Popular Government

December 1950--January 1951

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1951 House of Representatives Takes Oath of Office

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

INSTITUTE OF GOVERNMENT

Volume 17 | December 1950-January 1951 | Numbers 4 and 5

CONTENTS

POPULAR GOVERNMENT is published monthly except July and August by the Institute of Government, the University of North Carolina, Chapel Hill. Editor: Albert Coates. Assistant Editors: John Fries Blair, V. L. Bounds, J. Shepard Bryan, Jr., W. M. Cochrane, George Esser, Philip P. Green, Jr., Donald B. Hayman, Henry W. Lewis, Ernest W. Machen, Jr., J. A. McMahon, Basil Sherrill, William Poe. 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 1950 by the Institute of Government. All rights reserved.

Stream Pollution In North Carolina

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The following article presents a history of legislative efforts to control stream pollution in North Carolina and discusses some of the issues which face the 1951 General Assembly. It has been selected from a 150-page study of the stream pollution problem prepared by the staff of the Institute of Government. The complete study is divided into four parts:

(1) *A History of Legislative Efforts to Control Stream Pollution in North Carolina;* (2) *The Physical Problem of Stream Pollution and Its Control;* (3) *State, Regional, Federal, and Private Measures to Control Stream Pollution in the United States;* (4) *An Analysis of the Proposed Stream Pollution Control Bill.*

I. Legislative Efforts To Control Stream Pollution

The colonial abundance of North Carolina's natural resources was a source of both joy and wonder to the first colonists. These early settlers wrote glowing accounts of North Carolina's rich, untapped resources to their friends and relatives in England and Scotland. They wrote of the mild climate and of the adequate rainfall; of the great inland sounds in which fish and mussel thrived in unbelievable variety and abundance; of the five great navigable rivers which emptied into these sounds and estuaries; of the deep, fertile soil and of the magnificient stands of pine and hardwood; of the abundance of game and of the clear and sparkling streams that were alive with fish. The unbelievable productivity of nature caused even the poorest to dream of wealth and caused the inevitable development of the legend of inexhaustibility. This legend and its companion philosophy of optimism were accepted with few reservations by most Carolinians for the following 150 years.

Now, at the beginning of the last half of the 20th century, these letters appear as strange and fanciful as the romantic folktales that the colonists brought with them. But how were they to know that within little more than two brief centuries the five hundred miles of wilderness, rising like terraces from the tidal marshes to the Appalachian Plateau, would be transformed into farms, homes, and factories for four million people? How were they to know that the forests would be cleared, the lands drained, stream channels dredged, roads built, water power developed, minerals extracted and utilized, factories erected, and towns and cities brought into being? How were they to know that they, and their descendants, would devastate the forests by axe and fire, wear out or waste much of the crop land, decimate the wildlife, pollute the streams, and disfigure the landscape?

By the close of the Civil War many of the streams were described as "red" and others as "yellow" with fertile top soil from the land. By 1869 the state geologist estimated that corn and cotton had reduced three million acres or half of the cleared area of the state to a condition described by the term "old fields." Erosion caused many families to move westward to the vast mid-continental frontier, but few questioned the legend of inexhaustibility. In fact, the present extensive programs of soil conservation, forest fire protection, and state-wide fish and game administration are largely the product of the last 50 years and only in recent years have they received wide public support.

The most recent attempt to focus public attention on natural resources was the report of the State Stream Sanitation and Conservation Committee. Their report to the Governor and to the General Assembly recommends the passage of a waste disposal control bill. This is not the first time that stream pollution has been declared a problem in North Carolina or that stream legislation has been recommended.

EARLY LEGISLATION

The first legislative acts concerning the streams of the state were acts of the early colonial assembly to encourage navigation. Later, in 1787, the county courts of pleas and quarter sessions were made responsible for supervising the rivers of their counties and seeing that all dams provided for the free passage of fish and of logs being floated to sawmills. In 1823, a state geologist was appointed. For five years subsequently a geological survey, which reported the size and location of streams and of the abundance of water, was financed by money received from the sale of Cherokee lands. During this period the state's water resources were taken for granted; prior to 1891 the state's water resource program was limited to water analysis done in turn by the State geologist (1851-79), a chemist in the Department of Agriculture (1879-89), and the State Board of Health (1889 to date).

The growing needs of North Carolina industry and urban population are reflected in the legislative acts of the 1890's. Three years after the establishment of the Geological Survey in 1891, power development was encouraged by the collection of stream gauging data in cooperation with the U. S. Geological Survey. Most of the financial support for the stream gauging was provided by the federal government. Growing cities demanded more lumber, and the increased number of sawmills resulted in hundreds of local acts prohibiting the dumping of sawdust or other wood refuse in rivers and streams.

STATE BOARD OF HEALTH GIVEN CONTROL POWERS

When rising urban population brought greater danger of epidemics, the State Board of Health was given the general oversight and care of all inland waters of the state.[1] The Board was authorized to examine sources of domestic water supplies and consult with municipalities and corporations as to the methods of water purification and sewage treatment. All municipalities and corporations were required to submit their water or sewage plans to the Board of Health for advice, and cities could not contract for water or sewage systems until the advice of the Board had been received and considered. In 1899 an act was passed which required the Board of Health to super-

[1] *Public Laws of 1893*, Ch. 214, Sec. 18 and 19.

vise the periodic inspection of all public water supplies.[2]

The General Assembly of 1903 evidently felt that the 1893 and 1899 acts were inadequate. For in continuing state review of water and sewage disposal plans, the 1903 General Assembly (1) required more frequent inspections of the source of public water supplies and (2) prohibited the discharge of untreated sewage into any stream used as a public drinking supply until it had been passed through a sewage purification system approved by the State Board of Health.[3] Failure to treat sewage as required was made a misdemeanor, subject to injunction.

The 1903 act heralded the construction of sewage treatment plants throughout the state by municipalities and private manufacturing firms. Within three years the act had been declared constitutional and a valid exercise of the police power of the State. In the opinion of the Supreme Court, *Durham v. Eno Cotton Mills*, 141 N.C. 615, 54 S.E. 453 (1906), the act required that sewage must be treated before being discharged into a source of public water supply: "the Legislature has decided that it is desirable to preserve our natural streams in at least their present state of purity, and, where they have been polluted, to remove the cause as speedily and effectually as possible."

1911 HEALTH ACT IS BASIC LAW TODAY

In 1911 the waste disposal provisions of the public health laws were rewritten. The acts of 1893, 1899, and 1903 were reenacted with little or no revision. New provisions were added to permit the Board to make all rules and regulations necessary to protect the public health, to prohibit municipalities from contracting for water or sewage disposal systems until their plans had been approved by the Board of Health, and to make failure to comply with these provisions a misdemeanor.

These acts as rewritten in 1911 are today, forty years later, the only significant substantive legislation that North Carolina has in the field of stream pollution. The following are the most important sections of the present stream sanitation and waste disposal provision of the public health laws:

(1) G.S. 130-109 provides that the Board of Health shall have supervision and control over all inland waters, shall examine public water supplies and watersheds, and shall make such rules and regulations as it shall deem necessary to prevent contamination and to secure other purifications as may be required to safeguard the public health. (P.L. of 1893, c. 214; P.L. of 1911, c. 62, s. 24)

(2) G.S. 130-110 provides that the Board of Health shall consult with and advise municipalities or corporations having or proposing a system of water supply or sewerage as to the best methods of purifying their water supplies and disposing of their sewage. Municipalities are prohibited from contracting for a water or sewage disposal system until their plans are approved by the Board of Health. (P.L. of 1893, c. 214; P.L. of 1911, c. 62, s. 24)

(3) G.S. 130-117 provides that no person, firm, corporation, or municipality shall discharge sewage into any stream above the intake from which a public water supply is taken unless the sewage shall have been purified by a method approved by the State Board of Health. Continued discharge of such sewage may be enjoined upon application of any person. (P.L. of 1903, c. 159, s. 13; P.L. of 1911, c. 62, ss. 33, 34)

The General Statutes provide that a violation of any of these three sections is a misdemeanor.

Supreme Court Supports Pollution Abatement

Although the 1911 public health act is still North Carolina's principal law affecting pollution, the story of North Carolina's waste disposal does not stop in 1911. Encouraged by the construction of water and sewage plants, many were optimistic of the future. Certainly the Supreme Court and the State Board of Health were optimistic as they set out to keep the streams clean.

With the Supreme Court strongly approving the use of the "police power" of the state to require sewage treatment, a procession of plaintiffs took to the courts to obtain damages because their property was injured by streams polluted by municipal sewage. The Court consistently held that to pollute and contaminate a stream and to render it unwholesome, impure, and unfit was a nuisance.[4] Greensboro was even required to pay damages to land owners along the creek into which they emptied their sewage when the State Board of Health had approved their method of sewage disposal.[5] Several cities soon tired of civil suits and purchased easements along the banks of the streams into which their municipal wastes were emptied.

Of course, the Board of Health was handicapped by meager appropriations and the absence of a staff of sanitary engineers to advise municipalities and corporations desiring assistance. But progress was made; by 1916, 98 cities and towns had public water systems and 10 other cities had systems under construction. This included nearly every town of over 1,000 population. Also of far reaching importance was the strongly worded opinion of the Supreme Court upholding the authority of the Secretary of the Board of Health to enjoin Louisburg from emptying untreated sewage into the Tar River, which was used by Rocky Mount, Tarboro, and Greenville as a source of municipal water supply.[6]

With acute foresight Justice Clark in a concurring opinion predicted that "the number of public water plants and of towns having sewage will steadily increase, and with it the importance of preventing the pollution of our streams and waterways . . . . With the growth of the State in population and wealth, legislation of this kind which was unknown, if not unneeded, in an earlier day has become a necessity."

Erosion Pollution Serious Problem

The disasterous flood of 1908 and especially the flood of 1916, which took many lives and swept homes and bridges away, focused public attention again on the streams of the state. These floods were the most tragic in the history of the French Broad, the Catawba, and the Yadkin because the slashed remains of the forests and the burned over forest floor no longer acted as nature's sponge to feed moisture slowly to the streams. As the rains fell on the barren or cultivated hillsides, each of these rivers was transformed into a rolling sea of mud. Although the flood of 1916 was exceedingly destructive, it intensified public support for I. O. Schaub and the effort of the farm extension program to keep North Carolina green.

