

# POPULAR GOVERNMENT

*Mrs. Wagner*



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# POPULAR GOVERNMENT

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### COVER PICTURE



### THE WEST

These two pictures — the massed mountains of the west and the shadowed sands of the east—develop the central theme of the series of pictures chosen by Gladys Hall Coates from the work of Mrs. Bayard Wootten. The theme of the series is North Carolina — her grandeur and simplicity. Visitors conceive through the contrast between east and west the sweep of the State.

Succeeding pictures of this series on the cover and on the pages of POPULAR GOVERNMENT will emphasize this contrast and portray North Carolina's crops and North Carolina's people—a thumbnail sketch of the "Old North State."



### THE EAST

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# Demobilization: World War I and World War II

## A Forward Look: Uncle Sam Approaches a Critical Period

*Lochiel! Lochiel, Beware of the day!  
For dark and despairing my sight I may seal.  
But man cannot cover what God would reveal.  
'Tis the sunset of life gives me mystical lore,  
And coming events cast their shadows before.*

### DEMobilIZATION IN WORLD WAR I

When the Armistice was signed on November 11, 1918, 4,200,000 men were in the armed forces of the United States. 9,400,000 were engaged in war industries. 7½ billion dollars were involved in federal war contracts. Less than one-fourth of our national production was war production. We were loaded with a 26 billion dollar debt.

Within eight months after the Armistice, 3,600,000 soldiers were discharged. Five of the 7½ billions in federal war contracts were cancelled. War industries shut down. Workers by the hundreds of thousands were shut out. In 1919, sudden, sharp depression followed for a season in the transition from war to peace.

Business quickly caught its breath. Most of the wartime price controls and materials controls were removed. Inflation followed: three-fourths of the 100 per cent price inflation occurring from 1914 through 1919 occurred during the 18 months after the Armistice. 1920 ushered in the industrial collapse, and 1921 ushered in depression.

Business caught its breath and gradually recovered in the 1920's with phenomenal expansion of the automobile industry; with the tremendous program of highway construction by federal, state and local governmental units; with the booming prices of real estate and the zooming prices of stocks; with staggering loans to Europe and South American countries to pay for goods produced in the United States.

During the postwar years agriculture fared even worse. Wartime expansion of farm production stimulated speculation in farm lands, doubled farm land prices, and skyrocketed farm and home debts and mortgages. The close of the war restricted American farm markets. The opening of new areas to grain production and cattle raising in Canada and South America restricted American markets still further. Cotton fields in Egypt, India, Brazil and Russia expanded to cramp American markets. Similar experiences with tobacco brought the meaning of shrinking markets closer home while the lessening costs of production in some areas

### ALBERT COATES

Director of the Institute of Government, who recently published "Guide to Victory," an analysis of the backgrounds of the War and a pictorial and charted account of civilian services on the Home Front during the War, here sets forth the analysis of —Demobilization and Resulting Problems.



cut other areas to the quick. Cotton which sold at \$176 a bale in 1919 dropped to \$79 a bale in 1920. Tobacco which sold at 31 cents a pound in 1919 dropped to 17 cents a pound in 1920. Agriculture fell into a trough of depression and a slough of despond from which it never did recover.

After that the deluge. The real estate boom collapsed in 1926. Foreign loans collapsed in 1928. The stock market collapsed in 1929. Prosperity faded around a corner which we failed to turn. Thus Humpty Dumpty sat on a wall. Humpty Dumpty had a great fall. And all the King's horses and all the King's men did not put Humpty Dumpty together again.

### DEMobilIZATION IN WORLD WAR II

If the war ends in 1944, 11 million men will be in the armed forces. 27 million will be in war industries and occupations. 70 billion dollars will be in federal war contracts. More than one-half of our national production will be war production. We will be loaded with a 250 billion dollar debt. Interest charges on this debt will range from 6 to 8 billions. 6 to 8 billions more are likely to be added for military protection. Our tax burden is likely to run from 30 to 35 billions as compared with 12 to 13 billions before the war. Economists and financiers agree that we can carry this debt easily if

opportunity is provided for everybody to go to work and keep on working. They also agree that without this working opportunity it will be a millstone around our necks. What, if anything, can be done about it?

When the war ends, how many men in the armed forces shall be demobilized—and how fast? How many war workers shall be demobilized and how fast? How many of the price ceilings shall be lifted? materials controls removed? other war time restrictions eliminated? and how fast? How many new jobs can be created—and how fast? Can private industry and agriculture take up the peacetime slack by furnishing worthwhile work to these demobilizing millions—and how fast? To what extent, if any, should federal, state and local governmental units undertake to furnish worthwhile jobs to those whom industry and agriculture cannot help, and who cannot help themselves? The answers we find to questions such as these will determine whether the war was worth fighting and whether the peace is worth winning.

*Favorable factors.* Many favorable forces will be working with us. In agriculture, there has been no great increase in prices of basic commodities as in the past war, no tremendous expansion of production as in the last war, no dizzy speculation in land values as in the last war, no such increase in farm mortgage debts as in the last war. Agriculture therefore will face the future nearer to even keel at the end of World War II than at the end of World War I.

In business, prices have not risen as high as in the last war. The cost of living has not gone up as much as in the last war. Inflation has not gone as far as in the last war. From these standpoints business will face the future at the end of World War II in a better position than at the end of World War I.

More people will have more money at the end of World War II than at the end of World War I. 40 billions have been saved by individuals in a single year, and these savings are likely to grow with the pressure of war-saving stamp and bond drives.

There will be more accumulated demands for goods and services at the end of World War II than at the end of World War I because of the fact that more and more of our production is war production and fewer and fewer civilian goods are being produced.

World War I ended with a breath-taking suddenness and left little time to work out transitional adjustments from war to peace. World War II at this writing seems likely to end by degrees—first in Europe and later in the Pacific. This fact in itself will give time for demobilization by degrees. Demobilization will not go as far as in World War I: we are likely to maintain armed forces in the neighborhood of two millions,

together with a navy capable of operating in many oceans, together with supporting industries. We have the experience of World War I to guide us in the transition from war to peace at the end of World War II.

*Complicating factors.* Demobilization problems are complicated by internal tensions making for confusion, conflict and strife. There are economic tensions within the ranks of labor, industry and agriculture, and between them. There are racial tensions: as between the whites, the blacks, the yellows and the rest. There are religious tensions: as between Protestants, Catholics, Jews. There are sectional tensions: as between North and South and East and West. There are political tensions: as between Democrat, Republican, Socialist, Communist, New Dealer and Old Dealer. These tensions were driven to cover by the experience of Pearl Harbor. They are again lifting their heads as the imminence of danger recedes.

They are further aggravated by external tensions. Whether we like it or not, the status of American labor, industry and agriculture will be profoundly affected by the status of labor, industry and agriculture throughout the world. Racial, religious and sectional tensions in this country will be aggravated by corresponding tensions between Europe, Africa, Asia and America. Political tensions will be aggravated by the clash of fascist, communist and democratic movements, and by insistent calls on the United States, the British Empire and the rest of the United Nations to practice at home the theories they preach abroad.

There is no hope in the "back to normalcy" slogan of the 1920's. There is neither norm nor normalcy for the war we are fighting in the 1940's. There is neither norm nor normalcy for the peace that we must win in the world beyond the war. There has been no period in American history as critical as this period in American history will be.

*Post-war planning.* Washington, Jefferson, Hamilton and their associates in Revolutionary days started post-war planning and their post-war planning won the peace that followed. Abraham Lincoln in the days of civil war started post-war planning, and the vindictive blocking of those plans turned a war to save the Union into a peace which trampled half the Union underfoot. Woodrow Wilson in the days of World War I started post-war planning, and the repudiation of his planning turned a war to make the world safe for democracy into a peace which bred the Hitlers seeking to eliminate it from the earth. Post-war planning is beginning in the thick of World War II. It is spreading from the national Capitol to state Capitols to county court-houses to city halls to business units and the homes of the people. If it hesitates, it's lost.

*"There is a tide in the affairs of men,  
Which, taken at the flood, leads on to fortune;  
Omitted, all the voyage of their life  
Is bound in shallows and in miseries.  
On such a full sea are we now afloat;  
And we must take the current when it serves,  
Or lose our ventures."*

# Water Works Operators Train

## Three R's Not Enough: Science Study Necessary

North Carolina and the nation have passed from the old oaken bucket and well, from the spring with its gourd and tin cup, from "drawin and totin" of water, to a point where almost every municipality has its impounding basin, water purification plant, and distribution system. From old Salem's wooden ducts and the early private companies delivering water for fire protection and washing, we have passed to the stage where water fit for drinking purposes pours from a faucet at a twist of the wrist. To deliver this water properly treated and free of unpleasant odors and harmful germs, trained water plant men are essential.

Dr. S. H. Hopper of the University of North Carolina Department of Sanitary Engineering describes the 8-week summer course as follows:

"In response to the urgent need for trained personnel such as chemists, and laboratory technicians for water purification plants, the University of North Carolina offered an 8-week summer course. The course was carried on through the cooperation of the Institute of Government, the State Board of Health, the Department of Sanitary Engineering of the School of Public Health, and the North Carolina Water Works Operators Association.

"The title of the course was 'Chemistry of Water Purification.' Every water plant operator must be a combination of chemist, engineer, and bacteriologist.

"To be sure that the students were receiving the best possible training for their work, the instruction staff divided the course into three parts. The first of these was concerned entirely with the chemicals: (1) the chemicals used in purifying water, (2) how much of the various chemicals to use, and (3) techniques in using these chemicals.

"The second part of the course consisted of water purification processes. These processes included such things as adding alum to water in order to produce a large feathery looking

mass which the chemist calls a floc. The formation of the floc is called coagulation and it removes almost all of the mud in the water and a large percentage of bacteria in the water. Another process is filtration, in which the water is filtered through sand. After the water passes through the filter, it is almost entirely pure, but in order to be sure that it will be pure at any faucet in any home or building of the municipality or army camp, the operator

be a complete discussion of how to remove these chemicals from the water and make it soft. Next problems were assigned to the students and they spent the next hour figuring out exactly how much chemical to add and what it would do. Following this they would launch into a study of how to build a water purification plant and would discuss problems in hydraulics. This has to do, for example, with how much water you can get through a pipe of a certain size in a certain time. It is concerned also with how to wash a filter, because after you have filtered a certain amount of water the filter becomes clogged up, and the operator has to wash the filter just as a housewife has to wash out a sieve



The 8-Week Water Works on the steps of the Institute of Government after the grind was over.

puts in a small amount of chlorine. This is called post-chlorination.

"The third portion of the course consisted of a detailed study of bacteria. The students learned how bacteria get into water supplies, which ones get in, and what to do about any bacteria that get into the water. They did tests on water to see whether typhoid germs were being carried in the water and they learned how to cook or prepare the culture media, or food, that bacteria eat. Finally they all became proficient in the use of the microscope.

