

POPULAR GOVERNMENT



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COVER PICTURE

The picture on this month's cover of POPULAR GOVERNMENT represents the sixth in a series of scenes depicting the variety and multifariousness of the state. These pictures have been selected from the murals on the walls of the Institute of Government building at Chapel Hill, and their sequence presents a thumb-nail sketch of North Carolina.

This scene from the eastern part of the state showing the sea oats and the sands tracked by the banker ponies is particularly timely, since it represents one of the favorite vacation lands of this season of the year. Previous covers of POPULAR GOVERNMENT have shown a view of the mountains and a mountain stream, and a previous one also another scene of the sand and sea.

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1944 Schools of Law Enforcing Officers

To All Heads of Law Enforcing Agencies in North Carolina:

The following pages describe a series of training schools through which the Institute of Government is bringing to the law enforcing officers of North Carolina the best instruction staff and the most practical police training to be found in the United States.

We call on the heads of law enforcing agencies in North Carolina to see that members of their respective departments get the benefit of these training opportunities.

We urge the larger and middle-size departments to send one or more men to every one of these schools without exception.

We urge the smaller departments to send one or more men to the General Law Enforcement School and to as many of the specialized schools as they can.

The cost of attendance to each officer will be only 50c a day for room and not more than \$1.50 a day for meals.

We urge all Police Chiefs, Sheriffs and heads of other law enforcement agencies to select the men they wish to send to these successive schools and send their applications for admission without delay to Albert Coates, Director of the Institute of Government, Chapel Hill, N. C.

Sincerely yours,

INSTITUTE OF GOVERNMENT ADVISORY BOARD FOR
TRAINING OF LAW ENFORCING OFFICERS

Walter Anderson, President N. C. Police Chiefs Association
C. V. Faulkner, 1943-44 President N. C. Sheriffs Association
John Armstrong, Commanding Officer, State Highway Patrol
Thomas L. Creekmore, Director, State Bureau of Investigation
Edward Scheidt, Special-Agent-in-Charge, Federal Bureau of
Investigation for North and South Carolina



FRONT ROW, left to right: Major John Armstrong, Commanding Officer, State Highway Patrol; Albert Coates, Director Institute of Government; Thomas L. Creekmore, Director State Bureau of Investigation.

BACK ROW, left to right: C. V. Faulkner, Sheriff of Nash County and President Sheriff's Association; Walter Anderson, Chief of Police, Charlotte, and President N. C. Police Chief's Association; Edward Scheidt, Special Agent in Charge, Charlotte Office, Federal Bureau of Investigation for North and South Carolina.

These representatives of city, county, state and federal law enforcing agencies in North Carolina make up the advisory board cooperating with the Director and Staff of the Institute of Government in planning and guiding Institute efforts to bring systematic instruction within the reach of every law enforcing officer in North Carolina through a comprehensive program of state-wide, district and local training schools.

Sheriff C. V. Faulkner will be succeeded on the advisory board by Sheriff Grady Nichols of McDowell County who recently succeeded Sheriff Faulkner as President of the Sheriff's Association.

THE 1944 TRAINING SCHOOL PROGRAM

This program started with a series of specialized statewide schools teaching specific and practical techniques and skills needed in modern law enforcing agencies, and culminates in a general law enforcement school and police executives conference on the over-all problems of law enforcement.

A twelve-day Fingerprint School beginning May 23 brought to the Institute fifty-four officers specializing in fingerprint work.

A seven-day School on Scientific Aids in Crime Detection beginning September 17 will bring together police detectives, crime laboratory technicians, coroners and other officers specializing in investigative techniques.

A three-day School on Police Records Systems beginning September 24 will bring together officers, clerks and employees specializing in keeping badly needed records, making out reports and assembling information essential to effective law enforcement.

A twelve-day School on Traffic Law Enforcement beginning October 1 will bring together police officers specializing in traffic work and related problems and members of the State Highway Patrol.

A three-day school coordinating traffic engineering problems with traffic law enforcement beginning October 12 will bring together city engineers, public works officials and representatives of the State Highway and Public Works Commission with selected traffic officers responsible for the design and maintenance of streets and highways and the control of traffic.

A twelve-day school on General Law Enforcement problems and techniques beginning October 22 will bring together police officers, sheriffs and deputies, representatives of the State Bureau of Investigation and the State Highway Patrol and related agencies engaged in general law enforcing activities.

A three-day Police Executives Conference beginning November 3 will bring together police chiefs, sheriffs, chief officials of the State Bureau of Investigation, su-

pervising officers of the State Highway Patrol, and representatives of the Federal Bureau of Investigation.

INSTRUCTION STAFF

From the Institute of Government: Albert Coates, Director, and Assistant Directors Peyton B. Abbott, John Fries Blair, Louis A. Cherry, George B. McGehee, Clifford Pace.

From the Federal Bureau of Investigation: Assistant Directors Hugh H. Clegg and E. P. Coffey; Inspector L. A. Hince; Special Agents Edward Scheidt, James A. Carlson, Edwin R. Donaldson, H. C. Freimuth, Howard J. Leahy, A. E. Leonard, D. J. Parsons, M. E. Williams, Foster M. Kunz, William L. Groth, H. A. Myers.

From the Yale University Bureau for Street Traffic Research: Director Theodore M. Matson and Assistant Director Wilbur S. Smith.

From State Agencies in North Carolina: T. Boddie Ward, Commissioner of Motor Vehicles; W. H. Rogers, Assistant Commissioner of Motor Vehicles; Major John Armstrong and Lieut. Arthur Moore, State Highway Patrol; Ronald Hocutt, Division of Highway Safety; J. Vance Baise, James S. Burch, Adolphus Mitchell, B. W. Davis of the State Highway and Public Works Commission.

From City and County Agencies: Walter Anderson, Chief of Police, Charlotte, and other local officers who are graduates of Institute of Government training schools and the FBI National Police Academy.

APPLICATIONS FOR ADMISSION

Applications for admission should be sent without delay to Albert Coates, Director of the Institute of Government, Chapel Hill, N. C.

COST OF ATTENDANCE

The only cost to each person attending will be fifty cents a day for room and not over a dollar and a half a day for meals.

Street and Highway Safety in North Carolina

Institute of Government Plans for War and Postwar Activities

According to a recent statement of the National Safety Council, more American citizens have been killed on the streets and highways of the United States since Pearl Harbor than on the battle fronts of the world. This unbelievable toll exacted while traffic shrinks under wartime conditions may become more terrific as traffic swells under postwar conditions with multiplying cars, multiplying drivers, and multiplying volumes of traffic. The staff of the Institute of Government has reviewed its past activities in this field of governmental responsibility and here out-

lines its present activities and future plans.

Present Activities

Institute of Government activities in the field of Street and Highway Safety began with a thirty-six page pamphlet — "Guides to Highway Safety," published in September, 1935, with 500,000 copies distributed to all groups of public officials, citizens' organizations, students and teachers in high schools and colleges. They continued with formal instruction in ten-day schools for all groups of law enforcing officers in 1937 and in succeeding years. They are going

forward today (1) with the building of a library of information on all forms of street and highway safety well under way in charge of a full-time librarian, (2) with a full-time staff member working out for different groups of officials, citizens and teachers in the schools, a series of guidebooks on the history and present status of traffic regulation in North Carolina, an analysis of the agencies responsible for enforcing the motor vehicle laws, and the licensing, training and supervision of drivers, (3) with full time research assistance studying new developments in



In the central group the Institute of Government staff is standing in the doorway of the Institute building with Robert W. Eaves, Secretary of the National Safety Commission. From left to right: Peyton B. Abbott, Robert W. Eaves, John Fries Blair, Albert Coates, Clifford Pace.

Individual pictures on the left are official representatives of the Federal Bureau of Investigation and the Yale University Bureau for Street Traffic Research. From left to right: L. A. Hince, James A. Carlson, Foster M. Kunz, William L. Groth, Theodore M. Matson, and Wilbur S. Smith.

Individual pictures on the right are official representatives of the State Highway and Public Works Commission and the State Department of Motor Vehicles. From left to right: T. Boddie Ward, Charles Ross, John Armstrong, J. Vance Baise, Ronald Hocutt, James S. Burch.

the field of accident prevention, traffic law enforcement and related fields of street and highway safety as they develop out of the initiative and resourcefulness of officials and citizens in this and other states.

Safety Training Schools

These Institute activities will come to a focus with (1) a state-wide training school for traffic law enforcing officers beginning in Chapel Hill October 1, co-ordinated with (2) a conference of State and local public works officials concerned with street and highway traffic problems, (3) a conference of college and high school representatives and (4) a conference of civic leaders concerned with safety instruction in school and civic groups. These state-wide gatherings will be followed with district and local schools in all sections of the State and will feed into existing activities of all groups working in this field. The clearinghouse of information centered in the Institute of Government Building in Chapel Hill will strengthen the effectiveness of all.

State Agencies Co-operating

Institute activities have been supplemented in the past and will continue to be supplemented in the future by the co-operation of (1) the Chairman, State Engineer, Statistics and Planning Engineer and other division heads of the State Highway and Public Works Commission; (2) the Commissioner of Motor Vehicles, the Commanding Officer of the State Highway Patrol and the Head of the Division of Highway Safety; (3) city and county law enforcing officers and other local officials.

The State Highway Commission has pioneered in the field of traffic engineering in North Carolina. In the late 1930's, State Highway Engineer J. Vance Baise sent Adolphus Mitchell of the State Highway Commission to the Yale Bureau for Street Traffic Research for a course of study in traffic engineering, and under the direction of Mr. Baise, James S. Burch, Statistics and Planning Engineer, has done distinctive work in origin and destination surveys and

planning. The Commissioner of Motor Vehicles, State Highway Patrol and the Division of Highway Safety have pioneered in the development of traffic and motor vehicle laws and their observance and enforcement, in driver regulation and training and accident prevention. The State Department of Education has done distinctive work in the field of pre-induction driver training. Representatives of these agencies will continue in the future as in the past to serve on the instruction staff of the Institute of Government training schools and on the advisory board directing Institute activities in the field of street and highway safety.

National Agencies Co-operating

The work of the Institute of Government, supplemented by these pioneering State agencies in the field of street and highway traffic safety has attracted the attention and is drawing to North Carolina the active support of

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FAITH, WORK AND PLAY IN WARTIME

Continuing a Series of Articles by the Dean of Administration
of the University of North Carolina

R. B. HOUSE

Not long ago I was walking home from a football game in Chapel Hill, along with a few friends, in the late afternoon beauty of Autumn. We passed a group of Pre-Flight cadets who were sitting on a stone wall by Coker Arboretum. As we passed, I heard one of the cadets say wonderingly and profanely to himself, "Does anybody really live in this blankety blank place?"

