

# Popular Government

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*Annual Conference—Registers of Deeds Association*

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**COVER**

*The cover photograph, taken in the Courtroom of the new addition to the U.N.C. Law School building, shows most of the Registers of Deeds and Deputy Registers who attended the conference in Chapel Hill on June 14-16.*

*The Registers of Deeds Association was formed at a meeting called by the Institute of Government last December, and it is planned to hold these schools annually in the future. A story of the June meeting begins on page 5 of this issue.*

# THE CLEARINGHOUSE

## NOTES

### From North Carolina Cities

#### Fire Protection

Firemen attending the 25th annual North Carolina Fire College and Drill School in **Charlotte** last month received a new type of training in a specially-constructed "smokehouse." The brick structure was erected by **Charlotte** firemen, using materials furnished by the State Firemen's Association. It is used for practical training in the handling of various types of fires inside a building and in operating under dense smoke conditions.

**Durham** firemen have constructed a central communications room, at which all alarms are received and calls transmitted to the various stations and radio-equipped vehicles. In addition to telephone, alarm box, and radio equipment, the room contains master switches for the control of traffic lights in the business district. As a truck reports by radio its position in the district, stop lights are turned red in all directions for several blocks in advance. . . . The **Statesville** fire and police headquarters dedicated last month contains the headquarters unit of a new \$9,000 alarm system.

**Wallace** has received a new 750 g.p.m. pumper, costing a total of \$18,000 with its various pieces of hose and equipment. The town's first truck, which was the earliest to go into operation in Duplin or Pender counties, will be retired and placed on display. . . . **High Point** has added another 1,000 g.p.m. pumper to its equipment. . . . The **Lenoir** Fire Department has held an "open house" to display its equipment to the public. . . . **Southern Pines** has welcomed its new \$20,000 pumper with a similar celebration. . . . **Raleigh** has applied to the Federal Civil Defense authorities for a rescue squad truck.

#### Recreation

The **Winston-Salem** recreation commission has approved a long-range master plan calling for expenditures of approximately \$2,800,000 by the city and \$234,000 by **Forsyth County** over the next 10-12 years. The plan

was included in a 135-page report prepared over the past year by recreational consultants. Among the major features of the plan are a 490-acre Negro park, seven swimming pools, and six community center buildings.

Representatives of five **Mebane** civic clubs have formed a corporation with the purpose of establishing and operating a community park. Initial donations to the corporation have been made by the clubs, and a solicitation drive is to be undertaken in **Mebane** and surrounding communities in the near future. . . . The **Kernersville** recreation commission has recommended immediate construction of a spray and wading pool for small children in the city park.

**High Point** has reached agreement with local school officials over use of school facilities for recreation purposes. Under the agreement, the city park and recreation department will pay specified amounts for the use of auditoriums, gymnasiums, and shops (not to exceed \$40 per day), and the city will reduce the electric rate charged the school system from two cents per kilowatt hour to 1.189 cents. There will be no charge for the use of school playgrounds.

The coming of summer has brought increased attention to city park facilities. **Hendersonville** opened its four parks earlier than ever before, in response to public demand. . . . **Raleigh** has received bids for dredging the lake in Pullen Park, so that it may be used for fishing, boating, and island picnics. . . . **Durham** councilmen have voted to prohibit golfers from practicing in the city parks, after a child was struck by a flying ball. The city's traffic consultant was also instructed to make a survey as a basis for reducing speed limits in the vicinity of park play areas. . . . **Tarboro** commissioners have voted a summer recreation appropriation, despite an adverse vote by citizens last year concerning a recreation tax.

**Fayetteville** voters have turned down a proposed \$1,000,000 bond issue for an auditorium and civic center. . . . **Raleigh** has set the fol-

lowing charges for rental of its auditorium by conventions: \$100 per afternoon, \$150 per night, \$250 per afternoon and night, \$200 per night when a dance is held, and \$25 for reserving an afternoon or night solely for the purpose of protecting displays.

#### Public Utilities

**Greensboro** has received a report from consulting engineers that its daily water consumption will be approximately 15 million gallons per day by 1965. Consumption averaged 4 million gallons a day in 1930, 5½ m.g.d. in 1940, and 9½ m.g.d. last year, reaching 13½ million gallons on a peak day last summer. The present capacity of the city's filtration plant and raw water reservoir is 12 m.g.d. Recommended expansion projects would cost an estimated \$700,000.

**Elm City** and **Clyde** have added deep wells to supplement their water supply systems. **Elm City** has had to call upon neighboring communities for water during the past few summers. Officials estimate that the new well will supply its needs for at least 20 years. . . . **New Bern** has contracted for an exploratory well in order to supplement its water supply.

**North Wilkesboro** has received bids on a new filtration plant with a capacity of 3 m.g.d. . . . **Randleman** has issued \$35,000 of bonds to finance expansion of its water system. . . . The **Walkertown** Sanitary District will vote this month on issuance of \$160,000 of bonds to finance a 100,000 gallon tank, a 300-foot well, and distribution facilities. . . . Final work is being done on **Kernersville's** new \$200,000 water plant. . . . **Rocky Mount** has directed that a survey be made of the city's long-range water and sewerage system needs.

**High Point** has advised outside property owners who had made connections to the city's sewer system without permission that service will be discontinued on July 1 and that payment must be made for service received prior to that time.

**Raleigh** has been told by the State Board of Health that complete treatment of its sanitary and industrial wastes (rather than merely primary treatment) will be necessary if the Neuse River is not to be contaminated in the future. In addition, the Board

recommended adoption of a sewer ordinance such as those of **Durham** and **Charlotte**, limiting the quantity of toxic materials that will be accepted in the city sewerage system and defining the conditions under which industrial wastes will be accepted for treatment. . . . Aided by a gift of \$85,000 from the Cone Mills, **Salisbury** has let contracts for what is described as "the first sewage treatment plant in North Carolina to give complete treatment to all types of domestic, commercial, and industrial waste." The plant will cost approximately \$285,000.

Electric power consumption in **Newton** has risen from 1,500 k.w. in 1948 to approximately 2,500 k.w. this year. . . . **Kinston** has contracted for a new 11,500 k.w. turbo-generator as part of a \$731,500 expansion of its municipal power plant. . . . **Chapel Hill** has granted a 50-year franchise to the Public Service Company of North Carolina for the distribution of natural gas. . . . **Wilson** has relieved its local transit company of the duty to maintain bus service on Sundays and after 7:00 p.m. on weekdays. The move was made after a report by the company that it had lost more than \$3,000 last year. The town board also reduced the firm's license tax from one per cent of gross income to \$25 per bus per year.

### Parking

A private corporation has announced plans to construct a number of large off-street parking lots in **Durham**. Work has begun on the first, which will accommodate 150 cars. . . . The **Raleigh** Merchants Bureau has begun studies leading to formation of a corporation which would acquire an off-street parking building. . . . **Greensboro** has converted its variable-time meters so as to take only a single type of coin, in accordance with the decision in *State v. Scoggin*, 236 N.C. 1 (1952). Parking spaces in the city were divided into 12-minute, one-hour, and two-hour zones, in which one cent, five cents, and five cents, respectively, are charged by the meters. . . . **Statesville's** aldermen have directed its city manager to make a study of off-street parking sites.

### Planning and Zoning

The **Charlotte** planning board has presented a \$35,000 budget request to the city council. Pointing to the savings which a planning program would

make possible, the board urged that a professional planning director and three assistants be hired. . . . The **Albemarle** city council has adopted a policy of requiring subdevelopers to present their plans for new subdivisions to the zoning commission before coming before the council. . . . **Hickory** has removed all ex officio members from its planning board, reconstituting the board with five citizen members.

Newly-incorporated **Kill Devil Hills** has already appointed a zoning commission. . . . **Raeford** has adopted a new zoning ordinance. . . . The **Greensboro** planning and zoning commission has nearly completed its study of revisions to the city's zoning ordinance. As a means of securing public understanding of its proposals, it plans a series of newspaper articles and television shows this summer. . . . **Raleigh** has amended its zoning ordinance to permit public and private schools for any age group and radio and television studios in its Office and Institution district.

### Streets and Traffic

The State Highway and Public Works Department has completed an origin-destination study in **Raleigh** in which more than 100,000 drivers were interviewed at 65 stations. Approximately two dozen trained men handled the interviews, with the assistance of local police and members of the State Highway Patrol. . . . Traffic counts indicate that the average daily load on **Newton's** Main Street is approximately 10,500 vehicles.

Five **Winston-Salem** residents have donated a 1¾-mile right-of-way, ranging in width from 88 to 100 feet, for a new highway serving as an access route for Wake Forest College and as a bypass route around the city. Plans and negotiations for the route were prepared and carried on by the City-County Planning Board. . . . Plans have been completed for the first link in a proposed belt route around **Raleigh**. . . . Work is under way on major cross-town projects in **Greensboro** and **Winston-Salem**.

