June, 1947

POPULAR GOVERNMENT

PUBLISHED MONTHLY BY THE INSTITUTE OF GOVERNMENT
UNIVERSITY OF NORTH CAROLINA
Chapel Hill

1947-48

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Legislative Review and Appraisal

By PEYTON B. ABBOTT
Assistant Director
Institute of Government

Attempts have been made to characterize the 1947 session of the General Assembly by a single phrase or "nickname," such as the "spending legislature," the "anti-labor legislature," the "good-health" legislature, or the "highway safety legislature." None of these or other labels have shown any signs of sticking thus far, nor are they liable to do so; for the legislature dealt with such a wide variety of important matters that no one issue stood out predominantly above the others, nor did the final actions of the legislators upon the many problems presented to them indicate that the majority of them were in all cases serving the same economic or political philosophy. Indeed, it was rather apparent, from the constantly shifting alignments upon different pieces of legislation, that most legislators were voting upon most issues as they arose, upon what seemed to be the merits of the particular case, without making any conscious effort to weave into the pattern of legislation a distinctive design. Experienced legislators, who could usually be counted upon to stick together, were often seen crossing verbal swords in debate; the substantial group of new members, many of whom were well above the average in ability, showed very little inclination to "follow the leader" or to vote upon any issue without forming individual opinions; and the group of legislators from the ranks of the war veterans not only avowedly but actually refused to go in for block voting. Perhaps the nearest thing to "block" action during the session was the stand of the group fighting for teachers' salaries above those recommended by the administration, and even here neither the members of the group, nor those supporting the opposing viewpoint, could always be counted upon to "stay put."

Legislative Philosophy

With such diverse problems before it—some economic, some social, some political, some administrative and some fiscal; some touching industry, some agriculture, and some the trades and professions—and with a constantly shifting balance of power upon various questions, even upon somewhat related matters, it would be extremely surprising if any label could be devised which would fairly reflect the composite complexion, attitude or over-all accomplishment of the 1947 session. Undue conservatism certainly is not indicated by the record-breaking appropriations bill, by the passage of the resolution in favor of the Bugg's Island project, by the adoption of the medical care program, including the four-year medical school and teaching hospital at Chapel Hill, by the refusal to pass the anti-picketing bill, or by the passage of other measures designed to promote the health, safety and welfare of the people of the State by greatly extending the social and other services. Undue liberalism is certainly not indicated by the passage of the bill making illegal contractual provisions for a closed shop, union shop, maintenance of membership and the check-off, by the passage of the bill requiring registration of persons principally engaged in the business of influencing public opinion (and even this bill cannot be readily classified), by the adoption of the bill making it a felony to advocate or teach the duty or necessity of overthrowing organized government by force, or by the reduction of the corporate franchise tax. Whatever "liberalism" and "conservatism" may mean, the legislature was consistently neither, and the same applies to many of the individual members.

Hard Work and Compromise

Whatever one may think of the total product of the recent session, or of the merits of particular measures adopted or rejected, the legislature can aptly be characterized as an unusually serious-minded and hard working one. Although the 88-day span between January 8 and April 5 (with 76 days actually spent in sessions) by no means sets a record, nor did the introduction of 1610 bills and resolutions and the passage of 1131 of them, many serious problems and controversies had to be solved, and those solutions were often brought about by the difficult and time-consuming process of compromise and adjustment. The volume of legislation, the importance of much of it, and the tremendous public interest aroused by some of it kept the legislators' day full-packed with work, whether in Raleigh during the week or at home on week-ends, from the

COVER PICTURE

House Reading Clerk Ralph Monger reaches up to stop the clock at nine p. m., the hour set by joint resolution for *sine die* adjournment of the General Assembly on Saturday, April 5.

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June, 1947 Vol. 13, No. 2

POPULAR GOVERNMENT is published monthly by the Institute of Government, The University of North Carolina, Chapel Hill. Editor: Albert Coates; Managing Editor: W. M. Cochrane; Business Manager: L. W. Allen; Associate Editors: Peyton B. Abbott, Samuel R. Leager, Henry W. Lewis, Clifford Pace, Terry Sanford, David H. Scott. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscription: Per year, $2.00; single copy, 25 cents. Advertising rates furnished on request. Entered as second class matter at the Post Office in Chapel Hill, N. C.

early days of the session until final adjournment. And, while the future may prove some legislation to have been ill-advised, it is probable that the total product reasonably well represents the present composite opinion of the people of the State. After all, the legislators were elected directly by the people and, although many of the matters which arose during the course of the session had not been presented as issues during the primary and general election campaigns, the legislators seemed for the most part to be earnestly striving to carry out the wishes of their constituents.

Background of the 1947 Session

In common with the 1947 session of the General Assembly, the 1943 and 1945 sessions convened with a surplus in the general fund. When the 1943 legislature met, it was estimated that by the end of the 1942-43 fiscal year the general fund surplus would reach 38 million dollars or more. (That legislature promptly put 20 million dollars of the surplus into a Post-War Reserve Fund, used part of the balance to provide a modest "war bonus" for teachers and State employees, and authorized the investment of any balance in certain securities.) The 1945 legislature met amid conservative estimates that by the end of the 1944-45 fiscal year, the general fund surplus would probably reach 50 million dollars, exclusive of the 20 million dollars in the reserve fund. (That legislature promptly set aside $51,585,079 to be used for the liquidation of the State's general fund bonded indebtedness.) With the general fund bonded debt taken care of, and with a 20 million dollar cushion to take up the shock of declining revenues, if and when a reversal of the trend started by war spending should set in, the 1947 legislature convened amid predictions that the general fund surplus would again approach the 70 million dollar neighborhood by July 1, 1947. But while the State had been getting rid of its bonded debt, setting aside a reserve fund, and accumulating sizeable surpluses during the war years, it had also been accumulating many serious needs which could be satisfied only by the expenditure of substantial sums. It had likewise been accumulating problems which, because of preoccupation with the war and the dislocations and uncertainties generated by war, had been deferred or dealt with upon a temporary basis by the two war-time legislatures. And it found itself confronted with new problems created by war's aftermath.

Other than being faced with increasingly large excesses of receipts over disbursements and with the necessity of enacting necessary legislation to keep the machinery of State in reasonably good running order, the first post-war legislature met in a vastly different atmosphere from that of its two war-time predecessors, and consequently there was a considerably different legislative emphasis. The 1943 session, meeting at the end of our first full year of participation in the war, was naturally concerned to a considerable extent with legislation to aid the national defense program and to promote the war effort. Indicative of the kind of problems occupying the attention of the members of that Assembly was the passage of the Emergency War Powers Act which vested in the Governor vast powers, to be exercised in his discretion with the approval of the Council of State—powers which, had the occasion arisen, were sufficient to have enabled the Governor to impose a total draft upon all of the resources of the State, under rules and regulations issued and executed by him.

When the 1945 session convened, the show-down in Europe seemed to be close at hand and the war in the Pacific was going well. The legislature could now turn its attention to domestic and post-war problems, but in attempting to formulate a program, it was faced with many uncertainties. How much longer would the war, and war spending, continue? When would revenues start falling off and how sharp would be the decline? How rapidly would the armed forces be demobilized, how long would it take industry to reconvert to a peace-time basis, and what would be the effect upon our economy? When would how many veterans make application to enter what schools under the G. I. Bill? When would manpower and materials become available for the repair and expansion of our facilities? In the face of rising prices, how much should be appropriated for the construction of what building? In view of these and many other uncertainties, it was not surprising that the 1945 legislautre followed the course it did: it enacted legislation essential to the continuance of services and passed corrective measures where a present need was indicated, but with respect to post-war problems, expansion of facilities and extension of services, it confined itself for the most part to declarations of sentiment and policy. Good examples were the treatments given the medical care program, the mental institutions, and the institutions of higher learning: sentiments and policies were declared, but no appropriations for the construction of additional facilities were made. With respect to major changes in the laws, a frequent treatment was to appoint a commission to study and report to the 1947 session.

Inherited Problems

Thus, the 1947 General Assembly inherited from the two preceding sessions many problems upon which definite action would have to be taken, as well as having to deal with the usual run of matters presented to every legislature, plus a good many new ones generally lumped together as "post-war problems." It also inherited, in a sense, the surplus in the general fund; for much of the surplus represented depreciation in the capital assets of the State, lack of appropriations for even normal construction, and the difference between State salary payments as provided by appropriations and what those appropriations would have been if appropriations had been sufficient to keep them in line with increased living costs. It is too early to judge how well the 1947 legislature met those problems, how wisely it disposed of the surplus accrued and expected to accrue by June 30, and how accurately it estimated the general fund revenues for the 1947-49 biennium. It is not the purpose of this article to discuss the technical aspects of the legislation enacted, but to suggest the background and problems of the legislature and to point out some of the more interesting sidelights of the session.

Highlights and Sidelights

The "Gag Rule"

Legislative bodies must operate under rules governing their procedure and deliberations, and the State House of Representatives is no exception. A few procedural rules, such as the proportion of those voting required to sustain a call for the ayes and noes on a question, are provided by the Constitution, but most of the rules under which the House operates are those provided by the House itself, and the rules are adopted for each session. When a session convenes, therefore, it has practically no rules to go by—not even any rules governing the formulation and adoption of rules. At the beginning of each session it is customary for a motion to be made, immediately after the election of officers, to adopt temporarily the rules of the preceding session until a Committe on Rules, to be appointed under the provisions of the temporary rules, can formulate and present for adoption the permanent rules of the session. In the absence of a Constitutional provision such as one requiring the presiding officer of each chamber to appoint rules committees immediately, with some well-known rules, such as Roberts Rules of Order, to govern until permanent rules can be adopted, the rule-adopting procedure has little except custom as a sanction. However, the device of temporarily adopting the rules of the preceding session is not ordinarily a bad one, as the requirements of one session are pretty much the same as those of another. In practice, the permanent rules are usually carried forward from session to session with only minor amendments.

But the 1945 rules contained two rules, Nos. 57 and 71, which in substance provide that a bill may not be withdrawn from a committee (and placed on the calendar for consideration), nor may a minority report (signed by at least three members of the committee which considered the bill) be adopted in place of the majority unfavorable report, nor may a bill be taken from the unfavorable calendar (having been placed there by an unfavorable committee report) and placed on the favorable calendar (and therefore become subject to debate and vote by the entire membership), except by a two-thirds vote. These rules, which have come to be known popularly and collectively as "the gag rule," were carried over from the 1943 rules which, in turn, adopted them when it adopted the 1941 rules into which the two-thirds provisions were written in the closing days of that session. An attempt had been made in 1943, and again in 1945, to reduce the two-thirds requirement to a simple majority vote in the case of withdrawing a bill from a committee or adopting a minority favorable report. In 1943 and 1945, some opponents of the "gag" rule had insisted that it was adopted and maintained for the purpose of hamstringing any liquor referendum bills, as such bills could be sent to a committee having a majority opposed to a referendum and the committee could kill the bill by an unfavorable report or merely by keeping it in committee in spite of the desire of a simple majority of the membership to pass the measure. Other opponents had put their opposition on the ground that the two-thirds rule was undemocratic, that in democratic bodies the will of the majority—a simple majority—ought to prevail, and that it was fundamentally wrong to continue a rule under which 41 members might override the desires of 79, whatever the issue might be. Proponents had denied that alcoholic beverages had anything to do with the rule, or *vice versa*, had insisted that the rule was designed only to expedite legislation by avoiding useless debate upon bills which had been duly considered and rejected by a proper committee, and had pointed out that there were a number of other rules which required more than a simple majority. It was fully expected that the same fight, along the same lines, with the same arguments, would be made when the time came for the adoption of the 1947 rules.