This remark, mind you, was of Chapel Hill, actual home of many who cherish its every feature, and spiritual home of thousands who carry each detail of its setting in their hearts; and yet the cadet's remark did not anger me. It reminded me of myself, homesick in the other war, suffering that most constant of war's miseries, namely, longing in strange places for the sweet, sustaining familiarities of home. Of how many beautiful places: the Champlain country of New York, the Berkshires in Massachusetts, Surrey in England, the Vosges Mountains in France, as examples, all places famous in the literature of appreciation for their beauty, of how many of these places did I not nevertheless ask myself in my homesickness, on first acquaintance, "Does anybody really live in this blankety blank place?"

Even that happiest and most inveterate of travelers, William Lyon Phelps, remarked that if he had consulted his immediate comfort as his sole guide about traveling, he never would have left New Haven. We travel, he says, not for immediate pleasure and comfort, but to store our minds with impressions and ideas which continue to enrich us after we have got back home. And he remarked also a corollary truth: Home gets boring and humdrum, particularly to young people, unless they season it with the mental enlargement and the physical and spiritual experiences of travel.

I have enough confidence in the innate beauty of Chapel Hill to believe that even as the cadet cursed it, he was nevertheless storing his mind with enriching associations which will later reward him. One of the lasting cultural results of this war will be that Northern boys will forever hereafter think, not without pleasure, more concretely about the South, and that Southern boys will think pleasurable and more concretely about the North; and in this way, Eastern boys, Western boys, city boys, and country boys will learn a great deal more about their fellow countrymen and coordinate regions in America. Places become concrete localities, inhabited by friends, rather than mere abstractions on a map. How much more richly will Americans sense the language, customs, and ideas of areas of the globe, the



names of which they could not even pronounce before Pearl Harbor! It is by such concrete experience of places and people, customs, psychologies, and histories, that the world becomes more nearly a home for the races of men.

I have been enough of a homebody to feel a complete complacency about my own home, and somewhat of a hostility toward people who did not know it and love it as I did. In fact, we go through a large section of our lives believing it is unprofitable to pay attention to any place other than home. I, myself, have never been enough of a traveller to overcome a slight indignation at places to which I go, because they are different from home; but I have nevertheless been bored enough with home circumstances to feel a hunger for travel, and I have travelled enough to know something of the profit of making one's self at home in strange places. The longest trip I ever took, psychologically speaking, was a twenty-five mile journey from my father's house in Halifax County to Warrenton where I was to go to school. Warrenton has since become so much a beautiful spiritual home of my own, that I have almost forgotten my hostility to it as the train pulled out that first afternoon and left me at Warren Plains sitting on my trunk. I fear I asked myself then the question, "Does anybody really live in this blankety blank place!"

In fact, I have a theory somewhat bolstered up by experience, that home tends to be not only the places, and persons, and scenes of our childhood, but also the limited set of ideas and experiences in which we are comfortable, largely because we are used to them and they are familiar. Psychologically, we have some resentment at extending our limited childhood range. I think this is one of the chief difficulties in education of all sorts. Our very loyalties to what we know and to what we are comfortable with, rebel against the stretching and pulling necessary to incorporate a new experience into our mental and spiritual life. It is only in the long perspective of experience that we find what once seemed to be so alien to us really joins on to our experience, gets adjusted, becomes comfortable and familiar in itself. Then it is that we find, instead of a hostile strangeness, a comfortable feeling of being really at home wherever we happen to be.

In the changes of these war days, not only do boys have to long for home and homes long for boys, but people everywhere have to suffer homesickness for sets

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Superior Court Clerks Convene

27th Annual Convention of the Association Meets in Charlotte
Discussions of Mutual Problems Dominate Meeting



First row, seated, left to right: Mrs. G. Mack Riley; D. E. Henderson; Judge Wm. H. Bobbitt; Thad Eure, Secretary of State; J. A. Russell; J. F. Barden; Frank S. Hall; Hon. R. Gregg Cherry; J. Lester Wolfe; Paul Whitlock; W. E. Church; Arthur Goodman; Peyton B. Abbott; Mrs. Jessie C. Smith; Mrs. W. J. Crichton.

Second row, standing: Mrs. J. Lester Wolfe; Mrs. Wm. H. Bobbitt; O. L. Richardson; LeRoy Martin; Lon H. West; Thomas L. Covington; Ed. Tonnisen; Mrs. Ed Tonnisen; J. B. Vogler; Mrs. J. B. Vogler; Harvey Morris; J. W. Hollowell; Mrs. Arthur Goodman; W. B. McClintock; Mrs. Plato Davenport; Plato Davenport.

Third row: Sheriff G. Mack Riley; Mrs. P. C. Whitlock; Vester McLaughlin; Mrs. Vester McLaughlin; Lila Russell; Minnie Gallant; Mattie Porter; Sheriff J. W. Creagh; Mrs. J. W. Creagh; Mrs. George Hughes; B. G. Duncan; Mrs. B. G. Duncan; J. A. Little; Mrs. J. A. Little; Mrs. W. M. Moore; L. C. Hand; Mrs. L. C. Hand; Clarence Smith; R. L. Smith; W. J. Crichton.

Fourth row: Tommie T. Mayes; Mrs. Dorothy McLendon; A. B. Ingle; Rachel Ingle; W. H. Young; D. Ray McEachern; Mrs. McEachern; E. C. Byerly; Mrs. Louise Mitchell; R. V. Wells; Barrington T. Hill; Mary S. Poythress; C. G. Baber.

Fifth row: C. R. Mauzy; Mrs. W. A. Goodwin; Esther Poythress; Charles Lamm; J. E. Griffin; George R. Hughes; J. N. Sills; Arthur M. Greene; C. O. Kuester; Carl G. Smith; Emmett A. Houser, Jr.; Mrs. Roland Taylor; Roland Taylor.

Sixth row: Paul A. Swicegood; Paul E. Monroe; Mrs. Paul E. Monroe; W. M. Moore; W. A. Goodwin.

The above picture was taken during a brief intermission while a few members and guests were out of the hall. Others who attended the convention include: Carl D. Moore, B. D. Howell, J. L. Hall, Mrs. J. L. Hall, Mayor H. H. Baxter, Dr. H. P. Powell, Joseph P. Shore, Joe L. Blythe, W. N. Johnston, W. K. Keeter, and Dr. J. R. Saunders.

The Superior Court Clerks of North Carolina assembled for the twenty-seventh annual convention of their Association at Charlotte, N. C., on July 4, and for the next two days carried out a program devoted largely to discussions of many of the numerous problems which daily confront the Clerks in the discharge of their duties. Interesting and informative speeches were also on the menu, as well as a banquet and entertainment for the evening of July 5. In spite of the fact that travel restrictions, shortage of personnel in some offices, and other war-bred causes kept many Clerks away, those in attendance had ample reason to thank host Clerk J. Lester Wolfe of Mecklenburg County and his program committee for a very successful meeting.

The registration and all sessions were held at Hotel Charlotte. President Frank S. Hall of Rutherford County called the convention to order at 8 p. m. on July 4. Following an invocation by Dr. H. P. Powell, pastor of Dilworth Methodist Church, the Honorable H. H. Baxter, Mayor of Charlotte, delivered an address of welcome on behalf of the City of Charlotte, and J. Lester Wolfe, Clerk of Mecklenburg Superior Court, performed the same function on behalf of the County, to which addresses Barrington T. Hill, Clerk of Anson Superior Court responded. After making a number of announcements with reference to the forthcoming program, President Hall adjourned the meeting until 10 a. m. the following morning.

Following the call to order on Wed-

nesday, July 5, J. Lester Wolfe introduced the Honorable William H. Bobbitt, Resident Judge of the Fourteenth Judicial District as the speaker of the morning session.

Judge W. H. Bobbitt

(1) Rotation System

Judge Bobbitt discussed, among other things, the benefits derived from our system of rotation of judges. He pointed out that under that system a lawyer who goes to another county to try a case will usually find that he is appearing before a judge whom he knows and for that reason feels a little less like a stranger in a strange land. He stressed the fact that the Superior Court is a State court, and that the rotation system tends toward making it a truly State-wide system of courts

rather than permitting it to become divided into one hundred independent and unrelated county courts; that the rotation system puts the judges in contact with officials over the entire State, or at least over the entire Division, so that the judges are able to keep in touch with matters and movements of State-wide significance. In turn, this makes the office of Superior Court Judge an office of State-wide significance.

(2) Jurisdiction of Juvenile Court

Judge Bobbitt discussed briefly the troublesome matter of the jurisdiction of the juvenile judge in the "twilight" zone of offenders between the ages of fourteen and sixteen. In this age-group, jurisdiction may be determined by the maximum possible punishment. In the case of successive offenses, the case may be transferred to the Superior Court after the juvenile judge makes a finding of facts showing that the offender is not amenable to the treatment of the juvenile court. It was suggested that the jurisdiction of the juvenile court in this "twilight" zone should be made more certain by legislation.

(3) Demeanor of Courtroom Clerk

The importance of the manner of administering oaths and of performing other courtroom duties was stressed by Judge Bobbitt. He suggested that most litigants see the courts in action only upon rare occasions, and that if these duties are performed in a perfunctory or sloppy manner, public confidence and esteem for the judicial system suffers, but that if the clerk's courtroom duties are discharged in a dignified and solemn manner, suggesting that each step in the process has real significance rather than being a mere formality, the courts will be strengthened in the eyes of the public and of the litigants.

(4) Keeping Minutes and Receiving Verdicts

The jurist also talked on the importance of keeping minutes carefully and correctly; of the care which should be exercised in the supervision of funds of minors in the hands of guardians; and of the importance of correctly receiving verdicts in criminal cases. With respect to the latter, he suggested that much confusion and many mistrials could be



By
**PEYTON B.
ABBOTT**

Assistant
Director
Institute of
Government

avoided by "breaking down" the verdict in cases involving multi-count indictments. He pointed out, as an example, a case wherein the defendant is charged with breaking and entering, larceny, and receiving. If, upon coming in with a verdict, the jury is asked, "Do you find the defendant guilty or not guilty?" and the foreman answers, "Guilty," the court doesn't know from the verdict to which count the verdict relates. On the other hand, it was pointed out, if the indictment is "broken down" into its separate counts and the questions are propounded as to each count in turn, naming the particular charge, and beginning with the most serious offense, there will be no doubt as to the jury's finding when it finally answers "guilty."

(5) Importance of Office of Clerk

Judge Bobbitt discussed generally the importance of the office of Clerk of Superior Court. He pointed out that while it is a constitutional office and that while the laws with respect to the office are generally uniform over the State, there are many contrasts in individual offices. They range all the way from small offices with no clerical or other assistants, where the clerk has to close his office in order to attend court when it is in session, to large scale organizations in other offices. Yet, large or small, the clerk's office has been the "dumping ground" for a large mass of miscellaneous duties. He deplored that practice, but stated that he was unable to suggest a better repository for many of those duties. He stated, "The characteristic of a small man is to exercise authority in an arbitrary manner. The characteristic of a large man is to exercise authority in an humble and responsible man-

ner." He noted with satisfaction from his experience with them that the Superior Court clerks filled the measure of a large man to a remarkable degree.

