July, 1947

POPULAR GOVERNMENT

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

GOVERNMENTAL LABORATORY BUILDING
INSTITUTE OF GOVERNMENT

Ladies and Gentlemen of the Jury

By PEYTON B. ABBOTT
Assistant Director
Institute of Government

When the Supreme Court of North Carolina ruled in 1944, in the case of *State v. Emery*, 224 N. C. 581, 31 S. E. (2d) 858, that ten men and two women did not constitute a jury of "good and lawful men" within the meaning of Article I, section 13 of the Constitution, it started something. It started the women of the State on a campaign to strike out of the Constitution every remaining vestige of discrimination against their sex. Although Chief Justice Stacy declared that "In considering the broader implications of the case, it may be well to point out the defendants are on trial, and not the women of the State," many women seemed to feel that the decision was something of a reflection on their sex, and they determined to do something about it. Before the decision was rendered, no great urge upon the part of women to serve as grand or petit jurors had been noticed. The fact that a number of Superior Court judges had held that women were eligible for jury service and that in several counties qualified women had been regularly included in the jury lists had not greatly stimulated the urge, nor had the fact that the Attorney General of the State had previously specifically ruled that women were eligible. The urge became well nigh irresistible, however, when the Supreme Court held that, with respect to juries, "men" meant "men" and not "men and women" or "persons."

The first thing the women did, and they were aided and abetted throughout by a considerable segment of the male population, was to get the 1945 General Assembly to submit to the people of the State amendments to the Constitution which would clearly remove the disqualification of sex. Amendments were submitted by chapter 634 of the Session Laws of 1945, were adopted by the electorate in November of 1946, and were certified to the Secretary of State by the Governor on December 10, 1946, and these amendments went the "whole hog."

In Article I, section 13 the provision dealing with the right to trial by jury which read: "No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful *men* in open court," was changed to read "a jury of good and lawful persons." To Article I, section 19 dealing with jury trials of controversies respecting property, there was added this sentence: "No person shall be excluded from jury service on account of sex." These two amendments seemed to take care of the decision in *State v. Emery* with respect to the eligibility of women to sit on juries, but there were other provisions in which the word "man" or "men" rather than "person" or "persons" appeared, and the 1946 amendments proceeded to take care of those also.

Legislation Needed

Some Constitutional provisions are "self-executing"—that is, they are fully effective in accordance with their own provisions, without the necessity of further legislative action. An example of such a provision is the first sentence of Article V, section 5, which reads, "Property belonging to the State or to municipal corporations, shall be exempt from taxation." Other Constitutional provisions, however, are only statements of principles, and require legislation to render them fully effective. The 1946 amendments relative to the eligibility of women to serve on juries are such provisions: they established the principle of women's eligibility, but did not take care of many necessary matters incidental to this new state of things. For example, granted that the Constitution now says that women are eligible for jury duty, from what source are their names to be obtained to be placed in the jury box? With a mixed jury, what about the requirement of keeping the jury together during the trial of a protracted case? What about mothers who have small children and no one to leave them with? Since women are made subject to call equally with men, shouldn't those of them in comparable professions to those now exempt from jury duty be given comparable exemptions? The 1947 General Assembly sought to answer these and other questions through legislative enactments, and to "vitalize" the 1946 amendments through statutory implementation.

The 1947 Legislation

The second public bill introduced in the Senate, SB 5, was necessitated by the new eligibility of women as jurors. Now Chapter 71 of the Session Laws

COVER PICTURE

Youthful citizens of the American Legion's seventh Boys' State cast their ballots for Boys' State officials (Story on page five).

INDEX

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.

of 1947, it rewrites the form of oath which officers placed in charge of juries are required to take. G.S. 11-11 prescribed the following form:

"You swear (or affirm) that you will keep every person, sworn on this jury, together in some private or convenient place, without meat or drink (water excepted). You shall not suffer any person to speak to them, neither shall you speak to them yourself, unless it be to ask them whether they are agreed in their verdict, but with leave of the court; so help you, God."

The first sentence of this oath was rewritten by chapter 71 to read: "You swear (or affirm) that you will keep every person sworn on this jury in some private and convenient place when in your charge." It may be noted that the officer no longer has to swear to keep all of the jurors "together" nor that he will keep them "without meat or drink (water excepted)." The practical aspects of the possibility of the close confinement of a mixed jury in a long drawn out case was also considered in the principal Act of the session dealing with juries, chapter 1007. Section 2 of that Act adds to G.S. 9-17 relative to the accommodations to be furnished jurors the following:

"It shall be within the discretion of the presiding judge of the Superior Court, in the trial of any capital felony or other criminal case, to permit the jurors to be separated while the jury has under consideration such case. In the event the jury is composed of men and women, the court may, in its discretion, appoint more than one officer to have charge of the jury and one of such officers may be a man and the other officer a woman; and the court may, in its discretion, permit the members of the jury of opposite sexes to be provided separate rooming accommodations when not actually engaged in deliberations as jurors and pending the bringing in of a verdict in such cases."

This provision seems broad enough to permit judges to remove most causes for embarrassment among members of mixed juries, and it is inconceivable that judges will fail to exercise the authority whenever the situation warrants it.

Source of Jury Lists

G.S. 9-1 provided that the boards of county commissioners (or jury commissions or their equivalent, where established) should biennially on the first Monday in June of odd-numbered years, select from the county tax lists the "names of all such persons as have paid the taxes assessed against them for the preceding year and are of good moral character and of sufficient intelligence." The names of persons so selected shall constitute the jury list for the next two years. Since husbands usually attend to the matter of tax listing both for themselves and for their wives (and women, unlike men, do not have to list for poll tax purposes), the names of most otherwise qualified women do not appear on the tax lists. In order to get anything like a representative number of women on the jury lists, it was obvious that something had to be done with respect to the source of the lists.

Section 1 of chapter 1007 considerably broadens the base of the tax list. It is not too definite in its requirements, but at the very least it gives local authorities ample discretion with respect to the sources from which they may make up their jury lists. It requires boards of county commissioners (or tax commissions) biennially to cause their clerks to lay before them the tax returns for the preceding year for their county, "and a list of names of persons who do not appear upon the tax lists, who are residents of the county and over twenty-one years of age, from which lists the boards of county commissioners or such jury commissions shall select the names of such persons who reside in the county who are of good moral character and have sufficient intelligence to serve as members of grand and petit juries." The Act further provides that clerks of boards of county commissioners or jury commissions "may secure such lists from such sources of information as deemed reliable which will provide the names of persons of the county above twenty-one years of age residing within the county qualified for jury duty. There shall be excluded from said lists all those persons who have been convicted of any crime involving moral turpitude or who have been adjudged to be *non compos mentis*."

It may be noted that, in addition to broadening the base of the jury list to the ultimate degree, the Act deals with the qualifications of jurors. Gone is the requirement that grand and regular petit jurors must have paid their taxes for the year preceding that in which they are selected. Added is the qualification that persons selected must not have been convicted of any crime involving moral turpitude and must not have been adjudged *non compos mentis*. Also made definite is the requirement that jurors be over 21 years of age.

The Local Problem

The most immediate problem placed by the new law upon local authorities charged with selecting the jury list was concerned with the extent to which sources other than tax lists must or should be used. The magnitude of the task involved in attempting to exhaust every possible reliable source is indicated by an article in the May 15 issue of the *Mecklenburg Times* which estimated that there are over 40,000 eligible jurors in that county. It was relatively simple to select from male taxpayers who had paid their taxes for the preceding year those of "good moral character and of sufficient intelligence." It is quite a different matter to screen from the entire population of the county those who not only do not possess a good moral character and sufficient intelligence, but also those who are not more than 21 years of age, those who have ever been convicted of a crime involving moral turpitude, and those who have been adjudged mentally incompetent. The age of persons appearing upon various lists may not be a matter of local public record. Convictions of crime and adjudications of mental incompetency may have occurred in some other county or even in some other state. The conscientious local official, however, who tries to place on the jury list all eligible citizens, is charged with this tremendous screening duty.

On April 28 the Attorney General ruled that in his opinion the new law authorizes but does not require the use of sources of information other than tax lists. Since comparatively few women appear on the tax lists, however, the spirit if not the letter of the Constitutional amendments of 1946 would seem to require the use of one or more additional sources. Possible sources are city and telephone directories, lists of parents of school children, lists of members of civic and farm clubs and voting precinct registration books. The use of too many sources would inevitably result in a large number of duplications, thereby further complicating the task of officials charged with the

(Continued on page 4)

The 1947 Municipal Elections

By HENRY W. LEWIS
Assistant Director
Institute of Government

"It's a mighty strange thing," remarked a man on the street in West Asheville back in March, "that at a time when millions of people in the world are ruthlessly denied the right to express their choice at the polls, our fellow citizens right here at home value their constitutional privilege to vote so lightly that they ignore it entirely." It was a serious charge and worth investigating.

Selecting at random eighteen North Carolina municipalities whose populations ranged from a high of 60,000 to a low of 294, we went to work. Taking the 1940 census, we discovered that the total population of these communities comes to 289,417 people. In those eighteen cities and towns 110,239 people were registered to vote in the recent municipal elections. The newspapers reported that a total of 30,459 of those registered actually went to the palls and voted in May. Assuming that North Carolina conforms roughly to the national pattern, we subtracted one-third of the total population of those cities and towns as a figure roughly approximating the number of persons ineligible to register by reason of minority. In the eighteen communities that left us with a potential voting population of 192,945 people. With a minimum of mathematical calculation we discovered that 57% of the eligible voting population was qualified for voting by registration. Only 27% of this registered population actually exercised its right to vote, this in spite of the fact that accounts of these elections spoke of "unprecedented interest and unprecedented voting." The plain fact was that less than one-fifth of the potential voting population of these communities had selected the men who would control these municipal governments for the next two years. The man on the street was right.

