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# POPULAR GOVERNMENT



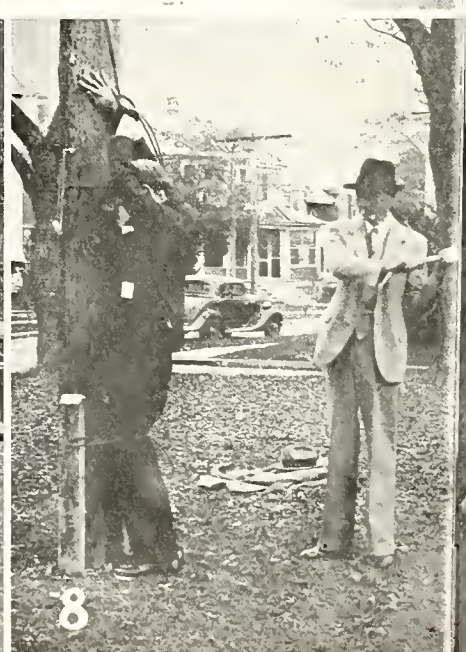


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**ADDITIONAL DISTRICT CONFERENCES**

*Approximately one thousand school officials, one thousand law enforcement officers, and two hundred fifty tax officials attended the series of district conferences sponsored by the Institute of Government which came to a successful conclusion last month. The first two series have been followed by the distribution of 250,000 copies of the Institute's 32-page study, "Guides to Highway Safety," and the launching of a systematic and continuous state-wide highway safety drive; the third by the preparation and distribution of a 100-page guide-book on "Tax Collection and Foreclosure."*

*Here are pictures of some more groups. 1. School Officials—Wilson. 2. Law Enforcing Officers—Asheville. 3. Law Enforcing Officers—Winston-Salem. 4. Tax Officials—Kinston. 5. School Officials—High Point. 6, 7, 8. Exhibit of ancient modes of punishment at Edenton meeting (Law Enforcing): The ducking stool, pillory, and whipping post.*





# POPULAR GOVERNMENT

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**D**IRECT Federal relief came to an end in North Carolina the first week in December, but not before the Works Progress Administration program had been put in full swing. As this issue went to press a total of six and a half million dollars in funds had been set up for this State, providing jobs for 48,665 men and women on 1,073 useful projects. This is 6,000 greater than the 42,000 jobs set as the quota by the State administration.

The accompanying tables, which comprise the first comprehensive "break-down" of the whole program, serve to give an idea of the wide distribution of employment and projects, which are scattered throughout the State and which provide work for almost every possible type of labor.

Officials of the State administration estimate that the funds already allotted, which were made on the basis of county relief loads for May, will provide for the greater portion of "employables" in North Carolina through March. However, with the passing of the Emergency Relief Administration, the responsibility for taking care of the State's "unemployables" reverts to and becomes a major problem of local governments and private charities.

The number of jobs provided by the first week in December was 73.55 per cent of the number certified as eligible for employment on the May relief load basis of 66,149.

## ALLOCATIONS BY DISTRICTS

District	Total Projects
1. Elizabeth City	\$ 475,290.20
2. New Bern	497,418.04
3. Raleigh	969,290.27
4. Fayetteville	742,130.08
5. Greensboro	812,955.97
6. Winston-Salem	1,105,117.62
7. Charlotte	970,564.00
8. Asheville	930,262.40

## WPA Program in Full Swing

However, the last estimates of the N.C.E.R.A. placed the number of relief families in the State at around 87,000, leaving approximately 35,000 "employables" for local units and organizations to care for as well as their "unemployables."

The ultimate hope, of course, is that private industry will absorb the surplus "employables," leaving the provision for its "unemployables" as the sole care of each local unit.

The 1,073 projects on which work is going forward were selected from an eligible list of applications, previously approved in Washington, many times this size and involving in the neighborhood of fifty million dollars. Each of the eight W.P.A. districts and each of the 100 counties was allotted a quota on the basis of its May relief load, and projects selected with a view to fitting the job to the labor available in each community.

Many of the major items for which allocations have been made, it will be noted from the accompanying "break-down," are those requiring a large amount of unskilled labor. The scarcity and uncertainty of skilled labor on relief is said to have curtailed the number and size of public buildings and projects of the type in which a large and constant supply of skilled workmen is essential.

W.P.A. officials in certain sections have even said that jobs created for unskilled labor are yet to be filled, with the result that some of the 1,073 projects are not fully manned and estimates place the number of

men and women actually at work at 40,000 as against the 48,000 jobs provided. This is taken as a healthy sign by many, who have always figured that a certain percentage of the people on relief would not have work if provided.

While the six and a half million dollars already allotted to North Carolina is expected to provide for the State's needs until March and there is little prospect for a new call for applications before that time, officials of the State organization imply that a few projects may be added, substituted or shifted to meet local needs. The officials in any community which finds itself with a quantity of relief labor and no work would do well to put their case before the local W.P.A. officials immediately.

For the works program which now supplants the dole is intended not only to provide useful employment for the maximum number but also to fit its projects to the labor available instead of fitting the labor to the job.

## PROJECTS APPROVED

Sewer Projects	\$ 628,022.03
Public Building	736,258.20
Drainage	393,043.00
Water Sup. Projs.	188,166.87
Clerical Projects	82,581.84
Comm. Sanitation	100,802.00
Recr. and Direction	116,597.75
Ath. Field Imp. & Con.	359,426.85
Beautification	326,751.31
Nutrition	36,955.70
Packing Commodities	57,000.00
Home Making & Nurs.	19,733.85
Road Projects	989,411.22
Street Improvement	545,970.13
Sewing Rooms	1,222,984.20
Oyster Planting	123,992.00
Geod. Cont. of Surveys	60,449.00
Airports	368,459.48
Miscellaneous	146,028.15
	\$6,503,028.58

## Notes from the Cities and Counties

North Carolina tax collectors are making life hard on the delinquent and the non-lister these days. One of the most novel efforts psychologically is that being tried in Harnett. With the pre-Christmas slogan, "Pay now while you have the money," Collector Bill Harrington is making a personal round of every township. W. Borden Cobb in Wayne has announced that all non-listers will be cited to the Grand Jury for indictment.

Other counties are concentrating on the problem of putting hidden property on the books. Thus, Buncombe is considering the advisability of an aerial photographic tax map of the county, while J. Arthur Henderson in Mecklenburg is making an intensive search for unlisted poll, auto, and personal property taxes.

\* \* \*

Charlotte's new enclosed unit is said to be the first "fire sedan" in the United States. The Queen City Department recently conducted a one week's school for its officers. Charlotte is now planning to conduct two schools for its police officers, one for traffic and one for general enforcement officers, and to print its new traffic code in pamphlet form for all drivers.

\* \* \*

Some records to shoot at: Edgecombe County has collected 98.9 per cent of its 1934 and 98.4 per cent of its 1933 tax levies. Judge Bailey Liipfert disposed of a total of 1,231 cases in the Municipal Court in Winston-Salem during one month. For its first seven months of operation the Burke County Criminal Court netted a profit to the School Fund, after all expenses had been paid, of \$3,030.50.

\* \* \*

Superintendents and principals of schools in need of additional funds would do well to show the following note to their local officials. A drive to force the collection of forfeited appearance bonds has resulted in the collection of thousands of dollars for the school funds in Gastonia and Gaston County.

Surry officials have rearranged and consolidated the insurance policies on the county's school property at a net saving of \$400. Although the number of policies was reduced from 87 to 12, the provisions of which are uniform, it was still found possible to distribute the business among 12 insurance agents of the county.

\* \* \*

Lillington's new municipal building, housing the police and fire departments as well as the town offices, has been completed and occupied. Hickory has a new filter plant and Davidson a new sewage treatment plant (sludge process), while Spruce Pine has completed important improvements to its water works. Tarboro, Siler City, and Pittsboro are other towns which are to have new water plants, the contracts already having been let.

\* \* \*

Edenton makes its water plant, once a white elephant, pay for various public improvements as well as contribute a goodly profit to the city fund each year in reduction of taxes. Among the improvements that have been financed out of water revenues since 1921, are a municipal building (\$18,000), a one-mile white way (\$20,000), a new water storage tank (\$18,000), and additional wells (\$27,000).

\* \* \*

Several cities have cracked down on the operation of illegal slot machines. A total of 35 operators were hauled into court in Bladen and taxed with the costs and suspended sentences of 90 days. Charlotte officers confiscated 11 machines one day and issued 20 warrants a few days later. One operator secured an injunction to protect his machines, but the officers moved against the others undaunted. Acting under a city ordinance, which bans all machines, and not under the State law, Gastonia gave operators 24-hours of grace and announced there would be no tax refunds.

\* \* \*

Salisbury firemen are operating a shop for the repair and re-painting

of broken and discarded toys to be distributed to the city's poor at Christmas. Such an enterprise not only has the advantage of endearing the department to the community; it also offers a solution to the oft-heard question, what does a fireman do with his spare time?

\* \* \*

Winston-Salem has reversed the seasons and is staging a general sanitation and "fall cleaning" project. Separate crews have been detailed to remove leaves and debris, clean sidewalks and streets, and clean up the creek banks and other such areas inside the city limits. Not even the city trash dumps have been overlooked. From the business section the work has spread to the residential districts with the city urging property owners to join in the clean-up and pile their leaves and debris on the sidewalk for collection by the city trucks. The project, which is being financed by the city and the W.P.A., will require five months and will employ about 114 men.

\* \* \*

Reminiscent of the old New England "town meeting" was the mass meeting held in High Point recently on the question of the city's participation in the proposed program to lower the Southern Railroad tracks through the city. The gathering, which permitted officials to determine public sentiment on an important question in the quickest way, resulted in an enthusiastic endorsement.

\* \* \*

Police and Court briefs: Hickory has broken up the nuisance of unnecessary automobile horn blowing by citing several offenders to court. Recorder Walter Oakey in Perquimans has devised an installment sentence for a drunken husband who protested that a jail term would cost his job; the defendant will be allowed to continue his work but his wife is to turn him over to the Sheriff each week-end. The police carry weight in Kannapolis, the average being over 200 pounds. Regular attendance at school, church, and Sunday school are some of the requirements laid down to juvenile offenders by Juvenile Judge William E. Church in Winston-Salem.



# Tax Foreclosure Soup

Maybe Legislative Chef in 1937 Will Be Able to Brew More Palatable Concoction---Last Assembly Declined Job with Thanks

By HENRY BRANDIS, Jr.

TAKE some tens of thousands of tax foreclosure actions pending in North Carolina, many of them four or five years old, and add the fact that, in some instances, as many as ten actions have been brought against the same parcel of property. To this mass throw in the fact that part of the law under which most of these actions were brought has been declared unconstitutional, thus rendering of doubtful validity many of the titles which can be secured in these actions, along with many titles taken in prior actions. Add the fact that the legislature, the State Supreme Court, and many local governing boards each, directly or indirectly, have favored delinquent taxpayers with additional time in which to pay, and the legislature has favored them, at times, with substantial monetary concessions. Add a welter of local laws of somewhat doubtful validity, plus a double handful of legal perplexities of a technical nature. Season with the proper amount of honest grumbling by impecunious land owners and professional grumbling by tax dodgers. Allow the whole concoction to simmer for several years over the fire of local politics. The result is the incomparable, unpalatable, indigestible soup which is the tax foreclosure situation in North Carolina today.

In 1927 we started out with a spanking new foreclosure law. It was based on two principles. First, that the man who delayed paying his real estate taxes beyond the fiscal year in which they were levied should pay dearly for his neglect. Second, that if it became necessary to foreclose the property, the foreclosure action should be a very simple type of action, with only the listing taxpayer and spouse being served with summons and with all other interested persons being given

newspaper notice. This last was regarded as no hardship on those not served with summons, as everyone interested in property was logically presumed to know that taxes were levied on such property and had to be paid.

A neat time table was established for the operation of the whole process of tax levying, collecting and foreclosure, and, thus nicely equipped and made ready for use by its legislative creators, the new system was delivered into the hesitant hands of local authorities.

It is no news that since 1927 we have fallen upon times which are hard, considered by any standard. Under the impact of these hard times the tax foreclosure law fared no better than many of its enemies. Local authorities, often with more justice than legality and sometimes with neither, began to fudge on the time table or disregard it altogether. Biennially the legislature has undertaken to approve these delays; and also, of its own initiative, has lengthened the time table.

However, delay, standing alone, is not responsible for the worst features of our present situation. There is much to be said for the contention that, considering the times, it was justified in most instances.

The legislature also turned its attention to the question of penalties on delinquent taxes and tax foreclosure costs. Originally the penalties ranged as high as 20 per



cent per annum; and the luckless taxpayer who waited until after a foreclosure action was started might have to pay, in addition to the taxes and these high penalties, as much as \$50 or more as court costs. This naturally came to be regarded as something of a scandal in many places, and the legislature wisely undertook to use the paring knife.

It reduced the interest rate on delinquent taxes. It also limited the attorney's fee, to be taxed as part of the costs in the foreclosure action, to \$10 per suit. It provided that local officials, such as the sheriff and clerk, should be entitled to only one-half of the fees paid for their services in other civil actions. However, prior to 1933, the legislature did not limit the other costs in foreclosure actions. Further, the action was still comparatively simple in character; and, upon payment after foreclosure was started, the plaintiff county or city could still collect the actual cost of bringing the action.

In 1933, in addition to making a further reduction on penalties, offering actual discounts for payment of certain old taxes and wiping others off the tax books, the legislature put a limit of \$6 on the amount of costs which might be taxed in a foreclosure action brought under the 1927 law. Of this amount not more than \$2.50 may be for an attorney's fee and not more than \$3 for newspaper advertising.

