of the Board of County Commissioners and the Durham City Council

CITY OF DURHAM, NORTH CAROLINA



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in
Durham

for

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REFRIGERATION
WATER HEATING

with



During 1936

\$6.57

The Durham Gas Co.

Mangum St. at Holloway



Left: When Durham's High School outgrew its quarters, the building was remodeled into a City Hall (left) which stands constant witness to the economy keynote in government.

Right: The Courthouse in Durham County, which has had a 50c tax rate (with no special district levies) for the last three years, and whose rate since the addition of Social Security grants is only 60c.



with their own affairs, had little time to devote to the complicated problems, and public criticism did not conduce toward high consecration to public service.

The County adopted the Manager Plan in August, 1930, and the picture today is an entirely different one. Deficit and floating indebtedness have been wiped out, delinquent taxes cut from \$550,000 to \$162,701, and the total debt reduced from \$2,539,000 to \$1,632,000. The tax rate has been cut from \$1.10 to 50c for the past three consecutive years, and

since the addition of Social Security grants, advanced to 60c, with an overall rate of 63c—one of the lowest in the State. Yet no major county service has been discontinued—except those taken over by the State—and several new services and activities have been undertaken.

During this time, the operating expenses of the County, exclusive of the roads and schools which were taken over by the State, and of debt service, have been reduced 32%, and the total annual budget cut from \$1,350,000 to \$883,919 for 1937-38. So much has the combination of Manager system, conservative Board, efficient personnel, and co-operative citizenry accomplished in the case of Durham County.

The Manager system has produced equal results in the case of the city, where

it has been in operation since 1921. The operation of the numerous city services has been both efficient and economical; budgets have been carefully framed and strictly adhered to, resulting in a surplus of \$51,983 for 1936-37; and the tax rate has been held to \$1.30½, which ranks well up with the State's leading cities, with another 33½c for schools. Last year the City retired \$403,043 in bonds, cutting its gross debt as of June 30 to \$8,878,782 and its net debt to \$4,350,236, or only 5.96% of its assessed valuation.

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DURHAM, N. C.

Total County expenditures 1936-37 (deducting surplus)	765,612.
Estimated population of County	78,000
Average cost of County Government to each inhabitant per year	\$9.82
" " " " " " " " " month	.82

Highlights of the City and County Government

BUDGETARY CONTROL

By **HENRY A. YANCEY**
City Manager



Of the numerous features of Durham's government, the city officials are proud of its simple but sound, business-like, and efficient system of budgeting, accounting, purchasing, and fiscal control.

This begins with the Budget, which is made up a year ahead, and comprehensively covers every Department and every item thereunder. The Budget appropriations are set up on ledger sheets by departments and purposes, and as expenditures are made, they are posted to the proper sheets using a mechanical posting machine. These sheets show at a glance at any time (1) the appropriation, (2) the expenditures, and (3) the

unexpended balance of each activity of each department.

The auditor incorporates this information in a report to the Manager each month, and each department head gets a copy of the part concerning his department. A copy of the whole report is also furnished to each councilman.

Two additional checks guarantee strict adherence to the budget by each department and complete budgetary control by the Manager and Auditor: (1) Before any item is paid the Auditor must sign the check, certifying that an appropriation has been duly made and that there is an unexpended balance in the particular fund to take care of the same. (2) All purchases are made through a centralized purchasing office, and at any time the Purchasing Agent sees from the Auditor's monthly report of unexpended balances that any fund of a particular department is close to the line, he delays any purchases for that fund until he checks with the Auditor's office.

The care with which the Aldermen frame the Budget and the departments adhere thereto is shown by the fact that the city ran a surplus of \$51,983 for the fiscal year 1936-37.

A feature of the City's fiscal set-up is the unified, central Collection Office. This collects not only the City taxes but all water bills and other city revenues except automobile licenses, which are collected by the Police Department and turned in daily. The consolidated collection unit has proved highly efficient. The handling of water billing deserves special mention. The city is divided into three zones, and one zone is read and billed every 10 days, distributing the work over the whole month and permitting a smaller force.

The Collection Office turns in its collections each morning to the Treasurer, who receipts therefor, and sends a copy to the Auditor. The Treasurer's deposits in local banking institutions are made daily, and his and the Auditor's balances are checked and reconciled monthly.

The City makes use of the newest and most efficient business principles and equipment, including automatic posting and bookkeeping machines, check protectors and signers, kardex records of all city purchases, and other devices. However, the excellent results are due, in the last analysis, to a sound, business-like system and an efficient and carefully selected personnel to operate it.

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Police and Safety

By **W. J. CROOM**
City Director of Public Safety

Durham has also made an outstanding record for the past two years in law enforcement and traffic safety.

The City recently received a special certificate of commendation from the American Automobile Association for the reduction in fatal accidents in 1936, when 10 persons were killed, and the first half of 1937, when only three were killed.

A comprehensive police training program has also been adopted and put into operation. A complete 4-weeks' school on criminal law, procedure, and investigation was held last December. A 2-day Traffic School to review the 1937 changes in the State Motor Vehicle Code has just been completed. And other lectures, discussion panels, and conferences are being held all along, utilizing outside instructors as well as members of the Department who have previously been sent to various police schools including the Southern Traffic Officers School at the University of Alabama and the Institute of Government Police School.

The newest development is a system of police apprenticeships which is probably unique in the country. Six Junior Police are being employed this month to

drive squad cars and serve apprenticeships under experienced officers. This will not only provide a means for training and selecting new officers but will also safeguard the Department and the public against the possible mistakes of green men.

Durham has also added and modernized its police equipment until the Department now ranks with the best in the State. Included in the new equipment is a 100-watt radio, a telephone switchboard and police call boxes, additional fingerprint equipment including a single print file, cameras for photographing criminals and documents, enlarging fingerprints, etc., a microscope for comparing bullets and other evidence, an auto theft file, chemicals for bringing out motor and gun numbers, a mimeograph and mimeoscope, and improved criminal record files. The Department is planning soon to add motorcycle radios, a wide lens camera to photograph a whole room or crime scene, an ultra violet ray light, and, as soon as it is perfected, two-way police radio.

The City's work in traffic safety deserves special mention. The system of lights, stop signs, and other traffic control devices has been completely revised in accordance with the latest scientific principles. Before this was done, however, a complete traffic survey was made of the chief streets, an accident file and spot map was put in, and the traffic squad set about to discover and correct the cause of each high accident location. This included changing the timing and staggering the lights of Main Street to provide for a uniform flow of traffic at 20 miles per hour; the working out of new traffic systems for "Five Points" and other dangerous intersections; the addition of lights, blinkers, stop signs, etc., at some crossings and their removal at others. This work of engineering has been accompanied by a program of education through the schools, civic organizations, and newspapers, and a policy of strict enforcement, with warnings first and then arrests and with the punishment certain.

The results of Durham's police improvements and modernization have been demonstrated by the reduction in major crimes and traffic accidents, the increase in law abiding and orderliness, and the added safety to Durham's citizens and

visitors. However, all this has been accomplished with the addition of only three members to the force—a Traffic Lieutenant, a second operator for the Identification Bureau, and a file clerk. Not counting the six Junior Police being put on this month, Durham is being policed by a force of 57 or less than one policeman per thousand people, when the accepted figure for adequate law enforcement in the nation is one for every 500.

Departmental Reports

By D. W. NEWSOM,
County Manager



Durham County follows much the same methods as the City in achieving strict budgetary control. There is the same careful preparation of budgets, centralization of purchasing, and checking of expenditures against unexpended balances, and the system of records, auditing, and checks, utilizing modern posting machines and mechanical bookkeeping equipment, is similar to that of the City as described above. What we feel is distinctive about the County's fiscal administration is our comprehensive system of reports from the various Departments to the Manager and Board.

Daily reports are made to the Accountant and Manager not only by the Tax Collector and Delinquent Tax Office, but by the Clerk of Court, Register of Deeds, and Clerk of Recorder's Court. (The Sheriff, whose collections are not large, reports monthly.) These reports, which show the collections of each office for the day on each fund and item, provide an accessible written record of county activities and collections at all times.

Each department and official collecting

County moneys either makes a daily settlement with the Treasurer or makes a daily deposit and settles with the Treasurer at stated periods. The arrangement varies somewhat due to the difference in the nature and collections of the various agencies. Current tax collections are turned over to the treasurer and distributed to the various funds to which they go twice a month. The Treasurer receipts each Department for every payment, sending a copy to the Accountant's office, and at the close of the month the Accountant checks the Treasurer's balances against the receipts of each department, providing the Accountant with a complete check and control.

Of equal importance with the accounting for County funds is the safeguarding of moneys on hand. For this purpose the Treasurer is required to file a weekly report of his balances, and each department having a bank account is required to make a monthly report to the Manager showing the checking account balance and certificates of deposit with each bank and the bonds or other securities protecting them. From this the Manager makes up a master monthly report which shows the following information for each fund, in order: (1) the opening balance; (2) the receipts for the month, by items; (3) the total of the two; (4) the month's disbursements; (5) the closing balance; (6) the treasurer's cash; (7) the distribution of balances in different banks; and (8) the bank securities protecting each deposit. This master form gives a bird's-eye-view of the status of all County funds and securities, and with the daily and periodic reports required from each Department, provides the Manager and Commissioners up-to-the-minute information and control which would otherwise be impossible.

The forms which the County officials have worked out for these reports have been said by many visiting officials to be the best and most complete they have seen, and while there is not space to reproduce them here, any interested citizen or official may secure copies from the Manager's Office.

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Health and Welfare

The County Welfare Department and the City-County Health Department, which render a wide number and variety of services in connection not only with assistance to the needy but also with the public health of the whole citizenry, have likewise received special recognition. Both Departments have been selected as models and used extensively as field training centers by the State Departments and University Schools for the training of personnel for other units.

