

August, 1947

# POPULAR GOVERNMENT

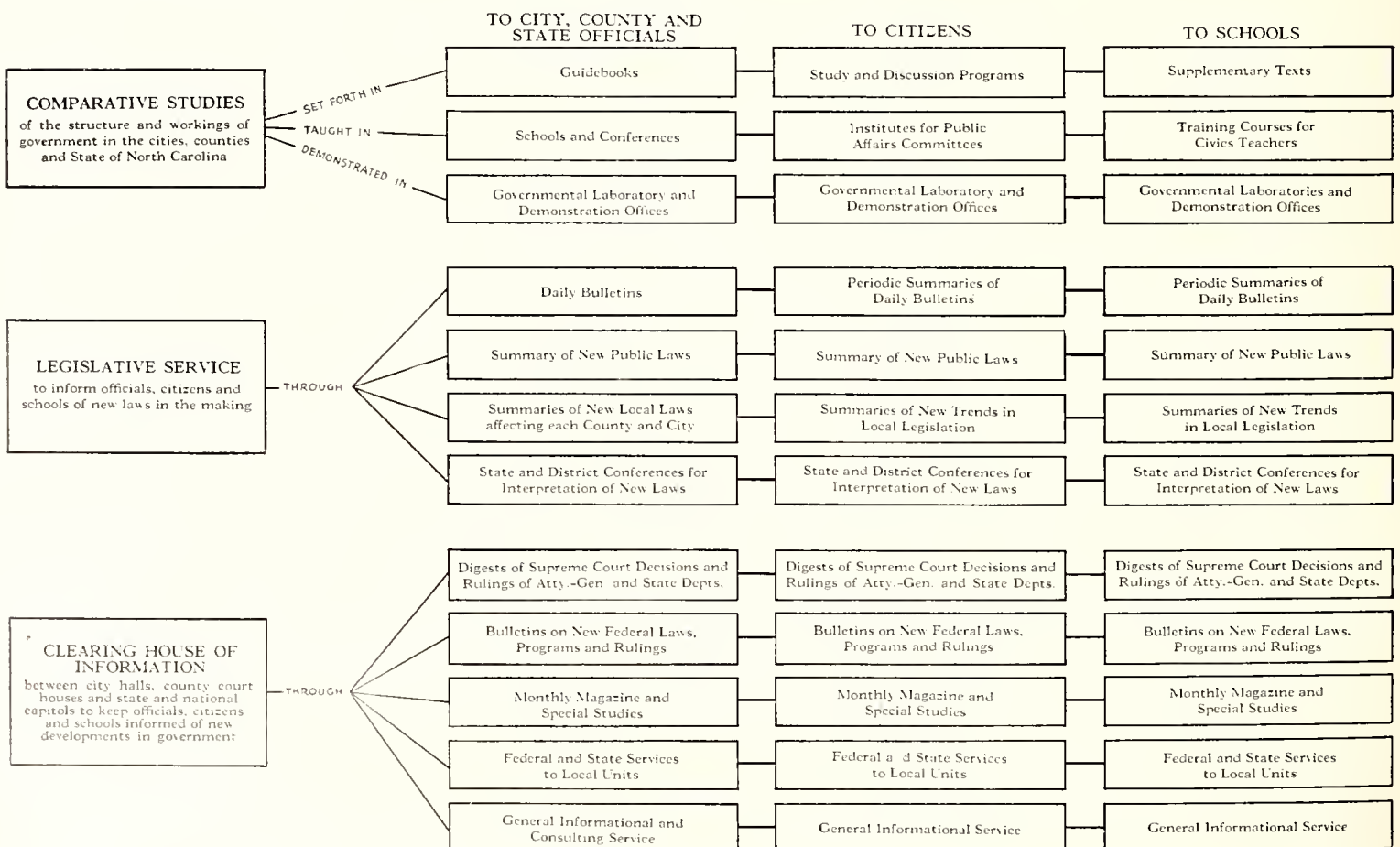


PUBLISHED MONTHLY BY THE INSTITUTE OF GOVERNMENT  
UNIVERSITY OF NORTH CAROLINA  
Chapel Hill

# GOVERNMENTAL LABORATORY BUILDING INSTITUTE OF GOVERNMENT



## INSTITUTE OF GOVERNMENT SERVICES



# Doubling The Highway Patrol

## Traffic Law Enforcement School Conducted at the Institute of Government

The 1947 General Assembly brought North Carolina near the top of the heap in highway safety legislation. Drivers must be reexamined in order to retain their licenses, and those who obtained licenses originally without examination must now "earn" them in order to continue driving. Vehicles dangerous to life must now be taken off the highways, and no longer may dealers bring to North Carolina for sale automobiles rejected by the vehicle inspection laws of other states. It is now easier to lose a drivers license for speeding and driving while intoxicated, and other penalties have been increased. A driver responsible for an accident is now required to pay the bill or give up driving. The 1947 General Assembly was determined to do all within its power to stop the slaughter on the highways.

Perhaps the most important single act of the General Assembly in its effort to cut down the loss of property and life on the highways was the authorization of a Highway Patrol twice as large as the present Patrol. With the belief that twice as many patrolmen on the highways would at least cut in half the accidents, the General Assembly authorized 212 additional officers, bringing the full strength to 425. Upon the strengthened Highway Patrol will fall the burden of enforcing the greater part of these new laws, and of enforcing more completely the old motor vehicle laws.

But the Commanding Officer of the State Highway Patrol, Colonel H. J. Hatcher, is in no great hurry to fill up these new positions. He is taking his time to assure the obtaining of the best possible men. Of over a thousand applicants for the new positions, after thorough investigations conducted by the State Highway Patrol, Colonel Hatcher called only 285 to Fort Bragg for physical examinations and intelligence tests. The physical examination, given by Army doctors using the same standards required for officer candidates, eliminated a number of

### COVER PICTURE

*Last year's rookies (at the 1946 Traffic Law Enforcement school) are this year's State Highway patrolmen. Shown talking with Terry Sanford (right), Assistant Director of the Institute of Government in charge of the schools, are Patrolmen Lem S. Meiggs, stationed at Maysville, and Guy C. Langston, stationed at Vanceboro. Langston came back to serve as an instructor at the current school.*

applicants. The intelligence tests, one a test designed for law enforcement applicants by the Institute of Government and the other a standard psychological test, eliminated others until only 118 men were ordered to report to the Institute of Government in Chapel Hill for training.

At Chapel Hill the applicants began on July 7 a course in Traffic Law Enforcement which is to last six weeks, at the end of which time the leading members of the class will be offered positions with the State Highway Patrol. As Colonel Hatcher pointed out to the applicants, admittance to the school by no means assures the candidate of a position with the State Highway Patrol, but it does assure him of a thorough course of instruction in traffic law enforcement that will qualify him to fill a position with most any law enforcement agency.

On graduating after six weeks of intensive study, the applicant will have become an accomplished pistol shot, having qualified on the Institute of Government's new "Practical Pistol Course." He will have become a master at the steering wheel, he will be well-trained in judo and self-defense, and will know how to handle traffic. He will have spent hours at the study of the criminal, traffic and motor vehicle laws, using guidebooks prepared by the Institute of Government. His course of study will have covered criminal procedure, the law of evidence, court room demeanor, the law of arrest, the law of search and seizure, report writing, the liquor laws, the methods of accident investigation, scientific methods of crime detection, and North Carolina history and geography. The course of study is designed to give the applicant a basic understanding of all the subjects most needed in the law enforcement profession.

To teach these subjects, the Institute of Government has called on, in

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# Driver Examiners' Training School

## Corps of 59 New Examiners Complete Training Course Conducted by Institute of Government for Department of Motor Vehicles

The 1947 General Assembly responded with several major pieces of legislation to the increasingly insistent demands of North Carolina's citizens that her highways be made at least as safe as battlefields. Chief among these was the Highway Safety Act, which, by requiring the periodic reexamination of all drivers, is designed to reduce as much as possible the human element as a cause of motor vehicle accidents.