Why Don't We Vote?

But why does the average town-dweller fail to vote? Ask him and he will tell you that he sees no use in wasting his time. "Being mayor is just a part-time job that anybody with a little spare time can handle. The council doesn't amount to much. Besides, there is nothing much anybody can do about things in this town. They rock along pretty well." Of course he is wrong, and of course he should have read a recent article in the Wilmington *Post* pointing out the interesting fact that the business of running a town is the largest single business within its corporate limits. And the Smithfield *Herald* had some answers for him on March 28: "The lack of intense rivalry does not mean a lack of issues. . . . The once sleepy town that had a population of less than a thousand at the end of its first 125 years is experiencing the discomforts of growing pains." They were thinking of Smithfield, but the idea was equally applicable to a hundred other North Carolina towns. It was this average town-dweller they were talking about when they said, "Some still are sleeping and fear that a program of community enlargement might disturb their rest." Few honest citizens could deny that the remarks made in the Fayetteville campaign were uncomfortably pertinent to their own communities: "Numerous areas in the city are still without city sewer. Every time we have a heavy rain septic tanks and home-made sewer systems are flooded. It is a situation which concerns the health of every citizen of the town." As for garbage disposal, the speaker found a lack of adequate equipment. "A large part of the city's trash is dumped in open holes, gulleys and the like. The rotting garbage is exposed to the sun and rain and is a veritable cesspool for breeding rats, roaches, mice, flies, gnats. . . . Worst of all it is a potential breeder of germs and epidemics. The longer we wait to get the needed equipment the more difficult will be the job of clearing up the rapidly mounting dump piles we now have." Elsewhere the problem of traffic control and parking were vital issues. The policing of streets and the establishment of municipal parking lots and garages deserve thought. Would paving more streets relieve congestion on principal streets? Should the town limits be extended? Is fire protection adequate? Should the town accept more responsibility for the welfare and health of children? Are playgrounds, parks and recreational facilities being considered? And paramount is the question of whether proper sources of revenue are being properly tapped to finance municipal enterprise. Should new tax methods be tried? The issues are there. The question before the citizen is not their existence, but whether he is willing to face them in the voting booth.

Pitfalls

But even for the citizen who realizes the issues and wants to vote there are pitfalls. In Warrenton last month fifty people went to the polls only to find that they were not registered for the town election. Elizabeth City and Zebulon faced the same situation. Failure to keep the books current means much deadwood and few names of recent arrivals. The most confusing element is the multiple registration system common in North Carolina. We register for county elections in one book, for city elections in another, and for special city and county elections in still other books. Uninformed citizens registering for one election blindly assume that they have qualified themselves to vote in any election that may come up. They go to the polls and are amazed to find that they are not entitled to ballots. Scattered efforts have been made to check this confusion. In Guilford, Wake and Durham counties special legislation has made it possible for cities to use county registration books in municipal elections. This possible solution is worth consideration.

Why Don't We Run?

The baffling disappointment comes when the civic-minded citizen registers properly and arrives early at the polls only to find that there are no candidates running for office. "Town jobs are begging with no candidates out" was the headline in Newland this year, but Newland was not unique. About all the voter can do is pencil-in names of people he hopes will be willing to serve and let it go at that. Often the incumbents alone are willing to serve. Not infrequently North Carolina towns fail to have elections year after year simply because no one will serve as an official. The solution to this problem lies in the answer to the argument that there are no issues. No town is too small to have

issues. Once those issues are plain, the candidates can be found. Community organizations, civic clubs and women's organizations hold the key to the puzzle. They can ferret out the issues and draft the candidates.

Hot Elections

In spite of the despondent note injected at the start of this article, citizens interested in the democratic process take heart in reports from at least fifty North Carolina municipalities that interest in registration and voting was hotter than ever before in history. The Ahoskie *News-Herald* wondered if it were a natural result of the war. It is clear that some of this interest was aroused by the startling number of candidates that announced for office, and this was true in even a number of small towns. Bloc and pressure activity was not particularly noticeable, although there were several instances of organized opposition to entrenched administrations. In Elizabeth City the opposition called itself the Committee for Better Government. Although they posted "only a few rather timid signs advising the general populace to 'Vote for the Change,'" and although "the administration remained coolly aloof," they were successful in unseating the colorful Jerome Flora, mayor for twenty years, city manager and fire chief all in one. In Dunn a group of World War II veterans waged an all-out campaign to win control of the city hall and were largely successful, but in Asheville, birthplace of G.I. Democrats, veterans' efforts to defeat the administration Democrats in the municipal primary were a failure. In Charlotte, however, the Democrats nominated a full slate of veterans for the city council and won overwhelmingly. Negroes sought council seats in Durham, Raleigh, Wilmington and Winston-Salem, but only in Winston-Salem was any one of them successful. Democrat Kenneth Williams, a veteran and a minister, will be the first negro to sit on the Winston-Salem council since 1898.

Voting Technique

Voting habits and techniques received little publicity in the recent elections. "Single shot" voting, however, was noticed in Greensboro, Durham and Winston-Salem. The technique is simple: Where several candidates seek positions on a multiple board or council and where the winners are determined in order from those polling most votes, a group of voters may substantially improve the relative standing of a single candidate by voting for him alone and by refraining from voting for any other aspirants to the same board of council. For example, the Attorney General recently ruled that under the Winston-Salem charter an independent may have his name printed on the official ballot upon the petition of currently eligible voters equal to 10% of the vote cast for the particular office in the last preceding election. The *Twin City Sentinel* foresaw that this interpretation meant that "a flood of independents two years hence can be the logical result." Having the board of aldermen in mind, they pointed out that once on the ballot, a minority group of supporters can "single shot" their candidate into office over far stronger opponents if the opponents attempt to support more than one candidate. This was food for political thought.

Grumbles

No one complained when a Durham candidate posted attractive girls strategically near the polling place or even when one of them was reported to have exchanged a hug for a vote, but eyebrows were raised when a taxi company in another town advertised frankly that they would furnish free rides to the polls for anyone willing to vote a particular veterans' slate. In Littleton feelings smouldered when some ballots were found in the wrong box and when it was learned that the boxes were not kept under lock and key. But in Dobson the complaints were loud and clear. A Republican charged that a registrar had been late in opening the polls, that he left them intermittently during the day, that one official was not properly sworn, and that the ballots were typewritten, not printed according to law. When asked for an opinion on the validity of the election, the Attorney General ruled, in the absence of a showing that the irregularities affected the results, that they were insufficient to make the election invalid. Dobson and Littleton were the places heard from; news that they were the only cases would have been far more startling.

Jury

(Continued from page 2)

duty of compiling jury lists. Judging from the State press, the most common additional source for names of jurors is the precinct registration books, and it would seem that this particular source offers a number of advantages: (1) Persons whose names appear thereon will, because of the election law, be over 21 years of age; (2) such books contain at least a substantially representative number of women; (3) registered voters, by the mere fact of registration, indicate that they have at least some interest in public affairs, therefore have some sense of civic responsibility, therefore might make good jurors; and (4) precinct registrars may be called upon to help check the qualifications of persons appearing on their books, as they usually have some knowledge of most of them.

Exemptions From Jury Duty

It was necessary, after making women generally eligible for jury duty, to provide appropriate exemptions based upon their traditional and inescapable role as the mainstay of the household. The legislature accordingly provided easily accessible avenues of "escape"—so easily accessible that some commentators have suggested that what was fought for as a "privilege" and has theoretically become a legal "duty" is now practically optional with women who may be called for jury service.

The law provides that any woman who is called upon to render jury service may be excused: (1) if she is ill and unable to serve; (2) if she is required to care for her children "who may be" under 12 years of age; or (3) if the illness of some member of her family requires her presence and attention. A woman having such an excuse need not swear to it; she need not appear before the judge in court; she need not appear at all. She need only have her husband see the clerk of court sometime before the convening of court and "certify" that one of the excuses exists, whereupon the clerk, without further inquiry (but in his discretion) shall excuse the woman from jury service and so notify the judge upon the convening of court.

The law has long extended specific exemptions from jury duty to members of certain trades and professions ordinarily engaged in for the most part by men, such as practicing physicians, druggists, telegraph operators, ministers of the gospel and members of fire companies. Some of the hith-

(Continued on page 7)

American Legion's Seventh Tar Heel Boys' State

Conducted at the Institute of Government of the University of North Carolina, June 8-15, 1947

The Tar Heel Boys' State program, since its beginning in 1939, has brought together in Chapel Hill each year the outstanding youth of North Carolina, giving them the opportunity of developing for themselves a sense of responsibility as citizens. Their teachers during this week of study were city, county and state officials, University faculty members and leading citizens. During the week the boys themselves, each of whom was "born into" either the "Federalist" or the "Nationalist" party upon arrival in Chapel Hill, followed North Carolina election laws in electing their city and county officials, their governor, general assembly and other state officials. These elected officials of Boys' State, putting into practice the theories of government they learned during the week, convened as city councils, county boards of commissioners, various state boards and commissions, and the general assembly. They practiced the job of meeting the problems of government faced every day by local and state officials of North Carolina.

Boys' State is not a vacation. It is a week of hard work and intensive study. The American Legion posts who send these boys annually to Boys' State select them with care, to make sure that those who attend are boys who are willing to work hard at their study of citizenship. Selection committees usually include high school faculty members, and they choose only students who have been leaders in their schools. This year 245 rising high school seniors, representing 102 American Legion posts and 95 cities and towns, attended Boys' State.

