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Lv. Durham	9:00 AM		
Ar. Burlington	10:12 AM	\$ .51	\$ 1.40
Ar. Greensboro	11:00 AM	.83	2.20
Ar. High Point	11:30 AM	1.06	2.85
Ar. Salisbury	12:25 PM	1.57	4.65
Ar. Concord	12:55 PM	1.92	5.10
Ar. Charlotte	1:30 PM	2.24	5.95
Ar. Gastonia	2:00 PM	2.57	6.55
Ar. Blacksburg	2:37 PM	2.93	7.85
Ar. Spartanburg	3:20 PM	3.36	10.00
Ar. Tryon	4:34 PM	3.76	10.05
Ar. Hendersonville	5:28 PM	4.02	10.75
Ar. Greenville	4:25 PM	3.84	10.25
Ar. Seneca	5:35 PM	4.41	11.80
Ar. Gainesville	7:30 PM	5.35	14.25
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# POPULAR GOVERNMENT

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## THE GREAT BOND AGE

IF YOU were a banker and a client came to you for a loan, what would you say when he presented the following balance sheet?

Current assets	\$ 15,257,527.16
Sinking fund assets	23,455,120.41
Investments (par value \$5,041,880)	5,233,584.00
Fixed assets (Appraised value): Consisting of highways, buildings, land and equipment	272,899,425.00
<b>Total assets</b>	<b>\$316,845,656.57</b>
Current liabilities	\$ 20,526,450.95
Bonded debt	173,181,371.00
Capital surplus (Excess of value of fixed assets over bonded debt)	128,406,758.41
<b>Total liabilities and capital surplus</b>	<b>\$322,114,580.36</b>
Excess of liabilities over assets	\$ 5,268,923.79

If you were a prudent banker you would probably be doubtful of advancing money to an enterprise in such financial status. First, you would probably ask about the sinking fund assets and find that they could not be pledged as security. Next, you would inquire as to the investments and find most, if not all, were pledged under bond indentures from which the purchase money was secured. Lastly, you would ask about the fixed assets only to learn that they consisted principally of strips of concrete, tar and gravel, office, school and other buildings which produced no rents. Your next inquiry would be as to the maturities of the bonded debt. To which your client would reply, "O! It matures annually in fairly substantial amounts from now until 1972."

At this point you would probably begin shaking your head in despair and take stock of the situation as a whole. Here is a client whose cur-

### The State Debt: 1879:1972 Its Creation and Plans for Its Cremation



By T. N.  
GRICE

of the Staff of  
the Institute of  
Government

rent liabilities exceed his current assets by more than \$5,000,000, whose other liquid or semi-liquid assets are already pledged, whose fixed assets produce no revenue in themselves and whose bonded debt amounting to over 173,000,000 apparently will keep his nose to the grindstone until 1972! What in the world has he to offer as security? To which question you get the reply, "the full-faith, credit and taxing power of the State of North Carolina." Would this answer be sufficient for you to extend credit to your client? Well, that's just the predicament the State of North Carolina was in during the latter part of 1932, and that bankrupt balance sheet gives the financial picture of the State at June 30, 1932.

#### \$173,000,000 in Faith

If to you as a banker "the full-faith, credit and taxing power of the State of North Carolina" seemed pretty thin security when this same State already owed over \$173,000,000, you didn't know and

understand the people of the Old North State. That \$173,000,000 debt was created by a people who underwent more than ten years of the most severe growing pains in history. It was an honest debt and one which not only could but would be paid in the course of time in spite of such a poor financial statement. But before going on from 1932, let's see how, when and why this tremendous debt was created.

Coming out of the Civil War the State found itself in a sad financial condition. The Confederate currency was practically worthless, the people of the State found their personal fortunes gone and the State was torn with political strife. Following the war, the carpet-bagger régime further wrecked the State's finances and the depression of 1872 further reduced personal fortunes. In 1879 the General Assembly of the State took stock of the situation and found the State debt something over \$15,000,000. A portion of this debt was created to aid in the construction of The North Carolina, The Western North Carolina and other railroads, part went for State permanent improvements, part for war activities and part was created during the re-construction days under the carpet-bagger régime for unnecessary, if not frivolous, reasons. The State in 1879 was in no condition to meet such an indebtedness and was able to secure a compromise. New forty-year 6 per cent bonds, maturing in 1919, amounting to \$2,742,000 were exchanged for the old bonds issued to finance The North Carolina Railroad. The balance of the debt was compromised on the bases of 15, 25 and 40 per cent depending on the type of the various issues. New thirty-year 4 per cent bonds, ma-



turing in 1910, were authorized to be exchanged for the old outstanding issues.

Most of the holders of the State's bonds exchanged them for the new issue upon the bases laid down in 1879 by the General Assembly. In 1880 holders of over \$11,400,000 of old bonds had exchanged them for \$3,298,950 in new bonds. Some \$316,820 of the new bonds were held in the Treasury awaiting exchange for some \$1,221,500 of the old issues. Thus, through a compromise the debt of the State in 1880 was reduced to some \$6,357,700 represented by two issues. The first, amounting to \$2,742,000, for railroad construction, and the second, amounting to \$3,615,770 of which \$316,820 had not actually been exchanged.

**House Put in Order**

The State created no additional bonded debt until 1899 when \$170,000 in 4 per cent bonds maturing in ten years were issued. Of this amount \$110,000 were issued to pay off debts accumulated by the State's prison and \$60,000 to purchase prison farm land. That the State had put its house in order and was in good financial condition at this time is shown by the fact that these bond issues bearing a comparatively low interest yield were sold at a premium of \$15,452.50. At the turn of the century, November 30, 1900, we find the State's bonded debt totaling \$6,527,770.

The next bond issue came in 1903. The General Assembly of 1901 made some very generous appropriations to our educational and charitable institutions, but failed to provide adequate sources of revenue to meet these expenditures. The appropriation bill expressed the hope that the expenditures could be met out of current revenues without further taxes. When the 1903 General Assembly convened it found its predecessor had been long on hope and charity, but short on funds. The 1903 General Assembly authorized a 4 per cent ten-year \$300,000 bond issue to cover expenses already incurred in futhering the State's educational and charitable program.

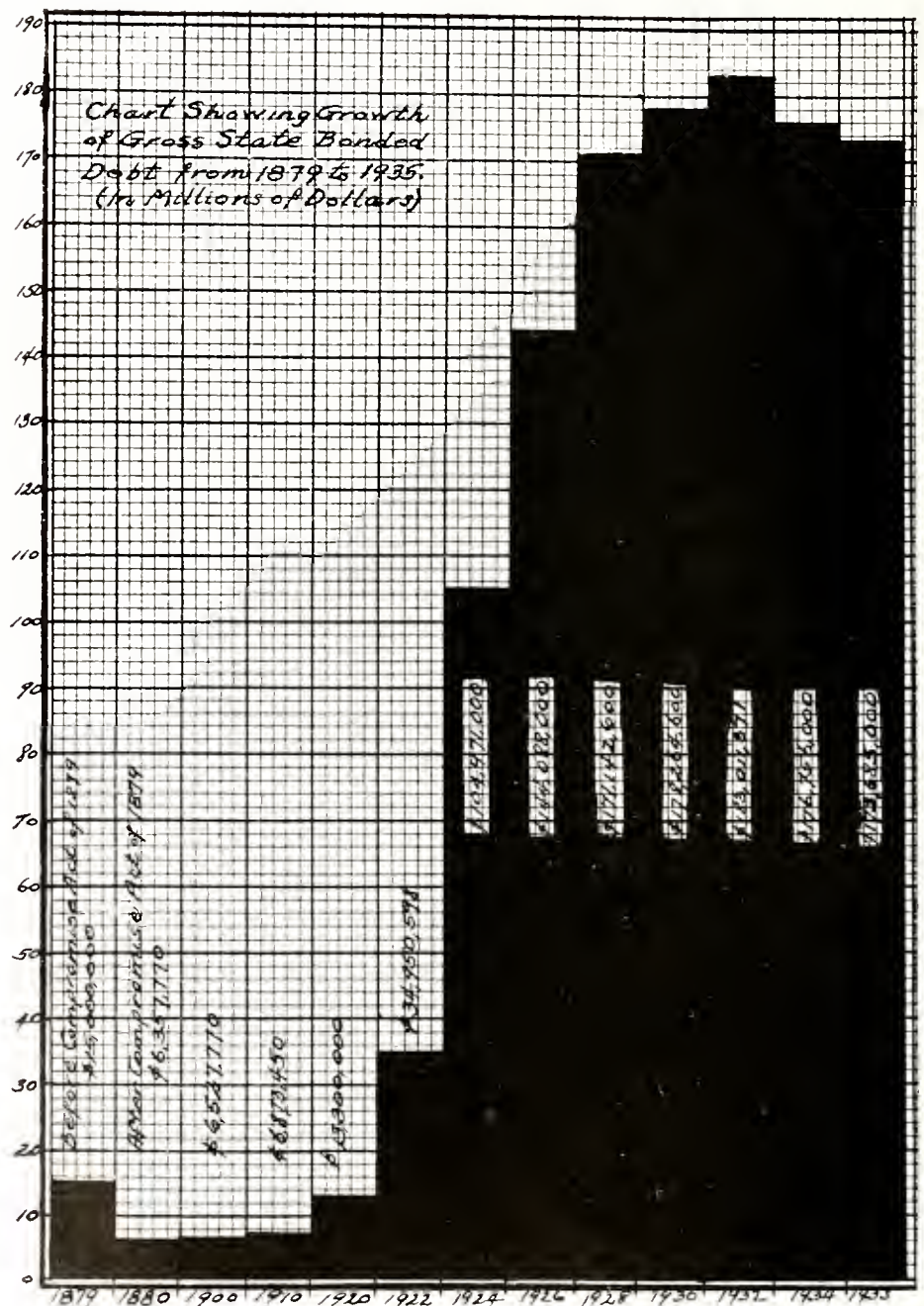
**Schafers' Pound**

No further bonds were issued until 1905 when \$250,000 of 4 per cent eight-year bonds were issued

to cover the so-called South Dakota judgment involving some old railroad bonds which were never exchanged under the compromise act of 1879. It seems that some New York bankers, Messrs. Schafer Bros., owned some \$242,000 of old railroad bonds which, under the compromise act of 1879, called for a 25 per cent settlement of the principal amount. Messrs. Schafer did not see fit to accept this settlement and later petitioned the General Assembly to permit them to sue the State. The General Assembly refused such permission. Undaunted, the Messrs. Schafer then persuaded the legislature of the State of South

Dakota to pass an act authorizing the Governor of that State to accept gifts of bonds, stocks and choses in action on behalf of the State and demanding that the State's Attorney General proceed to collect the amount due under such gifts. After thus setting the stage, Messrs. Schafer proceeded to donate \$10,000 of these old North Carolina bonds to the State of South Dakota stating that if payment was forced future gifts to South Dakota and other states may be made.

South Dakota sued North Carolina in the United States Supreme Court, claiming the matter came under the Court's power to hear and





settle conflicts between states. South Dakota won the case by a five to four decision. Mr. Fuller, then Chief Justice, and three other Justices handed down a blistering minority opinion. Under the judgment in this case North Carolina was forced to pay South Dakota some \$27,400 which included the full face value of the bonds plus interest thereon.

The Court's decision, however, did not help Messrs. Schafer for the Court held it had no jurisdiction over an individual against a state. Messrs. Schafer did not see fit to donate any further bonds, but accepted 25 per cent of the principal amount with interest amounting to some \$215,000, an amount the State would have paid at any time. It cost the State some \$18,000 more to pay the bonds held by South Dakota than it would have if they had been redeemed while owned by Messrs. Schafer. On the other hand, Messrs. Schafer lost about \$9,000 by making the gift rather than taking the State's standing offer. All of which indicates that, in this instance at least, North Carolina was twice as charitable as the benevolent Messrs. Schafer.

There was little change in the bonded debt of the State until 1909. The 1907 General Assembly appropriated \$500,000 to provide improvements necessary for the care of the insane of the State. The original appropriations bill authorized bonds to be issued, but this provision was stricken from the bill and a provision to borrow on short term notes up to \$250,000, if current revenues did not suffice, was substituted. The \$250,000 was borrowed on short term notes until the 1909 General Assembly authorized a \$500,000 forty-year 4 per cent bond issue to take care of the short term notes and to finance the original appropriation of an additional \$250,000.

#### **Refund 1879 Bonds in 1909**

The 1909 General Assembly also authorized a new forty-year 4 per cent issue totaling \$3,430,000 to meet the compromise bonds of 1879 which matured in 1910. This, however, did not increase the State's outstanding bonded debt. The year 1909 saw the first actual payment of matured bonds when the \$170,000 prison and farm bonds issued in 1899 were paid.

In 1911 came another forty-year 4 per cent issue totaling \$310,000. Of this amount \$250,000 was designated to build the Supreme Court building and \$60,000 for the North Carolina School for Feeble-Minded.

The next bond issue came in 1913 when new 4 per cent forty-year bonds were issued to pay the funding bonds of 1903 and the South Dakota-Schafer Bros. bonds of 1905, both issues maturing in 1913 for a total of \$550,000. In addition, the bonded debt was increased by \$1,142,500 represented by 4 per cent forty-year bonds issued to cover an operating deficit of some \$600,000 and to finance permanent improvements at the various state-owned institutions.

#### **Bond Parade Begins in '17**

The bonded debt remained about stationary until 1917, which marked the birth of a comprehensive permanent improvement program. The 1917 General Assembly authorized \$3,000,000 of 4 per cent serial bonds to be issued at the rate of \$500,000 each year from 1917 to 1922 to finance permanent improvements at the various educational and charitable institutions. In addition to this, the General Assembly of 1917 authorized the issuance of \$100,000 in ten-year 4 per cent bonds. Of this amount, \$75,000 was designated to finance improvements at Caswell Training School and \$25,000 for improvements at The Training School for Girls and Women at Samarcand. In 1917 and 1918 some \$621,000 of the \$3,000,000 authorized were issued. In 1919-20 some \$903,500 additional bonds were issued under the 1917 act, and some \$1,050,000 was borrowed on short term notes in anticipation of further bond issues under the same act. The old North Carolina Railroad bonds refunded in 1879 came due in 1919 and as no provision had been made to meet payment, it was necessary to borrow on short term notes another some \$2,700,000 to pay these. Thus, at the end of the fiscal year 1919-20 the State had over \$4,000,000 in floating debt and a total debt of approximately \$13,300,000.

The year 1921 saw the real beginning of our growing pains and the deluge of bond issues. The 1921 General Assembly authorized the issuance of \$4,500,000 in fund-

ing bonds to take up our floating debt. Most of the short term notes issued were in anticipation of authorized 4 per cent bonds. The bond market at that time apparently would not absorb 4 per cent bonds, therefore the funding bonds carried a rate of 5 per cent. The 1921 General Assembly also authorized \$6,745,000 in bonds, one-half to be issued in 1921 and one-half in 1922, to further the permanent improvement program in our educational and charitable institutions. The 1921 General Assembly also authorized \$5,000,000 in public school building bonds of which \$1,000,000 were issued in 1921. The money to be gained from this issue was designated to be loaned to the various counties to assist them in building public school buildings. In addition to these bonds another \$44,000 of educational and charitable bonds authorized in 1917 were issued.

