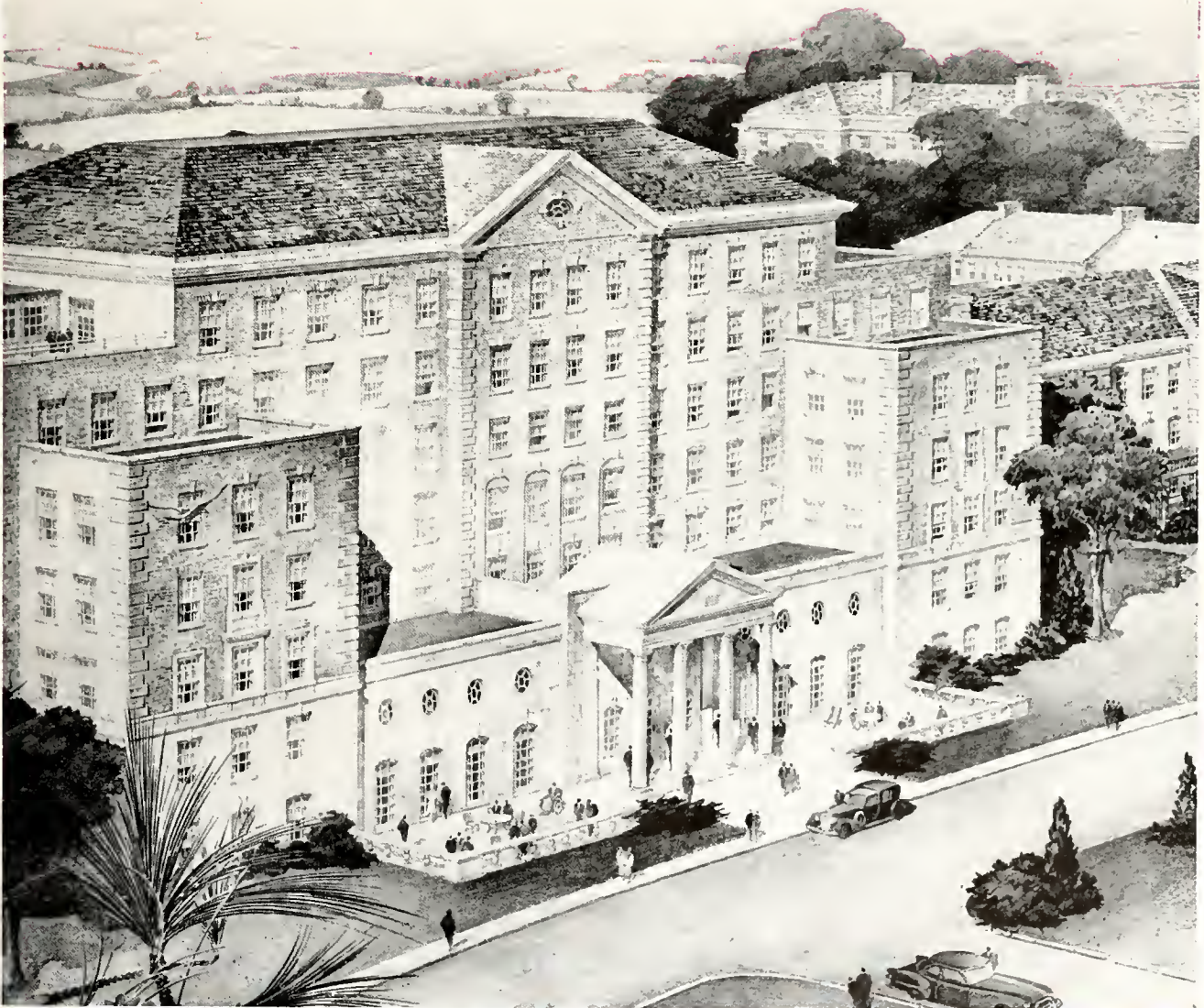


December, 1949

POPULAR GOVERNMENT



The University's New Hospital—Chapel Hill

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

Work has begun at Chapel Hill on the University Medical School's new teaching hospital—and the artist's drawing reproduced on the cover of this magazine shows how the big 400-bed institution will look when the job is done.

The hospital will be the dominant structure in a great new medical center, and is part of a ten million dollar construction program made possible by appropriations of the legislatures of 1947 and 1949. One of the new projects—the venereal disease research laboratory—is just about finished. The others are still in the planning stage, but plans for them are well advanced.

Major projects and appropriations in the program include: the hospital building and equipment, \$6,124,000; nurses' home and training school, and equipment, \$1,618,000; living quarters for internes and residents and equipment, \$610,000; venereal disease research laboratory, \$175,000; dental school, \$1,000,000; and additional wings for the present medical school building, \$200,000.

The 1949 legislature also appropriated \$511,250 for a new 100-bed tuberculosis sanatorium, and delegated to the board of directors of the state's tuberculosis sanatoria the responsibility of selecting the site for the new institution. The board decided to place the sanatorium in Chapel Hill, in close conjunction to the medical center now arising there.

The University's medical building program is being carried out under the supervision of a special committee of the University's Board of Trustees, working in cooperation with Dean W. R. Berryhill of the Medical School, and composed of the following members: Collier Cobb, Jr., Chapel Hill, Chairman; James H. Clark, Elizabethtown; James A. Gray, Winston-Salem; John Sprunt Hill, Durham; L. P. McLendon, Greensboro; Thomas J. Pearsall, Rocky Mount, and Wade Barber, Pittsboro.

Architects for the new hospital are Northup & O'Brien of Winston-Salem, and their associates in the project, Schmidt, Garden & Erikson of Chicago.

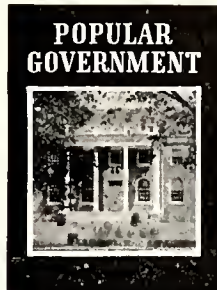
THE CLEARINGHOUSE

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

Federal Grants For Hospitals Doubled

"A new philosophy not previously found in grant-in-aid programs" are the words used last month by the Council of State Governments to describe H. R. 5903, passed by Congress in the closing days of the session. The bill, which increases aid to state and local governments for hospital construction from the present \$75 million to \$150 million, also raises the federal matching share to two-thirds in some states, depending upon that state's per capita income. In other words, North Carolina, with a relatively low per capita income, may receive federal aid for individual hospital projects totaling two-thirds of the cost of construction, while in the past the federal government has only borne one-third. Wealthier states such as New York and Nevada will continue to receive only one-third of the project cost from the federal government.

The unique provision in the law, one that contains an essentially "new philosophy," permits a state to use its discretion in varying the proportion of federal grants allotted to different hospital projects within its borders. The federal share for each project may range between one-third and two-thirds of the total cost, depending on local needs as determined by the state agency administering the funds. This provision is of particular significance to North Carolina. Some of the larger and wealthier counties which have had lower priority than the poorer counties for federal aid will be able to begin work sooner on new hospitals because of the greater flexibility of the new aid program as well as the increase in available funds. Dr. John A. Ferrell, executive secretary of the State Medical Care Commission, which will administer the program in North Carolina, has announced that a new 200-bed hospital for Buncombe County will be approved as soon as a site is obtained and local funds are raised. Dr. Ferrell also reported that plans are being considered for enlarging the Negro hospital in Charlotte with the aid of federal money.

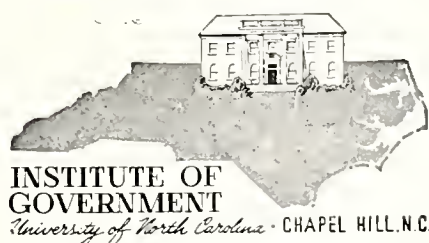


December, 1949 Vol. 16, No. 3

Contents

THE CLEARINGHOUSE	1
Federal Grants for Hospitals	1
Slot Machine Refueling	1
Public Safety Director	2
City Department of Public Relations	2
The Long Weekend	2
Rent Control Picture	2
City Engineering Department	
Reorganization	3
Street and Sidewalk Policy	3
Nuisance Survey	3
Henderson Expands	3
The 1950 Census	3
Municipal Money Worries Go Up in	
Smoke	4
State Reorganization Studies	4
City-County Merger Studies	4
Trailer Camps	4
The Feminine Touch on Parking	
Tickets	5
Birth of a Town	5
The Pace Quickens	5
Public Works Planning Aid	5
Birth of a Town	5
The Minutes Tell the Story	5
THE FEDERAL FARM HOUSING PROGRAM	6
CITY PLANNING IN NORTH CAROLINA	8
THE HILLS OF HOME	10
RECENT SUPREME COURT DECISIONS	11
THE ATTORNEY GENERAL RULES	12
THE JAILERS GO TO SCHOOL	Inside Back Cover

POPULAR GOVERNMENT is published monthly, except July, August, and September, by the Institute of Government, the University of North Carolina, Chapel Hill. Editor: Albert Coates; Associate Editors, W. M. Cochran, Claude R. Edwards, George Esser, Phillip P. Green, Jr., Donald B. Hayman, Henry W. Lewis, Ernest W. Machen, Jr., J. A. McMahon, Clifford Pace. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscription: Per year, \$2.00, single copy, 25 cents. Advertising rates furnished on request. Entered as second class matter at the Post Office in Chapel Hill, N. C. Copyright, 1949 by the Institute of Government. All rights reserved.



North Carolina's federal appropriation for hospital construction this year will be \$6,414,000, exactly twice the amount received under the Hill-Burton act last year. Dr. Ferrell has estimated that the total funds available, including federal, state and local contributions, will be about \$15,000,000.

Slot Machine Refueling Banned

Motorists who are able to obtain cigarettes, postage stamps, soft drinks, and even their lunch, by dropping coins into a machine have been finding it possible in some areas recently to refuel their automobiles as well as themselves by the same impersonal procedure. This last convenience has been terminated, within the past few months, however, in at least thirty cities and fifteen states where the operation of self-service gasoline stations has been prohibited on the grounds that careless handling of the pumps by motorists constitutes a fire hazard.

An ordinance which went into effect in Winston-Salem on November 21 states concisely: "That no gasoline or other motor fuel shall be sold or dispensed at or in any public commercial garage, gasoline supply station, automobile parking station, automobile service station, aircraft fueling station, or any other place of business in the City of Winston-Salem, by means of any coin-operated device, or other self-dispensing device." Violators of the ordinance will be guilty of a misdemeanor and subject to a \$50 fine or thirty days imprisonment.

Los Angeles County, California, permits self-service gas stations to operate but requires that the management observes strict rules designed to protect the public safety. All pumps must be equipped with automatic shut-off nozzles to stop the flow of gasoline when tanks are full, and there must be fire fighting equipment, a public address system and an adequate number of attendants at each station.