**Wilmington** officials are generally pleased with experiments with brighter lighting in the down-town business district and are considering plans to extend the project throughout the district. . . . **Elizabethtown** has installed a "white way" in its business district. The 52 new lights will raise the city's power bill \$2,150 a year. . . . Studies made in **Charlotte**

indicate that freight trains passed street intersections at speeds ranging from 15 to 40 miles per hour, with an over-all average of 27 m.p.h.

**Durham** has decided to abandon its proposed experimental light-weight paving job described in last month's POPULAR GOVERNMENT, because of difficulties in fixing a fair method of payment. . . . **Murfreesboro** has begun a \$27,000 street improvement program in which 13 streets will be hard-surfaced. . . . **Burnsville** will pave one and one-half miles on eight streets. . . . **New Bern** has established a one-way street after traffic surveys by City Manager C. L. Barnhardt. . . . **Rocky Mount's** aldermen have set 60 feet as the minimum right-of-way width of any future streets accepted by the city.

### Governmental Organization

**Fayetteville** voters have decided to elect their mayor directly, beginning in 1955. At present he is chosen by city council members from among their number. . . . **Greenville's** first city council under its new council-manager form of government has been visiting other council-manager cities to learn how they function. . . . **Kill Devil Hills** has formally organized under its new charter (*Sess. Laws, 1953, c. 220; H.B. 316*). Maj. J. L. Murphy is the first mayor of the Dare County town. . . . Citizens of **Long Beach** will vote on incorporation this month.

### Miscellany

The **Durham** and **Burlington** city councils have received requests for city limits extensions from outside property owners interested in reducing the cost of utilities systems. . . . **Brevard** will hold an election on the sale of beer July 7. . . . A garbage receptacle inspection program is under way in **Newton**. . . . Mayor R. E. Hanna has estimated that rear-yard garbage collection in **Dunn** would cost the city 14.6 cents per \$100 valuation more than front-yard collection. He declared it would necessitate adding a truck and three men to the present collection staff.

The **Elkin** town board has ordered taxicab owners to provide off-street parking space or to pay parking meter charges for taxicabs which are waiting for calls. . . . **Durham** taxicab operators estimate that business has dropped approximately 10 per cent

(Continued on page 4)

## NOTES

## From North Carolina Counties

**20c General Fund Tax**

As a result of the amendment to Article V, section 6, of the North Carolina Constitution, adopted by the voters last November, counties may now levy 20 cents for the General Fund beginning in fiscal year 1953-54. Newspaper clippings, minutes of boards of county commissioners, and conversations with county officials indicate that many counties will be levying the full 20c in their 1953 tax rate.

**Buildings**

**Surry County** is going ahead with plans to build a new hospital to replace the one that burned down this spring. A 100-bed unit with a nurses' home is being planned at a cost of around \$1,500,000, one-third of which would be raised locally. The hospital will serve the northern part of the county, since there is at present a

hospital at Elkin. The present thought is to create a hospital district encompassing eight townships in the northern part of the county having a total population of around 35,000 people, and issuing bonds payable from a tax levied on the district to pay principal and interest on bonds issued to raise the local share of \$500,000. . . . **Perquimans County** has applied to the Medical Care Commission for funds to build a new \$29,000 health center to contain 1,740 square feet. The county's share of the building would amount to about \$6,000. . . . **Haywood County** is considering a new \$50,000 health center having 3,500 square feet, the county's share to be \$17,000. . . . And **Catawba County** is considering a new health center for the Hickory area.

**Mecklenburg County** and the city of **Charlotte** have agreed to discontinue their jointly-operated industrial home for wayward women. Present plans call for leasing the home to Alcoholics Anonymous, who will operate it without cost to the local governments for the care and treatment of alcoholics. Mecklenburg County is also considering the erection of a new county home. The present home has a census of around 150 people, and an additional 87 people are being cared for in private boarding homes at government expense. The new home might have room for as many as 300 people, but money could be saved, according to county officials, because people can be taken care of for less money in the county institution than in private boarding homes. . . . **Franklin County** has joined an increasing number of counties that are leasing their county homes to private individuals. Under the new plan, persons in the home will be placed on public assistance, and the county expects to save between \$15,000 and \$18,000 a year.

**Rural Fire Protection**

**Mecklenburg County's** twelve volunteer fire departments have celebrated a week-long Volunteer Firemen's Week, climaxed by an hour-long parade through **Charlotte**. The departments are made up of 397 volunteer firemen, with 22 pieces of equipment. During 1952 they answered

a total of 410 calls in rural areas. Supported jointly by the county and by voluntary memberships, the departments hope to reach a total of 7,000 paid memberships this year, double their total in 1952.

Commissioner Wally Dunham of **Forsyth County** and Fire Chief Buck Reynolds of the **Lewisville** volunteer fire department have prepared a pamphlet on "The Organization, Equipping, and Financing of Rural Fire Departments."

Officials of the newly-formed **Johnston County** Firemen's Association, made up of representatives from every community in the county, have asked the County Commissioners for a \$40,000 appropriation to purchase trucks and equipment for rural fire-fighting. . . . The **Warren County** Farm Bureau has asked **Warrenton, Norlina, and Littleton** officials to cooperate in a rural fire-fighting program for the county.

The **Forsyth County** rural fire department has been approved by the Federal Civil Defense Administration for participation in the civil defense program. The department will be eligible for federal assistance amounting to approximately \$3,600 during the coming year, provided the funds are matched locally. The funds are to be used largely for rescue equipment and fire-fighting accessories.

**Property Tax News****Revaluation Results**

**Forsyth County**, nearing the close of its revaluation, reports that the new values on real property and stored tobacco alone will come to about \$430 million. **Guilford County's** revaluation has increased total assessments from \$375 million to \$525 million. Revaluation has increased **Lenoir County's** assessments from \$43 million to almost \$64 million. In **Pamlico County**, long a sufferer from lack of taxable wealth, work on revaluation is almost completed, and reliable reports indicate that the estimated total assessments will almost double last year's figure of about \$5 million. Percentage increases in these counties range from 40% to 50%.

**Caldwell County** did not conduct a revaluation by actual appraisal this year, but, upon reviewing existing assessments, the board of equalization and review found that at the last revaluation land was assessed at 1941 value less 25%, while personal property was assessed at 75% of current

**BOND SALES**

During late April and May, the Local Government Commission sold bonds of the following governments (the government issuing the bonds, the amount of the bonds, the purpose for which the bonds were issued, and the effective interest rate are indicated):

**Beaufort County**, \$65,000 refunding bonds, 2.77%; **Iredell County**, \$500,000 hospital bonds, 2.82%; **Richmond County**, \$82,000 refunding bonds, 2.86%.

**Burgaw**, \$130,000 water and sewer bonds, 4.04%; **Gibsonville**, \$23,500 water and \$14,000 sewer bonds, 3.13%; **Laurinburg**, \$60,000 street improvement bonds, 2.44%; **Louisburg**, \$90,000 street improvement bonds, 3.43%; **Randleman**, \$35,000 water bonds, 4.06%; **Rocky Mount**, \$95,000 water and sewer bonds, 2.54%; **Southern Pines**, \$20,000 fire truck and \$10,000 sewer bonds, 2.99%; **Warsaw**, \$180,000 water and sewer bonds, 4.43%.

market values. In a letter to real property owners this year, the board said, "In order to equalize the tax assessments for 1953, the board has horizontally increased the tax values of real estate by 20% over last year's values. . . . This increase . . . will, in effect, bring your real estate valuation up to approximately 90% of values set up in [the last revaluation in 1947]."

#### Annual Assessment Increases

**Durham County**, without the benefits of a revaluation, expects to pick up about \$10 million in property values through annual assessments. **Harnett** is picking up about \$2 million in the same way to bring that county's total valuation to more than \$50 million for the first time. **Hertford County** is anticipating an increase of about 5% over last year's total assessments. **Catawba County** saw inventory assessments take a substantial decrease this year, but increases in other personal property valuations are expected to keep the county at last year's \$94½ million figure.

#### New and Proposed Revaluation Projects

**Lee County** has entered into contracts amounting to \$55,600 for the reappraisal of property and the mapping of some areas in that county. This work has already begun. **Pitt County** has signed an \$87,000 contract for appraisal work and another contract for about \$35,000 for the mapping of cities and towns in the county. The county will only pay one-half the mapping costs; municipalities in the county are assuming the payment of the other half. **Rowan County** has received a low bid of \$150,000 for reappraisal work, and the county commissioners have declared their intention of letting the contract after the opening of the new fiscal year. The **Surry County** commissioners have asked four appraisal companies to submit proposals for appraising property in that county.

#### Collection Statistics

**Elkin** had collected about 90% of its 1952-53 levy by the end of May. At the same time **Harnett County** reported a collection of 88% of its levy—slightly lower than last year in percentage, but substantially more in dollars. By the end of April **Durham County** had collected almost 93% of

its levy, and by the end of May **Catawba** had collected 96% of the current levy.

