

Popular Government

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The Wilmington Port Terminal

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THE COVER

Our cover picture shows the most recent addition to the State's port system which was officially opened on September 18th of this year. This \$5,000,000 Wilmington Port Terminal consists of a 1,500 foot dock and provides ample storage space in its 98,000 square foot warehouse and its huge transit sheds. Financed through a State bond issue the port was built under the supervision of the State Ports Authority. It is shown here just before construction was completed. (Photograph through the courtesy of the North Carolina News Bureau.)

THE CLEARINGHOUSE

A summary of events of particular interest
to city, county and state officials

Wilmington Tackles Its Weeds

Municipal authorities and civic-minded citizens alike have long been frustrated in their attempts to keep vacant city lots from becoming jungles of weeds. Many cities and towns have ordinances requiring property owners to keep vacant lots trimmed and clean—but the authorities have usually been hesitant to test such ordinances in court actions, for fear of their invalidity. The difficulty lies in the fact that such a requirement, as a delegated exercise of the state's police power, must have a substantial relation to the health, safety, welfare, or morals of the people—and the chief objection to uncouth vacant lots has usually been that they look bad, which the courts have generally held, is a matter of esthetics rather than one of health, safety, welfare, or morals. Such an ordinance, if based on the objective of protecting the public health, and if its substantial relation to this objective could be demonstrated by qualified experts in the field of public health, would unquestionably be a valid one.

Authorities of the Wilmington-New Hanover City-County Health Department have decided to try this approach to the problem. According to the *Wilmington Morning Star*, they have marshalled the following public health reasons to support the city ordinance empowering the city government to clean up vacant lots, after sufficient notice to the owners, and then to assess the owners with the cost of the work: "One is the fall pollen of the weeds, particularly ragweed, [which] aggravates the condition of nearby sufferers of hay fever and asthma. Another is that the tangled underbrush offers excellent harborage to ticks bearing Rocky Mountain spotted fever. And there have already been cases of poisonous snakes taking refuge in overgrown lots within the City limits."

The Wilmington ordinance has been on the books for years, but "authorities have hesitated to use this law. They didn't know how it would fare in a court test. The big question was whether there would be ample support from the Health department.

Now it appears there will be in the form of expert testimony on the health menace from weeds. And we're confident public opinion would support the City."

Through-Ways

The concept of routing through-traffic around local business and residential areas has been receiving increasing recognition and approval throughout North Carolina.

Citizens of Reidsville descended upon the city council early in August, seeking a solution to the traffic problem created by the routing of heavy truck traffic through residential areas. The council readily agreed to coordinate all civic efforts toward securing approval by the State Highway and Public Works Commission of a proposed express route to completely by-pass the city. Local opposition to the plan was based on the argument that the business district would lose business and the city would become a "ghost town". The results of a secret ballot poll conducted by the *Reidsville Review* indicated, however, virtually 100% approval of the plan among the citizenry at large. Several trucking firms, as well as local gas and oil distributors, publicly have endorsed the plan; one trucking official estimating that the proposed by-pass would save through traffic a half an hour per trip over the time now required to get through the town.

Hendersonville has settled upon a more immediately effective solution to the problem of heavy through-traffic on Main Street. All truck traffic is to be routed through a parallel street expressly widened to accommodate the increased traffic volume. It is, however, recognized in Hendersonville that continued population growth and business expansion may necessitate construction of a through-route completely by-passing the city.

The Highway Commission has submitted plans for an improved through-route to the **Statesville** City Council. The Commission now expects to complete a minor by-pass around **Lexington** by the middle of November. The by-pass around Chapel Hill is already virtually complete.

New through-way construction is planned by the Commission in several

areas. In the vicinity of **Hickory** a proposed route will by-pass the heavily populated **Whitnel** and **Hudson** areas, provided that local opposition from established business firms does not materialize to any substantial degree. South of **Kings Mountain**, the Commission has been surveying a proposed four lane through-way for U.S. Highway 29 which would by-pass Kings Mountain. East-West traffic may soon by-pass **Raleigh**: Commission survey crews are laying out a proposed through-way which will connect U.S. 1 north of Raleigh with U.S. 64 on the east and U.S. 70 on the west.

