IN THIS ISSUE

THE INSTITUTE OF GOVERNMENT

POPULAR GOVERNMENT

10c A COPY MARCH, 1935 Vol. 2, No. 5

POPULAR GOVERNMENT

VOLUME 2
NUMBER 5

PUBLISHED MONTHLY BY THE INSTITUTE OF GOVERNMENT

MARCH
1935

The Gold Clause Cases: Their Practical Meaning

By ANGUS DHU MACLEAN
Assistant Solicitor General of the United States

IN March, 1933, when President Roosevelt took office, the available gold reserves in this country totaled about four billion dollars, but in the five weeks from February 8 to March 8, 1933, earmarking or withdrawals of gold for export and hoarding amounted to nearly five hundred million dollars, at which rate, if kept up, the supply would have been exhausted in less than a year. This was a serious possibility in a panicky period, considering that gold was both the backbone and the standard of our currency system.

Twenty-eight countries of the world had gone off the gold standard and the purchasing power of each dollar in terms of wholesale commodity prices had increased to $1.52 as compared with 1926. Our foreign commerce was affected most by Great Britain's abandonment of the gold standard in September, 1931, followed the same year by sixteen other countries. In January, 1933, the pound sterling was quoted in New York as low as $3.34, measured by our gold standard and our foreign commerce had fallen to less than one-third of what it was in 1929. Gold, therefore, was going up and everything it would buy was going down, in a relative sense, while it became increasingly scarce due to export and hoarding.

ALL North Carolina is proud of Angus Dhu MacLean, who took a leading part in preparing and arguing the famous Gold Clause Cases before the Supreme Court. In the accompanying article the Assistant Solicitor General points out the practical meaning of the decision, which is perhaps the most momentous that the Supreme Court has handed down during this generation. Prior to his appointment, July 13, 1933, Mr. MacLean practiced law in Washington, N. C., for 34 years. A dominating power in the North Carolina legislatures of 1927-33, Mr. MacLean is known as the father of our state-supported eight months school law.

Stopping the Run on the Banks

The Emergency Banking Act of March 9, 1933, confirmed the President's authority to stop the run on banks, the withdrawal, export and hoarding of gold, and the flight of capital into foreign countries. Various measures were taken by the Administration to stop this flight of gold, as it was called, and they proved in large part effective, but a more difficult situation had to be dealt with.

Bonds, mortgages and other gold clause obligations in this country, governmental and private, totaled about one hundred billion dollars at a conservative estimate. These called for payment in gold of the existing standard, both as to principal and interest, and while in any year only a fractional part of the enormous aggregate would become due and payable, it is at once manifest that even one per cent of it might threaten the country's gold reserves, in connection with other demands.

Not only so, these gold clauses obstructed the power of Congress to regulate the value of money to such an extent that the adoption of any measure contemplated, no matter how desirable or efficacious it might be, was either prevented or circumscribed by the threat contained in such clauses. To overcome this condition, it became necessary for Congress to adopt the Joint Resolution of June 5, 1933, which declared all such clauses void, both in government and private bonds and other obligations, and authorized payment, dollar for dollar, in lawful money or legal tender. This was not regarded as repudiation, but as regulation.

On January 31, 1934, the President reduced the content of the gold dollar to practically 59 per cent of its former weight. If debtors were then forced to pay the asserted equivalent of the dollar of the old standard, the debt burden on their gold clause obligations would be increased by nearly 70 per cent above the amount payable in lawful money or legal tender, and this in face of the fact that our income had shrunk by half, while the annual service on the debts remained fairly constant.

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POPULAR GOVERNMENT, the journal of The Institute of Government, is published monthly at Raleigh, N. C. Editorial, business and advertising address: Box 147, Raleigh, N. C. Subscriptions, per year: $1.00. Single copies, 10 cents each. Advertising rates will be furnished on request. Editor, Albert Coates; Associate Editors, Henry Brandis, Jr., Dillard Gardner, T. N. Grice and M. R. Alexander. Business and Advertising Manager, M. R. Alexander. Address all correspondence to Box 147, Raleigh, N. C. Application for entry as second-class matter is pending

The School Debt Fight

Shall the Counties Assume the School Debts of the Cities and What Would be the Effect on Tax Bills and City Schools? Taxpayers Throughout the State Have a Stake in the Proceedings as Greensboro and Guilford County Draw Battle Lines for a Test Case in the Supreme Court of the State

By HENRY BRANDIS, JR.
Associate Director, The Institute of Government

DURING the decade preceding 1931, as everyone knows, city school districts and other special school districts borrowed millions of dollars to build and equip school buildings. Many of those buildings still furnish silent confirmation to the fact that, when our citizens thought they had the money, they wanted good school buildings—and good buildings they built.

It was generally assumed in those halcyon days of the late lamented prosperity that, when a city or a special district voted to issue school building bonds, those bonds would be paid out of taxes levied only in the city or district. But this spring we may learn that every taxpayer in the county must help to pay those bonds. How we find ourselves facing this possibility is a long and interesting story.

The story begins among the pages of that frequently mentioned but little understood document—the State Constitution. There, in section 3 of Article IX, one may find the following words: "Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least six months in every year; and if the commissioners of any county shall fail to comply with the aforesaid requirements of this section, they shall be liable to indictment."

This seems to mean beyond a doubt that the primary duty of providing school buildings for the six months term which is guaranteed to every child rests upon the counties. It also means that, had no special school districts ever been created, the cities could have forced the county commissioners to provide such buildings and levy taxes throughout the country to pay for them. However, the county commissioners would have had the power to decide what type of buildings should be built and where they should be located.

Growth of City School Systems

Years ago the residents of our towns and of some rural communities decided that they wished to provide better schools than the counties were providing, or to build schools where the counties had not built them, and wished to have their school systems placed under the control of their own boards of trustees. The legislature passed enabling legislation and, all over the state, special charter school systems made their appearance, each as the result of an approving vote of the people in some city or town. Also created were special taxing districts by means of which residents of particular rural communities assumed the burden of providing school buildings, usually by the bond issue method.

These special charter and special taxing districts were generally regarded as having voluntarily relieved the counties of the school building burden placed on them by the Constitution. The counties were supposed to have to help pay the district building bonds only to the extent required by the so-called "per capita rule."

The "Per Capita Rule"

This "per capita rule" is still in our school law. The law says that all county-wide school funds must be distributed on a per capita basis. Thus, if a county needs to levy a county-wide tax for school debt service which will produce $2 for each school child in schools outside of special charter and special taxing districts, it must make the levy sufficient to produce also $2 for each school child in those districts, to be turned over to the districts to aid in paying their debts. In most cases this did not result in an actual contribution by the county taxpayers to the special district debt service funds, as ordinarily the taxpayers in those districts paid more to the county by virtue of the county-wide levy than their districts received back under the "per capita rule."

In passing, it may also be pointed out that in some counties the "per capita rule" was not always strictly followed. Be that as it may, however, our special charter and special taxing district school systems were built on the premise that the taxpayers living within those districts were assuming the major burden of supplying school buildings and equipment within those districts.

Reversal of a Trend

We began to abandon this premise to some extent as early as 1925, when our legislature passed a law authorizing counties to assume payment of district debts incurred to build schools. This law was passed without the proper formalities, but it was subsequently re-enacted with the necessary pomp and ceremony. Since then some of our counties have assumed such district debts, acting either under this general law or under local laws subsequently passed.

Where the county authorities have chosen to act under this power given by the legislature and assume the district debts, our Supreme Court has upheld the validity of their action, necessarily accompanied, as it was, by a

county-wide tax for debt service on the district bonds. In one case involving such an assumption (Reeves v. Board of Education, 204 N. C. 74) the Court significantly remarked: "There is no sound reason why a school district should have to pay out of its own taxable property a debt which the Constitution and laws of the State impose upon the County."

Cases of willing assumption of district debts by counties have, however, been rather rare and scattered. In the main they have not involved the building debts of the special charter or city school systems. It was not until the spring of 1934 that our Supreme Court handed down its first opinion in a case in which a city school district was attempting to require an unwilling county to assume the district's building debts.

The Catawba Case

I refer to the case of *Hickory v. Catawba County*, reported in 204 N. C. 165. There the county commissioners, acting under the authority of the laws already mentioned, had assumed the building debts of all school districts in the county except those of the Hickory and Newton school systems. They offered to assume those debts if the city districts would deed their school property to the county. This the cities refused to do, and our Court held that the county must assume their debts even though they retained title to property (as the Court construed the law as authorizing them to do.)

From the standpoint of the lawyer this case does not necessarily mean that counties must assume the school building debts of the districts regardless of circumstances. In the first place, it appeared that Catawba County had assumed the debts of all school districts except Hickory and Newton. Thus, the case may possibly mean only that if a county undertakes to assume the debts of some of its districts it must assume the debts of all of its districts. The lower court in the case so held.

In the second place, it appeared that the county was willing to assume the Hickory and Newton debts if it could secure title to their properties. Thus the case may possibly mean only that a county assuming debts of a special charter district is not entitled to get title to the district's buildings.

Nevertheless, there is some broad language in the Court's opinion in this case, and its effect has been important and wide-spread. All over the state special charter districts, exactly or almost co-extensive with cities heavily burdened with miscellaneous debts, are demanding that counties assume the district debts. And it is here that today's battle lines are drawn between the counties on the one hand and the cities and districts on the other.

The Greensboro Case

The case which may afford a final answer to the dispute, or which may be merely the first of a long list of test cases, is already on its way to the Supreme Court. This is the case in which two Greensboro school districts (one of which succeeded the other) are asking that Guilford County be required to assume a grand total of almost $3,000,000 in debts of the districts.

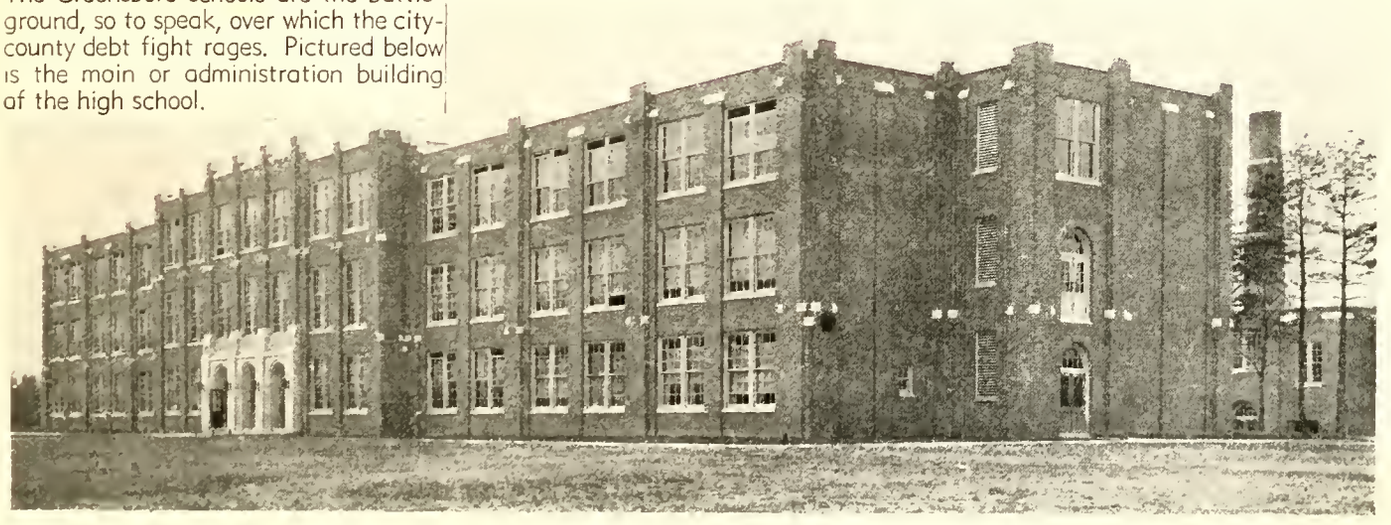
A number of points of law will be argued to the Court by counsel in this case, many of which we will be unable to discuss here. The facts, however, are considerably different from those involved in the Catawba case. In the first place, there is a dispute as to whether Guilford County has assumed the debts of school districts in the county outside Greensboro and High Point. It seems that there has been no formal resolution of assumption, though since 1927 the debt service requirements of these rural districts have been paid from a country-wide tax levy. Under these circumstances a Superior Court jury decided that the county had not assumed the debts. Counsel for Greensboro contends that the Judge should have decided that the County had assumed these debts and should never have submitted the question to a jury.

In the second place there is no willingness on the part of the county to take over Greensboro's school debts even if it can secure title to the property. The county is unwilling to assume those debts under any circumstances, particularly since the City of High Point is now sitting quietly in the background awaiting only a decison favorable to Greensboro before shoving its sizeable school building debt into the lap of the county.

The county contends that when Greensboro citizens undertook to provide their own schools they thereby relieved the county of all responsibility except that of obeying the "per capita rule," which it has followed. The county further contends that the buildings which the Greensboro citi-

(Continued on page nineteen)

The Greensboro schools are the battle-ground, so to speak, over which the city-county debt fight rages. Pictured below is the main or administration building of the high school.



