

“ALCATRAZ”  
Airplane view of the United  
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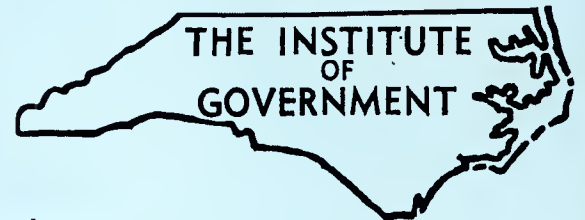
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# POPULAR GOVERNMENT

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By

HOWARD B. LEE

With Foreword

By

The Hon. John W. Davis

*Former Solicitor General of the United States*

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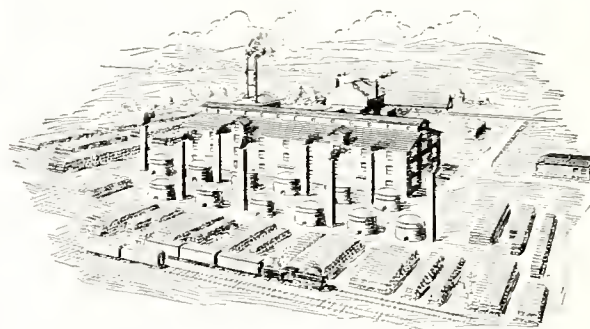
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# POPULAR GOVERNMENT

VOLUME 3  
NUMBER 2

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NOVEMBER  
1935

EVERY business man who merits the name takes stock at regular intervals of his assets and liabilities, determines the exact financial status of his business, and lays his plans for the reduction and satisfaction of any outstanding debts. Every citizen and taxpayer should be interested in a similar statement as to the financial condition of the State, for this is the one business in which each has an interest.

The first question that comes to the average citizen's mind in this post-depression day of debt is, How much does the State owe and what progress is being made in "paying out"? The net debt of the State on June 30, 1935, the close of the last fiscal year, was \$157,069,575.18. This represents a reduction of \$17,126,847.57 in the two and a half years since January 1, 1933, the beginning of the present administration. At the present rate—\$6,850,739.02 a year—it would take not quite 23 years to wipe out the State's net debt. The exact figures for the total debt and sinking fund for the two dates are as follows:

JANUARY 1, 1933	
Total Debt	\$185,139,000.00
Sink. Fund	10,942,577.25
Net Debt	\$174,196,422.75
JUNE 30, 1935	
Total Debt	\$170,548,000.00
Sink. Fund	13,478,424.82
Net Debt	157,069,575.18
Reduction in Net Debt	\$ 17,126,847.57

As a stockholder so to speak, the taxpayer will next inquire to what extent operating expenses have been cut and in what degree the State has been able to live within its budget? Here again, the record is one of which the stockholders as well as their agents and servants may justly be proud. The operating cost of the State's government has

## Where Do We Stand?

### -- A Glance at the State's Financial Condition

With the  
State Treasurer



by  
CHARLES M.  
JOHNSON



been reduced more than that of any other governmental unit in the United States, and what is equally important, the State's obligations have been met and no money borrowed on short term Revenue Anticipation Notes.

But was it necessary to issue such notes before? is a question which logically follows. Was there a deficit and what has been done to pay or to fund it?

Yes, at the beginning of this period, January 1, 1933, the State had accumulated a deficit of \$14,962,000. This was brought about by the constantly increasing shrinkage of revenue, which kept revenue far below the estimates made by the Legislature in making appropriations. Of this deficit, \$12,230,000 was represented by short term notes, which carry a higher interest rate than long term obligations, and the rate of which in this case was 6%. As these notes were renewed from time to time, the rate was reduced, first

to 5% and then to 4%, resulting in a saving to the State of \$244,000 in interest.

The General Assembly of 1933 passed an act authorizing the State to fund this deficit with long-term serial bonds. The \$12,230,000 represented by short-term notes was so funded in June, 1934, and the bonds sold at an average interest rate of 3.76%. This was the lowest rate in the history of the State up to this time, the average rate for the bonds issued by the State prior thereto being 4.32%. The State was temporarily able to carry the balance of the deficit, \$2,732,000. This resulted in another saving to the State of \$60,000 in interest. For the balance were not sold until June, 1935, one year later, and when they were, they were sold at the record low rate of 2.72%. The difference in the two interest rates over the life of the bonds, and therefore the saving to the State, was \$323,751.32.

The last and perhaps the most important question is how the State's net debt of \$157,069,575.18 is financed and what provisions are being made to meet the payments as and when they come due.

The answer is that part of the State's debt is represented by term bonds which will come due beginning in 1960 and running through to 1968. Against this day the State is laying aside money and investments each year in a Sinking Fund designed to take care of each payment as it falls due. In the meantime the Sinking Fund is being built up still further with interest on its deposits and bonds.

The latter item has been considerably increased by converting the investments of the Sinking Fund from short term bonds, which sell at a premium (although they are worth only par when they become due),

into long term bonds which net a better yield, and which make an ideal investment for the Sinking Fund because they mature from 1960 through

1968 while the Sinking Fund's own bonds begin to come due in 1960 and run through 1968. A total of \$2,681,000 of the short-term invest-

ments were sold accordingly, and the proceeds re-invested in long-term bonds, making a profit to the Sinking Fund of \$145,500.

## Notes from the Cities and Counties

Watch out or the "T Men" will get you! Citizens' Traffic Committees have been organized in Goldsboro, Raleigh, Winston, and other cities to assist local officers with the problem of traffic violators. Violations are reported by car numbers and the offender politely warned by a call or a letter from the police.

\* \* \*

After a year's trial Durham has voted to continue Sunday movies but under a board of censors. Burlington passed an ordinance permitting Sabbath shows but rescinded it the following week under fire from church forces.

\* \* \*

The dial system is being installed and the telephone service otherwise modernized in Clinton, Fremont, Macon, Scotland Neck, Spring Hope, Stantonsburg, Swansboro, Wake Forest, Warsaw, and Wilson.

\* \* \*

Quarterly budget reports have been inaugurated in Charlotte and Mecklenburg County. County Auditor Douglas Bradshaw has also devised a system of apportioning the annual budget by months. Result: Mecklenburg was \$20,889 and Charlotte \$4,309 under its budget for the first quarter.

\* \* \*

The Statesville Fire department has a "booster truck," which is jointly owned by the city and county, and which is used for calls outside the city limits. It is said to have saved much valuable property during the short time it has been in use.

\* \* \*

Salisbury is to have a new \$125,000 hospital—the Rowan Memorial. The cornerstone was laid last month with impressive Masonic exercises.

\* \* \*

Five municipalities voted school taxes this summer: Asheville, Charlotte, Greenville, Morganton, and Winston-Salem. Seven already had

supplements last year: Chapel Hill, Durham, Lenoir, North Wilkesboro, Roanoke Rapids, Rocky Mount, and Southern Pines.

\* \* \*

Morganton's handsome new Community Building is nearing completion. The community center was constructed with E.R.A. funds supplemented by private gifts of materials and equipment.

\* \* \*

Charlotte has passed a new and stricter taxicab ordinance. Among the requirements are fingerprinting of chauffeurs, regular inspection of equipment, and carrying of liability insurance.

\* \* \*

Several cities have started drives to halt the dangerous habit of many automobile drivers in following fire trucks and in pressing too closely about the fire fighting equipment. The State motor vehicle laws set one block as a safe distance.

\* \* \*

The A.B.C. Board for Martin County has recommended that five per cent of the net profits from liquor sales be expended for the enforcement of the liquor laws, and the remainder be placed in the county's general fund. Final determination of the distribution rests with the county.

\* \* \*

Lexington is planning to build a municipal golf course under the W.P.A. Mayor Craven has been advised that the project has received final approval. The town also has pending an application for the development of a recreation park at the new municipal lake.

\* \* \*

Charlotte last month drew a check for \$40,097.22 and wiped out its floating debt, which dated back to January, 1931, and which at one time stood at \$430,000.

\* \* \*

The Federal Bureau of Identifica-

tion is finding ready co-operation among the police departments of the State. The High Point department alone furnished the Federal identification bureau with 961 sets of criminal fingerprints last year.

\* \* \*

The Board of Commissioners has outlawed the sale of wine in Robeson County beginning November 1, exercising the option provided in the Wine Act.

\* \* \*

Tarboro has adopted a system of monthly reports, showing in detail the work of the Police Department and of each officer.

\* \* \*

Agitation has been started in Elizabeth City for a city or county-owned cemetery. Speculation in cemetery lots is termed a "racket" by the proponents.

\* \* \*

The Charlotte Police Radio will in the future serve the county's rural police as well as the city police and fire departments. Receiving sets are being installed in the county cars and the power of the transmitter increased to 250 watts. Preliminary tests are said to have been entirely satisfactory.

\* \* \*

The Police Department in Concord has been re-organized and broader powers, including those of "hiring" and "firing," formerly exercised by the Aldermen, given to the Chief. A committee of three Aldermen was set up to exercise supervisory powers and to select the list of eligibles from which the Chief may name his officers.

\* \* \*

Cleveland County has adopted a new type of financial statement, setting forth clearly and concisely, in pamphlet form and in terms understandable to the taxpayer, the important information concerning the county's finances. The new statement, which was worked out by Auditor McKinney, is a big improvement over the customary long and tedious compilation of figures, and is attracting wide attention.

# The County Tax Trend

## The Rates—Old and New

County	Tax Rate		Reasons for Incr. or Decr.
	1934-5	1935-6	
<b>COUNTIES UNDER 20,000</b>			
Alexander	1.20	1.30	3
Camden	.75	.92	3
Caswell	1.20	1.20	
Chowan	1.04	1.06	1
Davie	.76	.75	A
Hertford	.90	1.00	2
*Hoke	.88	.88	
Jones	1.35	1.35	
*Lee	1.00	1.00	
Macon	1.00	1.00	
Mitchell	1.90	1.78	
*Montgomery	1.10	1.30	
Pamlico	1.75	1.75	
Pasquotank	1.36	1.40	1-2-3
*Transylvania	1.55	1.55	
Washington	1.80	1.80	5
Watauga	1.00	1.20	2-4-8-9-10
Yancey	.85	.95	3
Average	1.19	1.23	
<b>COUNTIES BETWEEN 20,000-40,000</b>			
Anson	.78	.83	
Ashe	1.40	1.40	
Beaufort	.96	1.07	1-4
Bertie	1.50	1.45	D-F
Bladen	1.34	1.20	B
Burke		1.00	1
Caldwell	.85	.90	1-4-6
*Chatham	1.00	1.10	1-3-12
*Columbus	1.00	1.10	7-12
Duplin	1.40	1.55	3-4-6
Franklin	1.16	1.00	C
*Granville		1.10	
*Harnett	1.15	1.25	
Haywood	1.33	1.31	A
*Henderson	.70	.90	3-4-12
Lenoir	1.25	1.65	3
*Lincoln	.90	1.08	1-3-12
McDowell	1.23	1.20	A-H
*Martin	1.50	1.43	A-D-H
*Moore	.72	.75	
*Northampton	1.00	1.00	
Person	1.05	1.15	11
Richmond	.50	.79	1-5
Scotland	.61	.60	C
**Stanly	1.00	1.00	
Vance	1.00	1.03	4
Warren	.68	.66	A
Wilkes	.80	1.00	3-4
Average	1.03	1.09	
<b>COUNTIES BETWEEN 40,000-60,000</b>			
*Alamance	.95	.95	
Cabarrns	.61	.61	
*Catawba		.90	
Cleveland	.36	.36	
Cumberland	1.67	1.79	1-2-5
Davidson	.62	.62	
Edgecombe	.88	.88	
*Halifax	.80	.80	
Iredell	1.10	1.35	3-4
*Johnston	1.60	1.50	C-D
*Nash	.85	.85	
New Hanover	.70	.65	A-C
*Sampson	1.00	1.00	
*Wayne	1.00	1.00	
Wilson	1.10	1.10	
Average	.95	.96	
<b>COUNTIES OVER 60,000</b>			
Durham	.50	.50	
*Gaston	.51	.51	
Guilford	.64	.68	1
Mecklenburg	.57	.64	1-4
Robeson	.80	1.15	5
**Wake	.85	.78	C
Average	.645	.71	

**W**HAT is the trend of the new tax rates set by the counties for 1935-36? Slightly upward, as would be expected, due to decreased valuations,

**Average Increase only Four Cents--Survey Reveals Healthy Picture**

By M. R. ALEXANDER

rising prices, increasing relief loads, PWA and WPA projects, and various extra services. But the increase is so small as to surprise. To be exact, the average rate for the 67 counties for which data was available is \$1.06 as compared with \$1.02 in 1934-35.

Cleveland County continued to have the lowest county-wide rate—36 cents. (Cleveland's special district road taxes average 20 cents and its special district school taxes 17 cents.) The highest rate reported was \$1.80, and that was in a smaller county which has assumed the debt service of all its special districts.

It should be pointed out in the beginning that this study is limited to county-wide rates. Some counties, as Cleveland, also have special district taxes for roads, schools, and other improvements; in others the county-wide tax rate covers all services. For this reason the reader should be cautioned not to be misled by a comparison of county-wide rates without a parallel consideration of the services rendered by each county along with the special district taxes it levies.

The writer also wishes to emphasize that the purpose of this study is not to set one county up against another, but to picture the trend of governmental costs and tax rates in each unit in this day of advancing prices and increasing burdens, and it will be generally agreed that

the findings make a healthy picture.

Thirteen of the 67 counties covered by the study were able to effect reductions in the face of rising prices

and increasing burdens. The citizens of these counties should be justly proud of their officials. Franklin led the list with a 16-cent cut attributed to good tax collections, an economical board, and strict adherence to budget.

A total of 23 counties retained their 1934-35 county-wide rates ranging from 36 cents to \$1.80. Data for the past year was not available for three counties, and the 28 others were forced to make increases ranging from two to 40 cents. In the latter case, the county made no levy for principal debt service in 1934-35 but did this year.

The principal factors responsible for the raise in rates appeared to be the increased relief and welfare load, heavier maturities, addition or expansion of health services, and construction or repairing of school buildings. The former was cited by nine counties, while the last three reasons were listed by eight each.

Good tax collections seem to offer the chief hope for tax reductions. Three of the 13 counties effecting decreases cited this reason. Except for lighter maturities, no other reason was listed more than once.

Tax-payers would do well to cooperate with the officials in this connection, not only by paying their own taxes but by urging others to do the same and by developing a public sentiment against those who can pay but don't. It stands to reason, if a county which is now collecting 60 or 70 per cent of its taxes can increase that figure to 80 or 90 per cent, then the tax rate can be reduced accordingly.