The largest and most ambitious effort at through-routing, the proposed **North Carolina Turnpike**, is still in the planning stage. The engineering firm of Coverdale and Colpitts has been engaged by the Turnpike Authority to make traffic surveys, not only for a proposed super-throughway bisecting the state from Charlotte to Mount Airy, but also for a spur into the Piedmont area, running in the vicinity of Greensboro to the Raleigh-Durham area. Although complete arrangements have been made for marketing the necessary revenue bonds, it should be pointed out that actual construction of the super-throughway is by no means assured. Construction and financing depend wholly upon the outcome of the Coverdale and Colpitts traffic surveys. The proposed throughway must be shown to be, without question, capable of financing itself, through tolls collected, before the necessary construction funds will be forthcoming from private Investment Bankers.

Milk Sanitation Honor Roll

The September 1952 issue of *Public Health Reports* (official monthly publication of the U. S. Public Health Service) lists 28 North Carolina cities and counties as being on the PHS "Milk Sanitation Honor Roll for 1950-52."

The Honor Roll Award is limited to communities which have milk regulations substantially in conformity with the PHS model milk ordinance and whose milk sanitation programs

are found by the state health department to have milk sanitation ratings of 90 per cent or more, under a rating method prescribed by the federal agency.

The list is divided into two parts (the 90 per cent compliance requirement applying in each group): (1) counties and cities wherein 100 per cent of the milk sold is pasteurized; and (2) counties and cities wherein both raw and pasteurized milk is sold.

North Carolina counties wherein 100 per cent of the milk sold is pasteurized are: Burke, Cumberland, Forsyth, Henderson, Jackson, Lincoln, Mitchell, Randolph, Richmond, Scotland, Swain, Transylvania, and Yancey. Municipalities listed in this category are: Charlotte, High Point, Mars Hill, and Wilson.

Counties where both pasteurized and raw milk is sold, but which meet the 90 per cent compliance minimum (showing also the percentage of milk sold which is pasteurized) are: Buncombe (95.8), Cabarrus (80.3), Caldwell (88.7), Halifax (83.4), Iredell (95.7), Macon (91.4), Montgomery (93.1), Robeson (96.6), and Wilkes (90.6).

The only municipality listed in this category is Greensboro (99.7).

It should be noted that the list includes only counties and cities wherein rating inspections have been made within the last two years.

Planners Institute Elects Officers

Herbert Stevens, Raleigh city planner, has been chosen President of the Southeast Chapter of the American Institute of Planners in an election held this month. He will assume office at the annual meeting of the chapter in Chapel Hill on November 1 and 2. Ronald Scott, Greensboro city planner, was elected secretary-treasurer of the group.

A third planner to be honored was Henry C. Moore, planning director for Winston-Salem and Forsyth County. He was chosen chairman of the North Carolina section of the chapter. Among the North Carolina section's activities are the sponsorship of a panel discussion on "Planning for Industrial Growth" and of a "zoning clinic" at the annual convention of the North Carolina League of Municipalities in Raleigh November 9-11.

League Convention

The North Carolina League of Municipalities will hold its annual convention at the Sir Walter Hotel in Raleigh, November 9-11. Among the featured speakers will be the Democratic nominees for Governor and Lieutenant Governor, William B. Umstead and Luther B. Hodges, and Mayor William B. Hartsfield of Atlanta, Ga., first vice-president of the American Municipal Association.

The convention will include three general sessions, a luncheon, its annual banquet, and a large number of group meetings for various officials during the three-day period.

Mayor James E. Briggs of Raleigh will welcome the delegates at the formal opening session at 4:00 o'clock Sunday afternoon. He will be followed by City Manager Roy L. Williamson of Rocky Mount, League President for 1951-52, who will deliver the annual president's message, and Mayor Hartsfield, who will make the keynote address.

The second general session is scheduled for Monday afternoon and will consist of a panel discussion of "Planning for Industrial Growth in Towns and Cities." General James R. Townsend, City Manager of Greensboro, will serve as moderator. Members of the panel will be Malcolm Little, High Point Planning Director; Elwood Allan, New York City park and recreational engineer; Charles F. Carroll, state Superintendent of Public Instruction; James Lambeth, Director of Public Works for Raleigh; and James McCree Smith, consulting engineer of Raleigh.

The final general session on Tuesday morning will be highlighted by addresses on municipal finance trends, stream pollution, and streets and highways, delivered by Joseph F. Clark, executive director of the Municipal Finance Officers' Association, Dr. Nelson Nemerow, of the Department of Sanitary Engineering at N. C. State College; and Dr. Henry Jordan, Chairman of the State Highway and Public Works Commission.