Tentative Legislative Program

William E. Church, Clerk of Forsyth Superior Court and Secretary-Treasurer of the Association, led a discussion on proposed legislation, the discussion lasting until the recess for lunch. Among the legislative proposals discussed were the following:

(1) Responsibility of Mother as Guardian

A clarification of G.S. 33-3, which provides that upon the death of the father the mother becomes the natural guardian of her minor children. It is not clear from the statute whether this section imposes upon the mother the duty of providing maintenance and support for the minor children if she is able to do so, regardless of any estates the minors may own, as is the case where the father is the natural guardian.

(2) Investments by the Clerks

A bill with reference to investments by clerks. At present the law with reference thereto is found in C.S. secs. 962(a), 962(b), and 4018(b). The advisability of rewriting these three sections into a single section was discussed. Also considered was the question of the clerk's liability for losses. At present, there are certain investments authorized by statute, yet if loss results, the clerk is held liable as insurer just as if his investments were not controlled by statute, except insofar as the rigid rule may have been relaxed by the dictum in *State v. Sawyer*, 223 N.C. 102 (1943). It was felt that since the clerk is limited in his investments by statute, he should be held to no higher responsibility than the use of due care.

(3) Disbursement of Surplus Funds

A clarification or rewriting of G.S. 45-30, relating to special proceedings to determine the ownership of surplus funds paid into the clerk's office from proceeds of sales. The discussion was concerned partly with affording some measure of protection to the clerk who follows the prescribed procedure but who may nevertheless innocently pay out the funds to the wrong party.

(4) Fiduciaries' Accounting Periods

Authority under G.S. 33-39 and 33-40, relating to accounts of administrators and other fiduciaries, to permit the clerk to change the accounting period in individual estates within a range of four months in order to distribute more evenly the work of auditing by the clerk. In large offices, a great number of fiduciaries' reports fall due at certain periods of the year and must pile up awaiting their turn with the auditors, while relatively few reports fall due at other periods. The discussed change would permit the clerk to move some anniversary dates back, and some forward, up to sixty days, and thus to distribute the load more uniformly.

(5) "Trustee" in Lieu of "Guardian"

An amendment to C.S. sec. 2285 to authorize the clerk to appoint a trustee rather than a guardian for an insane person over twenty-one years of age. Such fiduciaries may be termed trustees under the present law when persons are adjudged incompetent by a jury, but where the clerk commits them to an asylum and it is necessary to appoint some person to look after the property of the person adjudged to be insane, such person must be designated a guardian. This often causes resentment on the part of people who are clearly incompetent to handle their affairs and who recognize that fact, but who rebel at being placed under a "guardianship."

(6) Widow's Year's Allowance

Rewrite the statute concerning the widow's year's allowance, to permit the widow to claim her year's allowance notwithstanding the fact that she takes under the will. It was thought fair, if the estate proves solvent and she does finally receive the property given her in the will, to charge the year's allowance to her share under the will. Sometimes it is not known whether an estate is solvent until after the time for claiming the allowance has expired. It seems a little harsh to make widows elect to take under or dissent from wills so soon after the death of their husbands, and the opinion was expressed that the widow should be entitled to a minimum of a year's allowance in any event.

(7) Administrator's Farming Operations

A bill to clarify the authority of the clerk to permit the administrator to continue farming operations. The present law permits such operations to be continued for the remainder of the "calendar year." Instances were cited where property owners had died during December, after having entered into contracts with tenants or placed them on the land for the ensuing year, and after having purchased fertilizer and incurred other obligations.

(8) Minimum Increased Bids

A bill to provide a minimum increased bid and deposit on resales. At present the law provides that if the bid price is not over \$500, the bid must be increased at least 10% in order to obtain a resale, but if the bid price is over \$500, only a 5% increase is necessary. Therefore, if the bid was \$490, the increase would have to be at least \$49, while if the bid was \$510, the increase would have to be only \$25.50. It was suggested that the law should be amended to require an increase and deposit of 10% on the first \$500 and 5% on the excess over \$500, with a reasonable minimum which should be at least enough to cover the costs of readvertising.

(9) Procedure in Insanity Proceedings

The procedure relative to adjudications in insanity proceedings and commitments to mental institutions was discussed at length. It was pointed out, for example, that the person who signs an application to have one adjudged insane must now be a resident of the county in which the alleged insane person lives. It often happens that brothers or other close kin from other counties have to go out and get people who are strangers to them to sign the application. It was suggested that the entire Chapter on insane persons should be clarified and modernized.

At the conclusion of the discussion on proposed legislation, it was agreed that the above suggestions and others would be referred to the legislative committee for further study.

Dr. J. R. Saunders Speaks

Dr. J. R. Saunders, Superintendent of the State Hospital at Morganton, was recognized after the noon

recess. Dr. Saunders discussed the crowded condition in the mental institutions and expressed the hope and belief that the situation would be remedied as soon as material and labor became again available. He stated that provision should be made for the care of feeble-minded persons of all age-groups, rather than limiting care to persons in relatively high age-groups as at present. He expressed the belief that a separate place should be provided for the care of senile patients—those patients who require little more than custodial care and do not need nor are benefited by the attention of psychiatrists whose time should be devoted to the treatment of curable patients. He further declared that the law relative to admissions, re-admissions, discharges and probations of mental patients should be revised.

Panel Discussion Conducted

A panel discussion of various problems concerning the office of the clerks of court was conducted for the remainder of the afternoon of July 5. Miscellaneous questions were raised by the clerks and discussed by members of the panel, with active participation by the entire body. Members of the panel were: D. E. Henderson, of the Mecklenburg County Bar, Chairman; Dr. J. R. Saunders, Superintendent of the State Hospital at Morganton; William E. Church, Clerk of Forsyth Superior Court; Oscar L. Richardson, Attorney and Union County representative to the General Assembly; and Peyton B. Abbott, Assistant Director of the Institute of Government. At the close of the panel discussion, the meeting was adjourned, to reassemble in the ballroom for the annual banquet.

Annual Banquet

Among the speakers at the banquet were Mr. Paul Whitlock and the Honorable R. Gregg Cherry, Democratic candidate for Governor of North Carolina. During the course of his brief remarks, Mr. Cherry spoke of the importance and desirability of the retention by local governmental units of the control and direction of local governmental functions, and he closed by dedicating himself to the task of "keeping government at home." A varied program of entertainment, including

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Postwar Planning in North Carolina

A Program for Industrial Development

Presented at the Postwar Planning Institute conducted by the Institute of Government.

Industrial Expansion Requires Planning

North Carolina needs more industry. It needs more opportunities for employment at good wages and salaries, more enterprises that are profitable to promoters and stockholders. It needs more wealth working at the processes of production so that there will be a higher standard of living and more money circulating through the community, some gravitating to the merchant, to the service trades and professions, and even to the tax gatherer.

Must North Carolina wait passively for these blessings? For someone—for many enterprising someones—to move in and start all these things going? If North Carolina had the soil of Iowa, the forests of Oregon, the oil of Texas, the iron ore of Minnesota, the coal of Pennsylvania, the skilled workers of Connecticut, and the harbor of New York, they would come. In fact some have come to take advantage of resources more modest than the above combination, or of any one of them. Must we wait until the inexorable workings of economic laws bring us more; until, by the principle of water seeking its level, economic activities seep in to this or that corner of the state because some advantage of materials, costs, labor, markets, profits, or enterprise is greater than anywhere else in our broad land?

North Carolina does not think so. For years now the representatives of the people have appropriated tax money to advertise the state's resources to the general public and inform individual enterprisers of specific advantages. North Carolina thinks that by taking thought and action it can add a cubit to its economic stature, can develop its actual and potential resources, can enlarge the opportunity for its people and increase their prosperity.

In holding and acting on this philosophy North Carolina is in good company. Early in the life of our country vigorous individuals wanted the profits of manufacturing, and the national leaders wanted economic independence added to political freedom; and so we enacted tariff laws. There are differences of opinion as to the results of the more recent extreme application of this policy, but it did accomplish what it set out to do. It stimulated and protected infant industries when they would have had no chance of competing with the established industries of Europe.

The pioneers to the ever-receding West,



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the promoters of transportation, from plank pike builders to transcontinental railroad imperialists, wanted to tie up the materials of the West with the markets of the East; politicians and statesmen wanted a well-knit nation. And so the United States fostered internal improvements which hastened the development of half a continent and the growth of a world power. From Pony Express to Pan American; from the first transmitted electric power for manufacturing at Taftville, Connecticut, to Bonneville Dam; from free land for homesteaders to food production subsidies in war time—this nation has proceeded in its economic life by a combination of private enterprise and public encouragement.

And not our country alone. England grew wealthy because her inventors gave her ingenious machines, her capitalists multiplied her output and the people voted free trade in order to sell it. The artists of France created dresses and pictures, and the nation encouraged and protected them to make France the fashion and art center of the world. German Krupps built guns, German multitudes went without butter to pay for them while German politicians won diplomatic victories to make possible their military conquests. Russia's Stalin decreed a new center for industry beyond the Urals, but it took millions of sweating, freezing, toiling, studying Russians to build Magni-

togorsk and the other steel cities that have saved the nation.

Present North Carolina Industries

Textiles. The instances could be multiplied a hundredfold where a community of interest has created economic miracles. It takes leaders to point the way, entrepreneurs to venture, and followers to support and help to carry out. Nothing illustrates this more forcibly than one great process in North Carolina and the South, the building of the textile industry.

Soon after the settlement of Jamestown the disadvantages of an economy dependent on one great crop became obvious. When conditions of weather or price or European wars destroyed the prosperity based on tobacco, towns, counties and whole colonies urged manufacturing, especially textile manufacturing, by laws and by bounties. When tobacco recovered, these programs were forgotten. After cotton became the one crop for an even greater area the process was repeated. In every decade a period of low prices for the staple raised talk of the desirability of converting it into cloth so that the South might secure profits for manufacturing a product which was yielding none for the growing. In 1816, 1828, during the middle 1830's and the early 1840's, leaders talked and wrote about cotton factories. Each recurring crisis in cotton was more severe and lengthy than the last; each brought forth more arguments for manufacturing; each stimulated a few venturesome men to start little mills in which they and their employees had to learn their work from the ground up.

But the public was not convinced. Most southerners still clung to the aspiration of raising more cotton to buy more land to acquire more slaves to raise more cotton, a one track circle regarded as a spiral for economic, social, and even political status. Southerners would not invest their money in industry, and many a little mill failed for lack of working capital to weather the ups and downs of trade. They did not use the products; their established contacts through cotton factors and banks were toward Philadelphia and New York, and "nahthern humspun" continued to come to southern towns where a local mill was seeking markets in Chicago, St. Louis, Texas, and Brazil. They looked down on mill employment as the lowest level to which even "poor white trash" could sink. They did not look down on the mill owner, chiefly because he was a lawyer-planter, a banker-planter, or a merchant-planter, whose place in the community was established.