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[2] *Public Laws of 1899*, Ch. 670.

[3] *Public Laws of 1903*, Ch. 159.

[4] *Little v. Town of Lenoir*, 151 N.C. 415, 66 S.E. 337 (1909); *Moser v. City of Burlington*, 162 N.C. 141, 78, S.E. 74 (1913); *Rhodes v. City of Durham*, 165 N.C. 679, 81 S.E. 938 (1914); and *Clinard v. Kernersville*, 215 N.C. 745, 3 S.E. 2d 267 (1939).

[5] *Donnell v. Greensboro*, 164 N.C. 330, 80 S.E. 377 (1913).

[6] *North Carolina State Board v. Commissioners*, 173 N.C. 250, 91 S.E. 1019. (1917).

Stream Research Increases

Not until the sanitary privy law of 1919 was passed did the General Assembly provide the Board of Health with a staff of sanitary engineers. The following year a Water Resources Division of the Geological and Economic Survey was established in Chapel Hill to expand stream gauging and to work with cities and counties on additional sources of water supplies.

Following the national typhoid scare of 1924, the newly established Division of Engineering and Inspection of the State Board of Health assigned a sanitary engineer to work with the Fisheries Commission Board, which had supervised the maritime fisheries of the state since 1915 and the game fish since 1917. The sanitary engineer conducted bacteriological examinations of waters taken from the shellfish beds and inspected oyster shucking houses and crab meat plants. If the water was found to be contaminated, the Board of Health recommended that the affected shellfish areas be restricted. In every case the Fisheries Commission Board and its successor the Department of Conservation and Development has restricted shellfish areas in accordance with the Board of Health's recommendation. As of May, 1950, 27,042 acres of shellfish beds were closed to commercial digging because of pollution. This represents approximately 2.7 per cent of the state's total acreage of shellfish grounds. The restricted areas are not heavily productive and their loss has little effect on the overall state shellfish industry.

Fish Protective Acts of Little Value

The anti-pollution provision of the 1915 act establishing the Fisheries Commission Board was never enforced by the Board.[7] Originally sponsored by commercial fishing interests, G.S. 113-172 prohibited the discharge of poisonous substances inimical to fish into the waters of the state. Although it first applied exclusively to commercial fin fish and shellfish, its coverage was extended automatically to game fish when the Board was given jurisdiction over game fish in 1917.

When the Department of Conservation and Development inherited the maritime and game fish programs in 1927, the second "fish protective" anti-pollution act was passed. G.S. 113-245 provided that no person, firm, or corporation shall allow substances poisonous to fish to flow into the waters of the state which have been designated as fish-producing waters. Cotton mills discharging dyestuffs or sewage, and possibly municipalities, were exempt. Prosecution was restricted to the Fisheries Commission Board whose functions were transferred to the Department of Conservation and Development.

There were no prosecutions under either of these acts by the Department of Conservation and Development. The constitutionality of the first, G.S. 113-172, was always questioned because it gave a blanket exemption to all firms chartered prior to its enactment. The second, G.S. 113-245, was considered ineffective because it exempted the textile industry, the largest industry of the State. But there were other reasons why the provisions were not enforced. First, the traditional method of enforcing the commercial fishing laws in North Carolina has been by negotiation and persuasion rather than litigation. Second, the Department lacked the technical personnel and the money to undertake the bacteriological field research necessary to prove pollution. Third, many of the worst stream polluters were municipalities. Fourth, political pressure against pollution abatement was overwhelming.

There is little possibility that they will be enforced in the future. For the first, G.S. 113-172, was declared unconstitutional in 1948, and the second, G.S. 113-245, was abandoned without support when the Fish and Game Division was divorced from the Department of Conservation and Development in 1947.

State v. Glidden

Previous fears as to the constitutionality of G.S. 113-172 were justified in 1948 when a Caldwell County constable charged a local mining corporation, chartered after March 4, 1915, with emptying untreated residue from their mining operations into a local stream. On its first test in Superior Court in its 33 years of existence, the 1915 act was declared unconstitutional. The Supreme Court in upholding the lower court specifically declared that the legislature had the authority to eradicate or "scotch" pollution in order to conserve fish life. But the Court asserted that the blanket exemption of all corporations chartered before 1914, created a distinction having no relation to the evil sought to be remedied and failed to apply alike to all corporations or persons similarly situated.[8]

Although the second "fish protective" anti-pollution act, G.S. 113-245, continues as a part of the laws of the state, responsibility for its enforcement remains in doubt. The same act that transferred the Department of Conservation and Development's power to designate streams as fish producing streams to the Wildlife Resources Commission also specifically prohibited the Wildlife Resources Commission from administering "any laws regulating the pollution of streams or public waters in North Carolina."[9] As long as this "confusion worse confounded" exists, there is little likelihood that this anti-pollution act will be enforced.

Industry Exemptions

Even this fish protective act could not be enforced against persons engaged in mining kaolin and mica. G.S. 74-31 provides that persons engaged in kaolin and mica mining shall be allowed to run the waste, water, and sediment off into the natural courses and streams.[10]

INFORMAL STREAM SANITATION COMMITTEE

During the 1920's many new water and waste disposal plants were built, and 95 per cent of the older plants were at least partially rebuilt. Also during this period it became increasingly evident that field investigation and research would be necessary before the disposal problems of certain industries and municipalities could be solved. For example, what was the proper treatment of heavy industrial wastes when mixed with domestic sewage, of textile wastes, and of paper and pulp wastes? Waste disposal plants could not be recommended or approved until more facts were known or new processes discovered.

Perplexed by the same problems, the Board of Health and the Department of Conservation and Development were drawn together. In 1927 the Director of the Department of Conservation and Development, the State Health Officer, and the principal engineer of each department organized themselves into an informal Stream Sanitation and Conservation Committee. An agreement was prepared providing for the two departments to cooperate in joint research projects and for a division of duties. The agreement provided that the Department would do all stream gauging and mapping and that the State Board of Health would do all biological and

[7] *Public Laws of 1915*, Ch. 84, Sec. 20.

[8] *State v. Glidden Company*, 228 N.C. 664, 46 S.E. 2d 860, (1948).

[9] *Session Laws of 1947*, Ch. 263, Sec. 11; *N. C. General Statutes of 1943*, Ch. 143, Sec. 247.

[10] *N. C. General Statutes of 1943*, Ch. 74, Sec. 31.

chemical analysis work. Cooperative projects were worked out with textile, tanning, and paper pulp firms and a number of municipalities. Several firms employed technical personnel and assigned them to work with the Committee. This work continued with remarkable success until the economic conditions resulting from the depression caused the cooperative research program to be abandoned in 1931.

Smithfield v. Raleigh

The depression of the early 30's closed industrial plants that had been polluting North Carolina's streams, but pollution was not reduced because municipalities quickly felt the pinch of reduced valuations, tax delinquencies, and statutory debt limitations and halted sewage treatment construction. Even research was discontinued as the sanitary engineering staff of the Board of Health was reduced two-thirds and appropriations were slashed even more.

It was in this period of financial distress that Smithfield first sought to stop Raleigh from dumping untreated sewage into the tributaries of the Neuse. Raleigh, at the time, was emptying the raw sewage of 42,000 people into the Neuse, which was the source of Smithfield's municipal water supply, just 33 miles above Smithfield. Realizing that this constituted a possible menace to the health of the citizens of Smithfield, as well as an open violation of G.S. 130-117, the State Board of Health ordered Raleigh to treat their sewage.[11] After the order was ignored, Smithfield sought an injunction to stop Raleigh from polluting the Neuse.

The trial judge did not excuse Raleigh for violating the law. Instead he dismissed the case because of Raleigh's financial distress and because he found no evidence that the citizens of Smithfield had been injured by Raleigh's action. In his opinion he cited the facts that Raleigh was already two years in default of its bonded indebtedness and that "The court has drunk of its water and bathed in it, and has suffered no ill effects therefrom."

Although the Supreme Court did not explicitly approve of the Judge's "trial by water," which in ancient times was used "in determining the guilt or innocence of witches," they did agree that a judge should consider surrounding facts and circumstances such as Raleigh's financial condition. However, the Supreme Court emphasized that G.S. 130-117 was the public policy of the State and that Raleigh must not unreasonably delay in complying with it.[12]

Public Health Act Ineffective

This decision would not have greatly weakened the State's waste disposal program if the citizens of Raleigh had attempted to comply with the law within a reasonable length of time. However, Raleigh's delay has, in effect, nullified the administrative effectiveness of this important section of the State's waste disposal law.

To obtain compliance with the spirit of the Supreme Court's 1935 decision, Smithfield in 1948 again filed suit to restrain Raleigh from dumping untreated sewage into the Neuse. The Superior Court has now ruled that Raleigh must install sewage treatment facilities to reduce pollution of the Neuse by January 1, 1956. A special bond election will be held February 3, 1951. If a majority of the voters favor issuing sewage disposal plant bonds, Raleigh may yet comply with G.S. 130-117. However, the court did not say what recourse Smithfield will have if Raleigh's citizens do not approve the sewage disposal plant bonds.

On the basis of previous research by the informal Stream Sanitation and Conservation Committee, the State Planning Board in 1937 recommended that additional waste disposal legislation be enacted. S.B. 180, a bill to preserve the purity of the waters of the State, was introduced but was later defeated in the Senate.

STATE STREAM SANITATION AND CONSERVATION COMMITTEE

In 1945 the General Assembly appointed a committee to coordinate the water research activities of the Board of Health and the Department of Conservation and Development. The new committee has the same name and the same job as its informal predecessor of 1927.[13] Six members of the Stream Sanitation and Conservation Committee serve *ex officio*. The remaining 10 members are appointed by the Governor for 5 years overlapping terms. They include one representative of agriculture, one representative of industry at large, three representatives of municipalities, and one representative of each of five industries—clay, fertilizer, tanning, textile, and paper pulp. The Committee was directed to (1) locate and study instances of stream pollution, (2) determine the nature and circumstances of pollution, (3) determine the technical and economic feasibility of remedying or improving the situation, and (4) make recommendations as to the future course to be followed with regard to stream sanitation.