First in the Nation

A Federal Security Agency survey of the thirty-seven states employing more than 125 employees reveals that North Carolina stands first in the percentage of public assistance workers with graduate study in schools of social work. The national average for workers in public assistance is 23 per cent; in North Carolina it is 49.3 per cent. In child welfare the national average of workers with graduate study is 60 per cent; in North Carolina it is 91 per cent. North Carolina has placed considerable emphasis in recent years upon educational leave and it is thought that the high standing is a direct result of this policy.

Personnel

Salary Adjustment for Certain State Employees

One of the chief complaints against the State Personnel Department has seemingly been happily resolved. Departments last on the list of state agencies having their positions classified have long complained because key employees at the maximum of the salary ranges under the old pay system have been denied increments. Now that the positions in these departments have been classified, the State Personnel Council has acted (See Personnel Department Memorandum No. 62) to permit these employees to receive an additional salary increment. To receive a salary adjustment, an employee (1) must have been at the maximum of his salary range on June 30, 1951, (2) must have had his range increased by reclassification, and (3) must not have received more than one increment since June 30, 1951.

State Classifications and Salary Ranges Published

The State Personnel Department has published a complete listing of all of the titles of positions covered by the state personnel act and the salary range for each. Copies may be obtained by writing J. W. McDevitt, State Personnel Director, Raleigh, N. C.

Ethics Discussed by Revenue Officials

The State Revenue Department held area meeting for their 225 deputy revenue collectors and auditors during the second week in October. Area meetings were held in Morganton, Charlotte, Winston-Salem, Raleigh, and Wilmington. The meetings stressed the ever-timely

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NOTES

From North Carolina Cities

Fire Prevention

Fire Departments all over the state carried on elaborate programs this month as a part of the national observance of Fire Prevention Week. In addition to distribution of fire prevention literature and talks before civic organizations, many departments conducted house-to-house inspections or utilized school children in a clean-up campaign. A second highlight of the month was a meeting on Rural Fire Protection held in Salisbury on October 17 under the auspices of the state Insurance Department.

Wilmington has received a report by a fire expert hired to make a survey of its fire-fighting needs. Among the recommendations offered were (1) that the city employ 15 additional firemen, (2) that a training program for top officers be instituted, (3) that the number of officers be increased (with two assistant chiefs being added), (4) that the city's building code be revised, and (5) that use of the city's fireboat be discontinued.

Planning and Housing

Paul Kelly, head of the Division of Commerce and Industry of the State Department of Conservation and Development, presided over the sixth annual conference of the Southern Association of State Planning and Development Agencies at Memphis this month. The conference theme was "Community Development through Planning," with discussion centered on industrial development and its problems. Kelly has been president of the Association during the past year.

Winston-Salem has reactivated its Sanitary Improvement Committee to establish policies concerning the enforcement of the city's minimum housing standards ordinance. The committee is composed of the city's building inspector, the county sanitarian, the city-county planner, the water and sewer superintendent, and representatives of the Public Works Department and the Fire Department.

A highly active Finer Carolina Campaign committee is doing much to reshape the appearance of the city of **Wallace**. Enlisting the support of civic groups to carry out specific projects, the organization has completed more than 30 important im-

provements in the town during the past year. Projects are grouped under five headings: (a) improvement of the business section and industrial development, (b) improvement of public buildings, grounds, streets, walks, and alleys, (c) development of recreational facilities and programs, (d) town beautification and home improvement, and (e) development of a united effort to secure higher advantages in educational, cultural, and spiritual fields.

Police Administration

Tom Davis, former chief of police for the town of **Laurinburg**, has been selected as the new chief of police of the city of **Raleigh**, succeeding Ralph R. Hargrove. Davis, about 44, formerly was in charge of the **Winston-Salem** police traffic bureau before he went to Laurinburg as chief of police in 1948.

The latest North Carolina town to purchase a two-way police radio system is the town of **Ahoskie**. The appropriation has been made, and the equipment will be installed as soon as final arrangements are completed.

The reputation of **Reidsville's** outstanding and courteous police department continues to spread. This week the department received two letters of thanks from persons who had received courteous treatment from individual officers.

Public Utilities

Winston Salem has employed an engineering firm to survey the need for a new sewage treatment plant. It is anticipated that the new plant will cost between \$4,000,000 and \$6,000,000, and it would be designed to serve the city's needs for the next 15 years. **Durham** has ordered a similar survey.