There was and still is considerable confusion as to just what effect these limitations had in actions already pending, but that need not concern us here. There was also considerable confusion from the purely legal standpoint as to whether these figures limited the amount the county or city could pay as well as the amount that could be charged against the taxpayer. However, from the practical standpoint it was obvious that even the comparatively simple type of action contemplated by the 1927 law could not be properly prosecuted for an average of \$6 per suit. Thus, for the first time, we found ourselves in the position of foreclosing property for taxes at a deficit. Directly

(Continued on page twenty)

	TOWNS Population under 2500	CITIES & TOWNS Population 2,500 to 10,000	CITIES Population 10,000 to 30,000	CITIES Population above 30,000
Number of Units	19	16	9	6
Average Population	1,650	5,230	12,651	56,280
Average Per Capita Tax Levy 1934-5	\$11.05	\$11.75	8 8.58	\$17.98
Average Per Capita Tax Levy 1933-4	10.91	12.39	9.14	18.28
Average Per Capita Tax Levy 1932-3	12.30	13.98	10.92	19.20
Average Percentage 1934-5 Levy Collected 6-30-35	64.7%	72.1%	77.2%	81.3%
Average Percentage 1933-4 Levy Collected 6-30-34	61.2%	66.6%	73.1%	78.6%
Average Percentage 1933-4 Levy Collected 6-30-35	82.2%	85.8%	86.9%	93 %
Average Percentage 1932-3 Levy Collected 6-30-34	80.9%	84.1%	82.4%	88.1%
Ratio of Uncollected and Delinquent Taxes 6-30-35 to 1934-5 Levy	92.6%	85.8%	67.4%	48.4%
Ratio of Uncollected and Delinquent Taxes 6-30-34 to 1933-4 Levy	106.2%	87.6%	67.7%	49.5%
The Ratio of Current and Delinquent Taxes Collected During the Fiscal Year 1934-5 to the 1934-5 Tax Levy	112. %	105.8%	104.7%	102.4%
				<b>Counties</b>
Number of Counties				50
Average Population				34,045
Average Per Capita Tax Levy 1934-5				\$6.58
Average Per Capita Tax Levy 1933-4				6.51
Average Per Capita Tax Levy 1932-3				8.12
Average Percentage 1934-5 Levy Collected 6-30-35				71.8%
Average Percentage 1933-4 Levy Collected 6-30-34				66.8%
Average Percentage 1933-4 Levy Collected 6-30-35				83.9%
Average Percentage 1932-3 Levy Collected 6-30-34				82.5%
Ratio of Uncollected and Delinquent Taxes 6-30-35 to 1934-5 Tax Levy				89.8%
Ratio of Uncollected and Delinquent Taxes 6-30-34 to 1933-4 Tax Levy				101 %
The Ratio of Current and Delinquent Taxes Collected During the Fiscal Year 1934-5 to the 1934-5 Tax Levy				111 %

## Engineering Advance

### Highway Lighting

Sodium vapor lamps designed to eliminate fog hazards have been installed on highways outside Boston, Los Angeles, and Tacoma. The bright orange light is said to penetrate the fog sufficiently to afford good visibility to motorists.

\* \* \*

### "Cotton Roads"

South Carolina and Mississippi have been experimenting with cotton cloth as a binder in the construction of tar or bituminous surfaced roads. The cotton when placed between two layers of hot tar, is said to form a waterproof layer, preventing disintegration of the earth base and making the surface last longer. The North Carolina Highway Commission has announced plans to try some of the new "cotton roads" in the spring.

\* \* \*

### Bumpers All Around

A new safety chassis for automobiles, featuring a bumper built into the frame and extending completely around the car, has been designed and patented by Daniel E. Semon, chief of the St. Pauls Fire Department, and Alvin L. Marvel of Raeford, Del.

\* \* \*

### Electrical Lubrication

Lubrication engineers are working to perfect a new high film strength oil which, if the success of early tests is any indication, may cut to a fraction the wear and tear on the average automobile. Meanwhile, another group of scientists is experimenting in the use of an electrical film, produced by adding to ordinary oil small amounts of substances called "polar" compounds.

\* \* \*

### "Iron Wood"

A Wisconsin woodworker has developed a chemical process which is claimed to make wood as strong as iron. The wood is shrunk in chemical solutions, eliminating the lignin or pores. Tests of wood so treated are said to reveal it capable of withstanding pressures up to 25,000 pounds, while ordinary wood smashed at 750 to 1,000 pounds.

## Interest Rates Reach New Low as Tax Collections Mount

North Carolina cities and counties continued to find a highly favorable market for their bonds and notes last month with several units reporting sales at interest rates that set a new low record for all time. Conspicuous among the "new record" sales were the following:

Mecklenburg County — \$29,000 revenue anticipation, 1¼%, \$75.00 premium.

Union County—\$25,000 revenue anticipation, 1½%.

Forsyth County—\$120,000 county home, 3%, premium \$201.40.

Cleveland County — \$139,000 school building, average rate 3.2%, premium \$101.00.

Davidson County — \$220,000 school building, average 3¾%, premium \$161.70.

Greensboro—\$372,000 refunding, 3%, premium \$3,720.

The improvement in financial condition of North Carolina's local

units was also manifest in increased tax collections, as revealed by a survey of a representative group of 50 municipalities and 50 counties conducted by Kirchofer and Arnold, Raleigh bond house.

One of the most significant findings was that the ratio of current and delinquent taxes collected during the fiscal year 1934-35 to the 1934-35 tax levy was 111% for the 50 counties and ranged from 112% for the smaller municipalities to 102.4% for the larger cities.

It was also revealed that the smaller municipalities, where delinquency has been the greatest, have shown the most improvement in the collection of delinquent taxes, indicating that these units, more readily affected by adverse business conditions, are rapidly emerging to a sound fiscal basis. The detailed results of the survey will be found in the accompanying table.



# The Story Behind Cleveland's Low Tax Rate

WHILE Cleveland County is generally credited with having the "lowest tax rate of any county in North Carolina," I cannot say that she is justly entitled to this distinction without knowing whether the other counties have "special tax districts."

Cleveland's county-wide rate is 36c. In addition there are thirteen special district road taxes averaging 20c and fifteen special district school taxes averaging 17c. However, a 73c average county-wide rate is something to be proud of. I want to point out a few things which I consider responsible for this situation.

Cleveland county has never been rampant on bond issues. The citizens are of a conservative mind and have demanded conservatism in their officials. We declined to issue bonds for the main line of the Southern railroad, but later saw our mistake and subsidized, in a limited way, branch lines of the Southern and the Seaboard. All of these bonds have matured. Failing to approve a county-wide bond issue for sand-clay roads, we had to proceed on a township basis, which accounts for so many special districts. School houses have been modest yet adequate. Streams were spanned with steel structures on a pay-as-you-go plan, until the flood of 1916 washed them away and forced the largest single bond issue the county ever made. All court house bonds have been paid and a new jail was erected out of general fund surplus.

While our officials have been conservative, they were influenced as strongly in this direction by County Attorney R. L. Ryburn as by the tax payers themselves. Mr. Ryburn, dean of the Shelby bar, served as attorney for thirty years. His services were retained by succeeding boards of commissioners because his judgment was sound and his advice was relied upon as the safest course to pursue.

In the second place, the taxpayers, being of a sturdy, pioneer stock, have always had a due regard for their personal obligations. Between 90 and 95 per cent of all levied

By LEE B. WEATHERS

taxes are collected, usually without pressure. From 85 to 90 per cent are collected during the current years, hence the carryover is comparatively small.

Extravagant salaries have never been paid to county officers. The largest office appropriation is for the sheriff and tax collector. He receives \$3,500 annually out of which he must pay his deputy. The tax supervisor is also auditor, purchasing agent and collector of delinquent real estate taxes. While the clerk of court and register of deeds are on salaries, the fees from these offices more than offset salaries paid. The county treasurer collects interest on time deposits, which more than equal the salary for this office.

It would seem that the county commissioners, Lester Herndon, chairman, Joe E. Blanton and J. D. Morris are niggardly in rendering services for which the taxpayers



*The Institute of Government takes especial pride in Judge Devin's elevation from the Superior to the Supreme court bench, succeeding the late Justice W. J. Brogden. The Oxford jurist is Chairman of its Organization Committee and it was he who in the fall of 1932, at the depth of the depression, issued a call for the meeting out of which The Institute was born.*

pay, but they are not. The poor fund, which includes the county home and farm, outside poor and emergency relief, public health, welfare office, hospital and mothers' aid, is budgeted at \$22,280.

At the present time the county has in the bank, credited to its various funds, \$127,671.93. Total county indebtedness for all purposes is only \$253,900, which is less than one per cent of the total assessed valuation of real estate. The debt service tax rate is 15 cents. Bonds paid before maturity within the last few years amount to \$41,425.79.

At present the county has no floating debt or tax anticipation notes and has had none since 1931.

Such an excellent financial condition has proved beneficial to the county in selling \$139,000 worth of bonds in November with which to meet PWA grants for a school enlargement program. Instead of running the bonds for 30 years as was suggested by the Federal government, the bonds were sold on a 15 year basis, thus saving \$40,000 interest. They were bid in to bear a rate of 3 and 3/4 per cent, the lowest at which any Cleveland county bonds have ever been sold, and the second lowest of any county in the state, according to Charles M. Johnson, State Treasurer.

The commissioners consider themselves public servants and their jobs a public trust. They are very frank and open about all public matters and each year the County Auditor, Troy McKinney, prepares a comprehensive bulletin on fiscal affairs, which is mailed out to every tax payer with his tax notice. This bulletin shows what salaries are paid, expenditures from the various funds, assessed valuation and tax rate in every special district as well as the break-down in the county rate, cash and sinking fund balances in the various funds, bond issues outstanding, taxes collected and unpaid in every special district, etc. This open policy has served to convince the tax payers that the county is one big corporation in which all are stockholders and dividend participants.



# HERE AND THERE

—With Progressive Officials

New York City reports a 22.5 per cent reduction in motor accidents during October as compared with the same month last year. One of the most amazing things about Mayor La Guardia's report is that the big drop in accidents, injuries, and deaths is attributed as much to the city's anti-noise crusade as to its general safety campaign.

Cardboard discs similar to milk bottle caps are used for the collection of the sales tax in Missouri. The tokens are in one and five-mill denominations. Missouri adopted the sales tax last spring to provide funds for unemployment relief, old age pensions, and for assuming a part of the insane poor burden.

The city manager form of government was adopted in thirteen cities between January 1 and October 15, according to the City Managers' News Letter, with three other units scheduled to vote on the proposition before the first of the year. Nearly one in every five cities of over ten thousand population in the United States, it is said, is now a "manager city."

California has brought all state employees within the scope of its civil service system and incorporated the merit principle in a constitutional amendment.

San Angelo, Texas, operates its own bus system at a neat profit. The utility has been self-liquidating, and the city after two and a half years of operation has six busses which are debt-free and which earn an average profit of \$6,400 annually. This despite the fact that the city has reduced the fare to five cents and sells six tokens to school children for five cents.

The first state system of farm markets will be opened in Georgia on January 1. The markets, which were authorized by an act of the last legislature but which are being financed in most instances by the cities and counties, are being erected

in eight key cities to provide an outlet for farm produce. The system, which will be under the control of the commissioner of agriculture, is intended to provide a non-profit organization for mutual benefit of farmer and buyer.

Ten states have adopted low flat rates for automobile licenses, preferring to let the burden of taxation for roads fall on gasoline consumption rather than on automobile registrations.



**D. W. NEWSOM**  
The morning paper in Mr. Newsom's city has coined the phrase, "multi-dutied," to describe the popular and efficient Durham County Manager, who also holds down the posts of purchasing agent, tax supervisor, and delinquent tax collector.

Stephenville, Texas, carries on its street paving work by paying-as-it-paves. Persons who are delinquent in water accounts are allowed to work out their bills with the equipment and materials financed from cash on hand.

Sacramento, Cal., recently completed a reorganization of its fire department, eliminating five of the 14 stations, reducing the number of firemen from 192 to 170, and effecting an annual saving of \$75,000 without an increase in insurance rates. The new system, which involved the re-location of several stations to provide better protection for all sections, was designed in accordance with the standards of the National Board of Underwriters. The reduction in personnel was accomplished by not replacing employees who died, resigned or retired over a three-year period.

Numerous cities and towns throughout the country are utilizing W. P. A. funds to effect valuable improvements in tax assessment methods. The projects range all the way from special investigations, as of

special assessments or real property exemptions, to the making of comprehensive tax surveys and maps. Some entail the installation of completely new assessment systems. Among the proposed projects are assessment and land surveys for the entire states of Arkansas and Michigan.

Kansas is experimenting with a legislative council or officially authorized body of state legislators, authorized by the legislature of 1933 and charged with the responsibility of planning legislation between sessions.

The Association of Omaha Taxpayers estimates that the new law fixing the same date for state, county, and city primaries will save \$12,000 annually.

Long Beach, Cal., has consolidated its public service and engineering departments, established a central garage, and reorganized other departments with a saving of \$103,768 for the first year of operation.

A drive for unlisted personal property taxes is reported to be paying big dividends in Omaha, Neb. A new law requiring the deduction of unpaid taxes from the pay of public employees and from bills for supplies and materials and another requiring the payment of property taxes on autos before issuance of license plates are said to have materially aided the tax collectors in their efforts.

New York City and Chicago head the growing list of large cities which are instituting a course in automobile driving in their high schools. One state, New Hampshire, after a year's trial on an optional basis, has now made such a course compulsory.

Huntington, Ind., has devised a unique system for handling minor traffic offenders. The driver's car is branded with a "scarlet letter" or sticker bearing notice of the offense. The sticker must be left on the car for 30 days under penalty of paying the full fine for the offense. A violation by a motorist "wearing" a tag results in a trip to a police cell to await a court hearing.



# Reporting Auto Accidents

Two cars collided at a street intersection in a North Carolina city. A motorcycle officer heard the crash and was on the scene within a minute. After directing the cars to be moved so that traffic might get by, he went into the nearest house and telephoned the station to send a patrol car with the identification expert. Within ten minutes after the crash, which was one involving considerable damage to the cars and severe injury to two of the passengers, the patrol car had arrived. The two patrolmen directed traffic while the expert and the motorcycle officer collected information concerning the accident. This they did through use of the camera and a measuring tape, brought along by the expert. Within twenty minutes after the wreck the officers had made accurate pictures and measurements of the scene and the wreckers were towing the automobiles to the garage.

There are three chief systems employed by North Carolina law enforcement officers in reporting automobile accidents and preparing information for presentation in trial of civil or criminal cases arising from such accidents: (1) The estimate system; (2) The step-off system, and (3) The photography and measuring tape system.

Under each of the three systems the investigating officer fills out a

*Actual photographs of accident leave no room for error and hazy memory at trial months later.*



## By MALCOM SEAWELL

report on the names of the drivers and witnesses, the license numbers, the place and time of the accident, and the condition of the street and the cars. The difference occurs in the case of the width of the street and intersection, the visibility at the approach, the length of the tire marks, and the actual damage to the cars. Where these things are estimated or stepped-off under the first two systems, they are accurately recorded under the third with measuring tape and camera.

The latter system is also carried one step further, the taking of accurate measurements permitting a scale drawing to be made and used as a diagram by the court if the case comes to trial. The pictures which are attached thereto not only portray the scene but also show which parts of the automobiles collided. Photographs of the license plates also serve to identify the automobiles.

A logical question is, "Just what good is it?" The answer lies in the fact that a serious accident may have happened months before the trial and the investigating officer may have forgotten the circumstances and facts. Some of these, it is true, may be had from the accident report, but the difficulty is that the memory cannot always be refreshed by cold facts and figures. Diagrams and pictures immediately and forcefully recall the smaller details which, through the use of the report alone, would escape the officer when he took the stand.