The activities of the committee were seriously limited at first because they received no appropriation during either 1946 or 1947. However, two chemists—one from each of the cooperating departments—devoted a portion of their time to work for the committee. During the summer of 1946 lapsed Board of Health funds were used to hire a sanitary engineer from State College to make a preliminary study of the extent of existing stream pollution. The findings of the engineer, together with the recommendations of the Committee, were presented to the General Assembly.

The 1947 General Assembly amended the 1945 law to permit the Committee to hire clerical, technical and professional personnel and to allow members of the committee a per diem allowance and travel expenses. The General Assembly also appropriated approximately $20,000 annually to the Department of Conservation and Development to be used by the Stream Sanitation and Conservation Committee for its field investigations. This appropriation was continued by the 1949 General Assembly, and $25,354 has been recommended for this work by the Advisory Budget Commission for each year of the coming biennium.

Since these funds were made available in July, 1947, three engineers, one chemist, and a secretary have cooperated to complete two river basin studies and a number of spot sewage and industrial waste surveys. The first study completed was of the pollution of the Neuse River above Smithfield. Since then the Yadkin and the Catawba River basins have been studied in great detail. Spot studies of sewage and industrial waste problems have been prepared for Albemarle, Durham, Greensboro, Kannapolis, Kernersville, Lexington, Salisbury, Statesville and Thomasville. Other studies have included the shellfish growing areas of New Hanover County, the Dan River, the Haw and the Cape Fear to Fayetteville, and a general survey of textile mill wastes in North Carolina.

Progress Has Been Made

The Committee's studies seem to indicate that some progress has been

[11] *Minutes of the N. C. Board of Health*, February 19, 1934.

[12] *Smithfield v. Raleigh*, 207 N.C. 597; 178 S.E. 114, (1935).

[13] *Session Laws of 1945*, Ch. 1010; *N. C. General Statutes of 1943*, Ch. 143, Art. 21.

made even though waste disposal is a critical problem in some parts of North Carolina. A number of the State's largest cities—Raleigh, Wilmington, Asheville, Goldsboro, Fayetteville, Kinston, and Greenville—still do not have sewage treatment plants. Over thirty smaller towns are also emptying untreated sewage into the streams and rivers. Pollution has made it impossible for several towns to obtain an adequate supply of unpolluted water. The Neuse in which Durham, Wake Forest, Raleigh, Clayton, Smithfield, Goldsboro and Kinston empty their sewage is one of the most critical areas. Goldsboro is now being forced to dig additional wells even though the water is not completely satisfactory because of its high iron content. The Upper Haw is another area of heavy pollution and water shortage. Water is truly the life blood of many industries and present, as well as future industrial growth, will depend upon their securing adequate water supply. There are also many technical problems that remain unsolved. Discoloring of streams is such a problem. Although black or brown discoloration may not be harmful it mars the scenic beauty of stream and lakes.

On the credit side, since World War II many towns have built, enlarged, or rebuilt sewage disposal plants. A number—such as Burlington and Raleigh—are preparing to start construction in the near future. Several others such as Marion and Winston-Salem are actively studying their pollution abatement problems.

One of the brightest parts of the entire picture is the progress certain firms have made in treating their wastes. One large paper manufacturing company, which has been cooperating with TVA for a number of years, has reduced its wastes by two-thirds through the use of chemical recovery methods. Chemicals that had previously flowed into streams are now reclaimed and used over again, thus saving money for the industry and greatly reducing the stream pollution. Encouraged by partial success, several companies have undertaken pollution research programs upon their own initiative.

Possible Federal Intervention

The 1947 amendment also authorized the Committee to promulgate any plans or regulations necessary to comply with federal law to receive federal benefits.[14] To date these powers have not been used, as the Federal Water Control Act of 1948 (Public Law 845, 80th Congress) does not require that the states promulgate plans or regulations. The federal act, however, is of importance to the municipalities and industrial firms using North Carolina's 10 interstate rivers. The act declares that the pollution of interstate waters endangering the health or welfare of persons in a State other than that in which the discharge originates is a public nuisance subject to abatement. The act provides for notifying persons polluting interstate waters of remedial measures of abatement and for legal action by the Attorney General of the United States after a second notification and hearing if the pollution is not abated and if the state pollution agency has not initiated suit.

The Southeast Drainage Basin Office was established in Atlanta, on August 1, 1949, in order to coordinate the gathering of stream pollution data as a prerequisite to enforcement of the Federal Water Control Act. The State Board of Health is now receiving funds from the U. S. Public Health for research and investigation of industrial wastes under the provisions of the Act.

Another Waste Disposal Bill Under Consideration

In 1949 on the basis of nearly four years of field investigation and research the Stream Sanitation and Conservation Committee concluded that additional stream sanitation legislation was necessary. Upon their recommendation HB 458 was prepared and introduced into the 1949 General Assembly. The bill was similar in content to what had been recommended and presented to the 1937 General Assembly. Like the 1937 bill, it was amended in committee and later failed to pass its second reading.

In July, 1950 the Stream Sanitation and Conservation Committee appointed a subcommittee to conduct hearings and to prepare a waste disposal bill for submission to the 1951 General Assembly. Public hearings were held in both the eastern and western sections of the State as well as in Raleigh. The suggestions presented at the hearings were compared and a tentative draft was submitted to the full Committee. The Committee now reports that the bill it is recommending to the Governor and the General Assembly has been carefully drafted to meet the objections raised against HB 458 in 1949.

Summary

Of the seven principal waste disposal provisions now appearing as a part of the General Statutes, three are public health laws, two are fish protective laws, one is an exemption of the mica and kaolin mining industries, and the last is the act establishing the State Stream Sanitation and Conservation Committee. Of the public health laws two were first passed in the 1890's and none have been amended since 1911.

The first, G.S. 130-109, authorized the Board of Health to make rules and regulations to prevent contamination and to secure other purifications as may be required to safeguard the public health. This section has never been used by the Board because it is considered too vague and general.

The second, G.S. 130-110, requires that corporations and municipalities submit plans of proposed water and sewerage disposal systems. Municipalities are prohibited from contracting for a water or sewage disposal system until their plans are approved by the Board of Health. This section has been the basis of the Board of Health's technical advice and assistance program and of its review of municipal water and sewage plans. This section does not require private firms or corporations constructing water or sewage systems to heed the advice or meet the sanitary standards of the Board of Health.

The third, G.S. 130-117, provides that no one shall discharge sewage above the source of a public water supply until the sewage has been treated as required by the State Board of Health. Raleigh's delay in complying with the spirit of the Supreme Court's 1935 decision has greatly reduced the administrative effectiveness of this section.

Of the two fish protective acts, the first, G.S. 113-172, was declared unconstitutional in 1948 because the blanket exemption of all corporations chartered before 1914 created a distinction having no relation to the evil sought to be remedied and failed to apply alike to all corporations or persons similarly situated. The second, G.S. 113-245, which exempts the textile industry of the State, and may exempt municipalities was abandoned without support when the Fish and Game Division was divorced from the Department of Conservation and Development in 1947.

The Stream Sanitation and Conservation Committee, working through the Board of Health and the Department of Conservation and Development and with the generous cooperation of many municipalities and private industrial firms, has been largely responsible for obtaining the information now available as to the extent of stream pollution in North Carolina.

[14] *Session Laws of 1947*, Ch. 786; *N. C. General Statutes of 1943*, Ch. 143, Sec. 215.1.

II. Issues To Be Decided By Legislators

Before the people of North Carolina or their representatives embark upon any program of pollution abatement, they must, of necessity, answer certain basic questions. Is there any real problem of pollution in this state worthy of notice? Should any measures be taken to deal with such pollution? Who should have the responsibility, financial and otherwise, for taking such measures? The answers to these questions may be given directly or they may be implied by the action which is taken. They cannot be avoided.

Is There Any Real Problem of Pollution?

The first question which must be answered, of course, is whether pollution, presently existing or reasonably to be anticipated in the future, has any marked effects upon the interests of the state and its people. This question might be broken down into two segments:

(1) What is the physical condition of the waters of the state?

(2) To what extent does this condition interfere with the uses which the people of the state desire to make of those waters?

For the past four years engineers of the State Stream Sanitation and Conservation Committee have been making detailed studies of pollution in North Carolina river basins. These studies indicate that North Carolina's streams are fast becoming unsafe for use as public water supplies (even after treatment), according to standards of the U. S. Public Health Service. Many smaller streams (although not most of the large ones) are so polluted with municipal and industrial wastes as to be incapable of supporting fish life. Virtually all are unsuitable for bathing beach purposes, according to Public Health standards. Many are unsuitable for industrial water supplies, without expensive treatment. There is some interference with commercial fisheries along the coast.

However, no agency can provide standards against which to determine whether the people want to make certain uses of the water. That must be decided by the people themselves. If they should feel that even though there is some pollution of the water it does not interfere with the uses which they want to make of such water, then they may overlook the pollution. But, on the other hand, if they feel that there is an interference with such uses, then they are ready to consider the next question.

Should Any Measures Dealing with Pollution Be Taken?

Even though there is some harm from pollution, it may be that it would not be desirable to take measures dealing with it. Basically, the issue involved is whether the *cost* of taking corrective measures is greater or less than the *benefit* which might reasonably be expected to flow there-from.

The difficulty of answering this question in broad terms is immediately apparent. When it is narrowed down to a question of how much it will cost to clean up the wastes of one particular industrial plant or one particular city and of how much benefit the other users of the stream will gain from such cleaning, it is apparent that so many factors are involved that in the end the answer will depend in large part upon the strength of the people's desire to clean up their streams, rather than upon specific facts.

Indeed, it is difficult to arrive at an answer even in a particular case. Engineers may be able to compute exact costs of constructing and operating a treatment plant for an industrial firm. But who can assess *definitely* the possibility that such costs may injure the competitive position of the firm? Who can weigh the harm to the community if a single worker loses his job as the result of such competition? These "facts" can be only estimates.

From the standpoint of benefits to be gained, who can evaluate the worth to the state of clean streams in which children may swim? Who can say how much it is worth to provide recreational fishing opportunities for the men and boys of the state? Who can estimate the probabilities of new industrial plants being erected in the state because of the presence of pure water? These "facts" too can be only estimates.