Raleigh To Have Public Safety Director

Raleigh's city council has authorized the city manager to appoint a director of public safety to take charge of the over-all functioning of the police and fire departments. The new job will not be classified under civil service and will carry a maximum salary of \$6,000. The position of director or commissioner of public safety has existed for several years in many of the larger cities in the country, although the powers and duties attached to the job vary from city to city. In Toledo, Ohio, where the police and fire departments are subsidiary branches of the department of public safety, the director is not only executive head of the two divisions but also the chief administrative authority in all matters concerning the building code. The building inspector, in fact, is the deputy director of public safety. The director may prescribe rules and regulations governing the internal operations of the police and fire divisions. The police and fire chiefs have the right to suspend any member of their divisions, but the director has the authority to review the case, and (if he finds the charge justified) to ask for

dismissal, reduction in rank or suspension. His decision may be appealed to the civil service commission.

The director of public safety in several other cities, most of them considerably smaller than Toledo, actually combines the job of police and fire chiefs, acting as administrative head either over the two departments or over a single department of safety which uses the same personnel both as firemen and policemen. In either case junior officers responsible to the director are assigned to give full time to each function.

On September 1 of this year Wilmington began a one year experiment with a director of public safety by appointing Thomas G. O'Neal, a former Intelligence Officer, to the new position at a salary of \$5,000. Major O'Neal was expected to take over the duties of police chief and at the same time have jurisdiction over the fire department. His main emphasis for the time being will be on a study of the personnel of both departments and on preparation of a report to the city manager on his findings and recommendations.

City Department of Public Relations

Durham's city council adopted an ordinance this month which establishes a Public Relations Department as an administrative agency of the city government. The council's action was taken following a recommendation submitted by the Community Development Commission and endorsed by several civic groups. The new department will operate primarily as an advertising agency to promote "the resources and natural advantages of the City of Durham" for the purposes of attracting new industries to the area. To be headed by a director appointed by and responsible to the city manager, the department is authorized to use radio, newspapers, motion pictures, pamphlets and any other "suitable or reasonable" mediums to advertise the city.

The city is empowered to create a public relations division of the government under the charter provision

authorizing expenditure of funds for advertising purposes as long as these funds do not come from *ad valorem* tax revenues. Durham County commissioners have indicated their approval of the ordinance and attorneys are studying the possibility that the county may contribute toward the establishment and maintenance of the department.

The Long Weekend

The mayor and city manager of Charlotte are investigating the possibility of putting the city's employees on a five-day, 37½ hour week, eliminating the half day of work on Saturday. The city hall now remains open from 8:30 to 4:30 p.m. on weekdays and until 1 p.m. on Saturdays. If the

five-day week is approved by the city council, the daily closing hour would be extended to 5 p.m. and individual departments could formulate their own schedules for skeleton crews to work on the sixth day. Supporters of the move have cited the fact that the 4:30 closing time was instituted as a war measure and is unusually early. They also point out that city officials in the past have found the six-day schedule turns competent job candidates away from municipal employment. Charlotte already has an arrangement enabling its citizens to pay their water bills and taxes whenever the city hall is closed by means of a depository at the front of the building, which has been in use for approximately two years.

The shorter work week has also been advocated for Guilford County employees, but county officials are generally agreed on a decision to postpone consideration of the question pending the outcome of the state's six-month experiment with the plan. The fact that most farmers are able to visit the tax office only on Saturdays will influence the county's decision, but a suggestion has been made that Saturday service could be maintained by giving employees "staggered" days off.

According to the Municipal Yearbook for 1948, approximately 67% of American cities require all municipal employees to work on Saturday, but only 1% of the cities require a full sixth day of work for the entire staff. The larger cities are more inclined to close their offices on Saturdays than the smaller cities, the Yearbook reports, with 50% of the cities over 500,000 employing a skeleton staff only. A full staff for half a day is used by only 25% of these cities but by 73% of the cities between 10,000 and 25,000.

Rent Control Picture

Asheville last month became the third North Carolina city to lift rent controls by local action. The city councils of Lexington and Washington previously followed the required procedure of holding a public hearing on the question, drawing up a resolution declaring that rent controls were no longer needed in the area, and having the resolution approved by Governor Scott and forwarded to Housing Expediter Tighe Woods in Wash-

ington. Under his own initiative Woods has already decontrolled all but seven cities and the 21 most populous counties in North Carolina. He is empowered to re-impose controls whenever he deems it necessary, in any area where rents were not lifted through local petition.

In Charlotte, where the rent con-

trol issue has been a live one, the city council requested federal housing officials to make a survey of the rental housing situation and agreed to postpone action on the question pending the outcome of the study. Approximately 35,000 living units in the Mecklenburg area will be affected by the council's decision.

City Engineering Department Reorganization

Charlotte's City Engineering Department may soon be revamped to provide for better coordination and greater efficiency. Lloyd G. Richey, newly appointed city engineer, has submitted a number of recommendations to the city manager calling for tighter organization within the department and an expansion of the functions performed by its work crews. The plans, if carried out, would include the formation of a new four-man field party and the employment of two additional draftsmen, at a total salary cost of \$12,000; the organization of three work parties to work with the present sewer construction crews and install the lateral connections, work formerly done by plumbers; the consolidation of sewer construction functions under the su-

per vision of one man; the coordination of the work of the five construction inspectors under the responsibility of a single supervisor; and the employment of a full time clerk (under the superintendent of streets) to handle payrolls, receive calls, and accept shipments of materials at the city garage. Mr. Richey also included in his recommendations a plan to organize an inspection and repair crew to check on all manholes, catch basin castings and slabs, and broken sidewalks, with the aim of correcting conditions necessitating repairs even before they are reported. Records showing sections of the city covered and dates when inspections were made will prove helpful, he believes, in determining the city's responsibility if damage claims should be filed.

Street and Sidewalk Policy

The city of Charlotte made two major changes in its policy concerning the repair and paving of streets and sidewalks this month. A ruling by the Attorney General, requested by the city manager, opened the way for limited maintenance of streets which had not previously been formally turned over to the city for maintenance. The Attorney General ruled that under G.S. 160-222 the city is held responsible for the upkeep of public streets, and is authorized to keep them passable. Fifteen streets, selected by foremen of the various maintenance crews as those in the poorest condition, were scheduled for immediate attention this month following formal approval of the list by the city council. The council will be asked to approve additional streets during the weeks to come. Work to be done will include shaping up, filling holes, digging side ditches, and machine grad-

ing and oiling. No permanent improvements, such as hard-surfacing, can be made on these streets unless abutting property owners petition the city and are assessed the costs of such work.

The second decision reached by Charlotte officials in a move to speed the work of making street improvements was to adopt a cash-on-the-barrelhead policy on permanent improvements. The lack of municipal funds made it increasingly difficult for the city to undertake large-scale paving projects under the old system, whereby property owners were given up to ten years to pay for the work. The new policy requires that property owners who petition for street paving or sidewalks must deposit the full amount of the cost of the project with the city before construction is begun. No charge will be made for preliminary surveys, cost estimates, or supervision by municipal engineers.

Nuisance Survey

A comprehensive survey of Greensboro, High Point, and the rural areas of the county will be conducted next spring as part of the Guilford County Health Department's effort to locate and eliminate health nuisances. Pond areas especially will come in for intensive investigating as possible breeding places for mosquitoes. The health board will supplement the job of eliminating unsanitary conditions by revising and classifying many of the health laws now on the books. Working with the Institute of Government, health officials plan to codify the laws, eliminating outdated ordinances and providing for stricter enforcement provisions in the laws to be retained.

Henderson Expands

The city of Henderson, which had 7,647 residents in 1940, was assured last month of emerging proudly from the 1950 census as a city of "over 10,000." After two unsuccessful elections, both held this year, the citizens of West Henderson voted decisively in a third election (on October 29) to annex the area to the city. The annexed portion lies along two roads to a distance of 2600 yards from the center of town and contains about 2,000 people. Several small sections of the eastern outskirts of Henderson were also annexed during October, but by vote of the city council. The council now plans to call for a vote on a proposed \$265,000 bond issue to finance water and sewer lines and street improvements in West Henderson.

The 1950 Census

New facts concerning the impending census continue to be released from Washington as the groundwork for the mass interview nears completion. Local planning commissions and government officials in general are expected to benefit considerably from two major innovations recently announced. The first will be the desig-

nation of the "metropolitan area" surrounding cities with populations of 50,000 or more. The "metropolitan district" defined in the 1940 census consisted of the incorporated area of a large city plus the surrounding territory containing a population density of more than 150 per square mile. The "metropolitan area" has a broader definition; according to Philip M. Hauser, Acting Director of the Census, "the deciding factor in designating these new areas is the degree to which the county's social and economic life is joined to that of the city through transportation, communication, and other vital means." Durham and Mecklenburg counties will probably be designated as two of North Carolina's metropolitan areas.

The second change of interest to city and county officials is that unincorporated communities of 2500 or more will be classified as "urban," and the perimeter areas just outside the limits of large cities, where the population density is 2,000 or more per square mile, will be dealt with separately as "urban fringes."

These additions to the census will furnish information indicating population shifts *within* urban areas and *between* city and suburban areas, along with resulting changes in markets, land values and tax potentialities. The figures are expected to be of particular value in planning the future development of cities and in determining future needs for municipal services.

Municipal Money Worries Go Up In Smoke

A bill levying a 5-cent tax on each package of standard-size cigarettes sold within the state has been passed by the Florida legislature, meeting this fall in extraordinary session. Each municipality may receive the money collected from the tax within its city limits by passing an ordinance to that effect. These funds are "in no sense a grant-in-aid, a kickback, or a hand-out," according to the Florida Municip-

pal League, since the preamble to the law emphasizes that the money is allocated to cities in return for what are primarily state services such as street maintenance, and the preservation of public health, safety and welfare. The law states that "the State of Florida should provide financial aid to assist in performing functions which are and may be performed by said municipal governments."

State Reorganization Studies

The success of the Hoover Commission in spotlighting the need for greater efficiency and economy in the executive branch of the federal government has given impetus to governmental reorganization studies in 23 states and the territories of Hawaii and Puerto Rico. In some cases special commissions have been established to do the job and in others the work will be conducted by legislative councils. The general aim of all, as described by the Iowa reorganization commission this fall is "to examine the organization of all offices, agencies, boards, commissions, and departments of state government; and to determine and recommend changes necessary to reduce expenditures and promote economies, to increase efficiency, to reduce and abolish unnecessary and overlapping agencies by regrouping

agencies and functions of government."

Significant changes based on recommendations of the Hoover Commission have already gone into effect in the federal government. The National Security Council and the National Security Resources Board have been transferred to the executive office of the President; the administrative organization within the Civil Service Commission has been tightened; and the Public Roads Administration has been transferred from the Federal Works Agency to the Department of Commerce. Establishment this summer of a new agency, the General Services Administration, was expected to result in the greatest single saving to the taxpayer through elimination of duplication of functions and multiple bookkeeping. The GSA will

consolidate the previously scattered functions of building construction and management, records management, housing, service of supply, and certain public works functions.