When the case for cotton manufacturing was reargued after the Civil War the public was more inclined to listen, for hadn't the North won the war chiefly because it had factories to supply its armies? Besides, King Cotton had almost abdicated, his tattered robes covering no largess of profit. Reconstruction, politics; and race ruled in an unsavory regency. Young men who, under the old regime, would have staked out careers in law, politics, cotton factoring, merchandising, banking and planting, gathered their slender resources to try spinning and weaving. A hundred names stand out: Morehead, Cannon, Gray, Tompkins, the younger Holts, Mebane, Patterson, Erwin, Rhyne, Love, Entwistle, Cooper, Webb, Pelzer, Montgomery, Springs, Sibley, Orr, Smythe, Hammett, Callaway, Bibb, Comer.

Their little mills prospered and the argument for mills and more mills rose to a chorus. Practically every newspaper carried on a campaign to get a mill for its community. It reargued the advantages and praised the leaders in the venture; it urged contribution to stock; it reported the fanfare of bands and speeches and pink lemonade at the opening of a mill. The *Atlanta Constitution* under Henry W. Grady carried on a perennial cotton mill campaign for the whole South. Towns were systematically canvassed for subscription to stock; businessmen and farmers were solicited to buy shares in the mill for their own profit and the community good. D. A. Tompkins started a plan by which the most impecunious could buy a share at 25 cents a week. He wrote books illustrated with samples to show how a bale of cotton worth a few dollars became cloth worth hundreds of dollars, leaving wages and profits in the community in the process. Ministers preached a doctrine of work and the virtue of providing work.

Mill men needing capital for enlargement and embryonic chambers of commerce boosting a new mill sought money and moneyed men outside the South. The news that "Northern Capitalists" were in the neighborhood to look over the possibilities was good for as large headlines as the restrained presses of the day could muster.

Mill building was a community interest with all the prerequisites of community approval. Typifying this was the man who complained that it had got so if you did not have some connection with a mill you did not have any status in the community. It was a community effort in which thousands, nay millions, had a part: the far-sighted industrial statesman, the persuasive editor, the energetic promoter, the enthusiastic or cautious investor, the rough-handed solitary farm worker learning to live in town and handle tenuous threads.

And it worked. By the 1890's the great textile centers of the Northeast were uneasy over southern competition; soon after the turn of the century they conceded the

manufacture of coarse yarns and cloth. By 1925 North Carolina had passed Massachusetts as a textile state.

Furniture. In this community effort and achievement North Carolina was part of a southern movement. The development of the furniture industry was more localized in this state. But many of the same features were present: local resources of suitable woods, plentiful labor already partially accustomed to the work through carpentry and sawmilling; young entrepreneurs like Snow, Wrenn, Tomlinson, the Tates, Harriss at High Point, Huntley at Winston-Salem, the Lambeths and Finch at Thomasville, Hedrick at Lexington, eager for fields of endeavor more promising than the old routine offered; their towns, as well as Statesville, Morganton, and Asheboro, just as eager for pay rolls and more population; their communities approving the manufactures, supporting them, proud of them.

Tobacco. The growth of the tobacco industry in North Carolina was similar to furniture in all these respects, though here the part of the enterpriser was more striking because it succeeded more strikingly. In 1880 North Carolina had 126 little tobacco manufactories. Several around Durham and Winston-Salem were already beginning to stand out in size compared with others in surrounding counties. Reynolds in Winston-Salem needed money for enlargements to keep abreast of the demand. He sought it from neighbors, employees, and fellow townsmen. They responded because they had confidence in him and his growing business. The foundations of many substantial fortunes in Winston-Salem go back to this community faith in the manufacture of a local product by a local enterpriser with drive and ability.

Power. Duke, on the other hand, faced toward the bigger sources of bigger money. A promoter with financial as well as manufacturing and merchandising genius, he gathered millions from investors all over the country to manufacture North Carolina tobacco in North Carolina and elsewhere. With capital built up from the profits he entered the new field of hydro-electric power in 1904. The development of the Catawba River proceeded systematically and scientifically as markets for electric current increased; manufacturing increased in its power province because the current was available. This was a parallel process nudged along and stimulated by Southern Power, later Duke Power, Company: a new dam when there were more customers; persuasion; sometimes, it must be admitted, pinching deals to bring in established users to take the surplus current of the new dam. Duke Foundation with its ramifications followed after time had tempered some of the bitterness of the older battles. When Senator Cameron Morrison described the Duke Power Company as almost a benevolent institution the cyni-

cal intelligentsia sneered a little; but many people in North Carolina, proud of the shining new university and grateful for hospital grants and ministers' pensions, were inclined to agree.

North Carolina Needs New Industries

These are economic kingdoms that have been conquered by the enterprise of individual sons of North Carolina, carved out of its resources of material, labor, position, and climate, and aided by community support and approval. They all reached their maturity before the first world war. Since that time, though North Carolina has seen growth in these and other manufacturing lines, no new industry of similar magnitude has seized the imagination of individual enterprisers and of the community. During this period the United States has seen great new industries rise or attain their major growth: automobiles, rubber, petroleum products, airplanes, mechanical appliances, chemicals, specialized food processing. Is North Carolina in a rut, that it has had little or no share in the newer industries, in producing the goods which are commanding an increasing part of the consumer's dollar, which are demanding new skills and offering new opportunities?

It is certainly undeniable that in its manufacturing industries North Carolina has concentrated on textiles, wood, and tobacco. In 1939 the state had 270,000 wage earners in manufacturing. Of these, 180,000, or 66.7 percent, were in textile mill products. There were 37,600, or 14 percent, in wood (about half in furniture) and 16,500, or 6.1 percent, in tobacco. Thus these three groups account for 86.8 percent of the state's wage earners in manufacturing.

In other great groups like rubber, products of petroleum and coal, nonferrous metals and electrical machinery, which together employ about three-fourths of a million workers, North Carolina had none. In iron and steel, machinery, transportation equipment, and leather, great groups which employ a total of nearly 2½ million workers, North Carolina had less than 5,000. Even in five great groups, food products, paper, printing, chemicals, stone, clay and glass—which include many industries carried on on a local service basis—North Carolina had less than 20,000 out of a total of over 2 millions.

The Census of Manufactures of 1939 divides manufacturing in the United States into 446 industries. North Carolina had establishments representing 191 of these classifications, though in 67 it had only one plant. In only 24 industries were there as many as 1,000 wage earners. Indiana, with about the same number of wage earners as North Carolina, had establishments representing 368 industries among which 65 had 1,000 and over. California, also with about the same number of wage earners, had 377 kinds of industries among which 62 had over 1,000 wage earners. Virginia and

Maryland had 209 and 280 kinds of industries respectively, although they had only about half as many wage earners as North Carolina.

What Makes an Industry Desirable?

Wage Scale. Manufacturing industries vary quite widely in certain characteristics which have a bearing on their contribution to the prosperity of the community. The one which comes most readily to mind is, of course, the wage scale, for on this depends the standard of living for its workers. The textile mill industries are in general a low wage group, averaging around 75 percent of the wage per wage earner for all manufacturing in the United States. The branches which are concentrated in North Carolina (cotton goods, cotton yarn, and seamless hosiery) pay even less—from 55 to 60 percent of the national average for all manufacturing. Michigan, like North Carolina, has more than half its manufacturing wage earners in a single industry, motor vehicles. But the wage per wage earner in this industry is \$1700, nearly 50 percent more than the national average and 2½ times that of North Carolina's chief industry. Some wood-working industries have a wage per wage earner equal to the national average, but not those in North Carolina, (sawmills, planing mills, and wooden household furniture) which range from 45 to 60 percent of the national average. Even cigarettes, with one of the highest averages of any large group in North Carolina, has a wage per wage earner which is only 78 percent of the national average for all manufacturing.

Raw Materials. Another measure is the amount of raw material which an industry uses. This is especially important if it uses local products, because the industry then furnishes a market for other industries or for agriculture employing many times its own wage earners. Tobacco is an excellent example of this. Each year the cigarette industry uses nearly \$10,000 worth of materials and supplies per wage earner. The major portion of this is tobacco, though the use of packaging material is large enough to stimulate new industries. The chief North Carolina textiles, on the other hand, use from \$1200 to \$1500 worth of materials per wage earner, and the chief North Carolina woodworking industries from \$830 to \$1500 worth per year. The average for all manufacturing industries in the United States is around \$4,000 per wage earner. In the case of many food, chemical, and metal industries the values of materials used ranges from \$6,000 to \$10,000 per wage earner. Thus the food industries create a market for thousands of farmers.

Relation of Value to Cost of Production. A very significant measure is the ability of an industry to create values beyond the cost of materials, wages, and salaries. When all these are deducted from the value

of the product the remainder is roughly the balance available for interest on capital, profits, taxes, etc. For the United States as a whole this figure averages around \$1500 per wage earner. In the textile industries employing the majority of the wage earners in North Carolina the average is less than \$500; in the woodworking industries it is around \$600. The average for 24 states is as much as, or more than, three times these figures.

Opportunity for Workers. Still another difference among industries which forms a measure of their desirability is the range of opportunity which they offer to workers. It is axiomatic that some require many highly skilled workers, each industry creating much of the skill as it trains its workers on the job, while others, especially those in North Carolina, require many semi-skilled workers or machine operatives. This fact is reflected to a large degree in the wage scale. In addition there is the need of industry for technical and professional skills. For the United States as a whole an average of 1.5 percent of all gainful workers connected with manufacturing are of this class. In the metal working industries somewhat more than the national average are professional and technical workers—in machinery about 3 percent and in the chemical industries well over 5 percent. In tobacco only 0.1 percent are of this type; in textile mill industries of the kind chiefly in North Carolina, 0.2 percent; in wood-working from 0.3 to 0.6 percent. Thus North Carolina's greatest industry, textiles, offers technical and/or professional opportunities to 2 out of a thousand of its personnel, compared with 15 out of a thousand in American manufacturing in general. Electrical machinery and chemical industries offer them to 50 out of a thousand, while the great group of industrial chemicals offers them to 77 out of a thousand. In new fields like plastics, where experiment is in its early stages, the opportunities for professionally trained specialists are even more numerous.

There are many reasons for all these differences among industries, as well as for the concentration of some industries in one state and region and others in another. But none of the reasons alters the fact that North Carolina needs more kinds of manufactures, especially some of the kinds that have high indices of desirability: furnish a market for more raw material, create and use more skill, pay better wages, produce higher values, and offer greater opportunities for trained, ambitious young specialists.

North Carolina Has Resources

Does North Carolina have the resources for varied manufacturing? That depends on what we mean by "having" the resources. Connecticut produces no minerals, yet well over half the state's manufacturing wage earners are in metal working industries.

