



Part of the 13,000 tons that North Carolinians will collect during the rubber drive. In August, 32,000 tons of metals were salvaged, including a Baptist church bell.

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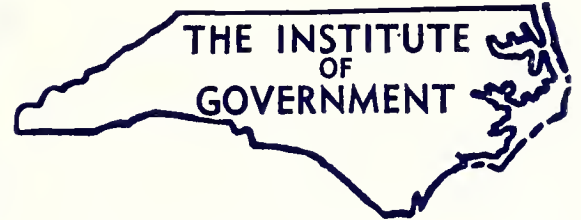
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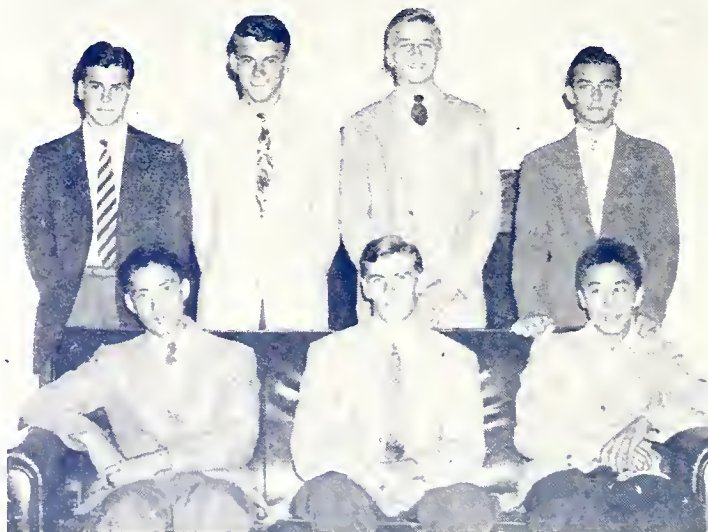
POPULAR GOVERNMENT



Legion Sponsors Fourth Tar Heel Boys State

CONDUCTED AT THE INSTITUTE OF GOVERNMENT
UNIVERSITY OF NORTH CAROLINA

For the fourth year, the Tar Heel Boys State has been sponsored by the American Legion and conducted for the Legion at the Institute of Government of the University of North Carolina at Chapel Hill. This year more than one hundred and fifty boys (above) received a week's training in citizenship, combined with healthy recreation and such projects as a band, a newspaper, and a hotly-contested election. At right are the elected officers, including one Chinese and one Indian student.



Beginning under the leadership of Hector Blackwell, Department Commander in 1939, and continuing under Burgin Pennell, June Rose, Roy McMillan and Henry Ingram, Boys State has increased in value from year to year. In view of the Institute of Government's record in governmental instruction, its interest in student government, and its contacts with public officials, it was natural for the Legion to turn to the Institute when the idea of a Boys State came to the fore.

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Some Legislative Needs of North Carolina Municipalities

One of the many reasons why North Carolina municipal officials, as long ago as 1909, organized their towns and cities into a state league of municipalities, was to obtain for themselves, and to present to each biennial General Assembly, clear statements of the changing needs of growing cities and of expanding municipal governments.

In March of this year more than 500 city officials met in a series of six meetings in various regions of the state and formulated a seven-point program which, in their annual statewide convention at Greensboro last month, they formally endorsed as the legislative program of the North Carolina League of Municipalities. The League program represents the views and needs of 219 cities and towns which are League members. The aggregate population of the member cities is more than 94% of the total population of every incorporated place in the state.

Legislative Program: 1943

Town and city officials in North Carolina believe that the 1943 General Assembly, in the interest of local government in North Carolina, should do these seven things:

1. *Exempt municipalities and counties from the state tax on gasoline used for governmental purposes in public vehicles.* That one level of government should not tax the instruments of another level of government is an ancient principle which is violated by the present taxation of gasoline used in municipal police cars, fire and garbage trucks, and other municipal vehicles. It also is inequitable that municipal governments, which have built and maintained city streets, should be taxed for the privilege of using their streets. This tax amounts to a con-

The Seven - Point Legislative Program of the League of Municipalities Its Background and Its Benefits

By E. M. KNOX

City Manager of High Point
Former President, North Carolina
League of Municipalities

siderable sum in larger municipalities.

2. *Allow municipalities to license and regulate taxicabs and cab companies, to charge up to \$25 per cab license, and to license cab drivers, thus permitting municipalities to deny cab drivers licenses to known criminals, rapists and other undesirables.* The growing number of taxicabs and their frequent use in facilitating prostitution and vice, make imperative their regulation by municipal governments. Furthermore, taxicab companies should be subject equally with other business enterprises to municipal taxation for the privilege of operating. Taxicab companies at present pay no city taxes other than the \$1 fee required by most cities of all locally-owned vehicles.

3. *Permit return to counties and cities of all—rather than 75 percent as at present—state-collected ad valorem taxes on intangible property, with the exception of the state's cost of collection.* Prior to the adoption of the present method of classifying and taxing intangible property, local governments collected \$1,270,000.00 from this class of property (1937). During the fiscal year 1941-1942 the State collected from

this class of property a total of \$1,570,760.31, and returned to local governments on the basis of a 75% distribution \$1,178,070.23. Since 1937 there has been an increase of approximately 10% in other property subject to ad valorem taxes, and the return of the entire collections by the State exclusive of actual collection expenses would leave municipalities in just about the same position they would have been if the method of taxing intangibles had not been changed. No advocate of the change of the method of taxing intangibles has ever contended that local governments should be penalized as a result thereof. Under existing conditions, there has been an actual reduction in local government revenue from intangibles and the State of North Carolina is actually levying and collecting a property tax regardless of much publicity to the contrary. Property taxes are almost the sole source of revenue for most municipalities.

4. *Defeat any proposal that homesteads be exempted from taxation by local governments.* Homestead exemptions, even of a few hundred dollars, would immediately reflect in increased county and city tax rates if current standards of local government are to be maintained.

5. *Move from February 1 to January 1 the date when tax penalties become effective.* In the opinion of finance officers of cities and counties, this would speed up tax collections and would relieve many cities of the necessity of short-term tax-anticipation borrowings.

Reserves for Post-War Use

6. *Amend the Local Government Fiscal Control Act to permit local governments to establish reserve funds for use in capital improve-*

ments after the war, thus to help cushion the post-war economic slump, and authorize local governments to spend unappropriated surpluses in emergencies. Many necessary capital improvements cannot be constructed by municipalities at this time when it is necessary to utilize so many critical materials in the war effort. At the termination of the war, there will be an accumulation of municipal construction projects which should be undertaken; and cities should be permitted to provide funds for these capital improvements during the intervening period. Under existing budgetary law, municipalities are not authorized to accumulate funds over a period of years for capital improvements. Likewise, under existing budget law, cities are not authorized to expend any funds to meet emergencies which were not appropriated in the original appropriation ordinance even though surplus funds may be available for such purpose. It is essential that the laws governing municipal budgeting should be more flexible if municipal governments are to serve their citizens properly in war-time emergencies.

7. *Induce payments of delinquent personal property taxes and poll taxes by requiring local governments and the state to deny motor vehicle and business privilege licenses to any individual until the individual's previous year's property and poll taxes are proved to have been paid.* Considerable expense and difficulty has been experienced by municipalities in the collection of delinquent personal property and poll taxes, and in many cases little attention has been paid to such items. The payment of these taxes as a condition precedent to securing of motor vehicle and business licenses will probably be of considerable aid in the collection of many small amounts levied against personal property.

All officials of North Carolina local governments are familiar with the distribution of \$1,000,000 a year of state-collected gasoline taxes to municipalities for use on city streets. Whether the cities will ask changes in the machinery of distribution of the fund was left to the discretion of the League's Executive Committee. The Committee will make its decision in view of circumstances prevailing when the legislature convenes.

A Month of the May Act

The May Act, making prostitution a Federal offense, was invoked by the Secretary of War in twelve North Carolina counties in the Fort Bragg area at midnight, July 31. The action was neither hasty nor unexpected, as a review of the six necessary preliminary steps will prove, from the time when the Post Commander asks the civil authorities to cooperate in prostitution control until, after investigation by the Federal Security Administration and further conferences, he describes conditions to the Adjutant General and recommends the areas in which the act is to be invoked; whereupon, at his discretion, the Secretary of War issues such an order. The Federal Bureau of Investigation is the agency to which the enforcement of the act is entrusted.

Tennessee's Experience

Twenty-four counties around Camp Forrest, down the central basin of Tennessee, was the first area

in which the May Act was invoked; the twelve counties around Fort Bragg is the second. In Tennessee the FBI shortly made 54 arrests of prostitutes, 39 of whom were colored. Out of the cases tried they have secured 42 convictions; most of the rest will probably be convictions also. One FBI agent discussing the work said that he felt somewhat like the Federal judge who threatened to throw the cases out rather than be turned into a judge in a police court. The town nearest to Camp Forrest is now worse than ever. On the next go-round the FBI will aim at the procurers—on the theory that convicting one taxicab owner is the same as convicting twenty-five girls—and will train local law enforcement officers so that they can carry on the work and keep the towns clean after a concerted drive has been put on.

In North Carolina, the work was started at this point. Late in July a series of six one-day district schools

was led by Edward Scheidt, in charge of the Carolinas office of the FBI, Albert Coates, Director of the Institute of Government, and officials of the State Board of Health, at which city and county law enforcement officers throughout the state were grounded in the legal, investigational, and medical aspects of prostitution control. Earlier in the month the State Board of Health had held a three-day Venereal Disease Institute for city and county health officials.

The First Month's Record

The Federal drive in North Carolina started with the arrest of a prostitute and a procurer in Raleigh on August 5. Fifty-four people were arrested in the first eleven days, 72 by the fourteenth. By the 22nd, 44 had been arrested in Fayetteville alone, 48.5% of whom had a venereal disease; by the end of the month, 30 prostitutes, pimps and procurers had been picked up in Raleigh, 100 in the state as a whole. County jails in Wilson and Raleigh filled the requirements for holding Federal prisoners, and Federal court in Rockingham gave twenty-two sentences of twelve months each on September 8.

Cooperation: Official and Unofficial

It is still too early to weigh the results of this work, to know whether the FBI has been able to get to the roots of the problem or is still having to play about the fringes. One straw in the wind is the excellent cooperation between the FBI and local police forces, if a published letter from J. Edgar Hoover to Raleigh Police Chief Winder Bryan may be regarded as typical. Another is the cooperation that law enforcement agencies have been receiving from the public in general. In Raleigh, for instance, Chief Bryan has recommended that the Sir Walter Hotel be given a medal for its services in prostitution control. "Unless we have a call from a hotel or unless there is some disturbance evident from the outside, we have no right to go in. We especially appreciate the Sir Walter management's cooperation, as it enables us to take real steps in the effort to reduce prostitution. Of course a hotel does not have to call us; the management could put wrongdoers out in the street and

(Continued on page ten)

Shifting Centers of Rubber Production



By F. C. ERICKSON

Professor of Geology, University of
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Consultant, Institute of Government

This tree, which originated in the Amazon Valley, requires daily temperatures between 75 and 90 degrees Fahrenheit and from 80-120 inches of rainfall a year with no distinct dry season. These conditions exist in the tropics in a broad belt girdling the equator, but physical, economic and social factors greatly reduce the area in which this tree can be grown profitably.