The year 1921 also saw the beginning of our highway construction program. The General Assembly of that year authorized a bond issue of \$50,000,000 to finance this program. Some \$10,500,000 of these bonds were issued in 1921-22 and another \$3,000,000 was gained from bond anticipation notes.

#### **From Property to Income Tax**

The 1921 General Assembly changed the State's fiscal year, which until this time ran from December 1 to November 30, making it run from July 1 to June 30. In making appropriations for the biennium 1921-23, the General Assembly overlooked making any appropriations for the interim December 1, 1920, to June 30, 1921. The State's Attorney General ruled that appropriations for that period should be seven-twelfths of the appropriations made for the fiscal year 1921-22. The income tax replaced the property tax in 1921 and the General Assembly made no provision for financing the State from November 1, 1921, the time when property tax collections would normally begin, until March, 1922, the time when income taxes would become due. Thus, revenues automatically fell some four months behind expenditures. These factors coupled with appropriations which exceeded actual revenues created a cash deficit

*(Continued on page nineteen)*



**S**UPPOSE every solicitor in North Carolina had an assistant to sit at his elbow in court and whisper to him the previous criminal record of every defendant who came up for trial? Suppose every superior court judge about to pass sentence upon a prisoner could know at a glance the complete history of the defendant?

Such information has proved invaluable in Buncombe County, where the record of every defendant convicted in superior court since 1915 has been tabulated on a card with his photograph and finger-print classification. The file, which contains more than 15,000 cards, is consulted daily by officers in the course of their investigation of criminal cases, by automobile financing companies who want to ascertain if prospective customers happen to have criminal records, and by the Asheville Merchants Association for credit purposes.

The file was started as a CWA project with a corps of young women searching the records under the direction of the solicitor and a member of the sheriff's department. The work was carried on for several months in this manner, and when the CWA was abandoned it was continued as a FERA project. By the time this Federal agency discontinued its work, the task of compiling the information had been virtually accomplished. The Chairman of the Board of County Commissioners, H. Grady Reagan, came to the rescue and provided the necessary clerical help to complete the work, and the County has provided a full-time filing clerk to keep the file up to the minute.

This requires that all information pertaining to persons listed in the file, which is received at the sheriff's office, be entered on the cards if it is of a character to be of subsequent use. The task of keeping the photographs, descriptions, prison records, names of relatives and other pertinent information is a huge one and requires constant attention. The results are well worth the effort, however, especially in the operation of the court itself.

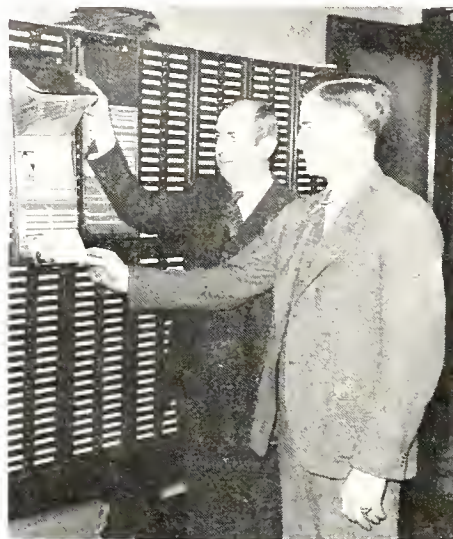
The file is frequently consulted for information requested by the Pardon Commissioner and invariably provides facts about prisoners which were not previously known

## Buncombe Keeps Own Books on Its Criminals

By SOLICITOR ZEB V. NETTLES

to officials, or which at least, had not been remembered in the press of handling thousands of cases.

The acid test for any such system lies in the manner in which its use-



*Sheriff Laurence Brown (right) and Solicitor Nettles make constant use of valuable new criminal identification system.*

fulness is demonstrated over a period of time. In this connection, Judge Wilson Warlick and Judge John M. Oglesby of the superior court bench, have each held a six-months assignment in Buncombe County since the file was established. Both were enthusiastic in their praise of the system and the efficiency with which it serves to supplement the work of the officers in assisting the court to arrive at a fair judgment.

"Buncombe County, in the matter of the enforcement of the criminal laws of our State, stands exceptionally high in my opinion," Judge Warlick said recently. "This is due to many factors, but in a large measure to the installation in the county of a system for card-indexing the names of those formerly convicted, along the lines as origi-

nally set up by the Bureau of Identification of the Department of Justice, in Washington.

"This system is plain and understandable, and easily workable, and when ultimately worked in and combined with the data at Washington, as gathered by the national crime authorities, will be a means, almost unailing, in giving information as to who you are dealing with and the previous record of the party charged with the crime.

"When I went to Buncombe County on January 1, 1935, for a six-months term, and began to see the system work, I immediately appreciated its value and became convinced that similar information should be made available to all officers in the State.

"As a matter of practice in court, I found that each criminal case, when called, had been previously checked against the cards in the file, and notations made to show at a glance the record of the defendant, his previous sentences and the subsequent disposition of the cases. This naturally expedited the handling of each case and afforded a sense of satisfaction by substituting facts for imagination in the prosecution of each case.

"This system has had, in my opinion, a tremendous effect on the commission of crime in the county by tending to insure the certainty of adequate punishment."

"The criminal index file in the Solicitor's office of Buncombe County has been most helpful during the six months I have been holding court in the nineteenth district," Judge Oglesby declared.

"Accurate records of a defendant's past are most valuable in determining a judgment.

"May I suggest that it would be helpful to supplement these cards by a notation from the medical examiner giving the physical condition of the defendant. It also would, in my opinion, be helpful if the General Assembly would enact a law requiring all felons who are residents of the State, or who come to the State, to register in the county where they are living. This information, if the law were enacted, could be included on a card of similar character, and would be of great benefit to officers engaged in criminal investigation."



# Durham County Fiscal Record Provides Example for State

By R. S. RANKIN

Professor of Political Science  
Duke University

While many counties in North Carolina have recently had a difficult time making both ends meet, Durham County is proud of the fact that it has not only met all of its financial obligations but has one of the lowest "overall" tax-rates of any county in North Carolina. One of the most remarkable facts connected with its present strong financial position is that six years ago it resembled many other counties of North Carolina—loaded with debt and barely able to stay out of the red. To state briefly the condition of the county in 1930, it is enough to say that at that time the county was faced with an operating deficit of \$33,000, a floating indebtedness of \$533,000, and a bonded debt of \$1,797,000. In addition to the above obligations there was a shortage of nearly \$200,000 in the sheriff's office. All in all the total debt of the county amounted to \$2,363,000. The tax-rate in 1930 was \$1.10, with an "overall" rate of \$1.30, while the taxable value of the property located in the county amounted to \$103,449,380.

Today, the picture is entirely different, and it is difficult to realize that the present statistics apply to the same county. There is no operating deficit, no floating indebtedness, and the total bonded debt of the county amounts to \$1,816,000. The tax-rate has been cut in half, being at present fifty cents, with an "overall" rate of fifty-four cents, and the property valuation slightly

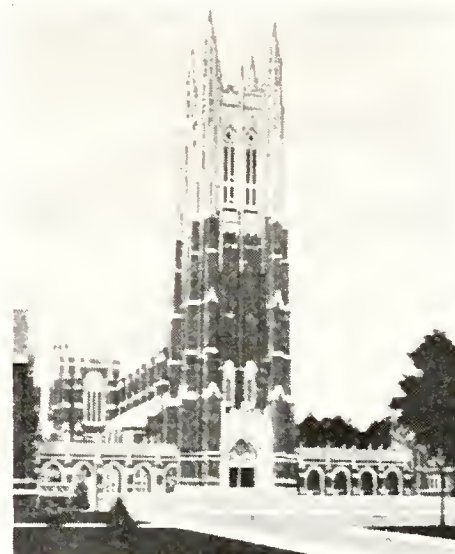
reduced to \$98,249,924. Moreover, for the fiscal year 1934-35, there was an operating surplus of \$77,603.94. While all this has been accomplished, no major county service has been discontinued—except those taken over by the State—and several new services have been undertaken. The above record is indeed outstanding, but the most remarkable fact is not that the present financial position is so strong but that so much improvement could be made in so short a time and during a major depression.

It is hard to determine just how the present condition was brought about, but the following factors are undoubtedly responsible:

1. A county with diversified industries, interested in county government and the final resting place of all tax money.

2. A conservative county board—too conservative for many but a board that has closely watched the finances of the county and has jealously guarded the good name that Durham County carries in the financial world.

3. A county manager well suited for his position, who, although limited in appointing power, has served during the six-year period as a



*A center of education as well as industry  
—the handsome Chapel at Duke  
University*

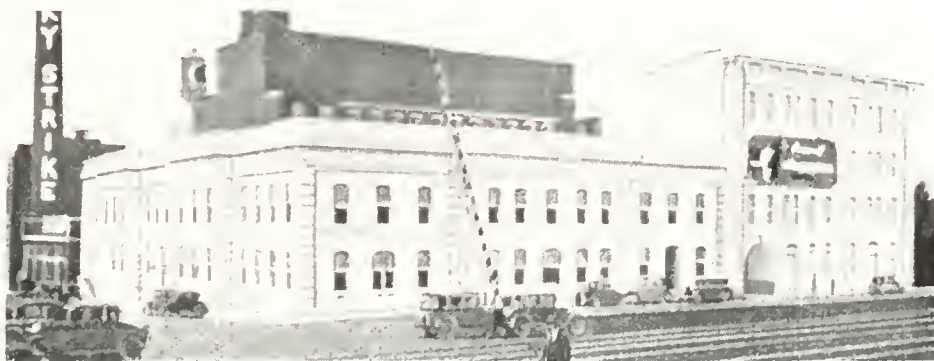
strong and efficient financial officer, securing the close coöperation of the board and different departments and using the many duties of the manager as aids toward better government.

4. A splendid system of accounting that requires of all agencies daily, weekly, and monthly reports.

5. A budget that is carefully prepared—being based on reports and estimates furnished by the various departments. Careful examinations are frequently made to see that the different spending agencies are living within their budget.

6. A centralized purchasing agency which has saved the county many dollars in the purchasing of supplies for all the departments of the county.

7. The success that Durham County has had in the collection of delinquent taxes. In 1930 the collection of delinquent taxes was in the hands of the sheriff and the total amount of delinquent taxes collected yearly amounted to approximately \$6,000, while the total amount of delinquent taxes amounted to \$550,000. The offices of tax collector and delinquent tax collector were established and tax collection taken away from the sheriff's office with the result that during the last five years the average yearly amount of delinquent taxes collected has amounted to \$95,000 and at present the total amount of uncollected delinquent taxes is \$185,000.



*One of the great plants which forms Durham's solid and diversified industrial foundation*

Notes from the Cities and Counties

The problem of caring for their people on relief reached a crucial stage with numerous North Carolina communities this month. The W. P. A. funds were hardly adequate to care for the employables, and no federal aid is available for the unemployables now that the Emergency Relief Administration has been discontinued. Cities and towns generally had no funds, and in many cases no authority under the law to vote funds, for relief, and the county welfare facilities were as a rule already overtaxed. The solution, unless and until aid is forthcoming from the new Congress, it seems, must be worked out by each community through appeals to and cooperation by local agencies.

\*\*\*\*\*

Sanford has become one of the first towns in the State to take out group insurance on its public servants. Policies of \$1,000 will be carried on white and of \$500 on colored employees with the cost shared by the town and the insured. The estimated cost is 33 cents per month for each employee.

\*\*\*\*\*

New approaches to the solution of the problem of downtown parking: Clinton has removed parking from certain business streets by providing two large lots therefor. The hundreds of used cars which garages park on the streets all day must go, Elizabeth City has warned auto dealers, or an ordinance will follow. Roanoke Rapids is levying a tax on filling stations and businesses utilizing more than 12 feet for driveways, with a view to making more parking space available.

\*\*\*\*\*

Charlotte reported that 66.05% of its 1935 tax levy had been collected on January 5 as compared with 64.03 per cent at the same time last year. Shelby with 60% came next among the municipalities sending in reports of increased collections.

\*\*\*\*\*

A County Council of Social Agencies has been formed in Iredell to coordinate the work and avoid dupli-

cation of effort among the 30 member organizations.

\*\*\*\*\*

Alamance County joined the re-funding parade last month. The bond issue, which consolidates the county debt and which amounted to \$809,000, sold for 4 and 4 1/4%, as compared with the average rate of 4.90% formerly paid by the county. Issues of new bonds continued to find a ready market and favorable interest rate, sales being reported by Hickory at 3%, Hertford County at 2 1/2 and 3 1/2%, Vance County 3 and 3 1/2%, Person and Randolph Counties at 4%, and Burlington at 4 1/2 and 5 1/4%.

\*\*\*\*\*

Plans are being pushed for extensions and improvements under the W. P. A. to the New Hanover County and the Asheville-Hendersonville airports. The two projects would cost \$43,840 and \$100,000, respectively, and would provide the

seaside and the mountain communities with adequate, up-to-the-minute facilities.

\*\*\*\*\*

High Point has revised its taxicab ordinance along the lines of the Charlotte law, the legality of which has been twice upheld in court. The insurance coverage now required is: \$2,500 for injury to one and \$5,000 for two persons and \$500 for property damage. Provision is also made for registration of cabs and drivers.

\*\*\*\*\*

Winston-Salem Aldermen have appropriated \$28,000 to replace the old outmoded equipment and provide a new and modern refrigeration system for the City Market.

\*\*\*\*\*

Cities and counties in which weights and measures inspections have been carried on recently through the State department uniformly show the need for hundreds of adjustments. Gasoline pumps, measures, and standard packages are checked in addition to scales and corrections made where necessary.



PRACTICAL METHODS FOR TESTING MUNICIPAL PURCHASES

The series of traffic lines at the side of the Greensboro city hall, pictured above, tell their own story. The 12 stripes were put down with as many different samples of traffic paint last August; their condition after six months of wear, climaxed by the recent heavy snows, furnishes an unflinching gauge by which the city selects the best and most economical brand for use during the coming year. Note how the two brands in the center outlasted and outwore the others, although all have long since worn out insofar as their effective use is concerned.

"We thus buy traffic paint by the price per week or month of service instead of by price per gallon," says the city's purchasing agent, George C. Eichhorn, who devised the test. "Specifications and formulas have their usefulness, but a formula does not guarantee a satisfactory product if it is not properly compounded. The best test is actual use, even as 'the proof of the pudding is in the eating.'"



**T**HE local government of the 3300 odd Eastern Cherokee is managed by a Tribal Council, elected from time to time by the Indian voters (all enrolled men and women eighteen years of age and above), from the six voting precincts into which the reservation is divided, two councilmen from each precinct, to hold office for a term of two years. The council chooses its presiding officer from their own number, he having a vote only in case of tie.