Of course, the photography and measuring-tape system is not necessary in minor accidents. But where there has been an injury to person or an injury of consequence to property, it has been followed with good

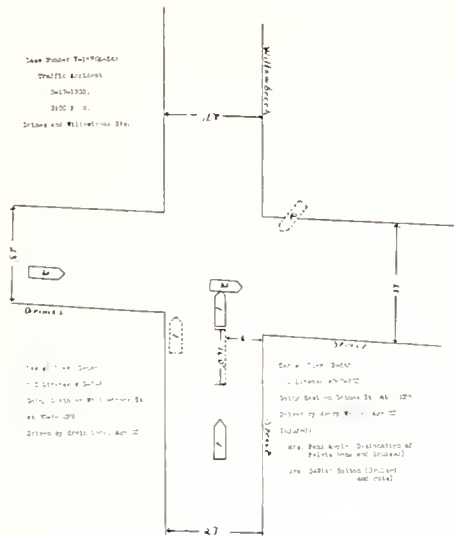
success by some North Carolina departments.

The cost of adopting such a system is negligible in departments which have identification bureaus. The department's expert can make and develop the pictures and, for a few cents, can buy adequate instruments for making scale drawings. To departments without identification bureaus, the chief cost is that of providing a camera and developing the film. In either case, the cost is of minor importance when compared to the cost it is to a department—in terms of respect for the department and its officers—when an officer takes the stand and is unable to recall the facts and conditions which would place the blame or innocence upon the proper party.

## Helpful Books

*The Public Speaker's Scrapbook*, by William G. Hoffman. A modern, practical manual for the beginner and the "old hand," being a source of both ideas and substance. The author's selection of epigrams, stories, and provocative paragraphs is particularly good. Also covers the adaptation and proper use of material and methods for improving voice. The author is a widely known teacher of public speaking, and his work reflects the results of years of experience, observation, and collection of material. (McGraw Hill Book Company, New York, 269 pages, \$2.50).

*The Finger Print Instructor*, by Frederick Kuhne. One of the standard texts on this subject for years, Mr. Kuhne's manual has now been revised, re-worked, and brought up to date in a second edition. (Munn and Co., New York, 184 p.).



*Exact measurements and photos permit drawing of diagram to scale. (Form, courtesy of High Point Police Department.)*



**P**ROFITABLE operation of A.B.C. stores in 16 Eastern North Carolina counties has induced the financial issue into the already hectic battle over local liquor control and raised the new question: Does the A.B.C. store offer the solution to the counties' struggle against diminishing sources of taxation, constitutional limitations, and decreased valuations? And will the counties with A.B.C. stores, now that they have tasted of the profits, give them up without an epochal fight?

Let us examine the figures—entirely apart from the disputed questions of constitutionality or unconstitutionality and of right or wrong, if that be possible—for the first few months of operation. The gross sales, net profits, and other data are set out in the accompanying table for 14 counties. It will be seen that the gross sales per store month range from \$2,322.72 in temperate Martin to \$18,154.32 in dry-neighbored Vance and the net profits per store month from \$242.89 in Greene, which is almost surrounded by wet counties, to \$3,758.45 in strategically-located Vance.

Multiply these figures by 12 months and 56 stores, and the probable gross sales mount to almost three and a half million dollars and the probable net profits to approximately 675 thousand dollars annually.

These figures are for not quite one-seventh of North Carolina's counties. If the average held good, the gross sales for the 100 counties would be approximately 25 million and the net profits around five million dollars.

These figures, of course, would have to be discounted by "x," the unknown quantity representing the amount of sales which the A.B.C. stores now make to citizens of so-called dry counties and which would be lost with the opening of stores in all. Forty per cent seems a generous if arbitrary figure to use for such discount. The resultant estimate: 15 millions in sales and three millions in profits, or between 10 and 15% of the total cost of county government in North Carolina each year.

(Of course, sales may have been above average for the first few months due to seasonal business and post-repeal excess; at the same

## Eastern Counties Learn Their A.B.C.'s

By M. R. ALEXANDER

time, profits were undoubtedly lower on account of the extra expense in connection with opening a new business, frequently without capital.)

Grant that the constitutionality of local control has been seriously questioned and that the Supreme Court has power to declare the whole system illegal if the dries in one of the wet counties can overcome the obstacles—and there are many—in the way of putting a test case properly before the court. Grant that the Legislature, in regular or special session, has power to repeal local control and order a referendum to determine a State-wide policy on liquor, which if it turned out to be wet might either leave the control and profits to the counties or resume them to the State.

The 16 counties which are enjoying North Carolina's alphabetical pie are certain to present an organized front for liquor and for county control in any election and in the Gen-



JOHN SPRUNT HILL

*When the Durham dry introduced his State-wide liquor control bill in the Senate, he estimated the annual sales for the State at 15 million dollars. Subsequent operation of the A.B.C. stores in 14 Eastern counties have proven again his business acumen.*

eral Assembly. And it is unlikely that the representatives of the 84 so-called dry counties which are looking hungrily on will not pay heed to the evidence and dollar and cents argument of the gentlemen from the wet sections when the question comes up before the next legislature, as it is sure to do, for settlement.

Far-sighted citizens, wet and dry, are generally agreed that it would be unfortunate to make money the controlling factor in the determination of North Carolina's ultimate stand on the all-important social problem of liquor. However, in the welter of conflicting figures, statistics, and testimony, as to the increase or decrease in drinking, public drunkenness, crime, bootlegging and law enforcement, often tempered by the strong bias of the witness, and rendered even more confusing by the present hodge-podge system of local control, one thing and one thing only seems certain. The A.B.C. stores have proven a success beyond expectations financially, and the counties maintaining them are reaping what must seem to local units which are hard pressed for new sources of revenue to be a golden harvest.

Some of the statements made by the chairmen of the A.B.C. boards in their reports are significant. "It is not our purpose to encourage the use of alcoholic beverages, but if they are to be consumed in our county, we do wish to offer them for sale in a dignified manner to law abiding citizens," one such statement from V. J. Spivey in Martin seems to sum up the view of the officials who are charged with administering local liquor control and of its advocates generally. "In this way we are doing all we can to destroy the evil of the bootlegger, and at the same time we are making a profit for our county on the liquor sold within its borders."

Asked what distribution is being made of the profits, seven counties reported "general fund," five replied "no distribution," one said "reduction of taxes," and one (New Hanover) reported a division between the county general fund and the municipalities in which stores are operated. At least five per cent of the profits are being used in each county for law enforcement. It will



County	Number Stores	Date Opened	Last Audit	Gross Sales	Gross Profits	Net Profits	Store Months	Gross Sales Per Store Mo.	Net Profits Per Store Mo.
Beaufort	3	July 20	Sept. 30	\$ 32,407.40	\$ 10,946.91	\$ 6,725.22	7	\$ 4,629.63	\$ 960.75
Carteret	3	July 31 Aug. 3 Aug. 31	Sept. 30	15,150.90	5,121.11	2,414.26	5	3,030.18	482.85
Craven	2	July 23 Aug. 7	Sept. 30	17,176.85	5,833.20	3,137.57	4	4,294.21	784.39
Edgecombe	6	July 10 (5) Sept. 14 (1)	Sept. 30	76,775.50	26,713.47	15,946.52	13.8	5,563.44	1,155.54
Franklin	ELECTION BLOCKED BY INJUNCTION								
Greene	1	Aug. 1	Oct. 31	9,746.15	2,968.18	728.68	3	3,248.72	242.89
*Halifax	7		Sept. 30	40,707.40	13,554.41	5,438.83	14*	2,907.67	388.49
Lenoir	3	July 24 (2) Aug. 20 (1)	Oct. 1	48,860.60	16,706.36	12,332.71	5.8	8,424.24	2,126.33
Martin	4	July 19	Sept. 30	21,601.31	6,484.83	2,743.11	9.3	2,322.72	294.96
Nash	6	July 20 (4) July 30 (1) Aug. 8 (1)	Sept. 30	48,337.65	16,162.64	8,849.23	13.1	3,696.57	675.51
New Hanover	5	Aug. 3 Aug. 10	Sept. 30	64,383.69	14,738.61	14,738.31	9.2	6,998.23	1,601.99
Onslow	NO REPORT								
Pasquotank	1	Aug. 24	Oct. 1	18,190.65	5,546.34	2,993.85	1.2	15,158.88	2,494.88
Pitt	7	July 27	Oct. 31	84,011.41	29,988.11	20,188.75	15.2	5,527.07	1,328.21
Rockingham	ELECTION FAILED TO CARRY								
Vance	1	July 15	Sept. 30	45,385.80	13,313.31	9,396.13	2.5	18,154.32	3,758.45
Warren	NO REPORT								
Wilson	7	July 2	Oct. 1	86,376.85	28,446.68	15,918.04	21	4,113.18	758.00
	56			\$609,112.16	\$196,524.16	\$121,551.21	124.1		

\*Unofficial.

be interesting to observe if there turns out to be any distinction between "general fund" and "reduction of taxes." That is, will all of the 675 thousand dollars in estimated annual profits for the 14 counties be used for the reduction of John Taxpayer's bill, or will a part of it go to useful and necessary, though not indispensable, objects and services for which money has been lacking during the depression?

The Supreme Court's polite refusal to pass on the constitutionality of the local control acts, a decision in accord with its previous holdings, on the ground that the injunctive method was not the proper way to put the question before the court, makes it unlikely that a test case, if brought, could be fought through the courts to a decision prior to the next session of the General Assembly. Although it is still a possibility, the prospects that Governor Ehringhaus will call a special session to settle North Carolina's stand on liquor and on participation in the social security act likewise grow dimmer and dimmer, with the result that the solution of the liquor question likely will await the 1937 legislature.

In the meantime the question is

one which deserves the intensive study and unbiased consideration of public-spirited citizens, in wet and dry counties, as well as of the commission provided by the last

Legislature to study liquor control, to the end that North Carolina may arrive at the best solution of a problem which is as knotty and confusing as it is important.

### Court House Chaff

#### Fine Point of Law

Recorder Theodore F. Cummings of Hickory was confronted with a "fine point" recently. A Negro was on trial for drunken driving. There was no doubt but that he was drunk at the wheel. The difficulty was that the car had broken down and was being pushed instead of being driven under its own power.

\* \* \*

#### Punishing Capital

"Do you have conscientious objections against capital punishment?" the prospective juror was asked.

"Yes," was the reply, "on account of the expense."

\* \* \*

#### A Craven Story

A Syrian was being examined in court at New Bern some years ago for naturalization.

"Do you know what kind of government we live under?" He failed to answer.

"Do you know who's at the head of the government?" he was asked next.

"Yes, sir," the reply was prompt. "Senator Simmons."

\* \* \*

#### Chasing the Law

Ervin L. Smith of Lenoir and a state patrolman were driving to Charlotte when another car whizzed by doing 60. "Catch him," ordered the patrolman, and Mr. Smith gave chase. They finally pulled up behind the car at Maiden, and the patrolman got out and went up to the driver for an explanation.

"I'm a deputy sheriff answering a call," the speeder explained.

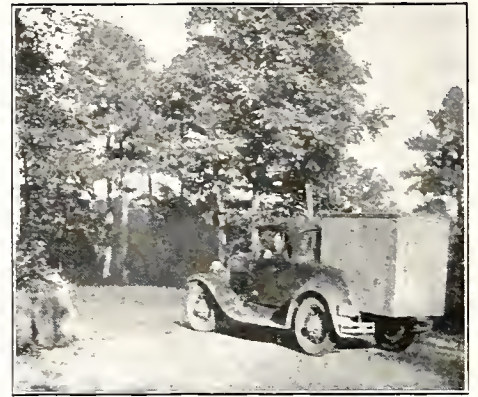
About this time another car pulled up behind Mr. Smith's, and a state patrolman came up to demand of Mr. Smith why so much speed was necessary.





*Here is "The Show Man" with his truck and portable "talkie" equipment, packed and ready to move on on his circuit of rural schoolhouse theatres. How this young college graduate beat the depression and organized a public service at the same time is here told in autobiographical fashion.*

By A. P. «BYNG» FARRAR



## Movies at the School House!

Turned out of college in '32, I was one of what some depression-school editor has called "the lost generation." But we never subscribed to that notion. A year of marking time at further studies, a half year's trial of the marine-bum-and-beach-comber sort of existence in a canoe along the coastal canal to Florida, a little work at the carpenter trade, and, with the beginning of '34, there still seemed to be no prospect of any employment—paradoxical as that seems in a civilization full of things crying to be done.

About this time I came upon an idea which had the makings of a job in it, namely the idea of organizing a motion picture circuit of six towns that were too small to support regular full-time movie houses. By using a portable projector and sound system one could operate in the school auditoriums on a percentage basis and take the towns in rotation each week, thus supplying inexpensive entertainment to rural communities which must otherwise go without it.

At the same time one would be giving the schools a little extra income at a time when, because of state budgetary difficulties, every penny helped; and the use of a percentage system with auditoriums already equipped would keep overhead expenses low, thus avoiding one of the chief causes of many small town theatre failures. This looked like something out of the ordinary which would supply a genuine need, be non-competitive, and reach a new market. The field had not yet been exploited because satisfactory portable sound projectors had only recently been developed.

The step from idea to fact was not simple. I was entirely green, knowing neither the mechanics of operating a projector nor the business of buying and booking film. It must have looked like a case of "fools rush in. . . ." Perhaps it was, but somehow the thing got under way. Funds were scraped together from various sources for the down payment on a projector, films were contracted for, and a circuit of six schools agreed to try the thing out.

The first week was something of a nightmare. Films broke in my inexperienced fingers and wrapped themselves into obstinate spaghetti-like designs, the shutter got out of time, the sound was far from perfect, and receipts were worse than disappointing. As my standards of satisfactory projection rise with increasing experience, I wonder more and more at the patient politeness of those first audiences. It was certainly ample proof of their desire for entertainment.

This was a period of experimentation: observing audience reaction to different types of pictures, testing various advertising methods, and, above all, trying out different towns in an effort to line up a circuit of the best possible places within a radius of fifty or sixty miles.

By the end of the summer I had begun to learn something of all these little distinctions and had selected a fairly good group of towns. Finances were still below scratch but a considerable good will had been built. The schools were more than satisfied, for even at the lowest ebb of receipts the venture remained profitable for them, since

the show entailed practically no expense and their percentage was almost entirely clear. We began to get more and more patronage from the more distant farms as the people gradually learned that they could depend on the "show man" to be there every week on time, rain or shine.