If Courthouses Could Only Talk--

Caswell Structure Might Tell a Tale of Stirring Days and Clear Up a Famous Mystery

By MISS MARY WILSON BROWN

THE Caswell County Courthouse, with its stately columns and handsome Grecian lines, has witnessed some stirring days and deeds. Built at the outset of the War Between the States, it has witnessed successively civil war, rebellion, and reconstruction, followed by a great era of progress, and climaxed by a World War. It has seen our nation develop from a loosely-knit federation of states into a mighty union that ranks with the world's powers. It has watched silently but zealously while the South retook its rightful position in that Union and the State assumed a place of leadership among the members.

Were it able to talk, the building which is the subject of our cover could tell some interesting stories, and might clear up one of North Carolina's celebrated mysteries. The reference, of course, is to the disappearance and murder in broad daylight, May 20, 1870, of John Walter Stephens. The Republican Senator had been accused of inciting the Negroes to insurrection and had made himself most unpopular. He was sitting in the back of the court room when someone tapped him on the shoulder and told him he was wanted in his office downstairs. He was never seen again alive. Although credited by tradition to the Ku Klux Klan, the crime has gone down in history as one of the country's famous unsolved crimes.

Yanceyville, county seat, was the scene of much excitement and feeling during Reconstruction days. Governor Holden had already sent "Kirk's Army" to guard the courthouse, and now he asked President Grant to reinforce Kirk's troops with a regiment from the federal army. Caswell County was in a state of insurrection, he said, and had seceded from both the State and Federal governments. Thus Caswell became the only county in the United States in which both State and Federal armies were assembled at the same time. The Federal soldiers were said to be gentlemen in every sense of the word, and their colonel, W. W. Eldson, later married a Yanceyville girl. However, Kirk's men included a number of carpetbaggers and scalawags, and were not recognized by the best people. The courthouse still bears mute testimony of their occupation, a piece having been chipped off of one of the columns by a bayonet.

Caswell County was formed out of Orange County in 1777. It derives its name from Richard Caswell, the first Governor under the Constitution. The courthouse at this time was at Leasburg, a small village on the western border of the county. It was moved in 1831, and the town which grew up around it was named Yanceyville in honor of James Yancey, who was instrumental in settling the dispute over the location. The present courthouse which was completed in 1861, stands on the same spot except that it faces north and south instead of east and west.

The 75-year old building, which was constructed with slave labor under the supervision of Dr. N. M. Roan, prominent physician planter, slaveholder, and chairman of the board of county commissioners, was built of native brick with native rock foundations. The architecture is Grecian in form and Corinthian in style. The building was first stuccoed, painted a steel grey, and marked to give the appearance of a stone building. About fifteen years ago the commissioners painted it a dark brown with markings.

The interior is characterized by its high ceilings, walnut walls, and stately columns. In the center of the court room is a massive medalion of acanthus leaves done in white plaster with fixtures to hang a chandelier. I have been told that a handsome chandelier of cut glass was ordered from New York by Dr. Roan, but for some unknown reason it was never received nor placed in the courtroom. Tradition has it that the old clock which hangs in the tower and which keeps perfect time today was ordered from England, but that the weights which were of solid lead were stolen by the soldiers during the war to make bullets. The weights that are used in the clock today are wooden boxes filled with scrap iron.

The courthouse was completed in 1861 and was dedicated by Judge John A. Abbott of Edenton. Judge Miles A. Eure of Gates County presided over the first term of Superior Court to be held in the new building. Among the judges to hold court here were A. W. Turgee, a Republican carpet-bagger from Greensboro, who later moved to New York and became a Democrat, serving as an elector for Bryan in 1896. Judge Turgee wrote a book entitled "Fool's Error," one of the characters of which, "Judge Snoutout," was supposed to represent Judge John Carr, a Yanceyville jurist of the Civil War period.

The plans for the Caswell County Courthouse were drawn by McKnight and Berry, a Philadelphia firm. That was before the days of labor unions and minimum wage scales. Slaves were hired from nearby plantations at four dollars a month, while Dr. Roan's compensation for his services as superintendent of building operations was two dollars per day. In this way the handsome structure was erected for the surprisingly small cost of $28,000.

A long fight between two brothers, Lee and William Graves, who lived on opposite sides of the county line creek, preceded the location of the courthouse at Yanceyville. Each was intent upon the ridge nearest his plantation. Lee appealed to Mr. Yancey, who was in the Legislature, and offered to give the land if his site were accepted.

Finally it was decided to accept his proposition. "You have won the fight," Mr. Yancey told him. "Now name the town." Mr. Graves replied, "No, you have been instrumental in the decision. You name it." And so it came about that the county seat was named Yanceyville.

Strangers passing through the little town of Yanceyville today stop to admire the stately beauty of the old building and listen with great interest to the stories of its historic past. It stands a shrine which old and young of Caswell are justly proud to honor, and remains a thing of beauty whose loveliness increases as time passes.

Coordinating Centralized Purchasing

By M. R. ALEXANDER

SEVERAL suggestions have been heard recently with regard to extending the principle of centralized purchasing among North Carolina towns and counties. One proposal is to make certain state contracts permissive, letting the local units make purchases under such contracts as will be advantageous, with the whole arrangement optional. Another suggestion has been made recently, the idea of which is for the cities and towns to pool their buying power and make large contracts on different items which all of them use.

Without making any recommendations, the Institute of Government feels that both suggestions are worthy of serious consideration, and passes them on with the hope that the officials who lay down the policies and do the purchasing will send us their comments and criticism.

Two popular and efficient purchasing agents—George C. Eichhorn, of Greensboro (right) and D. W. Newsom, of Durham County

The first suggestion, if adopted, would be open to all towns and counties. The second, of course, would be restricted to the group of cities and towns participating.

The former likely would encounter little or no opposition. With the towns and counties it would be a case of "Heads I win, tails you lose." They would buy under the state contract where it was advantageous; they would buy otherwise where it was not. This would have to be the case, for the requirements of the state and of a particular unit often differ widely, and local conditions and circumstances may make it advisable for the local unit to use an entirely different product. George Eichhorn of Greensboro and other purchasing agents have laid particular stress on the latter point. They also point out that the cities and counties buy a number of products that the state does not and vice versa.

The strength of the plan, namely, its optional character, is also its weakness. Large purchasing power and strong union are the factors which influence price reductions. The state certainly could not hope to secure any lower prices on its contracts without some better guarantee of increased business to the dealer than the mere statement that the cities and counties *might* buy from him, too.

However, the state does have contracts on a number of items which the cities and counties also use, and, naturally, due to its greater purchasing power, the state prices generally run somewhat lower. It would appear, therefore, that it would be to the advantage of the local units to work out such an optional or permissive arrangement.

It is interesting to note that some of the local purchasing agents already are utilizing state contracts to secure lower prices on such items as is possible. Copies of the state contracts are always available at the office of the local Board of Education, and it is a matter of minutes to ascertain the name of the firm holding the state contract, check the specifications, and secure the quotation. Of course, as Harry Weatherly in Guilford County says, "The firm does not have to sell us at the state price, but they generally do."

The proposal with regard to the cities is another matter. Without utilizing the backing of the state, with its large and fixed purchasing power, the plan would have to be compulsory in nature if the participating towns hoped to secure the desired end. In short, it would require close cooperation among the members in making contracts and rigid adherence to their terms once the contracts were made. Without this, it is unlikely that there would be a sufficient guarantee to the dealer for him to make or a sufficient increase in business for him to long continue any concessions in prices.

Three difficulties immediately suggest themselves: (1) The selection of standard items which all cities and towns alike use; (2) The drafting and adoption of standard specifications on these items, elastic enough to secure a wide circle of bidders and meet the requirements of all the members, yet definite enough to guarantee that the town or city would get the product it wants; (3) The enforcement of the contracts, without any machinery therefor, as among the members. But we will let Mr. Eichhorn speak for the purchasing agents:

"The suggestion has definite possibilities," Mr. Eichhorn says, "and I would advocate its trial on a limited basis. However, I think two things would have to be done: The members would have to agree to give the plan a thorough trial for a certain period on a few selected and standardized items. And they would have to promise to buy exclusively from the companies to whom the contracts were let." Mr. Eichhorn suggested a list of standard items in general use which might be capable of inclusion, as follows: alum, asphalt, asphalt emulsion, auto tires, brick, sand and stone, cement, chlorine, electric bulbs, fire hose, gasoline and oil, lime, police revolvers, ammunition, and tear gas, street brooms, street sweeper fiber, and traffic paint.

It is impossible to estimate the savings that might accrue to the towns and counties if the two plans were put into successful operation. However, the officials who have expressed their views seem to think that they would be considerable. As one of them put it, "In union there is power."

Another thing to be considered in connection with both plans is the effect that their operation would have on the established policy most purchasing agents follow of buying everything possible at home, other things being equal.

Mr. Eichhorn's solution is to provide, in contracts with concerns of national and state-wide character, for delivery and service through local jobbers. Adding another middleman naturally means a slightly higher price. However, there still should be room for considerable savings.

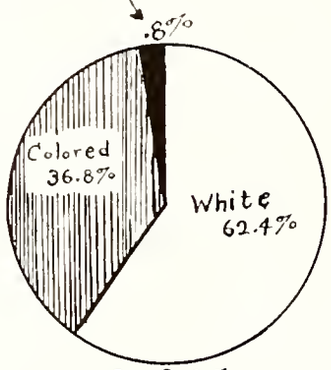
CRIME IN NORTH CAROLINA

(Superior Court Only)

RACE

White 8,717
Colored 5135
Indian 107

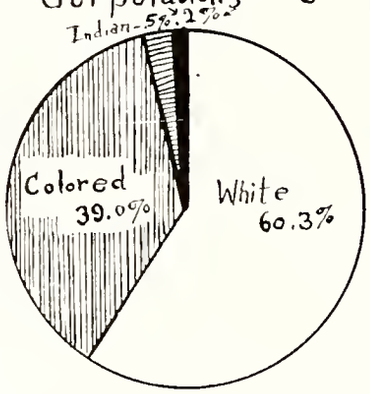
Spring Term 1934
Fall Term 1933



13,961

White 8,645
Colored 5,599
Indian 71
Corporations 6

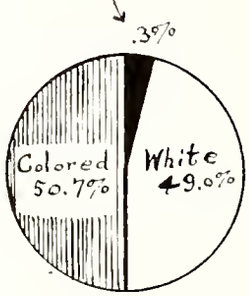
Spring Term 1924
Fall Term 1923



14,321

White 5,437
Colored 5,634
Indian 28

Spring Term 1914
Fall Term 1913

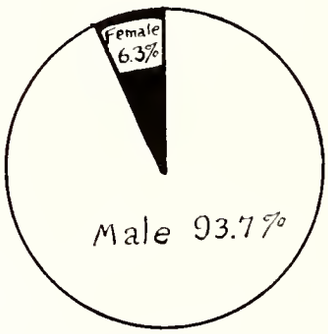


11,099

Chart by Billard S Gardner

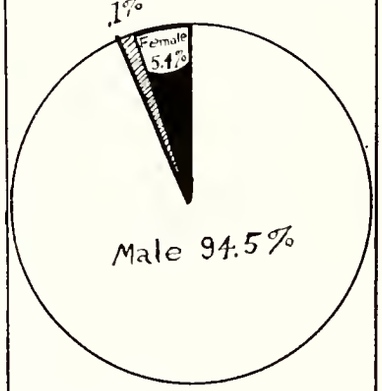
SEX

Male 13,092
Female 869



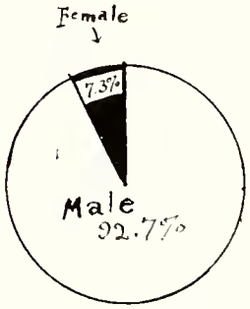
13,961

Male 13,535
Female 780
Corporations 6



14,321

Male 10,291
Female 808

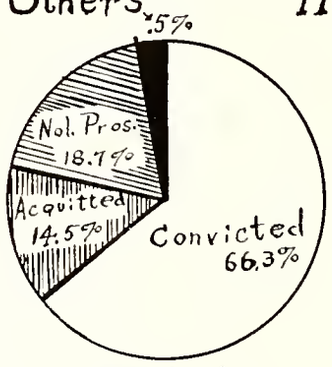


11,099

DISPOSITION

Convicted 9,255
Acquitted 2,020
Nol. Pros. 2,615
Others .5% 71

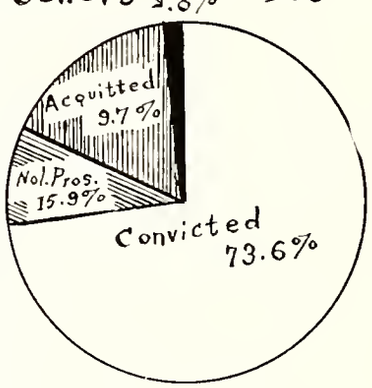
Fall Term 1933
Spring Term 1934



13,961

Convicted 10,545
Acquitted 1,385
Nol. Pro. 2,286
Others .8% 105

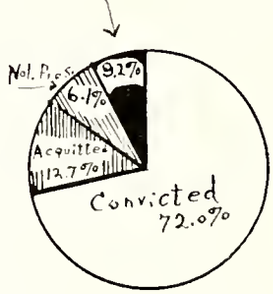
Fall Term 1923
Spring Term 1924



14,321

Convicted 8,001
Acquitted 1,410
Nol. Pros. 668
Others 1,020

Fall Term 1913
Spring Term 1914



11,099

Our Crime Picture 1914-1924-1934

(See Chart on Opposite Page)

By DILLARD S. GARDNER

THE picture of crime in North Carolina today stands out more vividly against the background of crime ten years ago and twenty years ago. Unfortunately, the figures for the inferior courts are not available for the annual periods ten and twenty years ago. If we wish the total crime picture today, to the Superior Court figures for 1934 must be added the equivalent figures for the inferior courts:

Race

White	13,917
Colored	8,927
Indian	14
Corporations	1
	22,859

Sex

Males	20,954
Females	1,904
Corporations	1
	22,859

Disposition

Convictions	18,681
Acquittals	2,828
Nol Pros	1,333
Otherwise Disposed	17
	22,859

It is obvious that more criminal cases are disposed of by inferior courts than by Superior Courts, but the chart-figures here deal only with Superior Courts.

