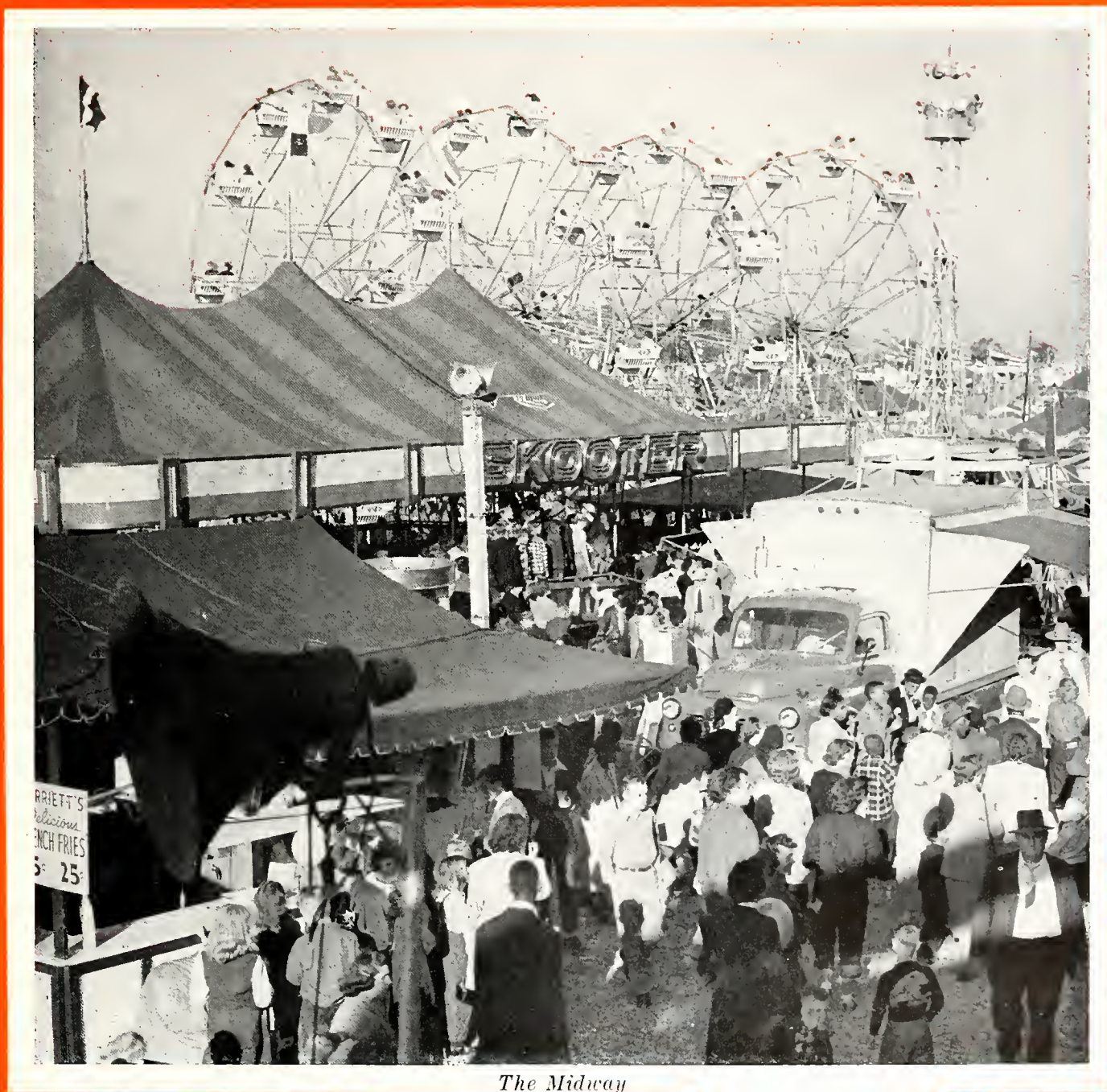


November, 1949

POPULAR GOVERNMENT



The Midway

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

State Fair

When canine bricklayers, artificial waterfalls, foot-long hot dogs, 900-pound hogs, and a thousand other oddities plus school children, crowd onto 220 acres of Wake county it is State Fair time in North Carolina. This year five cloudless days brought record-breaking crowds from every part of the state to the fair grounds. Using the statistical approach, fair officials were estimating before the giant show was two days old that last year's attendance of 300,000 would easily be surpassed. Their evidence? the unprecedented rate at which children and lost articles were pouring steadily into the Lost and Found office.

The State Fair has been a part of North Carolina tradition since 1777, when, despite the revolution, the legislature provided for two fairs to be held each year, at Halifax. While agricultural exhibits were the main attraction, the carnival spirit was very much alive even then, with canoe races and wrestling providing much the same sort of excitement aroused by the hell drivers of today. From 1853 through 1925 the State Agricultural Society sponsored the fair, which financially became more of a headache to the state each year. In 1926 the Society was dissolved and the annual fairs suffered a hiatus until 1927, when Senator J. Melville Broughton of Wake engineered a bill through the legislature authorizing the state to build fairgrounds on their present site. For the next six years the fair continued to lose money and it was finally leased to private operators in 1934. It came back under state management two years later when W. Kerr Scott was elected commissioner of agriculture on a platform which included, as one of its planks, giving the fair back to the state. Scott appointed Dr. J. S. Dorton fair manager in 1937 and Dr. Dorton has been running the yearly show ever since, not only as a paying proposition but as the biggest combination of entertainment and education in the history of the state.

THE CLEARINGHOUSE

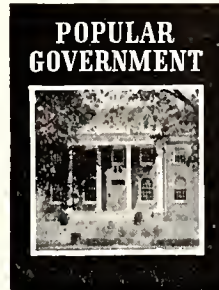
Recent Developments of Interest to Counties, Cities and Towns of
North Carolina

Little Hoover Plans

Perryopolis, a town of about 1,500 inhabitants in the mining district of Pennsylvania, is currently faced with the problem of how to spend the one and a half million dollars it received as a legacy last year. But local governing officials in almost every other town and county across the country are continuing to tackle a problem of precisely the opposite sort. Lacking philanthropic benefactors, the big question most officials must face from the moment they take office is how to maintain and improve services to the people on budgets already stretched thin.

Taking their cue from the Hoover Commission reports, at least three cities have sought a solution through reorganization of their administrative departments, cutting costs by increasing governmental efficiency. The most sweeping of these reorganization plans went into effect this fall in Berkeley, California, a city of 86,000 people, where no major changes in administrative organization had been made since the adoption of the council-manager plan in 1923.

The city manager's proposals, which the council adopted in the form of a 19-page ordinance, called for the reduction in the number of administrative departments from 19 to 10, largely by consolidating several separate offices into enlarged finance and public works departments. The new finance department now includes the heretofore independent offices of assessor, clerk, purchasing and budget director, and treasurer. The expanded public works department has taken over the functions of building and electrical inspection, and the departments of building maintenance, equipment maintenance and refuse collection have been consolidated under a newly created service department. Among the major objectives the reorganization is expected to accomplish are: 1. greater flexibility of organization making possible shifts within departments to meet changing needs and conditions. 2. eradication of overlapping jurisdiction and responsibility, 3. reduction in the detailed departmental coordination

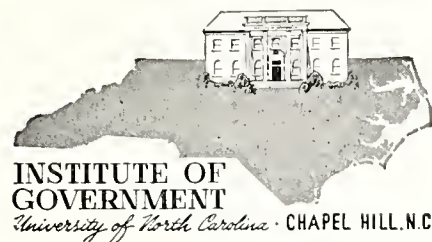


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previously required of the city manager, permitting him to devote more time to over-all administration, control and planning.

A 66-page report to the Mayor by the Syracuse bureau of municipal research has resulted in extensive reorganization of the city's police department. The plan put forth in the report was based on a survey conducted by the bureau with the assistance of the chief of police, and provided for the reduction in number of divisions within the department from 17 to 5. The five consolidated bureaus are: patrol, traffic, detectives, youth bureau, and service and supply. The police chief supervises the heads of these bureaus through three deputy chiefs, one of whom is on duty during each eight-hour shift.

An attempt to effect greater savings and better service through increased efficiency prompted the city of Los Angeles to create a central traffic engineering department which will combine all of the traffic functions now scattered among nine of the city's administrative agencies. The work of the new department will concern all aspects involved in the movement of traffic, including technical studies and analyses, research on driver and pedestrian characteristics and equipment development, design, installation, and maintenance of traffic control devices, and action on all matters relating to safety and efficiency in the use of streets. The ordinance creating the department was adopted after a nine-month study by a special committee appointed by the Mayor.

Barking Man

Sheriff W. E. Salmon of Harnett recently complained to the county commissioners that without a large staff it was almost impossible to enforce license regulations on all of the county's dogs. The following report is included here in the hope that the suggestion might prove helpful to other local officials charged with seeing that dogs are properly licensed. POPULAR GOVERNMENT, however, does not vouch for its credibility. The city

council of a town near Frankfort, Germany, has employed a man to patrol the streets at night barking like a dog. His skill is so great that every dog who hears him barks back, and the man jots down in a little black book the numbers of houses from which the answers come. In the

morning a member of the council checks the addresses and if any of the residents do not have a dog license, a warning and a bill are dispatched at once. If the practice catches on in this country, the day may come when old vaudevillians are a vital part of local government.

Rural Telephone Service

There were indications this fall that the almost phenomenal expansion of electric facilities in North Carolina's rural areas during the past decade may be duplicated in the next few years by the spread of telephone service. Last year the state's first telephone cooperative—the Community Telephone Membership Corporation of Trinity—was formed in Randolph county, authorized by an act of the 1945 General Assembly. Membership in the Randolph co-op has more than doubled since it was organized. In September of this year the State Utilities Commission approved the charter of the second telephone cooperative to form in North Carolina. The new group has its headquarters in Summerfield, in Guilford county, and will serve over 450 members in Guil-

ford, Stokes, Rockingham and Forsyth.

One month after the Summerfield Telephone membership corporation received its charter the Senate voted to authorize the Rural Electrification Administration to make loans totaling \$25,000,000 this year to finance the extension of telephone service to rural communities. The House has already approved similar legislation and the matter is now being considered by a Senate-House conference committee which will adjust minor differences between the House and Senate versions of the bill. In both versions REA loans will carry 2 percent interest and preference will be given to companies already providing telephone service and to cooperative or non-profit associations.

partment. In October, after several years of tangling with the problem, the Durham city council voted to furnish hydrant service to the rural areas at a cost to the county of \$60 per hydrant. In addition the county commissioners agreed to appropriate \$2,000 annually to the city for fire protection. County officials and civic leaders in Mecklenburg are currently working on plans which may develop into a solution satisfactory to all concerned. Community leaders of the various rural settlements outside the city of Charlotte have been meeting with the commissioners to arrange for the establishment of a network of volunteer fire departments throughout the county. The plans call for partial financing of the community departments by local property owners, with the county matching these funds on a dollar-for-dollar basis. Attorneys are still studying the question, however, of whether the county can legally make such appropriations under existing statutes.