The "Governor" of Boys' State, Frank L. Rankin, Jr., of Mt. Holly, is shown in the picture at top left. To his right is Col. Wiley M. Pickens, chairman of the American Legion Boys' State Commission (other Commission members: the Rev. Herbert Spaugh, Charlotte; Cecil E. Cooke, Durham; and Dr. E. H. F. Weis, Guilford College). Col. Pickens and the Commission members, together with Terry Sanford, Assistant Director of the Institute of Government, planned and directed the program of instruction. The Boys' State faculty included Wilkins P. Horton (second from top), Democratic Party Executive Committee Chairman, and Robert G. Deyton (third from top, right), Assistant Director of the Budget. Softball, swimming, basketball and other athletic activities filled the latter half of the afternoons. The boys lived in the University's quonset huts (center), each of which served as a "city" named after a past North Carolina governor. Other diversions from study included political rallies (next to bottom), the organization of a band, an oratorical contest, and a picnic (bottom), dance and magic show staged for the 225 visiting representatives of Girls' State, who came over from W.C.U.N.C.

Speakers of the week, in addition to Mr. Deyton and Mr. Horton, were: Albert Coates, University of North Carolina; Henry A. Yancey, City Manager of Charlotte; Peyton B. Abbott of the Institute of Government; A. H. Graham, Chairman, State Highway Commission; Thad Eure, Secretary of State; Colonel H. J. Hatcher, State Highway Patrol; Dr. Ellen Winston, Commissioner, State Board of Public Welfare; John Umstead, member of the General Assembly; J. R. Thomas, Chief of Police, Rocky Mount; Walter Anderson, Director, S.B.I.; John C. Bills, Special Agent in Charge, F.B.I.; Corporal W. S. McKinney, State Highway Patrol; Frank Crane, North Carolina Department of Labor; W. M. York, Commander, American Legion; Ben Eaton, Assistant Commissioner of Revenue; Lieutenant-Governor L. Y. Ballentine; Henry W. Lewis of the Institute of Government; the Rev. Excelle Rozzelle, Ardmore Methodist Church, Winston-Salem; Archibald Henderson, University of North Carolina; E. J. Woodhouse, Political Science Department, U.N.C.; Coach Carl G. Snavely, U.N.C.; W. M. Cochrane of the Institute of Government; Colonel Paul Younts, Executive Vice-Commander of the American Legion; Fred Weaver, Dean of Men, U.N.C.; Joseph W. Straley, Physics Department, U.N.C.; Mayne Albright, Executive Director, World Federalists of North Carolina; President Frank P. Graham, U.N.C.; Chancellor Robert B. House, U.N.C.; and Frank Hanft, Professor of Law, U.N.C.

THE CLEARINGHOUSE

News of Developments in Local Government

By W. M. COCHRANE

Assistant Director
Institute of Government

Federal Property and Local Taxes

When any considerable proportion of the property in a county or municipality is owned by the federal government, the burden of taxation is heavier than it would be otherwise on the remaining, privately-owned property in the area. In many local governing units today federal holdings have reached the point of working a hardship on local taxpayers—sometimes burdensome, always irritating.

The feeling that the federal government should broaden and make uniform its sometimes-followed practice of payments in lieu of taxes to local units where federal property is located has found expression with increasing frequency in recent years, by local governing officials as well as in publications devoted to local government. Agitation in this direction may have helped bring about the introduction (by Rep. Engle of California, on March 21) of House Resolution 2725, which would create a "Commission on Federal Contributions to State and Local Governments by reason of Federal ownership of real property."

In the public hearings on the bill, which were begun in May, more than a score of county officials from various sections of the nation appeared in its behalf before the Public Lands Committee. Only North Carolinian among them was *Wilson* County Commissioner J. H. Vaughan, of *Elm City*, who is quoted by the information service of the National Association of County Commissioners as follows:

"One North Carolina county lost 59% of its tax values because of federal acquisition, and had to default on its bonds. 25 counties out of 100 in North Carolina are directly affected by federal ownership. TVA pays 12 cents on each $100 of value; while local taxpayers pay $1.70. That is unjust, and the Engle bill is the way to correct the injustice."

Sewer Rental Charges

During recent years, municipal budget makers have had trouble finding the money for the growing list of services modern city government is expected to render. They have cast speculative eyes on many a potential new source of revenue. And restricted as they are by charter, legislative and constitutional limitations, they have shown ingenuity in increasing the yield from traditional sources, as well as by finding new ways to get at the necessary cash.

The sewer rental charge is one of the comparatively new devices being employed around the country to add to municipal non-tax revenues. "Sewage disposal service is another municipal activity which has been dropped from the general tax budget in many cities and is now financed in whole or in part by 'sewer rentals' or 'sewer service charges,'" says the latest edition of the *Municipal Year Book*.

Durham is the most recent addition to the cities and towns in North Carolina imposing a sewer rental charge. The city council decided in June to collect a monthly sewer rental of 25% of water bills, not to exceed $100 per month for each user. According to the *Durham Sun*, city manager R. W. Flack estimated that the new charge will yield $100,000 in new revenues yearly, and that this additional income may eliminate necessity of raising the *ad valorem* tax rate. It will not apply to sewer users outside the city limits; and those who are served by city sewers but who use other than city water will be charged according to the amount of water discharged into the sewer as determined by a meter.

The *Municipal Year Book* reports that, among the North Carolina municipalities currently collecting sewer rentals, several differing bases for the charges are being employed. In *Charlotte*, sewer rental charges are three cents per lineal foot of property frontage. In *Thomasville*, *Greensboro* and *Winston-Salem*, the charges are on the basis of a fixed percentage of the water bill, similar to the new *Durham* system. In *Wilmington*, the charge depends on the number of plumbing fixtures in use, and in *Lexington*, a flat rate or minimum charge is made.

Police Equipment

Two-way radio for use in patrol cars has long been recognized as a boon to efficient law enforcement, and is already in use in a growing number of communities in this State. A two-way system was recently installed in *Albemarle*, making possible instant communication between city police headquarters and patrol cars, and the sheriff's car. In addition, the system is used for frequent communication with the State Highway Patrol through its station at *Salisbury*. A similar system for *Washington* was voted in April by the board of aldermen, to cost in the neighborhood of $3,000. And the sheriff of *Wilson County* was authorized by the board of commissioners in April to install a two-way radio in his car. In *Winston-Salem* a police telephone system, unused during the war because the sound mechanism was converted into a part of the air raid alarm, was re-installed to enable headquarters to reach officers walking their beats in the downtown section.

Another step toward more efficient crime detection was recently taken in *Davidson County*, where the board of commissioners authorized purchase of modern fingerprinting equipment for the sheriff's office. Heretofore the sheriff's force has used the fingerprinting facilities of the *Lexington* police department.

Airports

Eighteen months of work and waiting on the part of the town boards of *Laurinburg* and *Maxton* will come to a formal end July 4, when dedicatory ceremonies will mark the transfer of the Laurinburg-Maxton Airport from the War Assets Administration to the two towns. The 1842-

acre airport, located on the compass course between Washington, D. C., and Jacksonville, Florida, is regarded as one of the best in the world. Used during the war as part of the huge Laurinburg-Maxton Air Base, the airport is now being operated by Presbyterian Junior College, which also conducts a flight instruction and aircraft mechanics school along with a repair station for planes.

Anticipating a similar transfer (after the Navy Department's expected transfer to the WAA), *Kinston's* city council and *Lenoir County's* commissioners recently passed a resolution jointly agreeing to maintain the Kinston-Lenoir County Airport for public aviation purposes, when it is turned back over to them. The two boards also created a five-member airport authority to operate the project.

Airport Zoning

As the airports of the State continue to expand in both size and number, county and municipal governing boards, as well as airport authorities, are running into vexatious problems arising out of the inevitable conflict between airport operators and adjoining property owners. The problems are the same whether the airport is owned and operated commercially or by the municipality. Basically, the conflict is between two desirable objectives: prevention of obstructions on neighboring property for safe operation of planes, which are necessarily at low altitudes when taking off or landing; and fullest possible use and enjoyment of the private property which happens to lie near the airport.

Airport zoning is a relatively new field, having been provided for by North Carolina law only since 1941. The Airport Zoning Act (G.S. 63, Art. 4, as amended) authorizes counties, cities, towns and airport "authorities" to adopt general airport zoning ordinances restricting, among other things, the height of buildings in the area covered.

The question of zoning has recently been under consideration at the *Greensboro-High Point* airport, and the public hearings held on the proposed ordinance, as reported by the *Greensboro Daily News*, indicate the delicate issues involved. As drawn up, the regulations would be concerned principally with preventing high structures or natural growth which would be dangerous for low-flying aircraft, and would affect property within a two-mile radius of the airport. Considerable objection was raised by the property owners in the area involved, chiefly on the ground that they would be forced to secure permits for nearly every use of their property.

Such an ordinance was adopted in May by the town board of *Lumberton*, regulating the size of structures near the municipal airport there.

Liquor Stores

Liquor has been a live issue in North Carolina for many a generation, and unanimity on the question of how it should be handled is not yet in prospect. Periodic county elections under the system that has obtained in recent years are always hotly contested, and usually bring voters to the polls who normally stay home on more prosaic election days.

Interest has been particularly high this year in the ABC store elections scheduled for this summer, largely because the legislature opened the way for certain *municipalities* to vote on the question. This was not entirely a new departure, since similar arrangements were made a decade ago for the townships in which are located the resort communities of Pinehurst and Southern Pines. But except for these, the county line has been regarded as marking off the smallest political subdivision which should be allowed to vote on the proposition of legal sale of liquor.

Voters in *Franklinton* decided in favor of liquor stores for their town by a vote of 267 to 80, in the first of four such municipal elections. But the election there on June 11 did not end the matter, for the "dry" forces had already begun a test of the constitutionality of the special act authorizing the election. Other municipalities authorized to vote on the matter were Hickory, Louisburg and Asheville, and elections were scheduled for early summer in each of them.

