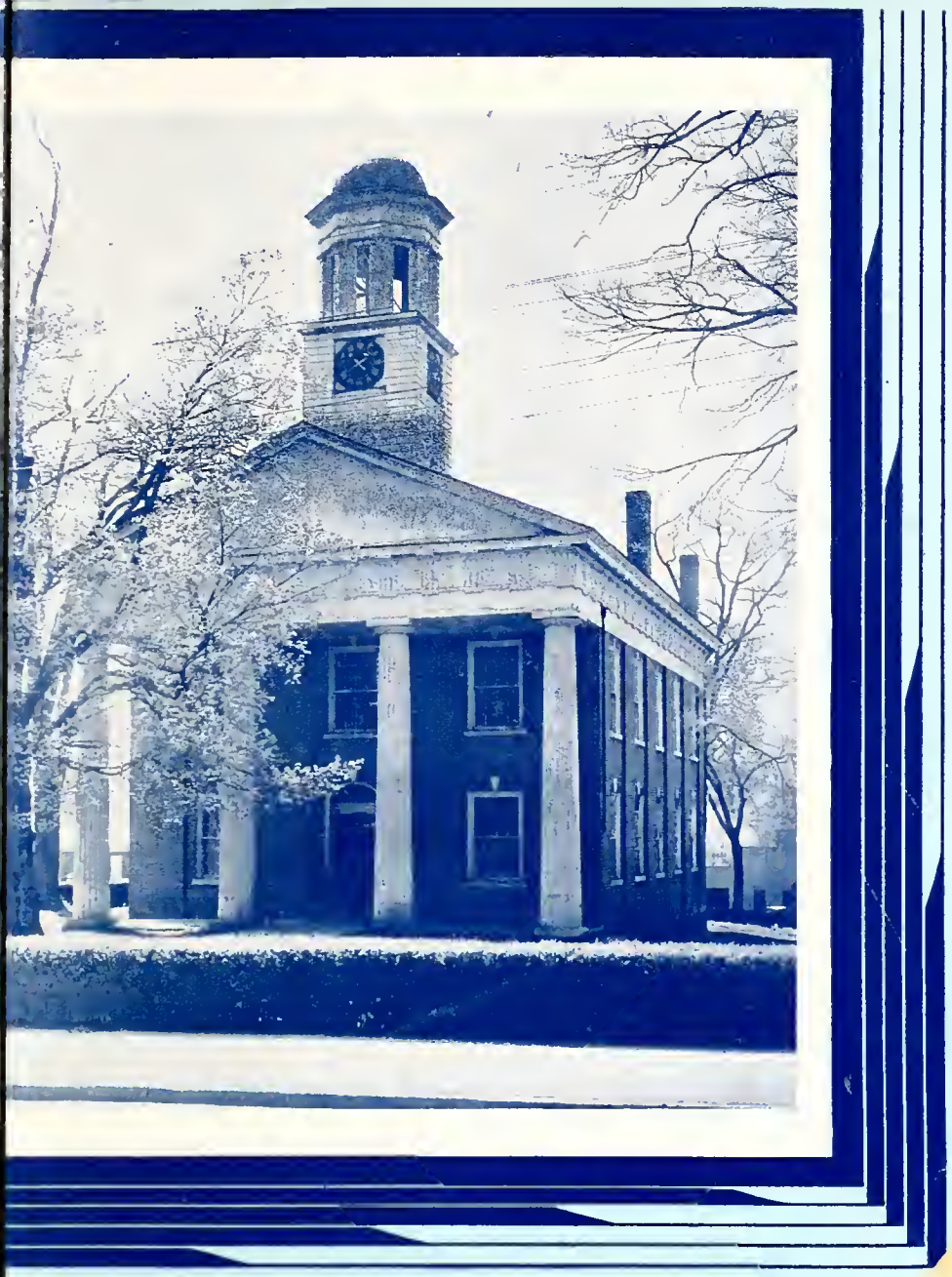

IN THIS ISSUE

THE INSTITUTE OF GOVERNMENT

POPULAR GOVERNMENT

10c A COPY | MAY-JUNE, 1935 | Vol. 2, No. 7

THE 1935 SESSIONS

THE INSTITUTE OF GOVERNMENT

CHAPEL HILL, N. C.—JUNE 10-11

(This General Session will be of interest to all groups of State and Local Officials)

Detailed Program for Session on National Legislation Affecting State Agencies, Counties, and Cities

TOPICS: The New Deal in American Governmental Philosophy. Changing Relationship Between Local, State, and Federal Governments. Exemplification in Federal Government's $4,800,000,000 Public Works and Work Relief Act. Methods for Allocating Federal Funds Among North Carolina Towns and Cities and Counties. The Purpose, Policies, and Work of the Various Federal Agencies. The New Administrative Set-up in Washington. Procedure for Local Groups to Follow in Securing Projects. Financing the New Deal. What Will be the Costs and Benefits to North Carolina?

SPEAKERS: Senator Josiah W. Bailey; Representative Robert L. Doughton; Representative Wm. B. Umstead; Herman G. Baity, State Engineer, North Carolina Public Works Administration; Mrs. Thomas W. O'Berry, Director, North Carolina Emergency Relief Administration; and State Heads of Other Federal Agencies.

DISCUSSION led by City, County, and State Officials. QUESTIONS and ANSWERS.

Detailed Program for Sessions on State Legislation Affecting Counties, Cities, and Towns

I. General Meeting of City Councilmen, County Commissioners, City and County Managers, Accountants and Attorneys. (In their capacity as Secretary to the Board of County Commissioners, Registers of Deeds will be particularly interested in this program. Tax Supervisors and Collectors will be interested in the discussion of the changes in tax laws, and other groups will be interested in particular topics.)

TIME: TUESDAY, JUNE 11, 9:30 A.M. AND 2:30 P.M. PLACE: HILL HALL

TOPICS: FISCAL MATTERS—Refinancing. Security for Deposits. Amendments to Local Government Act. Replacement of Lost or Stolen Bonds. Refunding Debts Due to State Literary and Building Funds. Refunding School and Other District Bonds. Refinancing Special Assessments. Offsetting Debts Due State by Counties. Adjustment of Drainage Assessments. Payment of County Warrants Not Approved by Auditor. Transfer of School District Sinking Funds to County Treasury.

TAX MATTERS—Revenue Act and Amending Laws. Tax Machinery Act. Proposed Taxation Amendments to the State Constitution. Validating Tax Sales and Foreclosures. Eliminating of Conflicts in C.S. 8037. Time for Advertising and Foreclosing 1933 and Prior Taxes. New Parties and Attorneys Fees in Tax Foreclosures. Levy and Collection of Taxes and Issuance of Revenue Anticipation Notes for Sanitary Districts. Time for Sale of 1934 and 1935 Taxes. Poll Taxes Due by State Employees. Free Privilege License for Blind. Tax Exemptions for General Hospitals. Rubber-Stamp Signatures in Tax Cases. Instituting Suits Without Bond or Deposit.

OTHER MATTERS—Legislation Designed to Aid Units in Co-operating With Federal Agencies, Such as Housing, Rural Electrification, Subsistence Homesteads, County and Municipal Projects, Etc. Organization of Local and District Health Departments. Indigent Hospitalization Contracts. Compulsory Vaccination of Dogs Against Rabies. Sharing in Cost of Forest Fire Control. Free Employment Service. Allotting the $20,000,000 in State and Federal Aid for Improvement of Roads and Streets in North Carolina and for the Separation and Protection of Grade Crossings. Methods for Allocating the $500,000 Appropriated by the State for Each Year of the Next Biennium for Maintenance of Streets in Corporate Limits. Uniform Traffic Code. Traffic Regulations Within Corporate Limits. Regulation of Slot Machines. Insurance on "For Hire" Cars. Methods of Changing Name of City or Town. Limitation on Contractors' Bonds.

PRESIDING OFFICERS: Lieutenant Governor A. H. Graham and Speaker Robt. Grady Johnson.

SPEAKERS AND DISCUSSION LEADERS: Attorney General A. A. F. Seawell; A. J. Maxwell, Commissioner of Revenue; Chas. M. Johnson, Director, and W. E. Easterling, Secretary, of the Local Government Commission; Capus M. Waynick, Chairman of the State Highway Commission; Members of the General Assembly, and Henry Brandis, Jr., and T. N. Grice, of the Institute of Government.

II. CLERKS OF SUPERIOR COURT—HILL HALL—TUESDAY, JUNE 11, 9:30 AND 2:30

TOPICS: Sales of Remainders to Uncertain Persons. Validation of Sales by Administrator d.b.n. of Trustees. Validation of Probates of Interested Clerks. Validation of Sales to Make Assets. Venue in Such Sales. Validation of Sales of Contingent Remainders. Land Sold in Fraud of Creditors. Mortgage Sale of Estates by Entireties. Bonds in Sales for Re-investment. Renunciation of Rights of Courtesy. Service of Process Outside of the County. Return Data of Such. Approval of Guardians' Contracts. Lien for Medical and Hospital Expenses in Personal Injury Recoveries. Procedure When Clerk Disqualified to Act. Time Limit for Issuing Executions. Commission to Codify Estate, Trust, etc., Laws. Continuance of Estates' Farming Operations by Personal Representatives. Investments in Federal Obligations, in State Tax Notes. Perpetuation of Testimony. Examination of Clerk's Office by Solicitor. Prohibition of Grantees as Subscribing Witnesses. Probate of Old Deeds Without Seals. Purchase of Foreclosed Realty by Fiduciaries. Limitation of Time Heirs May Sell Estates' Realty. Rights of Heirs of Illegitimates. Divorce Jurisdiction of County Courts. Adoption Law. Appointment of Successor Trustees. Time for Completing Service by Publication. Appointment of Coroner Pro-Tem. Time for Settlement of Estates. Clerk as Clerk of Recorder's Court. Rubber Stamp Signature in Tax Cases. Suits by Cities Without Bond or Deposit. Clerk's Leave of Absence. Appointment of Corporate Receivers. Appointment of Guardians, Guardians' Bonds, Executors' Bonds. Statute of Limitation on Inheritance Taxes.

DISCUSSION LEADERS: N. E. Aydlett, President and W. E. Church, Secretary, of the Clerks of Court Division; A. W. Graham, Jr., of Oxford; J. N. Sills, of Nashville, and Dillard S. Gardner, of the Institute of Government Staff.

III. SCHOOL OFFICIALS—HILL HALL—TUESDAY, JUNE 11—1:00 AND 2:30 O'CLOCK

TOPICS: Poll Taxes by State Employees. Textbook Rental Plan. Transfer of School District Sinking Funds to County Treasurer. Protection of Library Books. Assignment of Salaries. Compensation for Children Injured on School Busses. Election of Superintendents and Committeemen. Teaching Effects of Alcoholism and Narcotism. Refunding Debts to Literary and Building Funds of State. State Thrift Society. Refunding School District Bonds. School Machinery Act.

DISCUSSION LEADERS: Clyde Erwin, State Superintendent, Jule B. Warren, Secretary North Carolina Education Association; Leroy Martin, Secretary, State School Commission; John Lockhart, Superintendent, Wake County Schools; and P. S. Daniel, Superintendent, Raleigh Schools.

IV. LAW ENFORCING OFFICIALS—HILL HALL—TUESDAY, JUNE 11, 1:00 AND 2:30 O'CLOCK

TOPICS: Driver's License Law. Regulation and Prohibition of Slot Machines. Prohibition of Walkathons, Marathons, Etc. Prohibition of Nudist Colonies. Compulsory Vaccination of Dogs Against Rabies. Highway Patrol Regulations and Changes in Patrol. Substitution of Lethal Gas for Electrocution. Investigation of Convict Camps. Fees for Summoning J. P. Jurors. Witness Fees of Salaried Officers. Uniform Traffic Code. Provision for Women at Central Prison. Safety Glass for Motor Vehicles. Municipal Regulations of Truck Speed. Pardon and Parole Regulations by Governor. Lottery Law. Wine Bill. Commission to Study Liquor Control. Pay of Militia Aiding Civil Authorities. Service of Criminal Process Outside of County.

DISCUSSION LEADERS: John W. Aiken, Assistant Attorney General; L. S. Harris, Director, Motor Vehicle Bureau; Capt. Chas. D. Farmer, State Highway Patrol; and Albert Coates, Director, and M. B. Seawell, of the Staff of the Institute of Government.

POPULAR GOVERNMENT

VOLUME 2
NUMBER 7

PUBLISHED MONTHLY BY THE INSTITUTE OF GOVERNMENT

MAY-JUNE
1935

Splendid Program for June Meeting

Institute of Government to Hold Annual Meeting in Chapel Hill June 10-11
Interpretation of New Laws, State and Federal, to Center Program
Officials from Every County in State Expected to Attend

CONDENSED PROGRAM

Monday, June 10

5:00-7:00 p.m.—Registration. Graham Memorial Building.
7:00 p.m.—Buffet Supper. Under Davie Poplar.
8:00 p.m.—National Legislation Affecting Cities, Counties and Towns. Hill Music Hall.

Tuesday, June 11

9:30 a.m.—State Legislation Affecting Cities, Counties and Towns. Hill Music Hall.
1:00 p.m.—Joint Luncheon for City, County, State and Federal Officials. Swain Hall.
2:30 p.m.—State Legislation (Continued). Hill Hall.
(See detailed program on opposite page.)

CITY, county and state officials from every section of North Carolina will gather in Chapel Hill, Monday and Tuesday, June 10 and 11, to discuss common problems and to hear State and National legislators interpret the new State and Federal laws at the 1935 sessions of the Institute of Government.

The compelling interest in the vast New Deal legislation, climaxed by the President's four billion dollar public works bill, which has literally "put the Federal Government on North Carolina's doorstep," and in the results of the State's own turbulent legislative session are expected to produce a record attendance. Some officials have expressed the opinion that it will surpass even that at the 1933 meeting, which drew upwards of a thousand people representing 98 of the State's 100 counties and a majority of its cities and towns.

North Carolina's Senior Senator, Josiah W. Bailey, who is remembered for his brilliant address at the 1933 meeting, and Robert L. Doughton, Dean of the Tar Heel delegation in the House, have accepted invitations to speak for North Carolina's Congressmen, several of whom are planning to attend. William B. Umstead, who represents the home district, will preside over the session on the interpretation of new Federal Laws.

Lieutenant-Governor A. H. "Sandy" Graham and Speaker Robert Grady Johnson, who presided over the State Senate and House, respectively, will preside over the sessions for the interpretation of new State Laws. In addition to members of the Institute of Government staff, they will be assisted by members of the General Assembly and by a number of ranking State officials. Included among these are A. A. F. Seawell, Attorney General; Chas. M. Johnson, Director, and W. E. Easterling, Secretary of the Local Government Commission; Capus Waynick, Chairman of the Highway Commission; and Clyde Erwin, Superintendent of Public Instruction.

North Carolina's Senior Senator, Josiah W. Bailey, heads the delegation of Tar Heel Congressmen who will outline and interpret new Federal Legislation at the general meeting, Monday night, June 10.

In addition to the members of North Carolina's Congressional delegation, the Institute of Government is bringing in the State heads of the various Federal agencies to make short talks and lead discussion. Among those who have already accepted invitations to participate in the program are Mrs. Thomas W. O'Berry, Director of the N. C. Emergency Relief Administration, and Herman G. Baity, State Engineer of the Public Works Administration. The Federal administrators will not only outline and illustrate with charts and exhibits the program, work, and meaning to the State of their organizations, but will also explain the procedure for local units and groups to secure the benefits therefrom.

Some of the more important of these agencies are the PWA and ERA, the Public Health and National Reëmployment Services, the HOLC and Federal Housing Authority, and the Land Policy, Crop Production Loan, and Soil Erosion services. The authorities in Washington have expressed the opinion that the administrative details for handling the vast new four billion dollar works and relief program will be ready to announce at this time, which will make this meeting of especial interest and value to local officials.

The 1935 sessions will open with a buffet supper Monday night, followed

by the general meeting for the interpretation of new Federal Legislation. The meetings Tuesday morning and afternoon, which will be separated by a joint luncheon for city, county, state, and federal officials, will be devoted to the new State Laws. The detailed program will be found on the first page.

Summaries of changes in the laws affecting the principal groups of officials are being prepared by members of the Institute of Government staff and will be distributed along with summaries of the new Local Laws affecting each county, city, and town.

Arrangements have been made to provide accommodations in the University dormitories and at the University dining hall at a minimum cost —50 cents for rooms and 30 cents for meals. Reservations should be sent at once to Albert Coates, Director, Chapel Hill.

An attractive program of entertainment is being planned, and a number of courtesies will be extended the officials and other visitors.

Robert L. Doughton, Dean of the Tar Heel Congressional delegation, will take an important part in the discussion of the methods for financing, allocating, and administering the Federal Government's new $4,800,000,000 program of public works and works relief. Mr. Doughton is Chairman of the House Ways and Means Committee, which has taken an important part in shaping the vast New Deal legislation.

INTERPRETING THE NEW LAWS

North Carolina officials may well be proud of the system they have worked out through the Institute of Government for coöperation between the legislative and administrative branches of the government. First, a meeting in advance of the General Assembly to present legislative programs to the newly-elected representatives; then, a weekly bulletin to keep local officials posted as to the doings of the Legislature; and now a general meeting with the members of the Assembly to interpret the New Laws as they affect each group of officials and citizens.

A summary of the 1935 Legislation will be found beginning on page 13. However, space permitted little or no comment on many bills, and much of the summary of necessity was a matter of listing rather than of analysis. Every city and county will want to send representatives to the June meeting to hear the new laws discussed and interpreted by the State's legislators and administrative officials. Members of North Carolina's Congressional delegation will also be present to interpret the new Federal laws.

Mark the place and dates in red ink on your calendar — CHAPEL HILL, JUNE 10-11.

Here and There With Progressive Officials

A plan permitting delinquents to work out their taxes on the highways has produced excellent results for Rock Island County, Ill. In addition to giving the county 18 miles of new concrete road, the arrangement enabled 1,830 property owners to pay up their taxes and helped others to reduce their bills. Water and gas bills were worked out similarly. The men were paid $4 a day, $1 in cash, and the balance applied to their tax bills.

A number of states, including Iowa, Louisiana, Nebraska, Texas, Virginia, and Wisconsin, utilize electrical voting devices to do away with long, tedious roll calls and expedite legislative business.

Several Mid-Western and Pacific Coast cities have a school instead of a jail for traffic violators. Sessions are held two or three nights a week for several weeks, consisting of a roll call, a 30-minute lecture, and a 30-minute discussion, followed by an examination, usually of the "true-false" type. The Wichita, Kansas, school had 525 "graduates" one year, and of the number only nine were rearrested for traffic violations.

A lot is heard about the benefits to be derived from making the public service a career which would attract and hold the services of the most able citizens. Dayton, Ohio, has gone a long way toward making of the ideal a reality. Dayton's city manager and seven department heads have between them a record of 188 years of sustained public service. "More of this and many of the problems of municipal government would be solved."

Several cities have been doing some splendid work in interesting and informing citizens in governmental matters. Des Moines, Iowa, has chosen the medium of a network of public forums. More than a thousand meetings have been held, and the attendance has reached 135,000. An "open-house" at the Berkeley, California, City Hall, followed by an inspection tour of various city enterprises, attracted 5,000 citizens. Detroit, Michigan, has made a series of 26 sound pictures, detailing vividly the various services and the cost thereof performed by the city. Released weekly, the pictures have been shown before movie audiences, civic organizations, and schools to a total of ten million persons.

THE MAY-JUNE ISSUE

The May issue of Popular Government was held up in order to provide its readers a short but complete and authoritative summary of the New Laws within a few days after the adjournment of the General Assembly. Due to the lateness of adjournment, the May and June issues are being combined and extra pages added, so that there will be only one issue for the two months.

Running Down Unlisted Property

By HENRY BRANDIS, JR.

THE business of playing hide and seek with the tax authorities, being one of the numerous children of natural human acquisitiveness, must surely be as old as is the universally distasteful custom of levying taxes. And, so long as there is a possibility of the elusive taxpayer's saving a payment which justifies the trouble involved, the game is likely to go on.

The game is not confined to any one type of taxes. To be sure, those immensely wealthy individuals who pay fat fees to lawyers and accountants to whittle down their Federal income taxes have, of late years, received the lion's share of the publicity. But these gentlemen, regardless of what other monopolistic tendencies they might be accused, have far from a monopoly in the tax evasion field. Here in North Carolina the rich and the poor, the wise and the witless, find common ground in their attempts to keep one jump ahead of the tax gatherers. Native shrewdness and capital are handy aids to success in tax evasion, but the lack of such equipment does not keep the rest of us from trying.

It is a governmental platitude in our state that if all taxable personal property were listed for county and city taxes, the burden on real estate would be much lighter. Of course, no one has accurate figures on the amount of property which is escaping taxation. And we must remember that, when it comes to intangible property, there are large and valuable holdings which, under our laws, are not subject to property taxes—for instance, Government and State bonds and (when the income tax law is complied with) all corporate stocks.

Nevertheless it is true that a large amount of taxable personal property in North Carolina is escaping taxation. It is bound to be true if for no other reason than the fact that we all agree that it's true and most of us speak on the basis of personal experience. Most of us know people who have not listed their property, and many of us, at one time or another, through ignorance, common laziness or deliberate intent to evade taxes, have failed to list our own property.

It is the duty of your county officials, and of your Tax Supervisors in particular, in the homely phraseology of our laws on the subject, "to be constantly looking out" for unlisted property. Merely to be "looking out" may be a fairly easy job, but you can man your watchtower the year 'round and little property will come into view neatly labeled and tagged, "This property has not been listed for taxation." This is particularly true in our more populous counties, where the Supervisor is necessarily familiar with the financial affairs of only a very small percentage of the population.

In such a county, if even a half-way job of searching for unlisted property is to be done, systematic methods are necessary. Likewise it is necessary that the Commissioners stand behind the Tax Supervisor, and do not tell him that perhaps he should let that little matter of Mr. Smith's property drop, as Mr. Smith makes reasonable campaign contributions in lieu of heavy taxes.

Pioneer work in the matter of systematic searches for unlisted property has been done in Guilford County by Mr. A. C. Hudson, who, since its organization, has served as President of the Tax Supervisors' Division of The Institute of Government. Similarly, good work has been done by capable Supervisors in Forsyth, Mecklenburg, Durham, Cleveland, Anson and elsewhere. Without attempting to discuss all the various methods which have been used, it may be of interest to touch briefly upon a few of the methods which have met with notable success.

The Three Methods for Searching

Roughly, the various methods may be said to fall into three main groups: (1) looking for the names of prospective taxpayers; (2) looking for the property itself; and (3) looking for the tracks which all property inevitably leaves somewhere.

With respect to the first group, the most commonly used method is that of checking the tax books for the prior year. If it is found that a man listed personal property or listed his poll for the preceding year, then, if he is not known to have died or moved away, he can ordinarily be located by a card notice or a telephone call and required to list for the current year.

Less accurate with respect to the type and amount of property which a man may be expected to own, but nevertheless valuable as guides to prospective taxpayers, are city directories, telephone directories, lists of the parents of school children, and lists of employees of all business and manufacturing establishments. When names are discovered which do not appear on the tax books, the bearers are summoned to account for their property—or lack of it. If the name is masculine the chances are that its bearer must at least be liable for poll tax. (Of course a poll is not personal property, but in this connection, for all practical purposes, it is treated as such, since the poll tax in the average county is the equivalent of the tax on from $200 to $300 in personal property valuation.)

A Visit From the List Taker

Methods of seeking out property directly are varied in type. In one county the Supervisor required all his rural list takers to visit the taxpayers at their homes to make the tax lists. This, he found, provided an actual rather than a hearsay report on the number of dogs, the number and grade of live stock, and the amount and condition of furniture, farm machinery, provisions and stored crops around the place. Most Supervisors in populous counties feel, however, that they have too many taxpayers in each township to make it practicable for the list taker to visit all in ordinary years. A modification of the plan is found in one county which has its list takers drive all over the township just before listing time, making notes about property which should be listed.

More commonly in use is an actual canvass of concentrated business areas—a canvass intended to insure that all business firms have listed something and that lists already filed are reasonably correct. An extension of this principle

(*Continued on page thirty*)

Occupational Disease Compensation

By HARRY McMULLAN
Chairman, North Carolina Industrial Commission

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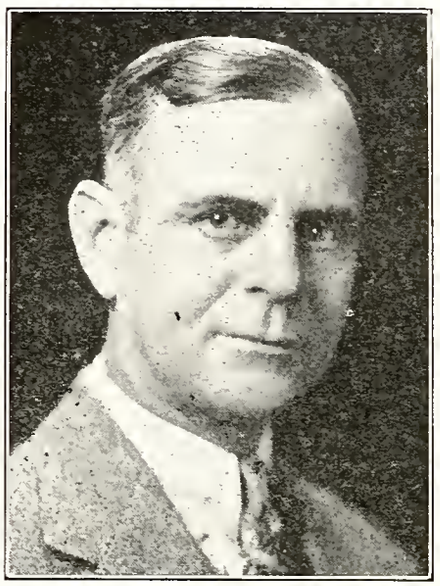

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OCCUPATIONAL diseases were projected, in a somewhat startling way, into the compensation law of this state by the decision of our Supreme Court in the case of McNeely against the Carolina Asbestos Company, in an opinion handed down last spring. It is quite true that the Court in deciding this case specifically said that the so-called occupational disease hazard is not included in the liability of industry as fixed by the compensation law. At the same time, to all intents and purposes, liability for such was brought under the law by a very broad definition of the word "accident" as used in our statute as a basis for compensation payments. An occupational disease, says the court, is a disease which arises in the normal course or conduct of an enterprise. If the employer has been guilty of some fault, or negligence as it is called, in the conduct of his business, and the employee contracts a disease attributable thereto, it ceases to be an occupational disease but it is an "injury by accident" within the meaning of our act and, therefore, compensable.

Cabell McNeely had been working in an asbestos plant in Charlotte for fifteen months and prior thereto had been engaged in the same work in other similar plants. Somewhere in the course of his employment he contracted the disease called asbestosis. His attorney brought a suit for him in the Superior Court alleging common law liability and negligence of the employer in failing to furnish proper systems of dust elimination, etc. McNeely had lost his health and had been damaged, it was said, in the sum of $15,000.00. The lower court held that McNeely had gotten in the wrong jurisdiction and did not have any suit against his employer; that all rights of employee against employer for personal injuries arising out of and in the course of his employment had been merged in the compensation law or lost. So McNeely was told he had to file his claim for compensation and, if he could make good his allegations, he would receive benefits provided by the Act.

Effects of McNeely Case Far-Reaching

The effect of this case in North Carolina was, in some respects at least, unfortunate. In any event the case was far reaching. Insurance companies covering the risks of employers in the asbestos business, feldspar mines, granite quarries and other industries known to have a dust hazard, gave the required ten day notice, and came off of the risks in many cases. The Industrial Commission, the Insurance Commissioner and the Rating Bureau were besieged with requests from these employers to secure coverage for them. Efforts to secure insurance in many cases were unsuccessful. Many plants in Piedmont and Western North Carolina were compelled to close their doors. At one time it was estimated that as many as one thousand workers were out of jobs.

In some instances employers in these industries were promised insurance by a prominent underwriter upon the condition that they would conduct careful physical examinations of their force and eliminate all those found to have the diseases of asbestosis or silicosis. In some plants in which this was done as many as fifty per cent and more of the men were found to be afflicted with the diseases. They were forthwith discharged. For them it was indeed tragic. Their jobs were gone and they were told, inferentially at least, that they were suffering from a disease which would in a few years strangle and choke them to their death. No other employer would take them on for fear of being subjected to claims for compensation on account of their illnesses.