The 1947 Fight

On that point no one was disappointed. Laudatory speeches and expressions of good will and unity attendant upon the unanimous election of officers were still echoing in the hall of the House when Representative Gass of Forsyth arose and moved that the 1945 rules be temporarily adopted. Representative Umstead of Orange then offered amendments to rules 57 and 71. In no time at all unity was shoved out of the chamber and good will was hanging on by a tenuous thread. Brand-new Speaker Pearsall soon found himself in the somewhat anomalous position of ruling the motion to amend out of order on the ground that, until adopted, there were no rules to amend. Whatever rules were or were not in force, the debate did not seem to follow strictly any known parliamentary course; at one point several members were clamoring for recognition while others were attempting to debate or interject remarks without the formality of recognition, and in spite of vigorous gavel-banging and calls to order by Speaker Pearsall it began to look as if newly-elected Sergeant-at-Arms

The public hearing on the bill to tax co-operatives (see page 7) attracted such a crowd as to necessitate moving to Raleigh Memorial Auditorium. Part of the estimated 3,000 are shown above, gathered on Capitol Square prior to the hour of the hearing.

Joyner might have a job to do. Order was finally restored, however, and the debate proceeded. When Representative Mull of Cleveland arose to support the proposed amendment he was asked if it were not a fact that the two-thirds rule had been adopted at the 1941 session when he was Speaker. "Yes," said Mr. Mull, in effect, "but it was done toward the end of the session and only as a temporary matter to expedite adjournment so we could get through in time to let Governor Broughton go to Mexico with Ambassador Josephus Daniels to keep an engagement." When Mr. Mull asked rhetorically whether anyone had ever heard of a "pocket veto," he might have been thinking of the little local wine and beer bill he intended to introduce. (Certainly some members were thinking along that line, as subsequent events tended to prove.) In the course of the debate, it was suggested that the temporary rules be adopted without amendment, and that, if the "gag" rule should turn up in the new rules when reported out, the amendment might then be offered. "Oh no," said the opponents. "The temporary rules would contain rule 41 which requires a two-thirds vote to alter or rescind any standing rule or order. We want to decide this question by a majority vote." There followed a discussion as to whether a simple majority or a two-thirds vote would be required to amend the Rules Committee's report. No answer satisfactory to all was arrived at, however, and the question was finally settled by a "gentleman's agreement": whatever rule might apply, the amendments to be offered by Mr. Umstead would be adopted or rejected by majority vote. It was something of an anti-climax, therefore, when the amendments to eradicate the "gag" rule were sent up. A roll call vote having been called for and sustained, it turned out that less than one-third of those voting were in favor of the amendments. So the "gag" rule remained, and apparently by the will of more than two-thirds of the House.

Echoes

Though the song was ended for the time being, the melody lingered on, and the refrain was heard several times during the session, sometimes quite loudly. There was the instance when Representative Gass, chairman of the same Rules Committee which reported the permanent rules with the "gag" provision intact, arose to express despair (and to display some anger) over the probable fate of his bill to prohibit the sale of wine and beer in Bethania Township in his County of Forsyth. That bill was languishing in the House Finance subcommittee, and he was experiencing considerable difficulty in getting some action on it. Further, he feared that if action came it would prove to be unfavorable. He suggested that his bill was being "gagged," pointed out that he had often been unjustly accused of being the father of the "gag" rule, and intimated (in language strong enough to change "intimation" to "threat") that unless his Bethania wine and beer bill were acted upon by the Finance Committee soon and favorably, he would be disposed to "tell all" about the "gag" rule—presumably its background, history, and purpose. This incident passed over, however, when Mr. Gass introduced, received a favorable report on, and succeeded in having passed a somewhat watered-down bill, now law, which prohibits the sale of wine or beer near certain designated churches and schools in Bethania township.

Politics

The "gag" rule bobbed up in another incident, however, which may not have been passed off with *sine die* adjournment. Senator McLaughlin of Iredell County also had a "little bill" in committee, and he also wanted some action. Although his bill was in the Senate where no "gag" rule issue had been raised, he found it expedient to support his demand for action by exhibiting a letter written in 1940 by Mr. Mull, then candidate for Speaker of the House (which candidacy proved successful), to Mr. John W. Umstead, then candidate for Representative from Orange. This letter, a photostatic copy of which was given to the press, solicited the support of Mr. Umstead for Mr. Mull's speakership race, and went on to suggest that matters were pretty well "sewed up" anyway. Further, the letter suggested, an agreement had been reached between the writer, Governor-nominee Broughton, and representatives of the ABC counties relative to the manner in which alcoholic beverage legislation should be handled. The press, which gave considerable attention to the incident, did not fail to note that Representative Umstead's brother, U. S. Senator William B. Umstead, would almost certainly be opposed in 1948 by former Governor Broughton.

Teachers' Salaries

Before, during and since the legislature the press covered the teachers' pay fight so closely and in such detail that very little remains to be said. Briefly, and without outlining the moves and counter-moves, this is what happened with respect to teacher salaries for the next biennium. Before the General Assembly met, the "regular" education forces, including the NCEA, announced that they would fight for a pay increase of at least 20% and gave notice that if living costs continued to rise a larger increase might be asked. Governor Cherry, in his message to the Assembly, recommended a 20% increase in the salaries of teachers and other

North Carolina's hard-working legislators have little time to spare during the comparatively short legislative sessions, and consequently the groundwork for many a piece of legislation is laid in hotel rooms. Shown here talking with newsmen Woodrow Price and Noel Yancey (seated, taking notes) are Representatives Mull (back to camera), and (left to right) Fountain, Vanderlinden, Sims, Stoney, Huskins and Buie.

State employees. But since the "regular" education forces had announced their objective, there had been a considerable advance in living costs. Further, insurgency had developed in the ranks of the NCEA, and the insurgents, demanding the adoption of the so-called "South Piedmont Plan" which called for salary increases estimated to run from 30% to 68%, seemed to be gaining strength. So, when the time came for action on the teachers' pay, the administration was found still trying to adhere to increases of about 20% for teachers as well as for other State employees, the "regular" education forces had raised their sights to at least 30%, and the South Piedmont group was still contending that the State could and should pay "A" certificate teachers up to $3,000 per year and graduate certificate holders up to $3,600 per year. Final result was a "compromise" under which the appropriation was increased in an amount which the administration contended would provide increases of approximately 30%, but which the teachers contended would give them only about 27½%. An incidental result was the departure from precedent by divorcing teachers from other State employees in the consideration of salaries: whereas the original bill would have given the same increases to teachers as to other State employees, the final bill upped teachers' salaries substantially but left other State employees with their original average 20%.

The Supplemental Pay Fight

More dramatic in many respects and, on the surface at least, harder fought than the pay provisions of the biennial bill was the battle over the bill to provide pay increases for teachers and State employees for the remainder of the 1946-47 fiscal year. The intensity of the struggle may be accounted for to a large extent because it was something of a preview, a test of strength, and possibly might furnish a precedent for the biennial measure. Briefly stated (for this situation was also fully and prominently covered by the press), the following took place: the original bill followed the Governor's recommendations in providing salary increases for State employees and teachers ranging from approximately 20% for those in the lower brackets to about 8% for those in the "higher" brackets (those earning over $2,700 per year). It was estimated that this would cost the State some $6,000,000. The bill was reported out, passed the Senate in its original form, came to

With galleries, lobbies and rotunda jammed, the Senate debates the anti-closed shop bill. **(See page 7.)**

the House. There it was subjected to the "Barker" amendment, offered by Representative Oscar Barker of Durham, which provided increases ranging up to 30%. The effort to have this amendment adopted seemed to start off slowly and not too hopefully, but it gradually gathered sufficient momentum to carry it across in the face of what the administration thought were enough votes to "hold the line." When the Senate was asked to concur, however, it refused, and the bill was sent to conference, which shortly brought out a report which would have appropriated to within $100,000 of the estimated $8,150,000 which the Barker amendment would have cost. This report was promptly adopted by the Senate but rejected by the House because it did not meet the percentage increases in the lower brackets which the Barker amendment had provided. The House action in rejecting the conference report was taken by the leader of the House conferees as a vote of lack of confidence, and he asked that the conferees be discharged, which request was granted. However, the same conferees, with additional members to make up a larger committee, were soon reappointed and the bill was sent back to committee to see if a solution that would command the support of a majority in both houses couldn't be worked out. After some travail, the conference committee emerged with a report which both Senate and House promptly adopted, to everyone's evident relief. No one had abandoned any principles, and no one conceded that any precedent which might be applied to the biennial bill had been set. The administration avoided breaking the 20% line by having the salary additions called "emergency bonuses" instead of "emergency salaries," by having the additional payments relate to a longer period of time than 6 months, and by having half of the total salary addition paid in a lump sum, with the remainder payable in equal amounts with each pay period for the remainder of the biennium. And the Barker forces got about 98.8% of the total amount for which they were contending.