The health program is divided into three main parts. The strictly public health program includes the holding of clinics, diagnosis and treatment of diseases, and giving of prophylactic treatment for the prevention of certain preventable diseases. (This is designed largely for the prevention of diseases and not treatment; however, inmates of the County Home, Infirmary, and jails are administered to by Department physicians.) The nursing service program provides health information to the people of the community by demonstration and by word of mouth. The nurses go from home to home and impart such information as may be helpful to each family they contact. The inspection service includes milk sanitation work, privy sanitation, mosquito control, nuisance abatement and inspection of all kinds and types of food-handling places.

The Welfare Department has the important task of administering the new Federal, State, and County Social Security funds for Public Assistance to the needy Aged, Dependent Children, and Blind, plus the local relief program for the unemployables, transients, and other needy who are ineligible for the foregoing assistance. It is of interest to note that Durham was the first county in the State to complete its set-up and begin Social Security payments.

In co-operation with State and Federal agencies, the Department conducts numerous investigations and other services in wide-spread fields.

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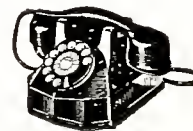
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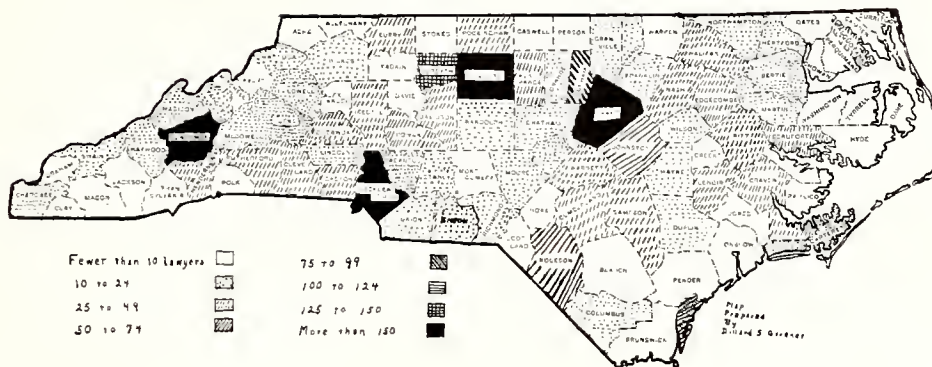
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Should It Be Easy To Become a Lawyer?

ONE hundred eighty-nine applicants took the recent bar examination—and are now anxiously awaiting the decisions of the Examiners. From the time the Bar Examiners began to function in January, 1934, to August, 1937, they have given six examinations to a total of 664 applicants, of whom 271, or 40%, were successful. The smallest percentage passing was 23% (January, 1936) and the largest was 48½% (August, 1936—the last previous examination). When the last examination by the Supreme Court (August, 1933) was given, 120, or 60%, of the 200 applicants were successful.

North Carolina lawyers generally have viewed with approval the recent efforts of the Examiners to subject applicants to thorough examinations. Naturally there have been rumors concerning "freak" cases—here a story to the effect that one lucky man received his license after only one year of genuine law study, there a yarn describing some unfortunate fellow who graduated from an approved law school but still failed to pass the bar. However, judging from the type of questions asked and the number of successful applicants, the Examiners, knowing full well that it is easier to keep incompetents out of a profession than it is to oust them after they have been admitted, have applied themselves to the difficult task of licensing only those of proven competence. Nearly half of the applicants at the last examination were successful, a proportion corresponding almost ex-

actly with the proportion admitted in other states of the Union at recent examinations.

The facts and figures above are generally known, but not so well

OFFICIAL STATE BAR NEWS AND VIEWS

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

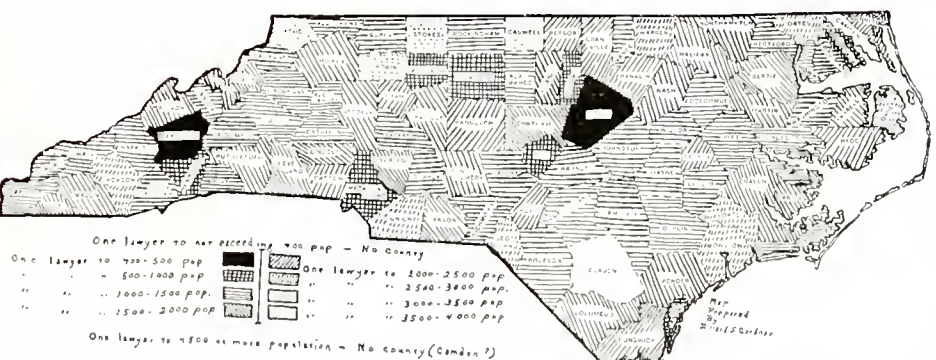
known is the relative position of North Carolina to the other states in the matter of educational requirements for the practice of law. Beginning August, 1938, each applicant must have the equivalent of a four-year high school education, and, beginning in August, 1940, each applicant must have completed *before commencing the study of law* the equivalent of two years

academic work in college. Each applicant to take the August, 1938, or any later, examination must have studied law for three years, either having graduated from an approved law school or having studied twenty-three named legal subjects. Eleven other states—Indiana, Kansas, Maine, Massachusetts, New Hampshire, Ohio, Oregon, Texas, Utah, Vermont, and Virginia—are likewise passing through transition periods toward higher requirements.

Today 18 states require two years of college preliminary to the study of law, and six others require two years of college work before admission to the practice. Forty-one states demand at least a high school education as a prerequisite to the practice of law, and by the time North Carolina joins this group this number will have increased to 45. This State is still in the lowest of five brackets in the matter of non-legal educational requirements.

Thirty-seven states require at least three years' legal training (20 require this study to be in some law school) before admission to the practice, but two years of study is still sufficient in this State, and this period need not be spent in a law school. Although North Carolina is one of six states which require only a bare two years of some form of legal training, there are five other states which require no definite period of study whatever preliminary to admission to the practice. Too, North Carolina has long required applicants to pass rigid examinations before admission to the bar; whereas, according to the latest available data, 12 states (eight of which are southern states) admit

POPULATION-LAWYER RATIO IN NORTH CAROLINA



graduates of certain law schools to the practice without further examination as to their qualifications.

North Carolina citizens, particularly lawyers, who have been inclined to criticize the Bar Council and Examiners for maintaining high standards of admission may well consider the facts just noted. Although the State has advanced during the past decade in the matter of legal education, it is still far down the list. We may remark with some justice, "How far we have risen!"; we may exclaim with greater justice, "How far we are from the top!" All along the line there are other southern states which have outstripped North Carolina. In Alabama, West Virginia, and Virginia two years of college are already required for admission to the bar. In Maryland, South Carolina, Florida, Tennessee, Texas, Kentucky, Louisiana, Maryland, Mississippi, and Missouri, at least a high school education is already a prerequisite to a law license. Alabama, Louisiana, Maryland, Missouri, New Mexico, Texas, and West Virginia today require more legal training on the part of the applicant than does North Carolina.

In 1935 there were 250 law students in the three accredited law schools of the State, 128 students in non-accredited law schools, and a countless number of students who were "reading law" under lawyers. Of this total 215 took the two examinations given that year, and 91, or 41.5%, were successful. When we consider that of the four hundred odd "students" that year probably one-half should be classed as "beginners," it may be safely assumed that practically all who had the remotest hopes of passing took these examinations. Doubtless a large proportion of the casualties were applicants who had not been subjected to as much as two years' rigorous training in an accredited law school. The three accredited law schools of the State now have enrolled many men who have made innumerable sacrifices in order that they may study law under the most favorable conditions. Theirs has been, and is now, a long and grueling regime of striving to master the logic of Blackstone and the lore of Coke. In seeking to prepare themselves for their chosen profes-

sion they have voluntarily submitted to rigid disciplines of long hours and hard study. Members of the profession tempted to seek the lowering of the formal entrance requirements may well pause to consider whether the State should demand of other applicants less than these splendid youngsters have, without coercion, demanded of themselves.

BAR COUNCIL MEETS

The Council of the N. C. State Bar met at Raleigh, July 16th, with all officers and nineteen of the twenty-one Councillors present. The election of J. Hampton Price as Councillor from the new Twenty-First District was announced, and the new Councillor of the Twentieth District, McKinley Edwards, was introduced. Reports in a number of disbarment matters were considered and acted upon. The annual meeting date of the State Bar was changed to the fourth Friday in October. The Secretary was directed to have the State Bar Act, with all amendments to date, printed for distribution; this has been done and anyone wishing a copy may procure it from Secretary London. The Committee on Legal Ethics and Professional Conduct was requested to consider and report on the advisability of adoption by the Council of a code of judicial ethics similar to that already adopted by the American Bar Association. The resignation of Mr. A. A. F. Seawell, Jr., as Investigator was accepted; a Committee will report to the Council at the October meeting relative to the possible filling of this vacancy. The Council will convene again Thursday, October 21st, at Raleigh.

RECENT TRENDS IN LOCAL LEGISLATION

(Continued from page eight)

statute, amendments can be expected to be made almost every session. In connection with any constitutional amendment which may be proposed to curb local legislation, one problem will be what to do with the local laws already on the books.

Possibilities for Reduction

Of course, the volume of local legislation can be reduced. It could be reduced to a small extent by in-

creasing the number of omnibus bills. For instance, the great majority of bills fixing the time for Superior Court terms could conceivably be handled by an omnibus bill, though whether that would save much time is problematical. The volume could also be reduced by the exercise of restraint on the part of legislators and local officials who now pass many unnecessary local laws. Some of these make inconsequential changes in general laws; some hastily decided upon make very ill-considered departures from general laws; and some, as a type of buck-passing, authorize or require a governing body to do something it already has power to do but is afraid to do for political reasons.

