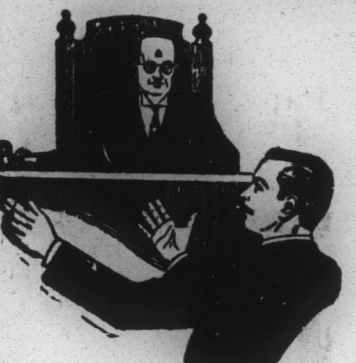


This is the Law



By ROBERT E. LEE
(For the N. C. Bar Association)

Inheritance By Murder
This is the first of a fall series of articles that will appear each week throughout the next three months. They have been written for the non-lawyer as a public service of the North Carolina Bar Association.

Joe Jones executes a will leaving all of his real and personal property to Sally Smith. Subsequently he is found murdered.

Five years later it is discovered that Sally committed the murder. She is convicted of the crime and sentenced to prison for a number of years.

Are the relatives of Joe now entitled to the property that Sally inherited from Joe?

Yes, Sally holds the property she inherited under the will of Joe upon a "constructive trust" for the persons who would have been entitled to the property if the will had been revoked.

This is an application of the general principle of equity that a person shall not be permitted to profit from his own wrong.

The murderer may be compelled to surrender the property which she has acquired to the persons who stand next in the line of succession and who would have acquired the property if the murderer had predeceased her victim.

A widow dies without a will. Her closest next of kin are two brothers and a son.

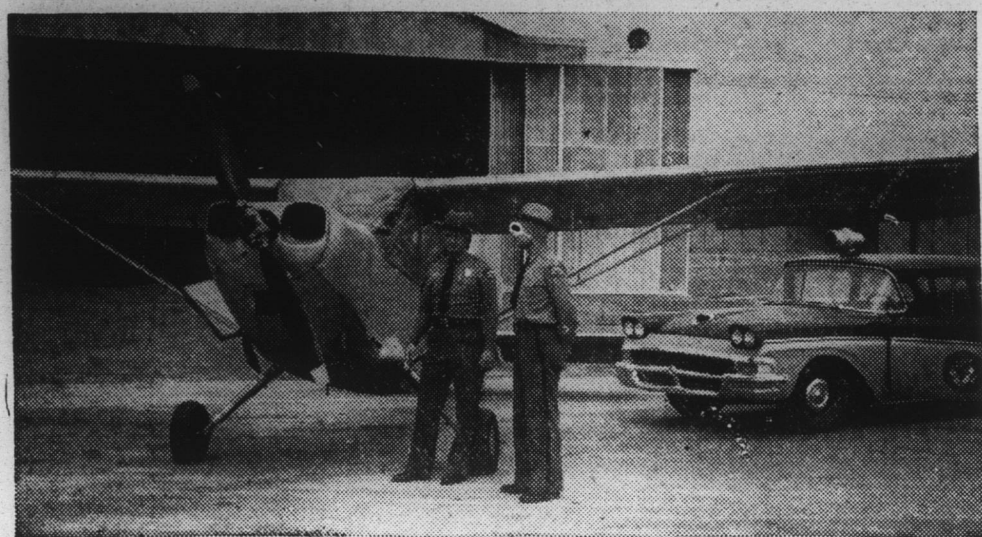
The son is convicted of the murder of his mother and sentenced to prison for twenty years. Who becomes entitled to the widow's property?

The two brothers of the widow. Where a person is murdered by his heir or next of kin, and there is no will, the murderer holds the property thus acquired by him upon a "constructive trust" for the person or persons who would have been heirs or next of kin if he had predeceased the victim.

A "constructive trust" is a legal device the courts use to prevent unjust enrichment.

A husband and wife owned real property in North Carolina as tenants by the entirety. The husband was convicted of murdering his wife and sent to prison. Who became the owner of the real property?

The Supreme Court of North Carolina said that the property was to be held by the husband as



PATROL WINGS—Raleigh-Durham airport. Col. James R. Smith (right) inspects the highway patrol's first airplane, a military designated L-5 type, formerly used as an observation craft. With Smith is State Trooper D. W. Williams of Raleigh, one of 25 qualified pilots in patrol ranks.

a "constructive trustee" for the heirs of his wife, subject to a beneficial life interest in the whole of the property for the remainder.

The husband was perpetually enjoined from conveying the absolute ownership of the land. The reason that the court permitted the murderer to have a beneficial interest for life in the whole of the property is that under the law governing a tenancy by the entirety in North Carolina the husband is entitled to the whole of the income and use during their joint lives.

Constitution Week

Continued From Page 1, Section 2

interesting to note, was largely confined to fairly substantial landowners or taxpayers.

We now come to the Revolution. The causes were political and economic. The inequities of the various means of government, taxation imposed on the people and other factors caused the resistance to star and grow.

As is usual in such cases, the radical element was the first to be heard advocating overthrow of the British rule in America. The officials were generally pro-British, the small farmers and the laborers were not particularly interested as they had no voice in the limited local government. But the merchants and others hit by taxation joined with the radicals and organized committees which in 1774 sent delegates to Philadelphia. This meeting came to be known as the First Continental Congress. It had no power but it accomplished one important thing—it passed a resolution calling for delegates from the various states to meet in Philadelphia in May, 1775.

By the time the Second Continental Congress met the colonies were aflame with revolt. The skirmishes at Lexington and Concord were already history and Bunker Hill was in the offing. The British government had forced the issue and in so doing had lit the spark of resistance in the people. The Second Continental Congress met at the opportune time to take control of the situation and to organize the resistance. Had there been no such body at that particular time it is very probable that the revolution would have been crushed before

it got started. However, despite the fact that it had no legal authority, it stepped into the breach, organized an army, appointed Washington as commander, borrowed money, entered into diplomatic negotiations, issued paper currency, directed the prosecution of the war, and did these things well enough to win the independence of the U. S.