"A typical day with these men started at 8:30 in the morning with a class in chemistry treating a subject such as the question of hardness of water. After a detailed discussion of the chief offending chemicals causing hardness, there would

that is clogged up before she can use it again. To complete the work of the morning there was always a class in bacteriology, during which there was a discussion of disease germs and how to get rid of them. Following an intermission for lunch, there was a laboratory period every afternoon. In these afternoon periods the men did all of the tests specified by the Standard Methods of the American Public Health Association. They were soon able to tell whether water was acid or alkaline, whether the water was hard or soft, whether or not the water had typhoid germs, how to prevent corrosion in the water pipes and so on.

"The students ranged in age from 18 to 50. Some of the men were superintendents of plants, and some had

*(Continued on page 16)*



SEWAGE TREATMENT SCHOOL conducted at Chapel Hill by the Army's Fourth Service Command, cooperating with the Department of Sanitary Engineering and the North Carolina Water Works Operators Association through the Institute of Government.

Even as aviation advanced in World War I and again in World War II, water plant and sewage treatment plant operation can advance a century through the large scale experiment now in progress under the aegis of the Army Corps of Engineers. Army experience shows that it takes two years for each man to absorb the instruction, techniques and experience needed to make him a competent operator. The army has learned much and is learning more about the operation of water works plants and sewage treatment plants through the vast system of camps and military posts now in operation. The Army Corps of Engineers is improving its knowledge and its methods. In addition to the new knowledge of techniques, new and improved apparatus, and the broader grasp of the problems involved, there will be on hand after World War II a large number of thoroughly trained operators for water and sewage plants. Post-war planning should make full use of this knowledge and this highly trained personnel to improve the health conditions of our people generally and thus squeeze from man's most negative activity—war—another ounce of positive value.

The Sewage Treatment School was arranged by Captain A. Lund of the Fort Bragg Field Office. The Fort Bragg Field Office is one of five units in the Fourth Service Command. The Fourth Service Command covers all of the southeastern states. These field offices are part of the water unit of the Repairs and Utilities Service.

There are five water units in the southeastern states: one unit for North Carolina and South Carolina, one for Georgia and part of Alabama, one for Mississippi and part of Alabama, and one for Florida. Each unit has charge of: (1) the inspection of water, sewage and waste disposal, (2) the supervision and operation of the plants, and (3) aids in the instruction necessary for technical and practical training of the numerous personnel required for this work.

This Sewage Treatment School followed the eight-week course in the chemistry, bacteriology, and en-

gineering of water plant operation and the five-day in-service training school reviewing the same field. The United States Army, the Water Works Operators Association, and the Department of Sanitary Engineering, cooperating through the Institute of Government presented this three-day in-service school for military and civilian personnel engaged in sewage treatment. The United States Army's Fourth Service Command furnished eleven



Army's mobile laboratory for water analysis demonstrated in Chapel Hill to Water Works Operators and Sewage Treatment personnel.

members of the instruction staff of the Sewage Treatment School and through these men made available to the military and civilian operators the wide knowledge and experience gained by United States Army's Sanitary Engineers during the last two years.



Model Sewage Treatment Plant set up by the Army's Fourth Service Command for those attending the Water Works Operators School and the Sewage Treatment School.

# INSTITUTE OF GOVERNMENT



**WATER WORKS OPERATORS IN-SERVICE TRAINING SCHOOL** conducted by the Department of Sanitary Engineering. The group is composed of Army personnel, Water Works Operators Association members, students from the 8-week school, and members of the Instruction Staff.

The University of North Carolina through two of its internal units and two outside organizations offered training to the State Water Works Operators.

The Institute of Government, through the cooperation of the Department of Sanitary Engineering of the University of North Carolina, the North Carolina Water Works Operators Association, and the United States Army, was able to welcome to Chapel Hill 130 registrants for the In-Service Training School for Water Works Operators. The 130 registrants included more than 60 operators in civilian plants of the towns and cities of North Carolina, 40 operators in the plants of the military camps of North Carolina, South Carolina and other states of



W. B. Snow and S. H. Hopper, wheelhorses of the Instruction Staff.

the 4th Service Command, members of the sales division of industrial companies, and the 20 members of the instruction staff.

The varied backgrounds of this 20-man instruction staff merit notice. These backgrounds follow: four college professors; five members of the United States Army Sanitary Engineering Service; one man from the United States Department of Public Health and one from the State Board of Public Health; six consulting engineers and technical experts from sales organizations of supply companies; two members of the Durham Water Department; an attorney from High Point; and the Editor of *Water Works Engineering*, New York City. A directory of this teaching staff follows:



Officers of the North Carolina Water Works Operators Association: W. M. Franklin, R. S. Phillips, W. O. Spence, P. L. Abernethy, H. D. Fesperman.

#### DIRECTORY OF THE INSTRUCTION STAFF

- W. B. Snow, Acting Professor, Sanitary Engineering, University of North Carolina
- Dr. S. H. Hopper, Associate Professor, Sanitary Engineering, University of North Carolina
- Dr. E. E. Randolph, Professor, Chemical Engineering, N. C. State College
- W. W. Brush, Editor, *Water Works Engineering*, 24 W. 40th St., New York City
- W. M. Piatt, Consulting Engineer, 111 Corcoran St., Durham, N. C.
- Geo. S. Rawlins, Consulting Engineer, Executive Vice Pres., J. N. Pease Co., Johnston Building, Charlotte, N. C.
- W. S. McKimmon, Engineer, North Carolina State Board of Health, Raleigh, N. C.
- Capt. A. Lund, e/o Area Engineers Office, Fort Bragg, N. C.
- J. R. Purser, Jr., Treasurer, J. R. Purser Sales Eng., Inc., Suite 816, Independence Building, Charlotte, N. C.
- E. A. Sigworth, Industrial Sales Division, West Va. Pulp and Paper Co., 230 Park Ave., New York City
- Harry A. Faber, Research Chemist, The Chlorine Institute, 50 E. 41st St., New York City
- Col. M. J. Blew, Chief, Sanitary Corps, 4th Service Command, Atlanta, Ga.
- Dr. Gerard A. Rohlich, Senior Sanitary Engineer, Office of Chief of Engineers, Washington, D. C.
- F. E. DeMartini, P. A., Sanitary Engineer, U. S. Public Health Service
- H. F. Davis, Dist. Mgr., Wallace and Tierman Co., Inc., 1902 Pinewood Circle, Charlotte, N. C.
- D. M. Williams, Supt. Water Department, City of Durham
- L. L. Hedgepeth, Technical Director, Pennsylvania Salt Co., Philadelphia, Pa.
- Albert Coates, Director, Institute of Government, University of North Carolina
- Grover Jones, City Attorney, High Point, N. C.

The equipment available to the students and staff through the University of North Carolina, the Army,

the sales organizations, and the city of Durham ranged from bacteriology and chemistry laboratories of the University, the chlorination apparatus of the Army and supply houses, to the leak detectors and the Durham Water Department's heavy machinery for making connections under pressure. The Army's 4th Service Command had on display a mobile field laboratory. The Army also set up during the Water Works Operators In-Service School a model of a sewage disposal plant.

The fact that water works operators are a trained group of professional men rendering a service demanding real intelligence and specialized training is clear when the nature of the work is examined. These water works operatives worked with microscopes in the bacteriology laboratory, worked experiments in the chemical laboratory, and studied problems in hydraulics. If we examine the activities of the water works operators, it becomes immediately apparent that each operator needs to be a mixture of chemist, bacteriologist, and engineer.

At the close of the school the North Carolina Water Works Operators Association conducted four-hour examinations to qualify candidates for certificates of three classes: C certificates, B certificates, and A certificates, with progressively more difficult requirements. Only holders of C certificates were eligible for the B certificate and only holders of B certificates, for the A certificates. Each examination in all certificate



Officers of the North Carolina Section of the American Water Works Operators Association: W. E. Yow, W. M. Piatt, D. M. Williams, W. H. Hall, R. S. Phillips, J. R. Purser.

classes bore only a serial number and no name. Each examination will be graded by five senior members of the Water Works Operators Association, the final grade to be an average of these five ratings. The numbering system to make the grading impersonal and the impartiality of five gradings, none of which will show on the papers save the final score, gives to these examinations a dignity comparable to any State Bar or State Board Examination. The fact of the examinations and the procedure followed with reference to them give a sound index of the genuine professional consciousness of the Association.



Water Works Operators in the midst of a busy session in Dr. Hopper's Bacteriology Laboratory.



## 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

"Going toward Tarboro?" asked the hitch-hiker for whom I stopped on the road between High Point and Greensboro.

"I'm going as far as Chapel Hill," I replied. "Do you live in Tarboro?"

"I did till three years ago. I was born and raised there, but I ran away when I was fifteen years old. Now I'm going back. I'm coming in from California. I've been out there studying the country."

"What did you learn on your trip?" I asked him.

"I learned it's a good thing to get back home."

"Are you broke?"

"Not exactly. I had two dollars and a half when I left Tarboro, and I had three dollars and a half when I left California. I still have one dollar.

"Oh, it's easy to get along in this country," he continued, "if that's all you want to do. Folks will ride you, feed you, and put you up for the night if you just don't make them mad. I made the trip across in two or three hops with folks who were going a long way at the time. It was the same way coming back. Sometimes I had to wait for a few hours and spend my own money for food. The way to do when you have to pay for your food is to stay out of restaurants and hotels. Go to some old family style boarding house. You can fill up there for a whole day on fifty cents. I left California three days ago and it hasn't cost me but two dollars and a half to come this far."

This was during the bottom of the depression. "What a tribute," I thought, "to the good nature of Americans. What a sign of their nobility and courage!"

"What were you looking for in California?" I asked.

"I was looking for a better break than I seemed to find in Tarboro. I was tired and mad with my home, with school, and with all the folks. I just got on the road and kept going. That's the only reason I got to California. I just wanted to run away. I thought after a while I might get some sort of a job, but I didn't know anything to do. I never had any training in any-



thing. I found out there was no better break in California than there had been in Tarboro."

"What was the trouble?" I asked.

"Me!" he said with a grin, "me in Tarboro, me in California. You see, I was running away from things, but I carried myself with me everywhere I went. I found out folks were pretty decent but that I stood in my own way because I got up things in my own head and then charged them to the folks I was with. They didn't have anything against me. I just thought they did.

"I found out I had to learn to live with myself and I found out home's the best place to do it in."

Will Rogers used to say that college was a fine place because it got a boy away from home till he got through the argumentative stage. No college teaches a more valuable lesson than my hitch-hiking acquaintance had learned on his Odyssey. I hope he framed his dollar of profit and kept it as his diploma.

I was returning from a speaking trip when I picked up the hitch-hiker, and when he got into my car I was running over in my mind the doctrine of what I had been trying to say; namely, that opportunity and enjoyment lie, not over the hill and far away, but close to each man, in himself, with his neighbors, and in the providence of God, if he is not too bored, too embarrassed, too scared by his own subjective notions to see them. I have seldom had my speech repeat itself back to me from such a first-hand background of experience, observation, and self-analysis, though I see illustrations of it every day.

A drunk man who got all balled up in trying to tell another man how to get from the filling station to the drug store finally concluded:

"Pardner, you can't start nowhere from here. You got to go somewhere else to get a start."

My hitch-hiker did go somewhere else. But he found that his start was at home and in himself.

### Training School for North Carolina War Records Collectors

North Carolina learned a lesson from the Mecklenburg Declaration of Independence; she will not again lack records of the deeds of her native sons.