In certain specialized lines such as cutlery, hardware, insulated cable, office machinery, power transmission equipment, clocks and watches, silver ware and plated ware it leads the country. It even does so in the preparatory processes of alloying, rolling and drawing nonferrous metals. Connecticut does not have minerals but it has what is important—the skill of its workers in fine metal fabrication. Massachusetts has little cattle raising and meat packing, yet it leads the United States in the manufacture of leather and leather products. It has what is important—the early start, the long established experience. Ohio produced no rubber, at least not in 1939, but in that year it far outdistanced all other states in the manufacture of rubber products. It had a great market in the nearby automobile industry. In 1939 Michigan produced only 2½ per cent of the nation's mineral products, but it had ¾ of the motor vehicle industry. Michigan had the entrepreneurs who had changed the habits of a nation to make their industry grow.

Favorable Location. North Carolina is on the way between the raw sugar of the West Indies and the markets of the Northeast just as conveniently as is Savannah. It is on the way between the coffee, meat and hides of South America and the markets of the seaboard just as conveniently as are New Orleans, Maryland, New Jersey, and Massachusetts. It is on the road by which the wool and grain of Australia come to the east coast via the Panama Canal, as well as the tin from Malaya when we regain access to it.

Ability to Grasp New Industries. One may say that the channels for these products are established, the plants for their manufacture already in operation and that it would be hard to break into these industries. But California "broke into" these and many others, as witness that state's great variety of manufacturing. Men with imagination and drive were attracted to that Golden West; they found the long haul and high freight rates from the East not a handicap but a veritable protection of their local market. It may be difficult in certain static industries, but establishing such an industry would not be worth to the community the effort necessary to start it. If an industry is growing, entrance by newcomers is by no means impossible, as is shown by the rise of aluminum independents in the face of one of the most powerful monopolies in the country.

Potential Industries for North Carolina

Getting started in industries which draw from outside the area their raw material and, perhaps in the beginning, even the technical skill is, then, not impossible. Granted that it would be difficult, let us look over the field for something more likely. There are several types of industries which hold promise. First, there are industries for which North Carolina has the raw ma-

terial, the experience of management and the skill of workers.

Tobacco is one, and as has been pointed out, is advantageous because of the great use of materials, the high value of products, and the good balance for profits, dividends and taxes. Its wage scale, while not high, is at least better than most in the state. It does not offer many opportunities for technical specialists, but it does pay good salaries to numerous executives.

Textiles. North Carolina could make more textiles, though this is a static industry and has none of the advantages pointed out in the case of tobacco. Each index of desirability is low. It does employ considerable labor which has a certain advantage in the normal labor market of the state. North Carolina could fabricate more of its cloth into consumer products, but the branches which have high indices of desirability are all so dependent upon style that it would be difficult to produce them far from the two or three great urban style centers. Those which can be produced anywhere—work clothing, curtains and so on—have even lower indices of desirability than the parent industry.

Wood Products. In the case of wood products there are more possibilities for improvement. At present North Carolina has a majority of its woodworking wage earners engaged in industries which have the lowest indices of any wood manufacturing: sawmills, planing mills, veneer and crate plants. Household furniture is better than these, and the state has the national lead in this branch. But in wages, value of raw material, product, etc., the part of the industry in North Carolina has indices only about two-thirds that of Illinois and New York, states ranking next in household furniture. With the experience and skill already existing it should not be difficult for North Carolina to make better furniture. It might be necessary to secure fine woods from elsewhere, but New York and Illinois do this, and for that matter, so does some of the North Carolina industry. There are a number of small wood industries which are growing and are desirable by all measures, among them screens, wood preserving and, to a lesser extent, caskets and coffins.

But the forest resources of the state need not be used only as wood. Pulp manufacture is among the higher index industries of the United States: in wages, use of raw material, value of product, value added by manufacture, and balance for profits and dividends, it is well above the national average, and equal to the national average in need for technical workers. Naturally, it is far above the North Carolina average on these points. North Carolina has some pulp manufacturing and should have more, both because of its value as an industry *per se*, and because the long-term needs of such an industry work in well with planned fores-

try, another of the crying needs of North Carolina.

Finished Products. The manufacture of pulp suggests another class of manufacturing which North Carolina needs, namely, the further processing of its semi-finished products. North Carolina has 4 percent of the pulp industry in the United States. It has only 1 percent of the paper and paper board industry, less than that of the converted paper products, and about 0.2 percent of the book and periodical printing. All these are growing industries. Most of their branches are highly desirable according to indices set forth as measures. Many specific branches can be carried on at a distance from the consumers: paper bag and box manufacturing is fairly closely concentrated, though the products are used all over the nation; books are printed in Tennessee and magazines in northern New England for New York and Boston publishers.

The wood-pulp-paper-printing series is an illustration of conditions in many branches of southern and North Carolina industry—the processing of natural resources through the primary stages and passing the semi-finished product on to other states and regions where more labor is employed, more skill applied and more profits derived. Other examples are to be found in the processing of mica, peanuts, cottonseed, soy beans, fruits and berries.

Agricultural Products. North Carolina would benefit, as so many states do, by manufacturing materials from far beyond its borders; but it would benefit still further by carrying to the consumer stage the manufacture of more of its own present resources in raw and semi-finished materials. There is another type of manufacturing which would mean even more to the state—namely, the processing of potential resources, the materials that could be produced if there were manufacturing markets to buy them. This sounds somewhat like the old gag, "If we had some ham we would have some ham and eggs if we had some eggs." The situation is not quite so provisional: it is a fact that within the limits of soil and climate farmers will raise what they can sell conveniently at good prices. It is a further fact, since most agricultural products are bulky in relation to value, that given reasonable advantages for manufacturing, they can be processed near the place of production just as well as near that of consumption. While North Carolina is trying to lift itself economically by tugging at its manufacturing bootstrap, it might well give the kind of pull that will help raise the agricultural foot at the same time.

For it is a fact that North Carolina's agriculture needs balancing quite as badly as its manufacturing. There is the same concentration in a single crop: in some counties, cotton which North Carolina can-

not produce profitably in competition with the deep South; in others, tobacco, a bonanza in some years and a tragedy in others; in one area, peanuts, which are sold at the price of fodder and bought back at the price of confections; in smaller areas, peaches or berries or watermelons which must go in their perishable freshness to the big centers of population whence they send back sometimes fat checks and sometimes bills for the freight. The state has an enormous deficit of animals and animal products, which means a deficit in the diet of dairy products and protein meats; a deficit in animal manures for restoring the soil; a deficit in leguminous feed and cover crops which build up the soil and prevent erosion. It must be admitted that much of the soil of North Carolina is not as well suited to such crops as are Iowa or Wisconsin, but neither is it as well suited to cotton as are Texas and Oklahoma; even tobacco, which the soil does suit, must have large quantities of chemical fertilizer. And anyone who has seen sand-galled fields with knee-high corn after a few years of care producing two sturdy ears to the stalk knows that even the most unpromising soil in North Carolina is not beyond hope.

Food Processing. The impetus to this restoration lies not only in reeducation of the farmers, but in the development of markets at which they can dispose of the soil-restoring new crops as easily and as profitably as they can now sell a dozen bales of cotton any day in the nearest town, or a tobacco crop to a few minutes chatter of the auctioneer's tongue.

Most food processing plants are small, averaging less than 25 workers. Even in such branches as meat packing and flour milling, where large plants are common, there are literally hundreds of small establishments scattered in dozens of states, providing a market for materials and finding a market for finished products in their own locality. Food manufacture uses much raw material, averaging for the whole group of 46 industries a value over \$8,000 per year per wage earner. In some specific industries it runs into real money:

INDUSTRY	Value (in round numbers) of materials, supplies, etc. per year per wage earner
Dairy products	
Butter	\$26,000
Cheese	21,000
Condensed and evaporated milk	18,000
Grain products	
Prepared cereals	11,000
Corn sirup	14,000
Prepared animal feeds	23,000
Flour milling	27,000
Meat products	
Meat packing	18,000
Oleomargarine, etc.	25,000
Poultry dressing	10,000
Sausage, etc.	12,000
Shortening	41,000
Miscellaneous prepared food [Delicatessen types]	12,000

The majority of the workers in these industries are semi-skilled or unskilled, and yet the wage in most of them is equal to or above the national average, and far above the average for North Carolina. All use at least as much, and several of them several times as much technical skill on the professional level as do textiles and tobacco. Only one or two require heavy capital investment for a satisfactory unit. Nearly all produce a balance per wage earner for interest, profits, and taxes above the national average and from 2½ to 10 times the average for cotton textiles. They are industries that are growing and must continue to grow as our population increases, and as the habit of using prepared foods spreads to more and more households. North Carolina has 2.72 percent of the population of the United States, but it has less than 1 percent of the food manufacture. More of these industries would help the soil and the farmer, employ labor and capital and save hauling from half across a continent all sorts of food and feed from butter to laying mash.

Chemical Industries. There are other great branches of manufacturing which meet our tests of desirability and even the test of practicability for North Carolina if pushed with vigor and imagination. The chemicals industry is one. North Carolina has a reasonable proportion of only two, fertilizers and rayon. Fertilizer manufacturing ranks high by all indices except wages, but its very presence in North Carolina is an admission of an inadequate system of agriculture. Rayon is in itself a valuable industry and provides the raw material for the rayon weaving industry employing thousands of workers.

But the great recent expansion has been in industrial chemicals. The expansion in the immediate future is expected to be in an extension of industrial chemicals, namely, plastics. Is North Carolina to run along in its textile manufacturing rut as it did in its cotton growing rut until other states and regions have done the pioneering and skimmed the cream off the new industry? Will it, a decade or a century late, find its wood resources gone, need materials for its houses and tables and chairs, and then by a super human effort break into plastics after this exciting new industry has become an old settled member of the manufacturing hierarchy?

Machinery Manufacture. There is one other great group of industries which North Carolina lacks, the iron-steel-machinery series. It seems unlikely, under present methods of utilization, that North Carolina has deposits of iron, coal and limestone rich enough for the first stages in this industry. If North Carolina argues for tobacco to be manufactured near the fields, it would ill become the state to suggest burdening the national economy with moving all of the primary materials

here for us to make pigs and ingots. Nor does North Carolina have the skills to manufacture intricate machinery out of iron and steel purchased from Alabama and Pennsylvania. The skill necessary in these industries is unlike the few skills needed in the wood, food, or chemical industries where one or two technically trained persons can be sought in the national professional markets to give scientific direction and control to a whole factory. The machinery-making skills are distributed among thousands upon thousands of workers; they are learned through years of training by doing. North Carolina can no more move into the state a city of electric motor workers than it can move in a mountain of iron ore.

But it can begin in a small way to train some of its own people to make some of the less elaborate machinery and thus build up the skills as Connecticut, Ohio, and Illinois have built them up. North Carolina uses much textile machinery and will need enormous replacements in the postwar period. It makes a little and so has a nucleus for beginning. The state would do well to offer more inducements and give more acclaim to a spinning frame works than to a shirt factory. North Carolina uses much woodworking machinery; it makes practically none. It uses some—though not enough—farm machinery, but when good oak wagons and plows were replaced by trucks and tractors some thriving North Carolina factories curled up and died.