Charlotte attempted to cure the odors from the Sugaw Creek this summer by pumping a chemical reodorizing solution into the creek. A long-term solution to this problem is expected from the city's new waste-treatment ordinance, which would prohibit dumping of industrial wastes into the streams or into the city's sanitary sewerage system without treatment. Enforcement of this ordinance has been postponed until July, 1953, at which time a \$2,000,000 modernization program on the city's sewage treatment plans is expected to have been completed.

New Bern has decided to abandon its municipal power plant and buy electric power from Carolina Power and Light Company.

North Wilkesboro is purchasing property as a site for a new water plant. The City Council has also voted to require a deposit equal to two month's water use (with a minimum of \$4) from all persons occupying rental property.

Clinton has put into operation a new deep well. Dug to a depth of 527 feet, the well cost \$10,500. It is expected to deliver in excess of 500 gallons per minute.

Roxboro has enacted an ordinance requiring all houses within 250 feet of a water or sewer line to make connection with that line within the next five years. During the summer between 15 and 20 old houses made such connections.

The Public Works Committee of **Winston Salem's** City Council has recommended that the sewer connection charge be increased from \$60 to \$65. The \$5 increase would be used to install a clean-out plug between the sidewalk and the curb, with the city assuming responsibility for keeping the line clear between the plug and the main sewer line.

Fire Protection

Seeking to raise its fire insurance rating, **Winston-Salem** has established a new training program for officers of its Fire Department. **Wilmington** has ordered a study of the efficiency of its Fire Department.

The **Lenoir** Fire Department has employed 10 additional men on a part-time basis, at a salary of \$50 per month. Each man agreed to remain in town every other day, so that five men would always be available.

The **Elkin** Volunteer Fire Department has made its annual inspection of fire extinguishers in homes and business establishments of the city. Altogether approximately 150 extinguishers were checked, repaired, and recharged.

Bus Fares

The State Utilities Commission has been hearing applications for bus rate increases through the month of September. Among the companies applying for increased fares were Duke Power Company, Safety Transit Co. of Rocky Mount, Safe Bus, Inc., of Winston-Salem, White Transportation Co. of Asheville and Raleigh, and the Asheboro Coach Co.

Miscellany

Durham has issued 10,000 copies

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NOTES

On North Carolina Personnel

Training Schools

A two-week training school for training new police recruits began in **Durham** on September 15. Captain W. B. Julian, director of the Police Department's training division, is in charge of the training school which is giving instruction in all phases of law enforcement work.

The **Winston-Salem** Fire Department has initiated a fall training program. At the first of 11 weekly training sessions for top officer personnel of the fire department, City Manager John Gold spoke on "The responsibility of the Fire Department to the Administration and the Public." In subsequent meetings to be held from 7 P.M. to 9 P.M. on Thursdays at Fire Station No. 7, the officers will receive instructions on fire prevention, personnel management, how to teach, leadership and responsibility of supervisors, organization and fire department administration, arson and fire investigation, operation and maintenance of fire apparatus and equipment, how to operate rescue equipment, building materials and construction in reference to fire prevention, and sprinkler systems.

The captains and lieutenants attending these training sessions will in turn train sergeants and firemen as a part of the in-service training program. Classes are not compulsory.

Chief Brown has placed Assistant

Chief E.M. Dixon in charge of the training sessions. He will be assisted by Captain J.W. Wooten, drill master, Captain Harold J. Gibson, head of the Bureau of Fire Prevention, W. H. Reich, director of personnel, and Harding I. Hughes, Jr., city budget officer.

Charlotte Retirement Fund Needs Money

The financial condition of the Charlotte Firemen's Retirement System has been the subject of an actuarial study by the actuarial firm of Bowles, Andrews, and Towne of Richmond, Virginia. The study as released by the board of trustees of the retirement system warns that the fund has a deficit of \$2,612,604 and that this deficit is increasing \$50,000 annually. The report concluded that unless the fund is drastically revised, it will be on the verge of bankruptcy in seven years.

The Charlotte Firemen's Retirement System was established in 1947 when the Charlotte firemen became dissatisfied with the retirement allowances provided by the Local Governmental Employees' Retirement System. The local fund has been financed by a five per cent payroll deduction and a matching contribution by the city. Additional income has been received from the local Firemen's Relief Fund and the Firemen's Benefit Fund.

The retirement provisions of the act became effective in September, 1948, when the fund exceeded \$200,000. To be eligible for service retirement, a fireman must have served 25 years as a member of the fire department or be 65 years of age. Retirement at 65 is compulsory. The system also has a provision for disability retirement. The retirement system pays a retirement benefit equal to 50 per cent of the average pay budgeted for the retired fireman during the last three years of his employment. However, an average of not more than six persons may be retired in any one year.