At the Institute of Government in Chapel Hill on August 18, 1943, at

10:30 a.m., the School for Collectors and Assistant Collectors of War Records, conducted by the North Carolina Office of Civilian Defense, was held with Dr. Christopher Critten-den, Secretary of the State Department of Archives and History and

Coordinator of War Records for OCD, presiding.

Among the seventy persons present were representatives of the National, Regional, and State Offices of Civilian Defense, the Institute of Government, the State Department of Archives and History, the State Committee on Conservation of Cul-

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# North Carolina Recreation

## State Committee Adopts Broad Program

Recreation as well as work is necessary to preserve the balanced individual. We are all familiar with the need for the clinking chain behind a truck to release static electricity. Are we as familiar with the need for recreation to release potentially dangerous stresses within the individual?

Ball games and such sports as wrestling are the best known form of recreation. The opportunities offered the growing child in contact games for physical, mental, and social development are rather generally recognized. The coordination of eye, ear, and voluntary muscles developed thereby, the mental judgment and rapid decision inherent therein, and the behavior adjustments growing out of sacrificing self to attain team play result in physical self-confidence arising from the give-and-take of such sports as well as from increased physical, mental, and social growth. We all admire the fellow who can "take it" as well as "dish it out."

For a while in 1939, 1940, and 1941, the Nazis and the Japs had us wondering if ruthlessness were not more effective than the spirit of "the playing fields of Eton." However, the English took it on the chin, but did not give up. Many believe that England's staying power was an attitude of mind acquired by her leaders through the give-and-take of sports, but even if this conception is wrong, sports in a properly rounded recreation program are a major factor in providing healthful activity in wholesome surroundings for that group which needs most to be provided with facilities for a sound and energy-using occupation—our young people.

The old adage, "The devil finds work for idle hands to do," has stood the test of time. The positive recreation activities of a sound program serve to occupy idle hands and check negative recreation such as drunkenness and prostitution. Juvenile delinquency decreases where a positive program of recreational activities provides pleasant occupation in

healthful and wholesome surroundings. "Nowhere to go and nothing to do" is an especially dangerous state of mind for immature young people in a world unsettled by war.

The growing realization on the part of law enforcement agencies, parents, teachers, and industrialists of the importance of recreation has aroused interest in organized recreation throughout the state and nation. In North Carolina Governor Broughton, after calling in Roy McMillan, State Director of OCD, and Stewart Woodward of F. S. A. for study and discussion of recreational problems, has appointed a State Recreation Committee. At its second meeting held at the Institute of Government in Chapel Hill on August 3, this committee, under the chairmanship of Russell Grumman, Head of the Extension Division of the University of North Carolina, developed through committee reports and discussions a program to meet the recreation needs of the people of North Carolina—children, youth, adults, and elders; folk of all races and creeds; of every economic level and social status. The Committee's program includes games, but its scope is far more than a sports program and includes hunting, fishing, camping, hiking, gardening, music, dramatics, fine arts and crafts, reading, story telling, movies, and the radio. Such a program through creative work develops a variety of skills, as well as increases appreciation and enjoyment of the work of others; offers opportunities for developing ease in working with others and making adjustments; gives a chance for quiet reflection and contemplation; and insures enjoyable experiences—a proper chain behind the truck.

The Committee's interest and responsibility did not stop with the forms of recreation, but included an analysis of existing facilities and specific needs. The program of the Committee looks to the procurement of adequate facilities such as national and state forests and parks, camping facilities, play lots, neighborhood playgrounds, play fields, parks, com-

munity centers, and materials and facilities for those with a particular interest. The Committee is aware of the importance of such natural forces for recreation work as our churches and schools, nor is the Committee forgetful of the commercial recreation such as the movies and the radio. The committee was also conscious of the need for a definite plan to provide an adequate program and adequate facilities of recreation for: (1) negro citizens, (2) rural communities, (3) industrial groups, (4) tourists, and (5) institutions.

In addition to the problem of completing the state committee's own internal working organization, the principal organizational problems facing the committee were: (1) the forming of legally recognized recreation committees for counties, cities and towns (2) the providing of trained recreational leaders in every part of the state (3) the coordinating of the committee's efforts with the efforts of interested Federal agencies, and (4) the solving of the interlocking problems of legislation and the financing of recreational programs.

The state committee has accepted as its immediate concern and responsibility the large number of units of the armed forces and the tremendously increased industrial war plant population now in North Carolina. The aim of the Recreation Committee, however, is not limited to immediate problems, for the committee adopted a twenty point program to provide wholesome recreation activities for the future. The soundness and breadth of the plan, the foresight and interest of the planners, and the enthusiasm and drive of the committee focus in the person of the committee's Executive-Secretary Harold D. Meyer of the University of North Carolina. Harold Meyer, through Russell Grumman, Head of the Extension Division of the University, is now taking to the State the work of the committee. Acting with Harold Meyer and Russell Grumman, Albert Coates, Director of the Institute of Government, is providing the services of the Institute staff for the training program, for the preparation of a guidebook, and for the study of the legal aspects of providing recreation in the counties, cities, and towns of North Carolina.

# Gas Specialist School

*War Gases on the Home Front*



Making war gases.

On August 5th, 6th, and 7th a school for the instruction of senior Gas officers, assistant Gas officers, and Gas Reconnaissance Officers was conducted at the Institute of Government in Chapel Hill, N. C. All arrangements for this three-day school were made by Dr. Haywood Taylor, War Gas Consultant for North Carolina, and all facilities of the Institute of Government were made available by Albert Coates, coordina-

## OCD and the Army Demonstrate the Making and Handling of Gases.



Decontamination squad.

tor of Training. The purpose of this school was to furnish instruction to these gas officers about the gases and about their duties.

Each man was subjected to the ordeal of a tear gas chamber, a mustard gas sample on the arm, and many personal contacts with gases



Leaving tear gas chamber.

released by exploding gas shells. The quality of the instruction was characterized by up-to-the-minute contact with war-gas studies, by completeness on the theoretical side and on the practical demonstration side. Equipment for making gases, for demonstrating gases, for decontaminating gased areas—all were brought here by the army, all were explained to the gas officers, all were actually used by the gas officers.

Charles H. Murchison, Regional Director, Jerome Conner and Sollace Mitchell, Assistant Regional Directors, R. L. McMillan, State Director, and R. W. Martin, Assistant State Director, attended.

Between June 23 and July 8, around 1200 citizens, law enforcement officers, and Office of Civilian Defense officials attended one-day dim-out schools conducted by Colonel William S. Pritchard at Morehead City, Beaufort, Harker's Island, Atlantic, Ocracoke, Wrightsville, Carolina Beach, Southport, Elizabeth City, and Manteo (for Manteo and Hatteras). These schools were planned by Colonel Pritchard, the Commanding Officer of Internal Security, District No. 2, with the support and cooperation of the Institute of Government and the North Carolina Office of Civilian Defense. The schools were conducted with the realization that, unless the people residing in the coastal area know and understand the army regulations and restrictions, and know the part that they are individuals are to play in the event of an air raid, a landing party, or the appearance of saboteurs, it is impossible to secure their full cooperation.



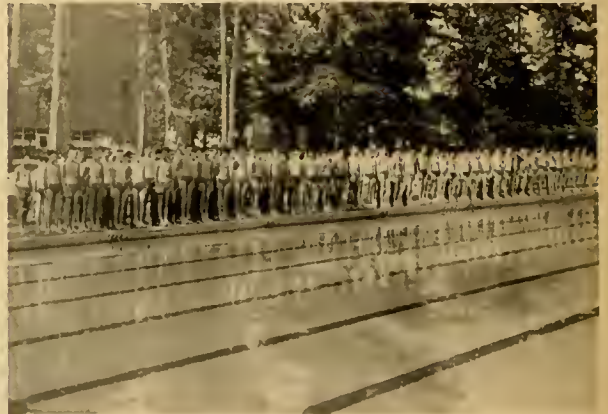
# Boy's State Helps Make State's Men - - -



Pictured above on the steps of the Institute of Government building are the 150 high school juniors and seniors from all sections of the state who constituted the 5th annual TAR HEEL BOYS' STATE, sponsored by the AMERICAN LEGION and conducted for the Legion by the INSTITUTE OF GOVERNMENT of the University of North Carolina during the week of August 22nd-29th.



This year the Institute called upon the U. S. NAVY PRE-FLIGHT SCHOOL at Chapel Hill to participate in the Boys' State program to round out the picture of 1943 government in action. Lt. Commander James P. Raugh, executive officer of the Pre-Flight School, welcomed the boys for the Navy.



The boys were up and in the University's new outdoor pool for that morning dip by seven o'clock every morning. It was a little cold, but they liked it.



Carrying out the aim of Boys' State—to present a picture of government in action—the Institute of Government devoted the mornings to governmental instruction by staff members and by the men actively engaged in government, such as John Kerr, Jr., Speaker of the 1943 House of Representatives.



As American as these North Carolina boys is the watermelon they are shown eating here in one of the University dining halls. No roll call was necessary at meal time.



The Pre-Flight School gave very generously of its time and effort to Boys' State. Here the boys listen to the dots and dashes which may mean so much on the high seas. Such activities as these were supplemented by a well-rounded film program.



The members of Boys' State learned first-hand from a Navy expert just what is meant by "hand-to-hand." Serviceable holds, and whether a thumb or a finger is better for gouging out eyes, were demonstrated.



One of the best builders of "The Winning Spirit" which the Pre-Flight Schools are instilling in the Navy's fliers today is the obstacle course. Twice around was enough for the hardest of the boys.



Navy training rifles seem to lend a seriousness of expression befitting the times to the faces of the boys as they get a taste of the manual of arms.



By the end of the week Boys' State had divided into two parties, elected its own Governor, Lieutenant Governor, and other state officers, and engaged in a formal legislative session. The officers are shown above.



Commander John P. Graff, Commanding Officer of the U. S. Navy Pre-Flight School at Chapel Hill, who made possible his command's participation in the Boys' State program, and Russell M. Grumman, Director of the University Extension Division, who arranged the feeding and housing of the boys, congratulate Governor Elwood Coley as he receives his certificate at the final exercises.



Lt. R. E. Curry, whom Captain Graff designated as coordinator for the Pre-Flight School, and Clifford Pace, Assistant Director of the Institute, and Director Albert Coates designated as coordinator for the Institute, shake hands at the close of a busy week.

# Clerks of Superior Court

## Raleigh Host to Annual Convention

Approximately seventy-five persons attended the annual convention of the Association of Superior Court Clerks held in Raleigh on July 6, 7 and 8. The convention was called to order in the ballroom of the Carolina Hotel at 8:00 p.m. on July 6 by the President of the Association, Mr. George R. Hughes, Clerk of Jones County Superior Court. The first evening was devoted to the preliminaries of hearing announcements by the President, answering the roll call, registering, and hearing the reading of the minutes of the last meeting.

The convention got under way the following morning at 10:00 o'clock when the Clerks were given a warm welcome to the City by Honorable Graham H. Andrews, Mayor of Raleigh. Mayor Andrews pointed out that official Raleigh was made up of people from all sections of the state, and that any clerk could be certain of finding someone in Raleigh who came from his own locality. Response to the address of welcome was made by the President.