It then urged the various colonies to frame and adopt permanent state Constitutions. On July 4, 1776, it issued the renowned Declaration of Independence which proclaimed the existence of the U. S. of America as a free and independent political community.

On July 12, 1776, it began the consideration of a Constitution for the U. S. The first draft remained in the hands of the Congress until November 15, 1777, when it was referred to the states for ratification. The final ratification took place in March, 1788 and this first Constitution became known as the Articles of Confederation.

In the meantime all of the States except Conn. and R. I. had adopted State Constitutions. The most striking difference between these new constitutions and the Colonial system was the shift of power from the governor to the legislature. The legislatures took over almost everything. There was an officer known as governor but his powers were so limited as to make him almost powerless. Some of the legislatures were composed of only one body but the majority had two houses similar to our Senate and House of Representatives. Some changes were made in the right to vote. N. C., for example, did away with property owning requirements while Mass. made her property

owning requirement twice what it formerly had been.

The U. S. did not fair well under the Articles Confederation. They were defective in that they did not give the central government sufficient authority to carry the new nation through the severe economic crisis and the general economic disorders which followed the war. The powers delegated to the central government were few indeed. It had no power to tax and the only money available was that given by the states. It likewise had to depend upon the various states for an army. No executive or judicial machinery was provided for.

Business slumped in this new world, money became valueless, property rights were jeopardized and violence broke out. Something had to be done and no one knew the answer. Efforts to amend the Articles of Confederation failed because all of the 13 states had to ratify an amendment before it became effective and this sort of concerted action was impossible.

Chance played a large part in the beginnings of the steps which led to the adoption of our present Constitution. A quarrel broke out between Md. and Va., over commerce on the Potomac River and Chesapeake Bay. A commission met to settle this difficulty. In the course of the meetings of this Commission there naturally was a great deal of talk about the general state of the union and the committee was of the opinion that much good might be accomplished by a general conference of the states on the subject of commerce. They returned to their various states and advocated such a meeting. Only 5 states responded and sent 12 delegates to Annapolis for this meeting. Noth-

ing could be done but it is interesting to note that among these delegates were James Madison, Alexander Hamilton and Edmund Randolph. They, before adjourning, called on Congress to summon a convention of delegates from all the states to meet in May, 1788, at Philadelphia for the purpose of framing amendments to the Articles of Confederation which might make that instrument effective.

The work of the Philadelphia Convention of 1787 is best understood when you take into consideration the fact of the political experience behind it. There was a century and a half of political trial and error before the Revolution, six years of war time government and six years under the Articles of Confederation.

All of this experience contributed to the making up of our Constitution. The delegates did not have to rely on ancient history—they had practical wisdom from the recent history of their own people. The principles tried in their own states were already proven or disproven.

The Constitution speaks for itself and I will not go into the instrument itself other than to say that it envisioned a government of law executed by three governmental branches—legislative and judicial and executive. That it was written with the thought in mind that the sources of law were right reason and just principles.

The history of the Constitution is not complete, however, without the story of its adoption. Twelve states sent delegates only R. I. refusing to be a party. Seventy-three delegates were appointed, 55 attended, 39 were present at the close of the convention and 39 signed the Constitution. Washington was elected Chairman. A number of plans were presented, the plan known as the Va. plan became the basis of the new Constitution, the delegates having decided that it would be better to adopt a new constitution rather than attempt to patch up the old Articles of Confederation.

The proposed Constitution was sent to Congress with the suggestion that it be sent to the various state legislatures and that when nine states had ratified it it would go into effect. This

scheme of ratification was adopted. There was great opposition to the Constitution but the ninth ratification by New Hampshire occurred on June 21, 1788. N. C. and R. I. held out until after the Constitution was in effect. These two states felt that there was too much central power authorized by this Constitution and held out until assured of the limitation of central authority by the Bill of Rights.

It is interesting to note that apparently none of the framers of the Constitution thought their work would be permanent. They felt that it had qualities which would carry the new nation through the years of organization and adjustment peculiar to a new nation. However, they wrought better than they thought, and the instrument they created is now considered to be probably the soundest governmental authority in existence today.

News About Clubs In Chowan County

By MAIDRED MORRIS
Home Demonstration Agent

The home demonstration club women in Chowan County are now concluding their year's work by getting in reports on the work they have done. The various officers are completing their reports so that the new officers can take over their offices in October.

Several of the clubs have selected new officers for the next two years and I am sure they will do some fine work with their clubs. The outgoing officers have done some excellent work during their term of office. Oak Grove Community had a community picnic last Wednesday night with around sixty-five in the community present. Mr. Elbert Peele fried the fresh fish outside at the community building. Of course, he had the help of all the other men. Oak Grove has such a gathering as this often during the fishing season. The club women fixed the cole slaw, tea and cornbread. After the fish and cornbread were cooked, everyone enjoyed the delicious fish supper. There is much evidence of the spirit of cooperation in the Oak Grove Community and there

will continue to be as long as they work together in their community. After the supper, the group discussed the community progress contest which is going on in their community.

Ryland Club, under the leadership of Mrs. Lester Copeland is growing by "leaps and bounds." They can boast of five new members this year. This month Mrs. Hubert Jordan joined the club. The other new members are Mrs. Melvin Copeland, Mrs. Earl Jordan, Mrs. Glenn Langley and Mrs. John Raymond Dail. These members have already become active

and are jaking part in all the club activities. Next month, each club member will carry a piece of shrubbery to the club meeting to exchange with someone. This will count on their community progress as well as making their own homes more attractive.

I hope that all of the club women are planning to enter some of their handiwork and canned goods in the County Fair. Please exhibit your best quality products.

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