These men thus thrown out of employment, in most every case, were totally unaware of the fact that there was anything wrong with their bodies or lungs. They were at work in these plants making full time. Except for some shortness of breath, in more advanced cases, nature had not forewarned them that they had been at work in a dust which spelled their deaths.

It is now indicated that in the over zealous way in which these examinations were made and in the exercise of great precaution, some men were thrown out who had not advanced to any appreciable state of disability. Many employers as well as insurance companies were greatly alarmed by what had happened.

Does "Accident" Cover Occupational Disease?

These men who were thus thrown out of their jobs have all filed claims for compensation basing their hopes of success upon the McNeely case. Two of the cases have been tried by Commissioner Dorsett and these two test cases are now on appeal to the Full Commission. It is quite certain that these cases will find their way to our Supreme Court. Needless to say there are many complicated questions involved as to applicability of our statute which was expressly drawn so as to exclude compensation for disease, in any form, unless it resulted from an injury by accident received by the employee, arising out of and in the course of his employment. The claimants have well recognized occupational diseases and thus the question is put: when is an occupational disease not an occupational disease? It left our compensation law in such a state as it was a matter

of grave doubt whether our act would be made to cover occupational disease in actual practice, or would not.

The Occupational Disease Bill passed by our present General Assembly is the legislative attempt to bring some order out of this unfortunate situation. For several years there has been an effort on the part of the representatives of labor to include, by specific provision, occupational diseases in our act. These efforts have heretofore failed. With the McNeely case to deal with both employers and employees joined in the move to get the General Assembly to pass the present bill. The insurance companies also welcomed it as it made a definite and certain liablity which they could reasonably insure. So the bill passed both branches of the legislature without a dissenting vote.

Act Covers Twenty-five Specific Diseases

Under the bill twenty-five specific diseases are named as occupational diseases. Beginning with anthrax and ending with solicosis. The most important and dangerous diseases are asbestosis and silicosis. An employee contracting any of the diseases mentioned in his industry will, under the Act, be deemed to have suffered an accident and will be compensated on the same basis as heretofore provided in the 1929 Law. Any disease contracted by the employee, which is not named in the Act, will not be deemed an accident. Hereby putting aside the result of the McNeely case except as applied to the twenty-five specific diseases mentioned. It would eliminate from compensation a claim for a nervous physical breakdown which was supported, as a proper basis of claim for compensation, in the case of Johnson v. Southern Dairies, decided last January. The employee must have one or more of the listed diseases to make good his claim for compensation. It may be correctly said, however, that the list includes all recognized occupational diseases and, indeed, some which may be considered as border line and sometimes difficult to be clearly identified as arising out of industry. For instance, it includes dermatitis, or skin infections of all kinds caused in employment.

Important features of the Act may be summarized without here going into any extensive detail. The claimant must be disabled before a claim can be made and must show that he was exposed to the disease after the above Act was adopted. The employer in whose employment the worker was engaged at the time of disablement will be the one to stand the loss and the insurance carrier on that risk will be liable. The Act is not retroactive.

Medical and other treatment in cases of asbestosis and silicosis is limited to $1,000.00. Other medical cost is unlimited as in the original act.

Men who are to be employed in industries subject to the dangerous dust hazards will have to be examined by the Medical Committee, or under their direction, before they can be employed. Other examinations will be made of old employees as may be ordered by the Commission.

Educational Work and Preventive Measures

The most important feature of the Act is that which authorizes the Industrial Commission to carry on educational work with the employers and employees with a view of finally eliminating this tragic thing of asbestosis and silicosis from employment. The Commissioner of Labor, under another statute and a companion measure, is fully authorized to set out and enforce regulations designed to take the worker out of this danger. It is anticipated that with these two measures and activities under them, with the full coöperation of the employers in this State, that the dust hazard will be taken in hand and brought under full control.

In other states in this country within the last two years many millions of dollars in claims for damages have been made by workers suffering with asbestosis and silicosis. While the problem became acute here with us after the McNeely case, it had been disturbing in other states for the last few years. In many places it was charged that the claims had gotten to be a joint racket between the lawyers and the doctors who handled the cases for the claimants. It was fully realized with us that a just and workable law could not be enacted which did not set up a committee of medical men who were or who could become highly specialized in the diagnosis and treatment of the fibrotic diseases mentioned.

It was, therefore, provided in our Act that a Medical Committee should be set up, composed of three doctors. In addition to making examinations of present and prospective employees, when required by the Commission, every contested case of asbestosis and silicosis will be submitted to them for their study. This Committee will make all the necessary clinical and X-ray examinations. They report with their findings to the Commission. Awards are to be made by the Commission only after this report has been made to them. Interested parties may cross examine the members of the Committee when desired and also have their own doctors present at such examinations. Autopsies will be performed by this committee in death cases, reports of which shall likewise be made to the Commission.

Our Act has been drawn after extensive conferences with all interested groups. Since its enactment we have received from authorities in other states many letters indicating that in their opinion North Carolina's Act is perhaps the best approach to the problem which has been, as yet, made by any state. We regard the statute as fair to the employer and to the employee and definite and workable in its essential provisions.

Every industry here has some occupational disease hazard. To cover any liability the insurance companies will probably have an increased rate, over all, of one cent on each $100.00 of payroll, i.e., of 1/100 of one per cent. In the industries which have the dust hazard of asbestosis and silicosis there will probably be a rate ranging from $1.00 to $3.00 per $100.00 payroll. This will, of course, be limited to payroll of the employees actually subjected to the dust. The rates are yet to be fixed by the Insurance Commissioner.

As was said by Governor Ehringhaus in his message to the General Assembly, a worker who has been stricken down by a disease which he incurred by reason of his employment, or an occupational disease, such as anthrax, lead poisoning, skin infections, and other poisonings by fumes, gases and vapors, abestosis and silicosis, is just as much entitled to be protected as a worker who by accident has a broken bone or a lacerated wound. Such worker suffers a disaster by reason of his work. The burden should not properly fall upon him, in his helpless condition, but upon the industry which causes him to be injured, or cuts off his natural life of usefulness. The Occupational Disease Bill is the statutory recognition of this truth. Its operation should serve to extend justly the humane purposes of our Compensation Law.

Relief Becomes a Major Governmental Function

By WALTER CUTTER
North Carolina Emergency Relief Administration

Foreword: The unprecedented disruption of national social and economic life during these last years has forced consideration of many problems which many persons habitually seek to avoid. Some solution will have to be found, and in the following articles an attempt will be made to indicate briefly the part played to date by the Emergency Relief Administration, with some notice of previous social effort.

Mrs. Thomas O'Berry
Director of the North Carolina ERA

THE forms of public relief, limited as they were, which existed in the United States before the present emergency, were in a line of direct descent from the English poor law system established in the 16th century. With the enactment of the Statute of Henry 8th in 1536 which enjoined local public officials and church wardens to search out and make provision for the poor, the foundation of both English and American poor law was laid.

Although no public funds were set aside for the relief of such persons, this law marked a decisive step away from the repressive and penal measures which had been enforced in the period immediately preceding, when the swarms of masterless and landless men which were roving over England, due to the dissolving of the monasteries and the gradual breaking-up of the feudal system, seemed to call for summary action.

Relief has become one of the vastest businesses the world has seen, as witness the federal government's new four billion dollar program of public works and relief. This is the first in a series of three articles on the North Carolina ERA, which has charge of the distribution of federal relief funds and the coordination of relief activities in the State. In the opening article Dr. Cutter discusses the background, purpose, and set-up of the organization. The next article will deal with its administration and activities.

Publicly financed relief really began in 1572, with the Second Statute of Elizabeth. Although there had been an injunction, accompanied by some compulsion, to contribute in the past, this law marked an advance by providing for the appointment of specific civil officers ("collectors and overseers of the poor") to administer needed relief and to levy a tax on their fellow citizens for the purpose.

When the British Parliament, in 1597 and 1601, codified English poor laws, certain major principles were enunciated: (1) Persons unable to work were to be maintained, usually in almshouses; (2) Work was to be provided for those able to work, and punishment for those able but unwilling to work; (3) needy children were to be bound out as apprentices; (4) Relatives were made responsible for needy kinsfolk; (5) Public relief was to be financed by taxation; (6) There was to be administration by overseers of the poor appointed by justices of the peace.

This Elizabethan Poor Law was the first great systematic relief measure in modern times. Until 1834, it served as the legal and philosophic basis of English poor relief, and when the early colonists came to America, this philosophy of relief was brought along as were so many other British institutions.

Although poor laws and relief of poverty in the United States continued to rest upon the principle of the British law until the beginning of the present decade, there was in the American system one basic difference. Whereas in England, legislation and provision for the poor tended to be national in its character, in this country it was local. While greater economic opportunity made poverty relatively rare, there were, as earily as the 17th century, certain definite methods of dealing with poverty.

The almshouse was the commonest form of relief, and even recently, it has been described as the fundamental institution of American poor relief. This institution, unfortunately, became the repository for all types of dependency and maladjustment, being used for aged persons, sick and insane persons, persons with contagious diseases, transients, or as popularly termed, tramps, crippled persons, and perhaps worst of all, children.

Relief, outside of the almshouse, in general, took three forms: (1) Children, and those adults who were physically able, were farmed out to work to contractors who supplied in whatever measure the needs of the workers in return for the work to be gotten out of them. (2) Another form of relief disposed of needy persons to employers who contracted to care for them, the usual auctioning procedure being reversed in that the unfortunate person went to the lowest bidder. (3) Direct aid was sometimes extended in the home, but such aid was infrequent, inadequate and extended usually when the need was of brief duration.

Public poor relief was provided only by local governments, with two types of poor law administration being developed, based on the township and the county. Gradually these types were supplemented by the city plan of relief administration. When state governments entered relief activity, and this was comparatively recently, they restricted their participation almost exclusively to supervision.

Relief Practices Undergo Significant Changes

In the period elapsing between colonial times and the present emergency certain profoundly significant charges in public relief practices transpired, some gradual, some of recent occurrence.

1. There has been a growing tendency towards the use of "outdoor relief," that is, direct relief outside of institutions, and toward the segregation of different types of dependents. This tendency has served to a great extent to displace the almshouse as the fundamental institution of poor relief.

2. The almshouse, which is now called by various names, the county home, the county infirmary, etc., ceased to be the repository for all types of delinquents, and for children, and became an institution primarily for the care of the aged and infirm.

While there was no comprehensive plan for the adequate care of all types of needy persons, there were, nevertheless, appreciable advances.

3. Public relief activities underwent appreciable coördination and centralization, proving conducive to both uniformity and to elevating standards for administration.

4. Other trends became increasingly important as time went on, although these were limited in their influence until the present emergency. (a) Needy persons have come to place an increasing relative dependence on public relief as compared with private charity; (b) More adequately trained and better qualified persons have been used to a greater extent in the administration of relief; (c) There have been growing attempts, with some degree of success, to provide more adequate relief and individualized treatment; (d) Preventive and rehabilitative measures have been substituted for merely palliative relief.

But even in the present century, the majority of people were reluctant to accept public aid, its acceptance being regarded as a humiliation and a disgrace, attaching an undesirable stigma to the recipient. This attitude has developed, doubtless, from a number of causes. The repressive and penal character of early English "poor relief" legislation undoubtedly played a large part. Then the perfectly understandable human aversion to being considered a failure in the battle of life has entered in. This consideration joins naturally with our American individualism. There is always a public feeling that failure to achieve success (usually measured in material gain) is proof positive of a basic lack, and for this lack the unfortunate person should be penalized, and his care should be so arranged that it could be undertaken at the least possible expense.

But it becomes increasingly apparent, that the State in its general program of protecting its citizens has as a fundamental responsibility the lending of assistance to those whose welfare and actual security is endangered. Normally, when times are less disturbed, care for destitution is a comparatively minor governmental activity. In an emergency as widespread as that of the present, governmental participation in the problem of relieving relief is of an importance difficult to appraise.

In the past five years of economic depression, vast numbers of workers, normally independent, have been compelled to accept private and public aid as a desirable alternative to starvation. A peculiarity about this crisis lies in the large numbers and classes of persons involved who were fortunate in escaping the consequences of previous periods of economic upheaval. This almost unbelievable increase in dependency has compelled the State and Federal Governments to assume a larger share of the responsibility for relief. With the development of new plans and new methods, the administration of relief has become a major function of government.

Previous to this decade there was no standard and little uniformity in the matter of public relief administration. Small political units arranged for the relief to its own poor, granting aid which was always palliative, inadequate and which was unfortunately, begrudgingly given. As stated above, dependency upon relief was often viewed as a reflection upon the character of those requiring aid.

We are far enough into this period of depression to permit the growth of a new attitude towards relief. The sometimes unwarranted stigma and calculated humiliation which has attached to the need for relief has tended to disappear, as it became increasingly apparent that by far the greater bulk of persons involved are suffering from the operation of forces over which they had no control. More and more the public has come to recognize a moral consideration for providing adequate aid for those unable to find work. Besides the moral element it can be seen by all that it is simply good business, if nothing else, to make provision for aid, since there can be no significant recovery unless everyone recovers. Relief of the unemployed has been acknowledged as a basic function not only of local government but of all government.

Along with the growth of a new philosophy of relief caused largely by the emergency, has come a new type of relief administration. The newer methods of financing and administering relief, centralization and coördination, play leading parts. Increased attention has been given to special needs of diverse groups of dependents, while the standards of relief come to be much more adequate than heretofore.

The Federal Emergency Relief Act of 1933

In May, 1933, a national relief authority, designed to avert the collapse of state and local relief, was created by act of Congress. This authority was the Federal Emergency Relief Administration, which assumed responsibility for the distribution of Federal relief funds, and for the coördination of relief activities in the various states. The sum of $500,000,000, later augmented by an additional $950,000,000, was put at the disposal of this authority to assist the states in meeting relief costs and to permit more adequate standards of relief. A further purpose was to improve the methods of relief administrative organizations within the states.

Under the Federal Emergency Relief Act, the duties and powers of the national organization are clearly prescribed. One of its essential features was a recognition of the duty of the Federal government to contribute directly and to

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Youth, Age, and "Out of the Red"

By

M. R. ALEXANDER

A 24-YEAR-old Mayor and a 70-year old Treasurer who are bosom buddies—this is the interesting and singular combination with which the town of Kernersville has put its affairs on a "pay as you go" basis and is working its way "out of the red."

J. Harmon Linville is the Mayor. When he was elected, he was a 22-year old youngster with ideas, fresh out of college, and newspapers throughout this country and in many foreign lands carried his picture with the caption, "Youngest Mayor." Mr. Linville still jokes: "The first vote I cast was for myself." D. W. Harmon, the Secretary and Treasurer, who is old enough to be his grandfather, is a veteran engineer and business man with wide experience in governmental affairs. He was for 13 years Forsyth County Engineer and later served six-year terms as Highway and County Commissioner.

Together, this youthful Damon and seasoned Pythias just about run Kernersville's government, and they run it like a private business, devoting to it the same thought, effort, and care as if a personal fortune hung in the balance.

Mr. Harmon, incidentally, was once a wealthy man, making and losing a fortune on the stock exchange, and his handsome colonial home, filled with antiques and objects d'art accumulated in his travels abroad, and surrounded by its spacious and well-kept gardens, is one of the showplaces of the county. Not the least remarkable thing about the man is that he came through the crash of '29 without any signs of the usual "defeatist complex" or "soured-on-the-world" attitude.

J. Harmon Linville, 24-year-old Mayor of Kernersville

"What I Spent I Saved"

Instead, he picked up where he left off, and today at 70 he is as active, his viewpoint is as enthusiastic, he is as hard and productive a worker, and his sense of humor is as keen as that of a man in his prime. Mr. Harmon even laughs about his reverses. "What I spent I saved and what I saved I lost," he says. "Anyway, I have one consolation. I got more out of the stock exchange than I ever put into it."

The unique combination—the ambition, imagination, ideas, and enthusiasm of youth tempered and guided by the knowledge, experience, and judgment of age—has proven a happy and profitable one for Kernersville. But we shall let the results speak for themselves.

Record Speaks for Itself

When Messrs. Linville and Harmon took charge, Kernersville was hopelessly in default on its bonds, and was going more and more in debt. Under their leadership the town last year cut the operating expenses for this half-million dollar business to an unbelievable minimum, $11,000, and paid off $80,000 of its debts. Of this, $16,000 was paid in cash to the bank and approximately $64,000 worth of town bonds were redeemed in payment of past due street assessments.

Though the town is still in default, it is able for the first time since the depression to see the way out, and is planning anxiously for the time when it can pay all of its debts.

To this end the 1935 Legislature passed a local bill, drafted by Mayor Linville and introduced by one of the representatives from Forsyth, which will permit the town to accept its bonds in payment of street assessments, not yet due as well as those past due (S.B. 159). Now, that this is possible, the officials figure to lop another $80,000 off of their bonded debt of $400,000.

Kernersville's Damon and Pythias also have gotten up a proposal, which has been approved by the Local Government Commission and which they are now preparing to submit to their bond holders, with regard to the settlement over a period of years of the town's obligations. Under the proposal the town would resume interest payments, but at the rate of 2%, this to continue for five years, after which it would return to the old schedule of payments.

The remarkable thing is that the Kernersville officials have been able to accomplish all this without impairing either the quantity or quality of governmental services. In fact, they have added new services and equipment, as a $25,000 sewage disposal plant which they were able to build under the CWA for the expenditure of $1,200.

Consolidation, Adaptation, and Collection

How do they do it? the official and the taxpayer will want to know. The answer is tied up with the consolida-

tion of functions and utilization of existing resources plus business-like methods of tax collection.

Thus, the town's abandoned water pumping station is made to serve for a town hall. One full-time man, Mr. Harmon, combines the functions of auditor, tax collector, and general administrative officer, and does it without stenographic help except at rare intervals. Another serves as water works superintendent, assistant police chief, and building inspector, while an excellent fire department is maintained on a purely volunteer basis.

There is a standing joke among the town employees about the rigid economics of the administration and the difficulty of getting money out of the treasury. "It takes a day to get a check written," they laugh. "First you have to get an order. Then it has to be approved by the Board. The check is drawn, but it also has to be O.K'd. And when you get all that done, the bank probably will be closed, and you can't get it cashed."

A "Water-cooled" Town Hall

Kernersville's town hall is not without its distinction, being perhaps the only "water-cooled" building in the State. A 100,000-gallon storage tank stands directly above the former pumping station, and when the mercury begins to soar, the officials just open the valve and let a few hundred gallons descend on the roof. It works, too, as some of our staff members who visited Kernersville last summer can testify.

Incidentally, Kernersville's water system, with its $200,000 lake and water plant, is one of the finest possessed by any small or medium-sized town in the State. It has a capacity of a million gallons a day, which would take care of a town several times as large, and may be developed into a profitable enterprise as the town grows and the number of consumers increases.

D. W. Harmon, 70-year-old Secretary and Treasurer

Kernersville has dispensed with having a town attorney as an unnecessary expense. Mr. Linville, who has acquired a good knowledge of law in his duties as Judge of Mayor's Court, and Mr. Harmon, look up the law for themselves. If a point arises to "stump" them, they just visit one of their lawyer friends and casually secure some "free legal advice."

The practice is in line with their program of strict economy, but it is not without its disadvantages. Thus, the authorities were much perplexed when the question arose as to whether they could accept town bonds in payment of past due street assessments. No one could be found to give a ruling, and one donor of "free advice" expressed the view that the penalty for so doing would be a nice jail sentence.

"Maybe Not Legal But Right"

Messrs. Linville and Harmon went ahead regardless. "It may not have been strictly legal then," (it has since been held so), said Mr. Harmon, "but we thought it was right." And that is the fundamental law and philosophy on which these two men operate the Kernersville government.

Both officials are committed and "sold" on the practice of accepting town bonds for past due assessments. They hope now to see it extended to obligations not yet due. As Mr. Harmon says: "It helps the citizen, enabling him to pay his assessments for from 35 to 50 cents on the dollar. It makes it possible for the town to redeem bonds it could not otherwise redeem. And it does not hurt the bondholder, who does not have to sell but who can hold his bond if he wishes until the town can pay."

Mr. Harmon has saved the Kernersville taxpayers, many of them without knowing anything about the reason or the method, several thousands of dollars on their street assessments in this manner. He keeps their money in a cigar box, until he gets enough to buy a bond and gives them the full benefit of the saving. It doubles his work, but he does it gladly.

Mr. Harmon's home is a small museum in itself. In it are to be seen hand-carved furniture from Japan, statues in marble and alabaster from Italy, cloissonne from Paris, tapestries from China, draperies from Ireland and England, and other art treasures from all over the globe. Mr. Harmon himself has traveled widely and each object recalls an interesting story.

The spacious grounds and gardens surrounding the stately old colonial residence are a thing of beauty. In them Mr. Harmon, who is an enthusiastic gardener, has collected rare and costly trees and shrubs, including a profusion of evergreens and boxwoods, from many and distant places.

Here, too, one finds rare treasures from abroad to enhance the natural beauty. There are two marble fountains he brought back from Naples, two lanterns such as are used outside the temples in Japan, and other things. The whole seems to express the principles and personality of the man: "Do right and live well."

A Court House With a Past

The Orange County Court House with its famous clock, the gift of King George, III, and its records dating back to 1737, is one of the most interesting in the State historically. But let Gilbert Ray, who serves the county as accountant, purchasing agent, and tax supervisor and who has a knack of doing many things well, tell the story of the famous Hillsboro structure.

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By GILBERT W. RAY

PERHAPS it is true that no other public building in our state is viewed by more transients in the course of a year than is the Orange County Court House at Hillsboro. It being situated beside the old number 10 Highway, which has so often been termed North Carolina's Main Street, one has to look from its west windows only a few minutes at any hour of the day before he will see some passerby cast his glance in the direction of the court house, and almost invariably that glance continues until it rests upon the face of the old town clock which is in the cupola of the court house. To a person who is anything of a student of North Carolina history, it is no small wonder that either the building or the clock should excite the interest of everyone who comes its way. Both are replete with the history as well as the lore of our state during that period when this section was considered the "Back Country" or western part of the state.

Orange County's Fourth Court House

While the building of the present court house was not begun until the year 1844, it is the fourth Orange County Court House that Corbinton, Childsburg or Hillsboro has listed among the public buildings within its borders. (The town when first laid off by William Churton in 1754 was called Orange, but shortly thereafter it was changed to Corbinton. On November 20, 1759, it was incorporated under the name of Childsburg, and on November 3, 1766, it was changed to Hillsboro.) Captain John Berry was both architect and builder of the present court house, which is of the colonial style of architecture and is built of hand pressed brick made at or near Hillsboro.

The laying of the corner stone, September 7, 1844, undoubtedly was a grand occasion in Old Orange. The local Masonic Lodge, which at that time was Eagle Lodge Number 71 (now Number 19) had charge of the program, presided over by James Strudwick Smith, afterwards Grand Master of Masons in North Carolina. Invitations were sent out to the neighboring lodges as well as to all the people of the surrounding country to be present at the occasion which was to be followed by a dinner. The brethren in charge must have anticipated a riotous time reminiscent of the days of the Regulators for they specified in the invitation sent out that "No spirituous liquors of any kind shall be permitted to be brought to the table, it being intended to be strictly a temperance meeting." The Rev. W. M. Green, of Chapel Hill, delivered the address, of which the original manuscript is on file in the Masonic Lodge.

The contract price of the court house, according to Hon. Frank Nash, a native of Hillsboro who at the time of his death recently was assistant Attorney General, was $10,000.00. When the building was completed (in 1846), the County Court was so well pleased with the work, it gave Captain Berry, the builder, a bonus of five hundred dollars.

Clock a Gift of King George, III

While the court house is of historic interest, principally because of the records it contains of much earlier days, the old town clock in its own right is entitled to the interest which it holds for us. It was this same clock that tolled the hours during the trial and execution of the Regulators, through the days of the Revolutionary War, and through the days of the War of the Confederacy.

The clock, a gift from King George, III, to the town of Hillsboro, arrived here sometime during or about the year 1769. It was procured by Edmund Fanning through Governor William Tryon and the Earl of Hillsboro. Upon its arrival it was placed in the steeple of old St. Matthews church, which stood at the site where now stands the Presbyterian church on Tryon Street. In the later 1780's when the steeple of this building became defective, it was moved to the cupola of the market house, which stood near the intersection of King and Churton Streets and in front of the court house. When the market house was torn away, the clock was stored for a number of years until the present court house was built. It was then repaired by Mr. Lemuel Lynch, a watchmaker and silversmith, and placed in the cupola of the new court house. It still keeps time as well as the average watch of today, and like them it stops when it is not kept wound.

Almost everyone who knows anything of the history of the old clock, has heard some story relative to the disappearance of the bell which originally served as the gong for the clock. There have been a number of stories suggested as possible solutions to the mystery of its disappearance. One is that it was destroyed at the home of Edmund Fanning soon after its arrival here and before it was put up; another that it was buried in Eno River during the Revolution and lost; and still another story is that the bell was carried off by Fanning and McNeil when they raided the town in 1781. As to the truthfulness of any of these, the writer is not informed, but it is a fact that the date "1805" is stamped on the bell which is now in use.

Records Date Back to 1737

In the office of the clerk of court is an unbroken sequence of wills from 1756 to date. It is not at all difficult to find among these wills in which Negro wenches, Negro fellows, and copper stills are bequeathed to the descendants of departing Patriots.

The office of the Register contains records of land grants and deeds dating back as far as 1737. None of these, how-

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Woman and the Law in North Carolina

By HARRY W. McGALLIARD
Special Assistant, Institute of Government

THIS is the story of woman and the law in North Carolina. It begins with the time when a woman, forsaking spinsterhood for the honorable estate of matrimony, ceased to be an individual and became a nonentity. The marriage vows murmured to the soft strains of music placed her property as well as her person in her husband's control. The right to possible future earnings, the right to property that might subsequently come to her, and the right to make contracts—all these were lost in matrimony. In law the wife was classed with minors and lunatics. If the husband committed adultery in the wife's own bed, the law bade her overlook it. Yet if the husband acquired all of the wife's assets, the law at the same time saddled him with all her liabilities, past and future as well as with the duty to support her. Husband and wife were one —and the husband was the one.

In the course of time, and through a multitude of different situations, some harsh, many amusing, the legislature and the courts gradually relaxed the chains that held married women in legal bondage. As the wife was freed from the husband's control—including his right to chastise her—the husband was also slowly relieved of many of his onerous responsibilities for the wife's conduct.

THE emancipation of woman, with each succeeding change in her legal status, is one of the great stories of modern democratic government. This article by Mr. McGalliard is the first in a series on the subject in North Carolina.

The history of the emergence of women under the laws of this state has been studied at length—worked out from a survey of various constitutional revisions, an analysis of hundreds of related laws which from 1777 to 1935 have at one time or another graced or disgraced our statute books, and from the thousands of court decisions that are scattered through some 207 volumes of Supreme Court Reports. The scope of this work embraces every aspect of the changing legal status of women, particularly married women, tracing the story from their serville position of the Revolutionary period down to their present-day emancipation.

Inasmuch as the fact of marriage has always worked a radical change in woman's legal position, it is important to learn how a person may get married. Therefore, we will first unfold the history of marriage in this state.

The Three Requisites

There are three requisites for getting married (1) the required legal age (2) the mental capacity to make a contract, and (3) the physical capacity to have intercourse.

There have been three developments as to the required legal age for getting married. Before 1871 the age was 14 for boys and 12 for girls. In 1871, the age was raised to 16 for boys and 14 for girls. In 1923 the age for girls was raised to 16, making it the same as for boys, with a proviso that the parent or guardian of a girl between the ages of 14 and 16 could secure a special license for her marriage when so desired.