The obtaining and collecting of crude rubber is very similar to the methods employed in obtaining turpentine with which Southerners are familiar. From the rubber tree, sap or latex is extracted from cuts in the bark which is collected and later coagulated on poles by smoking over wood fires. This process is continued until a lump of rubber about the size of a man's head is formed. The crude rubber is then ready for shipment to market.

Early Use of Rubber

Prior to 1842 rubber was little used, although natives of the areas where it grew wild recognized some of its properties. With the discovery of the vulcanizing process and later inventions of various textile, mechanical and electrical devices in which rubber is essential, however, rubber production became important.

Early commercial production of rubber was confined to the Amazon Valley of Brazil and neighboring countries. In 1827, Belem (Para), located near the mouth of the Amazon River, shipped about 35 tons of crude rubber. By 1853 exports had risen to 2600 tons and by 1910 the output had increased to 44,000 tons. Probably at its peak of production, this region did not yield as much as 50,000 tons of crude rubber. Yet, this area was able to supply the world's needs before the increased demand arose for the construction of automobile tires and other rubber articles.

In 1876 the English secured some *Hevea* seeds in Brazil which were

sprouted in Kew Gardens, London, and later transplanted in Ceylon. It was from these trees that seeds were obtained to start the first rubber plantations in Malaya and Sumatra in 1896.

Following the establishment of rubber plantations, a complete shift in production took place; from the Valley of the Amazon to Malaysia.

The collapse of the Amazon area was inevitable and attributable to many factors. In their natural state, as they grew there, rubber trees are widely scattered and cover several hundred thousands of square miles; the plantations of the world which have recently been supplying approximately 97% of the world's production of crude rubber, on the other hand, cover an area of about one-tenth the size of North Carolina. Tapping methods and care of the trees could not be adequately supervised over such a widely scattered area, much of which was not healthful and therefore suffered from a labor shortage. Finally, the countries of the Amazon area lacked capital for the development of rubber production.

Rubber Plantations

The plantation system of Malaysia on the other hand had a minimum of these disadvantages. Its major fear was overproduction with a consequent decrease in the price of rubber. Because of the success of the plantations from the first, a great number were established on nearby

Dr. Erickson, who will be remembered for his maps in the Defense Issue of POPULAR GOVERNMENT and his article, "The Inland Waterway," in the June issue, this month contributes an analysis of our present rubber situation.

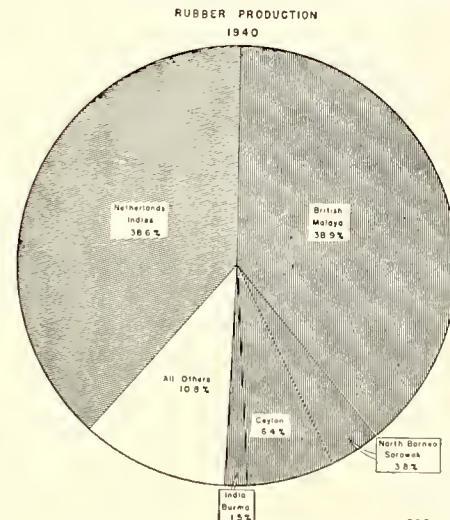
Tire rationing and the rubber shortage are causing thinking Americans more concern than any of the other dislocations of civilian life that we face. Tires and rubber products have grown to be an inseparable part of our daily lives; they are indispensable now to waging a war that engulfs those lives and tears them out of their normal course.

Our present misfortunes, however, may be compensated by developments in the field of synthetic rubbers which will not only lead to self-sufficiency in rubber production, but will open up further the possibilities of specialization in uses of the various types of rubber.

Why Is There a Shortage?

The geographic, economic, social and political factors responsible for the rubber shortage are so interlaced that it is necessary to review rubber production from its beginning to understand our present plight.

Natural rubber can be obtained from a great number of plants, but most of the world supply is produced from the tree, *Hevea brasiliensis*.



islands until practically the entire world's production of rubber, 97%, was concentrated in southeastern Asia. Ninety per cent of the rubber plantations were in the hands of the English and Dutch. Production figures for 1940 as set out in the accompanying graph, indicate this striking concentration.

American Consumption of Rubber

The United States with her great automobile industry and high standard of living has always been the greatest consumer of rubber. In 1939 our consumption amounted to 582,000 tons, 57% of the total world production. Even before the United States entered the war, the effects of the concentration of rubber production in Malaysia was felt in the dislocation of the principal transportation route. In 1933, ninety per cent of our rubber shipments passed via the Suez Canal and the Mediterranean Sea to our Atlantic ports, but in 1939 only fifteen per cent moved along this route, sixty-five per cent being forced to take the safer but longer trip around the Cape of Good Hope.

When the Japanese octopus stretched its tentacles southward to occupy southeastern Asia and neighboring islands, it seized areas which produced 98% of our crude rubber

imports and 90% of the World's supply.

Fortunately for us, we had experienced a rubber shortage during the last war, although in a much milder form than at present. At that time the rubber began to be reclaimed on a businesslike basis. Since then reclaimed rubber has acted as a price control lever. When rubber prices were high more rubber was reclaimed, when they were low less rubber was reclaimed. Since 1925, between thirty-five and fifty-one per cent of our normal annual rubber needs have been obtained through reclaimed rubber. Our reclaiming plants at present have a capacity of about 350,000 tons annually and might readily be expanded. In 1941, when it became apparent that we might easily be cut off from our principal source of natural rubber, our imports increased with a view to accumulating a large stock pile. At the beginning of 1942 we had approximately 700,000 tons of rubber on hand, an amount slightly over our normal annual civilian consumption.

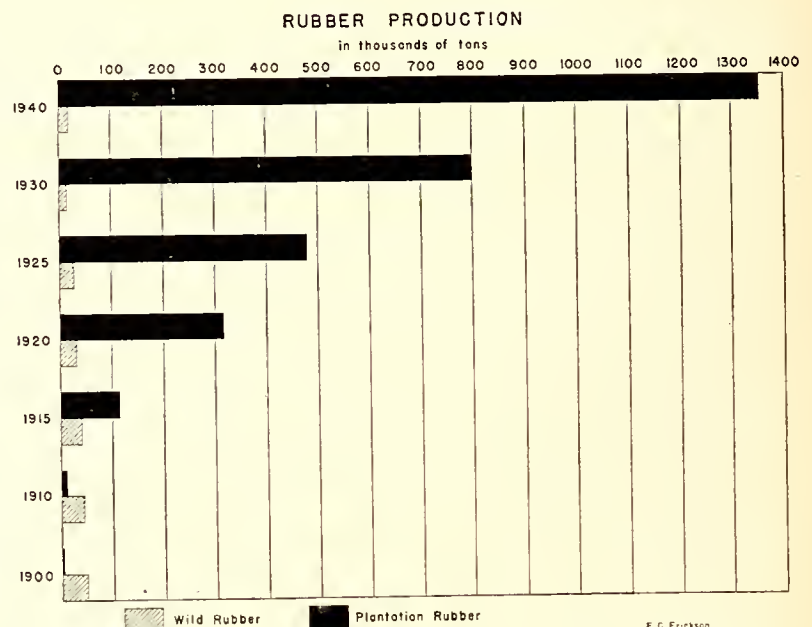
Since few people were aware of the serious effect of Japan's conquest of southeastern Asia upon our rubber supply, rubber rationing was met by protests from the public. Whereas formerly practically all of

our rubber was applied to civilian needs, most of the output of our rubber factories now is utilized in military equipment, as tires for combat and transport vehicles and planes, tank treads, gun mounts and countless less obvious uses. A flying fortress, for example, requires 1,250 pounds of rubber; a battleship, 150,000 pounds; a tank, 1,750 pounds; a ten ton pontoon bridge, 3,200 pounds and a half ton truck, 125 pounds. To meet the military needs of the Allied Nations requires about 310,000 tons of rubber annually.

South American Rubber Again?

This year our normal domestic civilian consumption has been cut 75%. All the rubber earmarked for civilian use will be needed by buses, trucks and cars of defense workers. What shall we do when our meager rubber stock pile is depleted? Is there any wonder that the outlook was very dark for those who knew and understood the real situation.

Our government ventured on the expansion of natural rubber production in Latin America, but since it did not promise an adequate supply, seemed to hesitate. Plantings have been made in many Latin American Countries and the collection of wild rubber has been stimulated, but the combined yield is not expected to at-



The map at left shows the arrows of conquest spreading out from the island of Japan from 1905 to 1942, cutting off in the last year 98% of our crude rubber supply. The chart above includes figures for wild rubber grown all over the world and not for the Amazon Valley alone.

tain 50,000 tons before 1950. Are these countries willing to expend huge sums with our aid for new plantings only to find that they are practically worthless after a few years? Obviously not without assurance of a continued market and financial return after this war. The desert shrub guayale which grows wild in Mexico can be cultivated in southern California. This plant has a rubber content as high as 22% of its weight and can be harvested a year after planting. In 1940 Mexico produced 4,106 tons of rubber from this source.

The importance of natural rubber production in the Western Hemisphere should not be overlooked, yet it is doubtful that it can supply us with more than 15% of our needs during the next few years. Our government, then, must look to synthetic rubber production to fill its war needs. Rather optimistic reports have been made by leaders in this field. If everything works according to schedule, between 275,000 and 325,000 tons of synthetic rubber will be produced next year. In 1944 we will have the capacity to produce 800,000 tons. This amount is still below our war-time needs, but it can be supplemented by natural rubber imports and reclaimed rubber.

Before the war, one type of rubber was used for practically all purposes, but synthetic rubbers with their varied qualities should lead to specialization, the production of different types for different purposes.

Self-Sufficiency Possible

It is also quite possible that the present conflict will permit this country as well as other countries possessing quantities of petroleum and alcohol, bases of synthetic rubber, to become self-sufficient in the production of rubber. Such changes have happened in the past, and as a matter of fact are the natural course of industrial history. Areas and countries that once had virtual monopolies in the production of certain products as, for example, Germany's monopoly of potash and dyes and Chile's monopoly of nitrates, have seen their favored position collapse, during wars and for other reasons. Perhaps southeastern Asia will have to take its place along with these other parts of the world's surface in "the grand scale of human history."

NEWS of the BAR

Summarized and Reported by the Secretary
of the North Carolina State Bar

EDWARD L. CANNON

The Bar of North Carolina as well as that of the entire country has always contributed in full measure during periods of crisis. The contributions of the Bar will be as great in this war as in those of the past.

At the time of the passage of the Selective Service Act, the Bar anticipated the calls to be made upon it for service. In connection with the Selective Service System, therefore, we now find approximately 450 members of the Bar of this state who are giving of their time without thought of compensation.

The North Carolina Bar Association, through the efforts of its Committee on Legal Aid, has undertaken to furnish free legal service to members of the armed forces at the camps in this state. We know of no member of the Bar who will not render free legal service to soldiers, sailors, and marines, when the necessity arises. Hundreds of members of the Bar have assisted registrants in filling out questionnaires for Draft Boards and papers necessary for voluntary enlistments, all without cost to the applicant.

At the present time approximately 25% of the Bar of this state are serving in the armed forces or in work directly connected with the prosecution of the war. In one county in the state 55% of the Bar have already entered the armed forces.