Planning Is Necessary Now

Can North Carolina do these things? If it does not do something along these lines, it will lose a good deal more than the negative loss of never having had these mechanical industries. It will lose, and that right soon after the war ends, a great many of its young men who have learned how to operate and repair and make the machines of modern war. The farm boy who squirmed to stay out of the cavalry by vowing he did not know which end of a mule to harness has mastered the intricate machinery of field artillery. The village boy who jerked sodas because a depression-ridden land offered him nothing better has shown a surprising mechanical aptitude and now he can salvage parts from half a dozen wounded Flying Fortresses and make a new one for the next raid. The young man who went to the shipyards for big money has learned at least some of the processes in the making of that most complex of human devices—the modern battleship. Men like these will not come back to plow cotton and truck tobacco and doff spinning frames. They will go where these exciting new skills can be practiced for a fuller life and a better wage. And North Carolina will be the poorer, not only by the loss of her sons who fall in battle, but by the addi-

tional loss of those to whom she fails to give an opportunity.

Can North Carolina build and operate these industries? Two generations ago North Carolina needed something to help its depressed agriculture, to employ its half-idle people, to enliven its dead little towns. Men motivated by the desire for profit and by the community need projected industries as unfamiliar as any of these. Citizens supported them by subscribing capital. Workers flocked willingly to the mills. Every community agency joined in acclaiming them and in defending them against every criticism.

Surely we have enterprisers now with as much vigor and daring and workers with as much will to learn. We have more citizens with more money. We have more newspapers and more people who know how to read them. We have more organizations with promotional machinery—chambers of commerce and state departments—to supply information. We even have a greater need. We must make it profitable—not just a duty—for our agriculture to preserve our soil. We must offer our workers employment that is worthy of their toil, not just a collection of what have become the least desirable industries in the country. We must offer our gifted youth opportunities suited to their talents. What North Carolina has done once, surely in a changed and changing world it can do again.

Street and Highway Safety

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the unlimited facilities of the Federal Bureau of Investigation in the field of traffic law enforcement, of the Yale University Bureau for Street Traffic Research in the field of traffic engineering, of the National Center for Safety Education in New York University and of other national organizations in the safety field. The Director of the Institute of Government was appointed last October to membership on the National Safety Commission of the National Education Association and at a meeting of this Commission in May 1944 was appointed Chairman of the sub-committee on street and highway safety education at the college and university level. The Institute of Government has offered its central clearinghouse of information, its governmental laboratory facilities and its training schools as a focal point, testing center and proving ground for research experiments in street and highway safety now going on in all sections of the country.

Legal Aspects of Purchasing in North Carolina

Requirements for Advertising and Competitive Bidding

Can a municipal corporation purchase (or contract) without advertising for competitive bids? Purchases and contracts of an estimated value of \$1000 or more are controlled by three statutory provisions that deny such a right "except in cases of special emergency involving the health and safety of the people or their property." See C.S. 1316(a), C.S. 2830 and C.S. 7534(o) (1).

Raynor v. Commissioners of Louisville, 220 N.C. 348, 17 S.E. (2nd) 495 decided in 1941, is a leading North Carolina case on the question of emergency purchases and contracts. Judge Seawell's clearly reasoned opinion cites North Carolina cases and other leading American authorities in municipal law in support of his careful summary of North Carolina law in regard to "emergencies" affecting the power to contract. *Raynor v. Commissioners* holds: (1) that a declaration by a governing board that an emergency exists does not establish as a fact the existence of such an emergency as would give to the board power to contract without advertising for competitive bids; (2) that the burden of establishing facts constituting an emergency rests on the party claiming to act under power granted by the exception in these statutes governing the power to contract (citing *Moore v. Lambeth*, 207 N.C. 23, 175 S.E. 714); (3) that the emergency must be present, immediate and existing (Italics ours) and not a condition which may or may not arise in the future"; (4) that the language "special emergency involving the health or safety of the people or their property" does not apply to a condition which may clearly be foreseen in abundant time to take remedial action.

On this last point the court states

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that a situation to which the language of the statute would be applicable could arise from lack of foresight and from failure to take proper precautions to meet foreseeable contingencies. However, the court refused to allow municipal officers to avoid advertising for bids by merely delaying to take action to meet conditions which they could foresee until danger to health and safety has become so great that the week's delay required for advertising would entail calamity. This raises a question of what the court would hold if a new governing board were faced by conditions dangerous to health and safety not resulting from the new board's lack of foresight and lack of action, although the old board could have foreseen the need for action before such an emergency arose.

Fact situations: In *Raynor v. Commissioners* the fact situation was the negotiation of a \$40,000 contract without competitive bids for the purchase and installation of machinery, including two diesel engines of large horsepower, and the repair and replacement of parts of machinery in use in the municipally owned power plant. Under the tests laid down by the court, the fact situation does not constitute a "special emergency." In

Moore v. Lambeth an original contract for repairs calling for the replacement of 347 cubic feet of masonry was awarded to the lowest competitive bidder at a contract price of \$1,370. Three days later a new contract in the form of a letter was accepted by the city engineer. Under the two contracts 1,487 cubic feet of masonry were replaced at a cost of \$6,240. Under the facts of this case, the jury found affirmatively that city officers and the contractor wrongfully and unlawfully conspired to avoid the statutory requirements for advertising and competitive bidding. The contract for additional work was declared invalid; the contractor was allowed to recover on a *quantum meruit* despite guilty knowledge of the conspiracy; and the municipal officials were declared jointly and severally liable in the sum of \$2,240. In *Abbott Realty Co. v. Charlotte*, 198 N.C. 564, 152 S.E. 686, the realty company laid sewer lines connected to the city's sewerage system at a cost of \$16,737 after agreement with one city commissioner that the city would reimburse the realty company for the work. The court held that statutes prescribing the manner and form of making a contract must be strictly complied with and that a parole contract not conforming to statutory requirements was invalid, but allowed recovery on a *quantum meruit* as the city of Charlotte had in fact taken over these sewer lines as part of the city sewerage system. The court also held that a payment of \$3,001.86 did not constitute a ratification binding the city since a governing body cannot bind the city by ratifying a contract which such body had no power to make in the first instance or which was made without compliance with mandatory provisions of the statutes. *McPhail v. Commissioners*, 119

N.C. 330, 25 S.E. 958, held: (1) that county commissioners may not delegate their power to pass finally on the acceptance of a bid, but (2) that for work already done and accepted by a municipal corporation, the corporation is bound on a *quantum meruit* for the reasonable and just value of the labor done and material furnished even though the manner in which the contract was arrived at does not conform to mandatory provisions in the statute. However, the *quantum meruit* cases would not permit recovery of the value of work and materials accepted unless the materials and work are for a public purpose, for the acceptance would be beyond the powers vested in the governing body and therefore in law not an acceptance by the municipal corporation (*Jenkins v. Henderson*, 214 N.C. 244, 199 S.E. 37). In *Harrison v. New Bern*, 193 N.C. 555, 137 S.E. 582, when title had vested in the town for 93 acres purchased at a reasonable price for a negro cemetery, the purchase was held justified by an emergency despite a limitation in C.S. 2623 authorizing a municipality to acquire and hold 50 acres of land for the purpose of a cemetery. The court held that this executed contract vesting title in the municipality could not be attacked by a taxpayer through a plea for injunctive relief after the transaction had been closed despite the failure of the aldermen to make provision in the budget for moneys for the purchase of a city cemetery.

The attorney general's office has been called on for rulings with regard to what constitutes an emergency. When, over a period of years, the water supply of a town obtaining water from wells dropped from 38 gallons per minute to 25 gallons per minute, the attorney general ruled that this was not an emergency warranting the awarding of a contract without advertisement. The basis of the holding was that the situation was not one that could not be foreseen. In line with this opinion, the attorney general ruled that a sewer plant declared by state officials to be unfit for use did not constitute an emergency warranting a contract without advertisement and competitive bids since such emergencies are

limited to conditions arising from some sudden or unexpected disaster or catastrophe, such as fire or flood. In a recent ruling, however, the attorney general ruled with reference to a condemned abattoir: "It seems to me that this is an emergency involving the health of the people in your community such as is contemplated by the statute." The facts underlying the last ruling are worth noting: advertisement and mailed requests for bids resulted in no bid that did not exceed cost estimates, and also exceeded the amount provided by borrowing, for the construction of the abattoir. The municipality wanted to go ahead with the construction and equipping of the building, since it was believed that the work could be done at an expense less than the bids and within the amount set aside for the purpose. The sudden or unexpected element here could be the fact that all bids exceeded estimated costs of the project and the money on hand. The full conformance to statutory procedure of advertisement leading to bids can no longer be said to cause delay of "only a week" once unsatisfactory bids have resulted from the procedure. Moreover, the statement that a sudden and unexpected event such as a flood or fire must underly the "special emergency" is perhaps over strong. That such a precise definition is too strong is suggested by the careful language of Judge Seawell in *Raynor v. Commissioners*. Judge Seawell carefully avoids a "precise definition" of "emergency" as perhaps not possible and suggests the qualification that "each case must, to some extent, stand on its own bottom."

Purchases and contracts of an estimated value of \$200 or over but under \$1000 are regulated by C.S. 1316(b) and C.S. 2831. (General Statutes 143-131.) For a brief discussion of this type of purchase or contract, see page 11 of POPULAR GOVERNMENT for August, 1944. It is worth noting that contracts and purchases of under \$200 in value are not controlled by the general law, though in charters and by local ordinances this figure is sometimes lowered to \$100 or less.

Construction for over \$10,000. Contracts for "the erection, construc-

tion or alteration of buildings in any county or city, when the entire cost shall exceed ten thousand dollars" are governed by G.S. 160-280, C.S. 2831(a) as amended by the 1943 Legislature. This amended statutory provision requires separate specifications for each of the following branches of work to be performed: (1) heating and ventilating accessories, (2) plumbing and gas fitting accessories, (3) electrical installations, (4) air conditioning, for the purpose of comfort cooling by the lowering of temperature, and accessories. Such specifications must be so drawn as to permit separate and independent bidding upon each of the enumerated classes of work. For a discussion of this provision of the statute, see 4 North Carolina Law Review 14.

For a similar statutory provision governing such construction contracts by the state departments, agencies and institutions, see G.S. 143-128, which is C.S. 7534(o) and C.S. 7534(o) (1) as amended by the 1943 Legislature.

G.S. 143-135, formerly C.S. 7534(o) 5, so limits the application of all statutory provisions requiring advertisement and competitive bidding that these provisions do not apply when "governmental agencies of sub-divisions of the state of North Carolina" are doing or performing "by or through its or their duly elected officers or agents work for such agency up to and including an amount not to exceed five thousand (\$5,000.00) dollars." Although this provision of the statute was enacted in 1933, there have been no decided cases directly involving this provision or attorney general's rulings directly in point. A broad interpretation of this provision would vitiate the "\$1000 and over" requirement for written contracts which appears in four separate statutes in Michie's 1939 Code (Annotated). Since these provisions have been very strictly construed by the courts, the probable interpretation of G.S. 143-135 would be very narrow, holding to the requirement for competitive bids for contracts of \$1000 and over unless the work for such agency was in fact done by or through a regular agency of the governmental unit.