#### Tax Rates

Tentative tax rates for the coming fiscal year are beginning to make the news. **China Grove** anticipates a rate of \$1.10 and the city of **Durham** is thinking about \$1.78. **Union County** anticipates a reduction of 5c from last year's \$1.75. **Rutherford** at \$1.65, **Wake** at 80c, **Rowan** at 89c, and **Wayne** at 93c all expect to retain last year's rates. **Iredell** anticipates a raise from \$1.14 to \$1.25; and **Durham County** anticipates a raise from 67c to 71c or 72c.

#### Miscellaneous Property Tax Items

The number of cars listed in **Catawba County** today (24,000) is double the number listed there six years ago. The town of **Hertford** has acquired a list of motor vehicles registered from that municipality from the Department of Motor Vehicles for assistance in checking listings.

The commissioners of **Durham County** have authorized the tax supervisor to prepare a list of those persons who have failed to list their property to be submitted to the grand jury for possible indictment.

During the revaluation in **Haywood County** this year, appraisers visiting property for assessment purposes listed and valued personal property on the premises as well as the land and structures.

The **Surry County** tax supervisor estimates the average per acre value of tobacco land in that county at \$1,000.

The City of **Kinston** has employed a local engineer to map newly-annexed areas at a cost of \$15 per block. So far 403 blocks have been completed.

The number of counties and municipalities advertising unpaid real property tax liens in May and selling in June is on the increase. The notion of getting this work done before the end of the fiscal year has considerable appeal.

## Miscellany

**Forsyth County** has authorized appointment of a county plumbing inspector and set a fee schedule for inspections, under the provisions of Chapter 984 of the 1953 Session Laws (G.S. 160-122.1). The inspector will

enforce regulations adopted by the county board of health. . . . The **Wake County** Board of Commissioners has accepted bids on a water-sewer line to an industrial community outside Raleigh. The action was taken under Chapter 154 of the 1953 Session Laws.

### Notes From Cities

(Continued from page 2)

because of fare increases resulting from a shift to metered operation. . . . **Wilson** has adopted an ordinance regulating "going out of business" sales. Persons conducting such sales are required to file a stock inventory with the city. Thereafter it is a misdemeanor for the firm to replenish its stocks in any manner.

**Selma's** town board has voted to purchase approximately 10 acres for a new cemetery. All lots in the town's old cemetery have been sold out for a number of years. . . . The **Durham** city council has decided not to air condition the council's committee room. . . . **Conover** will take over an old church this summer for use as a municipal headquarters, auditorium, and recreation center.

**Charlotte's** minimum housing standards program has resulted in 9,412 houses being brought up to standard and 977 more being abolished prior to March 31. . . . **New Bern** has authorized minor repairs to residences of wood construction in its fire district, subject to regulations established by the Building Inspector, Fire Chief, and City Engineer.

**Raleigh** has added the following provision to its taxicab ordinance:

"The word 'trip' shall mean each stop, and the taximeter shall be cleared at the termination of each trip except in instances when the lessee of a taxicab requests discharge of a passenger or passengers en route to a final destination, and in such event the final destination shall be the termination of the trip. In every instance when a taxicab fare is paid to the taxicab driver, it shall be the duty of the taxicab driver to clear the meter."

**Rocky Mount's** aldermen have directed that shrubbery and tree limbs be removed where they obstruct the view of traffic signals. . . . **Wilming-ton** councilmen have voted to make use of the municipal golf course free to Camp Lejeune personnel.

## Annual Conference Held - - -

## Registers of Deeds Association

The June meeting of the Registers of Deeds at the Institute of Government in Chapel Hill was well attended by Registers and Deputies from all over the state. A total of eighty-eight signatures were written on the registration books. Registration proceeded throughout the afternoon, and the registrants congregated in the Club Room of the Carolina Inn to make new acquaintances and to renew old ones.

When the group assembled for dinner in the Ballroom at six, there was considerable speculation about the conspicuous absence of Mrs. Eunice Ayers, the Association's president. She arrived shortly, however, with a perfectly valid excuse for being late: at five o'clock in the afternoon she had become a grandmother.

During the course of the evening Dr. I. G. Greer, Executive Vice President of the North Carolina Business Foundation, delivered a talk on "Human Relations in Public Office." He attached very great importance to the fact that the public which is served by elective officials is made up of individuals, no two of whom are exactly alike or have exactly the same problems. He stated that constant recognition of this fact automatically results in greater service and more complete satisfaction on the part of the server as well as the served.

Dr. Greer then delighted those in attendance with folk songs, sung to the accompaniment of the dulcimer which was expertly manipulated by Mrs. Greer.

Thereafter, the group adjourned to Morehead Planetarium to witness the current program entitled "Scouting the Skies."

#### Blood Test Reports

After breakfasting by districts on the following morning, the officials assembled in the Courtroom of the Law School building for the first training session. Dr. John T. Hamilton, head of the State Laboratory of Hygiene, appeared first on the program.

Dr. Hamilton went into considerable detail to explain the medical aspects of the Wassermann and other similar tests for syphilis. He stated that no infallible test has yet been devised, and that it is sometimes possible

By

W. C. BUMGARNER

Assistant Director  
Institute of Government

for a physician to certify that a marriage applicant is free from the disease, on the basis of his past medical history, even in the face of a positive laboratory report. For this reason he said that a positive laboratory report should not prevent the issuance of a marriage license by the Register of Deeds when it is accompanied by a physician's certificate to the effect that, by the ordinary methods of medical examination, no evidence of venereal disease was found.

This statement caused some consternation among the assembled Registers. However, a close reading of the statute bears out the statement. Unlike the former law, the present law does not require that the blood test report be negative but only that it show the test was made. The ultimate decision as to whether the applicant is infected is the responsibility of the certifying physician and not that of the Register of Deeds.

In connection with the requirements of out-of-state and military certificates of laboratory approval, Dr. Hamilton stated that he had been unsuccessful in his campaign for a uniform marriage law among the states. Twenty-three states and territories now have marriage laws setting out medical requirements of some sort. The others do not. He further stated that some kind of central registration of marriages in Raleigh is desirable. He did not suggest how this could be accomplished, but it would probably require the mailing of duplicate copies of marriage licenses in to Raleigh under a system similar to the vital statistics procedure.

#### Federal Tax Lien Fees

Director of Internal Revenue Edwin Gill and his assistant, Mr. Hall, followed Dr. Hamilton on the program. They discussed possible methods of payment and collection of the fees for registering federal tax lien notices and certificates of lien discharge. Mr. Gill said that about four of the Reg-

isters of Deeds in the state were insisting that each notice or group of notices received be accompanied by a check to cover the fees. Such an arrangement would be extremely difficult to work out, however, since all disbursements are made by the Atlanta Internal Revenue office and none from Greensboro. It was the consensus of those present that, since the Federal Government has an unusually high credit standing, some acceptable bookkeeping arrangements could be worked out with the county auditors whereby the notices of liens could be registered immediately and the government billed for the fees at the end of the month. Mr. Gill then explained the billing procedure and said that instructions and forms would be sent to each Register of Deeds.

A more serious question arose in connection with the interpretation of the new statute as to whether the fee was payable on filing the notice of lien or only when the certificate of lien discharge is filed. Mr. Gill said he would be satisfied with the first interpretation if it were agreeable with one hundred percent of the Registers. It appeared, however, that he had received bills for lien discharges filed after the effective date of the new law where the original notices of liens were filed prior to the effective date of the act. He suggested that unless the Registers would agree to have these items stricken from their bills, the question ought to be settled by an Attorney General's ruling as to when and for what the fee is payable. If the ruling is to the effect that the fee is payable only on filing the lien discharge, most of the anticipated fees would remain uncollectible.

#### Cancellations

After lunch, Mr. Charles T. Boyd of the Greensboro bar discussed the subject of cancellations of mortgages and deeds of trust. His exceptionally instructive treatment of this important topic started with the common law method of cancellation by a reconveyance or release deed and carried through all the statutory methods which are now in use. He pointed out that the statutes make no distinction

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# New Planning Legislation

By

**PHILIP P. GREEN, JR.**

Assistant Director  
Institute of Government

Despite the major rebuff it handed proponents of a more workable urban redevelopment law, the 1953 General Assembly added a number of new legal weapons to the armory available for use by local governmental officials in the planning and development of their cities and counties. Outstanding among these was the group of laws enacted in response to Governor Umstead's call for increased industrial development. Of equal importance was the assistance lent to municipalities' efforts to bring the parking problem under control, while a wide variety of local acts met particular planning problems.

## Industrial Development

The emphasis upon industrial development was reflected most markedly in the state budget for the next biennium, which includes an appropriation of \$100,000 a year to the Division of Commerce and Industry of the Department of Conservation and Development for industrial research. Further impetus was expected to be added by a revision in the revenue act (Ch. 1302, H.B. 144) of the allocation formula by which corporations determine taxes due the state for property located, and income derived, in the state.