Local Acts Have Their Value, Too

However, we should not close our eyes to the fact that in the past local laws have not been wholly bad. Some of them have offered opportunities for experimentation in local government which have benefitted the rest of the State. For instance, the first county which, by local law, provided staggered terms for its grand jurors served as an experiment station for other counties. A number of other counties, finding the experience of the first satisfactory, have now adopted the system. A large number of instances of this sort might be cited. Perhaps the same results could be accomplished by allowing sufficient flexibility in general laws. If the State should adopt an amendment which actually effectively restricts local legislation, certainly the legislature, in drafting general laws dealing with local government, should not lose sight of the value of such experimentation.

HEALTH AND WELFARE

(Continued from page ten)

ists. The next course begins September 20th.

Durham Juvenile Delinquents. According to the report of the Durham County and City Juvenile Court, the conduct of fifty-three boys and girls was investigated during July. Of these, there were 27 white boys, 6 white girls, 16 negro boys, and 4 negro girls. Seven of the white children were brought into the court as dependents, and the other forty-six as delinquents.

Small Claims Courts and Cheap Justice

By DILLARD S. GARDNER

If a newsboy can not collect for his papers or a farmer has a wheel knocked off his wagon by a Model T, to what court do they turn for redress? Such a court to be effective in the handling of small claims must be readily accessible, simple, and informal in procedure, and, above all, must be inexpensive, as both parties are often persons of limited means. The newsboy, the farmer, and similar litigants in this State would be directed to the local Justice of the Peace.

Justices of the Peace are near at hand in almost every community. There are about three thousand in the State, and a township is rarely found without at least one magistrate. The procedure is so simple and informal that fine legal points are sometimes disregarded, particularly since approximately half the civil cases handled by magistrates are disposed of without a lawyer appearing for either party. The costs in Justice of the Peace courts are less than in other types of court, but there are wide variations in costs before the various magistrates, due to numerous local fee bills for magistrates and to various practices in charging or omitting fees for specific items in the costs bills.

Fees and Costs Vary Widely

A uniform fee bill, (C. S. 3923), originally enacted in 1870 and frequently amended since then, for magistrates, purports to set up a uniform schedule of fees to be charged by Justices in counties not having special fee bills.

However, the general statute at present provides two complete fee schedules, the first being the general schedule for all magistrates in counties in which no schedule has been especially provided and the latter being specifically applicable to sixty-seven named counties. The variations may be seen by comparing the two schedules shown in the accompanying table.

Magistrates governed by schedule 2 usually charge the fees of schedule 1 for items not specified in their schedule. The magistrate's minimum costs in a civil case under schedule 1, in a case in which

there is only one defendant, no witnesses subpoenaed, no execution, no transcript and no appeal, are 60c if no issues are joined and 95c if the case is contested. In a similar case under schedule 2 the costs are 80c if issues are not joined and \$1.30 if the claim is contested. Although both of these schedules provide for lighter costs if the defendant does not deny the claim, many local fee schedules allow the same fees for both contested and uncontested cases, to this extent penalizing the defendant who admits the justice of the claim.

In order to determine generally the variations in the costs to litigants before Justices of the Peace in different sections of the State, leading magistrates in five counties computed their costs and the offi-

cers' costs in the four types of civil actions handled by them. Three of these counties were large counties operating under special fee schedules and two of them operate under schedule 2 of the general law. The second table summarizes the results and also shows the costs in similar cases under the general laws:

Justice at Bargain Rates

The newsboy would sue either on an express contract (i. e., on a specific agreement to pay the amount) or on an implied contract (i. e., on facts from which the law assumes an agreement to pay). The farmer would sue in tort (i. e., he would claim the damage done to his property was due to negligence). In these cases the costs of the magistrate vary from 95c to \$1.80, and the officer's fees are from 60c to \$1.50, and the total minimum costs

GENERAL FEE SCHEDULES FOR MAGISTRATES

Item	Schedule 1	Schedule 2
Attachment, issuing, one defendant	\$.25	\$.35
Attachment, issuing, each additional defendant	.10	.15
Transcript of judgment	.10	.15
Summons, issuing, one defendant	.20	.30
Summons, issuing, each additional defendant	.10	.15
Subpoena, each witness	.10	.15
Trial, when issues joined, and judgment	.75	1.00
Trial, when no issues joined, and judgment	.40	.50
Taking affidavit, bond or undertaking, or making order of publication or to seize property	.25	.35
Jury trial and entering verdict	.75	1.00
Execution, issuing	.25	.35
Execution, renewal, issuing	.10	.15
Return to an appeal	.30	.40
Order of arrest, civil	.25	.30
Warrant of arrest in criminal and bastardy cases, including affidavit or complaint	.50	.75
Commitment, warrant of	.25	.50
Taking deposition on order or commission, per one hundred words	.10	.15
Garnishment for taxes and making necessary return and certificate of same	.25	.35
Widow's year's allowance, hearing petition, issuing notice to commissioners and allotting allowance	1.00	
Filing and docketing laborers' liens	.50	
Probate of deed or other writing proved by a witness, including the certificate	.25	
Probate of deed or other writing executed by a married woman, proper acknowledgment and private examination, with certificate	.25	
Probate of deed or other writing acknowledged by the signers or makers, including all except married women who acknowledge at the same time, with certificate	.25	
Probate of chattel mortgage, including certificate	.10	
Claim and delivery, issuing papers and trial, if issue joined, one defendant	1.50	
—Each additional defendant	.50	
—Each subpoena issued	.10	
—Taking replevy bond	.25	
—When a removal of the cause, the justice hearing it is to receive 50c of these costs.		

MINIMUM CIVIL COSTS BEFORE A MAGISTRATE

	General Civil Action		Claim and Delivery		Attachment		Ejectment	
	J.P.	Officer	J.P.	Officer	J.P.	Officer	J.P.	Officer
County No. I	\$1.80	\$1.50	\$3.05	\$3.00	\$4.55	\$4.00	\$1.80	\$1.50
County No. II	1.65	1.00	2.50	2.50	4.00	2.50	2.40	2.50
County No. III	.95	1.00	2.50	1.50	1.65	1.50	.95	1.00
County No. IV	1.30	1.00	1.50	3.00	2.35	3.00	1.65	3.00
County No. V	1.30	1.50	1.50	2.50	1.50	2.50	1.30	2.50
Average	1.40	1.20	2.21	2.50	2.81	2.70	1.62	2.10
General Law:								
Under Schedule I	.95	.60	1.50	1.60	1.25	1.60	1.20	1.60
Under Schedule II	1.30	.60	1.50	1.60	1.70	1.60	1.65	1.60

vary from \$1.90 to \$3.30. If the person who owes the money to the newsboy or farmer is preparing to leave the State, he or she can have enough of the debtor's property seized to assure payment. This is done by attachment, in which the magistrate's fees vary from \$1.50 to \$4.55 and the officer's fees from \$1.50 to \$4.00, making the total minimum costs vary from \$3.00 to \$8.55.

Suppose a junk dealer has bought the newsboy's bicycle from someone who had stolen or borrowed it. In such cases the newsboy would have to recover his bicycle by claim-and-delivery; the magistrate's fees in such a case vary from \$1.50 to \$3.05 and the officer's fees from \$1.50 to \$3.00, the minimum total of such costs shown running from \$3.10 to \$6.05. Or, if a family of transients has moved into a barn or shack of the farmer, without his permission, and refuse to get out, he will need to resort to summary ejectment in order to get an officer to remove them. In such a case the magistrate's fees run from 95c to \$2.40 and the officer's fees from \$1.00 to \$2.50, the actual minimum before the courts shown ranging from \$1.95 to \$4.90.

As many magistrates require that the costs be deposited by the plaintiff when he begins his action, particularly if he does not regularly "patronize" the magistrate, the newsboy or farmer may be called on to deposit the costs of the action in advance. Even if the costs are not required in advance they will be when he gives judgment for the claimant. The total fees which the newsboy or farmer is called on to pay may vary from \$1.90 to \$8.55.

Theoretically, if the newsboy or farmer fails to prove his claim, he is liable for the costs, as most

magistrates will assure you that "the loser must pay the costs," but actually if the defendant wins the costs are rarely paid by anyone. The magistrate has learned through experience that, in most cases, even if he resorts to executions, he will rarely get his costs. If the claimant wins, he is ready to pay the costs and have them added to his judgment which he proceeds to docket and to collect, if possible; but if the defendant wins, he feels that he is not liable, and the plaintiff having lost is adamant in his refusal to "pay for being whipped." This costs situation has caused many magistrates to adopt the Superior Court policy of demanding a deposit of costs in advance, although in communities where there are many magistrates the competitive factor is strong, and a plaintiff who threatens to go to another magistrate with his case rather than "put up a deposit" may often be conceded the privilege of "suing on credit." Even when the magistrate has succeeded in getting the costs deposited in advance, a plaintiff who loses is likely to demand the return of his deposit and the magistrate is thus allowed to choose between one or two alternatives, returning the deposit or letting his "client" go to some other magistrate with his claims.

The Plaintiff's Advantage

The result is that, whether the plaintiff deposits the costs in advance or not, the magistrate's easiest and surest way of collecting his costs is to give judgment for the plaintiff. Therefore, it is not surprising to discover that the magistrates' records examined (covering approximately 11,000 cases annually) indicate that judgments are given for the plaintiff in about 95% of the cases. Since only one defendant in 20 wins before the magis-

trates, it is also not surprising to find that most defendants do not even contest claims against them; about three-fourths of the civil judgments entered by magistrates are default judgments, and one magistrate stated that in 95% of the cases before him the defendants did not "fight the claims." A large percentage of the civil suits before magistrates deal with unpaid promissory notes for small amounts and accounts due storekeepers; as would be expected, in practically all of these cases the plaintiff secures judgment. It is to be expected that in civil cases before any small claims court there will be a large percentage of judgments entered for the plaintiff and that a large proportion of these judgments will be entered without an active contest.