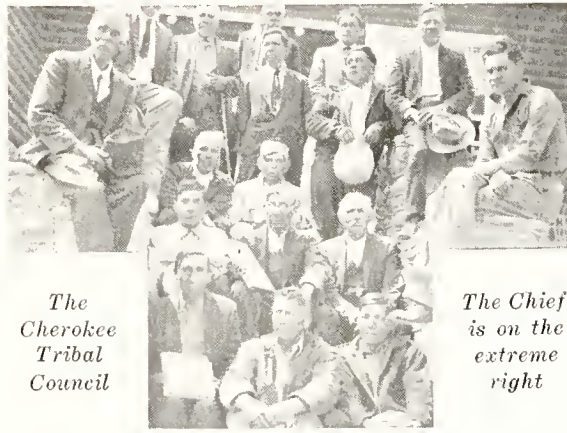
The council appoints two secretaries who record the council minutes both in English and Cherokee. The council also appoints such other officers as may be necessary, including sergeant-at-arms, marshal, and doorkeeper.

This council is the legislative body of the Cherokee Indians. A chief of the tribe and a vice chief are also elected by public vote for a period of four years each. The chief has no vote in the council proceedings, but may veto any act or resolution passed by the council, of which he disapproves. In a sense, therefore, he has the functions of an executive department.

The Government superintendent, in charge of Agency and reservation activities, is Ex-Officio Secretary of the council, and stands as an intermediary between the Indian council and the Federal Government. The annual council session convenes in October, and may continue in session for an indefinite period of time. All special sessions are called at the pleasure of the chief. In addition, there is a Business Committee, including the chief, the vice chief, and the Government superintendent. They hold monthly sessions for interim business during the council recess.

#### The Tribal Council at Work

The council may act on matters of public welfare on the reservation. It makes provision for the care of the indigent and needy. It makes land allotments and settles boundary line disputes. (Cherokee Indian lands are held by the tribe in severalty. Allotment holders may sell the improvements on these lands, with the approval of the Business Committee, but they cannot give title to the land.) It maintains and operates a tribal sawmill, and other



*The Cherokee Tribal Council*

*The Chief is on the extreme right*

## The Red Man Moves Ahead

No. 2---The Government of the North Carolina Cherokee

By HAROLD W. FOGHT  
Superintendent

industrial enterprises. It is the guardian of all Indian funds, including those that are held in the United States Treasury, and can be withdrawn only upon council resolution and special act of Congress. In short, the council coöperates with the Government in the promotion of the general health, happiness, and welfare of their people.

While the council does much to encourage the enforcement of law and order, this, after all, is a function vested in part in the State of North Carolina and in part in the Federal Government. The Washington Office maintains an effective law enforcement group on the reservation to keep down crime and in other ways encourage peace and decency. Lawlessness and public disturbances among the Indians can be traced, for the most part, to White influence and interference.

The Federal and State courts have joint jurisdiction in the enforcement of law. Minor cases are usually tried in the State courts, while more serious offenses and cases in which the Federal Government is interested are tried in the United States Courts.

The Congress of the United States recently enacted the so-called Wheeler-Howard law under which a

larger degree of local self-government and opportunities for promotion of economic enterprises was provided. This law offers opportunities for better training of Indians in administrative and economic affairs and in development of Indian lands; and for the establishment of Federal Courts of Indian affairs and for the improvement of the administration of justice in matters affecting Indian tribes and communities.

The Cherokee Indians voted themselves under this Act by a vote of 716 to 101. Later, however, after a campaign of misrepresentation on the part of certain self-seeking individuals, they defeated the constitution and by-laws set up for the self-government, by a vote of 484 to 382. Had the constitution been adopted, the Cherokee would have acquired freedom and self-government far beyond what they now have, and the Government wardship, for practical purposes, would have disappeared. **A Progressive System of Education**

A progressive system of education maintained by the Federal Government for the Indians is exceptionally thoroughgoing, and prepares the Indians to live happy, wholesome, and remunerative lives on their own lands, or elsewhere if so desired. A complete field health service is provided with hospitalization at the central agency. Dental and other clinics are maintained without cost in all the schools, and even adults may have free dental attention at the agency one day each week. An extension education force for adults reaches into every important cove on the reservation, offering instruction in gardening, agriculture, forestry, and many useful crafts suitable to the Cherokee.

Finally, a central boarding school at Cherokee, and five outlying community day schools, in charge of well trained teachers, give instruction to approximately six hundred Cherokee children. The Indian school life is twelve years in length—each school year of nine months duration—twenty-one months longer school life than is offered among the better white North Carolina schools.

In these ways the American people have, in a large measure, made amends for the ruthless treatment formerly given the Cherokee.



# Self-Governing Bar Cleans House

## OFFICIAL BAR NEWS AND VIEWS

The Council of the North Carolina State Bar last month adopted POPULAR GOVERNMENT as the official medium for the transmission to its members of information and announcements of interest and importance to the profession. Lawyers are asked by the Council to watch future issues for pertinent Bar news and bulletins from month to month.

The "Bar News and Views" will be prepared by Dillard S. Gardner, Institute of Government staff member at work in the field of administration of justice in the courts, under the direction of an editorial committee appointed by the State Bar. The latter is comprised of President Julius Smith, Councillor Charles A. Hines, and Secretary Henry M. London.

The views herein will be advanced, not as those of the Institute of Government, but of the State Bar, its officials, or individual members.

North Carolina attorneys were not given power over the admission and disciplining of their members until the organization of the State Bar in October, 1933, but in the intervening two and a quarter years the organization has set up the machinery, including a full-time investigator, and has vigorously pushed the investigation and prosecution where it was justified of every complaint, no matter how trivial, with resultant effects which are generally agreed to be highly wholesome and salutary.

During this time complaints have been handled against a total of 80 attorneys, involving 134 charges. These figures do not include the large number of complaints which have been made to the Grievance

Committee but which were never reported to the Council because of their trivial nature or because of the lack of formal charges and proof. It is interesting to note that the charge in approximately 80 per cent of the cases was failure and refusal to account for money had and received. As was to be expected many of the cases proved groundless upon investigation, necessitating great care in handling and resulting in dismissal of the charges against 40 of the 80 lawyers. However, probable cause for action was found against 29 attorneys and the cases sent to trial committees. Two others were dismissed with private reprimands and 9 deferred for further investigation. Of the 29 attorneys against whom prosecution was recommended 10 have already gone before trial committees, two have departed from the State, and the cases of the other 17 are still pending. Six of the ten attorneys to face trial committees were disbarred by the Council of the State Bar, two were suspended for short periods, and the cases of two others are pending. It is a significant fact that the Superior Court has affirmed the action of the Council in each of the three appeals which have been decided to date. Appeals from the other three disbarments are pending in Superior Court. One appeal is pending in the Supreme Court, and another was abated by the death of the respondent. The detailed summary of the nature of the charges against the 80 members to date, which will be found in the next column, as well as the action taken, should be of interest to the public generally and to every attorney who has the concern and reputation of the profession at heart.

The real story of what the State Bar has done to "clean house," once it was given the power, also should go far to correct certain misimpressions apparently existing in the public mind. These were due undoubtedly to the fact that no publicity is given to complaints or investigations unless and until they

reach trial by trial committees, which are held publicly in the court house of the county in which the respondent attorney resides. The name and reputation of the innocent lawyer, however, is a matter of equal importance with the name and reputation of the Bar, and secrecy is indispensable in view of the large number of trivial and unfounded complaints.

Members of the Bar cannot overestimate the importance of the privileges and duties conferred upon them with the organization of the State Bar. As it was so aptly put by Joseph B. Cheshire, Jr., who has rendered signal service as Chairman of the Grievance Committee, "It is patent that the Bar's failure to meet and properly solve these obligations would be an everlasting reflection on the profession. The public expects us to do our duty, and it has a right to hold us responsible."

Uninformed people have not always been just to the Bar in the past, thinking that it did nothing to rid its ranks of unfit attorneys and charging that it was willing to "white-wash" those of its number against whom charges were preferred. Many of these critics did not know that prior to the 1933 (N. C. State Bar) Act, the Bar had no power to regulate its members.

## NATURE OF CHARGES

Failure and Refusal to Account for Funds	104
Embezzlement	1
Forgery	3
Converting Client's Money	2
Misappropriation of Funds	2
Fraud	3
False Pretense	2
Collusion	1
Subornation of Perjury	3
Solicitation	3
Unprofessional Conduct	4
Acting against Client's Interest in Litigation	3
Appearance in Court Where Partner Is Official	2
Habitual Appearance in Court Intoxicated	1
	<hr/> 134



A large measure of the success of the work of the Grievance Committee and of the Council has been due to the splendid co-operation of the Bar as a whole. In view of the misinformation and misimpressions referred to above, it is particularly important for every member of the Bar to continue this co-operation to the end that every complaint may be justly and speedily handled. In this manner only may the innocent be cleared of suspicion and the

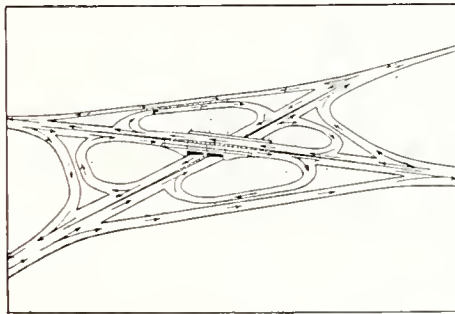
guilty weeded out and the name and reputation of the profession be kept above reproach.

"At the same time the discipline and disbarment of unworthy lawyers is a most delicate duty," as Mr. Cheshire said, "and proceedings for either discipline or disbarment should be instituted with great caution, and with sympathy for faults and mistakes which do not show real moral unfitness. Every effort should be made to avoid injustice;

on the other hand members of the profession should not shirk from the painful duty of removing those who bring discredit and dishonor, not only on themselves, but also on every member of the Bar." This applies to the public generally as well as to lawyers, for the origin of complaints is not limited to members of the profession, but they may be made by any lawyer or layman on formal charges, substantiated by affidavit.

## Building Safer Streets and Highways

By T. F. HICKERSON



The new "Clover-leaf design" for eliminating left turns across traffic. Several suggestions have been made for its trial at some dangerous intersection in this state.

AT AN ordinary crossroad, there are twelve possible courses open to traffic—four right and four left turns that may be made, besides four ways to go straight. Each, except the right turns, cuts across four other possible paths. Occasional collisions under such circumstances are inevitable, especially at the high speeds of rural travel.

In the United States, during 1934, 364,260 accidents occurred at the intersections of streets and highways, resulting in 7,770 persons killed and 408,310 persons injured. The remedy must be found either in setting up some form of traffic control or by redesigning the intersection. The traffic signal and stop sign, when perfectly obeyed, achieve an orderly movement of vehicles and a notable reduction in hazard; but neither solves the left-turn problem with its possibilities of almost head-on collisions. Ample vision ahead and advance warning or stop signs of a standard type are necessary safeguards at rural intersections. Billboards and other unofficial signs should not be allowed within the vicinity of a crossroad; and it seems desirable that all roadside advertising should be regulated by law, as is done in the state of California.

The majority of highway intersections, even in congested areas, will probably remain at grade; and their treatment for minimizing the hazard is deserving of much study.

If traffic circles or similar grade structures are used, it is fundamental that the driver be informed in advance of their presence and of the proper course to be pursued.

This means that the islands must be adequately lighted and signed.

### Eliminating Left Turns

Many special types of highway grade separation designs with various arrangements of ramps and underpasses have been built in New Jersey to accommodate traffic conditions occurring in congested areas. But the so-called "Clover-leaf design" (Fig. 1) has the advantage that there are no lanes of traffic which cross each other and that there is no slowing up of the straight traffic. The complete clover-leaf design has a ramp in each quadrant so that when left turns are made in spiral fashion—that is,

The highway engineer of today has a new task—to make the streets and highways as nearly fool-proof as possible. Professor Hickerson's article on some of the pioneer work that is being done along this line is taken from his forthcoming book, "Highway Surveying and Planning."

a subject on which he is recognized as an authority.

by crossing over or under the intersecting road and then making two successive right turns, no vehicle need ever cross the path of another, and the only possibility of collision arises when a vehicle turns to the right into a through traffic lane, a minor hazard, especially on multi-laned roads.

Experience in the congested areas of the north has shown that any grade separation on super-highways less effective than the clover-leaf may prove more troublesome than a grade crossing. This is due to the fact that a separation with inadequate ramps exaggerates the confusing features of turning traffic and multiplies the number of left-hand movements across the paths of the straight traffic.

The minor intersections of local or private roads or driveways with through highways are a constant source of danger because they are so numerous and, frequently, so obscure. Expensive treatment of each individually by traffic signals or redesign cannot be justified, and stop signs too often fail in their purpose because of nonobservance by drivers.

Accordingly, the concept of the freeway proposed by E. W. James, of the Bureau of Public Roads, has been developed—a highway for express traffic to which abutting property has no right of access. All local traffic must use service roads in the vicinity, and traffic may enter or leave the freeway only at widely spaced intersections where it can be

(Continued on page eighteen)



## HERE AND THERE

### ---With Progressive Officials

How many North Carolina municipalities operate city shops, and what percentage of them find the venture successful? The experience of Pacific Coast units with such enterprises may be interesting if not profitable. A survey of 59 cities between 5,000 and 30,000 population revealed that 38 maintained their own shops, and that the vast majority were of the opinion that the shops saved both time and money, as well as enabling the city to keep its equipment in good shape for instant service.

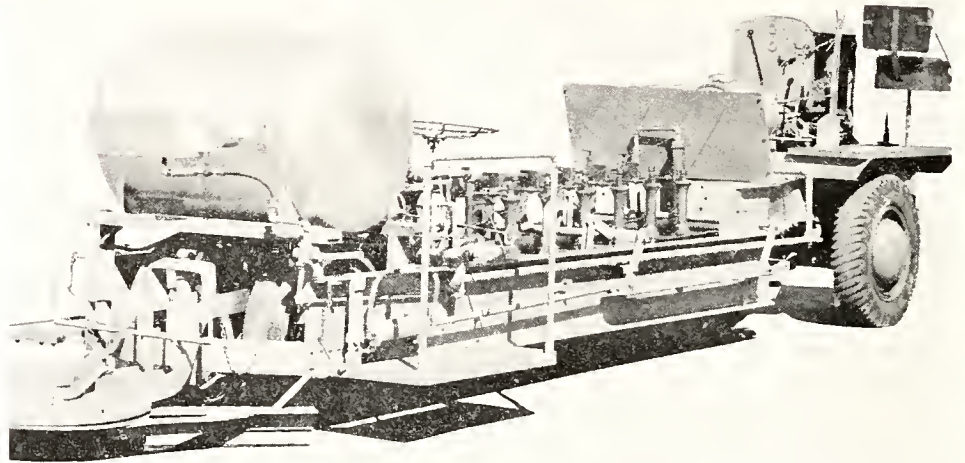
Of the 21 cities not maintaining shops, five stated the volume of work did not justify the outlay; one replied that it did not think a shop would pay; and five frankly stated that they passed the work around among the various business houses.

"A varied field of usefulness is essential for the small city shop, and it yields the largest saving when manned by full-time city employees such as firemen, who have additional duties," was the conclusion drawn by the editors of *Western City*, who were responsible for making the study. "A practical approach would appear to be through the modest purchase of equipment for making the more simple repairs.