The President is empowered until April, 1953 to submit further reorganization plans affecting the executive branch. These proposals will automatically become law unless vetoed by a constitutional majority in either the House or the Senate.

City-County Merger Studies

Unification of government functions for the city of Cleveland and Cuyahoga County, Ohio, was one of several reforms proposed last month by the Cleveland Planning Commission. City taxpayers, according to the report, are now furnishing the entire county area with welfare institutions, airports, auditorium, stadium, lake front development, zoo, rapid transit system, sewers, and sewage disposal plants, water supply, and harbor developments. While city-county consolidation was cited as the best long term solution to the city's problems, the commission maintained that "The unification of any appropriate services would be a step in the right direction."

Trailer Camps

Those who have been led to live in trailers, either by the housing shortage or a yearning after the Gypsy life, may find their freedom to set up housekeeping somewhat limited, but their living conditions enhanced, when they pull into Durham. An amendment to the zoning ordinance recommended by the City Planning and Zoning Commission would put an end to indiscriminate parking of the portable dwellings within city limits, and require that all inhabited trailers be located in trailer camps which have been individually approved by the city council after a public hearing. The minimum land area occupied by each trailer must be 25 by 50 feet, with 10 feet as the minimum width required for walkways serving the camps. Convenient and adequate parking areas for automobiles must be provided at each camp. Where 25 or more trailers are located in a single camp the management must provide

refuse collection and laundry facilities, drying yards, public telephones, toilet and bathing facilities, fuel storage facilities, fire protection,—and even landscaping.

The Feminine Touch On Parking Tickets

The Charlotte city council has come up with a new use for women. The councilmen recently adopted an ordinance creating a special corps of feminine parking meter checkers, to have no police powers but authorized to spot meter violations and to issue citations for such violations. The special corps will consist of not more than twelve women, all between the ages of 21 and 30 years of age, each of whom will be paid a maximum salary of \$150 a month. The checkers will be appointed by the Chief of Police with the approval of the city manager. Although the women will not have civil service status, the ordinance requires that appointments be made only from a list certified by the civil service commission.

Birth of A Town

The people of Archdale, a settlement on the northern edge of Randolph County, have taken the first step toward incorporating their community into North Carolina's 487th town. At the first of a series of mass meetings to be held on the community's need for services, a seven-man committee was appointed to work with the Archdale Veterans of Foreign Wars in organizing and training a volunteer fire department. On the agenda for future meetings are the possibility of installing a water distribution system, the erection of street markers, and other urban conveniences. Occupying a major place in the discussion during the first meeting, and certain to be acted upon before the series is ended, was the question of obtaining a charter of incorporation.

The Pace Quickens

In Mexico City, where daily siesta was for years an institution enforced by municipal ordinance, the restful tradition has given way to a full bus-

iness day. The city has officially abolished the compulsory 2 to 4 p.m. closing hours for all stores, for the greater convenience of customers. Another reason cited for the move was that shopkeepers complained that the institution was open to abuses, that a few unscrupulous storeowners had been bribing policemen to let them stay open during the official rest period.

Public Works Planning Aid

A bill passed by Congress just before adjournment enlists the aid of the federal government in the advance planning of public works projects by state and local governments. During the next two years the newly established General Services Administration will make loans totaling \$100 million to the states, \$75 million to be distributed on the basis of population, \$25 million according to need. The pur-

pose of the loans are three-fold, according to the act. Loans will be made in order to encourage state and local governments to maintain a reserve of fully planned public works so that "when the economic situation may make such action desirable" construction can begin immediately; the plans and records of the various projects, filed with the GSA, will enable the federal government to adapt its own planning and construction of public works to the objectives of individual states and localities; and finally, the loans are expected to aid in achieving maximum economy and efficiency in the planning and construction of projects by all three levels of government. The federal funds will be allocated to help finance the cost of architectural, engineering, and economic surveys, designs, working drawings, and all other work preliminary to construction, but "No loan or advance shall be made hereunder with respect to any individual project," the law states, "unless it conforms to an over-all State, local or regional plan approved by a competent State, local or regional authority."

The Minutes Tell The Story

With the approach of winter weather the condition of streets and roads was of considerable concern to citizens this month and consequently a major item of business for city councilmen and county commissioners. The minutes received by the Institute of Government showed that nine city councils received a total of 15 requests for paving or repair of streets and 68 county road petitions (one less than last month) were submitted for the commissioners' approval in ten counties. One county designated the roads to be recommended for improvement by the State Highway Department with the aid of federal funds, and a city resolved to seek an arrangement with the State Highway Department whereby state funds could be used for the maintenance of streets.

Eleven counties heard appeals by citizens for adjustment of taxes, and the commissioners waived, refunded or rebated taxes in 24 cases. In addition, one county remitted poll taxes levied against all members of volunteer fire departments in the county, the resolution also expressing the commissioners' appreciation of the firemen's work. Another board of commissioners

resolved to charge off as uncollectible all unpaid taxes for 1939 and prior years.

One county voted to approve and endorse a report submitted by the Survey Division of the State Board of Education on the condition of the county's schools.

Four counties were concerned with public buildings, one authorizing a survey to be made of a proposed site for a county library, another authorizing repair work to be done on the county home, and two counties appropriating funds toward the maintenance of local hospitals.

Regular business of the county commissioners included as usual: hearing reports of county officials, approving bills and salaries, and drawing jury lists. Two counties purchased equipment—a tractor and a set of bookshelves. Only one county granted beer licenses (three) this month.

Traffic was again the subject mentioned most frequently in the minutes received from city councils by the Institute of Government. While only four cities approved additional traffic regulations, ten cities discussed the

(Continued on page 9)

The Federal Farm Housing Program

Loans and Grants Available to North Carolina Farmers from Farmers Home Administration under Housing Act of 1949

Sample surveys made by the Bureau of Agricultural Economics in 1947 showed quite clearly that the nation's "ill-housed" citizens were not confined to the slums of cities.

The country had six million farms, on which 240,000 new houses were then under construction. But 80 per cent of the six million had neither bath nor flush toilet; 67.3 per cent had no running water; 40 per cent had no electric lights; and 10 per cent were overcrowded.

Title V—the Farm Housing program—of the Housing Act of 1949 represents the first large-scale organized attack on these inadequacies by the government. The Act blocks out a five-year assault on sub-standard farm housing, and authorizes \$300 million in grants and loans—mostly loans—to begin the job.

During fiscal 1950 (1 July 1949 to 30 June 1950) the program calls for \$25 million in building loans, \$2 million in grants and loans to enlarge or develop farms, and \$2.5 million in contributions.

North Carolina's Share

Of the total \$29.5 million available nationally during 1949-50, North Carolina's allocation is \$1,288,400—\$1,202,000 for loans for building improvements, \$58,320 for loans for land development and for purchase of additional land in cases where the farm unit is too small, and \$28,080 for outright grants for minor emergency repairs and improvements.

Local Farmers Home Administration offices in North Carolina began taking applications for farm housing assistance on 31 October, and by the middle of November had reported receipt of from two to fifteen applications per office.

Administration of the Program

The links in the chain stretching between the North Carolina farmer eligible for assistance and the Federal funds appropriated to help him are: (1) the County Committee of the Farmers Home Administration; (2) the local Farmers Home Administration supervisor; (3) the state director of the Farmers Home Administration in Raleigh; and (4) the Farmers Home Administration in

By **W. M. COCHRANE**

Assistant Director
Institute of Government

[This is the third 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 (November issue); and (c) The Federal Farm Housing Program. It is the purpose of this series to tell what each of these programs means to North Carolina.]

Washington, which is a division of the Department of Agriculture.

The Application for Assistance

The farmer—any farm-owner who is in need of a decent, safe, and sanitary house and adequate farm buildings and related facilities for himself, his tenants, sharecroppers, or laborers—seeking financial assistance under the program must submit an application on a form available from the local Farmers Home Administration supervisor. The information he must supply includes the following items: his and his wife's name, and the ages of all persons in his household; the location of his farm, including a legal description of its boundaries; whether he is a veteran; whether he is the parent or offspring of a member of the armed forces who died in service; whether he is a citizen of the U. S.; the size of his farm and date he acquired it; gross cash farm income during past year; value of products for home use; amount earned from work other than farming; all other sources and amounts of income; total cash income from all sources; value of and debts owed against all real estate, livestock, machinery and equipment, farm products for sale, farm products on hand for home use, cash on hand, and all other assets; present net worth; name of his local merchant and banker; and nature and cost of construction, repairs, or improvements he plans to make to house and other buildings.

The farmer is then required to sign the following statement: "*I am unable to provide the improvements indicated above on my own account and I am unable to secure the credit neces-*

sary for such housing and buildings from other sources upon terms and conditions which I can fulfill."

This requirement is significant—it symbolizes the care taken by the drafters of the whole Housing Act of 1949 (1) to restrict federal housing assistance to those needing it worst and (2) to preserve the lending function for private enterprise to whatever extent private lending sources are willing to make loans. Government loans are thus available only to those who cannot borrow, on reasonable terms which they can fulfill, from private sources.

The County Committee and the Supervisor

The County Committee of the Farmers Home Administration (composed of three local persons—farmers or persons directly interested in farming—appointed by the U. S. Secretary of Agriculture, on recommendation of the state director of the Farmers Home Administration, for their knowledge of farming and interest in public affairs) examines the application and investigates the applicant. If on first review the application seems to warrant further consideration, the local Farmers Home Administration supervisor makes a detailed report on the financial status of the applicant, his last year's operations, and his plans for farm operation and building improvement.

When study clearly indicates that the applicant is eligible for farm housing assistance, the County Supervisor calls on the state office of the Farmers Home Administration for an appraiser and engineer to report on the normal market value of the farm as improved and the adequacy and cost of the improvements the farmer plans.

Thereafter, if the Committee finds that the applicant's statement of need is true, that by reason of his character, ability, and experience he will be likely to carry out the undertakings which will be required of him, and that his farm is of such character that making the loan or grant will carry out the purposes of Title V of the Act, they may recommend specific amounts of loans or grants to be repaid over specific periods of years.

Farmers Home Administration County Committees were already in existence when the 1949 Housing Act was enacted. They were and are functioning as a regular part of the Farmers Home Administration program, which began in 1946. Every county has a County Committee, and there are full-time local supervisors' offices in 69 counties of the state. Part time service is provided on certain days each week in the other 31 counties.

District and State Offices of the Farmers Home Administration

The recommendation of the County Committee is passed on to the State Field Representative of the Farmers Home Administration responsible for the district in which the county lies. The application is approved or disapproved by the field representative, who determines whether the applicant's situation meets all the requirements of the Housing Act.

The program in North Carolina is conducted under the supervision of the state director of the Farmers Home Administration (J. B. Slack, State Office, Farmers Home Administration, Raleigh Building, Raleigh).