Permanent Improvements

During the depression years the State and its various institutions did very little building—it was hard put to it to dig up enough money to meet essential current expenses. It was not long after recovery had set in before America was straining her resources in order to become the "Arsenal of Democracy." Then came the war, and all available men and materials went into the war machine. In the meantime, many of the State's facilities were becoming well-worn and inadequate. We had not even kept up with normal replacements and were far behind in normal expansion. And with the end of the war we were faced with increased demands for services which rendered our facilities wholly inadequate. This long period of practical inactivity in plant repair and expansion, plus the increased demands for services, accounts for requests from the various State departments, agencies and institutions for a total of over $88,000,000 to be spent for permanent improvements. The Advisory Budget Commission studied these requests, considered the proper priority on the basis of need, and trimmed them down to fit into what it thought the State could afford. It recommended a total

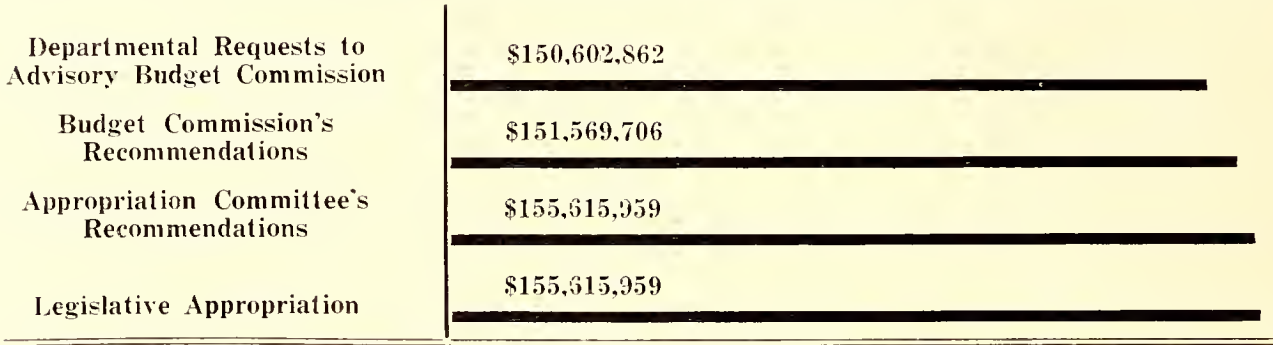
appropriation for a Permanent Improvements Fund of over $44,000,000 designating, of course, the objects for which the funds were appropriated. The joint Appropriations Committee raised the *ante* somewhat and recommended total expenditures of $48,432,176, and this figure was accepted by the General Assembly. For a comparison with this appropriation and appropriations for permanent improvements since 1921, see the accompanying chart.

The Medical Care Program

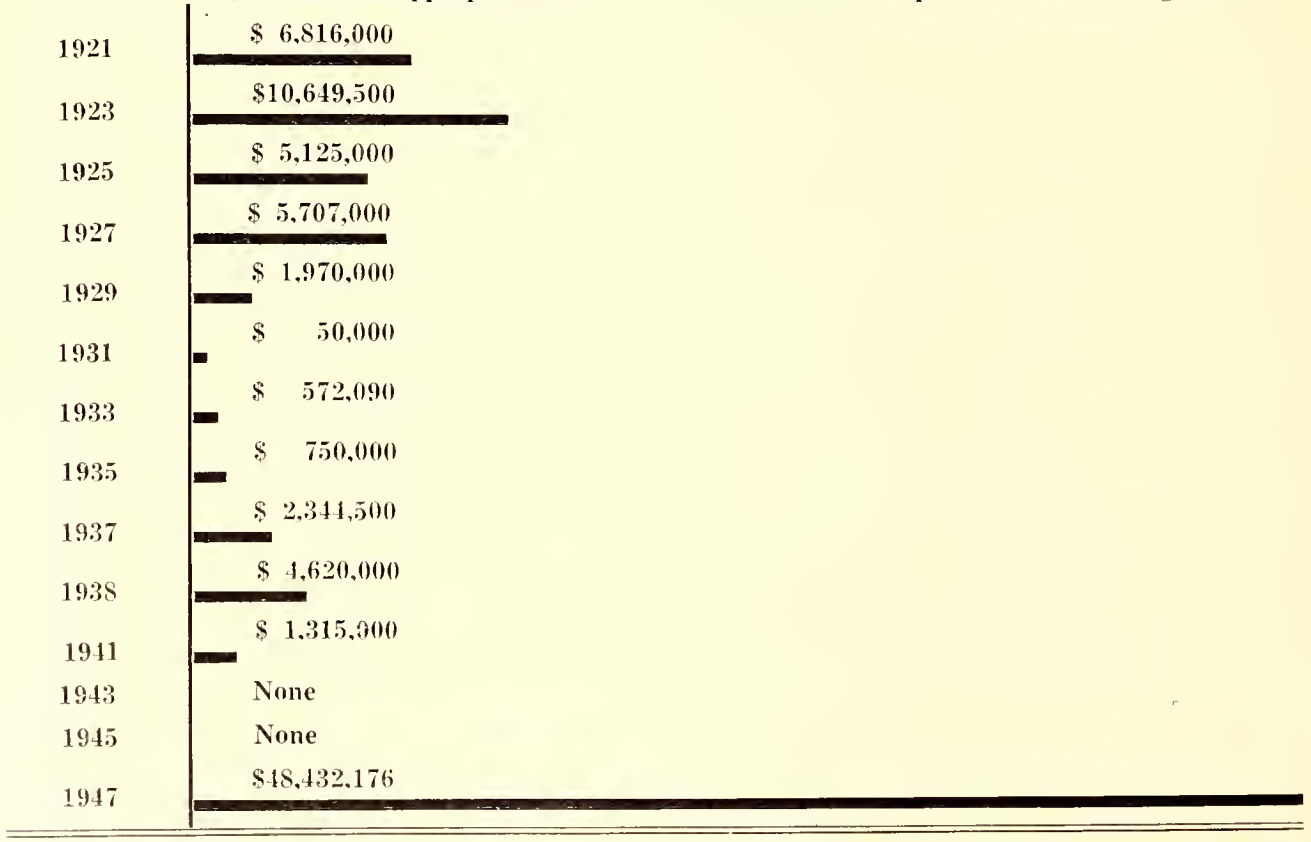
Pre-session dopesters had picked the battle over the medical care program, and particularly that part of the program which called for the establishment of a four-year medical school and teaching hospital at Chapel Hill, as the outstanding feature of the session. That battle was expected to have dramatic content, public interest, and possible repercussions in future political strategy. The advance billing turned out to be misleading. The entire program, as recommended by the Medical Care Commission and approved by Governor Cherry, was enacted into law without so much as an amusing legislative incident. There were a few extra-legislative darts cast at the program, but they were more sensational than effective. There were a few oblique legislative attacks which hindered the passage of the program about as much as a high-powered pop-gun would halt the charge of a rhinoceros.

The lack of substantial legislative opposition to the medical care program may be attributed to two factors (which really boil down to one): (1) the Good Health Association, along with the many strong associations and organizations which responded to its plea for support, had drawn up such an imposing phalanx that resistance seemed not only futile

Total Average Yearly Requests, Recommendations and Appropriations for Current Expenses and Debt Service for All State Functions for the Biennium 1947-1949



Permanent Improvements Appropriations from General Fund Compared: 1921 Through 1947



Data obtained from Budget Statement No. 12, Budget Report for Biennium 1947-49, and from H. B. 23, Budget Appropriation Bill, ratified March 25, 1947 (Ch. 500, S. L. 1947).

but foolhardy. (2) Largely because of the work of the Good Health Association and its allies, the people of the State, and their legislative representatives, became acquainted with the objectives and purposes of the medical care program. They were brought to a realization of the need for, and the soundness of the investment in, a sound health program for the people of the State. The people and their representatives came to believe that, as a stride toward a greater and better State, the medical care program equalled or perhaps transcended the good roads program of the early 20's which first put North Carolina out in front of her sister Southern States and started giving her a taste of national "firsts." Because of the ground-work, and the apparent soundness of the program, the "battle of the session" failed to materialize, although its presence on the agenda apparently exercised considerable incidental influence with respect to other appropriations.

As to putting the medical care program into effect, there are two contingencies to be met: (1) the availability of federal funds to the extent of 1/3rd of the costs of the projects, under the Hill-Burton Act or similar federal legislation. (2) A finding by the Governor and Council of State, as to each project, that value can be received for each dollar spent. It remains to be seen when and whether these contingencies will be met, but regardless of whether they are met the fact remains that the State has definitely committed itself to a program of investing in the health of its people, and in token of this commitment has laid on the line a very blue chip.

Wildlife

A well-known Raleigh correspondent dubbed it the "Wildfire" Association, so hot was its zeal and so earnest its purpose. The Wildlife Association had made a near-successful effort in 1945 to take sport fishing and game out from under the Department of Conservation and Development. Its defeat at that session only served to strengthen its resolve, and when the question of separation again arose at the 1947 session, the ground had been so well prepared that what had loomed as a battle royal turned out to be little more than a skirmish. The Wildlife Association wanted a commission, separate and apart from the Department of Conservation and Development, to have jurisdiction over the protection and propagation of game fish and animals. It seemed convinced that a commission devoted principally to the sporting aspects of fish and game would probably provide better fishing and hunting. Apparently, better fishing and hunting is not a commodity to be trifled with, as the wildlife "lobby" has been rated by seasoned observers as one of the most powerful and effective in recent years. The result was that, after a negligible surface battle, hunting and fishing sportsmen of the Association won their fight for a separate Wildlife Resources Commission, to which their hunting and fishing licenses will be paid, to the end that more game fish and animals may be provided and protected until caught or killed in a sportsmanlike manner.

Co-operatives and Mutual Marketing Associations

An unheralded issue produced the largest crowd at a public committee hearing since the memory of man runneth not to the contrary. Representative Fisher of Buncombe introduced a "little" bill to place farmers' co-operatives and mutual marketing associations on the same footing as corporations and other business organizations with respect to franchise and income taxation. The importance of the bill, the departure from former policy, and the interest manifested made a public hearing necessary, and the date was finally set for February 18, in the afternoon. On the morning of that day, Raleigh began to seem a little crowded; by noon it was bulging, and the reason was obviously the presence of people who wanted to attend the "co-op" hearing. The hearing was first moved to the hall of the House but, it soon becoming apparent that the crowd was too great to be accommodated therein, it was held in Raleigh Memorial Auditorium, and not much space was wasted there: it was estimated that not less than 3,000 attended the hearing. The 3,000 were *not* there to support the bill. In the face of such overt opposition, Representative Fisher abandoned his attempt to get the original bill through, but brought forth a proposal to tax other than "pure" co-operatives, i.e., those which market members' products only, and which distribute all profits among the members. When this measure also failed, Mr. Fisher introduced, and succeeded in having passed, a bill requiring the Department of Tax Research to make a study of the question of taxing co-operatives and to make a report and recommendation of the matter to the Advisory Budget Commission prior to the convening of the 1949 General Assembly.

Anti-Closed Shop

While the co-op bill drew the largest crowd to attend a committee hearing, another unheralded bill attracted the largest crowd to attend a session of the Senate. HB 229, now chapter 228 of the Session Laws of 1947, is entitled "An Act to protect the right to work and to declare the public policy of North Carolina with respect to membership or non-membership in labor organizations as affecting the right to work; to make unlawful and to prohibit contracts or combinations which require membership in labor unions, organizations or associations as a condition of employment, to provide that membership in or payment of money to any labor organization or association shall not be necessary for employment or for continuation of employment and to authorize suits for damages." Such a mouth-filling and revealing title certainly did not suggest any effort to slide the bill through quietly, and the introduction of the bill and its purpose received ample news coverage, but the bill did not seem to be taken too seriously at first, the feeling probably being that it had little chance of passage. Considerable attention was aroused, however, when the bill passed the House by a substantial majority, and when the bill reached the floor of the Senate interested spectators were so numerous that the sergeants-at-arms, reinforced by Capitol police, were hard put to it to keep open a small lane for necessary passage into and out of the Senate chamber. The chamber itself, the lobbies and the galleries were jammed, and the crowd backed up into the ante-rooms off the gallery and out into the hall beyond the point where there was any chance of seeing or hearing what was going on inside. While the crowd and the speeches were preponderantly opposed to the bill, the Senatorial votes were preponderantly in favor of it. All amendments were beaten down, and the bill passed with its original provisions intact. After July 1 it will be illegal to enter into a labor contract providing a closed shop, a union shop, for the check-off of union dues, or for the maintenance of union membership.