Furthermore, the circuit had finally overcome the bad reputation which all itinerant entertainments inherit from the so called "Jack Rabbit" movie showmen. These chaps were numerous enough in the silent days, and a few now operate with sound. They are here today and gone tomorrow making one-night stands and usually owning outright one or two old films which they show over and over, seldom returning to a town a second time.

With the coming of the fall and with the increase in farm incomes that this season brings, the venture became a financial success and it has remained so ever since. The small, though regular additional income to the schools has been a great help in carrying on many valuable *extra* activities for which the state cannot provide—particularly the development of libraries. The programs have been welcomed by the people of the community in every case.

It has been especially interesting to observe the educational effects of weekly motion pictures on audiences which have seen few if any pictures before. Audiences which at first would sleep through anything but a fast action western have learned to see more and more in other types of story, all of which were at first classed simply as "luve pictures" (pronounced with great scorn through the nose). I have



had to turn up my volume too many times to get it above an undertone of "look, he's studyin' what to do next" or "now she's fixin' to weep" from a learning Negro audience, not to know that a real educational process was taking place.

The circuit has now been running for about a year and a half and for the most part has run smoothly. To be sure there have been some mishaps—most of them troubles of the road in the course of driving about 45,000 miles to give the shows—including two wrecks, a skull fracture and a car fire. But the present prospects are for a good winter season.

The portable projector opens a field for rural entertainment and visual education which was never properly organized in the era of silent films and which has hardly been touched since the development of the talkies.

There are two possible lines of development for the portable equipment circuit. One is the organization of small chains of converted store theatres owned or leased by the operator of the circuit and used only once or twice a week with the same film that is used elsewhere the rest of the week. Such a scheme has the advantage of independence and will receive rather ready coöperation from the film exchanges. It has the disadvantage of high overhead expense resulting from the upkeep of the little theatres, which will restrict its application to the larger of the small towns.

The alternative, and, I think, the better line of development is a continuation and expansion of the school circuit idea.

It can hardly be questioned that, as a matter of immediate practicality it is simply inefficiency and a waste of time and money to set up duplicate facilities for film entertainment where adequate theatres already exist. By the same logic it follows that a circuit exhibitor should restrict his activities to unserved rural communities rather than attempt to capture some of the patronage of existing theatres. And by any standard of consistency it also follows that film distributors should not insist, as a condition of renting film, that new *commercial* auditoriums be built in rural com-

munities where fine state school auditoriums now stand idle for 80% of the year's nights and where the patronage will not support more than one or two shows a week.

A high standard of picture can be maintained because the weekly circuit exhibitor runs but fifty-two pictures a year and can eliminate practically all the mediocre subjects which Hollywood freely admits are ground out merely to answer the needs of houses that make six changes a week. Such circuits also provide an excellent mechanism for a program of visual education, for the schools will have at their disposal one day each week the services of an experienced operator and his equipment to present any desired educational material.

With reasonable coöperation from state officials and film exchanges and perhaps some means of regulation and supervision to prevent a few "bicycling" bad actors from spoiling the situation for all concerned, there is no reason why the rural inhabitant cannot enjoy as good entertainment opportunities as his city brother now has.

## Borrower to Lender

Prior to 1930 Durham County had been borrowing from the banks each year from \$200,000 to \$500,000 in anticipation of the collection of taxes, and paying from \$12,000 to \$30,000 a year in interest.

Since that time, by careful construction of the annual budget, economy in expenditures, careful buying and taking advantage of commercial discounts, eternal vigilance in the collection of taxes, close daily supervision of budget revenues and expenditures, the County has shifted from the position of borrower to that of lender. Instead of paying out thousands of dollars each year as interest on temporary loans, the County not only has been able to operate since 1930 without the necessity of borrowing money, but also has earned each year from \$1,500 to \$7,500 on idle money in savings accounts in the official depositories of the county. Aside from the saving effected by operating on a cash basis, the credit of the county has been greatly strength-

ened and the market value of its bonds enhanced.

The act of the Legislature allowing the prepayment of taxes with liberal discounts also has greatly aided the county in shifting to a cash basis.

## Interesting Figures

### --Good and Bad--

Washington economists estimate the National Debt will reach \$35,000,000,000 by the end of Roosevelt's administration—an average of \$1,166.66 per family.

A total of \$40,721,000 in Federal funds had been ear-marked for North Carolina up to October 15, according to Senator Josiah W. Bailey.

North Carolina Superior Courts handled 14,026 criminal cases during 1934-35, according to the Attorney General's report, with a record of 69 per cent convictions.

The State's revenue collections for the first four months of this fiscal year were \$18,117,365.68, an increase of 19.9 per cent over the same period last year.

The Department of Commerce estimates that the depression has cost the nation \$26,631,000,000, figured as the amount taken out of savings to make up the difference between expenses and the value of goods and services produced.

North Carolina's farm cash income, according to the University *News Letter*, increased from \$98,000,000 in 1932 to \$178,000,000 in 1933 to \$244,000,000 in 1934—the largest per cent increase of any state.

The United States has 220,000 prisoners, according to figures from Attorney General Cummings, as against 11,000 for England and 35,000 for France.

Benefits totaling \$8,390,813 have accrued to 167,966 workers injured since the enactment of the State Workmen's Compensation Law in 1929.

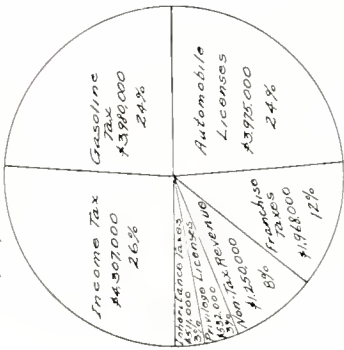
What do the public schools cost per year per pupil? The figures for the whole country were \$86.69 in 1929-30 and \$67.00 for 1933-34 as against \$42.84 and \$24.10 for North Carolina.



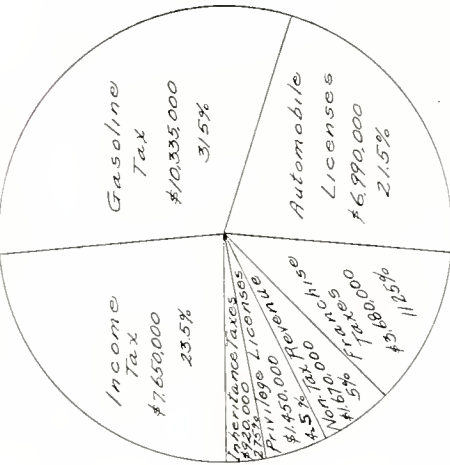
# STATE REVENUES AND EXPENDITURES

## -REVENUES-

1924 - Total - \$16,500,000



1929 - Total - \$32,700,000

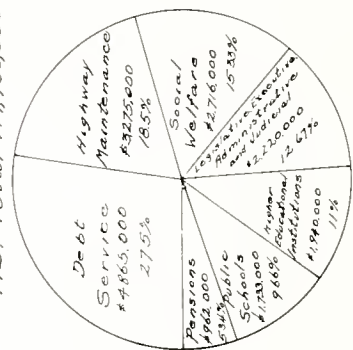


1935 - Total - \$50,983,000



## -EXPENDITURES-

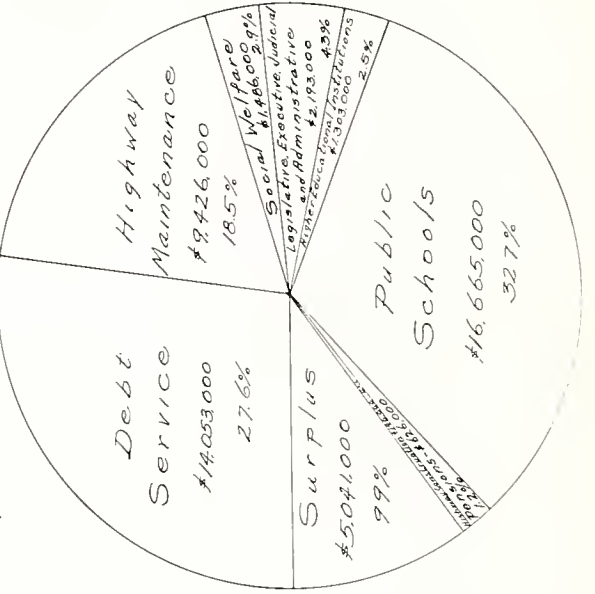
1924 - Total - \$11,700,000



1929 - Total - \$32,817,000



1935 - Total - \$50,983,000





# Shifting Tax Bases: 1924-35

By T. N. GRICE

For the sake of a better understanding of State revenues and expenditures, let's turn back the hands of the clock and look at some of the years in the past. On the opposite page we have "pie charts" showing the sources of revenues and classes of expenditures for the years ending June 30, 1924, 1929 and 1935. We see from the charts that the State's total revenues amounted to \$16,500,000 in 1924, \$32,700,000 in 1929 and \$50,983,000 in 1935. In a word, the State tax bill has more than tripled from 1924 to 1935. We will discuss the reasons for this tremendous increase, but first, let's see the sources from which the money comes.

Our first item, income tax, produced \$4,307,000 in 1924, \$7,650,000 in 1929 and \$7,482,000 in 1935; or 26 per cent, 23.5 per cent and 14.7 per cent of the total revenues in the respective years. Although the amount of revenue from this source has greatly increased since 1924, the ratio to total revenue has constantly decreased because of the constant growth of our State budget. The maximum rate of income tax is limited by our State Constitution to 6 per cent of net income. This maximum rate is now levied on all corporate net incomes and on individual incomes \$2,000 in excess of the exemptions set out by law. Consequently, the total revenue produced by the income tax will not materially increase until our economic conditions improve or the maximum rate is increased by a constitutional amendment. The 1935 General Assembly authorized an amendment increasing the rate to 10 per cent to be submitted to a vote of the people at the next general election.

## The Motorist's Mite

Our next item is the gasoline tax, which produced \$3,980,000 in 1924, \$10,335,000 in 1929 and \$17,334,000 in 1935. This tax accounted for 24 per cent of our total revenues in 1924, 31.5 per cent in 1929, and 34 per cent in 1935. This steady increase is due to the constant increase in the number of motor vehicles in use in the state with a cor-

responding increase in the consumption of gasoline, plus the fact that the rate of tax has been constantly increased. In 1924 the gaso-



To Governor Ehringhaus has gone much of the credit for balancing the State budget and putting the item "surplus" back in the 1935 circle (lower right).

line tax was three cents per gallon, this was raised to four cents in 1925, to five cents in 1929, and to six cents in 1931. There is little chance that the present tax of six cents per gallon will be increased in the near future, since the present trend of public opinion is to lighten the tax burden of the automobile owner rather than increase it. This means that further increases in this form of revenue will be limited to the normal increase in gasoline consumption. However, the constant increase in the number of motor vehicles with the corresponding increase in gasoline consumption can and probably will increase revenues from this source each year for some years to come.

Popular Government's "Know Your Government" section is continued this month with an analysis of State Revenues and Expenditures for the three years—1924, 1929, 1935. Every taxpayer-stockholder and every student of government will be interested in this statement of income and outgo for North Carolina's greatest business. The story will be carried on in the January issue with a similar analysis for a typical city and county.

Another source of revenue coming from the automobile owners is automobile license taxes. This source produced \$3,975,000 in 1924, \$6,990,000 in 1929 and \$7,643,000 in 1935. Thus, we find that the motorists of the state through gasoline and license taxes footed 48 per cent of our tax bill in 1924, 53 per cent in 1929 and 49 per cent in 1935, or an average of one half of total revenues. The increase in revenues received from automobile licenses is due, as in the case of the gasoline tax, to the ever growing number of motor vehicles and the constant increase in the rate of tax. However, partly because of public demand and partly because surrounding states have materially reduced their automobile license taxes, the 1935 General Assembly reduced the rate of tax on passenger cars fifteen cents to forty cents per hundred pounds. Just how much this reduction in the tax rate will affect our revenue from this source is difficult to estimate. It is argued that the reduction in license tax will put more cars on the roads and offset any loss that might otherwise accrue. However, the total revenue produced by the license and gasoline taxes during the coming year probably will not exceed that realized in the year ending June 30, 1935.

## The Corporation's Share

The next source of revenue is franchise taxes, which produced \$1,968,000 in 1924, \$3,680,000 in 1929, and \$6,681,000 in 1935. This source produced 12 per cent of our total revenue in 1924, 11.25 per cent in 1929, and 13.1 per cent in 1935. It is interesting to note the consistency of the ratio of this source to total revenues in the various years. Since this is a tax on corporations doing business within the State, this consistency of the ratio in the face of a constantly growing budget indicates that if our corporations were paying their just proportion of the State's tax bill in 1924, they have continued to pay their just proportion down through the years. The 1935 General Assembly changed the basis of levying franchise taxes, but this change is not calculated to materially increase the total revenue from this source.

The item of non-tax revenue, rep-



representing income from investments and State-owned property as well as fees for services performed by the various departments and offices in Raleigh, has been more or less constant in amount, but, due to the steady rise in the total budget, has constantly decreased in ratio. This item amounted to \$1,250,000 or 8 per cent of our total revenue in 1924, \$1,670,000 or 5 per cent in 1929, and \$1,594,000 or 3.1 per cent in 1935.

#### Privilege and Inheritance Taxes

Our next source of revenue, privilege licenses, produced \$532,000 in 1924, \$1,450,000 in 1929, and \$1,728,000 in 1935. This type of tax, which is levied on the businesses and professions carried on in the State, produced 3 per cent of our total revenue in 1924, picked up to 4.5 per cent in 1929, and slipped back to 3.4 per cent in 1935. The decline in 1935 from 1929 is due principally to the reduction in certain retail licenses when the sales tax was put into effect.

The last of the sources of revenue common to all the years under review is the inheritance tax. This source produced \$511,000 in 1924, \$920,000 in 1929, and \$502,000 in 1935. This is the least dependable of all taxes from a budgetary viewpoint. Not only is it impossible to predict just when a person of means will die, but there is no way to estimate the amount of taxable wealth such a person's estate will possess. However, there are several large estates which are now in the process of settlement which will increase the average yearly revenue from this source.

#### Three Cents on the Dollar

Our next item is the sales tax, which did not come into our tax picture until 1933-34. The three per cent sales tax was started in July, 1933, and produced slightly over \$6,000,000 or 13.1 per cent of the total revenue for the year ending June 30, 1934. This source produced \$7,654,000 or 15 per cent of the total revenue for the year ending June 30, 1935. The 1935 General Assembly broadened the base of the sales tax so as to include meals sold in hotels and restaurants and by eliminating the seven basic foods heretofore exempt. The sales tax as levied by the 1935 General

Assembly probably will produce about \$12,000,000 per year for the next biennium. This would place it second only to the gasoline tax as a revenue producer.

