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COVER PICTURE

The "Trailer City" shown on the cover this month symbolizes the mixture of determination and ingenuity veterans and their families are showing in university and college towns all over the state this fall. The University of North Carolina, which provided the site, plumbing and electric connections for these trailer dwellers, found itself with over 6,700 registrants when school opened in September.

Other emergency housing arrangements at the University include construction of a number of prefabricated houses, temporary billeting of 300 men in the old "Tin Can" (formerly used for indoor track and other athletic purposes), and erection of 36 Quonset huts on concrete tennis courts.

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County Commissioners' Convention

The thirty-ninth annual convention of the North Carolina Association of County Commissioners, meeting at Wrightsville Beach September 4, 5 and 6, adopted a seven-point legislative program which they are hoping will receive favorable attention from the 1947 General Assembly. The Institute of Government is indebted to Mr. J. Caldwell McDonald, Chairman of the Association's Legislative Committee and member of the Mecklenburg Board of Commissioners, for the following statement and explanation of the legislative program, which proposes:

Commissioners' Legislative Program

1. *That the Farm Census be taken off of the work of the tax listers in each county.*

"EXPLANATION: It was not the opinion of the commissioners that the Farm Census should be done away with, but it doesn't fit into the work of a tax lister. In other words, the commissioners do not believe that with the present set up the tax listers are getting a complete listing nor are they getting a complete Farm Census. This is costing each county money and it is not giving the Agricultural Department or the state a true picture.

"2. *That in each county or group of counties which have now, or may build in the future, a tubercular sanatorium, the State of North Carolina appropriate \$1.00 per day per bed to help in the operation and maintenance of such institutions.*

"EXPLANATION: The thinking on this is that from the best medical advice obtainable regarding tubercular cases we are advised that 90% of the cure of a tubercular patient depends on whether or not the patient is happy, and if these tubercular sanatoriums are close to where the patient lives so that his family

may visit him regularly, it will be much better than having three or four large institutions in the state where families will be able to visit only once or twice per year. We realize that many counties are too small to have their own tubercular sanatoriums, but it appears that the practical solution to this problem would be for two, three or four adjoining counties to go in together to build a sanatorium to serve their area.

"3. *That tax discounts be optional with each county.*

"EXPLANATION: The way the tax books are now set up, tax discounts become effective before the books are ready. This means much extra work in the tax offices in the form of prepayment receipts, temporary entries, then permanent entries and so forth. It also seems that the collection problem in each county can be worked out and handled locally by those in the counties who know when their people's money comes in—and what is practical from a tax discount standpoint in one county is probably not practical in another. So, since this is an individual county problem, we think the state legislature should allow each county to work out its individual payment for the taxes.

"4. *That the State Highway Commission be directed by the legislature to spend one-half of its income or available funds for road construction each year to the building and repairing of roads in the state that do not receive federal aid, and that a lot of these roads before work is started be submitted to and approved by the Board of County Commissioners of each county.*

"EXPLANATION: We are thinking in this request about farm to market roads and secondary roads in each county. We are thinking about school bus routes. We are thinking about roads to churches.

We are thinking about getting the people of this state out of the mud. We believe the first duty of our Legislative Commission is to take care of their own. We also believe that the County Commissioners in each county regarding these local roads know better than the State Highway Commission which of these roads money should be spent on.

"5. *That the State Highway Commission furnish and install signs and markers for county roads, and that the names of these roads be designated by the Board of County Commissioners in each county.*

"EXPLANATION: Many of our counties are becoming so built up that the roads resemble city streets and many of the homes carry numbers. Today, all over the state, roads leading off the main highways have signs that just say "COUNTY ROAD." It means nothing if you are trying to direct a person to someone who lives on the road. This is a service we believe will mean much and will be appreciated by the people of the state if we can get the Highway Commission to comply with it.

"6. *That the act limiting the general fund to \$0.15 be amended.*

"EXPLANATION: When \$1.00 was worth \$1.00, the County Commissioners could carry on under this limitation, but now that \$1.00 is worth only \$0.35, this condition is not true and we do not believe that the law is being lived up to by many counties. Therefore, rather than force the Boards of County Commissioners to break the law or "beat the devil around the bush" some other way, the Legislature should increase this limitation to a basis the counties can live on. We suggest not over \$0.25.

"7. *That the tax set up on business concerns be changed so that someone will pay the taxes each year.*

"EXPLANATION: As it is now, a firm returns its taxes on January 1st according to the law. In May of the same year, the owner of the business sells it out. The taxes aren't due. He moves to another state. The purchaser says he didn't buy it until after January 1st, therefore, he doesn't owe this year's taxes on it, so to whom can the tax collector look for the taxes? Our thinking is that in a case like this if the taxes have not been paid by the seller, then it should be the obligation of the purchaser to pay the taxes for the calendar year in which he purchased the business."

State Treasurer Charles M. Johnson

In his address before the Association, State Treasurer Charles M. Johnson, who is also Director of Local Government, called for home rule for local government, emphasis on secondary roads in our highway program, and development of state ports. "Get the rural sections out of the mud before building highways and super-highways across the state," he said. "The man who feeds you must have access to his trading area, and to provide that the state government can do only one thing: Build roads to the farmers' front doors." He pointed to the advantages accruing to all sections of the state from a well-developed state port, and went into the question of home rule at length, declaring that the great mass of local legislation introduced at each session of the legislature should be handled by city and county governments.

Peyton B. Abbott

The problem of standardization of real estate tax assessments was outlined for the Commissioners by Peyton B. Abbott, assistant director of the Institute of Government. Excerpts from Mr. Abbott's address follow:

"Under the present Machinery Act (Ch. 310, P.L. 1939 as amended), counties are required to revalue real estate for ad valorem taxation every four years. Normally, the quadrennial reassessment year was 1945, but the last General Assembly permitted counties to defer the revaluation to 1946 or 1947. Many

counties have taken advantage of the legislative permission to put off a revaluation, and many are now faced with the problem of reassessing for the year 1947.

"When a revaluation year is reached, the county commissioners have several options as to how the job is to be done. First, they may decide upon a horizontal revaluation. That is, they may decide that assessments are pretty well in line throughout the county, but that all assessments should be raised or lowered by a uniform percentage, subject to a few individual adjustments. They may even 'do nothing' under a horizontal revaluation by deciding that assessments are fairly well equalized and that neither a general increase nor decrease is necessary, thus affirming for another four years the last assessments. (Of course, under any plan, a property owner has the right to apply to the County Board of Equalization and Review for an adjustment, for all valuations are 'open' or subject to change in quadrennial years.)

"Second, the board may decide that assessments are fairly well equalized within the various townships, but that for purposes of county-wide uniformity, assessments in certain townships should be horizontally increased and those in certain other townships should be horizontally decreased.

"Third, the board may decide upon a horizontal revaluation for the county as a whole, but order actual reappraisals in one or more townships where valuations have gotten too far out of line to be longer ignored.

"Fourth, the commissioners may decide upon an actual reappraisal of all of the taxable real estate in the county. Because of the many difficulties involved, there is a strong tendency to put off this type of revaluation just as long as possible. But because of population movements, shifts of values and other factors, the time will inevitably arrive, as it has for many counties, when the task can no longer be avoided. When that time arrives, the

commissioners can adopt either one of two courses:

First, they may decide to carry the reassessment through upon the basis of individual appraisals arrived at after an inspection and the exercise of 'sound judgment' upon the part of the assessors selected to do the job. That is, each parcel of real estate would be viewed separately, and then the assessors would ask themselves, what is the 'fair value' or 'market value' or 'sound value' of this tract and improvements thereon? They would then answer the question, make the assessment in accordance with the assessment ratio, and then move on to the next parcel. After all parcels have been first assessed, the assessors or the board of equalization would take a backward look and then attempt to equalize values throughout the county, without the benefit of sufficient data to form the basis for a comparative study of different parcels, thus necessitating a revisitation of sample parcels or the exercise of memory and the individual but necessarily general knowledge on the part of the assessors and board members.

"Second, the board may decide to install a standardized system which will provide a method for classifying and inventorying the taxable real estate in the county and a yardstick for 'measuring' the value of each parcel, together with improvements. Such a system must be so constructed as to reflect within a reasonable degree of accuracy the average informed taxpayer's opinion of actual values in the community, but whether the resulting assessments will prove to be a little too high or a little too low, they will be uniformly so since all property of a particular class is measured by the same yardstick, thus putting all taxpayers on a parity and fulfilling as nearly as possible the cardinal principle of uniformity and equality. And even if the level of assessments proves to run too high or too low, the system can be easily corrected to arrive at the desired level. Further, an assessment arrived at through the use of a standardized procedure can be defended upon the basis of the recorded data upon

which it was made, and it can be easily compared with similar properties, or differences in superficially similar ones can be readily pointed out to a protesting taxpayer who comes in to complain that Smith's property is worth just as much as his but is assessed for less.

"When the board finally reaches the conclusion that a rule of thumb procedure is no longer adequate, and that a standardized method for assessing real estate for taxation must be adopted (as it inevitably will if the functions of local government are to continue to depend largely upon ad valorem taxes for their support), the board again has a choice to make: It can contract with any one of a number of commercial companies which are engaged in the business and have its representatives come in, install a system, furnish all forms and manuals, make the actual appraisals, and even come back periodically to keep the system up-to-date. Or, it can profit by the experience of other taxing

districts, utilize the principles of modern assessment practices which are by now pretty well established, and construct its own assessment system locally to fit local conditions and to conform to local policies. Although the latter course involves a considerable amount of work, the exercise of a high degree of patience and the combination of imagination and determination, a system so constructed offers a number of advantages:

"(1) A system developed locally will best fit local needs. It can be 'tailored' to the ground, and being so tailor-made, there will be fewer instances in which exceptions will have to be made on account of peculiar local conditions, thus preserving the integrity of the system. Too many exceptions will destroy the validity of the standard.

"(2) A locally developed system will be better understood by local officials and taxpayers alike, and will therefore be more readily accepted and approved. A system

which is understood will be used with more confidence than one which is merely applied according to a set of rules whose principles and theory are not clear to the user.