Most of the special acts authorizing these elections specified that they should be called on petition of 15% of the qualified voters, and the speedy action of the petitioners at *Louisburg* was typical of the high local interest. A petition there bearing 154 names, more than the necessary 15%, was certified by the town clerk and presented to the board of commissioners on May 9, who called the election for July 1.

Recent county elections have not gone well for the ABC store proponents. *Pender* and *Rowan* voters went against the stores in elections during the late spring. This trend, however, was reversed by the ABC store victory in Mecklenburg in June.

Jury

(Continued from page 4)

erto exempt classifications are also shared largely by women, such as employees of State mental institutions, radio broadcast technicians and announcers, optometrists, and members of the officers and enlisted reserve corps. It was no more than fair that the law should extend specific exemptions to some of the professions and occupations predominantly filled by women. It made a gesture in this direction: it specifically exempts from the duty of jury service registered or practical nurses in active practice. The new law also exempts "practicing attorneys at law."

The Future of "Ladies of the Jury"

Our organic law, the Constitution, now makes legally correct the expression "ladies of the jury." Some effort has been made, upon short notice and with practically no local practical experience as a guide, to put the changed organic law into effect. Some additional statutory changes will undoubtedly have to be made in the light of local experiences under the new law. Some local architectural changes may also have to be made. It should be borne in mind that the Supreme Court of the United States has previously held that Negroes are not only eligible as jurors, but must not be "purposefully and systematically" excluded from jury service. This means that colored men and colored women, white men and white women are now eligible for jury duty, and this, in turn, may mean that three additional facilities may have to be installed in or near jury rooms. Time alone can tell how serious this architectural problem may become: the Forest City *Courier* of March 24 relates that two women were drawn for jury duty, for the first time, for the April 14 term of court, and that both were excused from service. The grounds for excusing them was not stated. It may prove to be that the urge to be upon equal terms with men with respect to jury service was largely satisfied by winning the right but that, as in the case of the men, the duty and responsibility is something that someone else may as well look after.

Current Problems in Local Government

Sunday Closing Laws

Problem: May a municipality pass an ordinance closing all or certain business houses during certain hours on Sunday?

Discussion: Assume that a town desires to have all places of business within its limits completely closed between the hours of 10 and 12 A.M. on Sundays. An ordinance to that effect is likely to be sustained as a valid exercise of the town's police power. In construing the usual grant of authority to cities and towns, courts in this and other jurisdictions have uniformly held that established municipal authorities may enact such ordinances to promote the peace and good order of the town, so long as they are not unreasonable or unduly discriminatory or oppressive. *State v. Burbage*, 172 N. C. 876 (1916) and cases cited there. The courts quite generally say that ordinary business pursuits may not only be regulated but completely prohibited on Sunday. While it might be argued that an ordinance which prohibited any business from operating on Sunday was invalid because unreasonable and oppressive, making it impossible, for example, for a person to purchase necessary food, an ordinance as suggested requiring closing only between 10 and 12 A.M. would not fall before that argument. Of course a town could not single out a particular merchant as the subject of an ordinance. It would have to be directed against all merchants in the town or against all merchants in a certain class or in certain classes. Otherwise the ordinance would be invalid by reason of discrimination.

Levy of Schedule B License Taxes

Problem: How should a county go about levying Schedule B license taxes?

Discussion: Under G.S. 105-33(b) the license tax year may either begin on July 1 and end on June 30 or begin on June 1 and end on May 31 as the county board may determine. If a county's fiscal year begins on June 1, it would seem to be more convenient to have the license tax year begin on that date. There seems to be no provision in the General Statutes prescribing the method for levying Schedule B license taxes by the county commissioners. Article II of the Revenue Act of 1939, as amended, merely authorizes counties to levy taxes upon the businesses, trades and professions as therein defined and within the limits therein set out. It would seem that the proper procedure would be for the county commissioners to adopt a resolution at any regular meeting prior to the beginning of the license year setting out the schedule of license taxes to be levied. This resolution containing the schedule should be spread upon the minutes of the board as in the case of the *ad valorem* tax levy, and a copy of the schedule should be delivered to the tax collector with an order from the board to collect the license taxes as therein set out. In order to avoid the necessity of defining the businesses or trades to be licensed, it might be advisable to tie the resolution in with the Revenue Act by beginning the resolution with some such language as this: "Pursuant to authority contained in the Revenue Act of 1939, as amended, and other laws relevant thereto, there is hereby levied an annual license tax upon the following businesses, trades, professions, and occupations in accordance with the following schedule. The license issued pursuant hereto shall become effective on the day of 19 and expire on the day of 19 ."

Municipal Contracts

Problem: What municipal contracts must be approved by the city governing body, and what constitutes approval?

Discussion: This problem has been recently submitted to the Attorney General and is of such practical importance that a digest of his opinion seems advisable. The pertintent statutes are G.S. 143-131, enacted in 1931, and G.S. 160-279, enacted in 1917. Both deal with municipal contracts involving expenditures of more than $200 and less than $1,000. It is often the practice in larger cities for purchasing departments not to submit such contracts to the governing bodies for approval but to operate under the provisions of G.S. 143-131 without reference to G.S. 160-279. It is to be observed that G.S. 143-131 relates to contracts for construction or repair work or for the purchase of apparatus, supplies, materials and equipment, involving the expenditure of public money in an amount of $200 or more, but less than $1,000. G.S. 160-279 relates to "all contracts" made by any department, board or commission, in which the amount involved is $200 or more, and requires that they be in writing, signed by the officer authorized by law to sign such contracts and approved by the governing body. The Attorney General advises that the safer construction of the two sections is to read them *in pari materia* and construe them together, as neither one conflicts with but supplements the other. Thus, the contracts referred to in G.S. 143-131 should be approved by the governing body. This does not mean, however, that the individual contracts themselves must be formally acted upon by the governing body at the time they are entered into, but they could have been authorized in advance by delegating to the officer or board making such contracts the authority to enter into them, or they could be ratified and approved after they have been made. The two statutes read together, however, do require that at some stage, either in advance, at the time, or afterwards, a particular contract of the kind referred to in both sections should be authorized and approved by the governing body.

Wine and Beer Licenses

Problem: Did the 1947 General Assembly make any changes in the provisions of the law with reference to issuing licenses for the sale of wine and beer?

Discussion: Only two changes were made by the recent Legislature in the law concerning the issuance of beer and wine licenses. Chapter 1098 (SB 471), Session Laws of 1947, prohibits the issuance of a license for the sale of *wine* to any poolroom or billiard parlor, or to any person, firm or corporation operating a poolroom or billiard parlor. This same chapter authorizes the State Board of Alcoholic Control to issue permits to retailers of *wine*, provides that no *wine* licenses will be valid unless the licensee also has a permit from the State Board. Before applying to the State Board an applicant must first apply for a local wine license. Apparently these provisions with regard to permits do not affect local license-issuing procedure.

(Continued on page 15)

Recent Supreme Court Decisions

Of Interest to City, County and State Officials

By HENRY W. LEWIS
Assistant Director
Institute of Government

Couched in the language of the law, removed in time and place from dramatic incident, decisions of the Supreme Court go unnoticed by the general public. Yet from these decisions state, county and municipal officials must derive interpretations of the law that they ignore at their peril. A few of the recent decisions of interest to officials are summarized here.

A Municipality Right to Grant Carrier Franchises

In *Coach Co. v. Transit Co.*, 227 N. C. 391 (opinion filed 30 April 1947), a municipality had granted an exclusive franchise for the operation of a motorized bus transportation service over specified streets within the city and "such other routes, with the consent and approval of the city council" as public transportation might require. At a later date the city approved a request for an additional route along a public highway from a point within the city to a point ⅞ of a mile beyond the corporate limits, a route over which an interurban bus line already operated under a franchise from the Utilities Commission. The interurban line sought to enjoin the city transit company from operating busses over its franchise route. The Supreme Court had to decide whether a municipality has authority to grant a franchise for the transportation of passengers for hire over a route extending from within the city along streets which form a part of a public highway to a point less than one mile beyond the corporate limits. The Court started from the premise that licensing the privilege of carrying passengers and freight for hire by motor vehicle over the highways of the state is exclusively a legislative prerogative, one that has been exercised through the establishment of the Utilities Commission, the General Assembly's agency for prescribing the conditions under which the privilege may be exercised. Citing the language of G.S. 62-103(o) the Court proceeded to show that the word "highway" as used in this connection means every street, road or highway in North Carolina, whether within or without the corporate limits of any municipality. Thus persons or corporations seeking to operate busses over the highways of the state between cities and towns "or over a regular route" on these highways must first obtain a franchise certificate from the Utilities Commission whose power is exclusive. This the city transit company had not done. Turning to the city ordinance under which the transit company was attempting to operate, the Court said that it "purports to grant a franchise within the city only" and as for the later resolution approving the request for an additional route, it "simply approves the proposed route." In effect, the city was presumed never to have attempted to grant a franchise to operate beyond its corporate limits. Looking at the decision in this case with blinders on, a municipality's power to grant franchises *within* its corporate limits was unchallenged. Yet the language in the opinion, particularly with regard to the definition of "highway," might well lead the court to say in a case where the question is presented, that the Utilities Commission has exclusive jurisdiction over all carrier franchises, and that a municipality may merely approve a franchise once it has been obtained. Under this interpretation this decision will throw to the Utilities Commission a large amount of municipal franchise work that, until this time, it has not seen fit to take on.

Property in Custody of an Officer of the Law

In *State v. Law and Kelly*, 227 N. C. 103 (opinion filed 18 December 1946), it was held that an automobile taken into custody lawfully by a city police officer in connection with a liquor violation does not become the property of the city. If stolen while in such custody an indictment for larceny laying ownership in the city is fatally defective in that a conviction under such an indictment would not protect the defendant from subsequent prosecution under indictments laying the right to the property in the seizing officer or in the custody of the law.