In the area just outside the corporate limits of Minneapolis, Minnesota, several community fire departments are operating successfully without aid from the county or city but under a cooperative agreement whereby coordination between the departments is carried on through a central committee. Cooperative purchasing arrangements and the sharing of equipment, plus the fact that an individual department can call on the others for aid if necessary, has resulted in more efficient operation at much lower cost, according to the city attorney of one of these communities.

Services Beyond City Limits

If the problem of stretching limited revenues to finance improved services to citizens is one that harasses every city councilman from New York to San Francisco, certainly one of the major aspects of this problem is the question of how far a city should go in furnishing much needed services to perimeter residents outside the corporate limits, and how these services should be financed. The sharp increase in number of urban annexations which have taken place throughout North Carolina and the nation during the last few years indicates the widespread acceptance of at least one method of solving the problem. But where annexation is not feasible, and especially in large suburban areas where there are intense concentrations of population and industry, both the county and the city are faced with an acute situation. Where fire protection is concerned local officials are aware that delay in dealing with the situation means not merely in-

convenience but often disaster and death.

In seeking a solution this year, North Carolina towns and counties have come up with widely varying plans. The county commissioners of Caldwell recently signed a contract with the Lenoir Fire Department under which the county will pay \$3,500 a year for a two-year period for fire protection by the city in the rural areas. In Stanly, the county and the city of Albemarle agreed last year to maintain a cooperative arrangement whereby the county will pay part of the firemen's salaries and the upkeep of a fire truck in exchange for the city fire department's services in the county. Rural property owners within a five-mile radius of the Robersonville town limits became assured of fire protection by the town last May in return for their contribution of over \$11,000 toward the price of a new fire engine and water tank for the Robersonville fire de-

Ranking not far behind fire protection as a source of concern to city and county officials, the problem of outside garbage disposal facilities was met head-on last month by the governing boards of Guilford and Greensboro. Spurred by an order of the city's public works director last summer restricting the use of the city incinerator and dumps to refuse collected within the corporate limits, both groups worked to find a solution which would serve to relieve county residents and at the same time end the free use of city facilities by non-taxpayers. The solution took the form of an experiment which will be tried until January 1. The plan, which went into operation on October 1, requires commercial rural garbage collectors who use the city dump to pay 20% of their proceeds to the county. Large industrial firms in the county must pay \$10 a month for the use of the dump. The county will be re-

sponsible for collecting the money from both groups and turning it over to the city. City Manager James Townsend estimated that under the plan the city will receive approximately \$600 a month for permitting the county refuse to be disposed of in city dumping areas.

City Employees

A standard policy governing retirement benefits for city employees has been formulated in Kinston and embodied in an ordinance by the city council. Formerly the city voted contributions to individual workers on their retirement, usually to supplement benefits from the Local Government Employees Retirement System when these benefits were not adequate to meet the needs of the employee. The new ordinance authorizes the city manager to continue to make these supplementary payments but prescribes their maximum limits. An employee with from 10 to 15 years of service behind him may receive funds from the city which, when added to his regular monthly benefits from the retirement system, equal 30% of the employee's monthly salary at the time of retirement. This percentage is raised to 40% when a worker has served the city from 15 to 20 years, and to 50% when his employment totals more than 20 years.

On October 1, Raleigh became self-insured against injuries or deaths resulting to its municipal employees, for which the city is liable under the North Carolina Workmen's compensation Act. Raleigh will purchase what is known as "Employers' Liability Excess Insurance" from a private firm, however, to cover the possibility of several injuries or deaths resulting from a single accident and requiring compensation in excess of the city's liability of \$12,000. As of last year 39 cities and three counties—Durham, Nash and Mecklenburg—were self-insurers.

Social Security

Legislation extending social security coverage to 11 million workers not previously covered was passed by the House in October and is expected to receive Senate approval within the next few months. Next to the 4,500,000

non-farm self employed persons who would be brought into the program, the largest group to be affected by the bill would be the nearly four million employees of state and local governments. These public employees could be covered, however, only if the state enters into a voluntary compact with the Federal Security Agency, and if at least two-thirds of a state's government employees who are under an existing retirement system vote to join the federal program. About

750,000 domestic workers will be eligible to receive social security benefits if the bill passes, as will a few thousand others in various smaller categories. Farmers and farm workers will not be affected. Other provisions of the bill raise old-age benefits by 70 to 80 per cent, authorize payments to persons who become permanently disabled before reaching the retirement age, and increase the payroll tax against employers and employees from the present 1% to 3¼% by 1970.

Municipal Trees . . .

A Tree Commission was created by ordinance last month in the city of Hickory in the well-founded belief that tree lined streets make a major contribution to a city's physical charm. Each of four members of the commission will be appointed from the membership of, respectively, the planning board, the merchants' association, the chamber of commerce and the Garden Council, with one member appointed at large. The commission will have power of life, death and alteration over all trees and shrubs on land owned by the city, in furtherance of "preservation, cultivation, beautification, cleanliness and sanitation." No trees or shrubs sit-

uated on city property may be altered, cut or even planted, without the approval of the commission, whose decisions, however, may be appealed to the city council. The commission also has power to prevent "the construction, placing or continuance of any sign, billboard, or other unsightly structure upon city property." A second ordinance adopted on the same day further protects the trees on city owned property in Hickory by making it unlawful to fasten ropes or wires around them, to pile building materials or make cement within six feet of the trees, and to paint or whitewash their trunks. Violators will be subject to a \$25 fine.

. . . and Forests

Hickory's concern for her trees is not unusual in North Carolina where 39 municipalities own forests comprising nearly 60,000 acres. Most of these forests are maintained to protect and develop watersheds, those in Canton, High Point and Mt. Airy having been cited as three of the most successful projects in the state in this respect. But few American cities have adopted the widespread practice of European cities of maintaining forests for revenue purposes. For years before the war Berlin, for example, was able to boast of an unusually low tax rate, due primarily to the income furnished by a highly profitable stretch of hardwoods owned and managed by the city. In Canada the idea has begun to take hold recently, with two counties taking over their own forests this year, as well as several cities, ranging in size from Moose Jaw, with 20,000 inhabitants,

to Knowlton, a town of 952. The Canadian Forestry Association, seeing educational as well as financial benefits in the projects, greeted the development with the hope that "municipal forestry breaks out in a rash right across the country."

Honey Bee Ban

While cities have long been enforcing restrictions on the keeping of animals within the corporate limits, the town of Dunn recently used its authority in this respect to adopt a somewhat unusual ordinance. Following the complaint of two citizens that their neighbor's hobby was proving to be a nuisance, the city council voted to prohibit the keeping of hives for

honeybees within the town limits of Dunn. Violators of the ordinance will be stung \$10 per day for each day of violation.

Billing Machinery

Several years of planning by city officials have resulted in the installation of an entire room full of machinery in Winston-Salem's city hall. The equipment was purchased primarily for the preparation of water bills but eventually it will be used in making out city payrolls and for other accounting jobs. The move toward mechanization was first considered when the rapidly expanding population of the city made it increasingly difficult to handle the city's accounts with the old equipment. The city had trouble getting sufficient help, and the employees who handled the jobs were forced to spend too many overtime hours in the office in order to complete their work. Now, however, a few turns of a dial can accomplish what formerly took days to do, and the city can boast that citizens are receiving their water bills virtually untouched by human hands.

Federal Aid For Health Work

The Hill-Burton Act, which for the past three years has been authorizing federal aid to counties for hospitals (\$3,413,468 to North Carolina counties in 1948), may be supplemented in the public health field if a bill recently introduced by its joint author, Senator Lister Hill, is approved by Congress. The Alabama senator's bill, known as the Local Public Health Units Act, is aimed at benefitting small towns and rural areas by enabling state and local governments to enlarge their public health programs, which are carried on by local health offices in most states. Federal aid will be granted to help finance such specialized programs as maternal and child care, mental health, and campaigns against cancer, heart disease, tuberculosis and venereal disease. "The health offices must have sufficient doctors and nurses and equipment to follow through on such programs," Senator Hill said in submitting his bill. "My bill will help provide the personnel and equipment needed to reach the people."

Off-Street Parking

Charlotte's city council is considering plans outlined by Traffic Engineer Herman J. Hoose calling for the development of several small off-street parking lots in the downtown section of the city. The suggested procedure includes leasing the land from the owners on the basis of sharing revenues from the parking meters to be installed on the lot, and improving it at the expense of the city. It was estimated that the cost to the city of improving the property can be realized in about 18 months out of its share of the meter revenues. Last June Charlotte citizens voted down a proposed bond issue to finance off-street parking lots. Winston-Salem may go a step further in dealing with the traffic situation and become the

fourth city in the country to own and operate a parking building, if the council approves Mayor Marshall Kurfrees' suggestion. Winston-Salem has received a \$60,000-a-year gross income from parking meters installed in 1947 and the Mayor believes the building could be financed from these revenues. City attorneys cited a provision in an act of the 1947 legislature in advising the city that construction of such a building would be legal. G.S. 160-200 (31) authorizes cities to use the revenues from parking meters "for the . . . purpose of providing buildings, spaces and lots for the parking of motor vehicles otherwise than on the public streets, and for the expenses incurred in the regulation of such off-street parking."

Stream Pollution

The problem of waste disposal which inevitably accompanies the growth of industrialization in urban areas has been increasingly troublesome to North Carolina cities. Not restricted to any one state, however, the health hazards involved in stream pollution prompted Congressional action last year when legislation was passed authorizing loans by the federal government to state and local agencies for construction of sewage treatment facilities. The question came before Congress again this year when Representative Thurmond Chatham introduced a bill designed to help prevent river pollution by allowing manufacturing concerns some income tax adjustments for sums spent on the treatment of industrial waste. The

bill would permit plants to amortize the cost of anti-pollution facilities over a period of five years. No action was taken on the proposed law during the present session.

A few weeks ago the Charlotte city council made plans to tackle its local pollution problem by employing a Chicago firm to survey the city's waste disposal situation. The survey will include studies not only of current methods of disposal, but also of population trends and possible future concentrations of industry. The city council expects to be guided by the recommendations growing out of the survey in drawing up an ordinance regulating the handling of industrial wastes that are disposed of in local streams.

Water and Sewer Connections

Durham's Public Utilities Commission is studying a recommendation by the city council concerning the installation of sewage and water facilities in large scale housing projects within and outside the city limits. The new policy, based on a report by the city

planning director and members of the water and public works departments, will put an end to the city's performance of the engineering work in housing developments because "the job is getting too big." Seven points included in the report will be embodied in an

ordinance by the council if the Utilities Commission approves: 1. housing developers shall employ registered engineers and install their own utilities, 2. the city will furnish all engineering data necessary to enable an intelligent design to be made of the individual system, 3. the project engineer must submit a plan of the system for approval by the city, 4. where the development is outside the city limits the housing developer must guarantee payment to the city for the use of services, 5. detailed construction plans must be approved by the city, 6. the work done on the project must pass an inspection made by the city at the developer's expense, and 7. the city will own all utilities installed in the project.