From \$3.00 to \$5.00 court and officers fees as costs for the adjudication of a case can hardly be said to be unreasonably high. True, if a claim is for only a few dollars, the person to whom the debt is due may not be in a financial position which will permit him to tie up that much in costs in an effort to collect the claim, particularly since he knows that there will be \$2.00 or \$3.00 more which he will have to deposit in order to get the judgment docketed and have an execution issued and served. In order to prosecute a claim to judgment and thereafter to collection by execution, it may be necessary to deposit in fees and costs from \$10.00 to \$15.00, an amount which is often a strain upon persons of limited means and one which they can not afford to gamble on the ultimate solvency of the debtor. In a proper case one without funds, but with a claim, could make oath that he is a pauper and secure permission from the magistrate to sue as a pauper, but this privilege afforded by the law is not generally known. Few magistrates have ever entertained suits *in forma pauperis* and naturally they do not wish to encourage such suits as these suits would rarely ever yield any compensation.

Shortcomings and Problems

Justice of the Peace courts are plentiful, their procedure is simple, and the fee schedule, usually, is not

(Continued on page twenty-eight)

Co-operation between Police and Fire Department

THE firemen and the policemen should be as closely allied as the physician and the surgeon. Both wear blue, both are invariably in the same division of city government, both are required to be of approved physique, both departments are organized for and sworn to the same purpose—to save life and property.

With profound and due respect to all other agencies, in time of Fire, Flood, Riot, Tornado or other emergency, the police and fire—emergency departments—form the first line of defense. There is no way of telling whether this first line of defense will require a vital ten minutes, a vital ten hours or a vital ten days. The first co-operative move by the Fire and Police Departments should be to prepare for such emergencies in advance. Every community has its own particular danger, but you never can tell whether the danger you have always feared will be the first to strike. It may be some danger you thought would never occur in that particular community. In 1916, I was caught in a flood in the heart of the highest mountain range in the eastern part of the United States and there marooned for over a week. Every officer in the Fire Department and every officer in the Police Department should know of and keep in touch with all individuals, clubs, organizations, societies, etc., which can be depended upon for some special service during an emergency; location of any special hospital, medical, and mechanical equipment which may be of value in an emergency, and scores of other things which could be listed here.

Officers of both Departments should know the best boat men, the best First Aid men, and the best shots in the other Departments. They should know the men in both Departments who have had previous experience with electricity and gas. Quite often there will be men in one or both departments who have worked with the electric or gas company, and in emergencies where gas or electricity are involv-

By
**SHERWOOD
BROCKWELL**
State Fire Marshal



ed, these men know how to proceed where other policemen or firemen would not. Check up on the plumbers, furnace men, miners and sappers. Some such man, if his talents are known, may turn out to be a blessing in an emergency.

During conflagrations, while every fireman is fighting fire, police officers, not trained in taking heat and smoke, can render valuable assistance handling calls to sources of outside help, and meeting incoming companies and telling them where to hook up, thus leaving the most valuable men in the fire department free to command the forces fighting the fire.

Policemen trained in first-aid can render service looking after injured or burned firemen or others taken from a burning building, thus leaving the firemen to make more inside rescues while the police render first aid, get the ambulances to the scene, and get the victims to the hospitals.

Gas a Triple Threat

The same gasoline our grandmother used to buy in very small quantities and use with the utmost care can now be found in every city in the United States in quantities varying from thousands to millions of gallons. Each and every storage plant, if not properly located, designed, maintained and protected, *offers a triple threat, that of fire, flood and Riot*. The danger of fire in and from such plants, when unprotected, is so manifest I will not go over the details other than to say that fire in such a plant always carries not only the possibil-

ity, but the high probability, of explosion.

Recent conditions in Cincinnati furnish a good example of the dangers in case of flood. In his broadcasts during the flood Chief Barney Houston told the people of Cincinnati that a film of gasoline already covered the flood waters in several areas and described what a match dropped in these areas would do. "As the water rises," he said, "more film will be on it, and if the foundation of several of those larger overhead tanks fail in this flood—you ain't seen nothing yet." In nearly every city of any size in the United States gasoline and kindred products may be found stored in such quantity as to quickly be of grave danger in case of fire or flood, unless the proper precautions have been taken.

And now for the riot proposition. Look the situation over in your own city. See first hand what several crazed or violent men with an axe and a box of matches could do if once in possession of one of these plants. In one of the older seaports in a southern state, they still tell how an unarmed group in command of such a tank during a riot made satisfactory terms with the military authorities. I could write on and on about the dangers from ill placed, poor designed, unprotected storage plants, but I will not. Just remember this. The proper co-operation between Fire and Police officials in seeing that such plants are properly located and protected and that all underground storage systems are moored to bedrock or concrete footings so they will not rise and float in time of flood will go a long way toward removing this "triple threat."

Dynamite on Wheels

Another ever-present danger connected with gasoline is the portable gasoline tanks of from 3,000 to 5,000 gallons capacity, which go through your town every day and night. These have, in some localities, formed the habit of turning over, bursting, and catching fire ever so often. I know they are sup-

posed to follow truck lanes, but probably some driver may know of a good restaurant or coffee shop up town or decide to park for an hour or two for rest or "recreation." A leaky valve and a passing smoker dropping a lighted match and the fireworks start.

The difference between a fire in one of our larger stores now and one of the same kind 30 years ago is difficult to appreciate. To-day, the firemen going in can never tell just what is going to happen when the air ducts and chemical carriers of our modern ventilating and cooling systems enter into a fire in one of these buildings. The gasoline danger has become a part of nearly every business, and even a small quantity of this or any other quick flame is likely to change what would have been an incipient fire into a conflagration involving outside walls and demanding not only the best efforts of the fire department, but real work on the part of policemen in keeping the crowds back, protecting them from falling walls, keeping travel lanes open so that second alarm companies can come in and first alarm companies negotiate the streets for laying second and sometimes third lines. The records will show that a high per cent of people charged to having lost their lives during fires were killed by falling walls, maneuvering of fire apparatus, and other causes outside of the burning building, which shows how serviceable members of a real police department can be in the actual work of saving life around a fire.

End Walls First to Go

Many times while fighting a fire in a three or four-story building I have glanced through a window and noticed that when the police have got the crowd across the street from the two ends of a building, the police and crowd seem content and think they are safe. During a fire or an explosion from fire inside of a building, the side walls of a building generally carry all the loads and are, therefore, thicker and are generally braced by similar side walls of adjoining buildings. The end walls, front and rear, being thinner, not held together by weight on the structural members and not braced by adjoining walls are generally the first to go and a three, four or five-

story wall "going out" can do as much damage across a street fifty feet wide as on the side where the building is located. Then there is always the panic danger when walls begin to fall. The crowd should be kept back and away from the front and rear of a burning building by all means.

Gasoline, though one of the most powerful, is not the only explosive encountered during a fire. The Firemen's Schools, recently have, from data furnished by the United States Department of Agriculture and obtained from extensive study and research, begun studying violent explosions, from such things as flour, starch, coal dust, and wood dust, not to mention the explosion of smoke from most any substance. The last is well known to firemen, as is the fact that there are many substances in powdered form they dare not play streams of water on. A harmless looking flour mill, wood-working plant, store or warehouse may, in a flash, be the source of a violent explosion expanding from a fire of practically no importance into a holocaust demanding the utmost in the combined efforts of the fire and police departments.

Often during a fire, an alert policeman can observe things which may prevent the loss of the life or lives of comrades inside the burning building; for instance, by observing the walls of a building during a fire you may notice smoke coming through a wall. While this may not necessarily mean an alarming condition, it does denote a weakness of the wall and the commanding officer or officers, who may have missed it, should be notified so as to be on guard for further developments. If you see water coming through a wall, either from a stream applied or from the floor level, this denotes immediate danger and justifies immediate abandonment of the area.

Firemen Can Aid Police Too

This discussion up to now has been concerned chiefly with what the policeman can do to help the fireman. Now let's take a look at the other side of the picture.

If the stories we read of barricaded criminals are true, quite often a policeman runs a high risk of being shot if he goes in front or in the rear of the building in which

such criminal or criminals are barricaded. As a rule you have to go either to the front or back of a building to gain a stairway, but with the help of firemen and their battering ram and acetylene torch, both carried on most all service trucks, an entrance can be made from the side walls or from the roof without the police or the firemen being exposed to gun fire from the inside. By the same means, tear gas can be placed on the proper floor without either police or firemen being exposed to gunfire.

Some of the worst fires in recent years have been hotel fires. To combat these by prevention, fighting them before they start, many up and coming fire departments have added the hotel patrol service. This is a fine idea and these firemen detailed to hotel patrol duty can be of great service to the police department. I do not mean by "snooping" nor making themselves stool-pigeons, but by being alert and turning in the proper "leads" to headquarters.

The same applies to Fire District Patrol. So far as I know, I originated this idea, or at least it was an original idea with me. I lived in a city with a population of about 20,000. My home, my father's shop, and the Fire Department Headquarters were all within two or three blocks of the centre of town. When I became Chief of the Fire Department, it naturally followed that with limited apparatus, limited water supply, grave danger threatening the life and property of my friends, I went all over that district every night before I could possibly go to sleep. I saw several things in those trips that led to good pick-ups for the police department. Well organized Fire District Patrols of firemen can prevent many dangerous fires and at the same time be a lot of help to the Police Department.

Observant Patrolmen

When you see a pile of trash or debris in or around a building, realize its possibility. A pile of debris in the rear of a store building can be of a great deal more danger than the average layman can realize. A chimney burning out in the neighborhood may throw a spark and this spark falling in the debris could
(Continued on page twenty-seven)

District Police School Series to Start September 14-17

September 14, 15, 16, 17 will witness the inauguration of the first of a series of ten one-day schools of law enforcing officers in North Carolina to be held periodically in four districts covering the State. This plan will enable officers to leave their homes in the morning, reach the district meeting place in time for eight hours of instruction and return home during the evening, thus cutting attendance costs to a minimum.