Municipal Tort Liability

While not a significant case upon the facts, the opinion in *Klassette v. Drug Co.*, 227 N. C. 353 (opinion filed 30 April 1947), restates some significant doctrines on the tort liability of municipalities for actions of its fire department and for the upkeep of its sidewalks. In this case the actions of a fire department in using an unusually large amount of water in extinguishing a fire, the resulting flow of water on the sidewalk and the plaintiff's slip on the wet sidewalk were under consideration. In holding the city blameless, the Court said, in effect, that the extinguishment of fires is a function which the city undertakes in its governmental capacity, and in connection with which, in the absence of a statute to the contrary, it incurs no liability either for inadequacy of equipment or for the negligence of its firemen. And as to the upkeep of sidewalks it stated that a municipality is not held to the liability of an insurer of the safety of its streets, but only to the exercise of ordinary care and due diligence to see that they are reasonably safe for travel. It is only liable for negligence. Moreover, it is only against danger which can or ought to be anticipated in the exercise of ordinary care and prudence that a municipality is bound to guard.

Privilege License Taxation

In recent months the Supreme Court has held constitutional the license and "per head" tax on the privilege of engaging in the business of purchasing horses and/or mules for the purpose of resale. (G.S. 105-47). In *Nesbitt v. Gill, Commissioner of Revenue*, 227 N. C. 174 (opinion filed 5 March 1947) a resident dealer in Buncombe County purchased 78 horses from ranches located outside the state, had them shipped to Asheville, paid the required tax under protest, and upon demand for refund had been refused. This was an action to recover the tax paid. From a judgment in favor of the Commissioner in the Superior Court, the dealer ap-

pealed on the theory that the tax was unconstitutional. The statute involved levies an annual privilege license tax on the privilege of engaging in the business of purchasing horses and/or mules for the purpose of resale and is based on the number of carloads (25 head to the car) purchased for resale. In addition to the license tax those engaging in this business are required to pay a tax of $3 per head on all horses and/or mules purchased for the purpose of resale "whether such horses and/or mules are shipped into this state by railroad or brought otherwise." The per head tax is made due and payable "upon the receipt of such horses and/or mules within this state."

On appeal the dealer contended that there were four grounds upon which the statute should be declared unconstitutional. His first contention was that the purchasing of horses and/or mules for resale is not a trade or profession within the meaning of Article V, Section 3, of the North Carolina Constitution. On this Mr. Justice Denny, speaking for the Court, held that the word "trade" listed by the Constitution as a proper subject of the State taxation, must be interpreted in its broadest sense, that actually it includes "in this sense any employment or business embarked in for gain or profit." To the dealer's argument that the $3 head tax was really a tax on property and as such unconstitutional in that it lacked the uniformity required of *ad valorem* taxes, the Court reviewed the history of this particular tax. Before 1939 there had been a similar license tax provision on the business but there had been no head tax. Instead, sales of horses and mules had been taxed under the 3% Sales Tax. In 1939 the head tax had been introduced and at the same time sales of horses and mules were specifically exempted from the Sales Tax. Mr. Justice Denny then pointed out that while the General Assembly must make a tax apply equally to all persons within a prescribed tax class, it is not restricted to uniformity as between trades and professions in levying a privilege or license tax. The Court's answer to the contention that this was not a privilege but a property tax took the form of an assertion that the head tax constituted a "measure" to be used in evaluating the privilege taxed. Quoting the opinion in *Albertson v. Wallace*, 81 N. C. 479 (1879), the Court held that "The ability to pay increases with an increased and successful business, and it is just and proper to gauge the sums to be paid upon that principle. This is what the statute undertakes to do, and no more, and it lies within the discretion of the taxing power to levy the privilege tax under this rule." Continuing the Court specifically negatived the theory that the tax was levied on the right to purchases horses and mules as well as the theory that it constituted an *ad valorem* tax on the animals purchased. In deciding whether the "measure" of the privilege tax was equitable, the Court relied upon the fact that sales of such animals have been expressly excluded from the 3% Sales Tax.

The dealer's third contention was that the statute does not levy a head tax on animals raised in North Carolina and is therefore a violation of Article I, Section 8, clauses 1 and 3 of the United States Constitution, that is that the tax is not uniform in application as between intrastate and interstate commerce. Here the dealer relied on the words of the statute applying the tax "whether such horses and/or mules are shipped into this state by railroad or brought otherwise" and the provision making the head tax due and payable "upon the receipt of such horses and/or mules within this state." This the Court answered by quoting the statute's definition of "purchase" as including the acquisition or receipt of animals "as a result of outright purchase or on consignment, account or otherwise for resale at wholesale or retail" stating that this provision unambiguously fixes the amount of the head tax by a measure which takes into consideration the number of horses and mules purchased for resale regardless of where purchased. As to the provision of the statute applying the tax whether shipped into the state "by railroad or brought otherwise," the Court stated that it was inserted to emphasize the fact that all horses and mules brought into the State may not be shipped over railroads or in carload lots, but that the tax is assessed on all animals brought in regardless of the manner of transportation. As to the provision that the tax is due and payable only when the dealer receives the animals "within this state," Mr. Justice Denny felt that this merely fixed the time when the tax becomes due and payable and, contrary to the dissenting opinion, that it applies with equal force to purchases made within the State. The Court's interpretation was that it simply meant that such a dealer is not required to pay the tax when he purchases animals for resale until the animals come into his possession within North Carolina, regardless of the date of purchase or the origin of the shipment.

The dealer's final contention was that the tax placed an undue burden on interstate commerce by subjecting the interstate dealer to the possibility of multiple taxation. His principal authority was *Gwin, White & Prince v. Henneford*, 305 U. S. 434, 83 L. Ed. 272 (1939) where a state had levied a tax on commission merchants which it purported to measure by gross receipts derived from the business of marketing fruit shipped from the state to points outside. The complaining taxpayer was engaged exclusively in interstate commerce. The United States Supreme Court had held this tax invalid because it discriminated against interstate commerce by imposing upon the dealer, merely because interstate was being done, the risk of a multiple tax burden to which local commerce was not exposed. In rejecting this argument Mr. Justice Denny relied upon the United States Supreme Court's decision in *Western Live Stock v. Bureau of Revenue*, 303 U. S. 250, 82 L. Ed. 823 (1938) in which Mr. Chief Justice Stone had written what Thomas Reed Powell called "an essay that seemed to assume the role of a harbinger of impending change" in the Court's treatment of gross receipts taxes. There the Court held valid a state 2% tax on amounts received from the sale of advertising space by one engaged in the business of publishing newspapers or magazines. The taxpayer sold space to out-of-state advertisers for a magazine published within the state and circulated to subscribers both inside and outside the state's borders. The price of the advertising determined the measure of the tax. The Supreme Court by that time had already sustained a tax on the privilege of manufacturing measured by the total gross receipts from the sales of the manufactured articles both within and outside of the state on the theory that the actual sales prices which were used as a measure for the tax were taken to be no more than the measure of the value of the goods manufactured, and thus an appropriate measure of the value of the privilege, the taxation of which was

(Continued on page 16)

Book Reviews

The City Manager Plan

(A review of numerous studies of the council-manager plan of government, published by the International City Managers' Association, 1313 East 60th Street, Chicago 37, Illinois; and the National Municipal League, 299 Broadway, New York 7, New York.)

As of March 15, 1947, 726 municipalities out of the 16,000-plus actively organized cities, towns, boroughs and villages in the United States had city managers. Twenty-six of these were in North Carolina, and since that date several more have been added to the list—Raleigh, New Bern and Whiteville, among them. The city manager form of government has been under discussion in other cities and towns in the state as well, and numerous inquiries indicating the widespread interest of officials and citizens have come to the Institute of Government regarding the merits of this form of government, which may be adopted in North Carolina by cities and towns without regard to size (under Plan "D," in Part 4 of Article 22, Chapter 160 of the General Statutes of North Carolina).

In response to this demand for information, we have reviewed a number of publications with the object of revealing what students of local government are saying about the council-manager plan as it has worked out in the nation as a whole during the years since it was originated in 1908 at Staunton, Virginia.

Definition of the Plan

"The central idea of the council-manager plan, to put it simply," says the International City Managers' Association (in "Recent Council-Manager Developments and Directory of Council-Manager Cities"), "is a far-reaching attempt to resolve the apparent conflict between democracy and efficiency. Democracy is preserved in the popular election of a small council, on a short ballot, which does not overtax the capacity of the citizen to understand his government. Efficiency is achieved by the employment of a manager professionally trained for the technical job of administration. The danger of bureaucracy irresponsible and unresponsive to the will of the community is met by giving the council complete control of the manager's tenure in office."

The Association defines the main features of council-manager government as follows: The council, usually small (five members in North Carolina, elected for two year terms) and elected at large on a non-partisan ballot, determines municipal policies, votes appropriations and appoints the city manager as chief executive officer. The city manager carries out the policies of the council, which is the city's governing body. The mayor is usually elected by the council from among its membership, and neither he nor the council members interfere with the administrative functions of the manager. The council deals with administration only in a formal manner through the city manager, and administrative functions are not delegated to committees or to individual council members.

"The city manager, the head of the administrative branch, is appointed by the council as a whole. The theory is, and the charter usually provides, that he be selected on the basis of his training, ability, and experience. The exercise of administrative authority is concentrated in this appointive executive who is accountable to the council. He provides the council with information which enables it to determine municipal policies, advises the council in matters of policy if the council so desires, and executes the policies determined by the council. He introduces the best principles of advanced administrative organization and practice, and is held responsible for the proper coordination of all administrative activities under his direction."