The Washington Office

Nationally, the Farm Housing program is being administered under the Secretary of Agriculture rather than under the Housing and Home Finance Agency (which is responsible for other phases of the program under the Housing Act of 1949—low-rent public housing and slum clearance). The immediate responsibility for the program is vested in the Farmers Home Administration (Dillard B. Lasseter, Administrator, Farmers Home Administration, Washington 25, D. C.).

Types of Financial Assistance

The following types of loans and grants are available to eligible farm owners under Title V of the Housing Act (they are customarily referred to by their section numbers under Title V): Section 502 loans (to owners able to repay in full); section 503 loans (to owners not able to repay in full); and section 504 loans and grants to owner-occupants for emergency repairs and improvements.

Section 502 Loans

These loans (not limited to any specific maximum amount) are made to farm owners who will be able to repay the loan in full, and may be amortized over a period of 5, 10, 15, 20, or 33 years. They are available for construction, alteration, repairs, or replacement of farm dwelling or other

essential farm buildings; for water installation in either dwelling or other buildings; and for heating, lighting, cooking, and refrigeration facilities, when in connection with a loan to build or improve farm dwellings. Section 502 loans are not authorized for the development of farm land, nor for the purchase of additional farm land.

Section 503 Loans

These loans (not limited to any specific maximum amount) are made to farm owners who cannot reasonably be expected to pay the full annual installment during the first five years of the amortization period, but who *can* pay at least 50 per cent of each installment of principal due during the five year period, and whose farms can be developed during that period to provide income adequate to permit payment of full installments of principal and interest during the remainder of the required 33 year amortization period. During the first five years, the government may contribute an amount equal to annual interest plus 50 per cent of annual principal payment due. Thereafter, the farm owner will be expected to meet the full annual installments of principal and interest as they fall due.

Section 503 loans are made for the same purposes as section 502 loans, plus the following purposes: to purchase additional land, or to develop the lands already a part of the farm, to the extent necessary to raise the farm's income producing capacity to the point where it will support decent, safe, and sanitary housing and other essential farm buildings.

Section 504 Loans and Grants

These loans and grants (limited to a total of \$1000 to any one borrower, with the grant being limited to \$500) are available only to owner-occupants of farms (as contrasted with the other loans discussed above, which may be made to either owner-occupants or to owners for improvement of farm buildings used by their tenants, etc.). Section 504 loans and grants are available for minor repairs and improvements to dwellings or other farm buildings (when necessary to eliminate hazards to health and safety). Examples are roof repairs, installation of screens, repairing structural supports, and similar emergency repairs.

In special cases, Section 504 loans may be made for development of the farm or for purchase of additional land, when such loan would make possible sufficient additional income to

eliminate or reduce the necessity for an outright grant.

Grants are made only to the extent that the owner-occupant is unable to repay the sum needed for emergency repairs. Loans must ordinarily be repaid in 5 years, and may in no case be made for more than 10 years.

Other Provisions

Farmers Home Administration loans will be secured by real estate mortgages, but they need not be first mortgages. Loans are not available to refinance existing debt, and the government mortgage is subject to pre-existing liens against the property, all of which are considered in evaluating the probable ability of the farmer to repay the government loans. The borrower may be required to refinance his government loan during the amortization period, whenever in the judgment of the Farmers Home Administration he can do so on reasonable terms.

The Farmers Home Administration engineers will provide assistance to farmers by estimating the cost of proposed construction, and the agency will also supply on request copies of standard building plans and specifications.

The Act requires that preference in making loans and grants shall be given to veterans and families of deceased servicemen.

Full-time Local Offices in North Carolina

The 69 full-time local supervisors' offices of the Farmers Home Administration operating in North Carolina are located in the following cities and towns:

Albemarle, Asheville, Bakersville, Boone, Burgaw, Burnsville, Carthage, Charlotte, Clinton, Danbury, Dobson, Durham, Elizabeth City, Elizabethtown, Fayetteville, Franklin, Gastonia, Goldsboro;

Greensboro, Greenville, Halifax, Henderson, Hendersonville, Hertford, Jackson, Jacksonville, Kinston, Laurinburg, Lillington, Louisburg, Lumberton, Marion, Marshall, Monroe, Murphy, Nashville, New Bern, Newton, North Wilkesboro, Oxford, Pittsboro, Plymouth, Raeford, Raleigh;

Reidsville, Roxboro, Rutherfordton, Salisbury, Sanford, Shelby, Smithfield, Snow Hill, Statesville, Sylva, Tarboro, Trenton, Wadesboro, Warrenton, Warsaw, Washington, Waynesville, West Jefferson, Whiteville, Williamston, Wilson, Windsor, Winston-Salem, Yadkinville, Yanceyville.

City Planning In North Carolina

Municipal Year Book Figures Show Tar Heel Cities Above National Average In Planning Work

North Carolina cities as a group stand above the average of comparable cities over the country in almost every aspect of city planning activity, according to statistics gathered in the Municipal Year Book for 1949 by the International City Managers' Association. Three cities—Durham, Greensboro, and Winston-Salem—rank high in national circles, while others in the state show signs of increasing interest in this new field of governmental activity.

Once considered almost solely the province of the larger cities of the nation, planning has been spread through municipalities at every level by the pressing problems of war-time and reconversion which day-to-day "government by expedient" could not answer. By 1948 more than two-thirds of all the cities in the U. S. with populations over 10,000 had official planning agencies, according to the Yearbook. In North Carolina the percentage was over 75 per cent of the cities reporting.

On the national scene, California has gone far out in the lead among the states, with almost every one of its cities making large expenditures in an effort to deal with the problems generated by its tremendous population boom since 1940. Los Angeles is in the forefront of this activity, having spent \$313,900 for planning in the fiscal year ending in 1948 and having employed a full-time planning staff of 75. Only New York City and Philadelphia rivalled the West Coast metropolis in expenditures, with \$310,700 and \$286,900, respectively. Each of them had a full-time staff of 58. Among smaller cities expenditures tended to be largest where there were specific major projects in progress, such as preparation of master plans, large-scale traffic surveys, or urban redevelopment studies. Once these projects had been completed, the expenditures usually

By PHILIP P. GREEN, JR.
Assistant Director
Institute of Government

levelled off on a lower plane of permanent activity.

Durham Tops in State

Durham set the pace for North Carolina cities in 1948, spending \$17,300 and employing four full-time and one part-time planning employees. Durham was closely followed by Greensboro, with expenditures of \$14,800, and Winston-Salem, with \$14,600. Winston-Salem did not as yet have her present full-time staff, her funds being devoted to preparation of a master plan for the city and county by Russell VanNest Black, an outside consultant. Charlotte, the largest city in the state, was in fourth place with \$6,900. Other Tar Heel cities reporting expenditures were Hickory with \$2,500, Concord with \$1,300, Goldsboro with \$500, and Greenville with \$200.

Altogether, a total of 17 of the 22 North Carolina municipalities with populations over 10,000 whose figures were reported by the Yearbook possessed official planning boards, while Rocky Mount had an unofficial one. Durham, Greensboro, and Charlotte were the only cities with full-time employees in 1948, but High Point (with 11), Goldsboro, Raleigh, Concord, Hickory, and Winston-Salem reported varying numbers of part-time employees.

Much Tar Heel Zoning Activity

One of the outstanding features of North Carolina's postwar planning activity, as reflected in the Yearbook's figures, has been the burst of zoning activity over the state. All but four of the cities for which figures were available had comprehensive zoning ordinances, and of these, all but three had been enacted or revised since 1944. The Yearbook unfortunately does not give statistics for cities of less than

10,000 population, so it does not reflect the great progress in this field among the smaller cities and towns of the state.

Planning boards, which ranged in size from three members in nine cities of the country to 50 members in Albert Lea, Minn., were fairly well standardized in North Carolina. In 11 cities they contained five members; in four cities, seven members; in one city, nine members; and in another, eight members. Over the nation as a whole nine members was the favorite size in all classes of cities except those in the 10-25,000 range; there five-man boards were preferred. Although nationally the mayor was usually given appointive power over the board, in North Carolina all but two planning boards were appointed by the city councils. Massachusetts is the only state in the country where municipal planning boards were elected directly by the people.

Administration of the planning organization, which varied widely over the country, was handled in several ways in North Carolina. Durham, Greensboro, and Winston-Salem placed control in the hands of a planning director; Charlotte, High Point, and Hickory gave this authority to the chairman of the planning board; and in Goldsboro the city engineer directed planning as a part of his duties. Elsewhere in the U. S. the larger cities usually hired planning directors, while in the smaller towns which felt that they could not afford such an official, the city manager, city clerk, building inspector, commissioner of public works, parks commissioner, or city engineer might be called upon to perform this function.

Comparison of planning activity by North Carolina cities with that of other cities over the country can best be done by population brackets, as in the tables shown. In each case the national figure is given first, followed

	No. of Cities In Group	No. of Cities Reporting	PLANNING ACTIVITY			Agencies Having Only Part-Time Employees	Reporting Expenditures Over \$1000	Cities With Comprehensive Zoning
			Cities Having Official Agencies	Cities Having Unofficial Agencies	Agencies Having Full-Time Employees			
100-250,000	55 (1)	53 (1)	45 (1)	1 (0)	36 (1)	3 (0)	32 (1)	45 (1)
50-100,000	106 (4)	97 (4)	79 (4)	5 (0)	37 (2)	17 (1)	40 (3)	82 (4)
25-50,000	212 (4)	196 (4)	143 (3)	15 (1)	21 (0)	50 (2)	52 (0)	142 (4)
10-25,000	662 (17)	552 (13)	321 (9)	52 (0)	26 (0)	100 (3)	55 (2)	343 (10)

COMPARATIVE PERCENTAGES
(Percentages are of cities reporting data only.)

	Cities With Planning Agencies	Cities With Official Planning Agencies	Cities With Full-Time Employees	Cities With Some Employees	Cities Spending Over \$1000	Cities Making Some Expendi- tures	Cities With Compre- hensive Zoning
100-250,000	90.6 (100)	88.7 (100)	67.9 (100)	73.6 (100)	60.4 (100)	75.5 (100)	84.9 (100)
50-100,000	84.5 (100)	81.4 (100)	38.1 (50)	55.7 (75)	41.2 (75)	51.5 (75)	84.5 (100)
25-50,000	80.6 (100)	73.0 (75)	11.2 (0)	36.7 (50)	26.5 (0)	38.8 (6)	72.4 (100)
10-25,000	67.6 (69.2)	58.1 (69.2)	4.7 (0)	22.8 (23.1)	9.6 (15.4)	21.9 (30.8)	62.1 (69.2)

by the North Carolina figure in parentheses.