Honorable Josephus Daniels, Secretary of the Navy during the first World War, former Ambassador to Mexico, and publisher of the *Raleigh News and Observer*, was introduced as a special guest. Mr. Daniels talked of the duties and responsibilities of office-holders, especially in this country which is one of the very few countries of the world where the body of the people have a real right to select their officials. He stated that during the course of his life he had had an opportunity to view office-holders both from the viewpoint of one in office, when he had found himself the target of criticism, and from the viewpoint of one on the "outside," when he had "sometimes" given voice to some little criticism. He held that, as "courtesy is the hall-mark of a gentleman," it is equally the hall-mark of a good public official. Warning of the tendency of some office-holders to forget that their function is to serve the people, and of thinking of themselves as being "above" the public, apart

from the people and privileged characters, he recalled that Bryan had stated, when he was nominated for the Presidency in 1896, that if elected he would regard himself as a hired man of the people. At that time a good many people openly objected to such a concept of public service, but Mr. Daniels asserted that the idea of being a public servant was the true conception of the position of an office-holder. He closed his address by praising the high average calibre of public officials found throughout the state.

Judge J. Paul Frizzelle, Resident Judge of the Fifth Judicial District, deplored the fact that successive legislatures have so multiplied the ministerial duties of Superior Court Clerks that they have too little time left to perform their many important judicial duties. He stated that this situation was further aggravated by the failure of many boards of county commissioners to provide adequate clerical assistance for clerks. He expressed a conviction that it was an extravagance of the worst sort to force a clerk to spend a large part of his time doing purely clerical work when so many important matters of a judicial nature are crying for the personal attention and best energy of the Clerks. The jurist stated that many of the ministerial duties that had been dumped in the laps of the Clerks could just as well be handled by other offices, leaving more time for the Clerks to discharge their primary duties.

Judge Frizzelle noted that cases involving orphans and otherwise helpless and defenseless children were increasing in nearly every county, and that looking after the welfare of such children was one of the heaviest responsibilities entrusted to the Clerks, and the very nature of the cases and of the subjects called for the highest order of intelligence and the most thoughtful exercise of judicial powers. As the Clerk of Superior Court is the protector of the interests of widows and orphans, he should closely scrutinize all applications for letters of administration

PEYTON B. ABBOTT

Assistant  
Director  
Institute of  
Government



and guardianship with respect to the fitness, honesty and ability of the applicant. Judge Frizzelle closed his address by warmly commending the Clerks for their good record of fidelity to their duties, especially with respect to matters concerning fiduciaries.

Honorable Victor S. Bryant of Durham was introduced by W. H. Young, Clerk of Durham County Superior Court. Mr. Bryant discussed the fiscal system and financial policies of the state, with especial reference to the work of the Budget Commission and the Budget Bureau. He pointed out that the Budget Commission is an advisory committee on fiscal affairs and has the job of estimating in advance the State's revenues for a coming biennium. These estimates, together with recommendations for appropriations, must be prepared and ready by the time the General Assembly convenes in January every two years. They are usually made during the preceding October, November and December; so that forecasts really have to look ahead over two and a half years. He stated that there had been some criticism regarding occasional inaccuracies in the estimates, especially during recent years when rapidly changing economic conditions have prevailed. However, he asserted that over the past fifteen years, the overall estimates had missed the actual revenues realized by only 1½%.

Mr. Bryant explained that the function of the Budget Bureau was the supervision of the spending of the money that was appropriated for the various State Departments. He stated that the Bureau had paid for itself many times; that it had saved for the State some one hundred and nineteen million dollars during the

time of its existence by cutting down unnecessary expenditures.

In discussing the Highway fund, the speaker stated that fortunately there had been accumulated and conserved a healthy surplus, and that while gasoline and license taxes had fallen off considerably, and still further decreases were in view, all highway bonds are safe and sound, and costs of administration are provided for.

Mr. Bryant warned against increasing the State's expenditures too rapidly, while the economic tide is running in, by launching upon a program of expanding service beyond the means of normal revenues. Such expenditures, he pointed out, are recurring expenses which must be met year after year, and if such expenditures are too greatly expanded, a serious problem will develop when the economic cycle turns downward. At such a time, the causes of the recession and consequent rapid decline in revenues will be beyond the control of State officials or of the citizens of the State, and a choice will have to be made between curtailing services or issuing bonds. If the latter course should be chosen, the result would be to place the State in an unfavorable position to compete for new industries because we would have to adopt unfavorable tax schedules in order to meet the bond maturities and interest. He also asserted that while he was not advocating any particular type of taxation, great care should be exercised lest our taxation place so great a burden on industry as to discourage new business from locating in our State, or to place our present industries in an unfavorable competitive position with those of other states.

State Senator John D. Larkins, Jr., of Jones County, was introduced by the President. Senator Larkins discussed the work of the committee charged with the duty of assisting the staff of the Attorney General's Office in recodifying the laws of the State, and the forthcoming General Statutes which result from the work of the Recodification Commission. He told of some of the difficulties the Commission had encountered, especially as to weeding out obsolete and unconstitutional sections and in arranging a more adequate index. He did not contend that perfection had



New officers of the Association of Superior Court Clerks: Carl G. Smith of Iredell County, Second Vice-President; Frank S. Hall of Rutherford County, President; W. E. Church of Forsyth County, Secretary-Treasurer. A. L. Hux of Halifax County, elected First Vice-President, was not present when the picture was taken.

been reached, but he expressed the belief that the new code would be generally regarded as a considerable improvement over the "concealed statutes." He also thought the clerks would approve of a provision which will place a set of the new General Statutes in each Clerk's office without cost to him.

The "Session Laws of 1943" was discussed briefly. Senator Larkins pointed out that all of the Public, Public-Local and Private Acts of the 1943 session of the General Assembly were contained in a single volume, and he praised the work of Honorable Thad Eure, Secretary of State, in connection with the publication of the new laws. He suggested that a single volume was preferable to two volumes, in which the Public Laws are separated from the Public-Local and Private Acts, not only because of the greater convenience of a single volume, but because it is often difficult to properly classify an Act as between Public and Public-Local; so that an Act one person believes should be found in the volume of Public Laws might be classified and published as a Public-Local Law.

Peyton B. Abbott, a member of the staff of the Institute of Government, was introduced by Mr. William E. Church, Secretary and Treasurer of the Association, and Clerk of For-

syth County Superior Court. Mr. Abbott began a discussion of "Acts of the Last Legislature Affecting Clerks' Offices and Duties," but as the program had fallen a little behind schedule, he suggested that the discussion be carried over until the following morning, which suggestion was adopted by the Association.

At 4:00 p.m. the Clerks, having accepted an invitation extended through Honorable Thad Eure, Secretary of State, were received by Governor J. Melville Broughton in his offices.

The Clerks, their wives and guests again assembled in the ballroom at 8:00 p.m. when the only business on the agenda was concerned with food and fun. Following the banquet, the program featured a quiz contest, a baffling exhibition of the magician's art, and singing by the Glee Club of the Army Pre-Flight School at State College.

The following morning, July 8, Mr. Abbott, of the staff of the Institute of Government, continued his discussion of the laws enacted by the 1943 Legislature affecting the office of clerks of the Superior Court. As each new Act was explained, there was a general discussion participated in by the clerks as to its practical effect. Following the discussion of the state-wide Acts, Mr. Abbott briefly

summarized the local Acts affecting various clerks.

*Honorable William E. Church*, of Forsyth County, Secretary and Treasurer of the Association, and a member of the Legislative Committee, reported on the legislative program for the past session of the General Assembly and led a discussion concerning the legislative program for the future. As to the program for the past session, he pointed out that the committee had succeeded in getting many of its recommendations adopted, and that as to those that failed many were rejected because of reasons other than lack of merit. As to such bills as those shortening the time for filing claims against estates, some legislators felt that the average citizen was too much occupied by world affairs at present to notice the change in a well known law, and others felt that in the absence of an urgency not apparent with respect to such laws they should not be changed while so many of our men are out of the State or not following their usual peace-time pursuits.

As to the legislative program for the future, there appeared to be general approval that bills should be proposed along the following lines:

1. An Act to authorize the keeping of a Miscellaneous Records and Index, to take care of the numerous reports and papers that the Clerk must receive which relate to no pending proceeding or litigation and which have no designated places for filing, other than "the Clerk's Office." It was pointed out that many statutes require the filing of a great many reports, certificates, bonds and other papers in the Clerk's Office, but make no provision for a filing place, or for indexing them.

2. A bill to amend the law relative to Clerk's investments, that would definitely designate permissible types of investments and relieve the Clerks of liability for losses except where there was a lack of due care or good faith.

3. A bill to reduce from 20 to 10 days the time within which the Clerk may compel a fiduciary to file his account, with provision for a 30-day grace period before the issuance of the order to compel the fiduciary to file.

4. A bill to reduce the time for filing claims against decedent's estates from 12 to 6 months, to reduce the advertising period from 6 to 4 weeks, and other reductions in time in handling estates so that they may be more quickly closed.

5. A bill to permit executors and administrators to file final accounts before the expiration of a year where there are no assets, or the only asset is a possible or actual recovery for wrongful death, and to drop the requirement for advertising in such cases.

6. A bill to permit the Clerk to appoint a "trustee" for an insane, inebriate, idiot and lunatic as well as an incompetent person over 21 years of age, instead of having to name a "guardian."

7. A bill to require a minimum increased bid in the sales of real estate either judicial in any court at law, any action in the Superior Court, or any special proceeding; under any mortgage, deed of trust, or by any person under any instrument. No definite minimum was agreed upon, but it was generally agreed that the minimum should be at least enough to cover the advertising costs of the sale and to add some increase to the former bid. It was suggested that the minimum might be set at \$20, with a 10% increase required where the sale price was between \$200 and \$500, and in cases where the sale price was over \$500, the requirement should be 10% on the first \$500 plus 5% of the excess over \$500. It was agreed that the laws relating to the sales of real estate by any person, firm, or corporation in foreclosure or other proceeding under any instrument should be clarified and rewritten so as to outline clearly and simply the entire procedure for the sale of real estate, the filing of increased bids, the filing of reports, whether public or private, so as to have a uniform procedure for all sales of real estate regardless of why or how same is being sold.

8. A bill to amend C. S. 1244 to specifically authorize clerks to charge necessary bond premiums in the bill of costs in special proceedings. It was noted that in practice such bond premiums are generally allowed as an item of expense to the commissions when they file their re-

ports, but that there is no specific authority to charge them in the bill of costs.

9. A bill to amend C. S. 6376-6380 to set a certain date by which time corporate fiduciaries must file certificates showing that they are authorized to qualify as a fiduciary without giving bond.

10. A bill to permit the issuance of an alias summons upon an affidavit showing that the original summons had been lost or upon showing some good reason why it had not been returned.

11. A bill to rewrite C. S. 65(a), which provides that sums less than \$300 owing to an intestate may be paid into the Clerk's Office. It was noted that the present law gives the Clerks very little guidance as to how such funds should be handled.