City Manager's Duties

In North Carolina, under the general law, the powers and duties of a city manager are set forth as follows (G.S. 160-349): "The city manager shall (1) be the administrative head of the city government; (2) see that within the city the laws of the state and the ordinances, resolutions, and regulations of the council are faithfully executed; (3) attend all meetings of the council and recommend for adoption such measures as he shall deem expedient; (4) make reports to the council from time to time upon the affairs of the city, keep the council fully advised of the city's financial condition and its future financial needs; (5) appoint and remove all heads of departments, superintendents, and other employees of the city."

These North Carolina provisions are substantially in accord with those in force elsewhere, and with those recommended by authorities on the subject. The International City Managers' Association lists the additional specific duties of preparing and submitting to the council the annual budget (which practice is generally followed in this State), and of keeping the public informed, through reports to the council, regarding the operation of the city government.

Appointment of Manager

In keeping with the generally accepted view, North Carolina law (G.S. 160-348) provides that in municipalities operating under Plan D the council shall appoint the city manager, "who shall be the administrative head of the city government, and shall be responsible for the administration of all departments. He shall be appointed with regard to merit only, and he need not be a resident of the city when appointed." He holds office during the pleasure of the council, and his salary is fixed by ordinance.

Successful government under the council-manager plan depends in large measure on how wisely this power of appointment is exercised. A good general guide for city councils faced with this problem is another publication of the International City Managers' Association, entitled "The Selection of a City Manager." The expressed purpose of this pamphlet is "to suggest a simple, careful and effective appointment procedure based on the actual experience of city councils in the selection of managers." It reviews the generally accepted duties of the city manager, sets forth the bases on which applicants for the position should be judged, and recommends a detailed selection procedure, including suggested application forms containing questions designed to provide the council with full factual knowledge about the applicant's education, previous experience, etc.

This study emphasizes in its opening sentence the necessity of appointing with care, saying "the city coun-

(Continued on page 16)

The Attorney General Rules

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

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HARRY McMULLAN

Attorney General of North Carolina

I. AD VALOREM TAXES

A. Matters Relating To Tax Listing and Assessing

2. Fraternally owned property

To Inez Naylor.

Inquiry: Is a community "hut," owned by Rotarians, and used for such community projects as scout meetings, church meetings, etc., exempt from county ad valorem taxation?

(A.G.) In my opinion, there is no language in the exemption provisions of the ad valorem taxation statute broad enough to include the above described property, and therefore, in my opinion, such property would not be exempt from taxation.

B. Matters Affecting Tax Collection

16. Corrections and discoveries

To C. E. Gwin.

Inquiry: Where a municipality uses the unit street price system for making tax assessments, could it back list, as discovered property, under G.S. 105-331, property discovered under the following circumstances: (1) where a property owner lists his property in 1937 as having a 75′ frontage and in 1945 the property is sold to a purchaser who gets a 140′ frontage, and there also appears to be more property on the rear of the lot than originally listed; (2) where a property owner lists a lot on 8th St. as being 55′ x 300′ but later sells off from this property two lots, each 57½′ x 138′, facing on 7th St. and states that he still has a lot remaining on 8th St., it later appearing that the lot actually had a frontage on 7th St. of 115′ with a depth of 138′ and a frontage on 8th St. of 70′ with a depth of 197′?

(A.G.) In each instance, in my opinion, the question is whether or not the real property had been listed for taxation. In the first instance, if the lot was merely erroneously described in the listing, but is in fact the same lot as that listed in 1937, this would not, in my opinion, give the tax authorities the right to treat as discovered property the difference in the footage, as later ascertained. If you attempted to do this, you could not say which part of the lot the taxes had been paid on, and there is no provision in the statute which I can find which authorizes back listing, based upon an erroneous description as to acreage or as to frontage. In the second instance, however, if the taxpayer owned two lots, one on 7th St. and one on 8th St., and only listed the lot on 8th St., then it is my opinion that you would have a right to back list the lot on 7th St. as not having been listed at all, assuming that there was some subdivision or map of the property which made separate and distinct lots of the two parcels.

102. Refunds

To Harold K. Bennett

Inquiry: Where it has been determined that the valuation of property for county tax purposes shall be at 40% of cost for real estate and 30% of book value for machinery and equipment, and where, for 3 years, due to a mistaken idea by the county treasurer as to the formula to be used, machinery and equipment of a certain corporation has been valued at 40% of book value rather than 30%, may the county refund the tax paid on the basis of this valuation, on the ground that it was a clerical error which caused the excessive payment?

(A.G.) In my opinion this would be a "clerical error," within the meaning of G.S. 105-405.1, since the error was not made in the exercise of any judgment or discretion, or in expressing any opinion of the official, but was done with the thought that the formula or rule adopted by the taxing authorities of the county for the valuation of this property was being complied with. It should be noted, however, that G.S. 105-405.1 provides that a refund shall be made where the demand in writing is filed within "two years from the date the same was due to be paid." Thus, within this limitation, the board of commissioners would be authorized by this statute to make refund of this overcharge for the period limited by the statute.

DEPUTY CLERKS OF SUPERIOR COURT

(A.G.) Our statutes and controlling decisions expressly recognize the authority of a deputy clerk of the Superior Court, in his own name and official capacity, to take acknowledgements of instruments entitled to registration. Our statutes also expressly confer upon a deputy clerk of the Superior Court the authority to pass upon the sufficiency of probates had before any official other than a clerk or deputy clerk of the Superior Court. This corrects an erroneous opinion recentiy digested. (See POPULAR GOVERNMENT, issue of June, 1947, page 18.)

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES

A. Levy of Such Taxes

14. Privilege license—beer and wine

To H. C. Wilson.

Inquiry: Who is required to make application for a license for the retail sale of beer and/or wine—the owner of the business, or the manager?

(A.G.) G. S. 18-75(4) sets out as one of the qualifications required of an applicant for a beer and/or wine license "that the applicant intends to carry on the business authorized by the license for himself or under his immediate supervision and direction." The owner and operator of a business might employ some other person as manager but the owner should apply for the license and should meet the requirements of the statute.

IV. PUBLIC SCHOOLS

D. Powers and Duties of Present School Districts and Agencies

20. Right to issue bonds—for school buildings

To A. B. Carter.

Inquiry: Would a school unit which is authorized to issue bonds be required, in figuring the amount of debt which it may incur under the statutory debt limitation, to deduct from this amount the amount of school debt outstanding against the town which is a part of the school unit?

(A.G.) No. The debt of the school unit would be a debt of a governmental unit separate and distinct from the town, and the amount of the bonds it may issue or debt it may

incur would not be controlled by the town debt.

31. Elections to supplement state funds

To N. L. Turner.

Inquiry: If, at a special county-wide election, the question of supplementing the state nine-months' school term is defeated, may one or more of the districts in the county administrative unit now hold a special election for the purpose of supplementing the nine-months' school term?

(A.G.) Yes. This is permitted by G. S. 115-362. The petition to call such an election, signed by the district committee, must be filed with and approved by the county board of education, the county board of commissioners, and the state board of education.

To A. B. Gibson.

Inquiry: Where a city school administrative unit is composed of two municipalities, is it necessary for the voters of both of the municipalities to petition the governing bodies of their towns for a special election covering the entire unit?

(A.G.) The procedure for conducting a special election to supplement state and local funds to provide a school of a higher standard than that provided by the state is set out in G. S. 115-361. You will note that the request for such an election should be made by the city administrative school unit trustees to the tax levying authorities of the county and not to the governing body of the municipality. So where the unit is composed of two municipalities, the trustees of the unit would have to request the county board of commissioners to call a special election.

VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES

X. Grants and Contributions by Counties

18. Recreation center

To Arthur D. Gore.

Inquiry: May a county, which owns lands which are used as an armory and ball park, enter into an arrangement with a local post of the American Legion to furnish half the funds necessary to set up permanent lighting facilities at the ball park, if the maintenance and power bills for the lighting are paid by the local post?

(A.G.) Since the property is not a part of the public school system of the county and is not used by it as an essential part of the public school program, it is not thought that the county commissioners have any authority to make an appropriation for the purpose suggested. In *Purser v. Ledbetter*, 227, N. C. 1, (1946), the court held that appropriations for recreational purposes are not a necessary expense within the meaning of Art. VII, Sec. 7 of the State Constitution, and that tax moneys may not be expended for this purpose without a vote of the people approving the same.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES

G. Principal Liability for Tort

5. Defects in streets

To W. Ralph Campbell.

Inquiry: Where an excavation in the main part of a town is left for a period of time unwalled, resulting in cave-ins of the property of adjoining landowners, and where the sidewalk running alongside the excavation has no barrier to keep persons from falling into the excavation and being injured, is the town liable for damages to the adjoining landowners or to individuals who might suffer injury from the lack of a barrier along the sidewalk?

(A.G.) If the excavation is on private property the municipality would have no liability to adjoining landowners (assuming the excavation is a nuisance and was not created or under license by the municipality for injuries resulting from a failure to abate the nuisance. As to the sidewalk, however, if a person using the sidewalk were injured due to the fact that no retention barrier had been placed along the sidewalk, such injury occurring without negligence on the part of the person injured, then the municipality might be liable on the grounds that it is the municipality's duty to keep sidewalks in a safe condition for ordinary use.

9. Operation of fire department

To D. D. Topping.

Inquiry: Is a town liable for injuries sustained by individuals from the use of fire fighting equipment in the course of fighting a fire?

(A.G.) In maintaining and operating a fire department for the benefit of the public, a municipality is engaged in the exercise of governmental functions and is, therefore, not liable to individuals for injury or damage growing out of the performance of these duties unless made so by statute. I know of no statute which would subject your town to liability in the case you describe.

R. Grant by Cities and Towns

2. Public schools

To J. W. P. Smithwick.

Inquiry: May a municipality make a contribution for the purpose of equipping the high school athletic grounds?