As a concrete illustration of the difficulties involved, let us consider the waste disposal problem of Wilmington. The cost of building a sewage treatment plant for the city can be estimated fairly closely. The loss of production from shellfish beds which must be closed in the absence of such treatment can be estimated, although not quite so closely. An estimate can be made of the amount of business which might be lost if one of the bathing beaches in the vicinity had to be closed as a menace to health. But who can estimate what it means to the individual shell-fisherman whose business is destroyed? Who can estimate the worth to the state, and to the people of Wilmington themselves, of the recreational opportunities represented by their bathing beaches?

Because of these intangibles and uncertainties, it will be more difficult for the people and their representatives to arrive at a reasoned answer to this question, but such an answer is not by any means impossible. They can consider how much the cost will be, in general, to cure pollution from certain industries of the state—textiles, pulp, and paper, and laundries (to name the chief sources of industrial pollution in North Carolina). They can assess the worth of those industries to the state's economy. They can assess, to some extent, the possibilities of economic injury to those industries if they are made to treat their wastes (as many of them are doing already). They can consider the amount of injury that is done to other industries by those untreated wastes, and the possibility that new industries may be attracted to the state by cleaner water supplies. And they can put all these and other factors together and make their judgment as to whether it would be worth the costs to clean up the streams.

Who Should Have the Responsibility for Taking Such Measures?

Perhaps the most controversial issue of all will be raised if and when the people decide something should be done about pollution. That issue is who will have to take these measures and who will have to pay for them.

The question that strikes deepest is raised by the man who says, "Why should we have to go to the trouble and expense of cleaning up our wastes for the benefit of the people downstream?" The people of Raleigh and Durham might ask, for instance, why they should pay for cleaning up the Neuse River so as to make it an acceptable water supply for Smithfield.

The first answer to such a question is that the people of Raleigh and Durham are not being asked to clean up the river for the benefit of Smithfield. Instead, they are being asked to stop dirtying the river to such an extent that it can't be used. Smithfield's people are asking, in essence, that their upriver neighbors stop making it more expensive and dangerous for them to use their water supply.

Smithfield, Raleigh, and Durham all wish to use the waters of the river.

Smithfield wants to use them for a public drinking water supply. Raleigh and Durham wish to use them to carry off their wastes (although it is likely that eventually they too will need them for a water supply). Both types of use—public water supply and waste disposal—are perfectly legitimate, and the problem is one of working out a way in which the two can exist together. It is a matter of getting the most possible benefit for all users out of the stream.

This problem is complicated by the fact that the people using the stream to dispose of their wastes frequently do not realize that they are using it. If the stream were not there, they would have to dispose of those wastes by burial, incineration, dumping, or some other means. Waste disposal actually "uses" the water more than other users. Even Charlotte's consumption of water from the Catawba River amounts to only a fraction of its total flow, but if Charlotte were to dump its sewage into that river without treatment, it would effectively destroy the usable qualities of the water for miles downstream.

The Common Law

The old common law, reaching far back to the beginnings of American history and coming on up to the present, provided at least one solution for this problem of distributing the uses of the stream. That told the riparian owner (i.e., the owner of land along a river or a stream) that he could make use of the waters of the stream so long as such use was "natural" and reasonable in light of all the other water uses along the stream. In other words, he could do as he pleased, *provided* that he did not act in such a way as to interfere with the rights of his neighbors downstream, which were on a par with his.

The courts recognized, however, that in some cases the public necessity dictated that a particular use be permitted, even though it harmed the rights of others. Cities had to dispose of their sewage, for reasons of public health, even though the rights of others might be affected. In such a case, the courts declared that the city was, in effect, appropriating those private property rights. And just as in any other case in which it exercised the right of eminent domain, the city was required to pay for these rights. Thus, the North Carolina Supreme Court forced the city of Greensboro to pay a property owner along North Buffalo Creek for damages to his land resulting from sewage disposal in the creek, even though the city treated the sewage in accordance with the directions of the State Board of Health. That case, *Donnell v. Greensboro*, 164 N.C. 330, 80 S.E. 377 (1913), has been followed in a series of cases since that time, perhaps the most recent being *Clinard v. Kernersville*, 215 N.C. 745, 3 S.E. 2d 267 (1939).

The common law doctrine, therefore, places the responsibility for treatment on the man dumping wastes into the stream, rather than upon the man who might later wish to use the waters of the stream for another purpose. The downstream man was entitled to assistance from the courts in forcing his upstream neighbor to stop polluting his water, and this is still the law today.

This is also the philosophy embodied in Section 130-117 of the General Statutes, which makes it unlawful to deposit untreated sewage in any stream above the intake of a public water supply system. Even though it was recognized that ordinarily the water would be treated before consumption, it was felt wise to prevent pollution of that water by attacking the source.

Is This the Best Approach?

Despite the prevalence of this approach to the problem in our law today, we can still examine into the question of whether it is the best way to handle our problem. A good argument could be made, for instance, that the attack on the problem should come from the other direction. The man wishing to use the water could be given the responsibility for cleaning it up to whatever level of purity he desires. Cities have to treat their water, usually, regardless of whether or not it is polluted by man. Why is it not best to require them to assume the slight additional burden (which adds relatively little to their expense) of removing pollutional substances at the same time they remove natural color, odor, and taste-producing substances? Similarly, many industries must remove chemical impurities from their water, even though it is totally unpolluted by man. Why could they not remove pollutional substances at the same time?

Although this approach offers a possibility of economy, it has certain defects. It makes no provision at all, for instance, for the protection of fish and wildlife, or for the recreational uses of the stream. It means that quite possibly our streams might eventually all be polluted to a point at which it is not economically possible to treat their water sufficiently to make it safe for drinking purposes (this point seems to have been reached in some of our streams already, according to U. S. Public Health Service standards). It forces cities to run the risk that if anything happens to their water treatment plants, there may be an epidemic.

Which is the cheaper approach? Which will better protect the interests of the people? Would they be willing to spend a little more under the first approach in order to secure the additional benefits resulting from cleaner streams, or are those benefits of sufficient consequence to them? Is it fairer for the man who pollutes the water by using it for waste disposal or for the man who wishes to use it for some other purpose to have to clean it up?

Perhaps there might be combinations of these approaches. Should the city or industry polluting the stream bear the whole burden of cleaning it up? Or is the state's benefit from such cleansing (in the form of fishing streams, bathing beaches, etc.) sufficient that the people of the state as a whole should bear some of the cost? Should a city require its industrial plants to clean up their wastes before introducing them into its sewerage system? Or should it regard the plant as just another citizen, producing more wastes but paying more taxes and of perhaps more economic value to the community, and go ahead and treat the industrial wastes along with the wastes of private citizens? Should all treatment plants be operated by the city, for the sake of closer supervision, with an appropriate system of charges?

These are all questions which must be considered by the people and their representatives. The choice presented, in many cases, is purely a choice—a public indication of the comparative values which the people of the state place upon different things. But in making such a choice, it is important to keep the realization that what is involved is not a matter of punishment, not a matter of who should be "forced" to clean up his wastes, but rather a question of *how best may the different users of the stream share the use of its waters, to their joint benefit.*

The Committee's Answers to These Questions

The State Stream Sanitation and Conservation Committee impliedly answered these questions when it presented its bill for the consideration of the General Assembly. It thereby, in effect, answered "Yes" to the questions of whether there is a stream pollution problem and of whether

something should be done about it. The terms of the bill place the responsibility for doing something on the man putting wastes into the water.

The bill raises, however, further issues to be decided by the people. What type of law should be enacted to deal with pollution? Who should be given the responsibility of enforcing such a law? How should the enforcement agency be organized, and what powers and duties should it have?

What Type of Law Should Be Enacted?

Three types of legislative tools are available. The legislature might merely prohibit the deposit of certain named substances in the waters of the state. It might forbid the deposit of "substances harmful to the public health or other interests." Or it might authorize an administrative agency to determine what will be forbidden.

ISSUES RAISED BY THE PROPOSED BILL

The first of these is the oldest approach to be made by the various states. It has the advantage of enabling the legislature to retain full control over what is forbidden at a specific time. But it has the disadvantage of being inflexible. Where one stream might be able to carry a certain amount of particular substance without any harm, another smaller and more sluggish stream would be converted into an open sewer by that amount of the substance—and the law makes no distinction between the two cases. Furthermore, some substances might be overlooked which are more harmful than those which are banned. The legislature, as a non-technical body, could not be expected to detect such instances of discrimination.

The second approach is more flexible, but it means that the prosecuting attorneys and the courts are handed the problem of determining whether a given amount of waste disposal is harmful. Lacking technical training, these have little basis for deciding which of two "expert" witnesses is right, and they cannot make independent researches into the matter. However, this approach has the advantage of concentrating pollution controls in a single statute, and it does not permit certain forms of pollution to be overlooked entirely.

The third approach, which has been recommended by the State Stream Sanitation and Conservation Committee, is to give a technical administrative agency the duty of determining what pollution is harmful and, within limits, of devising rules and regulations for the control of such pollution. This approach has been used by New Hampshire since 1899, Vermont since 1902, and North Carolina's State Board of Health since 1911. It is the most flexible of these approaches, but requires the delegation of a certain amount of legislative power—as is the case with any administrative agency. At least 19 states today have pollution-control agencies possessing this power.

What Form of Enforcement Machinery Should Be Used?

After a state has provided a set of regulations for the protection of its streams, it must choose the type of enforcement machinery to carry them out. It may rely upon its regular law forcement officials. It may divide the task among a number of existing state agencies. It may use a single such agency. Or it may create a new agency to carry out that assignment.

Only four states place their chief reliance upon regular law enforcement officials today. The advantage of such enforcement is that the machinery is already set up. However, it is not made up of technically trained personnel, so there may be some weakness in that respect.

Nine states have simply parcelled out the stream pollution problem to existing agencies, such as the State Board of Health, the Fish and Game Commission, the Department of Conservation, or the Department of Agriculture—each of which is responsible for the part of the problem falling within its special field of interest and competency. Another three states have divided responsibility between the State Board of Health and new agencies created to protect other interests beside the public health. This approach has the advantage of placing the enforcement authority in the hands of technically-trained personnel with a background of knowledge in the field. It involves, however, duplication of facilities and divided responsibilities.