It is interesting to note the difference in the average tax rate of the counties in the different classifications as to population. In the counties where the valuation is smaller and the population more scattered, yet the territory to be served and the overhead to be met

### Key to Accompanying Table

\*Unofficial      \*\*Estimated  
Reasons for increases: 1. Relief and welfare. 2. Health. 3. Increased maturities. 4. School buildings or repairs. 5. District school debts. 6. PWA projects. 7. Salary increases. 8. County agent. 9. Defaults during 1935. 10. Uncollected taxes. 11. Decrease in surplus. 12. Misc. Reasons for decreases: A. Lighter maturities. B. Refunding plan. C. Good tax collections. D. Increased valuations. E. Current surplus. F. Sundry sources. G. Reduction in school appropriation.

*Continued on page nineteen*



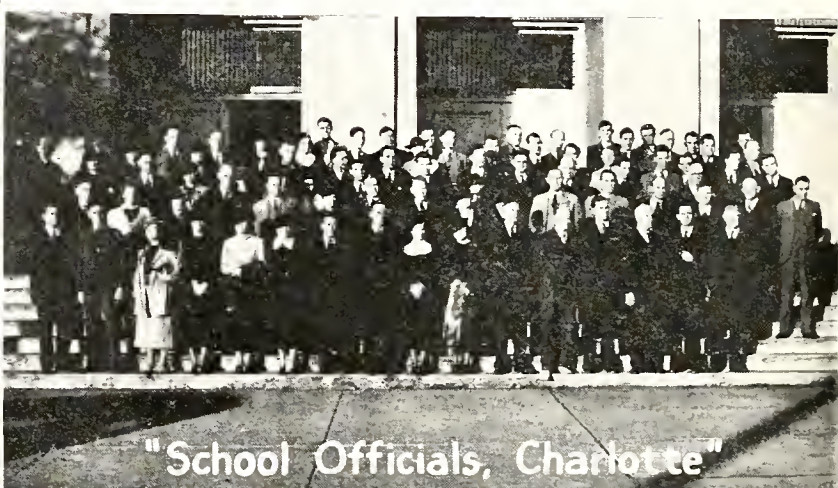
"Tax Officials, Kinston"



"Tax Officials, Burlington"



"School Officials, Asheville"



"School Officials, Charlotte"



"School Officials, High Point"

#### DISTRICT CONFERENCES OF OFFICIALS

North Carolina officials staged a series of district conferences through The Institute of Government last month which were widely attended and which proved of great practical value. Several of the groups of tax officials and school officials are pictured on this page; pictures of other groups and of the law enforcing officers' meetings will be carried in succeeding issues. A total of eight meetings were held for each group of officers at centers accessible to all.

"These meetings will go a long way toward clearing up the confusion in tax laws and practices," declared Attorney General A. A. F. Seawell, who aided freely in the arrangements. State Superintendent Clyde Erwin attended the school meetings personally, enthusiastically endorsing The Institute's program for bridging the gap between government as it is taught and practiced.

# Pulling Together for Progress

By CHAS. M. KETCHUM

*Progressive officials will find much food for thought—and action—in this article by a leading Chamber of Commerce official on the advantages to be derived from co-operation of government and business.*

AT NO OTHER TIME in our history have business and professional men, farmers, industrial workers, and those generally engaged in the ramified functions of carrying on commerce, trade, agriculture and industry, been more sensitive to or affected by the influences of politics, politicians and government. Certainly there has not been a comparable period in our economic development when more sweeping changes have been made in the relationships of the governed to the government.

It is a sad spectacle indeed to see a community or state in which the forces of business and government are lined up in opposing camps, waging a bitter battle *against* each other, when the more intelligent constructive solution for most problems calls for unselfish co-operation and a work-together spirit. If there were no examples to prove that co-operation between business and government had benefitted both interests, then to advocate doing so now might be regarded as merely "another experiment." But the record is replete with inspiring demonstrations.

When a tidal wall deluged Galveston, Texas, and nearly washed that city into the sea, the business men gathered at their Chamber of Commerce, mobilized the forces of relief, met with representatives of government to restore a municipal structure which had collapsed under an unprecedented emergency and out of it came a new creature—the *Commission Form* of government.

Government is likewise indebted to the co-operation of business men and officials, following a similar emergency in Dayton, Ohio, for the city-manager plan.

Such inspiring examples are not confined to other states; many are to be found in North Carolina. It was business men working through the Good Roads committees of local Chambers of Commerce who sponsored the State's first piece of macadam road—that between Greensboro and High Point, the pioneer of the State's magnificent road structure today.

The co-operation of business men with the city council and fire department has enabled a leading city, through improvement of equipment, training of personnel, and extensive educational campaigns, to cut its annual fire loss from \$375,000 in 1924 to \$25,000 in 1934, saving property owners thousands of dollars in fire insurance premiums.

In another city business and professional men, co-operating with the Health Department, have improved the local water, milk and food supply, and the control of contagious diseases; carried on educational campaigns to improve personal health and hygiene; immunized school children against diphtheria, small pox, and other epidemic diseases; cleaned up sources of typhoid; and conducted maternal clinics and instructional classes in infant care and hygiene, and other types of public health work.

Examples might be multiplied a thousand-fold. If you will study the progressive cities of the State, you will find that they are the ones in which business has worked with government to bring in new industries and develop new markets, to secure improvements, and to chart the future growth and development of the community.

The ex-mayor of one of the State's most progressive cities once told me that the city in his judgment could never have made such remarkable progress but for the spirit of co-operation between business and government. "I cannot recall of a single progressive move or major undertaking," he said, "in which business men, through their Chamber of Commerce, have not been called upon to initiate or carry through in

co-operation with municipal or county government the projects which have been responsible for our growth and progress."

In the last analysis cities are built by men, not by the few who are elected as public administrators but by the men and women who elect them. Good government needs the co-operation, the advice, and counsel of business. On the other hand, no business can be strong and prosperous without the protection of sound government. Their interests are mutual and inseparable, and government officials who fail to recognize the advantages to be gained from co-operation of local business men fail to capitalize a very definite asset.

The benefits accruing from co-operative efforts are common and mutual. For the agencies or officials of government to disregard or belittle the viewpoint of business and professional men as reflected by the Chamber of Commerce, Merchants Association, etc.—to regard such agencies as being motivated solely by selfish interests—is as short-sighted and unintelligent as for business men to regard all representatives of government as grafters, chair-warmers, and incompetents. Both viewpoints are equally unintelligent and unworthy.

The Institute of Government seeking to elevate and dignify public service, to improve standards, and to elevate the status of government workers to a profession, is performing services of far-reaching influence on the future. It will be unfortunate if the sponsors of this progressive movement do not incorporate somewhere in the picture the organized forces of business.

No other state has such an instrumentality as the Institute of Government for articulating the viewpoint of government; no other state has a finer, more forward-looking and public spirited fraternity of business men. The principle of co-operative action which has been such a vital force in building our cities can and should be applied to advancing the welfare of the entire commonwealth.

# Federal Tax Exemptions on Municipal Purchasing

Although the subject has received considerable publicity, a number of local officials appear to be confused in regard to the important matter of exemption of municipal purchases from certain federal taxes. In order to clarify the situation, the Institute of Government, at the request of these officials, has prepared the following short explanation of the chief exemptions which are allowed to municipal bodies.

1. *Manufacturers' excise tax.* The exemption was formerly limited to municipal purchases of articles for use in connection with an *essential governmental function*, as fire and police protection. Among the important activities which were ruled to be *non-essential*, and to which the exemption did not apply, were parks and playgrounds; railroads, bus lines, airports, wharves, docks, and warehouses; water, light, heat, and power plants; and hospitals and cemeteries. The Act was amended this year, and beginning October 1 all purchases for the *exclusive use* of the city are exempt. Among the items covered by the amendment, which now become tax free for all municipal services, are gasoline and oil, tires and tubes, autos and trucks, auto accessories, radios, mechanical refrigerators, sporting goods, cameras, toilet preparations (including toilet soap), chewing gum, and matches.

Purchasing agents and auditors will do well to examine carefully all purchases of these articles to see that credit is allowed for the tax. *Procedure recommended:* If manufacturers' excise tax is included on invoice, deduct before payment and ask vendor to supply an exemption certificate. Also, inform vendors of this procedure when placing orders. The Bureau of Internal Revenue is preparing detailed regulations with regard to the extension of the exemption (by Section 401, Revenue Act of 1935), which will be passed on to the readers of POPULAR GOVERNMENT when they are made available.

2. *Federal processing taxes.* These

taxes are levied under the Agricultural Adjustment Act on products made from wheat, cotton, field corn, hogs, tobacco, paper jute fabric and jute, yarn, sugar beets or sugar cane, and peanuts. A refund or credit is allowed to any welfare or charitable agency or organization on purchases of articles, taxed under this act, for *charitable distribution or use*.

*Procedure:* A claim (P.T. Form 24-C) by the person or firm delivering the goods, supported by affidavits (Forms 982M and 1262M-A) by officials of the organization receiving the same. These forms may be secured (by numbers) from the Commissioner of Internal Revenue in Washington or the local Collector. They must be filed within one year. If articles are delivered by a vendor directly to a city or county institution for charitable distribu-

tion or use, the Commissioner has ruled that the vendor should file the claim. However, if they are delivered to a city or county warehouse or supply depot, and redelivered to an institution, the claim should be filed by the agency to which the vendor delivers the articles (*letter from Commissioner of Internal Revenue, Oct. 26, 1935*).

*Important:* The refund or credit also applies, in the case of an institution which is recognized as a *State welfare organization*, to purchases made for the *use of such agency*. If the local city or county agencies are not so recognized, the procedure to secure the additional exemption is as follows: Write to the Bureau of Internal Revenue, Processing Tax Division, Washington, D. C., and request recognition as a State Welfare organization within the meaning of Section 15 (c) of the Agricultural Adjustment Act. Attach a statement explaining the nature of the institution and the class of persons cared for, and setting out the maintenance cost for the last fiscal year and the total receipts from pay patients.

## Case Comment

The chief case dealing with city and county government which the Supreme Court has decided at the present term is Board of Financial Control of Buncombe County vs. Henderson County. Held: Business property owned by a municipal corporation in another county is not exempt from ad valorem taxation because not used for public purposes. The court distinguished the case of Andrews vs. Clay County, 200 N. C. 280, in which a town owned a power plant in another county, on the ground that this was a public use or purpose and a necessary expense.

\* \* \*

May a municipal corporation levy an indirect or excise tax, as a sales tax or a tax on the revenue of utilities, if so authorized by the Legislature, and is such a delegation of legislative power constitutional? The New York Court of Appeals has held in the affirmative in the case of New York City's emergency relief tax program. Although the act confined the operation in point

of time and of specific public use of revenue, the decision is regarded as being of far-reaching significance and as forming the opening wedge in the municipalities' fight for taxes formerly reserved to the states.

\* \* \*

Another interesting decision from afar is that of Hughey vs. Cornell, 137 Ore. 589. It has been the practice of cities in some states to accept deeds from property owners in lieu of foreclosing for taxes, saving time and expense and relieving the owner of the attendant publicity. This method has undoubted advantages, but it would seem to be dangerous without full investigation of the owner's title.

The Oregon case holds that upon the sale of property to satisfy a special assessment, the lien is merged and extinguished in the voluntary conveyance, and the city takes title subject to any intervening lien. Unless proper releases are secured to accompany the voluntary deed, it would only be safe for the city to proceed by foreclosure based on the priority of its assessment lien, thus cutting out all subsequent liens.



**I**N some counties in the State there are amazingly large areas of land which do not have recorded titles. In the western counties the Federal government is condemning thousands of acres for parks and forests. In relatively few cases are the titles so clear that the government can afford to purchase the land outright. There are three types of title difficulties which are exceedingly frequent; yet, most of these are not even suspected by those who think they own the land until government abstractors reveal the title difficulties. These types of title defects may be very generally described as follows: (1) Vague descriptions which render it impossible to locate with certainty the boundaries of the land, (2) conveyances which through formal defects failed to pass title to land which they purported to convey, and (3) missing links in the chain of title through failure to record deeds. The following examples are based upon actual instances found in a single western county:

(1) *Vague Description.* One deed now so old that no living person familiar with the land can locate the boundary gave the description substantially as follows: "Beginning on a chestnut on a knoll and running across the spring branch to the top of the large knoll to a stump, thence in a line to an apple tree growing out of a stump, thence to the branch and up the branch to a big rock on the bank, thence to the point of beginning." Formerly there were thousands of chestnut trees in the vicinity, and there are still several spring branches and several dozen knolls both small and large. No apple tree growing out of a stump has been seen for years in the general vicinity of the land. There are thousands of large rocks along the banks of the streams, and possibly hundreds which were there when the deed was made have disappeared or moved from their places. Thus a description which was probably clear to a number of people at the time of the conveyance has been rendered meaningless by the passage of time.

(2) *Formal Defects in Deeds.* A father died leaving seven children to inherit his lands. The children attempted to divide the land by deeds, but there were only five deeds.

## Do You Own Your Land?

---or merely think you own it?

By DILLARD S. GARDNER

None of the deeds shows why two of the children received no part of the property. One of the deeds was signed by all of the children, and by the wives of two of the children and the husband of one of them. One of the deeds was signed by only three children. Most of the deeds were signed by only five children. Only one of the deeds appeared to have all the necessary parties, but no one today is sure as to how many heirs the father left surviving or who the necessary parties were. If the present owners and occupiers of the land were compelled to prove their titles, they probably could establish their claims more easily (if they could do so at all) under that precarious and uncertain doctrine known to the law as "adverse possession" than they could establish record titles. Even yet it is possible that after all these years the present holders of the land will be surprised to discover that when they purchased these properties they "bought a law-suit instead of land."

(3) *Failure to Record Deeds.* In one case the abstractor was bringing forward the abstract of conveyances under a grant. Suddenly the title came to an end with a conveyance nearly thirty years ago. Inquiry revealed the present holder of the property, but the records showed no deed to him. He was called in and stated that he had "his deeds" at home. A few days later he came



in with six deeds which fortunately covered all the conveyances since the last owner of record. However, the magistrate who took the acknowledgment of one of the deeds merely signed it as a witness without signing the acknowledgment of the execution of the deed, and the grantor has long since been dead. For a time it appeared that this deed could not be probated or recorded, but ultimately the magistrate who attested the deed was questioned and he recalled that the grantor actually acknowledged the execution of the deed, and he thereupon filled out the certificate which he had overlooked years before. By a series of most fortunate circumstances the present holder is able today to show a record chain of title favorable to him. But, had these deeds been lost during the years, or a fire destroyed them, or a defect been revealed in one of them, or even had the old magistrate died, the owner might have faced serious difficulties in proving his title.