"(3) A locally developed system can be locally altered from time to time to keep in step with changing conditions while at the same time preserving the basic principles of the system and the resulting uniformity of assessments. A system which is not well understood by its users will become out-of-date with the passage of time and changing conditions, or it will be 'doctored' from time to time in a haphazard manner with the result that it may become in time more productive of inequalities than of uniformity.

"(4) Available commercial installations are restricted in their coverage at present to urban property and suburban developments. They do not provide comparable standards for the assessment of rural and farm lands. In any event,

(Continued on page 12)

County Accountants' Convention

The 39th annual convention of the State Association of County Accountants, meeting both jointly with the County Commissioners and separately in sessions of their own, combined business and pleasure in their separate afternoon and evening gathering at Wrightsville Beach September 5.

At the afternoon session, presided over by Mrs. J. C. Spencer of Lenoir, president of the association, the accountants heard addresses by W. E. Easterling, Secretary of the Local Government Commission, and Albert Coates, Director of the Institute of Government.

Mr. Easterling discussed local financing by bond issue, outlining the constitutional and statutory limitations affecting county and city financing. He told the accountants that "financing by bond issue under present day conditions presents a perplexing problem," because of current high costs, saying that "a ques-

tion of foremost significance is what extent of value would be received on every dollar of borrowed money expended in an era of deflated dollar and inflated cost of building and construction." Consequently, he urged the counties to finance critical needs first.

Constitutional debt limitations, and the meaning of the phrases "public purpose," "necessary expense" and "special purpose," as they apply to the taxing, borrowing and spending powers of counties, cities and towns, were discussed by Mr. Coates.

During the business meeting, the accountants elected the following officers for 1946-47: M. L. Laughlin, Edgecombe, president; C. D. Stevenson, Iredell, first vice-president; F. W. McGowen, Duplin, second vice-president; Miss Flora Wyche, Lee, secretary-treasurer; and Curtis Ellis, Nash, member at large of the executive committee.

At the evening session, the accountants enjoyed a Fun Feast, consisting of audience participation features including a "baby" contest, quiz program, songs, and fortune telling.



Mrs. J. C. Spencer of Lenoir, Caldwell County Accountant and retiring president of the Accountants' Association.

LEAGUE OF MUNICIPALITIES' ANNUAL CONFERENCE

At the thirty-seventh annual conference of the North Carolina League of Municipalities, held at Asheville September 12, 13 and 14, Mayor Henry T. Powell of Henderson was elected to succeed Mayor Walker Lyerly of Hickory as president of the organization. Other officers elected for 1946-47 were: Mayor Earl H. Tate of Lenoir, first vice-president; City Manager R. M. Cooksey of Thomasville, second vice-president; Mayor H. H. Baxter of Charlotte, third vice-president; Mrs. Davetta L. Steed of Raleigh, re-elected Executive Secretary; and George C. Franklin of Raleigh, re-elected Director of the Municipal Information Service of the League.

**MAYOR HENRY
POWELL**
of Henderson,
1946-1947 President,
North Carolina
League of
Municipalities



During the meeting the League adopted a six-point legislative program, drawn up by their legislative committee of which Wilmington city councilman J. E. L. Wade is chairman, for presentation to the 1947 General Assembly. This program is printed below, followed by President Powell's statement and explanation of the situation confronting the cities and towns of the state, which gave rise to their requests for legislative action:

The League's Legislative Program

"I. Tax Limitation for General Purposes: Amend Section 160-402 of the General Statutes so as to authorize municipalities to levy and collect an annual Ad Valorem tax for general purposes not to exceed \$1.50—(The present law—passed in 1921—

limits the tax that can be levied by municipalities for general operating expense to \$1.00).

"II. Discounts for Prepayment of Taxes: Amend Section 105-345 of the General Statutes so as to eliminate provision for discount for prepayment of taxes.—(Present law grants a 2% discount if paid on or before July 1, 1½% in August, 1% in September and ½ of 1% during October.)

"III. Allocation of Gas Tax Funds: Full support of the rural road program, and, in addition, amend Section 105-434 of the General Statutes so as to require the Commissioner of Revenue to set aside into a special fund to be disbursed to the municipalities in the State, 1 cent of each 6 cents tax on each gallon of motor fuels sold, distributed or used within the State and collected by the Commissioner of Revenue. Such funds to be distributed among the municipalities on the basis of population as determined by the last certified federal census and street mileage.—(Present law requires that entire 6 cents collected by the Department of Revenue on each gallon of gas sold or distributed be transferred in its entirety to the State Highway Department for its use.)—This act would be in lieu of the present \$1,000,000 annual allocation to municipalities and would allow municipal expenditure of the funds received without supervision, but would require an accounting for these funds in order to assure that they are spent for street purposes.

"IV. Tax on Gasoline Used in Municipally Operated Motor Vehicles: Amend Section 105-449 of the General Statutes by including in said section a provision exempting municipalities from the gasoline tax on gas used in motor vehicles operated by municipalities for public purposes.

"V. Public Contracts: Amend Section 143-129 of the General Statutes

relating to the execution of contracts by municipalities for purchase of equipment, supplies, materials, etc., so as to recognize OPA "Escalator" clause now incorporated in practically all contracts for the purchase of equipment.

"VI. Confiscation of Property Used in Gambling, etc.: Amend Section 14-299 of the General Statutes so as to provide that monies or properties confiscated from gambling houses or games captured by city police shall be turned over to the treasurer of the city to be used in its general fund in preference to turning same over to the county treasurer for county use. Also, this shall apply to liquor, cars, properties, etc., found abandoned on city streets and confiscated by city police."

Mayor Powell's Statement

"The cities and towns of North Carolina are carrying what they believe is not only a well rounded program, but also a necessary program, to the 1947 General Assembly. They find themselves bound on all sides by laws, many of which were passed years ago, which hamper the adequate financing of the affairs of the municipality. These laws limit the source of taxation open to the cities and towns and even limit the rate of taxation allowed on the few sources remaining.

"The cities were able to continue, with the rising cost of labor and materials during the past few years, without deficits only because it was impossible to replace worn out equipment or to make improvements because of the scarcity of materials. And this was in the face of the best collection of present and prior year taxes that the cities and towns had ever experienced. But even then it was impossible to lay aside money to replace the equipment which

(Continued on page 13)

Bar Endorses Legal Institutes



Charles R. Jonas of Lincolnton, 1946-47 president of the North Carolina Bar Association and chairman of the special committee on refresher courses for lawyer-veterans.

At its 48th annual meeting in Winston-Salem in August, the North Carolina Bar Association endorsed the plan for continuous legal institutes to keep North Carolina's lawyers abreast of the constant changes in the law.

The first regular peace-time legal institute was held at Winston-Salem on the two days prior to the Bar meeting, and was attended by 65 lawyers. Like the series of statewide law refresher courses given last spring at Chapel Hill, the institute was sponsored by the Bar Association, and organized and conducted by the Institute of Government.

In his report to the Bar Association as chairman of the continuous

legal institute committee, Albert Coates, Director of the Institute of Government, acknowledged the debt due to leading attorneys over the state, and to members of the faculties of the three North Carolina law schools, who contributed their time and knowledge in teaching these concentrated courses. Instructors at Winston-Salem, each of whom gave a three-hour lecture on his subject, were: M. T. Van Hecke, professor of law at the University of North

(Continued on inside back cover)



Shown above (top, left) talking over plans for carrying on the program of continuous training for lawyers in periodical legal institutes are, left to right, Albert Coates, Director of the Institute of Government and chairman of the Continuous Legal Institute Committee; Louis J. Poisson of Wilmington, retiring president of the Bar Association; Edward L. Cannon of Raleigh, Secretary-Treasurer of the Association; and Charles W. Tillett of Charlotte, who lectured on "Modern Loan Transactions" at the Legal Institute.

Checking over final arrangements for the Institute are (bottom, left): Mr. Coates; W. M. Cochrane and Terry Sanford, Assistant Directors of the Institute of Government; and Paul H. Sanders of Duke University Law School, who lectured on "Wages and Hours."

Other instructors for the Legal Institute were: (top, right) Maurice T. Van Hecke of the University of North Carolina Law School, who lectured on "Collective Bargaining"; and (bottom, right), talking with Miss Susie Sharp of the Reidsville Bar (only lady lawyer attending the Institute), and R. O. Vaughn of the Winston-Salem Bar, Major L. P. McLendon of Greensboro, who lectured on "The National Labor Relations Act."

All of the instructors for the Legal Institute (Mr. Tillett, Professor Sanders, Professor Van Hecke, and Major McLendon), and Mr. Vaughn, had previously served as lecturers in the series of Law Refresher Courses for lawyer-veterans held in Chapel Hill.

THE CLEARINGHOUSE

News of Developments Here and There

City Limits

The list of cities and towns hoping to persuade the General Assembly to make them larger in area (and therefore in population) is growing by the week. Agitation to this end is in some towns a goal of newly formed local planning boards, in others a project being talked up by chambers of commerce, civic clubs, and local newspapers.

The corporate limits of a municipality cannot be changed without statutory authority from the General Assembly. Sometimes the bill as introduced by the local senator or representative involves outright legislative action incorporating specified surrounding territory, but usually such expansion is conditioned on an affirmative vote of the people. Ordinarily the act will require a referendum participated in by the voters in both the municipality and in the territory sought to be annexed, but occasionally an act has required a vote of only the people in the new territory. (For a fuller discussion of the law on this subject, see **CURRENT PROBLEMS IN LOCAL GOVERNMENT**, page ten, this issue.)

Among the municipalities affected in 1945 by these differing kinds of expansion acts were: Ahoskie, Belmont, Canton, Cary, Colerain, Concord, Edenton, Greensboro, Hamilton, Hertford, Jacksonville, Jamesville, Leaksville, Monroe, New Bern, Old Fort, Robbins, Siler City, Wilmington, Winton and Woodland.

The 1947 legislature doubtless will be met with more expansion requests than any General Assembly in recent years, because of the widespread increase in activity and interest in postwar community planning. Among cities and towns already considering the question are: Charlotte, whose planning board submitted the proposition to 1800

**W. M.
COCHRANE**

Assistant
Director
Institute of
Government



suburban city water users, who voted favorably by only a slight majority (but it was pointed out that these suburbanites already enjoyed city water and other municipal advantages without paying city taxes, having therefore less to gain from incorporation than other rural residents without these benefits); the neighboring towns of Newton and Conover, whose joint chamber of commerce is supported by local newspapers in urging unification of the two municipalities, and whose two boards of aldermen met together recently to discuss the plan; Smithfield, whose town commissioners have started a survey of the areas surrounding the town to determine what territory should be incorporated, and what problems would be involved in the step—chiefly concerning cost of enlarging the municipal water, electric and sewerage systems; Winston-Salem, whose chamber of commerce wants the city limits expanded at some time between now and 1950; and Tryon and Middlesex.