The district schools will bring to North Carolina six of the principal instructors in the National Police Academy, conducted with conspicuous success by the Federal Bureau of Investigation for the law enforcing officers of the nation for the past three years: J. Edgar Hoover, Director, Federal Bureau of Investigation; Hugh Clegg, head of the National Police Academy; E. P. Coffey, head of the Scientific Crime Detection Laboratory of the F. B. I.; Laurence A. Hince and Quin Tamm of the F. B. I. Laboratory staff; and Myron Gurnea, firearms instruction expert.

North Carolina members of the instruction staff will include A. A. F. Seawell, Attorney General of North Carolina; Judge W. C. Harris and Solicitor Don Gilliam, heads of the Judicial and Prosecuting Attorneys Division of the Institute of Government; Edwin Gill and Harry Sample, Directors of the State divisions of Parole and Probation; and Albert Coates, Director of the Institute of Government.

The program of instruction will follow the text of the Guidebook for Law Enforcing Officers which will be issued in sections covering the topics discussed at each successive school. These ten one-day schools carry out the plan unanimously approved by 143 officers at the ten day school held in Chapel Hill in January, 1937. Sixty-one of these officers passed the examination and were awarded certificates by the Governor of North Carolina. The district schools will bring the best police instruction to be found in the Country within the reach of every North Carolina officer.

COURSES OF INSTRUCTION

Sources and Extent of the Criminal Law
Law Enforcing Agencies and Territorial Limits
Avenues for Cooperation
The Law of Arrests
Methods and Practices in Making Arrests
Limits to Search and Seizure
Methods and Practices in Making Searches
Limits to Self-Incrimination
Limits to Entrapment
Limits to Confessions
Questioning Suspects and Securing Confessions
Limits to Confrontation
Scientific Aids in Crime Detection
Fingerprinting Arrested Persons
Recording of Crime Scenes
Interviews
Testifying
Report Writing
Criminal Courts in North Carolina
Criminal Laws: Crimes against the Person; Crimes against Property; Miscellaneous Crimes
Investigation of Homicide
Investigation of Assault
Investigation of Larceny
Investigation of Robbery
Investigation of Burglary
Investigation of Arson
Automobile Theft Investigations
Traffic Accidents
Traffic Laws and Safety Practices.
Traffic Problems
License Tags
Liquor Violations
Narcotics Violations
Patrol Work
Rules and Regulations
Police Organization, Administration and Records
Police Problems in Small Towns
Crime Statistics
Remedies for Lawless Enforcement of Laws
Crime Prevention

POLICE AND FIRE CO-OPERATION

(Continued from page twenty-six)
start fire which could quickly spread to four buildings. I know of very few fire departments in what we term small or middle-sized cities equipped to fight a fire already involving four stores when the department arrives, but any pile of trash or debris in the rear of a store building in the congested district of a city can, in a very few minutes, be converted into a thing of horror. There is no valid reason why a policeman, seeing such a condition, should hesitate in the least before notifying the occupant or owner of such a store of the danger of such condition or, if after notifying, demanding by due process of law that the condition be remedied or removed.

Into the ultimate solution of the Fire Problem confronting us to-day looms construction. The people of the United States have made wonderful progress in construction during the past 35 years. A real fireman knows that it is not sufficient to look after new construction, however valuable this may be, but it is also necessary that new dangers are not added to old buildings. An alteration or addition, under the supervision of an inexperienced person, may cause more actual fire danger than 30 or 40 years of living in a house. Most cities require a building permit for all new buildings and all alterations and additions. These permits, in return, carry an inspection to prevent fire or collapse danger.

When police in cruising or doing patrol duty see material on a lot or work going on in a building, it takes only a minute or so to see that a permit has been obtained and that an inspection has been made. If not, the work can be held up until such precautions are taken and in so doing life or property may be saved. Many cities require evidence of these permits posted and kept in plain view so a passing policeman or fireman may know that such permit has been secured and that no fire or collapse danger will be incorporated, either from ignorance, carelessness or indolence, in the project. There are so many things that policemen can do for the safety of the public they serve, with

practically no extra effort, yet which will deal a telling blow to America's archenemy.

Some of the greatest holocausts in our history have been in schools and theatres. In your city or town, these buildings are right now filled with your children and friends. Unless there are sufficient exits in these buildings, unless the electric wiring is safe, unless the heating plants are safe and segregated, those children and friends are in danger. Is there any reason why the police, just because they are policemen, should not go in and see that the exits are sufficient and the heating plants safe. The police have full authority, and often a policeman's demand or command carries more weight than the fireman's.

Charlotte, N. C., started something when they had an enclosed car built for the Fire Department and put into service. Other cities, Detroit and, I believe, Chicago, have them now. With this type of apparatus as a guide, a little co-operation between the Chief of the Fire Department and the Chief of the Police Department, a combination Department car is right here waiting for us. By making the metal body a little thicker, providing steel shutters to quickly replace the glass windows, arranging to replace the deck-pipe or turret nozzle with a machine gun, the enclosed truck, used year in and year out as a fire truck, could, in a few minutes, be converted into a Police tank. If you know a criminal who would not respect one or more of these, you have met some far less imaginative than those I've met.

SMALL CLAIMS COURTS

(Continued from page twenty-four)
prohibitive. Thus far we have done much to achieve the law's ideal of providing a practical remedy for enforcing every legal right in the realm of small claims. In so far as it is desirable to have small claims judges who are trained students of law and who have no financial interest in their judgments, our system falls short of the ideal. To remedy either of these shortcomings would probably require contributions from the general funds of the cities, the counties or the State, and, as County Commissioners so often

reply when requests are made for further appropriations, "That brings on more talk."

COURTS AND RECORDS

(Continued from page nine)

the number of jurors summoned; (3) restriction of early parts of terms to trial of jury cases only; (4) care on the part of judges to excuse temporarily all jurors not to be needed immediately; (5) insistence by judges that, so far as possible under our procedure, jurors be kept busy while attending court; (6) improvement in law and procedure generally and specifically the accommodation and treatment of jurors so as to demand the respect of intelligent jurors; (7) effective education of the citizenship to the social value and individual duty of jury service.

The Juror Speaks. Judge Walter B. Wanamaker, of Akron, Ohio, recently secured questionnaires from 843 former jurors. A summary of their views follows: Three-fourths understood the judges' instructions, but only two-thirds understood every proposition of law. Five-sixths wished that they had received preliminary explanations as to jury duty and functions. A majority preferred the charge to be read and more than three-fourths preferred the charge given in a conversational tone. More than three-fourths thought the jury ought to be near the judge when he delivered the instructions. The jurors were evenly divided as to whether they would be benefited if the judge could overhear their deliberations, but two-thirds of them thought jurors would be more inclined to follow instructions if this were true, and the same proportion recalled instances in which jurors deliberately considered incompetent matters. Three-fourths of the number favored rigid adherence to a known schedule of recesses and reconvenings. The four propositions of law most difficult to understand were, in the order named: "Preponderance of evidence," "reasonable doubt," "negligence," and "proximate cause." Judge Wanamaker concluded that jurors "will show the proper intelligence if the judges have enough intelligence to put that language in words that an

American boy could comprehend."

Jury vs. Judge. Much has been written concerning the advantages of trial by judge over trial by jury. In the *Cincinnati Law Review*, for March, 1937, Professor Edson R. Sunderland gave a summary of a statistical study of four phases of this problem. His studies summarized below were drawn from court records in Wayne County (the city in which Detroit is located), Michigan.

Do juries unduly favor plaintiffs over defendants? No. In contract cases he found that the jury decided for the plaintiff in 76% and the judge in 72% of the cases. In tort cases judge and jury each favored plaintiff in 64% of the cases.

Do juries unduly favor individuals over corporations? No. In contract cases the jury favored individuals in 40% and the judge in 50% of the cases. In tort the jury found for individuals in 61% and the judge in 51% of the cases.

Do juries give substantially larger damages than judges? Yes, particularly in certain types of torts. In contract cases the average verdict of juries was \$2,224, the average of the judges \$2,063. The tort cases were studied in six groups, the average verdicts being: Jury—\$2,283, judge—\$2,161. However, three groups showed interesting disparities. In the alienation of affection cases the average verdict of juries was \$2,375, that of judges \$367; in fraud and deceit cases the average verdict of juries was \$1,902, that of judges \$2,926; in assault, battery, and false imprisonment cases the average verdict of juries was \$3,805, that of judges \$812.

Do jury trials consume an undue amount of time? Yes. In contract cases the average time required per case by juries was 2.6 days, by judges 1.7 days. In tort cases the average time per case by juries was 2.9 days, by judges 1.7 days. Averaging all contract and tort cases, the juries required 65% more time than the judges to arrive at their verdicts. If all of the cases studied had been tried by juries, it would have required 3,280 trial days; if all had been tried by judges, it would have taken 1,997 days. Trial by judge instead of jury in these cases would have saved 1,283 trial days, or the equivalent of the full time of eight judges for seven months.

Bulletin Service

Opinions and rulings in this issue are from rulings of Attorney General and State Departments from July 15 to August 15



Prepared by

M. R. ALEXANDER of the Staff of the Institute of Government

I. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

1. Exemptions—religious and educational organizations.

To T. Lacy Williams. (A.G.) We have formerly ruled that property of college fraternities is subject to ad valorem taxes. However, this opinion is purely advisory. The precise question has not been presented to the courts but might be done by any interested person.

92. Credits to hospitals for charity work.

To J. R. McLaughlin. (A.G.) We are of the opinion that property used primarily for a hospital, and incidentally for the teaching and training of nurses, is not entitled to exemption from taxation under Section 600 (4) of the Machinery Act. To secure the exemption provided by this section the property must be *exclusively occupied and used for and wholly devoted to educational purposes*. You are aware, of course, of Section 602 (2), making provision for certain credits on taxes for charitable work done by private hospitals.

B. Matters affecting tax collection.

12. Penalties and interest—right of county to remit.

To W. H. McElwee. Inquiry: May the County remit interest and penalties on delinquent taxes in the case of a bankrupt estate?

