



1926

## Public Utilities

North Dakota Law Review

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during the year 1926, as compared with 21,054 in 1923, or an increase of 28.3 per cent.

For the 31 States represented there were 34.1 prisoners received per 100,000 of the general population, as compared with 27.9 per 100,000 received in 1923. In other words, the number of prison admissions has increased much more rapidly than the general population.

In the 31 States covered by this statement there has been a steady increase in the number of prisoners in state prisons and reformatories, as indicated by the figures for the dates at the beginning of the three most recent years for which data is available, to-wit:

January 1, 1923 .....	47,578
January 1, 1926 .....	59,692
January 1, 1927 .....	63,828

The number of prisoners in confinement per 100,000 of the general population increased from 66.6 on January 1, 1923, to 84.1 on January 1, 1927. For the most part, also, the figures for the individual states show striking increases.

The figures given are based on reports furnished to the Bureau of the Census by the institutions, through the cooperation of the state agencies in charge of such institutions.

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### WE POINT AND VIEW

"It is easy and it is popular to ridicule and to criticize, to call attention to the law's failures, inequalities and delays, to exalt the past at the expense of the present, and to propose remedies for real or fancied wrongs, ill considered and ill-advised; it is not easy, in the conditions under which we are living, complicated and ever increasingly so, to determine upon rules of conduct to be prescribed by governing authority which shall secure to all the blessings of liberty and assure to all justice and security. To that task, in so far as in us lies, the members of this association, by our very inheritance, are committed. To that task, lawyers of America, by the oaths which they have taken, are called. In the performance of that task every lawyer, worthy of the name, has a right to glory. In the administration of the law of the land there have been failures. There have been glorious successes, too. Here and there its members have been unworthy of its traditions, but there are no names on the pages of American history that are brighter than many of those that adorn the roster of the American Bar. The years of the life of this Association represent years of service of ever-increasing value. With its great and multiplying membership, with vastly improved opportunities for conference and communication among its members, with greater realization of its own possibilities and recognition of its share in the obligations of citizenship, is it too much to hope that during the coming years its power may be greater, its influence more widely extended, its service more genuinely helpful, its accomplishment more fully in accord with the will and the wishes of its founders almost fifty years ago, not for ourselves, but for our country?"—Charles S. Whitman, Past President American Bar Association.

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### PUBLIC UTILITIES

The Village of Orville, Ohio, passed the following ordinance in 1892: "That Aurel P. Gans and Mellville D. Wilson of Canal Dover,

Ohio, their associates, successors and assigns are hereby authorized and empowered to use the streets, lanes, alleys and avenues of the Village of Orrville for the purpose of erecting, maintaining and operating electric light wire mains and apparatus complete for the distribution of electricity for light, heat and power."

Pursuant to such franchise Gans and Wilson began operation, and then later transferred and assigned the plant and franchise rights to the Orville Light, Heat & Power Company.

In the meantime, to-wit: in 1896, the Ohio Legislature enacted a law providing, among other things, that no company should place, string, construct, etc., any wire line, etc., for conducting electricity through any street, alley, etc., without the consent of the municipality.

Action in quo warranto was brought to oust the assignees from use of the streets of the Village of Orrville, in which the state courts held that while the original franchise rights of Gans and Wilson had been acquired by the Company, the transfer was invalid because the consent of the village had not been given.

The Supreme Court of the U. S., however, held: "*In Northern Ohio Traction Co. vs. Ohio*, we pointed out the state of the law in Ohio during 1892. It is plain enough from what was there said that in our view the franchise originally granted by the Village of Orrville was for an unlimited time and not subject to termination at the mere will of the grantor. The rights acquired under the ordinance of 1892 were assignable without further consent by the village. If to enforce the Ohio statute of 1896 would destroy this right, it conflicts with the provision of the Federal Constitution—no state shall pass any law impairing the obligation of contracts."—*Ohio Public Service Co. vs. State of Ohio*, 47 *Sup. Ct. Rep.* 480.

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## EVIDENCING INTEREST AND ACTIVITY

Personal letters to the President and Secretary from various members of the Committees appointed for the current year have been exceedingly refreshing to the officers and executive committee. They give evidence of interest and coming activity that augurs well for a season of progress and achievement. The President, himself, is too modest publicly to voice his keen delight at the response that has come from all quarters, but it requires only a few minutes of personal contact to observe that he is "stepping high" and watching no clock. Those who know President Lawrence personally know that he gives freely of his time and talent, and this whole-hearted expression of individual cooperation will only accentuate the "freeness" of his giving.

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## HOW FAR, OH, LORD, HOW FAR?

The recent decision of a western court, holding liable to confiscation the automobile of an innocent person, who loaned the machine to a friend, who in turn used it, but was found driving it while in the possession of intoxicating liquor, seems rather startling, to say the least, and makes one wonder if the Eighteenth Amendment to our