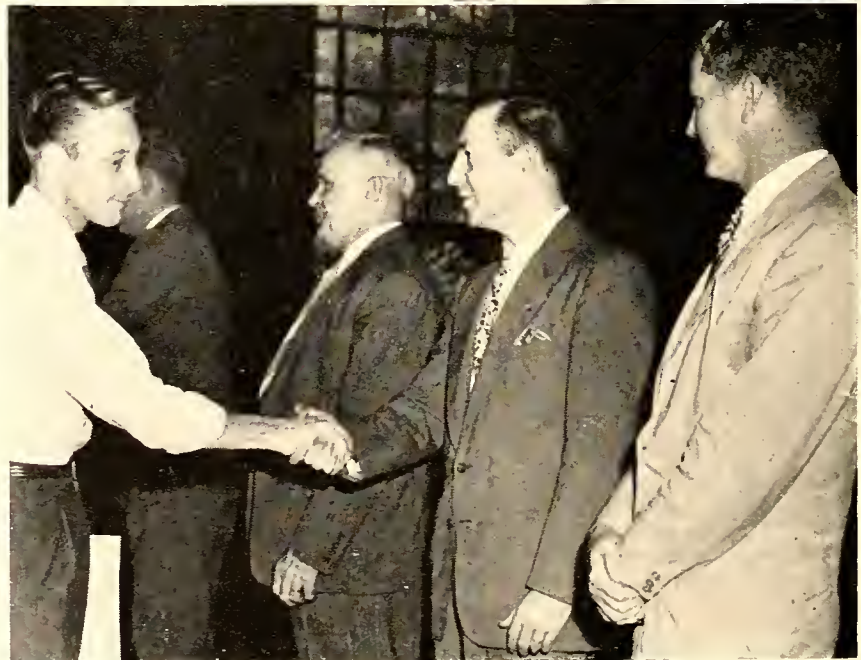
It will be recalled that when the Uniform Driver's License Act was adopted by the 1935 General Assembly, provision was made for the granting of a license to all operators meeting the age requirements who were operating at the time the Act became effective. That meant that many drivers presently on the road never took any driver's examination at all. Examinations in the early days of the Act were none too stringent; that meant that many other drivers had never thoroughly demonstrated that they possess the basic qualifications which experience has shown every driver should have. Many people become disqualified to drive after they have been examined (through accidents, loss of vision, etc.) but continue to drive nonetheless, and their disqualification infrequently comes to the attention of the Department of Motor Vehicles. The natural remedy for this was the requirement of the Highway Safety Act that every person who wishes to continue to drive appear before a trained representative of the Department and demonstrate that he is entitled to have the driving privilege bestowed on him by the State, and continue to appear periodically to demonstrate that his condition has not changed.

To enable it to continue its customary program of examination of all new applicants and also carry forward the new job of reexamining an anticipated million and one-half applicants for re-licensing, the Department of Motor Vehicles more than doubled its force of Driver's License Examiners on July 1, when the Highway Safety Act became effective.

Turning to the Institute of Government as its official training agency, the Department requested the Institute to train these new examiners for the important task which they were employed to perform, important because the driving privilege is one which all of us value more highly than almost any possession and on which many of us depend for a livelihood.

The Institute prepared a revision and enlargement of North Carolina's previous examiner's manual to be used in the training of the new examiners and as a guide for all examiners, both new and old. This manual, which constitutes the North Carolina adaptation of the uniform manual in use in many of the states and is based on a study of the examiners' manuals used in all of the states, guarantees as nearly as possible that all driver examinations will be uniform—that the same tests will be given and that the same standards will be followed in Cherokee and Currituck and all the counties in between.

The fifty-nine new examiners came to Chapel Hill on June 30th for a ten-day period of concentrated instruction and practice in the examination of license applicants. Clifford Pace, Assistant Director of the Institute of Government, assisted by Zeb E. Helms, Chief License Examiner for the Department, carried the bulk of the instruction. The motor vehicle laws—the rules which the law lays



(Top) Colonel Rosser outlines to the examiners the importance of the duties which they will undertake for his department.

(Bottom) The Institute of Government awards certificates to the examiners completing the training course.

down as to the kind of vehicle that may be driven and how it must be driven on the roads—received special emphasis. Following instruction as to the persons who are entitled to a license under the law, the new examiners were drilled in the procedure and technique of administering the four tests which all applicants must take: vision, road signs, road laws and driving ability. Seven hours were spent in the classroom each day and a minimum period of two hours study was required in the evenings.

Upon the completion of the training period, the examiners proceeded to the stations to which they were assigned to join the examiners already at work in the field.

The examiners and their headquarters towns are as follows: Aberdeen, W. E. Yow; Ahoskie, W. E. Moore; Asheville, Marion Kimrey; Belmont, Paul Eugene Linder; Bryson City, Robert V. Hooper; Burlington, Neal McLoy Phillips; Charlotte, Roland W. Myrick and Derwood Flowers; Clinton, Auba C. Council; Concord, Clarence B. Clark; Dunn, Edward H. Wade; Durham, James S. Griffin, Jr. and J. R. Long; Elizabeth City, Robert G. Jones; Elizabethtown, Bruce Brinkney Williamson; Enfield, Burton Vanfleet; Fairmont, Henry H. Dunlap; Fayetteville, A. B. Woodard; Goldsboro, George D. Langston; Greens-



North Carolina's 59 new Driver's License Examiners as they completed their 10-day training period at the Institute of Government. On the front row, left to right, are Z. E. Helms, Chief Examiner; Albert Coates, Director of the Institute of Government; Colonel Landon C. Rosser, Commissioner of Motor Vehicles; Samuel L. Gaynor, Assistant Director of the Highway Safety Division, who is in direct charge of all license issuance; Mrs. Tennie W. Matlock, the only woman in the class; and Clifford Pace, Assistant Director of the Institute of Government, who was in charge of the instruction.

boro, Carl Allen Johnson, Ira J. Welch and Moody Wooten; Greenville, Harry L. Martin and Edward Walston; Hendersonville, Z. Weaver Shope; High Point, James Glenn Poe and Robert M. Thompson; Jacksonville, Harmon James; Kannapolis, William A. Hahn, Jr.; Kinston, Norman Eldridge Hudson, Jr.; Laurinburg, James D. Cox; Leaksville, Frank Carlin; Lexington, Leroy Matthews; Lincolnton, T. L. Gaskins; Marshall, Myron B. Lyerly; Monroe, Russell D. Goodwin;

Morehead City, Evan Pierce; Morganton, Joseph W. Jetton; Murphy, Reuben W. Rector; New Bern, Grant L. Morris; North Wilkesboro, Ralph Stansberry; Raleigh, William W. McKaughan and E. K. Corbett; Reidsville, John B. Oakley; Rockingham, Alexander M. Luther; Rocky Mount, Joe L. Brown and Louis Ray Daughtery; Roxboro, Joseph H. Holmes; Salisbury, Mrs. Tennie W. Matlock;

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## Sheriffs Plan Annual Meeting

The North Carolina Sheriffs' Association is planning a three-day program combining instruction and relaxation, when the sheriffs of the state gather at Carolina Beach for their annual school and convention, beginning Thursday, August 20. The convention will be presided over by Association President Ray Pitts, Sheriff of Catawba County, and arrangements for the gathering have been worked out by Secretary-Treasurer John R. Morris of New Hanover.

Registration for the event will begin at 10 o'clock Thursday morning. At noon, the sheriffs will be welcomed to Carolina Beach by Mayor Thomas A. Croom, and the first class, conducted by staff members of the Institute of Government, will get underway at 2 p. m., with

instruction on the following subjects as they relate to the work of sheriffs and their deputies: Laws of Arrest, Search and Seizure; Service of Summons and Return of Process; Evictions; Attachments and Executions, and other duties of the sheriff in this state. Later in the afternoon, "Officer Pressley's Trained Dog Safety Show" will be exhibited, under the sponsorship of the State Automobile Association in conjunction with Charlotte's Chief of Police F. N. Littlejohn.

At a seafood dinner Thursday evening the sheriffs will hear an address by State Auditor Henry Bridges, followed by an old-time square dance.

Thursday and Friday mornings will be taken up with instruction, and the business session will be held

Thursday afternoon. At the banquet Thursday evening, the principal speaker will be Charles M. Johnson, State Treasurer and Director of the Local Government Commission.

In addition to the square dance already mentioned, the entertainment side of the convention will feature boat and bus trips for both sheriffs and their wives, fishing parties, bathing, and a bathing beauty contest.

1946-47 officers of the Association in addition to President Pitts and Secretary-Treasurer Morris, are: C. J. McDonald, Sheriff of Moore County, First Vice-President; Hoyle T. Eford, Sheriff of Gaston County, Second Vice-President; Henry Bridges, State Auditor, Honorary Vice-President; and N. N. McGeachy, Sheriff of Cumberland County and C. O. Robinson, Director of Prisons, Presidents for Life.