(A.G.) In numerous instances County Commissioners have seen fit to remit penalties on delinquent taxes, and there have been public-local laws permitting it, but we are unable to find any statute giving County Commissioners the discretion to remit such penalties generally. However, notwithstanding the absence of North Carolina statutes authorizing commissioners to remit penalties, under Section 57 (j) of the Federal Bankruptcy Act, the Commissioners would be unable to collect penalties on delinquent taxes, since such penalties are specifically disallowed by the Bankruptcy Act.

14. Delinquent taxes—requirement of advertising.

To F. P. Parker, Jr. Inquiry: Please interpret the laws relating to advertising the sale of land for county taxes.

(A.G.) Under C. S. 1334 (48) and C. S. 8014 it appears that there must be four successive weekly advertisements of the sale of land immediately preceding the sale. Hence, in our opinion, if you advertise on August 5, 12, 19, and 26, it would also be necessary to advertise the property the first week in September in order to prevent the lapse of more than one week between the last advertisement and the sale of the property on September 6.

23. Sale of real property.

To J. W. Kelly. Inquiry: Real estate has been sold for taxes for several years, but no foreclosures have been made. Is it necessary to continue to advertise and sell the same from year to year?

(A.G.) We think perhaps the better

opinion is that real estate should be sold for past due taxes for each year in which the taxes are delinquent.

To F. W. Bynum. Inquiry: There are relatively few delinquent taxpayers in our County, and these can hardly be reached by the annual notice of the sale of land for taxes. Can this procedure be dispensed with, and can we rely entirely on C. S. 7990?

(A.G.) While we realize that the annual sale of land for taxes is sometimes burdensome on the counties, we know no method by which it may be avoided.

31. Tax foreclosure—procedural aspects.

To Pat Kimzey. (A.G.) This refers to a previous opinion with reference to the joinder of actions in a tax foreclosure complaint. Under the impression that the two remedies were made applicable to the taxes of the same years, we expressed the opinion upon the complaint submitted to us that the Court might hold insufficient a joinder of causes of action arising under C. S. 7990 and 8037. However, if the remedies are made applicable to taxes of different years, we think the complaint would probably be sustained by the Court.

76. Tax collection—date lien attaches.

To E. P. C. Hyatt. Inquiry: Is a property owner liable for tax on land which has been condemned by the U. S. Government when the judgment in the case was signed on March 26 but was not recorded in the County until April 2?

(A.G.) No. See *Swain County v. Floyd*, 204 N. C. 291, which held that land is withdrawn from taxation as of the date of the decree of confirmation and that where such decree was entered in January, land was not subject to taxes listed against it in the following April, although the condemnation proceedings were not determined until a subsequent date.

101. Adjustment and compromise.

To G. W. Tomlinson. Inquiry: Does a statement by the proper county tax official that there are no taxes due against a piece of property estop the County from collecting taxes later discovered to be due? Might the County Commissioners, in view of the mistake by its official, postpone the lien of such taxes to a private lien accepted in reliance on such statement?

(A.G.) The subject of estoppel is a long and involved one, but as a rule a State or County is not estopped with respect to collecting its taxes by reason of any statement made by an official. Such statements, for many reasons assigned by the courts principally arising out of policy, do not have the same effect as statements of agents and representatives of private parties. In our opinion, the Commissioners do not have authority to postpone the lien to a private lien.

C. Levy of special taxes.

10. For repairs to public buildings.

To R. T. Wilson. Inquiry: May the County Commissioners levy a tax to repair the court house and county home over and

above the 15c limitation set out in Section 6, Article V, of the Constitution?

(A.G.) We think so. The Constitution prohibits the exceeding of the 15c levy except when the tax is levied for a special purpose and with the special approval of the General Assembly, which may be done by special or general act. And C. S. 1297 (8½) provides that County Commissioners may levy a tax not to exceed 5c, in addition to any tax allowed by any special statute, and in addition to the rate allowed by the Constitution, for certain purposes, including the upkeep of county buildings and homes. C. S. 1297 (8) also authorizes counties to make necessary provisions for the care of the poor. And under C. S. 1334 (8), the special approval of the General Assembly is given to the issuance of county bonds for the special purpose of erecting and repairing court houses.

II. Poll taxes and dog taxes.

A. Levy.

To T. A. Vernon. (A.G.) Under Article V, Section 1, of the Constitution, the poll tax is limited to \$2 for a county and \$1 for a town. This became a part of the Constitution in January, 1921. Since then that rate can not be exceeded unless necessary to pay the principal and interest of bonded indebtedness incurred before 1921.

1. Exemptions.

To Vernon W. Flynt. (A.G.) In our opinion, an ex-convict is not excused by law from paying poll taxes regardless of whether or not his citizenship has been restored. Section 1, Article V, of the Constitution provides that this tax shall be imposed upon all male inhabitants of the State between the ages of 21 and 50.

III. County and city license or privilege taxes.

A. Levy.

2. Exemptions—veterans.

To F. P. Brittain. (A.G.) The Revenue Act provides that Spanish-American War veterans or other veterans may be exempted from the peddlers' tax when they are disabled and such fact is presented to the Board of Commissioners of the County in which it is sought to do business.

14. Privilege license—beer and wine.

To E. O. Moore. (A.G.) In our opinion, the County could levy beer license under Section 512 of the Revenue Act on each separate place of business which the person operates.

To W. B. Allsbrook. (A.G.) The fact that the operator of a lunch or cold drink stand operates in connection therewith a poolroom would not, in my opinion, deprive him of the right to receive an "on-premises" beer license under Section 509 of the Revenue Act; provided, however, it is determined that the stand is bona fide and not a mere colorable excuse of carrying on some other type of business. See subsection 1, also Section 513.

To A. C. Johnston. (A.G.) The County Commissioners have no authority to refuse to issue beer and wine licenses to applicants who comply with the provisions of the law.

Beer and wine may be legally sold on Sunday. However, this is a subject for regulation by public-local legislation or municipal ordinance.

Beer and wine may not be sold within 50 feet of a church inside a municipality or within 300 feet of a church outside the corporate limits while church services are in progress.

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

To E. F. Banck. (A.G.) In our opinion, a person who rents cottages either by the

To Clifton Beckwith. Inquiry: Are Laundries entitled to charge the stamp tax under Section 139 of the 1937 Revenue Act on laundry done for a city?

(A.G.) The Revenue Department has reversed a former ruling on this subject, and Cities are not subject to this tax effective beginning July 12.

week, month or any indefinite period of time, would not be subject to the tax on tourist homes and camps prescribed by Section 126½ of the Revenue Act.

40. License tax on peddlers.

To R. T. Allen. Inquiry: May a City levy a tax under Section 121 of the Revenue Act on out-of-state trucks selling vegetables, fruits, etc.?

(A.G.) Subsection (c) provides that the tax does not apply to the sale of farm products raised on premises owned or occupied by the person, firm or corporation, his or its bona fide agents or employees selling the same.

To J. W. Jennette. Inquiry: A company manufacturing candy in this State has agents throughout the State who peddle the candy from house to house and are paid in prizes or premiums. Are such agents subject to the peddlers' tax under Section 121 of the Revenue Act?

(A.G.) Subsection (f) exempts persons, firms or corporations selling articles of their own manufacture, and if the title to the candy remains in the company until sold by the agent, and at no time is vested in the agent, there would be no liability. However, if an intermediary has title or obtains a profit upon the sale, selling the goods by the peddling method, he would not be exempt from the tax.

To E. R. Hoyle. Inquiry: A peddler who has paid the \$25 peddler's tax under Section 121 (a) has several assistants working from the one truck. Is he subject to an additional tax for each helper? (A.G.) We think not.

45. License tax on public dance halls and amusements.

To W. P. Kanto. Inquiry: Are billiard parlors exempt from town license by virtue of the fact that they give part of the profits to the American Legion? (A.G.) If the establishments are not operated by the Legion, we are of the opinion that they could not get the benefit of the exemption in Section 129 (a) of the Revenue Act.

62. License tax on soft drink bottlers and dealers.

To A. C. McKinnon. Inquiry: Are the Coca Cola dispensers placed at soda fountains by the Coca Cola Co. taxable as an additional carbonated draft arm under Section 144 of the Revenue Act? (A.G.) This Office has formerly ruled that such dispensers are so taxable.

To R. B. Woodard. Inquiry: May a municipality impose a license tax upon bottled drink trucks operating in the town? (A.G.) Section 134 of the Revenue Act, taxing manufacturers, bottlers, and distributors of soft drinks, provides that no city may impose a license tax for the delivery of bottled drinks.

62. License tax on express companies and franchise carriers.

To J. L. Kendrick. (A.G.) In our opinion, your City could not levy an additional privilege or license tax against a franchise carrier taxed under the Motor Ve-

hicle Act. This act provides that the taxes levied thereunder are compensatory taxes for the use and privilege of the public highways of the State and that cities and towns may not levy more than \$1 per year upon any such vehicle resident therein.

69. License tax on ice cream dealers.

To Miss Ruby Wood. (A.G.) Under the provisions of Section 161 of the Revenue Act, cities and towns are permitted to levy a license tax on manufacturers of ice cream in an amount not in excess of one-fourth of that levied by the State.

70. License tax on chain stores.

To J. S. Bryan. (A.G.) We have heretofore ruled that a municipality has a right to impose upon a chain store the chain store tax authorized by Section 162 of the Revenue Act and a general merchandise tax authorized by C. S. 2677. The theory upon which the two taxes are imposed is entirely different.

To E. L. Curlee. Inquiry: A merchant has six stores in an adjacent city and one in our city? Is the one store here subject to the chain store tax?

(A.G.) Yes, unless it happens to be the particular unit which the operator is permitted to designate as the home unit and not subject to tax.

100. Privilege license.

To Junius D. Grimes. (A.G.) In our opinion, a drug store which takes and delivers films for developing by an out-of-town company and receives for such services a designated commission, would not be a photographer or agent of a photographer within the meaning of Section 109 of the Revenue Act.