"The 38 shops had an average value of \$4,645.46, and the investment in tools, machinery, and equipment averaged \$2,831.78 per shop. The average budget for each city is apparently \$4,438.82 for shop expenses . . . , the average salary of the shop foreman \$144.25 and of the mechanic \$127.11. The returns indicate the practice of shifting help from one department to another. The average percentage of work sent out to private repair shops is slightly more than 18%."

\* \* \* \* \*

One of the latest cities to say goodbye to the conventional method of hand-copying of deeds and wills is Philadelphia. Equipment for photographic copying has been installed



#### NEW MACHINE HEATS AND PLANES ASPHALT STREETS AT SAME TIME

*A new machine for the planing and smoothing of asphaltic and oiled street surfaces has made its appearance on the Pacific Coast which has the obvious advantage of heating the pavement as it cuts and which may go far toward solving an age-old problem in the maintenance of city streets. Here is a picture of the "heater-planer" in use in Sacramento, California, supplied by Assistant City Engineer Charles R. Blood, who is high in his praise of its work to date.*

*The riding quality of some of the streets which have been done over is even better than when new, Mr. Blood thinks, for the reason that this long tool of 25-foot wheel base makes a very uniform and smooth riding plane.*

*The heat is applied under the hood at the front, using butane or propane gases as a fuel, while the cutting and strike-off blades are mounted at the rear. The 16 speeds and heat control enable the operator to vary the speed and heat so as to soften the surface to the semi-plastic state necessary for perfect cutting. In addition to removing corrugations and weepings, the "heater-planer" also non-skids slippery surfaces and seals them against water seepage, it is claimed. The average capacity per day is given as 25,000 square feet.*

and is now in use in both recording offices. Aside from the mooted questions of economy and decrease in employment, the new method has the tremendous advantage of eliminating the element of human mistake, ever present with the hand-copying of long, tedious documents.

\* \* \* \* \*

North Carolina cities are eligible to compete in two national contests designed to stimulate improvements in municipal services. Entries in the National Traffic Safety Contest, which is open to any municipality with more than 10,000 population, must be made with the National Safety Council, 20 N. Wacker Drive, Chicago, before March 1. The National Fire Waste contest is limited to municipalities with a local chamber of commerce affiliated with the national organization, and entries are due at the same time. Any city which is interested in securing further details may see or write one of the above agencies or the Institute of Government.

Which make of car is the most efficient and economical for police work? A progressive western city has set out to determine its own answer to this important question by the application of the cost accounting principle to the operation in actual service of the three most popular makes in the lower price range.

The number of cars and the length of the tests has not been great enough for the city to regard them as conclusive evidence of the superiority of one make over the other. However, the differences in the cost of operation and upkeep for the first four months period are already so manifest as to be surprising, the average cost per mile being, Make One \$1.27, Make Two \$1.03, and Make Three \$1.36. The last two cars, assigned to radio patrol work on 24-hour duty, were driven approximately twice as far and had definitely harder service than the first car, which was used by the detective division on 16-hour duty, it was said.



# The Proposed Changes in the State Constitution

EVER since the State of North Carolina began to assume the primary responsibility for operating all public schools, the biennial sessions of our General Assembly have been long, bitter, exhausting cat-and-dog fights over sources of revenue. Not one of the last three sessions has been able to wind up its business in less than four months. "Where will we get the money?" has been the biennial question—a question invariably accompanied by a welter of bitter phrases, political palaver, legislative trading and accusing fingers.

During this period we have had, first, the short-lived State tax on property, then the general 3% sales tax, and finally the super-general 3% sales tax. We have seen increases of one sort or another in license taxes, inheritance taxes and franchise taxes. We have seen the birth of the beer tax, and may conceivably soon see the birth of a liquor tax. We have also seen the rate of income tax raised until it is fixed at the maximum allowed by the Constitution except on individual incomes in the lower brackets.

## Constitutional vs. Legislative Rule

Of all the taxes mentioned the income tax is the only one on which the State Constitution places a limit. In raising other taxes the legislature is limited only by legislative policy, political expediency and (perhaps to a lesser extent) by factors of competition between states. But the door to further increase in the income tax rate, save only on the lower net incomes of individuals, is closed.

It is possibly true that, by basing franchise taxes in part on income, the legislature might effect an indirect increase in corporate income taxes, but this would not affect individual incomes and, strictly speaking, would still be a franchise tax rather than an income tax. It is also true that some additional revenue could be raised under the present system by broadening the income tax to include all dividends from shares of corporate stock. (At present the tax is levied only on dividends representing corporate

## No. 2—Income Tax Rate

By HENRY BRANDIS, JR.  
Of the Staff of the Institute of Government

income on which the corporation is not taxed by the State.) However, the result accomplished by such a move would not be the same as the result accomplished by increasing the rate of tax. The class of taxpayers primarily affected would be different and the amount of money raised would be different. Further, so far at least, the legislature has refused to adopt this method of increasing income tax revenues. Finally, adoption of the amendment would not affect either of the possibilities mentioned in this paragraph.

These possibilities are mentioned to show that the potentialities under the present Constitution have not been completely exhausted. However, it is easy to see that these are not the equivalent of raising the income tax rate. They do not offer so broad a field for new revenues as would permission to raise the rate; and this is particularly true because they will still be available even if the permission to raise the rate is granted. In other words, if the legislature should decide to increase revenues from the income tax, directly or indirectly, the authority to raise the rate would give it three alternatives instead of two; and the new alternative would be the one most likely to be used.

This situation forms the back-

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**Editor's Note:** This is the second in a series of articles on the five proposed amendments to the State Constitution to be submitted to the voters by the General Assembly this fall. The sole purpose is to interest the electorate in the issues at stake, to outline and contrast the proposed changes with the present provisions, and to explain briefly and impartially their significance.

ground of the proposed amendment to the State Constitution dealing with income taxes. In its wisdom the legislature has now substantially reached the rate limit fixed by the present Constitution. The amendment would raise the limit.

The present Constitution provides that the rate of income tax shall not exceed 6% on net incomes. It requires that each married man living with his wife and each widow or widower with minor child or children shall be allowed an exemption of \$2,000 and that all other persons be allowed an exemption of \$1,000 each. Deductions may be allowed as the legislature may prescribe, to the end that only net incomes shall be taxed.

## Only State with Constitutional Limit

This provision is not duplicated in any other State Constitution. In most states in which income taxes are levied, either the rate or the exemptions or both are left to the discretion of the legislature. However, the question of whether or not this type of provision is a logical one for a Constitution is not presented by the amendment, for the amendment would make no change except to raise the maximum rate from 6% to 10%. In other words, the amendment would not depart from the present idea of having the Constitution limit the legislative discretion. The only difference is an important one of degree in the matter of fixing the maximum rate.

At present, under our Revenue Act, all corporate net incomes taxable in the State, regardless of amount, are taxed at the maximum of 6%. Individual income taxes are graduated, the first \$2,000 of net income being taxed at 3%, the second \$2,000 at 4%, the third \$2,000 at 5% and any balance at 6%.

To state this differently, every corporation pays \$60 for each \$1,000 of net income, \$600 for each \$10,000 or \$6,000 for each \$100,000. The individual with \$1,000 of net income pays \$30; the individual with \$3,000 of net income pays \$100; the individual with \$5,000 pays \$190; and the individual with \$6,000 or more pays \$240 plus \$60

for each \$1,000 over \$6,000. Of course, "net income" means only what is left after subtracting from actual income all allowable exemptions and deductions.

These figures give no conception of the total tax burden borne by any given taxpayer, because they take no account of other types of taxes. Unfortunately, they do not even reflect the total amount of income tax a taxpayer may pay, as they do not take Federal income taxes into account. Under present laws the Federal income tax rate on corporate incomes is more than twice the State rate; and the Federal tax on individual incomes ranges from a figure which is about equal to or less than the State tax in the lowest bracket to a figure many times the State tax in the highest bracket.

#### Federal Competition

These large Federal income taxes have had (and will continue to have) a tendency to discourage states from making income tax rates as high as they might otherwise make them. But, even though North Carolina is already one of the leaders among the states in the matter of such rates, the combined State and Federal taxes are not yet so high that they would prevent an increase in the State taxes if the amendment is adopted. Thus adoption of the amendment means greater total income taxes for North Carolinians. It seems unlikely that Federal income tax rates will be reduced in the next few years. An increase is much more probable than a decrease, the Federal debts and expenditures being what they are. It is possible, even probable, that there will be a great effort made to secure a larger portion of total income tax receipts for the states; but even if this effort should prove successful it is unlikely that the matter would be handled by reducing the Federal rates. A much more likely possibility would be to allow the state tax as a credit on the Federal tax up to a certain percentage, in much the same way as estate taxes are now handled.

If this were done North Carolina might conceivably be in a better position to take advantage of it if the State's maximum rate were 10% instead of 6%. However, even the 10% limitation would probably

prove unsatisfactory, and a further Constitutional amendment would be necessary. Of course, it is still far from certain that anything along this line will be done. Consequently, this possibility is of little importance to the voter trying to decide between the present 6% maximum and the proposed 10% maximum.

Since we can disregard this possibility, we return to the comparatively simple proposition that adoption of the amendment will result in payment of larger income taxes by residents of North Carolina.

It is inevitable that adoption of the amendment would be followed, eventually if not immediately, by increase of State income tax rates. North Carolina is still very much in the market for new sources of revenue. With the State committed to continued renunciation of a State tax on property, with the sales tax still under fire, with automobile users still not happy over transfer of highway funds to the general fund, with much sentiment for increased school appropriations, and with no prospect of materially decreased debt service requirements in the immediate future, the next few legislatures will have a problem closely akin to that faced by the last three marathon sessions. Adoption of the amendment would almost certainly

be accepted as express permission from the voters to raise income tax rates. The legislature might not, and probably could not, go the whole hog immediately and raise the rate to a flat 10%. However, it probably would make some substantial increase and might easily impose the maximum rate in some of the higher income brackets.

#### Possible Effect on Other Taxes

On the other hand, the voter considering the amendment should be cautioned against assuming that its adoption would solve all our tax troubles and furnish a substitute for his particular antipathy—the sales tax, for instance. Even if the legislature went so far as immediately to fix the income tax at a flat 10% the additional revenue produced would be hardly more than half the amount currently produced by the sales tax. Any increase in the income rate the legislature is likely immediately to adopt would hardly produce more than a third of the current sales tax revenue. Thus it is obvious that mere adoption of the amendment, standing alone, would be no cure-all. It might possibly allow reductions to be made in other taxes or combine with additional revenues from other sources to enable us to make a major revision of our tax program, but this is somewhat uncertain. It is possible that the new revenues would be largely or entirely used to meet increased appropriations. The probable yields from other taxes and the probable appropriations which the legislature will make are as yet matters too far in the future to permit of accurate prediction.

It is certain that all of the additional money raised by an increase in income taxes would be paid by individuals whose incomes exceed the Constitutional exemptions and by corporations. These groups, as already stated, are now paying income taxes which, when ranked by comparison to the other forty-seven states, are close to the top. For the voter considering the amendment the problem is: Shall the legislature, in its search for additional or substitute revenues, as the case may be, be furnished with the well-nigh irresistible opportunity to find them in part by a further increase in income taxes?

#### OUR COVER

*The handsome Durham County public structure, which is the subject of our cover picture, stands an excellent example of Court House-planning. Completed 20 years ago, prior to Durham's great period of growth, 1916-1936, it is nevertheless modern and adequate to the county's needs today. The Durham Court House, which is located on Main Street near the center of the city, is built of granite and Indiana limestone with roof of terra cotta. The total cost of building and land was \$363,842.76, of furniture and fixtures \$38,579.57. Milburn-Heister Company were the architects and George A. Fuller Construction Company the builders.*



# One Plus One Equals One

## ... Or So It is in the Case of the Joint Property of Husband and Wife

For centuries, the law has favored a husband at the wife's expense: (1) by giving him outright at the time of marriage most of the wife's property; (2) by empowering him to control and reap the profits of such property as was not actually given to him. Prior to 1848 in North Carolina, the husband had absolute control over his wife's real property, to manage it as he wished, and to reap the benefit in crops or rent. Prior to 1868, all the wife's personal property—everything except land—was given to the husband absolutely. Prior to 1911, the husband could claim all his wife's earnings. After long decades of struggle to change the minds of men, to change the laws on the statute books, to change the decisions of the Supreme Court, reform came at last.

Despite tremendous advances in the emancipation of women, there remains today in North Carolina one type of property ownership in which the wife of 1936 is as helpless, as subservient to her husband's will, as the wife of 1336. Reform has passed it by.

This curiosity—variously termed *tenancy by entirety* or *ownership by entirety*—exists when land is deeded to a married couple together, as "to John Smith and Mary Smith," or "to Mr. and Mrs. John Smith."

During the joint life-time of both husband and wife, the husband has as complete control over the property as if it were his own. All profits in crops, rent, or otherwise belong to him alone. On the death of husband or wife, the property goes to the survivor.

To understand the reasons for the characteristics of this estate, one must remember that at common law husband and wife constitute but one legal person. This concept of the legal unity of a married couple has been carried to ridiculous extremes.

By HARRY W. McGALLIARD  
of the Staff of the Institute of Government

Judge Allen, writing in 1917, declared that the unity of husband and wife dated from the Garden of Eden—and quoted copiously from the Old and New Testaments to prove his legal point. Judge Clark, untiring champion of women's rights, took issue with the Garden-of-Eden origin of the unity of man and wife. Adam and not God, wrote Judge Clark, was responsible for the Biblical verse, "They (husband and wife) shall be one flesh." He continued, "The statement of Adam was figurative and cannot deny property rights to married women in North Carolina contrary to our Constitution under conditions which prevail since Adam's expulsion from Paradise. Adam in a moment of exaltation made a statement of his high intentions of equality with his wife in all things. As a literal fact they were not made one flesh and could not be."

Judge Clark then presented his own ideas as to the origin of the estate by entirety. "The ruling by which a conveyance of property jointly to husband and wife becomes the sole property of the husband during his life is without any authority in any statute here or in England, but was created solely by men judges in the barbarous days in England, and was the expression by them of the sentiment which still prevails among savages, based upon their idea of the superiority of men and the incompetence and incapacity of women, and pictured the state of such society where men are loafers and women are drudges doing the work, whose results are appropriated by the men."

However appealing Judge Clark's common-sense analysis may be, the law continues to subscribe to the other view—the husband and wife

together constitute one legal person. This concept is the key to the court decisions.

A statute enacted in 1848 prohibited a husband from leasing or selling his wife's property without her consent. The Constitution of 1868 provided that a married woman should have exclusive control over her property. In each case, the court held that the estate by entirety was unaffected, because such estate was *not* the property of the wife. The wife does not own a half-interest; her husband does not own a half-interest. The one legal person—husband-and-wife—owns the property. Hence, neither the statute nor the Constitution altered the nature of the estate.