The recommendations of the actuary if bankruptcy were to be avoided were as follows: (1) Set the normal average retirement age at 60 years with a minimum of 30 years of service; (2) Continue the firemen's contribution of 5 per cent of their salary monthly but increase the City's contribution from 5 per cent to 12½ per cent in order to liquidate liabilities already accrued. (3) Make the retirement allowance for firemen upon retirement 50 per cent of the average salary for the last five years of service.

The balance of the fund as of July 1, 1952 was \$401,873. Estimated future contributions were \$1,122,033. Total assets were estimated at \$1,523,906. The liabilities included \$302,922 owed to persons now retired, and \$3,833,588 to be paid to firemen now active but not yet retired. Total liabilities were estimated as \$4,136,510. The deficit was estimated to be \$2,612,604 as of July 1, 1952.

Clearinghouse

(Continued from page 2)

topics of (1) "tax men unduly fraternizing with taxpayers," (2) tax men borrowing money from taxpayers, (3) tax men accepting gifts, favors (meals and the like) from taxpayers, and (4) the necessity of men reporting things such as suits against them, indictments and the like.

The series of meetings were under the direction of Assistant Revenue Commissioner Ben Eaton and Director Laurie McEachern of the Department of Revenue's field force.

Employment Recruitment Procedure

Burlington has prepared and had

printed a standardized application for employment form. The four-page form will be required of all persons applying for jobs with the City. **Burlington** has also started requiring all applicants for employment in the police and fire departments to take a thorough physical examination before entering on duty.

Notes from Cities

(Continued from page 3)

of a 30-page annual report. . . . **North Wilkesboro** is studying smoke and air-pollution control measures. . . . **Raleigh** has stepped up enforcement of its anti-noise ordinance.

Clinton has completed a dredging project to drain a troublesome creek

through town, while **Durham** is making a survey of drainage possibilities for creeks which have flooded periodically. . . . **Goldboro** has learned of the value of investing in land. In 1924 it purchased 113 acres for use as a cemetery. When the proposed use was abandoned, it started selling tracts. So far it has sold approximately 93 acres for \$143,027.60. Of the 20 remaining acres, 17 have been earmarked for recreational purposes.

Durham's City Council has approved the naming of a joint Council-County Commissioner committee to study water and sewer expansion outside the city to aid new industries.

BOOKS RECEIVED

Texas Government, Stuart A. MacCorkle and Dick Smith, McGraw-Hill Book Company, second edition, 1952. Pp. xi, 506.

Merit System Discussed at Health Institute

The "Merit System and State and Local Health Departments" was discussed at the opening session of the Institute on Administrative Practice and Vital Statistics held in Chapel Hill on April 25-26. Each of five officials discussed the responsibilities of the agency which he represented or gave his own personal views concerning the N.C. Merit System. The panel was composed of William A. Oliff, Regional Representative of the Federal Security Agency, Dr. Frank deVyver, N.C. Merit System Supervisor, Dr. C. C. Applewhite, Director of Field Work, N.C. State Board of Health, Dr. M.B. Bethel, Charlotte Health Officer, and Dr. R. E. Fox, Stanly County Health Officer.

Little Federal Control

Mr. Oliff opened the discussion by outlining the merit system responsibility of the Federal Security Agency for the state and local health departments. He stressed the mutual responsibility of federal, state, and local officials for getting qualified workers, for assuring them of tenure as long as their service was satisfactory, and for firing unsatisfactory employees. Admitting that there is "more system than merit" to some merit system requirements, he emphasized the fact that the federal government has no control over selection, tenure, or compensation of merit system employees.

Mr. Oliff stated that the Federal Security Agency attempted to assist local merit systems by annual reviews and by institutes on technical problems. The annual review of each merit system office permits joint examination of rules, practices, and procedures used by that office. The institutes conducted by the FSA cover such common problems as classification and examinations which are of interest to merit system officials in all states. When asked why doctors who have been licensed to practice have to take merit system examinations, Mr. Oliff stated that the examinations were designed by other doctors to determine the best man for a particular job.