City Streets

Most people are usually in favor of diverting heavy truck traffic away from the congested central business part of town, but nobody wants a truck route running by his house.

The State Highway Commission likes to have local agreements on where truck routes shall be, but it is probably seldom that everyone is pleased. In September reports that one or the other of two Wilming-

ton streets might be designated for a new truck route brought protests from residents on both streets, who circulated petitions against the idea. In Whiteville, after considering the question of whether a new truck route to ease the pressure in the business district should be located in the western or another part of town, the town board decided that the state highway commission should be petitioned for the truck lane with the agreement that any route the highway commission chose would be accepted without opposition.

In Durham the problem of heavy downtown traffic caused a recent change in the timing scheme of traffic lights on Main Street. Carrying out a suggestion made by Police Lieutenant Benny L. Lloyd, the signals were changed to alternate in pairs rather than singly, and they change every 25 or 26 seconds instead of every 17 seconds. Under the new arrangement, drivers are expected to make every traffic light on the street at a speed of 17 miles per hour barring double-parking and jay-walking interruptions.

Crime

The month of September brought knowledge of a new "first" for North Carolina, along with several other rankings near the top, but the news is not cause for pride. For North Carolina led the nation in the number of "aggravated assaults" (per 100,000 of population) committed during the first half of 1946, according to FBI Director John Edgar Hoover's semi-annual bulletin of uniform crime reports.

Nor were we far behind in our murder rate—third highest in the nation, with the city of Charlotte running second among the cities of the country in the homicide category.

Our standing with respect to other crimes was: burglary, 19th; lar-

eny, 20th; automobile thefts, 22nd; and robberies, 25th.

The report reflected a nationwide decrease in juvenile crime, with more persons in the 21 year age group being arrested than in any other, as against the war-time period when 17-year-olds led in arrests. Mr. Hoover told the United Press: "The juvenile delinquents of the war years have graduated from stealing bicycle tires to stealing automobiles, from petty larceny to bank robbery, and from vandalism to murder."

Meanwhile, although Lynn Nisbet reported in his column that the anticipated increase in state prison population has not materialized during the first post-war year, officials here and there have been finding the reverse to be true in local jails.

The Laurinburg Exchange reported the Scotland County jail population was "running over," and Dare county's commissioners recently decided to build a new jail at Manns Harbor, chiefly to take care of drunks overnight. **D r u n k s** were threatened at Forest City, also, when Mayor O. J. Mooneyham announced in Municipal Court: "I expect to clean up this town by Christmas or have all the drunks on the roads. I'm serving notice on all of you now. Everytime I let up a moment or try to be lenient, you fellows try to take the town."

Nuisances

Smoke, dust, nuisances, garbage, noise and barking and biting dogs were among the lesser evils continuing to contribute to the worry of town governing boards last month. In Durham a Smoke Abatement Committee has been active, cooperating with the city council in a study to determine and eliminate causes of excessive smoke. Edenton citizens were quoted in the *Chowan Herald* as being "up in arms" over the dust caused by a temporary detour of highway traffic over a dirt street.

Garbage disposal was being complicated in Durham because of lack of paper to use as fuel in city garbage burning incinerators, and in Salisbury because of labor trouble involving salary increase demands.

And in Durham the county commissioners were asking the city to permit use of municipal incinerators for disposal of garbage collected from residents of thickly populated suburban areas near the city.

Automobile hornblowers were disturbing the peace in Roxboro, and howling dogs were interfering with the sleep of Pine Bluff citizens. Stray dogs in Charlotte were getting the attention of the city dog catchers, and in Elizabeth City the attention of editorial writers in the *Elizabeth City Independent*, who want the city council to strengthen the dog ordinance to permit authorities to destroy ownerless canines.

Sunday Ordinances

"Exhibitions of games or sports on Sunday. It shall be unlawful for any person or persons, association or corporation to engage in or present any exhibition of play, game, sport or any moving picture or theatrical exhibition, for which any admission is charged the witnessing public."

The last decade has seen a growing interest in public recreation in this state, with resulting recurrent agitation for repeal or amendment of Sunday ordinances, or "Blue Laws," such as the Winston-Salem ordinance quoted above. In Winston-Salem a movement begun by veterans and supported by the Junior chamber of commerce and other civic organizations demanded amendment, not repeal, of the Sunday prohibition. Forty petitions were being circulated, asking that Sunday movies and baseball be legalized between the hours of 12:30 and 6:30 p.m., and thousands signed. In opposition, however, were most ministers and church authorities, with the board of aldermen planning a public hearing on October 8, to be followed, probably, by an advisory referendum at some later date.

In Greensboro, where the city ordinance affecting movies, bowling alleys, auto races and other commercial amusements was suspended by the council in 1943 "for the duration and six months," because of the need for Sunday recreation for the large number of soldiers at the Ov-

erseas Replacement Depot there, the question is being raised whether the ordinance shall be allowed to go back into effect. A Greensboro Daily News poll in September showed opinion was divided on the issue, with proponents of closed Sundays pointing to the protection afforded people who would be forced to work on Sundays in commercial amusement ventures, and opponents claiming the city is not consistent when it allows some forms of amusement and denies others.

Meanwhile, in another section of the state, Sunday restrictions were being increased. In September the board of commissioners of Orange County decided that all Sunday beer sales must be halted effective October 1, and the board of aldermen of Chapel Hill split three to three on the same proposition for Chapel Hill, with the mayor withholding his tie-breaking vote until opponents and proponents of Sunday beer can be heard.

Zoning

Since 1923, when the General Assembly first gave incorporated cities and towns the power, many local governing bodies have written zoning ordinances into their municipal codes. During post-war 1946, with city-planning being talked up everywhere as never before, the caption used on a *Dunn Dispatch* editorial seems indicative of a prevailing attitude: "Let's zone the town!"

Wilmington's city council took final action in September on a long debated zoning ordinance, which divided the city into seven districts, four of which are residential, two industrial, and one retail. Appeals can be made to a five-member board of adjustment created by the ordinance. In Zebulon the recently created zoning board drew up a proposed zoning ordinance, which was adopted by the town council, dividing the town into three districts, one residential, one business and one industrial. A zoning commission was also set up at Sanford last month, whose five members were charged by the board of aldermen with the duty of drawing up a proposed zoning ordinance after survey and study of the needs of the town.

TAR HEEL BOYS' STATE OF 1946



Shown above are 113 North Carolina High School Seniors, who were selected by the American Legion to come to the Institute of Government in Chapel Hill for a week's training in self-government:

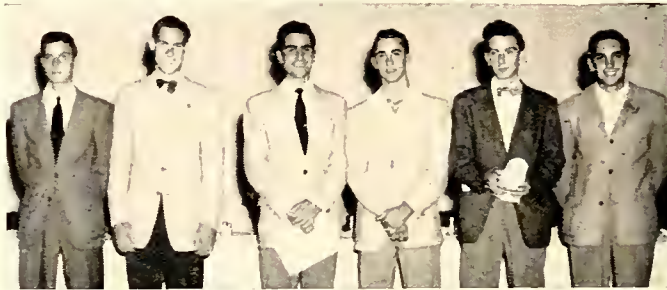
FIRST ROW: Paul Arndt Barringer, Vernon James, Liberty; Billy Lohr, James Swiggett, Trinity; Bobby Little, Statesville; Tom Stockton, Winston-Salem; Glenn Smyre, Newton; Wayne Marcus Smith, Conover; Jack Gantt, Newton; Bill Sweeney, Statesville; Lee Rhodes, Lenoir; Stacy Weaver, Dave Miller, James M. Alexander, Statesville; James Reed Quinerly, Whiteville; Sam R. Byrd, Selma; Calvin Koonce, Raleigh; Bill Pee, Rockingham; J. B. O'Neal, Buck Roberts, Durham; Aldis Henderson, Hickory; Ralph Bowden, Jack Pennington, Mocksville; Edgar Love, George Burgin,

Murphy Cronland, Lincolnton; W. H. Aldridge, Jr., Burlington; Daniel Edwards, Rutherfordton.

SECOND ROW: Billy Hale, Thomasville; John Nelson, Morehead City; Adria Lineberger, Chapel Hill; James Davis, Beaufort; Pete Sloan, Charlotte; Douglas Dixon, Elm City; Jack Brown, Durham; Bobby Deyton, Raleigh; George Tolleson, King Mountain; Julius Hubbard, Wilkesboro; Gordan Finley, North Wilkesboro; Bob Walker, Raleigh; Max Koontz, Kannapolis; Freddie McFalls, Greensboro; George Haywood, Wake Forest; Lewis Bolin, Gastonia; William Brooks, Raleigh; Charles Richard Hendricks, Maxton; Horace Myers, Laurinburg; A. C. Yale, Hays; Harold Brackett, Shelby; Nick Galifianakis, Durham; Al Phelps, Washington; Paul Williams, Huber



Chairman Griffin Smith, Shelby, of the Sixth Boys' State Commission, with Victor Johnson, Pittsboro, Commander of the American Legion when the present Commission was appointed, and O. S. Robertson, Hillsboro, Co-Chairman of the Commission.



Officers of Boys' State, left to right, are "Superintendent of Public Instruction" Bill Poe of Rockingham, "Secretary of State" John Ingram of Asheboro, "Governor" Nick Galifianakis of Durham, "Lieutenant Governor" Buck Roberts of Durham (who, as winner of the oratorical contest, delivered the principal address at the final banquet), "Attorney-General" Bob Sweeney of Statesville, and "Commissioner of Agriculture" Glenn Smyre of Newton.