It was the passage of this bill, coupled with the defeat of a relatively mild wages and hours bill, which was largely responsible for some observers' calling the 1947 legislature "anti-labor."

Liquor

Every session there is introduced a biennial revenue bill and a biennial

(Continued on page 14)

THE CLEARINGHOUSE

News of Developments in Local Government

By W. M. COCHRANE
Assistant Director
Institute of Government

City Limits

With an eye on the 1950 Federal census, voters in numerous cities and towns in the State, and in their suburban areas, will be deciding the question of municipal expansion of corporate limits during the course of the next two years. In a few of the 34 municipalities for which special laws authorizing extension were passed by the General Assembly, no elections will be necessary—the enlargement having been accomplished by legislative act, usually where no local opposition to the move was expressed. But in most of them an affirmative vote in both the area inside present corporate limits and the area to be annexed will be required.

The long list of vexatious problems attending upon expansion of municipal limits includes questions relating to bonded indebtedness, increase in tax rate for citizens in the area to be absorbed, extension of sewer, water, electric, street, sidewalk, garbage collecting, fire protection and law enforcement services into the new area, redistribution of voting wards for proper representation in the municipal government, and so on.

Municipalities affected by the 1947 series of local extension authorizations were Aberdeen, Albemarle, Canton, Castalia, Charlotte, Conover, Dunn, Fairmont, Gastonia, Greensboro, Hickory, Highlands, Laurinburg, Liberty, Monroe, Mount Holly, Newton, Oxford, Pink Hill, Pittsboro, Plymouth, Rocky Mount, Sanford, Scotland Neck, Shallotte, Siler City, Smithfield, Stanley, Tarboro, Wadesboro, Whiteville, Wilmington, Winston-Salem and Valdese.

In only one instance did a municipality seek to have its corporate limits contracted, as opposed to the general trend of municipal expansion. Asheville lost a small piece of its territory when an act was passed taking a portion of the Beaver Lake golf course out of the city's limits.

Meanwhile, toward the end of a session during which considerable time was taken up with local legislation on dozens of subjects including corporate expansion, the legislature passed a bill introduced by Representative Vanderlinden of Catawba, which makes expansion possible without legislative action. Under the Vanderlinden law, the governing body of a municipality can give notice by publication that it intends to consider a proposal to take in territory described in the notice by metes and bounds. A referendum can be called by petition of 15% of the qualified voters in the new territory, or the governing body could call for one on its own motion. A referendum within the existing city would be held only when called for by petition of 15% of the qualified voters who voted in the last preceding gubernatorial election, and in case no referendum is called for, annexation would become effective from the date the ordinance is passed, and the new territory would be subject to municipal taxes levied for the fiscal year following date of annexation. The law provides that the referendum may be held in the new territory only, or in the new and old territory separately, and if it is held in both areas, requires an affirmative vote in each for annexation to take place.

Parking Meters

Installation of parking meter systems in various municipalities in North Carolina, under authority granted by the 1947 General Assembly (cities of 20,000 population or over already had the authority), represents another step in the struggle to solve the urban traffic problem, now serious even in the smaller communities. Revenue from the meters is required under the general law to be used exclusively for making traffic regulation effective, and in most municipalities is used by the police departments, which are responsible for enforcing the traffic laws.

A somewhat different approach to the problem is currently being tried out in *Mount Airy*, where parking meters, installed last November, recently went into operation. Revenue from the meters there will be used to lease and maintain free parking lots in the business section, which are expected to ease downtown congestion considerably. The first of several such lots has already been leased and was being put into condition in early April, with a gravel surface being planned, and with individual spaces marked off to accommodate 51 automobiles. Time limit on parking in the lot will be 12 hours, and it will be supervised and periodically checked by the police department.

Hendersonville's parking meters, which were installed last June, had paid for themselves by the first of April of this year. *Brevard's* governing body decided in March to install parking meters, and expectations were that they would pay for themselves in approximately eight months, with estimated gross annual revenue of $16,000.

Water

Asheboro's recently completed 52½ foot dam, which impounds 1¼ billion gallons of water and eliminates danger of water shortage for the Randolph community, was the subject of an article in the March issue of *The American City*. The lake behind the new dam brings to four the number of reservoirs now being used by Asheboro, with a combined yield of approximately 6½ or 7 million gallons per day.

Construction was begun on the new dam after a severe water famine in 1941, during which drastic restrictions on water use had to be instituted. Asheboro had had an even more severe experience in 1925, when tank cars had to be used to replenish the water supply.

Meanwhile, in many other North Carolina communities, municipal water systems were staggering under their present loads, with every indication that demands for increased service would continue to grow. They faced a variety of problems. In the over-crowded University community at *Chapel Hill*, an inadequate filter

plant (which now has a capacity of 2½ million gallons daily) was expected to fall short of University, Chapel Hill and *Carrboro* needs during the summer months ahead. "We have plenty of water, plenty of pipes and plenty of pumps," a University official said, "but no filter to handle the anticipated need." But the shortage was expected to be inconvenient rather than serious, and would be greatly alleviated by a wet summer. And the new $400,000 filter plant provided for the University community in the permanent improvements appropriation legislation recently enacted by the General Assembly will eventually remedy the situation, although construction is not expected to start for at least two years.

Since March, 1946, when a preliminary survey indicated that *Winston-Salem's* water supply margin was dangerously narrow, engineers have been at work on a comprehensive survey of available potential sources in the area from which additional water might be taken. Meanwhile the board of aldermen has taken emergency steps to improve the city's present system, including appropriations for a new centrifugal pump with a capacity of six million gallons daily (to replace the old two million gallon pump), and for a three-foot addition to the present dam's spillway.

Although for many cities and towns the present inadequacy of water and sewage systems is simply the result of the general war-time cessation of all but vitally necessary construction along with the concurrent gradual increase in services, for many others, especially for those seeking to extend their corporate limits this year, present and prospective inadequacy is caused by the hundreds of would-be new customers in suburban areas.

Public Spending

1947 continues to be a year of municipal and county borrowing and spending, with the almost universal public demand for more and better local governmental services outweighing the fact of continuing high prices and material shortages. Talk in North Carolina's city halls and county courthouses continues to revolve around schools, airports, public libraries, hospitals, recreation systems, electric, water and sewer systems, street and sidewalk improvement, fire and police equipment, better garbage collection, and similar topics down through the long list of services which modern municipal government is expected to render.

No monopoly on this spirit of expansion and improvement is held by any one population class of North Carolina communities, nor by any one section or corner of the State. From the largest cities down to the smaller towns, from the most populous counties down to the more sparsely settled ones, citizens and local officials are joining in the effort. A look at some of the localities involved and at the nature of their current projects makes this clear:

Schools

New school construction or improvement of existing facilities are involved in bond elections recently held or soon to be held in the counties of *Burke* ($1,000,000, April 26), Person ($491,000, April 29) and Stanly ($400,000, April). School tax elections were being scheduled in numerous counties and municipalities, among them being *Beaufort* County outside of the *Washington* Administrative Unit (20 cents on the $100 valuation) and the cities of *Charlotte* (25 cents, April 15) and *Hickory* (21 cents, May 19).

In *New Hanover* County the voters on March 25 approved expenditure of not more than $100,000 from unappropriated funds for opening a junior college, and a levy of 5 cents on the $100 annually for maintenance of the college.

Airports

The voters of *Fayetteville* approved on February 25 a $125,000 bond issue for construction of a new airport, with part of the total expense to come from federal funds allocated to the city by the Civil Aeronautics Administration in January. The CAA's national airport plan included recommendations for construction or improvement of 84 North Carolina airports within the next three years, of which the Fayetteville port was one, and tentative allocations of funds under the National Airport Act were made to the following cities and towns in this State: *Hickory*, $240,000; *Greensboro - High Point*, $112,000; *Fayetteville*, $108,317; *Morganton-Lenoir*, $150,000; *Statesville*, $85,000; *Halifax* County Airport at *Roanoke Rapids*, $30,000 (later raised to $73,000); *Brevard*, $20,000; *Bladen* County Airport at *Elizabethtown*, $50,000; *Sampson* County airport at *Clinton*, $60,000; and *Shelby*, $193,000. These grants were made subject to being matched by varying amounts to be put up by the local units, as specified by the CAA, and involve the necessity of bond elections in many cases.

Public Recreation

Bond issues totaling $200,000 for park and recreation system improvements were approved at *Fayetteville* along with the airport bond issue mentioned above, and in addition, the voters authorized levy of not less than 3 cents nor more than 10 cents on the $100 for maintenance of a recreation program for the city. Similar tax levies for recreation purposes were approved at *Newton* on March 11, and election on a 3-to-8 cent recreation levy was scheduled for *Monroe* in April.

Public Works

The biggest capital outlays in most municipal budgets have always been those involved in sewer and water, street and sidewalk expenditures. Heavy construction and equipment costs are characteristic of these basic services. Numerous expansion programs are underway in these fields in the State today, and voters have approved bond issues recently at *Greensboro* ($2,897,000, for rights of way, paving, water and sewer expansion, and other improvements); *Newton* ($500,000, for water, sewer and light improvements); and *Catawba* ($24,000, for a new city hall, water, sewer, and street improvements). Bond elections were also scheduled at *Henderson* ($100,000, for sewer extension, May 6), *Hazelwood* ($50,000, for street, water and sewer extensions, May 6), and at *Carolina Beach* ($182,000, for water and sewer system, and street and sidewalk improvements, May 6).

In *Durham*, the Citizens' Committee on Proposed Bond Issues reported to the city council that the total amount suggested to them for meeting the city's capital needs, and for schools, war memorial and public library, totaled $16,690,939. In *New Hanover* County the voters approved on March 25 a special tax levy of 5 cents on the $100, for constructing, maintaining and equipping a county tuberculosis sanatorium. And in *Burke* County voters were to decide on April 26 whether to construct a new courthouse and jail, with the proposed bond issue for those purposes to total $650,000.

A Police School for Every Police Department

On May 28, sixteen mayors in sixteen cities will award certificates to over 600 police officers who have completed a twelve-week course of study in traffic law enforcement. (See pictures of local schools on opposite page.) Thus the first Institute of Government program of local police schools, planned and conducted with the cooperation of the Federal Bureau of Investigation, and sponsored by the North Carolina Police Executives Association, will be completed.