In conclusion, Mr. Oliff stated that many local merit systems had failed to live up to their reason for being because they (1) lacked personnel and funds to do the job, (2) forgot the needs of the operating programs, and (3) forgot the service aspects of personnel. Mr. Oliff recalled that doctors don't stop using penicillin because one patient gets a rash or reaction and advises that neither should they discard scientific recruitment and examination techniques because of occasional mistakes. Instead he urged that present merit system failures must be overcome by redoubled efforts to meet the needs of the operating officials.

Dr. Frank deVyver, N. C. Merit System Supervisor, spoke of the responsibility of the Merit System Council and the Merit Supervisor for state and local health departments. He pointed out that the act made the Council and the Supervisor legally responsible for analyzing and setting qualifications for each job, and for establishing a classification system, an examination and selection procedure, a uniform compensation system, rules against political activity, and uniform personnel policies. After explaining the need for each provision, he explained why these legal responsibilities had been required by federal or state laws.

Dr. deVyver then explained that because of these responsibilities the merit system performed both line and staff functions. He stated that the trick and test of a successful merit system was whether it could succeed and still not use its line authority except in a staff way. To do this, the agency must recognize operating problems and cooperate with operating people without compromising fundamental principles. While admitting that the merit system could not do all recruiting and could not protect every agency from incompetency, Dr. deVyver asked every health officer to cooperate with the Merit System in their efforts to help the State, district, and local health departments in North Carolina. maintain and improve public health

Dr. C. C. Applewhite read a paper prepared by Dr. J. W. Roy Norton, State Health Officer, on the "Merit System Responsibility of the N. C. State Board of Health for Local Health Departments." Dr. Norton was unable to participate as he was out of the State.

Employees Favor Merit System

Mr. M. B. Bethel, Charlotte Health Officer, spoke on local health department problems under the merit system. In preparing his talk, Dr. Bethel polled local health employees throughout the State. Each employee was asked the question, "If you were called upon to cast the deciding vote, would you elect to retain or abolish the North Carolina Merit System?" Indicative of the tremendous interest in the subject, 886 of the total of 1039 local health workers in North Carolina replied. Votes were received from 72 of the 79 local health departments; from Currituck and Elizabeth City to Waynesville and Franklin.

Of the 886 replies, 739 or 83.4 per cent voted to retain the merit system. Dr. Bethel stated, "When 83.4 per cent of the people say yes to a proposition we may conclude they are for it regardless of the whys and wherefores." But in spite of this overwhelming acceptance, Dr. Bethel noted that there was not complete endorsement as three departments voted against continuing the Merit System and numerous ballots contained observations indicating discontent.

Causes of Dissatisfaction

In Dr. Bethel's opinion there were eight causes of dissatisfaction:

1. Lack of understanding of Merit System aims, benefits, and limitations among the rank and file of employees.
2. Certain unfair and discriminatory regulations exist which are more the responsibility of the State Board of Health than the Merit System.
3. The fallacy of equal salary scales on a state-wide basis should be recognized and health departments

in areas of high cost-of-living should be permitted to go as much as four steps above the prevailing minimums for any given classification.

4. Merit System recruitment has failed because initial salaries are too low.
5. The Merit System Council's resolution to prevent hiring special people at more than entrance salaries in spite of the length of their qualifying experience is inexcusable.
6. Greater flexibility should be allowed for substituting experience for training and training for experience.
7. All groups of employees should be

employed and paid according to supply and demand and not according to the notion that comparable years of training and experience dictate comparable salaries in unrelated fields.

8. Capable employees should be given mandatory raises in return for faithful service.

In closing the formal presentation by the panel, Dr. R. E. Fox, Stanly County Health Officer, stated that the present Merit System Act had been hurriedly and carelessly drafted and should now be carefully studied and revised by the next General Assembly.

The last half of the program was devoted to questions and comments

by many of the 45 local health officers attending the Institute. Questions asked and discussed during this period were: Would local cost-of-living salary supplements be desirable? Why doesn't the federal government require merit increments or some plan of longevity pay increases? Should the appointing authority be permitted to appoint one of the top five eligibles, any eligible who qualifies, or one of the top three as at present? Should specially qualified applicants be hired more than two steps above the minimum? When will the minimum salary levels be raised? Several of the other causes of dissatisfaction presented by Dr. Bethel were discussed and different points of view expressed.

Hospitalization For the Indigent

●
W. M. COCHRANE
Assistant Director, Institute of Government

The Process of Determining Who Is Eligible

It is written among the "Ancient Customs and Liberties of the Town of Beverley"¹ in England that in the Year of Grace, A.D. 1394, one

"Margaret Taylor, a leper, came before the twelve keepers of the Town of Beverley in the Gild Hall, and asked by way of charity to have leave to have a bed in the lepers' house outside Keldgate Bar; which the twelve keepers, viz. Nicholas Rise, William Rolleston and their fellows, granted her."