Another source of revenue not common to all the years under re-

view is the beer tax. This tax, levied as a license, produced \$365,000 in 1935. The 1935 General Assembly provided that the amber fluid could contain more "kick," but did not change the existing taxes levied on it.

## Costs, Debts and Debits

So much for revenues, let's take a look at State expenditures. The first item of expenditure shown on the charts is debt service. This item amounted to \$4,865,000 in 1924, \$11,666,000 in 1929, and \$14,053,000 in 1935. In 1924 we already had incurred some \$65,000,000 debt in the form of highway bonds alone, and interest and principal payments on our bonded debt in 1924 took 27.5 per cent of our total expenditures. In the years following 1924 we continued issuing bonds until in 1929 debt service amounted to 35.75 per cent of our total expenditures. In 1935 this item took 27.6 per cent of our total income. Of the \$14,053,000 total in 1935 some \$9,468,000 went to pay interest on and maturing principal of our huge highway debt. The balance was used for debts incurred for other purposes, one of which was to cover our huge deficits incurred during the so-called prosperity era.

The general attitude of the people of our State today is against the creation of additional indebtedness,

and the 1935 General Assembly, except for notes to finance the supposedly self-liquidating school text book rental system, authorized but little additional debt.

The next few years will see the peak of our debt service requirements which then will gradually decrease until 1952, at which time this item will become negligible by comparison with present requirements. Unless we incur a substantial debt before that time, we should be well able then to institute a "pay-as-you-go" financial policy.

#### Highway Maintenance

Our next item of expense is highway maintenance on which we spent \$3,275,000 in 1924, \$4,800,000 in 1929, and \$9,426,000 in 1935. Our road maintenance cost naturally increases with the number of miles of highways we have to maintain. Highway maintenance took almost twice as much money in 1935 as in 1929. This increase is due to the State taking over, in 1931, the maintenance of highways previously cared for by the various counties. While the total maintenance cost almost doubled, the number of miles of highway maintained increased almost five-fold.

The item, social welfare, includes such things as correctional institutions, charities, clinics, hospitals and schools for the deaf and blind. This amounted to \$2,716,000 in 1924, \$2,689,000 in 1929, and \$1,486,000 in 1935. We note that the 1935 total is considerably less than either of the past years under review. Much of this decrease is due to the consolidation of the highway and prison systems. Both the 1924 and the 1929 totals include expenses of the State's prison system. This expense is now included in highway maintenance, since much of this work is done by prison labor.

#### DO YOU KNOW—

*Why our State budget has more than tripled since 1924?*

*The ratio of total state taxes paid by automobile owners?*

*The amount of revenue produced by the sales tax?*

*The amount required to pay interest and principal on the State debt for highways? For other purposes?*

*How much it costs to maintain our state highways?*

*How much of the state's revenue goes to support the public schools?*

*The general outlook for state finances during the coming year?*





*Commissioner A. J. Maxwell presides over the far-flung system necessary for the State to maintain in the gathering of fifty million dollars in revenue annually. He is known as one of the State's outstanding experts on tax matters.*

### Public "Overhead"

The next item, legislative, executive, administrative and judicial expenses, is what in commercial enterprises is called "overhead." It is the expense of running the State. This item took \$2,220,000 in 1924, \$2,660,000 in 1929, and \$2,193,000 in 1935. In 1935 it cost about the same as in 1924, even though the State's business had more than tripled so far as revenues and expenditures are concerned. Of the \$2,193,000 expended in 1935, \$113,000 went for administrative expenses of the highway and prison department, about \$380,000 for the motor vehicle bureau and highway patrol, and about \$318,000 for Supreme and Superior Court expenses. The 1935 General Assembly cost some \$185,000, not a very high price for four months' service of one hundred seventy capable men, together with the numerous clerks, stenographers and pages, to say nothing of the 1500 or so shiny new laws included in the bargain. This leaves about \$1,200,000 to cover the cost of the Governor's office, other constitutional offices, the revenue department with its large number of employees, the many other departments and commissions administering the State's business, as well as such other expenses as heating,

lighting, printing, office supplies, equipment and repairs.

Higher educational institutions required \$1,940,000 in 1924, \$2,580,000 in 1929, and \$1,303,000 in 1935. The amount of State money going for this purpose increased some \$600,000 during the five year interval 1924 to 1929, but has decreased some \$1,250,000 during the six year interval 1929 to 1935. Part of this decrease is due to the completion of a plant construction plan, but a part also is due to the reduced salaries of the personnel of these institutions.

### The Schoolboy Grows Up

A glance at the next item, public schools, will show why our State budget has increased so tremendously since 1929. The increase in State expenses from 1924 to 1929 was due largely to our highway construction program, but the increase since 1929 is due principally to the State's participation in the public school system formerly carried on exclusively by the local governmental units. In 1924 the State aided public schools through the equalization fund to an amount totaling \$1,733,000. State participation increased until in 1929 some \$3,775,000 of the State's revenue went to supplement local school funds. In 1931 the State took over the expense of operating a six months term of school. This was increased to eight months in 1933, and this item in 1935 cost the state \$16,665,000 or about one-third of all the revenue received during the year. The total increase in State expenditures from 1929 to 1935 is accounted for by the increase in State funds used for our public schools.

The War Between the States ended some seventy years ago, but pensions to Confederate veterans and their widows took \$962,000 in 1924, \$1,340,000 in 1929, and \$626,000 in 1935. It is fitting that the State has and is doing this little bit to help the "boys in grey," for theirs is a noble cause; however, when an eighteen year old girl marries an eighty-nine year old veteran, there is some doubt as to whether it is a noble cause. Surely the State's generosity should not be imposed upon when the flapper soon becomes a widow.

### The Race for Roads

Our next item is highway construction. No current State revenue was expended for this purpose in 1924, although prior to that time some \$60,000,000 gained from bond issues had been used in the construction of State highways. Money from bond issues as well as from current revenues was poured into highway construction until in 1929 some \$3,305,000 of current revenues, or 10 per cent of total expenditures for the year went for this purpose. Since 1929 much of our highway construction has been carried on with funds received from the National Government. In 1935 we spent \$190,000 of State money on highway construction. This was a mere drop in the bucket and was used to make surveys of highway projects into which Uncle Sam poured some \$6,154,000.

Uncle Sam, however, is weary of footing highway construction bills single handed and has served notice on all and sundry that in the future Federal funds for this purpose must be matched dollar for dollar by the various states. Consequently, the 1935 General Assembly found it necessary to appropriate some \$3,000,000 per year during the next biennium for highway construction in order to receive a like amount for this purpose from the generous Father in Washington.

### Surplus for a Change

Lastly, we come to the item of surplus amounting to some \$5,041,000 for the year 1934-35. This item is included in the expenditure chart only for the sake of proportion. A glance at the charts shows that we spent some \$1,200,000 more than we received in 1924 and over spent some \$100,000 again in 1929. This habit of spending more than we received brought us to a sad state of affairs by the time the 1933 General Assembly convened. Faced with an accumulated deficit of some \$14,000,000, with financial institutions falling on all sides and with practically a complete suspension of credit, it appeared to all that the State was about to be dashed upon the rocks of financial ruin. The dark clouds so enveloped the members of the 1933 General Assembly that they were for the first time in current years ultra-conservative in



their appropriations so far as highway expenses were concerned. They completely lost sight of the fact that even though hungry and cold we still take spins in the old "gas-buggy" which will pass anything on the road but a filling station. Consequently, highway revenues were under-estimated to the tune of some \$5,000,000 for the year ending June 30, 1934, and some \$7,000,000

for the year ending June 30, 1935. Largely because of these errors in estimating highway revenues, appropriations were cut to the marrow, and we find ourselves today blessed with a surplus.

Upon convening in January, the members of the 1935 General Assembly found a highway surplus which it was estimated would amount to about \$11,500,000 by

June 30, 1935. One of their first acts was to supplement highway maintenance appropriations for 1934-35 by \$3,000,000 to take care of some emergency repairs to State highways which had suffered for the lack of proper maintenance for eighteen months. This \$3,000,000 emergency appropriation reduced the highway cash surplus to about \$8,500,000 as of June 30, 1935.

## A Glance Into the Future

With this picture of State finances well in mind, let's crystal gaze for a few minutes into the coming biennium. Assuming that the gasoline tax will produce about the same amount in 1935-36 as in 1934-35, say \$17,350,000, and that automobile license tax revenue will be reduced \$1,000,000 by the reduction in passenger car license rates, we can estimate total highway revenues for 1935-36 at about \$24,000,000. This amount plus a surplus of \$8,500,000 gives a total availability of \$32,500,000 in highway funds for the year 1935-36. Highway expenditures during 1934-35, including a \$1,000,000 transfer to the State's general fund, amount to \$20,577,000. Had no changes been made in the amount of highway appropriations, there would be a highway surplus at June 30, 1936, of about \$11,425,000. However, changes were made in highway appropriations which will eat into this imaginary surplus as follows: increase in appropriation for administrative expenses \$38,200, for highway patrol and the drivers' license law \$512,000, for maintenance and construction of State and county highways \$5,734,000, for maintenance of highway-city streets \$500,000, for debt service \$128,000 and for the benefit of the general fund about \$600,000, a total of \$7,512,000. Thus, our highway surplus should amount to approximately \$4,400,000 on June 30, 1936. Highway appropriations for 1936-37 exceed estimated highway revenues for that year by about \$4,000,000, so that by June 30, 1937, unless our highway revenues take a material rise, our present huge highway surplus will be a thing of the past.

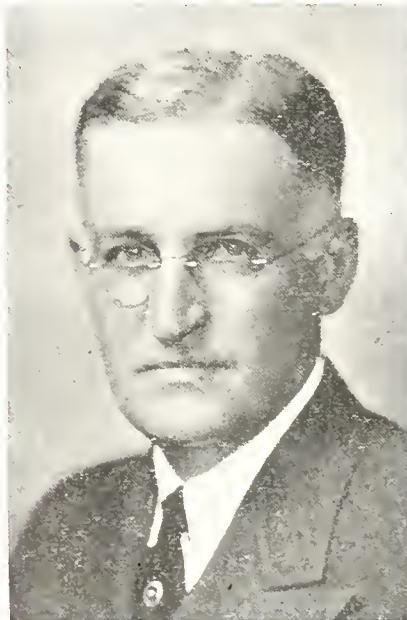
So much for the highway fund, let's turn our attention to the State's general fund. First, we'll take a look at the revenues. The income tax should bring in about \$7,250,000, franchise taxes about \$6,700,000, non-tax revenue about \$1,600,000, privilege licenses along with chain store and service station taxes about \$2,500,000, inheritance tax about \$600,000, the sales tax in its new form about \$12,000,000, and beer taxes about the same as at present or \$365,000. Our total revenue in the general fund, together with the \$1,600,000 or so from the highway fund, should amount to about \$32,515,000, or some \$5,510,000 more than the 1934-35 total.

On June 30, 1935, the general fund surplus amounted to \$712,000, which together with our above esti-

ated revenues gives us an availability for 1935-36 of some \$33,227,000. If appropriations had not been increased over the actual expenditures of 1934-35 this would mean a surplus of about \$6,860,000 in this fund at June 30, 1936. Appropriations for 1935-36, however, were increased over 1934-35 actual expenditures as follows: appropriation for social welfare \$667,000; for legislative, executive, administrative, and judicial expenses \$240,000; for higher educational institutions \$648,000; for public schools, as supplemented by the contingency and emergency fund, about \$3,550,000 and for pensions \$50,000. A decrease in our debt service requirements of some \$235,000 leaves a net increase of \$4,920,000. On this basis it appears that the general fund may show a surplus of about \$2,000,000 at June 30, 1936. If revenues remain about the same for 1936-37 and total appropriations for that year, which amount to some \$1,630,000 more than those for 1935-36, are expended, the general fund surplus would amount to about \$400,000 at June 30, 1937.

The amount of surplus in the general fund will depend largely on the amount of revenue produced by the sales tax. Advocates of this tax say it will produce only \$10,000,000 or so, opponents say \$15,000,000 or so, and we have used \$12,000,000 as a compromise.

However you look at the picture, you can't get away from the fact that the sales tax is playing the major role in state general fund finances. And you can't get around the fact that the general fund will get a large part of its money from that ever growing stack of little brown pennies which escort the larger coins and bills to the stores of the butcher, the baker and the candlestick maker.



BAXTER DURHAM, State Auditor



THE Superior Courts are our general trial courts. They hear matters at law and in equity, civil and criminal. The executive officer is the judge, the clerical officer the clerk, and the process officer the sheriff. The jury determines the facts, and the judge interprets and applies the law to the facts. To safeguard against errors of the judge our Supreme Court reviews his interpretations and applications of the law, but the jury, in theory at least, is the final arbiter as to the facts in the case. The jury is the heart of our court system. Daily throughout the State we place in the hands of juries the liberty, the property and the reputations of our citizens. Their power is the dream of dictators, but it is a power sanctioned by the traditions of a free people and, therefore, accepted as desirable. Yet, how many of us know how jurors are selected and what assurances are given that a particular jury is worthy of the vast power which is given to it? How does it happen that the particular twelve men beginning the hearing of a particular case were brought together for that purpose?

These jurors were not "selected" until their names had been considered and approved three separate times. Each was approved (1) when the jury list underwent its biennial purging and revision, (2) when the panel of jurors was drawn for this particular court, and (3) when the jury was chosen by the parties for this particular case. Each of these selective processes may well be considered in greater detail.

#### The Biennial Revision

At the June meeting of the County Commissioners each odd year (1935, 1937, 1939) the tax lists for the county are examined for the preceding year. From this list it is their duty to select *all* persons who (a) have paid all their taxes for the preceding year, (b) are of good moral character, and (c) are of sufficient intelligence to act as jurors. Taxpayers who do not meet this three-fold test are not placed on the jury list. When this list is prepared it is customary to omit all women taxpayers because our Constitution requires that the jury be composed of twelve men. Persons who are delinquent in earlier taxes

## "Twelve Good Men and True"

By DILLARD S. GARDNER

The criticism to which it has been subjected recently makes this examination of the jury system most timely. Especially in view of the telephone rate case being tried in Raleigh in which the parties agreed to dispense with a jury due to the complication of the issues.

but have paid the preceding year's taxes are eligible. However, the commissioners might take the view that it is the broad general intent of the statute to eliminate persons who are delinquent in any of their taxes, the theory being that men who are delinquent in their taxes might be prejudiced in tax and debt cases. In determining *good moral character* the commissioners generally omit persons who have been convicted of serious crimes or frequently convicted of minor offenses. In some counties every person who has been convicted of any crime is eliminated, and in some counties persons whose reputations are generally known to be bad (even though they never have been convicted of an offense) are left off the list.