Parent's Consent

The legislature of 1871-2 was not content with raising the required legal age. It went further, requiring any person under 18 to procure the written consent of his father, or in the absence of the father, the written consent of some other person occupying the position of a guardian and residing with the minor. If the father was living, the father's consent was required, and the mother's consent was unnecessary. If the father was dead or not living at home, the mother's consent was necessary. If both father and mother were dead, other relatives were recognized as competent to give consent in the following order of importance: uncle, aunt, brother, elder sister.

In order to prevent persons of immature judgment from entering into ill-advised marriages the age requirements have thus been raised until today a person must be at least 16 before he can get married. Even then, if he is over 16 but has not reached 18, he must have his parents' consent. If however, a person under the legal age does succeed in having a marriage ceremony performed, and continues to live as married after he has reached the legal age, then the marriage is valid.

It is an interesting sidelight that a statute was enacted in 1820 requiring the written consent of the parent or guardian of any woman under 21, if the parent or guardian lived in some other state. The purpose of this law was to prevent runaway couples of other states from finding a haven in North Carolina.

Mental and Physical Capacity

The second requisite for marriage is that a person shall have the mental capacity to make a contract. This was true in colonial times and it is true today. If a person is to be bound by his acts the law requires that he have sense enough to know what he is doing. Thus an idiot or lunatic or a drunk person is disqualified.

The third requisite is that a person shall have capacity to have intercourse. He must not be impotent. Sterility, that is, inability to procreate or to bear children, is not a bar to marriage. If, however, an impotent person does get married, the impotency is a ground for securing an absolute divorce, provided it existed at the time of the wedding, continues to exist thereafter, and is incurable.

Persons Who Cannot Marry

Three classes of people are forbidden to intermarry; (1) persons of too close kin, (2) members of different races, and (3) persons having a husband or wife living.

In 1852 the legislature passed an act prohibiting persons of nearer kin than first cousins from marrying. This meant that a man could not marry his mother, daughter, grandmother, granddaughter, sister, aunt or niece. Correspondingly a woman was forbidden to marry her father, son, grandson, brother, uncle or nephew. These relationships were obviously within the statute. But, could a man marry his father's half-sister, his own half-aunt? Are they nearer of kin than first cousins? Many people thought not. Whatever the correct genealogical answer may be, the legislature settled the question by passing another law in 1879 declaring that in the future such relationships by the half blood were to be counted as the whole blood thus prohibiting a marriage between a man and his half-aunt.

In 1917 one further restriction was placed on the marriage of kin. By the old law cousins could marry. The new wrinkle added in 1917 forbids the marriage of "double first cousins." When two brothers marry two sisters, or a brother and a sister marry a sister and brother, their children are more closely related than ordinary cousins. The 1917 statute forbids these children to intermarry.

Such legislation is, of course, founded both on religious objections and a desire to promote social welfare through the prevention of inbreeding. Even after the laws were passed, couples within the prohibited degrees of kinship frequently married in ignorance of the law. On several occasions an obliging legislature passed curative statutes validating specific marriages which had been entered into contrary to provisions of the law.

Members of Different Races

Marriages between white persons and negroes are absolutely forbidden. This is probably the strongest restriction or prohibition in our whole body of marriage law. The statutes date back to 1741. Through oversight the law was accidentally repealed in a revision of statutory law in 1836 but it was promptly reënacted by the next legislature in 1838. As if statutory provisions were not strong enough we have even incorporated this marriage prohibition in the State Constitution, Article XIV, § 8. The law is not limited to intermarriage with pure-blooded negroes, but includes also persons of negro descent to the third generation. That is, a person whose great-grandfather or great-grandmother, or any other one intermediate ancestor was a negro, is forbidden to marry a white person. However, the great-grandparents must be a pure-blooded negro in order to include his great-grandson in the terms of the statute. The law does not stop with forbidding persons of the two races to intermarry. It is a criminal offense to issue a marriage license to such a couple. It is a criminal offense to perform the marriage ceremony. It is a criminal offense to marry a person of the other race. And finally persons living together as man and wife under such purported marriage are guilty of fornication and adultery. These laws have been held by the Supreme Court not to violate the Constitution of the United States as to racial equality because the prohibitions apply equally to both races.

When State Laws Differ

If a couple forbidden to marry in this state leaves North Carolina, goes into a neighboring state where inter-racial marriage are not unlawful, has the marriage ceremony performed, and returns here, what is the result? Is such a marriage regarded as lawful here? That depends. We have two court decisions handed down in 1877 that are printed side by side in the Supreme Court Reports. In each case a North Carolina couple went to South Carolina to be married. In each case the couple was later discovered living as man and wife in this state. A superior court found each couple guilty of fornication. The Supreme Court affirmed the conviction of one couple, and turned the other pair loose. Why? The reason is that one couple had gone into the other state for the sole purpose of evading North Carolina marriage laws, returning immediately after the ceremony. The other couple had no intention of returning to this state at the time of the marriage, in fact, resided and worked in South Carolina for a time, and only at a later date decided to return here. Thus in the latter case, the court felt disposed to recognize the marriage as valid since it was lawful where contracted and since the couple had not gone into the other state for the mere purpose of evading the law.

The prohibition against inter-racial marriages is not limited to white persons and negroes.

All marriages between a white person and a person of Indian descent to the third generation (as far back as his great-grandparents) are void. Likewise, a Cherokee Indian of Robeson County cannot marry a negro or a person of negro descent to the third generation.

These prohibitions assuredly indicate a strong legislative desire to preserve purity of racial strains. The wisdom of these laws is emphasized by the fact that court reports disclose a surprisingly large number of illegitimate mulattoes.

Bigamy is, of course, against the law. The marriage of a person who already has a husband or wife living is void. But the law is not so harsh as it once was. Nowadays a person is merely limited to one husband or one wife at a time. By the law of 1812, the guilty party in a divorce action was forbidden to remarry while the former husband or wife remained alive. Thus until this was repealed, there were situations in which the law denied a person the right to even one husband or wife.

MARRIAGE

1. **How old must a person be to get married?**
2. **Is the parent's consent necessary?**
3. **May first cousins marry?**
4. **May white people intermarry with other races?**
5. **May Indians and Negroes intermarry?**
6. **Can a North Carolina couple, forbidden to marry in this state, evade our law by getting married in another state?**

You will find the answers to these questions and many others in this article.

The Institute of Government's Summary of

The New State Laws

Passed by the General Assembly of 1935

By
HENRY BRANDIS, JR.
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The 1935 General Assembly, like its predecessors, passed many laws, and brave indeed is he who would attempt to present all new laws in the order of their importance. Because of the great sums of money involved, the biennial Revenue and Appropriations Acts undoubtedly retain their positions as the most important legislation enacted. Likewise of major importance are the School Machinery Act, the Tax Machinery Act and several measures affecting highways and the highway fund.

To some extent, however, all of these laws are old friends—legislation which, in some form or another, our General Assemblies have been passing for years. To one seeking any completely new trend in State legislation, perhaps the most significant feature of the 1935 session is the extent to which its activities were influenced by Federal laws and Federal programs. Almost every field of governmental and private activity is involved to some extent in new laws which either were directly inspired by Federal authorities or were the normal result of some Federal program. It is altogether fitting that the first and last bills of state-wide effect passed by this General Assembly were laws of this character. For this reason all such laws have been grouped under one general heading and presented at the top of the list. Other laws follow in more or less arbitrary groupings, according to their subject matter.

I. Laws Inspired by Federal Statutes or Programs

A. Laws providing money to match Federal funds

Perhaps the least novel of all the laws inspired by Federal activities are those designed to allow the state or its subdivisions to undertake public enterprises jointly with the Federal Government. Because they are old friends, because they involve much money, and because the types of enterprises involved are more numerous this year, perhaps they are entitled to first mention.

Most important, from the standpoint of money involved, is that part of the Appropriations Act (Chapter 306, Public Laws) dealing with the highway fund. For some years it was the policy of the Federal Congress to require states to match the money appropriated for Highway construction by the Federal Government. During the biennium 1933-35 this policy was temporarily abandoned. Consequently, the 1933 legislature appropriated only $190,000 per year for highway construction. This year Congress returned, in part to its former policy. Accordingly, the 1935 Assembly was forced to appropriate $3,200,000 per year to match Federal construction money. In addition, it was necessary to appropriate $500,000 to cover the cost of work which the State had to finance in order to use the huge sums donated by the Federal Government during 1933-35. This item will be found in the Appropriations Act labeled "Deficit under Federal Construction." Also, the highway fund appropriations include a total of $1,500,000 per year as additional highway maintenance appropriations for work relief purposes—an item in substitution for a direct relief appropriation. Finally, the highway appropriations include $150,000 per year for the acquisition of rights-of-way for a scenic parkway to be built by the Federal Government. Authority to acquire this right of way was given (by Chapter 2, Public Laws) long before the actual appropriation was made. Likewise given (by Chapter 240, Public Laws), but unaccompanied by any specific appropriation, was authority to the State Transportation Advisory Commission to acquire rights-of-way for inland waterways when the Federal Government is prepared to provide the waterways.

Undisturbed was the long-standing arrangement whereby the Federal Government, the State and local governments all contribute to farm and home demonstration work and to local health work. Likewise undisturbed were the provisions of the School Machinery Act which allow the levy of local taxes to provide money to match Federal funds available for the teaching of vocational agriculture and home economics. In fact, these provisions were broadened to allow use of local tax funds for the teaching of such trade and industrial subjects as are financed in part by Washington.

Finally, a new coöperative enterprise was entered with a bang when the legislature (by Chapter 106, Public Laws), appropriated $75,000 yearly to match Federal funds (the

A Service for North Carolina Officials and Citizens

Following the policy of making available information about new legislation, inaugurated by The Institute of Government in 1933, the accompanying Summary is designed to afford a broad-gauge picture of the State-wide laws enacted by the 1935 General Assembly.

Though time and space do not permit the detailed analysis of particular measures, it will be found to be fairly inclusive. The editors' hope is that it will prove a useful and handy reference for public officials, lawyers, and others interested in legislation.

The scope is necessarily limited to State-wide laws. Summaries of the new Local Acts affecting each county and town are now in preparation, and will be distributed to officials attending the 1935 sessions of The Institute of Government in Chapel Hill, June 10 and 11. The Institute will be glad to be of any service it can to local officials in procuring information concerning specific laws in which they are interested.

total to be augmented by local funds) for the continuation of a free employment service authorized by the Congressional statute known as the Wagner-Peyser Act.

B. Laws validating or authorizing borrowing from the Federal Government by the State and its subdivisions

The legislature was interested in seeing the work-relief bill passed by Congress, thus making the well-publicized if inconceivable $4,800,000,000 available for distribution. In fact, by Resolution 30, it memorialized Congress to pass the bill in the form proposed by the President.

This interest was prompted by the delay in the construction of the Smoky Mountain Parkway and other Federal projects in the State. Subsequent developments showed that the legislature's major interest was in that part of the assorted billions which may be had for the asking, rather than in that part which may be borrowed against an ultimate day of reckoning. When the time came to pass the bills, sent from Washington, authorizing the State and its units to borrow, there was considerable opposition. Nevertheless, with certain notable modifications, the bills were passed.

Most notable of the modifications was that made in House Bill 1054, which was originally designed to allow the State and its agencies to borrow, from Uncle Sam, up to $100,000,000 for self-liquidating projects. Before this one squeaked by the sum total of authorized borrowing had been reduced to $2,000,000 (or just about enough to make a good discount for cash on the original sum). That the authority to borrow all or a part of the $2,000,000 may be exercised is indicated by the passage of House Bill 1466, which authorizes the Governor and Council of State, in their discretion, to use part of the contingency and emergency fund (jumped this year from $350,000 to $500,000 per year) to aid in the construction of State buildings. Apparently it is contemplated that the major part of the money required for a much-needed state office building will be borrowed from the Federal Government. Incidentally, any borrowing done by the State under House Bill 1054 must be done prior to December 31, 1936. A lesser law which experienced little trouble was Chapter 229, Public Laws, which authorized Appalachian State Teachers College to borrow $35,000 from some Federal agency to enlarge its power plant facilities. The loan may be repaid only out of revenues received from the sale of electric power.

Another law dealing with State borrowing from Washington is House Bill 1350, which deals with a loan already arranged. It pledges whether rentals the State may secure from the Atlantic and North Carolina Railroad as additional security for the loan made by the Federal Government to the Morehead City Port Commission for the development of that Port. Because this Railroad is leased by the Norfolk and Southern, which is in receivership, the State has not received any income from it for several years. The feeling is widespread that the State will never again receive anything substantial from it unless development of the Port increases its traffic. Consequently, the pledge of future revenues from it is not regarded as a serious sacrifice. Before this bill was passed, however, the legislature, by House Bill 1351, took care to insure that the State will always have the controlling voice in the management of the Port Commission so long as the pledge continues.

Also involved in the Port-Railroad situation is Chapter 146, Public Laws, which authorizes the State to invest its sinking funds in the obligations of quasi-public corporations in which the State owns not less than 51 per cent of the stock. The reason for this statute is found in the fact that the bonds of the Atlantic and North Carolina Railroad are in default. In order to protect its investment in the Railroad's stock and its interest in the development of the Port the state is putting itself in position to buy the Railroad's bonds and thus stave off foreclosure and loss of the Railroad.

The "Ickes Bills" relating to borrowing

Four of the so-called "Ickes Bills" deal with borrowing from the Federal Government by counties, cities or towns. The first, House Bill 1049, validates all bonds issued by municipalities to the Public Works Administration prior to its ratification, notwithstanding any want of power to issue such bonds or any irregularities in the proceedings. It also validates all proceedings taken by municipalities, prior to its ratification, preliminary to the issue of bonds after its ratification, and authorizes the issue of the bonds. This latter provision was so distasteful to the House that it was eliminated, but the Senate restored it to the bill. The Senate did, however, restrict the application of the bill to bonds approved by the Local Government Commission.

The remaining three bills allowing cities and counties to borrow are House Bills 1050, 1051 and 1060. The first two authorize cities and counties, respectively, to borrow from the Federal Government or any of its agencies in order to secure money for any project, undertaking or improvement which constitutes a "necessary expense" within the meaning of our State Constitution. The bonds contemplated by these laws will be general obligations of the issuing unit, and principal and interest will be paid by the levy of ad valorem taxes, except for such part as may be paid out of revenues produced by the project. Of course, there would be no revenue from such a project as a school building, and the entire amount would be paid from taxes. The bonds could not be issued without the approval of the Local Government Commission or, in some cases, without a vote of the people, but could be sold at private sale to the Government or its agencies, and, once issued and delivered, are declared to be incontestable. No money can be borrowed under these laws unless the arrangements are made prior to June 30, 1937.

House Bill 1060, under which the arrangements must likewise be made prior to June 30, 1937, authorizes borrowing by cities and towns to establish revenue-producing enterprises such as water, sewer, gas, or electric power and light systems. Such bonds (and interest thereon) would be payable only out of revenues produced by the enterprise, and no taxes would be levied to pay them. The approval of the Local Government Commission is necessary to issue the bonds; but, once issued and delivered, they are declared to be incontestable.

C. Laws lending official status to or providing assistance for agencies calculated to catch Federal dollars

Four more of the "Ickes Bills" fall within this classification. House Bills 1052 and 1053 are companion bills dealing with housing projects. The latter is an extremely lengthy bill prescribing the machinery for the organization

and management of Housing Authorities, which are empowered to initiate housing projects in cities of 15,000 or more population, or within 10 miles of such cities. Likewise prescribed is the method of borrowing money and issuing bonds, which are made legal investments for sinking funds and trust funds. The Housing Authorities are authorized to condemn property needed for their projects, but may do so only with the approval of the Utilities Commission. All property of the Authorities is declared to be tax exempt.

House Bill 1052 authorizes the State, cities and counties to donate, lease or sell property to the Housing Authorities and to provide the projects with water and sewer facilities, parks, sidewalks, street pavement and other services, all of which may be provided without assessment against abutting property owners. Further, any city of 15,000 or more in which such a project is undertaken is authorized to donate the first year's administrative and overhead expense; and such cities, and any smaller towns within the boundaries of the Authority, are authorized to give or loan money to the Authority from time to time.

House Bills 1055 and 1056 are likewise companion bills. The former contains a general authorization for condemnation of property desired for housing projects which receive money from the Federal Government. The latter authorizes any public works project financed by the Federal or State Government to condemn property, and prescribes at length the procedure of condemnation. Unde neither bill can property be condemned without the approval of the Utilities Commission.

Rehabilitation and state planning

Two other laws dealing with kindred subject matter, though not companion bills, are Chapter 314, Public Laws, and Senate Bill 554. Chapter 314 recognizes as an agency of the State the N. C. Rural Rehabilitation Corporation, which was organized by the Emergency Relief Administration to supervise subsistence homesteads and allied projects. The Corporation is authorized to receive loans and grants from any governmental or private agency, and all State Departments are empowered to coöperate with it in its work. Senate Bill 554 creates the State Board of Rural Rehabilitation and authorizes the formation, subject to the approval of the Board, of non-dividend or limited-dividend corporations for the purpose of operating subsistence homestead or similar rural development projects. The powers of the corporations and the Board are prescribed at length, including power in the Board to fix maximum and minimum purchase prices for the farms to be sold by the corporations.

Two laws remain which also provide for agencies connected with the Federal program. House Bill 1317 merely approves, as an advisory agency of the State, the State Planning Board appointed by the Governor on January 26, 1935, at the suggestion of the National Resources Board. The job of the Planning Board is to collect data on projects suitable for development by State or Federal agencies. Its members (a number of whom are State officials) serve without pay. Any expense entailed which is not paid from Federal funds is to be paid from the State's contingency and emergency fund. House Bill 1507 (the last state-wide bill passed) authorizes the Governor and Council of State, in the event of the passage of a Federal unemployment insurance law, to set up a State agency to perform such duties in connection with acceptance of contributions to and management of the insurance funds as state agencies may be called upon to perform.

D. Rural Electrification

Of all the bills designed to allow borrowing from the Federal Government, perhaps those receiving most universal support were the rural electrification bills. Chapters 288 and 291, Public Laws, are companion laws creating a State Rural Electrification Authority (granted $10,000 a year on which to operate), with complete control over the power of local communities to establish rural electrification projects.

Citizens of rural communities desiring to organize Electric Membership Corporations, which will be the operating units, must apply to the State Authority for permission to organize. The State Authority is charged with the duty of contacting the power companies serving contiguous areas to see if they will extend their lines to take care of the community. If no power company will undertake to furnish the service, the State Authority is then to investigate the cost of the project and report to the local community on the probable rates which would be necessary to make the project self-liquidating. No Membership Corporation may borrow Federal money except through the State authority; nor may any such Corporation sell electricity except to its own members. All rates are to be fixed by the Public Utilities Commissioner. The Membership Corporations are given the power of eminent domain in obtaining rights-of-way, and their property is declared exempt from taxes.

E. Conservation and development

Perhaps all the laws to be mentioned under this classification are not truly designated as "Federal bills," but it is easy to regard them as such because of the tremendous impetus which the Roosevelt Administration has given to withdrawal of submarginal lands, development of State and National Parks, protection of soil and forest resources and similar programs.

In addition to the scenic parkway and inland waterway measures already mentioned, a number of laws center around these activities. One such law (Chapter 172, Public Laws) permits counties to coöperate in the soil erosion work now being done in the State by authorizing them to purchase machinery used in work designed to prevent soil erosion and resell or lease such machinery to farmers in the county on such terms as the County Commissioners prescribe. It also authorizes the counties, in cases where farmers purchase such machinery from the Federal Government or some other vendor, to guarantee the purchase price. Twenty-nine counties are exempted from this statute.

No less than eight new laws deal with lands suitable for parks, game refuges, or other public projects. Chapter 173, Public Laws, requires the State to retain any State lands lying within or adjacent to National Forest Purchase Areas or State Parks and to retain also such other lands as the Department of Conservation and Development may consider suitable for a public use; but the Department is authorized to exchange such lands for other lands more suitable for such purposes. Chapter 342, Public Laws, authorizes the State Board of Education (in which is vested

title to all State-owned swamp land) to sell or lease to the Department of Conservation and Development all such lands as are suitable for oyster culture, game refuges or other public use; and prohibits sale by the Board, without the consent of the Department, of any land suitable for oyster culture. By these two laws is preserved the State's right to develop the lands it now owns.

Parks, forests and game refuges

Chapter 332, Public Laws, authorizes the State to convey to the United States, for purposes of establishing a National Park, lands along the "banks" in Dare and Currituck Counties which the State now owns or may acquire by gift. Chapter 317, Public Laws, makes it unlawful, without the written consent of U. S. officials, to injure or remove timber, plants or buildings or to hunt or fish on lands optioned to the Federal Government. The lands referred to are those being bought in pursuance of the Federal policy of retiring submarginal lands from cultivation, and much of the acreage involved will eventually be deeded to the State. The Department of Conservation and Development had already been authorized, by Chapter 226, Public Laws, to accept such lands and administer them with such funds as may be derived from them and such appropriations as may be made by the legislature. House Bill 1164 authorizes the Department of Conservation and Development to purchase, lease (or accept as gifts) and develop lands desirable for State forests or parks. Any expense incurred may be paid only from revenues derived from the undertaking. If any clear profit is ever derived, 50 per cent will go to the State and 50 per cent to the school funds in the counties in which the land lies. Chapter 115, Public Laws, provides that if and when any State lands are sold, or products from it are sold, and a profit is made because of work done on the land by the Federal Government, 50 per cent of the profit or proceeds of the products, not exceeding $3 per acre, may be paid to the Federal Government to reimburse it for its work.

By these laws the attempt is made to lay the basis for complete coöperation between Federal and State authorities for the development of parks, forests, game refuges and other recreational areas. There is perhaps but one fly in the ointment of these public land programs. Land acquired by State or nation comes off the tax books. Thus Swain County lost 30 per cent of its tax valuation, and Haywood County also suffered serious losses, when the Smoky Mountain Park was created. The 1933 legislature asked Congress to do something about it. The 1935 legislature followed suit by asking favors for Hyde County. Because the United States has purchased Lake Mattamuskeet, Bell Island and other land in Hyde, the legislature, by resolution, asked Congress to appropriate enough to pay off so much of Hyde's bonds as would have been paid from taxes on these lands.

F. AAA and other alphabetical agriculture

Except for Chapter 230, Public Laws, which makes a number of changes in the statutes governing the organization and activities of coöperative marketing associations (and which must have been drawn by Federal officials because its title is so long), the legislature's activities with respect to the more recent phases of the New Deal's agricultural program were confined to resolutions bestowing advice upon Congress.

It resolved to send delegates to the Tobacco Conference called to discuss continuation of the crop-reduction program. It resolved to urge Congress to pass the Frazier-Lemke Farm Refinancing Bill. It resolved to urge Congress to kill the so-called Flanagan Bill, relating to government grading of tobacco. It resolved to urge Congress to give sweet and Irish potato farmers the same sort of program already provided for wheat, cotton and tobacco.

It was not until the legislature resolved to urge Congress to repeal the cotton processing tax (and pay crop reduction benefits from the general fund) that its advice-giving tendencies backfired. The resolution landed in Washington in the midst of the wrangle over continuation of the cotton program, immediately forsook the inconsequential character of most memorials to Congress and became a matter of national comment. Accordingly, a solid line-up of legislators from agricultural counties resolved to repeal the first resolution. The best the cotton mill counties could do was to eliminate from the repealer a confession that the first resolution was improper and ill-considered.

G. Hospitalization contracts

Because Wake County and the City of Raleigh desired to help Raleigh's Rex Hospital to secure a Federal loan, they agreed to pay the Hospital a stipulated annual amount for its charity work, thereby providing funds with which to repay the Federal loans. They had to have statutory authority to satisfy the Federal officials, and the statutes had to be cast in State-wide form. Accordingly, bills were introduced to allow cities and counties to contract to pay hospitals not exceeding $10,000 annually for charity work. These bills became Chapters 64 and 65, Public Laws. About half the State was exempted from them; but Wake and the other half of the State may still proceed under them.

H. Greasing the Federal credit skids

Three laws are designed to help create a market in North Carolina for the large wads of securities now being ground out by the various Federal agencies. Chapter 71, Public Laws, authorizes banks, insurance companies, all other financial institutions and all fiduciaries to invest in securities created pursuant to the National Housing Act, and makes such securities eligible for use in lieu of depository bonds. This law was amended by Senate Bill 476 to require building and loan associations to conform nevertheless to the provisions of Section 5182 of the Consolidated Statutes.

Chapter 82, Public Laws, amends the statute which prohibits banks from dealing in investment securities to make it inapplicable to bonds issued under the Federal Farm Loan Act or issued by the Federal Home Loan Banks or Home Owners' Loan Corporation. Broadest of all was Chapter 164, Public Laws, which authorizes all financial institutions, all fiduciaries and all officials charged with the duty of investing public sinking funds to invest in securities guaranteed as to principal and interest by the U. S. Treasury. Further, banks are excused from maintaining a reserve against deposits secured by such bonds; and fiduciaries, when making settlement, are allowed to treat

such securities as cash equivalent to the price paid for them, not exceeding par.

I. Miscellaneous monetary matters

Miscellaneous laws reflecting Federal financial legislation were: (1) Chapter 81, Public Laws, which allows banks to become eligible for Federal Deposit Insurance and purchase stock in the Insurance Corporation. It also authorizes the Commissioner of Banks, in case of failure of any insured banks, to turn the liquidation over to the Insurance Corporation. (2) Chapters 90 and 154, Public Laws, exempt from the Capital Issues Law securities to be distributed or exchanged for other securities under a plan filed with the U. S. Securities and Exchange Commission. (3) Chapter 87, Public Laws, changes the name of "savings and loan association" to "credit union" to conform to the names of similar organizations authorized by Federal Statutes. (4) Chapter 104, Public Laws, authorizes building and loan associations, if they so desire, and subject to the approval of the Insurance Commissioner, to convert themselves into Federal savings and loan associations pursuant to the Home Owners' Loan Act.

J. Laws designed to afford incidental help to the Federal lending program

Largely to facilitate the activities of the Federal lending agencies, Chapter 219, Public Laws, was passed to authorize the recording of maps or plats and to declare that a reference to such recorded map or plat in a deed should be the equivalent of a full description of the property. For a similar purpose, Chapter 153, Public Laws, was passed to allow the recording (for $5) of a master form of mortgage or deed of trust, setting out covenants at length, and to allow subsequent instruments to incorporate the provisions of the master form by reference to it, thus reducing the length of the subsequent instruments and saving recording fees. Of course, these statutes may be utilized by any one, as they are not restricted to the Federal agencies; and at least partly for that reason, some 28 counties were exempted from the last-mentioned one.

Chapter 163, Public Laws, allows executors or administrators of deceased farmers to continue the farming operations until the end of the calendar year, or thereafter if some crops cannot sooner be harvested. Only net income from the farming becomes an asset of the estate, and debts incurred in connection with it are made preferred claims. This law, also, was sponsored by the Federal agricultural loan authorities.

Finally, Chapter 120, Public Laws, amended a 1933 law which restricted (to 25 cents for the Clerk and 50 cents for the Register) the fees to be charged for recording certain Federal crop liens and chattel mortgages. Chapter 120 extends this restriction to include such instruments given to secure loans by Federal Production Credit Association, the N. C. Rural Rehabilitation Corporation and other relief organizations. From it seven counties are excepted.