On the opposite page the criminal statistics, as supplied by the Attorney General's reports, for the court-years 1933-1934, 1923-1924, and 1913-1914 are segregated for each period by race, by sex and by disposition of cases.

When we compare the total cases for the three different years, we find that the Superior Court tried more criminal cases ten years ago than last year, but we may assume that this decrease in Superior Court cases has been more than absorbed by the increase in inferior court cases, resulting in part from the expansion of our inferior court system. Since the figures for the inferior courts have been available for only the most recent years, no definitive comparisons in this respect are possible.

Increase in White Criminals

An examination of the distribution of the figures by races indicates an increase in white criminals and a de-

(Continued on page seventeen)

The State's Legal Chief Speaks

Comments on Proposed Changes in Criminal Code

By HON. A. A. F. SEAWELL

THE popular mind, in probing for conditions responsible for increasing crime, has not failed to challenge our present system of criminal law and procedure as being in part to blame. This view of the matter is not confined to laymen; the more thoughtful members of the Bar have not hesitated to join in the arraignment. It has been pointed out that although most of our laws are of English origin, since we ceased to be a part of that great empire and struck out "on our own," we have shown a hypertrophied conservatism, which has prevented our keeping pace with the more progressive mother country in efficiently dealing with crime. No person who has made a study of the question dares to dispute the truth of the statement.

Forty years of busy practice of the law, during which I have had a share of the criminal practice, both as prosecutor and defender, have left me somewhat impatient with the want of progress in adapting criminal law and procedure to the demands of justice on the part of society, rather than tolerance towards the criminal. There is scarcely any part of the system of criminal judicial investigation and punishment that is not sadly in need of repair or reconstruction. The criminal has always had, and still continues to have, an unfair advantage of society under the established "rules of the game." Meantime, crime increases, and whatever there is worthwhile in criminal law and criminal procedure, either to deter, treat, or punish the offender, becomes more difficult of application.

I have been very much interested in the suggestions of Hon. James H. Pou, of the North Carolina Bar, relating to amendments to criminal procedure. In the main, I agree with him as to the improvements he suggested in the February issue of POPULAR GOVERNMENT. I can add very little to his observations except this approval. I will comment on a few of the suggestions, however, taking them up by the numbers designated in the article mentioned.

1. It is suggested that the law be so amended as to permit comment before the jury on the fact that the defendant did not take the stand.

For a long period, under our system a defendant was not permitted to testify in his own behalf when charged with crime. When this prohibition was removed, it was seen that the same attitude of public mind which had so discounted the credibility of a defendant's own testimony as to prohibit him from testifying in his own behalf must be dealt with; and his failure to so testify ought not, under such circumstances, be a disadvantage. We are many years from that situation, and there is no longer a sufficient

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Death Claims Head of Police Chiefs

Chief J. G. Wooten
1882—1935

IN the death last month of Chief James Garfield Wooten, head of the Winston-Salem Police Department, the State lost one of its most able and conscientious servants.

Chief Wooten was born in Winston-Salem, N. C., October 17, 1882, the son of Noah and Alice Wooten. He was not born into a wealthy nor even into a well-to-do family and, as a consequence, had to give up attending school when he had completed the third grade. Unlike many people, the giving up of classroom instruction was not the end of Wooten's education. Through reading and through experience he set out to provide himself with more than just the bare semblance of knowledge. The books in which he was most interested were those treating of criminal law and its administration. The extent of his self-education was later to make itself felt in the improvements and achievements of the Winston-Salem Police Department during his administration.

Mr. Wooten's army experience covered a period of eighteen years. He enlisted, at the age of sixteen, in Company H of the 28th Infantry, United States Volunteers and served in the Philippine Islands from November, 1899, to March, 1901. He was with General Wheator's expedition in Southern Luzon from January 7, 1900, to January 20, 1900; with Colonel Birkheimer's expedition in Northern Mindanao from December 16, 1900, to March 10, 1901. Returning to North Carolina he kept his active status in the service. In 1903 he joined Company C, First Infantry, North Carolina National Guard. By 1908 he had attained the rank of Captain and commanded Company C of the Grand during the time it was in service on the Mexican border in 1916 and 1917. Wooten entered the army again in July, 1917. He commanded Company E, 105th Engineers and Headquarters Company 120th Infantry. He was honorably discharged from service on December 19, 1917.

Chief Wooten served a total of eighteen years as a peace officer. Twelve of the eighteen were in consecutive service. Before joining the Winston-Salem police force, he served six years as peace officer in the police department and as special officer for R. J. Reynolds Tobacco Company. On December 6, 1923, he became a patrolman. After a short period in this rank, he became a detective; then sergeant in 1925, captain in 1927, chief of police on September 1, 1929. The last position he held until his death.

During his administration as chief of police, Mr. Wooten installed the system of records and crime reporting and identification as approved by the International Association of Chiefs of Police, police radio broadcasting, six patrol cars and other equipment designed for modern law enforcement. He was instrumental in establishing the Winston-Salem Juvenile Detention Home for delinquent Negro boys and he kept in close personal touch with that institution. Wooten was an organizer and instructor in the police schools of Winston-Salem and of the Institute of Government. He was President of the Police Officers Division of the Institute of Government. He worked constantly to improve the efficiency, personnel, equipment and operation of his force.

Chief Wooten was married to Miss Dora B. Mitchell, who died in 1932. Three daughters were born to Chief and Mrs. Wooten. Of these, Miss Minnie and Miss Dorothy Wooten survive.

James Garfield Wooten was a member of the Presbyterian Church and of the Junior Order. His life was one of active service to his country, his state and his city. He needs no other memorial than the work which he began for others to carry on.

THE POLICEMAN

By WICKES WAMBOLDT
Mayor of Asheville, N. C.

A man needs courage to be a policeman. At any moment he may be called upon to stop a fight, to catch a killer, to face a bandit, to crash a door behind which gangsters wait with drawn guns. At any second he may be required to risk his life as though it were nothing; and he must do it without fear or hesitation. That takes bravery.

One can scarcely pick up a newspaper without seeing some account of police heroism. It happens so often that we take it for granted.

A man must be intelligent to be a policeman. He must know the law; he must make quick decisions and make them right; he must know when to interfere and when to pass by; he must know when to arrest; he must know when to shoot. He must know his city; he must have a memory for names and faces; he must be a psychologist; he must be as intuitive as a woman and as penetrating-minded as a corporation lawyer.

A man must be kind to be a policeman. The power that badge and uniform give him is too much for a man who is not kindly-minded; too great for one who has not sympathy for one's fellow man. The policeman must have that heart which tells him when an unfortunate needs a hand on the shoulder, instead of fingers in the collar or a clout on the head. He must have that in him which will know when to say, "Go on—and don't do that again."

A man must be a he-man to be a policeman. He may have to grapple with powerful foes; he must be able to match muscle with muscle, strength with strength—and give the other fellow the odds. He must be able to run, jump, and hit hard; yet, when the need is, be as gentle as a woman.

A man must be trained to be a policeman. He must know the ways of the underworld; he must know the methods of criminals; he must know the criminal; he must understand the workings of the lawbreaker's mind. He must have a nose for the scent that the layman can't smell; an eye for the clue that the layman can't see. He must be able to shoot quick and straight.

(Continued on page ten)

Legislation Passed Passe and Pending

By STAFF MEMBER

BEGINNING the last week of its second month, the legislature:

A. *Has passed, among other things, the following laws and resolutions having State-wide effect:*

1. Four laws affecting highways, including: (a) The well publicized drivers' license law which represents the fusion of many legislative opinions; (b) an emergency appropriation of $3,000,000 for repair and improvement of roads and bridges; (c) removal of tolls from the Chowan and Cape Fear River Bridges; and (d) authority to the Highway Commission to acquire rights of way for scenic parkways.

2. Three laws outlawing recently popular pastimes, namely: (a) slot machines; (b) walkathons, marathon dance contests and similar exhibitions; and (c) solicitation of business by Justices of the Peace.

3. Laws affecting the professions of law and cosmetology: (a) the law by fixing an examination fee of $22, with a refund of $12 if the applicant fails, and by fixing the compensation of Bar Examiners at $50 per examination and of Bar Councillors at $10 per day, both with expenses; and (b) cosmetology by changing the qualifications for its Board of Examiners, by prohibiting its examiners from being also inspectors, and by making other changes.

4. Laws allowing cities and counties (that is, about half of them) to contract with hospitals for hospitalization of indigent sick, the amount to be paid by one unit not to exceed $10,000 per year.

5. Laws diversely affecting State Government by: (a) authorizing the State Historical Commission to accept gifts for specific purposes; (b) appropriating $500 yearly for transporting indigent sick world war veterans to hospitals; (c) granting power to the Department of Conservation and Development to regulate fishing apparatus and appliances; (d) making Class A pensioners of all Confederate veterans' widows who married the veterans before or during the Civil war; (e) repealing the license tax on studs and jacks; (f) allowing state employees, including school teachers, to give assignments of their wages in favor of hospitals, building and loan associations, and life insurance companies; (g) authorizing delegates (at their own expense) to attend a conference concerning tax matters with delegates from the legislatures of Georgia, Alabama, South Carolina and Tennessee; and (h) authorizing State College to borrow $25,000 from its alumni to improve its stadium, pledging gate receipts to insure repayment.

6. Laws affecting a variety of legal matters such as: (a) bonds given by commissioners appointed to sell property; (b) creation of a commission to study and codify the laws on estates, trusts, etc.; (c) renunciation of rights of curtesy by married men under 21 years of age; (d) the powers of guardians to farm the ward's land and continue operation of his business; (e) the method of discharging state witnesses in criminal cases; (f) the method of cancelling deeds of trust in certain limited types of cases; and (g) the venue of sales to make assets.

7. Resolutions petitioning the National Congress to do quite a variety of things, including: (a) use granite in buildings constructed as part of the public works program; (b) pay the soldiers' bonus, if it will not impair Government credit; (c) help the potato farmers (both sweet and Irish—by amendment) as much as it helped other farmers; (d) take the profit out of war; and (e) pass the Frazier-Lemke bill respecting refinancing of farm debts.

8. A resolution endorsing the "Register Your Baby Campaign."

B. *Has turned thumbs down, for the time being at least, on the following State-wide measures:*

1. Bills and resolutions affecting the highways or the highway fund which would have: (a) required the State to assume all County road bonds; (b) made imprisonment mandatory for those convicted of drunken driving; (c) requested Federal laws governing vehicles in interstate commerce and creating a Federal highway patrol.

2. Tax bills which would have: (a) levied new taxes on the manufacture of tobacco products; (b) rendered all stocks in foreign corporations subject to property taxation; (c) placed more stringent restrictions on the exemption from license taxes granted to midways and other such rustic amusements at agricultural fairs; (d) exempted from property taxation the homes of blind citizens, up to $2,000 per home; and (e) levied a special tax on single persons to finance small pensions for the widows and orphans of war veterans who did not stay single.

3. Bills providing: (a) $25,000 for the operation of the State Thrift Society; (b) $25,000 per year to run the North Carolina Symphony Orchestra and subsidiary branches; (c) pensions of $100 per month for widows of North Carolina Governors having an income of less than $1,200 per year.

4. A bill which would have repealed the Executive Budget Act which now allows the Governor and Advisory Budget Commission to reduce expenditures below appropriations in order to balance the State budget.

5. Bills which would have affected County government by: (a) allowing County Commissioners to abolish or consolidate county offices and to appoint tax collectors; (b) fixing minimum salaries for Sheriffs, Judges of Recorders Courts and Assistant Clerks of the Superior Court; and (c) authorizing counties to pay the expenses of three Commissioners to the meeting of the Commissioners' Association (instead of the present one).

6. Bills which would have placed limitations on: (a) the sale and use of fireworks; and (b) the number of Justices of the Peace.

7. Criminal bills which would have: (a) allowed a judge, after a recommendation of mercy by the jury, to sentence the defendant to life imprisonment in capital cases; (b) permitted sale instead of destruction of weapons confiscated in cases of conviction for carrying concealed weapons; (c) made robbery of a bank or building and loan association, with firearms, a capital felony; (d) made life imprisonment the punishment for robbery with firearms;

and (e) postponed the date on which slot machines were outlawed.

8. Miscellaneous and divers bills which would have: (a) required fire insurance companies to pay the full amount of a policy when there is a complete loss by fire; (b) allowed war veterans' guardians to invest in county and municipal bonds; (c) reduced the maximum interest rate from 6 per cent to 5 per cent; (d) required the reports of banks to show the amount of deposits in and amount of loans by each of its branches; (e) allowed all persons over 65 to hunt and fish without a license; (f) abolished estates by the entireties; (g) required all children to be inoculated, against diphtheria; and (h) limited to $200 the amount of the preferred claim which an undertaker has against a decedent's estate.