There is, of course, some variation in the interpretation of "good moral character," but by any standard the examination of the "moral character" of every taxpayer in a county is no easy task. The task of determining what constitutes "sufficient intelligence" to serve as a juror would tax the capacities of a corps of scientists, but for want of a better yard-stick most commissioners eliminate only those who are generally and popularly known to be insane, feeble-minded, or noticeably deficient in intelligence.

The commissioners also omit those who have died or removed from the county and any aliens who are taxpayers. In some counties the commissioners also eliminate those

whose health and physical condition unfit them for the close confinement of jury service, as they have found that the judges practically always excuse such persons on request. Sometimes those who are extremely deaf or partially blinded are omitted. In a few counties persons with occupations which are exempted by statute from jury duty—physicians, druggists, ministers, mail carriers, funeral directors, grist mill operators, printers, firemen, etc.—are omitted from this list; in many counties persons of these occupations are actually summoned and have to appear before the judge in order to be excused from service.

When this list has been completed, at the July meeting following the June revision the commissioners remove the old scrolls or names from the jury box and put in the box the new scrolls. Each scroll is a card or slip of paper with one of these names typed or written upon it. The box is made in two divisions, each with a slot in the top. One division is marked "No. 1" and the other is marked "No. 2." It is customary to put all the new scrolls in "No. 1"; as these are drawn they are called out and the scroll placed in the slot in "No. 2." The jury box is kept by the clerk to the county commissioners, who is usually the Register of Deeds. The box has at least two locks; the chairman of the county commissioners keeps the key to one of these locks and the sheriff keeps the key to the other. Both keys have to be available to unlock completely either division of the box, the intent of the law being to provide every safeguard against anyone having complete access to the contents and to render impossible any "tampering with the jury list."

In a few counties local laws have been enacted which create jury commissions for particular counties. Usually these laws transfer from the county commissioners to the jury commission the duties of purging the jury list every two years and of drawing the panel of jurors for the court terms.

In some counties an entirely new jury list is not prepared biennially. Various forms of revision have been tried. The names in boxes may be checked to eliminate the dead and removed and those not paying the



preceding year's taxes, or if a thorough check is made, to eliminate all whom the commissioners consider disqualified for any of the reasons discussed above. New names of persons recently become qualified to serve as jurors may or may not be added. As the requirement that the jury list be revised biennially is only directory, irregularities in the handling of the jury lists, in the absence of bad faith or corruption of the commissioners, do not affect the validity of jurors taken from those lists. Consequently, only the most extreme irregularities in the handling of the jury lists are ever considered by the courts. In the final analysis the major assurance which the citizens have that the jury list has been revised and handled properly is the integrity, knowledge, and intelligence of the commissioners.

#### **Drawing the Jury Panel**

Not less than twenty, and usually not more than thirty, days before a term of court the commissioners meet to draw the jury list for the term. A young child, not over ten years, draws the scrolls one by one from the partition marked "No. 1"; these names are copied by the clerk of the board and the scrolls placed in partition "No. 2." Thirty-six jurors are drawn for the first week, unless civil cases only are to be tried, in which case only eighteen are drawn. Eighteen jurors are drawn for each additional week of court scheduled, and the commissioners may draw an additional eighteen trial jurors for the week for which the commissioners have them summoned. Each juror drawn serves for only one week unless the case which the jury is trying is not completed during that week and the trial continues into the next week.

Each name is examined by the commissioners as it is drawn. If the juror is dead or removed from the county, has a case pending and at issue at the term, or is disqualified for any of the reasons used by the commissioners in revising the jury list, the commissioners do not place the name on the jury list. If the juror has a case at that term, his scroll is put back into box "No. 1," but if he is disqualified for any other reason, his scroll is destroyed.

In an emergency, when the com-

missioners fail to draw the jurors for a term, our law provides for the drawing of the jurors by the sheriff, the clerk of the commissioners, and two justices of the peace, but this provision is rarely used.

When the panel is drawn, the sheriff is ordered to summon the jurors to appear at the time designated by the commissioners. Usually a list is prepared at the same time for the local newspapers. Sometimes the sheriff is unable to serve all of the jurors; those who have attended courts on Monday morning have doubtless heard the sheriff answer when a juror's name is called, "Not served." Sometimes he adds that the juror is out of the state or that he is dead.

#### **Selection at Term**

The names which have survived the two earlier selections by the county commissioners must undergo, for each case, a dual examination by the counsel for each side of the case. In minor cases and in divorce cases the jurors often are not questioned at all, but where there is seasoned counsel in a capital case or in a civil case involving a considerable sum, each juror often is painstakingly questioned to determine whether he is prejudiced in the particular case. There are certain causes for which the judge excuses jurors, but in addition to these "challenges for cause"—that he has expressed an opinion on the merits of the case, that he is closely related to the parties, that he is a nonresident, that he is employed by the parties, etc.—each side is allowed to excuse a definite number by "challenge" without giving any reason for excusing them. The questioning of the individual jurors to determine whether they are acceptable to the parties is called the "examination of the voir dire." Finally those who are accepted by both sides are impaneled; that is, they are sworn as a jury to try the particular case by the Clerk or the Judge.

#### **Effectiveness of the Jury**

The strength of the jury system has been that it provides for every legal controversy a body of twelve law abiding and prudent citizens whose common-sense judgments will, in general, protect the innocent and penalize the wrongdoer, and in specific cases will arrive at rough approximations of justice. That

some of the approximations of justice in individual cases are subject to criticism is to be expected. There have been numerous criticisms of the jury system. It has been repeatedly suggested that the judge or a board of law-trained referees would find facts more accurately, more speedily, and less expensively than juries. On more than one occasion there have been charges that the officials having charge of the jury lists have "hand-picked" the men placed on the panel, choosing only friends and leaving off all others. One of the most frequent criticisms is that busy and capable citizens shirk jury service and even when called for service manage to secure excuses, with the result that the ablest and most intelligent citizens all too rarely sit as jurors.

These by no means exhaust the criticisms of the jury system. Whatever merit they have, North Carolina is likely to remain loyal to the jury system for many years to come. Our people are conservative and cling tenaciously to governmental institutions which have stood the acid test of time and have become hallowed by tradition. Yet, we have always taken pride in our capacity and willingness to detect and remedy weaknesses in our governmental structure. Citizens may do much by serving willingly, and by encouraging their friends to serve, when called as jurors. Those who serve on juries may accomplish much by demanding that they and their fellow jurors weigh all the evidence before them systematically and carefully before deciding upon the issues. Finally, citizens in every community will find it both interesting and instructive to make a study of the local practices in preparing jury lists, drawing panels and selecting juries. They may find much which has become mechanical, formal, and meaningless from constant repetition, and they may find some things which they do not approve. However, they may also find that even such commonplace functions of government need the same idealism on the part of citizens today as that which was possessed by those courageous citizens of the past who founded these institutions in order that abstract ideals might be achieved by concrete processes.



# THE PUBLIC PULSE— —

## as felt by the State's Press

"Among the things that no fond mother ever told her . . . son is: 'And if you work hard and be a good boy you may grow up to be a member of the state legislature.'"

"If we want lower taxes, we have only to bring our state and county governments up to date, take an intelligent and unsleeping interest in the way they are operated, and insist on getting full value for our money."—Bruce Catton in Hender-sonville *Times-News*.

### THE UNWANTED TWINS

"Indifference and ignorance are the twins that the world could well do without . . . Indifference and ignorance send hundreds to their deaths in automobile accidents. Ignorance breeds poverty and crime and ruins young manhood and womanhood. Indifference in public affairs gives rotten politics a stranglehold."—Winston-Salem *Journal*.

"When government is over-centralized, it leads inevitably to tyranny; when it is over-decentralized, it leads to anarchy. The middle of the road . . . is the safe path to travel. The Constitution of the United States provides that path."—Charlotte *Observer*.

"We have overlapping jurisdictions, multiple taxation. Simplification of all this will lessen the burden of taxation, eliminate waste and make possible a better public understanding . . ."—Asheville *Citizen*.

"The needless officeholder is the modern Old Man of the Sea. The taxpayer patiently lugs him around and pays through the nose. Some day, let us hope, the taxpayer will get wise, pitch the Old Man into the nearest ditch, and discover that he can govern himself for about half of the present cost."—Salisbury *Post*.

New York voters have "declared

for a saving in county government by eliminating over-lapping agencies and maintaining functions for the work's sake rather than politics. The action is estimated as being worth \$18,000,000 to New York."—Charlotte *News*.

### Taxation

" . . . the direct share of the State's tax burden paid by motorists was 53.5 per cent in 1934-35. ' . . . yet the motor vehicle owners comprise only 13 per cent of the State's population.' " — Winston-Salem *Journal*.

"The State has had for a number of years machinery for collecting income tax. This is the place to get the necessary revenue to replace the sales tax. This manner of taxation should be broadened so as to reach every income above a low minimum say of \$500.'"—Statesville *Daily*.

" . . . failure to insist upon payment and the keeping of tax accounts up to date has, for the most part, made final settlement all the harder. When five years have elapsed, the total due is so great as to make payment all the more difficult."—Charlotte *News*.

### Public Education

"The State's revenue is increasing monthly, and if we are to retain all of the present taxes we could well afford to extend the term one month and pay the teachers more at the same time."—Concord *Tribune*.

"School standards and problems now are, to a great extent, statewide. . . . It is, therefore, all the more important that parent-teacher groups throughout the commonwealth ally themselves . . . in promoting the progress of all the institutions of education."—Winston-Salem *Journal*.

### Federal Agencies

"Leave states and local communities to pay the relief bill, and there will be less spending, precisely what we want."—Durham *Herald*.

" . . . the horse and buggy age passed from the farm with the ad-

vent of the low-priced automobile, but the oil lamp age still lingers on. Electricity will restore the attractiveness of the farm as a place to live, and may well reverse the farm to city migration that has gone on since the turn of the century."

### Law Enforcement

"So long as we have a system whereby persons with a 'pull' are able to drive drunk and be guilty of criminal carelessness with impunity, there isn't a chance that we shall succeed in coping with the most alarming public safety problem which has faced civilized man."

—Hickory *Record*.

### THREE ESSENTIALS TO RECOVERY

"First, a decisive campaign to reduce the cost of government, balance the budget as soon as possible, and thus eventually make sweeping reductions in taxes.

"Second, less governmental interference with legitimate business enterprise. . . .

"Third, the assurance that there will be no tampering with the instrument that stands foursquare between America and one form or another of dictatorship—the Constitution."—Mebane *Enterprise*.

"There is a need in this country for a policing system which would resemble a net, spreading over the nation, each division and unit working hand in hand with its neighbor and controlled by a central office. . . . However, under the present system there is possibility for cooperation between the units. . . . Commendation is due the various police, and the recommendation made that such work continue."—Sanford *Herald*.

" . . . marked and surprising changes in John Taxpayer's respect for the guardians of the peace could be obtained through the gentle medium of politeness. . . . Firmness in dealing with violators is essential. Firmness, however, should be used impartially. When garnished with personalities, it becomes bullyism. That hasn't been popular in these parts since 1775."—Charlotte *News*.



## Case Comment

The amount of litigation in the courts last month affecting North Carolina cities and counties was not great, but the variety was wide, the subjects ranging all the way from trash collection to political scraps and from bonds and debts to deputizing citizens to aid officers. Each case makes an interesting story in itself, but space unfortunately permits only a hasty survey of the holdings.

One of the most interesting questions to be decided was whether a city is liable for injuries if one of its trash trucks strikes and kills a person. Held: the collection of trash is a governmental function; hence no liability for negligence of city agents (*Broome v. City of Charlotte*).

Is a citizen who is deputized by an officer to aid in an arrest and who is injured while so acting entitled to recover from the town and its insurer under the Workmen's Compensation Act? The Supreme Court, accepting the finding of facts by the Industrial Commission as binding, held in the affirmative in *Tomlinson v. Town of Norwood and New Amsterdam Casualty Co.*

The Wilkesboro political scrap was finally settled in the case of *Wilkesboro et al. v. W. E. Harris et al.* The newly-elected mayor and commissioners brought an action of mandamus to compel the old officials to turn over to them the city books and records. Held: There was no valid election in May 7, 1935, and request denied.

May bondholders impound a city's water receipts and prevent their use for any other purpose than retirement of the bonds? is another question which is still being fought in the courts and which is attracting wide interest. The United States District Court sitting in Asheville dismissed the bondholders' petition in May. However, the District Court was reversed by the United States Circuit Court of Appeals last month and the cause remanded for further action.

Local officials are looking forward to the decision of several other cases with much interest. Foremost among these perhaps is *Winston-Salem v. Forsyth County*, filed in Superior

Court last month, in which the city is seeking to compel the county to assume its school debts. Another is the case of *Fuller v. Lockhart*, which will be handed down by the Supreme Court shortly, on the question of a municipality's right to purchase fire insurance in a mutual company.

### TAX FORECLOSURE SOUP

*(Continued from page three)*

or indirectly this deficit must be borne by those who pay their taxes promptly.

It is true that there is an alternative type of foreclosure in which ordinary court costs are not limited; but it requires much more legal work on the part of the attorney than, prior to the fall of 1934, was thought necessary in an action brought under the 1927 law. Further, in this alternative type of action the consensus of opinion seems to be that no attorney's fee can be charged as part of the costs. Therefore a deficit is inevitable in this type of action also.

The 1927 law, so far as its status as a simple and effective foreclosure law was concerned, was in the position of a batter with two strikes on him. One strike had been thrown by the local officials and one by the legislature. The State Supreme Court threw the third strike.

Two earlier opinions of the Court had been regarded as approving the validity of the provisions requiring only newspaper notice to interested persons other than the listing taxpayer and spouse. However, in October, 1934, the Court decided that these provisions were unconstitutional. It held that clear title to the property cannot be secured in the foreclosure unless all persons having an interest in the property are actually made parties and served with summons. The effect of this decision was to render defective thousands of pending actions and to invalidate the titles secured in numerous other actions already wound up.

In these titles and pending actions counties and cities have a stake, in court costs already incurred (over and above the taxes and penalties), which may be conservatively estimated at over a quarter of a million dollars. Just what can be done

about the matter is a confused problem which is currently giving headaches to many county and city attorneys.

So much for actions already pending when this decision was rendered. What of actions now being brought? The 1935 legislature, realizing that it now will be necessary for the lawyer bringing the action to make a complete title search, attempt to locate all the interested parties, and sweat over numerous technical details, authorized cities and counties to pay attorneys up to \$10 per suit for bringing actions under what now remains of the 1927 law. It retained the provision restricting to \$2.50 the attorney's fee which may be taxed as costs in the action and the provision restricting the total costs which may be taxed to \$6. There still remains the alternative method of procedure; but it, too, requires a complete title search, and in it no attorney's fee may be collected as court costs.