# Superior Court Clerks' Convention

The twenty-ninth annual convention of the clerks of the Superior Court was held at Atlantic Beach, North Carolina on July 9, 10 and 11, with a good representation of clerks, their wives, and friends of the association present. The convention opened at 5 P.M. on Wednesday, July 9 with registration at Ocean King Hotel, and the meeting formally got under way at 8 P.M. with an address of welcome by host Clerk D. B. Willis of Carteret County. Following the response to the address of welcome, President Joseph P. Shore of Guilford County gave his report on the activities of the association for the past year. All meetings were held at the Surf Club and were presided over by President Shore.

The Thursday morning program was devoted to a discussion of the laws enacted by the 1947 General Assembly which were of particular interest and importance to clerks of the Superior Court, led by Peyton B. Abbott, Assistant Attorney General and until recently a member of the staff of the Institute of Government, and to a discussion of the adoption laws, led by William E. Church, clerk of Forsyth County Superior Court. Mr. Church called attention to the fact that the 1947 adoption statute, which was intended to clarify and in many instances to strengthen the adoption law, had been declared invalid in an advisory opinion of the Supreme Court filed on June 9 because of the inadvertent omission of the enacting clause in recopying the bill for presentation to the legislature in its final form, and that the purpose of the discussion was not to point out changes in the adoption law, but to lay before the clerks the improvements which the Domestic Relations Commission, of which he was chairman, had sought to accomplish in the hope that suggestions and criticisms might result in further improvements to the bill which will again be presented to the 1949 General Assembly. Mr. Abbott, in his discussion, pointed out that time limitations would not permit a discussion of all of the new laws with which the clerks of court would have to familiarize themselves, but that the Institute of Government's 1947 Legislative Sum-

mary, which was then being mailed out to State and local officials, contained digests of all of the new public laws and would afford a convenient reference to the new legislation.

The Thursday afternoon session was given over to a discussion of clerks' duties and problems, the discussion being under the leadership of Mr. George R. Hughes of the Jones County bar. The discussion revolved largely about the matter of uniformity of records and procedure in the various clerks' offices in the State. It was pointed out that, with a few minor local variations, all of the clerks operate under the same State-wide laws with respect to the laws they are administering and the procedures involved, but that it was often like going from one jurisdiction into another in crossing a county line. It was suggested that because of the difference in the size of various offices—some with relatively large staffs which are able to operate a more elaborate system through the specialization of various staff members in different phases of the work, and some with small staffs which are unable to operate upon a systematized basis—absolute uniformity is not only impractical but perhaps not desirable. It seemed to be the consensus of opinion, however, that much greater uniformity should be sought for, especially with respect to the basic records which are referred to constantly by the public and attorneys.

Friday morning's session was opened by a discussion of the escheat laws by K. S. Cate, Escheat Officer of the University of North Carolina. Mr. Cate pointed out, among other changes in the law, that the 10-year statute of limitations upon reclaiming funds which had been turned over to the University has been removed, so that whenever rightful owners of funds or property which has been turned over to the escheat fund can establish their claims, the funds or property will be returned to them no matter how long it may have been in the hands of the University. Mr. Cate also pointed out that the University does not use the principal of the funds in the escheat account, and that the income therefrom is used only for the administrative expenses of the escheat fund itself and for making loans and setting up scholarships for worthy students.

During the course of the meeting, Dr. Ellen Winston, Commissioner of Public Welfare, Thad Eure, Secretary of State, Carl D. Moore, Director of the Inheritance Tax Division of the State Department of Revenue, and Dr. David Young, Superintendent of the State Hospitals Board of Control discussed various phases of the work of their offices and their relationship to the office of the clerk of Superior Court. Other State officials who attended one or more sessions of the convention included Lieutenant Governor L. Y. Ballentine,



The clerks, their wives and guests of the Association are shown here after their banquet on Thursday evening.

Henry Bridges, State Auditor, Raymond C. Maxwell, Secretary of the State Board of Elections, J. C. Bethune, Director of the Franchise and Intangibles Tax Division of the State Department of Revenue, and Harry Lindsay of the Inheritance Tax Division.

Entertainment included a deep-sea fishing trip, a banquet and a dance. The fishing trip began at 5 A.M. on Thursday from the Gulf dock at Morehead City, and ended about 9 A.M. Rain and rough weather unfortunately discouraged as great a degree of participation as would probably have been the case had the weather been more favorable. The annual banquet and dance, held in the Surf Club on Thursday evening, were well attended and proved to be a very enjoyable occasion. President Shore pre-

sided at the banquet, and former State Senator John D. Larkins, Jr. of the Jones County bar was the speaker of the evening. Mr. Larkins' speech, which was received with much apparent enjoyment on the part of the diners, was principally of a humorous nature but closed on a serious note in which he commended the clerks for the high calibre of service they are rendering to the people of the state and the capable and conscientious manner in which they discharge the multitudinous duties of their office.

New officers elected for the ensuing year are: L. C. Hand of Gates County, President; Thomas L. Covington of Richmond County, First Vice-president; and Arthur W. Greene of Hertford County, Second Vice-president. William E. Church of Forsyth County was re-elected Secretary-

treasurer. J. N. Sills of Nash County served as chairman of the nominating committee. The program committee was composed of J. Lester Wolfe of Mecklenburg County, chairman, J. N. Sills of Nash County, Joseph P. Shore of Guilford County and William E. Church of Forsyth County. The entertainment committee was under the chairmanship of D. B. Willis of Carteret County, the other members being W. S. Babcock of Edgecombe County and Paul Swicegood of Rowan County.

A resolution to the effect that the 1948 convention be held in the western part of the State, in order to get back to the former east-west rotation system, was adopted, and the committee to be appointed was instructed to consider as convention sites in 1948, Asheville, Hendersonville, Blowing Rock and Waynesville.

## County Commissioners and Accountants Plan Joint Annual Meeting

### Commissioners

The fortieth annual convention of the North Carolina Association of County Commissioners will be held at Asheville on Monday and Tuesday, August 11 and 12, and Association Secretary John L. Skinner reports that nearly 100 per cent attendance is expected.

Registration for the meeting will begin at 9:30 Monday morning, and the convention will be called to order at 2:30 p. m. by President John P. Swain of Wake County. The Commissioners will be welcomed to Asheville by Mayor Clarence E. Morgan, with Attorney Brandon O. Hodges responding to his remarks.

The remainder of the afternoon session will be given over to reports by Legislative Committee Chairman J. H. Vaughan of Nash County, Secretary-Treasurer Skinner and President Swain, followed by appointment of committees, nomination of next year's officers, passage of resolutions, and an executive session. The convention's banquet will occur Monday evening, after which the com-

missioners will be entertained by humorist Bob Patton.

Tuesday morning's speakers will be: General Assembly Representative A. C. Edwards of Greene County, chairman of the House Agricultural Committee, on "Relationship of County and State Government"; Charles M. Johnson, State Treasurer and Director of the Local Government Commission, on "Home Rule"; and Albert Coates, Director of the Institute of Government on "Institute Services to Local Officials."

The afternoon program will include addresses by Attorney General Harry McMullan; John D. Cole, president of the Cole-Layer Trumble Company of Dayton, Ohio, on "Scientific Tax Appraisal"; and Jerry Ball, public relations officer of the Standard Oil Company of Charlotte, on "Meet North Carolina."

Before adjournment the commissioners will hear committee reports, elect officers and select next year's meeting place.

1946-47 officers of the Association are President Swain; Vice-President J. Caldwell McDonald of Mecklenburg; and Secretary-Treasurer Skinner of Warren.

### Accountants

Meeting both jointly with the County Commissioners and separately in sessions of their own, the fortieth annual convention of the North Carolina Association of County Accountants will be held in Asheville August 11 and 12. The accountants will hold their separate meeting at 10 o'clock on the morning of the 11th, presided over by President M. L. Laughlin of Edgecombe, during which a general discussion of problems concerning their office will be carried on. During the remainder of Monday and Tuesday they will join in the Commissioners' convention.

1946-47 officers of the Association, in addition to President Laughlin, are: C. D. Stevenson of Iredell, first vice-president; F. W. McGowan of Duplin, second vice-president; Curtis Ellis of Nash, member-at-large of the executive committee; and Miss Flora Wyche of Lee, secretary-treasurer.