Although the husband has the right to use all profits, and even to rent the property for the length of the joint lives of himself and his wife, the court refuses to permit creditors to sell the husband's interest to pay his debts. The old refrain: the husband does not own the land; hence, it cannot be sold for his debts. The married couple owns it as a single person. Even if the husband goes into bankruptcy, the estate by entirety remains inviolate. This construction of the law furnishes a scheming husband with an eminently satisfactory mode of amassing wealth merely by having all property he buys deeded to himself and his wife together. Free from his wife's claims on the one hand and his creditors' claims on the other, he reaps his profits in peace. Only one flaw: If he dies first, his wife will get it all. That he is powerless to change.

As might be expected, a divorce *from bed and board*, which amounts to little more than a legal separation, for that very reason does not break up an estate by entirety. An absolute divorce, on the other hand, completely severing the bonds of matrimony, destroys the legal unity of husband and wife. They become two legal persons once more, and each is given a one-half interest in all lands they have owned together by the entirety.

On the death of either husband or wife, the survivor takes all, or rather according to the law, he or she, as the case may be, merely  
(Continued on page fifteen)

# Asheville, Buncombe, Make Terms with Creditors

**A**SHEVILLE and Buncombe County have finally agreed with the representatives of their creditors upon the broad principles of a plan refunding all the bond and note indebtedness of these governmental units. This plan has been accepted by the bondholders and note holders committees and has been unanimously approved by the governing bodies of all the affected units.

Asheville and Buncombe County, it will be recalled, defaulted in the latter part of 1930 in the payment of both interest and maturing principal and have been in continuous and increasing default since then. Their first failure to discharge their obligations as they fell due was the immediate consequence of bank closings in November, 1930, which tied up the debt service funds which the city and county had on deposit.

These banking troubles, however, merely hastened the default which was inevitable later and the waxing depression aggravated a situation which would have been bad enough under persistently normal conditions. The sad truth of the matter is that the city and county had borrowed more money than they, in the absence of miraculous growth and unparalleled prosperity, could pay according to the strict letter of the bond. The irretrievable loss of huge sums in closed banks made bad matters worse.

In 1932, a refunding plan was tentatively agreed upon by the creditors' committees and a local commission representing all the defaulting interest. This plan, however, was never given effect due to vigorous opposition by a large body of local public opinion and to the lack of necessary legislation.

Until 1934, both the city and county continued to make debt service levies which provided a part of the current interest requirements. For the 1934-1935 fiscal year, however, the city made no direct levy for debt service. It did segregate the net operating revenues of the water department. This failure of the city to make a debt service levy for 1934-1935 was prompted by litigation which had been instituted

**Settlement Approved by Bond-Holders' Committees — Would Cure State's Biggest Default if Consummated — Involves \$43,150,000 — Member of Committee Tells Details of Long Negotiations.**

By D. HIDDEN RAMSEY

for the purpose of testing the validity of all city obligations. The county continued to levy for and to pay a part of the current interest claims.

Negotiations looking to a refunding of the indebtedness were opened in October, 1935, and continued uninterrupted until an agreement was finally reached on January 21, 1936.

The essential provisions of this refunding plan are:

1. New term coupon bonds, dated July 1, 1936, and maturing July 1, 1976, will be exchanged par for par for all the valid obligations of the City of Asheville, Asheville School District, Buncombe County and County Board of Education.

2. General refunding bonds will be issued in exchange for all the outstanding bonds and notes except the water obligations of the City of Asheville. Water Refunding bonds will be issued in exchange for these latter obligations.

3. The general refunding bonds will bear these rates of interest:

First 3 years	1 %
Next 2 years	1 $\frac{1}{4}$ %
Next 5 years	1 $\frac{1}{2}$ %
Next 5 years	2 %
Next 5 years	2 $\frac{1}{4}$ %
Next 5 years	2 $\frac{3}{4}$ %
Next 5 years	3 $\frac{1}{4}$ %
Final 10 years	4 %

4. The water refunding bonds of the City of Asheville will carry these rates of interest:

First 4 years	2 %
Next 16 years	2 $\frac{1}{2}$ %
Next 6 years	3 %
Next 4 years	3 $\frac{1}{4}$ %
Final 10 years	4 %

5. All delinquent interest as of July 1, 1935, on general obligations of all units will be cancelled out-

right while unpaid interest on city water obligations will be discharged through the payment to the water bondholders of the net operating revenues of the water department for the year 1934-1935 which are on deposit in a bank.

6. Interest claims for the current fiscal year will be fully satisfied through the payment of 1% on general obligations and 2% on water debts. The debt service levies for this year are more than sufficient to meet such payments and the city and county should be able to start their new fiscal chapter on July 1, 1936, owing its creditors only the principal of the debt which will not fall due until 1976.

7. The virtual liquidation of the debts by 1976 is assured through the provision of mandatory levies for debt service of specific sums for each of the forty years for the general bonds. It is estimated that these levies will be adequate to pay all interest charges and to provide for the gradual reduction and the ultimate extinction of the general debts. The city agrees under this plan also to set aside each year a specified amount of the net operating revenues of the water department for the payment of interest and the retirement of the water bonds. All water operating revenues in excess of these annual appropriations may be spent for any lawful purpose. This arrangement contemplates the liquidation of the water debt within forty years.

8. All debt service levies on general bonds and all appropriations for water debt service are paid into the sinking funds of the respective units. When there is on deposit in any sinking fund more than the interest payments falling due in the succeeding seven months, such surplus may be used in the purchase for retirement of bonds at public tenders and after due advertisement. The sinking fund may call for tenders as often as is desired and may reject any and all tenders and is under no compulsion to purchase any bonds offered unless it permits its deposits available for bond purchases to exceed a maxi-



mum sum for a continuous period of ninety days. This latter restriction is designed to prevent the accumulation of large and inert sums of money in any sinking fund and to insure the orderly and progressive retirement of the debt. It is believed that through the operation of the sinking funds the city and the county will be able to effect very considerable savings by retiring their bonds at substantial discounts.

9. To insure the uninterrupted functioning of the local governments and the prompt payment of all current bills, a revolving fund is established for each unit. Into these funds will be paid all collections from delinquent debt service taxes for years prior to 1935-1936, and certain other assets. Each governmental unit will be able to borrow from its revolving fund upon tax anticipation notes. It is estimated that the total of these funds will approximate \$750,000. After a specified period of time, all the assets of the revolving funds will be transferred to the respective sinking funds to be used in the retirement of bonds.

The total principal of the debt included in this refunding plan is approximately \$43,150,000 and covers the entire note and bond indebtedness of the City of Asheville, Asheville School District, Buncombe County and the County Board of Education. Separate refunding plans must be worked out for each of the twenty-four special school districts and of the thirteen water and sanitary districts in the county. These are in process of negotiation. These district debts total approximately \$4,750,000.

The officials who negotiated the plan outlined above believe that it is a workable and just refunding program which will restore the credit and stimulate the recovery of the city and county, will lead to the extinction of the debts and insure to the creditors the maximum which they can rationally expect.

The plan has been carefully thought out in all of its details and represents the measured conclusions reached after long and painstaking study of all the economic, social and governmental factors and after the fullest, frankest and most exhaustive negotiations.

The merits of the plan may perhaps be summarized thus:

1. It does not perpetuate the debt. It provides for its liquidation. The question of reducing the debt is not left to the shifting judgments of changing administrations. Gradual and progressive reduction with ultimate extinction is automatic.

2. It restores the operating credit of the city and county immediately by providing revolving funds.

3. It establishes interest rates which afford the maximum relief in the early years and which do not appropriate for carrying charges alone all the debt paying capacity of the community.

4. It fixes for each year a specific debt service levy which, in the absence of the totally unforeseen and unforeseeable, should never necessitate confiscatory taxes. The property-owner now knows what the community will have to pay now and in subsequent years.

5. Through the operations of the sinking funds the plan makes it not only possible but certain that the community will be able to retire its bonds over the years at sharp discounts, thereby securing a left-handed but none the less real reduction in principal.

6. It discharges all past due interest claims and enables the city and county to make a fresh start on July 1, 1936, with the principal of their debts fixed and its payment assured.

What should be emphasized is this: The plan is not a makeshift hurriedly contrived to provide for the next few years while leaving the future to rest precariously upon the laps of the gods. It is a carefully wrought plan, bottomed upon facts and scientifically devised to solve permanently a peculiarly involved and aggravated debt problem.

It may not be amiss by way of conclusion to report that the local committee which negotiated this settlement spent six months in collecting and sifting its information. Literally the finances of hundreds of cities and counties were studied. Every refunding plan of recent years was analyzed. Hundreds of pages of statistics suggesting or interpreting the capacity of Asheville

and Buncombe to meet debt service charges were compiled and digested.

The committee proceeded throughout upon the assumption that what the community should pay was fixed by what it could pay. There was no thought or intimation of repudiation. An earnest effort was made to determine the community's capacity to pay and having arrived at some acceptable estimate of this, it was then a question of providing the mechanism of a settlement that would insure the orderly use of this capacity to pay in meeting interest and in liquidating the principal of the debt.

### ONE PLUS ONE EQUALS ONE

*(Continued from page thirteen)*

keeps all. Each has owned the whole all along. On death, one of the owners merely drops out of the picture. Quite logically the survivor is not required to pay any inheritance tax.

The survivor not only receives the whole estate, but it is received free from any encumbrances the other may have sought to place against it. Neither husband nor wife can do any act which will bind the other after his or her death.

### Advantages and Disadvantages

The chief advantage of the estate by entirety is that it furnishes a means for a husband and wife together to put the fruits of their labors into a common enterprise, a home for example, where the property will be safe from claims for debts incurred by either separately. It will belong to both of them as long as they live unless both join in a conveyance. On the death of one, the other continues peacefully undisturbed on the property as absolute owner.

In the minds of others, the disadvantages far outweigh the advantages; unfair to the wife, a loophole for avoiding creditors. The Supreme Court has several times recommended that the estate by entirety be abolished. But the Legislature has turned "thumbs down" on every attempt so far. Tenancy by the entirety continues to flourish. Even as it was in the beginning, so it remains today.



THE PEOPLE



# The Governor

---His Powers and Duties Today and Yesterday

By M. R. ALEXANDER

of the Staff of the Institute of Government

Which is the more powerful? North Carolina's present chief executive, only United States governor without the veto power and head of an administration which in spite of recent steps in that direction is still far from centralized? Or the governor of the days of the Lords Proprietors, who wielded an absolute veto, summoned and dissolved his legislature at will, and, with his council, not only formed the upper house but composed for a time the State's only court?

The present system leaves much to desire by advocates of a strong executive, with a small number of major departments, and definite fixation of responsibility, as will be seen from a glance at the chart in the next column, outlining the organization of the State government with its 111 different offices, departments, commissions, boards, and agencies. But further study reveals the extent to which the Governor's influence and control over these agencies, by statute and through his power of appointment, has grown, and the distance which we have come from the weak executive under the first Constitution.

The accompanying chart outlines the complex organization of the State Government with its executive, legislative, and judicial branches, and its host of appointive officials, commissions, and boards, and details the manner for the selection of each. It was necessary, in order to present the picture in true perspective, to group the numerous and varied agencies by functions, rather than by the Departments to which they are attached by statute. Thus, the State Highway Patrol must be grouped with the Law-Enforcing Agencies though it is under the Department of Revenue, and the State Highway and Public Works Commission, because of the dual nature of its functions, must be placed under both Highway and Public Works and Penal Institutions. The result emphasizes the complexity of the organization.

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The latter was the inevitable reaction to the colonists' experience with the powerful and often high-handed governors sent over by the Proprietors and later by the Crown. The people had looked to their Assembly for their champion throughout the ensuing struggle, and it was only natural, when they came in 1776 to set up an independent government, that it should be the Legislature and not the Governor to whom they should entrust the precious rights which they had fought for and which they held so high.

Result: legislative supremacy at the expense of the governor, who was stripped of the right of veto, who required the assent of a Council not of his selection in the exercise of the limited powers he held, and who, indeed, was elected and controlled by the Legislature until the Constitutional Convention of 1835.

Beginning with the change to popular election, the power and influence of the governor began to develop and expand with the passing of popular consciousness of the need for guarding individual rights and liberties, with a line of able and popular governors, and with the need for a strong executive produced first by the War between the States, and later by the tremendous growth of the State's business. The agent of the Legislature became the representative of the people, and though they did not expressly write the change into their new Constitution in 1868, which only sketches the framework of the office in the barest and vaguest terms, they increasingly accepted and followed his leadership.

It is an even more significant fact that since 1868 the Legislature, once so jealous of the executive, has passed more than 200 statutes and resolutions extending, centralizing, and strengthening his power. Before we decide which wields the greater influence, let us glance at a very brief summary of the governor's powers today.

*Executive.* "The executive department shall consist of a Governor, in whom shall be vested the supreme executive power of the State, a Lieutenant-Governor," etc., reads the Constitution. This is strictly construed to delegated powers, but the

Supreme Court has held that all doubts shall be resolved in favor of the constitutionality of his official acts. Eight of the chief executives or department heads who serve with him and form his "cabinet" so to speak are not appointive but elective, and his control over them is limited to that granted by the Legislature. Some of his most important duties require the consent of the Council of State, comprised, in addition to the Governor, of the Secretary of State, Auditor, Treasurer, and Superintendent of Public Instruction, all elective. The Constitution also vests in the Governor the power of pardon and reprieve and the command of the militia, but the latter is limited by the Legislature's power over its organization, equipping, and disciplining.

*Administrative.* The general appointing power under the Constitution is lodged in the Governor, extending to all offices established by but not otherwise provided for in the Constitution. The consent of the Senate is required in the case of constitutional officers, but there is a growing tendency to dispense with the requirement as to new departments and agencies set up by statute (see Chart). The governor also exercises the right of filling vacancies in office, free from this restriction.

The appointive power has grown to tremendous proportions with the piecemeal expansion of the State's activities and the development of scores of boards and commissions into a virtual "fourth department" of the government. Leaving out the Lieutenant-Governor and eight elective department heads, the Governor has a voice in the selection of 71 of the 97 offices, departments, and agencies shown on the Chart and is an ex officio member of 12 of the other 26. Observe some of the newer departments for the recent trend. The Governor appoints by himself the Assistant Budget Director, the heads of the departments of Revenue, Purchase, Conservation, and Parole, the two Associate Utilities Commissioners, and the whole of the Highway and Public Works, Planning, and Election boards. He serves himself and appoints two of the other six members of the Advisory Budget Commission. He controls the majority of

the School and Local Government Commissions and the Board of Health, and with the Senate appoints the Commissioner of Banking, Industrial Commission, and Board of Conservation. His appointive power, in short, extends to virtually all State agencies of importance except for the State Board of Charities and the Trustees of the Consolidated University and the Negro A. & T. College, who are appointed by the Legislature.

The trend toward departmentalization and increase of the governor's power which has marked the action of the Legislatures since 1925 has thus made itself apparent in the field of schools, highways, health, conservation, banking, utilities, and local government, but nowhere more so than in the realm of fiscal affairs. Beginning with the Executive Budget Act of 1925, the Governor has been successively granted additional powers over budget, sinking funds, personnel, revenue department, and finally purchase and contract. As Director of the Budget, the Governor even has the power (since 1927) to reduce allotments under the Legislature's appropriations, subject to the approval of the Budget Commission, to prevent an overdraft, as in case revenues fall below expectations. To this the 1935 Legislature added the power to apply excess highway funds to road construction and maintenance. The 1925 Legislature also empowered the Governor and Council of State to borrow in emergencies on the credit of the State and to borrow on short term notes.