K. Election laws

One-third in amount and importance of all State-wide election laws passed by the 1935 legislature was necessitated by a recent change in the Federal Constitution. This one-third is embodied in one law (Chapter 143, Public Laws) which merely shifts the date of the meeting of Presidential electors to conform to the new time schedule necessitated by the "Lame Duck Amendment."

L. By way of further suggestion

The advice given Congress about the work-relief bill and various agricultural matters, already mentioned, did not constitute the legislature's total contribution by way of helping Congress to settle national affairs. The remainder of the output consisted of urging: (1) payment of the veterans' bonus; (2) use of granite in Federal buildings; (3) elimination of war profits; (4) restrictions on the importation of foreign textile fabrics; and (5) retention of the so-called "long and short haul clause" in the Federal law relating to freight rates.

II. State Government (not including the highway and prison system)

A. State revenue

1. The Revenue Act and its amendments

The major provisions of the Revenue Act (Chapter 371, Public Laws) are, by this time, familiar to newspaper-reading North Carolinians; and the lesser provisions are too numerous to be summarized here. Suffice it to say that the most important changes made were: extension of the sales tax to basic foods heretofore exempted; extension of the sales tax principle to hotel and restaurant meals; a new tax on chain service stations; increase of the tax on all chain stores operating more than five stores; reduction (from 15 per cent to 10 per cent of the gross income) of the amount which may be deducted, for income tax purposes, on account of contributions to charity; and increase in the rate of franchise tax on ordinary business corporations (an increase wholly or partly offset by a change in the method of levying the tax on borrowed capital). None of the five laws which amended the Revenue Act contained any startling departure from previous State policy.

B. Other laws relating to revenues

Other less well-known Statutes which levied or increased taxes or fees (some for regulatory rather than revenue-raising purposes) are: (1) Chapter 360, Public Laws, levies a prohibitive annual license tax on dealers in scrap tobacco of $1,000 for each county in which the business is carried on. (2) Chapter 328, Public Laws, levies a prohibitive tax of 10 cents per pound on oleomargarine which contains any fat or oil ingredients other than enumerated vegetable and animal fats and oils, all of which are produced in this State. The bill is designed to discriminate in favor of oleomargarine produced from domestic oils and fats to the point of eliminating oleomargarine produced from cocoanut oil and other foreign products. (3) Chapter 151, Public Laws, levies a tax of 4 cents per bushel on hard crabs. (4) House Bill 1339 changes some of the taxes on fur buyers and their agents. (5) Chapter 10, Public Laws, prescribes a fee of $15 for filing a certificate of incorporation for a non-stock benevolent, religious, educational, charitable or social association. (6) Chapter 44, Public Laws, raises the fee to be paid by a foreign corporation, when filing a copy of its charter as a condition prerequisite to doing business in North Carolina, from 20 cents to 40 cents per $1,000 of capital stock, and raises

the minimum payment from $25 to $40 and the maximum from $250 to $500. (7) Chapter 60, Public Laws, raises from $1 to $5 the fee which must be paid by one registering a trademark in the Office of the Secretary of State, over and above the filing fee.

Tightening up tax collection laws

Five other laws are designed to tighten collection laws or otherwise attract revenue. (1) In an attempt to collect the dregs of the 1931-33 State property tax as fast as possible, Senate Bill 408 allows the counties to deduct from the total tax the actual amount of insolvents (uncollectible taxes on personal property) and 3 per cent for collection charges, releases and adjustments. For payment of the balance before November 2, 1935, they will receive a further discount of 5 per cent; for payment before December 2, 1935, a discount of 2 per cent; for payment before January 2, 1936, a discount of 1 per cent. After such payment has been made in full, all State property tax collected by the county belongs to the county. (2) Chapter 334, Public Laws, allows the Insurance Commissioner, when investigation discloses delinquency in special taxes on the part of an insurance company, to assess a penalty of 10 per cent of the delinquency in lieu of making a small per diem charge for the investigations. (3) Chapter 340, Public Laws, provides that when a water company or seller of bottled spring water is six months behind in the payments it must make to the State Board of Health, the Attorney General may sue for the payment upon request of the Secretary of the Board. (4) Chapter 186, Public Laws, allows State institutions to charge a regular rate to non-indigent patients in lieu of attempting to work out the exact cost of caring for each such patient. It also strengthens the power of such institutions to recover from supposedly indigent patients subsequently found to be capable of paying their keep. (5) Finally, Chapter 162, Public Laws, amends the statute which allows the blind to secure free privilege license by denying to them free license to sell fireworks.

Two other laws are designed to work in favor of the taxpayer. The first, Chapter 23, Public Laws, repealed the license tax on studs and jacks. The second, House Bill 1481, bars from collection any inheritance taxes not collected within 20 years after the death of the person against whose estate the tax is levied.

C. Appropriations

1. The Appropriations Act

The Appropriations Act of 1935 (Chapter 306, Public Laws) carries the largest general fund appropriations in the State's history. If, as the State's fiscal experts seem to think, the Revenue and Appropriations Acts are substantially in balance, the Revenue Act must raise $31,761,999 for the first year and $33,399,270 for the second year of the coming biennium. Largest single increase is, of course, in the sum earmarked for public schools, this appropriation having been upped from $16,000,000 per year for the biennium 1933-35 to $20,031,000 for the first and $20,900,000 for the second year of the biennium 1935-37. This increase is designed, among other things, to give teachers a raise over present salaries of 20 per cent for the first and 25 per cent for the second year. The same percentage of salary increase was provided for the rank and file of other State employees, and, as will subsequently be apparent, more substantial increases were made in the salaries of some State officials. These salary increases (which do not restore the rank and file of employees to pre-depression levels) and moderate increases in general appropriations to the State departments and institutions account for the major part of the increase over the last biennium. The accompanying table gives comparative figures.

2. Other laws involving appropriations

Appropriations were not confined to the Appropriations Act. House Bill 1273 authorized a bond issue of $500,000 to provide new buildings and increased facilities at the various State hospitals for the insane and feeble-minded. Chapter 91, Public Laws, authorized the issue of $250,000 in bonds to build a Tuberculosis Sanatorium in Western North Carolina; and it appropriated $10,000 for the first and $100,000 for the second year of the biennium as operating expenses. Chapter 106, Public Laws, appropriated $75,000 per year to join with the Federal Government and some local units in a free employment service. Chapter 53, Public Laws, appropriated $25,000 per year for vocational training for the blind and for beneficial treatment of the eyes of the indigent blind, to be spent under the supervision of a special Commission. Chapter 288, Public Laws, appropriated $10,000 yearly for the use of the N. C. Rural Electrification Authority. Chapter 316 appropriates $20,000 for the erection of a building at Stonewall Jackson Training School to accommodate delinquent children of the Cherokee Indian race of Robeson County, and also appropriates $2,500 per year for maintenance. House Bill 1358 makes an additional appropriation of $7,500 per

Comparative Appropriations From General Fund

1933-34	1934-35	1935-36	1936-37
Legislative			
.....	$ 158,550	.....	$ 181,000
Judicial			
$ 318,000	318,000	$ 369,850	369,945
Executive and Administrative			
936,170	935,895	1,569,352	1,596,062
Educational Institutions			
1,371,000	1,371,000	1,951,522	2,025,380
Charitable and Correctional Institutions			
1,215,580	1,211,580	1,810,275	1,586,983
State Aid and Obligations			
151,000	151,000	213,500	227,500
Pensions			
722,415	631,955	675,955	653,300
Contingency and Emergency			
350,000	350,000	500,000	500,000
Public Schools			
16,000,000	16,000,000	20,031,000	20,900,000
Agriculture			
220,750	220,750	290,260	296,665
Debt Service			
4,243,275	4,773,400	4,350,285	5,062,435
$25,528,190	$26,122,130	$31,761,999	$33,399,270

year to the State Hospital at Goldsboro. Senate Bill 600 appropriates $3,081 to cover refunds of taxes collected in error from the crab industry. House Bill 1466 authorizes the Governor and Council of State to use an unspecified portion of the contingency and emergency fund to aid in the construction of State buildings.

Compensation for school bus accidents

Four laws made appropriations for payments to the parents or guardians of school children. Three of these were intended to give compensation for deaths or injuries in school bus accidents. Chapter 303, Public Laws, authorizes payment of $600 apiece to the fathers of 2 children killed in a 1934 school bus accident in Montgomery County, and payment of actual medical and hospitalization expenses of four other children injured in the same accident. Chapter 351, Public Laws, appropriated $250 as funeral expenses of a child killed in a school bus accident in Hoke County. Senate Bill 469 authorized the School Commission, in its discretion, to pay not more than $600 per child for medical and hospital expenses of an unspecified number of children injured in a school bus accident in Surry County. The fourth law, House Bill 1460, appropriates $500 for each of two children who lost an eye as the result of an explosion in chemistry class in Apex High School, Wake County. (Reference will subsequently be made to the new general law which provides for compensation for children hereafter killed or injured in school bus accidents. Such compensation is to be paid from the regular school appropriation.)

Chapter 281, Public Laws, appropriated $75 per month as a life pension for Mrs. Annie Burgin Craig, widow of the late Governor Locke Craig. Chapter 42, Public Laws, appropriated $500 per year for medical examinations and transportation to government hospitals or clinics of indigent sick war veterans. House Bill 1270 directed an audit of the World War Veterans' Loan Fund and an appraisal of its assets, to be paid for out of the Fund. House Bill 1445 presents Alleghany and Orange counties each with a complete set of N. C. Supreme Court reports.

This completes the list of laws involving outright appropriations, other than salary bills, except for some twelve or more minor laws and resolutions authorizing payment of the expenses of legislative committees making the customary visits to State institutions, authorizing minor compensation or expenses for commissions appointed, or authorizing printing of laws or reports. There were, however, four other laws authorizing the spending of money on projects intended to be self-liquidating.

House Bill 1054, already mentioned, authorized the State to borrow up to $2,000,000 from the Federal Government for such projects; and Chapter 229, also mentioned, allowed Appalachian State Teachers' College to borrow $35,000 to enlarge its power plant. House Bill 337 appropriates $1,500,000 for the establishment of a State-wide school book rental system, it being the expressed belief of the sponsors of the bill that the money will be repaid from the book rentals. Chapter 190, Public Laws, authorized the Department of Agriculture to spend enough money to get the administration of the Rabies Law under way, the money to be repaid from fees collectable under that law.

3. Salary raises

In addition to the salary raises for teachers and the rank and file of State employees, provided for in the Appropriations Act, a number of separate laws granted increases in salaries or other compensation. Some of these laws are reflected in the appropriations in the Appropriations Act, it having been necessary to pass separate laws raising the statutory salaries before increased appropriations could be made.

Chapter 278, Public Laws, represents a partial restoration of the 1933 cut in Solicitor's compensation. Effective July 1, 1935, it fixes Solicitors' total compensation at $4,500 per year, as compared with $3,900 during 1933-35 and $5,250 prior to that time. Chapter 293, Public Laws, fixes the salaries of the Commissioner of Agriculture, Commissioner of Labor, Insurance Commissioner and the Adjutant General each at $4,500 per year, effective July 1, 1935. All of these salaries were formerly $4,500, but were reduced 15 per cent in 1933.

Of laws making substantial increases in the salaries of State officers, only one takes effect immediately. Chapter 275, Public Laws, raises from $3,000 to $4,500 the maximum annual salary which the Governor may fix for the Parole Commissioner. One other such law (Chapter 280), raising the salary of the Public Utilities Commissioner from $4,500 to $6,000, becomes effective July 1, 1935. Four other laws raise the salaries of four of our Constitutional officers to $6,000 each, but because our Constitution does not allow the salaries of such officers to be raised or lowered during their terms, these increases will not take effect until January 1, 1937. The officers involved are the State Treasurer (Chapter 249), the Secretary of State (Chapter 304), the State Auditor (House Bill 1315) and the State Superintendent of Public Instruction (House Bill 1313). All of these salaries are now fixed at $4,500 except that of the Superintendent of Public Instruction, which is $5,000.

There were four more minor laws affecting salaries of State officials in one way or another. (1) Chapter 200, Public Laws, paid $1,666.66 to the estate of Robert H. Wright, late President of Eastern Carolina Teachers' College, representing his salary for the last four months of his term which he did not serve out because of death. (2) Chapter 56, Public Laws, merely provides that the State Librarian (whose salary was fixed at $1,800 in 1933), should receive the same increase as other State employees. (3) Chapter 266 and (4) Chapter 268, Public Laws, authorize payment of $7 for each day actually spent on State business, and necessary traveling expenses, to members of the Advisory Banking Commission and the State Board of Agriculture, respectively, all of whom have hitherto served without pay.

Perhaps properly mentioned here also are Chapter 233, Public Laws and Senate Bill 604. The former reduced from 70 to 65 the permissible retirement age for Judges of the Supreme and Superior Courts. The latter allows retirement of Supreme Court Judges after 12 years of service on that Court. This liberalization of retirement laws potentially increases future appropriations for retirement pay (and, incidentally, may encourage Judges to retire earlier, thus leaving vacancies to be filled by younger men who have judicial ambitions.)

Finally, in the way of salaries, House Bill 1418 raised

from 60 cents to $1 per day the amount to be paid militiamen, over and above regular army pay, when called in aid of civil authorities; and House Bill 1416 changed the pay of officers serving on courts martial from $4 per day to the base pay of their rank.

D. Other laws affecting state government

No radical changes were made in the organization of the State Government, and a resolution to appoint a committee to study and recommend ways of reorganizing it, in order to effect economies and promote efficiency, died peacefully in the Senate.

The legislature did not, however, turn thumbs down on all proposed Commissions. Its activities along this line were faintly reminiscent of Mr. Hoover. It appointed Commissions to study and supervise the care and training of the blind, to study the care of the insane, to investigate the State Hospital at Morganton, to promote interstate cooperation, to study the laws governing estates and trusts, to study the feasibility of establishing a State-owned petroleum terminal, to investigate the high cost of fertilizers, and to study the question of liquor control. Other new State agencies provided for were the Rural Electrification Authority, the Rural Rehabilitation Corporation, the Rural Rehabilitation Board, the State Planning Board and some agency to handle Federal unemployment insurance, all of which have already been mentioned. Two other new State agencies are the Board of Boiler Rules and the Board of Photographic Examiners, both of which, however, are designed to be self-supporting.

In one instance the legislature avoided the creation of a new Board. Chapter 138, Public Laws, provides that the new Tuberculosis Sanatorium, to be built in Western North Carolina, and the present Sanatorium in the sand hills shall both be managed by the same Board of Directors.

Perhaps the only other laws which need be mentioned here, as affecting State government in some way, and which are not referred to elsewhere, are (1) Chapter 129, Public Laws, which authorizes the issue of State tax anticipation notes when necessary to meet appropriations; (2) House Bill 1349, which authorizes the refunding of outstanding State bonds when a saving in interest can be effected; (3) Chapter 292, Public Laws, which authorizes the State to issue bonds to replace lost or stolen bonds when an indemnity bond of twice the amount of the lost bonds is filed; (4) Chapter 136, Public Laws, which limits the hours of employees of State hospitals.

III. The Highway and Prison Systems

A. Highway fund revenues

In 1933 the legislature, fearful that highway fund revenues would be comparatively meagre, made no reduction in highway fund taxes and so curtailed highway appropriations that a large credit balance accumulated during the biennium to be added to a sizeable balance already there. The 1935 legislature completely reversed these tactics. It reduced highway fund taxes and so increased highway appropriations that a substantial portion, if not all of the available balance will probably be consumed during the coming biennium.

Every new law dealing with highway fund taxes will, to a greater or lesser extent, reduce highway fund revenues. Senate Bill 82, effective January 1, 1936, reduces the license tax rates for private passenger vehicles from 55c to 40c per hundred pounds and reduces the minimum price of such a tag from $12.50 to $8. The Senate and the House disagreed on this bill; and, but for the fact that breaking the deadlock in favor of the Senate's 45c rate, because of Constitutional provisions, would have delayed adjournment several days, it is possible that the 45c rate would have been adopted. The reduction from 55c to 40c will reduce license tax revenue approximately $1,500,000 per year.

The only other law seriously affecting highway fund revenues is the Revenue Act, which applied the sales tax principle to gasoline. In other words an amount equivalent to a 3 per cent tax on the total sale price of the gasoline is to be deducted from the 6c per gallon tax and turned over to the general fund. This device was calculated to transfer something over $1,600,000 (in the opinion of some authorities as much as $2,000,000) per year from the highway fund to the general fund, as compared with the flat $1,000,000 per year transferred during 1933-5. The increase over the 1933-5 transfer is not to be made if it will operate to decrease Federal highway allotments, if the general fund budget can be balanced without it, or if it will result in reducing certain highway appropriations.

All other laws which might affect highway revenues are minor in nature. Chapter 183, Public Laws, liberalizes the laws governing the operation of cars equipped with dealers tags, prescribing the circumstances under which such cars may be operated by the dealers, their agents and their customers. House Bill 827 exempts from regular license tax cars owned by orphanages and Sunday School buses. Senate Bill 485 reduces the price of tags for some types of semi-trailers towed by passenger cars. Finally, Chapter 111, Public Laws, exempts from classification as franchise carriers, in certain cases, the operators of vehicles used exclusively to transport industrial workers to and from employment.

B. Highway fund appropriations

The Appropriations Act appropriates, from the highway fund, a total of $26,028,414 for the first year and $25,191,374 for the second year of the current biennium. How these appropriations compare with maximum appropriations for 1933-5 is shown by the accompanying table. The large increase in construction appropriations resulted from the necessity of matching Federal funds. The increased appropriations for maintenance and betterments represent sums which the Highway Commission has long estimated that it needs to give the highways proper care, and include the general salary increase for maintenance employees. The appropriations for relief have already been mentioned. The appropriation for the scenic parkway and the appropriations to cover the $500,000 deficit under Federal construction have likewise been mentioned. The large increase in the appropriation for the Motor Vehicle Bureau and Highway Patrol is attributable in large measure to the necessity of administering the drivers' license law and to the new Highway Patrol law, and is attributable in smaller measure to the salary increases provided for all State employees.

A significant new feature of the Appropriations Act authorizes the Governor, as Director of the Budget, in case receipts or increments to the Highway Fund exceed appropriations, to allot such excess for additional maintenance or construction of county roads or for betterments to State and county roads. Thus all highway revenues may be spent.

Appropriations made from the Highway Fund, not in the Appropriations Act, were topped by Chapter 38, Public Laws, which appropriated $3,000,000 (made immediately available upon ratification of the Chapter on February 21), for repair and improvement of roads and bridges. This appropriation was, in effect, a supplemental appropriation for the biennium 1933-5, necessitated by the fact that the extremely low maintenance appropriations originally fixed by the 1933 legislature made adequate maintenance an impossibility.

Chapter 213, Public Laws, appropriated $500,000 per year for the maintenance of city streets over which State highways are routed. The money may be spent either by the Highway Commission or by the city authorities, under contracts with the Commission, in the discretion of the Commission.

Commission to study highway finances

In so far as immediate appropriations are concerned, no success attended efforts to give the counties a slice of the highway fund (other than the amount they may already be regarded as getting through State maintenance of county highways). However, by Chapter 206, Public Laws, the legislature did appoint a commission whose real function is to study the question of whether or not, in repaying to some 56 counties sums advanced by them under prior highway laws for highway construction, the State is discriminating against the remaining 44 counties which contributed roads to the State and county system but did not make loans, strictly speaking, within the meaning of the prior laws, and to which the State is now repaying nothing. The Commission is to make recommendations as to what should be done to place all counties upon an equitable parity in this respect. Thus the decision is deferred for the next legislature to make. The sum involved, or at least the sum originally sought by the sponsors of this legislation (who did not include all the legislators from the 44 counties chiefly involved), is about $8,500,000.

Other laws taking money out of the Highway Fund were: (1) Chapter 197, Public Laws, authorizing use of not more than $5,000 annually from maintenance funds for construction of markers for historic spots; (2) Senate Bill 437, authorizing an appropriate memorial for the late Frank Page, long-time Chairman of the Highway Commission; and (3) Chapter 297, Public Laws, which relieves two ladies in charge of Carolina Motor Club offices in New Bern and Greenville of any liability on account of a total of $451.94 in automobile license tag funds stolen from safes in their offices.

C. Highway safety

Most widely publicized of the highway safety measures is the drivers' license law (Chapter 52, Public Laws), which survived a last-minute attempt to repeal it. A summary of its provisions has already appeared in this magazine. Its principal provisions, with which most newspaper readers are familiar, provide for the examination of applicants, for the issue of licenses, and for the revocation of licenses (mostly for conviction of various crimes involving the use of motor vehicles). Those driving for one year prior to November 1, 1935, and who have not been convicted of any traffic violation during that time, may secure license without examination. All ordinary operators securing license prior to November 1, 1935 may do so without charge. Thereafter, operators' licenses cost $1 each (good until revoked), and chauffeurs' licenses cost $2 each annually.

The Highway Patrol bill has been discussed almost as widely as the drivers' license law. It increases the personnel of the Patrol to 121 persons and, by relieving the Patrol of all gasoline and oil inspection duties, leaves it as almost wholly a traffic police organization. It authorizes creation by the Revenue Department of a Division of Highway Safety to supervise the activities of the Patrol and the administration of the drivers' license law. It authorizes the establishment of a radio system to maintain contact with the Patrol and other peace officers in the State. It authorizes the county and city governing authorities to provide their peace officers with receiving sets, in order that the fullest use may be made of the State's radio. If the cost of the radio system and equipment it entails exceeds expectations, the State authorities are authorized to allot additional funds for this purpose.

Regulating speed, load, and use of roads

Chapter 311, Public Laws, is designed in part as a safety measure and in part to protect the less substantial highways

Comparative Appropriations From Highway Fund

1933-34	1934-35	1935-36	1936-37
Administrative			
$ 113,650	$ 113,650	$ 151,835	$ 155,370
Motor Vehicle Bureau, Highway Patrol, and Driver's License Law			
379,100	379,100	891,920	784,920
Maintenance of State Highways			
(1) Regular			
2,200,000	2,200,000	3,000,000	3,000,000
(2) Relief			
.....	.....	500,000	500,000
Maintenance and or Construction of County Highways			
(1) Regular			
4,700,000	4,700,000	5,000,000	5,000,000
(2) Relief			
.....	.....	1,000,000	1,000,000
Betterments			
.....	.....	2,000,000	2,000,000
Construction of State Highways			
190,000	190,000	3,200,000	3,200,000
Scenic Parkway			
.....	.....	150,000	150,000
Deficit under Federal Construction			
.....	.....	500,000	.....
Debt Service			
(1) Interest			
4,490,310	4,325,638	4,211,302	4,023,084
(2) Sinking Fund			
500,000	500,000	500,000	500,000
(3) Redemption of Bonds			
3,583,000	4,133,000	4,375,000	4,400,000
(4) County Loan Repayments			
511,800	509,650	548,357	478,000
(5) Interest on Anticipatory Notes			
40,000	40,000	.....	.....
$16,707,860	$17,091,038	$26,028,414	$25,191,374

from the rigors of too much heavy truck traffic. It defines speed limits at 20 miles per hour for business districts, 25 for residence districts, 35 for trucks elsewhere, 30 for trucks with trailers elsewhere, and 45 under other conditions. These limits may be reduced where necessary by the State Highway Commission or local authorities; and local authorities may also permit speeds on highway streets, where safe, up to 45 miles per hour. But regardless of the nominal speed limit, the Chapter prohibits driving at a speed greater than is prudent under existing conditions.

The Chapter also defines pedestrians' rights; it fixes the maximum loads, length, height and width of vehicles (the latter being fixed at 96 inches as against 90 inches in the old law, but the authority of the Highway Commission to issue permits to exceed the statutory limits being revoked); and it regulates the transportation of explosives. Finally, it authorizes the Highway Commission to designate light-traffic roads and bar from them vehicles over specified weight, size or width, even though the weight, size or width is within the statutory limit. This provision, so far as it refers to weight, is designed to protect the roads and, so far as it refers to size and width, is designed to protect the traveling public.

Only two other laws relate to highway safety. House Bill 1048 requires all new cars sold in the State after January 1, 1936, to be equipped with safety glass. Chapter 279, Public Laws, authorizes cities and towns to require operators of all "for-hire vehicles" (other than those under the supervision of the Utilities Commissioner, such as intercity busses) to deposit a bond, up to $10,000 per vehicle, to insure payment of damages to person or property caused by the operation of such vehicles.

D. The prison system

Most in the public eye during the legislature, so far as the State prison system is concerned, was the case of the two negro convicts who lost their feet after having been shackled, in solitary confinement, in a Mecklenburg County prison camp. By Chapter 86, Public Laws, the legislature authorized its Committees on Penal Institutions to investigate the incident. The Committees conducted the investigation and subsequently filed a detailed report. However, only one specific piece of legislation grew out of it. House Bill 1345 directed the Highway and Public Works Commission to provide artificial limbs for the negroes and, upon their discharge as prisoners, to provide them with jobs during good behavior.

Perhaps to some extent the new parole law was influenced by this case. This law (House Bill 1301) provides for an Advisory Board of Paroles to assist the Governor and Commissioner of Paroles in determining parole policies or administering parole laws. It provides for appointment by the Governor of a sufficient number of investigators to investigate the cases of all prisoners eligible for parole (with such assistance as the Governor may require of highway and prison employees, employees of the Department of Public Welfare and local Welfare Officers). The Governor is also to appoint a sufficient number of parole supervisors to keep tab on all paroled prisoners. The law prescribes when prisoners become eligible for parole and contains provisions relating to grading of prisoners, allowances for good behavior and other matters. Primary objects of the new law are to provide the State with an adequate parole system, to place all prisoners on the same basis with reference to paroles, to develop definite parole policies and to make it possible to use paroles to encourage regeneration of prisoners. The influence of the Mecklenburg case is probably felt in the provision which allows the Governor to require his investigators to investigate any prison, prison camp or farm.

The only other law dealing with paroles was Chapter 273, Public Laws, which gives to the Governor exclusive authority with respect to parole of all persons committed to any prison, reformatory or other penal or corrective institution by a court or juvenile court.

While passing these laws concerning the power of the Governor to parole prisoners the legislature also, in one instance, exercised in its own right the power to atone for the State's mistakes. By House Bill 1459 it restored full rights of citizenship to Sylvian Palmer, Victor Fowler and Walter Bridgeman, three men who had already been pardoned by the Governor because of proof of their innocence of the bank robbery for which they were convicted.

Retain death penalty but change method

Another highly-publicized law, affecting the most distasteful of all the distasteful activities attendant upon a system of punishment, is Chapter 294, Public Laws, which, effective July 1, 1935, changes the method of executing the death sentence from electrocution to lethal gas. Except in this respect the legislature consistently refused to tamper with the death penalty, turning down, on the one hand, a bill to make kidnapping punishable by death and, on the other, bills to permit Superior Court Judges, in certain cases where the death sentence is now mandatory, to sentence defendants to life imprisonment.

Three other laws affect the State's prison system. (1) Chapter 257, Public Laws, gives the Commission express authority to provide quarters for women prisoners in Central Prison or elsewhere, and provide work for them; and authorizes courts to sentence women, convicted of either felonies or misdemeanors, to work under the Commission's supervision. However, no woman under 18 and no woman sentenced to less than 6 months may be sentenced to work under the Commission. (2) Chapter 165, Public Laws, authorized the Commission to spend not exceeding $25,000 to establish and equip a shoe factory at Central Prison to make shoes for the inmates of State institutions. (3) House Bill 1177 authorized the Commission to pay to convicts, upon discharge, such sums as may have been earned by them under former prison laws. It seems that these earnings had been credited to the prisoners on the prison's books prior to the repeal of the law authorizing such earnings, but the repeal of the law left the Commission without express authority to pay out the money.