Although record titles have existed in North Carolina since the seventeenth century, when the Lords Proprietors received grants from the King, there are hundreds of deeds in the State which are not on record. Almost every county and city attorney who institutes tax foreclosures annually discovers property listed for taxes which is not described in the deed records. Until fairly recent years entries were laid on unclaimed land in many counties. A single small county has registered more than fifteen thousand entries of unclaimed land during the last eighty years. Even today entries are sometimes laid on land which no one occupies or, apparently, claims. Land litigation among private citizens has almost ceased; it is a rarity when our courts try an old-fashioned "land fight." Recently an able veteran of the bar with a record of nearly a half century of the practice and hundreds of title cases to his credit lamented that "we are raising a generation of lawyers who do not know anything about real property laws."

However, landowners in this State who have titles which depend

(Continued on page nineteen)

# HERE AND THERE

—With Progressive Officials

Marshall, Texas, manufactures its own traffic stop signs. A saving of \$1,000 has been reported by purchasing the reflector buttons and making the signs in the city blacksmith's shop at a unit cost of \$3.50. The manufacturer's price was said to be \$7.50 each.

Tennessee's State Highway Patrol has proved itself an adept collecting agency. Given the job of cleaning up delinquent privilege taxes, the organization covered 31 counties in six months, collecting \$156,588 in taxes and \$8,250 in penalties, and securing the issuance of 2,654 new licenses.

Cleveland, Tenn., has gone Winston-Salem one better. It has not only threatened to but has actually gone into the gasoline business in an effort to secure fair prices for its citizens. The municipal station has been selling gasoline at 20 cents as against the 23 cents charged by commercial companies.

Grand Rapids, Mich., is considering the installation of a new and permanent record of all property in the city for use in assessment purposes. The matter would be handled as a WPA project requiring the services of 200 "white collar workers." It would cost \$30,000, of which \$5,000 would be paid by the city.

A California fire department reports excellent results from its experiments with a new, light type of squad wagon designed to assist in the annual problem of eradicating dry grass and weed fire hazards and to serve as an auxiliary piece of equipment generally.

The benefits of police radio are being increased by certain Texas cities through the working out of systems of inter-city communication. Thus Waco police are now able to communicate with Austin and San Antonio officers through special arrangements by which each city sets aside certain time intervals for inter-communication. A

police air force has also been proposed following demonstrations of the practicability of two-way communication between police station, cars, and planes.

New Jersey has a new act aimed at the collection of current and delinquent taxes which seems to incorporate many principles of good business and psychology. Penalties and interest are abated on all taxes prior to 1935 provided the 1935 taxes are paid in full before they become delinquent. The prior taxes are paid in annual installments, but if any installment is unpaid, then penalty and interest reattach.

County planning commissions are authorized under new legislation in New Jersey and Indiana. Wisconsin has a new County Consolidation act of the permissive nature.

Miami Beach, Fla., can boast a record of 99 per cent tax collections, mainly by foreclosure of some two thousand properties. It is said to be one of the few bright spots in the tax collection picture in Florida, which has carried to an extreme perhaps the policy of "relief for the taxpayer" through legislative abatements and extensions.

An association of police radio operators has been organized in Florida, the immediate objective of which is to secure the maximum amount of co-operation and radio service possible with existing broadcast facilities. That is, to effect connections between all existing radiophones and all police stations and sheriff's offices within the range of their broadcasts, as is already being done in the Miami area.

The importance of special training for municipal engineers is being recognized by colleges and universities throughout the country. Purdue University recently added a new curriculum in public service engineering. New York University, Syracuse University, and California Institute of Technology require of their graduate engineering students

a special twelve-weeks' course in the administration of state and local government.

California has a novel plan for reminding its automobile drivers at all times of the need for safe and careful driving. It is simply a windshield sticker bearing a large "2085"—a graphic reminder of the number of Californians killed in highway accidents last year. Underneath are these words: "In the interest of the General Welfare; to protect and preserve life; to promote good citizenship—earnest and continuous efforts are being made to operate this automobile in strict compliance with motor laws and regulations."

The Miami City Council has passed two interesting new rules of procedure. Henceforth copies of all questions, requests, and petitions must be presented to the City Manager five days before the meeting, and talks by persons appearing before the Commission will be limited to ten minutes.



IN MEMORIAM

Judge Willis J. Brogden of Durham. Born near Goldsboro, October 18, 1877. Died October 29, 1935. Associate Justice of the North Carolina Supreme Court since January 1, 1926. A brilliant lawyer and able judge, a fine citizen and friend of all men.

Judge Brogden took a keen interest in the work of The Institute of Government from the beginning, helping to shape its policies, taking an active part in its meetings, serving as an instructor in its schools of officials, and giving generously of his time and services at all times. In his death The Institute loses one of its best and most valued friends and supporters.

It was the end of a long day in the Nebraska House of Representatives. A 2 per cent retail sales tax bill had been debated for six weary hours, finally had been smashed by a vote of 48 to 31.

Behind the sales tax bill on the House docket came a graduated State income tax bill. "Let's get rid of this whole new-tax issue in one day," said House leaders. They dispensed with reading of the income tax bill, debated it perfunctorily for a few minutes, called for a vote.

Then came one of those inexplicable stampedes which sometimes occur in Legislatures. The income tax bill, apparently foredoomed to defeat, was advanced to third reading by a vote of 48 to 31, and new tax advocates appeared to be on the way to their first major victory in Nebraska.

Six days elapsed before the bill could come up for final passage, and in those six days the State was rocked by a political rebellion. Chambers of commerce and farmers' taxpayers' leagues passed resolutions of protest. Leaders of the Republican and Democratic parties, both pledged against additional taxes, railed at their Representatives. And Democratic Governor R. L. Cochran, elected on a "no new tax" platform, carried the fight to the people.

The people went to work. Telegraph lines were flooded with protests. Not since the days of county option and William Jennings Bryan had so much political "heat" been generated in Nebraska.

On April 17, 1935, the income tax bill came up on third reading in the House. Eighteen votes were cast for it. A flood of sixty-nine red lights on the voting machine signaled "stop" to new forms of taxation.

### The Nebraska Plan

Behind that story is another—the story of the "Nebraska plan" of taxation.

Nebraska, as every believer in flippant generalities will tell you, is in the center of an area of crackpot liberalism. It was the spawning ground of Populism. It nurtured the Non-partisan League. It sent a golden voice on a silver platform to the very steps of the White House. "Sons of wild jackasses" roam its

# The Nebraska Plan—

## "Pay-as-You-Go"

By W. E. CHRISTENSON  
Managing Editor, Omaha World Herald

plains; farmers who are "too dumb to understand" till its soil.

Yet from that State, with its presumptive background of political imbecility, there has emerged a plan of thrifty local government which has few parallels and which has aroused the interest of harassed taxpayers everywhere in the Republic. It may be stated briefly thus:

1. Pay as you go; issue no State bonds, few county bonds.

2. Reject new, encroaching forms of taxation, particularly painless taxes.

3. Watch public spending and watch the spenders.

4. Remember that even in these changing times the functions of local government are essentially the same as they were 15 years ago and should cost no more.

The injunction against State bond issues was written into the Constitution in 1875 and retained in the revised Constitution of 1920.

That is why, today, Nebraska has a new \$10,000,000 capitol—the architectural pride of the Midwest—without a penny of debt against it. (As a matter of fact, the Legislature of 1935 found that the capitol levy, which had averaged .37 mill for fourteen years, had produced more money than the Capitol Commission needed and a \$200,000 dividend was declared to the taxpayers.)

### No Outstanding Highway Bonds

That is why Nebraska has a highway system adequate to its needs, without a single outstanding bond.

That is why the State tax levied for the support of the University of Nebraska, four normal schools and all other State activities has averaged less than 2 mills per year during the last ten years.

Opposition to excessive debt is also reflected in the issuance of

county bonds. The total bonded debt of the ninety-three counties in July, 1934, was \$6,174,965—of which \$4,500,000 was charged against Douglas County (Omaha).

On the same date the total of bonds outstanding against all government agencies in Nebraska was \$93,095,800, or 3.8 per cent of the assessed valuation.

Thus, when the depression came, Nebraska cities, counties, school districts, and the State were able to reduce their overhead. In 1927 the total tax levied for all local and State purposes was \$66,028,255. By 1934 the levy had shrunk to \$42,068,482—a decrease of 36 per cent. And there had been no "replacement" taxes. The \$24,000,000 reduction was the fruit of economy—an actual saving in the taxpayers' pockets.

### No Pinchpenny Policy

Despite its tax policy, Nebraska has not turned pinchpenny. When the automobile era arrived, it was one of the first states to levy a gasoline tax to build a satisfactory highway system. That tax is now 4 cents a gallon, produces \$8,000,000 a year, and has covered the state with a network of concrete, oil, and gravel.

Hostility to overbonding eventually might have crippled the school system. So the 1935 Legislature authorized a pay-as-you-go plan of school construction. Under the plan any community can make whatever levy it wishes for the specific purpose of building schools—provided 60 per cent of the voters approve. Money from the special tax must be held in escrow until 75 per cent of the cost of any project has been collected; then the school district can start building.

Nebraska met the requirements of the Federal Government for sharing the cost of relief. It decided to levy an additional gasoline tax of one cent for sixteen months (since much of the relief money will be spent on roads) and to use a part of its new liquor tax revenue. Thus it met an emergency without making a permanent increase in the tax burden.

By these and similar methods the way is cleared for expansion and progress, yet the old practice of issuing bonds against the next generation is tossed over the transom.

## Legal Levities

By GEORGE E. BUTLER

### He Won the Bet

It was just after a term of Court. The Judge had gone, and the three oldest members of the bar, as was their custom in those days when *Spiritus Frumenti* was plentiful and its use unrestricted in the town, met together in a convenient law office on the Courthouse square. In their social siesta they partook freely of the aforesaid unrestricted commodity and then began to discuss law and religion.

Milton began the religious discussion. "John," he said, "you are always trying to quote Scripture to the jury; you ought to stop trying to quote something you have never read; you don't know any Scripture. I'll bet you Five Dollars and put up the money here with Henry, that you can't repeat the Lord's Prayer."

"All right," said John, "I'll take the bet. Here, Henry, is my Five Dollars to cover his." Henry took the money of both and held the stakes. John then solemnly arose, pulled his goatee and reverently began:

"Now, I lay me down to sleep,  
I pray the Lord my Soul to keep,  
If I should die before I wake,  
I pray the Lord my soul to take."  
"How is that?" said John.

"Well, well," said Milton, "Henry, I'm blessed if he don't know it. Give him the money—he has won the bet."

Henry agreed, and off walked John with the \$10.00, and until this day neither of the three has ever questioned the unanimous verdict that John won the bet.

### A Short Case

A Judge from one of the Eastern Districts was trying a case in Clinton. The plaintiff was an old lady of feeble mind, and by a "Next Friend" was seeking to set aside a deed for want of any valuable consideration, want of mental capacity and for fraud.

Her witnesses had made out a strong case of mental incapacity and fraud. At the close of the plaintiff's evidence the defendant's attorney moved for judgment as of non-suit. The Judge was indignant. "What," he said, "grant a non-suit

on that evidence? Do you remember what the Bible says about protecting the widows and the orphans? Before I would let a verdict stand against that poor, simple-minded woman in this case, I would sit here until Eternity mourned the dissolution of the Universe at the Grave of God."

The Judge didn't have to sit long. The jury heard that classic remark of the Judge, and he had to order a mistrial and continue the case.

## P.W.A. Deadline Nears

All cities, counties, and other public agencies which have been the recipients of P.W.A. grants or loans under the 1935 program are being urged by the Acting State Director, H. G. Baity, to complete their plans and award their contracts without delay. The deadline which the authorities in Washington have set, when all arrangements must be completed and all contracts let, is December 15.

North Carolina has received a total of 58 projects out of the 1935 appropriation, involving \$3,428,008 in grants, and \$2,473,188 in loans, with a total construction cost of \$7,583,423. The amount allotted out of the work relief funds to the P.W.A. for the whole country was \$327,000,000.

Asked about the possibility of further allotments, Mr. Baity said that there was no likelihood *unless* additional funds are transferred to the P.W.A. by the President from the present appropriation, or *unless* Congress when it meets makes a new appropriation for permanent projects like those of the P.W.A.

In the meantime, the numerous project applications which are still on file, the State Director stated, are being carefully studied and put on a waiting list against the possibility of additional funds being made available.

A total of 300 applications from North Carolina were submitted to Washington in the last batch, of which 52 received favorable action. Of this number 30 were for public schools, 12 for water and sewer, and seven for state institutions.

## Engineering Advances

### Produces Its Own Power

Durham's new \$760,000 PWA-constructed, sewage treatment plant incorporates several innovations which make it stand out in the modern sewage treatment field. The activated sludge process which is used is not old itself, and this is perhaps the first plant of the type which is operated exclusively by "home-made" power recovered from digested gas by means of gas engine-driven generator sets. The sewage-made current is not only sufficient to run the plant; there is an excess during certain periods which is sent out onto the city lighting system. The operation of the new type plant is said to have proven completely satisfactory, and has brought nationwide recognition to Durham and to the designer, William Piatt.

\* \* \*

### Twenty-Minute Concrete

Karl P. Billner has developed a new type of concrete, so dense that a man can walk on it 20 minutes after it has been placed in molds. A number of prominent engineers, after witnessing a demonstration at Yale's engineering laboratories recently, expressed the opinion that the new method would have a tremendous effect on the future of the concrete field. The inventor says that the new process is universal in application for any kind of concrete construction.

\* \* \*

### Garbage Grinder

Electrical engineers in Schenectady, N. Y., are working on an electrical garbage disposal device which may displace present methods of garbage collection. The device is a grinder installed under a kitchen sink and driven by a 1/4 horsepower motor. The garbage is shredded by knives and reduced to a fine pulp which is flushed by water into the sewage stream.

### POLICE AIR FORCE?

Recent tests have proved the practicability of two-way radio communication between police station, police cars, and aeroplanes.