Smoke and Drainage Control

A double-barreled ordinance designed to keep both the air and the city drainage system clear went into effect in Monroe this fall. The ordinance prohibits the burning of sawdust or shavings for fuel purposes or for disposal, anywhere in the area defined in the city's zoning ordinance as the business district. Also forbidden is the depositing of shucks, corn-cobs, sawdust or shavings in the drains or water-courses within the city limits. The ordinance will affect mainly laundries, lumber mills and feed mills in Monroe. Violators are subject to a \$50 fine or 30 days in jail.

Taxi Meters

All taxicabs in Winston-Salem and Charlotte will install automatic meters this year in compliance with ordinances recently adopted in the two cities. Installation of the meters means that hereafter rates for cab hire will be graduated, the charges depending on the distance traveled. In addition to registering the charge for each trip, the devices must record the total number of miles covered by the cab, the number of miles traveled with paying passengers, and the number of trips made. Both ordinances were passed early in the fall, but Winston-Salem's went into effect on October 1 while Charlotte's will not be enforced until December.

Police Call Boxes

Conversion of 1,250 police call boxes on street corners throughout the city into a public telephone system is currently underway in Philadelphia as an aid in crime suppression. In the past policemen had to use keys to open the boxes before they could use the phones but when conversion is complete all of the locks will have been replaced with catches and a citizen in distress will have only to lift the

phone from its hook to complete a connection to the local police station. City officials admitted that the new system will be abused, but they claim that the added protection will far outweigh the disadvantages. And, as the public safety director pointed out logically enough "It would be unthinkable to eliminate fire boxes because they are occasionally misused for false alarms."

State Appropriations

North Carolinians who watched the state's budget for 1949-51 soar to \$427,000,000 will be interested in the fact that state legislatures as a whole this year appropriated a total of \$12,355,709,000, 39 other state budgets as well as North Carolina's reaching an all-time high. Most of the money went for aid to education, roads, mental hospitals and public payrolls. Raises for state employees totaling millions of dollars were approved in 34 states. In addition, 18 states including North

Carolina, increased their payments for old age benefits.

In 1948, according to a tabulation made by the Federation of Tax Administrators, the states took in a record revenue of \$10 billion, but spent more than \$10,400,000,000. "Although tax collections, stimulated by 1949 rate increases, may continue to rise," the Federation's statement said, "indications are that balancing the budget will continue to be a difficult problem in future legislative sessions."

The Minutes Tell The Story

County and city governing boards worked their way through a large volume of business during the past month. The minutes indicated that repair and resurfacing of county roads was the biggest item on the commissioners' agenda, while traffic and zoning problems occupied most of the councilmen's time. These items were by no means all that made up the bulk of the work, however. The minutes received from counties by the Institute of Government contained a total of 69 county road petitions approved. Four counties discussed recommendations to be made to the State Highway Commission concerning roads to be hardsurfaced under the road bond program. Eight counties heard reports from various officials, primarily tax collectors and county accountants. Four beer licenses were granted. (One county was requested, by a tavern owner, to refund the sum paid for a beer license since his license was subsequently revoked). Four counties purchased office equipment. The same number dealt with individual tax cases, waiving tax delinquency in two cases, adjusting property valua-

tions in two others, and two counties drew jury lists.

Seven of the city councils whose minutes were received during the past month, discussed various aspects of the traffic problem. Erection of stop signs, no-parking signs, and declaring certain streets to be one-way henceforth, were the major measures taken. Six cities amended or considered amending minor provisions of their zoning ordinances. Three cities, Charlotte, Wilmington and Kinston, approved the applications of their housing authorities for loans for public housing projects, to be granted by the federal government. Four cities approved petitions to have certain streets paved, only one city declining to approve such a petition. Licenses were granted to four beer parlors, two pool halls and six taxi cab operators. In addition the city councils: made plans for Christmas decorations, accepted a gift of land for public recreation purposes, installed sewage facilities (one city ordered a sanitation survey of the entire urban area to be made), and made various policy decisions concerning municipal employees.

Uncle Sam Gets Set to Call the Roll

The 17th Decennial Census Beginning in April 1950 Will Be the Biggest Nose-Counting Operation in History

Four thousand North Carolina housewives will leave their breakfast dishes in answer to a knock at the door one bright spring morning early next April. They will be greeted by four thousand smiling countenances, each repeating the well-rehearsed phrases, "Good morning. How do you do? I am a representative of the Bureau of the Census of the U. S. Department of Commerce. This is the census—you know, the big thing of 1950. May I ask you a few questions?" And as they begin their questions and answers, Uncle Sam's seventeenth decennial census, the most gigantic nose-counting operation in history, will be under way.

That moment will mark the culmination of years of careful planning and preparation, with the same attention to a multitude of details as preceded the Normandy landing. It is the goal towards which committees of outside experts, under the guidance of Philip M. Hauser, Acting Director of the Bureau, have been pointing for months as they revised and reworded many times the questions to be asked. Its perfect execution was the ultimate objective of 119 North Carolinians who engaged in a test run from October 10 to 26 in Raleigh and Roxboro, seeking to discover and iron out flaws in the proposed training program for temporary employees. The permanent staff of the Bureau has devoted years to planning the allocation of personnel, preparing forms, and handling a myriad of other minutiae involved in questioning 150,000,000 Americans; and the success of that bright spring day and those following it will show how well it has done its job.

A Cut in North Carolina's Representatives?

North Carolinians will await the results from this head-count with some trepidation, for it has been predicted that the state will lose one of its twelve representatives, and consequently one of its votes in the Electoral College, in the reapportionment of the House of Representatives which will ensue. And regardless of what happens on the national scene, they know that there will be a new allocation of the membership of the General Assembly, with probably a

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Assistant Director
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continued growth in strength for the Piedmont counties as against the rest of the state.

The expected loss of a representative is not the result of a decrease in the Tar Heel population. On the contrary, that has increased an estimated three to five per cent, if not more. But the western states have made phenomenal gains since the 1940 count—California having rolled up a 37 per cent gain with an estimated 3,000,000 new residents by 1946. Washington and Oregon showed gains of about 32 per cent apiece, and even Nevada rose 21 per cent. Unless the membership of the House of Representatives is increased, something which has not been done since 1910 because of space limitations in the House chamber, the western states must take the new representatives to which they are entitled from the other states over the country which have made smaller relative gains.

To illustrate the magnitude of the West's gain in political power, chiefly at the expense of the South, California's representation is expected to rise from 28 to 31, which will put it alongside Pennsylvania (which is slated to lose two members) in second place among the states. If its rate of gain continues, the far western state might even surpass New York as the most populous in the country by the 1960 census; New York is expected to tumble from 45 to 42 representatives next year. States expected to gain one representative are Florida, Indiana, Michigan, Oregon, Texas, and Washington, while Arkansas, Georgia, Mississippi, Missouri, Oklahoma, and Tennessee will probably join North Carolina in the losers' circle.

Won't Affect 1950 Election

These changes will be too late to affect the make-up of the 82nd Congress elected next year, however. The Census Bureau won't transmit its findings to the President until the end of 1950, after which he will pass them along to the House. Then, acting under a 1941 law, the House will

determine the relative proportions each state's population bears to the total, and from this the proportionate number of representatives each will have out of the 435. Once this has been done, each state governor will be informed of his state's quota, and it will then become the duty of the state legislature to lay out the lines of the various Congressional districts. In case it so desires, it could refuse to do this and allow the representatives to be elected on a statewide basis, in the same manner as senators. New Mexico, Arizona, and North Dakota traditionally do this, and Missouri held such an election in 1942 following an unresolved squabble over where the district lines should run. A few other states elect one or two of their representatives on an "at-large" basis, the remainder coming from particular districts.

In accordance with Constitutional requirements, this apportionment has taken place following every census except that in 1920, when a negligent Congress failed to do anything about it. Originally laws enacted at the time of each census specified the manner of apportionment. Then from 1850 until 1880 there was a provision for automatic allocation of representatives, so as to guard against Congress's preserving the status quo by inaction. This feature was revived in 1930, as a result of the 1920 lapse, and now if Congress fails to act within a given period, an automatically effective apportionment will go into operation.

With few exceptions, North Carolina's representation has shown a steady drop, percentage-wise, since the days when it was one of the thirteen states. Even when it was increasing numerically the percentage fell, because of a greater increase taking place at the same time in the House of Representatives. The reason for this drop while the Tar Heel population was increasing lies in the greater rate of growth in the nation as a whole, which is reflected in the number of people represented by each representative. This figure has grown from 34,436 following the first census in 1790 to 301,164 in 1940, and it is expected to reach 345,000 next year. Populations of congressional districts in the Old North State correspond only roughly to these

figures, incidentally, ranging from First District's 239,040 to the Fourth District's 358,573 at the time of the 1940 census.

North Carolina was allotted five representatives out of the 65 in the first Congress, which was elected before the census, while other states were given the following members: New Hampshire, 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; South Carolina, 5; and Georgia, 3. Due largely to the size of the Virginia delegation, the South Atlantic area at this time stood at the peak of its political power. From its 46 per cent of the House, it fell steadily away until it leveled off in the 20th century at its present 12 to 13 per cent.

With the taking of the 1790 census the Tar Heel representation doubled, and it continued to rise until it reached an all-time high of 13 in 1810. Thereafter it held constant until 1840, when it dipped to nine, in the beginning of a drop which reached a low of seven in 1860. From that point there was a slow rise which reached a climax in 1940, when the state received the twelfth representative which it now seems in danger of losing.

Census Also Determines General Assembly Make-Up

The effects of the 1950 census will not be confined to the national House of Representatives, however, for the North Carolina State Constitution also leans upon its figures in determining the allocation of General Assembly members. The draftsmen of the Constitution of 1868 felt that the 10-year interval between federal censuses was too great, and they provided for the state's conducting a census in 1875 and every ten years thereafter, with a reapportionment after both state and federal enumerations. Thus there would be a reapportionment every five years, instead of ten. The lawmakers reconsidered before the state's first census was due, however, and it was never taken. (Const. 1868; Pub. Laws, 1872-3, c. 81.) The present Constitutional provisions, Article II, Secs. 4 to 6, require that after each federal census the Senate districts be redrawn so as to contain, as nearly as possible, equal numbers of citizens, and that the excess of House members over the minimum of one representative per county be allocated according to population.