Charlotte was the only North Carolina city in the 100-250,000 population bracket. It was one of six cities in the group with permanent planning staffs of two members: one full-time and one part-time employee. San Diego and Long Beach, Calif., were the national leaders in this category, with 16 and 12 full-time employees, respectively. The most popular size staff was three full-time employees, possessed by 11 cities. Expenditures ranged from less than \$50 in Reading, Pa., to San Diego's \$62,900, the mid-point lying between Fort Worth's \$11,100 and Duluth's \$10,800. Charlotte was just above the bottom fourth with its \$6900. Its zoning ordinance was one of the most up-to-date of the group, dating from 1947.

**Three National Leaders in
50-100,000 Class**

North Carolina's best showing was in the 50-100,000 classification, which included Asheville, Durham, Greensboro, and Winston-Salem. The latter three stood together in the top quarter of the cities in this population range with their expenditures of \$17,300, \$14,800, and \$14,600. San Jose, Calif., led the 50 cities reporting expenditures with an outlay of \$32,900, and the midpoint was between \$7,900 (Charleston, W. Va.) and \$8,000 (Waterbury, Conn.). The three North Carolina cities were each among the 26 cities having full-time planning directors, although Winston-Salem's had not yet been chosen. Durham and Greensboro each had a staff of four full-time employees, well above the national average, and Durham also had a part-time man. Glendale, Calif., and Phoenix, Ariz., had the largest staffs in this class, with eight full-time employees apiece, while the most common figure was one full-time employee, reported by 11 cities. The Greensboro zoning ordinance dates back to 1926, Winston-Salem's and Asheville's to 1948, and Durham's was in the process of revision when the figures were compiled. Winston-Salem boasted the only city-county planning board in the state at that time, one of two in the nation for this population class.

High Point, Raleigh, Rocky Mount, and Wilmington were the four cities in the 25-50,000 range. High Point and Raleigh stood high in the national picture with part-time staffs of 11 and five, respectively, as they laid the groundwork for further activity in this field. Burbank, Calif., headed the 76 cities reporting expenditures with \$16,200, the midpoint falling between \$2,400 and \$2,500. All four of the Tar Heel cities had modern zoning ordinances, Raleigh's having been enacted in 1944, Rocky Mount's and Wilmington's in 1946, and High Point's in 1948.

Among the cities with 10-25,000 populations North Carolina was represented by Burlington, Concord, Fayetteville, Gastonia, Goldsboro, Greenville, Hickory, Kinston, Lexington, New Bern, Reidsville, Thomasville, and Wilson. The first nine of these cities had official planning agencies. Goldsboro ranked high nationally, with five part-time employees, while Concord had two and Hickory had one. The leader in this field was Richmond, Calif., with five full-time and one part-time employees. Hickory and Concord were well above the midpoint of the 121 cities reporting expenditures with their outlays of \$2,500 and \$1,300, respectively; Goldsboro's \$500 and Greenville's \$200 brought the state's total to \$58,100. Richmond's \$27,000 was first in the country, and the midpoint was \$700. North Carolina's representatives also made a good showing in the zoning field, with Burlington, Concord, Goldsboro, Greenville, Hickory, Lexington, Reidsville, Thomasville, and Wilson reporting comprehensive zoning ordinances.

It should be pointed out once more that these figures give only a rough outline of the progress which North Carolina is making in this comparatively new field. Small towns all over the state are the proud possessors of new zoning ordinances; some of the cities for which figures were not reported by the Yearbook are known to have taken substantial steps; others have made advances since the figures were compiled; the planning activity carried on by such organizations as

the State Board of Conservation and Development is not reflected. But the figures do indicate that the planning concept has taken a firm foothold among North Carolina's cities and towns and may expect to play an increasing part in the progress to come.

Clearinghouse

(Continued from page 5)

problem. Of these, three voted to install additional stop lights and three decided to purchase a total of 24 traffic signs. Five cities will install additional street lights.

A variety of licenses were granted this month. Five cities issued 14 beer licenses, and individual cities issued licenses to a doughnut shop, a restaurant owner who wished to install a juke box, and to a VFW unit to sell poppies. Another city granted a free peddler's license to a disabled person. Four cities issued a total of 17 taxicab permits.

Nine cities purchased equipment, which included water pipe, police uniforms, an automobile, a fire truck, police radios, hospital equipment, cash registers and parking meters. One city appropriated funds for lighting equipment at the local airport, another money for the town library. One purchased land for the site of a new sewage disposal plant and another awarded a contract for the preparation of plans and specifications for a proposed water softening and iron removal plant. Seven cities evidenced their continuing growth by authorizing the extension of water and sewer lines.

In addition to hearing reports from city officials and approving payment of the month's bills, the miscellaneous activities of individual city councils included: increasing minimum water rates from 50 cents to \$1.00 a month, changing the council's meeting time, amending the zoning ordinance, consideration of a group insurance plan for municipal employees, promoting a fireman, discussion of a possible tie-in connection between the municipal electric plant and that of a neighboring city, and a study of proposed operating regulations for the municipal comfort station.

The Hills of Home

By R. B. HOUSE

Chancellor of the University of North Carolina at Chapel Hill

August is the gracious month of reunions. Families and church congregations come back to the old home. Civic clubs, Chambers of Commerce, cultural and professional groups gather in conferences and schools. Their basic pattern is the same: Let us come from the distractions of our life back home if possible, back in spirit at least in togetherness, for fun, fellowship, and philosophy in the fundamental ideas which hold us in harmony.

It is a universal human ritual of renewal, beginning in the Garden of Eden, reaching transcendent heights in the return of the Prodigal Son, and extending innocently and wholesomely to every man who would like to be a boy at home again for a few days in August.

It is easy to function with the fun and the food in shape of dinner on the grounds. Such delight needs no pep-talk. It is relatively easy to renew friendships, though fellowships grown awkward through disuse require artistic re-practicing. They can be wonderfully re-touched in the tone of re-union, and they usually are. The poetic, creative, impulses of faith, hope, and love run freshly again as in life's spring-time.

Thought spreads its wing more philosophically and action integrates itself more surely in the familiar uplands of the hills of home. Like colts in a pasture we frisk in the functions of body, mind, and soul—in the self, in society, and under God. Here we renew the pristine freshness of school, church, state, business, and culture in that unity of feeling, thinking, willing which is the essence of family and neighborhood.

The world is large and life is a setting out from security to adventure fraught with distractions of a far country, where our very sense of direction may be lost unless we orient ourselves by a constant vision of the hills of home.

Through the mists and dust of modern life, clouds of the hate and fear, the error and confusion, the frustrations and distraction beat up by the tension and turmoil of our times, we discern three mighty peaks, perma-

nent, visible beckoning to our prodigal spirits. If we glance backward they are there; if we lift our eyes forward they are there too, so tremendously do they dominate our utmost landscape. They mark our homeland that both was and is to be, over and around and beyond our present striving. Nestling against them are the hills of home.

The first and greatest is the Peak of Palestine, Faith in God in whom we live and move and have our being. We have never climbed its summit, we do not know all of its main trails. Other peoples approach it by different roads than ours. It mocks at those who claim to be its official guides. But it is eternally there and it can guide us. Its genius is religion, its voice is the Bible. It is the starting point from which we came, it is in the direction we must go if we get home, no matter who we are or in what company we travel.

Our world today is completely polarized as to religion. It is divided into two camps. Russia commands one on the cardinal thesis that God is not and that man is nothing except the slave of those who at present are able to control the state. She lives in a terrible fear; her method is the exploitation of men through hate, lies, interference. She has turned her back on the main hill of home and she is kicking up dust. Let us not be blinded by it. America commands the opposing camp. She holds the faith but she falters in the function. There are 65,000,000 Americans today who are committed to no church. And while church membership is not identical with religious working, there has never been any effective religious working without it. Russia knows this. She is an implacable enemy of the church. An American indifferent to the church is a set-up for Communism. The church is the school of the responsible child of God, the unit Russia is seeking to oppress, confuse, and disintegrate. She pretends good, but we can not get Christian objectives with Pagan hearts.

The second great peak is the peak of Greece—mind—philosophy, art and science. Whenever we go to school we are looking to the peak of Greece.

Everything we study, the very name of the subjects, all is Greek. The Greeks had the keenest and the freshest minds that have ever rejoiced in study and undying curiosity. They were afraid of nothing and they were untiring. Our day is said to be like theirs. Certainly our day needs the keenest minds in history. The Greeks taught two things: (1) How to make a living (2) How to make a life. They taught that all knowledge is indispensable and that work and culture, vocation and avocation cannot be separated, and that men should be free to search, proclaim, and follow Truth, Goodness, and Beauty. Russia does not believe that. America does believe it. But we need to function in our freedom to study all things from the soil of the farms to the soul of the people. We need all the schooling we can get from the cradle to the grave, and such schooling is increasing. There have been fifty adult schools at Chapel Hill alone this summer. But to far too many school is something to get through with. We still have 9,000,000 adults in the United States who can not read and write. But they are not our real danger. Our real danger is the untold millions who have been schooled to read and write but now that school is over, no longer read or write. They are functional illiterates. They have no knowledge with which to confront propaganda. The lazy, misinformed mind is a set-up for Communism. The functional illiterate is a danger to his job because he messes it up. He is a danger to himself and society because he lacks cultural recreational skills and messes up life looking for a good time and not knowing where to find it.

The third great peak is the hill of Rome—intelligent, executive genius, the ability to get necessary work done. Rome was not so religious as Palestine or so scholarly as Greece, but its genius preserved the world in which Hebrew Religion and Greek Education flourished. Rome is the prototype of all modern big nations who have had to do their work, their fighting, their ruling, their paying, their helping in their time. This time is America's.

She either functions greatly or she betrays herself and the world to Russia. In Russia every person functions in the state willy-nilly. In America 54% is, I believe, the highest vote we ever got out in a national election. If we are too lazy to vote, who is to blame if the Commies take over? In Russia pressure groups against the party are liquidated. In America we try to dominate the President, the Congress, and the Courts by pressure

groups. We think we are too good and too smart to submit to due process. We need to study and to work along governmental lines 100%. We are at present a confusion of forces and voices. Almost every day somebody tries to enlist us in some pressure group to out-govern the government. It is emotionalism trying to substitute for reason, law, and order. It is executive dissolution, and in it the Commies holler loudest and get the most free ad-

vertising because we prefer sensation to sense.

I think the hills of home—a functioning Religion, Education, and Democracy not only beckon us toward home if we will keep them in sight, but beyond any home in this world to the eternal, the love of God in Christ, just as beyond the hills are the sky, the sun and the stars. It is to them we look in the blue distance as we lift our sight to the hills of home.

Recent Supreme Court Decisions

Of Interest to City, County, and State Officials

The Supreme Court of North Carolina has recently:

Ruled that an arrest made solely on the authority of a warrant charging a misdemeanor is unlawful unless the person making the arrest or someone assisting him has the warrant in his immediate possession. The occasion for the ruling was a civil action for false arrest and imprisonment against the sheriff and a police officer.