# Schools or Prisons?

— — Crime and Punishment — — New and Old

Timely Summary Points to Need for Education  
and Citizenship Training

by ALBERT COATES



*"... 2,500 in the State University and  
2,500 in the State Penitentiary."*

## Our Cover

Alcatraz Island, the 12-acre patch of rock situated in the picturesque "Golden Gate" at San Francisco, has served successively as fort, military prison, and (since 1933) as prison for the most dangerous and most incorrigible type Federal prisoner. Made of tool proof steel, equipped with automatic locking devices, tear gas outlets, and automatic gun detectors, and protected by flood lights and guard towers manned by special guards, Alcatraz is well-nigh "escape proof."

The establishment of such a unit in the integrated Federal penal and correctional system is evidence that the Department of Justice will not permit a small number of prisoners to defeat it, in its larger and more important purpose, namely, deterrent punishment for the gangster and the rehabilitation of the reformable type of prisoner for the better security of society. It is a hopeful sign that out of 14,000 prisoners in the Federal system but 235 have been transferred to Alcatraz.

**E**VERY city has its school house and its lock-up. Every county has its school house and its jail. The State has its university and its penitentiary.

For every thousand of their sons and daughters that cities and counties of the State of North Carolina last year sent to their high schools they sent a thousand to their jails. They sent around 2,500 to the State University at Chapel Hill and around 2,500 to the State Penitentiary at Raleigh. There are around 17,000 in the institutions of higher learning in North Carolina today and around 8,000 in the state prison system.

The school house and the prison are both educational institutions. Both are daily receiving unbroken streams of people from all sections of North Carolina. Both are daily moulding habits and characters for better or for worse. Both are sending out increasing numbers of "Alumni" from year to year to find their places in the life of the commonwealth.

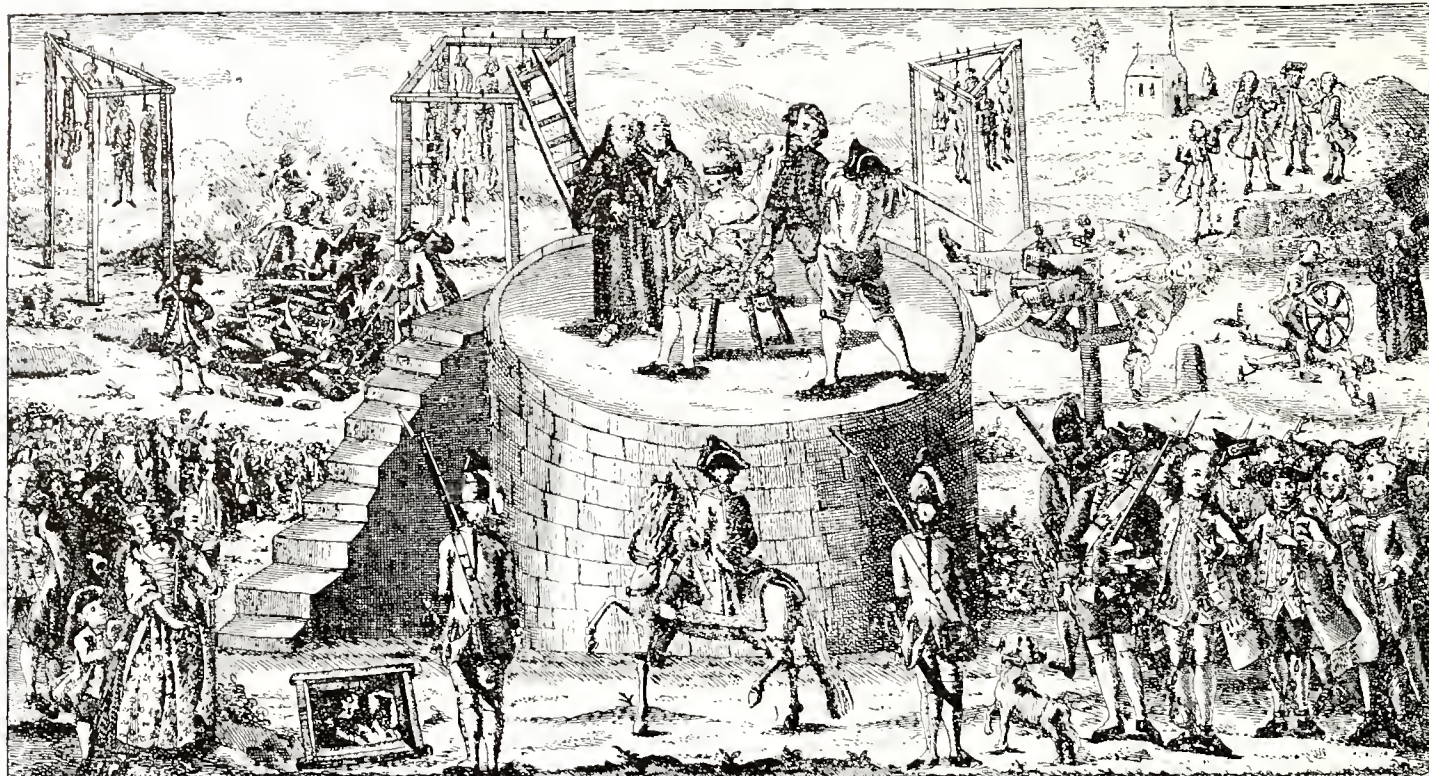
## Training for Citizenship

A distinguished critic of the social sciences points out that the astronomer may catalog the exact position of every known star in the heavens at eleven-thirty o'clock in the evening and not know where his own

daughter is at that hour. The State Superintendent of Public Instruction in North Carolina takes the position that if the daughter has had the right sort of training it won't make much difference whether the astronomer knows where she is, the chances are she will be all right.

To the extent that the State Superintendent of Public Instruction is correct, there is definite hope in training for citizenship and definite reason to believe that the right sort of training may stem the rising tide of crime, reduce the prison population and open constructive ways of life and living. In one community the co-operation of schools, social agencies and courts cut down juvenile delinquency in a given area by 41 per cent.

The public school is the one governmental institution through which every boy and girl born into the commonwealth passes on the way to manhood and womanhood. It shares with the home the supreme opportunity in citizenship training. As a step in this direction the members of the staff of The Institute of Government are working with the teachers in the schools in an effort to acquaint the youth of North Carolina with the structure and the workings of their governmental institutions.



## Changing Types of Punishment

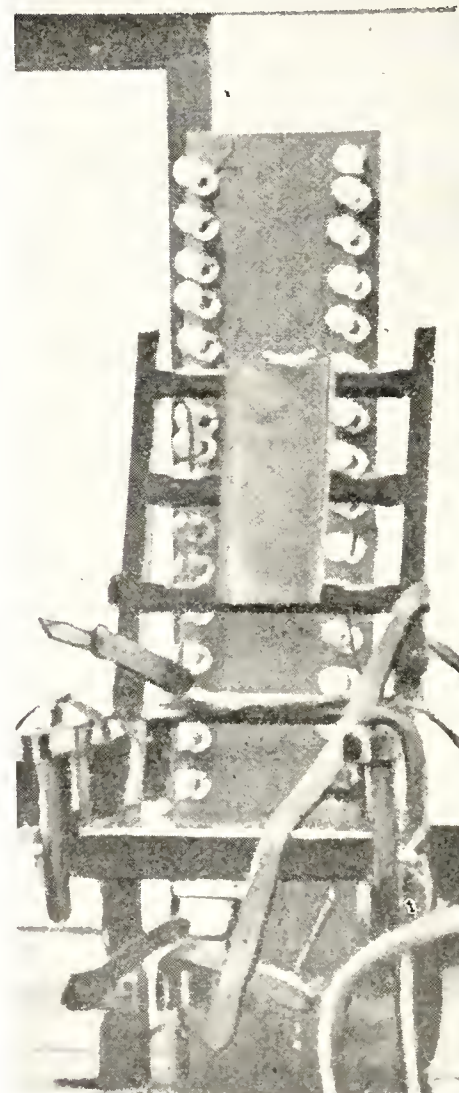
The types of punishment imposed in North Carolina have changed radically in the course of our history. The Charter from the Crown in 1663 and the Concessions in 1665 prescribed (1) fine, (2) imprisonment, (3) banishment, (4) corporal punishment, (5) mutilation and (6) death. The pillory, stocks and whipping posts, the branding iron and the amputation knife, the jail, the gallows and the stake symbolized the state's exactions for the violation of its laws. In 1854 the punishment of death was limited to 20 crimes. Mutilation was practically abandoned. Corporal punishment was rapidly disappearing. The punishment of the pillory was reserved for crimes that were "infamous or done in secrecy and malice or with deceit and intent to defraud." In 1868 the pillory, stocks and whipping post went out of the picture. The new Constitution prescribed three types of punishment: (1) fine, (2) imprisonment with or without hard labor, and (3) death, which was limited to four offenses. An amendment in 1875 specifically sanctioned new types of penal machinery in the chaingang and

"Field Day" in the Middle Ages (above). The event drew spectators from near and far. Note different kinds of punishment meted out at the same time. They include hanging, beheading, burning, and breaking on the wheel. The electric chair (right) this year gives way to lethal gas in North Carolina. However, it remains the most widely used modern method of execution.

the convict camp. These are the punishments in use today.

To illustrate: *Horse - Stealing.* Prior to 1786 horse-stealing was punishable by death; in 1786 by one hour of standing in the pillory, a public whipping of 39 lashes on the bare back, nailing both ears to the pillory and cutting them off, branding on the right cheek with the letter "H" three-fourths inch in length and one-half inch in breadth, and on the left cheek with the letter "T"; in 1883 by imprisonment from 5 to 60 years in the State Prison; in 1930 by imprisonment from one to 20 years, varied by a term on the road.

*Maiming.* The doctrine of an eye for an eye has in our history expressed itself in the successive exactions of death for an eye; 39 lashes on the bare back and 2 hours in the pillory for an eye, 60 years of the offender's life for an eye, 10 years in jail for an eye, 4 months in jail and a term on the roads for an eye.



### Clashing Opinions

Clashing viewpoints have attended every change in the punishments imposed for crime. The Committee recommending changes in punishment at the Constitutional Convention of 1868 took the following view: "The barbarous punishments of whipping, branding, cropping will be hereafter unknown. Crime is as often the result of an ignorance of the means of getting an honest living as of a criminal disposition. Hereafter a penitentiary will be at once a place for the repression of crime and a school for teaching the useful arts to those who are more unfortunate than criminals."

This view is followed and developed by a leading American psychiatrist today: "I believe that at the present writing the methods of criminal courts are not calculated to accomplish very much in either preventing crime or reforming criminals; that anti-social conduct should be considered as dispassionately as a broken leg; and that the sentence, or better, the decision of the court, should be calculated to *cure the social illness* as it has been shown to exist in the conduct of the defendant. All cases of pneumonia are not treated alike just because the disease happens to be pneumonia. The patient is treated and allowances have to be made for age, previous condition of health, of resistance, etc. The patient is treated and not the disease."

The opposing viewpoint is set forth in Hawks' *History of North Carolina*, written in the days when the penal changes inaugurated by the Constitution of 1868 were being proposed: "The whipping-post and the gallows may be antiquated institutions, unworthy of the modern march of mind; but we are old-fashioned enough to prefer them to penitentiaries—costly edifices, reared, as we are told, for reformation and penitence. The reformation lasts until a pardon is thereby obtained, and the penitence is for the consequences rather than for the cause of sin.

"Oracular wisdom not infrequently favors us with the stereotyped dogma that 'the worst use to which you can put a man is to hang him.' We can conceive of no better use to be made of some men than to

hang them up as a warning, to prevent, by their example and fate, hundreds of other men from being murdered, and other hundreds from being hanged for it. We believe the stocks, the pillory, the whipping-post, and even the gallows, to be much wiser and better institutions.

"The way of transgressors is hard," says the highest authority.

We confess, we think it ought to be hard; nor have we any sympathy with that morbid sentiment which expends all its pity on a detected thief or murderer, but has none for the rest of society, outrageously wronged by his villainy and atrocity."

These opposing viewpoints are still clashing today.

## Control Passes from Legislature to Courts

The control of Punishment has shifted from the private individual who avenged his own wrong to the king who avenged it for him, from the king to the legislator, and from the legislator to the judge.

Thus it is seen that in the early history of our race there was a tendency to fix the exact punishment for every criminal act. In Ethelbirt's Dooms it was provided: (1) Let him who breaks the chin bone pay for it with 20 shillings; for each of the four front teeth, 6 shillings; for the tooth which stands next to them, 4 shillings; for that which stands next to that, 3 shillings; and then afterward for each, a shilling. (2) If a thumb be struck off, 20 shillings; if the little finger be struck off, 11 shillings; if the shooting finger be struck off, 8 shillings; if the gold finger be struck off, 6 shillings; if the middle finger be struck off, 4 shillings; if the thumb-nail be struck off, 3 shillings; and for every fingernail, a shilling.

In the early history of our state this tendency is still apparent. For some crimes 20 lashes were meted out, for others 30, for others 40. And then by degrees, according to the legislative notions of the seriousness of the offense, might be added the pillory for one or two hours, branding in one or both cheeks, mutilation by cutting off of one or both ears, or the hand and so on up the scale to the penalty of death.

It hangs over to this day when we exact money payments ranging from the costs of the case to a fine of \$5, \$500 or \$5000; prison sentences ranging from one day, to 30 days, to 30 years of the offender's life, and finally all of his life in the

penalty of death—new words sung to the same old tune.

### Legislative Control

The legislature undertook to "fit punishment to the Criminal." But with all its efforts to find the right sort of punishment and fit it to the crime the legislature was never satisfied with the fit. To illustrate: it changed the punishment for Counterfeiting from (1) hanging, (2) to cutting off the ears, (3) to forty lashes on the bare back, (4) back to hanging again, (5) and then beyond hanging to the added forfeiture of goods and chattels, lands and tenements. From this extreme the penal pendulum swung back (6) to three hours in the pillory, (7) to the cutting off of the right ear, (8) to thirty-nine lashes on the bare back, (9) to branding in the right and left cheek and (10) back to hanging again. From this extreme it swung (11) to fine, (12) to imprisonment, (13) to fine and imprisonment, (14) to fine, imprisonment and pillory, (15) to fine, imprisonment, pillory and whipping post and (16) back to fine or prison again.

### Judicial Control

From Colonial days judicial discretion was authorized in an ever increasing number of misdemeanors. The Legislature, which had prescribed the exact number of lashes for a given offense, no more and no less than 39, began to fix the limits merely—not more than 39 nor less than 9. The exact number to be laid on within these limits was left to the discretion of the Judge. In addition to this discretion within the limits of a single type of punishment the Legislature gave him a choice of

many types. It allowed him to put the offender in the pillory, or in the stocks, or at the whipping post; to brand him in the cheek, or to cut his ears—to impose all or any in his discretion.