Members of the Bar in every locality in the state are connected with Civilian Defense activities and many have offered their services in connection with salvage campaigns, sale of war bonds, and service upon Rationing Boards. Members of the Bar have assumed all of these duties as obligations falling upon them because of their accepted leadership. They are prepared as in the past to meet the demands placed upon them by their country.

The economic condition of the Bar was a matter of serious concern even

before the war began. Laymen erroneously believe that the Bar is a "rich" profession. While it is impossible to give any exact figures, all available information indicates that the average yearly income of members of the profession in this state is less than \$1,500. Even in normal times the public is not aware of the great amount of time and service given by members of the Bar for which they receive no compensation. Of all groups, the legal profession is hardest hit economically during war times.

Service at Home

Many members of the profession will be unable to enter active service because of their age or failure to meet physical requirements. These, however, can be of great service to the government and to the public and profession. Their sound reasoning and their determination to continue the established constitutional processes can contribute much to the war effort. They may lead the way in demanding proper functioning of administrative officials under proper authority and an elimination of the all too prevalent bureaucratic red tape. Their recognized leadership in their communities may be used to impress upon the people as well as government officials, the necessity for great sacrifices before victory is won. They may see that speedy administration of justice is had through constitutional processes. Not only to the public but to the profession they owe a duty to assure those who return to the practice after the war an ample opportunity for the resumption of relationships with their former clients. Above all, they must not only uphold the high standards of the profession during the crisis, but they must maintain a strong, vigorous, and independent Bar, so essential to Democracy. In every country where democracy has been crushed, the lawyer has been the first target of

the dictators. If those returning from the war find a weak, disorganized and servile Bar, then indeed will they have "sold out" their fellows.

The organized Bar of North Carolina is ready to do the utmost toward the winning of the war. As the calls for service increase it will be ready to perform, and will as in the past furnish capable, intelligent leadership both on the battlefields and at home.

The organized Bar of this State is ready to cooperate fully with the Institute of Government and its officials in any plans for furthering Civilian Defense organizations, and will welcome the opportunity to engage in any efforts which will promote a speedy and victorious conclusion to the present struggle. The leadership of the Bar can be used more freely than ever before in the intelligent planning and work for the two essential victories—in War—in Peace.

COMPETITIVE BIDDING UNETHICAL

The following memorandum has recently been sent to all District Bar officials and is self explanatory:

MEMORANDUM TO ALL DISTRICT BAR OFFICIALS:

The following resolution was adopted by the Council of the State Bar at its meeting on July 17th:

"That it appearing to the Council that the United States Government has called for competitive bidding from lawyers to do abstract work and that upon the request of the Government lawyers have submitted competitive bids for such work—and the question having been raised as to whether such bidding is ethical—NOW, therefore, be it resolved that it is the sense of this Council that hereafter any competitive bidding for any legal work is deemed to be unethical."

Various complaints were presented by members of the Bar in connection with the requirement of the Federal Government for competitive bids particularly in securing abstracts of title for Government projects. As the War Department had in effect insisted upon competitive bidding, many attorneys with reluctance entered bids although in all cases we are ad-

vised that protest was made at the time to Government officials and the matter was presented to various members of the Council. The resolution, therefore, is intended to answer the questions raised by the Bar in various localities and in passing the resolution the Council did not wish those members who had submitted bids under protest to feel that this resolution was a criticism of their action.

We have protested to the War Department and asked that some change be made in their procedure.

No doubt you have seen through the press that the Council also recommended the adoption of the report of its Unauthorized Practice Committee to the effect that it was the opinion of the Council that no Corporation or Title Company could furnish Certificates of Title as to North Carolina property, even though such certificate might be called by some other name. This question arose in connection with a proposal to have the Lawyers Title Company furnish Certificates of Title to the Federal Government on lands being taken over in North Carolina.

* * * * *

The establishment of a Federal Board of Legal Examiners in Washington, under an executive order of the President has been the subject of much speculation and concern among many members of the Bar. There was strong opposition to this Board when the appropriation of \$80,000.00 was finally granted by Congress and it is understood that there was a restriction made as to further appropriations for next year. The exact purposes of this Board are somewhat obscure. At this time there is little information available to the profession, although the Board has some far reaching authority. The North Carolina Board of Law Examiners and executive committee of the Council of The State Bar are opposed to any so-called national Bar examination. A recent survey indicates that the Bar throughout the country is overwhelmingly opposed to any such examination. Members of the profession should examine this Board, and its purposes most carefully in order that they may realize how far reaching an effect its actions and policies may have on members of the Bar and federal control thereof.

Local Government and Civilian Defense

An article in the Boston *Herald* about civilian defense on Cape Cod reminds us at every turn of how the people of our own coastal towns are facing the threat of aerial warfare, and of the resourcefulness and practical initiative which they have shown:

"They're pushed out there in a pretty prominent spot and have already been tested in one officially accredited instance. With precious little help from anything but their traditional resourcefulness, they've made their own arrangements and plotted their own plans. One town knows how many trucks and able-bodied men it can muster in an hour, how many people it could feed, how many it could move and how fast. It also knows what the next town could do and the next one beyond that.

"A federal social service worker came down that way at one stage full of theory and blue prints. She ordered up their evacuation plans, especially as they pertained to children. She then wanted to know if they had checked the matter of sufficient milk and vitamins and enough air in the bed-room at the changed address, this all being apparently part of the manual or something.

"She was told in that direct way a Cape Codder can use that, if the Germans start bombing, they'll get the kids out first and worry about the vitamins afterward, that the main idea would be to get some warm britches on 'em and a bed for 'em to sleep in, at the home of some of their own kinfolks, preferably. The kids had been eating and sleeping with their kinfolks all their lives and would make out all right if they could just get them there."

The article goes on to show how Civilian Defense during the war will become Civic Offense after the war, how people who have once organized themselves to meet their common problems, whose common denominator is "service, a new sense of civic responsibility, and a new idea about how to get things done," won't sink into the old routines and forget about how they are being governed.

FAITH, WORK AND PLAY IN WARTIME

Continuing a Series of Articles by the Dean of Administration
of the University of North Carolina

R. B. HOUSE

One of my friends in Chapel Hill tells me that a major religious experience came to him on a Sunday when he participated in Communion Service with a group of eighty aviation cadets in the Pre-Flight School here. These young men, working from five-thirty in the morning until nine-thirty at night, still find time for a daily religious service. They have no desire for complex theological arguments about religion. They want the simplicities of faith, the practice of mutual prayer and song, the feel of unity in themselves and with God. What they want in the way of richness is the play of the religious imagination in the poetry and stories of the Bible, in the great hymns such as "O God Our Help in Ages Past," as heard in the great picture, *Mrs. Miniver*, and in sacred music; they want beauty, adding splendor to the sublimity of religious faith. They are enriching their religion by one of the greatest forces there is, the constructive imagination.



Kaiser may be, do not come for the mere asking that they appear. But I have always believed that our very joy in thinking about Abraham has had a great deal to do with Abraham's influence on civilization. And I believe that our American joy in tinkering with things, improving them, believing that we just naturally are inventors, has had a great deal to do with the success of our Edisons, Fords, Bells, Morses, to name only a few of our giants of the practical constructive imagination.

By culture I mean doing not what you have to do, but, as far as you can, doing what you love to do. I think that when a person has a moment of leisure, his cultural interests ought to fill it. And when a person lets his imagination play on a great book, or a landscape, or the stars, or on the marvelous evolution of life under the providence of God, that person is really adding to the healthy creative forces of society.

Investing Our Leisure

I recommend the direction of the imagination along the healthy lines of faith in God, faith in our country, faith in ourselves; along the lines of doing a better job; along the lines of legitimate play. I mean to say on this point that the plain, ordinary man can make one or two choices in the investment of his leisure moments:

1) He can fill his mind with sentiments of anxiety, fear, worry—in a word, with the unsound. He can concern himself overmuch with battles so distant and decisions so far over his head at the time that he has no practical connection with them at all. In my opinion, this is a deliberate choice by which the imagination is left free to eat out its own vitals and really to deteriorate the individual, to obstruct him in his real work, to make him miserable at least, and sometimes actually to destroy him and make him a menace to others.

2) The creative choice is simply the cultivation of a taste for those sentiments, ideas, and expressions which are sound, in great books, great music, the great drama of human faith and striving, the matchless spectacle and process of nature from the sprig of grass to the procession of the stars. Simply to turn the attention in a moment of boredom or of fear to these great values and processes is immediately to challenge the imagination and to set it going on an upward, creative, healthy course of action. My whole point is that out of this healthy direction of the imagination come the fruits of the creative process.

I think my friend was wise to enter with the young aviators into the beauty of an experience of simple faith enriched by poetic symbols. Such experiences release the power to work on the job and to enjoy healthy rather than deteriorating leisure.

Imagination at Work

The imagination set going along the humdrum lines of the day's working needs is also one of our greatest resources. Henry J. Kaiser, a practical genius in the art of building, says that he can supply cargo ships in quantity to fly over the oceans and the mountains. I do not know the merits or the demerits of his plan, but I believe his imagination is constructive; I do not think he is a mere pipe-dreamer. In 1927 I saw pictures taken by the Englishmen who had finally scaled that no man's land, the peak of Mt. Everest. I read the other day of a boy, a soda-jerker in the midwest only a few months ago, who now flies daily by the peak of Mt. Everest, carrying munitions into China and bringing back blocks of tin. He hardly has time today to glance at a peak, the mere picture of which was a high-priced feature fifteen years ago. It took constructive imagination to find a way to climb Mt. Everest; and it takes the same imagination to build a plane to fly over it. This war will probably be won by something not yet dreamed of, some new use of familiar materials such as the Germans' use of wood for automobile fuel and even for food, or our own developments in plastics and the other synthetic materials.

The Power of a Wish

But probably the greatest function of the constructive imagination is after all cultural play. Geniuses in the moral realm as, for instance, Abraham, whom we are studying now in Sunday School, come once in a great historical epoch. Geniuses able in the poetic realm to interpret Abraham to us come almost as seldom as the Abrahams. That is why we revere the great books. And inventors, great practical geniuses, as we all hope Mr.

MONTHLY SURVEY

News and Developments from Here and There

Taxation and Finance

The First Hundred Thousand

In 1940 North Carolina quietly passed a milestone. She discovered after the census that she had a city of a hundred thousand, and Charlotte with her new-found dignity was included in the annual *Financial Statistics of Cities* compiled by the Bureau of the Census. The presses of the government grind slow, but on August 27, with the release of the preliminary report for 1940, the country as a whole was told where Charlotte stood in fiscal administration.

"In proportion to its population," the report begins, "Charlotte's 1940 cost of government was considerably lower than the 1939 average for all cities in the same population group—100,000 to 300,000 population. In fact, in 1939 only one city—Birmingham—received lower per capita revenues than the city of Charlotte obtained in 1940; compared with average receipts, Charlotte's revenues were \$21.66 less than the average of \$48.61 per person. Collections from the general property tax in Charlotte were only half the per capita yield in the average city. An even greater variation was evidenced in State aid, which was only \$.94 per person, contrasted with the average of \$7.27. This city's 1940 operating costs amounted to but two-fifths of the average per capita cost for cities of comparable size. Taxable property in Charlotte was also below the per capita for all cities in the same population group. The outstanding gross debt constituted a debt load of \$69.42 per person, whereas the average debt burden stood at \$98.87 per capita."