B. Collection.

5. Officers and duties.

To C. C. Lloyd. Inquiry: Whose duty is it to collect county and city beer and wine taxes and to close places operating without a license?

(A.G.) This is the duty of the tax collector of the County and Town and any person operating without a license would be subject to indictment under the provisions of the Revenue Act.

IV. Public schools.

A. Mechanics of handling school funds.

To Clyde A. Erwin. (A.G.) In case of a dispute over what constitutes capital outlay and what constitutes maintenance of plant, we cannot say that the authority of the school or accounting officials should be any greater than the other. In our opinion, the particular subject of dispute should be immediately referred to the State Superintendent, and both parties should abide his decision.

1. Countersignature of County Accountant.

To Clyde A. Erwin. (A.G.) After a school budget has been approved, the County Accountant has no right to refuse to sign vouchers because the Chairman of the County Board of Commissioners may think that some items in the invoice are too high.

14. School budgets—adoption and review.

To R. H. Latham. (A.G.) We think that you are correct in your opinion that capital outlay budget prepared by the city administrative unit must be submitted to the County Commissioners rather than the County Board of Education for approval. Section 15 of the School Machinery Act states that budgets shall be submitted to the County Commissioners, and other provisions of the same section require submission to the "tax levying authorities," and the Board of Education has no such authority.

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

5. Erection of school buildings.

To Basil M. Watkins. (A.G.) Chapter 353, Public Laws of 1937, purports to set up alternative methods for the building of schoolhouses and for contracts and supervision in connection therewith. One plan retains the then existing provisions of law that these things should be done by the County Board of Education. The other plan purports to place the construction of school buildings in the hands of the trustees of the special charter district.

Section 4 of the 1933 School Machinery Act abolished all school districts of every kind, including special charter districts, retaining the last only for the purpose of debt service. At the time Chapter 353 was enacted there did not exist anywhere a school district as "defined in subsection 3 of section 3 of Chapter 136 of the Public Laws of 1923," to which reference is made in Section 1 of the 1937 law. Therefore, the 1937 law attempts to confer authority upon a non-existent board of trustees of an abolished special charter district.

It is true that for the purpose of maintenance City Administrative Units have been established by the Education Commission, sometimes including the territory of a former special charter district. In that event, the law continues the selection of trustees in such City Administrative Unit in the manner which had been provided for the selection of trustees of the special charter district forming a part of it. This does not, however, constitute such trustees in any manner trustees of a special charter district.

It is possible that the court by a great deal of doctoring of the law might come to the conclusion that it was the intention of the law, which is not well expressed, to give the trustees or committeemen of the City Administrative Unit the powers conferred in Section 1 of this law. I am merely expressing a doubt as to its validity, but I think the better plan is to have contracts made for school buildings and the supervision thereof under the auspices of the County Board of Education, as to the authority of which there can be no doubt.

Where a building has been undertaken

To B. M. Boyd. Inquiry: Does the lien of State taxes under the 1937 Revenue Act date from the date of transcript of certificate in the office of the Clerk of Superior Court, as provided for in Section 812, or is it a blanket lien as seems to be provided for in Sections 811½ and 817?

(A.G.) Section 812, providing that the tax should become a lien on realty only on the date of the docking of the certificate, etc., was added to the original act by amendment. Still, the view which seems tenable and which this Office is endeavoring to enforce, is that where this alternative remedy is not resorted to, the provisions of Section 817 apply, and the lien attaches on the date that the taxes are due and payable.

There certainly seems to be a number of inconsistencies in these sections, and as yet there has been no judicial determination of the matter.

and contracts have been made under the other plan the ratification of this by the County Board of Education would remove any invalidity and cure any defects of the procedure.

F. School officials.

6. Liability of county board for tort.

To W. E. Webb, Jr. Inquiry: In case of negligence by the County School Board in the operation of school busses, would the County or the individual members be liable?

(A.G.) No, unless their action or non-action is malicious and in bad faith, as such Board is in the exercise of governmental functions. See *Hipp v. Ferrall*, 173 N. C. 167.

7. County Board—contracting with members.

To B. P. Gentry. Inquiry: Can the County Board of Education legally let school contracts to a construction firm whose president is a member of the County Board? (A.G.) We think not, due to the provisions of C. S. 4388, relating to directors of public trusts contracting for their own benefit.

10. Trustees of city administrative units—election.

To Clyde A. Erwin. Inquiry: May a County Administrative Unit supplement the travel allowance of the Superintendent of Schools out of the proceeds from fines, forfeitures, poll taxes, and dog taxes?

(A.G.) Section 9 of the School Machinery Act provides that, with the approval of the State School Commission, such funds may be used to "supplement any item or object of the current expense budget." In our opinion, the travel expenses of the Superintendent are included within the current expense budget and may be thus supplemented.

36. County Superintendent—assumption of other duties.

To Dr. Carl V. Reynolds. Inquiry: Is the County Superintendent of Schools entitled to compensation for attending meetings of the County Board of Health?

(A.G.) In the case of *Borden v. Goldsboro*, 173 N. C., it is said "A public official is not entitled to payment for duties imposed upon him by statute in the absence of an express provision for such payment," and there is no direct provision for payment of compensation to members of County Boards of Health.

II. School health laws.

3. Health certificate.

To L. H. Jobe. (A.G.) C. S. 5566 requires that teachers must receive a health certificate from the county physician or other reputable physician of the county certifying that they have not an open or active infectious state of tuberculosis or any other contagious disease. The School Board is not authorized to modify or restrict the application of the law or limit the source of the certificate to the City Health Department.

I. School property.

3. Condemnation of school sites.

To Junius D. Grimes. (A.G.) C. S. 5469 authorizes the County Board of Education to institute condemnation proceedings for land needed for school sites. The power given is broad in its scope and contains no language limiting the type of property which might be condemned. And the case of the Board of Education v. Forrester, 193 N. C. 519, held that C. S. 1715 has no application to a condemnation proceeding instituted by a Board of Education for the purpose of obtaining a school site. See also *Railroad v. Manufacturing Co.*, 166 N. C. 168.

14. Coverage by fire insurance.

To W. H. Lee. Inquiry: Please give me your opinion as to the right of a municipality or city school board to insure property in legal reserve mutual companies licensed by the State Insurance Department.

(A.G.) Under the recent decision of the Supreme Court a municipality is authorized to insure its property in mutual companies. This applies also to boards and authorities insuring school property.

V. Matters affecting county and city finance.

B. Defaults.

13. Interest on past due coupons.

To Dr. W. T. Ralph. (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.

I. Issue of bonds.

2. Debt Limitation Amendment.

To W. E. Easterling. Inquiry: Does the provision in the Debt Limitation Amendment for issuing bonds to fund "casual deficits" apply to a deficit incurred by a town due to spending current funds for improvements not authorized by law?

(A.G.) We think this would not be considered casual deficit within the meaning of Article V, Section 4, of the Constitution, permitting a municipality to fund a casual deficit without a vote of the people.

To J. E. Butler. (A.G.) In our opinion, a loan from the Literary Loan Fund comes within the meaning of the limitation in the recent Amendment, and a County could not borrow from this fund in excess of the limitation prescribed in the Amendment.

VI. Miscellaneous matters affecting counties.

G. Support of the poor.

5. Levies for Old Age Assistance.

To Mrs. W. T. Bost. (A.G.) Both the Old Age Assistance and Aid to Dependent Children acts provide that applications for assistance shall be made to the County Welfare Board of the County in which the applicant resides. This does not mean the county in which the applicant has a settlement but the county in which he is living at the time the application is made.

If the parties do not have a settlement in any county in North Carolina, but are otherwise eligible, the application is to be received by the County in which they reside and to be acted upon by such county, but the award, when made, is to be paid entirely out of State and Federal Funds.

If a recipient of aid moves to another county in this State, he is entitled to receive assistance in the county to which he moves, but the county from which he has moved is required to pay the assistance for a period of three months following such removal.

P. Costs payable by the counties.

5. Premiums on officials' bonds.

To Charles Hughes. (A.G.) Ordinarily where county officials are required to give corporate bonds, the premiums are proper

items for payment by the county. Where the law is silent as to the payment, it would probably be a matter of contract between the county and the official as to who should pay the premium. However, the practice as far as I have been able to discover is for the county to pay it.

X. Grants and contributions by counties.

8. Adult Education.

To Mrs. E. C. Morriss. Inquiry: May a County match State funds for adult education appropriated by the 1937 Legislature?

(A.G.) After carefully examining Chapter 198 and comparing it with the 1919 adult education law which it replaced, we have come to the conclusion that no statutory provision now exists by which counties and cities may participate by appropriation or allocation of funds raised from taxes.

10. Damage payments.

To C. L. Pemberton. (A.G.) You are correct in your opinion that the County Commissioners are not authorized to compensate the owner of a dog which died as the result of vaccination by a rabies inspector.

VII. Miscellaneous matters affecting cities.

X. Ordinances.

To R. M. Gambill. (A.G.) We think the better opinion is that a municipal ordinance requiring the closing of places selling beer and other supposedly intoxicating liquors after 11 o'clock at night would be sustained in the exercise of the police power of the town.

To Dr. R. S. Cheek. (A.G.) In our opinion, a municipality may pass a valid ordinance prohibiting begging on its streets. See *State v. Hundley*, 195 N. C. 377, upholding the validity of such an ordinance of the City of Charlotte.

VIII. Matters affecting chiefly particular local officials.

A. County Commissioners.

5. Trading with member of board.

To O. J. Mooneyham. Inquiry: Would it be legal for a member of the County Commissioners who is in the fire insurance business to sell insurance to the County Board of Education on school buildings?

(A.G.) We think this would be a violation of C. S. 4388, because the Commissioners must pass on the school budget containing the item and must also pay for such insurance.