In 1868 judicial discretion was extended to the graver felonies. The Legislature, which had fixed the penalty of death for 20 crimes, changed it to imprisonment for all but four, fixed the limits of imprisonment at not less than 5, not more than 60 years, and left the term of imprisonment within those limits to the discretion of the Judge. The limits of his discretion within a single type of punishment thus were greatly broadened, but the choice of types was limited to fine and imprisonment, with or without hard labor, in the jail or the chaingang or the penitentiary.

### The Suspended Sentence

In 1894 the judiciary had found an avenue of escape from even these broadened legislative limits in the practice of suspending sentence. This was a device for doing away with punishment altogether upon certain conditions. The range of its uses may be illustrated by cases where sentence has been suspended on condition that the offender leave the town or county, or on promise of good behavior, or on condition that he go to church for a certain period, or on condition that he take the Keeley cure for alcoholism.

By 1919 this practice of suspending sentence on condition had developed into a full fledged system of probation for youthful offenders. The limitations of the suspended sentence were transcended. The specific limits on specific types of punishment disappeared. The specific types of punishment were themselves obliterated. The very name of punishment was stricken from the vocabulary. And in the last analysis the training school replaced the jail. Today the economic liability of the chaingang, the jail and the penitentiary, even in the absence of moral conviction, invite the extension of probation into the ranks of adult offenders. Systematic pioneering in this field in North Carolina is going on under the leadership of the Commissioner of Pardons and Paroles.



THE UNITED STATES SUPREME COURT

*typifies the majesty of the law. It is the highest tribunal in the land and probably the most powerful court in the world. Seated, left to right, are Justices Brandeis, Van Devanter, Hughes (Chief Justice), McReynolds, and Sutherland. Standing, left to right, are Justices Roberts, Butler, Stone, and Cardozo.*

## The Present System: Its Strength and Weaknesses

Thus it is seen that the ever lengthening edge of judicial discretion has steadily cut its way through judicial confinement in legislative straight jacket, to judicial discretion within legislative limits, to judicial escape from legislative limits into comparative freedom through the medium of suspended sentence and probation. Today it means, in concrete terms, that a judge may for a violation of the prohibition law give one man a nominal punishment and another two years on the county roads; for larceny, one man 30 days in jail and another in an aggravated case 10 years; for manslaughter, one man four months and another 20 years. It means that under the guise of suspended sentence he may for larceny and violations of the liquor law do away with punishment altogether; and that even in cases of manslaughter he may reach the same result by hiring the defendant to his father. It means that the law has become an avowed respecter of persons. The judge who was once required by law to treat offenders alike is today allowed by law to treat them differently—to

adapt the sentence to the offender before him, to fit the punishment to the criminal.

This was not the end, but the beginning of judicial difficulties. If the Legislators had trouble fitting punishments to the crime, the Judges have trouble fitting punishment to the criminal.

Here is the Criminal Court record of a young white man, beginning at the age of 12 in 1907, and ending at the age of 33 in 1928. This is not a typical case; it is an extreme case. But there are enough cases of repeating offenders in most communities in North Carolina to demonstrate that while the shift from legislative to judicial control of punishment has gone a long way toward the solution of our problem, there are problems yet unsolved.

June 17, 1907. Vagrancy.

April 17, 1908. Drunk.

November 18, 1908. Trespass.

January 5, 1909. Injury to Property.

January 5, 1909. Assault, deadly weapon.

November 8, 1909. Nuisance.

December 10, 1909. Larceny.

December 28, 1912. Larceny.

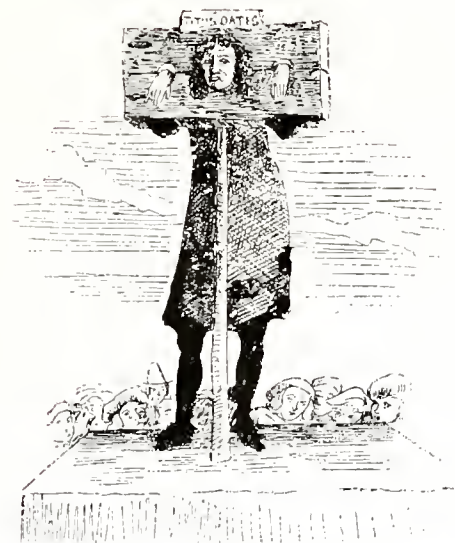


January 13, 1913. Assault, deadly weapon.  
 September 2, 1913. Drunk.  
 June 8, 1914. Assault.  
 August 6, 1914. Drunk.  
 December 29, 1914. Nuisance.  
 June 8, 1915. Assault.  
 June 18, 1915. Crime against nature.  
 April 22, 1916. Drunk.  
 August 4, 1916. Drunk.  
 August 14, 1916. Assault.  
 October 2, 1916. Nuisance.  
 October 2, 1916. Nuisance.  
 November 3, 1916. Assault.  
 November 17, 1916. Assault.  
 November 17, 1916. Trespass.  
 February 12, 1917. Assault.  
 November 15, 1917. Drunk.  
 December 1, 1917. Drunk.  
 May 21, 1919. Assault.  
 June 13, 1919. Drunk.  
 August 4, 1919. Drunk.  
 August 11, 1919. Drunk.  
 March 3, 1920. Drunk.  
 April 7, 1920. Drunk.  
 May 24, 1920. Drunk.  
 June 5, 1920. Assault on woman.  
 July 26, 1920. Drunk.  
 August 23, 1920. Drunk.  
 October 11, 1920. Drunk.  
 March 21, 1921. Assault deadly weapon.  
 August 13, 1921. Grand larceny.  
 October 31, 1921. Assault on woman.  
 October 31, 1921. Assault on woman.  
 October 31, 1921. Drunk.  
 March 6, 1922. Drunk.  
 September 9, 1922. Drunk.  
 October 27, 1922. Drunk.  
 February 3, 1923. Drunk.  
 March 12, 1923. Drunk.  
 April 3, 1923. Drunk.  
 April 3, 1923. Drunk.  
 May 15, 1923. Assault.  
 July 21, 1924. Drunk.  
 September 2, 1924. Drunk.  
 November 2, 1925. Drunk.  
 December 7, 1925. Drunk.  
 December 26, 1925. Drunk.  
 December 28, 1925. Gambling.  
 January 25, 1926. Drunk.  
 February 24, 1926. Assault, deadly weapon.  
 June 29, 1926. Trespass.  
 August 24, 1926. Drunk.  
 September 7, 1926. Violation Prohibition Law.  
 September 7, 1926. Drunk.  
 November 22, 1926. Violation Prohibition Law.

November 26, 1926. Drunk.  
 December 28, 1926. Drunk.  
 January 31, 1927. Drunk.  
 March 22, 1927. Drunk.  
 April 19, 1927. Drunk.  
 June 10, 1927. Drunk.  
 June 25, 1927. Drunk.  
 July 11, 1927. Drunk.  
 July 12, 1927. Drunk.  
 August 29, 1927. Drunk.  
 October 17, 1927. Drunk.  
 February 4, 1928. Drunk.  
 February 13, 1928. Drunk.  
 March 2, 1928. Drunk.  
 March 6, 1928. Drunk.  
 April 12, 1928. Drunk.  
 May 11, 1928. Drunk.  
 May 19, 1928. Drunk.  
 May 22, 1928. Drunk.  
 July 19, 1928. Drunk.  
 August 3, 1928. Drunk.  
 September 4, 1928. Drunk.  
 September 6, 1928. Drunk.  
 October 2, 1928. Drunk.  
 October 26, 1928. Drunk.  
 November 17, 1928. Drunk. (Died from the effects of drink while awaiting trial.)

Offenses in all 89. Vagrancy 1. Injury to property 1. Gambling 1. Crime against nature 1. Violation Prohibition Law 2. Trespass 3. Larceny 3. Nuisance 4. Assault with deadly weapon 5. Simple assault 10. Drunk 58.

For these offenses the defendant drew thirty-three prison and road sentences ranging from fifteen days to eighteen months; ten fines, rang-



*The pillory served not only to confine the criminal in an uncomfortable, even painful, position, but also to hold the criminal up to public ridicule, at the mercy of the missiles as well as the jibes of an amused or angry populace. Unlike the stocks, the pillory did not confine the feet.*

ing from \$1 to \$25; ten costs; eight fines and costs; eight sentences suspended without payment of costs; seventeen sentences suspended on condition he leave the county.

If these punishments were imposed on the theory of individual reformation, they failed to reform. If on the theory of social protection, they failed to protect. If on the theory of deterrence, they failed to deter. If on the theory of retribution, they failed to bring remorse. If on the theory of satisfying public justice, there seems to be no end to satisfaction. If on the theory of vengeance, then vengeance costs too much. We simply cannot afford it. Society in getting even gets behind.

### Results of Theories

What have been the results of 200 years of effort here in North Carolina to stamp out crime with punishment? Of legislative efforts to fit punishment to the crime? Of judicial efforts to fit punishment to the criminal? We have shifted the control of punishment from the individual, to the king, to the legislature, to the judge and now suggest a further shift from the judiciary to an independent board of probation and parole. We have shifted the purposes of punishment from "private vengeance" to "public justice," to "social protection," to "individual reformation"—from "revenge," to "retribution," to "deterrence," to "treatment." We have shifted the types of punishment from the "stake" to the "gallops" to the "electric chair" to the "lethal gas chamber" as methods of inflicting death by due process of law—and, not being satisfied either with the death penalty or with the manner of inflicting it we have gradually limited it to four crimes. We have shifted from the amputation knife to the branding iron to the whipping post as methods of mutilation, and, not being satisfied with any, have abandoned all. We have shifted from the pillory and stocks as methods of detention, to the penitentiary, chain gang and jail, to the fine as a substitute for either and the suspended sentence as a substitute for all.

Through all these changing slogans we have lived to learn that though a rose by any other name may smell as sweet, is smells no

sweeter. When we cut through form to substance, through phrases to the facts, we find the age-old problem still unanswered, the ancient question still unanswered, bobbing up through the centuries in changing forms but with unchanging meanings.

On every day of Criminal Court this problem rears itself before the judge in the person of every convict in concrete terms like these:

What is the end to be achieved by the punishment of this person? Within the limited types of punishment at my disposal, which is most likely to achieve the end in view: a fine? a jail sentence? a road sentence? a suspended sentence? the training school? or supervision in the private home? If it is a fine, how much—\$5, or \$50, or \$500? If a jail sentence, how long—thirty days or two years or ten? If a sus-

pended sentence, on what condition and what are the guarantees that the condition will be performed? If the training school, what sort of training is required? If supervision in the private home, what kind of supervision is worth while? If none of these devices will achieve the end desired, what will? Current efforts to answer these questions will be discussed in subsequent issues of POPULAR GOVERNMENT.

## No Detective Mystery This!

- - Just True Stories from Some of the Tar Heel Departments, with Science Taking Sherlock's Place

By M. R. ALEXANDER

Stranger than fiction and twice as good reading are some of the stories of scientific crime detection by police experts here and there in recent years. Although the identification unit and the laboratory are relatively new developments in Tar Heel police circles, the work is spreading rapidly, and North Carolina can point to a growing collection of true detective stories which rival the exploits of Sherlock Holmes.

Some of the cases which have been solved by Chief Frank Littlejohn and J. B. Neale, of the Charlotte Detective Bureau, and by Dr. J. T. Dobbins of Chapel Hill, in the field of the private expert, immediately come to mind.

This may sound like fiction itself, but Littlejohn and Neale have traced a stolen tree to the thief's ax, sent a man to the electric chair on the evidence of a couple of bullets, and traced a mail robbery to the fingerprints on the bandits' beer bottles.

And the precise, unerring analyses of the university chemistry professor, Dr. Dobbins, have been the means of breaking up a gang of marijuana peddlers, establishing cases of poisoning, settling damage suits, and clearing up other cases which would have been impossible but for the aid of science.

It is interesting to hear what

these two experts, the one in the public and the other in the private field, have to say about science's part in crime detection.

"Science can be made of material aid to police departments and coroners if used discriminately," in Dr. Dobbins' opinion. "Our police departments should regard it as an excellent adjunct but never as a substitute for hard investigation. The laboratory frequently can supply the method and the lead; it remains for the policeman to find the suspect and prove the crime."

"The cost of first-rate laboratories is prohibitive with smaller cities," Chief Littlejohn points out. "The important thing is for the investigator to appreciate the assistance the expert can give him and to know

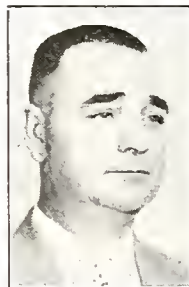
where to find an expert on any given subject."

In this connection it is well to point out the splendid spirit of cooperation which obtains between different departments, and between local departments, private experts, and the Federal Bureau of Investigation in Washington.

The larger and better equipped departments of the State, as the one in Charlotte, frequently aid smaller brother towns which are not so fortunate with their investigations. It is the exception and not the rule when a doctor, professor, laboratory technician, or scientist is not ready and anxious to aid the police with an investigation in a field in which he qualifies as an expert.

The Federal Bureau maintains a file of 5,000 sets of fingerprints, together with a laboratory which contains every crime detection aid known to science, each of which is thrown open alike to the use of local police departments.

The value of such a central file of fingerprints is at once apparent. A North Carolina police department, by sending the prints to Washington, can have them checked against the 5,000,000 prints of offenders



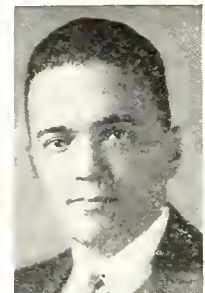
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which the Federal Bureau has collected from all over the country, and learn within a day or two if the suspect is wanted elsewhere or if he has ever been convicted of a crime.

The police departments of North Carolina have been exchanging fingerprints with the Federal Bureau for some time. Some of the larger identification bureaus, as in Charlotte and High Point, send in close to a thousand sets a year. The Tar Heel officers now are more and more taking advantage of the Federal Bureau's generous offer to assist local officers in the matter of laboratory examinations of physical evidence.

Getting back to cases, the most celebrated perhaps that Chief Littlejohn and Mr. Neale have handled was the Touhy case. After staging a bold daylight mail robbery in downtown Charlotte, the robbers shot their way out and, apparently changing their license plates, made a clean getaway without a clue as to their identity. There were witnesses aplenty, but none who had an idea as to who they were, whence they came or where they went.