Thus, at least until the next legislature meets, we are committed to the principle that the average tax foreclosure action can, and probably will be conducted at a loss. So if you happen to have read recently that your county or city has just brought a number of new tax foreclosure actions it may not be inappropriate for you to remember that in each suit, in addition to grief for the delinquent taxpayer and a headache for the county or city attorney, there is a potential deficit which you will help to pay.

The 1935 legislature was called upon to pass a new tax foreclosure law. It declined the job with thanks. Undoubtedly the 1937 legislature will be called upon to remedy the situation. If it does not shirk the task, it must consider at least the following questions: How much time should the delinquent taxpayer be allowed before foreclosure is started? How much penalty should be imposed prior to that time? Can a foreclosure proceeding be devised which is satisfactory to the Supreme Court and yet is less cumbersome than the present proceeding? How much costs should be charged against the delinquent taxpayer in a foreclosure proceeding? Should the amount so charged be, as now, less than the cost of bringing that proceeding?



# Bulletin Service

Opinions and rulings in this issue are from State Department letters  
from October 10 to November 15

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Prepared by  
M. R. ALEXANDER

## I. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

### 13. Exemptions—veterans' compensation in hands of guardian or administrator.

To F. W. McGowen. (A.G.) War Veterans' Compensation payable to a guardian for the children of the veteran is in effect payment to his dependents and hence is exempt from national or state tax. In like effect, War Veterans' Compensation paid to or in the hands of an executor or administrator is in effect payment to the veteran's estate and as such is exempt. See Michie's Code 1935, Sections 7971 (51a) and (51b), also 38 U. S. C. A., Section 618.

## B. Matters affecting tax collection.

### 15. Delinquent taxes—notes given under Chapter 181, Public Laws of 1933.

To A. F. Ghormley. Inquiry: Do Chapters 33 and 335, Public-Local Laws of 1935, authorizing County Commissioners to accept notes in settlement of 1927-33 taxes, conflict with the state-wide act, Chapter 181, Public Laws of 1933?

(A.G.) Chapter 181, Public Laws of 1933, was an enabling act permitting the funding of taxes due any county or municipality by agreement entered into on or before April 1, 1934. Chapter 181 would have no effect upon the two Public-Local Acts, of a somewhat similar character, applicable to your county.

However, I think I ought to tell you that a serious question has arisen as to the constitutionality of Public-Local acts of this character. It is very strongly contended that they violate the provisions of Article II, Section 29, of the State Constitution, prohibiting special legislation extending the time for the collection of taxes.

### 29. Tax foreclosure—necessary parties, Chapter 428, Public Laws of 1935.

To Frank M. Armstrong. Inquiry: I understand that suits for the foreclosure of 1932 tax sales certificates must be instituted on or before December 1, 1935. Please construe Chapter 428, Public Laws of 1935, regarding the bringing in of additional parties, as mortgagees and lien holders.

(A.G.) This Statute provides that in all foreclosure actions now pending the Plaintiff may have 12 months in which to bring in necessary parties. In our opinion this applies to suits on taxes for years prior to 1932 as well as to those for 1932, providing the action was pending at the time of passage of the act. On the other hand, Chapter 428 has no application whatever to tax foreclosure actions begun after May 11, 1935.

It is our opinion when additional parties are brought in the action under Chapter 428, the action is commenced as to

each such additional party only when process has been served on him. He has the right to avail himself of any remedy which any party would have had if suit had been brought at that time. Thus he could set up the defense that suits against the parties listing the lands must be brought before December 1, 1935.

### 31. Tax foreclosure—procedural aspects.

To A. F. Ghormley. Inquiry: In tax foreclosure actions under C. S. 8037 is personal service of the summons sufficient without publication in a newspaper or at the court house door?

(A.G.) While it is probable that personal service, as made in ordinary civil suits, would be sufficient, the Statute plainly requires the general notice, and it is not safe to dispense with the positive requirement of the Statute, however useless it may appear.

To O. B. Crowell. Inquiry: A town mistakenly brings its tax suits before the time stipulated by the Statute. Must the delinquent taxpayer plead the defect within the time set for his answer or may he take advantage of the error at any time?

(A.G.) I am of the opinion that such a suit, being an express violation of the Statute, may be dismissed upon motion at any time. I do not think the situation is exactly analogous to a suit brought after the Statute of Limitations has run. The latter, of course, has to be pleaded.

To A. F. Huxley. Inquiry: The coun-

ty has foreclosed for taxes a piece of property against which the town holds a deed of trust on account of a sinking fund loan. The trustee, who lives in another county, was served with notice, but not the officials of the town. Is the town barred from foreclosing under its deed of trust.

(A.G.) This office is of the opinion that proper service on the trustee would be binding upon the town and that the town would be barred from foreclosing its deed of trust.

To R. B. Overton. (A.G.) Where a town instituted tax foreclosure proceedings on tax sales certificates for the years 1927 and 1928 and then included in such proceedings assessments for taxes for subsequent years, it is the opinion of this office, after a final judgment where a commissioner had been appointed and had sold the land in question under order of the court, that the town would be barred from collecting from the purchaser at this sale such subsequent taxes not included in the tax foreclosure action.

### 35. Tax foreclosure—costs and fees.

To G. G. Brinson. Inquiry: Please advise me the legal rate of interest that tax sales certificates carry. (A.G.) C. S. 8037 provides that interest shall be charged at the rate of 10 per cent for the first year from the date of sale and eight per cent from the end of the first year until the tax is paid or the foreclosure completed.

To B. L. Fentress. (A.G.) Public Laws of 1935, Chapter 438, limits the attorney's fees to be charged against the Defendant as part of the costs in tax foreclosure actions to \$2.50. This limitation has no relation to the sum paid or the contract between the Plaintiff and the attorney, which is limited by Section 2 to \$10.00 for each action instituted. In our opinion these limitations apply to pending litigation and to your county, as it repeals all public, public-local, and private laws inconsistent therewith.

### 60. Tax collection—property under the \$300 exemption.

To O. L. Williams. Inquiry: Are the classes of personal property which are exempted by statute from taxation up to \$300 also exempt from a levy by the Sheriff for the collection of taxes on other property, disposed of prior to the levy?

(A.G.) Yes. See Section 8008, C. S. (Michie's Code 1935), regarding personal property liable to be seized and sold for taxes, which reads property "subject to taxation."

To C. E. Brinson. (A.G.) It has been a holding of this Department of long standing that personal property included within the \$300 exemption is not subject to levy in collection of taxes. It would be the duty of the taxpayer to point out the articles which he desired to be exempt from such levy, if they amount in value to more than that.

### 82. Tax foreclosure—procedure under C. S. 7990.

To A. D. Gore. Inquiry: What is the difference in costs and fees in foreclosure actions under C. S. 7990 and C. S. 8037? What are the advantages of proceeding under 7990?

(A.G.) The limitations as to costs and fees contained in C. S. 8037 and the statutes relating to the foreclosure of tax sales certificates do not apply to suits to foreclose the lien of tax under C. S. 7990, nor is it permissible to add any attor-

Nov. 23, 1935.  
Newton, N. C.,

Institute of Government,  
Chapel Hill, N. C.

I have recently received my booklet on tax collection and foreclosure prepared by your organization. I think it is by far the best thing along this line that I have ever seen. Those of you who have done this work have rendered the Counties and Cities of this State a great service.

Again let me congratulate you on the fine service you have rendered the tax authorities of this State.

Yours very truly,  
J. H. GILLEY,  
County Accountant-  
Tax Collector.



ney's fees in the costs cast in the latter proceeding.

This Department has held that the interest to be charged on delinquent taxes in a proceeding under C. S. 7990 is only six per cent of the tax itself, and that this interest cannot be calculated on the added penalty.

Generally speaking, the advantage of bringing an action under C. S. 7990 is that the process is not only simpler, but the limitations provided in C. S. 8037 do not apply. It is generally accepted by the legal profession that procedure under C. S. 8037 is more complicated and uncertain, and that the title acquired thereunder is more likely to be attacked.

#### 95. Tax collection—procedure when tax books are lost.

To R. L. Stallings. Inquiry: What procedure should a town adopt when its tax-books have been misplaced or lost?

(A.G.) We think it would be proper to go back to the original source, that is, the county tax list, make up a new list and proceed with this. Of course, taxpayers who have paid their taxes could satisfy you that they had paid either by oral evidence or the original tax receipt.

In the event foreclosure actions are instituted, it could be plead in the complaint that the original taxbooks had been lost and that the ones upon which suit was being brought were substitutes for the original records. This is a matter of proof in the action to foreclose.

### II. Poll taxes and dog taxes.

#### A. Levy of poll taxes.

To P. A. Rudd. Inquiry: Am I correct in my understanding that all poll taxes and personal property taxes are subject to collection for all years except as provided in Section 7, Chapter 181, Public Laws of 1933, which bars the collection of such taxes prior to 1927? (A.G.) Yes.

#### B. Collection of poll taxes.

To Mrs. Evelyn H. Pleasants. Inquiry: 1. Does the Statute of Limitations run against poll taxes and personal property taxes? 2. Must personal property to be attached for taxes have been owned by the party at the time of listing?

(A.G.) 1. No. 2. The time of acquisition is immaterial. All personal property not specifically exempted under the Machinery Act may be attached to satisfy taxes.

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

#### A. Levy of such taxes.

#### 13. License tax—motor advertisers.

To A. J. Maxwell. (A.G.) The Revenue Act, Section 151½, provides a State tax of \$100 upon motor advertisers using loud speaker attachments or other sound magnifying devices for advertising purposes. In addition, counties may levy a tax not in excess of \$25 and cities and towns a tax not in excess of \$10. In my opinion the tax does not apply to cars so equipped but used for propaganda for a political party, trade or labor union, and not used for the purpose of commercial advertising.

#### 14. Privilege license—beer.

To Cora Bell Ives. (A.G.) This is to advise that your county would have no authority to issue a beer license on a pro rata basis for a fractional part of a year.

To R. G. Austin. Inquiry: Is it mandatory upon the governing body of a

town to grant a license to a person who qualifies as a beer dealer as set out in the Statute?

(A.G.) Yes. See Section 14, Chapter 319, Public Laws of 1933. Chapters 393 and 466, Public Laws of 1935, provide that a county may prohibit the sale of wine within its territory. These chapters, however, have no application to the sale of beer.

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

To R. M. Lilly. Inquiry: Is a person who does not have a located business in a town but who brings into town, sells and distributes to regular customers milk or other products, subject to a town tax under C. S. 2677 or under a similar provision in the town charter?

(A.G.) This Office is of the opinion that Subsection (f), Section 121, Public Laws of 1933, is not available as a defense against the levying of this tax. It is well settled that the words contained in your charter as well as the Statute, "carried on or enjoyed within the city," are sufficient authority for the city to levy a privilege tax upon businesses which are located outside the city limits but which enjoy the privilege of carrying on and profiting from such business inside the city. See *Guano Co. vs. New Bern*, 158 N. C. 354, and *Hilton vs. Harris*, 207 N. C. 465.

#### 40. License tax on peddlers.

To R. R. Kinney. (A.G.) We are of the opinion that a person who handles packing house products on commission would be subject to the peddler's tax under Section 121 (b). However, subsection (3) specifically exempts peddlers of cakes and pies.

#### 60. License tax on laundries.

To Harry S. Woodson. Inquiry: Section 150 of the Revenue Act provides that cities and towns may levy a privilege tax on laundries not in excess of one-half of that levied by the State and, in the case of persons soliciting business for services to be performed outside the county, a tax not in excess of \$50.00. Is the fact that the tax levied on out-of-county companies is higher such a discrimination as to make it invalid?

(A.G.) Section 150 is practically the same as the corresponding section of the 1933 Act. As to the latter, this Department was compelled to conclude that the discrimination was invalid. For that reason the highest tax a municipality could impose would be that imposed for similar services on persons in the county. The opinion, however, was advisory merely, and the municipal authorities are, of course, not bound by it, it merely expressing the view of this Department as to the law. In this connection you might read *Linen Service Corporation vs. Crisp*, 207 N. C. 633.

#### 70. License taxes on chain stores.

To C. H. Leggett. Inquiry: Are county A.B.C. stores subject to the chain store tax? (A.G.) The State takes the position that when a county goes into business of this nature it is not performing a governmental function and is liable for the tax in the same way and manner as any person, firm or corporation engaged in such business. The only way to test the legality is for the county to pay the tax under protest, demand its return, and upon refusal appeal to the Superior Court.

#### B. Collection of license taxes.

#### 15. Penalties for non-payment.

To J. K. Powell. Inquiry: 1. Is a man criminally liable for the operation of a filling station without a license? 2. Must the civil remedies be first exhausted? (A.G.) 1. Yes, under Section 187 of the Current Revenue Act. 2. No.

### IV. Public schools.

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

#### 3. School insurance—mutual companies.

To Guy B. Phillips. (A.G.) For a period of more than 15 years it has been the holding of this Department that the State, its subdivisions, counties, cities, boards of education, and school districts had no legal authority to take out insurance in a mutual company. I have not seen fit to change the rulings of Attorney Generals Manning and Brummitt in that regard. However, the matter is now before the Supreme Court, and an opinion will be handed down, I think in a very short while, which will make the situation clear.

#### 15. Conformance with budget.

To Geo. T. Davis. Inquiry: The county school budget as submitted by the Board of Education (under C. S. 1334) and approved by the Board of Commissioners called for specific expenditures for repairs and maintenance of plant for each school in the county system. May the Board of Education vary these figures, spending more for this purpose at one school and less at another?

(A.G.) This Office is of the opinion that the total appropriation for maintenance would have to be used for this purpose, but that the total could be used for the proper maintenance of any of the several plants in the county in the discretion of the Board of Education.

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

#### 17. Apportionment of funds.

To P. V. Critcher. (A.G.) Since the entire building program of your county is one project and county bonds will be issued to supplement the funds of the federal government, this Office is of the opinion that the selection of sites, as well as the supervision and disbursing of funds to be expended, should be in the County Board

### SALARY SAVINGS

To Guy B. Phillips. Inquiry: I understand that the effect of Chapter 19, Public Laws of 1935, is to authorize the deduction of money from the salaries of State employees for life insurance, hospitalization, and building and loan. Is this construed to include other phases of insurance, as health, accident, and salary savings? And does it include hospital association dues or is it confined to hospital bills or accounts?

(A.G.) We think the Amendment should be construed strictly, that is, that it should apply only to assignments made in favor of hospitals, building and loan associations, and life insurance companies. It may be that some life insurance companies write the other forms of insurance you mention. If so, they would come within the meaning of the Act. Otherwise, such assignments should not be honored.



and not in the various administrative units of the county.