Instructors in Government, in addition to those mentioned above, included Highway Commissioner, at bottom, center, answering additional questions in the order of their appearance on the program, State Democratic Executive Committee of North Carolina; Dr. W. Reece Brock, University of North Carolina School; Thad Eure, Secretary of State; State Board of Public Welfare; Henry Hoey, President of League of Municipalities; Charles R. Hays, Professor of Law; J. R. Thomas, Chief of Police, the North Carolina Police Executive Board; W. H. Hays, Chief of Mecklenburg County Police; Walter Hays, Bureau of Investigation; John G. Johnson, Bureau of Investigation; Dr. Clyde Erwin, State Board of Education; Felix Grisette, Managing Director, State Board of Education; Brockwell, Commissioner of Labor; Dr. A. Hays, Representative in the North Carolina General Assembly; Director, Extension Division; Robert Hays, Budget; John Harden, Private Secretary; Brockwell, Deputy Commissioner of State; Brockwell, Deputy Commissioner of State; UNC Coach Carl Snavely.

These were the school teachers, principals, and others as practiced by the instructors themselves. During the week, following exacting schedules and elections, officers were elected in the counties of Nash and Hoke, and Hoey, the counties of Nash and Hoke, and the appointed boards took into action the lessons of the week every day by local and state officials.



Elections



Recreation



Kay Kyser



Sponsored by the American Legion—Conducted by the Institute of Government, September 1st-8th, Chapel Hill



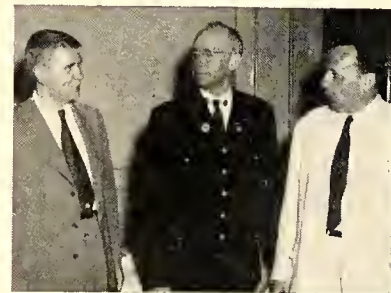
Olive, Bob Peeler, Woody McKay, Lexington; Garland Shingleton, Stantonsburg.
 THIRD ROW: William Ellis, George Webb, Jim Finch, Greensboro; Ed Ramsaur, Lincolnton; John McKnight, China Grove; Jerry Willis, St. Pauls; David Cameron, Southern Pines; Rodney Borum, High Point; J. L. Norris, Kannapolis; Bob Reid, Whitakers; William Howell, Goldsboro; Norman Armstrong, Elizabeth City; William Grady Elmore, Rocky Mount; Thomas Weaver, West Jefferson; Glenn Leigh Cox, Elizabeth City; Donald Howell, Asheville; Ned Vaughn Lloyd, Joe Phillips, Winston-Salem; Herbert Hugh Howell, Goldsboro; Hugh Isley, Raleigh; Karl Rose, Rocky Mount; J. W. Bowling, Wake Forest; Jack Smith, Shelby; Wade Page, Asheboro; Billy Armfield, Leaksville; John Randolph Ingram, Asheboro; Bryan Reeb, Raleigh;

Joseph Tapp, Stantonsburg.
 FOURTH ROW: Ben Fountain, Rocky Mount; Jacob L. Cross, Lexington; Earl Roberson, Asheville; Bernard Graybeal, West Jefferson; Bob Shores, Hickory; Jack Davis, Forest City; Max Turner, Wilkesboro; Nonnie Noell, Allen Johnson, Durham; William Skeen, Biscoe; Ralph Harrell, Edenton; Louis Newton, Southport; Norwood Sprmill, Roper; Fred Keeter, Edenton; Gaston Baldwin, Chapel Hill; Donald Glass, Kings Mountain; Philip Luther, Asheville; Leland Brinson, Arapahoe; Jack McGowan, Raleigh; Jack Bowers, Shelby; Ralph Atkinson, Sterling Hennis, Bill Nail, Winston-Salem; Fuller McGill, Kings Mountain; Robert Joyce, Kernersville; Earl Tyson, Biscoe; Richard Vance Noble, Alliance; Hunter Goforth, Rutherfordton; Alfred Saunders, Troy.

in to staff members of the Institute of
 oner A. H. "Sandy" Graham (shown
 questions for two Boys' Staters) and,
 program: William B. Umstead, Chair-
 ittee; Dean Fred Weaver, University
 Hill, Dean of the University Medical
 ; Dr. Ellen Winston, Commissioner,
 owell, Mayor of Henderson, and Presi-
 llor R. B. House; Henry Brandis, Pro-
 Police, Rocky Mount, and president of
 ssociation; Stanhope Lineberry, Chief
 Anderson, Director, North Carolina
 on, Special Agent, Federal Bureau of
 Superintendent of Public Instruction;
 ate Planning Board; Forrest H. Shu-
 rchibald Henderson; John Umstead,
 General Assembly; Russell Grumman,
 G. Deyton, Assistant Director of the
 ary to Governor Cherry; Sherwood
 nsurance and State Fire Marshal; and



Counselors, selected from the University Law School, to advise the boys and assist in their instruction, were Bill Burton of Mebane, Frank Austin of Statesville, Claude Seila of Rocky Mount, Bill Friday of Dallas, Henry Colton and Bob House of Chapel Hill, and Bill Aycock of Selma.



Representing the Institute of Government in the planning and execution of the program were Albert Coates (right), and Terry Sanford, shown above with William M. York, North Carolina American Legion commander.

ring to the boys government in action
 ves in their official capacities.
 he legal requirements for registration
 e cities of Morrison, Ehringhaus, Gard-
 Miller, and the Boys' State. The off-
 ce on the final day of the week, putting
 etting a taste of the problems faced



Final Exams



"Governor Nick" and Commander York

Current Problems In Local Government

Extension of a Municipality's Corporate Limits

Problem: What is the procedure to be followed for extending a municipality's corporate limits?

Discussion: Power to extend the corporate limits of a municipality rests wholly within the General Assembly, and, that body having set up no general statutory procedure whereby a municipality may extend its own corporate limits, such extension may be accomplished only by special act. The usual procedure, therefore, for a municipality desiring to extend its corporate limits, is for the municipality to have its attorney prepare a bill for presentation to the General Assembly by the representative of the county in which the municipality is located. In preparing such a bill, the following should be kept in mind:

A vote of the people is not necessary, but it is often felt that some question might arise as to the validity of certain obligations previously voted on by the people of a town if a vote on the extension is not taken by the people residing in the territory to be annexed. Where this is felt to be the case, the act may require that the question be submitted at a single election to a vote of the people in the present town and also of the people in the territory to be added, or that the question be submitted only to a vote of the people within the new territory. The simplest method and that most generally followed, seems to be to have a single referendum for the town and new territory conducted by the county board of elections. A special registration should be required; and the county board of elections should be required: to designate the precincts and voting places; name the election officials; conduct the election; canvass the returns; and declare the result. Since such an act is considered to be a revenue measure, it is subject to the provisions of Art. II, Sec. 14, of the North Carolina Constitution, requiring three separate readings of the bill on three separate days, in

Prepared

by

**SAMUEL R.
LEAGER**

Assistant
Director
Institute of
Government



each house of the General Assembly, and entry in the journal of the yeas and nays on the second and third readings.

Privilege License Taxes

Problem: What license taxes may a town levy on: (1) Wholesale dealers located in the town who distribute roasted peanuts and cheese cracker sandwiches; (2) Dairies and ice plants located outside the town but making deliveries in the town; and (3) Florists located outside the town but making deliveries in the town?

Discussion: G.S. 160-56 provides in part that municipalities "may annually lay a tax on all trades, professions and franchises carried on or enjoyed within the city, unless otherwise provided by law." Certain limits and interpretations, pointed to by the phrase, "unless otherwise provided by law," have been placed on this broad taxing power of the municipalities:

Limitations of general application. The amount of the tax is within the discretion of the governing body of the town, but the tax may not be arbitrary, unreasonable, or discriminatory, and must be uniform as to all persons, firms or corporations engaged in the business taxed, regardless of their residence. (*Kenny Co. v. Brevard*, 217 N.C. 269, 7 S.E. (2d) 542 (1940.)) This, of course, means that a tax may not be levied which would discriminate against out-of-town firms as such. Furthermore, where a tax is sought to be levied on an out-of-town firm, the question of whether the firm is actually conducting a trade or business in the town arises. The court, in *State v. Worth*, 116, N.C. 1007, 21

S.E. 204 (1895), has defined a trade as "any employment or business embarked in for gain or profit." Just how much of such activity, carried on within a city, is necessary to give the city authority to tax the trade or business is not clear from the decisions. Generally speaking, it seems to be a question of fact to be decided as each particular case arises. Factors bearing on the question are: whether there is a regular course of business in the town, where collections are made, where the contract or contracts are made, where they are performed, and the number and frequency of acts connected with the trade performed in the town. Some illustrative cases are: *Winston v. Taylor*, 99 N.C. 210, 6 S.E. 114 (1888); *Plymouth v. Cooper*, 135 N.C. 1, 47 S.E. 129 (1904); *Asheville v. Nettles*, 164 N.C. 315, 80 S.E. 236 (1913); *State v. Valley*, 187 N.C. 571, 122 S.E. 373 (1924); *State v. Bridgers*, 211 N.C. 235, 189 S.E. 869 (1937); *Kenny Co. v. Brevard*, 217 N.C. 269, 7 S.E. (2d) 542 (1940).

Limitations of specific application. (1) The only limitation found in the general state law which might in any way limit the power of a municipality to tax, under G.S. 160-56, wholesale dealers in roasted peanuts and cheese crackers sandwiches is to be found in Sec. 121 of the Revenue Act (G. S. 105-53), imposing a license tax on peddlers. This section exempts from taxation as peddlers wholesale dealers who, though actually peddlers, have an established warehouse in this state and sell only to merchants for resale. This leaves only a narrow category of wholesaler-peddlers who would be subject to taxation as peddlers under Sec. 121, and such wholesaler-peddlers could not also be taxed *as such* under G.S. 160-56. Whether they may also be taxed under G.S. 160-56 on some theory *other* than as peddlers is open to some question. The better view probably is that they may. If a wholesaler, whether peddler or not, does *not* fall within the non-exempt and therefore taxable category remain-

ing under Sec. 121, that section would then have no application to him, and he could not be taxed thereunder. However, a town could levy on him any other tax it saw fit, either as a wholesaler of specific commodities or as a wholesaler generally or under any other theory other than as a peddler.