Chief Littlejohn had his work cut out for him. The local file of criminals was gone over with a fine tooth comb, a roster of all suspicious "visitors" in the city compiled, and the long list narrowed down, by a process of elimination and hard, detailed investigation, to a group of suspicious looking men who left town the day of the robbery without leaving a forwarding address.

The investigation speedily shifted to the hotel rooms in which the men had spent the preceding night. Once again the officers struck an impasse. Not a clue! Mr. Neale, the fingerprint expert, was called in. There were fingerprints, plenty of them—too many, in fact, to be distinguishable. The officers were on the verge of giving up the search in favor of a new line of investigation when someone spied several beer bottles, overlooked in the confusion, in a corner.

The fingerprints on the bottles and on the water glass in the bathroom was taken and rushed to Washington. The report came back post haste—the Touhy gang! The prints on the water glass turned out to be the leader's—it seems the "brains"

of the gang did not drink—and the departments in Washington and Chicago had no record of his even being connected with the gang.

And so it was that the dreaded Chicago gang, with its hitherto unknown leader came South for "easy pickings," met its match in an able North Carolina detective bureau, aided by science, and was sent to long prison terms for mail robbery.

The bullet case came to the Charlotte officers from a neighboring county. "Bring us the bullet and the guns of any suspects you have," Mr. Neale told the slightly perplexed officers the case had stumped. The bullet was traced to one of the guns—for every gun barrel "fingerprints" its bullets and the minute differences in the markings are obvious and irrefutable under a bi-focal microscope—and the gun to the owner.

The latter still maintained his innocence, but the "hot gun," in the policeman's parlance, made him glad to talk. It seems that he and a friend had planned a robbery but at the last minute he backed out. The other went ahead, taking his gun, and shooting an officer when apprehended. The story, which brought a murderer to justice, might never have been told but for a microscope and a "hot gun."

The Charlotte officers in the "wood chip" case applied the exact technique with which the experts wrapped the ladder around Hauptmann's neck in the Lindbergh kidnapping. Some one had been stealing a man's valuable cedar trees. A bag of chips and the axes of the suspects furnished the evidence this time. The identification, conclusive in this case without the use of a microscope even, led to a full admission and speedy conviction.

"The recent Greensboro marijuana or dope case," says Dr. Dobbins, "furnishes the best illustration I know of the need of a central crime detection laboratory, such as the Institute of Government proposes, either having on its staff or having access to experts and specialists in medicine, pharmacy, chemistry, and other scientific fields.

"When I was asked to make the analysis of the purported marijuana seized by the narcotic agents," Dr. Dobbins explained, "I exhausted the resources of our library without

finding any specific chemical test for marijuana. All of them said to make a fluid extract from the contents, administer to a dog, and check the physiological symptoms. The former requires a pharmacist and the latter a doctor, and I saw at once that the defense attorneys would be quick to jump on my testimony if I performed the work alone."

Though Dr. Dobbins took the precaution of calling in two colleagues from the Medical and Pharmacy schools and though the tests proved positive beyond a doubt, the defense attorneys nevertheless assailed their testimony at the preliminary hearing on the ground that the plant had not been identified botanically. Thus it took four scientists—a chemist, a pharmacist, a doctor, and a botanist—to identify the marijuana to the satisfaction of the court at the trial and send the members of the dope ring to the roads.

"One of the two prettiest cases I was ever connected with," says Dr. Dobbins, "was a suit against a drug store for negligent and wrongful death."

A woman bought two calomel capsules. Another member of the family took one and died, and the family instituted suit for a large sum. An analysis of the stomach of the deceased and of the second capsule showed large quantities of strychnine. However, no traces were found in the capsules in the bottle at the drug store from which the two were taken.

Closer study revealed evidence which pointed to the fact that the two capsules had been tampered with after they left the drug store. For instance, the second capsule was lighter in color and weight than any in the drug store's bottle. Moreover, microscopic examination produced evidence of "incomplete mixing," as if done by an inexperienced person.

The case had already gone to the jury when one of the defense counsel raised the question whether any one in the family had bought any strychnine recently. A hasty tour of the drug stores in the town disclosed a record of such a sale six weeks before, supposedly to kill crows. The jury was called back and the new evidence presented with the result that the judge non-suited the case.

# THE PUBLIC PULSE— —

## as felt by the State's Press

"For a practical people, we Americans exhibit a singularly slipshod manner of recruiting our public servants.

"The taxpayer . . . has a right to expect . . . that he will get full value for his money; that the people his money hires will be the best people available, put there on merit and retained as long as they do their work well.

"Yet after decades of agitation for civil service reform, that principle is ignored over and over again."—Bruce Catton in *Salisbury Post*.

### TAXATION

"Cost of national, state, county, and municipal government absorbs one of every three dollars of American income. . . . There will be no basis for permanent recovery until taxes are reduced, whether they be federal, state or local."—*Burlington Times-News*.

"Millions of citizens delude themselves with the thought that they are not paying any of the costs of national government. . . . No citizen who is earning or spending escapes."—*Canton Enterprise*.

". . . Crime, inefficiency and sabotage are taxes digging more deeply and dangerously at foundations than taxes. . . . Government returns more for the money than any investment men make. Without it to protect their holdings the grumblers would have cause for some real howling."—*High Point Enterprise*.

"There is much to be said for the English form of taxation with its high rates on incomes and inheritances and its taxes on the rental value of real property. . . . There is little red tape, the machinery is not complicated, and there is no multiplicity of small taxes."—*Monroe Enquirer*.

"Everywhere the same story (the sales tax)—an accepted nuisance, but a revenue producer."—*Salisbury Post*.

". . . The total taxes paid by motorists during 1934 reached the staggering sum of \$1,150,000,000 . . . an average of \$65 per car. . . . The motorist is a good horse, but

congress and the state legislatures are riding him to death."—*Reidsville Review*.

### SOMETHING TO LIVE ON

"We seem to have an entirely mistaken notion in this country about government—that is, a tremendous lot of us have.

"It is evident that this lot conceives government as something to live ON instead of to live UNDER."—Julian Miller in *Charlotte Observer*.

"The matter of the taxing of industries . . . is something that can be overdone. We are all familiar with the New England situation in which burdensome and oppressive taxation has helped cripple the textile industry. Local governments may well give serious thought to this matter."—*Gastonia Gazette*.

"North Carolina stands to have its revenue boosted this year by three million dollars in inheritance taxes from two estates. Naturally this will make a surplus in the state treasury, and the tax should be used to cut down the sales tax on the real necessities."—*Cleveland Star*.

### EDUCATION

"When . . . Aycok said, 'The State does not educate to help the child but to protect the State,' he flung a challenge not only for his own times but also one which continues the real test of government.

"Nor is it enough for us to get back to pre-depression standards; . . . our eyes must be set higher and beyond."—*High Point Enterprise*.

### RELIEF AND FEDERAL AID

"Mecklenburg's welfare superintendent, to our mind, has the right slant on this relief business. She has laid off more than 25 families because they refused to accept work on the farms where it was plentiful at harvest season."—*Taylorsville Times*.

"Anent the clamor about the fail-

ure to get the amount of government money anticipated for various North Carolina projects, it is possible, also probable, that worse things could happen.

"If the money we don't get isn't spent, it will be saved the taxpayers. . . . As a matter of fact . . . we had our sights too high all along." . . . Moreover "application was made for a lot of impracticable projects that would have yielded a minimum of benefit."—*Statesville Landmark*.

"The danger of invasion of North Carolina . . . would seem to be fairly remote. But there is nothing remote about the dangers of ignorance in a state" with 300,000 illiterates.

"Yet, while not more than \$25,000 is being spent . . . for libraries with government funds, . . . North Carolina under WPA is hoping to spend at one swoop \$1,028,000 for armories."—*Raleigh News and Observer*.

### LAW ENFORCEMENT

"We agree with Superintendent Clyde Erwin that the schools of the country must lead the way in education designed to reduce the prevalence of crime."—*Salisbury Post*.

"Public officials and law enforcement officers are necessarily engaged in the detection and punishment of criminals. Crime prevention is chiefly the work of private citizens and civic organizations, by education, leadership, and training.

"Gangs turning from the city to the . . . rural communities and small towns are going to present a real menace to this country. . . . A more uniform and more closely correlated system of law enforcement must be had in order to handle the situation."—*N. Wilkesboro Patriot*.

### BUILDING A CITY

"Cities move on to better things . . . not so much because of the powerful shoves of the leaders but largely because of the thousands of tiny pushes of the rank and file. . . .

"Abe Lincoln set up a citizenship ideal for all of us to strive toward when he said: 'I am proud of my city and I will strive to make my city proud of me'."—*Gates County Index*.

## Legal Ethics

### Canon

*"It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound by all fair and honorable means to present every defense that the law of the land permits to the end that no person may be deprived of life or liberty, but by due process of law."*

Comment by

**Charles W. Tillett, Jr.**

Past President, North Carolina Bar Association



Without a doubt it is one of the noblest traditions in our heritage that regardless of the depth of an accused's degradation, regardless of the state of public passion against him, regardless of his guilt, he can always find in his own county and among its most respected citizens a keen, intelligent lawyer who will stand upright in his behalf and see that he gets justice.

The real vice in a misinterpretation of the above canon of ethics lies in the diversion of one of the profession's noblest traditions into a pretended justification of attorneys who defend bootleggers, dope peddlers, thieves, hoodlums, racketeers and all the balance of the hierarchy of known criminals and in such defense undertake to persuade and sometimes, by the misuse of their God-given talents of agility and keenness of mind, succeed in per-

suading judges and juries to accept as truth that which is known by them to be falsehood and perjury.

Just as no lawyer would undertake to procure the conviction of a person known to him to be innocent, no attorney should undertake to procure the acquittal of a person whom he knows to be guilty, but should represent him only for the purpose of seeing that his punishment and treatment generally by the courts are in accordance with the established law of the land. To this interpretation of the fifth canon of ethics I should add this further corollary, namely, that no attorney in the representation of an accused person, whether or not such person is known by him to be guilty or innocent, should do any act or thing—either upon direct examination or cross-examination or argument—for the purpose of persuading the judge or jury to believe to be true anything known by him to be false.

### THE COUNTY'S TAX TREND

*(Continued from page three)*

are much the same, the tax rates, as would be expected, are slightly higher.

The average rates for 1935-36 are as follows: Counties under 20,000, average \$1.23, ranging from 75c to \$1.80; counties between 20,000 and 40,000, average \$1.09, ranging from 60c to \$1.65; counties between 40,000 and 60,000, average 96c, ranging from 36c to \$1.79; counties over 60,000, average 71c, ranging from 50c to \$1.15.

In conclusion, the writer wishes to repeat that bare figures may be and frequently are misleading. Thus three counties reporting increases in rates—Cumberland, Richmond, and Robeson—have assumed the debts of the special school districts of the county. This is not an increase in taxes at all but merely a transfer from one unit to another. Increases in other counties were necessitated by the construction of school buildings and other permanent improvements under the favorable terms offered by the PWA, WPA, and other federal agencies.

Some of the counties in the higher brackets undoubtedly have constructed improvements and are providing governmental services which

compensate the citizen for the difference in his tax bill.

The problem for the future, and it is one to which progressive officials and interested taxpayers all over the State are turning their minds, is to compare the relative services performed by the different units and in the light of these facts to work toward a uniformity of standards and rates by lifting the level of the poorest to that of the best.

### DO YOU OWN YOUR LAND?

*(Continued from page seven)*

on defective descriptions, defective conveyances or chains of title with links missing from the records will doubtless discover for many years to come that the laws of real property are strict disciplinarians and sometimes slap without mercy the ignorant and careless as well as those who knowingly violate the rules. Often today the unsuspecting "owner" learns that his title is bad, not when his neighbor "laws" him, but when, in an emergency, he seeks a loan offering his property as security. Every land owner would do well to satisfy himself that his deed is regular and recorded, that his chain of title covering the last twenty-five or thirty years is clear and on record, and that the description of his land is not only clear to him but that the boundaries and monuments are of a permanent nature and easily located with certainty.

### Court House Chaff

Bells clanged and motors roared in the fire station. The new recruit jumped out of bed, slipped into his one-piece suit, and raced to the engine.

"What's the idea?" said the Captain.

"Why don't we go to the fire?" asked the recruit.

"We just got back," answered the Captain. "You slept through it."

\* \* \*

Magistrate: "If you were there for no dishonest purposes, why were you in your stocking feet?"

Defendant: "I 'eard there was sickness in the family."

## Helpful Books

*The Story of the Constitution*, by Howard B. Lee, lives up to its name and more; it is a moving picture of the background, creation, and growth of the most important legal or political document in world history, and of the men who shaped it. Altogether it is the best book on the Constitution the reviewer has been privileged to read.

It has been said that it requires only an average lawyer or scientist to write a book or treatise in technical terms, but it takes an artist with perfect command of his subject to tell the same story in terms that are easily understandable and vitally interesting to the average person. Judged by this standard, Mr. Lee, who is Attorney General of West Virginia, is a great artist as well as one of the nation's outstanding jurists and authorities on Constitutional Law. For Mr. Lee's book, comprehensive, concise, readable, and altogether unlike the conventional treatise, is a moving story which grips layman and lawyer alike.

Mr. Lee's book is particularly timely in this day when the security of American governmental institutions is being challenged not only by radical doctrines from without but also by ignorance and indifference within, when men are being forced to look to the fundamentals upon which their government is built.

Every voter and every future voter should be taught the blessings and benefits of this wonderful document, with its great constitutional guaranties which make this a land of equal justice and opportunity, and should be made to see that "if there be abuses, they are not due to our form of government, but to the people themselves, who fail to exercise their rights and neglect the duties of citizenship." Such study would undoubtedly make better citizens of us all, and so the reviewer expresses a wish that will be difficult of fulfillment, namely, for more books in the field of government comparable to Mr. Lee's *Story of the Constitution*. Michie Press (1932), 287 pp. \$4.00 postpaid.

*Marketing Municipal Bonds*, pre-

pared by the Committee on Municipal Debt Administration of the Municipal Finance Officers Association (Chicago, Ill.). An eight-page bulletin containing numerous practical suggestions for marketing municipal bonds. Some of the points discussed are choosing the market, legal opinion, advertising, rates of interest, annual debt load, and meeting requirements for legal investments by large institutional buyers. Copies of model bond and interest record form and of a model form for municipal financial reports are other features.