#### 60. Aid to indigent pupils.

To E. N. Peeler. (A.G.) The Commission has defined an indigent child as one whose parents are receiving aid

ANDREW JOYNER, JR. Greensboro's efficient city manager is the new Vice-President of the American Municipal Association. At the same meeting E. M. Knox of High Point was made Vice-President of the National City Managers.



through the County Welfare Department. It cannot be held, therefore, that a child whose parents are receiving aid through a Community Chest comes within this definition.

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

##### 40. Transportation of pupils.

To John H. McElroy. Inquiry: Is it the duty of the County Superintendent of Education to sign a voucher issued to pay an emergency school bus driver appointed by the County Board? The principal, local committee, and superintendent are given the power to appoint drivers by C. S. 5780 (73), the emergency appointment by the County Board being made necessary by the fact that the other agencies could not agree.

(A.G.) This Office is of the opinion that the duties of the County Superintendent are purely ministerial in character, and it would be his duty to sign the voucher issued by order of the County Board. The driver in question was employed by the County Board and should be paid.

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

##### 7. Transfer of property to County Board.

To F. R. Sifford. Inquiry: May a town make a valid gift to the county of a school building, erected and owned by a special charter district at the time the county took over the schools, without a vote of the people, even though some of the bonds issued for the erection of the building are still outstanding?

(A.G.) It is our opinion that this can be done. C. S. 5469 provides that gifts of school property may be made to a county. Under the School Machinery Act the county has control over all schools within the county district, local administrative districts excepted. C. S. 5472 provides that the county may not repair a school building unless it is owned by the county board of education. Under this set-up, it would seem proper for the town to deed its school building to the county so that it could be repaired.

#### F. School officials.

##### 54. Teachers—salaries.

To Lloyd Griffin. Inquiry: Is a teacher entitled to pay during the time, if less than 20 days, when a school is closed by quarantine?

(A.G.) A teacher is employed for the school term and under Section 4 is paid monthly. It is our opinion, when a school is closed for any definite period on account of quarantine by local authorities—

an event entirely beyond the control of the teacher—that the teacher should be paid for the time the school is so closed.

#### VII. Miscellaneous matters affecting cities.

##### B. Matters affecting municipal utilities.

To George R. Sidwell. (A.G.) The State levies no tax of any sort upon a municipality furnishing electricity, gas or water to its inhabitants. There is no statute on the subject, the practice being based on the theory that the municipality is in the performance of governmental functions in furnishing such facilities to its inhabitants. The immunity does not extend, however, to a municipality when furnishing services to persons beyond its borders. The precise question has not been passed upon by our courts.

##### C. Police and fire protection.

##### 5. Police regulations.

To G. C. Eichhorn. (A.G.) This Office is of the opinion that city ordinances prohibiting the use of certain types of horns within the city limits at all times and prohibiting the blowing of horns at certain hours of the night would be a valid exercise of the police power of your city as granted by statute. (See C. S. 2787, subsections 7, 10, 11, 26, 31, 36.) Such action would amount to no more than regulating the use of the streets in furtherance of the peace and welfare of your citizens.

##### K. Grants by cities and towns.

##### 5. Armory sites.

To Z. A. Morris, Jr. Inquiry: Is there any way that the governing body of a city may legally make an appropriation to purchase a site for an armory building to be constructed with federal funds and title to which shall be in the State?

(A.G.) The provisions of Article 7, Section 7, of the State Constitution have no application where the funds to be used are already on hand and the proposed expenditure will impose no further liability on the municipality, nor involve the imposition of further taxation upon it. (Adams v. Durham, 189 N. C. 232.)

##### N. Police power.

##### 20. Regulation of trades and businesses.

To J. O. Atkinson, Jr. (A.G.) After a municipality issues a license to sell beer on the premises, the aldermen have no power or authority to pass an ordinance regulating the manner in which such sale shall be conducted. The Legislature places no restrictions thereon, and the municipality is, therefore, without power to do so.

To Charles Hughes. Inquiry: May a town board pass a valid ordinance prohibiting the sale of beer having an alcoholic content of more than one-half of one per cent on Sundays and after a certain hour at night on other days?

(A.G.) There is some doubt in our minds, due to the wording of the ordinance, with reference to the alcoholic content of beer, as to whether or not such restriction of sale would be a valid exercise of the police power by your town. It would seem to us it would be very difficult if you were attempting to prove that the sale of such a beverage was a nuisance at the time specified in the ordinance, or that the sale of beverages containing not more than one-half of one per cent would not be a nuisance and the sale of such beverage containing not more than five per cent would be a nuisance.

#### VIII. Matters affecting chiefly particular local officials.

##### B. Clerks of the Superior Court.

##### 8. Acknowledgment and probate of instruments.

To W. E. Church. Inquiry: Is a judgment duly handed down and signed by the judge, as in a divorce suit, valid if not docketed with the Clerk of Superior Court?

(A.G.) Yes. The docketing of a judgment is not an essential condition of its efficacy, nor a prerequisite to enforcement by process. It is necessary only to create and prolong any lien acquired for the benefit of the judgment against subsequent lien incumbrances and conveyances of the same property.

##### 9. Wills and caveats.

To J. N. Sills. Inquiry: Must a caveat to a will be filed in the county where the original will was first admitted to probate and recorded? (A.G.) This office is of the opinion that such county is the proper one. See C. S. 4161 (a).

##### 10. Collection of process tax.

To Wm. I. Cochran. (A.G.) We wish to withdraw our letter of Oct. 30. Upon further investigation we are of the opinion that a federal agency should not be required to advance or pay the process tax levied in the Revenue Act.

##### 20. Criminal appeals.

To J. E. Swain. Inquiry: The Defendant on appeal in a criminal case, of course, has to put up an appeal bond with the Clerk of Superior Court and a cost bond with the Clerk of Supreme Court. In view of the decision in Current vs. Church, 207 N. C. 658, is it also necessary in the case of a fine for the Defendant to furnish a bond to stay execution under C. S. 4650? May the appeal bond and the bond to stay execution be included in the same instrument with the same sureties?

(A.G.) In a case where the Defendant is adjudged to pay a fine I am of the opinion that the bond filed by the Defendant should be to abide the whole judgment of the court and that this is necessary to stay the execution. In fact, this is the provision of C. S. 4655, and Section 650 referred to in C. S. 4655 provides that in civil cases an appeal does not stay execution unless a bond is given, "if the judgment directs the payment of money."

It is quite proper to include in one instrument the bond for appeal and the bond to stay execution where there is a fine or some requirement of the court other than mere appeal to be made. It is not so much the number of instruments nor their form that controls as it is that these obligations of the Defendant should be secured by proper surety.

##### 84. Special proceedings—bonds of commissioners.

To W. H. Young. Inquiry: Please construe Chapter 45, Public Laws of 1935, regarding the duties of Clerks of Superior Court in special proceedings.

(A.G.) In my opinion C. S. 766, as amended by Chapter 45, Public Laws of 1935, leaves it within the discretion of the Clerk either to require that the bond mentioned in that section shall be given by a commissioner who handles the fund for reinvestment or distribution, or to require that the proceeds from the sale be paid directly into the court by the purchaser. I do not think that the choice lies with the attorneys in the case or the commissioners appointed in the special proceeding.



**C. Sheriffs.****1. Fees.**

To W. R. Clegg. (A.G.) Section 3411x, Michie's Code 1935, provides that for every bona fide seizure of a distillery the Sheriff or other police officer shall receive such sum, not less than \$5 nor more than \$20, as the Board of County Commissioners shall in their discretion allow. The effect of Chapter 253, Public Laws of 1935, was to place your county within the provisions of this act.

**3. Rewards.**

To J. C. B. Ehringhaus. Inquiry: Does C. S. 4555 prohibiting a reward to a Sheriff or other officer for any arrest made for a crime committed within his county apply in the case of a prisoner who has already been convicted but who escapes from a state prison camp and is recaptured?

(A.G.) This Office is of the opinion that this prohibition applies only in the cases of the *original apprehension* of a person charged with crime. After the officer has arrested the person, and such person is tried and committed to prison, it is our opinion that the officer's duty ends, and he would be entitled to a reward for the recapture of the prisoner on escape.

**D. Registers of Deeds.****10. Marriage—age of parties.**

To W. E. Ormond. Inquiry: Please advise the marriageable age of male and female in North Carolina.

(A.G.) C. S. 2495 provides that a marriage between a male person under 16 and any female, or between a female person under 14 and any male, shall be void. However, the Supreme Court has ruled in *State vs. Parker*, 106 N. C. 711, that such marriages are voidable rather than void ab initio.

C. S. 2500 forbids the Register of Deeds to issue a license to persons under 18 without written consent from their parents.

We do not think that the state of pregnancy of the female would give the Register of Deeds the right to issue a license if one or both parties are not of marriageable age.

**L. Local law enforcement officers.****24. Prohibition—1935 Liquor Control Acts.**

To T. D. Warren. (A.G.) It is manifest that the intent of the Legislature in enacting Section 5, Chapter 493, Public Laws of 1935, was to fix the remuneration for Chairmen of A. B. C. Boards at \$50 per month and of all other members of the Boards at \$7.50 per day for time actually spent by them as such members. In addition thereto, the Chairman and other members are entitled to actual expenses incurred in the performance of their official duties.

To R. T. Allen. Inquiry: Is it legal for restaurants to sell wine in counties with A. B. C. wine and liquor stores?

(A.G.) In my opinion, the Pasquotank Act contemplates the exclusive possession, sale, and distribution of all intoxicating liquors by the A. B. C. Board, but not domestic wines and ciders authorized by Chapter 393, Public Laws of 1935, or alcoholic beverages containing no more than five per cent of alcohol.

**30. Slot machines.**

To P. G. Crumpler. Inquiry: Please give me your opinion as to whether the so-called pin table or marble games are legal under the Slot Machine Act?

(A.G.) This Department has very carefully abstained from passing on the legality or illegality of any particular type of slot machine. This was made necessary by the fact that some manufacturers of such devices have been known, wholly without authority, to make photostatic copies of letters from this Department and attach them to machines the operation of which may thereafter be illegal. Another reason is that the question is not entirely one of law but also one of fact.

Under Chapter 282, Public Laws of 1935, I can only say that if the element of chance enters substantially into the operation of the devices to which you refer and determines the result, the operation of such a machine is illegal, as it would be a gambling device.

To H. L. Williamson. (A.G.) You are advised that warrants under the Slot Machine Law should follow, as closely as possible and insofar as applicable to the particular devices involved, the language of the statute itself.

In regard to the several offenses prohibited by the statute, that is, the operation of such a device, as distinguished from the owning and leasing of the same, it would seem to be the better policy to single out one or more activities particularly applicable to the statute and to the facts involved and confine the warrant to that particular offense, rather than to change a multiplicity of offenses which may serve to confuse the issue.

To D. J. Bigger. Inquiry: 1. May a town levy a tax on slot machines? 2. Is the operation of punch boards legal? 3. Is the sale of beer and wine legal if prohibited by the town charter (Section 9, Chapter 436, Private Laws of North Carolina)?

(A.G.) 1. Yes. 2. No. 3. Yes. The Beverage Control Act as passed by the 1933 and 1935 Legislatures repeals such prohibitions.

**31. Lotteries.**

To W. L. Dowell. Inquiry: Is it legal for a merchant to give tickets with purchases and award a prize to the one who holds the "lucky number" at the drawing?

(A.G.) No. This practice clearly falls within the inhibition of Section 4428, C. S. This is true notwithstanding the fact that no additional charge be made for tickets or "chances."

To Rodolph Duffy. Inquiry: An organization known as the National Conference on Legal Lotteries, Inc., has launched a campaign for members in this county. The membership fee is \$1 and entitles the person to participate in the prize contest to supply a slogan for the campaign. Is this a violation of the North Carolina lottery laws?

(A.G.) As long as the chances of receiving a prize are dependent upon skill rather than chance, our opinion is that the transaction is not within the meaning of the statute.

**37. Safety Responsibility Act.**

To W. J. Croom. (A.G.) Under the provisions of the Safety Responsibility Act you would have no authority to take up title or cancel license of a non-resident who has title to his auto in a foreign state. The only thing the statute authorizes you to do is to refuse to issue and register title and plate for an auto in this State to a Defendant who comes under the Safety Responsibility Act.

**41. Operating motor vehicle while intoxicated.**

To Frank L. Hoyle, Jr. (A.G.) It is the opinion of this Office that it is proper to indict a person who is charged with driving while under the influence of whiskey under either Section 2621 (44) or Section 4506, C. S., and that this is a matter which is purely within the discrimination of the person who is drawing the warrant. The judgment should follow the specific charge according to the penalty contained in the section from which the indictment is drawn.

**T. Justices of the Peace.****1. Fees.**

To Rufus F. Routh. Inquiry: When an officer cites a man to appear before a J.P. and the Defendant does so free and voluntarily without being formally arrested, is the J.P. entitled to charge an arrest fee against the Defendant? (A.G.) Yes. It has been held in this State that this is technically an arrest.

**10. Jurisdiction.**

To H. C. Ridenhour. (A.G.) This Office does not have available for distribution literature or pamphlets relating to the duties of a J.P. We refer you to C. S. 1462-1535. The law as set out there is very plain concerning the duties and jurisdiction of J.P.'s

**U. Notary Public.****10. Contracts in which employer is interested.**

To G. B. Ingraham. (A.G.) Chapter 168, Public Laws of 1935, has application only to subscribing witnesses to instruments. It is entirely proper for the agents of a company who are Notary Publics to take acknowledgments of the grantors in instruments executed in favor of the company.

**IX. Double office holding.****2. Notary Public.**

To W. J. T. Styers. (A.G.) Under our Constitution the two places of Notary Public and County Surveyor cannot be held by the same person at the same time, as both are offices.

**9. School committeeman.**

To A. C. Brittain. (A.G.) We are of the opinion that the Secretaryship of a District School Board and the place of County Farm Demonstration Agent are not two offices within the meaning of this prohibition.

**51. Postal employee.**

To L. S. Inscoe. (A.G.) The positions of mail carrier and school committeeman have each been held to be public offices within the purview of the Constitutional prohibition.

**55. Executives in federal agencies.**

To N. M. Redfern. (A.G.) The office of executive assistant to the State Director for the National Emergency Commission and member of the town board are both offices.

**60. Game Warden.**

To V. C. Bruton. Inquiry: May a county fire and game warden also serve as (1) township constable? (2) deputy sheriff?

(A.G.) No, because constables are either elected or named by the General Assembly in a specific act relating to same. 2. Yes, unless the office is created by a specific statute.

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