(2) There is no provision in the Revenue Act or elsewhere in the general state law which prescribes or limits the tax which a municipality may levy, under G.S. 160-56, on dairies and ice plants making milk and ice deliveries. Sec. 121 (3) of the Revenue Act (G.S. 105-53 (e)), imposing a license tax on peddlers, specifically states that the provisions of that section "shall not apply to any person, firm or corporation who sells or offers for sale . . . ice . . . (or) products of the dairy. . ." This means that no tax may be levied by a municipality on dealers in milk and ice under the provisions of that section, but it does not preclude the levying of a tax
(Continued on inside back cover)

PERSONNEL AND MATERIEL EXCHANGE

As a service to city and county governing officials seeking key men or scarce equipment, the next issue of POPULAR GOVERNMENT will inaugurate a new feature entitled "Personnel and Materiel Exchange."

Local officials are invited to make full use of this service, for which no charge will be made.

Announcements will be accepted containing information about:

1. Local Governmental positions open, for which applicants are desired.
2. Surplus equipment or materiel held by one local unit which might be of use to another local unit.
3. Scarce equipment or materiel needed by a local unit.

Letters asking for this service should give brief, factual statements covering qualifications and specifications, and will be kept confidential as to name of city or county, if requested. Letters should be addressed to Managing Editor, POPULAR GOVERNMENT, Box 990, Chapel Hill, N. C.

NEW LOCAL OFFICIALS

(Note: This new feature in POPULAR GOVERNMENT will carry announcement each month of recent additions to the ranks of local governing officials in North Carolina which are of general interest, as noted in communications to the Institute of Government, and from newspaper stories. Officials are invited to notify POPULAR GOVERNMENT about such changes as they occur.)

Municipal Officials

Town Board of Aldermen—Chapel Hill: Obie Davis, former member of the board (who resigned three years ago to serve as an officer in the Navy), replacing Bruce Strowd, resigned. Scotland Neck: Forest G. Shearin, replacing W. Herbert McDowell, resigned after 15 years of service. Washington: Richard F. Cherry.

City Manager—Durham: Robert W. Flack, who served in the same post in Durham between 1929 and 1935, and who has since been city manager at San Diego and Charlotte; replacing Sterry J. Mehaffey, resigned. Charlotte: Henry A. Yancey, Greensboro city manager since 1943, replacing Mr. Flack. Greensboro: Major General James Luke Frink (retired), native of Iowa and General Douglas MacArthur's supply officer during the war, replacing Mr. Yancey. Wilmington: J. L. Benson, who previously served as city clerk, finance officer, and purchasing agent, replacing A. C. Nichols, resigned.

Chief of Police—Mebane: M. G. Newman, replacing Charles J. Finison, resigned after three years service. Scotland Neck: J. R. Parker, from Whitakers.

Fire Chief—Greensboro: Calvin W. Wyrick, 20-year veteran with the local department, replacing Frank D. Shaw, deceased, who was a member of the department since 1907, chief since 1926.

Judge of Recorder's Court—Dunn: Everett L. Doffermyre, attorney, replacing Judge Duncan C. Wilson, resigned to return to pri-

vate practice after ten years' service on the bench.

Prosecutor, Municipal Court—High Point: Louis J. Fisher, attorney, replacing Walter E. Crissman, resigned after 14 months' service.

City Clerk—Wilmington: Mrs. Mary B. Southerland, the city's first lady clerk, replacing J. L. Benson, resigned to become city manager.

School Board Member—Lincolnton: Dr. A. M. Cornwell, staff member of Gordon Crowell Memorial Hospital, replacing Dr. S. H. Steelman, resigned after seven years' service.

County Officials

Clerk of Superior Court—Pasquotank: Fentress Horner, Democratic nominee for the post, replacing N. Elton Aydlett, resigned after nearly 18 years' service, to practice law.

Register of Deeds—Pitt: Joseph T. Joyner, of Farmville, replacing Roy T. Cox of Winterville, resigned after six years' service.

Chairman Elections Board—Cleveland: Peyton McSwain, Shelby attorney, replacing Virgil S. Weathers. Hertford: J. William Copeland, Murfreesboro attorney, replacing R. E. Lee, resigned.

County Physician—New Hanover: Dr. A. H. Powell, replacing Dr. J. C. Holloway, resigned after nine years' service.

Welfare Superintendent—Edgecombe: Miss Constance Rabine of Wake County, replacing Mrs. Lyman Forbes, resigned after 11 years' service as welfare superintendent, and a total of 18 years' service in county government.

Recreation Business Manager—Durham: Edmund S. Swindell, director of athletics for the recreation department since 1943.

The Energies of Peacetime

By R. B. HOUSE

Chancellor of the University of North Carolina at Chapel Hill

One of the greatest images of life is that of a river, beginning in the pure springs of the mountains, cutting its channel, shaping its valley, turning the wheels of industry, bearing the craft of commerce, and pouring its waters into the sea. *The Bible* begins with a river and ends with a river; each person in it is a tributary stream. Sam Jones has expressed the spiritual meaning of *the Bible* crudely but accurately: "Bud, if you want the stream of your life to run clear, drive the hog out of the spring." The hog in the spring is at present muddying personal, community, state, national, and international life.

But there is nothing in *the Bible* against diligent self-interest in pursuing healthy, clean, business. On the other hand there is much praise of it. The gospel of the Kingdom contains a gospel of work. Thomas Carlyle is the great modern apostle of the gospel of work. Hardin Craig, a professor in the University of North Carolina, has renewed that gospel in his essay, *A North Carolina Renaissance*. He delivered this wonderful essay as an address to faculty and students in February of this year. It has been published through the gift of an alumnus and has been circulated all over the United States. It would do any person good to read it. It can be secured as long as the supply lasts from the Alumni Secretary of the University of North Carolina at Chapel Hill, Mr. J. M. Saunders.

Great work is going on in North Carolina. One striking example I had the privilege of observing at the Braswell Farm Dinner near Battleboro in August. Tom Pearsall, legislator, budget commissioner, University trustee, lawyer, but chiefly Manager of the Braswell Farms, invited Harold Meyer of the Recreation division of the University and me to come. There were



many other white people invited, and they came. But this was chiefly a negro farmers' day. Nearly one thousand negro farmers of Nash and Edgecombe counties were assembled in a pine grove for a morning school, a barbecue dinner at noon, and an afternoon of music, dancing, and games. These negro farmers, assembled by families, were all tenants and partners in a great community enterprise of religion, health, education, and business. It was a healthy fusion of home, health center, school, church, and state.

Every fundamental institution of our civilization had a shaping hand in the enterprise. A negro preacher blessed the undertaking. A negro teacher pointed out the connection between education and business. A white teacher gave practical instructions on food, clothes, and health. A white agricultural expert gave information on the value of cover crops as fertilizers. The home demonstration expert of the Braswell Farms talked on home making and gave prizes to those who had achieved the best homes. Tom Pearsall gave prizes in the name of the company to the best farmers in cotton, in tobacco, in peanuts, in gardening, and in meat production. It was self-evident and also testified by experts that these several achievements were high-class by the most severe standards.

The high spot of the morning school to me, and, I think, to everybody else, was Tom's report on the business in his remarks as he gave the prizes. The company had made money, the farmers had made money. On a sound basis of self-interest in intelligent partnership and cooperation, here was a better chance for each person concerned. It was thrilling in its significance, but was held to terms of frank, matter-of-fact honesty and common sense.

This morning school required intelligent, resolute attention and got it. The barbecue was everything such a meal ought to be. The afternoon of recreation was what it was intended to be, a merry relaxation after hard work and good food. I came back to Chapel Hill proud of this exhibit of North Carolina at its best in this particular, and confident that there are other fine examples in other particulars for which we should be glad and take courage.

County Commissioners

(Continued from page 3)

such a wide variety of conditions are met with from county to county as to soil, topography, utilities present in various sections and other factors of value, that any one pattern or system for assessing farm and rural property would have to be drastically altered to fit local conditions even if available. But the same principles apply to rural as well as to urban assessments, and uniformity is the goal in each case. It is only by applying the same assessment principles throughout the county, through the use of a system designed to fit the whole county, that true county-wide uniformity can be achieved. North Carolina is still largely rural, so that an assessment system which covers only the urban centers is like a suit of clothes with-

out the pants. As the system for assessing rural property must be constructed locally, the urban system should also be developed locally so that both will follow the same principles and thereby promote equality as between urban and rural assessments.

"With the wealth of information concerning modern tax assessment principles and practices now available, and with the benefit of the experience in applying these principles and practices as a guide in formulating details of the system, and the technical advice now obtainable in preparing manuals for the use and instruction of local assessors, there is no reason why any county in North Carolina cannot or should not develop its own tailor-made system for assessing all of its real estate according to modern and proven assessment practices. Such a system would bring forth many benefits, not the least of which would be to place the financial structure of the county upon a firm, stable, and equitable base."

Retiring President Max Washburn

In his address at the opening of the convention, Max Washburn of Shelby, who has served as president for the last two years, paid tribute to Charles M. Johnson as Director of Local Government Commission, to W. E. Easterling as secretary to the Local Government Commission, to Addison Hewlett of New Hanover, to R. L. Stowe of Gaston, to D. W. Newsom of Durham, to John Skinner of Warren as Secretary of the Commissioners' Association, and to Albert Coates as Director of the Institute of Government, for their contribution through the years to the advancement of local government in North Carolina. With reference to local legislation, he urged that County Boards of Commissioners be allowed to pass local laws for the government of their counties, and that the Association's legislative committee be allowed to ask for a hearing on any local bill before the Legislature for passage.

Dr. Ellen Winston

Telling the Commissioners that most of their counties are ready to raise payments to their blind, aged and dependent children, Dr. Ellen

Winston, State Commissioner of Public Welfare, declared that since the state supplies inadequate matching funds, the counties get less than their share of the money available from the federal government. She pointed to the discrepancy in per capita costs of county homes, ranging from \$10 to \$60 per month, as indicating need for study and revision of methods in many counties.