Little State Aid

While Charlotte received only 3% of its income from state aid, as compared with a 15% average for cities of its size, it received 23% from federal and county grants, special assessments and profits from public

services, as compared with an average of 6%. (A \$200,000 PWA grant accounts for the high percentage here.) 7.9% of Charlotte's citizens paid income tax as compared with an 8.5% average, and owned 276 automobiles per thousand as compared with an average of 273.

Charlotte is evidently doing all right for herself, and this significant report is one of which not only the Queen City but the state as a whole may be proud. It is furthermore a tonic to our self respect after the recent widely publicized defections of the Revenue Department.

Law Enforcement

The phases of the war with which the citizenry of North Carolina and the nation are most familiar—the tire shortage, civilian defense measures, and rationing—have become more than a mere part of daily life in 1942. A few days ago, a man was convicted of drunken driving in the Dunn, N. C., recorder's court. His car had collided with one driven by another Dunn resident, and a part of the damage done to her car was the destruction of one of the tires. The judge incorporated in his sentence the order that the defendant take off one of his tires and present it to the lady. This incident, reported in the *Raleigh News and Observer* for August 20, indicates clearly that these various by-products of total war have now penetrated into the courts and law enforcement set-up of the state.

Resourceful North Carolina, ever-ready to meet and cope with a new problem, has begun to fit the stride to the obstacle. On August 22 a Wilson man was convicted in Recorder's Court for "breaking glass on a street over which rolled rationed tires on vehicles propelled by rationed gasoline." He was specifically charged with breaking a soft drink bottle on the street by throwing it into the street. The spirit which this case

characterizes is very much abroad in the land. The Greensboro *Daily News* of August 15 editorialized as follows: "The *Daily News* is in thorough accord with the appeal of local defense transportation officials for municipal authorities and private citizens alike to join in keeping the streets clean of trash or obstacles which might damage tires and thus aggravate one of the grave problems with which the individual worker, industry in general and the entire war effort are concerned."

Into warrants issued by police in various parts of the state in recent weeks have gone new names for new crimes. A Greensboro citizen was arrested in early August by the city police on a warrant charging violation of the city "dimout" regulations by leaving an illuminated clock burn-



George Jeffrey, Wilmington area rent director of the OPA, listening to one of Albert Coates' stories in earlier, happier days. Mr. Jeffrey, whose job makes him virtual Czar of Housing in Wilmington, informed his realtors a short time ago that he would not renew the lease on his house. He was notified soon after that the house had been sold, and he has just been evicted. Mr. and Mrs. Jeffrey are living in one room; their daughter is staying with friends at the beach; their son is in the armed services.

ing. And certain new angles to the age-old crime of larceny have appeared. A store in Guilford county was recently broken and entered; but instead of the usual cash and cigarettes, the thieves had removed a large quantity of sugar. In Durham a man was sentenced to serve ninety days on the roads after he was found guilty of taking two gasoline ration books.

The state office of price administration has announced that an investigation of alleged "black markets" for the sale of automobile tires is under way. And motorists are constantly warned that they, as well as the filling station operators involved, are liable for violations of the gasoline-rationing regulations. It is evident on all hands that the North Carolina courts and law enforcement agencies are synchronizing their gears with those of the war machine to speed it along its fateful course.

Highway Safety

The inevitable results of gasoline and rubber rationing—declines in highway traffic, motor vehicle registrations and gasoline revenues—are visible everywhere and have been reported and analyzed at length. A number of significant side issues, however—the effect of rationing on highway accidents and traffic law enforcement, and of declining revenues on road construction—have received less attention.

Here is the traffic accident score in Greensboro:

	July 1941	July 1942
Accidents	87	36
Injuries	20	6
Property damage	\$4,362	\$2,478
Arrests for speeding	69	8
Arrests for reckless driving	59	9
Arrests for drunken driving	20	6

How much of this is typical of the whole state?

As might reasonably be expected, highway accidents and fatalities are less frequent now than they were a year ago, but they are not decreasing in step with declining highway traffic. In the coastal area, busiest part of the state, highway traffic was 37% less this August than a year ago; but traffic fatalities for the first seven months of 1942 have declined

less than 25% from the same period last year. Of the 72 highway deaths in July, 40 were men of draft age.

Some counties, large and small, have shown real progress in traffic safety. General Mecklenburg of the Charlotte *Observer* estimates that if fatalities over the whole state had been reduced as much as in Mecklenburg, Guilford, Wake, Buncombe, Robeson, Columbus, Warren and Wilson counties, 240 lives would have been saved during these seven months; and, if the proportion for July holds for the rest of the period, nearly 150 of those saved would have been men of draft age.

Fatalities, then, are creeping downward, but arrests for speeding and drunken driving are up. 825 drivers were convicted of speeding this July as against 623 last July; 547 for drunken driving as against 490. More than one-third of the fatalities were in speeding cars rather than in collisions; more than 90% of the drivers license revocations are for drunken driving.

Traffic Law Enforcement by the OPA

The increase in speeding, understandable enough in view of the open roads throughout the state, is not only dangerous, it is unpatriotic, since four times as much gasoline and rubber are consumed by a car traveling sixty miles an hour as at thirty. This fact has given a curious twist to the methods of the State Highway Patrol. Instead of arresting speedsters, they are stopping all cars driving more than forty miles an hour and sending the names of their drivers and owners through the state OPA to their local draft boards, along with the place and time when they were caught speeding. The results of this squeeze play are not yet reported, but they should be salutary.

Public Carriers

With traffic so much lighter than normal that street lights are being turned off at all except peak hours, the load on public carriers is skyrocketing to embarrassing heights, with overloading and slower schedules the inevitable result. Street cars and buses in Atlanta, for instance, have had their seats removed to accommodate more passengers. With new equipment at a premium and operating personnel going to the ser-

Total War

By EDWARD BAGBY POLLARD

"What is this thing called Total War?"

Inquired the anxious Class 1-A; "I'll tell you what it's all about:" He heard Recruiting Sergeant say.

"There's a bloody bloke named Hitler "Who'd like to rule us all "And with his pals, has laid a plan "To ride us for a fall.

"His little scheme is Total War "Which means no more nor less "Than every bloomin' one of us "Is in the ugly mess!

"No man nor woman, child nor tot "Is free from danger's threat; "He'd just as soon kill babes in arms "As healthy men, you bet.

"There's only one effective way "To answer Total War "And that's to fight him back with all "The means you have in store.

"We'll have to buckle down and face "The enemies' cold steel; "Each soul will have to do his part "With shoulder to the wheel."

"And that's the way with Total War" Recruiting Sergeant said; "I'll sign up now" said Class 1-A A-holding high his head.

vices, utility companies are helpless; the only answer is staggered opening and closing hours with a consequent spreading of rush hours. Specifically, Marion W. Heiss, Chairman of the Guilford County War Transportation Committee, has recommended that Greensboro schools open at 9:30 in the morning instead of at 8:45, and that stores open and close later in the day. Industrial workers' hours have already been staggered as much as can profitably be done. The number of bus stops will be reduced to speed up schedules and slow up the consumption of rubber.

Road Construction

Last year \$12,000,000 was spent on road construction; this year construction will be reduced three-fourths, and almost all the new roads built will be between army camps and strategic cities, mostly in the east. From construction the emphasis has been shifted to maintenance, and with skeletonized crews even maintenance will be a problem.

The recent flood in Cumberland county, for instance, did \$50,000 damage to public roads. And if James L. Burch's prediction that traffic will be two-thirds less by the first of next year comes true, we may soon reach the point where conventions, family reunions and vacation trips are happy memories, and where the funny story that is going around about the two cars meeting on the long, empty stretch of road, and their occupants waving at each other and shouting "Hi, Doc!" "Hi, Reverend!" may not seem so funny.

The May Act

(Continued from page two)

Sir Walter calls us; we get busy; and the cases come up in court. In the ensuing stories, the name of the Sir Walter appears. In that way the hotel gets what some people might consider to be unfavorable publicity—but the hotel puts first its desire to help us and continues its efforts to do its part in helping to clean up Raleigh. I'm sure that these efforts are appreciated by all right-thinking people."

If prostitution is to be curbed, North Carolina must first have enough of such right-thinking people, who know what interpretation to put on a hotel name's appearance

in a news story about prostitution. At the Institute in Venereal Disease Control mentioned above, health officials from throughout the state insisted again and again that prostitution and the venereal diseases that come with it will never be controlled until public sentiment is enlisted in an all out war against them. Not prostitution as a moral evil, but its attendant venereal diseases as costly, effective preventable sabotage against our army and navy, must be the theme of health officers, law enforcement officers, and military venereal disease officers, if public sentiment is to be aroused. This is Capus Waynick's approach as he begins his work of public enlightenment, and Governor Broughton has set the co-operative task in these words: "Neither the sheriffs nor their deputies, local police officers or other law enforcement agencies can solve this problem alone. An aroused public sentiment must be brought to bear upon these conditions if we are to escape a further humiliation and degradation in respect to crime. In our homes, our churches, civic groups and other groups there should be the most vigorous discussion of these matters, free from factional or partisan consideration. In our schools there should undoubtedly be instituted special instructions on law observance."

Dear Sir:

I am enclosing a copy of a notice in regard to the sale of beer on Sundays in Hoke County. This has met with universal approval and we have had 100% cooperation.

Very truly yours,
J. A. MCGOOGAN,
County Auditor

NOTICE

In a Joint Meeting of the Board of County Commissioners of Hoke County and the Mayor and Board of Commissioners of the Town of Raeford, with all members of both Boards present, the following resolution was unanimously adopted.

It appearing to said Board that it would be to the best interest of the citizens of Hoke County to restrict the sale of beer and ale, we therefore request and recommend that the proprietors and all those in charge of all business establishments licensed to sell beer or ale in Hoke County refrain from selling beer or ale from 12 o'clock midnight until six o'clock in the morning.

It is further requested and recommended that all establishments in Hoke County offering rubbing alcohol for sale refrain from selling same from 12 o'clock noon on Saturday until six o'clock Monday morning except on prescription of licensed physician.

It is requested that the sheriff of Hoke County and the Chief of Police of the Town of Raeford notify the proprietor or agent of such establishments of the issuance of this request and recommendation, and that a copy of same be recorded in the minutes of each Board, and a copy given to the News Journal for Publication.

This the 24th day of August, 1942.

N. H. G. Balfour
Chairman Board of
County Commissioners
G. W. Brown
Mayor of Raeford

Letters to the Editor

Dear Sir:

I have read with considerable interest your article in August POPULAR GOVERNMENT on County Delinquent Taxes. I have been County Attorney for Union County for the past eight years, and feel some pride in our collection of taxes. I have had Mr. Roy J. Moore, the County Accountant, make up a statement of the percentage of the taxes levied and collected for the years 1935 to 1940, which I enclose herewith. I would call your attention to the fact that the balance uncollected for these years as shown on this statement includes all poll taxes, dog taxes and personal property taxes and does not take into consideration delinquents allowed by the Commis-

sioners as uncollectible. We have a fairly large floating population and a great many negroes, which accounts for practically all of the uncollected taxes for these years, except 1939 and 1940.