# THE CLEARINGHOUSE

## News of Developments in Local Government

### Municipal Taxes

New and improved municipal services, together with salary increases made necessary by the continued rise in living costs everywhere, are reflected in the almost universal trend in this state toward increased municipal taxes. Governing boards in nearly all cities and towns have had to look hard for ways to get more revenue, and for new revenue sources. Some of them were taking advantage of Chapter 506 of the Public Laws of 1947, which increased the limit on the municipal general purpose levy from \$1 to \$1.50, and repealed the former limitation of \$0.65 on municipalities having had in 1920 a total assessed valuation of \$100 million or more.

Typical of the search for new or increased sources of revenue were the changes recommended by *Winston-Salem's* aldermanic finance committee, as reported in the *Winston-Salem Journal*: Increasing minimum water rent from 66 cents to \$1 (which would include 80 cents for water and a 20 cent sewer tax, representing an increase in the sewer tax from 10% of the water bill to 25%); levying a retail merchants' tax of 60 cents per \$1,000 in excess of \$5,000 with a flat rate of \$15 for the first \$5,000; levying a wholesale merchants' tax of 30 cents per \$1,000 in excess of \$50,000, with a flat rate of \$75 for the first \$50,000; increasing fees charged for city-owned cemeteries; increasing abattoir fees; adjusting fees charged for building permits and electrical and plumbing inspections; levying a new tax on gasoline tanks; levying a fee for exceptions taken to rulings made by the zoning board of adjustment; and levying new and adjusted Schedule "B" license taxes.

### County Tax Rates

A preliminary survey of *ad valorem* tax rates for fiscal 1947 (some of them tentative) in 22 of the state's 100 counties revealed that 11 were increasing the total county rate, 9 were holding to last year's total, and 2 were lowering taxes. The majority

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of those increasing their rates reported school costs as the basic reason. In nearly all of these 22 counties, however, budgets were up over last year, but increased valuations were expected to make up the difference in counties holding to the old rates or cutting down.

Counties reporting increases, with last year's rate being given first, followed by the new rate, were *Hyde*, \$2.05-\$2.20; *Columbus*, \$1.45-\$1.95; *Robeson*, \$1.45-\$1.55; *Johnston*, \$1.40-\$1.62; *Haywood*, \$1.30-\$1.50; *Alamance*, \$1.30-\$1.40; *Hertford*, \$1.15-\$1.20; *Scotland*, \$1.10-\$1.42; *Catawba*, \$0.75-\$0.80; *Guilford*, \$0.72-\$0.87; and *New Hanover*, \$0.60-\$0.70.

Counties holding last year's rate were: *Ashe*, \$2.25; *Rutherford*, \$1.55; *Perquimans*, \$1.50; *Harnett*, \$1.35; *Anson* and *Person*, \$1.30; *Martin*, \$1.05; *Durham*, \$0.55; and *Forsyth*, \$0.50.

Counties reducing their rates were *Sampson*, from \$1.10 to \$1.00, and *Onslow*, from \$0.90 to \$0.60.

### Municipal Mergers

The merger of *Sanford* and *Jonesboro*, accomplished July 1 under an act of the 1947 legislature authorizing the step, set off a flurry of editorial comment and speculation regarding the advantages of similar action at other points in the state. Merger discussion, pro and con, has been reported about *Elkin* and *Jonesville*, *Smithfield* and *Selma*, *Waynesville* and *Hazelwood*, *Dunn* and *Erwin*, *Newton* and *Conover*, whose corporate limits now almost join, have been considering the same subject for several years.

A *Greensboro Daily News* editorial summed up the leading reasons why it takes a long time to bring about such consolidation: "Anyone who is at all familiar with traditions, local pride and political influence knows

the difficulties which lie in the way of any proposed mergers of political subdivisions; they are fought to a finish."

*Sanford*, which had already gained some territory by expanding last February, has now become a city of 10,000 people. Both its name and its tax rate now apply to the entire community, and its ordinances now have effect in what was *Jonesboro*.

### New Departures in Government

*Chowan* County and *Edenton* recently acquired an official public relations officer, following joint action by the county commissioners and town council in appointing Peter Carlton to that post. The *Chowan Herald* reports that although counties elsewhere have retained public relations firms at times for specific tasks, no other county in the country has ever named a full-time officer to act in this capacity.

Another appointment somewhat off the beaten track in North Carolina occurred in June in *Elkin*, where the board of commissioners named R. Lewis Alexander, local attorney, to the newly-created post of City Administrator. The new office is supposed to serve as a liaison between the public and the governing body. It is expected to relieve the board of much detailed work, and to serve as a medium through which the public may obtain more efficient and effective action from the board. Citizens with problems of a municipal nature, according to the *Elkin Tribune*, will be referred to the administrator, who will investigate and analyze the problems before presenting them with his recommendations to the board.

### Motor Bicycles

The motorized bicycle and the motor scooter, which have found their way to the streets and highways in great numbers since the war, have already begun to be a problem to traffic law enforcement officers in this state. So many parents do not realize that such vehicles are covered by the Motor Ve-



hicle Law that warnings have had to be issued by State Highway Patrolmen and Police authorities in numerous communities.

In many cases youngsters under 16 years of age have been operating the vehicles, without operator's license and without having registered the vehicles with the State Department of Motor Vehicles.

#### Parking Meters

Parking meters are by now familiar sights in many communities in North Carolina, but they have been by no means welcomed with open arms in all municipalities where they have been installed. The rush to acquire the meters, which began shortly after the legislature amended the law so as to permit cities and towns under 20,000 population to operate them, has been accompanied by sometimes bitter agitation for and against them.

In *Fayetteville*, where 800 meters were installed, numerous complaints caused the removal of approximately one-third of them just after installation was completed. The meter poles were left standing, however, in case it should be decided later to restore them to operation. In *Durham* proposals to install meters produced a sharp division in sentiment within the municipality, with polls being taken in numerous civic organizations while the governing board debated the step.

"One thing can be said for parking meters," observed the *Wilson Times*. "They produce revenue. Wilson has found that out. In the first month it received \$1,355 from them. . . Whether they're good or bad for a city has never been settled. It probably never will be. Some merchants like them; some abhor them. Some say customers can find room to park; others hold they drive business away. But once a city government gets a taste of the revenue, they stay. For what city can ever meet the demands of its citizens? . . ."

In *Newton*, the first five days of operation produced slightly over \$200, and Police Chief George Gilbert said that the meters had solved one of the main traffic problems of the town—that of cars driving around and around the courthouse square seeking a parking place.

As motorists were learning to use the meters, humorous incidents in connection with them were not uncommon. The *Lumberton Voice* reported that one man was seen furiously beat-

ing a meter there—he thought it was a peanut machine and wanted his peanuts. And a farmer drove up to one of them with his horse and wagon, hitched the horse to the meter pole, but "he must have been on to the things, for he stuck a penny in the slot for parking and walked away."

#### Rural Fire-Fighting

Homeowners in most rural and in many suburban areas in the state today still depend on home-size fire-extinguishers and bucket brigades when fire breaks out. The strides that have been made in recent years in organizing county or district fire departments have been largely confined to the more densely populated counties. Since the end of the war, however, interest in rural fire-fighting has increased the activity in this important field. In many cases it is possible for city-county authorities to cooperate in bearing the cost of fire equipment—as in *Durham*, where the county commissioners authorized purchase of a county fire truck, with half the cost of its operation to be paid by the city of *Durham*, which will also be able to use the county truck when needed within the city.

Fire protection for suburban homes and businesses also poses a problem, which has been met in *Durham* by providing numerous fire plugs outside the city, with plug rental of \$100 annually being charged business and industrial interests thus protected.

It is not always rural homes and businesses that need fire protection. The *Washington* fire department answered one call in June, six miles out of town, which possibly set a record for both variety and technique. The blaze was consuming a railroad trestle, and the firemen were unable to reach it with their hose equipment until, with considerable misgivings, they drove their truck right out on the tracks across the trestle. They put out the fire.

#### Forty-Hour Work Week

Although the state legislature declined this year to adopt the forty-hour work week for state employees, which has prevailed for a long time in the federal government, it has gained a foothold in at least one county government in the state. *Guilford* County's commissioners decided in July to keep all county offices open on a forty-hour-week basis, lopping an hour and a half off the previous schedule.

#### New Services

Veterans who served in Europe during the war became familiar with the numerous public "comfort stations" encountered on the streets in most municipalities, particularly in France. In North Carolina, although most public buildings contain such facilities for the general public, they are often inconveniently located.

*Charlotte* has been making plans to do some pioneering in this field. Underground rest rooms for men and women of both races are expected to be established in the uptown area, with attendants on duty at all times to maintain order and sanitation.