State Highway Chairman A. H. Graham

The Commissioners heard about roads from State Highway Chairman A. H. Graham, who outlined the post-war problems facing the Highway Commission as it tries to meet the demand for maintenance of old roads and construction of new ones, hampered by the shortages prevalent today. Despite these handicaps, the Chairman reported that a fine start has been made on the new construction and stabilization program, with contracts having been let, beginning with July 1, 1945, for: Federal Aid primary roads, 213 miles, \$10,166,375; Federal Aid secondary roads, 241 miles, \$4,799,260; re-treating state highways, 747 miles, \$2,548,463; re-treating county roads, 116.67 miles, \$438,672; the betterment program, state highways, 200 miles, \$1,589,066, and county roads, 454 miles, \$4,691,942. The grand total of this program of construction and improvement, Chairman Graham reported, adds up to 1979 miles at a cost of \$24,786,429.

And since the first of January, 1946, he said, state highway forces themselves have treated and stabilized 233.9 miles of roads, and re-treated 651.06 miles, making a total of 884.96 for this year.

Election of New Officers

The Association elected the following officers to serve during 1946-47: President, John P. Swain of Wake County; Vice-president, J. Caldwell McDonald of Mecklenburg; and re-elected John L. Skinner, of Warren, as Secretary-Treasurer.

League of Municipalities

(Continued from page 4)

was being worn out and not replaced, or to hire the personnel need-

ed to carry on efficiently the city governments.

"Thus today the vast majority of the cities and towns of North Carolina find themselves faced with replacing worn out equipment and making improvements, which were deferred on account of the war, with no money to pay for these items, or no money to pay the principal and interest on bonds, if issued for this purpose, without unduly straining the ability of their citizens to pay their taxes.

"Municipal government today is a far cry from the same government 25 to 50 years ago. At that time a police department simply consisted of a number of men equipped with a badge, a gun and a billy. Today a modern police department consists of men trained in crime prevention and detection, cars, radios, finger print outfits and many other things now necessary to successfully combat crime. A fire department was formerly mostly volunteer and poorly equipped. Today almost all departments have a goodly number of paid men and equipment running into the thousands of dollars.

"In addition to these items which the average citizens sees daily, the average city maintains a recreational program, sewage treatment plants, water filtration plants, swimming pools, parks and many other services too numerous to mention, all of which Mr. Average Citizen has come to expect of the city.

"Also in most cities the streets, which practically without exception were built by taxation and assessment of the people in the city, are now wearing out and must be replaced. If this burden continues, as it now is on the backs of the city tax payer, with no help from the State, the future for the taxpayer is indeed dark.

"Some one has come to rescue of every unit of taxation except the cities and towns. Instead of securing relief the cities and towns have found that each session of the General Assembly has taken some further
(Continued on inside back cover)

The Attorney General Rules

Digest of recent opinions and rulings by the Attorney General of particular interest to city and county officials.



PLANNING

County Commissioners may enter into agreements with other county, city or town governing bodies for the establishment of joint planning boards, and any city or town may enter into such agreement with any other city, town or county for the establishment of a joint planning board (Chapter 1040, Sessions Laws, 1945, with certain counties excepted) The 1945 law does not within itself restrict the expenditure of funds for these purposes, nor does it provide for the sharing of expenses of operation between different units participating in a joint planning board, nor does it provide that each such unit must pay its proportionate share. There are, however, certain general and over-all restrictions on the expenditures of all county and municipal funds that apply to such situations. Planning board expenditures must conform to all the constitutional and statutory requirements dealing with the financial affairs of counties, cities and towns. The 1945 law does not authorize any special tax levy for planning board purposes, nor has there been any legislative declaration or Supreme Court decision that joint planning board expenses are to be considered necessary expenses. It would seem that counties may consider such expense as being for a public purpose and must, therefore, set up this object in its regular county budget; and any monies appropriated for this object must fall within the regular fifteen cent levy. Unappropriated county surplus funds could be used for this purpose. The same general source of funds for planning board purposes is likewise applicable to cities and towns. They must provide their joint planning board funds from their levy for general purposes or from surplus not otherwise needed. I find no authority for them to make any special tax levy for planning board purposes.

I. AD VALOREM TAXES

A. Matters Relating to Tax Listing and Assessing

50. Listing and assessing of property

To John D. Shaw.

Inquiry: Between 1 January and 1 July a county sold its former courthouse site to a private purchaser. Under G. S. 105-280, providing that where tax exempt property is sold during this period it shall be listed for taxation by the purchaser as of the time of purchase and be taxed for the fiscal year of the taxing unit beginning on 1 July, may the city in which the property is located accept payment



HARRY
McMULLAN

Attorney
General
of
North
Carolina

of taxes thereon by the purchaser from and after the date of sale or is the purchaser liable for the full tax for the full fiscal year beginning on 1 July?

(A.G.) In my opinion G. S. 105-280, considered with the 1945 amendment, fixes the day of 1 January as the time when property shall be listed in the name of the owner on that date. The 1945 amendment does not affect the tax liability of the purchaser of such property between 1 January and 1 July. The 1945 amendment was inserted as a vehicle by which property, heretofore exempt from taxation, may be required to be listed and be subject to taxation when the title thereto passes from public to private interest. It is my opinion that the title in this case having passed to private interests prior to 1 July, it is subject to tax for the entire year and that the city commissioners have no authority to accept less than the full amount of taxes which have been assessed against the property.

130. Penalties for failure to list

To Ernest R. Warren.

Inquiry: Do the board of county commissioners and the city council have authority to reduce the 10% penalty levied by G. S. 105-331 for failure to list property or polls?

(A.G.) G. S. 105-331(4) provides that "the board of county commissioners or the governing body of any municipal corporation is hereby authorized and empowered to settle or adjust all claims for taxation arising under this section or any other section authorizing them to place on the tax list any property omitted therefrom." It is thought that under this subsection the county commissioners and city council have authority to compromise and settle or adjust the penalties which may have been imposed in any individual case for good cause shown by the taxpayer. It is not thought that the authority is broad enough to permit such governing bodies to make a blanket reduction on all penalties so assessed.

B. Matters Affecting Tax Collection

33. Statute of limitations

To James L. DeLaney.

Inquiry: Does the ten-year statute of limitations apply to the tax certificate docketed in the office of the clerk of superior court by the Commissioner of Revenue under G. S. 105-242?

(A.G.) By the very wording of the statute to the effect that the amount of tax indicated on such certificate shall become a lien on the real property of the delinquent taxpayer from and after the date of docketing such certificate, and that execution may issue thereon with the same force and effect as an execution on any other judgment, a clear intent is shown to place this lien in the same category of and subject to the same limitations as other judgments.

98. Tax collection—release on particular parcels

To R. B. Slaughter.

Inquiry: Where a municipality has become the purchaser of a tax sale certificate, does it have authority to release the real estate from the tax lien without the payment of the personal property tax?

(A.G.) I assume you have reference to a case in which there was only one tract of land listed for taxation. If that is true, I do not think the governing body of the taxing unit has authority to release the real property without payment of the personal property tax even though the owner of the real property is a person other than the one who listed the property for taxation. The only section of the statute permitting release of real property from a tax lien is G. S. 105-376 which deals only with cases in which the tax lien covers more than one tract. This section permits release of one or more parcels of land upon payment of the tax due on the particular tract, based on the percentage of the total assessed value of the taxpayer's real estate plus a proportionate part of the personal property, poll and dog taxes, owed by the listing taxpayer for the same year, with interest and penalties, and the proportionate part of costs allowed by law.

103. Special attorney to handle tax foreclosure

To W. F. C. Edwards.

Inquiry: Does a county delinquent tax collector have authority to select and employ an attorney to foreclose tax liens, or is this the sole authority of the county commissioners? Do the county commissioners have the right to supplement such an attorney's fees out of county funds?

(A.G.) Under G. S. 105-391, subsection (k), in taxing costs in a tax foreclosure proceedings the cost may include one reasonable attorney's fees for the plaintiff (not to exceed \$5) which the governing body of any unit may, in its discretion, increase as a suit fee and may also, in its discretion, allow its attorney a reasonable commission on delinquent taxes collected by him after such taxes have been placed in his hands. An alternative is for the governing body to arrange with its attorney for handling such suits on a salary basis or make such reasonable agreement with its attorney or attorneys as it may approve, and any arrangement so made may provide that attorneys' fees

collected as costs may be collected for the use of the taxing unit. In the absence of a public local statute to the contrary the governing body of the county has the responsibility to select and employ such attorney as it may consider appropriate.

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES

A. Levy of Such Taxes

55. License tax on building contractors

To W. P. Kelly.

Inquiry: May a municipality levy upon a contractor doing business therein the \$10.00 contractor's license tax provided for by Sec. 122 (f) of the Revenue Act (G. S. 105-54 (f)) when the contractor is not liable for and does not pay the state license tax required by Sec. 122 (a), and has not procured a license from the State Licensing Board for Contractors, but has paid the state license tax levied by Sec. 122 (b) of the Revenue Act?

(A.G.) I believe that under the provisions of Sec. 122 (f) of the Revenue Act cities and towns may levy a contractor's license tax not to exceed \$10.00 when the contractor has paid any license tax levied by Sec. 122, regardless of whether it is that levied under Subsec. (a), or (b), or both. I find nothing in the Revenue Act or in G. S. Ch. 87 which prohibits a city or town from levying a contractor's license tax upon contractors who have not secured a license from the State Licensing Board for Contractors.

64. License tax on out-of-town businesses

To Thorp & Thorp.

Inquiry: May a municipality tax installation of electrical equipment under G. S. 105-91 when such installation is part of the job of elevator installation which municipality is conditionally prohibited from taxing under G. S. 105-55, the agency subject to tax having its principal office in another North Carolina town and being subject to the statewide license tax under G. S. 105-55?

(A.G.) The statewide license on the business of installing elevators carries with it the right to install the electrical equipment necessary to render the elevator a complete and workable unit. The Department of Revenue has taken the position that if the only electrical installation done by a person is that done as a part of the larger job of installing an elevator, a license under G. S. 105-55 eliminates the necessity of a license under G. S. 105-91. G. S. 105-55 is interpreted to mean that if the person, firm or corporation, does not maintain a place of business there, the county, city or town, may not tax such business in whole or in part. To permit a county, city or town, to tax a part of an operation, the whole of which is taxed by the State and may be taxed by the county, city or town only under certain conditions, would, in my opinion, defeat the purpose of the statute. That purpose here is to permit a person to escape a city or county tax upon the business of installing elevators by not having established an established place of business there. I am, therefore, of the opinion that the municipality cannot lay a tax under G. S. 105-91 for the privilege of installing electrical equipment if that installation is a part of the larger operation of installing an elevator which the municipality is prohibited, under these circumstances, from taxing under G.S. 105-55.