Yours very truly,
J. A. MILLIKEN
County Attorney

	1935	1936	1937	1938	1939	1940
Original Tax Charge	\$215,872.47	\$257,845.55	\$279,036.65	\$273,500.00	\$278,267.56	\$288,807.06
Less Net Collections						
As of 6-30-42	209,905.33	252,153.17	271,931.59	265,637.89	269,376.56	274,196.32
Balance Uncollected As						
Shown by Books 6-30-42	5,967.14	5,692.38	7,105.06	7,862.11	8,891.00	14,610.74
Less Penalties, Interest and Land Sales Cost Since Original Charge	5,297.07	4,582.90	6,119.60	5,230.90	4,206.27	2,625.80
	670.07	1,109.48	985.46	2,631.21	4,684.73	11,984.94
Percentage Collected	99.69	99.57	99.65	99.04	98.32	95.85

Bulletin Service

Recent opinions and rulings of the Attorney General of
special interest to local officials



Prepared by CLIFFORD PACE of the Staff of the Institute of Government

- I. AD VALOREM TAXES.
- II. POLL TAXES AND DOG TAXES.
- III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES.
- IV. PUBLIC SCHOOLS.
- V. MATTERS AFFECTING COUNTY AND CITY FINANCE.
- VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES.
- VII. MISCELLANEOUS MATTERS AFFECTING CITIES.
- VIII. MATTERS AFFECTING PARTICULAR LOCAL OFFICIALS.
- IX. DOUBLE OFFICE HOLDING.
- X. PRIMARIES.
- XI. GENERAL AND SPECIAL ELECTIONS.
- XII. STATE TAXES.
- XIII. STATE INSTITUTIONS.

A. Listing and Assessing.

4. Exemptions—property of federal agencies and on federal land.

To R. P. Reade: Inquiry: Is the real and personal property of a defense plant subject to county ad valorem taxes in view of the fact that the title to such property is vested in the Defense Plant Corporation.

(A.G.) The Defense Plant Corporation was organized under the authority of the Reconstruction Finance Corporation Act, which provides that the Defense Plant Corporation shall be exempt from all taxation "except that any real property of the corporation shall be subject to state, territorial, county, municipal or local taxation to the same extent according to its value as other real property is taxed." Thus Congress has provided an exemption for the personal property of the Defense Plant Corporation from taxation, but has consented to the taxation of its real estate.

Sec. 600 of the Machinery Act (Sec. 7971 (129) of Michie's 1939 N. C. Code) exempts from taxation "real property, if directly or indirectly owned by the United States or this State, however held."

Since the Capital stock of the R.F.C. is owned entirely by the federal government the Defense Plant Corporation is a subsidiary of a corporation the stock of which is owned by the United States, and both the R.F.C. and the Defense Plant Corp. are engaged in performing governmental functions.

In view of these considerations, I am of the opinion that real property held in the name of the Defense Plant Corporation is at least indirectly owned by the United States within the meaning of the exemption of Sec. 600 of the Machinery Act, and hence is not taxable. The fact that Congress has consented to such taxation avails nothing if the General Assembly has not permitted it.

23. Exemptions—farm products.

To J. S. Benner. (A.G.) This office has formerly held that livestock, such as cattle, is not exempt from taxation under the provisions of 601 (11) of the Machinery Act, as amended; that such livestock would be exempt only up to \$300 limitation set out in Sec. 601 (8) of the Machinery Act.

Our court has not passed upon the ques-

tion as to whether or not meat and lard would be included under the exemption set out in subsection (11) of this section. However, this office has written a number of opinions to the effect that the section would not include farm products mentioned therein, such as tobacco, corn, etc.

50. Listing and assessment of property.

To Claude V. Jones. Inquiry: A mutual insurance company was advised by some tax official several years ago that since the mutual company was not allowed to carry the office furniture and fixtures as assets of the company they would not have to list this kind of property for taxation, and as a result of that advice the property has not been listed since 1936. Is this property supposed to be listed, and what penalties are due?

(A.G.) This property is required to be listed, since there is no exemption appearing in the Machinery Act, Sec. 600 Ch. 310 P. L. 1939 which would exempt this property from taxation, either by the county or by the city. I also advise that taxing authorities are authorized, under Sec. 1109 (3), to go back beyond the present year for a period of five years and require this property to be listed for taxation. The penalty for failure to list on or before the close of the regular listing period is 10% of the tax levied for the current year, and, when such property or polls is taxed for

EXEMPTING UNUSED PROPERTY

To Ransom S. Averitt. Inquiry: A city owns 47 acres of land which it purchased several years ago for a cemetery plot. Later the city has decided to use the land for a water shed. So far the land has not been used at all. Can the county in which it is located collect ad valorem taxes on this property?

(A.G.) Since the property is being held for one or the other of the above stated purposes, I do not think that it would be subject to taxation under the opinion in the case of *Warrenton v. Warren County*, 215 N. C. 342.

HARRY
McMULLAN

Attorney
General
of
North
Carolina



years preceding the current year, the penalty, in addition to that for the current year, shall be ten per cent per annum with a minimum penalty of \$1.00

Under subsection (4) of this Section, the commissioners have the power to compromise, settle or adjust all claims for taxation arising under this section.

B. Matters Affecting Tax Collection

14. Delinquent taxes—requirement of advertising.

To Z. V. Rawls. (A.G.) Sec. 2586 seems to cover your inquiry; it provides in part: "the publication of all advertising required by law to be made in newspapers in this State shall be paid for at not to exceed

DEEDS FOR TAXES?

To W. H. Hammond. Inquiry: Can a town accept deeds for land when the taxes or assessments have accumulated to an amount in excess of the value of the lands?

(A.G.) There is no legal authority for a town to accept deeds for land in exchange for delinquent or special taxes. I think this would hold true even though the taxes or assessments have accumulated to an amount in excess of the value of the lands.

the legal commercial rate of the newspaper selected."

It further provides: "No newspaper in this State shall accept or print any legal advertisement until said newspaper shall have first filed with the Clerk of the Superior Court of the County in which it is published a sworn statement of its current commercial rate for the several classes of advertising regularly carried by the publication, and any owner or manager of a newspaper violating the provisions of this section shall be guilty of a misdemeanor." I am of the opinion that the purpose of this statute is to compel newspapers to accept legal advertising at a cost in keeping with other forms of advertising.

33. Statute of limitations.

To O. L. Williams. Inquiry: Does the statute of limitations run against a judgment rendered in an action to foreclose a tax lien when the action is instituted by the county holding such lien.

(A.G.) An action to foreclose a tax lien is in the nature of an action to foreclose a mortgage. When the tax lien attaches to real property, it continues until the tax, plus interest, penalties and costs as allowed by law, have been fully paid. Thus when an action is instituted by the county

to foreclose the lien, it is merely asking the court to subject the property, against which it already has a lien, to sale in order that the amount represented by the lien created by statute may be satisfied and discharged.

Since the statutes providing a limitation of time as applicable to judgments do not specifically provide that they shall be operative against the State, or its agencies, and judgments in foreclosure actions based on tax liens are not mentioned, and in view of the decisions in *New Hanover County v. Whiteman*, 190 N. C. 332, and *Asheboro v. Morris*, 212 N. C. 331, in which it was held that statutes of limitations in North Carolina do not bind the sovereign unless it is expressly mentioned, it is my opinion that the statutes of limitation would not run against a judgment entered in an action instituted by a county to foreclose a tax lien.

65. Tax collection—garnishment.

To F. A. Ogburn. Inquiry: What is the procedure to be used by a tax collector as to garnishment of wages under the provisions of the Machinery Act and to what fees are Justices of the Peace entitled in such cases?

(A.G.) Under Section 1713 (d), Machinery Act 1939, as amended, in order to garnish wages for taxes the tax collector is required to have served upon the taxpayer and the garnishee a notice which must show: (1) name of taxpayer; (2) amount of taxes, penalties, costs, fees, etc., and year or years tax was levied; (3) name of taxing unit; (4) a brief description of thing sought to be attached; and (5) a statement that the person served has the right to appear before a designated J.P. and have a hearing. A copy of the notice must be retained by the tax collector and

SERVICE MEN'S TAXES

To Hon. M. G. Williams. Inquiry: A man who was resident of a county on January 1st, 1941 listed his poll and personal property taxes for said year, and on August 15 of the same year was inducted into the United States Army. Would this man be responsible for the payment of personal property and poll taxes?

(A.G.) The test of liability under Article 5, Section 1 of the Constitution of North Carolina for the payment of poll tax is whether a person is a male inhabitant of the state and over 21 and under 50 years of age on the date taxes are to be listed. The date for listing taxes for the year 1941 was January 1st, and it is my opinion that induction into the U. S. Army on August 15, 1941 would have no effect on the liability of the person referred to for poll and personal property taxes.

The remedies provided for the collection of taxes from personal property are contained in Section 1713 of the Machinery Act of 1939, as amended. However, it is possible that this Section in the case referred to, might be modified by the Soldiers and Sailors Relief Act of 1940. I would advise that you take this matter up with the military authorities before undertaking to proceed under Section 1713 of the Machinery Act.

It is my opinion that you would be prohibited from releasing these taxes by C. S. 7976.

ADMINISTRATION OF OATH

To J. E. Griffin. (A.G.) After a rather thorough search I have been unable to find any statute which would authorize instruments required or allowed to be registered to be proved or acknowledged before army officers. Therefore, I am of the opinion that instruments so acknowledged should not be admitted to registration. The case of *Quinnerly vs. Quinnerly*, 114 N. C. 145, discusses the effect of the acknowledging or probating of an instrument before an improper officer. See C. S. 3293 for a list of officials of the State of N. C. who are authorized to take the acknowledgment or probate of an instrument. C. S. 3294 names the officials of the United States, of foreign countries, and of sister states who are allowed to take acknowledgments of instruments. Neither section mentions army officers or members of the militia.

a copy filed with the J.P., with a notation of service. It is my opinion that a copy of the notice should be delivered to the taxpayer and to the person owing or having in his possession the wages sought to be reached by this procedure. A J.P. would not be justified in signing any notice or other paper used in connection herewith in blank.

This section provides that the fee of a J.P. shall be twenty-five cents if the tax is less than \$10.00, and \$1.00 if the tax is \$10.00 or more, plus \$1.00 for each hearing actually held. But a J.P. is entitled to no fee unless judgment is actually rendered.

70. Tax collection—garnishment.

To J. M. Aldridge. Inquiry: May a tax collector use the remedies of attachment and garnishment where there is no personal property or poll tax involved?

(A.G.) Sec. 1713 of the Machinery Act of 1939, as amended, provides that the tax collector may proceed against personal property at any time after taxes are due and before filing of a tax foreclosure complaint or docketing a judgment for the taxes as provided in the Machinery Act. This section authorizes the tax collector to attach wages or other compensation, rents, bank deposits, the proceeds of property subject to levy and sale or other property incapable of manual delivery.

In the case of wages or other compensation for personal services, not more than 10% of such wages or compensation is liable for attachment and garnishment for the failure to pay taxes.

II. POLL TAXES AND DOG TAXES.

A. Levy.

5. Exempted classes.

To Honorable W. P. Kelly. Inquiry: Are nondeclarant aliens who are residents of North Carolina liable for poll tax?

(A.G.) Article 5, Section 1 of the Constitution of North Carolina provides that the General Assembly may levy a capitation tax on every male inhabitant of the State over 21 and under 50 years of age, which said tax shall not exceed \$2.00, and cities and towns may levy a capitation tax which shall not exceed \$1.00. The General Assembly of North Carolina, by virtue of this constitutional provision, enacted Section 1902 of the Machinery Act of 1939, which provides in part: that there shall be

levied by the Board of County Commissioners in each county a tax of \$2.00 on each taxable poll or male person between the ages of 21 and 50 years, and that cities and towns may levy a poll tax not exceeding that authorized by the constitution.