9. A resolution which would have made General Pulaski's birthday a legal holiday.

C. *Has not yet made up its collective mind with respect to hundreds of pending measures, among which are:*

1. Bills designed to raise money, such as: (a) the Revenue Bill; (b) amendments to the Constitution to raise the maximum income tax rate. Other bills: (c) requiring building and loan stocks to be listed for property taxation; (d) requesting the Federal Government to provide a fund of $100,000,000 for schools; (e) legalizing whiskey and high-powered beer and levying taxes thereon; (f) levying a tax on the production of electricity; (g) levying a new tax on brokers; (h) levying a license tax on dealers in scrap tobacco; (i) authorizing cities to tax for-hire motor vehicles; (j) asking Congress to pass the work relief bill, thus making available the funds for completion of the Park-to-Park Highway.

2. Bills designed to appropriate money, or to lessen the available supply of money by reducing taxes, such as: (a) the Appropriations Bill (which will make the great majority of all appropriations for school, general and highway purposes); other bills: (b) raising the salaries of school teachers and state employees from January 1, 1935; (c) authorizing the counties to purchase equipment for use in soil erosion work; (d) authorizing issue of $1,500,000 in State bonds to finance a State-wide school textbook rental system; (e) requiring the State to furnish financial aid, in varying amounts, to cities (for street maintenance) and to counties (to pay road bonds and for general purposes); (f) increasing the number of highway patrolmen; (g) appropriating $75,000 per year to coöperate with the Federal Government in maintaining a free employment service; (h) authorizing $250,000 in capital funds and $110,000 in maintenance funds for a tuberculosis sanitorium in the western part of the State; (i) appropriating $25,000 to finance training schools and medical treatment for the blind; (j) providing pensions, in varying amounts, for veteran school teachers, the aged and the unemployed; (k) appropriating $75,000 annually for a State Prohibition Commission to enforce the Turlington Act; (l) exempting homesteads from taxation; (m) broadening the $300 exemption from property taxes now allowed on certain types of personal property to include other or all types of personal property; (n) exempting from property taxation the property of hospitals which maintain nurses' schools; (o) reducing the amount of motor vehicle license taxes; (p) reducing the gasoline tax from 6 cents to 5 cents per gallon; and (q) exempting from the gasoline tax gasoline purchased by counties, cities and towns.

3. In addition to bills already mentioned, bills which would affect the school system by: (a) establishing a civil service system for teachers; (b) placing teachers under the Workmen's Compensation Act; and (c) requiring school busses to be equipped with safety glass, mechanical governors and other safety appliances.

4. In addition to bills already mentioned, bills which would affect highways and highway travel by: (a) making automobile liability insurance compulsory in certain cases; (b) lessening the liability of motor vehicle owners and operators to non-paying guests; and (c) requiring safety glass in all new vehicles after January 1, 1936.

5. A wide variety of election bills which would: (a) abolish the absentee ballot, or seriously modify its use; (b) make division of large precincts mandatory; (c) strip the State Board of Elections of some of its important powers; (d) require new registrations throughout the State before the 1936 primaries; and (e) attempt to solve the vexing question of how to confine voters to the primary of their own parties.

6. Criminal bills which would: (a) substitute hanging for electrocution; (b) substitute lethal gas for electrocution; and (c) strengthen the laws against obscenity, nudist colonies and roving bands of nomads.

7. Bills of great importance to labor and industry which would: (a) fix a maximum 40-hour work week; (b) outlaw "yellow dog" contracts; (c) restrict the power of the courts to grant sweeping injunctions in strike cases; (d) apply the Workmen's Compensation Act to the majority of occupational diseases; and (e) allow the State, in time of emergency, to write compensation insurance.

8. Bills which would, in various ways and in divers degrees, affect lawyers, dentists, photographers, court reporters, journeymen plumbers, steamfitters, and midwives.

9. Miscellaneous bills which would: (a) allow banks to invest and deal in the various new types of Federal securities; (b) eliminate double liability on bank stock as to all State banks; (c) require a record of all absolute divorces to be kept in the office of the Clerk of the State Supreme Court; (d) require annual vaccination of all dogs against rabies; (e) allow the governing authorities of counties, cities and towns to compromise 1932 and prior taxes still unpaid; (f) require quarterly instead of the present semi-annual payment of Confederate pensions; and (g) require election of the Revenue Commissioner and Highway and Public Works Commissioner, in place of the present appointment by the Governor.

10. A resolution favoring adjournment by March 9.

THE POLICEMAN

(*Continued from page eight*)

A man must be a real man to be a policeman. He must be a combination of rare, high qualities.

Yet many a policeman works for a wage less than a good kalsominer; and often his job is as unstable as the wind—a change of administration and he is out.

We should increase our esteem for our policeman. We should hold the office high. We should encourage specialized training for police work. We should make the service attractive to the fine type of man fitted for it; it should offer him a distinguished, permanent career. We should take the policeman out of politics and put him where he belongs.

$hortcuts and $avings

By the Purchasing Agents and Auditors of North Carolina

Watch Your Tax Advertising

ONE field where there is a great opportunity for substantial savings is in the advertising of the tax department. Take the case of one leading North Carolina county. Until recently delinquent tax notices were run in one of the daily papers at 45 cents an inch. These have now been transferred to a smaller paper whose rate is 20 cents. This amounts to quite a saving in the case of a large county.

True, the circulation is not so large, but this is not essential in the matter of notices of delinquency. Publication in the smaller paper meets the requirements as well as in the larger one. Nor is it unfair to the taxpayers. Most of them know if and when their property is to be advertised. Moreover, they are on their notice to look for the bad news in the smaller paper, and, having a natural interest in the subject matter, they seldom miss the advertisement if they want to see it. Indeed, some of them are glad to have the county use the smaller paper; it does not give the notice of their delinquency such wide publicity.

Different considerations apply in the case of the tax collector's advertisements announcing dates of listing, payments, discounts, making special appeals for payment, etc., and these are still run in the daily papers with the wider circulation. The county has effected another saving in this connection by taking advantage of contract rates.

The open rate it formerly paid was 85 cents for the afternoon, $1.40 for the morning paper, and $2.10 for both. Now it has a rate of 55 cents, 75 cents, and $1.20. To secure the lower rate, the county has to take a 1-inch ad each day. This costs about $200 a year, but the lower rate on the volume of advertising that the county uses in a year more than makes up for the expenditure.

Salvage 48-year Old Pipe

Forty-eight years old and as good as new after it was salvaged and cleaned. That's what engineers say about the cast-iron pipe line which the city of Durham is taking up and preparing to put into service again in extending its lines and reinforcing its pressure.

The line, which was around 9,000 feet long, led to an abandoned pumping station. It was laid in 1886, when the Durham water works was first started. Most citizens had forgotten its existence, and the city officials were on the point of placing an order for new pipe when the city engineer came forward with his suggestion to salvage the abandoned line. The work is being done for less than ten dollars a ton. There is some 600 tons of it, and the cost of new pipe is $42.50 per ton.

Not the least interesting thing about the project was the home-made but effective process the city engineer devised for cleaning the corrosion out of the pipe. Logs were wrapped with barbed wire and pulled back and forth through the pipe. When the scales were broken, it was an easy matter to apply an air compressor and give the pipe a thorough cleaning. The lead in the joints was also salvaged and enough secured to pay for the cost of cleaning the joints.

No Lost or Waste Postage

Another contribution from Guilford to our idea box is the central system of mailing, employing one of Uncle Sam's postage meter machines, which has been in use for the past year and a half.

A comparison of the annual cost of postage under the old and the new system is impossible, as the amount of mail varies from year to year and the rate for local letters was cut from three to two cents about the time the change was made. However, Guilford officials are convinced that the machine has saved the county in postage many times the cost of its rental.

The postage meter machine makes possible the use of a cheap grade of window envelope, which is much more economical than the regular stamped

(Continued on page thirteen)

CODES AND COSTS

What has been the effect on prices to governmental units of the Codes which have been adopted under the NRA by various industries? When you ask for bids, do the manufacturers, jobbers, and salesmen cry with one accord? "The Code! The bids will be the same!" And have you noticed any evidence of collusion or of lack of competition among the bidders?

The NRA authorities attempted to provide for the situation with the President's Order of June 29, 1934, allowing a 15 per cent differential on *most* purchases by governmental units. The express purpose of this order was to restore competitive bidding in sales to governmental agencies and to give governments the advantage of the terms to which they are entitled for sound economic reasons recognized by all vendors accustomed to selling to them. However, it was inevitable that there should be abuses in some industries. It must be borne in mind that this order is wholly optional with vendors, and certain industries have claimed exemption from its operation under emergency clauses.

Also, as would be expected in anything so new and so large, numerous changes and revisions have been necessary in some of the Codes. The petroleum industry is an example. By a recent order the dealer and the commercial consumer now may trade for any price and discount they wish. The whole thing as a result is very complicated and confusing for the purchasing agent and auditor.

The Institute of Government is initiating a study of the present status of different Codes in their relation to governmental purchases. If you would be interested in securing this information, please write Box 147, Raleigh, and be sure to watch for the summary of findings in the April issue of POPULAR GOVERNMENT.

Auto Takes Terrific Toll in State

Lead in Deaths per Gallon of Gas—New Driver's License Act May Help Curb Loss

By PROF. HARRY TUCKER
Professor of Highway Engineering, N. C. State College

DURING the year 1934 there were 986 persons killed in North Carolina in street and highway accidents. This represents an increase of sixteen per cent over the number killed in similar accidents in 1933. The Motor Vehicle Bureau of the State began collecting accident statistics in 1927. From a period of seven years, from 1928 through 1934, 5,417 persons have been killed in motor vehicle accidents, or an average of 774 fatalities per year. The average increase in highway accidents per year for the seven year period is 6.6 per cent.

Not only is the record of deaths in North Carolina from motor vehicle accidents deplorable, but it is estimated that about thirty thousand people are injured on the highways and streets of this State each year, while the property and economic loss will approximate thirty million dollars yearly. This high accident rate has likewise been responsible for a tremendous increase in the cost of motor vehicle liability insurance. At the present time $1.80 is required to purchase the same protection which could have been bought for $1.00 in 1929. Several insurance companies have found it necessary to discontinue writing such forms of insurance in this State. All of which, it is needless to say, imposes a heavy financial burden on those motorists who endeavor to avoid accidents.

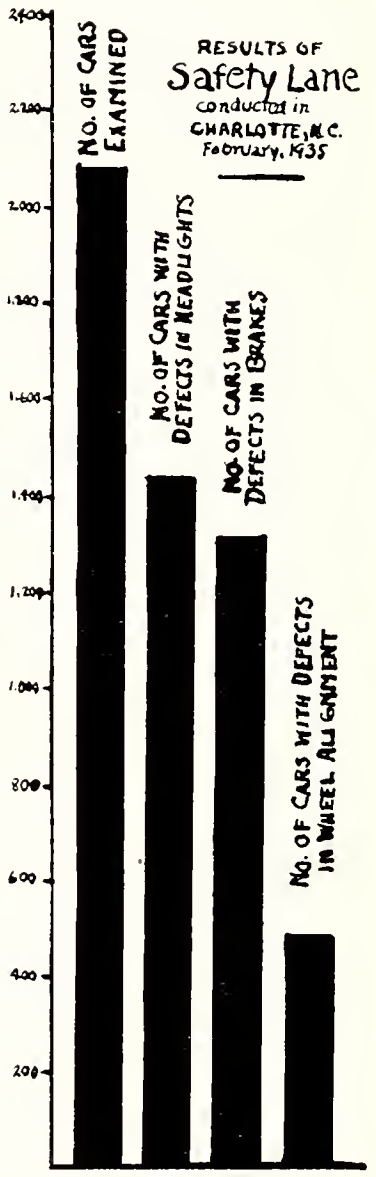
One Place We Do Not Like to Lead

The record in North Carolina may be compared with that for the entire country. It has been found that motor vehicle fatalities have increased considerably in all of the States, but the increase in North Carolina is far in excess of that for the country as a whole. As a matter of fact, it is difficult to compare accident statistics on the basis of the number of deaths alone. The number of vehicles registered and the distance which they are driven, are most important factors in highway accidents. The total number of miles traveled by motor vehicles can be determined fairly accurately by the amount of gasoline consumed. Highway fatalities can then be expressed on the basis of the number of deaths per ten million gallons of gasoline. Using this method, it is found that the motor vehicle accident record in North Carolina is the most unsatisfactory of any State in the Union. The following figures are based on deaths per ten million gallons of gasoline consumed and should be of interest:

North Carolina	(highest)	36.6
South Dakota	(lowest)	8.9
Virginia		25.6
Tennessee		30.0
South Carolina		31.1
Florida		23.8
Maryland		23.1
Average of all States		19.

Thus, on the basis of number of miles traveled as indicated by the gasoline consumption, it is found that North Carolina has the highest death rate of any State and almost twice as high as the average of all States. Here is a situation, then, which calls definitely for the regulation of highway traffic in such a way that the unsatisfactory record in North Carolina can be improved.

Four factors contribute to highway accidents: the roadway, the pedestrian, the vehicle, and the driver. It is safe to say that North Carolina has a system of highways which has been improved to such an extent that travel by motor vehicle should be as safe as in any other State. That this statement is probably true is shown by the fact that in North Carolina only 30 per cent of fatal highway accidents occur at intersections, while 50 per cent of such accidents occur at these dangerous points for the country at large. North Carolina is largely rural and there are not those tremendously congested traffic sections which prevail in many other parts of the country. Which means that North Carolina highways should be safer to use than those in many other States.