It has been said that the governor's control often ends with the appointment of administrative officers. The Constitution makes only three provisions for his exercise of his supervision thereover, the first of which is a brief, simple statement conferring upon him the vast, complex duty to "take care that the laws be faithfully executed." This is probably sufficient power for him to "expose and check glaring irregularities"; it is certainly not enough "to promote general and consistent administrative efficiency." This leaves the governor only two constitutional weapons for this purpose, the requirement that the heads of *executive departments and public in-*



*stitutions* shall furnish the Governor annual reports at least five days prior to each regular legislative session, coupled with the provision that he may require information at any time and upon any subject relating to their duties from the *officers in the executive department*.

The power of removal is one of the Governor's most effective weapons, but this does not go with the general appointing power. It must be specifically provided for by statute, and is usually limited to certain causes and certain classes of officers. However, it will be found that the statutes setting up many of the newer agencies include this power. Thus, members of the Highway and Public Works Commission may be removed *for cause*, the Assistant Budget Director is *subject to removal at the Governor's will*, and the Director of Purchase is only *appointed to serve at his will and pleasure*. As a practical matter, a Governor with qualities of leadership and ability to harmonize, especially in a state where one party dominates, exercises a much more effective supervision over executive and administrative affairs than the meager provisions of the Constitution would indicate.

*Legislative.* A governor's power over legislation is exercised in the main in two ways: initiation and veto. As stated before, the governor of North Carolina is without the important power of veto, exercised by the governors of all the other states. However, recent governors have made the most of the power of legislative initiation, which is made not only a privilege but a duty by the Constitution. The recommendations in his message to the General Assembly are solely advisory, but the personal influence and political power of the chief executive make them effective in practice. This is particularly true in the case of measures which were included in his platform and thus have the definite stamp of popular support, and especially in the case of a governor's first legislature, which likely stood and was elected with him on the same platform. Although they have not met with the same success with their second legislatures, the governors since 1915 have seen the great majority of their adminis-

tration measures enacted into law.

The Governor has only one other legislative power of importance, and that is the authority with the Council of State to call special sessions of the legislature.

*Judicial.* As would be expected in a government built on the doctrine of separation of powers, the governor's authority is limited by the Constitution and statutes to minor appointive power and to matters affecting the administration of the courts. Of these the chief are his powers in regard to calling of special terms and the transferring of judges of Superior Court; the power to appoint Justices of the Peace, shared with the Legislature, and a limited number of emergency Judges of Superior Court; and the power to fill vacancies on the Supreme and Superior courts where some other express provision is not made.

Judged by other states, the executive in North Carolina still can hardly be classed as strong. "In North Carolina fewer powers reside in the Governor than in any other State," said Governor Kitchin in 1911. Though the intervening years have seen a great enlargement, the governor still does not have the veto, as do the President and the Governors of the other 47 states. Eight of the chief department heads remain beyond the executive control that goes with appointment, and though his appointive powers have been doubled and tripled, his power of removal is still limited. In addition, many of his official acts continue to depend for approval on a Council of State not of his choosing.

So much for the Governor's office as compared with those in other states. Which does the reader think was the more powerful, Colonial or present governor? Many students of government would say the present, because whereas the Colonial governor was less dependent upon the people he also lacked their support, and in fact, was frequently at odds with a legislature which controlled the purse strings. Regardless of the decision, it is generally agreed that the last decade has seen the extension and strengthening of the governor's powers to a point where they more nearly equal those of the Colonial Governor than at any time since 1775.

## Helpful Books

*Income and Economic Progress*, 192 pages, \$2.00. The Brookings Institution, Washington, D. C., 1935. This new and timely work is a companion to Brookings' three previous studies of capital, production, and consumption, and sums up the findings and conclusions of the organization's three-year study of the distribution of income in relation to economic progress. Mr. Moulton hews a straight line through the confusion of much current thought on economic problems, and shows the way to higher living standards through better distribution of an enlarged production, in one of the most valuable economic studies of the age.

\* \* \*

*Modern Criminal Investigation*, by Dr. Harry Soderman and Deputy Chief Inspector John J. O'Connell. Consists in large part of lectures and demonstrations given at the New York Police Academy. A valuable work covering practically every subject with which the criminal investigator has to do. Funk and Wagnalls Company, New York, 1935. 453 pp.

\* \* \*

Municipal accountants and fiscal officers will find much of value in the reports and pamphlets which the National Committee on Municipal Accounting has been putting out for the past year and a half. The most recent is *Municipal Funds and Their Balance Sheets*. Others have dealt with the principles of municipal accounting, a procedure for municipal auditing, and municipal accounting bibliography and terminology. Copies may be obtained from the office of the Committee at 850 East 58th St., Chicago, Illinois.

### BUILDING SAFER STREETS

(Continued from page nine)  
properly safeguarded. Under this plan, a new express highway remains an express highway instead of becoming just another suburban or urban road.

Few areas can now produce enough traffic to justify the most expensive type of construction, but even the less important highways may have some of its features, and



the probability of future development should always be considered in present planning.

Editor's Note: Dr. Hickerson will discuss crossing protection and separated roadways in the next issue.

## Court House Chaff

"Are you in favor of government ownership?"

"Yes," answered the Senator, "on one condition."

"What is that?"

"My own great political party must be running the government."

\* \* \*

A lawyer of our acquaintance was recently stopped on the street by a rather irate farmer. "Lawyer Jones," said the farmer, "do you remember that advice you gave me week before last when I stopped you on the courthouse steps? Well, that advice cost me \$1500."

"How much did you pay me for that advice?" asked our friend.

"Nothing," said the farmer. "You didn't charge me anything."

"Well," said our friend, "that's exactly what that advice was worth."

\* \* \*

The English language having been used for a long time, and good descriptive phrases being somewhat at a premium, we consider the following worthy to be passed along. A friend of ours, speaking of a mutual acquaintance, recently said, "He's the only man I ever saw who could strut sitting down."

\* \* \*

"What," inquired the heavy thinker, "are the fruits of every political campaign which has ever been waged?"

"Well," replied the man who always had an answer, "I'm not much of a horticulturist, but I should say apple-sauce, plums, and melons."

\* \* \*

"Your legal department must be very expensive."

"Yes," sighed the trust magnate, "it is."

"Still, I suppose you have to maintain it?"

"Well, I don't know. Sometimes I think it would be cheaper to obey the law."

## THE GREAT BOND AGE

*(Continued from page three)*

of some \$3,525,000 as of June 30, 1922. Most of this deficit was represented by short term notes, which together with bond anticipation notes and bonds outstanding brought our State debt to some \$35,000,000 as of June 30, 1922.

The 1923 General Assembly authorized \$10,149,000 in bonds for further permanent improvements to State institutions, \$500,000 for development of inland waterways and fisheries, \$15,000,000 for highway construction and \$5,000,000 for county aid in building public school buildings. All of the bonds authorized by the 1923 General Assembly were issued during the period ending June 30, 1924. In addition to these bonds some \$32,000,000 was borrowed under the 1921 highway construction act, \$3,373,000 under the permanent improvement act and \$1,000,000 under the public school building act. Thus, our bonded debt jumped some \$68,000,000 in the two year period from June 30, 1922, to June 30, 1924.

Appropriations exceeded actual revenues for the year ending June 30, 1923, by slightly over \$1,000,000, and for the year ending June 30, 1924, by more than \$1,900,000. Thus, at June 30, 1924, the State had an accumulated cash deficit of over \$6,500,000. A great part of this deficit was represented by short term notes, and including these our State debt at June 30, 1924, had climbed to about \$105,000,000.

The 1925 General Assembly took up where the 1923 General Assembly had left off in the matter of authorizing bond issues. This Legislature authorized \$5,125,000 for permanent improvements at State institutions, \$5,000,000 for public school building construction, \$20,550,000 for highway construction and \$9,438,000 to cover our fast accumulating deficit. Thus, at June 30, 1926, our State debt had increased to \$144,088,000.

It is rather striking that from 1879 to 1926 the State had issued over \$138,000,000 in bonds and had retired less than \$500,000. Of the amount retired \$170,000 was in 1909, \$99,000 in 1922-23 and \$193,000 in 1925-26. However, from 1921 to 1926 the State had set up sinking

funds amounting to slightly less than \$5,000,000 with which to meet future maturities.

The 1927 General Assembly continued bond authorizations with \$5,247,000 for permanent improvements, \$2,000,000 for the Great Smoky Mountains Park, \$460,000 for prisons and prison farms, \$31,250,000 for highway construction, \$2,000,000 for the World War Veterans' Loan Fund and \$2,500,000 for public school buildings. Of the total authorized \$28,650,000 were issued during the two years ending June 30, 1928. Of this amount \$27,550,000 was for highway construction and \$1,100,000 for public school building construction.

The two years ending June 30, 1928, saw the first material payment of bonds when approximately \$1,600,000 in bonds were retired over and above payments into the sinking funds. The net result put the State's debt at \$171,142,600 at June 30, 1928.

The 1929 General Assembly marked the beginning of the decline in bond authorizations. The Legislature of that year authorized the issue of but \$3,970,000 in bonds. Of this amount, \$1,970,000 was designated for additional permanent improvements and \$2,000,000 for additional veterans' loans. Of the above, only the \$1,970,000 permanent improvement bonds were issued during the two years ending June 30, 1930. However, \$10,500,000 in bonds of previous authorizations were issued. Of this amount, \$5,100,000 was for permanent improvements, \$2,000,000 for the Great Smoky Mountains Park, \$2,000,000 for veterans' loans and \$1,400,000 for school buildings.

This same period saw the retirement of \$5,348,000 in bonds over and above payments into the sinking funds. Included in the amount retired were \$2,650,000 highway bonds, \$2,000,000 general fund deficit bonds, \$500,000 school building bonds and \$198,000 permanent improvement bonds. Thus, there was a net increase of \$7,122,000 in the State's debt, bringing it to \$178,264,600 at June 30, 1930.

### Legislature Calls Halt in 1931

The 1931 and 1933 General Assemblies did not authorize any bor-

rowing except for funding purposes. The 1931 General Assembly authorized borrowing on short term notes to cover a growing deficit due to sharp declines in revenues. During the two year period ending June 30, 1932, the deficit amounted to \$6,897,000, which had it not been for the Budget Commission reducing actual expenditures from the amounts appropriated by the General Assembly would have been over \$11,400,000.

The two years ending June 30, 1932, found the State issuing some \$5,107,000 in bonds previously authorized. Included in this amount were \$4,000,000 in highway construction bonds, \$607,000 in permanent improvement bonds and \$500,000 in veterans' loan bonds. In addition to these bonds, some \$7,502,371 in deficit notes and bond anticipation notes were issued. This period also saw \$7,862,600 in bonds retired, including \$4,412,000 in highway bonds, \$2,000,000 in deficit bonds, \$125,000 in school building bonds and \$200,000 in permanent improvement bonds. Thus, at June 30, 1932, we find the State's debt totaling \$183,011,371.

#### County Highway Loans Additional

The above total does not include some \$4,200,000 in county loans which because of a change in the road laws by the 1931 General Assembly became a real liability. After the passage of the highway construction act in 1921, all communities began clamoring for roads. The money to be gained from the \$50,000,000 bond issue authorized in 1921 was designated to be used for the construction of a state-wide system of roads and naturally had to be allocated in varying amounts to various sections of the State. However, many counties were anxious for more roads than could be built with the money allocated. Some of these counties made donations to supplement the State's funds, and others agreed to make loans to the State to finance the roads desired. The Highway Commission accepted these loans under an agreement providing that the money would be re-paid, without interest, either from the proceeds of future bond issues or from gasoline tax revenues collected which accrued

to the counties involved. Under this arrangement some \$17,000,000 was loaned the State by counties for highway construction.

In 1931 the General Assembly changed the road laws so that no further gasoline tax revenue accrued to the counties, but provided that the Highway Commission should enter into re-payment agreements with the various counties which had not been re-paid the amounts loaned to the State. Much of the original amount had already been re-paid, and until the road law was changed the balance represented a liability contingent upon the issuance of further bonds or the collection of gasoline tax revenues accruing to the counties. However, once the law was changed this balance of some \$4,600,000 became a real liability. Re-payment agreements were entered into by the State Highway Commission and the counties calling for average annual payments of some \$420,000 until 1942 when the total will have been liquidated. The State has never issued any bonds to the counties as evidence of this indebtedness and the loans do not bear interest, consequently, this amount has not been regarded as a bonded debt and is not considered as such in any of the amounts shown in this article. Mention of this fact is made to give a better understanding of the State's actual financial condition at June 30, 1931, and since.

The only addition to the State's debt during the two years ending June 30, 1934, was a net increase of \$4,727,629 in short term notes. This additional borrowing was due to a deficit in 1932-33 of \$8,410,600, which had not the Budget Commission functioned would have been some \$11,220,955.

During this two year period the State retired \$10,983,000 of its bonds, including \$6,933,000 in highway bonds, \$2,000,000 in deficit bonds, \$1,750,000 in school building bonds, \$200,000 in improvement bonds and \$100,000 in Great Smoky Mountain Park bonds. Thus, the gross State debt was reduced to \$176,756,000 at June 30, 1934.

The 1933 General Assembly authorized bonds to be issued to fund the floating deficit notes of the State. In 1934 some \$12,230,000 of serial bonds were issued and in 1935

the balance, or \$3,304,000, was issued. This latter amount was not issued until after July 1, 1935, but assuming it as a part of the State's debt at June 30, 1935, the gross debt at that date, including maturities of July 1, 1935, was \$173,685,000.

#### How the \$206,000,000 Was Used

Now, let us summarize the various bond issues and see for what this tremendous amount of money was used. Including the funding bonds of 1879 and 1935, the State has issued approximately \$206,000,000 in bonds during the past fifty-six years. The money gained from these was used approximately as follows:

Highway construction	\$116,800,000
Permanent improvements to educational institutions	20,447,300
To aid counties in school building construction	18,000,000
Permanent improvements to institutions for mental defectives	6,584,000
Expenditures made prior to 1879 for railroad construction and State improvements, etc.	6,400,000
Permanent improvements to institutions for physical defectives	2,860,000
Permanent improvements to correctional and penal institutions	2,567,000
World War Veterans' loans	2,500,000
Development of parks and waterways	2,500,000
Public buildings and grounds	1,500,000
Operating expenses in excess of revenues	25,841,700
Total	\$206,000,000

Of this \$206,000,000 the State has paid off some \$33,818,000, and has provided sinking funds to date of some \$13,500,000 with which to meet future maturities. It is interesting to note that no payments have been made or sinking fund provided for the State's oldest obligations. There are still outstanding bonds issued under the compromise act of 1879. In fact, most of the total of the compromise indebtedness is still unpaid. Some of it was refunded in 1910 and the balance in 1919, and all of it will not be paid until 1953. The total compromise debt amounted to some \$6,400,000, but before it is finally paid it will cost about \$27,500,000.