In *Alexander v. Lindsey*, 230 N. C. 663 (Filed 12 October, 1949) the facts appeared as follows. A warrant had been issued for the arrest of the plaintiff charging simple trespass—a misdemeanor. The sheriff, while holding the warrant at the county seat, requested a policeman of the town where the plaintiff was located to make the arrest. The town was 14 miles away, but in the same county. When the policeman made the arrest the plaintiff inquired: "Where is the warrant?" and was told: "The sheriff has got it." After an unsuccessful attempt to get bond, the plaintiff was turned over to the sheriff's department and confined to the county jail.

In holding that the facts presented in the case gave the plaintiff a cause of action against the sheriff and policeman, the Court followed the general line of decisions elsewhere in the country in this aspect of an important (though often misunderstood) question in the law of arrest. That is, when can an officer make an arrest without warrant, simply on authority of a message from another officer or law enforcement agency indicating that the person in question is wanted for the commission of a crime, or that a warrant is on file for his arrest?

First, the Court acknowledged the

By **GEORGE H. ESSER, JR.**

And

ERNEST W. MACHEN, JR.

Assistant Directors
Institute of Government

fact that there are situations under which arrests may be made without any warrant at all. In case of a felony, knowledge or a reasonable ground for belief that a felony has been committed and that a particular person committed it is sufficient authority for an officer to arrest on the spot without a warrant if it appears the person may otherwise escape. In case of a misdemeanor, arrests without warrant are confined to offenses amounting to breaches of the peace in the officer's presence or under the same circumstances to such crimes other than breaches of the peace as may from time to time be indicated by special statute. (For example, arrests for violations of the Motor Vehicle Laws may be made on sight by peace officers and patrolmen, regardless of whether or not they constitute a breach of the peace.)

Therefore, says the court, if there is authority to arrest without a warrant, it is not necessary for the officer to have a warrant with him even though one has been issued. If however, it is the warrant that is and must be relied on as the only authority for making the arrest, then an arrest will be unlawful unless the warrant is shown to be in the possession of the arresting officer or someone acting under his immediate physical direction at the time and place of the arrest.

In the same case, the court also reaffirmed certain well settled rules re-

lating to the liability of officers in serving warrants. One of them: if a warrant is valid on its face an officer will be protected in executing it, even though it may be defective (not void) in some particular, as for failure to state adequately the crime charged. However, if the warrant charges some conduct not a crime under the law, or if it appears from the face of the thing that the issuing officer has exceeded his authority by issuing the warrant, the officer is bound to know it is void, and may be liable for its execution.—E. W. M.

Re-affirmed the power of the state, as delegated to municipalities, to enact laws prohibiting secular pursuits on Sunday; and the power of legislative bodies in North Carolina to make classifications for the application of regulations as long as the classifications are practical and apply equally to all in the class. Held that in a prosecution for violation of a municipal ordinance which classifies businesses, it is not sufficient for the defendant merely to allege that the classification is discriminatory; he must prove that the alleged discriminatory provisions specifically harmed him and put him at a disadvantage in relation to other members of his class.

In *State v. Trantham*, 230 N.C. 641 (Filed 28 September 1949) the defendant, a grocer, was charged with violation of a city ordinance which prohibited any person from keeping open any "shop or business establishment, tonsorial parlor or barber shop" in the city on Sunday for the purpose of engaging in the business normally conducted on week days. The ordinance went on to provide that garages

and filling stations, drug and cigar stores, confectionery stores, shops, and bakeries could stay open on Sunday, but only for the sale of gas and oil, drugs, medicines, druggist sundries, cigars and tobaccos, fruits, ice and ice cream, confections, nuts, soda and mineral waters, breads, pies and cakes, newspapers and periodicals. The defendant opened his store as usual on Sunday because he claimed that these favored businesses sold not only the articles they were permitted to sell but also all other articles which they offered for sale on ordinary business days, a claim that necessarily implied discrimination against businesses prohibited from doing business on Sunday. The Court, in affirming a verdict of guilty, pointed out that it was not sufficient for the defendant to point out possible discrimination; he must show how the alleged discriminatory provisions put him at a disadvantage personally in relation to other members of his class. Since grocery stores as a class were not affected, and since he did not show that the businesses permitted to operate on Sunday were selling prohibited items normally sold by a grocery store, he did not have a right to attack the constitutionality of the ordinance. The fact that an ordinance is not being enforced properly does not give a defendant the right to challenge the constitutionality of the business classification in an ordinance.

Held that a county board of education and the unit school committee can be sued for breach of a teacher's contract; that, in accordance with fundamental principles of contract law, a county board of education and a teacher must reach an agreement on the terms of a contract before the contract can be binding on both parties; that a letter containing notification of rejection of a teacher is in compliance with G.S. 115-359 and is sufficient to terminate the teacher's contract if it was registered and mailed to the teacher prior to the close of the school term in which she was employed, even if she did not receive it until after the end of the term.

In *Kirby v. Board of Education*, 230 N. C. 619 (Filed 28 September 1949) and *Davis v. Moseley*, 230 N. C. 645 (Filed 28 September 1949), two school teachers brought suit for breach of contract. In the first case Kirby was hired to teach "in the public schools of the district," assigned to school A, later made principal of school A, and in May of 1947 was offered a renewal of her contract. She accepted the renewal contract but specified acceptance of employment in school A. Before the beginning of the next school year she was transferred to school B but refused to report to school B on the ground that her contract called for her to teach in

school A. The Court held (1) that the county board of education was not immune from suit as an agency of the state because the General Assembly had incorporated it, had provided that it might be sued, and in requiring a teacher to sign a written contract with the county board of education had manifested an intention that a teacher be given a remedy against the county board for breach of contract; (2) that there is no evidence that the county board agreed to any modification of the contract to specify employment in school A alone; that in the absence of such evidence there must have been no contract because the county board and Kirby did not reach agreement on terms.

In the second case Davis claimed that her contract for the year 1945-46 carried on to the following year because she did not receive a notice terminating her employment before the end of the school year for 1945-46. The Court held that she could bring the suit against the county board of education, in accordance with the holding in the *Kirby* case, but that the notice registered and mailed by the county board of education before the expiration of the school year was sufficient to terminate the employment, even though Davis did not receive the letter until after the end of the school year.—G. H. E., Jr.

The Attorney General Rules

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

Prepared by GEORGE H. ESSER, JR., Assistant Director, Institute of Government

The laws of this and every state are so detailed and comprehensive that they can never be completely interpreted by the courts, nor would the average person have the inclination to test many minor legal points in the courts. There is, however, little hesitation to ask the Attorney-General to interpret the laws. Great corporations and needy mothers, distinguished lawyers and itinerant peddlers, are all among those who dispatched inquiries to the Attorney-General during the month of October. Many of these questions brought forth answers of interest only to the questioner. Many others have a wider application in the fields specified below.

Public Schools

Handling of School Funds. Some question has arisen over the 1949 amendments to G.S. 115-165 regarding the proper person to act as treasurer for money raised by classes in the public high schools and agencies such as the Parent-Teachers Association. The Attorney-General clarified the situation in two rulings:

To C. D. Douglas and N. F. Steppe.

(A.G.) G.S. 115-165 as amended by Chapter 1082, S.L. 1949, requires special school funds to be handled by a treasurer appointed by the governing body of the administrative unit, or the

funds can be handled by the regular treasurer of the administrative unit, as provided in other subsections of G.S. 115-165. Funds raised by school organizations and spent by such organizations are not required to be handled by a treasurer appointed by the administrative unit governing body.

School Age Requirements. Every year parents run up against the requirement that a child must be six years of age on October 1 in order to be admitted to school for the first time. Every year the Attorney-General is requested to consider special cases. This year he has repeated his ruling that a child born on October 2, 1943, will be six years of age on the first moment of October 1, 1949, according

to the common law of most jurisdictions. But the stern letter of the law was relaxed in the case where a child was born at 12:30 A.M. Daylight Saving Time on October 3, 1943, because, as the mother pointed out, had there not been an emergency requiring the use of Daylight Saving Time the child would have been born at 11:30 P.M. on October 2. The child was permitted to enter school.

Use of School Funds. A high school building trades class wanted to build a house on a lot and with materials furnished out of school funds. When completed, the house was to be sold to the highest bidder at an auction sale. Is the use of school funds for this purpose permissible?

To C. D. Douglas.

(A.G.) I do not know of any statutory authority for the use of school funds to purchase the lot and building materials.

Extension of Administrative Unit Boundaries. The limits of a city administrative unit are now coterminous with the city limits. Children from the township outside the limits use the city schools, however, and the administrative unit wants to extend its boundaries to become coterminous with the township boundaries. How can it do so?

To Osmer L. Henry.

(A.G.) G.S. 115-361 provides the authority for this procedure. An election should be called for the township in which the voters will approve or disapprove the payment of the special supplementary tax now paid by the residents of the city unit. If this vote is favorable, the state board of education should be petitioned to enlarge the present boundaries of the city unit to include the entire township.

Collection of Fines And Forfeitures

A county discovered that many fines and forfeitures for which judgments have been rendered remain uncollected, both in the Superior and Recorder's Courts. The county commissioners want them collected and asked the Attorney-General what were the proper steps to enforce collection.

To W. E. Watkins.

(A.G.) It is the primary duty of the clerk of the Superior Court to collect fines and forfeitures in the Superior Court, according to G.S. 1-305 and G.S. 2-42 (22). It is the duty of the superintendent of public instruction (G.S. 115-382) to examine all county records to see that proceeds from poll and dog taxes are properly accounted to the school fund, and to examine the records of all county courts including Justice of the Peace courts at least once every three months to see that all fines, forfeitures and penalties are promptly accounted to the school fund. If they have not been properly accounted, he is required to report to the State Board of Education and to the solicitor of the Superior Court. He should therefore make demands on the clerks of the various courts that ex-

ceptions be issued to impose collection. It is not necessary for the county to advance the fees for the issuance of executions for the collection of fines and forfeitures, for the clerk of the Superior Court is required to issue execution therefor without prepayment of any fees in criminal cases. Furthermore, no fees or commissions for collection can be taken out of the sums collected. The only bar to collection is the 10-year statute of limitations provided by G.S. 1-47, and a judgment of a justice of the peace would have to be docketed in the Superior Court for this protection.

Property Taxes

Clerical Mistakes on Tax Bills. In 1947 a town hired a person unfamiliar with tax work to make out its tax bills. In 1948 the officers of the town discovered that he had failed to add the valuations for real property and personal property on some of the bills, with the result that some persons received bills showing only the taxes due on personal property while others received statements showing only the taxes due on real property. Taxes had been paid in conformity to the erroneous statements. Can the town now collect the difference between the taxes paid and the amount actually due, and does the tax collector have the authority to levy upon and sell property to satisfy these taxes not included in the statements?

To Carl V. Venters.