## PATROL SCHOOL

(Continued from page 1)

In addition to its own staff members, instructors from the Federal Bureau of Investigation and other law enforcing agencies. Nine members of the Highway Patrol have been assigned to the school to bring to the applicants their first-hand knowledge of the methods of traffic law enforcement employed by the State Highway Patrol.

Following this school, another school of six weeks will be conducted at the Institute of Government, and possibly a third, until enough applicants are available to bring the State Highway Patrol up to its full new strength of 425, with a sufficient number of reserves qualified to replace normal vacancies.

This is the second traffic law enforcement training school conducted at the Institute of Government, as a part of its general law enforcement training program, designed to qualify applicants for positions on the State Highway Patrol. Last fall the first school held at Chapel Hill qualified 54 officers, all of whom are now members of the Highway Patrol.

## DRIVER EXAMINERS

(Continued from page 3)

Scotland Neck, O. L. Williams; Wadesboro, B. H. Hutchinson; Warrenton, Walter H. Harton, Jr.; West Jefferson, Marvin R. Warren; Wilmington, A. D. Peterson and Clarence L. Swartz; Wilson, Vance Sawrey and Elwood E. Cayton; and Winston-Salem, Cecil R. Wyatt and A. W. Fitch.

# Current Problems in Local Government

## Real Property Valuation

**Problem:** May a municipality establish a different real property valuation for tax purposes than that appearing on the county's tax list?

**Discussion:** No, unless the municipality happens to be situated in two or more counties. See Section 1201 of the Machinery Act of 1939, as amended (G.S. 105-333). An exception is in the case of "discoveries" under Section 1109 of the Machinery Act (G.S. 105-331). Subsection (5) of that section makes it specifically applicable to municipalities. The effect of this exception is that if the county fails to list and assess any property within the municipal limits and such property is "discovered" and listed by the municipality, the municipality may put its own valuation thereon in accordance with procedure outlined in the Machinery Act.

If the county, however, subsequently picks up such property and puts it on its books, the municipality will have to accept the county's valuation. Under Section 1201 of the Machinery Act the municipality may set up its own machinery for securing tax lists, but it must accept nevertheless the valuation placed on the property by the county.

## Penalties and Interest on Delinquent Taxes

**Problem:** What penalties and interest are charged on old taxes past due?

**Discussion:** On taxes which are not liens against real estate the interest rate will be, after addition of the 2% penalty on March 2, ½% per month until paid. On tax sales certificates or upon tax liens against real estate whether or not certificates were issued after the tax sales were held, interest at the rate of 8% per annum from date of sale is to be added to the principal amount of the tax, plus accrued interest to the time of the sale, plus costs of the sale. This 8% rate applies to all tax sales certificates or taxes for which sales were held prior to February 23, 1945. As to tax sales certificates issued after February 23, 1945, or taxes for which sales were held after that date, the interest rate is 6% upon principal, accrued interest and costs of sale from date of sale. See Section 1716 (b) of the Machinery

Act of 1939 as amended by Chapter 247 of the Session Laws of 1945.

## Sources of Municipal Revenue

**Problem:** What sources of municipal revenue are available to a city or town in North Carolina?

**Discussion:** It would be difficult to make a list of revenue sources which would apply to every city and town in the State, since many of them have sources provided by their charters and by local Acts of the General Assembly. Also, the number of different non-tax revenue sources in each case would depend upon the number of utilities and other revenue producing enterprises operated by each particular municipality.

The principal sources of municipal revenue under the general law, other than those mentioned above, are as follows:

The general grant of taxing power to municipalities is contained in G.S. 160-56, which authorizes the governing board to levy and collect annually for municipal purposes an *ad valorem* tax not exceeding the limitation expressed in § 160-402, and one dollar on each poll, on all property and persons within the municipality; to lay a tax annually on all trades, professions and franchises carried on or enjoyed within the municipality, except where otherwise provided by law; to lay a tax on all such shows and exhibitions for reward as are taxed by the General Assembly, and on all dogs, and on swine, horses and cattle, running at large within the town.

With respect to the *ad valorem* tax limitation in G.S. 160-402, mentioned above, it should be noted that the old general expense levy limitation of \$1 on the \$100 valuation was raised by Chapter 506 of the Session Laws of 1947 to \$1.50 on the \$100 valuation. This limitation is applicable to all municipalities regardless of different limitations heretofore existing under local acts.

With respect to the provisions of G.S. 160-56 authorizing municipalities to tax trades, professions, franchises, shows and exhibitions for reward, the principal limitations upon the broad taxing power thus granted are found in Schedule "B" of the Revenue Act of 1939, as amended. As to all of the

businesses, trades and professions named in Schedule "B", municipalities are limited to the rate of tax therein set out, or are denied the right to levy any tax, as the section dealing with the particular business, trade or profession may provide.

As to any businesses, trades or professions not named in Schedule "B", a municipality may levy such license tax as it may see fit, subject to the general limitation that such tax must not be arbitrary, discriminatory or unreasonable.

(A comprehensive guide for Schedule "B" license taxes is contained in the Schedule "B" chart issued biennially by the Institute of Government.)

The *ad valorem*, poll (\$1 upon each male resident between the ages of 21 and 50) and dog taxes, together with the license taxes levied on the various trades, businesses and professions, are the principal municipal tax revenue sources. However, there are other sources, such as the motor vehicle license fee of \$1; the additional fee of \$15 per vehicle which may be levied against taxicabs under G.S. 20-97; and revenue from parking meters.

## City Bus Franchise

**Problem:** Does the recent Supreme Court decision in *Coach Co. v. Transit Co.*, 227 N. C. 391 (which held that the Utilities Commission has complete control over issuance of passenger motorbus franchises, and that cities and towns have no authority to issue such franchises), affect the power of municipalities to tax bus companies operating within their limits or to impose ordinary traffic and street regulations on them?

**Discussion:** The decision does not appear to have that effect. The power to tax bus companies is contained in G.S. 105-116, which states that "no city or town shall impose a greater privilege or license tax upon such companies than the aggregate privilege or license tax" which was imposed by such city or town on March 24, 1939. The power to regulate and control the use of the streets, which would permit ordinary police power regulations affecting bus companies, is contained in G. S. 160-200 (11) and 160-222.

# Recent Supreme Court Decisions

## Of Interest to City, County and State Officials

The Supreme Court of North Carolina has recently:

*Decided that a mere irregularity on the part of jury commissioners in making up the jury list does not vitiate the list or furnish a basis for a challenge to the array unless the irregularity was obviously, designedly or intentionally discriminatory; that an objection that a Negro defendant is being denied a trial by his peers by virtue of the exclusion of Negroes from the petit jury must be presented by a challenge to the array and not by challenge to a particular juror; that furthermore, upon an objection that a Negro defendant is denied a trial by his peers through the exclusion of Negroes from the jury list, the findings of fact by the trial judge when supported by sufficient evidence are conclusive on appeal in the absence of gross abuse.*

In *State v. Koritz*, 227 N.C. 552 (opinion filed 5 June 1947) three Negro defendants and one white defendant had been convicted at a joint trial in the Superior Court of obstructing a Winston-Salem police officer in the discharge of his duty. On appeal they challenged the trial judge's decision overruling their motion to discharge the panel of petit jurors because of discrimination against the Negro race in making up the jury list. In support of their contention in the lower court they presented evidence tending to show that the number of Negroes selected out of the total number eligible to serve was disproportionately small to the number of whites selected (23,450 possible white jurors and 10,367 white names in the box; 4,900 possible Negro jurors and 225 Negro names in the box), and that this was in effect discrimination against both races. The State offered evidence tending to show that there had been no studied or deliberate discrimination against either race by the jury commissioners. The trial court had found the facts to be substantially in accord with the State's contention. At trial the defendants were allowed a total of twenty-four peremptory challenges and used twenty-three of them. The jury finally selected was composed of

seven whites and five Negroes. Six of the jurors came from those regularly summoned for that term of court and six came from a special venire of 25 talesmen, at least ten of whom under court order came from the Negro race.