IV. Education

A. Public schools

1. The School Machinery Act

The 1935 School Machinery Act presents no such major change in State school policies as did the 1931 Act, which assumed on behalf of the State the burden of operating the 6 months term, or the 1933 Act, which assumed the entire 8 months term and wiped out all local ad valorem taxes levied to operate schools.

The desire to be rid of these local ad valorem taxes, which was the primary reason for these fundamental changes in

the 1931 and 1933 Acts, is still manifest in the 1935 Act. However, in several particulars it weakens the provisions of the 1933 Act regarding local supplements. Whereas the 1933 Act would allow no unit in default on its debts to levy taxes to provide a ninth month of school, the 1935 Act would allow such a tax if approved by popular vote. Secondly, the new Act allows poll taxes, dog taxes, fines and forfeitures to be used, with the approval of the School Commission, to supplement State operating funds, even though such use may make necessary an ad valorem tax to pay for maintenance of plant and fixed charges (the items for which such funds were reserved by the 1933 Act). The effect of this provision is by indirection, to allow the School Commission to permit levy of supplemental ad valorem taxes without a vote of the people. Finally, the 1935 Act allows the levy of taxes to match Federal funds for the teaching of trade and industrial subjects. This provision may be broad enough to cover night schools teaching such subjects.

Boost school fund and teachers' salaries

The most important change in the new Act is the hoisting of the school appropriation from $16,000,000 annually to $20,031,000 and $20,900,000 respectively, for the first and second years of the coming biennium—a hoist intended to be large enough to boost the salaries of teachers 20 per cent the first year and 25 per cent the second year, to allow the normal, small increases for additional experience, to provide a comparatively few new teachers and to allow more money for transportation, operation of plant and other items which must be cared for. Other changes of importance to school personnel are those which bring teachers under the Workmens' Compensation Act, which allow annual sick leave with pay of five days for each teacher, which leave maximum salaries for County Superintendents to be fixed by the State Board of Education and the School Commission (the 1933 Act fixed a maximum of $2,800 per year), which provide for superintendents of city units to be elected biennially instead of annually, and which require that notice be given, within 30 days after the close of school, to all teachers not reëlected for the ensuing year.

The transportation provisions in the new Act are much more specific than the 1933 Act in the matter of fixing responsibility for the purchase of new school busses. The State is required to buy all necessary replacements for publicly-owned busses operated during the school year 1934-5. The counties must buy new busses needed to relieve overcrowding or to transport children not transported in 1934-5. Likewise, specific provisions cover the cases where school busses are not publicly owned, but are operated by private owners on a contract basis. The State will furnish the same amount it would furnish for the operation of publicly-owned busses, and the county must pay any balance of the contract price. Other changes in transportation provisions deal with safer operation of busses and require all children living more than one and one-half miles (instead of two miles) from school to be hauled to school.

New provisions authorize County Boards of Education to appoint from 3 to 5 school committeemen for each district, and also to appoint advisory committees of 3 for each building, to care for the property and advise with the district committee. No provision is made for compensation of school committeemen, and compensation of County Boards of Education from State funds is limited to $100 annually for each Board.

Other changes were made in the Act of which space does not permit mention to be made.

2. Textbooks

Next to the School Machinery Act, perhaps the most important school law was House Bill 337, which provides for a uniform State-wide system of renting school books. It provides that a Commission consisting of the Superintendent of Public Instruction, the Attorney General, the Director of the Division of Purchase and Contract and two appointees of the Governor shall handle the purchase and distribution of such adopted books as are necessary for school use. The Commission is also to fix the rental, but the annual rental on a book may not exceed one-third of its cost. Distribution of the books must be made without the use of any depository other than some agency of the State. This latter provision contains the very heart of the Bill, one of the chief purposes of which is to eliminate a privately owned depository which, because it received a fixed percentage on books sold in the State, increased the cost of the books.

Local rental systems already in operation are permitted to continue operations, and may purchase their books from the State system; but may not charge higher rentals than the State charges. To put the system in operation, $1,500,000 is appropriated which, apparently, will either be repaid out of book rentals or will become the permanent capital fund of the system.

3. Compensation in bus-wreck cases

Chapter 245, Public Laws, marks a new departure in State policy. The State, being the sovereign, cannot be sued without its consent. Consequently, where school children were killed or injured in bus accidents, even if the accident resulted from the negligence of the bus driver, no damages could be recovered from the State. This Chapter was passed to remedy this situation, which most legislators felt was unjust in view of the fact that riding in school busses is virtually compulsory for rural children. It provides that compensation shall be paid for funeral expenses or medical and hospital expenses of children killed or injured as the result of school bus accidents, the maximum amount payable being $600 per child. The payments are to be made regardless of whether the accident was caused by the negligence of the bus driver; but if any damages are subsequently recovered on behalf of the children, the payments made by the State are to be refunded out of such damages.

4. Miscellaneous public school legislation

The list of miscellaneous school laws is topped by the usual omnibus bill (Chapter 296) appointing the Boards of Education for the various counties. As in 1933, the bill was passed this year at such a late date that the legislature found it necessary, much earlier in the session, to pass Chapter 144, Public Laws, which prohibited the appointment of County Superintendents and school committeemen by the outgoing Boards of Education. The power to make these appointments is one of the chief prerogatives of the Boards, and the legislature carefully reserved the power for the Boards of its own selection.

Five laws deal with the handling of school debts. They deal, in fact, with the most unpleasant feature of school debts—the payment thereof. Chapter 242, Public Laws,

requires, in all cases where the county assumes district school debts, that the district debt-service tax funds and the district sinking fund assets be turned over to the county treasurer. House Bill 1371 authorizes bonds, issued to refund district debts, to be issued in the name of any unit which has succeeded to the obligations of the district, thus meaning that bonds issued to refund school district debts assumed by the county may be issued in the name of the county. House Bill 1400 expressly authorizes the issue of refunding bonds on behalf of old districts in cases where the district debts have not been assumed by the county, and preserves the identity of the districts, for debt-paying purposes only, until the refunding bonds have been paid. Senate Bill 479 authorizes the State to accept refunding bonds for principal or interest on debts owed by counties to the State Literary and School Building Funds, when such refunding bonds are approved by the Local Government Commission, and authorizes acceptance of such bonds, issued under a refunding plan, when a sufficient number of other bondholders have accepted the plan to put the plan into effect. House Bill 1199 provides that when the State owes money to a county on account of money advanced for highway construction, and the same county or its school units owe the State on school construction loans, the two debts shall be offset, unless the money owed by the State has been pledged to other creditors of the county.

To study effects of alcohol and drugs

Only five other laws need be mentioned here. (1) Senate Bill 386 requires the teaching, in the public schools, of an adequate text on the effects of alcoholism and narcotism. (2) House Bill 1373 attempts to make a reality out of the State Thrift Society (a saving plan for school children created by the 1933 legislature which has never been put into operation). (3) Senate Bill 439 provides for the celebration (without cost to the State), during the school year 1936-7, of the 100th anniversary of the beginnings of North Carolina's public schools. (4) Chapter 19, Public Laws, allows all State employees, including school teachers, to assign future wages in favor of hospitals, building and loan associations, or life insurance companies. (5) Chapter 112, Public Laws, authorizes local tax collecting officials to collect taxes owed by State employees by garnishment of their salaries.

B. State educational institutions other than public schools

Outside of the appropriations made, only one matter relating to the State's institutions of higher learning may be said to be of any real importance. At the joint session for the election of Trustees of the University, Senate and House went on record as favoring at least one Trustee from every county in the State. They refused, however, to attempt to put the plan into operation at this session.

C. Private schools

Chapter 255, Public Laws, requires all new commercial colleges or business schools to secure a permit from a special State Board of Commercial Education, and post a $1,000 bond to guarantee fulfillment of its contracts. The Chapter is apparently intended to stop the operations of fly-by-night business schools which collect money and fail to provide the instruction they promise.

D. Libraries

The only law relating to libraries which merits mention is Chapter 300, Public Laws, which makes it a criminal offense to deface, damage, destroy or steal the works of literature, objects of art or curiosities deposited in libraries, museums or elsewhere. If the damage or theft involves no more than $20, it is a misdemeanor; if more than $20, it is a felony.

V. Prohibition

Everyone is familiar with the fact that whiskey became the paramount issue during the last few days of the session. This fact is peculiarly well illustrated by the history of the introduction of bills dealing with alcoholic beverages. During the period prior to May 2 (representing about 92 per cent of the session), only nine such bills were introduced. Of these, three were passed—Chapter 134, Public Laws, permitting sale of 5 per cent beer; Chapter 315, Public Laws, permitting such high test beer to be brewed in the State; and Chapter 114, Public Laws, which raised from three to five gallons the amount of sacramental wine which may be obtained by any one minister during a 90-day period. The remaining six bills, which fell by the wayside were: (1) A bill legalizing 4.5 per cent beer which became unnecessary after passage of the 5 per cent bill; (2) the Day liquor control bill; (3) the Hill liquor control bill; (4) the Jonas-Bowers bill to set up a State prohibition enforcement system; (5) a bill to give local authorities complete discretion in the matter of issuing licenses to sell beer; and (6) a bill to authorize sale of beer on trains.

The liquor bill's ghost arises

Beginning late in the day on May 2, after the Senate had laid the Day bill away in a graveyard in which its ghost refused to stay, twenty such bills were introduced (not including the humorous one about the "Wee Deoch-an-dorus," whatever that may be). Fourteen of these, of which a number died a-borning, never became law. They were: (1) the Page enforcement bill to set up a force of several hundred State prohibition agents; (2) the Day quart-law bill; (3) a bill to reduce taxes on beer sellers; (4) the Bowie bill to allow importation of whiskey for personal use or use of one's guests; (5) a bill to reduce taxes on beer brewed in the State; (6) a bill to permit manufacture of fruit brandies in Moore County; (7) a bill to change the laws governing transportation of beer and issue of State license to sell beer; (8) a bill to delay adjournment until a special committee had drafted and brought in a new liquor control bill; (9) a bill to exempt a number of counties from the Coburn wine bill; (10) a bill to exempt a number of counties from the Turlington Act (which became largely unnecessary because a number of the counties involved were tacked on to the Pasquotank bill); (11) a bill to provide liquor store machinery for New Hanover County (rendered obsolete when included as an amendment to the bill exempting New Hanover from the Turlington Act); (12), (13) and (14) bills to include Durham, Chowan, Lee and Forsyth counties in the Pasquotank bill.

Of the remaining six bills, which passed, only one is reasonably free of the possibility of having to fight for its life in court. That one is House Bill 1476, which provided for a Commission to study liquor control and report its findings to the next session of the legislature, whether that session be regular or special.

Senate Bill 635 is on the fringes of the big fight, and its effect depends upon the fate of the other alcohol laws. It permits advertising in publications published in the State of beverages which can be sold under State laws. Senate Bill 597, as amended by Senate Bill 638, is the Coburn wine bill, and authorizes manufacture in any county of wines and fruit ciders, from home grown products, so long as these beverages are induced to become alcoholic only by a process of natural fermentation. The same beverages may be sold in any county in which sale is not prohibited by the County Commissioners. Wine and cider are the stake in the light-heavyweight championship battle.

The heavyweight championship fight is, as usual, over hard whiskey. It is precipitated, of course, by House Bill 1391, allowing New Hanover County to secede from Turlington Act territory, and by House Bill 1491, allowing Pasquotank, Pitt, Martin, Beaufort, Halifax, Edgecombe, Craven, Warren, Vance, Franklin, Rockingham, Lenoir, Greene, Nash, Wilson, Carteret and possibly Onslow Counties, and two townships in Moore County to do likewise. With the possible exception of Rockingham, secession is dependent upon the will of the voters and, without exception, it is dependent upon the will of the Supreme Court.

As purely superfluous complications in an already complicated situation, the sponsors of State liquor control laws may worry about how matters will be affected (if present laws are declared valid) by allowing counties and cities to close itching palms around whiskey revenues; and their worthy opponents may worry about whether or not the Pasquotank bill (even if otherwise invalid) legalizes possession of four quarts of whiskey anywhere in the State.

VI. Laws Affecting County and City Government

A. Laws affecting both counties and cities

1. Laws affecting tax matters

Almost all the laws enacted affect counties and cities in one way or another and many such laws are discussed under other topics. Discussed elsewhere are the so-called "New Deal" and other similar bills, which enable the counties and cities to participate in the vast Federal Work Relief Program, and House Bill 1189 (The School Machinery Act).

One of the most important bills with respect to tax matters is the Revenue Act which sets up the Schedule B license taxes that may be levied by counties and cities. There are numerous minor changes in Schedule B licenses which have been summarized by The Institute of Government in a separate bulletin, already in the hands of local taxing officials. The changes in the aggregate are not calculated materially to affect the total amount of revenue to be received by local units. While on the subject of privilege licenses, Chapter 162, Public Laws, denies free privilege licenses to the blind to deal in fireworks.

The annual Tax Machinery Act, which is the handbook of local taxing authorities, in spite of numerous changes recommended and urged by various local taxing officials, is substantially the same as the 1933 Act. The principal changes are the abolition of the "corporate excess" tax on ordinary domestic business corporations; inclusion of a provision requiring applicants for motor vehicle license to state where the vehicle is liable for property tax; inclusion of a provision which attempts to render ineffective efforts to avoid taxation by temporary conversion of taxable assets into non-taxable assets; and inclusion of a provision requiring special information reports by consignees and commodity brokers.

Chapter 112, Public Laws, will to some extent alleviate the loss of "corporate excess" taxes in those counties which are fortunate enough to have some State employees who have failed to pay taxes. The Chapter mentioned provides that tax collecting officials may, by way of garnishment, collect such taxes from the salaries due such employees by the State. However, there is a thorn with every rose, as tax collecting officials will discover in House Bill 1133 which broadens the tax exemptions for general hospitals doing any appreciable amount of charity work.

Many local tax officials, due to recent Supreme Court decisions, looked to the 1935 General Assembly to provide them with a tax foreclosure law having something more than questionable constitutional status, but in vain. A subcommittee in the Senate brought forth a triple action foreclosure law intended to meet all constitutional objections. While the act passed the Senate with little discussion its sailing in the House was not so smooth, and after being buffeted about was laid to rest by a House Committee. This action on the part of the House led to the passage of House Bill 1502 at the eleventh hour. The bill gives a twelve months period of grace in which to bring in new parties to tax foreclosure actions. Astute lawyer members of the General Assembly, recognizing that straight mortgage foreclosure proceedings would probably be necessary to get valid titles and knowing the amount of work necessary in such proceedings, amended the bill to provide that local units could pay as much as $10 per action for attorney fees; and, recognizing that even a delinquent taxpayer is entitled to vote, safeguarded the present law that only $2.50 may be charged the taxpayer for such services.

Numerous other tax laws were enacted. Chapter 313, Public Laws, amended C. S. 8037 to clarify existing conflicts in order to make certain that foreclosure proceedings could be instituted within twenty-four months after sale of the tax certificate. House Bill 1375 extends, for most counties, to October 1, 1935, the time for foreclosing taxes and special assessments for 1931 and prior years. Chapter 75, Public Laws, extends the time for instituting foreclosure proceedings for 1932 taxes to December 1, 1935, though in some forty counties such extension is subject to the approval of the local governing authorities. Chapter 68, Public Laws, authorizes those units which failed to advertise and sell delinquent taxes for 1931, 1932 and 1933 to do so. This Chapter provides that such sales be held not later than the first Monday in May, 1935, and action to foreclose be taken within ninety days after sale. It safeguards any actions pending under C. S. 7990, and is not to interfere with the provisions of Chapter 75, Public Laws, mentioned above.

Chapter 234, Public Laws, postpones to August, September and October, respectively, those acts regarding delinquent 1934 and 1935 taxes required by existing laws to be done in May, June and July. This postpones tax sales from June to September.

Chapter 331, Public Laws, attempts to validate all local tax sales during 1933 and 1934 held on days other than those provided by law and all certificates issued pursuant to such sales. Further, this Chapter extends to the first Monday in September, 1935, the time to sell such taxes which have not been previously legally sold. It also attempts to extend the statute of limitations to October 1, 1935, on all actions to foreclose taxes for years 1927-1932, inclusive.

Aside from the numerous laws mentioned above calculated to tighten the noose around the neck of the delinquent taxpayer and at the same time delay the time for springing the trap, Chapter 321, Public Laws, brings some relief to officials charged with the distasteful task of bringing foreclosure actions. This Chapter is designed to relieve many cases of writer's cramp by allowing such officials to use rubber stamp facsimile signatures on the many documents involved, and raises a presumption that such facsimile signatures were affixed at the direction of the official whose signature it purports to be.

2. Laws affecting other fiscal matters

The mere mentioning of the word "fiscal" brings to everyone's mind the thought of bonded indebtedness, and Chapter 124, Public Laws, concerns itself with exactly that phase of local fiscal affairs. This Chapter is designed to enable the Local Government Commission to provide more direct assistance to defaulting local units. It gives the Director of Local Government authority to investigate the fiscal affairs of any unit in default as much as six months. The Director is authorized to prepare such refinancing plans as he deems necessary to clear up the default situation. He is empowered to negotiate with a unit's creditors to effect the consummation of any refinancing plan, and until the Director is satisfied that the default situation is cleared up, or will be cleared up in the near future, he is empowered to reject the budget of a unit operating under a refinancing plan if, in his opinion, such budget does not meet the requirements set out in the provisions of the plan. The Director is also given the authority to require annual statements giving a complete financial picture of the unit operating under such a refinancing plan.

Chapters 290 and 302, Public Laws, make numerous amendments to the County and Municipal Finance Acts and to Chapter 186, Public Laws of 1931, regarding the method of validating funding and refunding bonds. Space will not allow a complete discussion of all these numerous amendments, but their effect is to bring the previous laws up to date and to aid the Local Government Commission better to perform its work of assisting defaulting units.

Senate Bill 450 and House Bill 577 both amend the Local Government Act relative to security of deposits of local units. Senate Bill 450 releases the fiscal officer of liability by reason of bank default when he has fulfilled the required security provisions, and repeals the provision requiring the minimum security to equal the amount of average daily balances during the preceding year. This bill also provides that no security shall be required for the protection of funds remitted to any bank for the sole purpose of meeting debt service requirements when such bank is the agreed paying agent and funds are remitted within 60 days prior to the maturity date of such debt payments. House Bill 577 allows units to deposit funds without security, not in excess of the insurance coverage, in banks carrying Federal deposit insurance.

Chapter 292, Public Laws, authorizes the fiscal officer of the State and its political sub-divisions to make settlement or issue new bonds for bonds that are stolen, lost or destroyed. The owners of such lost bonds are required to furnish an indemnity bond double the amount of such lost bonds.

Chapter 55, Public Laws, relates indirectly to fiscal affairs in that it reduces to six months the time limit for bringing actions on contractors' bonds given to insure performance of public contracts.

3. Laws affecting other matters

Chapter 122, Public Laws, caused as much discussion in its passage as any other law except those calculated to change the State's prohibition status, and is a law which, according to the opinion expressed by some, will do more to dash political aspirations upon the rocks than any law enacted by the 1935 General Assembly. Those holding these views work on the general theme of "love me, love my dog" and said Chapter requires the annual vaccination of dogs against rabies.

The laws provides for the appointment of rabies inspectors to do the required vaccinations at a cost of fifty cents per vaccination. One-half of the fee will go to the State Department of Agriculture which will furnish the serum and one-half will go to the inspector as his fee. The vaccination is calculated not to cost the dog owner since the fifty cents is credited on the county dog tax, and counties, cities and towns are prohibited from levying a dog tax greater than that levied at the time the law was enacted. It is calculated that the agencies which receive the dog tax will suffer no reduction in total income since the compulsory vaccinations will probably cause more dogs to be listed for taxes; thus, it seems that the law is intended to please everybody with the possible exception of the dog.

Chapter 344, Public Laws, amended the "Rabies Law" to make certain that only dogs over six months old are subject to vaccination, and more important, to make it specific that the dog and not the owner shall be impounded when the dog is suspected of the disease.

Chapter 37, Public Laws, deals with a more prevalent but less dangerous disease—slot machines. The sponsors of this law were so thorough in their effort to define what was a slot machine that some fear was expressed as to whether a person could lawfully make a telephone call from a pay station telephone. Subsequently, Chapter 282, Public Laws, legalized the use and sale of so-called pinboards and marble boards on the theory that these were games of skill. Representatives of eleven counties saw fit to exempt their counties from the provisions of this latter Chapter, and while even this latter Chapter probably leaves the slot machine bonanza impoverished to some extent, the operators in the eighty-nine remaining counties will have little difficulty in keeping the wolf from their doors.

B. Laws affecting counties and districts only

Most of the important new laws affecting counties and districts which were enacted by the 1935 General Assembly have been discussed under other sections of this summary (under "Laws Inspired by Federal Statutes or Programs," "Education," "Conservation and Development" or elsewhere) but a few of sufficient importance remain to be mentioned here.

Chapter 357, Public Laws, validates all the acts of officials relative to the formation and creation of sanitary districts within the State, all bond elections held in the various districts and all bonds issued by sanitary districts, and declares such bonds binding obligations of the respective districts when issued and sold as such.

Chapter 250, Public Laws, allows sanitary districts to issue revenue anticipation notes under the provisions of the Local Government Act. The maturity date of any such

loans could not be later than thirty days after the end of the fiscal year in which loans are made, and total borrowings in anticipation of revenue cannot exceed fifty per cent of the estimated uncollected revenues.

Chapter 287, Public Laws, authorizes Sanitary Districts, subject to the approval of the State Board of Health, to undertake the prevention and eradication of malaria through mosquito control, and to levy taxes for this purpose. This Chapter also authorizes a Sanitary District Board to set up its own tax levying and collecting machinery. The machinery provided is essentially the same as that now used in the counties of the State.

House Bill 1044 authorizes the Commissioners of Drainage Districts to adjust assessments in connection with refunding plans of such districts. Delinquent installments may be reduced, not to exceed fifty per cent, and the payments of the reduced installments spread over the life of the refunding bonds. This act specifies that two-thirds of the collections shall be used for debt service purposes. Any adjustments made are subject to the approval of the Local Government Commission, and no additional assessments can be made against the property on which the original assessments have been paid if such additional assessments are to provide money for the same purposes as the original assessments.

House Bill 1371 amends Chapter 257, Public Laws of 1933, to allow refunding or funding obligations of units other than counties and cities to be issued in the name of the successor to the obligor named in the original obligations. This is designed to aid in the refinancing of school and road district bonds where such obligations have been assumed by other local units.

Senate Bill 530 amends the County Fiscal Control Act, which requires the county auditor or accountant to sign all county warrants, by providing that a county warrant shall be valid even though rejected by the county accountant if it is approved by the Board of County Commissioners after such rejection.

Chapter 362, Public Laws, fixes the term of office for Registers of Deeds at four years beginning with those elected in 1936. Interested Representatives exempted some twenty-nine counties from the provisions of this act.

Senate Bill 455 requires the Clerk of Superior Court to appoint some competent person to act as coroner in cases requiring a coroner's inquest when the regular coroner is out of the county or for some other reason is unable to hold an inquest.

C. Laws affecting cities only

Most of the new laws relative to cities and towns have been discussed elsewhere in this summary (under "Laws Inspired by Federal Statutes or Programs," "Highway and Prison System" or elsewhere), but there remain a few which, because of their particular importance to municipal affairs, should be included here.

Chapter 126, Public Laws provides that the governing body of any city or town may by resloution, prior to July 1, 1936, extend the time for payment of any installments of any special assessments, including interest thereon and costs accrued in any action to foreclose the lien. The grand total of extended installments, interest and costs may be divided into a new series of ten equal annual payments bearing interest at 6 per cent per annum, and the first of the new installments shall become due the first Monday in October after the expiration of one year from date of the resolution authorizing the extension. Chapter 249, Public Laws 1931, and Chapters 252 and 410, Public Laws 1933, dealing with the same subject, are repealed.

Chapter 125, Public Laws, amends C. S. 2722(a) relative to apportionment of assessments against property which is sub-divided after levy of the original assessment. This Chapter repeals the present provision requiring all installments due to be paid in cash and allows re-assessments on the divided property to include past due installments, interest and costs as well as installments not yet due.

House Bill 1310 empowers the Municipal Board of Control, composed of the Secretary of State, the Attorney General and the Utilities Commissioner, to change the name of a city or town, proceedings necessary to such change to be under C. S. 2781 and 2782.

Senate Bill 478 amends C. S. 493 by allowing cities and towns to institute civil actions and special proceedings without posting a prosecution bond or deposit.

VII. Constitutional Amendments

Chapter 248, Public Laws, and House Bill 1348 provide for submission of a series of five amendments, each of which either was incorporated in the late proposed Constitution or is a modification of some change incorporated in that document.

(1) One proposed amendment will permit the classification of property for property tax purposes. To attain this end the present requirement that property taxes be levied on all property, according to its value, by uniform ruel would be eliminated in favor of a provision requiring only that property taxes be uniform as to each class of property taxed. Thus the legislature would be permitted to classify property and authorize levy of a different rate of tax on each class. Presumably its classifications might be arranged to allow lower rates of tax on fixed-income securities, or to encourage objects it might consider socially desirable, such as conservation of natural resources, or for any other purpose, so long as the courts did not find the classification to be arbitrary and unreasonable. Adoption of this amendment would also repeal the present 50 per cent exemption from taxes for homes and the mortgages thereon when both home and mortgage are listed for taxes in the same county. This came about by virtue of the fact that, as originally drawn, Chapter 248 would have submitted as one amendment the classification of property and a $1,000 tax exemption for homes. The homestead exemption was subsequently divorced from the classification proposition and included in House Bill 1348 to be submitted as a separate amendment. But the provisions repealing the present peculiar homestead exemption, probably through oversight, were left with the classification amendment.

(2) The second amendment, if adopted, will raise from 6 per cent to 10 per cent the maximum rate of income tax which the legislature may levy. It would not change the present provisions which guarantee personal exemptions of $1,000 or $2.000, dependent upon the taxpayer's status.

(3) The third amendment, if adopted, would shift the character of the Constitutional limitations placed on the amount of the State's debt, and would also place Constitutional limitations on the debts of counties and municipalities. The legislature could contract debts for the State and authorize counties and municipalities to contract debts without a vote of the people: (a) to fund or refund valid

existing debts; (b) in anticipation of taxes due and payable within the fiscal year to an amount not exceeding 50 per cent of such taxes; (c) to supply a casual defict; (d) to suppress riots or insurrections or repel invasions. For all other purposes the State could not borrow during any biennium, without a vote of the people, to an amount exceeding two-thirds of the amount by which its debts were reduced during the preceding biennium; and during any fiscal year, without a vote of the people, no county or municipality could borrow an amount exceeding two-thirds of the amount by which its debts were reduced during the preceding fiscal year.

(4) The fourth amendment, if adopted, would authorize the legislature to pass laws exempting from taxation, to an amount not exceeding $1,000, homes used as places of residence by the owners.

(5) The fifth and final amendment, if adopted, would authorize the legislature, in its discretion, to increase the number of Associate Justices of the Supreme Court (now 4) to not more than 6; and would authorize the Supreme Court to sit in divisions. The entire Court would have to sit in cases presenting Constitutional questions, and concurrence of a majority of the entire membership of the Court would be necessary for a decision in any case. All sessions of the Court would still be in Raleigh.