(A.G.) With respect to taxes on real estate which has not been sold to a *bona fide* purchaser since the issuance of a receipt showing payment of the taxes and release of the lien, and with respect to taxes due on personal property and not included in the tax receipt, I am of the opinion the town has authority to correct its records to show the correct taxes due and to collect the difference. See G.S. 105-387 (j). The act of levying the tax, which is the act of fixing the tax rate to be applied against the assessed valuation of all real and personal property, gives rise to the tax lien against property and the tax liability of the taxpayer. Clerical errors would not relieve the taxpayer of his liability created by the act of the governing body in levying the rate of taxation, for such action would be contrary to the requirement of uniform taxation. See also G.S. 105-333; 105-324; 105-339; G.S. 160-53; 160-402; and 160-403.

In the case of a tax receipt on which was shown only real estate valuation and the tax thereon, the tax on personal property having been omitted, if the receipt has been paid and the property then transferred to a *bona fide* purchaser I am of the opinion that the purchaser could rely on the record showing payment of the tax on the real estate and consequent release of the lien on the real estate. The listing taxpayer, however, can be held liable for such personal property taxes as were erroneously omitted. Except as indicated, the town is not only authorized but has a duty to collect the

HARRY
McMULLAN
Attorney
General
of
North
Carolina



difference between the taxes paid and the taxes actually due.

Priority of lien on personal property. A city tax collector desires to levy on the personal property of a taxpayer for personal property taxes for the years 1948 and 1949. The taxpayer owns no real estate. The tax collector wants to know whether, under Section 1713 of the Machinery Act, the levy insofar as the 1948 taxes are concerned will be a valid lien ahead of a prior mortgage, assuming the tax is on the same property upon which the levy is made, or whether the levy would have to be made before the date of the prior mortgage.

To Edwin C. Ipoek.

(A.G.) The levy can be made at this time. See G.S. 105-385(a), which permits a levy for both 1948 and 1949 taxes at this time, subject only to the 10-year statute of limitations enacted in 1947. As to priority, if the levy is on the same personal property which was assessed for taxes, G. S. 105-376-(c) provides that the lien when it attaches to personal property shall, insofar as it represents taxes assessed against the property to which it attaches, be superior to all other liens and rights, whether prior or not.

Attachment and sale of personal property. The same collector finds that the personal property is principally heavy machinery and impractical to move. Does he have to take physical possession in order to protect his lien and is he required to conduct the tax sale at the courthouse door, as he does for real property, or may he conduct the sale on the premises where the machinery is located?

(A.G.) The levy would be made in the same way as the sheriff makes a levy under an execution, G.S. 105-385-(c). (See pages 56 and 57 of the Guidebook for Tax Collectors published by the Institute of Government in 1944). No provision is made for the place of sale of personal property for taxes, so it may be sold either at the court house door or on the premises, but notice must be given in accordance with G.S. 1-336.

Privilege License Taxes

Collection of Seasonal License. A town levies a privilege license tax of \$100 on an automobile dealer under the authority of G.S. 105-89(3) which permits cities and towns to levy a tax of up to \$300 if the business is of a seasonal, transient, temporary or

itinerant nature. The governing board promises the dealer that it will refund the difference between \$100 and the \$12.50 town tax on ordinary dealers if the dealer is still in business on July 1, 1950, indicating the permanent nature of the business. The owners of the business refuse to pay the tax. How can the town enforce the collection of the tax?

To Robert A. Cotten.

(A.G.) The difficulty with this section of the Revenue Act is the determination in advance of whether a business will prove to be seasonal or temporary in nature. Unless the ordinance provides a method for making this determination, the town tax officials will have to depend on their judgment. It would seem reasonable to require either payment of the seasonal tax with promise of refund if it proved to be a permanent business, or to require payment of the normal tax plus a bond to cover the difference in case the business proves to be seasonal. The Revenue Act does not afford a definite remedy to municipalities, nor does the general law with respect to privilege license taxes. Engaging in business without a license is usually a violation of the town's ordinance and is thus a misdemeanor for which a warrant may be issued. To sustain the criminal charge, the difficult fact of establishing in advance that the business will prove seasonal must be proved. Normally most cities resort to criminal warrants to enforce collection of privilege license taxes, but I am of the opinion that a city may institute a civil action in the appropriate court and recover judgment for the amount of the tax and collect through execution.

City Powers

One of the most troublesome problems faced by a city governing body is determining just how far it can go in passing regulations for the benefit of the health, safety and morals of the city. More frequently than not the statutes may not specifically cover the facts being considered in a particular situation and the reported cases may not offer concrete help. During October North Carolina cities posed these general questions to the Attorney-General:

Slaughterhouses. Does a city have the power to prohibit the construction and operation of a chicken dressing plant within the city limits, and if not, can it prohibit its construction within a certain distance from a residence and require that it be constructed in such a way that it will not give off offensive odors?

To Harry P. Horton.

(A.G.) The slaughtering of animals and fowls inside cities has been held to be a proper subject for regulation by municipal corporations under Article 18 of G.S. Ch. 160 See *Moore v. Greensboro*, 191 N. C. 592. The regulations, however, must be reasonable. *Clinton v. Oil Co.*, 193 N. C. 433. Although they are legitimate businesses

and not nuisances *per se*, slaughterhouses have been held to be nuisances when located near an inhabited locality. *Corpus Juris*, 46, page 723, sect. 183. See also *State v. Bass*, 171 N. C. 780. Thus a city may do all the things that you ask about in regulating the construction and operation of a chicken dressing plant inside the city limits.

Theater Posters. Does a city have the power to prohibit the placing of theater posters and other types of placards on telephone and electric light poles inside the corporate limits?

To R. M. Lee.

(A.G.) Some question exists as to the power of a municipality to pass such an ordinance, but G.S. 14-145 makes it a misdemeanor to place signs on any property of another without first obtaining the written consent of the owner.

City Ordinances

Approval by the people. Occasionally municipal governing boards are asked to pass an ordinance on which there is a violent split of opinion in the community. The governing board may hesitate to decide either way. Can it let the voters of the municipality vote on adoption of the proposed ordinance? A city recently wanted to submit a proposed ordinance prohibiting Sunday movies to the voters and asked the Attorney-General if it had the power to do so, its charter being silent on the question.

To C. S. Morgan, Jr.

(A.G.) The city cannot do so without authority from the charter, since there is no such broad provision in the general laws. However, the city can amend its charter to provide for an election on this ordinance or to provide generally for submitting ordinances to a vote of the people. See Article 23, G.S. Ch. 160, beginning with G.S. 160-353. If this procedure is adopted, a copy of the proposed amendment must be submitted to the Municipal Board of Control, and the election then conducted under the machinery provided in the article.

City Streets

Maintenance. Policies with respect to the maintenance of streets differ from city to city and may be affected by the provisions of individual city charters. For example, many cities will not maintain streets until they have been improved and turned over to the city. It often happens, however, that in the slum areas of a city, the streets are never improved and turned over to the city for maintenance. Does the city's policy prevent it from repairing those streets to the extent of filling in holes, removing rocks, grading, and making it safe on which to travel?



**T. WADE
BRUTON**

Assistant
Attorney
General

To John Shaw.

(A.G.) A city has the authority to take over streets for limited maintenance under the provisions of G.S. 160-222. If assessments are to be made against abutting property owners, then it must proceed under the provisions of Article 9, G.S. Ch. 160, as amended by the city charter. For maintenance, the city need not own the streets; for permanent improvement, it must own the streets.

Parking Meters. Many North Carolina cities derive substantial revenues from parking meters, and naturally enough many of them would like to use these proceeds for the improvement of streets on which the meters are placed. The statute authorizing meters provides that the proceeds be used to make parking regulations effective and for expenses incurred in the regulation and limitation of vehicular parking and traffic. Is this authority broad enough to permit street paving and building curbs and gutters?

To Frank Banzet.

(A.G.) I do not believe that this language (G.S. 160-200(31)) can be said to include the right to spend these funds for street improvements.

City Tort Liability

Fires Outside City Limits. One of the permitted functions of sanitary districts in North Carolina is operation of a district fire department. As in cities and towns, the district fire department is often called upon to answer calls originating outside the limits of the district. Suppose the fire truck answers an outside-district call, under proper authority, and while it is outside the district, a fire occurs inside the district resulting in complete destruction because of the absence of the fire equipment. Are the members of the sanitary district board personally liable to the district property owner for permitting the fire equipment to leave the boundaries of the district?

To Robert T. Wilson.

(A.G.) We have expressed the opinion that officials in a municipality would not be liable under such circumstances on the theory that the operation or a fire department by a municipality is the exercise of a governmental function and that there is no liability to individuals growing out of the performance of these duties. See *Howland v. City of Asheville*, 174 N. C.

749; *Mabe v. City of Winston-Salem*, 190 N. C. 486. The sanitary district has the same status as a city or town with respect to governmental functions. See also G. S. 160-238 as amended by Chapter 89, S.L. 1949, providing Workmen's Compensation benefits for firemen fighting fires outside the district, and declaring that the municipality and its employees are acting in a governmental capacity in permitting its fire department to answer fire calls within a 12-mile limit outside the municipality.

Relief from Liability by Contract. The governing board of a town is probably not justified in granting a person, firm or corporation a privilege which may subject the town to tort liability. On the other hand, that person, firm or corporation may want the privilege so badly that it will offer to assume the liability of the town for any accident traceable to the privilege. For example, a church lost its front door steps when the state highway inside the town was widened, and side entrances were substituted. At length, however, the trustees of the church decided they wanted the front steps back and requested permission from the town to encroach upon the sidewalk in building them. The town governing body pointed out that such permission would make the town liable for any accidents resulting from stumbling into or falling on the steps. To avoid this obstacle, the church offered to assume the town's liability for any injuries resulting from the location of steps on the sidewalks. The town now wants to

know if such an arrangement is legal and binding.

To Hal H. Walker
(A.G.) A municipality may contract as indemnitor or indemnitee in connection with things done either in a governmental or proprietary capacity. *Hohensee Construction Co. v. Railway Co.*, 261 S.W. 242. Such a contract is not against public policy. A contract on the part of an unincorporated corporation such as a religious congregation is valid so long as it was created in a manner authorized by the articles of the association. *Hinchester v. Brotherhood of Trainmen*, 203 N. C. 735. The trustees of a church are subject to personal liability on contracts made in administration of the trust unless the contract provides that they are not to be liable. See Scott on *Trusts*, page 2156; *Nash v. Ferrabow*, 115 N. C. 303; *Mitchell v. Whitlock*, 121 N. C. 161; G.S. 61-2. Thus a church could be responsible for liability where it contracted to assume a town's liability for injury by permitting a church building to encroach on the sidewalk.

City Contracts

Rat-proofing charges. A city has an ordinance providing for the control of typhus fever and other rat-borne diseases, and requiring rat-proofing and eradication measures. The property-owner may have the required work done himself or may contract with the



PEYTON B. ABBOTT
Assistant Attorney General

typhus control unit of the city board of health at a cost based on an estimate by the unit before the work is done. The city now finds that some property-owners are refusing to pay the cost of the work, and wants to enforce collection. Can the board of health sue to recover the amount of the contract? Or can it, in accord with the rat-proofing ordinance, turn the bills over to the tax collector for collection on the ground that the obligation attaches a lien on the property? In addition, can it secure a mandatory injunction to abate the nuisance if a property-owner refuses to have the work done?