The General Assembly has also found census figures useful as an aid in tailoring its legislation to fit dif-

ferent-sized communities, with their different problems. And it has also utilized this means to get around the Constitutional inhibition against local and special legislation in certain fields. (Art. II, Sec. 29.) Thus, the size of the community determines whether cities and counties may create special courts; e.g., G.S. 7-101 (domestic relations courts); 7-185, 7-213 (municipal recorders' courts); 7-240 (municipal-county courts); 7-246 (recorders courts with civil jurisdiction); 7-265 (general county courts); 110-44 (city juvenile courts). Cities over 1,000 are permitted to hold wine and beer elections (G.S. 18-124, 8-127) and are subject to the state's building inspection and safety regulations (G.S. 160-154). Only cities having a population of 5,000 in the 1940 census may demolish unfit dwellings (G.S. 160-183; previous to 1941 this figure was set at 25,000). The State Housing Authorities Law permits such authorities in cities over 5,000 (G.S. 157-3), counties over 60,000 (G.S. 157-33), and groups of counties aggregating over 60,000 population (G.S. 157-35). For municipalities to cooperate in certain ways with these authorities they must have over 15,000 people (G.S. 157-41). The state highway commissioner may maintain streets in cities of less than 3,000 (G.S. 136-18 (g)), and he allocates funds between municipalities on the basis of their population (G.S. 136-37). Zoning may be put into effect in sanitary districts adjacent to cities of 50,000 (Sess. Laws, 1949, c. 1145). The Hospital Authorities Law applies only to cities of 75,000 or more (G.S. 131-90) and city-county hospitals for the poor are authorized only where the city is over 75,000 and the county is over 100,000 population (G.S. 131-28, 23). Only counties of 100,000 or more may conduct drainage operations (G.S. 156-141). And officials' salaries are sometimes dependent upon the size of their communities (G.S. 160-320, 160-337, 130-172), as is the size of the local governing body (G.S. 160-317).

Rural-Urban Ratio of Interest

In light of current political trends in the Old North State, North Carolinians will also be interested in learning whether the trend towards the cities, which slowed almost to a halt in the '30s after steadily picking up steam theretofore, has resumed, or whether it has been counteracted by the increase in rural non-farm population. In 1940 the Tar Heel state stood sixth in the nation in its high percentage of rural population, with only 27.5

per cent of its people living in cities over 2500. Arkansas, Mississippi, South Carolina, and the Dakotas were the only states with greater rural populations, percentage-wise. With an increasing number of its "city" people building homes outside the city limits, there is some doubt as to whether the state's position has changed very much.

And of course, once more attention will center on the claimants for the title of largest city in the state. Charlotte this year seems clearly to have outstripped its rivals by extending its city limits January 1 to take in some 15,000 new citizens, and its size is now estimated as between 130,000 and 140,000. This will leave the major interest in whether or not Winston-Salem, Greensboro, or Durham will succeed in passing the magic 100,000 mark that seems to determine whether a city is a "metropolis." With civic pride running high, a repetition of Charlotte's 1940 struggle to push over the mark seems to be in the offing on several fronts.

Employment Problem for Bureau

The major back-stage problem faced by the Bureau of the Census next year is expected to be the procurement of an adequate number of competent interviewers in a time of full employment. Even at an \$8 a day wage scale, few are expected to be willing to take the two to six weeks job, although William G. Aycock, District Supervisor of the Census Bureau in Raleigh, reports that he had no difficulty in procuring 119 workers for the test operation last month. For a time the Bureau thought of asking the nation's school teachers to take off a week to do the job, remembering that they had conducted the distribution of ration books during the war. But in the absence of war powers, the legal problem seemed insurmountable: every school district in the country would have to give its assent. As a consequence, it now appears likely that some 3500 to 4000 North Carolina housewives may experience the pleasure of adding to the family treasury next spring.

For the purpose of the 1950 census a special organization based upon congressional districts will be set up late this year. (The Bureau's permanent organization breaks North Carolina down into eight districts, with headquarters at Rocky Mount, Wilmington, Fayetteville, Raleigh, Statesville, High Point, Asheville, and Charlotte.) Each district will be under the direction of a supervisor and an assistant supervisor, appointed on the

recommendation of its representative for the duration of the six-to-seven-months' job at pay of \$17.22 and \$14.33 respectively, per working day. The immediate superiors of the interviewers will be leaders, at \$11 a day. All of these officials will be named soon after January 1. The interviewers, hired somewhat later on the basis of one per 1000 population, will begin work in March with a short training program and probably finish up by the middle of May.

The big show, so far as the public is concerned, will get under way sometime in the first week of April, which has been chosen as the census date since 1930 because of findings that the population tends to stay closer to home at that season of the year. The first four censuses were held in August, the next eight on June 1, the 1910 count on April 15, and the 1920 survey on January 1, before the April 1 date of the past two enumerations was finally settled upon.

Census Dates from 3000 B.C.

Although it is required by the U.S. Constitution and has been a familiar part of the American scene since the nation's beginnings, the census is not an American invention. Instead it is the product of many thousands of years' development. The earliest count of which we have record was a complete stock-taking of Babylonia some three thousand years before Christ. This count included not only the people, but also their crops, livestock, and produce. The Persians, Chinese, and Egyptians are also known to have conducted such surveys in early times, usually in order to aid tax collection or to determine the amount of military or other service to be exacted from citizens of various localities. The Romans, from whom we get the word "census," made an enumeration every five years of the members and property of every family, for the purpose of determining their civil status and liabilities towards the state. In 5 B.C. Augustus extended this throughout the Roman Empire, which was considered the whole of the civilized world of that time. After the fall of the Empire, however, there was a long lapse, broken only by the compilation of Charlemagne's Breviary in the ninth century A.D. and William the Conqueror's Domesday Book in 1085-86, before the introduction of the modern type of census in Quebec and Nova Scotia in the middle of the seventeenth century.

The Old Testament records that Moses took a census of the fighting and non-fighting men among the

Children of Israel, at the Lord's behest, at the time of the Exodus. (Numbers, ch. 1.) But a later census of fighting men, conducted at King David's command, so displeased the Lord that he visited a pestilence upon the land which took 70,000 lives. (II Samuel, ch. 24.) The effect of this Biblical account of divine wrath is supposed to have been felt in the long period following the fall of the Roman Empire when no census was taken; even in the British House of Commons in 1753 the fear was expressed that a numbering of the people would be followed by "some great public misfortune or epidemical distemper" and the proposal was defeated. It was not until 1801 that the first British census was authorized. On the other hand, the fear of head-counting may stem from more primitive sources: some tribes in the Kenya even today are reported to have a taboo against enumeration of either the tribesmen, their wives, or their cattle.

U. S. Census Dates from 1790

Whatever the reason for the non-counting era, it does not seem to have been felt in America. At the time the Constitution was being drafted the larger states insisted upon some recognition being given their larger populations. In the compromise that was effected, every state was given an equal number of Senators (to please the small states), while the membership of the House of Representatives was based upon population. And because it was recognized that the continuous stream of immigration was apt to change the relative ranks of the states, the census was provided for in Article I, Section 2, clause 3 of the Constitution:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound for service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such a manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative . . ."

The census-taking organization was

quickly set up, and the first enumeration was made in 1790, one year rather than three after the first meeting of Congress. Hewing closely to the line marked out in the Constitution, it was very modest in scope as compared with its successors. It was strictly a population survey, breaking down the total count into classifications of slaves and free people, the free into whites and others, the free whites into males and females, and the free white males into those under and above 16 years of age. However, with its classifications it set a pattern from which has sprung the detailed population analyses to be found in present-day census results—and thus was at least partially responsible for the long list of questions whose answers are sought by the man who comes to your door each decade. In that first census, incidentally, the population of the United States was found to be 3,929,214, close to North Carolina's estimated population today. The Tar Heel state then had only 393,751 residents, roughly the combined population of Guilford, Mecklenburg, and Gaston counties in 1940.

1810 Census Started Collection of Industrial Statistics

Since the 1790 enumeration, three dates stand out in the census history: 1810, 1880, and 1902. The potentialities of the census mechanism as a means of gathering other statistics besides those dealing strictly with population were first recognized in 1810, when figures were collected showing "the number, extent, situation and value of the arts and manufactures of the United States." And the progress toward the present census was greatly accelerated by an 1840 law requiring that in connection with the census there be prepared statistical tables giving "such information in relation to mines, agriculture, commerce, manufactures and schools as will exhibit a full view of the pursuits, industry, education, and resources of the country." Strangely enough, in view of more recent history, it was the Democratic Party's fear of the federal government's extension into fields not expressly mentioned in the Constitution that prevented the making of independent statistical inquiries of this nature and forced them to be taken as a part of the census. This feeling had a strong effect until the creation of the permanent Bureau of the Census in 1902.

To illustrate how far the census had come by mid-century, the 1850

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Slum Clearance and Urban Redevelopment

Federal Aid for Local Slum and Blighted Area Redevelopment Under the Housing Act of 1949

By W. M. COCHRANE

Assistant Director
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[This is the second in a series of three articles on the Federal Housing Act of 1949—each one dealing with one of the three major programs set in motion by the Act: (a) Low-rent Public Housing (September-October issue of POPULAR GOVERNMENT); (b) Slum Clearance and Urban Redevelopment; and (c) Farm Housing (next issue of POPULAR GOVERNMENT). It is the purpose of this series to tell what each of these programs means to North Carolina.]

The slum clearance and urban redevelopment program (Title I, Public Law 171, 81st Congress) of the Housing Act of 1949, in the words of President Truman, "equips the Federal government, for the first time, with effective means for aiding cities in the vital task of clearing slums and rebuilding blighted areas."

The "effective means" are Federal loans and capital grants, which the government is now authorized to make to cities (and other units of local government) in states having adequate enabling legislation on their statute books. The Housing and Home Finance Agency (which administers the new program) recognizes 27 states as having enabling acts specifically authorizing their local governments to participate. North Carolina is not included in this list, and there is considerable doubt whether cities and towns in this state are eligible to receive Title I assistance for slum clearance projects.

This question has already been raised by the chief legal adviser of the HHFA, who made the following statement with respect to the 21 states (including North Carolina) which do not have such specific enabling acts for slum clearance as are contemplated by Title I of the Federal Act: "In some of these states . . . (there may be) . . . general laws or city charter provisions . . ." authorizing participation, and "participation possibly may be authorized under some of the state public housing laws." But he added that "a judicial pronouncement of such authority in a test suit may be necessary before the Federal government could proceed to make loans or grants under the Title I program. . ."

North Carolina's Public Housing Laws

There is no question that North Carolina's Housing Authorities Law (Chapter 157 of the General Statutes) enables municipalities (over 5,000 in population at the last Federal census, or two or more municipalities jointly when their aggregate population exceeds 5,000), and counties (over 60,000 in population, or two or more counties jointly when their aggregate population exceeds 60,000) to establish and operate local or regional housing authorities fully empowered to take

advantage of all the assistance provided by Title III of the Federal Act, in the field of low-rent public housing. (See September-October issue of POPULAR GOVERNMENT).

Chapter 157 also authorizes "slum clearance," which is declared to be a public use and purpose in furtherance of which private property may be acquired—by resort to condemnation in exercise of the right of eminent domain, if necessary. However, Chapter 157 apparently contemplates the situation where a privately owned slum is condemned and taken from its owners, is cleared, and is then rebuilt with public housing—the new housing project thus being constructed on the site of the old slum, this being the basic public use and purpose justifying the taking of the property from its private owners. The new Federal Act, on the other hand, requires a much broader concept of "public use and purpose." It contemplates that the local government will have authority to acquire, clear, and permit redevelopment of the site for *whatever* its most appropriate use might be, in conformity with a general plan consistent with the sound needs of the community as a whole—and the "most appropriate use" to which a former slum site may be put is not always, probably not usually, a residential use. For this reason, the local government must have power to re-sell, to private developers, the site which it has thus acquired through condemnation, so that it may be redeveloped for its most appropriate use—which might be commercial or industrial, rather than residential.