How They Started

The history of this program of schools began when the Institute of Government began, with a two-day police school held at Chapel Hill. This school was later expanded to a two-week school covering all general police methods, and later multiplied to a number of two-week schools, each covering specific topics of general police methods, such as fingerprinting, traffic law enforcement, scientific methods of crime detection, police administration and records, and investigative techniques. The next great step in the training program was to extend these specialized schools from Chapel Hill where only a few officers from each department could attend, to the cities where every officer in the department could attend. This step has been taken successfully by sixteen police departments.

Federal Bureau of Investigation

The groundwork for these schools was laid at a meeting of the Police Executives Association at Chapel Hill in August of 1946, where it was agreed that the most pressing police problem of the moment was traffic control, and that the first series of schools should be built around traffic law enforcement. Albert Coates, Director of the Institute of Government, and Hugh H. Clegg, Assistant Director of the Federal Bureau of Investigation, pledged the attending officers that a thorough and uniform program would be prepared, that guidebooks would be furnished, and instructors supplied.

Guidebooks Prepared

Three guidebooks were published by the Institute of Government and a copy of each was given to every officer who enrolled for the course of study. These guidebooks, *Traffic Control and Accident Investigation*, prepared by the F.B.I., and *Traffic and Motor Vehicle Laws of North Carolina*, prepared by the Institute of Government, were given their "shake-down cruise" at the State Highway Patrol training school held at the Institute of Gov-

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INSTRUCTORS IN TECHNICAL TOPICS were traffic law enforcement specialists of the Federal Bureau of Investigation, pictured here in the law enforcement room of the Institute of Government, from left to right: Special Agent Nelson A. Watson, Terry Sanford of the Institute of Government, Special Agent Edwin Brown, Special Agent in Charge John C. Bills, Special Agent John B. Greene, Albert Coates of the Institute of Government, Special Agent E. Fleming Mason. These Special Agents were assigned to North Carolina for eight weeks, giving the officers the benefit of complete coverage of the subjects traffic control and accident investigation.

INSTRUCTORS IN LEGAL TOPICS—Ottway Burton, L. T. Hammond, Wade H. Yates, Archie Smith, A. I. Ferree, John G. Prevette, W. C. Cheek, Hal H. Walker, Attorneys, Asheboro; George Pennell, Joe Huff, W. M. Styles, W. K. McLean, I. C. Crawford, Attorneys, Eric R. Hall, Chief of Police, Asheville; R. Bruce White, Jr., Attorney, W. J. Brogden, Prosecuting Attorney, A. R. Wilson, Judge, Captain C. G. Rosemond, Police Department, Durham; Clifford Pace, Institute of Government; Charles E. Hamilton, Jr., E. R. Warren, Attorneys, Gastonia; J. W. H. Roberts, Judge, W. H. Speight, Attorney, Eli Bloom, Solicitor, James R. Tanner, Chief of Police, Greenville; John J. Burney, Superior Court Judge, Eighth District; Walker Gietner, Judge, Marshall Yount, Jr., Solicitor, Emmet Willis, Judge, Hickory; L. J. Fisher, Solicitor, High Point; Albert Cowper, Judge, P. H. Crawford, Solicitor, Kinston; Ptl. D. L. Merritt, S.H.P.; Capt. Lester Jones, S.H.P.; J. Allen Dunn, Judge, Archie C. Rufty, Solicitor, Sgt. R. C. Kirchin, Police Department, Salisbury; Charles L. Coggins, Solicitor, Fifteenth District; Sgt. H. R. Fryemoyer, S.H.P.; D. Staton Inscoe, Thomas Ruffin, Attorneys, Raleigh; Walter F. Anderson, Director, State Bureau of Investigation; Colonel H. J. Hatcher, S.H.P.; Major C. D. Farmer, S.H.P.; A. T. Moore, A.B.C., Fayetteville; James E. Tucker, Assistant Attorney General; Terry Sanford, Institute of Government; P. W. Glidewell, Jr., Attorney, E. H. Wrenn, Judge, R. W. Turkelson, Chief of Police, Reidsville; Corporal W. S. McKinney, S.H.P.; H. Edmond Rodgers, A. D. Hewlett, Jr., W. K. Rhodes, Jr., Attorneys, James C. King, Solicitor, H. Winfield Smith, Judge, Sgt. Jackson E. Moore, Police Department, Wilmington; Capt. J. R. Smith, S.H.P.; C. F. Burns, Solicitor, Leroy W. Sams, Judge, Sgt. Thomas W. Davis, Police Department, Winston-Salem; Capt. D. T. Lambert, S.H.P.; Albert Coates, Institute of Government; Fred Folger, Attorney, Mount Airy; Capt. W. E. Parrish, Police Department, Clarence J. Lovett, Chief of Police, Kent Mathewson, City Manager, G. E. Miller, Attorney, Asheboro; Captain C. M. Stutts, Police Department, Winston-Salem; R. A. Allen, S.B.I.; Wilson Barber, E. C. Bivins, R. J. Lovill, Attorneys, Mt. Airy; Harold K. Bennett, Attorney, Charles W. Dermid, Director of Public Safety, Asheville; Basil L. Whitener, Solicitor, Fourteenth District; E. E. Rankin, Gastonia; Sgt. M. F. Loftis, Police Department, Jule McMichael, Attorney, Reidsville.


DURHAM
SALISBURY
ROCKY MOUNT
ASHEBORO
REIDSVILLE
ROCKY MOUNT
THE LAWS OF JURISDICTION ARREST SEARCH AND SEIZURE
TRAFFIC AND MOTOR VEHICLE LAWS OF NORTH CAROLINA
TRAFFIC CONTROL AND ACCIDENT INVESTIGATION
KINSTON
WINSTON-SALEM
GREENVILLE
MOUNT AIRY
HIGH POINT
RALEIGH
WILMINGTON
ASHEVILLE
GASTONIA

Tarboro Hotel vs. Public Purpose

By ALBERT COATES
Director
Institute of Government

Chapter 413 of the Session Laws of 1945 authorized the town of Tarboro to issue bonds and levy taxes to build a hotel, subject to the approval of a majority of the qualified voters. Pursuant to this authority, the city council provided for the issue of $250,000 worth of bonds, the levy of an appropriate tax, and a popular vote. The voters approved the bonds and the tax, and the plaintiff taxpayer in the town sued to restrain the issue of the bonds and the levy of the tax on the theory that the construction, maintenance and operation of a hotel was not a "public purpose" within the meaning of Article V, Section 3 of the North Carolina Constitution providing that "Taxes shall be levied only for public purposes." In *Nash v. The Town of Tarboro* (April, 1947), a unanimous court approved the taxpayer's contention—stopping the town of Tarboro in its tracks, preventing the development of a trend to municipal hotel building, and leaving municipalities already owning hotels to worry about the problems of financing repairs, extensions and possible operating deficits without reference to the taxpayer's dollar.

The Public Purpose Doctrine in the United States and in North Carolina

"It is settled with us beyond question," said Mr. Justice Denny in writing the opinion of the court, "that there can be no lawful tax which is not levied for a public purpose." How long has this doctrine been "settled . . . beyond question?" Little trace of it is found in court decisions throughout the eighteenth and the early part of the nineteenth centuries. As late as 1849 the Supreme Court of Pennsylvania was saying: "From the commencement of the government, our representative bodies have exerted the unchallenged power to levy taxes . . . for every purpose deemed by them legitimate." *Commonwealth v. M'Williams*, 11 Pa. (1 Jones) 61, 71. Four years later a Philadelphia taxpayer sued to restrain the mayor and aldermen of Philadelphia from subscribing to railroad stock as authorized by the legislature, and from issuing bonds to pay the subscription price. The court upheld the subscription in an opinion giving the first clear-cut statement of the public purpose doctrine. The legislature has no right "to create a public debt, or to lay a tax, or to authorize any municipal corporation to do it, in order to raise funds for a mere *private* purpose. No such authority passed to the Assembly by the general grant of legislative power. This would not be legislation. Taxation is a mode of raising revenue for *public* purposes. When it is prostituted to objects in no way connected with the public interests or welfare, it ceases to be taxation, and becomes plunder." *Sharpless v. Mayor of Philadelphia*, 21 Pa. 147. In the years that followed individual taxpayers and governmental units throughout the nation advanced the public purpose doctrine in an effort to repudiate millions of dollars worth of State, county and city bonds, issued in aid of railroads and internal improvement projects, and held by *bona fide* purchasers. 18 California Law Review 137, 241.

The public purpose doctrine was foreshadowed in North Carolina in *Taylor v. Commissioners of New Bern*, 55 N. C. 141 (1855). The legislature had authorized the Commissioners of New Bern to subscribe for five hundred shares in the Neuse River Navigation Company for the use of the town and to levy a tax to pay the purchase price. A taxpayer sued to restrain collection of the tax on the theory that the legislature had no power to authorize a tax for such a purpose. The court thought "the principle involved was too important to be decided without a full argument" and withheld decision until the plaintiff taxpayer's counsel appeared, but it asserted the court's "claim to sit in judgement upon the constitutional power of the Legislature to act in a given case." This doctrine was approved three years later in *Caldwell v. Justices of Burke*, 57 N. C. 323 (1848), upholding a statute authorizing a county subscription to stock in the Western North Carolina Railroad Company. Twenty-nine years later it was approved again in *Wood v. Town of Oxford*, 97 N. C. 228, 2 S. E. 653 (1887), where a taxpayer argued that the legislature could not authorize the town commissioners to issue bonds to pay for stock in the Oxford and Clarksville Railroad Company, even when the bond issue was approved by a majority of the qualified voters. In this case the distinction between public and private purpose implicit in the New Bern and Burke cases became explicit as the court upheld authorization of debts and taxes "for all legitimate public purposes . . . . It may be conceded," said the court, that "a municipality could not have power to devote its revenues or credit . . . in aid of a merely private enterprise or industry . . . But it is otherwise when the enterprise or industry is public in its nature and purpose . . . as in case of a projected railroad." Not until 1936 did this doctrine of the judiciary become the mandate of the North Carolina Constitution. In the words of Mr. Justice Denny it had been "settled beyond question," and for nearly a hundred years.

What Is a Public Purpose?

The cities, the counties and the State of North Carolina are thus confronted with the question—What is a public purpose for which debt may be incurred and taxes levied? Few cases in the North Carolina Court have considered this question of public purpose apart from the problem of "necessary expenses"—for which city and county taxes may be levied without a vote of the people, or the problem of "special purpose"—for which county taxes may be levied in excess of the fifteen cent limitation in the Constitution without a vote of the people. And these cases have drawn only the faintest outlines of the public purpose doctrine.

In approving the New Bern subscription to stock in the Neuse River Navigation Company as a public purpose, the court took into consideration the location of New Bern "in the fork of Neuse and Trent rivers and cut off from nearly all communication with the interior of the state . . . its improvement in every interest is manifestly connected with the improvement of the river Neuse . . ." In approving the Burke County subscription to railroad stock the court took into consideration the purposes for which taxes had been levied "from the foundation of our government," saying: "Courthouses, p r i s o n s, bridges, poor-houses and the like are thus built and kept up, and the expenses of maintaining the poor, and of prosecutions and jurors are thus defrayed, and of late a portion of the common school fund and a provision for the indigent insane are thus

raised, while the highways are altogether constructed and repaired by the local labor distributed under the orders of the county magistrates. When, therefore, the Constitution vests the legislative power in the General Assembly, it must be understood to mean that power as it had been exercised by our forefathers before and after their migration to this continent."