To Claude V. Jones.

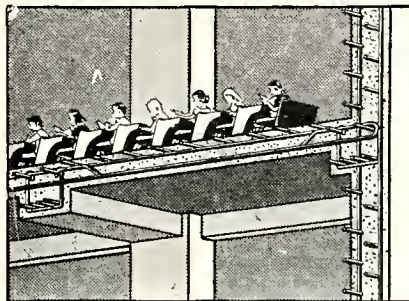
(A.G.) Of course the answer to the contract question cannot be given precisely until the Supreme Court passes on it. It would seem that where the owner signs the agreement, the suit could be brought in the manner pointed out in *City of Wilmington v. Schutt*, 228 N. C. 285. Probably either



**PROTECT LIVES
LIKE THESE . . .**

by building your new
schools with firesafe

CONCRETE



You don't have to worry about the safety of a properly designed, reinforced concrete building. It resists damage from fires, tornadoes, and even earthquakes.

And no wonder! Walls, frame and floors are constructed as an integral unit of concrete and embedded steel bars. Such a structure has the strength, rigidity and toughness to withstand the forces that might spell disaster for less sturdy construction. It is the *safe*, economical way to build.

Recommend concrete for the new school

PORTLAND CEMENT ASSOCIATION

State Planters Bank Bldg., Richmond 19, Va.

A national organization to improve and extend the uses of Portland Cement and Concrete - - - through scientific research and engineering field work.

the health officer or superintendent of health should be made a party plaintiff. See *Board of Health v. Commissioners*, 173 N. C. 250. That case held that the state board of health could bring suit, and *Board of Health v. Lewis*, 196 N. C. 641, supports the conclusion that a city board of health may do so as well.

I have doubts that the repairs can be charged by certification to the tax collector, placing them on the tax books and enforcing collection by lien, in the absence of express statutory authority as is given for the collection of the expense of destroying noxious weeds in G.S. 160-200(8). It is entirely possible, however, that the section dealing with the suppression of contagious diseases (G.S. 160-230) gives that power, for it provides that all expenses incurred by the city in disinfecting or caring for any person may be recovered from the person or property cared for, and that the expense incurred in caring for property shall become a lien on the property. The power may also be conferred by G.S. 160-234 which certainly gives the necessary authority under which to seek an injunction, if the rat menace is proved to be a nuisance dangerous or prejudicial to the public health.

County Powers

Cost of Revaluation. A county wants to revalue its property. Can it spend county funds for this purpose?

To C. C. Tomlinson.

(A.G.) The county commissioners have authority to expend money for the revaluation of property from surplus or unappropriated funds from non-tax sources and from unappropriated funds arising from the general fund levy. It is doubtful whether they can use other tax funds or levy a special tax to defray the costs of revaluation. See 213 N. C. 698.

Police Radio. A city owns and operates a radio system for its law enforcement officers and the county law enforcement officers use the net. The city determines that it cannot continue to bear the full cost of operation and maintenance and must discontinue the system unless the county contributes at least half of the annual cost. Does the county have the power to make the appropriation?

To T. G. Stem.

(A.G.) If the law enforcement division of the county government can make it appear that continuance of the service is necessary and essential to proper law enforcement in the county, then the county commissioners, on a finding by proper resolution, can appropriate half the cost of maintenance and operation out of any available funds not otherwise appropriated. I do not think that the county could levy a special tax unless it had been so authorized by the General Assembly.

Health Officer's Salary. In order to secure a competent and qualified doctor for the position of county or district health officer, may a county supplement the salary of the health

officer as fixed by the Merit System Council?

To W. A. Blount.

(A.G.) I regret to advise that the salary for a health officer fixed by the Merit System Council is the only salary that may be paid if you wish to continue receiving federal funds. The only way in which the authorized salary may be increased is by action of the Council.

Law Enforcement Officers

Witness Fees. A town pays its chief of police \$225 monthly. At the time he was employed it was understood that he would also serve as a county deputy sheriff and would be entitled to receive the court fees allowed deputy sheriffs by law. The county commissioners have now ruled that he may receive arrest fees only in his capacity as deputy sheriff, and that he is paid for witness fees through his position as an officer of the town. Is he entitled to claim the witness fees from the county?

To J. William Copeland.

(A.G.) Under the provisions of G.S. 6-52 any law enforcement officer who receives a salary for his services from a source other than the collection of fees shall receive no fee as a witness for attending at any superior or inferior criminal court sitting within the territorial boundaries in which such officer has authority to make arrest.

Clerk of Superior Court

Liability for Stolen Funds. To what extent is a clerk of superior court liable for the loss of funds entrusted to his care? The question arises frequently. For example, a clerk collected over \$300 one Saturday afternoon (after the bank had closed) from the state tax on criminal cases. Over the weekend it was stolen. He claimed that he was not liable for the money but the state claimed that he was.

To Ira T. Johnson.

(A.G.) Under the provisions of G.S. 2-3, the bond of the clerk covers all funds which have come or may come into his hands by virtue or color of his office or under an order or decree of the court, whether such decree be void or valid. As regards these funds, the clerk is an insurer and a guarantor. *State v. Sawyer*, 223 N. C. 102; *Thacker v. Deposit Co.*, 216 N. C. 135. In the *Thacker* case, the court held that liability would clearly attach "where thieves break through and steal" and equally so where the clerk is the victim of a forgery.

Motor Vehicle Laws

Proof of Financial Responsibility. Questions concerning interpretation of the financial responsibility statutes continue to arise. One ruling during October possibly presents a situation

where the wording of the statute should be modified. The case involved an individual who had his driver's license revoked under the Uniform Driver's License Act. At the time he became eligible to apply for a new license, he submitted proof of financial responsibility but failed to apply for the license and did not submit the application for a license until six months later. Now he wants to know whether he will have to maintain proof of financial responsibility for two years from the date of the issuance of the new license, or two years from the date when he could have been issued a new license and when he did file his proof of financial responsibility.

To L. C. Rosser.

(A.G.) G.S. 20-230 requires that proof of financial responsibility be maintained for two years from reissuance or reinstatement of the license, even though the intent of the requirement is probably satisfied by maintaining proof for two years from the date when it could have been reissued.

Another question concerned the application of the requirement to non-residents, and in particular to a non-resident who was a formerly a citizen of North Carolina and had his North Carolina license revoked because of conviction of an offense making revocation mandatory. Following the revocation he moved out of the state and established residence in another state. He also secured a driver's license in the other state. He now wants to know if he can drive in North Carolina without giving proof of financial responsibility.

To J. W. Jackson.

(A.G.) G.S. 20-245 makes the Act applicable to non-residents under the same circumstances as a resident. He must furnish security and give proof of future financial responsibility if he falls under the provisions of the statute. G.S. 20-230 requires proof of financial responsibility of one whose license has been revoked or suspended before his privilege is restored. The non-resident must also furnish proof before his privilege can be restored. All that is required is that the non-resident furnish the required certificate which shows that he is financially responsible for any damages occurring in an accident in which he is found to be at fault. G.S. 20-253 and 254 also apply.

Drunken Driving of Bicycles. A person rides a bicycle down the highway while intoxicated. Is he guilty of violating the drunken driving statute or is the offense public drunkenness?

To J. W. H. Roberts.

(A.G.) G.S. 20-138 makes it unlawful for any person who is under the influence of intoxicating liquor to drive any vehicle on the highways. G.S. 20-38(ff) includes bicycles in the definition of "vehicles." In view of these sections, I am of the opinion that one who drives or operates a bicycle on the highways while under the influence of intoxicating beverages is guilty of a violation of G.S. 20-138 and is punishable under G.S. 20-179. See *Van Dyke v. Atlantic Greyhound Corporation*, 218 N. C. 283; *Tarvant v. Bottling Company*, 221 N. C. 390.

The Jailers Go to School

On the morning of November 2nd, twenty-five officials responsible for some phase of county or city jail operation—ten county and city jailers, four county jail matrons, one sheriff, one chief of police, together with other law enforcement and welfare department personnel—met at the Buncombe County courthouse in Asheville to register for the second annual course in Jail Management.

Three days later they were awarded certificates for satisfactorily completing the course, thus joining the other groups of city, county, and state officials who have been attending training schools at the Institute of Government since 1932—a growing roster of thousands of alumni of what has become a great university of public officials.

Many of those who attended the 1949 school had also been on hand for the first school held last year at Chapel Hill.

The first school grew out of meetings of a committee of law enforcement officers—sheriffs and police officers—appointed pursuant to Ch. 915 of the Session Laws of 1947 to consult regularly with officials of the State Board of Public Welfare “regarding the personal safety, welfare,

and care of inmates incarcerated in county and municipal jails and city lock-ups.”

This committee recognized the need for a training school. Last year's and this year's schools were accordingly conducted by the Institute of Government with the cooperation of the State Board of Public Welfare. Assisting throughout the course were Ivan Creel, Chief Training Officer, Atlanta Federal Penitentiary, and John Morris, Secretary-Treasurer of the North Carolina Sheriffs' Association. W. M. Cochrane, Assistant Director of the Institute of Government, was in charge of the school, working with Drury Thompson, Staff Attorney, State Board of Public Welfare.

Of especial interest to those attending the course was the collection of contraband—weapons of every description made on the sly by Atlanta penitentiary prisoners and captured by officials there before they could be used—which were displayed by Mr. Creel. The collection of posters, made by the prisoners' art class at Atlanta for the school and provided through the courtesy of the Federal Bureau of Prisons, was also particularly helpful in illustrating the subjects under discussion.

Topics of discussion and study during the course included: The jail and its relation to welfare problems; jail intake and release procedures; physical examination and medical treatment of prisoners, and first aid; problems connected with prisoners' visitors; feeding problems; discipline; security; training jail personnel; care of prison equipment; recreation and exercise; legal rights of prisoners; welfare department responsibility for jails; jail sanitation problems; fire prevention and control; recommended jail standards; salaries versus fees; and opportunities for cooperation among jail, law enforcement, judicial, and welfare officers.

The instruction staff of the school, in addition to those already named, included: Dr. Ellen Winston, State Commissioner of Public Welfare; J. B. Moore, Director of State Prisons; Dr. P. R. Terry, Buncombe County Jail Physician and County Coroner; Clifton Beckwith of the staff of the Attorney General; William Broadway, Western District Sanitarian, State Board of Health; J. M. Clark, Asheville Fire Department; and Richard Turkelson, Special Agent, State Bureau of Investigation.



GOVERNMENTAL LABORATORY BUILDING INSTITUTE OF GOVERNMENT



INSTITUTE OF GOVERNMENT SERVICES