It is my opinion that the fact that a person is un-naturalized would not affect his liability for poll tax.

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES.

A. Levy of Such Taxes.

16. Privilege license on hotels and restaurants.

To Coy Etheridge. Inquiry: Is a person who removes his baggage from a boarding house not licensed as such, or absconds without paying for his lodging, criminally liable under C. S. 4284, which makes it a misdemeanor for a person to obtain lodging and abscond without paying therefor?

(A.G.) In view of the decision of the Supreme Court of North Carolina in the case of *State v. McRae*, 170 N. C. 712, in which it was held that one who has not been licensed to keep a boarding house and who does not hold his place out as such but who has received a boarder in his home for pay, is not the keeper of a boarding house within the purview of C. S. 4284, it seems that unless a boarding house is licensed, there would be no criminal liability under the provisions of this section.

21. Privilege license on businesses, trades and professions.

To Irvine B. Watkins. Inquiry: Does Section 147 of the Revenue Act of 1939 authorize a county to levy license taxes against radio dealers?

(A.G.) The power of counties to tax under this section is granted and defined by the following words: "(c) Counties shall not levy any license tax on the business taxed under this section, except that the county in which the agent or representative holding a duplicate copy of the license aforesaid may impose a license tax not in excess of five dollars." Obviously, something was inadvertently omitted from this provision between the words "aforesaid" and "may." However, this omission does not affect the question under consideration since I assume that the "radio dealer" is the owner of the retail business and not a traveling agent or representative for another. It is clear, then, that the county has no authority to levy any license tax on the dealer in view of the express provisions of subsection (c) above.

46. License tax on dealers in securities.

To Hon. A. J. Maxwell. Inquiry: Is a commercial bank which operates a trust department liable for privilege tax levied by Sec. 132 of the Revenue Act of 1939, as amended, on the business of dealing in securities or engaging in the business of buying and selling securities, when the said bank does not buy or sell or act as agent in buying or selling securities for its depositors or for the public generally for a commission, fee, or service charge?

(A.G.) If the only securities bought by the bank are for itself or for the trust estates being administered by its trust department, and if no charges are made for commissions, services or fees, I am of the opinion that the bank is not liable for a license or privilege tax as a security dealer.

70. License taxes on chain stores.

To J. R. Tolley. Inquiry: Is the chain store license levied by Sec. 162 of the Revenue Act applicable to a situation where a coal dealer maintains two coal yards, receiving all orders through one of

them but delivering coal from either or both yards?

(A.G.) Section 162 reads in part as follows: "Every person, firm, or corporation engaged in the business of operating or maintaining in this state, under the same general management, supervision, etc., two or more stores, etc., shall be deemed a branch or chain store operator, and shall apply for and obtain from the Commissioner of Revenue a State license for the purpose of engaging in such business of a branch or chain store operator. . . ."

I am of the opinion that this statute covers the situation to which you refer and that a chain store tax would be applicable. I am informed by the Department of Revenue that they consistently followed this interpretation of the law.

B. Levy of Such Taxes.

99. Miscellaneous privilege license taxes.

To Thomas D. Goode. Inquiry: Would a credit service company engaged in making "character credit reports" to its clients and not making any attempt to determine the amount an applicant owes, or to whom he is indebted, be liable for the tax imposed on companies engaged in credit reporting in Sec. 123 of the Revenue Act of 1939, as amended?

(A.G.) In view of the fact that the "character credit report" used by your client contains detailed questions designed to elicit information concerning the worth of the individual investigated, etc., I am of the opinion that your client is liable for a license tax under Sec. 123 of the Revenue Act of 1939, as amended. "Financial

ISSUANCE OF BEER LICENSES

To L. T. Klutz: (A.G.) Sec. 3411 (105) of Michie's N. C. Code of 1939 provides that it shall be mandatory that the governing body of a municipality or county issue license to any person applying for the same when such person shall have complied with the requirements of the Beverage Control Act of 1939. Therefore, in the absence of local legislation to the contrary, it is mandatory that a municipal corporation issue a beer license where the applicant has otherwise complied with the Beverage Control Act.

standing" may be indicated by many factors, and if a person is in the business of reporting some of the factors which relate to financial standing, there is, in my opinion, liability for the privilege license.

IV. PUBLIC SCHOOLS.

A. Mechanics of Handling School Funds.

3. School insurance—mutual companies.

To W. H. Humphrey, Jr. Inquiry: Can school property in this State be insured in mutual insurance companies?

(A.G.) Our Supreme Court has held in the case of Fuller v. Lockheart, 209 N. C. 61, that school property in this State may be insured in mutual insurance companies.

The above case has not been overruled, and until it is, school property may be insured in mutual insurance companies.

D. Powers and Duties of Present School Districts and Agencies.

7. Attendance.

To Dr. G. E. Lineberry. (A.G.) In my opinion, in the absence of a local statute designating some other person as chief school-attendance officer or truant officer, or in the absence of employment of such

PUBLIC KINDERGARTENS

To Dr. Clyde A. Erwin. Inquiry: Can a county use any of the proceeds from the levy which it now has for the current operation of its public schools to establish kindergartens?

(A.G.) Kindergartens may be established under authority of C. S. 5443. Under this statute a petition must be filed by the board of trustees or local school committee of any school district, endorsed by the county board of education with the board of county commissioners, and after 30 days notice of a special election posted at the courthouse door and three other public places in the district, the board of commissioners shall order an election to ascertain the will of the people. If the election carries, an annual tax shall be levied of not more than 15c on the \$100 valuation for the purpose of establishing kindergarten departments in the schools of the district.

These elections are required to be conducted under the rules and regulations for holding special tax elections in special school districts.

a person under the provisions of Ch. 270 P. L. 1939, the County Superintendent of Public Welfare would still be charged with the duty of investigating and prosecuting all violators of the compulsory attendance law.

F. School Officials.

7. County board—contracting with members.

To John L. Crump. Inquiry: Can a fire insurance agent who is a member of a county school board legally write insurance on other county properties, such as Liquor Board stocks, etc.?

(A.G.) In my opinion, a member of a county school board could write insurance upon property which belongs to the county, other than property which is in the name of the County Board of Education and for which the County Board of Education is required to contract.

26. School Committeemen—number.

To E. N. Farrell. Inquiry: Does a member of the County Board of Education have the authority to increase the number of members on a local school committee from three to five during the biennium?

(A.G.) It is my opinion that if a board of education appointed a school committee for a certain school district, consisting of three persons, at the time required by Sec. 7 of the School Machinery Act of 1939, the membership of the school committee could not be increased from three to five until the end of the biennium.

50. Principals and teachers—election and contracts.

To R. I. Leake. Inquiry: Is a principal who has been elected by the district committee and approved by the county board of education, but whose election has been disapproved by the county superintendent, entitled to serve as such principal.

(A.G.) In my opinion, in view of Sec. 7 of the School Machinery Act, as amended, a person is not duly elected as principal of a school until his election by the district committee has been approved both by the county board of education and the county superintendent of schools.

50. Principals and teachers—election and contracts.

To D. H. Conley. Inquiry: A local school

board has authorized the retirement of one of its teachers whose present age is 62; but since the local board has not renewed this teacher's contract, will she be eligible to receive retirement benefits as provided in the Teachers' and State Employees' Retirement System?

(A.G.) Of course the Retirement Act contains no provisions which would prevent a school board from refusing to renew the contract of a teacher; but if the board desires the teacher about whom you inquire to receive benefits under the provisions of the Retirement Act, it would be advisable that the teacher file her application for retirement before the expiration of her present contract, or that the board renew her contract so that there can be no question as to her being in service at the time of the application for retirement.

54. Teachers—salaries and assignments.

To Dr. Clyde Erwin. Inquiry: Does the board of education have authority to make the payment of rent by teachers in a teacherage a condition of their employment prior to the signing of a contract, regardless of whether or not such teachers live in the teacherage during the school year?

(A.G.) There is no law to require teachers to live in teacherages. Neither is there any law to authorize the requirement you mention. I seriously doubt that the courts would uphold deductions from a teacher's salary for this purpose, especially in those cases where the teacher does not live in the teacherage.

It is possible that, as a matter of administrative policy, the county board of education might make it a condition of employment prior to signing the contract with a teacher that he or she live either at a teacherage or at some place near enough to the school to enable the teacher to be in close contact with the school and its students and constituents.

G. Poll Taxes, Dog Taxes, Fines and Forfeitures Accruing to Schools.

To Dr. Clyde A. Erwin. Inquiry: What disposition should be made of the proceeds derived from the sale of confiscated tax-paid liquor?

(A.G.) It is my opinion that the proceeds realized from the sale of confiscated tax-paid liquor must be placed to the credit

SCHOOL TAXES

To M. B. Simpson. Inquiry: Should the tax levying authorities of a city, or the tax levying authorities of the county in which the city lies, levy the tax to provide a local supplement voted under the provisions of the School Machinery Act of 1939, as amended?

(A.G.) It must be conceded that the tax levying authorities of a city have no authority to levy a tax on property outside the corporate limits of such city unless special authorization is given by the General Assembly. It is my opinion that, as the Legislature has heretofore abolished all special charter districts, if the territorial boundaries of the city administrative unit extend beyond the territorial limits of the city itself, the Board of County Commissioners should be considered as the tax levying authority under the provisions of the School Machinery Act of 1939.

of the school fund to be used in the manner provided for in the School Machinery Act, and that the board of county commissioners would have no right to divert a portion of the proceeds before the same reach the school fund.

I. School Property.

25. Use of school buses for other purposes.

To J. A. Forney. Inquiry: Can school buses be used for the purpose of evacuating school children and other people in the event of an emergency which might arise in case of invasion by enemy forces?

(A.G.) In 1933 the control and management of school buses was taken over by the State of North Carolina and the State School Commission was given direction and supervision over the same, and was also required to make such rules and regulations as were necessary for the efficient and economical operation of the school transportation system. Sec. 26, Ch. 562, P. L. 1933.

In 1935 the Legislature amended the section relating to the operation of school buses by rewriting the same and including the following language:

"The use of school buses shall be limited to the transportation of children to and from school for the regularly organized school day: Provided, that in the discretion of the county superintendent and the principal of the school, buses may be used to transport children entitled to attend commencement exercises." Ch. 455, P. L. 1935. In 1939 the Legislature eliminated this proviso appearing in the 1935 Act which permitted buses to be used to transport children entitled to attend commencement exercises.

I think buses could be used for the purpose of evacuating school children in case an emergency arose during school hours, to the same extent that they are used to carry children to and from school on such days.

I know of no law which would permit the use of school buses for any purpose other than that outlined in the statute, but I have no doubt that in the case of an emergency such school buses would be used by the local authorities without such authority, should the occasion arise in this regard.

V. MATTERS AFFECTING COUNTY AND CITY FINANCE.

B. Defaults.

20. Transfers from debt service to gen. op. fund—prohibition against.

To Robt. T. Wilson. Inquiry: Would the County Commissioners have a right to use \$500 of an accumulated surplus in the Debt Service Fund for the purpose of sponsoring a Victory Garden, when it is the intention to replace the money in the Debt Service Fund within six months?