VIII. Industry, Labor and Business

A. Workmens' compensation insurance

Two laws of major importance affect Workmens' compensation insurance. The first, Chapter 123, Public Laws, broadens the field of hazards covered by the Compensation Act by including under it a long list of occupational diseases. The Chapter provides in detail for filing of claims, the manner of holding hearings, the amount of compensation to be paid and other pertinent matters. Closely akin to this is Chapter 131, Public Laws, which provides for issuance to employers, by the Department of Labor's Division of Standards and Inspection, of certificates of compliance with its rules governing protection of employees from accident and occupational disease.

The second major law (Chapter 228, Public Laws) is designed to insure that employees entitled to payments under the Compensation Act will actually be paid. It requires every insurance company doing a workmens' compensation business in the State to pay in 1 per cent of the net premiums it receives from such business. Payments by stock companies go into one fund and payments by mutual companies go into another fund. Payments by each type of company continue until its fund equals 5 per cent of the loss reserves of all companies contributing to the fund; and if the fund is subsequently depleted, the payments must be resumed. These funds are designed to take care of payments to employees in the event of the insolvency of any company. This Chapter was passed after the defeat of a bill designed to allow the State itself, under certain conditions, to write compensation insurance.

Two more minor laws also deal with Workmens' Compensation. Chapter 76, Public Laws, allows the N. C. Rating and Inspection Bureau to assign to any company writing compensation insurance in the State any risk which has been rejected by three companies. Chapter 150, Public Laws, makes the fact that an employer has insured his liability under the Compensation Act prima facie evidence that the employer and his employees have elected to be bound by the Act.

B. Hours of labor

Senate Bill 532 limits to 11 hours per day and 55 hours per week the hours for women over 16 employed in laundries, pressing clubs, dry cleaning establishments and work shops. Senate Bill 533 amends the 1933 law which limits to 10 hours per day and 55 hours per week the hours of women employed by mercantile establishments and other businesses where women are employed to serve the public as clerks, sales ladies or waitresses. The amendment consists of striking out a provision which made this 1933 law inapplicable in towns of less than 5,000 population.

C. Banks

In addition to laws mentioned elsewhere, a number of laws affected the banking business in the following ways: (1) Chapter 99, Public Laws, eliminates the double liability on bank stock and provides for the return of any securities deposited under 1933 laws in lieu of such liability. (2) Chapter 80, Public Laws, allows preferred stock to be considered in determining whether or not a bank has the minimum capital required by law. (3) Chapter 199, Public Laws, excepts the securities of other states of the United States from the provisions which limit the investments which banks may make in the obligations of any one debtor. (4) Chapter 139, Public Laws, authorizes existing banks, with the consent of the Commissioner of Banks, to establish "tellers' window agencies or branches" in small communities having no other banking facilities. (5) Senate Bill 633 provides that actions by stockholders against bank directors for damages sustained by reason of violation of the banking laws may be brought by any aggrieved stockholder; but only one such action may be brought. (6) Chapter 212, Public Laws, adds Easter Monday and May 30 to the list of bank holidays. (7) Chapter 231, Public Laws, as amended by Chapter 277, requires that the liquidation of all banks still in receivership in the State courts on January 1, 1936, shall be turned over to the Commissioner of Banks. This affects only cases of State banks thrown into receivership prior to the time the Commissioner was empowered to handle all future liquidations. (8) Chapter 113, Public Laws, validates private sales of certain of the assets of defunct banks.

D. Insurance companies

Other than laws mentioned elsewhere, only two laws directly affected insurance companies. Chapter 89, Public Laws, allows mutual fire companies, other than Farmers' Mutuals, having a surplus of at least $100,000, to issue non-assessable policies and also reduces the minimum assessment liability on other policies from 5 times the cash premium to an amount equal to the cash premium. Chapter 152, Public Laws, requires mutual companies, other than Farmers' Mutual, to file rates in the cases in which stock companies are required to file rates.

E. Miscellaneous

(1) Chapter 326, Public Laws, is a lengthy statute creating a Board of Boiler Rules, creating a Division of Boiler Inspection in the Department of Labor, and providing for the regular inspection of all steam boilers carrying more than 15 pounds pressure per square inch. It does

not apply to boilers in ground saw mills or to any boilers in twenty specified counties. (2) House Bill 1115 provides that, with exceptions for Rowan, Iredell, Cabarrus and Rockingham counties, any assignment of future wages, to be effective, must be accepted in writing by the employer. (3) Chapter 232, Public Laws, in an effort to curb cattle thievery, provides for registration of brands with the Department of Agriculture, and requires all purchasers and slaughter houses to keep records of branded cattle purchased or slaughtered.

(4) Chapter 6, Public Laws, allows corporations whose period of existence has expired to be revived at any time instead of within 7 years after the expiration. (5) Chapter 166, Public Laws, protects foreign corporations authorized to do business in the State, as well as domestic corporations, from the use by some other corporation of a name so similar to its name as to cause confusion; and likewise protects those who purchase the good will of a corporation from use by others of names similar to that of the corporation whose good will was purchased. (6) Chapter 320, Public Laws, allows the names of corporations to end with the abbreviation "inc."

(7) Chapter 269, Public Laws, exempts packages of corn meal, grits and flour weighing 5 pounds or less from the law requiring such commodities to be sold in standard weight packages. (8) Senate Bill 500 places flower seed under the pure seed law. (9) Finally, Chapter 329, Public Laws, requires operators of power threshers to secure annual license (for not more than 50c) and provides for reports of acreage harvested and amounts threshed to be made to the Department of Agriculture through the various Registers of Deeds.

IX. Professions

In laws directly affecting a particular profession, the lawyers led with four. The chief effects of the first of them, Chapter 33, Public Laws, are to fix the price of an unsuccessful effort to pass the bar examination at $10; and to provide an expense allowance for members of the Board of Law Examiners, in addition to the salary of $50 per examination, payable from examination fees. Chapter 34, Public Laws, extends to all business of the Council the $10 per diem of members of the Bar Council, and also provides an expense allowance for them. Chapter 61, Public Laws, provides for a Board of Law Examiners composed of seven lawyers in place of six lawyers and one member of the Supreme Court. Chapter 74, Public Laws, allows the Bar Council to restore law licenses to attorneys disbarred prior to the time the Council was created.

Chapter 66, Public Laws, rewrites as one law all provisions relating to the method of securing license to practice dentistry and the various methods of losing same. Chapter 181, Public Laws, allows three, instead of two years of work in a school of pharmacy to be credited on the four years of practical experience necessary as one qualification for a licensed pharmacist. Chapter 63, Public Laws, makes a number of changes in the laws governing the practice of optometry, among others being provisions which prohibit department stores from fitting glasses or hiring optometrists to work for them and which regulate professional advertising. Chapter 363, Public Laws, enables the Board of Medical Examiners to meet elsewhere than Raleigh, if it so desires.

Chapter 54, Public Laws, makes a number of changes in the cosmetology law, among others being provisions designed to exclude barbers from the Board of Cosmetic Art Examiners and to exclude Board members from service as inspectors.

Chapter 155, Public Laws, recognizes photography as a profession and regulates it at length, providing it with the usual paraphernalia of a Board of Examiners, license and examination fees, a set of qualifications and assorted misdemeanors. It applies, however, only to photographers in cities and towns of more than 2,500 population who sell pictures at a price greater than 10c.

X. Conservation and Development

In addition to the numerous laws already mentioned in connection with legislation inspired by Federal programs, a number of laws relate to game or the protection of natural resources.

Most important of these is Senate Bill 392, which provides the State with a brand new general game law. It abandons the system of regulating seasons by geographical zones, adopted in 1933, and fixes both seasons and bag limits on a State-wide basis. However, the Department of Conservation and Development is permitted to change either seasons or limits, as the supply of game may justify. The price of a county resident hunting license is upped from 60c to $1.10 and the price of a non-resident hunting license from $10.10 to $15.25. Other parts of the bill prescribe the powers of the Department with reference to game; provide for the continuation of county game commissions; prescribe the duties of game wardens and their deputies; provide for seizure of game illegally killed; bar the killing of game by nets, traps, snares, artificial lights, salt-licks or poisons; regulate the propagation and transportation of game; and prescribe penalties.

Other laws relating to hunting are: (1) Senate Bill 443, repealing the 1933 law which provided for rebate to the counties of a part of hunting license receipts to be used to pay bounties on the heads of outlawed birds and animals; (2) Chapter 135, Public Laws, which gives the Director of the Department of Conservation and Development absolute control over aquatic plant foods and waterfowl foods growing in North Carolina waters, and prohibits shipment of such foods from the State without his written permission; and (3) Chapter 160, Public Laws, which provides lengthy regulations for wild fowl hunting in Currituck Sound.

Four laws deal with game or commercial fishing. (1) Senate Bill 567 raises the cost of a non-resident daily fishing license from 60c to $1.10 per day. (2) Chapter 137, Public Laws, revises the regulations governing shad fishing off the Cape Fear section of the North Carolina coast. (3) Chapter 35, Public Laws, allows the Department of Conservation and Development to regulate fishing, fishing apparatus and the transportation of seafoods. (4) Chapter 118, Public Laws, gives the Fisheries Commissioner and his Inspectors authority to stop and search vehicles suspected of illegally transporting seafoods and arrest the operators if found guilty.

Chapter 178, Public Laws, provides that a county in which a fire fighting organization is established by the Department of Conservation and Development may be called upon to pay not more than 5 mills per woodland acre per

year toward the expense of the organization and fire fighting work in the county.

Finally, two laws intended to conserve something may be mentioned here for lack of a better place to mention them. Chapter 198, Public Laws, is intended to conserve our Indian relics, and requires that all such discovered on public lands be turned over to the State Museum or Historical Commission, and urges private owners of such relics to do likewise. Senate Bill 291 is intended to conserve scenic beauty along the highways, and prohibits the dumping of trash within 150 yards thereof, except in the large number of counties which are exempted from the bill.

XI. Public Health

Exclusive of laws mentioned elsewhere, seven laws affect public health. (1) Chapter 142, Public Laws, authorizes the State Board of Health to use any available funds at its command not otherwise appropriated to establish full time health service in any county, city, town or group of units when the local authorities are willing to match the State funds. (2) Chapter 225, Public Laws, authorizes the State Board to regulate the practice of midwifery in any county where the County Commissioners are willing for it do do so. (3) Senate Bill 258 rewrites part of the laws governing sterilization of mental defectives, and allows voluntary sterilization under prescribed conditions. (4) Chapter 169, Public Laws, broadens the definition of "hotels" and "restaurants" in the laws subjecting those businesses to sanitary regulation and inspection. (5) Chapter 167, Public Laws, rewrites the laws governing the manufacture of bedding. (6) Senate Bill 413 makes some changes in the laws governing soft drinks. (7) Senate Bill 535 rewrites the law regulating sale of narcotic drugs to make it conform more nearly to Federal regulations.

XII. Civil Procedure

Although the general statute (C. S. 509) allows the defendant thirty days after the service of civil summons in which to answer, many inferior court statutes heretofore allowed a shorter time. Chapter 267, Public Laws, provides that where the defendant lives outside the county summons from any court shall allow the defendant thirty days in which to answer or demur.

Until Chapter 343, Public Laws, changed the law, service by publication was required to be completed within fifty days after the suit was begun (C. S. 476). Often there was a necessary delay in securing the return of the sheriff and affidavits upon which to base a publication, making it difficult to complete the 30 day publication within the 50 day period allowed. The new law provides that the 50 days shall run from the order of publication rather than the institution of the suit.

In personal injury cases heretofore where the case resulted in a recovery either by trial or compromise, doctors, hospitals, druggists and nurses who had furnished professional services or medicines had little assurance that their debts would be paid from the civil recovery. Chapter 121, Public Laws, gives to these a lien on personal injury recoveries (up to 50 per cent) for such services and supplies connected with the injury, and places upon the person receiving such recovery before disbursement the duty of retaining sufficient funds to pay any such claims of which he has accepted notice.

Where a Clerk of the Superior Court is personally interested in a matter or is closely related to parties, C. S. 939 disqualifies him from acting in his usual capacities in estates and special proceedings. Chapter 110, Public Laws, extends these disqualifications to all civil actions, thus making mandatory what is already regarded as the better practice.

Heretofore a judgment lien has been barred at the end of ten years, but the law has not been clear as to whether an execution could thereafter be issued or not. Chapter 98, Public Laws, provides that after ten years from the date of rendition of judgment no execution shall be issued, except (a) upon judgments to enforce liens on homesteads allotted during the ten years, or (b) upon judgments for alimony.

Although the law governing depositions in this state is regarded as liberal, there has been some doubt as to whether every purpose accomplished by the equitable "Bill to Perpetuate Testimony" could be accomplished by deposition. Chapter 254, Public Laws, ends such doubts by providing that this equitable relief may be obtained either by special proceeding before the Clerk or by civil action at term, the procedure and law governing to be the same as in depositions.

Under C. S. 7983 a co-tenant paying all the taxes on jointly owned property has a lien against the property, enforceable by partition and otherwise to recover the taxes properly payable by the other tenants. Chapter 174, Public Laws, gives the same rights to the co-tenant who pays off special assessments against such realty.

Hotels and boarding houses selling baggage under lien formerly had to sell it at the courthouse door (C. S. 2462). Chapter 364, Public Laws, allows such sale in front of any public building in the town where the lien attached.

Senate Bill 488 provides for the following C. S. C. fees: Advanced costs—on appeal from a Justice of the Peace, including process tax, $4; in suits started, including process tax and sheriffs' fee, $6 plus $1.50 for each additional defendant; cross indexing actions and proceedings—10c per name; docketing judgment—10c copy sheet, minimum 25c; court reporter fee in civil action—$2 hour from commencement of selection of the jury through judge's charge, (minimum $2); auditing annual accounts—25c per $100 to $1,000, 5c per $100 from $1,000 to $11,000, 1/10 of 1 per cent all over $11,000 on receipts and disbursements (minimum $1, maximum $25); auditing final accounts executors, guardians, receivers, etc.—50c per $100 through $1,000, 10c per $100 for sums over $1,000 (minimum $2), with stocks, bonds and personalty distributed in kind to be treated as cash. Auditing final accounts of trustees, mortgagees, etc.—25c per $100 through $1,000, 10c per $100 for sums over $1,000 (minimum $1.50, maximum $25). The new schedule of auditing fees affects appreciably only the large estates and trusts, raising the fees on these substantially. Fifty-one counties were exempted from the bill.

Where there is a dispute within a corporation relating to an election, C. S. 1177 heretofore provided for a hearing before a Superior Court judge. House Bill 1243 adds further that when the court finds that stock ownershp is evenly divided between groups in disagreement as to the management, the judge may name a receiver for the business.

C. S. 2331, relating to peremptory challenges, was amended (by House Bill 1421) to provide that in civil actions six,

instead of four, jurors may be challenged without cause by each side.

The adoption law was repealed, rewritten, and re-enacted by Chapter 243, Public Laws. In the new law careful provision was made to eliminate the necessity for making public the true name of the child to be adopted, although the court would be given this and other information as to the child's antecedents in a report by the Superintendent of Public Welfare. The original report would be preserved in the office of the State Board of Charities and Public Welfare, where it would not be open to the public except upon court order. All prior adoptions are validated, until vacated as provided by law.

XIII. Estates, Guardianships and Trusts

Numerous changes were made in the law regarding sales by fiduciaries. By amending C. S. 92 (f) all bona fide sales by administrators made, without court order, to make assets (and deeds given in connection therewith) from January 1, 1900 to January 1, 1920 were validated by Chapter 31, Public Laws. When lands so sold are contiguous tracts or separate tracts in different counties, Chapter 43, Public Laws, provides that the proceeding to sell may be brought in any county where the land lies but that the advertisement must be made in each such county and certified copies of the proceedings must be filed in each county where any part of the land lies. All sales made by administrators *de bonis non*, where the sale is made and the deed executed prior to January 1, 1931, and the sale was made before the administrator qualified but he qualified before the deed was executed, were validated by Senate Bill 512.

Chapter 72, Public Laws, amended C. S. 85, dealing with the terms and confirmation of sales by administrators to make assets, so as to make C. S. 2591 (providing for re-sale upon advanced bid) apply to sales to make assets, and so as to provide that the requirements of C. S. 763 (requiring a report to be filed and the sale to remain open for twenty days) shall not apply to such sales. By C. S. 766 a fiduciary selling assets to make re-investment is required to give bond for the safe-keeping of the proceeds of the sale. Chapter 45, Public Laws, limits this provision so that the court need not require such bond when the court requires such funds to be paid by the purchaser direct to the court.

Chapter 36, Public Laws, validates all sales and mortgages of land discharged of contingent remainders and executory devises, as to all parties, all persons not then in being, and all persons whose estates had not then vested, where all persons in being who would have taken such property if the contingency had then happened were parties and where the sales and mortgages were authorized by a judgment of the Superior Court in an action or special proceeding. Chapter 299, Public Laws, amended C. S. 1744 so as to allow proceeds of sales of land subject to contingent remainders to be used to remove, under court orders, existing liens; the present law allows such funds to be used only for adding improvements to the property.

Senate Bill 322 amended C. S. 76 so as to make the two year period during which conveyances by heirs are voidable as to creditors run from the death of decedent rather than from the grant of the letters.

When there is a foreclosure sale under mortgage securing funds of a ward and the amount bid is not sufficient to prevent a loss on the part of the ward's estate, Chapter 156, Public Laws, permits the guardian to file a petition showing this, supported by the affidavit of three disinterested freeholders, and thereby secure an order allowing him to purchase the land on behalf of the estate. Such purchase would not be valid unless confirmed by the judge as being in accordance with the order therein.

When realty is held by the entirety and either the husband or wife, or both, shall become mentally incompetent, Chapter 59, Public Laws, permits the competent spouse and the guardian of the incompetent (or the guardians for each if both are incompetent), upon petition to the Clerk where the land lies and after finding by him that it is to the best interest of the parties and not prejudicial to the incompetent, and upon the approval of the judge resident or holding courts, to mortgage or sell the property. The court may in such case direct the application of the funds for the protection of the incompetent spouse. Prior proceedings, under such circumstances, in which sales or mortgages were made are validated.

When the trustee in a deed of trust is a foreign corporation, a non-resident, or his whereabouts remain unknown for three months, Chapter 227, Public Laws, allows a substitute trustee to be designated.

House Bill 1361 permits a guardian to be appointed either by the Clerk of the Superior Court (a) in the county where the infant, idiot or lunatic resides; or (b) in the county in which a substantial portion of the prospective ward's estate is located, if the guardian is next of kin or a person designated in writing by the ward.

Senate Bill 580 amended C. S. 2162, which heretofore made no distinction between personal and corporate bonds of guardians, to provide that personal bonds shall equal double the amount of the personal property and rents and profits arising from the ward's estate but that a corporate bond need equal only one and one-fourth such amount. Senate Bill 581 makes the same provisions with respect to the amount of personal and corporate bonds of personal representatives as does Senate Bill 580 with respect to guardians' bonds. House Bill 1383 amended C. S. Chapter 78, which lists approved investments for trustees, to provide that when a guardian invests in the name of the ward in securities listed in C. S. 4018, 4018a, and delivers these to the Clerk of the Superior Court, his bond shall be reduced in an amount double the amount of the funds actually so invested.

Where it is desirable that farming operations of estates be continued, the authority of fiduciaries in this respect has heretofore been vague. Chapter 24, Public Laws, provides that a guardian, with the approval of the clerk and judge of the Superior Court, may cultivate or contract as to the cultivation of lands, and operate or contract as to the operation of a business of the ward, when such is to the best interest of the estate. Chapter 163, Public Laws, provides that when the deceased was conducting farming operations at the time of his death, his personal representative may continue such until the end of the calendar year or until the crops are harvested. Only the net income realized will be treated as assets of the estate.

Two changes were made in the laws governing the time for settling estates. Senate Bill 466 provides that a Clerk of the Superior Court may, for good cause shown, extend the time of settlement of any executor or administrator, but any party

having an interest in the estate may, within ten days, appeal from such order to the resident or presiding judge. Under Chapter 244, Public Laws, when as much as 25 per cent of the estate of a decedent is represented by deposits in a bank in liquidation, the personal representative, in the discretion of the Clerk, may be allowed until ninety days after payment of the last dividend in which to file his final account, but he is not relieved of the duty of administering and distributing other funds and property according to law.

Rule Ten, C. S. 1654, heretofore was silent as to the manner of descent of the property of illegitimate children when the mother predeceases the child. Chapter 256, Public Laws, provides that when the illegitimate has no issue and the mother predeceases the child, the legitimate children of the mother shall inherit.

Many who deal frequently with estate and trust law have commented upon the unsatisfactory state of these laws. Senate Bill 160, a joint resolution, authorized the Governor to appoint a commission of nine members to study and present to the 1937 General Assembly a plan for the revision and simplification of the laws relating to descent and distribution of the property of intestates, wills and their probate, the administration of estates and trusts, and other allied matters, together with a draft of proposed new legislation.

XIV. Courts

Two changes were made in the law relating to the Clerk of Superior Court as *ex officio* Clerk of the County Recorder's Court. House Bill 1065 provides that his deputy or assistant may issue process, administer oaths and perform any other duty in this capacity, and House Bill 1066 re-writes C. S. 1576 so as to allow the Clerk, after being so directed by the Commissioners, to appoint a special deputy as Clerk of the Recorder's Court, his bond and salary to be fixed by the Commissioners. A number of counties are exempted from these laws.

House Bill 1147 amends C. S. 946 so as to allow the Clerk of the Superior Court to secure leave of absence from the resident judge, the judge riding the district, or the judge presiding, instead of only the resident judge, as at present.

Chapter 295, Public Laws, the Justice of the Peace omnibus bill, as usual, appointed a large number of Justices of the Peace. The fee to an officer for summoning jurors for a Justice of the Peace Court was fixed by House Bill 696 as "the fee allowed by law for summoning jurors." Sixteen counties were exempted from this law. Any Justice of the Peace soliciting official business or patronage for his office is guilty of a misdemeanor under Chapter 58, Public Laws.

General County Courts were given jurisdiction concurrent with the Superior Court of all actions and proceedings for divorce and alimony, or either, by Chapter 171, Public Laws, which amended C. S. 1608 to accomplish this.

The Governor was authorized, by Chapter 97, Public Laws, to appoint four special judges of the Superior Court, two from the East and two from the West, for two year terms; if the necessity should exist, the Governor could appoint two additional special judges, one from the East and one from the West. They have the same status as the special judges now serving.

XV. Deeds, Wills, Etc.

Several laws validating defects of record were enacted. Chapter 130, Public Laws, validated probates of deeds executed prior to January 1, 1910 in cases in which a notary public acknowledged the execution but did not affix his seal. Chapter 133, Public Laws, validated acknowledgments on recorded instruments when taken by a notary public at a time when he was also holding some other office. Chapter 235, Public Laws, validated all instruments requiring registration prior to January 15, 1935 where the Clerk of the Superior Court was a party or interested, and such instruments were registered on order of the Clerk, his assistant or deputy.

Registers of Deeds were authorized by Chapter 47, Public Laws, to cancel deeds of trust, securing the bearer or holder of negotiable instruments, upon presentation of the deed of trust with the evidences of indebtedness marked paid and signed by the bearer or holder thereof. If any such negotiable notes are lost or stolen, upon notice given the Register of Deeds, he must make a "Stop Cancellation" entry on the record margin, and cancellation thereafter may be made only after ownership of the instruments has been determined. The law provides that nothing contained in it is to impair negotiability or affect the rights of innocent purchasers.

Chapter 271, Public Laws, authorizes cancellation of mortgages and deeds of trust in favor of corporations by vice presidents, assistant secretaries, assistant treasurers, trust officers and assistant trust officers.

The proof or acknowledgment of any instrument, required or permitted registered, by the oath and examination of a subscribing witness who is also a grantee in the instrument, and any registration based upon such proof, will be invalid, under Chapter 168, Public Laws. This law would not affect those instruments registered prior to ratification of the act. It would expressly apply to agricultural liens.

Crop liens for advances were subject to registration in the county where the person advanced resides under C. S. 2480. Chapter 205, Public Laws, changed the law to provide for registration in the county where the land is situated on which the crops of the person advanced are to be grown (where the county line divides the farm, it may be recorded in the county where the owner resides, if he resides on the farm).

XVI. Criminal Procedure

When a felony is committed and the person charged flees the county, the sheriff of the county where the crime was committed and his deputies, may, under Chapter 204, Public Laws, pursue the person charged, whether in sight or not, and arrest him anywhere in the State. This is an extension of the doctrine of "hot pursuit" to aid officers in apprehending those committing serious crimes.

Formerly when the Solicitor announced the discharge of State's witnesses, C. S. 1286 required him to certify to the Clerk of the Superior Court the names of the witnesses entitled to prove. Chapter 26, Public Laws, amends the section so as to release him from the duty of certifying these witnesses, and places the duty upon the Clerk to enter the discharge of such witnesses in his minutes.

House Bill 1421 provides that, in capital cases, each defendant may have fourteen, instead of twelve peremptory challenges, and the State may have six instead of four per defendant. In other criminal cases each defendant is given six instead of four such challenges, and the State is given four instead of two per defendant.

A COURT HOUSE WITH A PAST

(Continued from page ten)

ever, were recorded until 1755. The particular one to which we turned is a grant to Andrew Patterson of six hundred and fifty acres of land at the price of fifty shillings for each one hundred acres, which amounts to approximately six to eight cents per acre. This grant is dated November 9, 1784, and bears the signature of Alexander Martin—the last of the Colonial Governors.

Of paramount interest to the majority of our citizens, however, are the records of the court proceedings, etc., in which can be found concrete examples of the doings of our forefathers in that period when the present day American Democracy was no more than a vague dream cradled in the minds of the most farsighted of the liberty-loving colonists. The County Court was located in Hillsboro as early as 1754, but no superior court was held here until March, 1768.

The next day, after demolishing Fanning's home, which they thought had been built with funds extorted from them, and literally hounding Fanning out of town, the Regulators proceeded to the Court House. Upon their arrival, Judge Henderson having left during the night, one of their group was placed on the bench, another served as sheriff and a third as clerk. With these offices filled, business of the court was resumed but in a manner entirely different from the ordinary. The suits in which Regulators were parties were all decided agreeably to wishes of the Regulators involved. The clerk was not at all discreet in his entries. As an illustration, the entry made in a slander suit in which Ezekiel Brumfield was plaintiff and James Ferrell defendant was: "Nonsense, let them agree for Ferrell has gone Hellward." Some of the Regulators who took part in these escapades were Herman Husbands, Rednap Howell, James Hunter, and William Butler.

It was only a little more than two years from this time, or on the 24th of September, 1770, that the Regulators stormed the court, made life almost unbearable for the lawyers and officials who were so unfortunate as to be present. Floggings were administered to John Williams, Edmund Fanning and a number of other lawyers and officials. Others saved their hides only by hurriedly absenting themselves from the court. However, as angry as were the Regulators, they showed little inclination to harm Judge Richard Henderson, who was presiding, or the King's Attorney. Their wrath was caused by the fact that they thought justice had not been given them at the preceding term of court and that some of the officials, Fanning in particular, who was Register, had charged them exorbitant fees.

On June 14 of the following year, 1771, the Regulators who had been taken prisoners at the Battle of Alamance, except James Few, who was hanged at Alamance Camp, were brought back to Hillsboro for trial. The Judges who were sitting at a special term of court were Richard Henderson, Howard, and Maurice Moore. Of the fourteen prisoners tried, two were acquitted and twelve were convicted of treason. Six of this number were pardoned and the other six—Merrell, Matter, Messer, James Pugh and two others were hanged, June 19, a short distance from the court house, in what is now Cameron Park.