\* \* \*

*Practical Points on Probation*, by A. W. Cline. A study of the problems affecting North Carolina Juvenile Courts today with suggestions for their solution. The author is Superintendent of Public Welfare for Forsyth County. Topics treated include underprivileged child, juvenile court, investigation and diagnosis, the rural church, and prison or probation. A practical and invaluable study for persons engaged in probation or public welfare work. Published in limited edition by A. W. Cline, Winston-Salem, N. C.

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# Bulletin Service

Opinions and rulings in this issue are from State Department letters  
from July 20th to September 10th

—★—  
Prepared by  
M. R. ALEXANDER

## I. Ad valorem taxes.

### A. Matters relating to tax listing and assessing.

#### 1. Exemptions—church property.

To Charles Hughes. (A.G.) Property belonging to or held for the benefit of churches, religious societies, charitable, educational, literary or benevolent institutions or orders, where the rent, interest or income from such investment is used exclusively for religious, charitable, educational or benevolent purposes, or the interest upon the bonded indebtedness of said institution or society, is exempt from taxation. Subsection 4 (a), Section 304, Chapter 417, Public Laws of 1935.

This exemption applies even though the premises in question are not occupied by the institution, if the rent, interest, and income from such premises is used exclusively for the purposes set out above.

To S. R. Hoyle. Inquiry: Is property left to a church by will free from ad valorem tax from the death of the testator or is it subject to such taxation until actually turned over to the church?

(A.G.) Real property vests immediately on the death of the owner, and is, therefore, exempt from the death of the testator. However, personal property does not vest in the heir or legatee, but passes to the administrator or the executor to be distributed by him in accordance with the provisions of the will after claims against the estate have been paid, and is therefore not exempt until actual transfer.

#### 10. Exemptions—municipal bonds.

To Thos. W. Alexander. Inquiry: 1. Are municipal bonds issued prior to the 1929 Machinery Act subject to taxation? 2. If issued between March 19, 1929, the date of ratification, and March 1, 1930, the time at which said act went into effect?

(A.G.) There has always been some doubt as to the constitutionality of the exemptions which the several Machinery Acts have provided for such bonds. The exemptions clearly seem contrary to the constitutional requirement that the Legislature shall provide laws taxing all property. See Constitution, Article V, Section 3. However, conceding the constitutionality of the Machinery Act, it evidently would not apply by its terms to bonds issued between March 19, 1929, the date it was ratified, and March 1, 1930, the time the Act according to its own provisions was put into effect.

#### 14. Exemptions—national banks.

To Zeb V. Long. Inquiry: Is the personal, intangible property of a national bank in the hands of a receiver subject to ad valorem taxation? (A.G.) The county may levy and collect taxes on real estate belonging to a national bank and upon the shares of stock in the names of the various stockholders. However, per-

sonal property belonging to the bank may not be taxed by the state, county or municipality.

#### 30. Situs of personal property.

To W. E. Fuqua. (A.G.) This Office is of the opinion that a town has no right to levy and collect property tax on cars of refrigerator and tank car companies operating through the town on different railroad companies' tracks.

#### 70. Solvent credits.

To F. Paul Thompson. Inquiry: 1. Please advise whether a town has the right to tax solvent credits owned by its residents? 2. What is the penalty for failure to list taxes? (A.G.) 1. Yes, like other personal property. 2. Indictment.

#### Quarters for Women Prisoners

To Charles Ross. (A. G.) I construe Chapter 57, Public Laws of 1935, Section 3, as conferring upon the State Highway and Public Works Commission the authority to provide within the bounds of the Central Prison at Raleigh, or elsewhere, suitable quarters for women prisoners, and to arrange work suitable for their capacity.

I do not regard it as making this provision immediately mandatory, nor do I think that the courts have any right to sentence a woman for confinement in such quarters until they have been prepared. Therefore, I think the Commission is within its rights to refuse to accept such prisoners until suitable quarters have been prepared.

#### 120. Extension of city limits—time new property subject to taxes.

To I. E. Harris. Inquiry: Our town limits were extended by a bill ratified May 8. Does the town have the right to collect (a) privilege taxes and (b) property taxes in the new territory for 1935?

(A.G.) There is no question but that the privilege tax can be properly assessed and collected against persons exercising such privileges within the boundaries of the extended town limits.

However, the ad valorem taxes are based upon the assessments of the counties, and the machinery for this purpose begins operation in April. Since this work was begun before your town limits were extended, we are of the opinion that you would not have authority to collect ad valorem tax upon property in the territory subsequently added to the town.

#### B. Matters affecting tax collection.

#### 30a. Tax foreclosure—time for 1932 certificates.

To Junius D. Grimes. Inquiry: Chapter 75, Public Laws of 1935, ratified March

8, 1935, extended the time to bring foreclosure suits on 1932 taxes until December 1. Chapter 374, Public Local Laws of 1935, ratified April 26, 1935, extended the time for this county for a period of two years from the date of the certificate, which would be November 7. May the county take advantage of the public act?

(A.G.) In my judgment you would be permitted to bring the actions down to December 1. I come to this conclusion because both are enabling acts and neither was intended to be in its essence restricting.

#### 31. Tax foreclosure—procedural aspects.

To Ralph H. Ramsey, Jr. Inquiry: C. S. 8037 made service by publication sufficient in the case of persons claiming an interest in lands other than the persons in whose names it was listed. However, the Supreme Court held in Guy vs. Harmon, 204 N. C. 226, and Beaufort County vs. Mayo, 207 N. C. 211, that all persons having an interest in such lands shall be made parties and personal service had upon them. If personal service is required, is service by publication also necessary?

(A.G.) The apparent effect of the decision is to nullify the statute in so far as it provides for service against persons claiming liens by posting a notice at the court house door. If this be the inference to be gained from the decision and if those claiming liens must be personally served in order to cut off their rights, it would seem that it is no longer necessary to post the notice required by C. S. 8037. However, in spite of the apparent effect of this decision, we are of the opinion that notice should be published.

To T. Manly Whitener. Inquiry: In a tax foreclosure action is service of process by a special tax deputy legal, or is service by the Sheriff's office necessary? (A. G.) The summons may be served by any officer qualified to serve civil process. I do not understand that such process may be served by a tax collector or other individual not having authority to serve other civil process.

#### 44. Tax foreclosure—pro-rating of proceeds.

To Mrs. Evelyn Pleasants. Inquiry: A piece of property sold by a receiver does not bring enough to pay the city and county taxes owing against it. How should the proceeds be divided, and can the court give the commissioner authority to convey good title?

(A.G.) This Office is of the opinion that the court would not have authority to diminish in any way the amount of ad valorem taxes due the municipality by such a court order as outlined in your letter. The proceeds from the sale of the property, if not sufficient to pay the entire amount of the taxes, should be prorated equally between the city and county.

To B. L. Fentress. (A. G.) This Office is of the opinion that there is no priority between city and county taxes, and that the State should share equally in the proceeds of the sale of property foreclosed for taxes. We are also of the opinion that the same thing applies to street assessments.

#### 50. Tax collection—acceptance of bonds for taxes.

To W. E. Easterling. Inquiry: Chapter 9, Public Local Laws of 1935, requires the county to "accept in payment of the debt service portion of *current and/or*

delinquent taxes," bonds, notes, and matured interest coupons of the county, "due or to become due in the current fiscal year at par value." Please construe the word "current." Also, would the rights of a bondholder owning a refunding bond issued since ratification of the Act to demand payment of his bond in cash be in any way affected by the provisions of this law?

(A.G.) It is the opinion of this office that the intention of the Legislature was to allow bonds to be accepted in payment of taxes subsequently levied, as they become current, as well as taxes current at the time of ratification. This appears from the use of the words "to become due," there appearing no reason for limiting the operation of the act to taxes coming due for the current fiscal year 1935 only.

From an examination of the Act, we do not think that the Legislature intended to take away the right of bondholders to demand payment of their bonds in cash. The Act only says that the tax collector shall accept bonds in payment of taxes. It does not say that the bondholders shall pay their taxes by surrender of the bonds and so lose the right to demand cash for them.

#### 76. Tax collection—date lien of taxes attaches.

To A. C. Hudson. Inquiry: When does the tax lien attach as to personal property? (A.G.) Only after the levy thereon.

#### 101. Adjustment—compromise by town and county commissioners.

To Gilmer A. Jones. Inquiry: A survey reveals that a tract of land listed on the tax books as 1100 acres contains only 600 acres. Does the Board of County Commissioners have authority to refund taxes paid in error on the basis of the larger figure?

(A.G.) We regret to advise that we see no remedy. We are of the opinion that property should be considered as valued as a whole, and that the Commissioners would have no authority to decrease or change the value of the land as listed.

### III. County and city license or privilege taxes.

#### A. Levy of such taxes.

#### 15. Privilege license on trades and professions.

To Eulalia Midgette. (A.G.) C. S. 2677 of Michie's 1930 Code authorizes the commissioners to levy a tax on trades and professions carried on or enjoyed within the city. However, this power is subject to certain restrictions which will be found in C. S. 2677 and in the 1935 Revenue Act contained in Chapter 371, Public Laws of 1935.

#### 19. License tax on co-operative associations and enterprises.

To N. H. Larkins. Inquiry: May a town levy and collect Schedule B privilege license tax from a group of persons who buy a car of coal co-operatively and divide it among themselves. (A.G.) Yes. See section 112, Chapter 371, Public Laws of 1935. Sub-section (c) authorizes cities and towns to levy a tax not in excess of that levied by the State. Subsection (d) authorizes the levy by the State from "any person, firm or corporation soliciting orders for pool cars of coal to be distributed without profit."

#### 40. License tax on peddlers.

To J. L. Hassell. Inquiry: Chapter 371, Section 121 (c), Public Laws of 1935, relating to the peddler's tax, exempts farmers selling produce, etc., grown by themselves. Does this apply to farmers from out of the State? (A.G.) Yes.

#### 68. License tax on out-of-town dry cleaning concerns.

To L. M. Query. Inquiry: What privilege license tax may a town levy on a firm from out of the county soliciting (a) pressing and cleaning and (b) laundry within the town?

(A.G.) See Chapter 371, Public Laws of 1935. Section 139 (b) relating to pressing and cleaning provides that cities and towns may levy a tax not in excess of that levied by the State, or in the case of

an out-of-county company, a tax not in excess of \$100.

Section 150, relating to laundries, provides that counties, cities, and towns may levy a tax not in excess of one-half of that levied by the state, or in the case of an out-of-county company, a tax not in excess of \$50.

The State tax in the case of pressing clubs would be \$12.50 if not more than three persons were employed or \$25 if more than three, and in the case of laundries it is \$12.50.

We are of the opinion that the provisions allowing a higher license tax on out-of-county businesses are not enforceable because they are in violation of the uniformity clause and discriminatory since there is no sound and reasonable basis for the classification.

### IV. Public schools.

#### A. Mechanics of handling school funds.

#### 10. Special school tax funds.

To J. W. Graham. Inquiry: Please advise us regarding the proper handling of special school tax funds?

(A.G.) By the terms of the 1933 School Machinery Act all special charter districts and special tax districts were declared to be non-existent for all purposes except for the levy and collection of sufficient taxes to retire outstanding bonds and obligations of the district.

If your county has assumed all outstanding bonds of the several special tax districts and levies a county-wide tax to retire same, it is not necessary to keep separate accounts for the funds collected in the several tax districts.

If not so done and a tax for debt service requirements is being levied in the several districts, you are required to maintain a separate account for each district in order that each district will receive the proper credit for taxes levied and collected within that district.

Insofar as special charter districts are concerned, unless the bonded debt of same has been assumed by the county, the levy and collection of the debt service tax is made by the tax levying authorities in said district, and the problem of keeping the funds separate does not arise.

Taxes which may be levied within special tax districts are limited to those necessary for debt service and may not be used for any other service.

To J. W. Graham. Inquiry: In our county the special charter and special tax districts' school taxes are collected by the county tax collector along with the general county funds. Should he remit to the County Auditor or Treasurer or direct to the special districts?

(A.G.) It would seem to be the better practice to require the tax collector to remit to the County Auditor or Treasurer. In this way a proper record of all collections in the several districts will be kept in one department, from which may be disbursed to the several districts such funds as are properly due them under levies made in such districts. This procedure is not mandatory but is recognized as being the more practical solution of the matter.

#### B. Powers and duties of counties.

#### 17. Apportionment of funds.

To Clyde A. Erwin. (A.G.) Taking the whole School Machinery Act together, I am of the opinion that it is not correct to say that county-wide funds for capital outlay must be distributed to the different

## A LETTER TO THE COMMISSIONERS

(Reprinted from the Person County Times)

Dere Boys,

You fellows must no what you are doing for you are sho doing plenty of it. You have advetised our 32 taxes, then you advetised our 33 taxes and now say you are going to advetise our 34 taxes. Boy that was a plenty for the average fellow, but now you say you are going to cut our water off if we don't pay you what we owe you. We are wondering if you are going to pull up the curb and gutter if you can pay what we owe on that.

We no that all of this is good busines and the city has been neding something like it for a long time but plese dont give us an overdose for sometimes they kill.

The peple are due to get a tax reduction sometime and the only way they can get it is by something like you are doing, we admire your spouck and no that you are doing what you have to doe but it sho is taking a real man to stand the test.

Please Mr. Commish, remember we have just come thru the panic of 29, 30, 31, 32, 33, 34, and 35 ain't been so hot except for the wether.

By one of the common Pee-pul.



**Dumb Belles Lettres**

Mr. A. A. F. Seawell  
Attorney General  
Raleigh, N. C.

Dear Sir:

Mr. \_\_\_\_\_ of \_\_\_\_\_ has a Gold Class Ring belonging to me (1931).

I have been unsuccessful in securing return of this ring and do not have funds to prosecute. All I desire is return of my ring. Please instruct State's Attorney in \_\_\_\_\_ to call on Mr. \_\_\_\_\_ and secure this ring and mail to me.

Miss \_\_\_\_\_.

school districts on a per capita basis.

Any fund raised in the county for capital outlay, as for construction, repair, and equipment for buildings, is necessarily a county-wide fund. The School Machinery Acts of 1933 and 1935 have completely discharged every agency for raising funds for capital outlay of this kind except the counties. The latter derive that authority and take that burden by virtue of Article IX, Section 3, of the State Constitution, supplemented by such other statutory legislation as is pertinent to the subject.