Mr. W. G. Mordecai, Clerk of Wake County Superior Court, suggested that the law should be amended so as to give all of small estates to the widow, where a man leaves a widow and children. He suggested that where the widow has to ask for her widow's allowance, her dower or distributive share, have guardians appointed for her children, and go to other expense and trouble, the small estate is either so depleted by expenses or tied up by guardianships that neither widow nor children benefit much.

#### *Officers and Committees*

Unanimously elected for the ensuing year are the following officers: President, Frank S. Hall, of Rutherford County; First Vice-President, A. L. Hux, of Halifax County; Second Vice-President, Carl G. Smith, of Iredell County; Secretary-Treasurer, W. E. Church, of Forsyth County (re-elected).

At the request of the Attorney General a committee, composed of W. E. Church, A. W. Graham, Jr., and W. G. Mordecai, was appointed to assist the Attorney General in revising the forms for reporting civil statistics.

A motion to authorize the President to appoint an executive committee to determine whether a convention would be held next year, and to make arrangements for it, if held, carried.

Reappointed was the same Legis-

*(Continued on page 21)*



# League of Municipalities

The annual meeting of the North Carolina League of Municipalities was held in Raleigh on August 11, 12 and 13, with approximately 250 delegates from sixty-odd cities and towns of the state in attendance. Also present were a number of visitors, including various state officials.

The convention opened at 4 p.m. on August 11, with registration at the Hotel Sir Walter. The remainder of the afternoon and evening was given over to entertainment including a barbecue at Pullen Park and an outdoor performance of "Heidi" by the Raleigh Little Theatre.

The following morning the delegates assembled in the Colonial Room of Hotel Sir Walter to hear various discussions of matters of interest to municipalities, with President W. F. Carr, Mayor of Durham, presiding. A cordial welcome was extended by Mayor Graham H. Andrews of Raleigh, to which President Carr responded.

Captain John F. Baldwin, Director of Training for the Army Finance School at Duke University, explained the work of the finance division of the army. He pointed out that wherever our soldiers are stationed, finance officers must be on hand to meet payrolls. Sometimes soldiers are paid in native currency, as they were at first in Iceland, and sometimes in U. S. Currency. Sometimes the payments are made in a special "blocked" currency, good only in a particular area. The device of blocked currency is used to lessen the opportunity of use being made of it by the enemy in the event of the capture of a quantity of it through a counter-attack or some other sudden movement of the enemy. Captain Baldwin stated that it is also the duty of finance officers to pay the prisoners of war, pointing out that the United States was adhering to an international agreement made at the close of the last war with respect to paying prisoners of war. He told of the training given to finance officers at Duke University and stated that it includes training in Military matters as well as in economics and money matters. There is a similar school at Wake Forest College for privates. Captain Baldwin told of

some interesting experiences of finance officers in the field. One officer wrote him that in the course of meeting a payroll for men stationed at various island outposts, he had flown approximately 3,000 miles on a single trip.

State Treasurer and Director of Local Government Charles M. Johnson spoke on "Municipal Problems in Wartime." He urged municipalities to lay plans now for repairs, replacements and building after the war, and warned that unless the cities had plans ready for themselves, the federal government would make plans for them. Although the federal government would undoubtedly have to issue a great many refunding bond issues after the war, Mr. Johnson stated he did not believe cities would have much difficulty in disposing of their bond issues.

Mr. Harold F. Alderfer, planning consultant of the American Municipal Association, spoke on "A Plan and Program for Post-War Municipalities." He emphasized the need for planning now, and suggested that no highpowered "experts" were needed for the job. He stated that city officials, together with committees from civic clubs and other interested citizens, knowing more about their city's needs and desires, could do the job better than outsiders. He stated that plans should be ready, in blue-print stage, in order to be prepared when the time comes, and to be ready to take the fullest advantage of any federal or state grants.

Following the speeches of Mr. Johnson and Mr. Alderfer, discussions were led by Mayor Henry T. Powell of Henderson and Mr. John Ward, Charlotte city councilman.

At 1 p.m. the following groups met at luncheon conferences under the following chairmen:

*Mayors and Governing Board Members.*—Mayor George W. Coan, Jr. of Winston-Salem, Chairman.

*Clerks and Finance Officers.*—George N. Earnhart, Tarboro City Clerk.

*City Managers.*—H. Rutter, Gastonia City Manager.

*City Attorneys and Judges.*—W. B. Campbell, Wilmington City Attorney.

*Electric and Water Plant Officials.*—M. Swartz, Greenville Utilities Superintendent.

*Recreation Directors.*—Oka Hester, of the Raleigh Recreation Commission.

At 4 p.m. there was a tour of the Raleigh Water Works by interested delegates, and at 5:30 President Carr and the executive committee received informally in the Mezzanine of the Hotel Sir Walter.

At 7 p.m. the delegates and visitors assembled in the ballroom of the Hotel Sir Walter for a banquet, during which greetings were extended by Governor J. Melville Broughton and an address, "British Cities at War," by Mr. Arthur Collins of London was heard.

Mr. Collins told of the hardships sustained by bombed English cities and expressed appreciation for the help this country had given. He stated that Great Britain was determined to stay in the war until victory is won on all fronts. He urged full support of the civilian defense program.

Following the banquet, the delegates, their guests and ladies attended a dance in the ballroom of the Hotel Sir Walter.

The delegates again assembled at 9:30 a.m. on Friday, August 13 for a general session at which Vice-President Earl B. Horner, Mayor of Burlington, presided. Four addresses, touching upon their respective fields and offices were delivered by the following:

Mr. Harvey R. Roseman, Raleigh District Manager, Office of Defense Transportation.

Mr. John W. Fitz, Raleigh District Priorities Manager, War Production Board.

Mr. R. L. McMillan, Director of the State Defense Council, Office of Civilian Defense.

Dr. J. S. Dorton, State Director, War Manpower Commission.

Major Charles R. Jonas, State Selective Service Headquarters.

At 11:30 the official business session was called to order, with President Carr presiding. Mrs. Davetta L. Steed, Acting Executive Secretary made the annual report, and reports were given of the discussions held by the various luncheon groups the day before. Mayor L. O. Jordan of Apex,

(Continued on page 21)

# County Officials Convene

## Commissioners and Accountants Hold Conference

With over 200 delegates from sixty-five counties, the 36th annual conference of the State Association of County Commissioners of North Carolina and the Association of County Accountants met on August 10th, 11th and 12th. A custom of long standing—alternating the meeting place between the mountains and the seashore—was this year broken as a concession to war-time gasoline and tire shortages, and Raleigh, in the center of the State, was host to this second conference in World War II.

After registration on Tuesday afternoon at the Hotel Sir Walter, President Mark Goforth, of Caldwell County, called the conference to order at 8:00 p.m. A welcome was extended to the delegates by Mayor Graham H. Andrews of Raleigh; R. E. Nimocks, County Accountant of Cumberland County, responded. The evening session was then given over to the report of John L. Skinner, long-time Secretary-Treasurer of the Association, and to addresses by Clyde A. Erwin, Superintendent of Public Instruction, and Charles A. Gillett, Industrial Forester with the Seaboard Railway.

President Goforth opened Tuesday's session with the president's address. Rejoicing in the progress which local government has made, Mr. Goforth paid high compliment to the state officials and institutions who helped make this progress possible. S. Max Washburn, Cleveland County Commissioner, continued this theme and sounded the note which most consistently ran through the entire 1943 program: there is adequate power and machinery, if the commissioners do their job right, to have a very high percentage of tax collections every year; collections are good now, due to the prosperity of the war period, but there must be no let-down.

Wake County Commissioner John Swain expressed a further welcome to the conference and made a plea to the group to apply business methods and practices in local government.

Josephus Daniels pointed out to

the delegates that the central tenets of the famous Atlantic Charter are universally applicable, to counties as well as nations—courtesy and hard work should be the keystones of the county officials' program.

State officials appearing on the morning program were: Charles M. Johnson, Director of the Local Government Commission, and W. E. Easterling, Assistant Director of the Local Government Commission, who led a discussion of the County Capital Reserve Act of 1943 and other financial problems concerning county government; and Harry McMullan, Attorney General, who commented on the functions of the Attorney General's office and on 1943 legislation affecting the powers and duties of county commissioners.

Tuesday afternoon the conference heard J. E. Haynes, newly-elected president of the County Accountant's Association, who commented on the problems which 1943 tax supervisors and officials will face, problem number one being to find a sufficient number of competent list takers, particularly list takers who will agree to get the farm census and crop report statistics for the AAA.

Dean Ira G. Schaub, head of Agricultural Extension at State College, reviewed for the county officials the work which the Extension Department is doing, and pointed out the part which county governments play in that work. Mrs. W. T. Bost, of the State Board of Charities and Public Welfare, reported to the conference on the status of county homes at present, and issued a plea that North Carolina officials come to the front in providing and remodeling its jail system. State Senator R. Gregg Cherry, County Attorney of Gaston County, finished the afternoon program with a brief address.

The conference this year voted to reduce annual dues from twenty-five to ten dollars, and passed a number of resolutions.

Tuesday evening's session, a banquet with Lester Rose, Secretary of the Raleigh Chamber of Commerce,

CLIFFORD  
PACE

Assistant  
Director  
Institute of  
Government



as master of ceremonies, was highlighted by Governor J. Melville Broughton's address.

The final session, on Wednesday morning, was given over entirely to business. The conference heard a report on the work of their 1943 legislative committee. Henry J. Vaughn, of Nash County, was elected president of the Commissioners Association for the coming year; as he took over the gavel from retiring president Mark Goforth, he stressed the collection of delinquent taxes and the protection and promotion of local government. S. Max Washburn, of Cleveland County, was elected Vice President and John L. Skinner was named Secretary-Treasurer.

After passing a motion to tender the registers of deeds of North Carolina the opportunity to come into the Association, this quiet but highly successful meeting came to a close. The naming of next year's meeting place was left to the executive committee.

## Eight Week School

(Continued from page 6)

never even seen a water purification plant. At the end of the course, however, they all felt that they had received a background which would enable any one of them to go out into any community and serve the people pure water. The health of the people was foremost in the minds of instructors and students throughout the entire course.

"This entire course of training is just one example of the type of service which the University of North Carolina through its Institute of Government is providing to municipalities of this state for the welfare of its citizens."

# The Attorney General Rules

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



Although popular interest has shifted from the local governmental units to the national and international field, it by no means follows that the problems of local officials are any less important or less vexatious. While the citizen is naturally absorbed in following the fortunes of our fighting men throughout the world, the war that has detracted from his normal interest in local affairs has brought to his local officials new problems to add to and complicate old ones.

Many of these problems are brought to light through the effort to maintain or inaugurate essential services in the face of war-time shortages of materials and supplies. The war-time shortage in personnel is reflected in an evident tendency to "double up" in local jobs and offices. For example, in response to requests for rulings, the Attorney General has recently ruled that the following are all offices within the meaning of Article XIV, section 7 of the State Constitution, so that no person may hold any two of the offices: notary public, member of a county board of elections, mayor pro tem, member of the board of trustees of the Teachers and State Employees Retirement System, deputy register of deeds, mayor, tax collector, acting chief of police, school attendance officer, deputy sheriff, assistant post-master, member of a district school committee, and probably a member of a county board of charities and public welfare. On the other hand, the Attorney General ruled that in his opinion a local adviser on the Governor's Local Advisory Council of the Unemployment Compensation Commission is not such an officer.