There is no proof that "charity" was the prevailing consideration moving the Beverley Town Fathers to grant free hospitalization to a leprous² fellow citizen in their midst—

1. LEACH, BEVERLEY TOWN DOCUMENTS (Selden Society, Vol. 14), 41. The "Twelve Keepers or Governors" of the Town of Beverley are also recorded here as licensing hospitals during this period - a function performed in North Carolina today by the State Medical Care Commission.

2. LEACH, *supra*, in the introduction to his presentation of these old documents, says that "It should be remembered that 'leprosy' did not always denote true leprosy and was used to cover all loathsome skin diseases like lupus and erysipelas, from some of which recovery was not impossible."

but regardless of their motives, this early record illustrates that there is nothing new about the process of hearing and deciding on requests for a hospital bed at society expense.

The governors of this old English town heard the petition of Margaret; recognized her leprosy—probably without difficulty, perhaps with, perhaps without the supporting opinion of one of their local physicians; adjudged her poverty to be a fact—doubtless one of common knowledge; and granted her application for a bed in the community's lazar house—such as it was.³

Today, if Margaret Taylor, being ill and lacking funds, petitioned for a bed in a community hospital in North Carolina, a procedure much the same in its essence would be fol-

3. The report of a jury which investigated conditions in one of these English leper hospitals in the year 1291 shows something of its requirements for admission, in addition to the poverty and illness of the applicant: ". . . and they [the jury] say that every leper, before he enters the hospital, must in person and for himself swear an oath upon the Holy Gospels that he will never go out of the hospital or look over the walls or climb the trees in order to chat with his friends or utter any complaint, with or without justification, about his conditions whereby any plea or plaint could ever arise against the prior [who operated the

lowed by the modern counterparts of the Keepers of Beverley.

The process would involve the same three basic functions:

(1) determination that Margaret was indeed so sick as to need hospital service;

(2) determination that she was unable to pay for hospital service; and

(3) provision by society of the means (including the hospital itself, and funds to maintain her there) to give her the needed hospital service.

We are interested here mainly in the process of determining whether in fact the patient is or is not able to pay—a function, primarily, of the public welfare agencies.

The titles of the participants in this part of the process have, of course, changed through the years, and in the past several decades they have become specialists, with appropriate division of labor among them.

The process itself has been greatly refined and made more precise, to cut down on the guesswork and haphazardness which, in the nature of things, characterized determination of eligibility for what free medical care soc-

hospital], . . . but he must keep himself well contented with all that was done for him without any murmuring, complaining or disputing. And they say that, because none of their friends or any strangers ought to have access to them, the prior had tied a strong and massive dog in front of the hospital's door to keep them away and prevent them from asking questions or getting to know about the conditions or the numbers of the lepers . . ." (Quoted by SAYLES, Editor, in his introduction to SELECT CASES IN THE COURT OF KING'S BENCH, Selden Society, Vol. 58.)

ity could provide in the early days—and the “early days” in these respects continued well into the present century.

Participants in the Process of Providing Free Hospitalization For Indigents

The participants in the entire process of providing free hospitalization for the indigent are today much more numerous than once they were. It will be well to list the major ones, for perspective.

In North Carolina today, the following groups and agencies have parts to play in the process of providing free general hospitalization for those unable to pay:

(1) the *physician*, who now, as always, examines the patient and determines from his examination whether his or her physical condition makes hospitalization necessary—certifying the fact of such necessity to the county welfare department;

(2) the *County Board of Public Welfare*, the *County Department of Public Welfare*, and the *County Superintendent of Public Welfare*, who through the *caseworker* examine the resources of the patient and determine from that examination whether his or her economic condition makes hospitalization at public expense necessary;

(3) the *County Board of Commissioners*, who examine the tax resources of the county, determine how much the county can provide for the cost of hospitalizing those unable to pay, make the county's appropriation, and thus have ultimate control over the scope of the program;

(4) the hospital, which through its *physicians* administers the necessary treatment and determines the length of time the patient must be hospitalized, and through the hospital administrator determines the cost⁴ per day