Ten states have given full responsibility for all stream pollution controls to their State Boards of Health. Three more have created new divisions of their Department of Health to handle the problem. The advantage of this approach is that it centralizes responsibility, avoids duplication of facilities, and utilizes experienced personnel. However, it may result in undue concentration upon the public health aspects of the problem, particularly if funds are limited.

Nineteen states have created entirely new agencies to deal with all aspects of the problem, most of them since the war. Three of these are nominally under the State Board of Health, while nine use personnel of that or other departments. This is the course which is recommended by the State Stream Sanitation and Conservation Committee. It has the advantage of centralizing responsibility in the hands of a single agency, with no other interests than stream pollution control. It places a new agency in the governmental structure, however, and may involve some duplication of facilities unless it is required, as in the proposed bill, to utilize personnel of existing agencies wherever possible.

What Type of Organization Should the Enforcement Agency Have?

The proposed bill provides for a seven-man Stream Sanitation Commission, to be composed of ex-officio representatives of the State Department of Conservation and Development and the State Board of Health, plus appointive members from the field of agriculture, wild life groups, municipalities, and two from industry. In addition there shall be an executive secretary to serve as a full-time administrative officer for the commission, and such other personnel as may be necessary.

Of the 23 water pollution control boards in the country at present, seven have five members and four have seven members. Three have three members, 11 have between four and six members, six have between seven and nine members, one has between 10 and 12 members, and two have between 13 and 15 members.

Of the 23 statewide agencies, four are composed entirely of ex-officio members; three are completely appointive; and 16 are mixed (partly ex-officio and partly appointive). Of the mixed boards, nine have a preponderance of ex-officio members, five have a preponderance of appointive members, and two are split evenly.

The State Health Department is represented on 19 commissions, the Agriculture and Conservation Departments on 11 apiece, and the Wildlife (Fish and Game) Department on nine. The most popular qualifications for appointive members are representation of industries (10 states) and of municipalities (nine states).

Most states concur with the proposed bill in establishing the position of an executive secretary. Nine states by statute designate the chief sanitary engineer of the State Board of Health to fill this position, while two others require the State Board of Health to appoint this officer.

What Powers and Duties Should the Commission Have?

The proposed bill grants to the commission four groups of powers, in addition to general supervisory control over waste disposal in the waters of the state and power to establish its internal procedures. These might be called "fact-finding" powers, "rule-making" powers, "enforcement" powers, and "cooperation" powers.

As a means of insuring that its actions will be realistic and based on adequate information, the commission is granted the power:

(1) to locate, study, and investigate instances of waste disposal which tend to impair the waters' best usage (this power has been granted by at least 16 states);
(2) to collect and analyze data concerning presently installed waste treatment plants (this has been granted by at least six states);
(3) to conduct surveys of the waters of the state in order to determine their best present and probable future use (this has been granted by at least 25 states, and the State Board of Health has had similar power since 1911);
(4) to conduct scientific experiments, research, and investigations to discover economical and practicable corrective measures for waste disposal problems (this has been granted by at least 22 states).

Once the facts have been gathered under these powers, the commission may proceed to make rules and regulations based on such information. These may be of two types. The commission may:

(1) establish standards of water quality for the various waters of the state;
(2) adopt rules and regulations concerning the installation and operation of economically and technically feasible methods of protecting those waters.

The power to establish standards of water quality represents an answer to the problem of how to make pollution controls flexible enough to meet varying situations. These standards would be based upon the needs in each particular area, so that no one would be required to treat his wastes to a level higher than was actually necessary in light of the uses of the stream in that area. This approach has been taken by at least 16 states directly, by members of five interstate pollution-control compacts, and by the Federal Government in its recently-initiated pollution-control programs for interstate streams all over the country.

At least 19 states authorize their pollution-control agencies to adopt rules and regulations for the installation of waste treatment facilities. It will be noted that the proposed commission would be authorized to require only "economically and technically feasible" methods of treatment.

As a means of enforcing these rules and regulations, the commission is authorized to issue orders requiring discontinuance or modification of the discharge of wastes into the waters of the state. And it may make investigations and inspections to see whether those rules, regulations, and orders are being complied with. Such powers were given to the Massachusetts State Board of Health in 1886 and are possessed by pollution-control agencies in 39 states today.

A final set of powers enables the commission to cooperate with the federal and other state governments in carrying out its duties under the proposed act. The act does not authorize the commission to enter into interstate agreements, although today a total of 35 states are party to a total of at least 13 such agreements—five of which are compacts approved by Congress. The power to cooperate with the Federal Government is chiefly for the purpose of receiving such funds as may be made available under its present program. The Federal Government now possesses power to control pollution in the basins of the Broad, Catawba, French Broad, Hiwassee, Little Tennessee, Meherrin-Chowan, New, Roanoke, Watauga, and Yadkin-Pee Dee Rivers and their tributaries. There may be increasing need for cooperation as this program gets under way.

What Procedures Should It Use?

As we have seen, the commission is authorized to issue orders to modify or discontinue waste discharges which injure the waters of the state. In addition, the proposed act provides that new plants wishing to discharge such wastes shall submit information concerning them to the commission, together with plans for their treatment. If these plans are adequate to protect the waters, the commission may issue an order that if they are complied with, they shall be deemed satisfactory for a specified period of time. This means that persons making expenditures for such treatment will be protected against new orders for a period sufficient for them to secure adequate returns from those expenditures.

Twenty-eight states rely on this type of system. Two others, Mississippi and Virginia, require all persons discharging wastes to secure permits to do so. And at least 11 other states authorize the commission to issue orders to existing sources of pollution but require permits for the disposal of new or increased amounts of wastes.

As a means of protecting individuals against arbitrary action, the proposed act provides a number of safeguards. No rules and regulations may be enacted without notice and a public hearing for all interested parties. No order may become final without such notice and hearing. After the order does become final, the person affected may appeal to the Superior Court of the county where the order is effective. That court will retry the case from the beginning, and the appellant will have the right to a jury trial.

If there is no such appeal, or if the appeal loses, the polluter will be liable to a $500 fine, with an additional such fine for each week of continued violation after conviction. This is relatively mild punishment, as compared to such provisions as a $100 fine and a year's imprisonment for each day of violation (in Washington state), a $500 fine for each day in Michigan, $3,000 per day in Mississippi, and a $1,000 fine and a year's imprisonment in Montana.

It should be noted, however, that the experience of the most successful agencies of this type has been that enforcement provisions are used only rarely—the greatest gains being made through education, cooperation, and persuasion rather than through force.

Conclusion

Stream pollution controls are not a new thing. Old laws forbidding deposit of specific types of wastes into waters of the state go back to the middle of the 19th century. Stream pollution control agencies were born with the creation in 1886 of Massachusetts' State Board of Health—the first such department in the country. They came more directly into view with the creation of special divisions to handle pollution problems in the Rhode Island Department of Health in 1921 and the Pennsylvania Department of Health in 1923. The Ohio State Board of Health received complete authority to deal with the problem in 1925, while Wisconsin established a Committee on Water Pollution in that same year.

Since the end of the war, however, the increased problems of municipal and industrial pollution have caused 27 states to enact or amend their stream sanitation laws. Almost all of these states enacting such legislation

(Continued on page 16)

Report of State-Municipal Road Commission

By James A. Doggett, Julian R. Allsbrook, Ralph Kibler, J. W. Rose, Victor Shaw, James A. Speight, L. B. Wilson

The 1949 General Assembly of North Carolina recognized, in Resolution 31, that the increased cost of paving and maintaining city and town streets presented a difficult problem for municipal governing bodies, and declared that the "just and proper sharing" of State highway revenues with cities and towns posed a "difficult question of great importance, the correct solution of which should be the subject of a careful, painstaking, and elaborate study. . . ." It therefore directed the Governor of North Carolina to appoint a State-Municipal Road Commission of seven members fairly representing "the whole interest of the State in this problem"; charged this Commission to study the question of the "just and proper sharing" of State highway revenues with cities and towns for the construction and maintenance of streets, and to determine whether the sharing of these revenues should be on a percentage basis, by definite appropriation, by State construction and maintenance of streets, or by some other procedure; and directed the Commission to report, on or before December 1, 1950, to the Governor, who is then to have the report printed and distributed to the press and public.

DATA GATHERED BY THE COMMISSION

The Commission was appointed early in the summer of 1949, met and organized on July 14, 1949, with Mr. James A. Doggett as chairman and Mr. Julian R. Allsbrook as Secretary, and began work on its assignment. The Commission made detailed examinations of street systems in 18 cities and towns and one unincorporated community; held hearings throughout the State for city and town officials, 108 cities and towns having been represented at these hearings; and received briefs from 90 cities and towns containing data on street mileage, street expenditures, street needs, and related items. It held open meetings to gather additional information on roads and streets, and to these meetings it specifically invited more than 20 associations and organizations representing public officials, transportation companies, contractors, farmers, private companies, and private individuals using roads and streets. It organized a study group composed of twelve officials from different cities and towns, nine representatives of the Grange and Farm Bureau, and seven representatives of the Highway Users Conference, to review the information presented to the Commission in the meetings and hearings, to make suggestions concerning the significance of that information, and to recommend sources of additional information. As a result of its search for information, the Commission has had at its disposal the following: briefs from cities and towns, street maps and road maps, statements from organizations interested in both roads and streets, and studies prepared by the Division of Statistics and Planning of the State Highway and Public Works Commission. It called on the Institute of Government to analyze this information, to summarize all available road and street studies prepared by agencies in other states and by agencies of the federal government, and to call to the Commission's attention all books, magazines, newspapers, and pamphlets relevant to the road and street problem. The results of the Institute's work were presented to the Commission, examined by them in detail, printed in *Popular Government*, September 1950, and distributed to city, county, and State officials.

HOW ROADS AND STREETS HAVE BEEN FINANCED

In the late 1600's and early 1700's roads and streets in North Carolina were built by the male taxpaying citizens of the State who worked on roads and streets alike for a few days each year. Under this system the burden fell on all the State's citizens alike and the benefits accrued equally to all.