Old problems or new, war-born or perennial, a study of the recent rulings of the Attorney General presents a fair cross-section of the myriad of troublesome situations that confront local officials today. Herewith are published some selected digests of opinions of general application issued by the Attorney Gen-

eral during the past sixty days. The Institute of Government hopes they will be of general interest and assistance throughout the State.

## I. AD VALOREM TAXES.

### A. Matters Relating to Tax Listing and Assessing.

#### 25. Revaluations.

To F. W. Webster. Inquiry: What is the next year designated by law for revaluation of property for tax purposes, and does the law make it obligatory for county commissioners to revalue or is it left to their discretion?

(A.G.) 1945 is the next revaluation year. The County Commissioners may at their discretion determine whether real property in their respective townships shall be revalued by horizontal increase or reduction or by actual appraisal thereof, or both. The statutes further provide that if the board of commissioners neglect to provide for a general revaluation of real property in any revaluation year, such neglect shall not have the effect of invalidating existing valuations and tax levies.

#### 28. Exemptions — depots, freight warehouses, etc.

To S. R. Hoyle.

(A.G.) I am of the opinion that a railroad is not required to list depots, freight warehouses, and the real estate upon which they are situated with the local tax authorities if such buildings are necessary for the successful operation of the railroad or are used in its daily operation. Under C. S. 1613 of the Machinery Act of 1939, as amended, such property should be listed by the railroad with the State Board of Assessment.

#### 101. Listing and assessing "frozen" automobiles.

To J. H. Whicker, Jr. Inquiry: Are new automobiles frozen in the hands of dealers, subject to listing for ad valorem taxes?

(A.G.) Ch. 81, Session Laws of 1943 authorizes the county commissioners to reduce the valuation of frozen motor vehicles. However, if such reduction is not made, such vehicles are taxable at their full value. There is no authority for the complete exemption of such property from taxation.

#### 110. Listing of personal property.

To R. Roy Ingram. Inquiry: A local soft drink distributor buys soft drinks already bottled and crated from a bottler in Charlotte and hauls them to Stanley County in his trucks for delivery to his customers. He keeps a supply in his warehouse in Stanley County. He does not own the bottles and crates but maintains a deposit with the bottler to guarantee their return. The distributor lists his trucks for taxation but contends he isn't liable for taxes on the drinks. Would the distributor or the bottler be liable for taxes on this product in Stanley County?

(A.G.) Under section 801, subsection 6 of the Machinery Act, if the distributor and bottler can't agree as to which one should list the property for taxation, it may be regarded as being the property of

## HARRY McMULLAN

Attorney General of North Carolina



the one actually in possession thereof, and such person may be required to list same.

### C. Matters Affecting Tax Collection.

#### 55. Fee.

To Wade B. Matheny.

(A.G.) Where a county pays the delinquent tax collector a fee of 50c for collection of personal property and poll taxes, I am of the opinion that the county is without power to add such fee to the face amount of the tax due.

#### 75. To what property lien attaches.

To H. T. Warren. Inquiry: Do the unpaid taxes on personal property for a year prior to the year in which real estate is acquired by the taxpayer become a lien upon such real estate?

(A.G.) I am of the opinion that under Section 1401 and 1704 of the Machinery Act, relating to the time a lien for taxes attaches to real estate, personal property taxes assessed against a taxpayer for a given year do not become a lien upon real estate acquired by him subsequent to January 1 of the year for which the personal property taxes were assessed.

### E. Apportionment to the Several Funds.

#### 10. Items previously charged off as insolvent.

To Thomas P. Pruitt.

(A.G.) I am of the opinion that when taxes that have been charged off as an insolvent item are collected, they must be apportioned to the several funds for which they were originally levied and assessed, rather than be paid into the general fund.

## III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES.

### A. Levy of such taxes.

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

To Mrs. Eugene Gambill. Inquiry: Is a municipality authorized by law to levy the same tax upon beauty shops as that levied last year?

(A.G.) Section 140 of the Revenue Act of 1939 levies a state tax "for each barber, manicurist, cosmetologist, beautician, or operator in a beauty parlor, or other shop of like kind in any office, hotel, or other place." Cities and towns are authorized to levy a tax not in excess of that levied by the state. The state tax referred to was reduced from \$5.00 to \$2.50 by the

1943 general assembly. Therefore, a city is not authorized to levy a tax in excess of \$2.50 for each operator in a beauty parlor.

To Grover H. Jones. Inquiry: May a municipality levy a privilege tax on painters who may contract to work by the hour or day rather than by the job?

(A.G.) C. S. 2677 confers upon municipalities the right to levy a tax upon all "trades, professions and franchises carried on or enjoyed within the city unless otherwise provided by law." In *State vs. Worth*, 116 N. C. 1010, it is stated, "when the word 'trades' is used in defining the power to tax, the broadest signification is given to it." See also *Smith vs. Wilkins*, 164 N. C. 40; *Bickett vs. Tax Commission*, 177 N. C. 433. No State license tax is imposed upon painters, and I find no restrictions upon the power of cities and towns to levy such a tax. I am therefore of the opinion that painting is a trade, which is subject to the municipality's power to tax, and I am further of the opinion that on the basis of the painter's compensation is immaterial.

To Sam L. Byerly. Inquiry: Does the existing law in North Carolina permit the operation of slot machines?

(A.G.) Section 130 of the Revenue Act of 1939 as amended now authorizes the licensing of only merchandising, music, and weighing machines.

#### 27. License tax—motor vehicle dealers.

To Dr. J. W. P. Smithwick. Inquiry: May a municipality validly levy upon automobile dealers, who also operate service stations in connection with their business, privilege taxes under both subsection (1) and subsection (4) of section 153 of the Revenue Act?

(A.G.) While section 153 is ambiguous on this point, I am of the opinion that the tax levied under subsection (4) upon "Motor Vehicle Dealers" covers the business licensed under subsection (1), "Automotive Service Stations." It has been the uniform interpretation of the Department of Revenue that a business licensed under subsection (4) which also sells gas and oil in connection with his business as a dealer is liable for tax only under subsection (4) and not for an additional tax under subsection (1) and it is a well established rule that the settled administrative practice is entitled to weight. *Hannah vs. Board of Commissioners*, 176 N. C. 395; *Cannon vs. Maxwell*, 205 N. C. 420.

#### 74. License tax for a mule dealer.

To D. L. Ward. Inquiry: Would a person with an established place of business in county A, where he has paid the license tax under Section 115 of the Revenue Act for engaging in the business of a mule dealer, on going into county D to deliver mules to a purchaser become subject to an additional tax under Section 115 in County D by selling therein mules not taken by the intended purchaser?

(A.G.) Section 115 imposes a tax on the business of purchasing for resale. As this action took place in County A, the mule dealer could not be taxed in county D under Section 115 of the Revenue Act. However, if the sale in county D was by public auction, he would have to pay the \$100.00 tax levied on the business of selling horses and or mules at public auction.

### IV. PUBLIC SCHOOLS.

#### B. Powers and Duties of Counties and Administrative Units.

##### 7. Budget.

To Clyde A. Erwin.

(A.G.) (1) It is my opinion that a county board of education and the governing body of a city administrative unit have no right to place in their capital outlay budgets items of current expense, and as the distribution of capital outlay funds is based on budgets submitted by such units to the county commissioners for the amounts and purposes set out in such budgets, the board of county commissioners would have a right to refuse to approve the budgets until such items were removed. (2) It is my opinion that painting an old building already in use would be considered as an item of current expense, coming under the heading of maintenance of plant.

#### B. Powers and Duties of Counties.

##### 11. Over the membership of a school committee.

To A. B. Hurst. Inquiry: May a county board of education increase the membership of a school committee from three to five during a biennium?

(A.G.) It is my opinion that if the board of education appoints a school committee for a certain school district, consisting of three persons, at the time required by the School Machinery Act (Section 7), the membership of the committee could not be increased until the end of the biennium. The only changes provided for in the statute during the biennium is as to appointments to fill vacancies in case of death or resignation of a member.

##### 25. Use of county funds.

To D. H. Conley.

(A.G.) It is my opinion that under Ch. 270, P. L. 1939, a county board of education has full authority to employ an attorney as attendance officer if local funds are available for the purpose.

### CHILD LABOR

(A.G.) The owner of a cafe in which beer is sold is prohibited from working his sixteen year old daughter therein. The statutes are perfectly clear prohibiting minors under eighteen years of age working in establishments in which alcoholic beverages are distilled, sold, etc.

### V. MATERS AFFECTING COUNTY AND CITY FINANCE.

#### V. Special Assessments.

##### 1. Compromise.

To Ronald E. Finch. Inquiry: Has a municipality the power to accept the payment of uncollected sidewalk and street assessments levied in October 1923 without payment of interest and penalties thereon?

(A.G.) (1) Under C. S. 2715 it is clear that municipalities may adjust assessments for local improvements. Section 2715 provides, in part: "The governing body may correct, cancel, or remit any assessment for local improvement and may remit, cancel or adjust the interest or penalties on any such assessment." However, I do not think the governing body of a city may exercise this power arbitrarily, but rather may adjust after confirmation where there is an irregularity or error in the assessment. (See *McClester v. China Grove*, 196 N. C. 301). The adjustment should be based upon what appears to have been an error or an oversight, rather than upon a mere substitution of the judgment of one governing board for that of another.

(2) With reference to your second question, would the collection of these assessments be barred by Statute of Limitations, the Supreme Court of North Carolina in *Charlotte v. Kavanaugh*, 221 N. C. 259, held that an action to enforce the lien for public improvements, even though instituted under Section 7900 of Michie's Code, is barred after ten years from default in payment of the assessments or if the assessments are payable in installments, each installment is barred after ten years from default in the payment of the same, unless the time of payment has been extended as provided by law.

The City of Raleigh has two cases before the Supreme Court in which it is seeking to modify the rule in *Charlotte v. Kavanaugh*. It might be well to withhold action until these cases are decided.

### VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES AND CITIES

#### S. What Constitutes a Necessary Expense.

##### 5. Abattoirs.

To Jack R. Rountree.

(A.G.) In my opinion, a municipality and a county may jointly construct and operate an abattoir under authority of C. S. 2676 (m) to 2776 (q). Special municipal and county taxes may be levied for this purpose under C. S. 2776 (p). In *Moore vs. Greensboro*, 191 N. C. 592, it was held that an abattoir is a necessary expense; so that no vote of the people would be required to authorize a tax levy. A municipality may issue bonds without a vote of the people for any purpose for which it may appropriate. C. S. 2937. However, I am unable to find any statutory authority for a county to issue bonds to finance a joint city and county abattoir.

To John Kerr, Jr. Inquiry: Do the county commissioners have authority to expend money to erect an abattoir without a vote of the people?