The Attorney General Rules

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



I. AD VALOREM TAXES.

A. Matters Relating to Tax Listing and Assessing

To Philip C. Cocke, Jr.

(A.G.) It appears that the General Assembly, by subsection 6 of section 403 of the Machinery Act, vested the tax supervisor with the power to exercise his discretion insofar as it relates to the amount of confidential information to be furnished by the taxpayer. It necessarily follows that the question of the amount of information required is one of administrative policy rather than of law. Within the limitations contained in the statute, the tax supervisor is the judge as to the amount of information the taxpayer should be required to furnish.

II. POLL AND DOG TAXES

A. Levy

7. Amount of levy

To Estelle J. Jarris.

Inquiry: Does a taxpayer have the right to recover the amount of poll tax paid to a town in excess of the amount authorized by the State Constitution?

(A.G.) I assume that the municipality has levied a capitation tax in excess of the \$1.00 authorized by the Constitution. The Supreme Court of North Carolina has held that where a tax is voluntarily paid and the procedure as to payment under protest is not followed, the taxpayer is not entitled to recover even though he has paid an amount in excess of that allowed by law. Chapter 709 of the 1943 Session Laws authorizes a municipality, upon proper resolution of the governing body, to make refunds of taxes illegally levied and assessed, upon proper demand from the taxpayer. But this section is not mandatory; the matter is in the discretion of the governing board.

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES.

A. Levy of Such Taxes

39. License tax on coal dealers

To J. R. Grady.

Inquiry: May a town levy a \$25.00 tax on coal dealers?

(A.G.) It is my opinion that a town may

not levy a tax in excess of that levied by the State, which, under section 112 of the Revenue Act, would be \$10.00. This statute specifically provides that "cities and towns may levy a license tax not in excess of that levied by the State." In my opinion this is a limitation upon the general power of municipalities to levy privilege taxes on coal dealers.

46. License tax on dealers in securities.

To Thomas D. Cooper.

(A.G.) It is my opinion that the business of cashing checks for profit does not constitute dealing in securities and would not therefore come within the purview of section 132 of the Revenue Act.

APPEARANCE OF MEMBER OF ARMED FORCES IN DIVORCE ACTIONS

(A.G.) It is not necessary for a member of the military services, irrespective of whether he is in service in or out of the continental limits of the United States, to appear in person to testify in a divorce proceeding. Such testimony may be produced by way of deposition. I think that the witness should show affirmatively his inability to be present in court.

60. License tax on laundries.

To Thomas D. Cooper.

(A.G.) Municipal corporations are empowered, by the Constitution and by statute, to levy privilege taxes upon trades and professions, and they could select laundries for purposes of privilege taxation unless prohibited by some other statute. The question arises whether they are prevented from doing so by section 150 of the Revenue Act. It is my opinion that this section is not a limitation upon the general power of municipalities to tax laundries but is, on the contrary, an additional grant of authority which would render subject to municipal taxation laundries performing work outside the municipality which would otherwise be beyond the jurisdiction of the municipality to tax under its general powers.

68. License tax on ice manufacturers.

To D. D. Topping.

Inquiry: What tax is a town entitled to collect on a manufacturer of ice?

(A.G.) Under its general authority to tax trades and occupations (N. C. Constitution, Article V, Section 3; General Statutes, Section 160-56), it is my opinion that a town would be entitled to classify for privilege taxation manufacturers of ice carrying on their business within the corporate limits of the municipality. The amount of the license tax may be fixed by the governing board of the town subject to the requirements that it is not unreasonable or discriminatory.

HARRY McMULLAN

Attorney
General
of
North
Carolina



74. License tax on dry cleaning solicitors.

To J. R. Grady.

(A.G.) This office has previously expressed the view that a municipality has the power to tax persons soliciting dry cleaning and pressing within the town and this power is not necessarily limited by section 139 of the Revenue Act. But I would advise that the tax not be levied upon each truck but upon the person, firm or corporation engaged in such business, without any reference to the trucks or the use of the streets.

IV. PUBLIC SCHOOLS

F. School Officials

20. School district committeemen

To John F. Matthews.

(A.G.) It is my opinion that members of the district school committee appointed under the provisions of section 7 of the School Machinery Act must reside within the territorial limits of the school district. I do not believe that this conclusion would be affected in any way by the fact that some of the pupils attending the schools in the district come from an adjoining county.

ISSUANCE OF BEER LICENSE MANDATORY

G.S. 18-75 provides that it shall be mandatory that the governing body of a municipality or county issue license to any person applying for the same when such person shall have complied with the requirements of the article known and designated as the Beverage Control Act of 1939. It would necessarily follow that a town, in the absence of a local statute authorizing such action by the governing body of the municipality, would have no right to refuse to issue a license to a person who could properly qualify under the provisions of the Act. If a municipality arbitrarily refused to issue a license, the remedy of the person desiring such license would be to apply for a writ of mandamus.

Prepared
by

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PACE

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41. School attendance.

To A. C. Moses.

(A.G.) G.S. 115-304 provides that the county board of education in a county may employ special attendance officers to be paid from funds derived from fines, forfeitures and penalties or other local funds and that said officers shall have full authority to prosecute for violations of the compulsory attendance law. It is my opinion that if the board of education employs a special attendance officer as contemplated by this section, and the fines, forfeitures and penalties are not sufficient to pay the salary of such officer, the board of education would be authorized to include in the school budget an amount sufficient to cover the salary of such officer. Of course, the tax levy made by a county must be within the constitutional limitations on the levy of taxes by a county.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES**B. Matters Affecting Municipal Utilities****1. Right to establish**

To Walter B. Love.

(A.G.) G.S. 162-40 provides that the governing body of a municipality may require all owners of improved property which may be located upon or near any line of the sewerage system maintained by the municipality to connect with such sewerage all water closets, bath tubs, sinks, drains, etc., upon their respective properties or premises so that their contents may be made to empty into such sewer. If the governing body of a municipality has adopted a proper ordinance requiring sewer connections, I am unable to see any reason why there would be any liability on the part of the municipal authorities in taking steps to prevent the use of open toilets.

F. Contractual Powers**7. Sale of city property**

To John B. Lewis.

Inquiry: May a municipality quit-claim its interest in real estate to a former owner without advertising the sale at the courthouse door?

(A.G.) If the property in question was acquired by the city at a tax foreclosure sale, I am of the opinion that under the authority of subsection (v) of section 1719 of the Revenue Act, a city may quit-claim its interest in such property to the original owner without making public outcry of the same at the courthouse door, if the municipality receives from the sale of such property a sum not less than its interest therein. If the property was not acquired at a tax foreclosure sale, I am of the opinion that the city must comply with the provisions of section 160-59 of the General Statutes, which requires a sale of real property to be made to the highest bidder at public outcry after thirty days notice.

L. What Constitutes Necessary Expense**16. Freezer-lockers**

To Womble, Carlyle, Martin and Sandridge.

Inquiry: Does a municipality have authority to contract a debt without a vote of the people for the purchase and installation of freezer-lockers in the municipal market house, to be rented to individuals at a stipulated sum; i.e., would this be a necessary expense?

(A.G.) Since the erection and maintenance of a market house is a necessary municipal expense, it follows that the equipment necessary to enable the market house to be operated is also a necessary expense. However, if I correctly understand the usage to which freezer-lockers are put, they would not be considered as

necessary equipment for a market house. Of course, it is only recently that freezer-lockers have been made available to the public generally, and as a result I have been unable to find any discussion on this problem in either the texts or reported cases.

N. Police Powers**10. Building permits**

To J. L. Poston.

Inquiry: Would a municipal ordinance requiring the consent of all adjoining land owners before the issuance of a building permit be valid?

(A.G.) The effect of such an ordinance would be to place the control of a person's property in the hands of the adjoining land owners. Under the provisions of the ordinance an adjoining property owner could prevent his neighbor from erecting any kind of building on his property unless the adjoining land owner saw fit to agree. In my opinion this would be an unreasonable interference with the right of a property owner to deal with his property as he sees fit.

20. Regulation of trades and businesses

To J. Erle McMichael.

(A.G.) This office has expressed the opinion that a municipal corporation has no authority to regulate taxicabs operating wholly without the corporate limits of the municipality but within a distance of five miles thereof. But I am of the opinion that where taxicabs have their office outside the city limits but operate within the city limits, they are subject to regulation by the municipal corporation. This authority, in my opinion, is granted by Chapter 639, Session Laws of 1943.

HOURS OF SALE—BEER AND WINE

To C. G. Smith.

Inquiry: Would a town ordinance requiring places selling beer and wine to close at 11 o'clock P.M. Saturday night and remain closed until 6 o'clock Monday morning be valid?

(A.G.) The authority for a municipality to regulate the hours of sale of wine and beer is found in Ch. 339 of the Session Laws of 1943, which authorizes municipalities to prohibit the sale of beer and wine from 11:30 P.M. on Saturday until 7:00 A.M. the following Monday. It therefore appears that a town's authority to restrict the sale of beer and wine extends only to those hours.

To C. T. Hellinger.

(A.G.) G.S. 20-37, a portion of the Uniform Driver's License Act, provides that cities and towns shall have the power to license, regulate and control drivers and operators of taxicabs within the city or town limits and to regulate and control operators of taxicabs operating between the city or town to points not incorporated within a radius of five miles of said city or town. This statute would, in my opinion, give a municipality the authority to regulate and control operators of taxicabs within a radius of five miles of the corporate limits of the municipality where operators of taxicabs operate between the municipality and points outside the corporate limits of such municipality. But this statute would not give the town the right to regulate and control drivers and operators of taxicabs who operate entirely outside the corporate limits of the town although they might operate within

a radius of five miles of the municipality.

To Charles L. Jones.

Inquiry: May a municipality prohibit pool rooms from placing papers, boards, etc., over the windows, thus preventing a person on the outside from looking into the pool rooms?

(A.G.) G.S. 160-200, subsection 33, authorizes municipal corporations to license, prohibit and regulate pool and billiard rooms. Under this grant of authority, a town could by the adoption of an ordinance prohibit the practices thus described. Such an ordinance would be a valid exercise of the police power granted by this statute.

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS**B. Clerks of the Superior Court****23. Summons**

To J. P. Shore.

Inquiry: Is a summons legally served when a copy thereof is delivered to the defendant but is not read to him?

(A.G.) The effect of the non-appearance of C.S. 482 in the General Statutes (which required a summons to be served by reading it to the party or parties named as the defendant) is that it is repealed. This section was left out because it was deemed to have been superseded by section 479 of Michie's 1939 Code, now section 1-94 of the General Statutes, which provides that service shall be effected by delivering a copy to the defendant.

31. Recording instruments and writings

To W. G. Mordecai.

Inquiry: Is it necessary that the certificate creating a limited partnership, under the provisions of G.S. 59-1 to 59-30, inclusive, be recorded in the office of the Clerk of the Superior Court?