In approving the Oxford subscription to railroad stock the court began to worry over the dividing line between public and private purpose: "It may not always be easy to apply the rule of law to determine what is the legitimate object of such expenditures. It is clear, however, that they may be made for such public improvements and advantages as tend directly to provide for and promote the general good, convenience and safety of the county or town making them, as an organized community, although the advantage derived may not reach every individual citizen or taxpayer residing there."

In upholding a statute authorizing the city of Raleigh to issue bonds and levy taxes for buildings on the State Fair Grounds, in *Briggs v. Raleigh*, 195 N. C. 223, 141 S. E. 597 (1928), the court again struck the note of caution: "The line which separates community interests from those which are non-municipal is not always easy to plot . . . Many objects may be public in the general sense that their attainment will confer a public benefit or promote the public convenience, but not be public in the sense that the taxing power of the state may be used to accomplish them . . . The purpose and design of a state fair is to promote the general welfare of the people, advance their education in matters pertaining to agriculture and industry, increase their appreciation for the arts and the sciences . . . After mature reflection, we are constrained to place the present proposition in the category of a public municipal purpose, though it is confessed that much might be said in favor of locating it in another field . . . When the question is doubtful, as it is here, and the legislature has decided it one way and the people to be taxed have approved that decision, it is the general rule of construction that the will of the lawmakers, thus expressed and approved, should be allowed to prevail over any mere doubt of the court."

The courts have thus used many phrases in the effort to light up the path of public purpose. New light may be expected with new cases. In the American legal system city and county attorneys along with private counsel are expected to join with the court in furnishing this light. The North Carolina court recognized this joint responsibility in the first public purpose case before it in 1855 when it said: "The plaintiff had no right to throw such a question before us and leave us without the aid of counsel. He is now represented and much time and labor are spared us." It recognized it again in the recent case of *Briggs v. Raleigh* where the court invited "additional briefs" on a particular aspect of the case and confined its decision to other matters when they were not submitted.

Judicial Tests of Public Purpose

Reasonable connection with convenience and necessity. Starting with the judicial blazes on the public purpose trail, the legal advisers of city and county authorities have their work cut out. Public purpose, says Mr. Justice Seawell in *Airport Authority v. Johnson*, 226 N. C. 1, 36 S. E. (2d) 803 (1945), "involves reasonable connection with the convenience and necessity of the particular municipality whose aid is extended in its promotion." What does the court mean by "reasonable connection," "convenience and necessity"? What does the court mean by "such public improvements and advantages as tend directly to provide for and promote the general good, convenience and safety of the town promoting them?" Waterway transportation facilities have fallen within the meaning of these phrases, including the Neuse River Navigation Company, and the Morehead City Port Commission, 205 N. C. 663, 172 S. E. 377 (1933); also railway, highway and airway transportation facilities, *Hudson v. Greensboro*, 185 N. C. 503, 117 S. E. 629 (1923); *Turner v. Reidsville*, 224 N. C. 42, 29 S. E. (2d) 211 (1944). Public housing facilities fall within it under the heading of "slum clearance," removing physical surroundings breeding disease, vice and crime. *Wells v. Housing Authority*, 213 N. C. 744, 197 S. E. 693 (1938); *Cox v. Kinston*, 217 N. C. 391, 8 S. E. (2d) 252 (1940); and *Mallard v. East Carolina Housing Authority*, 221 N. C. 334, 20 S. E. (2d) 281 (1942). But housing the public in a hotel does not fall within it; not even in a town containing "only one hotel, out of repair and with inadequate facilities, and of such a character and reputation that those having occasion to visit the town decline to patronize it . . . and the economic interests of the town have greatly suffered and will continue to be impaired if the situation is not remedied;" and not even when the hotel stationery itself carries the intriguing legend "the worst hotel in the world"—advertising a uniqueness which in itself has attracted some visitors in the past and through this defensive mechanism has sought to capitalize on the virtues of its defects.

Public Benefit and Private Gain. The court's decisions clearly demonstrate that enterprises conferring "public benefit" may be all right, and that enterprises conferring "private gain" may be all wrong; and the court has gone so far as to say that it may be all right when the metaphors are mixed and the enterprise "is intended to confer public benefit, as well as secure private gain to its owners, as in case of a projected railroad." ". . . Railroads, canals and the like . . . are both private undertakings and . . . for a public purpose," said the court. There is not a public purpose in advancing "any mere business enterprise not of a public nature, for the incidental and substantial benefits its successful prosecution may confer upon a community in the midst of which it is carried on." But what are the percentages and proportions of "public benefit" and "private gain" which will control the label on the mixture?

Extent of the benefit. "It is not necessary, in order that a use may be regarded as public, that it should be for the use and benefit of every citizen in the community," says the court; leaving lawyers and their clients to predict the number of citizens who must be included or who may be excluded from resulting benefits without changing the nature and the purpose of the object. A public auditorium has satisfied these requirements, as in *Adams v. Durham*, 189 N. C. 232, 126 S. E. 611 (1925); a veterans loan fund, as in World War Veterans Loan Fund, *Hinton v. Lacy*, 193 N. C. 496, 137 S. E. 669 (1927); a state park, as in *Yarborough v. State Park Commission*, 196 N. C. 284, 145 S. E. 563 (1928). Grant that a state fair will promote the "general welfare of the people," by advancing "their education in matters pertaining to agriculture and industry, increase their appreciation for the arts and the sciences;" which of the many things calculated to increase popular "appreciation of the arts and sciences" may be paid for with tax money? Grant that "many objects may be public in the general sense that their attainment will confer a

public benefit or promote the public convenience, but not be public in the sense that the taxing power of the state may be used to accomplish them," where do you draw the line? "Indeed, the line . . . is not always easy to plot," says Mr. Chief Justice Stacy.

Long Continued Usage. Mr. Justice Ruffin recognized long continued usage as a guide in *Caldwell v. Justices of Burke* when he said that legislative power to levy taxes "must be understood to mean that power as it had been exercised by our forefathers before and after their migration to this continent." Mr. Chief Justice Smith recognized it in *Wood v. Oxford* in "yielding to the precedents and the practice" even against his better judgment, saying: "If the matter of the present action were *res integra*, and the question involved in the appeal an open one, I should be reluctant to give assent to the proposition that a municipal corporation, even under legislative sanction and with an approving popular vote, may make a donation of its bonds to a railroad company in aid of its work, and impose taxes for their payment . . . But the authorities are numerous that the aid . . . is for a public purpose . . . ;" in *Hinton v. State Treasurer* 193 N. C. 496, 137 S. E. 669 (1927), Mr. Justice Clarkson recognized it in approving a World War Veterans loan fund, saying: "All through the history of the state are appropriations for pensions etc., for soldiers and sailors engaged in different wars. The legality of the appropriations have never been questioned."

Mr. Justice Denny points out the limitation on this guiding standard of the past in the Tarboro hotel case when he says: "In determining whether or not a tax is for a public purpose, when considered in the light of custom and usage . . . courts should also take into consideration the fact, that a purpose not heretofore considered public, by reason of changed considerations and circumstances may be so classified," citing as authority the case of *Fawcett v. Mt. Airy*, 134 N. C. 125, 45 S. E. 1029 (1903), where changing conditions moved the court to reverse a previous decision holding that water and lights were not a necessary municipal expense. Changing conditions may likewise take a project out of the accepted category. Cities and towns have built hotels before with taxpayers' money without the raising of a "public purpose" question; but in the Tarboro case this practice has been disapproved.

Thus, from the vantage ground of the present, the court's own standards require it to look into the past—as far back as the ways of "our forefathers before and after their migration to this continent," and to "dip into the future far as human eye can see" and maybe a little farther—leaving lawyers to figure out what the court is going to see when it looks, as well as to divine the likely conclusions from judicial negotiation between the claims of the past and the demands of the future in the ever living present.

Legislative Leeway

"The line is not always easy to plot" is a judicial observation likely to be echoed in a lawyer's heart. Even "after mature reflection" with which Mr. Chief Justice Stacy puts the state fair within the scope of public purpose, he admits in the same breath that "much might be said in favor of locating it" in the private purpose field. In many cases, said the late Chief Justice Hoke, the most I can say is that a majority of my mind is on one side or the other. And, as Mr. Chief Justice Stacy says, "when the question is doubtful, the will of the Legislature should be allowed to prevail over any mere doubts of the courts." This statement was broadened a bit in the Reidsville Airport Case where the court held the airport was a public purpose, saying through Mr. Justice Devin: "The Courts will not interfere with the lawfully expressed will of the community, in the interpretation of its interests and prospective needs, unless the objects to be attained are clearly beyond the scope of corporate purposes and power, or in violation of some constitutional inhibition." Mr. Justice Barnhill dissented, saying: "It was conceded here on the argument that presently there are no airlines or airships to be served by the proposed airport. The defendants anticipate that at some time in the future, after the end of the war, there will be a great extension of the air transportation service by the country and they trust and hope that one or more airlines will pass so near that Reidsville may be designated as a stopping point. They are willing to match their faith with their dollars and prepare for the day hoped for but not seen at any time in the near future. For the time being, at least, the development cannot be self-supporting. It must, perforce, lie idle and unused for an indeterminate period of time—an airport in name only. It is nothing more than a speculative venture defendants optimistically hope will some day develop into a profitable undertaking." It is thus apparent that the court is prepared to go considerable distance in giving legislative bodies the benefit of the doubt when "they are willing to match their faith with their dollars," even when they are preparing "for the day hoped for but not seen at any time in the near future."

The legislature, once booted and spurred with the judicial assurance of "unchallenged power to levy taxes . . . for every purpose *deemed by them* to be legitimate," has been bitted and curbed by the judicial limitation of power to levy taxes for those purposes *deemed by the courts* to be legitimate, and saddled with the judicial doctrine of public purpose as the touchstone of legitimacy. Bit, curb and saddle have been fastened in the Constitution since 1936. But the judiciary gives the legislature the benefit of the doubt, allows for the relaxing or the tightening of the saddle girths with the ebb and flow of time, and in *Nash v. Town of Tarboro* soothes the civic soreness over a lost hotel with the historic solace of private enterprise and the traditional stimulus of individual initiative.

Legislative Highlights

(Continued from page 7)

appropriations bill. Liquor referendum bills have been making their appearance at each session with such regularity that some people have

started calling them the "biennial liquor referendum bills." This year there were not one, but three of such bills, each differing a little from the others but all aimed at giving the whole people of the State an opportunity to vote on whether liquor can be legally sold in any part of it. Two of the bills were introduced in the Senate and the third was introduced in the House. The dissimilarities of the three bills were rendered insignificant by one feature common to all: they were all killed by committees and none reached the floor.