(A.G.) Section 2776 (m) of Michie's North Carolina Code of 1939, Annotated, authorizes municipalities and counties jointly . . . to establish, maintain, and operate open-air markets, slaughter places and abattoirs. Section 2776 (p) authorizes a tax not exceeding 2c on each \$100.00 value of real and personal property which shall be collected as other taxes and kept as a separate fund for the purposes contemplated in article 11 (b) provided such a market place, etc. has been established under article 11 (b). The Supreme Court of North Carolina in *Moore vs. City of Greensboro*, 191 N. C. 592, held that the erection of an abattoir by a city for the slaughter and inspection of cattle and beef for the consumption of its citizens comes within the police power of the city for the preservation of the public safety and is for a governmental purpose. This case holds that as far as a municipality is concerned the erection of an abattoir is a necessary expense and that bonds may be issued for this purpose without a vote of the people.

#### X. Grants and Contributions by Counties

##### 21. Advertising.

To F. W. Webster. Inquiry: Do the laws of the state permit county boards of commissioners to levy any tax for the purpose of advertising the county? If so, can this levy be made without an election?

(A.G.) I find no authority in the statutes that would tend to authorize county commissioners to levy a tax for the purpose of advertising the county without an election on the question. However, C. S. Sections 2492 (e) to 2492 (k) inclusive authorize county commissioners to set apart

and appropriate from the funds derived annually from the general taxes not less than one-fortieth of one per cent or more than one-tenth of one per cent upon the assessed valuation of all real and personal property taxable in the county, such funds to be used and expended . . . for the purpose of aiding and encouraging the location of manufacturing enterprises, making industrial surveys, locating industrial commercial plants in the county. No funds may be appropriated or raised by the county until the matter has been approved by a majority of the qualified voters of the county as provided in the sections referred to.

**22. Quarters for the Farm Security Administration.**

To Thomas C. Hoyle.

(A.G.) In my opinion a county has neither the duty nor the right to rent quarters for the use of the Farm Security Administration. If the county, after making provision for the housing of its own offices, has additional room available on its own property, it would be justified, in my opinion, in permitting the use of such space by this federal agency free of rent.

**23. Ration Boards, Civilian Defense Committees, etc.**

To R. L. McMillan.

(A.G.) In my opinion, a county may not legally appropriate funds for the support or maintenance of ration boards, civilian defense committees, airplane observation posts or other war agencies, except as provided in Ch. 711, Session laws of 1943. It will also be noted that that Act specifically provides that no contributions shall be made for the compensation of members of boards of such agencies, or any panels thereof.

**24. Community Chest.**

To J. C. Brown.

(A.G.) I am of the opinion that a county does not have authority to make a contribution to a community chest in the absence of a local act providing therefor.

**VII. MISCELLANEOUS MATTERS AFFECTING CITIES.**

**K. Grants by Cities and Towns.**

**7. Advertising.**

To F. W. Webster. Inquiry: May a city or town levy a tax for advertising or promotional purposes and if so, must such tax be approved by popular election?

(A.G.) C. S. 2492 (e) to 2492 (k) provides that the governing board of a municipality or of a county may set apart and appropriate from the general taxes levied and collected an amount equal to not less than one-fortieth of one per cent and not more than one-tenth of one per cent of the total real and personal property tax valuation, to be used in promotional advertising and other purposes set out in those sections. Such appropriations, however, must be approved by a vote of the people.

**N. Police Power.**

**11. Sale of beer.**

To M. N. Folger.

(A.G.) In my opinion, a municipality does not have the power under the general law to prohibit the sale of beer within the town. However, under Ch. 339, Session Laws of 1943, the governing body of a town may prohibit the sale of beer and wine between the hours of 11.30 p.m. Saturday and 7 a.m. on the following Monday.

**20. Regulation of trades and businesses.**

To J. N. Wright.

(A.G.) Section 2787 of the consolidated statutes entitled "Corporate Powers" says: "In addition to and coordinate with the power granted to cities in subchapter I of this Chapter, and any acts affecting such

cities, all cities have the following powers:

(34) To license, prohibit, and regulate pool and billiard rooms and dance halls, and in the interest of public morals provide for the revocation of such license."

Under this provision a municipal ordinance "to provide for the revocation of such license (pool room, billiard hall, or bowling alley, etc.) and to prohibit the keeper or owner from allowing any minor under 18 years of age from entering or remaining in pool room etc., unless accompanied by such parent or guardian is clearly valid.

**LOCAL BEER AND WINE LAWS**

To Garland S. Garriss.

(A.G.) It is my opinion that a Public Local Act passed by a former session of the General Assembly making it unlawful to sell beer and wine between the hours of 6 a.m. Saturday and 12 o'clock midnight on Sunday nights is not invalidated by reason of the passage of Ch. 339, Session Laws of 1943, which makes it unlawful to sell beer and wine between the hours of 11:30 p.m. Saturday and 7 a.m. the following Monday. The 1943 Act, however, would have the effect of extending the law on selling beer and wine from midnight Sunday to 7 a.m. Monday.

**25. Police regulations.**

To Herbert Peele.

(A.G.) In my opinion, a municipality does not have power to enact a curfew law making it illegal for minors to be on the streets after a certain hour at night unless accompanied by a parent or are upon some errand or mission under the direction of a parent or guardian. There is no decision of the Supreme Court of North Carolina upon this point, and this opinion is based upon the uniform decisions of other states where the question has been passed upon, and upon the writings of recognized authorities on municipal law. (See McQuillan, Municipal Corporations, 2nd ed., and C.J., paragraph 420.)

**26. Refusal to issue a license.**

To J. W. Gordon.

(A.G.) In the absence of a special legislative act applicable to a town, in my opinion, the governing body of such town would not have the right to refuse to issue licenses to sell beer and wine if the applicants for such licenses comply with provisions of the Beverage Control Act of 1939.

To Cherry and Hollowell.

(A.G.) Where a mayor of a town declines or refuses to act as judge of the mayor's court, there is no authority under the general law that would empower the mayor pro-tem to act as judge of that court. The mayor pro tem may act as judge of the mayor's court only in the case of absence or illness of the mayor or when the office of mayor becomes vacant.

**T. City Health Matters Other than School Health.**

**1. Board of Health.**

(A.G.) Chapter 926 of the Public Laws of 1941 authorizes the governing authorities of all cities, towns, and counties of North Carolina to appropriate annually and from time to time public monies for



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Assistant  
Director  
Institute of  
Government

the maintenance and operation of boards of health which have hitherto been created and are existing as joint city and county boards of health, and this section goes further and authorizes the levy of taxes therefor. In my opinion if the joint board of health of Craven County and the City of New Bern was created and existing as a joint city and county board of health on March 15, 1941 (the date of ratification of Chapter 296 of the Public Laws of 1941), the City of New Bern has authority to appropriate monies for the board's maintenance and operation.

**X. Ordinances.**

**1. Validity of ordinances.**

(A.G.) Town ordinances using the word "penalty" instead of "fine" cannot thereby divert from the county school funds sums collected in the Mayor's court by the use of the criminal process.

**VIII. MATTERS AFFECTING PARTICULAR LOCAL OFFICIALS.**

**B. Clerk of the Court.**

**31. Qualifications for deputy clerk.**

To Cline McClure. Inquiry: May a person less than 21 years of age serve as deputy clerk of the Superior Court?

(A.G.) I am of the opinion that a deputy clerk of the Superior Court is an officer, within the meaning of Art. XIV, section 7, of the Constitution, and as such must be a qualified elector in order to be eligible to hold such office. Therefore, a person less than 21 years of age is not qualified to serve as deputy clerk of the Superior Court.

**50. Costs.**

To Sylvester Small.

(A.G.) It is my opinion that in each criminal case each and every defendant in the warrant who is convicted or enters a plea of nolo contendere and is assessed with the costs is required to pay an additional fee of \$2.00 for the use of the Law Enforcement Officers Benefit and Retirement Fund, and that a single additional cost item of \$2.00 is not to be apportioned among the several defendants who may be included in a single warrant.

**70. Entries on judgment docket.**

To N. Henry Moore, Clerk of the Superior Court.

(A.G.) I think you are quite correct in your conclusion that only matters arising during term time should be recorded on your Minute Docket. The Recording of a judgment signed by the clerk on the Judgment Docket is a proper record.

## 86. Special proceeding for partition.

To J. E. Griffin.

(A.G.) I acknowledge your letter in which you state that a special proceeding has been instituted for the sale of certain lands for partition in which there are minor defendants represented by a guardian *ad litem*; that the property has been sold several times; that on the 9th day of July, more than 10 days after the report of the sale, an offer was made to increase the bid in the amount of five per cent; that the person who was the highest bidder at the last sale demands a deed for the purchase price; that the party who wants to increase the bid feels that the land should be resold.

You are not required to confirm the sale simply by reason of the fact that the statutory time has expired in which to accept bids. In *McCormack vs. Patterson* 194 N. C. 216, Judge Brogden cited the *Upchurch* case . . . "an increased bid may be accepted by the court and a resale ordered after 20 days, provided the proposed purchaser has not theretofore moved for an acceptance of his bid." I am therefore of the opinion that notwithstanding the fact that the statutory time had expired in which to accept increased bids, if the increased bid is tendered prior to the motion for confirmation, it would be your duty to accept such tender of increased bid and order a resale of the *locus in quo*.

## 91. Juvenile Court—jurisdiction.

To W. H. Young. Inquiry: May an infant's claim for damages for a personal injury be settled in a special proceeding before the Clerk of Court, the settlement to be approved by the judge?

(A.G.) The jurisdiction of the Clerk in special proceedings is limited to such special proceedings as are created by statute. I am not aware of any statute authorizing claims for personal injuries to be settled by special proceedings, and in my opinion a clerk of court does not have jurisdiction over such proceeding.

To Charles E. Hamilton, Jr. Inquiry: Is a medical doctor's claim filed under C. S. 2479 (2) a lien on money received by the Clerk of the Superior Court or by an administrator in payment of a wrongful death judgment secured under C. S. 160?

(A.G.) In my opinion, a claim of a doctor for services rendered to the deceased is not a lien upon the recovery for wrongful death. Ch. 121, P. L. 1935 creates a lien for services in connection with the injury rendered by a physician upon a recovery for personal injury, but that Act does not apply to recovery for wrongful death. A recovery for wrongful death is for the benefit of the distributors of the decedent, and is not for the benefit of the decedent who is indebted for the medical services.

## 105. Commissions on money collected for Officers Benefit and Retirement Fund.

To L. W. Hassel. Inquiry: Is the clerk of the Superior Court entitled to 5% commissions on sums of money collected for the Officers Benefit and Retirement Fund?

(A.G.) The pertinent Section of 3903 of consolidated statutes reads: "Five per cent commissions shall be allowed the clerk on all fines, penalties, amercements, and taxes paid the clerk by virtue of his office." It will be noted that the items mentioned in the quoted section do not include cost assessed in criminal cases, and the

\$2.00 item for the Officers Benefit and Retirement Fund by Chapter 145 of the Session Laws of 1943 is an "additional cost." On the other hand, the \$2.00 process tax provided for by section 7880 (88) would be covered by the quoted section of Section 3903 of the consolidated statutes.

## 107. Commissions on fines and penalties.

(A.G.) In view of the decision of the Supreme Court in the case of the Board of Education vs. High Point, 213 N. C. 636, there is just no way in which the clerk can collect and receive his commissions on fines and penalties as that part of the statute C. S. 3903, would be violative of the Constitution Art. IX, Section 5, as construed and applied in the High Point case.