With the passage of the years, residents of cities and towns turned their attention to their own streets, leaving rural roads to the concern of rural residents. Under this system city and town people made no contribution to the rural roads they used, and rural people made no contribution to the streets they used.

When the last vestiges of personal road and street service gave way to public taxation for the support of roads and streets in the early part of the present century, streets were supported in the main by ad valorem

The State-Municipal Road Commission reported to the Governor of North Carolina on October 20, 1950, and the report was released to the press and public the following day. The Commission stated in its report that it had been concerned with establishing the broad outlines of a course for the State to follow in correcting the present unequal treatment of streets. It suggested that an exact proposal to remedy the unequal treatment, in conformity with the Commission's findings, would properly come from those most familiar with roads and streets.

The League of Municipalities at its annual convention in Asheville studied the Commission's report. The League adopted the report of its legislative committee (see page 16 of this magazine) which stated that the committee was "highly pleased that the Commission wholeheartedly and unanimously adopted the principle that the streets of municipalities in this State are a fundamental financial responsibility of the State of North Carolina." In accordance with the suggestion in the Commission's report that an exact proposal should best originate from those most familiar with roads and streets, the legislative committee recommended that the President of the League appoint a committee to meet with representatives of the State Highway and Public Works Commission "to formulate specific legislation embodying this fundamental principle."

The President of the League appointed Mr. Herman Wilson, city attorney of Greensboro, Mayor Dan Edwards of Durham, and Mayor Joe Tally of Fayetteville to consult with the Highway Commission. Conferences were held in December, 1950, but results of these meetings had not been announced when this magazine went to press.

taxes levied on property in cities and towns, and rural roads were supported in the main by ad valorem taxes levied on property in both cities and towns and the rural areas. Under this system city and town taxpayers helped support the arterial rural roads connecting cities and towns, helped support rural roads serving strictly rural areas, and at the same time bore the complete burden of city and town streets.

In 1921, the State took over arterial rural roads connecting county seats and principal cities and towns, constructing and maintaining these roads from the proceeds of registration fees and gasoline taxes; this step was urged on the State principally by city and town people who realized the benefits that would accrue to them with good roads connecting urban centers of population, but at the same time it provided rural people with a network of roads connecting them with the centers of population that contained their markets. Under this system rural and urban people were benefited by State support of the arterial rural roads used by both, as the State built these roads to city limits, but city and town people had to build and maintain streets carrying these roads into and through cities and towns.

In 1931, the State took over all rural roads, including roads serving strictly rural areas as well as arterial roads, and financed these from State highway revenues; this step was urged on the State by those who wanted better roads and by those who believed that the road burden was pushing the counties toward bankruptcy. Under this system city and town people and rural people were relieved of the burden of ad valorem taxes for the support of rural roads, and both then supported rural roads by motor vehicle taxes; city and town people, however, continued to pay ad valorem taxes for the support of streets without receiving any help in the form of a share of the motor vehicle taxes that they and the rural people paid.

The State first recognized that there had been unequal treatment of streets in 1935 when it first allocated $500,000 annually for use on streets; State expenditures on streets have been increasing since 1935 and reached $4,300,000 in fiscal year 1948-49, but in general these expenditures have been limited to streets which are extensions of rural roads.

EQUAL TREATMENT OF ROADS AND STREETS DEFINED

The State-Municipal Road Commission is of the opinion that the State owes the same responsibility to citizens of cities and towns that it owes to rural citizens for several reasons. First, all roads and streets render similar service to motor vehicle and other traffic because they provide a surface for the movement of this traffic. Second, generally speaking, each motor vehicle owner bears a share of motor vehicle taxation through the payment of registration fees and gasoline taxes, regardless of the place of his residence or the origin, route, or destination of his travel. Third, since each motor vehicle owner is taxed like every other owner, he has a right to the same return from his taxes, whether he lives in town and drives over streets or lives in a rural area and drives over roads. For these reasons, the Commission is of the opinion that, as a matter of equity, the State should have taken over streets when it took over all roads in 1931, and that the State should have been constructing and maintaining public ways for vehicular travel to home and businesses located in cities and towns just as it has been constructing and maintaining public ways for vehicular travel to homes and businesses located in rural areas. The fact that this was not done in 1931 or shortly thereafter may be justified because the State and its citizens were in the throes of the worst depression since the Reconstruction Era following the Civil War, plus the fact that the State was forced to take over the operation of the public school system which this same depression would have otherwise caused to collapse. The Commission feels that this justification no longer exists, and it further feels that the responsibility to citizens of cities and towns, which has only been partially met since 1935, should be accepted immediately.

The State-Municipal Road Commission believes that North Carolina's roads and streets cannot be treated equally as long as roads are financed entirely by the State from highway revenues while streets are financed mainly by ad valorem taxes supplemented by other local revenues and some State aid. The Commission further believes that the present measure of the unequal treatment of streets as against roads is that amount which city and town property owners pay in ad valorem taxes to provide and maintain a surface for the movement of motor vehicle traffic.

RECOMMENDATIONS FOR ACHIEVING EQUAL TREATMENT

The Commission therefore believes that the only way to provide a "just and proper sharing" of State highway revenues is by treating roads and streets alike and by rendering comparable service to both road traffic and street traffic, and to accomplish this objective it believes that the 1951 General Assembly of the State of North Carolina should make the following declaration by proper legislation:

> Provision for the movement of traffic, both in rural and urban areas, is the responsibility of the State, and the State should construct, reconstruct, and maintain streets in cities and towns just as it constructs, reconstructs, and maintains roads in rural areas.

The Commission believes that the State Highway and Public Works Commission, which has been responsible for the development of our rural roads, should be given authority to develop North Carolina's roads *and* streets, planning for the expeditious movement of traffic, providing for the progressive development of all areas of North Carolina, and rendering comparable service to all of North Carolina's citizens. The Commission believes that a broad grant of authority such as this will provide a better road and street system than will an allocation of State highway revenues on a restrictive formula based on population, area, mileage, traffic or roadway width.

POSSIBLE METHODS OF FINANCING EQUAL TREATMENT

The Commission realizes that so far as road and street work goes, this plan is second in magnitude only to the State's assumption of responsibility for all county roads in 1931. It realizes that the State is now faced with the need for heavy expenditures on the State Highway System to put that system in condition to service the traffic demanding to use it. It realizes that the State will be faced with heavy maintenance and resurfacing expenditures on the County Road System, and perhaps with the need for construction in addition to that financed by the $200,000,000 bond issue. Consequently, the Commission believes that increased funds will be necessary to support a street program, but it believes that North Carolina is able to carry out a program of equal treatment of roads and streets.

The Commission's belief in North Carolina's ability to accomplish such a program is supported by the growth of revenues from existing highway taxes during the past decade. In fiscal year 1939-40, Highway Fund revenues totaled about $37,000,000, and supported a road system of almost 60,000 miles. Revenues declined during World War II to about $33,000,000, but since then have climed to $56,000,000 in fiscal year 1945-46, to $69,000,000 in 1947-48, to $83,000,000 in 1949-50, and, with the 1950 one-cent increase in gasoline taxes, may soon exceed $100,000,000. Thus highway revenues may within a year or two be three times what they were in 1939-40, yet at the same time these revenues support a road system only about three thousand miles longer than the one supported in 1939-40.

The increased funds needed to add 7,000 miles of streets to the present 62,000 miles of rural roads might be obtained over the years from future increases in revenues from existing taxes and plus the levy of additional taxes if found to be necessary. The Commission is of the opinion that the decision on the sources of funds to finance an expanded road and street program is one properly to be made by the General Assembly upon the advice of those most interested in roads and streets. For the information of interested people, however, there follows a list of additional revenue sources which have been suggested as posible sources to this Commission, but it is to be emphasized that this list is not set forth as an endorsement of any or all sources mentioned for such an endorsement is, in the opinion of this Commission, beyond its province.

1. The plugging of loopholes in existing taxes by
   (a) Instituting a tax system requiring commercial trucks and busses operating in or through North Carolina to pay a minimum tax equal to the gasoline tax on gasoline burned by such trucks and busses while traveling in North Carolina, gasoline taxes actually paid in North Carolina being a deduction from this tax. This would require all trucks and busses operating over North Carolina's roads and streets to pay gasoline taxes to the State for gasoline burned on such travel, and would eliminate the loss of revenue sustained when gasoline taxed in Virginia, for example, is burned on our roads and streets.
   (b) Requiring private haulers whose operations are of a nature similar to the operations of contract haulers or franchise haulers to pay registration fees equal to those of contract haulers or franchise haulers. Some private concerns have bought and operated trucks to do work that would otherwise be done by contract or franchise haulers, yet these private trucks do not pay registration fees equal to those of the contract or franchise haulers they displace.
   (c) Requiring motor vehicles using diesel oil or any fuel other than gasoline to pay a per-mile road-use tax equal to the gasoline taxes paid per mile by gasoline burning motor vehicles of similar nature. At the present time, or in the future, vehicles burning fuel other than gasoline may pay less per-mile road-use taxes than gasoline burning vehicles.
   (d) Amending the law regarding overloading of vehicles to assess mandatory penalties for overloading, and to make recurrent violations subject to increasingly heavy penalties. These penalties should go to the Highway Fund.
2. The transfer of the present ¼-cent per gallon inspection fee on gasoline and kerosene to the Highway Fund from the General Fund. It has been estimated that this fee now amounts to more than $2,000,000.
3. The transfer of the present 6% gross receipts tax on utility busses to the Highway Fund from the General Fund.
4. An increase in the gasoline tax. It has been estimated that an increase of one cent would provide perhaps $9,000,000 a year.
5. An increase in motor vehicle registration fees. It has been estimated that an increase of $5 would provide more than $5,000,000 a year.
6. The elimination of all refunds from the gasoline tax except on gasoline used for aviation or water transportation. It has been estimated that this would increase present gasoline revenues by perhaps $2,000,000. (The Commission feels that, after streets become the responsibility of the State, cities and towns should be allowed a refund on gasoline used for purposes other than vehicular travel, such as for gasoline burned while pumping water on fires.)
7. The financing of the operations of the Parole and Probation Commissions from the General Fund instead of the Highway Fund. It has been estimated that this would relieve the Highway Fund of expenditures of perhaps several hundred thousand dollars a year.