Wine and Beer

Some two-score local wine and beer bills were introduced during the session—bills of all sorts. Some called for outright prohibition of wine and/or beer, some provided for referendums, some would vest authority in local boards to regulate or prohibit sales, and some would regulate or prohibit beer and wine sales within a specified distance of specified schools and churches. With few exceptions, only the latter type met with any degree of success. A few bills which originated in the House (such as the Clay county bill to provide a referendum in that county, which Representative Moore succeeded in taking from the unfavorable calendar) got by the House after some narrow squeaks, only to be given the *coup de grace* by the Senate. As the result of an agreement in the House growing out of Representative Mull's successful attempt to tack a local wine prohibition bill onto the amendments to the Revenue Act (he tacked it onto Schedule B, which has nothing to do with wine or wine licenses, but was the closest thing available), and the administration's consternation at the thought of how the revenue picture could easily get all balled up if the habit of tacking on local riders should become a popular pastime, the House Finance Committee drew up and introduced two "model" local bills. One prohibited the sale of wine and authorized the boards of commissioners to regulate or prohibit (except in Grade "A" or "B" cafes, restaurants or hotels) the sale of beer. The other dealt only with wine. Some 25 or 30 counties tied on to one or the other of these local bills, and they passed the House. In the Senate, however, they caught the axe.

A potentially far-reaching piece of wine and beer legislation was enacted, however—a local option bill patterned somewhat after the ABC law. Chapter 1084 provides for the holding of an election on the question of the sale of wine, or the sale of beer, or both, in any county upon petition of 15% of the qualified voters who voted in the preceding gubernatorial election. If the county-wide election is against the sale of either wine or beer, or both, any town having a population of 1,000 or more, upon petition of 15% of the voters who voted in the preceding municipal election, could hold an election on permitting wine and/or beer sales within the town. Thus, the county has a chance to retain wine and beer, or vote it out. If voted out in the county election, a town can vote to bring it back in.

The crown tax on beer and wine is doubled (as of July 1, 1947) by the Act, and this increased revenue (or the additional tax levied by the Act, it being possible, with enough counties prohibiting sales, that revenues from this source might decline even with the increased rate) is to be divided among the counties and municipalities which permit sales, the division to be upon a population basis. This feature led one newspaper to assert that the Act should be called "An Act to legalize bribery." This is patently stronger language than called for by the situation, but it very well may be that the prospect of additional revenues by financially embarrassed counties and municipalities could be a deciding factor, or at least temper the enthusiasm with which a campaign to eradicate beer and wine sales might be carried on.

Book Reviews

YOUR CITY TOMORROW. *By Guy Greer. New York: The Macmillan Company. 1947. $2.50. Pages x, 210.*

What is to become of our modern American cities and towns, with their over-crowded living conditions, slums, traffic congestion, inadequate parking facilities, ugliness, and gradually decreasing property values? What must be done to put our cities and towns on a sound financial basis and at the same time make them desirable places in which to live and to work, to raise a family and to pursue an occupation?

In this book, which should be required reading for the public official and which is written for the average citizen, in language he can understand, Mr. Greer wrestles very skillfully and forthrightly with these problems and comes out with some answers which at the least should provoke thought and at the best should provoke action.

The problem, he says, is not one to be handled piecemeal. Zoning, slum clearance, low cost housing projects, public works programs, city-beautifying programs, public parking lots, to mention only a few of the many schemes proposed, have all been given a trial over the past fifty years, while congestion and ugliness have been put down in one spot only to rise in another, and the movement to the suburbs, where land is cheaper and more plentiful, taxes are lower, and life is pleasanter, continues with ever increasing momentum.

What is needed, says Mr. Greer, is an all-out attack, an over-all plan with long-range objectives, a master strategy as compared to the purely tactical sorties of the past. While the haphazard methods which have been tried heretofore are useful as parts of a complete planning program, as the tactics to be used in carrying out the strategy, they cannot answer the basic need for controlled and planned growth, nor can they give rise to the monumental plans for redevelopment and reconstruction which are necessary, according to Mr. Greer, to a complete solution of the problem. "Fundamentally," he says, "the only limit is power, coupled with desire, to produce and to build."

There are obstacles in the way of such broad planning, and Mr. Greer neither minimizes nor dismisses them: "First is the lack of legal power allowed to the local government (or governments) by the state (or states) in which the community is situated. Genuine home rule, of a kind adequate to permit the people to use the democratic process for the over-all benefit of the community [by which he means not only the city but its suburbs as well], is almost non-existent. Second is an antiquated fiscal setup, an arrangement for taxation and public expenditure so imperfect that the community cannot get at the proportion of its productive resources (which must of course take the form of money income) that it might wish to devote to public improvement. And finally, the people themselves—who *could* combine with those of other communities and by their votes remove the two obstacles just mentioned—are too ill informed and too preoccupied with matters of daily living and making a living to know what their choices would be if they were awakened to a full realization of their civic responsibilities and opportunities. . . . The important thing to remember here is that, in determining the long-range goals for the community, these obstacles should be ignored. The planners should proceed on the assumption that somehow they will be removed. Then the ultimate goals of planning should be set just as high as appears at all reasonable in the light of the facts and potentialities of the community's capacity to produce and to build."

The advocacy of over-all planning as a solution of the problem of what to do with the urban centers may not be particularly new, but the chief value of Mr. Greer's treatment of it is that, while he sets his sights high, he deals with the down-to-earth, every-day problems involved in a way that is intelligent, readable, and understandable. Most of his book is concerned with the manner of meeting the problems, one of the greatest of which is the time-honored principle that, within very broad limits, a man's use of his property is his own business, regardless of how that use might affect his neighbors or his community.

With the South, and particularly North Carolina, at the threshold of a great industrial era in which we may expect to see our cities and towns grow to a size hitherto only dreamed of, this book is one which all our people should read, the doers as well as the dreamers, so that the dreams may turn out to be deeds, and our cities may avoid the slow death which comes from unregulated and unplanned growth, and may indeed be "truly good places in which to live and work and play."—S. R. L.

PROHIBITION IN NORTH CAROLINA—1715-1945. *By Daniel Jay Whitener. Chapel Hill: The University of North Carolina Press. 1945. $3.50. Pages ix, 268.*

Is it the lot of North Carolinians to differ forever on how to handle liquor and its kindred spirits? As subjects of a British king, and as citizens of a sovereign state, the people of North Carolina have sought an answer for over 200 years. The author of this volume does not attempt to suggest the answer to them—but he hopes that knowing "what others have done before and are doing now about the liquor traffic" will help them find an intelligent solution for the problem.

Liquor legislation began early in colonial days, in the form of regulatory measures aimed at curbing personal excess and public disorder. Licensing as a purely regulatory device soon became licensing for both regulatory and revenue purposes, and restrictions which were at first placed only on tippling houses, taverns and like places, were soon applied to all retail sellers of wine, brandy, rum or spirits in quantities less than a quart, and of ale, beer or cider in quantities less than a gallon. But nobody seriously thought of prohibi-

tion in an age when "practically all of the early settlers drank as a beverage some form of intoxicant."

The author sees three phases in the early 19th century movement toward prohibition: The temperance movement, which began about 1820 and brought moral suasion into play as a control device; continuation and strengthening by the government of the 18th century license laws; and the beginnings of agitation for restriction or abolition by law of the sale of liquor. During the Civil War, manufacture was prohibited for a time—but as a food conservation measure, not for moral reasons.

Since the Civil War, North Carolinians have tried local option (with and without municipally operated "dispensaries"), state-wide prohibition, and local option again in the form of A.B.C. stores. A solution completely satisfactory to any shade of public opinion has not yet been found, as witnessed by the continued preoccupation of each succeeding General Assembly with the question. But for those persons seriously concerned with the problem of what should be done, this detailed and documented study of what has been tried through two centuries of experimentation will be helpful to enlightened thinking.—W. M. C.

COUNTY GOVERNMENT IN GEORGIA. *By Melvin Clyde Hughes. Athens. The University of Georgia Press. 1944. $2.00. Pages xi, 197.*

For the student not too familiar with the manners and morals of local government, this book by Dr. Hughes will serve as an excellent introductory manual. The student need not be interested solely in the Cracker State, because although the author has considered the main functions of county government as they exist in Georgia, the historical and functional treatment of this subject will serve as an excellent background for further study of this subject in any state by any student.

For the advanced student (and we include within this term all practicing politicians), these 197 pages raise more questions and problems than can be answered and solved in a lifetime of study and legislation.

Possibly the most engaging feature of this book is the frank, merciless and unhesitating manner in which Dr. Hughes expresses his criticisms of certain aspects of county government in Georgia. There is no appeasing here. There is no half-hearted attempt to toss bouquets to officials with whom the author may have had contact during his work prior to and during the writing of the book. The county offices of coroner, constable and treasurer are superfluous, says Dr. Hughes, and there is no excuse for continuing them. The heart of the financial structure of the county is budgetary control and any sort of effective budget (let alone a budget established by state-wide law) is conspicuous by its absence in the Georgia county's financial structure. The county-state management of the highway system, the direction of the public health and welfare departments and the local school system all are the target for Dr. Hughes' penetrating comments. The county unit vote and system of representation in the Georgia legislature are demonstrably unfair and the subject of a sharp and prophetic attack.

In no case are the faults of county administration sliced open and left to bleed unchecked. Dr. Hughes states in every case one or more well-reasoned courses of action which if put into practice would serve the people of Georgia and their county governments at the same time as a tourniquet and effective healing agent.

The final chapter on county consolidation is a well-reasoned statement of the uneconomic condition now existing and the possible roads out of the wilderness—but at the same time

(Continued on page 20)

The Attorney General Rules

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

★

I. AD VALOREM TAXES

To J. B. Pittard.

Inquiry: Where a town charter granted prior to 1917 sets a lower ad valorem tax rate than that allowed for towns by Ch. 138 of Public Laws of 1917, which law controls?

(A.G.) Ch. 138, Sec. 37 of the Public Laws of 1917 as amended (G.S. 160-402) and as further amended by Senate Bill No. 203, 1947 session of the General Assembly, authorizes towns to levy $1.50 on the $100 valuation. It is applicable to all municipalities regardless of any other general or special law, and thus would control over the charter provision.

A. Matters Relating to Tax Listing and Assessing

45. Valuation and listing of property by municipality.

To James M. Hayes, Jr.

Inquiry: Can a city allow tax differentials within its corporate limits?

(A.G.) The Constitution, Article V, Section 3, requires that taxes on property shall be uniform as to each class of property taxed. In *Anderson v. Asheville*, 194 N. C. 117 (1927), our Court held that a municipality could not be zoned for the purpose of applying different rates of tax in each zone. It is my opinion that there is no way under our Constitution by which differentials of taxes within corporate limits could be authorized by the General Assembly on the same classes of property. The Legislature is authorized to classify property for taxation under the provision cited above, but this provision requires that the taxes shall be uniform as to each class taxed.