Speaking for the Court, the Chief Justice reiterated earlier decisions to the effect that mere irregularity on the part of the jury commissioners in preparing the jury list in the absence of a showing that their action was obviously, designedly or intentionally discriminatory, will not vitiate the list or afford a basis for challenge to the array. Here, said the Court, the record contained a finding by the trial judge, supported by the evidence, that no discrimination was intended or resulted from the manner in which this particular jury list was prepared. In the absence of "some pronounced ill consideration" it was felt that this finding was sufficient to sustain the trial court's ruling against the defendant's objection. Mr. Chief Justice Stacy then added that "An absolute numerical ratio or balance between races is not required, nor even possible perhaps. The end in view is to get a fair cross-section of community judgment." The determination of local officials in such matters will be upheld unless too wide of the mark or "unless it is so lacking in support in the evidence that to give it effect would work that fundamental unfairness which is at war with due process." For this proposition he cited *Akins v. Texas*, 325 U.S. 398, 89 L. Ed. 1692. The Court continued with restatement of the generally acknowledged legal view that intentional, arbitrary and systematic exclusion of any portion of the population from jury service on account of race, color or creed is clearly unconstitutional. While no person has a right to be tried by a jury of his own race, or to have a representative of any particular race on the jury, he does have a right to be tried by a competent jury from which members of his race have not been unlawfully excluded.

Perhaps, as the Court remarked at the outset of its opinion, the para-

mount fact in this case was that the defendants had agreed to the jury by which they were tried and they were not required to take any juror over their objection. They did not use all of their peremptory challenges. In such a situation the Court felt that they had no valid ground to urge that they had been prejudiced by the composition of the jury. When a defendant has not used up all of his peremptory challenges the law will not permit him to object to a juror whom he might have challenged peremptorily. Here the white defendant clearly could not raise the objection that he might profit by or be hurt from the discrimination alleged against the Negro race. The same would be true of a male defendant who objected to a wholly male jury on the grounds that women had been excluded. The white defendant on the one hand and the male defendant on the other are in the same position. They are not of the same class, race or sex as the persons alleged to have been wrongfully excluded, and cannot raise the objection. *State v. Litteral*, 227 N.C. 527 (opinion filed 5 June 1947). See also, *State v. Sims*, 213 N.C. 590, 197 S.E. 176.

In *State v. Kirksey*, 227 N.C. 445 (opinion filed 21 May 1947), a Negro defendant had been tried for murder. After eleven jurors had been selected and after the defendant had used up all of his peremptory challenges, a white man from a special venire was passed by the State and tendered to the defendant. The defendant attempted to challenge him peremptorily on the ground that all of the eleven jurors in the box as well as all the special veniremen were white, and that this constituted a denial of a trial by his peers to a Negro defendant. The trial court found as a fact that there had been no such discrimination and overruled the objection and challenge.

On appeal the Supreme Court sustained the trial judge's ruling on the grounds that the proper way for the defendant to have objected to the composition of the petit jury and the special venire would have been by a challenge to the array. This should

have been made before entering upon the trial of the case. A challenge to the array, of course, is one that goes to the whole panel of jurors. It can only be taken when "there is partiality or misconduct in the sheriff, or some irregularity in making out the list." Here the defendant had waited to raise his objection in the form of a challenge to a particular juror after his peremptory challenges had been exhausted. Such a challenge to the "poll" could have been sustained only if the reasons asserted had been legally recognized grounds of a challenge "for cause." The Court, referring to *State v. Levy*, 187 N.C. 581, 122 S.E. 386 in which causes for challenge are summarized, held that the fact that a white juror is called to sit on a case involving a Negro defendant is not grounds or "cause" for challenge.

Even assuming that the defendant here had made a challenge to the array and in proper time, there is little to lead one to believe that the result would have been different. The Court made it clear that the findings of fact by the presiding judge, which

the Court said were supported by "sufficient evidence," to the effect that there had been no systematic discrimination of Negroes would be conclusive on appeal in the "absence of gross abuse." It is to be regretted that the report of this case fails to set out the evidence and findings of the trial court on this point. Since there must be either "gross abuse" or "some pronounced ill consideration" in a trial judge's findings on discrimination in the making up of jury lists, it would be particularly helpful to trial lawyers and judges to have before them examples of just how much evidence is needed in such cases to sustain the Superior Court judge's findings.—H. W. L.

*Decided that levy of a tax, or expenditure of funds derived therefrom, for municipal parks and recreational facilities is for a public purpose but not for a necessary municipal expense within the meaning of Art. VII, Sec. 7, of the State Constitution, notwithstanding the fact that the statute authorizing expenditure of tax funds for this purpose declares it to be for a necessary municipal expense.*

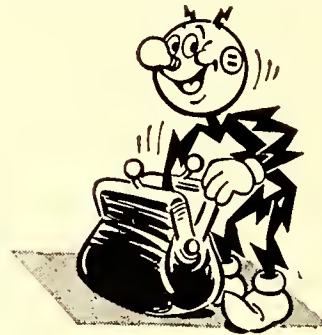
In *Purser v. Ledbetter*, 227 N. C. 1 (December, 1946), taxpayer Purser sought to enjoin expenditure of funds in the hands of city treasurer Ledbetter, who is also treasurer of the city park and recreation commission. These funds, amounting to \$6,745, were proceeds of a tax levy authorized by the governing body to meet a \$10,000 appropriation for "Parks and Recreation Commission" for the fiscal year beginning July 1, 1946. In addition, the governing body authorized a levy of two cents on the \$100 valuation for the same purpose, but with the distinction that the two cent levy was approved by the qualified voters at an election in 1927, while the other levy was made without the approval of the electorate. Charlotte voters had disapproved proposals in 1939 for a five cent recreation levy, and in April, 1946, for a seven cent recreation levy.

Sole question for the court related to the tax authorized by the governing body, without a vote of the people, to meet the \$10,000 appropriation for recreation purposes. The question was whether or not the purpose for

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which the tax was levied was for a "necessary expense" within the meaning of Article VII, Section 7, of the State Constitution, which reads as follows: "That no county, city, town or other municipal corporation shall contract any debt, or pledge its faith or loan its credit, nor shall any tax be levied or collected by any officers of the same, except for the necessary expense thereof unless by vote of the majority of the qualified voters therein."

G. S. 160-156, in the Recreation Enabling Act of 1945, declares that the "Creation, establishment and operation of the recreation system is a governmental function and a necessary expense as defined by Article VII, section 7 . . ." of the Constitution. The Court differed with this legislative definition of "necessary expense," pointing out again, as it has in the past, that "while the legislative construction is entitled to great weight, it is not binding upon the Court." And the Court observed that a statute which declares certain things to be a necessary expense, and also provides for a popular vote on

the project, "itself presents a question of legislative intent for decision of the Court." Addressing itself to the suggestion that such a referendum as is provided for by the Recreation Enabling Law serves only "the purpose of advising the governing body in the exercise of its discretion and that an unfavorable result in the election may be immediately disregarded under a general power of tax for necessary municipal expense," the Court pointed out that this question "has been dealt with in numerous decisions and the answer given is *contra*." After reviewing the cases illustrating this rule, the Court declared that they might have been determinative of the present case; but because of the importance of the subject, preferred to "rest decision on the Constitution rather than on an Act of the General Assembly which may be changed biennially or oftener."

The Court conceded that the term "necessary expenses" does not imply expenses without which government cannot exist, but added "Still there is implied in it a certain degree of exigency, the essentials of frugality and

economy, and a definite quality,—governmental in character,—which do not yield to arguments *ab convenienti* and which cannot be dismissed from the provision without depriving it of all significance." And the Court expressed the belief that the Constitution's framers did not intend that the "necessary expense" provision should be "annulled by an unlimited power of redefinition so that in time the municipal expense budget might become a *potpourri* of subjects representing no real governmental need but rather the urge to find in a patriarchal government a panacea for all the discomforts to which the citizen may be subject."

The Court referred to *Atkins v. Durham*, 210 N. C. 295, 186 S. E. 330, "in which recreational facilities were 'under the facts' of the case held to be necessary expense," saying that careful study had led to the conclusion "that its authority should not be revived or extended; and it will, therefore, not be followed as precedent. It may be said, however, that no commitment made upon the strength of that opinion while it was the 'law of the land' will be disturbed."—W. M. C.



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# Book Reviews

**YOUR COMMUNITY, ITS PROVISION FOR HEALTH, EDUCATION, SAFETY, WELFARE** — *By Joanna C. Colcord. New York: Russell Sage Foundation, 130 E. 22 St.*

Revised for the third time since its original printing in 1939, this publication of the Russell Sage Foundation represents a substantial contribution to the increasing role of lay or citizen group participation in government. The book, now in its 25th thousand, has been used extensively as a guide in making community surveys by civic organizations, school groups and citizen groups interested in evaluating their community's resources, services and facilities.