B. Clerks of the Superior Court.

27. Appointment of guardian.

To A. W. Cooke. Inquiry: Where a founding's parents are not known, may the Judge of Juvenile Court appoint a guardian, and may the guardian sign a consent to the adoption of the minor?

(A.G.) We have examined C. S. 5055 and other sections of the Code and find that the power of appointing a guardian and authorizing an adoption is within the sole jurisdiction of the Superior Court. This conclusion is supported by C. S. 2150 and 191 (1). We do not feel that C. S. 5055 gives the Judge of Juvenile Court such power. In our opinion, that section is supplanted by C. S. 1461, passed 10 years later, in 1929. The later act authorizes the Commissioners in certain counties to set up Domestic Relations Courts which have by this section been given all the rights, powers, and jurisdiction of the previously established Juvenile Courts.

Subsection (g) states that all cases where adoption of juveniles is sought shall first be brought before the Domestic Relations Court for full investigation, but the results and recommendations of the Judge

are to be reported to the Clerk of Superior Court, and any action on the adoption seems to have been left to the Clerk.

50. Costs.

To W. J. Beale. Inquiry: Does homestead exemption hold in the case of court costs against a Defendant in a civil action?

(A.G.) Costs in civil actions stand on the same footing as the principal of the judgment in so far as the homestead exemption is concerned. In other words, the homestead exemption may be taken against such costs.

78. Dower.

To J. E. Mewborn. Inquiry: A widow obtained a court order for the sale of her husband's property, and the proceeds were invested in government securities. The order stated that the widow's dower remained intact or when re-invested might be allotted to her at her option. (A.G.) In our opinion, the widow's dower may be allotted and would be computed under C. S. 3226.

C. Sheriffs.

1. Liability on bond.

To Albion Dunn. (A.G.) If a prisoner is convicted in a court of record and adjudged to pay a fine and costs, and the prisoner has not been put in the custody of the Sheriff by the court and subsequently leaves the court without paying, we are of the opinion that the Sheriff would not be liable. It seems to us that the proper procedure would be to have a capias issued and the prisoner returned.

L. Local law enforcement officers.

1. Prohibition law—beer.

To W. F. Anderson. (A.G.) The law prohibits the employment of a minor under 18 in any establishment where beer and wine are sold. In our opinion, this would cover a case where a father employs his own son under such circumstances although no compensation is paid the son.

18. Prohibition—1937 Liquor Control Act.

To John A. Mayo. (A.G.) Under Section 13, Chapter 49, Public Laws of 1937, it is made unlawful to have in possession any alcoholic beverages defined in this act upon which taxes imposed by the laws of the State or United States have not been paid. No one has a right to have in his possession for the purpose of sale any intoxicating liquors, whether stamped or otherwise, and possession of more than one gallon creates a prima facie case of possession for the purpose of sale. This is true although it may be in a county which voted for the legal sale of whiskey.

38. Automobile Drivers' License Act.

To Hatcher and Berry. (A.G.) There is no legal procedure by which a driver's license revoked because of a conviction for operating an auto while intoxicated may be restored short of the period of the revocation.

To W. T. Cobb. Inquiry: Does a parole by the Governor from a sentence wherein a driver's license was suspended annul the suspension? (A.G.) No.

90. Warrants.

To S. B. Caveness. (A.G.) Chapter 339, Public Laws of 1937, relating to search warrants, excludes from admission such evidence as is procured by a search in violation of that act. However, all searches and seizures do not require search warrants in counties in which the Turlington Act still applies. See C. S. 3411 (f). That is true with regard to contraband whiskey which is carried in an automobile. If an officer has reasonable ground to believe that intoxicating liquor is being transported in an automobile in violation of

law, he may, when acting in good faith, search and seize the car without a warrant. Evidence procured in this way is admissible in court, and as to the search itself is not illegal, provided the auto is being used in the transportation of liquor contrary to law.

M. Health and welfare officials.

1. County Welfare Board.

To J. R. Morgan. Inquiry: Are County Commissioners authorized, in the face of C. S. 5014, to pay reasonable compensation or travel expenses to members of a County Welfare Board out of County funds?

(A.G.) We think not. We have considered that this law prohibits counties from paying either per diem compensation or expenses for travel in attending meetings.

28. County Board of Health.

To Dr. Carl V. Reynolds. Inquiry: May compensation be paid to members of a County Board of Health? (A.G.) Article 3, Chapter 118 of the C. S. makes no express provision for compensation, and in our opinion, C. S. 7065 has no reference to compensation but only to such authorized expenditures as they make.

P. Officials of Recorders' and County Courts.

5. Costs and fees.

To C. N. Davenport. (A.G.) The law requiring the \$1 Bureau of Identification fee to be added, collected, and transmitted to the State Treasurer in criminal convictions, applies to Mayors' courts, and in fact, to all courts except those of Justices of the Peace. The application of the additional \$1 fee does not depend upon the jurisdiction but upon the court in which the conviction is had.

T. Justices of the Peace.

45. Seal.

To P. H. Meroney. (A.G.) The law does not require a Justice of the Peace to have an official seal as the term is ordinarily used. However, it does require that a seal shall be appended to the signature of the Justice when he is taking acknowledgments of the execution of instruments and in a number of other instances. A scroll seal, which usually consists of the word "seal" surrounded by a scroll or circle, is considered sufficient.

U. Notary public.

2. Qualifications and appointment.

To W. H. Young. (A.G.) While we commonly speak of the commission of a Notary being "renewed," this is not what takes place. There is always a new appointment, and the authority of the Notary exists by reason of such new appointment. As a Notary is a public officer, it is necessary for him personally to take the oath required by law before beginning the duties of his office.

X. A.B.C. Boards and employees.

2. Vacancies.

To W. C. Hargrove. Inquiry: Whose duty is it to call a meeting of the County Commissioners, Board of Education, and Board of Health for the purpose of electing a member of the A.B.C. Board? (A.G.) The law is silent on the subject, and in our opinion, it would be desirable for the Chairmen of the three Boards to call the meeting, so there could be no doubt as to its regularity.

5. Audits of stores.

To G. H. Adams. Inquiry: Has full authority for the auditing of County A.B.C. Stores been transferred to the State A.B.C. Board? Should contracts for auditing County A.B.C. Stores be submitted to and approved by the Local Government Commission?

(A.G.) Under Section 4, Chapter 49,

Public Laws of 1937, the State A.B.C. Board is authorized to audit and examine the accounts and records, books and papers of county stores or to have the same audited. Notwithstanding this provision, in our opinion, the Counties themselves may cause to be audited the affairs of the stores set up in their respective Counties under the Pasquotank or 1937 Act. If contracts are to be made by the Counties or by any City looking to the audit of such stores, in our opinion, these contracts should be submitted to and approved by the Local Government Commission under the provisions of Chapter 201, Public Laws of 1929, as amended by Chapter 99, Public Laws of 1931.

15. Law enforcement.

To W. W. Cohoon. (A.G.) We see no legal obstacle in the way of employment by an A.B.C. Board of a police officer while "off duty" from his regular work and compensating him for such service.

Y. Game Wardens.

10. Carrying weapons.

To C. R. Wishart. (A.G.) All peace officers authorized to make arrests may carry revolvers while on duty. A Deputy Game Warden is such a peace officer, and it is his privilege to carry such a weapon.

IX. Double office holding.

3. School board.

To C. L. Benson. A school committeeman and a town commissioner are both officers within the meaning of the constitutional prohibition against double office holding, and the two places may not be held by the same person at the same time. However, this is a mere civil requirement, and the holding of two offices can not subject the person to a criminal indictment.

24. Member of Legislature.

To F. P. Bacon. (A.G.) In our opinion, the office of State Senator and town commissioner are both offices. Acceptance of appointment as town commissioner would automatically vacate a person's office as State Senator. The Governor is authorized to call a special election to fill the latter vacancy, but until such election is called the office would remain vacant.

45. County A.B.C. Board.

To C. H. Leggett. (A.G.) In our opinion, the places of Town Alderman and member of a County A.B.C. Board are both offices.

51. Postal employee.

To Junius D. Grimes. (A.G.) In our opinion, the positions of Postmaster and fish and oyster inspector (under C. S. 1871 and 1885) are both offices.

XI. General and special elections.

B. Ballots.

10. Absentee ballots.

To C. B. McLean. Inquiry: In an election on the creation of a municipal recorder's court is it permissible to use absentee ballots? (A.G.) We have formerly ruled that it is permissible to use absentee ballots in municipal elections.

D. School elections.

50. Cost of holding.

To W. G. Egerton. (A.G.) This Office has expressed the opinion that the costs of elections for supplementing the State public school fund, under Section 14 of the School Machinery Act, must be borne by the County itself and not by either the County or City Administrative Unit.

H. Municipal elections.

30. Residence of candidates.

To T. M. Thomas, Jr. (A.G.) This Office has ruled that a person who lives outside the corporate limits could not serve as a member of the Board of Commissioners of a town.

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Cost of Living and Cost of Electricity

(Editorial From Duke Power Magazine)

Taking the levels of 1913 as normal—100—the cost of living today is around 145 while the cost of electric service is around 55. In other words while the cost of living has increased approximately 45 per cent the cost of residential electric service on the average throughout America has declined about 45%.

The decline in the cost of electricity has been constant since 1913 except during a short period during the World War.

The decrease in the cost of electricity has been accompanied by, and made possible by, constant increase in consumption. For instance, the average residential customer in America during 1913 used 264 kilowatt hours of electricity and the average rate was 8.7 cents per kilowatt hour. In 1936 the average consumption per family had increased to 719 kilowatt hours per year and the average rate paid per kilowatt hour was 4.69 cents.

The average American family is paying for electric service today approximately 9 cents per day—an amount equivalent to the tax on one and one-half packs of cigarettes, or the tax on one and one-half gallons of gasoline—less than two-thirds the total cost of one pack of cigarettes—less than one-half the price of a gallon of gasoline.

It is interesting in this connection to note that the average consumption was over, and the average rate on the Duke Power system was substantially under, the national average.

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