Famous Names and Figures

Many are the references in the records to such men as Francis Nash, Thomas Burke, Wm. Johnston, Nathaniel Rochester, William McCauley, Mark Patterson, John Hogan, Edmund Strudwick, Joseph Graham and others, all of whom figured very prominently in the local affairs of their day and some of whom by their outstanding abilities gained for themselves much wider fame. Space does not permit the recounting of the deeds of the men whose names are mentioned, but with one exception these names are still to be found in Orange County. And through the years since the Colonial and Revolutionary periods, in almost every decade, can be found men of some of these names still taking a prominent part in the affairs of their County and State.

The old clock has stood by to sound the hours of the lives of the populace for many generations past, and the court house has served as a zealous guard over the record of their brief sojourn here. Both seem to prefer being a part of the ages rather than of a particular period, and we of the present generation can do nought but dedicate them to the future.

RUNNING DOWN UNLISTED PROPERTY

(*Continued from page three*)

in one county resulted in a canvass of service stations in the county for the purpose of taking a photograph of each, showing its general condition and pump equipment, and taking notes as to tank capacity and other features. Likewise under this general group falls the process of following up the statute which requires warehouses to report property belonging to others which is stored in the warehouse.

Offhand, it might be thought that the third group of methods—i.e., searching for the tracks made by property—would be confined almost entirely to so-called intangible property, such as mortgages, corporate bonds, notes, accounts receivable, bank deposits and similar types of property which have neither size, weight nor odor to lead the tax officials directly to them. Such, however, is not always the case. Witness the perambulating, ubiquituous automobile.

Running Down Unlisted Autos

For years the Supervisors have been attempting to meet the automobile problem by securing from the Commissioner of Revenue a list of motor vehicles registered in their counties. They have located hundreds of cars in this way. However, there have been numerous inaccuracies in these lists, as the purchaser of a motor vehicle license has never been required to divulge his residence for tax purposes. This year the Supervisors recommended to the legislature that an applicant for motor vehicle license be required to specify, as a condition prerequisite to getting the license, the county and township in which the vehicle is to be listed for taxes. The law embodying this provision has already passed the House, and unless it is deleted by the Senate, it should prove of material help in locating the missing cars.

Intangible property does furnish the worst problems faced by the Supervisor. There is the dodge of borrowing money to buy non-taxable securities, and then dednoting the debt from the value of taxable intangible property which is listed. But that is a separate problem by itself. The Supervisor is faced with a difficult enough problem in attempting to find intangibles which are not listed.

Fortunately for the tax official, the county controls records which are helpful to him. A mortgage on lands in his county must be recorded before it is a safe investment. Hence, by searching the records in the Register's office, he can locate mortgages on local land which are owned by local taxpayers. He cannot, by this method, locate mortgages owned by residents of his county on lands in another county or another state. Nor can he locate the bonds of industrial corporations or bank accounts. If the owner of these intangibles is an individual, however, and he owns them when he dies, they will make some tracks on other records which are controlled by the County. The executor or administrator must file an inventory in the Clerk's office, and when this inventory divulges unlisted securities, the Supervisor can, if he so desires, put them on the tax books for the current year and as many of the five preceding years as they were the property of the deceased.

Bank Accounts Present Difficulty

In individual cases, the Supervisor can sometimes get information about a taxpayer's bank account. Within my experience, no Supervisor has been able to secure a complete list of the depositors of a solvent bank.

Space does not permit further mention of methods of seeking the tracks of intangible property owned by individuals. In the case of domestic corporations, however, there is a specialized method which is worthy of mention. Some Supervisors now require submission of a statement of assets and liabilities with the regular tax list. This is not done solely for the purpose of checking up on intangible property, but it can be used to some extent for that purpose. And, what is perhaps more important in this connection, its accuracy can be at least partially checked by comparing it with the statement which the corporation must file with the Department of Revenue in Raleigh.

Perhaps unworthy of inclusion under either of the three groups of methods outlined above, but nevertheless a potent factor at times, is the old-fashioned "grapevine." Any Tax Supervisor who has conducted much of a campaign to locate unlisted property will tell you that he receives valuable leads from letters and phone calls, some of them anonymous. This is perhaps one of the few cases of a malicious intent promoting a lawful purpose. The Supervisor will also tell you that many a luckless individual caught in the drive will give information about unlisted property of his friends and neighbors. It alleviates the feeling that he is the chief sucker in his particular group. One of the best features of a systematic, prolonged search for unlisted property is that it has a snow-ball effect. Often the man caught this year will not only list voluntarily next year, but will advise his friends to do likewise and avoid trouble and penalties.

RELIEF BECOMES A MAJOR FUNCTION

(*Continued from page seven*)

The Act provided that funds should be granted directly to the states without provision for future repayment. Grants were distributed upon a two fold basis, which provided (1) that each state should receive a "matched" appropriation, paid quarterly, equal to one-third of the amount of public funds spent for relief purposes within the state in the preceding quarter year; and (2) that further grants should be made to those states which could demonstrate that funds under the matching provision were inadequate. The funds provided were to be used by the states to provide direct relief in cash or in kind, to pay work relief wages, and to finance other specified types of aid. Funds for transient relief and for grants to self-help organizations are allotted apart from the "matching" provision.

The above section gives a general idea of the scope of the Relief Act. Its significance is difficult to estimate. Even the brief resumé of the history of relief in the modern era, reveals in vivid contrast the comprehensive scope, and the frank, explicit recognition of governmental responsibility as shown by the FERA for the welfare of the nation's citizens. There can be but little debate as to the ultimate or even temporary inadvisability of the "dole." But there can be no doubt that the N. C. ERA came into being to meet an actual and not a theoretical need, and its purpose as revealed in a constantly increasing intelligence and efficiency in administration, has been to seek consistently the most effective ways to change conditions fundamentally wrong, while at the same time giving attention to the pressing need for rehabilitation of hundreds of thousands of citizens near the point of physical and spiritual desperation. Mr. Hopkins' almost classical statement that "Hunger is not debatable" finds a response wherever men recognize a responsibility to their fellows, while the courageous leadership of President Roosevelt gives us all hope that the most concerted drive ever made against those conditions which militate against the greatest good for the greatest number, will continue until every man in these United States will have not only his constitutional guarantees, but also those which accrue to him by reason of his simple status as a human being in a land whose founders devoted it to be the home of a significant and meaningful equality.

Bulletin Service

Opinions and ruling in this issue are from State department letters from March 15th to May 10th

Prepared by
MALCOLM B. SEAWELL

All materials for this issue of the Bulletin are from the Attorney General's office.

I. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

1. Exemptions—church property.

To P. A. Reid. (A.G.) Under C. S. 7971 (17) property owned by churches or religious bodies is exempted from ad valorem tax. This tax, however, would not apply in a case wherein title to the property was held by the minister and not by the church.

2. Exemptions—property owned by fraternal order.

To P. Nelson. Inquiry: Is business property owned by the Junior Order and rented as a bank building, the rents being used to pay for the building, subject to taxation?

(A.G.) Subsection 4 (a) of Section 304 seems to be broad enough to cover this class of property and, therefore, I advise that this property is exempt from ad valorem taxation.

5. Exemptions—city and county-owned property.

To C. H. Nelson. Inquiry: Do the Constitution or statutes of North Carolina make provision for the exemption of any specifically owned utilities, such as water, gas, and electric plants or pipe lines?

(A.G.) Under the provisions of Article V, Section 5 of the Constitution, "property belonging to the State or to municipal corporations shall be exempt from taxation."

Under Section 7880 (111), Consolidated Statutes, municipally owned utilities are exempted from franchise taxes.

To A. J. Maxwell. (A.G.) Counties and other political subdivisions of the State are exempt from the stamp tax prescribed by Schedule "B" of the current Revenue Act for work done for them by laundries.

10. Exemptions—municipal bonds.

To E. F. Allen. Inquiry: Are municipal bonds exempted from ad valorem taxation?

(A.G.) Yes, under the provisions of subsection 1 of Section 7971 (1a), C. S.

12. Exemptions—Veterans' Compensation.

To A. C. Hudson. Inquiry: 1. Are funds drawn by a veteran from the Government as compensation for services in the World War taxable for county purposes? 2. Are funds received in the same manner taxable when held by a guardian for minor children of a deceased veteran?

(A.G.) 1. No, under C. S. 5168 (aa). 2. Yes. See Martin v. Guilford County, 201 N. C. 63.

19. To whom property is assessed.

To A. C. Hudson. Inquiry: On March 1, 1934, a taxpayer, according to the records of the Register of Deeds, had title to a house and lot and on that date the mortgagee started foreclosure proceedings to divest the taxpayer of the house and lot. The foreclosure sale was made and completed on or prior to April 1, 1935; however, the time allotted for the upset bid period had not expired. Who was the owner of the above described property as of April 1, 1934?

(A.G.) The pendency of foreclosure proceedings, under power of sale contained in a mortgage, does not affect the legal ownership of the premises until a deed has been made by the mortgagee or trustee to the person purchasing at a sale. Under the circumstances mentioned above, the ownership of the house and lot described would still be in the mortgagor. However, this could refer only to the question of the duty of listing the property as it is not at all conclusive as to the lien of the tax. State v. Fibre Co., 204 N. C. 295.

30. Situs of personal property.

To J. A. Bland. (A.G.) You call attention to the fact that many people residing in your county claim their legal residence in other counties and, therefore, the right to list automobiles in such counties for taxation. You ask if such property may be taxed in your county.

Ordinarily the situs of personal property for taxation is in the county where it is located. Some difficulty, however, arises when you come to consider whether or not an automobile should be classed as having its permanent situs in a county other than the county of residence.

Section 516, Chapter 204, Public Laws of 1933, might perhaps be considered as controlling the matter generally and the principle as applying to question of listing as between counties. In my judgment, if the property to which you refer has been actually listed in the county of residence and pays tax there, as an administrative matter at least, you would not be justified in interfering with the situation by an attempt to tax in your county.

Of course the subject is somewhat involved and there may be a distinction between actual and constructive residence, but I cannot find that this has been judicially determined with reference to this statute.

As an administrative measure, I would advise that automobiles owned by persons who, for business reasons, have chosen to take up an actual residence in your county, be listed and taxed in such county, in case they have not been listed and taxed in the county of permanent residence.

To Eugene Irvin. Inquiry: What portion of the road building equipment of a company should be listed in the county when part of the equipment is in the county and part in other counties on April 1?

(A.G.) Tangible personal property must be taxed in the county where it is situated. If part of this property was in your county on April 1, it should be rightfully listed for tax at its situs.

To J. B. Boddie. Inquiry: Do both county and town taxes apply to mortgages given by persons living in townships other than our own.

(A.G.) As a general rule, and except where modified by the Machinery Act, tangible personal property must be listed for taxation at its situs. If located in a town, it would be subject to both county and town taxes.

A different rule applies to intangible property such as mortgages. The general rule is that such intangibles are taxed at the domicile of the taxpayer. Persons living outside of town could not be compelled to pay a town tax on such intangibles.

51. Nature of property.

To T. D. Warren: (A.G.) There is plenty of precedent favorable to regarding fixtures and trade structures and buildings on leased lands, removable by lessee, as personal property. Section 3057 in the Machinery Act of 1933 was, no doubt, intended to meet the situation where the real estate of such lessor had been assessed without reference to such structures. Very frequently they are worth far more than the land and would otherwise go untaxed. This part of the Machinery Act provides only that such structures shall be listed as personal property (a) in the event the land is not assessed to the lessee, as sometimes happens, and (b) unless such buildings and structures are taken in consideration in valuing the land as listed by the owner and so assessed to him.

I do not think that the definition of

real property, contained in Section 301 of the Machinery Act, was intended to interfere with this method of listing such buildings and structures as personal property to the lessee, in such instances as it became necessary to do so in order to make them taxable at all, that is to say, where such improvements had not been taken into consideration by reason of the fact that they and the land on which they are located have not been taxed to the lessee, and where such improvements have not been taken into consideration in valuing the land taxed to the owner.

It is not my opinion that they should be separately taxed to the lessee as real estate, because the lessee does not by them acquire any interest in the land upon which they are located. Timber interests and mineral interests, where these interests have been separated from that of the owners of the soil, are, of course, real estate interests.

81. Deductions—money borrowed on cotton in bonded warehouse.

To C. L. Plaster. Inquiry: Are farmers entitled to any deductions in listing cotton for taxes because of loans made to them by the Government on cotton stored in bonded warehouses?

10. Penalties, Interest and Cost before Foreclosure.

(A.G.) In my opinion a farmer is allowed to offset amount of loan on cotton raised by him to which he still retains title in bonded warehouse. See the Machinery Act, Section 517 and 518.

82. Deductions from solvent credits—Building and Loan Associations.

To A. C. Hudson: (A.G.) Section 601 of Article VI, Chapter 204, Public Laws 1933, reads as follows:

"The secretary of each building and loan association organized and/or doing business in this State shall list with the local assessors all the tangible real and personal property owned on the first day of April of each year, including all cash on hand or in bank on that date, which shall be assessed and taxed as like property of individuals."

Subsection 1, Section 518 of said chapter provides that "all bona fide indebtedness owing by any taxpayer as principal debtor may be deducted by the list taker or assessor from the aggregate amount of the taxpayer's credits shown in items 20 and 21 of Section 517."

In item 21, referred to in the next preceding sentence, is included "money on deposit."

In view of that portion of Section 601 which states that property of Building and Loan Associations shall be assessed and taxed as like property of individuals, it would seem that a Building and Loan Association would be entitled to deduct its bona fide indebtedness from its solvent credits.

92. Credit to hospitals on bills.

To E. B. Denny: (A.G.) You inquire if Subsection 5(a) of Section 204 of Public Laws of 1933 contemplated that on or after the date of the enactment of that law that services "voluntarily rendered to afflicted or injured residents of the county who are indigent and likely to become public charges" applies only to services rendered after the enactment, or if it would be permissible for the hospital to go back over a period of years

State and local officials from every section of North Carolina will gather in Chapel Hill, June 10 and 11, for the 1935 sessions of the Institute of Government. Governor J. C. B. Ehringhaus (above) will preside over the joint luncheon, Tuesday, June 11.

and turn into the counties bills for services rendered prior to enactment of the law.

We call your attention to the phrase in this Subsection as follows: "and the same shall be allowed as payment on and credits against all taxes which may be or become due—"

We think a proper interpretation of this would be all taxes which were due at the time of the enactment of this statute and all taxes which might become due; that the hospital should not be allowed to go back over a period of years and turn into the county bills for services, and credit these against taxes which might become due in the future.

B. Matters affecting tax collection.

10. Penalties, Interest and Cost before Foreclosure.

To J. M. Aldridge. Inquiry: What is the penalty for not listing taxes?

(A.G.) I refer you to C. S. 7971 (93), which makes failure to list personal property a misdemeanor; to C. S. 7971 (50) (9), which does likewise for both real and personal property; and to C. S. 7971 (50) (5), which provides a penalty of 10 per cent upon the normal tax for every year preceding the current year, not exceeding five, in the event of a discovery. This penalty, however, seems not to apply to the current year.

12. Penalties and interest—right to remit.

(A.G.) You inquire if your town has the right to remit tax penalties and interest on taxes for the years 1930 and 1931—when paid after April 1, 1934.

Section 9, Chapter 181, Public Laws of 1933, provides that such remittance may be made if the taxes are paid before April 1, 1934. We construe this to mean that if such tax had been paid on or before April 1, 1934, the taxpayer should be relieved of the interest and penalty and 10 per cent. If the tax had not been paid on or before that date, your town would have no authority to remit the tax penalties, interest and discount.

31. Tax foreclosure—procedural aspects.

To O. B. Crowell: (A.G.) Where banks are in process of liquidation summons in tax suits instituted against bank property should be served on the Commissioner of Banks and not on the liquidating agent of the Commissioner.

To J. Shepard Bryan. Inquiry: A corporation, defunct since 1919, owns property in this city on which no taxes have been paid in several years. Service was had on the corporation and the town bought the property, taking deed from the commissioner of sale. The town then advertised the property for sale for thirty days and sold at auction. Can the town give good title to the property?

(A.G.) It is my opinion that before the town could convey good title for property sold for delinquent taxes, it would be necessary for it to make parties defendant all stockholders of the dissolved corporation. More than three years having elapsed since the dissolution, a former secretary of the corporation would have no authority to bind the stockholders by accepting the service of summons.

31(b). Tax foreclosure—procedural aspects 1934 taxes.

To Mrs. Evelyn Pleasants. Inquiry: Is there any ruling concerning advertising of 1934 taxes? Last year, I believe, we were not allowed to advertise until some time in September, and I want to know when and how to proceed for advertisement and sale of the 1934 taxes.

(A.G.) You are advised that the provisions of Section 1334 (48), Consolidated Statutes, relating to time for advertising delinquent taxes, are still in effect, the requirement under this section being that such taxes be advertised during the month of May for sale on the first Monday in June.

The situation to which you refer as existing in 1934 was brought about by the provisions of Section 2, Chapter 560, Public Laws of 1933, which required postponement for several months of all procedure relating to advertisement and sale of delinquent taxes. This section, however, as an examination of same will dis-

close, applied only to taxes levied in the years 1932 and 1933.

To H. L. Mayo. Inquiry: Have county commissioners the right to postpone the sale of land for taxes?

(A.G.) Yes, by act of the present Legislature, until September.

33. Tax foreclosure—statute of limitations.

To Junius D. Grimes: (A.G.) You call my attention to the conflict in the present tax foreclosure law, C.S. 8037, in that in one paragraph the period in which a county or municipality is required to bring a foreclosure suit is "eighteen months," and in the next paragraph it is stated to be twenty-four.

The 1927 Act had "eighteen" in each case, but Chapter 260, Public Laws of 1931, attempted to enlarge the period during which these actions might be brought by counties and municipalities, and in Section 4 of that Chapter made the period 24 months. However, the application of the amendment was specifically to the "sixth paragraph of C.S. 8037, as reënacted by Chapter 221, Public Laws of 1927." An examination of C.S. 8037, as printed in Michie's 1931 Code, will show that the sixth paragraph of that printing is not what was intended; but the sixth paragraph of Chapter 221, Public Laws of 1927 coördinates.

The paragraph of C.S. 8037 beginning "Every county or political sub-division," still contains the limitation of 18 months. The two parts of the statute are irreconcilable.

It is my impression that this act would be construed in favor of the taxpayer, and, if forced to an election, the court would adopt the eighteen months. The statute, however, is possibly open to the construction that the 24 months period being the last stated in the Act, and more especially as an amendment, was obviously intended to effect that purpose, would be controlling, and would enlarge the period during which actions might be brought.

35. Tax foreclosure—costs.

To W. I. Cochran: (A.G.) This office has ruled that process tax will not be levied in tax foreclosure suits. This office has also ruled that only half fees shall be paid officers for services in institution of tax suits, whether the suit is brought by municipalities or individuals.

To T. L. Durham. Inquiry: Is the Clerk of Court required to receive the notices and complaints from the municipalities of the county and turn them over to the Sheriff for service until the municipality has put up the Sheriff's fees and court costs?

(A.G.) Yes. Under C.S. 7880 (88), the regular process tax of $2 is collectible in a case in which the county, city or town is plaintiff only if and when the plaintiff recovers, in which event the said tax shall be included in the bill of costs and collected from defendant.

C.S. 8037 provides that no prosecution bond shall be required from a county or municipality, and provides further that costs shall be taxed against the Defendant, and "*when* collected shall be paid to the officers entitled to receive the same."

38. Attorney's fee—1934 taxes.

To J. P. Zollicoffer: (A.G.) The limitation of $2.50 on attorneys' fees provided in Chapter 560, Public Laws of 1933, applied only to those suits brought in accordance with the provisions of C.S. 8037. The procedure set out in this section requires that the action be brought upon the certificate of sale. If you have in mind procedure under C.S. 8037, the attorney's fee would be limited to $2.50.

On the other hand, Section 7990 authorizes that the tax lien upon real estate may be enforced by an action in the nature of an action to foreclose a mortgage. There seems to be no limitation in this section as to the amount of attorney's fees which might be authorized and paid by the plaintiff in such actions.

60. Tax collection—Levy on property under the $300 exemption.

To Festus Sutton. Inquiry: Is a delinquent taxpayer against whom a judgment has been docketed and execution issued entitled to a homestead exemption as in other civil judgments?

(A.G.) Yes, because a warrant for the collection of taxes has the same force and effect as a judgment rendered by the Superior Court. A homestead should be laid off if, in your opinion, you think it would be necessary in order to collect the judgment.

Inquiry: Is Sheriff entitled to have fees in advance when serving executions for the State?

Lieutenant-Governor A. H. Graham will take an important part in the 1935 sessions of the Institute of Government, to be held in Chapel Hill, June 10 and 11. He and Speaker Robert Grady Johnson will preside over the sessions for the interpretation of the New State Laws.

(A.G.) No. The law specifically provides that it shall not be necessary for the State to advance court costs of any description.

64. Tax garnishment—fee of sheriff.

To R. D. Jones: (A.G.) By the provisions of Section 8004, Consolidated Statutes, the fee of the sheriff for serving process in a garnishment proceeding is limited to twenty-five cents. The same limitation is fixed as to the fee of the magistrate.

In regard to fees for levy on personal property for delinquent taxes, by the provisions of C.S. 8009, the sheriff is entitled to a fee of fifty cents for each actual levy and sale, and fifty cents additional for each advertisement of a sale. No fee, however, is properly chargeable unless a sale or advertisement is actually made.

77. Tax collection—priority of lien.

To G. W. Williams: (A.G.) In my opinion the holder of a first mortgage lien upon a car, when both the owner of the car and the holder of the mortgage reside in another state, would have a priority against an attachment in this State upon the car in a proceeding for the enforcement of a judgment for damages, or any suit for damages brought in this State.

101. Adjustment—Compromise by town and county commissioners.

To L. C. Reed. Inquiry. Do the County Commissioners have the power to give taxpayers full releases for taxes: (1) in general cases; (2) in special cases in a devastated area?

(A.G.) This office is of the opinion that the governing body of a county has no authority to relieve the taxpayers of tax duly and legally assessed where there has been no error or over-valuation in such assessment.

H. Poll taxes and dog taxes.

A. Levy of poll taxes.

2. Exemptions—veterans; how obtained.

To George Click: (A.G.) C.S. 7971 (51) and 7971 (51h) provide a method by which World War veterans may be exempt from poll tax, but this applies only to poll taxes. In order to secure such exemptions an application must be made to the Board of County Commissioners and evidence furnished them of the service in the World War and of the disability. Any honorably discharged veteran, now a resident of this State and subject to poll tax therein, who received injuries in the line of duty in military service, and all those receiving compensation from the Federal Government for disability of service connected origin, are eligible for exemption. This is in addition to exemption because of indigency. To procure exemption under this head, proof of service and injury must be given to the County Commissioners in the form of a discharge or release, or certificate of such service or injury signed by a recognized

official of the United States War Department, or the Adjutant General's Office of this State. When relief is sought because of indigency, such a certificate is not required.

III. County and city license or privilege taxes.

A. Levy of such taxes.

39. Privilege tax on coal dealers.

To E. P. Covington: (A.G.) This office is of the opinion that a dealer in coal whose place is out of the corporate limits of the town, but who sells and delivers coal within the town, is not subject to a municipal privilege tax.

Attorney-General Seawell estimates that Popular Government's Bulletin Service has cut in half the number of inquiries to his office from local officials. He will be on hand to lead discussion and give opinions in person at the 1935 sessions of the Institute.

Subsection 121 (F) of the Current Revenue Act, relating to peddlers, under which such taxation would fall, if at all, expressly exempts from its application dealers in coal.

71. License tax on bus ticket office.

To M. O. Wyrick. Inquiry: Can a town levy a privilege tax on a bus company which maintains a ticket office in a local drug store?

(A.G.) By the provisions of C.S. 2621 (31) d, counties, cities, and towns are prohibited from levying such a tax.

IV. Public schools.

A. Mechanics of handling school funds.

2. Signing of vouchers.

To A. W. Honeycutt. Inquiry: Can it be legally arranged for someone other than the School Board chairman to sign checks issued by the Board on District School Funds?

(A.G.) Section 20, Chapter 562, Public Laws of 1933, requires that all checks be signed by the chairman and secretary of the Board of Trustees, and by these parties and none other. It will, therefore, be necessary for both the secretary and the chairman of the Board to sign all warrants.

B. Powers and duties of counties.

29. Reimbursement of district from county levy.

Hon. Clyde A. Erwin: (A.G.) You inquire if it is legal to reimburse the school district from a county levy in order to release sufficient money to pay a week's salary due teachers from such school district.

We regret to state that we find no provisions in the law which would give authority for such action.

C. Powers and duties of city administrative units.

5. Mandamus against county board—attorney's fee.

To Thos. C. Hoyle. Inquiry: Where one is attorney for School Board of a city administrative unit and is paid a retainer by it and where there is a suit by this Board against the County Boards of Education and Commissioners—to what account should fee payments be charged?

(A.G.) Attorney's fees accrued by reason of litigation, between the School Board and the County Commissioners and the County Board of Education, should be charged against the maintenance fund of the city administrative unit.

14. Levy of special tax—approval by State School Commission.

To J. H. Ross. Inquiry: Is there any provision in the 1933 School Machinery Act, or acts relating thereto, which would invalidate a School Supplement Election simply because the State School Commission did not approve the petition of School Trustees for the election forty-two days before the election was held; provided, of course, that the State School Commission did approve the petition before the election was held?

(A.G.) In my opinion an election held under the School Machinery Act in a city administrative unit, to provide supplements for the State appropriations to the public schools, would not be invalid because the approval of the State School Commission thereto was not had forty-two days before the election.

I am fitting my answer categorically to the question propounded by you. I do not want it understood that I am construing the School Machinery Act, Section 17, as requiring the approval of the State School Commission as a condition precedent to said election. There is, however, some authority that such approval may be required.

E. Status of former school districts and funds of those districts.

To Peyton McSwain. Inquiry: Can a Special Tax School District under Chapter 562 of the Laws of 1933 use the funds belonging to said district for any purpose other than the payment of existing indebtedness against said district?

(A.G.) We are of the opinion that if any funds were on hand at the passage of the act, which had already been collected, such funds could be used for other purposes than that set out in the act above referred to; however, uncollected funds could not be used for other purposes than those prescribed in said act. We refer you to Section 4 of this act with regard to this matter.

F. School officials.

1. County Board of Education—nomination and election.

To A. D. Abernethy. Inquiry: May citizens of an administrative unit, which is separate from the administrative unit served by the County Board of Education, serve on the County Board of Education?

(A.G.) We are of the opinion that since the County Board of Education has duties which give them supervision over all of the administrative units, that it would not be necessary that they live within an

administrative unit that is served by the County Board of Education.

30. County Superintendent—Qualifications and election.

To J. R. Poole. Inquiry: What section in the Statutes governs the election of County Superintendents of Public Instruction?

(A.G.) School Machinery Act, Section 5, Chapter 562, Public Laws of 1933. See paragraph 2.

50. Teachers—Election.

To J. W. Alexander. Does the present school committee, that is, the one appointed under the provisions of the 1933 Machinery Act, have the power to elect teachers for the next school year?

(A.G.) The present committee, in my judgment, has power to elect teachers for the next school year, if the time for the election of such teachers came before the appointment of their successors. I do not think that it was intended as a policy of the law that they should do so, but apparently this situation has not been taken care of. There should be some legislation in this respect.

To B. A. Simpson. Inquiry: Would it be unlawful for the school committee now serving to elect teachers, when a bill is pending before the Legislature to increase each committee from three to five members?

(A.G.) We think it would be entirely lawful for the school committees to elect teachers and principals regardless of any pending legislation which might increase the school committees. We do not wish to express an opinion as to the propriety of such action.