Likewise it has been found that the pedestrian is not as vital a factor in highway accidents in North Carolina as in other States. This is indicated by the fact that

only one out of every three persons killed in such accidents in North Carolina is a pedestrian, while in the country as a whole 50 per cent of all those killed in traffic accidents are pedestrians.

Of course, many accidents can be attributed to defects in motor vehicles. The results of the recent safety lane conducted in Charlotte, which are set out in the accompanying chart, are surprising enough, but it is not believed that the vehicles traveling over the highways in North Carolina are in much worse mechanical condition than those in other States. As a matter of fact, however desirable motor vehicle inspection laws may be, at the present time there are only six States which have this traffic legislation. It cannot be claimed, therefore, that the condition of the motor vehicle is responsible for the great increase in highway accidents in this State as compared with the other States.

Reckless Tar Heel Drivers

The facts seem to indicate that the driver in North Carolina is more reckless and indifferent to traffic regulations than in many of the other States. Since twenty-six States, at the end of 1934, had Driver's License Laws, it is possible that the unfavorable showing made by North Carolina drivers was due to the lack of such a law. In fact, statistics show that those States which have adopted strict Driver's License Laws have had accident records far more satisfactory than those prevailing in the States which do not have such laws.

It has been, therefore, evident to many thoughtful students of highway statistics for several years that North Carolina's unsatisfactory record in motor vehicle accidents could be materially improved only by having a strict Driver's License Law. A number of interested individuals and organizations have been working to this end for several years. The result of their efforts is North Carolina's new Driver's License Law, which was revised so as to make it one of the best such laws in the country, and which at this writing has passed both Houses but is subject yet to ratification.

The New Drivers' License Act

All motorists will be interested in the accompanying summary of the provisions of this law. If it is enforced as contemplated, the reckless and careless motorists will certainly be prevented from continuing to use the highways of the State.

If it were possible through the enactment of laws to make highway travel entirely safe, then it would be desirable for this General Assembly to pass additional highway legislation. Means should be provided whereby the mechanical conditions of motor vehicles could be checked periodically. Traffic rules and regulations should be made uniform throughout the State. The Motor Vehicle Safety Responsibility Act should be strengthened, and it would be desirable to pass a Motor Vehicle Civil Liability Law. These laws, together with the Driver's License Law, should serve as a basis for thorough regulation of motor vehicular traffic. With educational programs designed to acquaint the public with these laws, and with strict enforcement of their provisions, it is believed that North Carolina could then make a more serious effort to reduce the toll of deaths on its streets and highways.

Touching every motorist . . .

THE NEW STATE DRIVER'S LICENSE ACT

. . . at a glance

AGE LIMIT: Operator 16 years (consent of parent or guardian necessary if under 18). Chauffeur 18. Bus driver 21.

EXEMPTIONS: Soldiers and sailors operating machines in service. Operator of road or farm machinery temporarily on highway. Licensed non-residents of proper age. Non-residents from state not requiring license: Operators 90 days, Chauffeurs 10 days.

FORBIDDEN TO: Habitual drunkards or narcotic addicts. Persons suffering from mental or physical defect or unable to understand road signs, etc. Persons whose licenses have been revoked or suspended.

HOW SECURED: *"Old Drivers."*
Until November 1, 1935—Sworn application to official designated by Motor Vehicle Bureau. Requirements: One year's driving free of traffic violations prima facie entitles applicant. Cost: Free.
After November 1, 1935—Application and examination. Cost: Driver $1, Chauffeur $2.
"New Drivers": Examination covering mechanism, driving, and laws and rules of road. Cost: As above.

TERM. Operator: 3 years. Renewal without examination or cost. Chauffeur: 1 year. Examination but department *may* waive.

INSTRUCTION: By licensed driver, in control of car, in daylight.

PRODUCTION: Licenses must be signed and carried at all times.

SUSPENDED FOR: *Mandatory:* Conviction for manslaughter, driving intoxicated, or any felony in which a car is used; failure to stop and render aid after accident; perjury relating to ownership of a car; two charges of reckless driving within 12 months or one charge while transporting liquor.
Permissive (hearing within 20 days): Serious wreck obviously result of negligence, habitual recklessness, negligence, or violation of traffic laws; false application; permitting unlawful use of license, etc.

OFFENSES: Driving after license suspended or revoked. Penalty: Up to 6 months and $500. Misdemeanors: Refusal to produce license or name owner of car, using or possessing fictitious license, making false statement in application, permitting unlicensed minor to drive one's car, etc.

SHORTCUTS AND SAVINGS

(Continued from page eleven)

envelope, and eliminates the possibility of the use of county postage for personal letters.

It is in a way not so obvious, however, that the greatest saving is effected. This is in the matter of sending identical notices and mimeographed letters, such as poll tax bills and tax notices, where there are 200 or more copies, for 1 cent. When each department did its own mailing, it is said, Guilford County never sent a piece of mail for 1 cent. Now that one man does all the mailing and makes a careful study of postal regulations and rates, the county saves hundreds of dollars a year in this manner.

Nor does the central system of mailing impair the speed or service nor require any extra help. All courthouse mail is collected and sent out promptly twice daily, at noon and 5 o'clock. The work is taken care of by the custodian of the building.

Social Security on Congress' Lap

An Analysis of the Proposed Economic Security Bill

By MRS. MAY THOMPSON EVANS

THE *Economic Security Bill* began its long trek through the legislative morasses of Congress on January 17. Now it lies before the Ways and Means Committee of the House of Representatives and the Finance Committee of the Senate. An expectant public has eagerly perused its measures. Crowded, illuminating public hearings have attended its consideration.

Mrs. May Evans

This Bill comes to Congress as the most comprehensive proposal for permanent social legislation that any of our national administrations has yet desired or dared to present. Greater security for the larger groups of our citizens is the aim of the Bill, *security* being *"a reasonable subsistence compatible with decency and health."* The several provisions of the Bill attempt to alleviate the hazards of life for which we have no full solution—dependent old age, unemployment, dependent and handicapped youth, and the ravages of disease.

The far reaching measures of this Bill are resultant of the scientific study preceding the fashioning of the Bill. Humane concern and long-range vision constitute the grist of the mill from which *The Economic Security Bill* comes as the instrument to redirect the fundamental courses of American life.

Economy Security for All the Goal

To Congress last June President Roosevelt said, "Next winter we may well undertake the great task of furthering the security of the citizen and his family through social insurance." This had, also, been the President's covenant with the people upon his acceptance of high office. In fulfilling this covenant, he appointed a Committee on Economic Security whose membership included the Secretary of Labor, the Secretary of the Treasury, the Attorney General, the Secretary of Agriculture, and the Federal Emergency Relief Administrator; whose duty was to make "a comprehensive study of the whole problem of economic security for the individual, as a basis for the drafting of sound legislation to lay before the next session of Congress." The chairman of that committee, Madam Secretary of Labor, Frances Perkins, set about the task of preparing "a comprehensive program to serve as a frame work on which we can build, step by step, to our ultimate objective of economic security for the individual and his dependents." That study was conducted through the work and by the assistance of many groups of experts and social-minded citizens: A Technical Board of twenty people in the Government service; Actuarial Consultants; a Medical Advisory Committee; a Public Health Advisory Committee; an Hospital Advisory Board; a Dental Advisory Committee; an Advisory Committee on Public Employment and Public Assistance; a Committee on Child Welfare; and the Advisory Council, composed of citizens outside of the Government service representing employers, employees, and the general public.

Secretary Perkins announced that the Report of the Committee on Economic Security to the President would "be no theoretical affair to be embalmed in a handsome binding and then shelved indefinitely. It will be a practical analysis of the problems involved, and intended to serve as an authoritative basis for the drafting of appropriate legislation." It was from this authoritative basis that appropriate legislation, expressing the President's views, was drafted in *The Economic Security Bill.*

To Make the New Deal Permanent

Upon the simultaneous introduction of the Bill by Senator Wagner of New York, (S. 1130), and Congressman Lewis of Maryland, (H. R. 4142), the President submitted to Congress the Report of his committee on Economic Security, for the Report reveals the full significance of those recommendations which are incorporated in the Bill. An anxious country listened to the President's message that accompanied his first proposal for the permanent establishment of the New Deal.

Said the President:

"In addressing you on June 8, 1934, I summarized the main objectives of our American program. Among these was, and is, the security of men, women and children of the nation against certain hazards and vicissitudes of life. This purpose is an essential part of our task.

"In my annual message to you, I promised to submit a definite program of action. This I do in the form of a Report to me by a Committee on Economic Security. . . .

"I am gratified with the work of this committee and of those who have helped it. . . .

"It is my judgment that this legislation should be brought forward with a minimum of delay. Federal action is necessary to and conditioned upon the actions of States. Forty-four Legislatures are meeting or will meet soon. In order that the necessary State action may be taken promptly it is important that the Federal Government proceed speedily.

"The detailed report of the committee sets forth a series of proposals that will appeal to the sound sense of the American people. It has not attempted the impossible, nor has it failed to exercise sound caution and consideration of all the factors concerned; the national credit, the rights and responsibilities of States, the capacity of industry to assume financial responsibilities and the fundamental necessity of proceeding in a manner that will merit the enthusiastic support of citizens of all sorts.

"It is overwhelmingly important to avoid any danger of permanently discrediting the sound and necessary policy of Federal legislation for economic security by attempting to

apply it on too ambitious a scale before actual experience has provided guidance for the permanently safe direction of such efforts.

". . . Most of the other advanced countries of the world have already adopted it and their experience affords the knowledge that social insurance can be made a sound and workable project."

The Economic Security Bill provides the legislative machinery for old-age pensions; old-age annuities, both voluntary and compulsory; unemployment compensation; aid to crippled children, aid to dependent children, aid to child welfare services; appropriations for the Bureau of Public Health Service, and local public health services.

Providing for the Aged

Our country in the last few years has become starkly aware of the problem of old age. In 1930 there were 6,500,000 of our citizens over 65 years of age. To this group, as to others, our effort to cope with the depression has sent us fact finding. We know that half of those people over 65 years of age are dependent; that 700,000 people over 65 years of age are on FERA relief lists at an approximate annual cost of $45,000,000—in all, more than 1,000,000 old people are in receipt of some form of public charity.

Proposed Appropriations Under the Economic Security Bill

	Old-age Pensions
$ 50,000,000	1936
125,000,000	Each year thereafter
	Care of Dependent Children
25,000,000	1936
25,000,000	Each year thereafter
	Social Security Board
5,000,000	1936
50,000,000	Each year thereafter
	Unemployment Compensation
4,000,000	1936
49,000,000	Each year thereafter
	Maternal and Child Health
4,000,000	1936
4,000,000	Each year thereafter
	Care of Crippled Children
3,000,000	1936
3,000,000	Each year thereafter
	Aid to Child Welfare Services
1,500,000	1936
1,500,000	Each year thereafter
	Appropriations for Public Health
10,000,000	1936
10,000,000	Each year thereafter

State pension provision for the aged, though in law enactment it has gained progress in the last several years, has actually diminished in aid to those legally eligible. State and municipal funds to carry out provisions of the laws have been depleted. Although 28 States today have old-age pension laws, there are four times as many people over 65 years of age on the Federal relief lists as are now receiving pension benefits under State laws. The average State monthly pension for 1934 was $19.74.

Facts have continued to outline the increasing proportions of the problem of old age. The trend of industry in lowering the age limit for applicants has practically eliminated the possibility of old workers being reabsorbed in industrial work after once having been forced into the ranks of the unemployed. Experience through Reemployment offices has revealed the same trend concerning old workers in all the trades. Furthermore, the lengthening of the span of life by medical advancement, and the lowering of the mortality rate have raised the expectancy of life from 41 years in 1870 to 60 years in 1930. In 1870, less than 3 per cent of our total population was over 65 years of age; in 1930, the percentage was 5.4. Computations show that the percentage by 1940 will be 6.3; by 1975, 10 per cent.

State and Nation Would Split Cost

Concerning old-age pensions, the committee's recommendation was that "only non-contributory old-age pensions will meet the situation of those who are now old and have no means of support. Because most of the dependent aged are now on relief lists and derive their support principally from the Federal Government, and many of the States cannot assume the financial burden of pensions unaided, we recommend that the Federal Government pay one-half the cost of the old-age pensions, but not more than $15 a month for any individual."

The provisions of the Bill for old-age pensions carry out the committee's recommendations on the well-known Federal-State basis of dollar-for-dollar, applicable only to those States which have old-age pension laws acceptable to the Federal Government in adequacy and efficiency. Federal assistance, however, is not in the form of outright grant to the State, but in the form of a lien on the estate of the aged recipient.

Old Age Annuities for the Future

The only feature of the Bill that might in any way approach the novel in the thinking of the average American citizen is the principle of compulsory insurance, the basis in the Bill for both old-age annuities and unemployment compensation.

The President's views, upon establishing an insurance system by legislation, were expressed to Congress:

"In the first place, the system adopted, except for the money necessary to initiate it, should be self-sustaining in the sense that funds for the payment of insurance benefits should not come from the proceeds of general taxation. Second, excepting old-age insurance, actual management should be left to the States, subject to the standards established by the Federal Government. Third, sound financial management of funds and the reserves, and protection of the credit structure of the nation should be assured by re-

taining Federal control over all funds through trustees in the Treasury of the United States. . . ."