At the local level, the Local Development Act (Chapter 158 of the General Statutes) was amended (a) to allow municipalities to take advantage of its provisions even though they do not wish to contribute such a large amount for the purpose as was formerly required and (b) to insure that funds once set aside for industrial and commercial development will carry over the following year for the same purpose, rather than reverting to the general fund (Ch. 1048, H.B. 986).

Several local acts authorized the expenditure of funds by particular units of government for industrial development programs. Clay County's Board of Commissioners was granted power to solicit funds from civic groups (and to pay the expenses of such solicitation) for the attraction of industries, "to give favorable consideration to the valuation and tax rate of plants and properties" of potential new industries, and to spend any unappropriated surplus funds for surveying and locating plants, determining places suitable to the health of

employees, and furnishing sites therefor (Ch. 733, H.B. 831).

Carolina Beach was authorized to hold a referendum on the levy of an additional 15-cent tax for advertising and "for such other purposes as will in the discretion of the governing body increase the population, taxable property, and industrial and business development of said town" (Ch. 126, H.B. 45). The tax would be in addition to the two cents authorized by Chapter 975 of the 1945 Session Laws and the eight cents authorized by Chapter 302 of the 1949 Session Laws.

Fayetteville was given power to spend up to \$50,000 a year to promote new industry, expand recreational facilities, encourage civic enterprises (including the show, "Highland Call"), and assist projects tending to increase the municipal population and taxable property (Ch. 588, S.B. 307). A special tax for such purposes which was authorized if approved by the voters May 5 has already been rejected. In a less extensive provision, Elizabeth City's revised charter (Ch. 1062, H.B. 1147) permits the City Council to appropriate money to advertise and promote the city.

Along somewhat different lines, three acts (Ch. 154, H.B. 269; Ch. 814, H.B. 863; Ch. 1128, S.B. 437) authorized Wake, Columbus, and Durham counties to spend money for the extension of water and sewer lines outside municipal limits so as to aid industrial development. The Wake County act sets a limit of \$85,000 on appropriations for this purpose, while the other two restrict appropriations to non-tax revenues.

## Parking

Two measures holding first place on the League of Municipalities' legislative program prevented the parking problem from becoming totally unmanageable. The first (Ch. 879, H.B. 850) was designed to meet the problem raised by the Supreme Court's holding in *State v. Scoggin*, 236 N.C. 19 (1952). It provides that a showing that a motor vehicle was found on

any street or other public place in violation of a parking law or ordinance shall constitute prima facie evidence that the vehicle was parked by its owner. The measure fixes the penalty for convictions "pursuant to this act" at \$1. As amended by Ch. 978 (S.B. 456), it applies to all but Madison County. A similar bill (S.B. 382) received an unfavorable report from a Senate committee.

The second act (Ch. 171, S.B. 83) is a partial answer to the holding of *Britt v. Wilmington*, 236 N.C. 446 (1952). It amends G.S. 160-200 (31) to provide that the proceeds of on-street parking meters may be used by cities to provide for the acquisition, construction, reconstruction, improvement, and operation of off-street parking facilities [as defined in G.S. 160-414(d)] and may be pledged to amortize bonds or other evidences of debt issued for such purposes. It does not apply to the city of Asheville.

A special act revising Henderson's charter (Ch. 731, H.B. 582) authorizes the city to acquire parking lots and to control their use by means of either parking meters or attendants. H.B. 884, which attempted to repeal cities' authority to use parking meters, was not reported out of a House committee.

## Urban Redevelopment

As introduced at the request of the four cities with urban redevelopment programs (Charlotte, Fayetteville, Greensboro, and Winston-Salem), H.B. 830 would have modified the urban redevelopment law enacted in 1951 (G.S. 160-454 to 160-474) in two important respects: (a) it would have eliminated the proviso which presently provides that no individual tract in a blighted area may be a part of a redevelopment project unless it contributes substantially to the conditions rendering the area blighted, and (b) it would have eliminated the requirement of competitive bidding with respect to redevelopment projects. The first provision would have been replaced with one authorizing redevelopment of an area where the Planning Board found two-thirds of the buildings in the area to be substandard, while the second would have been replaced with provisions for private sales, subject to approval by the local governing body and in accord-

ance with standards in the act. These changes were declared necessary in order to carry on effective redevelopment programs.

A committee substitute which replaced this bill deleted its provisions with reference to competitive bidding and raised the required percentage of substandard buildings in an area to 75 per cent. This was approved on second reading by the House, but failed to pass on third reading, despite an amendment to make the law apply only to cities with populations over 33,000 at the time of the 1950 census.

The Housing and Home Finance Agency, which makes federal funds available to assist in redevelopment projects, has announced that it will reserve decision on whether or not any further funds will be given to North Carolina cities, pending study of actual proposals by local redevelopment agencies as prepared under the restrictive terms of the present state law.

#### Excess Condemnation

An innovation found in a number of charter revisions this year is a provision authorizing the city to acquire by eminent domain more property than is actually needed for a public improvement, so as to protect the improvement from undesirable neighboring development. Excess property may then be sold subject to protective restrictions. Among the towns with such authority are Four Oaks (Ch. 65, H.B. 35), Hoffman (Ch. 1002, H.B. 1092), and Elizabeth City (Ch. 1062, H.B. 1147). A new charter for New Topsail Beach (H.B. 328) contained such provisions but was never reported out by a House committee.

#### Subdivision Regulations

Although an expected statewide measure to reinforce the legal basis for municipal subdivision regulations was not introduced, four local acts provided stronger controls for particular cities. Lexington (Ch. 504, H.B. 433) and Thomasville (Ch. 939, H.B. 1067) were brought within the scope of the comprehensive act passed for Durham and Reidsville in 1949 (Chapter 369, 1949 Sess. Laws). Special acts pertaining to Newton (Ch. 525, H.B. 349) and Conover (Ch. 783, H.B. 1024) provide that the Clerk of Superior Court and Register of Deeds may refuse recordation of a subdivision plat unless the surveyor making the plat swears (1) either that the subdivision does or that it

does not lie within the jurisdiction of the town's governing body and (2) if it is within such jurisdiction, that it has been approved by such body.

#### Zoning

The wave of extraterritorial zoning acts in the 1949 and 1951 General Assemblies subsided somewhat this year, as only two such acts were enacted. Winston-Salem was granted authority to zone for three miles beyond its limits, in conformity with the general development plan for the area developed by the City-County Planning Board (Ch. 777, H.B. 825). Chapel Hill's zoning acts which gave it authority for one mile beyond its limits in 1949 (Ch. 629, 1949 Sess. Laws) and for four miles in 1951 (Ch. 273, 1951 Sess. Laws) were further revamped to give it authority in a defined area extending from two to four miles out (Ch. 527, H.B. 410).

The Chapel Hill act requires that a ten-man Planning Board be formed, five members from inside the town appointed by the Board of Aldermen and five members from the perimeter area appointed by the County Commissioners. Both this board and a similarly appointed Board of Adjustment will have power both inside and outside the town.

H.B. 442, extending Rocky Mount's zoning power for one mile, was reported unfavorably by a House committee. H.B. 875, doing the same for Hamilton Lakes, was not reported out by a House committee. In both cases the town's aldermen withdrew their support of the bills after opposition from perimeter residents developed.

Two other special acts amended procedural provisions with regard to zoning. Laurinburg was added to the long list of cities and counties exempted from the proviso to G.S. 160-173, which provides that when two corners of an intersection are zoned in a particular way, the other two corners must be zoned in the same way on application of their owners (Ch. 1256, H.B. 1217). A provision of Raleigh's charter, forbidding the City Council from holding its public hearing on zoning district boundaries and regulations before it receives the planning commission's final report, was repealed (Ch. 194, S.B. 196).

#### Public Housing

Public housing authorities in the state were helped by an act (Ch. 907, S.B. 51) which clarifies the tax exempt status of their bonds by pro-

viding specifically that such bonds or notes and the interest thereon shall be exempt from taxes. The previous law conferred such exemption only when the bonds were held by the federal government, purchasers from the federal government, or persons acquiring title from or through such a purchaser.

Of perhaps greater significance was the defeat, via an unfavorable Senate committee report, of S.B. 298, which would have required a public referendum before any county, city, or town could enter a cooperation agreement with a housing authority.

A special act (Ch. 664, H.B. 953) provides that vacancies on the Wilson housing commission shall be filled by an election by the mayor and the Town Board, rather than by appointment by the mayor.

#### Building Regulations

An important new regulatory measure added Section 160-122.1 to the General Statutes, authorizing the Board of County Commissioners to appoint plumbing inspectors (Ch. 984, H.B. 474). The inspectors, who may be paid either on a fee or a salary basis, will have the duties of (a) inspecting and approving all plumbing and water system installations in unincorporated areas, (b) enforcing plumbing regulations of the County Board of Health, and (c) collecting fees fixed by the County Commissioners. The act applies only to Bladen, Buncombe, Forsyth, Guilford, and Pamlico Counties.

A second statewide act (Ch. 809, H.B. 549) amended G.S. 87-14 to raise from \$15,000 to \$20,000 the maximum cost of construction jobs for which others than licensed contractors may secure municipal building permits.