I. School property.

6. Title to property of former district.

To J. T. Pritchett: (A.G.) As a general rule of law, the title to all school property is required to be in the County Board of Education. C.S. 5472. In C.S. 5469 a provision is made by which sites for school houses may be acquired. This section provides for the acquisition of such sites by the County Board of Education or of the special charter district.

By the School Machinery Act of 1933, Chapter 562, Public Laws 1933, Section 4, all existing school districts in the State were abolished, including special charter districts; but the title to school property in those special charter districts was kept in the Board of Trustees of those districts. These trustees, where the special charter district was included in the new city administrative unit, were continued as the trustees of the latter unit. Much confusion has resulted from the fact that the new city administrative unit, in most cases, did not coincide with the former special charter district; in fact, sometimes it included more than one special charter district, with the result that there was confusion as to who were the trustees of the new district.

However, under the old law it is plain that the school property belonged to the special charter district. Such districts were abolished, and there is no provision in the law for the acquisition by them, or by their trustees, of any new property. On the contrary, the whole reasoning of the case is against such construction of the law. At this time there is no provision by which an administrative unit may tax itself or construct a school building. This is distinctly a function of the county under the new set-up, and, for this reason, I think the title to new school property should be put in the Board of Education of the county, which board is, so to speak, a trustee for the county of such property. Evans v. Mecklenburg County, 205 N. C. 561.

L. Laws Governing.

1. Effect of general law on prior special local law.

To A. W. Honeycutt. Inquiry: Please advise whether House Bill No. 249, relating to the control and operation of the Lexington city schools, ratified on February 20, 1935, will be repealed by the enactment of the School Machinery Act of 1935, when ratified?

(A.G.) In my opinion, the special local law will take priority over the general law, even though the latter is enacted subsequent to the former, unless there is something in the general law which directly or by necessary implication repeals the local act. See Felmet v. Commissioners, 186 N. C. 251, which is directly in point.

V. Matters affecting county and city finance.

I. Issue of bonds.

30. Assumption of township road bonds by county.

To Ervin and Butler. Inquiry: Does C.S. 3641 give the County Commissioners the authority to call an election to determine whether the County shall issue bonds to provide funds for taking over township bonds already issued for road purposes?

(A.G.) Yes, in my opinion, no additional authority by way of legislative enactment is necessary.

40. Bonds issued to federal government.

To J. T. Arnett. Inquiry: Will bonds issued to the Federal Government, payable from revenue as provided in the Revenue Bond Acts, constitute a taxable lien against property in the area served, and could the government force the levy of an ad valorem tax on the property for payment?

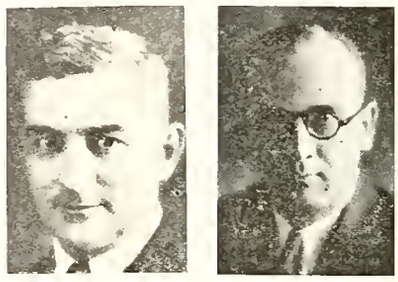
(A.G.) As a rule so-called revenue bonds covering loans by the Federal Government do not constitute a taxable lien against property, and no levy of ad valorem tax could be made for payment. The security for payment is ordinarily confined to revenue from the project. However, a specific opinion could be given only upon inspection of the bond act.

T. Fire insurance purchased by local units.

10. Policies in mutual companies.

To E. B. Bridges. Inquiry: Is a city permitted, in view of Senate Bill No. 122, to carry non-assessable mutual fire insurance policies on its buildings?

(A.G.) This Department has held that it is not permitted for a city to buy insurance in a mutual fire insurance company. This opinion was originally predicated upon the principle that the municipality had no right to subject itself to stock assessment. Nevertheless the question has been presented here under some forms of policy limiting or prohibiting such assessment, and the Department has not seen fit to change the opinion. For this reason the status of the matter would not be changed by the enactment of Senate Bill No. 122.



The Local Government Commission will supply two of the featured discussion leaders for the 1935 sessions of the Institute. They are Charles M. Johnson (left), Director, and W. E. Easterling, Secretary.

VII. Miscellaneous matters affecting cities.

K. Grants by cities and towns.

1. Free libraries.

To Miss Marjorie Beal. Inquiry: Does the law permitting appropriations for the maintenance of libraries apply to subscription libraries or just to public libraries?

(A.G.) This office is of the opinion that municipalities have no authority under the law to make annual appropriations to other than free libraries, as authorized by C.S. 2694-2702(h).

These statutes provide that books of all libraries so established shall be available, free of charge, to all residents of such municipalities.

Q. Town property.

10. Sale of town property.

To J. Shepard Bryan. Inquiry: Is it not the proper procedure for municipal corporations, by proper resolution passed by the Board of Commissioners of such municipality, to authorize the sale and

appoint a commissioner to sell municipal property after complying with C.S. 2688 as to advertisement?

(A.G.) The usual method of conveyance of municipal property is by deed signed by the mayor and attested by the clerk, bearing corporate seal. However, in the absence of a restrictiou in your city charter setting up the above as au exclusive method, it would seem that the procedure which you undertake to follow is also proper, that is, for the town commissioners, by proper resolution, to authorize the sale and appoint a commissioner to make the conveyance after complying with C. S. 2688, relating to advertising.

Z. Workmen's Compensation and Other Employees' Funds.

5. Firemen's Relief Fund.

To Grover H. Jones. Inquiry: Is a person who has served in a fire department for a period of less than five years, but who is not now connected with any fire department, a fireman within the meaning of C.S. 6069 (4) relating to a Fireman's Relief Fund.

(A.G.) It is my opinion that the relief provided in this subsection would be available only to a person actively conuected with a fire department.

VIII. Matters affecting chiefly particular local officials.

A. County commissioners.

10. Power to lease land owned by county.

To P. G. Crumpler. Inquiry: Do the County Commissioners have the right to lease property, title to which was acquired by the county by foreclosure of a mortgage, for three years with the privilege of two additional years?

(A.G.) It is a rule of law that one board of county commissioners can not bind by contract boards which succeed it, regarding matters of public policy, or so as to affect the free action of the boards as to any governmental matter entrusted to them. I do not think this rule applies in the case you put, because the county has acquired a proprietary interest in the real estate.

60. Levy to pay salaries of officers newly appointed.

To James M. Baley, Jr. Inquiry: When the County Commissioners have levied taxes to the constitutional limitation of 15 per cent on the $100.00 valuation and paid out the amount obtained by the levy for necessary expenses, must they levy any additional taxes to pay officers their salaries when they deem such officers unnecessary?

(A.G.) This office is of the opinion that the County Commissioners should levy an additional tax to pay officers' salaries when such officers are created by the Legislature. This is a matter entirely within the judgment of the Legislature, and a bill passed by the Legislature could not be abrogated by the County Commissioners.

B. Clerks of the Superior Court.

1. Fees.

To Charles Ramsey: (A.G.) I am of the opinion that a Clerk of the Superior Court is entitled to his regular commission on such sums as are taxed by authority of Section 1235(a) of the Consolidated Statutes, as solicitor's fee. It would seem that these items are placed in the same class with fines and forfeitures inasmuch as they are directed to be paid into the school fund.

In regard to the jury tax, it seems that these items are treated as a part of the costs payable to the general county fund and, in my opinion, the Clerk is not entitled to a commission on the same.

With reference to delinquent county taxes collected by suit, any sums covering same would be paid into the Clerk's Office only after judgment had been rendered and the Clerk would not be entitled to commissions thereon. In the event the taxes were paid after suit had been instituted, but prior to judgment of foreclosure, a judgment of non-suit should be entered, in which case the tax would be payable directly to the tax collecting agency.

To A. L. Hux. Inquiry: A guardian deposited in this office $568.10, at which time she filed her final account. This deposit was made to eliminate the expenses of handling this estate. The guardian files at the same time a duly verified petition in which she states that she needs said funds (which are less than $300.00 for each child) for their maintenance. Should the Clerk charge the 3 per cent commission in this case?

(A.G.) C.S. 3903 provides that Clerks of the Court shall receive 3 per cent of all sums of money placed in their hands by virtue of their office except on judgments, executions, decrees, and deposits under Article 3, Chapter 54, and upon excess of $500.00 of such sum, 1 per cent.

Article 3, Chapter 54, above referred to relates to commissions and charges which may be made in the foreclosure of mortgages and deeds of trust. These are specifically excepted from the above statute and this case would not be covered by the rule as in handling up-set bids and foreclosures.

This is to advise you, therefore, that you would be entitled to 3 per cent of $500.00, in this particular case, and 1 per cent of the $68.10.

2. Fees of commissioners in special proceedings.

Inquiry: What statute controls fees allowed commissioners in special proceedings?

(A.G.) This office is of the opinion that C.S. 766(a) is applicable as it authorizes and empowers the Clerk to fix and determine and allow commissioners a reasonable fee. We think that the enactment

of C.S. 766(a) has the effect of repealing C.S. 3896.

3. Disposition of fees by salaried clerk.

To J. F. Webb. Inquiry: Should the Clerk of Court deduct 5 per cent from fines which pass through his hands and turn this over to the general county fund?

(A.G.) C.S. 3903 provides that Clerks of Superior Court are allowed a commission of 5 per cent on all fines, penalties, amercements and taxes paid them by virtue of their office. If the Clerk of Court is on a salary basis, payable out of the general county fund, it is entirely proper that the general fund be reimbursed through the commissions which otherwise would be collectible by the Clerk as his remuneration.

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

To Charles Ramsey: (A.G.) The law provides that in the collection of process tax by the Clerk that in remitting this tax to the State in all cases where the process tax is paid by the plaintiff, the Clerk is entitled to a 5 per cent commission thereof in addition to all other fees or compensation which he may receive as Clerk of Court, regardless of whether he is on fee or salary basis.

It also provides that where this process tax is taxed in the bill of costs against the defendant and is then paid, the Clerk shall tax an additional 5 per cent in such bill of costs; that is to say, the Clerk's commission, in the latter case, is added to the bill of costs and not deducted.

12. Costs in suits in forma pauperis.

To John L. Milholland: (A.G.) Very often injustice is done to the officers in actions brought in forma pauperis, especially in those cases where the suit does not carry costs against the defendant. I do not know, however, of any way by which this could be avoided short of a legislative enactment covering the point, as the statute is very clear that no such costs can be charged against the person suing in forma pauperis.

22. Transcript of Recorder's Court judgment to Superior Court.

To J. W. Cooke: (A.G.) You inquire if C.S. 1521, which limits the time in which an execution may issue on a judgment rendered in a Justice of the Peace Court, is applicable to inferior courts to the Superior Court.

We are of the opinion that C.S. 1598, Article 21, title "provision applicable to all Recorder's Courts" remedies the situation. It reads, in part: "And the judgment when docketed shall in all respects be a judgment of the Superior Court as if rendered by such court, and shall be subject to the same statute of limitations and the statutes relating to the revival of executions."

We are of the opinion that C.S. 1521 does not apply in cases of this kind, it governs Justice of the Peace Courts and not Recorder's Courts.

55. Special terms of court.

To O. F. Eller. Inquiry: Where the Legislature has created a special term of Superior Court for a county and where no provision has been made in the county budget for that term, is the Board of County Commissioners required to draw a jury and finance the court so established?

(A.G.) This office is of the opinion that regardless of whether or not provisions was made in your budget, that it would be the duty of the county to proceed to draw a jury and finance the court term so established.

57. Pro-rating payment of part paid costs.

To. A. J. Newton. Inquiry: Where part costs have been paid into court, may the Clerk pro rate among those entitled to fees?

(A.G.) We are of the opinion that the Clerk would be right in so pro rating; however, we think it advisable that the Clerk get an order from the Judge of the Superior Court approving such action.

C. Sheriffs.

36. Deputy sheriffs—workmen's compensation.

To S. A. Whitehurst: (A.G.) From an examination of Chapter 597, Public-Local Laws of 1927, it is the opinion of this office that such deputies as you may have are employees of yourself and not of the county. Being employees of yourself, we advise that they would not come within the meaning of the Workmen's Compensation Act.

D. Registers of Deeds.

10. Marriage—age of parties.

To Miss Cora Belle Ives: (A.G.) Under the provisions of C.S. 2500, the consent of parents, or of persons standing in loco parentis, is not required when the contracting parties are over 18 years of age.

40. Practicing law.

To R. O. Payne. Inquiry: May a Register of Deeds search the records for prior chattel and crop mortgages and issue certificates of report for the Farm Credit Administration, receiving compensation for the work?

(A.G.) C.S. 3904 (b), by fixing the fee for this service, would seem to authorize the same to be done by the Register of Deeds.

L. Local law enforcement officers.

30. Slot machines.

To C. P. Barringer: (A.G.) Since the enactment of the original bill at this session, the Legislature has passed a second bill making the possession of such machines lawful until May 1, 1935. I refer to House Bill 553. The intendment of this act was only to give those who were in possession of such machines, at the time the original bill was passed, a reasonable time within which to dispose of same. It cannot be construed as permitting the operation of such machines until May 1, 1935.

To I. E. Harris: (A.G.) If slot machines are being operated in a community, they

are being operated in violation of the Slot Machine Law of 1935.

44. Automobile equipment tickets.

(A.G.) This document (an equipment ticket) does not purport to be a legal process, but, on the other hand, is merely a warning that legal process will issue unless the notice is complied with.

Upon receipt of this notice there is no obligation upon the party receiving same to take any action in consequence thereof. It is probably issued with the idea that the motorist will respond to the warning rather than to take his chances at later receiving a legal process properly issued and served.

45. Operating auto—passing school bus.

To J. R. Brown. Inquiry: Where a motorist stops 50 feet from an unloading school bus and then drives by while the bus is still unloading, is the driver violating the law?

(A.G.) The motorist who brings his vehicle to a full stop not less than 50 feet from a standing school bus while children are being unloaded, and then passes the bus, complies with the provisions of C.S. 2618(b).

M. Welfare officers.

5. Exemptions from sales tax.

To Helen J. Moses: (A.G.) You inquire if purchases made through local sources for relief work are exempt from payment of State Sales tax. The second paragraph of Section 405 of the Revenue Act specifically exempts this class of sales from the tax.

15. Qualifications for county relief.

To Dr. E. L. Cox. Inquiry: Where a person has been given an order for food in March, while on relief, but presents the order on the first of April and after he has been taken off the relief rolls, is such person entitled to receive the benefit of the order?

(A.G.) The party is not entitled to receive the benefit of the order. It would seem that the welfare program is set up for the purpose of providing such commodities as are actually needed by the applicant therefor, and the fact that these commodities for which an order had been given in March were not called for until April would indicate that the commodities were not needed during the time that the person was on relief.

P. Judges of Recorders' and County Courts.

To J. B. Eure. What steps are necessary for the establishment under Section 1536 of a municipal recorder's court.

(A.G.) A resolution duly adopted by the governing board of the town and the filing of said resolution in the office of the Clerk of Superior Court.

S. Mayors and Aldermen.

3. Compensation.

To John D. Bellamy. (A.G.) If the town charter sets the compensation of the Board of Aldermen at a certain figure, the Aldermen would have no authority to change the amount by an ordinance. On the other hand if the charter gives the governing body authority to fix the compensation of members of the board, the ordinance would be valid.

4. Jurisdiction of Mayor's Court.

To E. H. Bell. Inquiry: Does a Mayor's Court have jurisdiction over a simple assault in the Postoffice lobby of his town?

(A.G.) Yes. The State by C.S. 8053 retains authority to punish violations of its criminal laws committed on land acquired by the United States Government for courthouses, postoffices, etc., in North Carolina.

T. Justices of the Peace.

4. Service of process—right to deputize process server.

To J. D. Overton. Inquiry: May a Justice of the Peace deputize a special officer to serve civil process?

(A.G.) This office is of the opinion that a Justice of the Peace does not have the right to deputize a special officer to serve civil papers. He may, however, where the necessity exists, so deputize a special officer to serve criminal papers.

9. Service of process—through Commissioner of Revenue.

To O. L. Duncan. Inquiry: Can a Justice of the Peace issue summons through the office of Commissioner of Revenue on a non-resident motorist in civil action up to $50.00 in tort—under C.S. 491(a)?

(A.G.) We are of the opinion that C.S. 491(a) is not applicable to proceedings in a Justice's Court.

13. Territorial Jurisdiction.

To Ollie Gamble. Inquiry: Does the Legislature have the power to grant exclusive jurisdiction in a certain class of cases formerly shared by Justices of the Peace to a municipal court? Is this an abridgment of the rights of a Justice as to cases within his power as set out in the Constitution?

(A.G.) Article IV, Section 27, North Carolina Constitution, reads: "The several Justices of the Peace shall have jurisdiction under such regulations as the General Assembly shall prescribe," etc. From this it should be clear that the Legislature has the right to confer upon courts other than that of Justices of the Peace within a given territory exclusive jurisdiction.

Acts excluding territory from the Justices of the Peace and conferring jurisdiction upon another court, are common in this State, and the principle has been sustained by the courts. See 169 N. C. 521, 141 N. C. 811.

IX. Double Office Holding.

1. Member of Board of Education.

To J. V. Erskine. (A.G.) The office of Mayor is a public office. Likewise that of a member of the Board of Education. The two cannot be held at the same time.

2. Notary Public.

To George L. Peterson. (A.G.) Under Section 7, Article XIV, it will be impossible for you to hold both the offices of Notary Public and Mayor at the same time. However, you might serve as Justice of the Peace while holding one of these offices, as the position of Justice of the Peace is excluded from the operation of this section.

6. Justice of the Peace.

To James Short. To S. F. Mastin. (A.G.) The office of Justice of the Peace is excepted from Section 7, Article XIV, State Constitution, prohibiting double office holding.

To W. B. Morrill. Inquiry: May a J. P. serve also as Coroner? As Coroner and Mayor?

(A.G.) The Constitution does not prohibit a J. P. from holding another office. However, the position of Coroner and of Mayor are both offices within the meaning of the Constitution. Hence, the two cannot be held by one person at the same time. The last office accepted automatically vacates the first.

13. Policemen.

To H. J. Rowe: (A.G.) Unless provided for in the town charter or by Public-Local Law, the Chief of Police is an office and the tax collector is an office and both may not be held at the same time. In many instances, however, the function of collecting the taxes have been imposed upon another officer by the terms of the statute, and this does not offend the law.

To R. H. Atkinson: (A.G.) Both the position of rural policeman and the position of school committeeman are offices, and, under our Constitution, cannot be held by the same person at the same time.

14. Board of Aldermen.

To R. J. M. Hobbs: (A.G.) Holding office of a member of the Board of Aldermen and the office of a member of the Board of Education is double office holding within the constitutional meaning.

16. County Attorney.

To Julian D. Lewis: (A.G.) The position of County Attorney is not an office within the meaning of the constitutional restriction on double office holding. The office of County Attorney involves nothing more nor less than the performance of professional services on the part of the attorney.

18. Solicitor of Recorder's Court.

To N. P. Watson. (A.G.) The position of Solicitor of Recorder's Court is an office within the meaning of the Constitutional prohibition against double office holding, but the position of County Attorney is not. The two, therefore, may be held by the same person.

19. Director of a National Bank.

To J. F. Webb. (A.G.) The position of Director of a National Bank is not an of-

fice or place of trust or profit within the meaning of Article IV, Section 7.

20. County Auditor.

To M. L. Edwards: (A.G.) The office of mayor and of county Auditor are two offices within the meaning of the constitutional prohibition against double office holding.

25. State Departments and Boards.

To W. A. Graham. (A.G.) Membership on the State Board of Agriculture and the office of mayor of a city or town are both offices within the meaning of the Constitution. It is contrary to that constitutional provision for a person to hold both offices at the same time.

To W. A. Graham: (A.G.) We are of the opinion that membership on the Board of Conservation and Development and on the Board of Agriculture involves double office holding.

X. Primaries.

A. Qualifications and rights of voters.

2. Residence.

To J. C. Pittman. Inquiry: Charter of town is amended and corporate limits extended. Can residents in newly created portion vote in town election when period of 90 days has not elapsed?

(A.G.) We think not. Regardless of whether such persons move into town or whether the town limits are extended to include such persons is immaterial. The 90-day limitation as to residence requirements of voters would not be abrogated by a bill extending the corporate limits of the town.

To J. A. Bell. Inquiry: Is a citizen (for a year or more) who is registered on the township polling list but not on the town register entitled to vote in general town election?

(A.G.) No. He must be registered on the town books. See C.S. 2652.

To F. E. Haynes. Inquiry: A man lives outside the town and has no property. His wife lives in town and has property, but they have been separated for many years. Is he entitled to vote?

(A.G.) No.

To R. W. Rector. (A.G.) A former resident who now resides at a hotel outside the city limits should not be allowed to vote in the city election.

4. Conviction of Crime.

To A. H. James. Inquiry: Does a plea of nolo contendere by a citizen indicted for a felony involve loss of citizenship and right to vote?

(A.G.) Such a plea has the same force and effect as a plea of guilty or a conviction, and the person is not entitled to vote until his citizenship has been restored.

8. Party Affiliation.

To L. S. Baynes. Inquiry: Is an affidavit necessary to change one's party affiliation?

(A.G.) I find no provision in the Election Law requiring that an applicant for registration in a primary take an oath as to his political affiliation. Therefore it is my opinion that a Registrar could not require such applicant to sign an affidavit such as you present for interpretation.

C.S. 6027 requires only that the applicant for registration "declare and have recorded on the registration books that he affiliates with the political party in whose primary he proposes to vote and is, in good faith, a member thereof." It will be observed that the Statute does not require that such declaration be made under oath.

B. Powers and duties of election officials.

To G. C. Eichhorn. Does C.S. 6016, entitled "Registrars to permit copying of poll and registration books on appeal, apply to municipal elections?

(A.G.) Yes.

Robert Grady Johnson, Speaker of the House, will help interpret for local officials the mass of important legislation passed by the 1935 Assembly. The sessions will be held in Chapel Hill, June 10 and 11.

33. Matters affecting ballots.

To Geo. L. Peterson. Inquiry: 1. Should candidates for Mayor and for Commissioners be placed upon separate ballots and voted for in separate boxes, as provided in the town charter, ratified in 1913? 2. Where a convention is held in lieu of a primary, what is necessary for a person to become a candidate?

(A.G.) 1. No. All local election laws were repealed by C.S. 6055 (a) (43), enacted in 1929, and the general law does not require separate ballots and boxes. 2. To be nominated in the convention or, in the case of an independent candidate, to have a petition filed in his behalf, signed by at least 10 per cent of those entitled to vote for such candidate according to the vote cast in the last municipal election. See C.S. 6055 (a) (6).

C. Matters affecting candidates.

1. Qualifications.

To R. A. Wilkinson. Inquiry: Is owning real property in the town a prerequisite to election to office there?

(A.G.) We know of no such law.

3. Notice of Candidacy.

To J. E. Herndon. (A.G.) Candidates for city offices are required by C.S. 2884 to file their notices ten days before the date of the primary.

5. Effect of holding another office.

To Dr. J. P. Hunter. Inquiry: A person who has served as Registrar resigns and files as a candidate for office in the same primary. Is this permitted?

(A.G.) The party having resigned as required before he filed as a candidate, it would seem that C.S. 5928 does not apply, and he would be permitted legally to file. It will be noted, however, that a candidate might be able to procure advantage under such practice, which certainly should not be encouraged.

10. Nominations—mass meeting.

To Norwood Cox. Inquiry: Is it necessary for candidates for municipal offices to file notice of their intention to run in order to make them eligible for nomination by voters in a general mass meeting?

(A.G.) It is not necessary to file notices of candidacy when nominees are to be selected by a general mass meeting.

25. Withdrawal of nominee — filling vacancy.

To Leon C. Scott. Inquiry: If one of the two nominees for an office in a city primary subsequently withdraws, how is the vacancy filled?

(A.G.) No provision is made in the Election Law to cover such a situation in a municipal election. C.S. 6053 empowers the State and County Executive Committees, respectively, to fill such vacancies in state and county elections. It would seem, therefore, that if your election is to be carried out along partisan lines, the vacancy might be filled by the County Executive Committee of the party of which the resigning candidate was a member. However, if your election is conducted along non-partisan lines, no provision is made for the filling of such a vacancy.

XI. General and special elections.

B. Municipal elections.

20. Absentee voting.

To Geo. C. Eichhorn. Inquiry: Does the Absentee Ballot Law apply to municipal elections and primaries?

(A.G.) This Department has consistently held for a long period of years that the law does not authorize absentee voting in municipal primaries and elections.

To J. P. Long: (A.G.) There can be no absentee voting in a municipal election.

30. Residence of candidates.

To S. H. Monteith. Inquiry: Does a person who has moved out of the corporate limits of a town within the past four months and now maintains his residence outside the town, have the right to vote in the municipal elections? Does it make any difference if the voter still owns property in the municipality?

(A.G.) A person who has moved out of the corporate limits of the municipality, even though such action was taken by him during the past four months, would not be eligible to vote in the municipal election. (His owning property in the municipality makes no difference.)

Condensed Statement of Condition

of

BRANCH BANKING & TRUST COMPANY

WILSON	SELMA	KINSTON
WARSAW	FAYETTEVILLE	ELM CITY
PLYMOUTH	WILLIAMSTON	WALLACE
GOLDSBORO	NEW BERN	TRENTON

At the Close of Business March 4, 1935

RESOURCES

Cash and Due from Banks	$3,888,825.57	
Obligations of the United States	6,375,747.95	
Bonds of Federal Land Banks and the Home Owners' Loan Corporation	1,806,067.65	
North Carolina Bonds	734,581.73	
Municipal and Other Marketable Bonds	2,443,052.35	
Loans Secured by Marketable Collateral with Cash Values in Excess of the Loans	1,368,603.10	$16,616,878.35
Other Loans and Discounts		1,127,238.34
Other Stocks and Bonds		23,506.00
Banking Houses, Furniture and Fixtures and Real Estate		300,000.00
		$18,067,622.69

LIABILITIES

Capital Stock—Common	$ 400,000.00
Capital Stock—Preferred	400,000.00
Surplus	300,000.00
Undivided Profits	237,493.86
Reserves	204,737.89
Deposits	16,525,390.94
	$18,067,622.69

ANALYSIS OF SOME OF THE SERVICES
A MEMBERSHIP IN
THE INSTITUTE OF GOVERNMENT
HELPS TO PROVIDE

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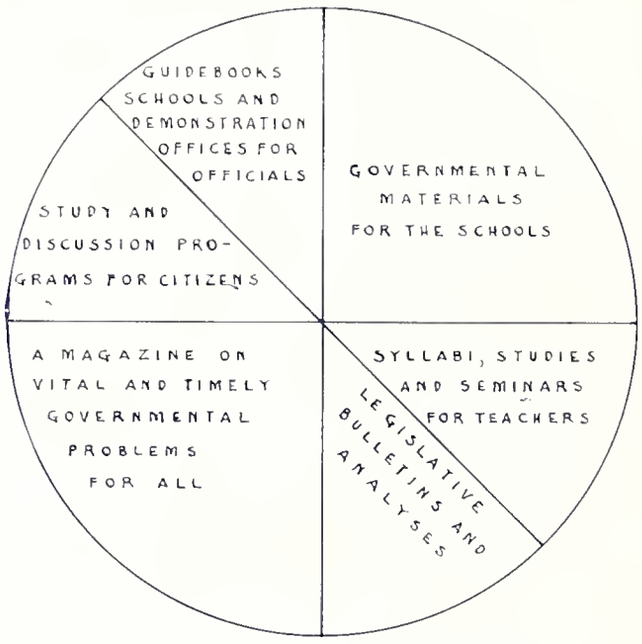

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