(A.G.) In view of the provisions of the County Finance Act. (C. S. 1334 (41) and the County Fiscal Control Act (C. S. 1334 (66)) and also (57) and (64), it is my opinion that the Board of County Commissioners would have no right to use any portion of the Debt Service Fund of the county for the purpose of sponsoring a Victory Garden.

VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES.

P. Costs Payable by County.

To Louis C. Allen. Inquiry: Is a county required to pay the expenses in extradition proceedings where the crime charged is a misdemeanor?

(A.G.) C. S. 4556 (24) provides in part as follows: "When the crime shall be a felony, the expenses shall be paid out of the state treasury, on the certificate of

EMPLOYMENT OF TEACHERS

To Dr. Clyde A. Erwin. Inquiry: Who has the authority to reject a teacher who is now employed in the schools of North Carolina?

(A.G.) As to a teacher or principal who was heretofore employed and who was serving under contract during the current year, it is my opinion that such teacher or principal has a continuing contract and that the contract can be terminated only by action of the District Committee in rejecting the teacher or principal. If the local or district committee rejects the teacher or principal, the county or city superintendent should be notified by the local or district committee in order that the superintendent may comply with the statute and give timely notice to the teacher or principal rejected.

the governor and warrant of the auditor; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. . . ."

This section clearly makes it the duty of the county wherein the crime is alleged to have been committed to pay the expenses of extraditing defendants who are charged with the commission of misdemeanors.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES

B. Matters Affecting Municipal Utilities.

2. Supervision and control.

To S. L. Johnson. Inquiry: Is a municipality within its legal rights in refusing to make a water and sewerage connection for a citizen living within the incorporated limits.

(A.G.) You will find under C. S. 2807 that a city may own and maintain its own light and water works system to furnish water for fire and other purposes to all citizens in or outside the city limits, where the service is available; but in no case, the statute goes on, shall such city be liable for damages for a failure to furnish a sufficient supply of either water or light. I know of no law which would require a municipality to provide water and sewer connections to citizens whose homes or business establishments are not located on or near the sewer lines.

2. Supervision and control.

To Messrs. Scott & Collier. Inquiry: Does a municipality have any right to impose conditions on a public utility, such as a telephone or electric company, for the use of its streets, when the original franchise comes up for renewal?

(A.G.) Subsection 6 of C. S. 2623 provides that a city or town is authorized to grant upon reasonable terms franchises for public utilities, such grants not to exceed a period of sixty years, unless renewed at the end of the period granted. There is no mention in C. S. 1695 as to the use of streets in municipalities, and it is my thought that municipalities in granting franchises to public utilities or in the renewal of such franchises, may impose reasonable conditions upon which such franchises are granted or renewed. In granting franchises or renewing same, the governing body of the municipality should be fully satisfied that the conditions are reasonable and that they are not such conditions as are prohibited by

some other statute in existence at the time the matter is passed upon by the governing body of the city or town.

N. Police Powers.

9. Outside city limits.

To J. W. Donley. (A.G.) A policeman cannot act as a deputy sheriff because he would be violating the double office holding act.

20. Regulation of trades and businesses.

To James S. Burch. (A.G.) Confining my opinion to an interpretation of the State Laws and the decisions of the N. C. Supreme Court thereon, I do not believe that a municipality can adopt a valid ordinance regulating the opening and closing hours of business houses and industries. The courts of this State have consistently upheld municipal ordinances regulating and prohibiting the pursuit of all occupations on Sunday on the grounds that such regulations are within the powers conferred on town authorities in the exercise of the police power. The Supreme Court of N. C., in State vs. Ray, 131 N. C. 814, held that an ordinance of a town requiring stores to be closed at 7:30 in the evening was invalid on the ground that permitting a city or town to pass such an ordinance would be given it equal power with the legislature to restrict personal and property rights.

21. Sale of wine and beer.

To Edward B. Hope. Inquiry: Can a city pass a valid ordinance prohibiting the operation of beer parlors, etc., except on the street floor of buildings in the city.

(A.G.) If the ordinance were limited in its application to beer and wine, I am of the opinion that it would probably be upheld as a valid exercise of the police power of a municipality. The case of Paul v. Washington, 134 N. C. 363, is the case which presents a situation most nearly analogous to the one presented here.

Q. Town Property.

20. Power of eminent domain.

To Miss Susie Sharp. (A.G.) I am of the opinion that your city would not be

PARKING OF TRAILERS

To William Dunn. Inquiry: Would an ordinance having in it the following provision be valid? "It shall be unlawful for any person, firm, or corporation to park any trailer with living quarters within this city for a period of longer than twenty four hours."

(A.G.) In view of the fact that the use of trailers as dwellings, when reasonable sanitary regulations are enforced, probably creates no menace to the health and safety of the community, I think it is unlikely that the ordinance forbidding the parking of such trailers within the city limits for more than twenty four hours would be held valid.

permitted to condemn the dwelling house, yard, kitchen, garden and burial ground of the property owner without his permission and consent, for the purpose of building a municipal airport. C. S. 1714 specifically denies the right to condemn by condemnation proceedings the dwelling house, yard, kitchen, garden or burial ground of the owner unless it is specifically authorized in the charter of your city or some provision of the Consolidated Statutes. I do not find any provision of

the statute authorizing you to condemn the property in question.

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS.

A. County Commissioners.

30. Legislative powers.

To Oscar J. Mooneyham. Inquiry: Is the County Board of Commissioners the proper board to pass an ordinance requiring meat inspection in the county?

(A.G.) C. S. 4768 (a)-(h), inclusive, provides for the inspection of meats in counties and municipalities, and Sec. 4768 (c) provides that "municipal corporations shall have power and authority under this article to establish and maintain the inspection of meats and meat products, at establishments located within their incorporated limits, and county commissioners shall have the power and authority to establish and maintain inspection of meat and meat products at establishments not located in municipal corporations, but located within the boundaries of their county." This statute would seem to place the power to regulate the inspection of meats and meat products in the hands of the County Commissioners and the governing body of the municipalities therein, and not in the hands of the Board of Health.

B. Clerks of Superior Court.

26. Duties with respect to funds of incompetents.

To Arthur W. Greene. Inquiry: Does the clerk, individually, or the county, receive commissions on funds paid into the court for minors and incompetents, where the clerk of the court acts as receiver?

(A.G.) Sec. 1, Ch. 49, Public-Local Laws 1933, provides that the clerk of superior court must deposit all fees, commissions, etc., to the credit of the general county fund. I am of the opinion that the commissions referred to should be turned over to the general county fund.

2. Inquiry: In the event that a predecessor clerk charged such commissions and turned over the funds in his hands to the county auditor when he vacated the office, is the succeeding clerk entitled to again charge commissions for receiving?

(A.G.) I am of the opinion that the succeeding clerk would not have the right to collect fees on such funds.

D. Registers of Deeds.

4. Books and records.

To J. C. Spence. (A.G.) Under C. S. Sec. 2504 registers of deeds are required to keep records of marriage licenses and the returns thereto. There is no provision in the statute for changing these records. I do not believe that you would have the authority to make a correction in the name of a person to whom a marriage license has been issued.

H. Health and Welfare Officers.

1. County Welfare Board.

To A. B. Stoney. Inquiry: Where the term of a member of a three-member County Board of Public Welfare has expired, would the two remaining members constitute a quorum, in a meeting duly called, and would the two remaining members constitute such an organization of the Board as would entitle it legally to act and transact its business?

(A.G.) Since the Board consists of only three members and two are present at the meeting, it is my opinion that any action taken by the Board so constituted would be valid.

I wish to call your attention to the fact that under the provisions of C. S. 3205, the member whose term of office has expired is still a member, because the Act provides that "all officers shall continue

OFFICIALS IN SERVICE

To James C. Farthing. Inquiry: Can the Board of County Commissioners grant a leave of absence to the holder of an elective or appointive office who is drafted, and can such person receive compensation while on leave?

(A.G.) Sec. 2, Ch. 121, P. L. 1941 provides that county commissioners may grant such leave of absence in cases when an appointive or elective official has been called to duty by the Federal Government, upon application of the official involved.

I call your attention to the following portion of this section: "The official shall receive no salary during the leave of absence unless granted by reason of protracted illness. . . ."

in their respective offices until their successors are elected or appointed, and duly qualified."

L. Local Law Enforcement Officers.

26. Prohibition—beer law.

To John F. Matthews. Inquiry: Can a person be indicted under the provisions of the Beverage Control Act of 1939 for selling beer without having procured a license, as required by said act?

(A.G.) This Act, as amended, requires all persons selling beer at retail to secure a license for the privilege of doing such business. C. S. 3411 (118) provides that whosoever violates any of the provisions of Article XV, or the rules and regulations promulgated thereto, shall be guilty of a misdemeanor. It is my opinion that any person who sells beer at retail without having secured the license required by the Beverage Control Act of 1939 could be indicted and convicted under the provisions of C. S. 3411 (118).

33. Worthless checks.

To John C. Strickland. (A.G.) I am of the opinion that a person who gives a check and who at the time of the giving of the check has sufficient funds on deposit in the bank on which the check is drawn, but who later stops payment of the check, is not guilty of the violation of C. S. 4283 (a), relating to the issuance of worthless checks.

If the person obtained property by the issuance of the check, I still do not think that he would be guilty of violating C. S. 4283 (a), and as to whether he would be guilty of any other crime would depend on the circumstances surrounding the purchase of the property and the issuance of the check, and specifically whether or not at such time he issued the check with the intent and purpose of defrauding the person from whom he purchased the property and to whom he gave the check.

39. Motor vehicle laws.

To L. E. Lancaster. Inquiry: Does C. S. 2621 (251) require that taxis shall have printed on the sides thereof the name and address of the owner?

(A.G.) This statute applies to motor vehicles "licensed as franchise bus carriers, franchise hauler vehicles, and contract hauler vehicles." Under the definitions set forth in C. S. 2621 (187), a taxi is neither a franchise bus carrier, franchise hauler vehicle, or contract hauler vehicle. Therefore, the requirements of Section 2621 (251) do not extend to taxis.

To J. N. Vann. Inquiry: What is the status of a bicyclist under the traffic laws?

(A.G.) Since Sec. 2 of Ch. 407, P. L.

1937, as amended by Ch. 275 of P. L. 1939 (see Sec. 2621 (187)) of Michie's 1939 Code, paragraph (ff) specifically mentions bicycles as being "vehicles," I am of the opinion that a bicyclist is governed by the provisions of Sec. 108, Ch. 407, P. L. 1937.

62. Jurisdiction.

To Joe M. Cox. (A.G.) Federal and military courts have exclusive jurisdiction over offenses committed on airport property leased by government for military purposes.

M. Health and Welfare Officers.

31. Health laws and regulations.

To Dr. Carl V. Reynolds. Inquiry: Is an osteopath qualified, under the law, to make a physical examination and execute a health certificate for employees serving in hotels and cafes?

(A.G.) The health certificate required to be furnished by employees in hotels and cafes is a matter pertaining to the public health, and unless the examination requires the use or administration of drugs, I can see no reason why an osteopath would not be competent to furnish the certificate required. I refer you to C. S. 6700 and C. S. 6706.

S. Mayors and Aldermen.

6. Appointive powers.

To N. C. West. Inquiry: When the police judge of a town or city is called into the armed forces of the U. S., do the city commissioners have the right to declare the office vacant and appoint a judge to fill out the unexpired term of the judge?