(A.G.) No, unless the municipality has special legislative authority to make such contribution out of any surplus or other funds derived from sources other than taxation.

N. Police Power

15. Regulation of taxicabs

To Robert W. Wall.

Inquiry: Does a town governing body have power and authority to allot special parking space on the streets of the town for the use of taxicabs, which streets are a part of the state highways running through the town?

(A.G.) Yes. The governing body may validly require that certain designated parts of the streets, and those only, be used as taxi stands, even though such streets constitute a part of the state highway system running through the town. Authority for this is contained in G.S. 160-200, subsec. 31.

Y. Streets and Sidewalks

8. Street assessments—right to make

To A. J. Hutchins.

Inquiry: Is school property liable for its pro rata share of the cost of paving done adjacent to the school property?

(A.G.) Yes, on the theory that the property is being benefited by the paving and therefore must pay its share of the special benefit it gets. This local assessment for public improvements is different from taxes levied for purposes of general revenue. See *Raleigh v. Public School System of Wake County*, 223 N. C. 316, 26 S.E. (2d) 591 (1943).

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS

A. County Commissioners

34. Jury list

To Nat S. Crews.

(A.G.) It seems to me that HB 87 authorizes but does not require the boards of county commissioners to use other sources of information than the tax lists in selecting the lists of jurors. If the board of commissioners finds it desirable and in its opinion the proper course to confine its selection to the tax lists, I believe it would be valid. The fact that there are many more men on the tax books than women, due to the fact that women do not pay poll taxes, would not, I believe, be sufficient to amount to a discrimination against women on the juries which would raise any constitutional question.

B. Clerk of Superior Court

81. Decedents' estates — inheritance tax.

To W. D. Halfacre.

Inquiry: Where a man and wife jointly rent a safe deposit box and agree that the survivor might open it, without the clerk of court being present, and remove the contents and distribute them as provided by law, is such an agreement sufficient to relieve the bank of any liability as a result of allowing the safe deposit box to be opened as provided in the agreement?

(A.G.) No. G.S. 105-24 specifically provides that the clerk of court shall be present when a safe deposit box

of a decedent is opened even though the same is opened by a co-tenant. Since the purpose of the statute is to protect the revenues of the state by insuring the payment of inheritance taxes, I do not believe that any agreement of the parties can dispense with a compliance with its terms.

86. Special proceedings for partition

To Charles C. Lamm.

Inquiry: Where property is sold in a partition proceeding in the first three months of 1947, should 1947 ad valorem taxes be paid out of the proceeds of the sale of the land?

(A.G.) G.S. 105-408 provides that "In all civil actions and special proceedings wherein the sale of any real estate shall be ordered, the judgment shall provide for the payment of all taxes then assessed upon the property and remaining unpaid. . ." I am of the opinion that only such taxes as have been assessed against the land should be paid out of the proceeds of the sale, and since 1947 taxes have not been assessed, and cannot be assessed until after July 1, 1947, they would have to be paid by the purchasers. This view is supported by *Chemical Co. V. Brock*, 198 N.C. 342, 151 S.E. 869 (1930).

91. Juvenile court—jurisdiction

To Ellen B. Winston.

Inquiry: Should children under 14 years of age, charged with a crime for which the penalty is death, be tried in the juvenile courts or should their cases be returnable to the Superior Court and there be tried as any case involving an adult?

(A.G.) In *State v. Burnett*, 179 N.C. 735, 102 S.E. 711 (1920), the Supreme Court held, in a case involving two children charged with murder, both being under ten years of age, that children under 14 years of age are no longer indictable as criminals, and must be dealt with by the juvenile court. I have been unable to find any amendment to the juvenile court law which would in any aspect of the matter change or render void this holding, and I am therefore of the opinion that in all cases in which children under 14 years of age are charged with crime, the same must be dealt with in the juvenile court.

K. Coroners

15. Removal of dead bodies

To J. Bryan Smith.

(A.G.) I am of the opinion that a state highway patrolman has authority to remove or have removed to a funeral home the body of an individual killed on the highways if it does not appear that the deceased probably came to his death by the criminal act or default of some person. It is only in cases in which it appears that the deceased probably came to his death by the criminal act or default of some person that the coroner is required to hold an inquest. G.S. 152-7. When the patrolman rightly removes the body of the decedent, he may remove the body to a funeral home outside the county in which the death occured.

L. Local Law Enforcement Officers

3. Prohibition law—transportation in state

To Joe M. Cox.

(A.G.) A driver is criminally liable who knowingly transports more than one gallon of intoxicating liquor owned by one or more occupants of the car. The owner of more than one gallon would also be liable. Several owners, each having less than one gallon, would not be criminally liable for transporting, but may be guilty of aiding and abetting.

25. Prohibition—wine law

To John M. Gold.

Inquiry: Under SB 471 (Ch. 1098, S.L. 1947), prohibiting the issuance of wine licenses to operators of pool rooms or billiard parlors, are such operators given any time in which to dispose of their stock of wine after April 30, 1947?

(A.G.) I see no provision in the Act which would permit any disposal of wine stocks by pool room or billiard operators after April 30, unless it be conceded that the operator could return his stock to the distributor after April 30. It is possible that the court would not consider this as such a sale as would require a retailer's license.

38. Automobile drivers' licenses

To Powell and Powell.

Inquiry: Under G.S. 20-23, is revocation or suspension of drivers' licenses, by the Department of Motor Vehicles, mandatory upon conviction of the licensee in another state?

(A.G.) It is our opinion that G.S. 20-23 is discretionary in the sense that it permits the Department of Motor Vehicles to exercise its judgment on the question whether or not to act at all in the case of a foreign conviction; but that if it does act in any such case, it must treat the foreign conviction as if it were a domestic conviction, and must either suspend or revoke according to the grounds for suspension or revocation named in G.S. 20-16 and G.S. 20-17.

39. Motor vehicle law

To T. Boddie Ward.

Inquiry: Must a plaintiff, who institutes an action *in forma pauperis* against a nonresident motorist and has summons served on the Commissioner of Motor Vehicles as attorney of the defendant under G.S. 1-105 or 1-107, pay the costs required by the section under which he proceeds at the time the summons is served on the Commissioner?

(A.G.) The fees prescribed in G.S. 1-105 and 1-107 are intended to defray the costs of notifying the nonresident defendant that an action has been instituted against him. They are not fees given to an officer, and thus do not fall within the provisions of G.S. 6-24, which provides that no officer shall require his fees of a person who sues as a pauper. I know of no authority for the Commissioner of Motor Vehicles to expend state funds in the performance of this service for the plaintiff in a civil action. I therefore advise that in my opinion such fees must be deposited with the Commissioner of Motor Vehicles in cases in which a plaintiff institutes an action *in forma pauperis* against a nonresident motorist.

P. Official of Recorders' and County Courts

15. Jurisdiction and powers

To John H. Blalock.

Inquiry: May the judge of a recorder's court revoke the driver's license of a defendant who is convicted of speeding?

(A.G.) No. The courts of this state do not have the authority to revoke the driver's license of a person convicted therein. The power to revoke or suspend drivers' licenses is vested exclusively in the Department of Motor Vehicles, subject to the right of review by the courts. Of course, a court may suspend sentence on condition that the defendant refrain from operating a motor vehicle, but this does not constitute a revocation of a defendant's driver's license.

T. Justice of the Peace

60. Miscellaneous

To John W. Graham.

Inquiry: Can a justice of the peace who has assumed to perform the duties of the office under an invalid appointment by the clerk of the superior court, upon the expiration of his original term of justice of the peace, be prosecuted under G.S. 7-115, which provides that "Any person holding himself out to the public as a justice of the peace, or any person attempting to act in such capacity after his commission shall have been revoked by the Governor, shall be guilty of a misdemeanor and upon conviction be punishable in the discretion of the court . . .?"

(A.G.) G.S. 7-115 would seem to be adequate to support a conviction since it fails to say that any person holding himself out to the public as

a justice of the peace who was not at the time a justice of the peace has committed the offense. Furthermore, the section seems to apply only to appointments made by the Governor. While there are statutory provisions which make it a criminal offense for a person to impersonate an officer, I can find none which relates to the office of justice of the peace.

XI. GENERAL AND SPECIAL ELECTIONS

II. Municipal Elections

35. Failure to call

To J. E. Malone, Jr.

Inquiry: Where by special act a town is required to hold an election on adoption of the city manager form of government, and where the town's charter provides that the regular municipal election for town officers is to take place on the day following that set for the city manager election, is it necessary for the town to hold the regular election if, on the day preceding, the town votes in favor of the city manager form?

(A.G.) Notwithstanding the fact that if no election were held at the regular time the incumbents would hold over in office until their successors had qualified, still I know of no statutory authority which would authorize not holding the regular biennial municipal election, even though the officers elected thereat would hold office for only a short time.

Current Problems

(Continued from page 8)

Municipal Elections

Problem: Is a municipal election invalidated by the failure of a judge to serve and the inability of the remaining election officials to choose someone to serve in his place on election day?

Discussion: Under G.S. 160-42 vacancies in the position of judge of elections occurring on election day must be filled by the registrar and the remaining judge. The statutes make no specific provision for cases in which it proves impossible to select a successor. It is a commonly accepted principle, however, that such an irregularity of form will not serve to invalidate the results of the election unless it can be shown that the particular irregularity of form actually worked to the detriment of some candidate or elector in the exercise of his rights.

Problem: Must a written-in- name be "marked" on a ballot before it can be counted?