(A.G.) Considering the Act as a whole, it is my opinion that the Legislature intended that the original certificate be actually recorded in the office of the Clerk of the Superior Court.

82. Decedents' estates—fiduciary's bond.

To H. V. Rose.

(A.G.) It is my thought that when the court accepts a final accounting from an executor or administrator and thereafter enters an order formally discharging such executor or administrator and the sureties on the bond, the surety on the bond would not be responsible for an action taken by the personal representative after the entry of the discharge unless the surety made a new agreement to continue to remain bound on the original obligation. It is my further thought that upon the discovery of new assets the court would have the right, upon proper findings of fact, to set aside the order of discharge and allow the personal representative to administer upon the newly discovered assets but that such personal representative should either be required to give a new bond or secure written consent of the surety that such surety would remain liable on the original bond notwithstanding the order of discharge and release of the surety.

To W. H. Young.

Inquiry: Is a trustee appointed under the provisions of a will who is also the executor, required to give bond when not so required under the provisions of the will?

(A.G.) If the trustee is a resident trustee and is the original trustee named in the will, I know of no statute requiring such a trustee to give a bond.

K. Coroners**1. Fees**

To Harvey E. Blake.

(A.G.) G.S. 152-5 provides that coroners shall receive \$5.00 for holding an inquest over a dead body and, if necessarily engaged more than one day, for each addi-

tional day \$5.00. It is my opinion that where only one inquest is held, the coroner would only be entitled to \$5.00 unless the hearing continued more than one day. However, if two separate inquests are held and two separate reports made, it is my opinion that the coroner would be entitled to \$5.00 for each inquest.

No provision is made in the General Statutes of North Carolina for an allowance to coroners covering mileage, and in the absence of local statute, it is my opinion that a coroner would not be entitled to an allowance for mileage.

20. Appointment

To Wade B. Matheny.

Inquiry: Would the appointment of a board of county commissioners to fill a vacancy in the office of coroner created by the death of the incumbent, who was elected in 1942 for a four-year term, be for the remainder of the four-year term or until the 1944 general election?

(A.G.) It is my opinion that the appointment of a person to fill a vacancy in the office of coroner would be for the unexpired portion of the term. See Article IV, section 24, of the Constitution and Freeman v. Board of Elections, 217 N. C. 63.

L. Local Law Enforcement Officers

9. Wine and beer license—granting and revoking

To Ray Jennings.

Inquiry: Must a licensee who has obtained an "on premises license" for the sale of beer obtain an "off premises" license to sell beer for consumption off the premises?

(A.G.) I am of the opinion that an "on premises" license for the sale of beer would include the privilege of selling beer for consumption off the premises. I am of the opinion that it was the legislative intent for the \$25.00 "on premises" license to include the "off premises" license, but if the applicant wanted only an "off premises" license, the fee would be only \$5.00.

Upon reference to Section 18-73, paragraph 1, it appears that "on premises" license is confined to the types of business designated under that paragraph; but paragraph 2, which authorizes the issuance of "off premises" license, does not restrict the person or business to which such license may be issued.

27. Prohibition—home brew

To Ernest R. Alexander.

(A.G.) The manufacture, possession, sale and transportation of home brew, as that article is usually defined, is in violation of the Turlington Act. I am of the opinion that if an indictment is brought against a person based on the unlawful possession of home brew, it will be necessary for the State to show the alcoholic content of the beverage in order to establish definitely that it is intoxicating. It probably is the best policy to have a chemist analyze the home brew to determine its alcoholic content.

34. Using profane language in public places

To Coy Etheridge.

(A.G.) It is my opinion that the language of G.S. 14-197, prohibiting the use of profane and indecent language on the highways, does not require that a person actually be standing in a public road or highway to be guilty of a violation of the statute. A person would violate the section if he were standing in such close proximity to the highway as to make the indecent language objectionable to users of the highway. "On" as used in the statute, in my opinion, means contiguity or

juxtaposition. The statute requires the language to be used in a loud and boisterous manner.

55. Police—residence and qualifications

To Walter Spence.

(A.G.) A person 20 years old serving under appointment as a police officer would be a de facto officer whose acts would be valid until his appointment was directly challenged, but the appointment of such a person is unauthorized.

NAMING CANDIDATES BETWEEN PRIMARY AND GENERAL ELECTION

To G. G. C. Shutt.

(A.G.) G.S. 163-145 provides that in the event any person nominated in any primary election as a candidate of a political party shall die, resign, or for any reason become ineligible or disqualified between the date of such primary election and the ensuing general election, the vacancy as to a county office or for the House of Representatives shall be filled by the Executive Committee of the party affected thereby in the county wherein such vacancy occurs.

Faith, Work and Play

(Continued from page 4)

of ideas and habits which they identify with the feeling of being at home. For instance, freedom to go anywhere at any time by automobile is something we are homesick for now. I was talking to a commercial traveler about this sort of thing not long ago. He said he was doing very well travelling by bus, and was now getting to feel at home in this more leisurely way of doing business; that he was enjoying a chance to read and talk and to catch up on his sleep; but he said there was something in him which resented the change of way, quite apart from his practical inconvenience. He said his car had become a sort of home, and the habits which he had built up around his car had become comfortable and usual with him. He was homesick to return to his old habits of thinking and of living.

The war has brought up new subjects for study, new emphases on old subjects, whole areas and races of which most of us were blissfully unconscious before the war. There is a sense of violating old loyalties in so much stretching and adjustment of our minds, of our wills, and of our imaginations; and yet, I believe that the more we do stretch to take in new experiences and to digest them, the more our very spirits expand and enrich themselves. In the long perspec-

tive of experience, we will look back with satisfaction on having made the effort; for the spirit, which is universal, is the only permanent home of man. By it we absorb change and feel at home all the way.

Superior Court Clerks

(Continued from page 8)

musical numbers and a demonstration of magic, was provided. Attractive favors were found at each place at the tables which were arranged in a V design.

Resolutions and Open Forum

The following morning, July 6, the meeting opened under the chairmanship of E. C. Byerly, Clerk of Davidson Superior Court, for the consideration of resolutions and memorials. Among other resolutions adopted was one of sympathy for the family of the late Ben D. McCubbins, Clerk for many years of Rowan Superior Court, a former secretary, a past president and an outstanding member of the Association, who died May 4, 1944.

The final item on the program was an open forum discussion conducted under the chairmanship of Carl G. Smith, Clerk of Iredell Superior Court. Many matters relative to the duties of clerks of court were discussed, with general participation by all present.

Near the close of the convention J. F. Barden, Clerk of Wayne Superior Court, President-elect, was escorted to the chair. President Barden expressed appreciation for the confidence reposed in him by the Association and pledged his best efforts toward advancing its work.

New Officers Elected

New officers elected for the ensuing year are:

J. F. Barden, Clerk of Wayne Superior Court, President;

Carl G. Smith, Clerk of Iredell Superior Court, First Vice-President;

L. C. Hand, Clerk of Gates Superior Court, Second Vice-President;

W. E. Church, Clerk of Forsyth Superior Court, Secretary-Treasurer.

The nominating committee was composed of J. N. Sills, Nash County; Geo. R. Hughes, Jones County; E. A. Houser, Jr., Cleveland County; W. E. Church, Forsyth County; J. Lester Wolfe, Mecklenburg County.

★ JEFFERSON STANDARD FINANCIAL STATEMENT ★

37TH ANNUAL REPORT FINANCIAL STATEMENT, DECEMBER 31, 1943

ASSETS		LIABILITIES	
Cash	\$ 7,953,056	Policy Reserves	\$102,568,427
United States Government Bonds	15,596,911	This reserve is required by law to assure payment of policy obligations.	
State, County and Municipal Bonds	4,292,145	Reserve for Policy Claims	605,495
All Other Bonds	10,355,473	Claims in course of settlement on which proofs have not been received.	
Stocks	7,255,908	Reserve for Taxes	672,119
Listed securities carried at market, cost or call value, whichever is lower.		Premiums and Interest Paid in Advance	1,104,637
First Mortgage Loans	57,342,910	Policy Proceeds Left with Company	9,126,364
On farm property \$6,749,875.		Dividends for Policyholders	1,172,251
On city property \$50,593,035.		Reserve for All Other Liabilities	997,032
Real Estate	6,251,889	Liabilities	\$116,246,325
This includes our seventeen story Home Office Building.		Contingency Reserve	\$2,000,000
Loans to Our Policyholders	11,957,245	A fund for contingencies, depreciation on real estate and investment fluctuations.	
Secured by the cash values of policies.		Capital	4,000,000
Premium Loans and Liens	2,816,123	Surplus Unassigned	6,000,000
Secured by the cash values of policies.		Total Surplus Funds for Additional Protection of Policyholders	12,000,000
Investment Income in Course of Collection	999,902	Total	\$128,246,325
Premiums in Course of Collection	3,034,321		
All Other Assets	190,442		
Total Admitted Assets	\$128,246,325		

TO THE PUBLIC: The Jefferson Standard presents to policyholders and friends its annual report, which reflects outstandingly successful achievement along all lines. President Julian Price, in his annual message to those insured in the Company, points out several important facts relating to its service, growth and strong financial position. Facts in brief are given here. The detailed annual report booklet is available upon request.

INTEREST EARNING MAINTAINED

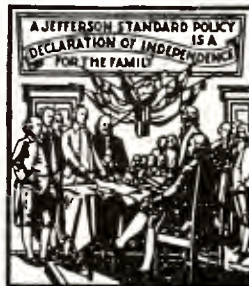
★ The gross rate of interest earned on invested assets for 1943 was 5.23%. Jefferson Standard maintains its national leadership in this field.

INTEREST PAYMENT MAINTAINED

★ In 1943, as in every year since organization, 5% interest was paid on funds held in trust for policyholders and beneficiaries.

ASSETS SHOW INCREASE

★ Assets now total \$128,246,325 — an increase of \$13,230,309. For each \$100 of liabilities there are \$110.32 of assets indicating an unusually strong financial position.



BENEFITS PAID

★ The Company paid policyholders and beneficiaries \$4,305,910 in policy benefits during 1943. Total benefits paid since 1907 — \$137,771,775.

SURPLUS FUNDS INCREASED

★ Surplus, capital and contingency reserves total \$12,000,000. This is \$23.88 surplus for each \$1000 insurance in force — an exceedingly high surplus ratio.

SPLENDID INVESTMENT RECORD

★ Less than \$25,000 interest is past due on Mortgage Loan Investments of \$57,342,910. Only one-half million dollars is owned in foreclosed real estate.

INSURANCE IN FORCE

★ Jefferson Standard's 200,000 policyholders now own \$902,533,041 life insurance. The Company has very proudly announced having over a half-billion dollars life insurance in force. This was a gain of \$32,202,404 for the year.

JOHN W. UMSTEAD, Jr., Manager

136 East Franklin Street, Chapel Hill

JEFFERSON STANDARD

LIFE INSURANCE COMPANY

Julian Price PRESIDENT • GREENSBORO, NORTH CAROLINA