Digest
Prepared
by

**HENRY W.
LEWIS**

Assistant
Director
Institute of
Government



X. Grants and Contributions by Counties 11 & 12. Airports and Fairs

To M. G. Stamey.

Inquiry: May a county levy a tax for building an airport without a vote of the people? May a county levy a tax for purchasing land and building thereon a building to be used as a fair ground for the display of county products and cattle without a vote of the people?

(A.G.) A county may not levy a tax for building an airport without a vote of the people. *Turner v. Reidsville*, 224 N. C. 42, *Sing v. Charlotte*, 213 N. C. 60.

I know of no authority for a county to submit the question of levying a tax for the purchase of fair ground property to a vote of the people. A county fair association might be formed under G. S. 106-505, et seq., which would be authorized to acquire such property for fair ground purposes. Otherwise, for a county to do so, it would be necessary to have some special act passed by the General Assembly.

13. Hospitals

To Ellen B. Winston.

Inquiry: May a county board of commissioners under the provisions of G. S. Ch. 153, Arts. 8 through 13, lawfully appropriate tax funds to a private institution for the purpose of assisting in the erection of a building on the property of the private institution, the building to be owned and operated by the private institution with the understanding that in turn the private institution will accept and care for its polio patients without further appropriation by the county board of commissioners?

(A.G.) The Supreme Court has held that "the building, maintenance, and operation of public hospitals is not a necessary expense." *Palmer v. Haywood County*, 212 N. C. 284; *Nash v. Monroe*, 198 N. C. 306. Certainly, if this is true, it cannot be successfully contended that the building or erection of an annex to a private hospital is a necessary expense, and I therefore believe the interested counties may not contribute or appropriate tax funds for the purposes mentioned without first holding an election as provided in G. S. 131-4 through 131-33.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES

B. Matters Affecting Municipal Utilities

To Ernest R. Warren.

Inquiry: Does a city have the power to pay for easements from riparian owners on a creek, through which could be carried industrial wastes, to avoid emptying such wastes through the city's disposal plant, and charge patrons annually for discharging industrial wastes in the sewerage system?

(A.G.) Yes. G.S. 160-239 empowers municipalities to construct and operate sewerage systems, the extensiveness of which is within the sound discretion of the particular city's governing body. Furthermore, a city may allow industrial plants to discharge their wastes into the municipal sewerage system, and may thus render itself solely liable for any consequent damages to riparian owners. This being the case it seems that such city should have power to acquire easements in order to obviate any possible damages. The cost of acquiring easements should be considered as part of the cost of the sewerage system, and it is within the governing body's discretion to determine the needs of the municipality in this respect.

F. Contractual Powers

31. Contracts—general

To Lois Welborn.

Inquiry: Where, after receiving bids, a city makes a contract with the lowest bidder for the purchase of property, and where several months elapse between the date of the contract and the receipt of the merchandise, during which period prices under OPA are increased, does the city have authority to pay the increased prices on the merchandise in question?

(A.G.) Generally speaking, in the absence of special contract provisions to the contrary, it is not thought that any authority exists for the payment of such increased prices. OPA ceilings are not the prices which must be charged by a contractor, but are rather the maximum price which a contractor may charge, as it is understood by this office. Having entered into a contract at a stated firm price, it is thought that the seller is bound by the terms of the contract, and the city has no authority to pay more than is set forth in the contract.

G. Principal Liability for Tort

To Emmett H. Bellamy.

Inquiry: Where a privately owned lake located within the corporate limits of a town overflows, due to heavy rains causing damage to the properties of surrounding owners, what is the liability of the town for such damages, and what is its duty to abate the nuisance?

(A.G.) The weight of the authority seems to be that a municipality is under no obligation to prevent the natural flow of surface water or to protect individual property owners or to provide a means of carrying off surface water collecting upon private property. Also municipal corporations are not obligated to provide sewers and drains. As to the duty to abate a nuisance, our courts have held that a municipality is not liable for damages resulting from failure to abate a nuisance maintained on private property when such nuisance has not been created or licensed by the municipality.

Q. Town Property

5. Lease of town property

To Philip C. Cocke, Jr.

Inquiry: May a city enter into a long term lease of its municipal golf course without advertising this lease as required by G. S. 160-59?

(A.G.) In *Cline v. Hickory*, 207 N. C. 125 it was held that the city had authority to lease part of its auditorium which was equipped with motion picture projecting equipment. The facts in that case recited that advertisement had been made under

G. S. 160-59. In view of that case and since the lease here is to be for a long term it is thought that you should comply with G. S. 160-59 and advertise the lease as provided in that section.

10. Sale of town property

To John D. Shaw.

Inquiry: Does a city have authority to grant a right of way to a power company under lands belonging to the city for the purpose of servicing and maintaining power lines etc., without advertising this conveyance as required by G. S. 160-59?

(A.G.) In view of the decision in *Cline v. Hickory*, 207 N. C. 125, permitting a lease by the City of Hickory of the city auditorium, where the lease was advertised as required by the law above referred to, it is thought that since the granting of an easement of right of way over the land of the city is a conveyance of an interest in real estate that the sale thereof should be advertised as required by statute. The same reasoning should apply if the city should decide to enter into a lease agreement with the power company.

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS

B. Clerks of the Superior Court

27. Appointments of guardians

To J. E. Swain.

Inquiry: Does the power to appoint a guardian for a child, vested by G. S. 110-37 in a juvenile court and by G. S. 7-103 in a domestic relations court, where such courts exist, supersede the jurisdiction of the clerk of the superior court in the performance of his power of appointment of guardians for minors, and if so, in what court are the reports of guardians required to be filed?

(A.G.) The power to appoint a guardian over the person or property of a child, as contained in G. S. 110-37 and 7-103, is an exception to the rule that all such guardians shall be appointed by the clerk of the superior court, and can only be exercised where it clearly appears that the court involved has acquired jurisdiction over the child according to the provisions of G. S. 110-21 and 110-37. The chapters in the General Statutes concerning juvenile courts and domestic relations courts contain no authority for the supervision of the affairs and accounts of such guardians, nor do they require the guardian to make reports to the court. This being the case, I am of the opinion that the jurisdiction of the clerk of the superior court still continues on this subject, and that it is the duty of the guardian to make reports to the clerk and to have his reports audited by the clerk.

82. Decedent's estates—fiduciary's bond

To C. G. Smith.

Inquiry: Can the trustee named in a will to administer a trust set up in said will be required to give bond before entering upon his duties, although the testator states in his will that the trustees shall not be required to give bond?

(A.G.) No statute has been found which requires trustees to give bond unless the trust instrument requires execution of a bond, with the exception of G. S. 36-7, requiring bond when the estate is transferred to a non-resident trustee.

D. Register of Deeds

To William D. Kizziah.

Inquiry: Must a register of deeds immediately index deeds, mortgages, and other instruments filed in his office?

(A.G.) G. S. 161-14 in effect requires the register of deeds to register all instruments delivered to him for registration "Forthwith" and after endorsing on them the day and hour of presentation immediately to index and cross-index them. In lieu of a permanent index he may prepare and use a temporary one until the instruments are actually recorded. It seems clear that the register of deeds has a duty to immediately cause each instrument to be filed in his office to be indexed and cross-indexed whether in the permanent index book or in a temporary one.

L. Local Law Enforcement Officers

To George Ross Pou.

Inquiry: May a police officer, now a member of the Law Enforcement Officers' Benefit and Retirement Fund, take a position with a private corporation as police officer, to do only police work and still retain his eligibility as a member of the fund?

(A.G.) References: G. S. 143-166, subsection (m) and G. S. 143-1, subsection (5). I do not think the fact that a man is using his powers as a peace officer in connection with working for a private corporation would affect his eligibility, but I think we must assume that he is engaged primarily in enforcing the criminal laws of the State, otherwise the corporation would not want him to be an officer and could have the same service performed by a private caretaker. The fact that the performance of the duties of such a special officer are limited to the area of the private corporation does not affect the matter at all. Nor does the fact that he is paid by the corporation affect the case. I do not think his eligibility is affected.

Y. Forests and Game Warden

25. Fishing license

To C. D. Roberts.

Inquiry: Is a non-resident required to have a fishing license to fish in a private pond when invited to do so by the owner?

(A.G.) G. S. 113-143 requires a license of all persons over 16 years of age who fish by any and all methods in the waters of North Carolina; G. S. 113-145 covers non-residents. The only exception to the license requirement is found in G. S. 113-154, which permits owners of any land or members of his family under 21 years of age to fish thereon without a license. It is my opinion that any person other than the owner or a member of his family under 21 years of age must obtain a license before fishing in a private pond even though invited to do so by the owner.

IX DOUBLE OFFICE HOLDING

8. Town clerk

To John B. Lewis.

Inquiry: Is a town clerk eligible to serve as a drainage district commissioner?

(A.G.) A town clerk is an officer within the purview of Article XIV, Section 7, of the State Constitution. I am also of opinion that a drainage commissioner is an officer. Such commissioners are elected and exercise at least some sovereign

authority (G. S. 156-79, et seq) and the district itself is a political subdivision of the State (G. S. 156-54). I would not advise a town clerk to accept appointment or election as a member of a district drainage board unless he is willing to vacate the office of town clerk.

X. PRIMARIES

C. Matters affecting candidates

3. Notice of candidacy

To Miss Floy Wilkinson.

Inquiry: May a person file as an independent candidate for constable between the dates for the primary election and the general election?

(A.G.) According to the provisions of G. S. 163-152, a person desiring to file as an independent candidate must do so at or before the time prescribed by law for the nomination of candidates by the political parties within the particular political division. Therefore, a person may not file as an independent between the primary election and the general election.

25. Withdrawal of nominee—method for filling vacancy

To Walter Crawford.

(A.G.) Party nominees who resign between the primary and the general election should file their resignations officially with the county board of elections and the vacancies should be filled by the party executive committee. Names of the substituted candidates should be filed with the county board of elections before the printing of the official ballots. In the case of absentee ballots this must be done by 1 August. If the names of the new candidates are not filed before the printing of the general official ballot, such candidate would not be entitled to have his name printed thereon, but would have to comply with the provisions of G. S. 163-153.