(A.G.) Sec. 3, Ch. 121, P. L. 1941, provides that any elective or appointive municipal official may obtain leave of absence from his duties for military or naval service, for such period as the governing body may designate, provided that no leave or extension thereof shall operate to extend the term of office of any official beyond the period for which he was elected or appointed. If, by reason of the length of the period of absence or the nature of the duties of the official, the governing body deems it necessary, it may appoint an acting official or substitute.

Hence, it is up to the governing body of the municipality as to what course to pursue where an official is called into the armed forces of the U. S.

T. Justices of the Peace.

13. Territorial jurisdiction.

To Geo. A. Cash. Inquiry: Is a Justice of the Peace authorized to issue process in townships of a county other than the one for which such Justice of the Peace is appointed or elected?

(A.G.) C. S. 1479 provides: "A Justice of the Peace may issue a summons or other process anywhere in his county, but

COURTS OF RECORD

P. Officials of Recorders' and County Courts.

15. Jurisdiction and powers.

To Louis C. Skinner. Inquiry: Is a municipal recorder's court considered a court of record within the purview of Sec. 622.42 of the Selective Service Regulations, which is based upon Sec. 5 (c) (1)?

(A.G.) The question you raise has been considered by the National Headquarters of the Selective Service System, and the conclusion reached was that courts such as municipal recorders' courts are not courts of record within the meaning of the Selective Service Act.

he shall not be compelled to try a case out of the township for which he was elected or appointed."

It is my opinion that no Justice of the Peace should solicit business, but this is a matter which should be worked out with your local authorities.

X. PRIMARIES.

C. Matters Affecting Candidates.

I. Qualifications.

To Hon. J. T. Pritchett. Inquiry: Can a person who is now a member of the Board of Education, but who is in the armed forces of the United States, be eligible to file notice of his candidacy for office in the approaching primary, and if elected could such person be given a leave of absence by the Board of County Commissioners under Ch. 121, P. L. 1941?

(A.G.) Since under C. S. 5937, a person who has removed from the county of his residence to become engaged in federal service is permitted to retain his residence for the purpose of voting, it is my opinion that the person to whom you refer is eligible to file notice of candidacy and run for office in the coming primary.

Ed. Note.—On September 18 the Attorney General ruled that "upon acceptance of a commission from the President as an officer in the Army, Navy or Marine Corps, the person accepting such commission would be disqualified from holding or exercising any other office or place of trust or profit under authority of this state." This disqualification, however, does not extend beyond commissioned officers.

XI. GENERAL AND SPECIAL ELECTIONS.

C. Registration.

To D. E. Hudgins. Inquiry: Where a county board of elections has altered and established new election precincts under authority of C. S. 5934, is it necessary that a new registration be ordered by the county board of elections in the new precincts created.

(A.G.) The statute is apparently silent on this particular question. It seems to

me that since there is no mandatory requirement that there be a new registration of voters in those precincts which have been altered and those which have been created, the question of ordering a new registration would be within the discretion of the board of elections, under C. S. 5935.

XII. STATE TAXES.

A. Levy of Such Tax.

21. Privilege license taxes.

To Guy C. Killian. Inquiry: Is a privilege tax due the State under Sec. 130 of the Revenue Act, on account of the following activity: the Gastonia Police Dept. operates a soft drink vending machine in the City Hall for the purpose of raising a benefit fund for the Dept.?

(A.G.) I am of the opinion that a license tax is due because of this operation. This activity is not essentially governmental in nature and invades the field of private enterprise. The Revenue Act provides for no exemption in such a case, and I know of no implied ground for exemption.

To J. H. Whicker. Inquiry: Must a physiotherapist secure a privilege license before engaging in the practice of his profession in N. C.?

(A.G.) There is no State licensing board for persons who wish to engage in the practice of therapeutics. They are not regulated by the Board of Osteopathy nor by the Medical Board.

I suggest that perhaps there would be a tax liability under Sec. 109 of Ch. 158 of P. L. 1939. This Section of the Revenue Act levies a tax against persons who engage in the act of healing, either by medical practice or otherwise.

To Thorp & Thorp. Inquiry: Is a city required to pay a State privilege tax under Sec. 131 of the Revenue Act for the operation of a swimming pool which it owns and operates in one of its parks and

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tion of the citizens, and not for the primary purpose of making profits for the municipality, the enterprise is governmental rather than proprietary in nature and not subject to the privilege tax on swimming pools.

S. Sales Tax.

5. Liability for.

To Hon. A. J. Maxwell. Inquiry: Is the purchaser of the assets of a discontinued business liable for sales tax owed by the old company on account of its operations prior to the time it discontinued business and its assets were sold?

(A.G.) In the light of Sec. 416 of the Revenue Act of 1939, as amended, I am of the opinion that this statute makes the purchaser liable for any sales tax accruing to the state because of the operation by the vendor. The fact that the tax liability was not reported to the purchaser by the old company that discontinued business and sold its assets is, of course, no ground for avoidance of this liability.

XIII. STATE INSTITUTIONS.

A. State Hospitals.

5. Admission.

To J. P. Shore. (A.G.) I am of the opinion that as a condition precedent to admitting a party charged with involuntary manslaughter to the State Hospital at Morganton because of mental disability, he would have to be adjudged insane and unable to plead by the court before which he is arraigned, as provided by Sec. 6236 of the C. S.

20. Liability of inmate for care.

To David Walker. (A.G.) If a person who was indigent at the time of his or her entry into a State Hospital, has, since said entry, become non-indigent by reason of the acquisition of property, a guardian should be appointed for such person and the question of payment of the costs of maintenance should be worked out through the guardian and the Clerk of the Superior Court of the County of the patient's residence at the time of commitment. If the guardian should fail or refuse to pay the costs of maintenance, a suit could be instituted by the State Hospital against the guardian, as was done in the case of State Hospital vs. Bank, 207, N. C. 697.

APPROPRIATION FOR STATE GUARD

To Oscar J. Mooneyham. Inquiry: Does the Board of County Commissioners have authority to make an appropriation for the State Guard?

(A.G.) The State Guard is organized under authority of Ch. 43, P. L. 1941, and since for all practical purposes it is organized to take the place of the National Guard, for which the Board of County Commissioners can appropriate such sums of money as may be deemed proper under authority of C. S. 1297 (41), I am of the opinion that the Board of County Commissioners would have authority to appropriate to the State Guard to the same extent and in the same manner as it is authorized to appropriate to the National Guard.

for the use of which it charges a small fee?

(A.G.) I am of the opinion that a city is not subject to the State license tax in question. This office has ruled that a municipality is liable for license taxes for the sale of soft drinks and tobacco products on the ground that when a city engages in the sale of soft drinks and tobacco products it is engaging in a proprietary and not a governmental activity. However, where the size of the admission fee and other circumstances indicate that the pool is being operated solely for the promotion of the health and recrea-

JURISDICTION OF J.P.

To Guy P. Jordan. Inquiry: Do magistrates have jurisdiction to try cases involving violation of Federal Law regarding failure to obtain stamp to be used on automobiles.

(A.G.) A Justice of the Peace does not have jurisdiction to try any person charged with the violation of a Federal Statute.

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2. To care for himself in old age.

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\$128,000,000 paid in policy benefits since organization in 1907.



185,000 policyholders own \$465,000,000 Jefferson Standard Life Insurance.



Our ability to make highly satisfactory investments, particularly over the past ten years, HAS ENABLED US TO PAY 5% INTEREST on funds held in trust for policyholders and beneficiaries. Jefferson Standard policy dollars ARE larger.

HOW LONG WILL \$4000 LAST?

At 3% interest, \$4,000 in life insurance will give your family an income of \$100 per month for only 42 months.

BUY WAR BONDS & STAMPS

JEFFERSON STANDARD LIFE INSURANCE COMPANY

JULIAN PRICE, President

GREENSBORO, NORTH CAROLINA



**YOU WANT
STEADY NERVES TO
PLAY HIDE-AND-SEEK
WITH T.N.T.**

IN A DARING
RAID INSIDE A
REEF-BOUND
BAY, A U.S. "SUB"
WAITS OUT A
HAIL OF JAP
DEPTH BOMBS

IF THEY HADN'T BLOCKED
THE CHANNEL ON US —

BLANG!

HEY, THAT ONE
WAS CLOSE!

YOU CAN'T GET ACROSS
THOSE REEFS WITHOUT
SURFACING—AND THEY'D
STOP US SURE

SO WHAT?
WE SANK 2 OF
'EM, DIDN'T WE?

NO OTHER WAY OUT, CHUCK, TOJO'S
WHOLE NAVY 'LL BE HERE ANY MINUTE

IF THEY SPOT US, WELL
HERE GOES, BOB!

UP PERISCOPE!

ATTA BOY, SKIPPER!
HE'S GONNA SURFACE
AND TRY TO SLIP OUT
ACROSS THOSE REEFS

THAT DESTROYER—SHE'S SPOTTED
US. SOUND THE TORPEDO ROOM,
BOB—LET'S LET 'EM HAVE IT!

OKAY, CHUCK!
**STAND BY TO
RELEASE TORPEDOS**

THIS IS MORE LIKE IT—
RATHER GO DOWN FIGHTIN'
THAN SITTIN'!

T.N.T. FOR TOJO.
DO YOUR STUFF,
BABY!

A DIRECT HIT, BOB,
THAT STOPPED 'EM! NOW
WE CAN GET OUTA HERE!

HEY—
THAT'S THE FIFTH
CAMEL YOU'VE GRUBBED
OFF ME

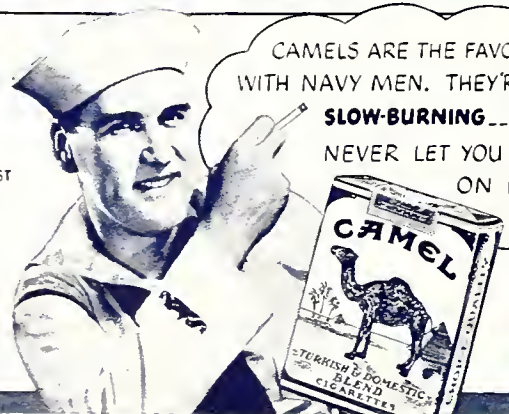
STOW IT—
I'LL BUY YOU A CARTON
OFF CAMELS ASHORE! MAN,
THIS TASTES GOOD!

YOU SAID IT, SAILOR—
CAMELS RATE THE NAVY 'E'
WITH ME EVERY TIME

R. J. Reynolds Tobacco Company, Winston-Salem, North Carolina

IN THE ARMY—
NAVY—MARINES—
COAST GUARD—THE
FAVORITE IS CAMEL

(BASED ON ACTUAL
SALES RECORDS IN POST
EXCHANGES, SALES
COMMISSARIES, SHIP'S
STORES, SHIP'S
SERVICE STORES,
AND CANTEENS.)



CAMELS ARE THE FAVORITE
WITH NAVY MEN. THEY'RE MILD,
SLOW-BURNING—AND
NEVER LET YOU DOWN
ON FLAVOR

AND NOTE THIS:
The Smoke of Slow-burning

CAMELS

contains **LESS NICOTINE**

than that of the 4 other largest-selling brands tested—less than any of
them—according to independent scientific tests of the smoke itself!