Two special acts require county building permits. Hereafter it will be a misdemeanor for anyone to construct a new building or repair or add to an old building at a cost exceeding \$300 in Dare County without a permit from the County Commissioners issued by the clerk of the board (Ch. 284, H.B. 431). In Richmond County any such work costing more than \$100 must be done under a permit obtained from the County Auditor, subject to a fine up to \$50 or imprisonment up to 30 days (Ch. 1263, H.B. 1252). Both acts set the fee for the required permits at \$1.00.

Roanoke Rapids was given authority to fix the fees to be charged for electrical and building inspections by

its inspectors, rather than having to comply with the statewide fee schedules set forth in G.S. 160-141 and 160-146 (Ch. 348, S.B. 116).

#### Planning Boards

The powers of the joint Forsyth County Winston-Salem Planning Board under its special act (Chapter 677, 1947 Sess. Laws) were broadened somewhat by amendments (a) requiring an affirmative vote of a majority of all the members of the Board of Aldermen to overrule the Planning Board's recommendations on certain matters and (b) giving the Planning Board sole jurisdiction over subdivisions in the city and the county (Ch. 777, H.B. 825).

#### Streets

Two statewide measures dealt with problems of street maintenance and financing. The first (Ch. 1044, H.B. 922) requires the State Highway and Public Works Commission to construct and maintain streets in those towns under 5,000 eligible for Powell Bill funds, to the extent of such funds. A town must make a formal request for such assistance by June 1 of the year in which work is to be done, and it will be responsible for specifying the location, extent, and type of work, and for providing rights-of-way. The arrangement will take the form of two-year contracts, which will be automatically renewable unless the town gives notice of expiration by April 1 of the second year. A similar bill (H.B. 215) applying to towns under 1,500 and H.B. 251, providing that towns under 1,000 would have to accept such work rather than Powell Bill funds, received unfavorable committee reports.

The second act (Ch. 1127, S.B. 435) authorizes cities to make contracts for street improvements in anticipation of their receipt of Powell Bill funds. The top limit of such contracts is fixed at 90 per cent of the amount received during the previous fiscal year.

A number of special acts modified street assessment procedures and formulas. One of the most interesting of these amended Raleigh's charter to provide (1) that the city may classify streets according to their present or future use or according to the zoning classification of abutting property, (2) that assessments for the cost of any improvement must be made "by uniform rule within the various classifications," and (3) that the city is not required to assess abutting property owners for the entire cost of such projects, but only for such part

of the cost as the city may deem proper (Ch. 96, S.B. 50). The change is designed to permit the city to charge all residential or business property-owners uniform amounts for street assessments, without regard to the fact that some abut on major thoroughfares with heavy pavement while others face lightly-constructed local streets. Another act (Ch. 747, S.B. 319) permits Raleigh to make assessments without a petition of property-owners, where it is essential that certain short sections of streets be paved.

An amendment to Chapter 224 of the Private Laws of 1927, setting assessment policies for Greensboro, Hickory, High Point, Salisbury, Tarboro, and Thomasville, permits the city to bear part of the cost of street paving and sidewalk improvements for corner lots in areas zoned Residence A, Residence B, or Apartment District (Ch. 749, H.B. 509).

The Commissioners of Cabarrus and Rowan Counties were authorized to name a five-member Kannapolis Street Planning Board with authority to change existing street names so as to eliminate duplication, to devise a house-numbering system, and to designate places for street markers (Ch. 945, H.B. 1116). Persons establishing new streets or developments must submit the street names to the board and make such changes as it may require.

H.B. 689, authorizing the Governor to use any surplus funds of the State Highway and Public Works Commission as matching funds for the elimination of municipal grade crossings, and S.B. 198, amending Raleigh's charter so that the City Council could require a property owner to pay the cost of replacing the curb and gutter when he closes or narrows a driveway as a result of its order, received unfavorable committee reports.

#### Annexation

As usual, there were a number of instances of legislative annexation, together with a statewide act dealing with a special situation. The latter (Ch. 977, S.B. 433) establishes procedures for simultaneous extension of city and sanitary district limits, where the boundaries of the district lie wholly within or coterminous with the city limits and the district provides the only water and sewerage systems for the city. A similar bill relating only to Roanoke Rapids (S.B. 265) was reported unfavorably by a Senate committee.

Special acts extended the limits of Monroe (Ch. 123, H.B. 169), Salem (Ch. 172, S.B. 113), Fairmont (Ch. 223, H.B. 361), Grifton (Ch. 413, H.B. 523), Scotland Neck (Ch. 358, H.B. 581), and Clinton (Ch. 835, S.B. 371). Other special acts removed territory from within the limits of Hot Springs (Ch. 584, S.B. 190) and Greensboro (Ch. 557, H.B. 804).

#### Recreation

All legislation pertaining to recreation took the form of special acts. One of the more important of these permits the Granville County Commissioners to enter a long term lease with the Army engineers for land located in Virginia and in Vance County which is accessible to Granville County and available for recreational purposes (Ch. 691, H.B. 970). The Commissioners or the County Recreation Commission may spend for the development of such land any funds which could legally be spent for recreational purposes in Granville County. Net profits from the operation are to be used (1) to repay Granville County for the acquisition and development of the land and (2) for reinvestment in other recreation projects.

Chapter 424 (H.B. 669) authorizes the Ayden town commissioners to appropriate annually from non-tax revenues up to \$2,000 for the construction, maintenance, or operation of a town library, and up to \$500 for recreational purposes. Chapter 723 (H.B. 186) provides that if the County Board of Education of Transylvania County accepts its terms by a formal resolution, the board must set aside as community centers any school buildings and property abandoned as a result of consolidation, provided a petition for such action is presented within 90 days of abandonment or of the ratification of the bill (April 8).

Other acts represented cutbacks in existing recreation programs. The Anson County Recreation Commission was authorized to transfer its property and assets to the County Commissioners and to dissolve (Ch. 556, H.B. 806). Laurinburg's authority to devote a portion of its parking meter revenues to recreational purposes was withdrawn, in order to comply with the decision in *Britt v. Wilmington*, 236 N.C. 446 (1952) (Ch. 211, H.B. 409). Brevard was authorized to lease its golf course and clubhouse, with an option to the lessee to purchase (Ch.

(Continued on page 12)

# New Fire Protection Legislation

By

**PHILIP P. GREEN, JR.**

**Assistant Director  
Institute of Government**

With the exception of new efforts to solve the rural fire protection problem and a wave of bills granting exemptions from jury duty to volunteer firemen, the 1953 General Assembly made few changes in the existing pattern of fire protection legislation.

## Rural Fire Protection Districts

Probably the most important piece of legislation introduced in this field was an act (Ch. 453, H.B. 686) designed to make more workable the provisions of the Rural Fire Protection Districts Law adopted in 1951 (Article 3A of Chapter 69 of the General Statutes). This made three basic changes. The original law required a petition of a majority of the qualified voters living within a proposed district before an election as to its formation could be called. Under the amendment, only 15 per cent of the resident freeholders of the district need sign the petition.

Secondly, under the original act there was no way in which a district, once formed, could be dissolved. The new act provides that an election as to abolition of the district must be called on petition of 15 per cent of the resident freeholders, but not oftener than once every two years.

Finally, the original act made no provision for the formation of districts lying in two or more counties, such as the Guil-Rand district near Archdale. The new act supplied this deficiency, requiring joint action by the two Boards of County Commissioners with respect to the holding of elections, collection of taxes, and supervision of the district.

After passage of these amendments Guilford County decided to come under the state law and secured the repeal (Ch. 950, H.B. 1164) of its original fire protection district law (Ch. 304, 1941 Pub-Loc. Laws), which had served as a model for the statewide law.

## County Assistance to Rural Fire Departments

A series of special acts authorized specific counties to lend assistance to fire departments within their limits for rural fire protection. One of these (Ch. 71, H.B. 118) permits Lenoir County to appropriate \$5,000 apiece to Pink Hill and LaGrange and \$1,000 to Grifton, to be used for rural fire-

fighting purposes (including purchase of equipment). In addition, it validates a contract between the county and the city of Kinston which made a fire truck available to the city and authorizes further contracts similar to this one.

Macon County was given power to appropriate out of its general fund up to \$500 per year to any municipality or community in the county for the purchase and maintenance of rural fire fighting equipment (Ch. 326, H.B. 394). This special act includes specific provisions that (1) any municipal fire department in the county may, within its discretion, answer calls to any fire in the county, (2) in answering such calls, the municipality and its employees will be deemed to be acting in a governmental capacity and to be entitled to the same rights, authority, privileges, and immunities afforded them in answering calls within the municipality, and (3) in permitting its department to answer such calls, the municipality will be deemed to be acting in exercise of its governmental function, just as if it were exercising such function within its corporate limits.

Pamlico County's Commissioners were authorized to appropriate to incorporated municipalities in the county such funds as they deem necessary and adequate to establish and maintain fire departments therein (Ch. 455, H.B. 697). Any municipality receiving such an appropriation must furnish protection to all rural areas outside its limits which are designated by the County Commissioners.