It is doubtful whether Chapter 157 authorizes condemnation in a situation where one man's private slum

property is to be taken, cleared, and then re-sold to other private developers for the most appropriate use, rather than being held and used by a public agency itself for the admittedly public purpose of constructing and operating a public housing project.

At this point it is worth noting that in several of the states having legislation authorizing municipalities to take, clear, and then re-sell private slum property to other private parties for redevelopment for the most appropriate use, a basic constitutional question has been raised as to the right of a public agency thus to take private property, not for public use, but for re-sale to other private developers. In each case the answer of the courts has been that the public purpose (slum clearance) is fully accomplished when the blighted area is cleared. Thereafter the site may be sold, just as any other publicly owned property which is no longer needed for public use may be sold into private ownership.

So far as North Carolina is concerned, there is one limited possibility of Federal assistance under Title I, to a restricted category of slum clearance projects. In a situation where the "most appropriate use" for the cleared slum site (consistent with the needs of the community as a whole, and in accordance with its general plan) would be a residential use, a North Carolina municipality might possibly, under our housing authorities law, qualify for Federal grants and loans under Title I, on the theory that in such case the private property thus taken would be used by a public agency (the local housing authority) for a public purpose approved by our state laws: erection and operation of low-rent public housing under Title III of the Federal Act. However, in view of the attitude of the HHFA, quoted earlier, it is probable that the Federal agency would decline to render assistance under Title I until the matter had been settled by our courts.

It will be recalled that two attempts were made during the 1949 session of the General Assembly to qualify North Carolina municipalities for the benefits anticipated under the proposed slum clearance legislation then pending in Congress. Both

efforts (House Bill 1234 and Senate Bill 266) failed.

Steps Which Local Units Must Have Power to Take

In states where adequate enabling laws have been enacted, local units have been granted power to meet the following requirements in order to qualify for Federal assistance in slum or blighted area clearance under Title I:

1. There must be a local public agency fully authorized under state law to undertake the project (the state law may authorize city or county governing boards themselves to undertake projects, or may authorize local housing authorities, local redevelopment agencies, or any other local public agency to do the job. Title I permits the HHFA to deal with *any* authorized local agency, in contrast to Title III, which authorizes Federal loans only to local housing authorities.)

2. There must be a detailed plan (approved by the local governing body) for redevelopment of the project site, and this detailed plan must conform to the general plan for development of the whole community.

3. There must be a general plan for the development of the community as a whole.

4. There must be a finding by the local governing body that Federal assistance is necessary for redevelopment of the project site in accordance with the detailed project and general community plans.

5. The project plan must offer maximum opportunity, consistent with the sound needs of the community, for redevelopment of the project site by private enterprise. (This seems to be the chief ingredient missing from the North Carolina statutes.)

6. There must be a public hearing, prior to acquisition of the land, and after notice of the hour, date, place, and purpose of the hearing.

7. The local government must be authorized and able to furnish the required amounts of local grants-in-aid (this requirement will be discussed later in this article).

8. There must be a feasible plan for the temporary relocation of families displaced from the project area.

9. There must be assurance that there is or will be permanent housing at rents or prices within the means of the displaced families, such housing units to be equal in number to the number of families thus dis-

placed. (This requirement may be met by assurance of adequate private housing for the displaced families, or by re-housing them in public projects built with Federal aid under Title III).

Types of Projects Which Qualify for Federal Aid

Federal financial assistance under Title I is available only where the project site (1) was predominantly residential in character before clearance, or (2) will be predominantly residential in character when redeveloped. In other words, it is available (1) to clear a residential slum, no matter whether it will or will not be redeveloped as a residential area; or (2) to clear a blighted non-residential area which will be redeveloped for residential purposes.

The HHFA lists four types of projects which can be assisted under Title I. Both loans and grants are available to the first three, but only loans are available to the fourth. All are listed below:

1. *Residential slum or blighted area:* A slum, or deteriorating, or deteriorated area, which (before redevelopment) is predominantly residential in character. Assistance (loans and grants) is available no matter what the area will be used for when redeveloped — whether for residential, business, or industrial purposes, or a mixture of them, or for such public purposes as parks, playgrounds, etc.

2. *Non-residential blighted area:* A deteriorating or deteriorated area which is not predominantly residential in character. Assistance (loans and grants) is available only if the area is to be redeveloped for predominantly residential uses.

3. *Predominantly open areas:* An area including predominantly open land which, because of obsolete plating, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests sound community growth. Assistance (loans and grants) is available only if the area is to be redeveloped for predominantly residential uses. The HHFA suggests as an example of such areas the typical optimistic subdivision of the 1920's, where today crumbling streets, sidewalks, and inadequate sanitary facilities, together with the tax-delinquent condition of the unused lots therein, serve to choke city growth.

4. *Open areas:* Any open land, inside or outside the municipality, on

which virtually none of the urban development necessary for sound community growth has been undertaken. An example is completely open land enjoying no municipal services—no streets, sidewalks, sewers, etc. Assistance (loans only) is available only if the land is to be used for predominantly residential purposes.

Types of Federal Financial Aid Available to These Projects

Three categories of Federal financial assistance may be obtained for these projects (1) Advance of funds for planning purposes; (2) Loans (temporary and long-term); and (3) Capital grants.

1. *Advance of funds:* The HHFA will advance necessary funds for local surveys and plans for projects which are eligible for assistance under Title I. Such advances must be repaid, with interest, by the local agency. The rate of interest on funds thus advanced (and on temporary and long term loans) is required to be not less than the "going Federal rate," which is defined as the annual rate of interest specified in the most recent issues of long-term (ten years or more) Federal bonds. Currently, the going rate is 2½% per year.

2. *Loans* (a) *Temporary* — The HHFA will lend the sum necessary to finance the costs of assembling and acquiring title to the land, clearing it, preparing it for re-sale or lease, and selling or leasing it. Most loans made under Title I are expected to be temporary loans, to be repaid immediately on resale of the cleared property. However, one type of rather lengthy "temporary" loan (for not exceeding 10 years) may be made, in connection with projects on predominantly open land, to local public bodies to assist them in providing schools or other public facilities necessary to serve or support the new uses of the land thus developed.

(b) *Long-term loans*—The HHFA expects that long-term loans will be needed only in cases where all or part of the land acquired is *leased* for redevelopment, since if the land were *resold* the proceeds obtained (plus the capital grants to be described in the next section) would be used to repay the Federal loan at once. Any long-term loans which are made will have to be repaid within 40 years.

3. *Capital grants:* The HHFA is authorized to make outright capital grants to assist in financing "net project costs"—the difference be-

(Continued on inside back cover)

City Statistics Are Useful

The Municipal Year Book Offers Opportunity for Comparison of the Home Town with Others of Its Size

By GEORGE H. ESSER, JR., Assistant Director, Institute of Government

Each year the International City Managers' Association publishes the *Municipal Year Book*, a volume which not only traces developments in every field of municipal activity for the preceding year but also contains the most complete statistical information on the activities of cities, individually and as a group. Because it is so comprehensive it has come to be an invaluable reference manual for city officials.

The contents of the 1949 edition are similar to preceding volumes. The book is divided into five parts:

1. *Governmental Units*. Included are five chapters on the breakdown of governmental units in the United States, the economic classification of all cities over 10,000 in population, and governmental data on all cities above 5000 in population. There is a new article on the problems of annexation of land by cities in 1948.
2. *Municipal Personnel*. Included is a resume of personnel developments in 1949, statistics and information on city salaries and wages and state-administered municipal retirement systems, and complete statistics on personnel information for all cities over 10,000.
3. *Municipal Finance*. Included are chapters on developments in finance and assessment administration and municipal purchasing during 1948, municipal non-property taxes, trends in municipal finance, and complete statistical information on the revenues, expenditures, and debts of all cities over 25,000.
4. *Municipal Activities*. Included are chapters on municipal administration, planning and zoning, public welfare, public health, housing, public works, municipal utilities, fire administration, police administration, traffic safety, parks and recreation, schools and education, public libraries, and municipal law and courts. Each chapter discusses developments in 1948; several give complete statistical information on performance of the activity in all cities over 10,000; four—public health, police administration, recreation, and traffic safety—discuss standards to be applied in measuring effectiveness of performance in individual cities.
5. *Directories of Officials*. Included is a directory of all council-manager cities and city managers, a directory of officials in all cities over 10,000, and a directory of mayors and clerks in cities of 5000 to 10,000.

In addition there is a general article on city problems during 1948.

Use of Statistical Information

The extensive information to be found in the charts and tables in the *Year Book* may be used in a variety of ways by city officials. Care should be taken however, to read the introductory chapter on how to use the information and tables, and the weight to be given the various kinds of tables. This is important because incorrect conclusions may be drawn from faulty use of statistics. In general these precautions are:

1. Most of the tables summarize data for given population groups according to the average for the group

or according to distribution. In distribution the lowest item, the halfway or median item, and the highest item are shown. Occasionally the quartiles are shown (for example the first quartile is the item below which one-quarter of all the items fall). If we have nine cities paying clerks \$1000, \$1250, \$1500, \$1800, \$2000, \$2200, \$2400, \$2500, and \$3000 respectively, the average salary is \$1960, the median salary is \$2000. A comparison of average salaries by a city official will determine whether his city's salaries are out of line so far as to require a re-examination of salary schedules; a comparison of the distribution of salaries of all other cities in his group will determine approximately how far out of line they may be.

2. The text preceding every table should be examined to learn what the table proposes to show—whether it is measuring cost, effort, the adequacy of results or performance (service in relation to problem magnitude) or efficiency of results or performance (service in relation to cost). For example the amount spent on a fire department will not show how efficient the department is or whether it is obtaining results in reducing fire losses. Taken in conjunction with information on fire losses and efficiency of operation, cost information may well reveal whether a city is getting its money's worth in results achieved or in efficiency or both.
3. Some tables reduce data to a per capita index. It should be realized that while population is a measure of the magnitude of a governmental problem, it is only a rough estimate. A high per capita cost of law enforcement may mean either that a high level of performance is being provided, or that the department is inefficient, or that perhaps other factors such as climate, economic and social conditions may aggravate the cost. If used with other information, per capita figures can be significant.
4. The records which form the basis of the tables may be inaccurate, since all cities do not have reliable systems of recording information.

The city official who is fully aware of these limitations can still put these statistics to good use. He can discover trends in costs, degree of performance and accomplishments; he can compare costs and other factors to see if his city is far out of line from the average and form a basis from which a study can be made of why it is out of line; he can compare the same information with other cities of similar type and size.