XI. GENERAL AND SPECIAL ELECTIONS

B. Ballots

10. Absentee ballots

To Cecil E. Cowan.

Inquiry: When a county-wide special election on a bond issue is scheduled for the same date as the general election, must absentee ballots be furnished to allow absentee voting on the bond issue?

(A.G.) Absentee ballots may not be used in special elections. Regardless of the day on which held, the bond election is an entirely separate election and has no connection with the general election. As used in G. S. 163-77.3 the word "election" does not include a bond election but an election in which officers are being voted on and constitutional amendments. I am of opinion that the 1943 Absentee Registration and Voting Act is not applicable to bond elections regardless of when held.

XII. STATE TAXES

S. Sales Tax

5. Liability for

To Coltrane & Cunningham.

Inquiry: Are sales of parts from junked automobiles subject to the 3% sales tax?

(A.G.) Subsection (b), G. S. 105-168 levies a 3% sales tax on the gross sales of the business of each retail merchant. Unless some exemption or exception is found in the Sale Tax Articles sales of this type are covered. The exemptions

are listed in G. S. 105-169. The exemption of "used articles" in subsection (h) applies only to used articles taken in trade or a series of trades as a credit or part payment on the sale of a new article and then only when the sales tax is paid on the full gross sales price of the new article. Obviously this exemption is not applicable to this case. The exemption of repair parts for motor vehicles and airplanes, subsection (t), applies only to sales to owners or operators of fleets of as many as five motor vehicles or airplanes, and this merely provides that the sale shall be taxed at the wholesale instead of the retail rate. I am, therefore, of the opinion that the sales about which you inquire are subject to the 3% sales tax.

6. Exemptions

To Carolina Drug Store, Inc.
Inquiry: Are sales of newspapers taxable at 3% when sold in a drug store? By a local publisher at its newsstand? By carriers?

(A.G.) The Department of Revenue has always considered that newspapers constitute a service rather than tangible personal property. On this basis the practice has been to exempt newspapers from sales and use taxes, regardless of by whom sold.

Legal Institute

(Continued from page 5)

Carolina and former Fourth Regional Chairman of the War Labor Board, on *Collective Bargaining*; Paul H. Sanders, professor of law at Duke and former Fourth Regional Attorney and Vice-Chairman of the War Labor Board, on *Wages and Hours*; Major L. P. McLendon of the Greensboro Bar, on *The National Labor Relations Act*; and Charles W. Tillett of the Charlotte Bar, on *Modern Loan Transactions*. Major emphasis was placed on labor law and procedure in response to requests from most of the lawyers who were planning to attend.

The Chapel Hill and Winston-Salem institutes have set the pattern for continuing peace-time legal institutes, which the Bar Association has asked the Institute of Government to carry on. Continuing the plan for veteran refresher courses, district and local institutes will be held throughout the state, and this decentralized plan will also be considered in setting up the institutes for the general legal profession during 1947. Inquiries will be sent out by the Institute of Government to some 2,500 attorneys in this state, seeking information on the subjects most generally needed, time for the

institutes, and other details. It is expected that quarterly courses conducted over a long week-end will be adopted, although the plan for annual institutes of ten days or more has been discussed.

In the interest of serving the needs of both specialized and general practitioners in the legal institutes, however, no definite plans will be formed until the inquiries are in from all lawyers, indicating their preference in choice of subjects and time of meeting.

League of Municipalities

(Continued from page 13)

ther item of revenue from them. (This is not meant necessarily in the form of criticism of the particular General Assembly, but whether it is criticism or not the cities and towns were hurt by the loss of revenue.)

"The cities and towns are today proud of the fact that with diminishing revenue they have been able to keep their heads above water. But they do feel that the program which they are presenting to the 1947 General Assembly, under the capable leadership of Chairman J. E. L. Wade of the League of Municipalities Legislative Committee, is a good one. They also realize that, unless the need of the cities and towns is recognized, the cities and towns will be placed in the impossible position of furnishing more services with revenues which are not now sufficient for present needs. But if the cities and towns are ever to provide the service their citizens are entitled to, at a cost that the tax payer can pay, they must have relief from the heavy burden now on them, and this can only come by a sharing of the state collected revenue with the cities and towns of our state."

Current Problems

(Continued from page 11)

by a municipality under G.S. 160-56.

(3) In the case of florists also, as in the case of the two activities just discussed, the provisions of Sec.

121 of the Revenue Act, relating to peddlers, must be considered. In addition to exempting from taxation as peddlers wholesaler-peddlers who have an established warehouse in this state and sell only to merchants for resale, this section also exempts peddlers who sell or offer for sale articles produced by the individual vendor offering them for sale. Following the reasoning set out above in connection with wholesalers of peanuts and cheese cracker sandwiches, florist-peddlers who are non-exempt under Sec. 121 could be taxed *as peddlers* only under that section, and could probably also be taxed under G.S. 160-56 under some theory other than as peddlers. No other possible limitation on the power of a municipality to tax florists under G.S. 160-56 has been found in the Revenue Act or in the general state law. Thus, if the florists sought to be taxed are not peddlers or, if peddlers, are exempt under Sec. 121 from taxation as peddlers, then they may be taxed under G.S. 160-56 on any theory other than as peddlers.

Changing a Street Name

Problem: What is the procedure to be followed for changing the name of a street?

Discussion: There seem to be neither general laws nor decisions of the North Carolina Supreme Court dealing specifically with the power of a municipality to name streets in the municipality, but, under G.S. 160-200(11), a city or town may "adopt such ordinances for the regulation and use of the streets. . . as it may deem best for the public welfare of the citizens of the city." It would seem logical that this power would necessarily include the power to assign names by ordinance to streets within the community. McQuillin, *Municipal Corporations* (2d ed. Rev. 1940) Sec. 1393, compiles numerous cases in point from other jurisdictions, which are apparently in agreement that naming or changing the names of streets is a legislative function of the local governing body, generally done by appropriate ordinance. This appears to be the practice followed in many towns of this state, as is shown upon examination of their municipal codes, and, in the absence of some charter provision or special act to the contrary, should be a valid procedure.

CALENDAR OF DUTIES

FOR CITY AND COUNTY OFFICIALS

Prepared by the Staff of the

INSTITUTE OF GOVERNMENT

This Calendar outlines the principal duties required by statute to be performed on definite dates; it does not include certain duties where the exact time for performance is not specified by statute.

References to local modifications are those found in the General Statutes. There may be others which are not listed on this Calendar.

OCTOBER, 1946

DAY	OFFICIAL	DUTY Numbers in brackets refer to footnotes	REFERENCE TO LAW (To General Statutes, including the 1945 Supplement.)
1	Sheriff or Tax Collector	Begin 1/2% discount period for 1946 taxes. [1]	105-345 (1)
Each regular meeting of Governing Body.	Sheriff or Tax Collector	Report to Governing Body concerning taxes collected.	105-375
On or before 1st	County Tax Supervisor	Deliver to Register of Deeds list of tax exempt property.	105-312
On or before 1st	County Board of Education and City School Authorities.	Prepare and deliver school operating budget to State Superintendent of Public Instruction and State Board of Education.	115-365
On or before 1st	County Board of Education, Board of Trustees	File with Comptroller of State Board of Education certified statement of expenditures, salaries and other obligations due and payable during the month.	115-367
5	Police department	Forward to department of motor vehicles all reports (on approved form) received during preceding calendar month of accidents involving property damage of \$25 or more or resulting in injuries or death to any person.	20-166(d)
5	Local Registrar of Vital Statistics	Transmit, to State Registrar of Vital Statistics and County Register of Deeds, all birth certificates registered during September.	130-99
On or before 5th*	State Board of Elections.	Prepare forms for making county returns and send to County Board for all their returning officers and to Clerks of Superior Court.	163-116; 103-5
6	Chairman, County Board of Elections	May start receiving applications for absentee ballots for general election. [2]	163-55; 163-2,3,4,5
7	Clerk of Superior Court.	Make quarterly report and remittance on State process tax collected.	105-93(f)
7	Register of Deeds.	Make quarterly report and remittance to the State for marriage licenses issued.	105-95
7	Sheriff or Tax Collector, Governing Body, Accountant.	Day for complete settlement for all taxes if tax certificates sold in September. [3]	105-390(a)(3),(6)
On or before 7th	Sheriffs, Tax Collectors, Accountants, Tax Supervisors, County Commissioners, City Governing Body.	New tax books to be completed and turned over to Sheriff or Tax Collector by today, provided all prerequisites met.	105-325, 379-390
7	Sheriff or Tax Collector	1946 taxes become due today.	105-345
10	Coroner	Report to Department of Motor Vehicles the death of any person during preceding calendar month as result of accident involving motor vehicle and circumstances of such accident.	20-166(g)
On or before 10th	Clerk of Superior Court	Make monthly inheritance tax report to Commissioner of Revenue.	105-22
12	Registrar of Elections	Registration period begins. Attend polling place for purpose of registering voters.	163-31
On or before 15th	County ABC Board.	Report and pay State tax on wine and liquor sales for the month of September.	18-85; 105-70
19	Registrar of Elections.	Attend polling place for purpose of registering voters.	163-31
26	Registrar of Elections.	Last day for registration. Attend polling place for purpose of registering voters.	163-31
26	Registrar of Elections	At close of registration, certify to Chairman of County Board of Elections the number of voters registered in his precinct.	163-162
On or before 31st	City Clerk	Report to State Insurance Commissioner on amount of fire fighting equipment, water supply system, etc., etc.	118-9

[1] Exceptions in: Bladen, S.L. 1945, c. 335; Cumberland, S.L. 1945, c. 108 (also City of Fayetteville); Franklin, S.L. 1943, c. 293, s. 3 (only Towns of Louisburg, Bunn and Youngsville); Surry, S.L. 1943, c. 710, s. 3 (also Towns of Mt. Airy and Elkin).

[2] Exception in: Sampson, P.L. 1941, c. 167.

[3] Exceptions in: Cumberland, P.L. 1941, c. 44, s. 1(e); Mecklenburg, S.L. 1945, c. 16, s. 6.

* G. S. 103-5 provides that where the day or the last day for doing an act required or permitted by law to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.