It must be obvious that where the county has raised a fund to erect a school building in one district, it is not obligated either to distribute that amongst all districts of the county per capita, or to raise a like fund so as to make the expenditure conform to per capita distribution.

If a city administrative unit, a district, or a county administrative unit needs capital outlay, it is the duty of the county to take the particular needs of the locality into consideration and raise the funds for that purpose.

The county-wide funds raised from dog taxes, forfeitures, etc., are specifically allocated to the districts on a per capita basis for maintenance of plant and fixed charges.

**70. Segregation of races.**

To I. R. Williams. Inquiry: Does a local school committee have power, under the present laws, to deny a child having Negro blood in his veins admission to a white school, or is it necessary for the Board of Education to assume the responsibility in the first instance?

(A.G.) While the duties of local school committees were enormously cut down by recent school legislation, my opinion is that the local committee is still the proper authority. As a matter of fact, the law prohibits such a child from attending a white school, making it the duty of all who have anything to do with the administration of the schools to prevent such attendance.

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

**40. Transportation of pupils.**

To R. H. Bachman. (A.G.) This Office has ruled that operators of school busses are not chauffeurs within the meaning of the Uniform Drivers Law, and that the law does not apply to operators of such busses in the same way and manner as it does to commercial bus drivers.

**K. State loan funds.**

**5. Loans from Special Building Fund.**

To F. D. Duncan. Inquiry: May a county which has borrowed money from the Special Building Fund for the erection of

school buildings pay such notes before they mature and include interest only to the time of payment?

(A.G.) A careful reading of Chapter 199, Public Laws of 1927, leads to the conclusion that a county must pay the installments yearly and cannot anticipate payments. Note that the act explicitly says "one each year."

Certainly such an interpretation is in accord with the purpose of the Act, which was to provide low interest rates for the counties. The State gains nothing directly, and it would seem to be placing an undue burden upon it if it had to bear the interest on the bonds when the counties were paying no interest to it.

**V. Matters affecting county and city finance.**

**B. Defaults.**

**13. Payment of interest on past due coupons.**

To W. C. Harris. (A.G.) Interest on past due coupons of a town or county may be collected. This office, therefore, withdraws the opinion given you some time ago. New authorities have come to light to which that opinion seems to be contrary.

**VI. Miscellaneous matters affecting counties.**

**G. Support of the poor.**

**11. Payment of hospital expenses in State hospitals.**

To W. G. Clark. Inquiry: What is the law regarding payment by the county for the care of inebriates committed to the State Hospital? (A.G.) C. S. 2304 (d) requires the county to bear the cost if the estate of the inebriate is not sufficient. The duty of inquiring into the latter is

placed upon the Clerk of Superior Court.

**X. Grants and contributions by counties. 2. National Guards and armories.**

To J. D. Grimes. Inquiry: Is C. S. 1297 (41), authorizing appropriations by a county to various organizations of the National Guards, broad enough to cover an appropriation to purchase a site for an armory to be constructed with federal funds?

(A.G.) Inasmuch as C. S. 1297 (41) does not set out any express purpose for which such appropriations may be made, this Office is of the opinion that a county has the right to make such an appropriation.

**VII. Miscellaneous matters affecting cities.**

**H. Municipal Courts.**

To T. W. Brocker. Inquiry: Is a municipal court a court of record? (A.G.) All courts in North Carolina above that of Justices of the Peace are courts of record. J. What constitutes necessary expenses.

**25. Armory buildings.**

To Mr. Wilson. (A. G.) In my opinion the governing body of your municipality is prohibited by the terms of Section 19, Chapter 111, Private Laws of 1909, from making contributions from city funds toward procuring a site for a public armory, title to which shall be in the State.

An expense of this kind could not be construed to be "for the exclusive use and benefit of the town of Wake Forest and of the people residing therein," as required by this section.

It is understood that this ruling involves only a construction of one of the provisions of the charter of the town of Wake Forest.

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**X. Ordinances.****1. Validity.**

To R. M. Lilly. (A.G.) In my opinion a municipal ordinance requiring contractors, carpenters, and painters engaged in work near city sidewalks or streets to post a bond indemnifying the city against damage to sidewalks or streets or to persons traveling on the sidewalks or streets, would be invalid. See *State vs. Gullidge*, 208 N. C. 204.

On the other hand, in the exercise of the police power, a municipality may enact a valid ordinance regulating the manner in which a contractor, carpenter or painter shall carry on such work so as to reasonably safeguard persons and property from injury, as for instance, that repairs be carried on within proper enclosures.

**2. Procedure required for passage.**

To Allan D. Ivie, Jr. Inquiry: In order to have legal effect, must a town ordinance relating to public health be published? If so, what publication is sufficient?

(A.G.) C. S. 2795 gives to the governing body of cities power to make ordinances and rules for the preservation of the public health. C. S. 2823-8 outline the necessary procedure for the adoption of ordinances. We find nothing in any of these sections requiring an ordinance to be published before it is legal, as C. S. 2944 requires in the case of bond ordinances.

**VIII. Matters affecting chiefly particular local officials.****A. County Commissioners.****31. Appointive power.**

To Ralph Duncan. Inquiry: Do the County Commissioners have authority in the absence of a special act to employ extra help for the collection of delinquent taxes? (A.G.) The commissioners have general supervision and charge over the collection of taxes. If by the employment of a man to contact delinquent taxpayers and collect taxes they are of the opinion that they could save money for both the county and the taxpayers, we are of the opinion that the commissioners would have the right to employ such help. However, we think it advisable first to consult the attorney who brought your foreclosure suits relative to the fees due him.

**B. Clerks of the Superior Court.****8. Acknowledgment and probate of instruments.**

To T. A. Henderson. Inquiry: Please interpret Chapter 168, Public Laws of 1935 (grantee as subscribing witness), and advise if an instrument signed and witnessed during August but probated after September 1 would be legal? (A. G.) Chapter 168 provides that "nothing herein shall invalidate the registration of such instrument prior to the enactment of this law." Such a registration, therefore, would be in our opinion be invalid.

To G. B. Ingraham. Inquiry: What steps are necessary to correct chattel mortgages recorded since April 9—the date of ratification of Chapter 168, Public Laws of 1935—where the probate and acknowledgment was taken upon the oath of a witness who was the agent or employee of the grantee?

(A. G.) Such mortgages may be admitted to probate and registration upon the acknowledgment of the grantor before any Notary Public. The fact that such papers were registered before will not affect the situation.

To G. E. Lohr. Inquiry: Please advise us concerning the new law relating to the witnessing of papers? (A. G.) Chapter 168, Public Laws of 1935, does not prohibit Notaries from taking acknowledgments of papers executed in favor of their employees. It applies only to the subscribing witnesses to such instruments.

**10. Collection of process tax.**

To W. J. Beale. Inquiry: Does the \$2 State Process Tax apply to criminal cases in Recorder's Court? (A.G.) No, unless appealed to and disposed of in Superior Court.

To J. E. Swain. Inquiry: Should the process tax required under Section 157, Chapter 371, Public Laws of 1935, be collected on judgments by confession before the Clerk of Superior Court? (A. G.) This Office is of the opinion that this tax should not be levied and collected as part of the cost in such cases.

**C. Sheriffs.****10. Executions.**

To Howard E. Forbes. (A.G.) A bondsman on a forfeited bond has the same right to have his homestead set apart upon execution that any other citizen has. In fact, the bondsman is frequently required to "justify"—that is, swear he is worth the amount of the bond above his homestead and personal property exemption.

**L. Local law enforcement officers.****38. Automobile Drivers' License Act.**

To Arthur Fulk. Inquiry: Are drivers of state and municipally owned vehicles required to have operators' or chauffeurs' licenses? (A. G.) I think it was the manifest intention of Chapter 52, Public Laws of 1935, to require a license of every person who operates a motor vehicle, either as chauffeur or in any other way.

To Chas. D. Farmer. Inquiry: Are the operators of government trucks in C.C.C. camps required to have either chauffeurs' or operators' licenses? (A.G.) Drivers' but not chauffeurs' licenses. We take the position that this is not a tax on the federal government or any of its property, but a police regulation within the power of the State to enforce in the effort to promote safety and protection of life and property on the highways. We are of the opinion that such cost should be borne by the operator and not by the Federal Government.

**39. Motor vehicle laws—1935 act.**

To J. A. Little. Inquiry: Kindly give me complete information on the new motor vehicle laws applying to North Carolina and its local units? (A.G.) See Chapter 311, Public Laws of 1935, containing the State law applying to State highways and setting the speed for motor vehicles in cities and towns. This law may be modified by cities and towns not to exceed the maximum speed set out therein.

**T. Justices of the Peace.****7. Residence.**

To H. R. Stanley. (A.G.) If a Justice of the Peace maintained his residence in the township for which he was appointed, this Office is of the opinion that he would have the right to maintain an office and function as a J. P. in other townships of his county.

**11. Right to sentence to roads.**

To L. F. Klutz. Inquiry: Does a J. P. or Mayor have authority to assign defendants convicted in their courts to work upon the roads under the control of the

State Highway and Public Works Commission? (A. G.) Yes, if the sentence is as much as 30 days. Defendants with sentences of less than 30 days may not be assigned to work on the roads. See Section 3846 (25, Michie's Code, 1933 Supplement).

**30. Removal of cause.**

To Marshall Feaster. (A.G.) C. S. 1498 permits the removal of a cause from one J. P. to another only one time.

**35. Right to suspend sentence.**

To T. G. Shelton. (A.G.) From an examination of Chapter 158, Public Laws of 1935, we are of the opinion that you have no discretion as to the punishment for public drunkenness and would have no authority to suspend judgment upon payment of the costs.

**U. Notary Public.****51. Instruments in which witness is grantee.**

To G. O. Peel. (A. G.) Chapter 168, Public Laws of 1935, merely disqualifies an agent or employee of the grantee from serving as subscribing witness to a conveyance. It does not disqualify a Notary Public who is an employee of the grantee from taking an acknowledgment of the person signing the instrument.

**Y. Game Wardens.****30. Particular rulings affecting game laws.**

To R. Bruce Etheridge. (A.G.) I find no provision in the Game Laws, Chapter 486, Public Laws of 1935, which in any way repeals the provisions of Chapter 75, Section 3955, Public Laws 1919, which prohibits hunting and fishing on Sunday.

To R. Bruce Etheridge. Inquiry: Did Chapter 35, Public Laws of 1935, re-enacting C. S. 1878 and transferring the power to regulate, restrict or prohibit fishing to the Board of Conservation and Development, repeal public-local acts in conflict therewith? (A.G.) Yes, Chapter 35 specifically repeals all laws and clauses of laws in conflict with C. S. 1878.

**IX. Double Office Holding.****2. Notary Public.**

To Miss Ruby Wood. Inquiry: May a person hold the offices of city clerk and Notary Public at the same time? (A.G.) No, this is prohibited by the Constitutional provision against double office holding.

**19. Deputy Sheriff.**

To N. F. Turner. The position of town commissioner is an office within the meaning of the Constitutional prohibition. A deputy sheriff is not unless made so by some public local act.

**50. United States Commissioner.**

To G. W. Brite. The positions of United States Commissioner and Notary Public are both offices and may not be held by the same person at the same time.

**51. Postal employee.**

The positions of Postmaster, mail carrier, and school committeemen have each been held to be public offices in the meaning of the Constitution.

**X. Primaries.****C. Matters affecting candidates.****3. Notice of candidacy.**

To B. N. Thompson. (A.G.) A candidate for a county office is required by Section 6022, C. S., to file his notice of candidacy, together with his pledge to support the nominee of the primary in the next general election, on or before the fourth Saturday before the primary is to be held.

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7:12 P. M.	Lv. Durham	Ar. 8:10 A. M.
4:05 A. M.	Ar. Washington	Lv. 10:45 P. M.
5:18 A. M.	Ar. Baltimore	Lv. 9:34 P. M.
7:10 A. M.	Ar. Philadelphia	Lv. 7:25 P. M.
9:05 A. M.	Ar. New York	Lv. 5:35 P. M.

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Our progress, safety, and happiness as individuals depend to a very large extent upon our ability to see. Poor lighting acts as a partial blindfold, handicapping the process of seeing. Good lighting sharpens our vision and speeds sight.

In the home, school, store or factory good lighting is a paramount necessity if eyesight is to be conserved and human welfare is to be improved. Good lighting, now lower in cost than ever before in history, is far less expensive than the toll exacted by poor lighting and strained eyes, wasted nervous energy, and poor health.

The record of eye defects shows that impaired vision becomes more prevalent as the eyes are called upon to do closer work over a longer period of time. Only five per cent of the beginners in school have defective vision, yet 20 per cent of high school graduates are thus afflicted. Among college students—young people who are applying their eyes to longer and more severe visual application—40 per cent are handicapped with subnormal eyes.

Young and old eyes alike can be preserved and aided by better lighting as provided by the I.E.S. reading and study lamp. Designed by the Illuminating Engineering Society and tested by the Electrical Testing Laboratories, this lamp assures adequate illumination for safe and easy seeing.

**BETTER LIGHT---BETTER SIGHT**

## Duke Power Company

CHARLOTTE, N. C.

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# More Costly and Destructive than War —And Just As Unnecessary

Every time the reckless driver takes the wheel and trods on the gas, grim death gets in beside him and rides—hungry, waiting. Neither the World War nor modern crime have taken such a toll of life and property nor left in their wake such a picture of injury, suffering, and loss.

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In no state is the problem more acute than in our own. Tar Heel highways literally run red. for North Carolina leads all the states in number of highway fatalities per thousand gallons of gas.

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The Federal Government has joined hands with local authorities to stamp out crime. Congress has taken steps to insure that the United States will not become embroiled in another war. NOW IS THE TIME TO WIPE OUT THE THIRD GRIM SPECTRE.

The campaign has already begun in North Carolina with law enforcing officers, interested citizens, and the schools throughout the State uniting their forces in The Institute of Government.

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Write for your copy of The Institute's new Guidebook on Highway Safety, containing re-print of Funnas' stirring article. "—And Sudden Death." along with an analysis of the causes of accidents and means for their prevention. It will be sent you free if you enclose a 2c stamp to cover postage.

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This study forms the first salvo in the major offensive that is planned. It will form the basis for and will be followed by programs of safety education and safety campaigns in local schools throughout North Carolina. .

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Join The Institute of Government and help further this great drive to stamp out the Grim Spectre of Peace Time—HIGHWAY DEATH

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Membership and Subscription any Amount of Your Choosing from \$1 a Year Up  
Memberships thus far Have Ranged from \$1 to \$25



# The Institute of Government

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