Sample Use of Tables

Part one of the *Year Book* contains information on governmental units and classifies them according to economic status and population. Suppose a city official in Burlington wants to compare information on municipal administration in Burlington with the same information from the cities in the country which are similar. By reference to the table listing all cities ranging from 10,000 to 25,000 in population, he discovers that Burlington is a city where employment in manufacturing represents 77% of the total

number employed in manufacturing, retail and wholesale trade, and service establishments. This fact stamps Burlington as a predominantly manufacturing city. He also finds that for every 100 people who live in the city, there are 124 who work in the city. By going through the table he finds that there are 17 other cities in the United States in that population bracket where manufacturing is the principal factor in the economy and where from 1-50 more people per 100 work in the city than live there. He discovers that of these 17, 11 are suburbs of larger cities and that there are only five in addition to Burlington which are independent cities. For comparative purposes then, these six cities are so similar as to provide good comparisons, although if he wants to consider other social and economic factors, he can discover other cities to include.

His list will look like this:

	1940 Census in Thousands	Employment Residence Ratio	Manufac- turing Ratio
Burlington, N. C.	12	124	77
Dalton, Georgia	10	126	82
Hanover, Pa.	13	100	72
Martinsville, Va.	10	108	76
Thomasville, N. C.	11	106	89
Vandergrift, Pa.	11	110	82

Now suppose that he wants to know how Burlington's policy with respect to hours worked per week by municipal employees, hours worked on Saturday by municipal employees, and days annual paid vacation compares with policies in these similar cities and in all cities of 10,000 to 25,000 population. All of this information can be found in Part Two on Municipal Personnel.

	Work Hours Per Week	Saturday Schedule*	Days Annual Paid Vacation
Burlington, N. C.	41	Full—½	12
Dalton, Georgia	Information not given		
Hanover, Pa.	40	Skeleton—½	10
Martinsville, Va.	40	Full—½	12
Thomasville, N. C.	44	Full—½	10
Vandergrift, Pa.			12

* Full—½ means that all employees work one-half day on Saturday. Skeleton—½ means that only a skeleton staff is on duty for one-half day on Saturday.

By turning to other sections in Part Two, the city official can compare with summaries for all cities between 10,000 and 25,000 in population. He finds that of 662 cities in the group, 529 reported the information.

Work Week. 57 cities or 10.8% had a work week of less than 38 hours.
 256 or 48.4% had a work week of between 38 and 41¼ hours.
 194 or 36.7% had a work week of between 42 and 45¾ hours.
 20 or 3.8% had a work week of between 46 and 49 hours.

1950 Census

(Continued from page 8)

census was taken on six schedules: free inhabitants, slaves, deaths during the preceding year, agriculture, manufactures, and social statistics—the latter including property valuation,

taxation, education, religion, pauperism, crime, and prevailing wage rates in each municipal division.

The War Between the States and the Fourteenth Amendment to the Constitution which it spawned eliminated the provision for counting slaves at three-fifths of a person in

2 or 0.4% had a work week of more than 50 hours.

Burlington's work week, then, falls in the largest percentage group and is at about the median for the work weeks of all cities in the population group.

Saturday Schedule. 14 cities or 2.6% kept a full staff all day.

390 or 73.3% kept a full staff for one-half day.

7 or 1.3% kept a skeleton staff all day.

73 or 13.7% kept a skeleton staff for one-half day.

48 or 9% did not work at all on Saturday.

Annual Paid Vacation. 99% of all cities grant annual paid vacations and the median vacation allowance is 12 work days a year, the same as Burlington's.

If he desires to compare performances of some specific municipal function, the city official turns to Part Four, where individual functions are treated in varying detail. Suppose for example that the police department is being studied. In the chapter on police administration he finds very complete information on organization and costs, such as:

	No. Full-Time Employees	Salary of Patrolman Entrance— Maximum	Work Hours Per Week
Burlington, N. C.	32	\$2124-2556	51
Dalton, Ga.	22	2100-2100	56
Hanover, Pa.	10	2004-2304	54
Martinsville, Va.	27	2100-2431	Not given
Thomasville, N. C.	17	2020-2400	56
Vandergrift, Pa.	7	2460-2460	54

Then he can compare these figures with data for all cities of the population group:

Employees. The average number of full-time employees per 1000 population in 1948 was 1.37. Based on the 1940 population Burlington's is approximately 2.7, a figure that is probably high because of an increase in population since 1940. Out of 529 cities, the median number of employees per 1000 population in 1948 was 1.30; the highest was 4.54.

Salary. Out of 459 cities the median entrance salary for patrolmen in 1948 was \$2640. The lowest was \$1680. The median maximum salary for patrolmen in 1948 was \$2700.

Work Hours. The median number of hours worked per week by uniformed police employees was 48 in 1948.

Conclusion

These examples show how information can be obtained. City officials can use the *Year Book* to measure the efficiency and effectiveness of some of their departments to an approximate degree. At the very least comparisons with other cities and with nationally-established standards, high though they may be, form a good foundation for evaluating city performance. After all, precise answers can rarely be given in evaluating administration; general conclusions, however, can often be determined.

determining representation in Congress and brought the following provision into the Constitution:

"But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judi-

cial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state."

The use of this provision against Southern states has frequently been threatened, but there is no record of its ever having been brought into play.

1880 Results Fill 22 Volumes

The 1880 census is generally recognized as one of the landmarks in the history of American census taking. For the first time the census office was authorized to build up an adequate local staff of supervisors and enumerators; and their work was reflected in 22 quarto volumes, covering a scope so wide as to be characterized as the most extensive in the history of the world. Because of dissatisfaction with the length of time consumed in the preparation and publication of these volumes, which were finished only towards the close of the decade, the procedure was modified in 1900. Inquiries were divided into major and

minor groups, the former including those for which enumerators were needed in the field and the latter those which could be conducted largely by correspondence, with incidental assistance from field agents. The major inquiries were required to be completed and published within three years, and no minor inquiry could be undertaken until after their completion. It was this law that set in motion the forces leading to creation of the full-time Census Bureau in 1902.

This Bureau took on additional duties almost immediately, at the same time spreading out its work so that there was not too much of a bulge in the decennial years. It began to publish annual volumes of vital statistics, listing total births and deaths and eventually marriages and divorces. (These, incidentally, furnished the impetus for states to pass birth and death registration laws; in 1900 only eleven states had adequate statutes in this field, whereas by 1933 all states were covered, the North Carolina law dating from 1913). In 1900 quinquennial manufacturing censuses made their appearance, and in 1921 these were shifted to a two-year basis. Five-year agricultural surveys followed in 1919. And reports on distribution of goods, or "business," began in 1929 on a biennial basis. At present, as the major fact-finding agency of the government, the Bureau issues

hundreds of reports each year—monthly, quarterly, or semi-annual; some special reports dealing with timely issues; and some merely replies to the multitude of queries on topics ranging from the amount of foreign trade with Hindustan to unemployment in Ash Flat, Arkansas, which flood in upon the Bureau with each mail.

Because of this interim activity, the scope of the decennial census has been held to a more easily manageable size since the establishment of the Bureau. In 1910, for instance, the first census after its creation, only four major topics were covered: population, agriculture, manufactures, and mines and quarries. Other topics formerly included now appeared in the annual reports. This plan of organization has been followed ever since. With a business survey currently in its final stages, the Bureau plans in 1950 to concentrate upon three fields: population, agriculture, and housing, first surveyed in 1940. And as in 1940, some of the minor questions will be handled by a sampling technique in order to hold the average interview to 20 minutes' time. But despite all the short-cuts it could devise, the Bureau couldn't prevent the millions of war babies who have bulged the nation's population to an all-time high, and it will still have its hands full in this seventeenth renewal of an old American custom.

The Attorney General Rules

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

Prepared by the Staff of the Institute of Government

I. AD VALOREM TAXES

A. Matters Relating to Tax Listing and Assessing

25. Revaluations

To Roy A. Taylor.

Inquiry: After a quadrennial reassessment of real property is made, is there any requirement that notice of this action be sent to taxpayers of an increase in valuations prior to the time that tax bills are sent out this fall?

(A.G.) I do not find anything in either your Public Local Act or the General Statutes which requires that notice be sent to taxpayers prior to the time that tax bills are sent out. However, I do think it is the usual custom in most counties to give taxpayers notice of any increase in the valuation of their property as soon as the Board of Equalization and Re-

view has adjourned so that they might have the opportunity to appeal therefrom within the 60 days allowed by statute.

I assume that you gave the notice required by G.S. 105-327.

To John Kerr, Jr.

Inquiry: A new project was listed in 1948 at a valuation later determined by the Board of Commissioners as excessive. However, the taxpayer paid the tax and later filed a claim with the commissioners for a refund of the excess. Do the County Commissioners have authority to authorize the refund?

(A.G.) If the valuation placed on the property in 1948 was duly and properly assessed, with legal notice to the taxpayer, and the taxpayer did not in due time protest and appeal to the board of equalization or the board of commissioners for reduc-

tion, the assessment was binding and no refund could be authorized. G.S. 105-403. It would not come under G.S. 105-401.1. If however, the assessment was not legally made in the first instance, or if the taxpayer did not have notice of assessment in time to apply to the board for reduction, the board may now assess the property for 1948 at whatever valuation it deems proper and may make refund to the taxpayer under authority of G.S. 105-405.1.

B. Matters Affecting Tax Collection

28. Payment of tax by mortgagee

To W. G. Edwards.

Inquiry: When a county has instituted a proceeding to foreclose a tax certificate which includes two tracts of land, one valuable and the other of insufficient value to bring the amount of the taxes, can the mort-

gagee of the valuable tract obtain a release of the tract in which he is interested by paying taxes, penalties and costs attributable to that tract at any time after he has been served with summons?

(A.G.) I am of opinion that the mortgagee may discharge the lien upon the tract in which he is interested at any time prior to the beginning of the actual advertisement pursuant to the foreclosure decree, upon payment of all taxes, penalties and interest, on the tract in which he has an interest, together with a proportionate part of any personal property, poll or dog taxes owed by the taxpayer to the same taxing unit for the years for which the taxing unit holds a lien, and a proportionate part of the costs which accrued in the foreclosure proceeding.

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES

A. Levy of Such Taxes

To R. H. Ramsey, Jr.

(A.G.) I am of the opinion that one who deals only in shotgun shells is not liable for the tax on dealers in metallic cartridges imposed by section 145 of the Revenue act, because inapplicable.

1. Exemptions

To L. E. Smith.

Inquiry: Is it necessary for a college operated as a non-profit institution to obtain a privilege license tax where its bookstore sells sandwiches, tobacco and soft drinks, even though it is maintained by the college, in a college building and for college students only? Also, is the college liable for sales tax upon taxable sales made by such a bookstore?

(A.G.) The college is liable for both types of taxes, notwithstanding the fact that the store is operated by a non-profit institution and not in competition with other merchants.

26. Auction Sales

To J. H. Stockton.