The State has guarded against the repetition of this situation in its bond issues since 1917 by making most of them serial or sinking fund bonds. Prior to 1917 practically all of the bonds issued were forty-year



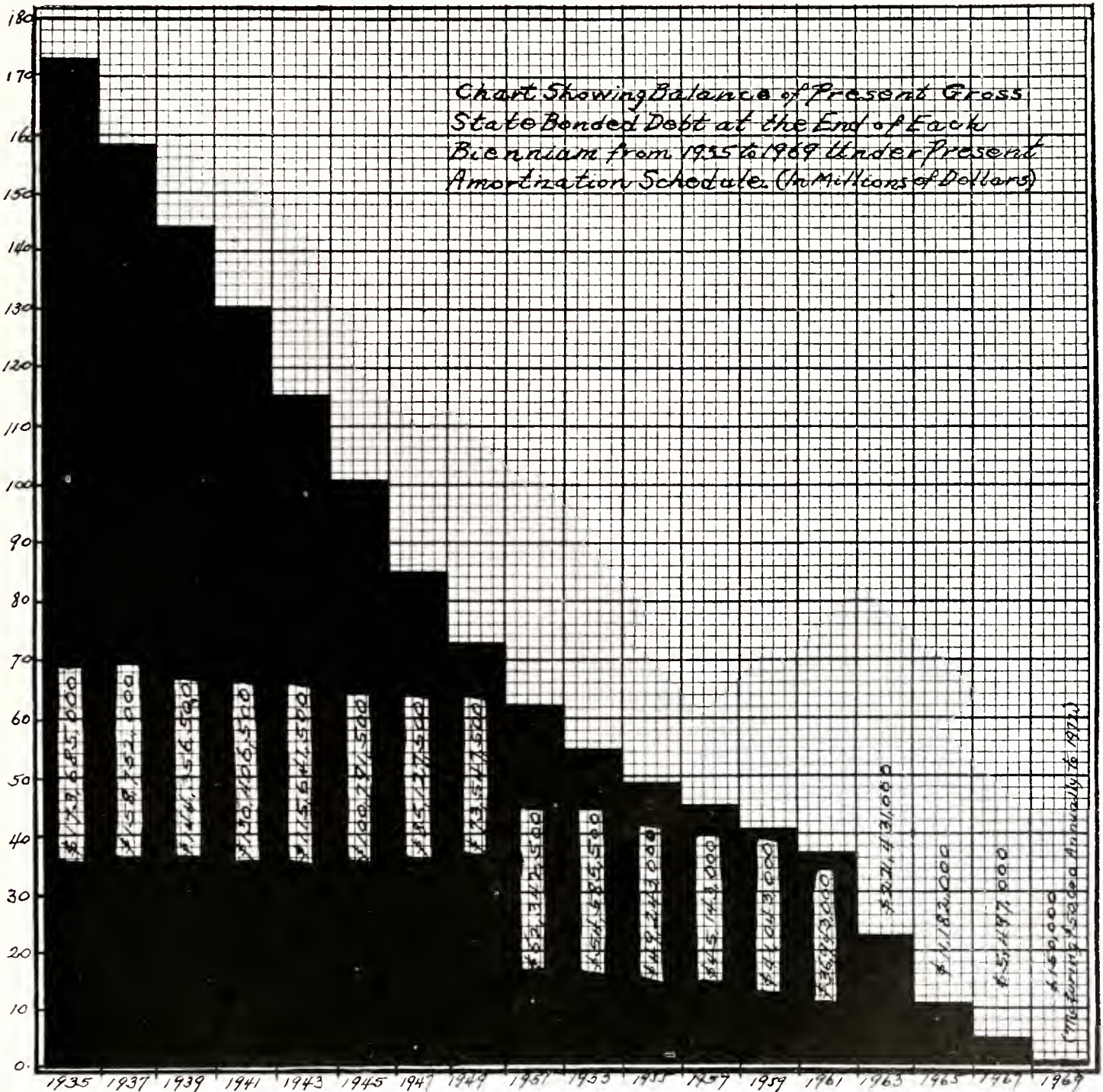
term bonds with no sinking fund provisions. This means that for every dollar borrowed under such terms at least \$3.60 is re-paid.

**Last Payment Due in 1972**

So much for the past, let us look into the future and see what provisions are being made to retire the State's debt. Each year the State puts some \$771,320 into sinking funds. This money is invested in State and other bonds the interest from which is added to the fund and re-invested. These funds will accumulate until beginning in 1953 they

are calculated to be sufficient to meet all maturities except \$50,000 annually. Thus, by adding some \$771,000 annually from now until 1951, and some \$221,000 annually from 1951 to 1968 to the present total of some \$13,500,000 in the sinking funds, some \$56,000,000 of our present debt will be paid. The balance of some \$116,000,000 will be paid in annual installments of varying amounts which gradually reduce until in 1953 but \$50,000 annually will be required to meet maturing serial bonds.

The last of our present State debt matures in 1972, as can be seen from the chart below. For proof that "the full-faith, credit and taxing power of the State of North Carolina" is more than ample security for \$175,000,000, call around about 1953 and you'll find that all of the present debt has been either paid or provided for except a paltry \$5,000,000 or so. And any group of three million-odd folks who can pay off nearly \$154,000,000 in eighteen years deserves an "A-1" rating in any man's credit book.





# Bulletin Service

Opinions and rulings in this issue are from State Department letters  
From December 18 to January 15

★  
Prepared by  
M. R. ALEXANDER

## I. Ad valorem taxes.

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

#### 125. Corrections and discoveries.

To R. B. Overton. Inquiry: Our town, under the law, makes its tax list from the records of the county. In the case of correction or discovery by the county, may the town change its valuation accordingly?

(A.G.) It is our opinion that you may. However, I do not think you have such right if and after you had accepted the taxes on the lower valuation.

To J. P. Bunn. Inquiry: X listed a tract of land and paid taxes on it for 1926, but the records disclose that the property was never owned by this party. The land was not listed by anyone since but was carried forward each year under the wrong name. May the county collect the back taxes?

(A.G.) It is possible for the county to collect taxes only for the current year and five years preceding (with 10% penalty on the latter). This is on the theory of discovery, as provided in Subsection 4, Section 521, Machinery Act. See Madison County vs. Cox, 204 N. C. 58, and Wake County vs. Faison, 204 N. C. 55.

To Wm. D. Kizziah. Inquiry: Do the County Commissioners have authority to make settlement with a taxpayer for taxes paid due to alleged over-valuations in prior years (1930).

(A.G.) No. C. S. 7971 (91) provides only for correction of clerical errors such as omissions and wrong listings. The taxpayer's only redress is to pay taxes under protest and sue for their recovery. Not having done this, there is no redress, and the Board of Commissioners has no authority to make any correction.

### B. Matters affecting tax collection.

#### 33. Statute of Limitations.

To J. M. Hall. (A.G.) Under Chapter 181, Public Laws of 1933, taxes for 1926 and prior years were outlawed. Taxes for other years may be collected, and when the State or county proceeds under C. S. 7990 the Statute of Limitations cannot be pleaded.

#### 40. Tax Foreclosure—special assessments.

To L. T. Hammond. (A.G.) While street assessments may be collected by the same method employed in the collection of taxes, the two things are essentially different, and ought not, in my judgment, to be included in the same suit.

To J. Shepard Bryan. Inquiry: May owners of town property without paving, water, and sewer resist levy and collection of an ad valorem tax to retire bonds issued for these purposes?

(A.G.) There is no case directly in point in this State, but see Kelly vs. Pittsburg, 104 U. S. 78, and Mitchell vs. Negau-mee, 71 N. W. 646. In my opinion, the

position taken by the protesting taxpayers cannot be maintained. Under C. S. 2959 the full faith and credit of a municipality is deemed subject to the payment of the principal and interest on every bond issued under the Municipal Finance Act. The governing body is also required to levy and collect an ad valorem tax upon *all the taxable property in the municipality* sufficient to pay the principal and interest on such bonds.

#### 47. Tax foreclosure—method for conveying when bid in by county.

To L. T. Hammond. Inquiry: Property has been bid in by the county at tax foreclosure sales, but the sales have not been confirmed nor the deeds made. May the bids be transferred to private individuals, or will it be necessary to re-advertise and re-sell at public auction?

(A.G.) In my opinion the county may so transfer its bids upon order of the County Commissioners and without advertising. While there is a statute requiring that property owned by a municipality, with certain statutory exceptions, must be sold at public auction, it seems that this requirement does not apply to county property. See C. S. 1297 (19).

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

To J. E. Butler. Inquiry: A large tract of mountain land was sold to the United States government August 23, 1935. May

## MUNICIPAL BOND TRENDS

Quotations on State of North Carolina and municipal obligations. Prices will vary with coupon rates, maturities, and market conditions.

Issue	Coupon	Maturity	Av. Bid
State of N. C.	2½% due	1944	100 3/8
State of N. C.	4¼% "	1950	3.20%
State of N. C.	4½% "	1945	3.20%
State of N. C.	4¾% "	1961	3.45%

Anson Co.	4½% due	1952	4.10%
Asheville, Wt	2-4	1975	45 1/2
Bertie Co.	5%	1945	4.60%
Bladen Co.	5%	1956	98
Brunswick Co.	1½-4%	1965	34
Catawba Co.	4½% "	1945	3.75%
Charlotte	4½% "	1955	3.65%
Durham	4½% "	1950	3.65%
Forsyth Co.	4½% "	1948	3.50%
Greensboro, Wt	4¾% "	1955	4.40%
Haywood Co.	5½% "	1952	100
Iredell Co.	5%	1943	4.45%
Mecklenburg Co.	4¾% "	1948	3.50%
Pitt Co.	4½% "	1949	4.30%
Raleigh	4½% "	1945	4.20%
Stokes Co.	6%	1948	86
Wake Co.	4½% "	1951	4.10%
Wilmington	4½% "	1948	3.75%

Quotations furnished by courtesy of  
R. S. Dickson & Co.

the county levy and collect from the former owner tax for the full year or only from April 1 to August 23?

(A.G.) The county is entitled to collect from the owner of record on July 1, 1935, taxes for the entire fiscal year commencing on that date. See State vs. Fibre Co., 204 N. C. 295.

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

### 14. Privilege license—beer.

To W. T. Huntley. (A.G.) This Office has formerly ruled that County Commissioners have no authority to issue a six-months license to a person for the privilege of engaging in the business of selling beer and wines.

## IV. Public Schools.

### A. Mechanics of handling school funds.

#### 1. Countersignature of County Accountant.

To Clyde A. Erwin. Inquiry: The book rental funds in a certain county were turned over to the County Treasurer by the Superintendent of Schools. The County Auditor contends that the money can not be paid over to the State Textbook Purchase and Rental Commission without his signature, as required by a resolution of the County Commissioner. He also claims that his signature can only be authorized by the State School Commission. Is this necessary?

(A.G.) No. The money has nothing whatever to do with the public school money. It belongs to the Textbook Rental Commission to be used by it for the purpose set out in that law.

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

##### 1. Use of funds where district has no outstanding debts.

To C. W. Davis. Inquiry: A Special Charter District had a surplus on hand when the School Machinery Act of 1933, abolishing local school districts except for the purpose of paying debt, went into effect. May such funds be used to match similar funds to be provided by the county for the construction of needed school facilities?

(A.G.) If the accumulated surplus was on hand at the date mentioned, they might be used in the school district for supplements to maintenance. It does not occur to me, however, that it would be available for construction, as this matter is now left with the counties.

## F. School officials.

### 15. School boards and trustees—liability.

To Albert W. Whitney. Inquiry: Are school boards or officers liable for injuries to students organized into safety patrols?

(A.G.) No case has been decided by our courts upon the point. In my opinion, school boards and officers could not subject the State, or State funds, or any department or institution of the State to liability in such case, but under the laws of this State a personal liability might be so incurred.

### 20. School district committeemen—election and terms.

To Clyde A. Erwin. Inquiry: If a local school committeeman enlists in the Navy for a term of six months, does this vacate his office? (A.G.) Yes, in my opinion. The duties of a school committeeman are continuous throughout the school year.

## I. School property.

### 7. Special Districts abolished by 1933 School Machinery Act.

To I. C. Moser. Inquiry: May a town



graded school district lawfully take title, jointly with the County Board of Education, to property to be bought by the two agencies and used for a town school building?

(A.G.) No. The 1933 School Machinery Act declared all special tax and charter districts non-existent except for the purpose of collecting taxes to retire outstanding indebtedness against such districts.

#### 10. Disposition of school property.

To G. G. Brinson. Inquiry: Does the County Board of Education have authority, in your opinion, to convey a school house and lot to trustees for community purposes with provision in the deed for the property to revert to the Board of Education upon demand? (A.G.) No.

#### K. State loan funds.

##### 15. Right to refund.

To A. E. Akers. Inquiry: The County borrowed money from the Literary and Building Fund and re-lent it to a special school district, under the laws so authorizing, for building purposes. May the County fund this indebtedness, notwithstanding the fact that the 1933 School Machinery Act abolished local school districts?

(A.G.) Yes, the notes being given by the County are present outstanding obligations of the County itself, and, therefore, its liability will not be altered or increased by funding the notes. As a matter of fact, the 1933 School Machinery Act abolished school districts for maintenance purposes, but left them existent for debt service.

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

##### P. Securing local funds.

##### 10. Security furnished by local banks.

To Junius D. Grimes. (A.G.) I think the Local Government law, Chapter 60, Public Laws of 1931, as amended by Chapter 143, Public Laws of 1933, as it relates to the same subject, takes precedence over the earlier laws of 1927 and 1929, brought forward in Michie's Code as C. S. 1934 (70).

This law permits the County to deposit its funds of *all sorts* when protected in the manner set out in Section 29 thereof. The bonds and notes of the unit are included in the securities which may be put up in lieu of a deposit bond. Likewise the bonds of another North Carolina local unit, *but only* if they are eligible for investment of the sinking funds of the State, as set out in C. S. 7472 (q4). That is, that they be general obligation bonds and that there be no limitation of rate of tax for repayment. Approval of the latter securities also must be had of the Local Government Commission.

#### VII. Miscellaneous matters affecting cities.

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

##### 8. Contracts to serve State agencies.

To J. S. Holmes. Inquiry: An agency of the State is negotiating a contract with a municipality for electric service to State property. The town insists that the former agree to save the town harmless in case of an accident and damage suit. Should we sign an agreement containing such a clause and would it be binding?

(A.G.) No such agreement would be binding upon the State, as it is not liable for damage suits of this kind.

#### H. Municipal courts.

##### 10. Trial by jury.

To L. L. Ranes. Inquiry: (1) May a

Defendant in Mayor's Court demand a jury trial? (2) If so, who draws the jurors and should they come from the town or township?

(A.G.) (1) Yes, if there is an issue of fact, if he makes demand in apt time, and if he puts up a three dollar deposit to cover the fees. (2) The Clerk from the township. See C. S. 1504-9 for the method in detail.