Newton was given authority to sell Catawba County a fire truck at private sale (Ch. 208, H.B. 350), which authority was necessary in order to carry out an arrangement whereby the county has agreed to pay the town a given amount each year for rural fire-fighting, with title to the town's rural fire truck passing to the county when these payments equal the cost of the truck.

## Jury Exemption

The special acts passed in 1951

which granted exemption from jury duty to volunteer firemen in Halifax County and in the towns of Washington, Belhaven, and Aurora (Chs. 630, 150, 1951 Sess. Laws) were widely copied in this session. Finally, after receiving a flood of bills of this kind, the General Assembly enacted a statewide law (Ch. 701, H.B. 651) exempting from such duty all volunteer firemen whose names appear on a list of active members certified to the Clerk of Superior Court by the chief or secretary of any volunteer department. The list may be filed at any time, and thereafter must be filed annually in January. Members joining the department after the list is filed may be exempted upon individual certification by the chief or secretary that they are members in good standing.

Prior to this act, special acts were passed granting exemption to firemen in Martin County (Ch. 40, H.B. 123), McDowell County (Ch. 130, H.B. 188), Johnston County (Ch. 320, H.B. 258), Dunn (Ch. 178, H.B. 284), Moore County (Ch. 322, H.B. 311), Northampton County (Ch. 262, H.B. 359), Wilkes County (Ch. 263, H.B. 386), Duplin County (Ch. 265, H.B. 421), Sampson County (Ch. 239, S.B. 203), Lumberton (Ch. 315, S.B. 229), Cherokee County (Ch. 339, H.B. 537), Hoke County (Ch. 458, H.B. 709), Swain County (Ch. 511, H.B. 736), Erwin (Ch. 519, H.B. 799), and Spruce Pine (Ch. 934, H.B. 1017). H.B. 856, applying to Sylva, was introduced after passage of the statewide act and was not reported by a House committee.

## Retirement Funds

The perennial problem of putting retirement funds on a sound actuarial basis cropped up again in the form of special acts applying to Greensboro (Ch. 899, H.B. 874, and Ch. 931, H.B. 876), Charlotte (Ch. 932, H.B. 925), and Fayetteville (Ch. 902, H.B. 1015).

## Equipment

Another perennial problem, relating to permissible warning devices on fire-fighting equipment, led to an act (Ch. 354, H.B. 520) which authorizes vehicles operated in performance of their official duties by rural firemen to display a red light visible from the front of the vehicle. H.B. 670, per-

mitting volunteer firemen in Pitt County to equip their personal cars with red lights for use in connection with their official duties, presumably duplicated the provisions of the above act and was not reported out of a House Committee. H.B. 176, permitting members of the Yanceyville fire department to equip their personal cars with sirens and to use such sirens in answering calls in or out of town, received an unfavorable committee report, as had a 1951 bill providing the same thing.

#### Miscellany

Other special acts dealt with a variety of matters of interest to firemen. The Burke County Commissioners were granted power to exempt volunteer firemen from the payment of the county poll tax (Ch. 93, H.B. 156). Greensboro was authorized to provide for recruiting and training auxiliary firemen for the city, as a Civil Defense measure (Ch. 1074, H.B. 1263). A special act makes it unlawful in Guilford County to drive a motor vehicle over a fire hose at any time or to block fire-fighting apparatus from its water supply, regardless of the distance from the fire (Ch. 301, H.B. 589). Under the new city charter, members of the Elizabeth City volunteer fire department are ineligible for appointment to the City Fire Commission (Ch. 1062, H.B. 1147, repealing Ch. 821, H.B. 1097). The Fayetteville civil service law was amended to permit a fire chief appointed from within the department to return to his old position, with the approval of the city civil service commission and providing he is in good standing at the time (Ch. 312, S.B. 223).

#### Registers of Deeds

*(Continued from page 5)*

as to the cancellation of chattel and real property instruments. He also reaffirmed his opinion that a cancellation made by the third party under a deed of trust under subsection (1) of G. S. 45-37, a practice which is still being permitted in some counties, is void. In this he was unequivocally supported by Assistant Attorney General Claude L. Love, who had arrived early in order to hear this particular discussion.

#### New Legislation

Mr. Love followed Mr. Boyd on the program with an explanation of new legislation affecting the office of the Register of Deeds. There was not sufficient time, however, in which to cover all of the new statutes and amendments. It was therefore decided that Mr. Love's information should be supplemented by a special publication from the Institute of Government.

#### Association Banquet

Later in the evening, the Association's banquet was held in the Ballroom of the Carolina Inn. After a delightful repast, Mr. Albert Coates introduced the principal speaker of the evening, University Chancellor Robert Burton House. Chancellor House delivered a highly entertaining and instructive philosophical address on the necessity of recreation and relaxation, pointing out the many simple and inexpensive sources from which they may be obtained. He illustrated various points with tunes on the harmonica, an instrument of which he is a master. The banquet was followed by round and square dancing to the strains of Roy Cole's orchestra.

#### Preservation of Records

The training session on the following and final morning of the conference began with a discussion of the preservation and disposal of records, led by State Archivist W. Frank Burton. Mr. Burton enumerated and described some of the services which are now being performed for the custodians of county records by the State Department of Archives and History in the rejuvenation and preservation of valuable records and in eliminating useless records now occupying valuable records space. He offered the aid of his department to any Register who has a space problem or who wishes to have additional security copies of records made.

Mr. Burton was followed by Mr. Bumgarner who enumerated the 1953 laws affecting the Registers of Deeds and briefly explained the substance of those which had not been covered during the preceding afternoon.

#### Vital Statistics

This was followed by a discussion of vital statistics records led by Mr. Charles R. Council and members of his staff from the Bureau of Vital Statistics. Mr. Council explained that, through consolidation of birth regis-

tration under the county health departments in 59 counties, the State Department of Health had reduced the number of local registrars from over 1400 to the present number of 422. Pointing out that the average percentage of certificates filed on time is now 82% in consolidated counties as compared with 64% in unconsolidated counties, he stated that the eventual goal is to reduce the number of local registrars to 100 by consolidation in all counties.

#### Delayed Birth Certificates

Among the more important points brought out during the discussion was the fact that a number of federal agencies have stopped accepting delayed birth certificates from this state due to the laxness with which they are being issued in some counties. Mr. Council said that more complete descriptions of the proofs will be necessary in order to make them acceptable, and asked that the practice of issuing an immediate certified copy prior to approval by the Bureau be discontinued. The Bureau is now receiving about 24,000 delayed birth certificates each year and in about one out of twelve cases, a prior birth certificate for the applicant is found in the Bureau files. Where an immediate certified copy is necessary, he stated that the Bureau could give telephonic approval if the applicant will pay for the call.

#### Business Meeting

After lunch, the Association convened in the Courtroom for its business meeting. A copy of the minutes of this meeting will be mimeographed and mailed out to the Registers by the Institute of Government. Among the reports submitted was one from the elections committee recommending that, since the Association was formed only six months ago and in view of its accomplishments to date, the incumbent officers be renominated for the ensuing year. This recommendation was adopted, and the floor was then opened for further nominations. There being none forthcoming, the incumbents were unanimously elected for the second term. They are:

President, Mrs. Eunice Ayers, Forsyth County; First Vice President, J. W. Johnson, Cumberland County; Second Vice President, Mrs. Margaret B. Moore, Caldwell County; Treasurer, W. G. Massey, Johnston County; Secretary, Institute of Government.

# The Attorney General Rules . . .

## COUNTIES

**Publication of Regulations of County Boards of Health.** Is it necessary to publish a county board of health regulation in order for it to become effective?

To: H. C. Dockery

(A.G.) I believe it is not necessary for the regulation to be formally published in a newspaper. No statute in North Carolina requires county boards of health or administrative boards or agencies to publish their rules and regulations before they become effective. The general rule seems to be that "publication is not an essential requisite of a valid ordinance where the municipal charter or the general laws contain no provision therefor . . ." 62 C.J.S., Municipal Corporations, Sec. 427.

However, since G.S. 130-20 makes the violation of regulations of the county board of health a misdemeanor, I suggest that the regulations be compiled in booklet form for distribution. Though not required by any statute, this would be useful as a means of giving the public notice of the rules and regulations adopted by the board.

## PROPERTY TAXATION

### Agricultural Products in Storage.

In order to take advantage of the provisions of G.S. 105-294.1 permitting the taxation of certain stored agricultural products at 60% of the regular tax rate, what steps must be taken by a board of county commissioners?

To: Thomas A. Banks

(A.G.) Under the terms of this statute, the agricultural products would be taxable at 60% of the regular county rate only if the following conditions are met: (1) the county commissioners must determine as a fact that the product in question (usually tobacco) is held by a manufacturer or processor for manufacturing or processing and that such product customarily requires storage and processing for a period of more than one year in order to age or condition it for manufacture, and (2) the board of county commissioners must enter such determination on its minutes on or before March 31st.