This section of the Bill provides annuities only for those whose incomes are less than $250.00 a month, and only for those employed in gainful occupations. Payment of annuities would not begin until 1942, annuities to be a graduated percentage of one's average monthly wage, the maximum average wage being $150.00 The annuity age is sixty-five.

Under the annuity plan of this Bill, the old age of those now young will be provided for entirely by matched contributions from employers and employees paid into an Old Age Fund, at the rate of one per cent of the payroll, divided equally between employers and employees, increased by one per cent each five years until the maximum of five per cent is reached in twenty years.

Workers whose payment years will not be sufficient to build up an adequate reserve upon reaching the age of sixty-five are provided for in proportion to the number of weeks for which taxes have been paid.

Professional and self-employed groups who also become dependent in old age, are not included in the compulsory insurance provisions. For this group, the Bill provides a voluntary plan of annuity certificates. Such annuities, however, may not exceed with interest accretions more than $100 a month after the individual has attained the age of sixty-five.

Self-sustaining Unemployment Insurance

The proposal of the Bill for unemployment compensation is the levy of a uniform Federal payroll tax, ultimately reaching three per cent of the payroll, 90 per cent of which is credited to employers contributing under a compulsory State unemployment compensation act. The remaining ten per cent is the amount allowed for the costs of Federal and State administration of the system.

The Bill leaves the administration of the State act to the State, and to the State its own decision concerning such features as employee-state contributions, payroll tax reduction on merit basis, size and duration of benefit payments, pooled or reserve funds or guaranteed employment agreement.

The Bill provides, however, that all State funds be deposited with the United States Treasury in an Unemployment Trust Fund to be invested by the Secretary of the Treasury. The interest from investments will be divided proportionately among the States.

As contemplated by *The Economic Security Act* "Unemployment Compensation" does not entail ultimately any appropriation by either Federal or State Government for the creation of its reserves. It is self-sustaining, and the Bill merely suggests the machinery through which the employer and employee may mutually contribute under proper safeguards for each the amounts necessary to provide a reasonable wage to workers during limited periods of unemployment.

In estimating how such a system as this proposed in the Bill would have operated through the last few years, the Committee Report says:

"If a system of unemployment compensation had been in operation everywhere in this country during the years from 1922 to 1933, it is estimated that a 3 per cent contribution rate with this coverage would have resulted in average total collections of approximately $825,000,000 per year, or $10,000,000,000 in the entire period. The estimated collections would have varied from a high of approximately $1,040,000,000 in 1929 to a low of $560,000,000 in 1932. During the twenties the contributions would have considerably exceeded the benefits paid and at the maximum point in 1929 approximately $2,000,000,000 would have been accumulated in the unemployment reserve funds, which would have been spent quite rapidly after the depression set in. In comparison with the emergency relief expenditures, now approximating $1,800,000,000 per year, or the $1,000,000,000 annually invested by the workers of the country in industrial insurance even during the depression, and the more than $20,000,000,000 of assets of life-insurance companies, the total annual contributions and maximum reserves in a Nation-wide unemployment compensation system are small, but they are by no means negligible."

The Bill creates within the Department of Labor a Social Insurance Board composed of three members appointed by the President whose duties are in administrative and advisory capacities concerning the insurance measures of the Bill.

Caring for the Child and Cripple

For the coöperation of the Federal Government with State agencies in extending and strengthening services for the health of mothers and children, particularly in rural areas, the Bill makes an appropriation, to be allotted to the State on the dollar-for-dollar basis.

As with maternal and child health the expenditure for the care of crippled children is especially allocated to rural areas.

Also, especially for rural areas, there is an appropriation to assist child welfare services in the care of homeless, dependent and neglected children upon the same Federal-State dollar-for-dollar basis.

For scientific research in the field of diseases, and in the problems of sanitation and related matters, and for assistance in developing State-health services, the Bill makes an appropriation to the Bureau of Public Health and to Public Health Services.

Plan for Prevention as Well as Alleviation

The program provided for in the Bill is stupendous, reaching into the rural areas as well as into industrial centers, attempting to regulate the livelihood of the young and the old. All in all, the Bill has combined the most imperative proposals for "the establishment of sound means toward a greater future economic security of the American people." . . .

The President says, "This plan for economic security is at once a measure of prevention and a method of alleviation. We pay now for the dreadful consequences of economic insecurity—and dearly. This plan presents a more equitable and infinitely less expensive means of meeting these costs."

The amount necessary for the present initiation of the suggested program would be approximately $100,000,000. The President says, "We cannot afford to neglect the plain duty before us."

Will Congress pass *The Economic Security Bill?*

THE GOLD CLAUSE CASES

(*Continued from page one*)

Shylock Claims His Pound of Flesh

The holders of such obligations, admitting the power of the Government to prevent the export, withdrawal or holding of gold as a protection to the currency system, nevertheless contended that they should be paid the equivalent in gold value, or $1.69 in legal tender for every dollar of the old gold standard. The increase in the annual interest payments of private gold clause obligations alone would have been about $2,600,000,000, equivalent to a tax per year of more than $20 on every man, woman and child in this country. This annual increase would be more than twice the total gross market value of all the cotton and all the wheat grown in the United States in 1930; one and one-half times the estimated amount of the dividends and interest paid in the United States in 1932, or five times the amount of the total mortgage interest payments in 1932 on all farm mortgage debts. This annual increase would be almost three times the amount of factory wages paid in 1932.

The annual increase in the interest payments alone on an estimated twenty-five billion dollar principal amount of gold clause obligations of the Federal Government, the states and municipalities, would be, at the assumed rate of four per cent, $695,200,000; and in the case of the Federal Government only, with an average interest rate of about three and one-half per cent, the increase in the annual service charge on the principal amount of approximately twenty billion dollars of debts outstanding on January 31, 1933, would be nearly one-half billion dollars, while to states, counties, cities and towns payment either in the old gold standard or its equivalent in value would have meant bankruptcy. This would have happened to the great city of New York and to my home town of Washington, both of which so far have managed to meet their obligations, and to thousands of others as well; but more than all that, every individual who had a gold clause mortgage on his home and every company which had one on its property would have been obliged to pay in gold of the old standard, which was recognized to be impossible, or its equivalent of $1.69 in lawful money for each one dollar of the indebtedness.

In the case of the Missouri Pacific Railroad, one of the Gold Clause Cases before the Supreme Court, the increase would have been in the principal amount of its gold clause indebtedness from $438,787,064 to $742,954,257, and proportionately in every other case.

National and State Bankruptcy Avoided

A similar situation applied to every county and municipality in North Carolina with outstanding gold clause obligations, as well as to thousands of home owners and hundreds of public and private corporations. I am informed that on January 1, 1935, the bonded debt of our local units was just above $317,000,000, most of which, no doubt, contained the usual gold clauses. If so, this amount, when measured by current money, would have been increased to about $536,000,000. At the same time, the receipts and revenues of these various municipalities and other corporations, public and private, as well as most individual income, would continue to be payable in lawful money, so that $1.69 would have to be paid for every dollar collected, and no sinking fund could be adequate in that situation.

This danger no longer threatens, and as a result of the decision it is not too much to say that national and state bankruptcy has been avoided. As a direct result also, mortgage indebtedness has become bearable again while stocks and bonds have materially enhanced in value. Parity has been established so that one dollar is exactly equal to every other in this country, both in purchasing and debt paying power.

OUR CRIME PICTURE 1914-24-34

(*Continued from page seven*)

crease in negro criminals. As the chart shows, twenty years ago Negroes committed more than one-half of the crimes, but the proportion dropped steadily until last year only slightly more than one-third of the crimes were committed by Negroes.

The annual number of crimes by Negroes has remained almost static during the past twenty years, but the number by white persons has steadily increased. Since the inferior courts dispose of large numbers of the less serious offenses, these figures do not necessarily indicate a decrease in the proportion of the total crimes committed by Negroes, but may indicate merely a transfer of such cases from the Superior to the inferior courts. However, since practically all major offenses are tried in the Superior court, these figures may indicate that white persons are committing more, and Negroes committing fewer, serious offenses. More definite conclusions on this point will have to await studies of the distribution of crimes by types of offenses.

One Woman to Fourteen Men

The distribution of criminals by sexes has remained almost constant over the past twenty years—approximately one woman for every fourteen men. This indicates that among our criminals there is almost a constant ratio of women to men, the proportion of women being relatively small.

The distribution, according to the disposition of cases, offers a more complicated picture. For the two earlier years nearly three-fourths of the cases tried resulted in convictions, but for last year the proportion of convictions dropped to two-thirds of the cases disposed of. Last year a larger proportion of the cases resulted in acquittal or were nol prossed than in either of the earlier years; however, the large number of cases reported for 1914 under the catch-all "Others" makes that year's figures very unsatisfactory for comparative purposes. An examination of the figures for the intervening years indicates, as does the chart, that, necessarily, as the percentage of convictions decreases the percentage of discharges, either by acquittal or nol pros, increases.

Acquittals and Nol Prosses Mount

When we consider acquittals and nol prosses as the two forms of discharge, it is apparent that the importance of the nol pros has increased during the past two decades. Last year, which was typical of recent years, revealed the increasing tendency to dismiss charges without trial, but without reflecting a proportionately higher percentage of convictions. This decrease in convictions

with the increase in acquittals and nol prosses may be entirely without significance: or, if they have significance, there may be numerous contributing factors, i.e., greater leniency of judges and juries, stronger tendencies by defendants to employ counsel and to fight charges of crime, increased unwillingness on the part of prosecuting officers to accept pleas of guilty for lesser offenses than those charged, increased numbers of cases pressed by officers and citizens without evidence sufficient to convict, and decreased vigor in the prosecution of cases. These, and other factors, may eventually be shown to account for this decrease in convictions, but for the present it merely offers interesting material for speculation.

To summarize, perhaps the most interesting revelations of these charts are: the decrease in the total number of Superior Court crimes during recent years, the proportionate increase in the Superior Court of crimes by white persons, the lack of change in the distribution of crimes according to sex, and the proportionate decrease in the number of convictions.

THE STATE'S LEGAL CHIEF SPEAKS

(*Continued from page seven*)

reason for the law. We have now this anomaly: When a person is charged with crime on the streets and makes no denial, this may be proved against him on his trial as evidence of his guilt, yet when upon trial he is accused of guilt in the most solemn and direct way, we do not permit his silence to prejudice his cause. It is worse than absurd.

4. The fact that the defendant generally has double the number of peremptory challenges given the State, and in capital cases three times the number, merely illustrates the inequitable advantages given to the person charged with crime, to which I have referred. Mr. Pou's suggestion is worth putting into effect.

5. I can see no injustice to a person charged with crime to require that he should, in apt time, acquaint the State with the intention to prove an alibi or insanity, provided sufficient time is given to the defendant to enable him to give such notice and procure the witnesses for his defense. Both defenses are of such a nature that the State might be surprised, in the midst of the investigation, with defense testimony that it is wholly unprepared to meet. In the case of insanity especially, the mental condition of the defendant, when insanity at the time of the trial is pleaded, is a matter which may well be investigated before hand. When insanity is pleaded as a defense against the charge of guilt, or evidence of such insanity introduced under the plea of not guilty, the defendant may obtain an advantage by carefully prepared evidence, which the State would not be in position to meet. I approve of Mr. Pou's suggestion that the defendant who intends to rely upon either of these pleas should be required to give notice. Some discretion must be given the trial judge, however, so that the defendant may not be deprived of such a defense by reason of the fact that his evidence was procured, or discovered, too late for the notice.

7. I agree with Mr. Pou that repeating offenders ought to be dealt with more severely than first offenders, because out of the latter there are a surprising number of reformations. I also agree with the principle that an incorrigible, or habitual felon, ought to be perpetually imprisoned.

On some of Mr. Pou's suggestions I make no comment, because it is not clearly established in my mind that the suggested amendments to the criminal law are of comparative importance.

There is one suggestion, however, in which I do not find myself in complete agreement with Mr. Pou. It is the suggestion that judges should be given larger discretion in the selection of jurors. I think upon the whole Mr. Pou's viewpoint in this respect is optimistic. I adhere strongly to the principle of separating the functions of the judge from that of triers of the facts, as far as it may be practiced in an organized court, and in a common judicial investigation; and I think the judge should have as little as possible to do with the selection of the jury. Upon a challenge to the favor, he already exercises a large discretion, and it seems to me that the integrity of the court can better be conserved by keeping the power of the judge within its present limits, at least. Any larger discretion than he now exercises, permitting him to examine, and reject or accept jurors ex mero *motu* would, I think, be attended with great harm, if, unfortunately, the court happened to be presided over by an officer wanting in the judicial temperament.

I am not inclined to favor the change in the constitutional prohibition against requiring the defendant to give evidence against himself. Here again I think that the outlook on human nature and official nature is too optimistic. Unquestionably, this clause in our Constitution has an historical background—that inquisition of a person charged with crime which sought to obtain a confession by torture. I am convinced that in spite of the progress we have made, unless this provision remains, the "third degree" would be more freely resorted to than it is today. As happily expressed to me by a noted law teacher "Political forms have changed greatly and often in the last thousand years but human psychology has remained the same."

Most of the suggestions made by Mr. Pou have the endorsement of the American Bar Association and of the law associations generally throughout the country. I have some suggestions along the same line, perhaps more revolutionary than these, which I think also ought to be considered. They may be considered both from the standpoint of economy and ultimate justice to society.