In 1939 it served as the basic guide for the Delaware State Conference of Social Work and in 1941 for the citizen's survey conducted in Portland, Maine. In 1945 the series of 20 broadcasts, "Know Your Community," sponsored by the Smith College Club, St. Petersburg, Florida, was rated among the top local programs in a nationwide poll of radio editors.

Miss Colcord, the author, was the director of the Charity Organization Department of the Russell Sage

Foundation at the time the two previous editions were published in 1939 and 1941. Revisions in the present edition have served to take into account the changes in community emphases and problems resulting from World War II and the subsequent period of postwar reconstruction.

Although written primarily from the viewpoint of the social worker, the systematic outline under nineteen chapter headings of community facilities and services, together with the comprehensiveness of the inventory indicated under each of these headings by a series of questions, makes it a highly informative and useful guide to public officials as well as professional planners and technicians. In addition, an extensive bibliography and references provide a compilation of authoritative, up-to-date source material in each of the specialized fields considered.

### Community Studies

The rather modest implication of the author in the introductory statement of the opening chapter that civic clubs, forums, women's associations, parent-teacher associations or high school and college classes and graduate students were primarily the ones who would find it useful, represents a considerable underestimate of an increasing movement in communities throughout the country. Official planning boards and commissions have long been accepted as an essential element in progressive city government. (N. C. laws for the establishment of Planning Boards: General Statutes, Chapter 160, Article 2, Part 4, as amended).

In recognition of the important work which is continually carried on by civic groups, private groups and other organizations for the betterment of the community, City Planning Boards are resolving these scattered efforts into coordinated development programs by means of lay or citizen committees appointed by the Board. These committees, made up of representative citizens concerned not only with the interests of the community as a whole but with some particular aspect, conduct the fact finding studies along the lines out-

lined in Miss Colcord's book, making evaluations and recommendations. Based upon these studies and recommendations the Board acts as the coordinating agency. Its recommendations to the council and city administration are in fact a representative expression by local citizens and the basis for the formulation and adoption of effective as well as sound policy on the part of city government.

The recent example of Omaha, Nebraska, an extensive account of which was published in the July 7 issue of Life Magazine, is illustrative of the effectiveness of citizen groups working in cooperation with the official planning body of the community.

### Scope of Community Studies

Some idea of the broad scope of the work which can be undertaken by citizen groups is indicated by Miss Colcord's chapter headings. These fall into several categories beginning with general information regarding historical background and relation to the surrounding region; the assembling of available population data from the U. S. census and analyzing growth trends, population distribution and other related factors. General factors about local industry are set down in rather brief form but are sufficient to provide a starting point for a more thorough-going analysis in relation to the whole economic base of the community.

*Local government* is also covered

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in a rather general outline of facts every informed citizen should know, such as: Elections and Local Political Situations, Administrative Powers and Duties, Personnel, Taxation and Finance; chapters on Crime and Public Safety.

*Workers' wages and conditions of employment* are covered quite comprehensively, as are the various health and welfare services.

*Housing, planning and zoning* are treated in a single chapter which gives a competent, though somewhat restricted, outline of the primary factors which are of concern to a community in this field.

The chapters on *Educational Resources and Recreation* bring together all the interrelated factors of programs, administration and facilities.

An outline of the various civic, religious and private organizations that usually exist in a community is given in some detail and the chapter on "Agencies for Community Planning and Coordination" deals primarily with the non-governmental agencies such as the Community Chests, Councils of Social Agencies, etc., together with the media of pub-

lic information such as the press and radio.

#### Survey Procedures

While there are many obvious gaps in Miss Colcord's outline, insofar as any comprehensive program of community development is concerned, it points to specific techniques which are readily adaptable on a more inclusive scale for use by citizen groups working with the local Planning Board.

Land use surveys, for example, which are an essential part of any program of community development, and particularly in the adoption of zoning ordinances, require a detailed inventory of existing residential, commercial, industrial, park and public areas. Such surveys have been conducted through the schools with school children serving to gather data near their homes. This procedure has proven to be highly successful and it provides an excellent opportunity to stimulate awareness and interest in their community on the part of the school children. This in turn is carried to their homes and families, making for a better in-

formed and more responsive community. Similarly, Boy Scouts and other groups of young people have participated in traffic surveys, and the gathering of population data.

Although there have been developed many criteria for evaluating the various services, organizations and facilities in communities as indicated in the references and bibliographical material in Miss Colcord's book, it is far from complete nor is there available a readily usable compilation suitable for use by lay groups and local planning boards, covering all the various fields with which they are concerned in developing a comprehensive program of community development. Efforts in this direction will be as valuable a contribution as that made by Miss Colcord in setting forth the salient factors to be considered by a community in arriving at a program for its orderly development and improvement.

*(Reviewed for the Institute of Government by James M. Webb, Associate Professor in the Department of City and Regional Planning of the University of North Carolina.)*

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# The Attorney General Rules

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



**I. AD VALOREM TAXES**  
**B. Matters Affecting Tax Collection**  
**24. Sale of personal property**

To H. M. Chason.

(A.G.) It is not necessary for a tax collector to give notice to the Commissioner of Motor Vehicles prior to the sale of an automobile for the non-payment of ad valorem taxes.

**III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES**

**A. Levy of Such Taxes**

**70. License tax on chain stores**

To F. O. Carver.

Inquiry: May a municipality which levies a license tax on merchants such as clothiers, grocerymen, etc., collect such tax in addition to the \$50 chain-store tax authorized by G.S. 105-98?

(A.G.) Under G.S. 105-98, it is my opinion that cities and towns may levy a license tax of only \$50 on chain or branch stores as much. However, I do not believe that this section was intended to repeal the general grant of authority to municipal corporations to levy and collect taxes. Thus, under G.S. 105-98, a municipality may levy a chain-store tax of \$50, and under G.S. 160-56 a municipality may levy a merchants' tax, applying to all who engage in retail businesses. In other



**HARRY  
 McMULLAN**  
 Attorney  
 General  
 of  
 North  
 Carolina

words, G.S. 105-98 prohibits the levying of a chain-store tax of more than \$50; it does not prohibit the city from levying other taxes, such as a retail merchants' license tax.

**77. License tax on private detectives**  
 To Junius E. Clarke.

(A.G.) A municipality is authorized to levy a tax on private detectives by G.S. 160-56. There is no maximum prescribed by the statute for such a tax; the amount must be reasonable, of course, but I do not think \$50 would be excessive.

**78. License tax on tourist homes**

To Thomas C. Hoyle.

(A.G.) Paragraph (b) of G.S. 105-61, which is a section of the Revenue Act prohibiting counties from levying a license tax on tourist homes, and G.S. 72-31, which is a part of the law regulating inns, hotels, etc., and requiring that such businesses secure a license from the county commissioners and pay \$2.00 therefor, are not in conflict. The latter is a State tax payable to the individual county and may not be altered by a county or abolished.

**90. General power to levy**

To W. C. Mann.

Inquiry: Can a city levy a privilege tax on a lumber dealer who dresses, ribs and dry-kilns lumber, and, in addition, sells rough lumber, window frames and moulding?

(A.G.) While the State does not levy a tax on lumber dealers, a municipal corporation may under G.S.

**BEER AND WINE  
 ELECTIONS**

(A.G.) Under the terms of HB 1051, a municipality may not hold an election until a county-wide election is held in which a majority of the votes is cast against the sale of wine or beer, and in that event, an election may be held in a municipality as to whether or not beer and wine may be sold within the corporate limits of such municipality. (A municipality must have a population of at least 1000 before it can hold such an election, and no election may be held under the act until 160 days after the effective date, July 1, 1947.)

Inquiry: Does the thirty days' election notice required in Subsection D of HB 1051 have to be given prior to the expiration of the 160 days from the effective date of the Act?

(A.G.) I think the petition referred to in Subsection D could be filed anytime within thirty days prior to the expiration of the 160-day period, but I do not think that notice of the call of the election may be commenced until after the expiration of the 160 days after the effective date of the Act, which was July 1.

160-56. Such tax must be reasonable in amount.

To Ernest R. Warren.

(A.G.) In my opinion, a license or privilege tax levied on a radio broadcasting station as such is a direct tax on interstate commerce and is, therefore, unconstitutional.

To J. D. McLean, Jr.

Inquiry: Does a town have authority to impose a privilege license tax on all three activities of a corporation engaged in the businesses of

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manufacturing, processing and selling fertilizer, ginning cotton, and selling coal at retail?

(A.G.) Under the decisions of the court defining "trades" for this purpose and the general rules that trades taxed must be based upon a reasonable classification and the tax must operate uniformly upon those within the classification. I think a privilege tax levied for the privilege of engaging in the business described would be based on a reasonable classification and that a privilege tax levied on each of the businesses would be valid.