**Reduced Assessment of Certain Types of Personal Property.** Does a board of county commissioners have authority to list certain kinds or types of personal property at a percentage of its true value rather than at full value?

To: Thomas A. Banks

(A.G.) I know of no statutory authority for such practice, although, I am told, some counties informally follow such a practice. In fact, the statute specifically provides otherwise. G.S. 105-294 provides in part as follows: "All property, real and personal, shall as far as practicable, be valued at its true value in money. . . . The intent and purpose of this Act is to have all property and subjects of taxation assessed at their true and actual value in money, in such man-

ner as such property and subjects are usually sold, but not by forced sale thereof. . . ."

## CLERK OF COURT

### Fees; Auditing Final Accounts.

What statutes govern fees to be charged by clerks of Superior Court for auditing final accounts?

To: Mrs. Ada M. Taylor

(A.G.) G.S. 2-26 is an early statute setting fees for auditing final accounts. G.S. 2-34 is a more recent enactment. G.S. 2-36 excepts a number of counties from the provisions of G.S. 2-34. All counties exempted by G.S. 2-36 operate under G.S. 2-26, the earlier statute; all others are governed by G.S. 2-34.

## MUNICIPALITIES

### Meter Charge to Pay Bond Issue.

A city council has been asked to call an election for the issuance of bonds for recreational purposes and, subject to voters' approval, the bonds are to be paid by a meter charge of twenty-five cents on every electric meter installed in the city. The city is contemplating a meter charge of fifty cents. Does the city have authority to make such a meter charge?

To: H. E. Stacy

(A.G.) There is no doubt that the city has authority to submit to its qualified voters the question of issuing bonds for recreational purposes, pledging the full faith and credit of the city for principal and interest on the bonds. See G.S. 160-163(3).

While a municipality operating its own electric power plant can fix reasonable rates for electric service, fifty cents per month charge would seem to be in the nature of a tax levied for the privilege of purchasing electric services from the city. There is considerable doubt as to the authority of the city to make such a charge, whether it is denominated a tax or a service charge. If called a service charge, the fifty cents would be in addition to the service charge proper.

**Use of Powell Bill Funds.** (1) Can a city use Powell Bill Funds to purchase land containing a sufficient and reliable source of gravel to use in maintaining and constructing city streets? (2) Can such funds be used to purchase a power bucket machine which would be used exclusively to clean out and maintain the storm sewers along city streets? The sewers are on flat ground, are hard to keep clean, and without proper cleaning equipment, many streets may have to be dug up, causing much inconvenience and extra expense.

To: A. B. Uzzle, Jr.

(A.G.) (1) It is clear that the city streets cannot be built and maintained without the purchase of necessary material therefor. If the purchase of the land is for the purpose of securing the necessary gravel for the use and maintaining of city streets, I am of the opinion that Powell Bill funds could be expended for this purpose.

(2) It is our opinion that, as a general proposition, Powell Bill funds

may not validly be used for construction of storm sewers since they are not necessarily parts of highway or street construction. If, however, in a particular situation, it is necessary to the maintenance and upkeep of streets that storm sewers be kept cleaned out in the manner suggested in your question, I am of the opinion that you could purchase with Powell Bill funds the power bucket machine to be used exclusively for this purpose.

**Repeal of Charter.** A proposal to repeal a town charter is to be submitted to the town voters. The following questions arise in this connection.

(1) If the majority of the votes cast at the election are for the repeal of the charter, when would the town actually cease functioning as a municipality? (2) If the town ceases to function as a municipality, what would happen to any funds on hand and to any uncollected taxes? (3) If the vote should be for the repeal of the charter, what should the present commissioners do about a street lighting contract providing for a certain payment in the event of termination of the agreement in less than ten years after installation of equipment?

To: R. B. Mallard

(A.G.) (1) It is my view that if a majority of the electors should vote to repeal the charter, the municipality will immediately cease to function as such. Article 23 of Chapter 160 of the General Statutes deals with both the amendment and the repeal of municipal charters.

(2) The repeal of a town charter deprives its authorities of the power to levy taxes or to collect taxes already levied and puts an end to process for the enforcement thereof; but money collected and in hand may be controlled by the courts. **WALLACE v. TRUSTEES**, 84 N.C. 164; **LILLY v. TAYLOR**, 88 N.C. 489. In the case of **UNIVERSITY v. HIGH POINT**, 203 N.C. 558, it was held that the General Assembly has authority to deal with property held by a municipal corporation for a public purpose and to provide for its disposition upon the repeal of the municipal charter, and in the absence of such a statutory provision, the property escheats to the State University. If the town does own property, it is my suggestion that an act should be passed by the General Assembly disposing of the property in case the voters shall decide to surrender the charter.

(3) The cases above referred to hold that such contracts are simply unenforceable after the repeal of the charter, but that a court of equity can require the property of the town to be applied toward the satisfaction of any indebtedness the town may owe.

## SCHOOLS

**Liability of School Property for Assessments.** Are school authorities liable for an assessment for curb and gutter installed by a city along school

property? They were not notified in advance of the work to be done nor had they requested such work.

To: W. E. Abernethy

(A.G.) RALEIGH v. PUBLIC SCHOOL SYSTEM, 223 N.C. 316, held that while the North Carolina Constitution exempts public school property from taxation, assessments for special benefits thereto caused by the improvement of the streets on which such property abuts are not embraced within the constitutional prohibition. The amount of the assessment should be placed in the next school budget for the approval of the tax levying authorities and the State Board of Education.

### New Planning Legislation

(Continued from page 8)

875, S.B. 390). The Dare County community center trustees were given broader power to dispose of their property (Ch. 327, H.B. 430).

H.B. 328, the proposed charter for New Topsail Beach which was not reported out of committee, contained provisions authorizing the town to own and operate, and to issue bonds and levy taxes for, recreational areas, piers, and other projects of municipal interest. S.B. 301, providing for election rather than appointment of Charlotte Park and Recreation Commission members, and S.B. 305, authorizing Fayetteville to hold a \$2,000,000 bond referendum for a new auditorium, received unfavorable committee reports.

#### Regional Development

The 1953 General Assembly made extensive use of regional solutions to problems common to several governmental units. Probably the most important action taken was the conversion of the Buggs Island Development Commission established in 1951 (Ch. 444, 1951 Sess. Laws) from an advisory agency to one with some power. Chapter 1312 (S.B. 164) changed its name to the John H. Kerr Reservoir Development Commission; authorized the Board of Conservation and Development to enter lease agreements with the federal government covering the marginal land area of the reservoir (called the Nutbush Conservation Area) for the purpose of establishing parks and programs of conservation, forestry development, and wildlife protection; and authorized the Board of Conservation and Development to delegate authority to the Reservoir Development Commission to make sub-leases of this property, with the proceeds being used for development of the Nutbush Area. As

introduced, the act would also have authorized the zoning of all land within 1,000 feet of the reservoir, but this provision was stricken out when it was found to conflict with the Supreme Court's decision in *Harrington v. Renner*, 236 N.C. 321 (1952).

A second act (Ch. 1115, S.B. 384; as amended by Ch. 1319, S.B. 487) established a Neuse River Watershed Authority of members representing Craven, Durham, Greene, Johnston, Jones, Lenoir, Wake, and Wayne Counties. The authority is directed by the act to promote the counties' mutual interests in flood prevention, regulation of stream channels, reclamation or filling of flooded lands, irrigation, water conservation, diversion of water courses, water supply, sewage disposal, and arrest of erosion. In carrying out projects designed to further these ends, it may acquire and dispose of property and contract with the federal and with local governments. It may not develop hydroelectric power nor interfere with the activities of soil conservation districts. Counties in the watershed may support its projects with a tax of up to two cents per \$100 valuation, as provided in G.S. 156-139 to 156-141.

Another regional project was authorized by the act creating the Eastern Carolina Airport Authority (Ch. 804, H.B. 301). This authority, representing Edgecombe, Nash, Pitt, and Wilson Counties, and the cities of Greenville, Rocky Mount, Wilson, and Tarboro, may establish, own, maintain, and operate an airport for the joint benefit of its member units of government.

On a lesser scale, Lexington and Thomasville were given power to jointly construct, own, and maintain a water works reservoir (Ch. 1056, H.B. 1066). Similar power was denied High Point, Greensboro, Guilford County, and (in the first bill) Winston-Salem, as H.B. 1030 authorizing creation of a Central North Carolina Water Authority, S.B. 471 authorizing creation of a North Carolina Development Authority, and H.R. 1335 authorizing creation of a North Carolina Water Commission met successive defeats.