120. Extension of City Limits—time new property subject to taxes

To James M. Hayes, Jr.

Inquiry: Can newly incorporated areas be exempt from the bonded indebtedness of a city, thus providing in effect a different rate of tax?

(A.G.) In the case of *Banks v. Raleigh*, 220 N. C. 35 (1941), our Court struck down as unconstitutional a provision exempting a portion of the City of Raleigh, which was included in the corporate limits by act of the Legislature, until services of equal character furnished other portions of the city were extended into the annexed portion. The Court held that this violated the uniformity provision of the Constitution. There are many cases which hold that the existing taxes for a municipality could be extended to include the territory annexed. See *Dunn v. Teer*, 219 N. C. 286 (1941), and cases cited. I do not find any case in our reports precisely on this question. I am inclined to the opinion that the annexed territory could be excluded from taxation for outstanding bond issues already voted by the original portion of the municipality. This has been done in many cases in which boundaries of school districts have been extended.

HARRY McMULLAN

Attorney General of North Carolina

IV. PUBLIC SCHOOLS

F. School Officials

3. County board of education — powers and duties

To C. Reid Ross.

Inquiry: May the county board of education increase the membership on a district school committee after the committee has actually been named by the board for its term of office?

(A.G.) G.S. 115-354 requires the board once every two years (in April, or as soon thereafter as possible) to appoint a local school committee for each of the several districts in the county, consisting in each case of not less than three nor more than five persons, for two-year terms. After the board has once acted in naming these committees, I do not think that it may at some subsequent date increase the number of members of one of the committees. Of course, the board could fill any vacancy in a local committee as provided in G.S. 115-354.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES

B. Matters Affecting Municipal Utilities

To W. M. Sherrill.

Inquiry: May a city use revenue from its municipally-owned water and light system for recreational purposes?

(A.G.) Although a recreation system is not a necessary expense, *Parser v. Ledbetter*, 227 N. C. 1 (1946), that does not mean that a city may not use any other sources of revenue than taxation which it may have, which may be available for this purpose. Revenue from a light and water department which is municipally owned could be used for this purpose, provided appropriate resolutions were adopted at time of fixing the budget, under the fiscal control law applicable to municipalities. A city might also use any surplus funds which it might have on hand not derived from tax levies, for this purpose.

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS

B. Clerks of Court

8. Acknowledgement and probate of instruments

To J. E. Mewborn.

Inquiry: May the clerk of court refuse to probate a deed of trust on which he is unable to read the name of the notary public or to obtain his name from the imprint of his seal?

(A.G.) Yes. Whenever papers are presented in such condition the clerk would be unable to determine whether he was duly qualified to take the acknowledgement. The clerk would be justified in refusing to order the paper recorded until the name of the officer was found to be one who was duly qualified to take the acknowledgement.

110. Deputy clerk of court

To Miss Eunice Ayers.

Inquiry: When papers are probated by a deputy clerk of the superior court, is it necessary that they be signed in the name of the clerk by such deputy or is it sufficient for the deputy to sign his own name?

(A.G.) All such papers should be signed in the name of the clerk by the deputy. This would not be true as to an assistant clerk of the court because under the statute an assistant clerk is given practically all the powers under the law that may be exercised by the clerk.

D. Register of Deeds

5. Probate and registration

To Bonner R. Lee.

Inquiry: Would register of deeds be justified in issuing new certificate of title under the Torrens Law to a party without reference to deeds of trust or liens listed on the original certificate?

(A.G.) While the deeds of trust may be barred by the statute of limitations or by the presumption created by G.S. 45-37 (5) as amended by Ch. 988, S. L. 1945, the register of deeds in issuing new certificate of title would not be required to pass upon this fact until it had been judicially determined. He should insist upon the transferee securing some adjudication to the effect that the deeds of trust are barred and no longer effective before assuming the responsibility of issuing new certifi-

cates without a reference to these liens.

To William D. Kizziah.

Inquiry: Does the register of deeds have authority to change an incorrect spelling of grantor's name in a deed, the deed having been drawn by a magistrate who signed the grantor's name by mark, and the grantor now being dead?

(A.G.) The register of deeds has no authority to change the spelling in the deed if it is correctly copied as it was on the original which was presented for registration.

E. County Auditor and Accountant

1. Duties

To Lawrence H. Wallace.

Inquiry: May a county auditor or accountant enter suit in his official capacity without first securing proper authority from the county commissioners, and by so doing render the county or county commissioners liable for costs or other expenses of the action?

(A.G.) No. Such officers have no authority to institute legal proceedings in their official capacity or in the name of the county without first securing the authorization of the county commissioners.

L. Local Law Enforcement Officers

30. Slot machines

To N. J. Sigmon.

Inquiry: Are pin-ball machines, which do not return money but merely enable the operator to make varying scores, legal?

(A.G.) No. The law condemns all coin-operated machines in the playing of which the operator has a chance to make varying scores or tallies upon the outcome of which wagers might be made.

Police Schools

(Continued from page 10)

ernment in the fall of 1946, with Special Agent Foster Kunz, traffic specialist of the F.B.I., covering the technical phases of traffic law enforcement, and Assistant Director Clifford Pace of the Institute of Government covering the North Carolina traffic laws. An additional guidebook, *The Laws of Jurisdiction, Arrest, Search and Seizure*, was prepared and published by the Institute of Government for use in the local police schools.

Judges, Solicitors, and Attorneys Are Teachers

A preliminary step in preparing for the local schools was to find a sufficient number of instructors. First, for a period of two weeks, traffic officers were sent to Chapel Hill from every police department planning to conduct a local school. These officers thoroughly covered the guidebooks and the plans and methods for conducting the local schools. Immediately following this school was a conference of judges, solicitors, attorneys, and chiefs of police, where the guidebooks were studied and the outline of the course of study discussed. Inspector L. A. Hince, representing the Federal Bureau of Investigation at this conference, promised the chiefs of police that the F.B.I. would furnish all instructors necessary to cover the technical phases of traffic control and accident investigation.

Local Schools Get Under Way

Back home, the schools were begun in February on a twelve-week schedule, with the officers coming together twice weekly for a two-hour class, covering the North Carolina traffic laws, the Motor Vehicle Law, the techniques of traffic control, the methods of accident investigation, and the laws of arrest, search and seizure. In one department all of the legal topics were handled entirely by one attorney, a former school teacher; in another city the president of the local bar association appointed a committee of eight attorneys, with a chairman who acted as "dean" and divided the topics among them; some cities relied entirely upon the local judge and solicitor; others used a combination of

all of these plans, calling in traffic officers from other cities, members of the State Highway Patrol, members of the Attorney General's office and the State Bureau of Investigation, Superior Court judges and solicitors; the Institute of Government stood by and was frequently called on to fill in on a local school schedule. The technical topics were covered by four F.B.I. agents, assigned to North Carolina for a period of eight weeks, who rotated among the sixteen cities conducting the schools.

Examinations

At the completion of the course of study a uniform examination, prepared by the Institute of Government with the assistance of a committee of chiefs of police, was given on a voluntary basis to all officers attending, and those passing were given a special credit certificate indicating that credit for the completion of this study was recorded at the Institute of Government. Officers receiving credit for this course, and for an as yet undetermined number of other credit hours covering the principal topics of police science to be given in the future, will be awarded a Certificate of Police Science.

Schools to Come

The next series of local schools will commence in the fall of 1947 and be carried through the first five months of 1948. Some departments will complete the course of instruction by Christmas; others will not get under way until after Christmas; some will hold classes twice a week; others will meet five times a week, depending upon the variety of conditions confronting the various departments. This program of local schools is uniform enough to allow the same guidebooks to be used for study, and the same instructors for teaching, but at the same time flexible enough to meet the individual needs of each police department.

The 1947-48 school will be devoted to a study of the North Carolina criminal laws, the techniques of investigation, scientific methods of crime detection, and the techniques and mechanics of arrest. Guidebooks in these subjects are now in the process of preparation, and will be available to officers of those police departments participating in the 1947-48 school. Every chief of police who desires to make this program available to his officers may participate in the 1947-48 series of schools; it makes no difference how large or how small the department.

The Institute of Government program for the training of law enforcement officers, as it now goes into full effect, will be available to every law enforcement officer in North Carolina.

BOOK REVIEWS

(Continued from page 17)

the author carefully points out that any road to county consolidation would be ambushed by every political machine now benefitting from the present system.

The book, in short, is an excellent exposition of county government and at the same time a powerful diatribe against certain out-of-date, uneconomic and unenlightened methods of administration of justice, public finance, welfare, health, education and political representation.—D. H. S.

Dr. Howard W. Odum
Member of State Planning Board
Chapel Hill, N. C.

GOVERNMENTAL LABORATORY BUILDING
INSTITUTE OF GOVERNMENT

INSTITUTE OF GOVERNMENT SERVICES

		TO CITY, COUNTY AND STATE OFFICIALS	TO CITIZENS	TO SCHOOLS
COMPARATIVE STUDIES of the structure and workings of government in the cities, counties and State of North Carolina	SET FORTH IN	Guidebooks	Study and Discussion Programs	Supplementary Texts
	TAUGHT IN	Schools and Conferences	Institutes for Public Affairs Committees	Training Courses for Civics Teachers
	DEMONSTRATED IN	Governmental Laboratory and Demonstration Offices	Governmental Laboratory and Demonstration Offices	Governmental Laboratories and Demonstration Offices
LEGISLATIVE SERVICE to inform officials, citizens and schools of new laws in the making	THROUGH	Daily Bulletins	Periodic Summaries of Daily Bulletins	Periodic Summaries of Daily Bulletins
		Summary of New Public Laws	Summary of New Public Laws	Summary of New Public Laws
		Summaries of New Local Laws affecting each County and City	Summaries of New Trends in Local Legislation	Summaries of New Trends in Local Legislation
		State and District Conferences for Interpretation of New Laws	State and District Conferences for Interpretation of New Laws	State and District Conferences for Interpretation of New Laws
CLEARING HOUSE OF INFORMATION between city halls, county court houses and state and national capitols to keep officials, citizens and schools informed of new developments in government	THROUGH	Digests of Supreme Court Decisions and Rulings of Atty.-Gen. and State Depts.	Digests of Supreme Court Decisions and Rulings of Atty.-Gen. and State Depts.	Digests of Supreme Court Decisions and Rulings of Atty.-Gen. and State Depts.
		Bulletins on New Federal Laws, Programs and Rulings	Bulletins on New Federal Laws, Programs and Rulings	Bulletins on New Federal Laws, Programs and Rulings
		Monthly Magazine and Special Studies	Monthly Magazine and Special Studies	Monthly Magazine and Special Studies
		Federal and State Services to Local Units	Federal and State Services to Local Units	Federal and State Services to Local Units
		General Informational and Consulting Service	General Informational Service	General Informational Service