#### N. Police powers.

##### 11. Inspection of buildings.

To F. R. Sifford. (A.G.) The charge for inspection of the wiring of buildings is limited by C. S. 2763 to \$1.00. No consideration is given in this Section either to the size or the contents of the structure.

#### W. City purchases.

##### 15. State and Federal taxes—liability for.

To L. M. Query. Inquiry: Is gasoline used in the cars and trucks of a city or town subject to the State tax? (A.G.) Yes. See *Stedman vs. Winston-Salem*, 204 N. C. 203.

#### X. Ordinances.

##### 1. Validity.

To Ruby Wood. Inquiry: May a town pass a valid ordinance charging places of business on the main street a privilege tax of 50 cents per foot for the privilege of using a space over 12 feet wide for a driveway leading from the street across the sidewalk. The purpose is to reduce the amount of space now used as driveways, thus making more parking space available.

(A.G.) On examination, I think that such an ordinance can be sustained under the police powers of the town. See *State vs. Evans*, 205 N. C. 434.

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

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

##### 1. Compensation and fees.

To R. F. Routh. Inquiry: Am I cor-

rect in my understanding that C. S. 3904 (i) authorizes the Clerk to charge a commission on all disbursements as well as receipts? (A.G.) Yes.

To B. D. McCubbins. Inquiry: Where the Clerk is by Statute ex officio secretary of the County Board of Pensions, is he entitled to per diem as other members? (A.G.) Yes, as a regular member of this Board.

#### 78. Dower.

To A. Wayland Cooke. Inquiry: When a widow's dower is computed and paid to her in cash, is the computation made at 6 or at 4 1/4 % interest?

(A.G.) In my opinion the 1927 amendment to C. S. 1791 does not apply, and there must be secured to the widow an annual payment of 6% of the one-third of the proceeds of the land sale to which the widow is entitled.

The situation pointed out in C. S. 1791 does not exist in the case of widow's dower. She is not "entitled to the use of a sum of money for life," but to the sum which the law gives her, to wit, the interest on one-third of the proceeds, not the use of the proceeds as a sum, and this interest at the legal rate of 6%.

Again, the amount set apart to the widow does not become an annuity until it is so created by the Statute, and this itself contemplates the legal rate of interest, to wit, 6%, in the creation of this annuity.

#### 80. Descendants' estates—executor's and attorney's fees.

To J. E. Swain. (A.G.) I am of the opinion that attorneys serving as executors are not entitled to commissions as executors and also to additional compensation for services rendered as attorneys for the executor.

#### 82. Descendants' estates—administrator's and guardian's bonds.

To J. E. Swain. Inquiry: A guardian's

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fund is invested solely in North Carolina bonds. May the guardian turn the bonds over to the Clerk and be relieved of the expense of a bond? The bonds are payable to bearer and not registered in the name of the minor so as to bring the case within the provisions of C. S. 4018 (c). Is the requirement of this Statute mandatory?

(A.G.) The above law does not authorize the deposit of unregistered bonds, held by the guardian, with the Clerk and the reduction of the guardian's bond pro tanto. The Statute says "registered bonds," and there is sufficient reasoning in the case to support the distinction. At any rate you must comply with the Statute.

#### D. Registers of Deeds.

##### 1. Fees.

To H. B. Marrow. (A.G.) We are of the opinion where a Register of Deeds is on salary there should be no charge made by the County against the Board of Education for recording deeds to school property.

#### 12. Marriage—persons authorized to perform.

To Donald McIntyre. Inquiry: Does a retired minister in good standing have the right to perform marriage ceremonies? (A.G.) Yes, if the original license or authority from his church has not been revoked. The Statute says "ordained ministers."

#### E. County Auditor.

##### 1. Duties.

To J. S. Benner. Inquiry: Do you construe C. S. 5377-8 as requiring the County Auditor to serve as auditor for the various drainage districts or requiring a special auditor? (A.G.) Special auditor.

#### L. Local law enforcement officers.

##### 25. Prohibition—Wine Law.

To Junius D. Grimes. Inquiry: How do you construe the new Wine Law?

(A.G.) There is no question in my mind but that under the Pasquotank and Domestic Wine acts the sale of any "fortified" wines is in violation of the law and that such wines can not be sold in counties under the Pasquotank Law except by the A.B.C. boards.

The Domestic Wine Act further states that it is legal to manufacture and sell wine of such alcoholic content as results from natural fermentation and which is manufactured in the State from home-grown berries. As you know, the importers contend that this prohibition is a discrimination against out-of-state products and is, therefore, invalid, a question on which I will not pass.

#### 28. Liquor advertising.

To N. G. Gooding. (A.G.) We are of the opinion that the A.B.C. Board itself could regulate liquor advertising in the county by manufacturers, wholesalers, and others under Section 10 (e), but could do no advertising itself.

#### 30. Slot machines.

To A. B. Raymer. (A.G.) I can see no distinction in the application of the Slot Machine Law where the machine is owned and operated by a private person and where it is owned and operated by a club enterprise. This comes from the fact that the law in question is a criminal law.

#### 38. Automobile Drivers' License Act.

To Capt. Chas. D. Farmer. Inquiry: Do State Highway Patrolmen have authority to take up and forward to the Department of Revenue the licenses of operators

arrested for violations of the Uniform Drivers' License Law?

(A.G.) We do not think so. The power to suspend or revoke an operator's license is given to the central Department in Raleigh but not to the members of the Patrol.

To Arthur P. Fulk. Inquiry: I wish to inquire regarding the right of a person whose driver's license has been revoked or suspended by the Department of Revenue to appeal to the Superior Court?

(A.G.) Section 11 provides that such person may request a hearing before the Department for review of its action in suspending his license. Section 19 provides that an appeal lies from the revocation or suspension to the Superior Court, but not if the offense was one for which revocation is made mandatory by Section 12.

#### 41. Operating motor vehicle while intoxicated.

To R. A. Shaw. (A.G.) This Office is of the opinion that a person driving a horse and wagon on the public highways while under the influence of intoxicating liquor could not be convicted on a charge of operating a motor vehicle while intoxicated.

To J. W. Winborne. Inquiry: C. S. 4506 gives the Judge and C. S. 2621 (160-2) gives the Department of Revenue the right to suspend a driver's license on conviction for drunken driving. Does the Judge have the right to make a distinction in the case of a person who earns a living for himself and family as a chauffeur?

(A.G.) I should say no distinction should be made on account of this fact.

To H. C. Payne. Inquiry: Is a person allowed to continue to operate a motor vehicle after he is bound over by a Justice of the Peace on a charge of drunken driving and before he is tried in Superior Court?

(A.G.) Yes, unless his driver's license is suspended by the Department in Raleigh in the meantime. In such cases, the arresting officer or committing magistrate should immediately forward a report of the case to the Department in Raleigh.

#### 100. Witness fees and rewards.

To B. D. McCubbins. Inquiry: Are State Highway Patrolmen entitled to witness fees? (A.G.) No, by C. S. 3893.

#### P. Judges of Recorders' and County Courts.

##### 25. Civil appeals—priority of lien.

To Paul B. Edmundson. Chapter 697, Public-Local Laws of 1913, reads: "All judgments rendered in said County Court shall be duly docketed in the office of the Clerk of said court, and shall have the same force and effect as judgments of the Superior Court. . . ." In the light of this section, do you think a judgment of County Court, not docketed in but affirmed in Superior Court a year later, a prior lien over an intervening judgment in Superior Court?

(A.G.) I do not think an appeal to Superior Court vacates the judgment of the County Court. In fact, the provisions of C. S. 650, providing for stay of execution, would be sufficient evidence of that. However, I am still in doubt as to whether the language of Chapter 697, Public-Local Laws of 1913, is sufficient to create a lien without docketing the judgment in Superior Court. The point is a close one, and I find no opinion covering the case.

Except for the strictness with which the court construes all matters relating to liens, I should be of the opinion that the

lien had attached because of the language of the Statute giving a judgment of the County Court, when docketed in that court, the force and effect of a judgment of the Superior Court. I can only give it as a probability that the lien would be sustained.

#### U. Notary Public.

To J. Q. Lyon. (A.G.) We do not think that an attempted official act of a Notary who has not qualified before the Clerk as required by C. S. 3173 is valid. The acknowledgment so taken would be void.

#### 5. Instruments in which witness is grantee or agent of grantee.

To W. F. MacKinnon. (A.G.) Under the new act a company's salesmen are not authorized to serve as witnesses to customers' signatures, even though they be Notaries. There is nothing in the Act, however, prohibiting salesmen from notarizing contracts with customers.

#### 10. Contracts in which employer is interested.

To E. G. Narron. (A.G.) (1) An officer of a corporation, acting as a Notary Public, is not permitted to take the acknowledgment of a grantor to an instrument in which such corporation appears as the grantee. However, an employee, as distinguished from an officer, may take such acknowledgment.

(2) Proof of execution of an instrument is invalid when made upon the oath and examination of a subscribing witness who is an employee or an officer of a corporation which is the grantee.

#### IX. Double office holding.

##### 2. Notary Public.

To Mrs. Bess G. Underwood. (A.G.) The positions of Deputy Register of Deeds and Notary Public are two offices such as may not be held at the same time.

##### 6. Justice of the Peace.

To O. M. York. (A.G.) It is legal to serve as Notary Public and Justice of the Peace at the same time. The Constitutional provision against double office holding exempts J.P.'s.

##### 8. Town clerk and tax collector.

To L. J. Lawrence. (A.G.) The positions of town commissioner and tax collector fall within the constitutional prohibition of double office holding.

##### X. Primaries.

##### A. Qualifications and rights of voters.

##### 10. Right of voter to have assistance in marking ballot.

To Mrs. J. P. Brown. (A.G.) The election law provides for markers in a municipal election.

##### XI. General and special elections.

##### 10. Absentee ballots.

To C. G. Whiting. (A.G.) C. S. 5960 prescribes the conditions under which qualified voters absent from the county, or unable to vote in person because of illness, may become eligible to vote by absentee ballot. The following section states the manner in which one expecting to be absent during the time of registration may be registered. These Statutes must be followed in exact detail. If the terms are violated in any particular, a challenge may be entered under C. S. 5965.

To Chas. P. Green. Inquiry: Is absentee voting permissible in the A.B.C. election to be held in our County under H. B. 1491?

(A.G.) This Department has ruled that the absentee ballot may not be used in a special election, and express authority is not given by H. B. 1491.



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CLAY SEWER  
PIPE FOR  
SANITARY  
SEWERS

FLUE LINING - WALL COPING - SILO BLOCKS  
FIRE BRICK - DRAIN PIPE - DRAIN TILE  
AND OTHER CLAY PRODUCTS

## The Observer Printing House

INCORPORATED  
CHARLOTTE, N. C.

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County Record Books  
Tax Supplies and Systems

LOOSE LEAF OR BOUND

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Indexing Systems for All County Records

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We specialize in special built Furniture and  
Filing Equipment for Court Houses

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We Invite Your Correspondence

## INCLUDE HOUSE WIRING

In Your Home Modernization Plan



Your Electrical Contractor is Ready  
To Serve You

One of the finest investments you can make in the modernization of your home is that of a complete, modernized, electrical wiring system—a wiring system which will enable you to take full advantage of modern electrical service. Many homes have found that, though they desire to make greater use of electricity, they are hampered in so doing because of the lack of sufficient outlets and adequate wiring.

Electricity is cheaper than ever before. Don't permit limited wiring to block you from using your electric service whenever and wherever you want to.

Better Electrical Wiring---More  
Electrical Outlets

Loans obtained under the provisions of the National Housing Act may be used for installing new wiring systems, or for re-vamping the old ones. Installation of new outlets may be included. Your electrical contractor is familiar with provisions of the Act and is ready and willing to serve you in recommending proper and adequate wiring. Let him inspect your wiring, outlets and other equipment. Modernize your home for complete electrical service! Enjoy the economy of our new electrical rates!



## Duke Power Company

General Office  
CHARLOTTE, NORTH CAROLINA

**From 1935 Report of  
President Price—**

The Jefferson Standard is in the strongest financial position in its history.

Surplus, contingency and special reserve funds were increased to \$4,325,000.

Assets increased over \$4,300,000 in 1935.

Assets now totaling \$62,206,099 have doubled in the past ten years, and are larger than at any time in the history of the Company.

We are continuing to make satisfactory investments in high class mortgage loans and in select bonds.

Liquid resources are ample.

\$5,981,892 were paid to policyholders and beneficiaries in 1935.

More than eighty-seven million dollars have been paid to policyholders and beneficiaries since organization in 1907.

We continue our unbroken record of payment of 5 per cent interest on funds held in trust for policyholders and beneficiaries. As long as we continue to make investments producing such satisfactory interest yield we feel that our policyholders and beneficiaries are entitled to this rate on funds left with the Company. New life insurance sales totaled \$49,524,700, an increase of 6 per cent over 1934.

Insurance in force increased more than fifteen million dollars, the total amount in force now standing at \$329,837,624.

**JEFFERSON STANDARD  
LIFE INSURANCE COMPANY**

**29th Annual Statement—December 31, 1935**

**ASSETS**

Cash	\$ 1,289,423
<b>Bonds:</b>	
United States Government	1,216,120
State, County and Municipal	4,571,664
Other Bonds and Stocks	6,972,540
<small>Bonds carried on amortized basis. Listed securities at market values as of December 31, 1935.</small>	
First Mortgage Loans	20,215,300
<small>On farm property \$1,189,417, on city property \$19,025,883. These loans were made on a basis not to exceed approximately 50 per cent of a conservative valuation.</small>	
Real Estate	7,709,042
<small>This includes our seventeen-story Home Office Building.</small>	
Loans to Our Policyholders	12,856,428
<small>Fully secured by the cash values of their policies.</small>	
Premium Loans and Liens	4,532,106
<small>Fully secured by the cash values of policies.</small>	
Investment Income in Course of Collection	743,078
Premiums in Course of Collection	1,881,448
All Other Assets	218,950
<b>Total Admitted Assets</b>	<b>\$62,206,099</b>

**LIABILITIES**

Policy Reserve	\$53,576,944
<small>This amount represents the reserve required by law to assure prompt payment of policy obligations.</small>	
Reserve for Policy Claims	322,199
<small>Claims in course of settlement on which proofs have not been received.</small>	
Reserve for Taxes	239,743
Premiums and Interest Paid in Advance	464,106
Policy Proceeds Left with Company	2,610,219
Dividends for Policyholders	522,658
Reserve for All Other Liabilities	145,230
<small>Medical and inspection fees, bills not yet presented, policy dividends apportioned, etc.</small>	
<b>Liabilities</b>	<b>\$57,881,099</b>
Special Reserve	\$1,325,000
<small>A fund to take care of contingencies, depreciation on real estate and investment fluctuations.</small>	
Capital	1,000,000
Surplus Unassigned	2,000,000
<b>Total Surplus Funds for Additional Protection of Policyholders</b>	<b>4,325,000</b>
<b>Total</b>	<b>\$62,206,099</b>

**JEFFERSON STANDARD  
LIFE INSURANCE COMPANY**

Founded August, 1907

JULIAN PRICE, President

GREENSBORO, NORTH CAROLINA