**IV. PUBLIC SCHOOLS**

**B. Powers and Duties of Counties**

**9. Purchase of school busses**

To Paul A. Reid.

(A.G.) Unless there is a local act to the contrary, a county does not have authority to issue bonds for the purchase of school busses. The County Finance Act does not list this as one of the permissible purposes for which a county may issue bonds.

**G. Poll Taxes, Dog Taxes, Fines, etc., Accruing to Schools**

**22. Fines for violation of city ordinances**

To Currie & Garriss.

(A.G.) It is my opinion that a mu-

nicipality is required to account (to the common school fund) for all sums collected by the use of criminal process whether the sums so collected are denominated as fines or as penalties, and that a municipality is authorized to retain such sums as are collected for violations of its town ordinances when such sums are collected by means of civil process rather than by the use of criminal process.

**VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES**

**U. Purposes for Which Appropriations May Be Made**

**1. Garbage removal and disposal**

To R. P. Reade.

(A.G.) I know of no statute which would authorize a board of county commissioners to make an appropriation for the purpose of providing the service of garbage removal and disposal for residents residing outside the corporate limits of towns in the county.

**X. Grants and Contributions by Counties**

**18. Recreation**

To Arthur D. Gore.

(A.G.) There is no authority for a county to appropriate money derived from tax levies for the purpose of providing lighting facilities at a ball park.

**VII. MISCELLANEOUS MATTERS AFFECTING CITIES**

**B. Matters Affecting Municipal Utilities**

**20. Franchises**

To Bailey Patrick.

Inquiry: Can a city authorized by charter to grant franchises for the operation of public utilities and further amended to include motor bus transportation systems not extending more than one mile beyond the corporate limits license the operation of said systems within the above area, in view of the recent decision holding that the Utilities Commission has exclusive jurisdiction in such matters?

(A.G.) The above express grant of authority enacted since the amendment to the Motor Vehicle Act of 1937 would give authority to grant a franchise to such public utility.

**C. Police and Fire Protection**

**22. Building inspection**

To Lucas and Rand.

(A.G.) With reference to SB 228, providing certain fire regulations for hotels, I think the phrase "of like occupancy" means any building used for the same purpose that a hotel is used, whether it is called a hotel or some other name, such as homotel. It would apply only to buildings which are open to the public for transient

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**1947 Legislative Summary  
General Assembly of North Carolina**

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or temporary occupancy. It would not apply to boarding houses which have boarders who have rooms on a more or less long-term basis, as the occupancy is quite different from hotels. Whether or not it would apply to a tourist home would depend, I think, somewhat upon the character of the building and manner of use. The provision requiring one fire extinguisher for each fifteen rooms would indicate that it was not intended to apply to any hotel or other place of like occupancy unless it had as many as fifteen rooms utilized for sleeping purposes on each floor.

**P. Town Boundaries**  
**2. Right to change**

To W. J. Sherrod.

(A.G.) It should be noted that HB 592, the Statewide act authorizing cities to extend their corporate limits, specifically provides that the act shall not apply to any city or town for which a method of changing the corporate limits has been provided by public-local or private acts. If the act merely provided that it did not repeal any public-local act, I think it would not be necessary to obtain an amendment to the Statewide act or to repeal a local act in order for a town having a special act to take advantage of the Statewide act; but since it specifically says that it (HB 592) does not apply to towns having public-local acts fixing the method of extension, I think further legislation is necessary for such towns to proceed under the provisions of this act.

**VIII. MATTERS AFFECTING**  
**CHIEFLY PARTICULAR**  
**LOCAL OFFICIALS**

**A. County Commissioners**

**34. Jury list**

To J. P. Bunn.

Inquiry: What does the term "preceding year" mean as used in the 1947 jury list act with reference to the tax lists to be used in the selection of jury lists?

(A.G.) The tax lists for the "preceding year" mean the lists for the year 1945. The "preceding year" has

**MARRIAGE LICENSES**

(A.G.) HB 153 specifically provides that county commissioners may levy a tax of \$4.00 on each marriage license issued, but it also provides that all such license taxes collected shall promptly be placed in the general fund of the county. No part of this tax may be allocated by the commissioners to the register of deeds, even though he is on a fee basis. However, the act further provides that this shall not prevent any register of deeds whose compensation is derived from fees from retaining such fees as are allowed by law for the issuance of such licenses. The \$1.00 fee authorized by G.S. 161-10 should still be charged by all registers of deeds, those being on a fee basis retaining the \$1.00 and the others paying it into the general fund.

been construed by the Supreme Court to mean the preceding fiscal year. Under this act, the county commissioner should select a jury list to include both men and women. It should also be noted that the commissioners are authorized to secure names from sources deemed reliable, other than the tax lists.

**L. Law Enforcement Officers**

**10. Prohibition law—"gallon law"**

To Eric Norfleet.

(A.G.) This office has previously expressed the opinion that the driver may be criminally responsible for transporting more than one gallon of tax-paid liquor from a wet county to a dry county, if with his knowledge there is transported in the car more than one gallon of intoxicating liquor, although the car may be occupied by other persons who claim to be the owners of a part of the intoxicating liquor and no one person in the car owning more than one gallon.

**31. Lotteries**

To Paul D. Roberson

Inquiry: Are sales promotions campaigns which involve the gift of a chance on an automobile in return for a purchase of a certain amount of goods unlawful?

(A.G.) This office has uniformly held that activities of this nature are violative of the lottery laws of the State.

**32. Gambling**

To Emmett H. Bellamy.

Inquiry: What is the duty of a town board of commissioners with respect to issuing licenses for amusement devices?

(A.G.) I think a board of commissioners would be fully justified in refusing to issue a license for any form of amusement which is known to be a gambling device, i.e., any device which is *per se* a gambling device. The law so provides. As to "games of play with or without name" as defined in G.S. 105-66 which are not *per se* gambling devices, a town is authorized to issue licenses and impose a tax of \$10 if less than 10,000 population and \$25 if over 10,000. A town cannot cancel such licenses, and the fact that the game for which the license is issued is conducted for gambling purposes would not, in my opinion subject the board of commissioners to any liability, civil or criminal, in the absence of any showing of wilful and corrupt exercise of the aul and corrupt exercise of the authority vested in the board by the statutes.

**S. Mayors and Aldermen**

**26. Trading with member of board**

To I. R. Williams.

Inquiry: Can a machine shop which is operated as a partnership with the mayor of the town as one of the partners accept for repair work machines belonging to the town?

(A.G.) In view of the very stringent provisions of G.S. 14-234, I think it would be better for the town's work not to be accepted as long as one of the partners is mayor of the town.

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# 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.

AUGUST, 1947

DAY	OFFICIAL	DUTY	Reference to Law. (To General Statutes unless otherwise indicated.)
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	1% Discount period for 1947 prepaid taxes begins today.	105-345 (6)
4	Sheriff or County or District Tax Collector	Day for tax certificate sale, if advertising done in July.	105-387 (b)
4	Sheriff or Tax Collector, Governing Body, Accountant	Day for complete settlement for all taxes if tax certificates sold in July.	105-390(a)(3),(b)
4	Sheriff or County or District Tax Collector	Begin to advertise for four weeks, if tax certificates to be sold in September.	105-387(c)
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 July	130-99
10*	Coroner	Report to Department of Motor Vehicles the death of any person during preceding calendar month as result of accident involving motor vehicles and circumstances of such accident.	20-166(g)
On or before 10th*	Clerk of Superior Court	Make monthly inheritance tax report to Commissioner of Revenue.	105-22
11	City Tax Collector	Day for tax certificate sale, if advertising done in July.	105-387(b)
11	City Tax Collector	Begin to advertise for four weeks, if tax certificates to be sold in September.	105-387 (c)
13	County Commissioners	Annual meeting of State Association begins today.	153-39
On or before 15th	County ABC Board	Report and pay State tax on wine and liquor sales for the month of July.	18-85; 105-170
18	Sheriff or County or District Tax Collector, Governing Body	Report on sale and concerning insolvents to Governing Body if tax certificate sale held in August.	105-390(a)(1),(2)
20	County Commissioners and City Governing Body	Last day to levy such rates of tax as may be necessary.	105-339;153-121; 160-109, 410
25	City Tax Collector, Governing Body	Report on sale and concerning insolvents to Governing Body if tax certificate sale held in August.	105-390(a)(1),(2)

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