#### State Agencies

There were a number of acts pertaining to state agencies which may be of interest to particular localities. Resolution 32 (S.R. 121) authorizes the Governor to appoint a seven-member North Carolina Marketing Commission to make recommendations

to the 1955 General Assembly on locating and financing marketing centers for the sale of fruits, vegetables, and other farm products. Chapter 191 (S.B. 170) gave the State Ports Authority the additional duty of developing and improving inland ports and facilities. A six-member Historic Sites Commission was created to investigate and approve historic and archaeological properties prior to their acquisition or support by the state (Ch. 1197, S.B. 273). The North Carolina Turnpike Authority was brought under the control of the State Highway and Public Works Commission through the addition of five members from the Commission (Ch. 1116, S.B. 396), and a new Carolina-Virginia Turnpike Authority was created (Ch. 1159, H.B. 1193). Lines of authority within the Department of Conservation and Development were clarified and made stronger (Ch. 808, H.B. 399).

#### Miscellany

A possible duty for Planning Boards in newly-incorporated municipalities was indicated by Chapter 79 (S.B. 59), which authorizes municipalities incorporated since the last federal census to participate in state funds allocated on the basis of population, by filing a population estimate with the state agency charged with disbursing the funds. The estimate must be approved by the municipal and county governing bodies and accepted by the state agency.

Another act (Ch. 901, H.B. 917) broadened the provisions of G.S. 160-167 and 160-168, which have authorized establishment of joint city-county market houses, so as to permit either a city or a county separately to establish such a house and so as to raise the maximum permitted cost from \$100,000 to \$500,000.

Raleigh (S.B. 128) and Pender County (H.B. 782) sought to secure payments in lieu of taxes for state property in their boundaries, but both were unsuccessful. H.B. 779, which attempted to amend G.S. 143-215.2 of the State Stream Sanitation Law by substituting the provisions with reference to existing sources of pollution which were originally proposed by the State Stream Sanitation and Conservation Committee in 1951, received an unfavorable committee report. The same treatment was accorded S.B. 461, which would have created a committee to establish qualifications and to issue and revoke licenses for real estate agents.

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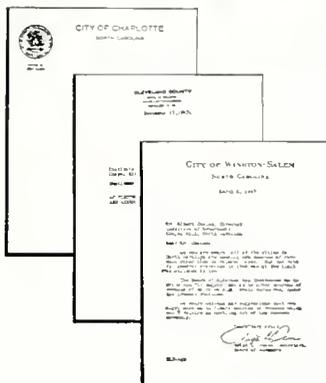
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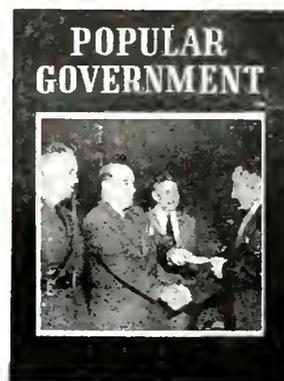
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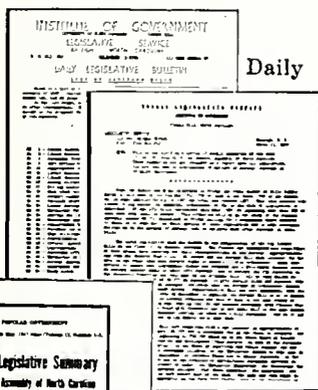


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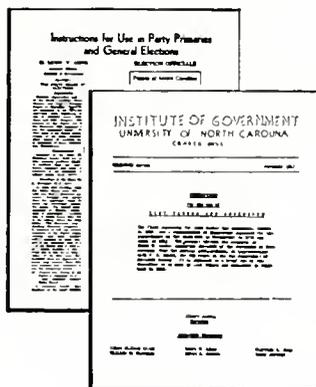


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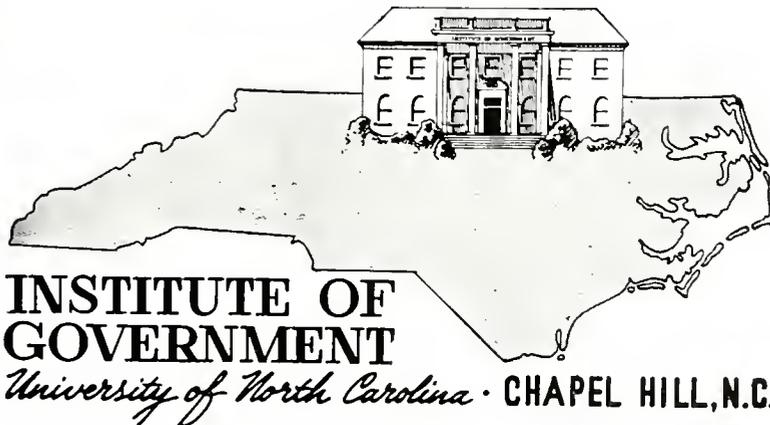
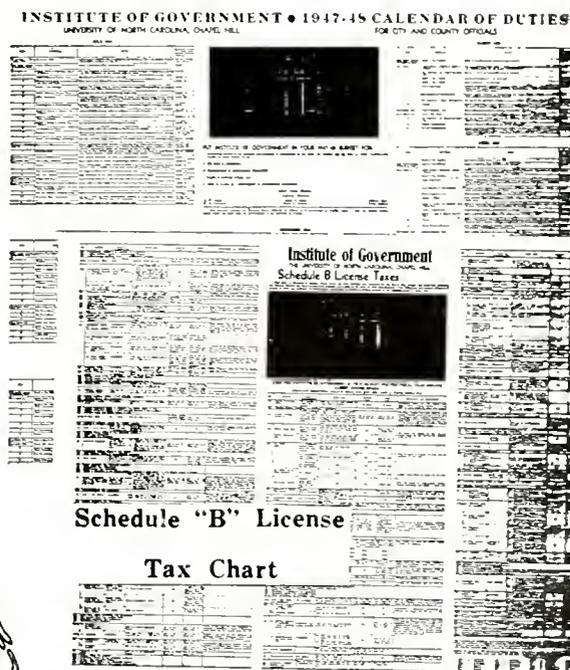
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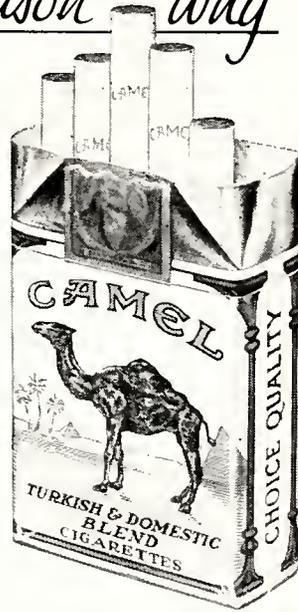
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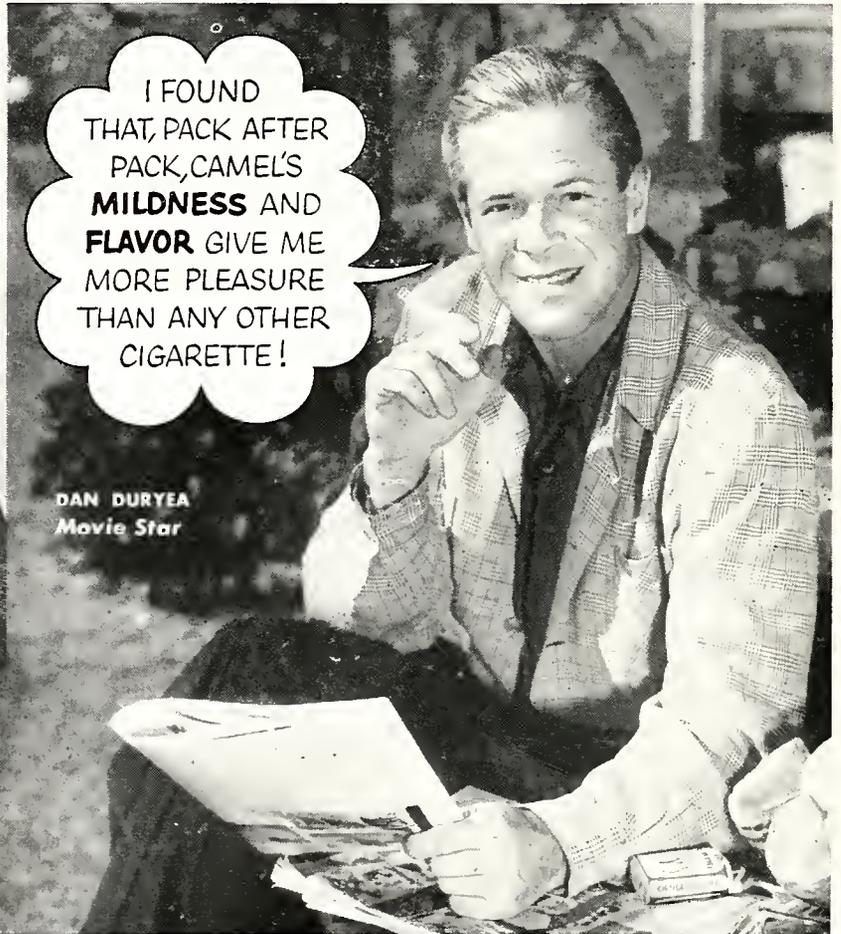
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