Too many cases are returned for retrial on account of purely technical error. The courts are not wholly to blame for this, at least not immediately so. Precedent has become an iron rule, so firmly established in the judicial policy of this country as to virtually prevent progress or reform through the courts. Indeed, in some instances, at least, appellate courts would have to receive newly created constitutional authority to enable them to get out of the rut.

(a) I would suggest that more "leeway" be given in the trial of criminal cases—that the judges be given reasonable discretion in the admission and rejection of evidence—which would relieve against the automatic operation of existing rules and largely withdraw that subject from review by an appellate court, within limitations which would secure a reasonably fair trial in the court below.

(b) The law also should be so amended that a convicted defendant, to be successful in his appeal, must show that the error complained of, whether in the admission or rejection of evidence, or the instructions of the court to the jury, has

caused a substantial miscarriage of justice—not that it *may have* prejudiced the defendant. The actual loss to the State in dollars and cents by the retrial of cases sent back for error that cannot be regarded other than technical in the sense of being unimportant to the general result, and on account of metaphysical abstractions relating to the instructions to the jury, which not one juror out of ten thousand, and sometimes not very many lawyers, can grasp, would be amazing if set down in cold figures.

It must be thoroughly understood that the courts are not to blame for this. It is a system thrust upon them, from which they would like to get away if they had the power, which they have not; and it is the same throughout the country. The remedy lies with the people themselves, to be exercised through amendment to their constitutions and their laws.

In as much as the proposed amendments to the law are suggested as a remedy against the increasing crime wave, I think I ought to add that the real defense against increasing crime lies in another direction; not so much an amendment of criminal procedure as in administration. North Carolina presents no organized front against organized crime. Some people may say we are too poor, but the State should have a Department of Justice. Time was when it was too poor to educate its citizens, although I have seen instances where one devoted girl teacher in a community did more to shorten terms of criminal courts than all the punishments meted out in that county for a generation.

We still try to meet crime in North Carolina with disorganized forces on the "hit-and-miss" principle, as to detection of crime, apprehension of criminals, and their trial and punishment. When other states round about us are organizing to fight continually increasing crime, it can readily be seen that if something is not done about it in North Carolina, it might easily become the paradise of the gangster.

THE SCHOOL DEBT FIGHT

(*Continued from page three*)

zens built were more costly than the buildings put up elsewhere in the county; that they were not absolutely necessary to the operation of the six months school term guaranteed by the Constitution; that the county, under the broadest interpretation of the law, is obligated to provide only what is necessary for that term; and that, therefore the county cannot be required to assume debts incurred in constructing these city buildings.

When Are Buildings Necessary?

Considerable testimony was taken at the trial with regard to the comparative costs of school buildings in Greensboro and school buildings out in the county. In general it tended to show that, while there was no great difference in the per room cost of buildings, the per pupil cost of buildings in the city was considerably higher. To affect this the city argued that such matters as necessary fireproofing, higher labor costs, and the advantages of a more permanent type of construction should be given great weight.

The county also contended that the school sites purchased by the city were too large and therefore unnecessary. The jury found that the sites, buildings and equipment in Greensboro were not reasonably essential to the operation of the constitutional six months school term.

That would seem to settle the particular case were it not for the fact that the whole investigation into the necessity of the buildings was conducted over the city's protest. The county did not contend that the city school authorities were guilty of any fraud or gross abuse of discretion in providing buildings, sites and equipment. Therefore, the city argues, the action of the city school authorities was final determination that the buildings, sites and equipment were necessary to the operation of the six months term, and neither the county commissioners nor the courts have any right to reopen the question. This argument is based on a long line of cases in which our Supreme Court has held that, once it is decided that a general object of expenditure (such as putting up a school building) is a necessary expense, the proper local officials have complete discretion in determining the amount which will be spent and the particular type of building or service which will be provided; and the courts cannot inquire into their decisions in the absence of fraud or gross abuse of discretion.

Local Questions Become State Questions

It seems clear then that the Greensboro-Guilford case may present at least two questions which have tremendous significance all over the state.

First, can county commissioners be forced to assume district school debts, regardless of whether or not they have assumed other district debts, if those debts were incurred to provide buildings necessary for the operation of the six months' school term?

Second, is the determination of the district school authorities, that buildings were necessary to the six months term, binding on the county commissioners, upon whom the Constitution itself places the primary responsibility to provide such buildings, or can the commissioners, in the exercise of their own discretion, deny the necessity of the buildings and leave the dispute to be settled by the courts?

These, then, are the primary legal questions involved; but the taxpayer is more interested in the ultimate effect on his tax bill than he is in the mere determination of a few knotty legal problems.

If the Court decides this case in favor of Guilford County there will be no change in the present situation, at least for the time being. If the Court decides the case in favor of Greensboro on the basis of some fact peculiar to the particular case, there will likewise be no immediate change in the situation, but there will be other cases coming up soon to press the Court for a decision on the broad principles involved.

If the Court sustains Greensboro in its contentions that the county must take over debts incurred for necessary school buildings and that the determination of the district school authorities fixes the necessity of the buildings once and for all, then indeed will the Court's opinion have an immediate effect upon the pocketbooks of the majority of taxpayers in the state. It will mean that city school districts everywhere will unload their school debts on the counties, thus leaving their own tax revenues free for other purposes.

It is impossible to predict the peculiar results this unloading might bring in particular cases. For instance, if a county already heavily in debt is forced to assume a large school debt, conceivably the county might be compelled to go through a long and expensive process of refunding its debts in order to provide a schedule of matur-

ities which it could reasonably be expected to meet. Correspondingly, a city might avoid the necessity of refunding if it got rid of its school debt.

Possible Effect on Local Tax Rates

Without attempting to give further examples of possible results in individual cases, we can pass to the general results, which would be more or less uniform in all counties required to assume city school debts.

In the first place, we know that the county-wide tax rate would inevitably be raised. How much or how little it might be raised immediately would depend upon the amount of the debt assumed and the dates on which the principal of that debt must be paid.

We also know that it would mean at least a temporary decrease in the combined tax rate now being levied by cities and their school districts. Thus in Greensboro, according to the City Manager, it would remove from city property a school debt service levy of 17 cents, some 8 cents of which would be returned as a county-wide levy. Thus there would be a theoretical saving of 9 cents on each $100 of taxable values, a part of which would be lost by the further increase in county-wide taxes which would be necessary if the county were compelled to assume High Point's school debt also. The entire amount of the county-wide levy would, of course, represent an increase in the tax rate of the rural taxpayers of the county.

Do we know whether or not this saving to the city taxpayers would be a permanent one? The only reasonable answer seems to be "no." There are very few cities in the state today which do not desire greater revenue than they now have for purposes other than schools. Yet their authorities do not feel that they can justifiably raise the tax rate. If, by shifting the school debt to the county, a city can effect a net reduction in the combined city-county tax rate of 5 cents or 10 cents or 15 cents, will not there be considerable temptation to raise the much-desired revenue by increasing the city tax rate for other purposes, at least to a point where the city-county rate is no higher than it was before? If city authorities yield to this temptation the result will be, of course, that while the taxes of rural taxpayers will increase, there will be no corresponding decrease in the taxes of city taxpayers.

Two years after a city school debt is assumed by a county no one will be able to determine whether the city rate is lower than it would have been without the assumption. This assertion is supported, in part at least, by the history of city and county tax rates following the state's assumption of the road and school maintenance burdens.

To the public the chief issue, on the surface, may well be the question of whether or not it is right to require rural taxpayers to help pay for city schools. It will be urged by those favoring the shift that city taxpayers have long helped pay for rural schools; and this is undoubtedly true to varying degrees in many cases. It will also be pointed out that many rural children are now enrolled in city schools, particularly in high schools. On the other hand it may be urged that the rural taxpayers are unable to bear any further taxes, as evidenced by the high percentage of tax delinquency of the past few years; and that it is only right that city taxpayers, who handle more cash and hence have a greater ability to pay, should be called upon to help pay for schools in the rural sections which serve as feeders for the commerce of the cities. There will be many who feel that civic morals will suffer a blow if the unit which willingly created a debt is allowed to force others to help pay it.

The writer is not greatly concerned in this article with the right and wrong of the situation. He is inclined to think that it depends much upon the particular case; that is, upon the relative burdens and benefits of the rural and city taxpayers of a given county during a fairly long period of time. The writer does, however, wish to point to one possible result of requiring the counties to assume these debts which seems to him to have tremendous significance.

The whole current of our state school policy since the beginning of the depression has been to place all school systems on the same level. To force assumption of district school debts by the counties would be one further step in that direction, and might well be such a decisive step that cities would find themselves forever barred from having better school buildings than those in the rural districts.

Price of Debt Relief to the Cities

Thus city school buildings of the future would be built in accordance with the county commissioners' idea of what is necessary rather than in accordance with the ideas of city school authorities. And directing the judgment of the county commissioners, in many if not in most instances, would be the votes of the rural taxpayers. I mean by this a much more active direction than is implied in the mere fact that rural taxpayers help elect the commissioners.

Up until last spring it was generally thought, because of the Constitutional provision already mentioned in this article, that when the county commissioners decided to issue bonds to build a school no authorizing vote of the people was necessary. However, last spring, in a case involving Yadkin County, our Supreme Court decided that 15 per cent of the county voters could demand an election on a proposed school bond issue and that the bonds could not then be issued unless approved by the voters.

Thus we see that, even if city school systems could persuade the commissioners that the cities ought to have better buildings because of differing conditions and because of the high percentage of the taxes they pay, the rural voters might still be able to overrule the commissioners by the simple process of defeating the necessary bond issue. Their attitude toward such a bond issue is not hard to predict in a county where their tax rate had been increased by a forced assumption of city school bonds.

These considerations can hardly be minimized by saying that the cities should not have and will not want better schools than the general average of all those provided in rural districts. Our experience in more prosperous times proves almost conclusively that the cities, in such times, do want better schools than the counties will provide. Further, whatever school progress we have made is due in part at least, to the fact that the cities did build better schools and thus whetted the appetites of other voters whose children had less acceptable school accommodations.

Do we have, then, a situation in which the cities, in order to secure temporary relief from pressing financial emergency, are seeking to renounce all future right to build better than average schools—a right which they may well not regain without a constitutional amendment? If so, is the pottage they seek the equivalent of the birthright they would sell?

Bulletin Service

(Material for this issue contained in Departmental Letters from January 15 to February 15. All rulings in this issue are by the Attorney General)

Prepared by
MALCOLM B. SEAWELL

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

I. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

30. Situs of personal property.

To A. J. Maxwell, February 5. Inquiry: Husband dies and leaves wife as beneficiary of a $10,000 life insurance policy. The wife receives a check for the amount, but does not cash it; she sends it back to the company under a guaranteed income plan, by which the company agreed to pay the widow earnings on this investment each year with guaranteed minimum of 3 per cent. The widow has no right to withdraw the money. At her death the principal goes to her children. Must the wife report this fund as personal property for ad valorem taxation in the county of her residence?

(A.G.) We do not think so. Personal property is taxable at its situs. Here the wife has no control whatsoever over this fund except that she receives an income therefrom for life. She would, of course, have to pay tax on the income received from the fund.

B. Matters affecting tax collection.

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

To H. G. Connor, Jr., February 5. (A.G.) In the absence of a special statute specifically authorizing your County Board of Commissioners to remit the penalties and interest on back taxes, they would not have the legal right to do so. I know of no such statute and, therefore, advise you that the county authorities cannot make this special arrangement.

15. Delinquent taxes—incidents of notes given under Ch. 181, P.L. 1933.

To W. B. Breese, January 31. (A.G.) You inquire if the commissioners of your county have the right to collect a penalty on delinquent taxes for the year 1930.

This may be done provided such taxpayer did not take advantage of the opportunity to refund the tax sale certificate as provided by Chapter 181, Public Laws 1933. I call your attention to the fact that such agreements between the taxpayer and the county should have been entered into on or before the first day of April, 1934, in order to come under the provisions of this Act.

51. Tax collection—discounts; P.L. 1933, Ch. 181.

To Zeb Vance Norman, February 14. Inquiry: Can discounts be made only upon the principal of installment notes or combine principal and interest on installments, under Chapter 181, Public Laws 1933, Section 9?

(A.G.) This Department has held that the discount must be made, upon tender and demand, upon installment due and interest therefrom.

Doubtless it was not clearly foreseen that a discount of ten per cent would be rather unjustifiable the day before an installment was due, but inasmuch as it is a question between the taxpayer and the county, we have to resolve doubts in favor of the taxpayer. The Department has uniformly advised that the discount is upon the interest as well as the principal.

56. Tax collection—personal bond of collector.

To Charles Hughes, February 7. Inquiry: Can sheriff and tax collector give personal bond?

(A.G.) In the absence of public-local laws the sheriff and tax collector can give personal bond.

73. Tax collection — levy on personal property after levy on real property.

To George T. Davis, February 14. (A.G.) You inquire if the present sheriff, who now has the 1934 taxes in his hands for collection, can take the 1933 tax tickets, which have been sold and certificates issued thereon, and collect the same by levying on the personal property of such taxpayers whose land was sold for taxes and such certificates issued for the 1933 taxes.