(A.G.) In the absence of any restriction in the charter of a town, or special acts applicable thereto, I am of opinion that the municipality may levy a privilege license tax upon auction merchants under the general power granted to municipalities by G.S. 160-56, subject only to the general limitation that the tax must not be unreasonable or arbitrary. Nothing in Art. 2, Chapter 85 of the General Statutes prevents the levy of a privilege license tax on jewelry and silverware auctioneers (G.S. 85-5). It is, however, very doubtful whether the hours of such auction sales could be regulated, under the rule of *State v. Ray*, 131 N.C. 814 (1902).

40. Peddlers

To E. H. Kendrick.

Inquiry: Does a municipality have authority to levy a privilege tax on a company under the following circumstances? The Company operates several trucks from a point without the city limits for the purpose of delivering fuel oil to customers in the corporate limits. The operator of the trucks installs equipment for its customers and customers agree that

they will purchase their fuel oil from the operator. The customers determine what amount of oil they need and desire to purchase at the time of the delivery within the city.

(A.G.) If there is no agreement in advance for the purchase of oil, and if there is no sale of oil outside the city, with delivery to be made later inside the city, then it is my opinion that the municipality is authorized to levy a peddler's license on the company. (See G.S. 105-53; 160-56.)

If, however, there are previous orders for this fuel oil, and the trucks enter the corporate limits only for the purpose of fulfilling orders already taken, I am of the opinion that the Town would be unauthorized to levy a tax on such activities. This would not constitute "doing business"—*Kenny Company v. Brevard*, 217 N.C. 269 (1940). Such activities would not constitute "peddling." *Greensboro v. Williams*, 124 N.C. 169 (1899).

53. Photographers

To R. C. Snyder.

(A.G.) You ask my opinion as to whether a municipality may levy a privilege license tax upon a studio that handles photographic equipment and supplies. You call attention to the prohibition of municipal taxation of photographers contained in Section 109 of the Revenue Act. In my opinion, that section prohibits municipalities from levying a tax against one engaged in the occupation of photographer; but if the photographer or photographic studio also deals in and sells photographic equipment and supplies, I am of the opinion that the business of selling such equipment and supplies could be subject to municipal privilege license tax under the general power given municipalities by G.S. 160-56.

62. Bottlers

To R. C. Snyder.

Inquiry: Are municipalities permitted to levy a license tax on soft drink distributors who maintain their places of business outside the corporate limits of the town, but deliver drinks within the corporate limits?

(A.G.) Section 134 of the Revenue Act, G.S. 105-69, levies a state license tax on manufacturers, producers, bottlers and distributors of soft drinks, and provides "nor shall any tax be levied or collected by any county, city, or town on account of the delivery of the products, beverages, or articles enumerated in . . . this section when a tax has been paid under any of those subsections." In my opinion, this provision prohibits municipal taxation upon soft drink distributors who have paid state taxes under this section and who merely deliver within the corporate limits of the municipality.

B. Collection of License Taxes

1. Means of collection

To L. P. Dixon.

Inquiry: Is it legal for a municipality to levy on property and sell it in order to collect privilege license taxes?

(A.G.) A municipality has no authority to levy upon property for non-



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of
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payment of privilege license taxes. A person who engages in a business for which a privilege license tax is levied without paying the tax is subject to indictment; also, a suit may be brought to collect the tax and execution may issue on the judgment.

IV. PUBLIC SCHOOLS

B. Powers and Duties of Counties

69. Restricting attendance and assigning pupils

To G. P. Smith.

Inquiry: Where a resident of one township owns property and pays taxes including a school supplement tax in a second and adjoining township, should the school board charge him an additional \$12 a year because his son attends high school in that township adjoining the residence?

(A.G.) Yes. Unless the person can have the State Board of Education transfer the son from the district of his residence to the district of the one where he attends school, the tuition charge is properly made.

D. Powers and Duties of Present School Districts and Agencies

To A. L. Butler.

(A.G.) I do not find any provision for the enlargement of the boundaries of school-bond taxing districts created under the provisions of Ch. 382, Laws of 1947. The district cannot be enlarged by a petition of the persons residing within the area desired to be included, and it is my opinion that under Art. VII, Sec. 7 of the Constitution, it would be necessary to have a vote of the people to authorize the imposition of tax for such purpose unless it could be established that the taxes were levied for the purpose of providing school buildings necessary for the constitutional school term in Art. IX, Sec. 3. I believe it would be necessary to secure some further enabling legislation to permit a vote on the extension of boundaries of such a bond district, and that the desired result could not be accomplished by a petition of any kind.

2. School age requirements

To Mrs. L. M. McCoy

Inquiry: Is a child who will be six years of age on Oct. 2, 1949 eligible to enter school this year?

(A.G.) Yes, although it is stated in the statute, (G.S. 115-371) that a child must be six years old on or before October 1st of the year in which he enters school, the common law has established through many cases that the child would be six years of age on the first moment of Oct. 1, 1949, or the first day preceding the

anniversary of birth. (See 31 C.J. 987; *Hamlin v. Stevenson*, 34 Ky. 597, etc.)

To J. L. Haynes.

Inquiry: Whose duty is it to enforce the Statute relating to the age of children entering school for the first time?

(A.G.) It seems to me that the responsibility for enforcing this Statute, as well as others, in matters affecting any particular school, rests upon the Superintendent of the School, and if no Superintendent, then upon the Principal. If any teacher violates the provisions of this statute, he or she would be subject to discipline the same as if he violated any other Statute.

F. School Officials

50. Election and contracts

To Fred C. Hardison.

Inquiry: May a public school teacher's contract be cancelled or terminated at the pleasure of the school board?

(A.G.) A teacher can be discharged only for just cause and after notice and hearing, once a contract has been entered into. The causes are specified in the Statute and the teacher can appeal from the decision of the school committee to the Courts.

H. School Health Laws

1. Compulsory medical examinations

To Mrs. Martha H. Mattocks.

Inquiry: Must a school teacher of Christian Scientist faith furnish a health certificate (G.S. 115-140) before assuming her duties in a public school, even though the doctrine of her religion opposes treatment for sickness and disease?

(A.G.) Yes. The constitutional right to practice religion freely does not include the liberty to expose the community or the children in the schools to possible communicable diseases.

I. School Property

4. Leasing school property

To W. S. Hamilton.

Inquiry: Does the Board of School Trustees have authority to permit the use of the high school baseball diamond by a professional baseball team?

(A.G.) There is no statutory authority for the Board of School Trustees to lease school property to an outside organization which proposes to use it for profit. However, I am of opinion the trustees could enter into an agreement with a professional team permitting the use of the baseball field in consideration for improvements provided it does not interfere with any school activities.

C. Powers and Duties of City Administrative Units

32. Purchases of supplies, etc.

To C. M. Williams.

Inquiry: Should school units in the state be required to purchase all their needs through the Division of Purchase and Contract, or is it permissible for them to purchase locally where only local funds are involved?

(A.G.) In our opinion the statute (G.S. 115-372) is all-embracing as to this operation, and I advise that

it is the duty of all county boards of education and the governing bodies of city administrative units to purchase all supplies, equipment and materials through the Division of Purchase and Contract, irrespective of the source of funds and that this duty applies equally to local funds as well as state funds.

VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES

G. Support of the Poor

10. Payment of medical expenses

To J. S. Benner.

(A.G.) In order for a non-stock, non-profit, charitable hospital to be eligible to receive indigent benefits from the North Carolina Medical Care Commission under G.S. 131-119, it is necessary (as of July 1, 1949) that the hospital be "owned and operated" by the corporation. The statute is construed to mean the corporation must "own" the whole hospital, realty as well as equipment. A corporation which owns its equipment, but not the real estate upon which it is located, is not eligible for benefits.

S. What Constitutes Necessary Expense

5. Hospital

(A.G.) County commissioners may, by proper resolution duly adopted, amend the budget and appropriate surplus funds, such as receipts from ABC stores, to a non-profit hospital in the county. See Section 6, Chapter 933, Laws of 1947.

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS

B. Clerks of Superior Court

19. Adoptions

To Dr. Ellen B. Winston.

Inquiry: Is it necessary, under the Adoption Law passed by the 1949 Session of the General Assembly, for a superintendent of public welfare to sign and verify a petition for the adoption of a child released to him by its parents and placed by him in an adoptive home?

(A.G.) No. Perhaps this practice was warranted by the former law. (G.S. 48-4) The 1949 Adoption Law seems to me to dispense with this practice. Pertinent portions of the new law are quoted below:

"48-9. *When consent may be given by persons other than parents.* - - -

(a) In the following instances written consent sufficient for the purposes of adoption shall be sufficient to make the person giving consent a party to the proceeding and no service of any process need be made upon such person.

(1) When the parent, parents, or guardian of the person of the child, has in writing surrendered the child to a superintendent of public welfare of a county . . . and at the same time in writing has consented generally to adoption of the child, the superintendent of public welfare . . . may give consent to the adoption of the child by the petitioners." (Emphasis added.) It seems to me that the above-quoted portion of the Act specifically dispenses with making a county su-

perintendent of welfare a formal party to the petition by placing his name in the caption and requiring him to sign and verify the petition. The very act of giving consent itself creates a legal equivalent to the requirements under the former law.

L. Local Law Enforcement Officers

3. Prohibition law—transportation

To Ernest R. Alexander.

(A.G.) You state that a man was apprehended with 8 pints of whiskey in his car and apparently on his way home. (At least, he was proceeding in that general direction.) You raise the question of his possible guilt of unlawful possession and transportation because, among other reasons, there was no stamp or other evidence showing that he had legally purchased the whiskey from an A.B.C. store in this State or had purchased the whiskey from a legal source outside the State, although the whiskey did have Federal Stamps fixed to the containers. You also state that the defendant offered no evidence, but entered a plea of not guilty.

The facts stated, in our opinion, would warrant you in finding a verdict of guilty unless the defendant satisfied you that he acquired this liquor in a legal manner.

See *State v. Holbrook*, 228 N.C. 582, 583. ". . . Here there was no evidence where the liquor came from, and it was a matter of defense for the defendant to bring his case within the exception (of transporting liquor through or into a dry county from a wet county—G.S. 18-49, or from without the State—G.S. 18-58.) either from the State's evidence or from that of the defendant."

See also *State v. Wilson*, 227 N.C. 43, 46, where the Supreme Court holds that it is competent to show that the State tax had not been paid on the liquor seized, and by the same token, I assume that it would be competent to show that no valid out-of-state tax from a legal source had been paid.

13. Prohibition law—possession

To S. C. Hopkins.

Inquiry: Where a county has voted out beer and wine, does the possession of any amount of beer or wine in that county in a place of business raise a presumption in the law that it is possessed for the purpose of sale?

(A.G.) The only presumptions arising from the possession of beer and wine are those which existed prior to the date upon which the Turlington act was so amended as to permit



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the possession and sale of beer and wine. For all purposes, it seems to me that there is no direct prohibition against the possession of beer and wine, but that it may not be possessed for the purpose of sale. The presumption statute is G.S. 18-32, the pertinent part of which makes the possession of more than three gallons of vinous liquors or of more than five gallons of malt liquors at any one time, whether in more than one place or not, prima facie evidence of having such beverages in possession for the purposes of sale. The possession of more than three gallons of wine or five gallons of beer would make out a prima facie case against the dealers that they had such beverages for the purpose of sale.