In addition to the above sources, the Commission feels that present funds could be made to go farther if local people were encouraged to share in the cost of paving local roads and streets. For example, many people in heavily-populated rural areas seem to be willing to pay a part of the cost of paving the road they live on, and city and town people are used to paying part of the cost of paving the street they live on. If the State would provide funds to match the payments that these people are willing to make, it could make its available funds pave many more miles of roads and streets.

POSSIBLE SOLUTION TO PROBLEMS IN ACHIEVING EQUAL TREATMENT

The Commission recognizes the fact that State responsibility for streets raises many problems, these problems having been called to the attention of the Commission on several occasions. The Commission believes that the State Highway and Public Works Commission is the agency most capable of solving these problems. Nevertheless, the Commission feels that, having studied roads and streets for a year, it would be remiss in its duty if it did not set forth its ideas on ways the main problems might be solved. The Commission therefore offers the following ideas, not as solutions to the problems, but rather as starting points for discussion of the problems.

The definition of a "street".—The Commission believes that the streets which should be constructed, reconstructed, and maintained by the State are those which meet the State's definition of a "road" in the rural areas, whether this definition be in terms of people served, traffic carried, or width. In case the State does not have such a definition in operation throughout the State, the Commission believes that it would be advisable to

establish one, aplicable to both roads and streets. As new roads or streets are laid out in the future, the Commission believes that these should be constructed, reconstructed and maintained by the State when they qualify under the State's definition.

The State's road and street responsibility.—The Commission believes that the State should be responsible for constructing, reconstructing, and maintaining that portion of a road or street used by motor vehicles. This is normally the traveled portion of the road or street, plus any area used for vehicular parking on the road or street surface. In addition the Commission believes that the State should be responsible for the erection, operation, and repair of traffic signs, signals and markings required to control traffic movement. The Commisson does not believe that, at the present time, the State should be responsible for curbs and gutters, storm sewers, sidewalks cleaning and illumination beyond a standard required to provide safe passage of traffic, installation and maintenance of underground and overhead facilities using the right-of-way, traffic control and traffic law enforcement above the minimum necessary to take care of traffic, debt service and assessments incurred or levied when roads or streets were the responsibility of local units of government, and any other road or street work not required to meet the demands of vehicular traffic. The Commission does not believe that this division of responsibility should be a rule for all time to come, for experience might show in the future that some of the proceding items might come to be necessary as an adjunct to State road and street work in both rural and urban areas, or experience might show that the State's responsibility for roads or streets should be decreased in some aspects in order to provide better service for the people as a whole.

The standard for street construction and reconstruction.—The Commission believes that State funds for construction and reconstruction should be used on both roads and streets alike, under a program which plans for the expeditious movement of traffic, provides for the progressive development of all areas of North Carolina, and renders comparable service to all of North Carolina's citizens. The Commission believes that, in connection with a street construction or reconstruction project, such things as exact location, grade, design, bridges and structures, and types of surface should be matters of joint consideration between the State Highway and Public Works Commission and the city or town concerned, with the responsibility for final decisions resting in that Commission. The State-Municipal Road Commission further believes that all construction and reconstruction projects should be carried out by the State Highway and Public Works Commission or under contract let by it.

The standard for street maintenance.—The Commission believes that State funds for maintenance of roads and streets should be used to keep all roads and streets in passable condition all the year round. The Commission believes that the State Highway and Public Works Commission should be responsible for maintaining all roads and streets, with authority to work out maintenance arrangements with any city or town which in the opinion of that Commission is capable of doing work at a cost comparable to that incurred by the Commission itself for similar work; under such arrangements a city or town could be given authority for doing certain defined maintenance work, or all maintenance work, being repaid by the Commission for the expense so incurred.

Local supplement of State work.—The Commission believes that in addition to the construction, reconstruction, and maintenance program carried on by the State, local units of government should be encouraged, through local programs financed from local funds, to provide construction, reconstruction, and maintenance to a level beyond that afforded by the State. The Commission feels that the State's paving program will advance much faster if local people are willing to bear a share of the cost of paving; and it strongly recommends that a State fund be established which would be used solely to match funds put up by rural people for road paving and funds put up by city and town people (from General Funds or street assessments) for street paving.

City and town tort liability.—The Commission believes that cities and towns should be relieved of tort liability growing out of injuries to persons or property caused by improper street construction or maintenance, when the responsibility for the construction or maintenance at issue has been assumed by, or when the construction or maintenance has actually been carried out by, the State Highway and Public Works Commission.

Additions to the authority of the State Highway and Public Works Commission.—The State-Municipal Road Commission believes that the Highway Commission should be given authority to control the manner of making cuts and repairs to cuts in roads and street surfaces necessitated by utility systems using the right-of-way. It further believes that the Highway Commission should be given authority, when necessary to protect the public, to remove trees, bushes, banners, signs, and other objects that might obstruct vision or hinder traffic on any road or street.

Additions to the responsibility of the State Highway and Public Works Commission.—The State-Municipal Road Commission believes that an agency should be established within the Highway Commission to render street and traffic engineering advice and assistance to cities and towns without charge; that this agency should coordinate Highway Commission activities with city and town activities particularly as regards those matters which should be of joint consideration between the Highway Commission and cities and towns; and that it should be available to hear complaints, criticisms, and suggestions from city and town officials and relay them to the Highway Commission. The State-Municipal Road Commission further believes that the Highway Commission should be responsible for making continuing studies of the needs of all roads and streets in North Carolina, both rural and urban, so as to plan most wisely the future expenditure of construction and reconstruction funds; that the Highway Commission should have under constant review the State's financing policies regarding roads and streets; and that the Highway Commission should recommend changes in these policies to the Governor and to the General Assembly whenever necessary in the interests of the growth of the State's roads and streets.

The State-Municipal Road Commission does not deem it advisable to submit an exact proposal for carrying into effect the plan outlined herein. Rather it believes that such a proposal should properly come from those most familiar with roads and streets. The Commission has been more concerned with charting a course for the State to follow with regard to its roads and streets, than with making a blueprint which may not meet in all its details with agreement on the part of those most familiar with roads and streets.

Legislative Program of The State Association of County Commissioners

By J. A. McMahon
Assistant Director
Institute of Government

The State Association of County Commissioners has recently been preparing its legislative program for the coming General Assembly. For the base of its program it utilized six resolutions adopted at its convention in Wrightsville Beach on August 16, 1950. These resolutions formed the basic topic of discussion at a series of ten district meetings held throughout the state between November 27 and December 7. These district meetings were attended by county officials of 36 counties, including approximately 60 county commissioners, a similar number of other county officials, and 20 legislators. Decisions arrived at during these meetings along with the resolutions adopted at Wrightsville Beach constitute the 1951 legislative program.

The Board of Directors of the State Association of County Commissioners has recently appointed Mr. J. Henry Vaughn to replace the late Mr. John Skinner as Secretary-Treasurer of the Association. Mr. Vaughn served on the Board of Commissioners of Nash County for 18 years, and was chairman of the Board for 12 years. He is a former President of the Association and has been chairman of the legislative committee of the Association for a number of years. The first duty of the new secretary was the arrangement for and the conduction of the district meetings discussed in the accompanying article. The passing of Mr. John Skinner as a result of an automobile accident this past fall was a shock to his many friends throughout the state. He had served as Secretary-Treasurer of the Association for 27 years.

Repeal of the Present Farm Census Law

One of the chief points of the legislative program concerns the repeal of the farm census law. The convention at Wrightsville Beach condemned "the unfair way in which the present . . . law was enacted," and stated that the law was passed in the session's closing hours after having been introduced at the end of the session. Officials at the district meetings stated that they did not oppose the census itself, but took the position that boards of county commissioners and tax officials should not be made responsible for procuring the information; furthermore, that the information should not be obtained at tax-listing time. Two considerations led to this last conclusion: (1) the belief that the census takes up the time of tax listers who should be devoting their full attention to listing the taxable property of the county on the tax books; (2) the belief that many farmers think the information given on the census has a direct bearing on the valuations placed on their property. County officials take the position that the census should be taken by one of the agencies active in the agricultural field.

Increasing the 15-Cent Levy for General Purpose Expenditures

The convention resolved that the General Assembly should be requested to submit to the voters of the state a constitutional amendment increasing the present 15-cent levy for general purpose expenditures to 20 cents. A similar amendment increasing the levy by 10 cents was defeated in the 1948 general election, but the Association deems it advisable to try again. The officials at the district meetings agreed with the position taken at the convention, though there was some sentiment expressed that an increase to 25 cents was actually needed by many counties.

Staggered Terms of Office for County Commissioners

A resolution passed at Wrightsville Beach and endorsed at the district meetings recommends legislation providing for four-year staggered terms of office for county commissioners. According to discussion at the district meetings, this plan would have the advantage of guaranteeing commissioners with at least two years experience would be serving on a board at all times. It was agreed that the proposed legislation should make provision both for the counties that are districted for election of commissioners and for the counties with four-year staggered terms at the present time.

Quadrennial Reassessments of Real Property

The resolution adopted at the convention concerning the quadrennial reassessment was modified in the district meetings. The officials present at the meetings agreed that the decision on need and advisability for such a reassessment was one properly to be made by the boards of county commissioners, and recommended that legislation so providing be suggested to the 1951 General Assembly.

County Home-Rule

The county commissioners in convention endorsed a constitutional amendment prohibiting the introduction in the General Assembly of any local bill not approved in writing by the county commissioners. At the district meetings the county officials present were generally agreed that a better solution would be an amendment removing all local legislation from the province of the General Assembly. This plan met with the approval of the legislators present at the meetings who recalled the time taken up by local legislation in every session of the General Assembly.

State Payments to Counties for Cut Timber

The convention at Wrightsville Beach passed a resolution requesting that the state "pay to those counties wherein state forests are located, a fair proportion of the sale value of any timber that may be cut from the lands inclosed in such forests."