## Acknowledgments by Army, Navy, and Merchant Marine Officers.

(A.G.) Chapter 159 of the session laws of 1943 amends section 3294 of the Consolidated Statutes relating to those persons before whom acknowledgments may be made, to include any officer of the Army or Marine Corps of the rank of captain or higher, or any officer of Navy, Coast Guard, or the United States Merchant Marine having the rank of lieutenant, senior grade, or higher. No official seal shall be required of said military, naval, or merchant marine officer, but he shall sign his name, designate his rank, give the name of his ship or military organization, and date.

To N. W. Shelton. Inquiry: Is the clerk of the Superior Court permitted to deduct his commission on fines from the fines for the school fund before he deposits them to the credit of the school fund or should he add the commission to the court costs?

(A.G.) In *State v. Maultsby*, 139 N. C. 503, it was held that fines against persons being punished for violation of the criminal law, are imposed in favor of the State and belong to the State. The General Assembly cannot appropriate the clear proceeds of fines to any other purpose than the school funds. The Court defines "clear proceeds" as the total sum less only the sheriff's fee for collection. In the case of *Board of Education vs. High Point*, 213 N. C. 636 a 5% fee charged and deducted from the amount of fines collected by the municipal court of High Point, was recovered by the Treasurer of the Board of Education and the decision in *State vs. Maultsby* was reaffirmed. It is therefore my opinion that the clerk of the Superior Court is not entitled to deduct any commissions from amounts collected on fines. In addition, I know of no statute that authorizes such clerk to require a defendant to pay an additional amount to cover his commission. The defendant is only required to pay the amount of the fine as set out in the judgment of the court.

## C. Sheriffs.

## 8. Expenses.

To W. C. Berry. Inquiry: Is the sheriff entitled to the mileage fee referred to in Chapter 541 of the Public Laws of 1939 as a matter of right irrespective of whether the defendant is found guilty and is required to pay the cost?

(A.G.) It seems to me that the five cents per mile provided for cannot be considered a fee or as a part of the cost to be included in the cost, but is an allowance to the Sheriff for expenses incurred by him in the transportation of prisoners. I am of the opinion that he should receive

this mileage allowance irrespective of the final disposition of the case and that it should be paid him by the county.

To John Mayo. Inquiry: Is the driver of a truck owned by the Maritime Commission exempt from complying with provisions of the North Carolina speed restrictions as set forth in the Motor Vehicle Act?

(A.G.) There is no provision in the Motor Vehicle Act (Chapt. 407 of the Public Laws of 1937) which would exempt such a driver. It is, however, possible that the Maritime Commission or the Office of Defense Transportation issued a special permit authorizing this driver to travel at a speed in excess of the state speed law. If this is true, it is my opinion that the North Carolina speed restriction would be inoperative, since the Maritime Commission and the Office of Defense Transportation are Federal agencies. (See *Ex Parte Willman*, 277 Fed. 822). In the absence of special authority to exceed the North Carolina speed limit, the driver was under compulsion to operate the vehicle within the speed limits prescribed by the Motor Vehicle Law.

## 12. Duties.

(A.G.) It is my opinion that when a dog not wearing the required rabies vaccination tag is discovered it is necessary that the sheriff give three day's notice to the owner before a valid warrant could be issued against the owner for his failure to have the dog vaccinated.

## D. Register of Deeds.

## 23. Compensation.

To George L. Green.

(A.G.) Where a local Act sets the salary of a Register of Deeds and provides: "This salary shall be the full compensation of the said register of deeds and shall be in lieu of all fees whatsoever," I am of the opinion that the register of deeds would not be entitled to extra compensation for acting as clerk of the board of county commissioners as this is one of the statutory duties of register of deeds.

(A.G.) Marriage by proxy, absentee marriage, by telephone, radio, etc. may not be celebrated in North Carolina, but if such a marriage were consummated in a state recognizing such marriage, it would be recognized in North Carolina.

## L. Local Enforcement Officers.

## 13. Illegal possession of alcoholic beverage.

To J. A. Shaw. Inquiry: Is it necessary to have "Home Brew" analyzed in order to determine its alcoholic content before a valid conviction can be had on the charge of having home brew in his possession for the purpose of sale?

(A.G.) You state that certain officers might testify that they have an opinion satisfactory to themselves that this drink was an intoxicating alcoholic beverage. Such testimony might be sufficient to sustain a conviction if the officer had sufficient factual basis for his opinion. However, unless the alcoholic content is actually known, a sufficient basis for an opinion is difficult to find. The safe way seems to be to have an analysis made in order to determine definitely its alcoholic content.

**S. Mayors and Aldermen.****9. Mayor's court—how constituted.**

To Emmett H. Bellamy. Inquiry: May a mayor of a town set up a mayor's court without the approval of the board of aldermen, and if so, may he retain for himself the fees provided for justices of the peace? (A.G.) C. S. 2634 provides: "The mayor of every city or incorporated town is hereby constituted an inferior court and as such court such mayor shall be a magistrate. . ." In view of the language of the statute, I am of the opinion that the board of aldermen has no duties in connection with the setting up of a mayor's court.

As to whether the mayor may retain the fees provided under C. S. 2634, I find no case specifically passing upon that question. However, in the light of State vs. Thomas, 141 N. C. 792, holding that among the duties of a mayor is that of acting as a conservator of the peace with the jurisdiction of a justice of the peace in criminal matters, I am of the opinion that a mayor is not entitled to retain fees under C. S. 2634 for himself where a local act places him on a salary basis and is silent upon the matter of fees, as a part of the duties for which he is paid a salary include the duties of a conservator of the peace. **30. Liabilities and penalties.**

To Gordon W. Winkler, Mayor. Inquiry: What would be the liability of the mayor and board of aldermen of a town for permitting fire equipment to answer calls outside of town, especially in the event a fire should break out in town while the equipment was on an outside call?

(A.G.) I find no case in our reports dealing with the liability of the mayor and board of aldermen under such circumstances, but upon general principles I am of the opinion that the officials would not be liable unless they were guilty of gross negligence as in wanton disregard of the public interest, amounting to bad faith. Our court decisions indicate that a municipal corporation is not liable for failure to provide and maintain fire fighting equipment, on the theory that this is a governmental function. (See *Howland vs. Asheville*, 174 N. C. 749.) I would suggest that a town which sends its fire-fighting equipment beyond the corporate limits, consider taking advantage of Ch. 364, P. L. 1939 if it has not already done so.

**T. Justices of the Peace.****10. Jurisdiction.**

To Phillip L. Brockwell. Inquiry: Does a justice of the peace have the power to try a case of speeding on the highways? If not, can a Superior Court judge, judge of a recorder's court, or a clerk of either court give a justice of the peace the right to try a speeding case?

(A.G.) A justice of the peace does not have final jurisdiction in cases involving a breach of the motor vehicle laws relating to speed, and I know of no statute which authorizes a judge of any court to confer this power upon a magistrate. A magistrate, of course, has ample jurisdiction to conduct a preliminary hearing in such cases.

**16. Duties.**

To Ralph L. Roper.

(A.G.) It is the duty of justices of the peace to assess, collect and remit monthly to the clerk of the Superior Court the additional costs provided by Ch. 349, P. L. 1937 as amended, for the benefit of the Law Enforcement Officers Benefit and Retirement Fund. The only duty of the Clerk of Superior Court in connection with such costs is to remit them promptly to the State Treasurer. A justice of the peace, however, may be removed from office if he fails to comply with the provisions of the Act.

**League of Municipalities**

(Continued from page 15)

Chairman, reported for the Legislative Committee.

Following the reports of committees, and just before adjournment, the following officers were elected for the ensuing year:

Earl B. Horner, Mayor of Burlington, President

Walker Lyerly, Mayor of Hickory, First Vice-President

Henry T. Powell, Mayor of Henderson, Second Vice-President

R. M. Cooksey, City Manager of Thomasville, Third Vice-President

**Court Clerks**

(Continued from page 14)

lative Committee which served during the past year. That Committee is composed of J. Lester Wolfe, J. N. Sills, A. W. Graham, Jr., W. E. Church, W. G. Mordecai, Wade H. Lefler, Joseph P. Shore, J. F. Barnden, E. O. Falkner and A. L. Hux.

After extending a vote of appreciation to Clerk W. G. Mordecai of Wake County and his staff, and to others who had assisted in arranging the program and entertainment, and a rising vote of thanks to the outgoing officers, the convention adjourned.

**Ladies' Auxiliary**

Concurrently with the meeting of the Clerks of the Superior Court, the Ladies Auxiliary held their annual meeting in the City of Raleigh. Besides their business meetings and their participation in the social features of the Clerks' convention, the ladies visited many places of interest in the city. Mrs. Broughton entertained at tea in the Governor's Mansion to provide one of the highlights of the meeting.

Mrs. George Hughes, wife of the Clerk of the Superior Court of Jones County, was elected president to succeed Mrs. W. E. Church, wife of the Clerk of the Superior Court for Forsyth County. Other new officers are: Mrs. J. F. Harrington, Vice-President; Mrs. Carl Smith, Secretary; Mrs. W. C. Watts, Treasurer; and Mrs. E. C. Byerly, Historian. The other retiring officers are: Mrs. Carl Smith, Vice-President; Mrs. Wade Lefler, Secretary; and Mrs. H. R. Thompson, Treasurer.

**War Records**

(Continued from page 7)

tural Resources, and the North Carolina Society of County Historians, as well as collectors and assistant collectors of War Records, and visitors.

After Albert Coates had welcomed the seventy visitors, Dr. Crittenden introduced each member of the group and then called upon speakers.

The principal speakers and their subjects follow:

Roy L. McMillan, "The War Records Program and Civilian Defense"; Dr. R. D. W. Connor, "The Importance of Collecting War Records"; Phillips Russell, "The County Historian and the War Records Program"; Dr. Crittenden, "Types of Records We Can Now Collect"; Miss Charlie Huss, "What We Have Collected"; D. L. Corbitt, "The Handling and Preservation of Collected Materials."

These speeches were followed by reports from several counties: Dr. Adelaide Fries for Forsyth County, on "Work Done Through the Schools"; Mrs. Marshall DeLancey Haywood for Wake, on "The Keeping of Newspaper Scrap Books"; Mrs. A. L. Thompson for Guilford, on "Soldier Scrapbooks"; Mrs. D. M. Pearsall for Rocky Mount, on "How Rocky Mount is Collecting Information on the War"; Mrs. Anna Walker for Cabarrus County, on "The Work Being Done"; Dr. George F. Taylor for Polk County, on the "Work of the Home Friendly Club with Boys in the Service"; Dr. Elvin A. Mauk, Records officer for the National OCD, on "War Records Work Done by the Federal Government."

There followed an open-forum discussion of various problems related to the collection of war records:—newspapers, other publications, scrapbooks, indexing, personal records of soldiers, pictures, posters, museum items, non-defense agencies, letters from men and women in service, records of defense organizations, radio materials, write-ups of war activities especially written for the record, such as, county histories, diaries, and personal experiences.

The talks and group discussions did much to stimulate interest in the program and to instruct those engaged in the work. Dr. Taylor urged the members present to "go home, call a meeting, and spread the information gained here at Chapel Hill."

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