The taxes should perhaps have been collected out of the personal property of such taxpayer prior to the time the property was sold for taxes; however this not having been done, but on the other hand, real property was sold for such taxes for the year 1933, it would be too late now for the tax collector to proceed against the personal property of such taxpayer. This could be done only in the event the real property, which is represented by these tax sales certificates, did not bring in sufficient funds upon foreclosure to satisfy such taxes.

81. Tax collection—attorney's fee under C.S. 7990.

To W. R. Easterling, February 5. (A.G.) There is nothing in Consolidated Statutes 7990 which would place a limitation upon the amount of attorney's fees to be included in the costs in an action to foreclose the lien created by this section of the Consolidated Statutes.

IV. Public schools.

F. School officials.

6. Liability of county board for tort.

To John W. Comer, January 31. (A.G.) The transportation of children to the public schools is a State undertaking and there is no liability on the part of the State, or on a part of the school fund, for personal injury sustained by a pupil being so transported due to the negligence of the driver.

Neither the driver nor the contractor would, however, have this immunity from liability for negligent operation of the bus. There is no liability, under the law, on the part of the County or State.

35. County superintendent — duties as welfare officer.

To Pat Kimzey, February 15. Inquiry: May county board of education pay the county superintendent for acting as welfare officer when no welfare officer has been appointed?

(A.G.) Section 5016 of the Consolidated Statutes provides that no extra compensation shall be paid to a County Superintendent of Schools for acting ex officio as welfare officer. This would be controlling in the absence of a special statute applying to the particular county.

I. School property.

5. Property deeded to a school provisionally.

To J. R. Brown, January 31. (A.G.) You state that a school site was sold to your County Board of Education in 1918, with the proviso in the deed that such site would revert to the seller when the land is no longer used for school purposes. You further state that the county or the district built a school house thereon and operated the same for a period of approximately ten years and then discontinued through State advisement of consolidation. You inquire who owns the land and who owns the building situated thereon.

This seems to be an analogous situation to that set out in School Committee v. Kesler, 67 N. C. 443, but we are unable to pass upon the question unless we have the deed before us. (In the Kesler Case the Court held that property deeded as

this property seems to have been deeded became a fee simple absolute in the county or district.)

VII. Miscellaneous matters affecting cities.

Q. Town property.

10. Sale of town property.

To J. Shepard Bryan, January 22. (A.G.) You inquire if where municipal property is sold under auction in accordance with C.S. 2688, the advertisement has to run four successive times in a newspaper and notice be placed at the courthouse door and at three other public places in the county the same as the advertisement in tax foreclosure proceedings.

We do not think this would be entirely governed by the rule set forth for the sale of land under a tax foreclosure proceeding; however, we think that C.S. 2688 should be followed strictly as this seems to be the only method whereby a town might dispose of any real property which it owns.

A resolution by the Town Board authorizing the sale and appointing the commissioners to sell it, would, in our opinion, be sufficient without reference to any court order. We do not think the Town Board could reserve the right to reject bids made on the property and after sale has been had at public auction, convey the same property to a former owner at a lower figure than was bid at the sale. The Statute is specific in stating that the sale is to be made "to the highest bidder." Of course all such sales are subject to confirmation by the Town Board. This confirmation would be the execution of a proper deed for the property.

W. City purchases—payment.

To Messrs. Bridges and Orr, January 21. Inquiry: Citing applicable sections of the Consolidated Statutes, 2892, providing that "all final votes of the city council involving an expenditure of $50 or over shall be by yeas and nays and shall be entered upon the records." Chapter 338, Public Laws of 1931, relating to informal bids, Chapter 50, Public Laws of 1933 (C.S. 2831), C.S., section 2969 (u), 1334 (55) (c), (d), (f), 1334 (66), 1334 (67), you inquire where the line must be drawn or what expenditures can be made within the appropriation ordinance without a vote of the Council, and what expenditures require a vote of the Council.

(A.G.) This involves a question as to whether or not each particular expenditure must be specifically voted for by the City Council. In my opinion the Statutes cited by you do not go quite so far. C.S. 1334 (67), in my opinion, is especially directed at the authority for the expenditure. I believe that a general resolution, sufficiently and reasonably explicit in its character as to the limitations within which the expenditures shall be made, would satisfy the spirit of all these laws. Of course, sound judgment must be exercised so that the authority given will have its substantial limitations. The approval of expenditures made under such authority would still further strengthen the situation.

(A.G.) In my opinion it would be a substantial compliance with C.S. 1334 (67) should the city council pass a resolution authorizing the payment by the proper disbursing officer of petty accounts, not exceeding a specific amount, without having a specific vote on every item in a vast number of small accounts; and that approval of the city council of these expenditures in detail, when presented to them, would be sufficient to make such expenditures legal and valid, if there should arise any claim of invalidity.

VIII. Matters affecting chiefly particular local officials.

A. County Commissioners.

32. Power to remove records.

Inquiry: May County Commissioners move a part of the records of the Register of Deeds Office to a bank building without incurring liability; such building being about 300 feet from the Register's office?

(A.G.) We are of the opinion that the County Commissioners would have the right and authority to remove a part or all of the records from the office of the Register of Deeds to the bank building. The local Act conferring such authority on the Commissioners to affect this change is sufficient and the County Commissioners would not violate any law or incur any liability in moving the said office and records.

33. Power over county attorney.

To R. C. Benton, January 11. Inquiry: Does the Board of County Commissioners have the power to require an attorney appointed by a former Board to deliver for collection or foreclosure, tax sales certificates placed with him by the former Board, to a new county attorney who is the choice of the present Board?

(A.G.) This office has formerly held that the office of county attorney expires with the term of office of the commissioners who employ him. In this ruling, we were, and are still, of the opinion that the old county attorney would be entitled to fees for any services that he had rendered and would be also entitled to finish any foreclosure suits which he had started, receiving any fees or commissions which he would be entitled to under his contract. We do not think that he would be entitled to retain any tax sales certificates for collection and/or foreclosure upon which no action had been taken by him as county attorney.

40. Vote of chairman to break tie.

To Edward S. Best, January 21. (A.G.) It is my opinion that the Chairman of the County Board of Commissioners who is a member of the Board of Health and

ex officio chairman of that Board, has a right as a member of the Board to cast his vote in the election of a health officer. If there is a resulting tie, he then has the right, as Chairman, to break the tie by casting a second and deciding ballot.

B. Clerks of the Superior Court.

10. Collection of process tax.

To C. L. Fisher, January 30. (A.G.) This office has formerly ruled that the Clerk of the Superior Court in this State should not undertake to collect the $2 process tax from Federal Land Banks in actions brought by them in this State; this ruling citing as authority Section 2826, Chapter 245 of the Acts of Congress, July 17, 1916, Title 12, U. S. C. A., Section 931, and Federal Land Bank v. Crossland, 262 U. S. 373, 67 L. Ed. 703.

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

To D. E. Henderson, February 14. (A.G.) There is no question but that the Clerk is entitled to five per cent on the process tax which is collected for the State. He is entitled to this commission on all cases in which the State is entitled to the process tax, regardless of whether or not he is on a salary basis, the law specifically providing that this shall be in addition to his salary.

It has been the practice in the Department of Revenue to collect the $2 process tax less 5 per cent which would make the net amount due the Department in its settlement with the Clerk in each case $1.90.

26. Duties towards funds of incompetents.

To W. H. Young, February 5. Inquiry: Under Section 962 of the Consolidated Statutes, would it be the duty of a Clerk of the Superior Court to inform the superintendents of the various State institutions that he has funds paid into the office belonging to any minor incompetent, and would it be the duty of such Clerk to disburse a part or all of the fund where the amount comes within the limit of the above statute when requested and when presented with a bill by such superintendents?

(A.G.) We do not think it would be the duty of the Clerk to inform the various superintendents of the State institutions of the existence of such funds; however, upon proper presentation of the bill by one of the superintendents of such an institution, we think it would be the Clerk's duty to pay this bill, provided, in the Clerk's opinion, the service rendered such minor or other incompetent was for his best interests.

101. Unclaimed assets in hands of Clerk.

To J. R. Gurganus, February 15. Inquiry: What authority does a Clerk of the Superior Court have to pay out funds which the State Banking Department, by virtue of C.S. 218 (c), subsection 12, has turned into such Clerk's office, such funds representing unclaimed assets of a bank and the claimants to this fund making demand for the amount due them from such bank?

(A.G.) When this fund was turned over to you, the Banking Department furnished you with a list of the claimants to the same. If the amount is not sufficient to pay off the claims in full, it would be your duty, then, after ascertaining the correctness of the claims as best you can and satisfying yourself that these claimants are bona fide owners of the same, to prorate among these claimants the amount of this fund on a percentage basis.

In order to protect yourself in this matter, we think it advisable that this proration be put in writing and that the same be approved by the Judge of the Superior Court at the next term.

To John A. Arledge, January 23. (A.G.) The law relating to funds of liquidated banks, turned over to the Clerk, does not provide any method for proving claims before the Clerk, or for distribution on the Clerk's part. I take it that if any person files such a claim before the Clerk, the Escheator of the University, that is, Hon. Joseph E. Cheshire, Raleigh, N. C., should be notified in order that he may have the claim investigated as to its validity. I feel sure that some procedure may then be adopted which would be satisfactory to both parties.

C. Sheriffs.

5. Turnkey fees.

To Charles Hughes, January 23. (A.G.) Consolidated Statutes 3908 provides in part as follows: "Imprisonment of any person in a civil or criminal action, 30 cents; and release from prison 30 cents." We do not think the jailor or sheriff would be entitled to collect these fees as often as the prisoner is carried in and out of jail, but could be collected only when he is first brought in on a charge and then finally when the case is disposed of and he has been released.

D. Register of Deeds.

40. Practicing law.

To Miss Clara Laney, February 12. Inquiry: May a Register of Deeds search the records for prior chattel and crop mortgages, and issue, after such search, a certificate of report; compensation being had for such services?

(A.G.) We think that such work on the part of a person not licensed to practice law would be a violation of Chapter 157, Public Laws 1931.

L. Local law enforcement officers.

22. Prohibition law—flavorings and cosmetics.

To C. O. Ridings, February 11. (A.G.) There are many extracts and cosmetics,

the sale of which has been considered legal and which, notwithstanding, are used by the consumer to produce the effect of intoxication. The difficulty in getting at the sale of these preparations, containing a high per cent of alcohol, is that they are not expressly made unlawful by our Prohibition Act, and further, the Act looks at the sale of beverages. Ordinarily these preparations are considered unfit for beverages.

32. Gambling—pari mutuel betting.

To Wilbur La Roe, Jr., February 9. (A.G.) Gambling is absolutely prohibited in North Carolina, with a single exception: Six counties in this State are allowed to form associations for the purpose of horse racing, and may install pari mutuel betting devices, provided a majority of the qualified voters in the county concerned vote to establish a racing association.

42. Operating motor vehicle with improper license.

To John C. Rodman, February 6. In answer to inquiry: May automobile salesmen use "dealers tags" on their private automobiles?

(A.G.) Salesmen who are issued the certificates or permits certifying that such salesmen are entitled to the use of dealer's designated license numbers are not authorized to use the same on their private automobiles nor on an automobile used for other than "demonstration purposes," and the use of such tags on their private cars or on any other automobile which is being used for other than demonstration purposes, would be an improper use of such dealer's tags, and would subject the user to the penalty provided for use of improper tags.

69. Concealed weapons.

To D. A. Dye, February 2. (A.G.) It is my opinion that a person may not carry a pistol in an automobile for the purpose of self defense, if the pistol is in any way concealed either on the person or in the automobile. The statute against carrying concealed weapons would make it necessary for the weapon to be openly displayed at all times.

P. Judges of Recorders' and County Courts.

20. Jurisdiction over subject matter.

To William V. Harris, January 24. (A.G.) A defendant who is indicted under the provisions of Chapter 354 Public Laws 1933, for non-support of a bastard child cannot plead double jeopardy to a subsequent indictment where the warrant has been quashed or dismissed for some fatal defect, because properly speaking he had not been on trial. The rule affecting double jeopardy is as follows: "Jeopardy attaches," State v. Bell, 205 N. C. 225, 228. The point about this is that jeopardy would not attach where the indictment or information was not valid.

As to whether the person indicted is the father of the bastard child is a fact to be decided under the indictment, and which must be proved by the State beyond a reasonable doubt. In my opinion the separate proceedings to determine the paternity is more of a civil matter and cannot be considered upon the hearing of the criminal indictment or charge. It is said in State v. Mansfield, 207 N. C. 233:

"Bastardy proceedings being civil will not support plea of former jeopardy in prosecution for failure to support illegitimate child."

T. Justices of the Peace.

2. Fees—to process officers.

To F. B. Hight, January 24. (A.G.) In my judgment, in order to secure the summonsing of a jury, the person at whose instance the jury was demanded must pay the fees to the officer. I do not think officers are compelled to serve process in civil cases unless their fees are paid, if they see fit to demand them.

U. Notary Publics.

2. Notarizing own statements.

To L. A. Heath, January 18. (A.G.) You inquire if your commission as notary public would authorize you to notarize statements made by yourself. We do not think that a statement made by you and then notarized by yourself as a notary public would be a proper and binding notarization.

IX. Double office holding.

30. Board of Health.

To Dr. G. M. Cooper, February 8. (A.G.) We think that being a member of the State Board of Health and holding the office of acting State Health Officer of a county in the State would come within the prohibition of the Constitution as to double office holding, and by going into a county and taking over the duties of County Health Officer such person would automatically vacate the office of member of the State Board of Health.

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