Full-time Secretary for the Association

A point not considered at the convention but considered at the district meetings concerned the advisability of employing a full-time secretary for the Association. Officials at these meetings favored asking the General Assembly to enact permissive legislation authorizing, but not requiring, the several counties to pay increased dues to the Association to finance

(Continued on page 16)

Institute Issues Legislative Guidebook

For nine regular sessions and two special sessions of the General Assembly the Institute of Government has conducted a daily and weekly reporting service. Bulletins digesting every bill introduced and keeping an up-to-the-minute record of action taken on all bills are furnished promptly to members, to many state officials, and to a number of county and city officials throughout North Carolina. In rendering this service Institute staff members have spent long hours in studying the legislative process as well as the bills proposed for enactment. Through the years this experience has been accumulated in manuscripts in the Institute library and in the heads of staff members. Now the results of this experience have been assembled and published under the title *The General Assembly of North Carolina, A Guidebook of Organization and Procedure.* From caucus to adjournment *sine die* this manual brings together into a decent order constitutional provisions, statutes, rules and customs pertinent at each point in the legislative process.

As the first installment of the Institute's 1951 legislative service each member elected to serve in the coming session is receiving a copy of this new publication. For members with long experience it will serve as a ready reference for review; for new members it will help clarify the operations of the legislature before they come to Raleigh.

Here is a skeleton draft of the table of contents:

I. ORGANIZATION

- Size
- Selection of Members
- Qualifications of Senators and Representatives
- Filling Vacancies in the General Assembly
- Sessions
- The Party Caucus
- Formal Organization of the Houses
- Decorum and Privileges in the Two Houses—the press, smoking, wearing hats, moving about or leaving the chambers, extending courtesies
- The Presiding Officer
- Privileges of Members
- Control over Members
- Pay of Legislators
- Officers and Employees—principal clerks, reading clerks, journal clerks, sergeants-at-arms, doorkeepers, chaplains, committee clerks, pages
- Pay of Employees

II. RULES AND ORDER OF BUSINESS

III. MAJORITY RULE

- Quorum
- More than a Majority
- Absentees, Failure to Vote, and Ties

IV. LEGISLATIVE COMMITTEES

- How the Committee System Works
- Selection of Committee Members—standards, procedure, chairmen, party affiliation, filling committee vacancies
- The Number and Size of Committees
- The Areas of Committee Interest
- Committee Meetings and Hearings—quorum in committee, procedure, committee records
- Committee Reports—when mandatory, how forced, form and technical requirements, minority reports
- The Committee on Rules
- The Calendar Committee in North Carolina
- Joint Committees
- Select Committees
- Conference Committees

V. INTRODUCTION AND REFERENCE OF BILLS

- The Author or Introducer of a Bill
- The Title of a Bill
- Reference to Standing Committee
- Contents of Bills

VI. CALENDAR ACTION

- The Reading of Bills
- The Calendar

VII. CONSIDERATION OF BILLS ON THE FLOOR

- Debate—the floor, committee of the whole
- Amendments and Substitute Bills
- Motions and Their Precedence—to adjourn, to lay on the table, to remove a matter from the table, to postpone to a day certain, to postpone indefinitely, to refer or commit, to remove a bill from the unfavorable calendar, to reconsider, the previous question, precedence of motions in North Carolina

VIII. ENACTMENT OF BILLS

- Voting Procedures—voice vote, division, roll call votes, pairs, division of the question
- Engrossment
- Passage in the Second House
- Ratification

IX. ADJOURNMENT

- Adjournment and Recess Defined
- Adjournment *Sine Die*

Books Received

Bromage, Arthur W. *Municipal Government and Administration.* (New York: Appleton - Century - Crofts, Inc., 1950), 693 pages, $5.00.

Brown, Everett S. *Manual of Government Publications: United States and Foreign.* (New York: Appleton-Century-Crofts, Inc., 1950), 121 pages, $2.00.

Emmerich, Herbert. *Essays on Federal Reorganization.* (University: University of Alabama Press, 1950), 159 pages, $2.50.

Fisher, Marguerite and Donald Bishop. *Municipal and Other Local Government.* (New York: Prentice-Hall, Inc., 1950), 664 pages, $6.35.

Irion, Frederick C. *Public Opinion and Propaganda.* (New York: Thomas Y. Crowell Company, 1950), 782 pages, $5.00.

Mosher, William E. and J. Donald Kingsley, O. Glenn Stahl. *Public Personnel Administration.* 3rd ed. (New York: Harper and Brothers, 1950), 652 pages, $5.00.

Rhyne, Charles S. (ed.) *Municipalities and the Law in Action.* (Washington: National Institute of Municipal Law Officers, 1950), 461 pages, $10.00.

Schultz, Ernst B. *American City Government.* (Harrisburg, Pennsylvania: Stackpole and Hick, Inc., 1950), 554 pages, $5.00.

Legislative Program of League of Municipalities

"The Legislative Committee has reviewed the report of the Governor's State Municipal Road Commission and is highly pleased that the Commission whole-heartedly and unanimously adopted the principle that the streets of the municapilities of this state are a fundamental *financial* responsibility of the State of North Carolina. This is in accord with the thinking of this League for many years, and we are pleased that so much progress has been made toward the general adoption of this point of view after joint hearings with rural and municipal groups. Your Legislative Committee, therefore, recommends that the League authorize the appointment of a committee by its president to meet with representatives of the State Highway and Public Works Commission and members of the Institute of Government to formulate specific legislation embodying this fundamental principle, and following the recommendations heretofore made by this League to the State Municipal Road Commission and that to this end this League approve the principle of state financial responsibility contained in the report of the State Municipal Road Commission and reaffirm the recommendations this League has heretofore made to said Commission.

"Your Legislative Committee recommends that the League in conjunction with the North Carolina Real Estate Boards sponsor an urban redevelopment bill which would enable the municipalities of North Carolina to participate in the Federal urban redevelopment program. A tentative draft of this bill has already been approved by the North Carolina Real Estate Boards and your committee recommends that you also approve this bill in principle to the end that a final bill may be drawn.

"Your Legislative Committee recommends that this League approve pursuant to the request of the North Carolina Real Estate Boards a bill permitting municipalities to establish minimum standards of housing within those municipalities. This will be a purely permissive bill.

"Your Committee recommends that the League approve in principle and instruct the League staff to draft legislation on the following subjects which may be termed non-controversial: (a) A bill to authorize the construction and operation of off-street parking facilities to be financed by revenue type bonds; (b) Legislation relative to use of laned highways and one-way streets and standardization of traffic signal control legends; (c) A bill to authorize police officers to go beyond the corporate limits for the purpose of transporting prisoners; (d) Correct certain errors relating to the sale of lands for delinquent taxes; (e) Legislation enabling the state to enter into a compact with the Federal Security Agency enabling municipalities to participate in Social Security; and (f) Legislation making changes in the Local Governmental Employees' Retirement System so as to increase benefits."

Stream Pollution in North Carolina

(Continued from page 9)

for the first time—15 in all—have created administrative agencies similar to that proposed by North Carolina's State Stream Sanitation and Conservation Committee. South Carolina, Georgia, and Tennessee currently have study commissions similar to North Carolina's looking into the problem.

In addition to this action, there has been greatly accelerated activity under the interstate compacts dealing with the problem. And a vast new program by the Federal Government, authorized for the first time in 1948, is just getting under way. Regardless of what action is taken by the 1951 General Assembly in North Carolina, it is apparent that activity in the control of stream pollution over the country will continue at an accelerated pace during the coming years.

Legislative Program of the State Association of County Commissioners

(Continued from page 14)

such an office. In the event of increased revenues resulting from the legislation, the Association at its 1951 convention would determine the duties and the office set-up of such a full-time secretary.

Mr. Knox Watson, President of the Association, will announce in the near future the legislative committee which will promote the Association's legislative program during the coming session of the General Assembly.

City Managers Are Honored

At the recent annual meeting of the International City Manager's Association in Houston, Texas, Mr. R. M. Cooksey, City Manager of Thomasville, was elected a vice-president of the International Association. City Manager Robert W. Flack of Durham retired at this time as president. Meanwhile, F. Talmadge Green, City Manager of Wilson, was elected the new president of the North Carolina City Manager's Association of the League of Municipalities at the group's recent meeting in Asheville and City Manager W. H. Carper of Raleigh was chosen secretary of the state organization.

The modern, 100-bed hospital at Sylacauga, Ala., was designed in architectural concrete by Charles H. McCauley, A.I.A. of Birmingham. General contractor was Algernon Blair of Montgomery.

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Missing Issues of POPULAR GOVERNMENT

Volume I	No. 1	(January, 1931)
Volume II	No. 7	(May-June, 1935)
Volume III	No. 1	(October, 1935)
Volume III	No. 2	(November, 1935)
Volume IV	No. 6	(March-April, 1937)
Volume VIII	No. 4	(April-May, 1942) Defense Issue
Volume IX	No. 1-4	(May, 1943) A Guide to Victory

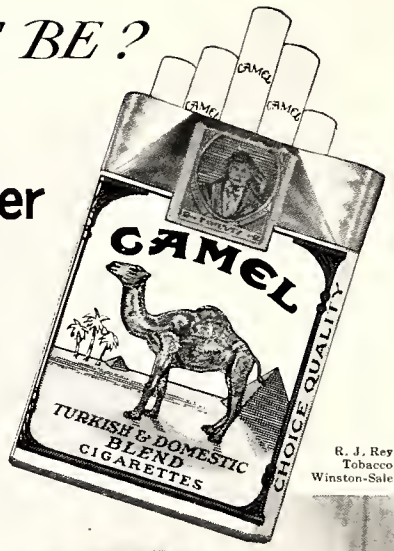
and

Missing Issues of THE NORTH CAROLINA LAW REVIEW

Volume 7	No. 1	(December, 1928)
Volume 7	No. 2	(February, 1929)
Volume 7	No. 4	(June, 1929)
Volume 8	No. 1	(December, 1929)
Volume 8	No. 2	(February, 1930)
Volume 9	No. 2	(February, 1931)
Volume 12	No. 1	(December, 1933)

The INSTITUTE OF GOVERNMENT needs these publications to complete its file. We will be glad to buy any of the above numbers our readers may be willing to sell.

HOW MILD CAN A CIGARETTE BE?



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