Discussion: The general Municipal Elections Law makes no specific reference to this matter, but G.S. 160-50 states that where the municipal elections law is silent the provisions of G.S. Chapter 163 dealing with General Elections will apply. The Australian Ballot Law, which by its terms (G.S. 163-148) applies to municipal elections as well as general elections, covers this point. G.S. 163-175, subsection 3, provides as follows: "If the elector desires to vote for a person whose name does not appear on the ticket, he can substitute the name by writing it in with a pencil or ink in the proper place, *and making a cross (x) mark in the blank space at the left of the name so written in . . .* (Italics supplied.)" Apparently it is necessary that the name be checked or marked after it is inserted before it can be counted. The history of this law, however, does not make this interpretation entirely satisfactory. Originally G.S. 163-155 required that blank spaces be left on the official ballot for write-ins and that voting squares be printed to the left of these blank spaces for marking the names written in, but this requirement was deleted by the 1931

General Assembly without any reference to the provisions of G.S. 163-175 quoted above. The section quoted was written when the law required the ballots to carry spaces and voting squares for write-ins, and it may be that it would be considered obsolete by reason of the amendment making it unnecessary for the ballot to carry spaces and voting squares for write-in votes. In view of the fact that the language has not been challenged, the courts would probably follow the statute strictly and hold that the write-in name must be "marked" in order for it to be counted.

Supreme Court

(Continued from page 10)

deferred until the goods were sold. In what was plainly a dictum the Court had added that the taxing agency there might have measured the tax by a percentage upon the value of all goods manufactured whether they should ever come to be sold or not, and could have required payment as soon as, or even before, the goods left the factory.

Implying that the number of animals purchased in the North Carolina case offered an equitable measure of the privilege of purchasing for resale regardless of where purchased, analogous to the measurement of the privilege of manufacturing by the gross take from all manufactured products regardless of where sold, the North Carolina Court proceeded to hold the tax a levy on local business for the privilege of engaging in purchasing horses and mules for resale and not a burden on interstate commerce. To quote the court's conclusion, "Therefore, the risk of multiple taxation is not involved."

It is interesting to note that Mr. Justice Barnhill in dissenting on this point, injected an economic factor in the case that had been ignored by the majority. He said that the number of horses and mules raised in this state for sale on the market is so negligible "they constitute only an infinitesimal fraction of the total. Certainly 98% or more are shipped into the state." He then advanced the theory that this very fact had been persuasive when the Legislature had inserted the words in the statute making the tax due and payable upon receipt of the animals "within this State" and similar language. The true importance of the decision, however, seems to rest, from a practical standpoint, in the direct statement in the majority opinion that purchasing for the purpose of resale in North Carolina as well as outside the state subjects the dealer to the taxing provisions of the statute.

City Manager Plan

(Continued from page 11)

cil's most important single task is the selection of a city manager, the official whom the council holds responsible for competent and effective administration of the city's business. In the light of the rapid expansion in the number, scope, and technical complexity of municipal functions, the job of managing a modern city calls for an unusually high type of executive and administrative ability."

The council is advised to determine whether the prospective manager has the type of mind which will enable him to properly analyze the problems presented to him, to select the significant portions of them and summarize them clearly as a basis for making an intelligent administrative decision; whether he can follow his analysis with a decision based on good judgment; whether he is able to time properly the undertaking of various projects, with good judgment as to priorities among them; whether he will take the initiative; whether he will demonstrate organizational leadership; whether he can inspire the confidence of the public; whether he has a solid foundation of technical knowledge, particularly with regard to the structure and functions of government—national, state and local.

The only trouble with this advice, obviously sound, as experience of numerous councils in this state has frequently demonstrated, is that the supply of city managers with these qualifications is still far smaller than the demand for their services.

Experience Throughout the Country

The National Municipal League maintains that "Consistent records of improved service and reduced cost have been made" by cities using the council-manager plan. The League has published a number of studies of the plan, one of which is entitled "Manager Plan Abandonments," published in 1940. It dealt with the reasons for abandonment by 25 communities (total abandonments to date are around 30) of the council-manager form. Chief reasons for the reversals were said to be defective charter provisions which did not guard against the manager's becoming a political leader, or against infusion of politics into the manager's office, or which divided administrative authority between council and manager (this has caused trouble in some North Carolina cities operating under special charter provisions rather than under the general law), business depressions which were blamed in part on existing local government; and lack of effective support from citizens.

The significance of this last mentioned reason for failure of the manager plan is deep. In his pamphlet "The Manager Plan and New Hampshire Towns and Cities," (General Extension Service, University of New Hampshire, Durham, N. H.), Lashley G. Harvey answered the question "Is the manager plan a success?" by saying "The success or failure of a form of government depends largely upon the willingness of the people to allow it to operate. The United Nations organization will not function if the nations prevent it. Town- and city-manager systems will not function if they are not allowed to do so. The system has been a failure in some communities in the United States and has worked in others. . . . Certainly no community should adopt the plan until it has studied it thoroughly and determined whether the manager plan offers any solution to its particular problems."

CALENDAR OF DUTIES

FOR CITY AND COUNTY OFFICIALS

Prepared by the Staff of the

INSTITUTE OF GOVERNMENT

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

JULY, 1947

DAY	OFFICIAL	DUTY	Reference to Law. (To General Statutes unless otherwise indicated.)
1st meeting of Governing Body	Governing Body	Appropriations resulotion may be adopted for interim between July 1 and adoption of year's appropriation resolution on July 28	153-128; 160-409 and 160-410
Each regular meeting of Governing Body	Sheriff or Tax Collector	Report to Governing Body concerning taxes collected	105-375
On or before 1st	County Board of Education, Board of Trustees	File with Controller of State Board of Education certified statement of expenditures, salaries and other obligations due and payable during the month	115-367
1	Official Collecting Prepaid Taxes	2% discount period for 1947 taxes ends today	105-345 (6)
1	Officials having charge of sinking funds and other local funds	Make report to the Director of Local Government Commission	159-27, 29
1	Sheriff or Tax Collector	Schedule "B" license taxes for 1947-48 become due today if Governing Body has adopted July 1st to June 30th as license tax year	105-33 (b)
2	Official Collecting Prepaid Taxes	1½% discount period for 1947 prepaid taxes begins today	105-345 (6)
5	Police Department	Forward to Department of Motor Vehicles all reports (on approved form) received during preceding calendar month of accidents involving property damage of $25 or more or resulting in injuries or death to any person	20-166 (d)
5	Local Registrar of Vital Statistics	Transmit, to State Registrar of Vital Statistics and County Register of Deeds, all birth and death certificates registered during June	130-99
7	Sheriff or County or District Tax Collector	Begin advertising for four weeks, if certificates to be sold in August	105-387 (b) (c)
7	Sheriff or Tax Collector, Governing Body, Accountant	Day for complete settlement for all taxes if tax certificates sold in May or June	105-390 (a) (3), (b)
7	Sheriff or County or District Tax Collector	Day for tax certificate sale if advertising done in June	105-387 (b)
7	Clerk of Superior Court	Make quarterly report and remittance on State process tax collected	105-93 (f)
7	Register of Deeds	Make quarterly report and remittance to the Board of County Commissioners for marriage licenses issued.	51-20 (ch. 831, S. L. 1947)
7	County and Municipal Accountants	Last day to submit budget estimates for the ensuing fiscal year to the Governing Body	153-118; 160-409, 410
As soon as practicable after 7th	County and Municipal Accountants	Submit supplemental budget estimates to Governing Body. Make public statement of financial condition, showing valuation, debt, deficits, miscellaneous income, uncollected taxes, tax sales, unencumbered balance and estimated tax rates for ensuing year	153-122, 123; 106-409, 410
8	Governing Body	Last day for filing 1947-48 budget estimate in office of clerk of the board for public inspection; publish summary of budget estimate; furnish budget estimate to newspapers	153-119; 160-409, 410
On or before 10th	Clerk of Superior Court	Make monthly inheritance tax report to Commissioner of Revenue	105-22
On or before 10th	Tax Levying Authorities	Report action taken on request for supplemental funds for school purposes	115-363 (c)
10	Coroner	Report to Department of Motor Vehicles the death of any person during preceding calendar month as result of accident involving motor vehicle and circumstances of such accident	20-166 (g)
14	City Tax Collector	Day for tax certificate sale if advertising is done in June	105-387 (b)
14	City Tax Collector	Begin advertising for four weeks, if tax certificates to be sold in August	105-387 (c)
On or before 15th	County ABC Board	Report and pay State tax on wine and liquor sales for month of June	18-85; 105-170
On or before 20th	Tax Levying & Local School Authorities	Report action on school budget from local funds to State Board of Education	115-363 (c)
21	Sheriff or County or District Tax Collector, Governing Body	Report on sale and concerning insolvents to Governing Body if tax certificate sale held in July	105-390 (a) (1), (2)
28	City Tax Collector, Governing Body	Report on sale and concerning insolvents to Governing Body if tax certificate sale held in July	105-390 (a) (1), (2)
28	Governing Body, Accountants	Last day to adopt and record appropriations resolution for ensuing fiscal year. File copies with Treasurer or Financial Agent, and Accountant	153-120, 121; 160-409, 410
31	Official Collecting Prepaid Taxes	1½% discount period for 1947 prepaid taxes ends today	105-345 (6)

Mr. John A. Parker
202 Alumni Bldg.
Chapel Hill, N. C.

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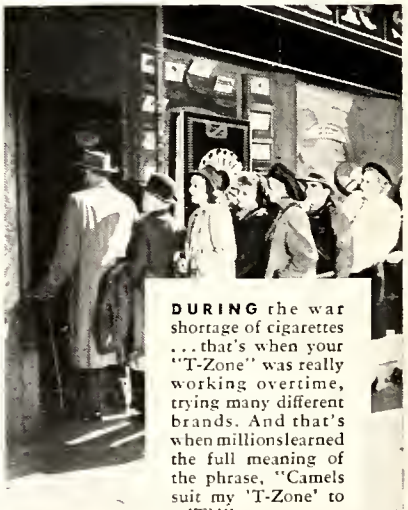

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