32. Gambling

To W. D. Hall.

(A.G.) Under the laws of North Carolina, the game of bingo is considered a gambling game.

52½. Suspended sentences

To Z. V. Rawls.

(A.G.) You refer to a certain criminal case wherein judgment was entered requiring the defendant to serve a sentence for a stated period. The sentence was suspended upon certain reasonable conditions. You state that your procedure heretofore has been to make a motion in the original cause for the enforcement of the judgment after proper notice to the defendant, but that in the instant case, it is contended that this former judgment can only be enforced in the event that the defendant is convicted of one of these broken conditions.

As far as our office is concerned, the procedure outlined in your letter is correct. It is not necessary for the defendant to be convicted of a breach of these conditions. This is a matter to be heard by the judge, and in such a hearing, the court is not bound by strict rules of evidence. The proceedings to ascertain whether the terms of the judgment have been complied with are addressed to the reasonable discretion of the judge and do not come within the province of the jury. Findings of the judge are not reviewable on appeal unless there is an abuse of discretion. *State v. Pelley*, 221 N.C. 487, 499, 500.

There is one possible exception to the rule, stated in *State v. Hardin*, 183 N.C. 815, at 818, to the effect that where a defendant has been acquitted by a jury or other competent tribunal having jurisdiction of the offense which is the sole basis of the proceeding, then the court hearing the matter of suspended judgment is concluded by this acquittal. Clearly such a situation exists where the court, attempting to find a breach of a condition, is met with an acquittal on the very thing which it is claimed constitutes a breach of the condition.

72. Pyrotechnics

To Gladys M. Kierman.

(A.G.) Sparklers are considered pyrotechnics within the meaning of the North Carolina law prohibiting the sale, use and possession of pyrotechnics.



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90. Warrants

To J. D. Blythe.

Inquiry: What course may the state follow in a prosecution, where much of its evidence is based on a search under a search warrant, but, because the warrant is lost, it cannot be produced at the trial on demand by the defendant?

(A.G.) I think that the state, upon producing sufficient evidence that the warrant has been lost and that reasonable and diligent search has been made for the same, it is entitled to introduce parol evidence as to the contents of the warrant. The defendant likewise should be allowed to offer evidence in the same manner as to the contents of the warrant.

To G. W. Williams.

(A.G.) As to the service of a peace warrant, I find nothing that requires a copy of the peace warrant to be served upon a defendant. In my opinion, peace warrants are served in the same manner as any other warrant. Of course, under Section 15-160 of the General Statutes, a defendant is entitled to a copy of the warrant on payment of the lawful fee for same.

To Messrs. Womble, Carlyle, Martin & Sandridge.

Inquiry: If an anonymous letter or telephone call is received by a police officer, the contents of which leads the officer to believe that the informant knows what he is talking about and is telling the truth, would the officer have sufficient information to make the oath required in getting a search warrant?

(A.G.) The case of *State v. Elder*, 217 N.C. 111, held that it is not necessary for the officer, in making application for a search warrant, to set out the facts in the affidavit. The word "information" was held sufficient, assuming the issuing magistrate examined the officer concerning his oath. In the case of *State v. Cradle*, 213 N.C. 217, it was stated that the statute does not require the name of the informer to be given, in the sworn affidavit. It would seem, therefore, that the sources of information indicated could be used by the police.

M. Health and Welfare Officers

31. Health laws and regulations

To W. I. Godwin.

(A.G.) G.S. 130-206 provides that it is the duty of health officers to investigate sources of infection and venereal diseases, but I do not believe the language in the statute is clear enough to warrant the conclusion that a health officer is empowered to issue a warrant or other

enforcement process, direct the same to the county sheriff, and have it served. It is true the statute gives the health officer power to detain suspected persons until results of an examination are shown, but it is utterly silent as to how the detention should be brought about. The law does give the Board of Health power to make rules and regulations, violations of which constitute a misdemeanor, so that a health officer could direct a suspected person to stay at home or some other place that is convenient until results of examination are known, and a violation of this order would be a misdemeanor. A warrant, however, probably could issue only when it charged a violation of the statute itself, or a rule, regulation, or lawful order of the health officer.

Q. Municipal Officers

8. City Manager

To William B. Campbell.

Inquiry: In a municipality governed under Plan "D," Mayor, City Council and city manager, which is part 4 of Article 22 of the General Statutes, does the City Manager have the sole authority for hiring and firing city employees, whether department heads, superintendents or professional employees?

(A.G.) Yes. See G.S. 160-339 as to powers of the city council and city manager; 160-348 for the appointment and powers of the city manager (he shall be administrative head of the city government and shall be responsible for the administration of all departments). G.S. 160-349 provides that "the city manager shall

VALIDITY OF PARKING TICKETS

To Louis J. Fisher, Jr.

Inquiry: May the licensed owner of a motor vehicle be convicted for over-parking where the only evidence is that the car is registered in his name? (Stated another way—"In other words, a ticket is put on a car and the Police Department checks the records and finds out the name of the person to whom the car belongs. No other evidence appearing, can there be a conviction of the defendant, assuming of course that the defendant does not take the witness stand? Will the above simply be prima facie evidence that the owner of the car is the one who had parked it?")

(A.G.) We have been unable to find any court decisions concerning the validity of an ordinance covering the situation above. Thus, we are unable to determine with any degree of certainty just what the court would decide should a test case be brought. We are inclined to think that such an ordinance is of doubtful validity in the absence of an act of the Legislature authorizing municipalities to pass ordinances of this nature.

(1) be the administrative head of the city government . . . (5) appoint and remove all heads of departments, superintendents and other employees of the city."

G.S. 160-350 provides that "such city officers and employees as the council shall determine are necessary for the proper administration of the city shall be appointed by the city manager, and any such officer or employee may be removed by him."

It would thus seem that the city manager is certainly given the power to discharge such employees and it is indicated from the above quoted statutes that the city council could not interfere with this general power of the manager, who is "the administrative head of all departments."

(G.S. 160-339 provides that "the government of the city and the general management and control of all its affairs shall be vested in the city council . . . except that the city manager shall have the authority herein specified.")

U. Notaries Public

15. Seal

To Maxalene Mathews.

Inquiry: When a woman notary public marries, should she continue to use the seal containing her maiden name and should she continue to use her corresponding signature?

(A.G.) The seal which she had before she was married can continue to be used, and she should sign her name as it appears on the seal, adding after her maiden name her husband's family name. If after marriage the notary public continues to have her commission renewed it would be desirable to change the seal.

X. ABC Boards and Employees

15. Law enforcement

To R. W. Winston.

Inquiry: Does a County ABC Board have the authority to donate a sum of money from its surplus law enforcement fund to the State Highway Patrol for the construction of a needed radio transmitter in the county, where the ABC law enforcement agents would not have the use of the radio facilities?

(A.G.) I do not think the ABC Board may allocate money from its law enforcement fund to the State Highway Patrol for this purpose when the law enforcement officers of the Board would not be permitted to use the facilities.

Slum Clearance

(Continued from page 10)

tween the total costs of acquiring, clearing, and reselling former slum or blighted land, and the total proceeds derived from the sale. The Federal government does not absorb the whole net cost—local "grants-in-aid" must bear part of the burden. The HHFA will pay two-thirds of the net project cost, and the local agency must provide the remainder. However, the local contribution may be either in cash or in the form of dona-

tions of land, improvements, and services. Thus the normal municipal services which would be extended to such a project—streets, utilities, etc.—would be credited against the local share of the total net cost.

The Title I provisions for loans and grants are aimed at eliminating the two sharp prongs of a dilemma which has faced nearly every local effort at effective slum clearance and blighted area redevelopment: (1) the prohibitive amount of working capital required for acquisition and clearance of such properties; and (2) the net loss which is almost certain to be sustained because of the fact that slum property (usually very profitable to its owners) is almost always worth less in the market place, for re-sale when cleared, than the total cost of acquiring and clearing it for redevelopment.

The temporary loan provides the working capital, and the cash grants take two-thirds of the edge off the net loss which may be sustained. The local burden is further lessened by the fact that the local contribution of one-third the net cost includes the cost of services which the community would have to provide anyway, for any newly developed area.

An Example of How the Program Works

The HHFA's recent "Handbook of Information" on the Housing Act of 1949 contains a hypothetical example of a local slum clearance and redevelopment program, which illustrates how it works under Title I, and includes a number of requirements which must be met by local governments, in addition to those we have discussed. This official example is condensed here, to show how municipalities in states having adequate enabling acts proceed to obtain Federal assistance in such projects.

Suppose Central City wants to eliminate a slum area, but cannot do it without Federal assistance. Since the Federal Act authorizes loans and grants to a local public agency which is authorized to clear slums (this may be a public housing authority, a special redevelopment agency, or a department of the city government, or other local public agency), Central City decides to create a redevelopment agency as authorized by the laws of its state.

Central City meets Title I requirements by having a general city plan for development of the locality as a whole; by having positive programs to modernize its building codes (to help reduce housing costs) and related

regulations, its land use, health, sanitary, and safety codes and regulations for halting or preventing further growth of slums.

Central City's redevelopment agency needs about \$20,000, it estimates, to finance surveys of the slum area, and to prepare a specific project. It applies to the HHFA for an advance of this sum, to be repaid with interest at the going Federal rate.

Some months later the agency is ready for a temporary loan to carry out its project. It can show definite estimates of the money it will need, including a complete break-down of costs and anticipated returns. It has definite plans both for the work to be done in the project, and for its future development. It has official city approval; and it has a plan for rehousing families who will be displaced. In addition, the city has agreed to contribute about \$350,000 in donations of land, services (such as demolition work), and such site improvements as streets, utilities, schools, playgrounds, and other public improvements which will serve the project.

The local agency estimates need for \$1,650,000, in addition to the \$350,000 in local contributions, to acquire, clear, and prepare the area for redevelopment.

Its application is approved by the HHFA, and it enters into a contract to receive a Federal loan to finance the expenditures it will have to make, with a commitment for a Federal grant to meet up to two-thirds of the loss the agency will incur when the cleared land is sold or leased for redevelopment.

The slum area is bought, cleared, and readied for redevelopment. The gross cost, including the \$20,000 originally advanced for planning, the \$350,000 contributed by Central City in land, services, and improvements, and the \$1,650,000 spent by the redeveloping agency, comes to \$2,020,000. The land thus cleared is then sold for \$820,000, leaving the project \$1,200,000 in the red.

Toward this net loss the city can count on \$800,000 from the HHFA in the form of capital grants, since its contract requires the government to meet up to two-thirds of the deficit it incurs in buying, clearing, preparing, and selling the slum land for redevelopment. The \$400,000 balance must be made up by Central City. However, the \$350,000 in land, services, and improvements which it has contributed are applied against this balance, so that the city needs to pay \$50,000 in cash.

Justice W. A. Devin
Supreme Court of North Carolina
Raleigh, N. C.

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