4. The matter of hospital costs is now under study in North Carolina. In September of 1951 the American Hospital Association announced its plan for a program “to study the best means of providing high quality hospital care at the lowest possible cost to the public,” under a national Commission on Financing Hospital Care, with Gordon Gray, President of the University of North Carolina, as chairman, and Graham L. Davis of the Kellogg Foundation, as director. Preliminary to the launching of this study on a full-scale national basis, it was announced, would be an intensive two-year pilot study, and North Carolina was chosen for the pilot study. The pilot study is already well underway, under the North Carolina Hospital Study Committee, of which Major L. P. McLen-

of furnishing hospital care to all its patients, pay patients as well as free ones, setting the hospital's charge per patient day accordingly and keeping the necessary records;⁵

don is chairman and Charles Frenzel is resident director. Among the objectives of the study, the ultimate fruits of which should be of great value to North Carolina and the nation, are the following, according to a news story in the *Charlotte Observer* for September 16, 1951: (1) Evaluation of the current financial position of hospitals; (2) determination of the need and demand for hospital services; (3) analysis of the effect of medical practice on hospital costs; (4) establishment of means for obtaining needed high quality hospital service at the lowest possible cost; (5) evaluation of systems of payment for hospital care; (6) investigation of methods of facilitating the most effective utilization of hospital resources; (7) preparation of recommendations for accomplishing changes which appear desirable as a result of this study.

5. In a feature article in the *Greensboro Daily News* for July 19, 1952, reporting on the work of the North Carolina Hospital Study Committee, Burke Davis writes as follows: “One of the biggest problems uncovered in the digging to date is that of the indigent patient—the charity patient who can pay little or none of the cost of keeping and treating him in the hospital. The Duke Endowment, whose insistence upon sound accounting methods has done much for Carolina hospitals, has discovered most of the secrets of the indigent patient in the state. For one thing, he stays in the hospital longer than the paying patient—9.9 days on the average, as against 5.9 days for those who pay.

“The study has already shown that the charity patient may not be to blame for his longer stay—though on the surface it looks as if he had merely relaxed to enjoy himself at the cost of others. For one thing, there is usually more pressure on doctors to treat or operate on paying patients, who are anxious to get out before they go broke. For another, and most important, there is often no satisfactory place the charity patient can be sent. The home environment is such that he can't get proper care, so he continues to use hospital space, free.

“His case is likely to be much clearer when the study is completed, and then, the theory is, the problem can be attacked.

“One suggestion has already come forth—that North Carolina build some good chronic disease hospitals, all in connection with general hospitals, where nursing and medical care and sound administration can be had, and costs can be kept low. The study has shown that the chronically ill indigent is causing most of the trouble in this field—and he doesn't really need a hospital bed in most instances.”

(5) the *State Medical Care Commission*,⁶ which through its power to dispense state and federal grants-in-aid assists in the construction of community hospital facilities and also has a state appropriation from which it pays part of the cost of hospitalizing those certified by county departments of public welfare as unable to pay; and

(6) the *State Board of Public Welfare*, which supervises the county welfare departments in their administration of the Medical Care Commission's plan for helping finance hospitalization for those unable to pay, and which dispenses state and federal grants-in-aid to pay part of the cost of hospitalizing certain categories of patients who are unable to pay, namely, public assistance recipients.⁷

Words and Phrases

The terminology used in that part of the process we are primarily concerned with here—the function of determining eligibility for free hospital care—has changed through the years, and perhaps may be said to have become more precise, more exact. The old terms “charity patient” and “charity hospitalization” have been displaced in the usage of our day by the new terms “indigent and medically indigent patient” and “hospitalization for the indigent and the medically indigent.” There is more in this change than mere consideration for the feelings and self-respect of the unfortunates involved, important though those things are recognized to be—as potent allies to therapy aimed at their restoration to health of body and mind, and at their speedy return to productivity as useful members of

6. The Medical Care Commission is also authorized by statute to license hospitals in North Carolina, and no person or governmental unit may operate a hospital unless licensed to do so by the Commission. G. S. Ch. 131, Article 13 A.

7. We have been talking about hospitalization in general hospitals in the foregoing paragraphs. Other agencies have responsibilities for special kinds of hospital and medical care, such as, the *State Board of Health*, which administers the *Crippled Children's Service*, and jointly with the *State Board of Education*, has responsibilities in the *School Health Program*; and which joins with the *State Medical Society* in the *Cancer Program*; the *State Orthopedic Hospital*, for crippled children; and the *State Hospital for Children with Cerebral Palsy*. The public welfare agencies have their usual role to play in all these programs (and others)—that of determining who is eligible for assistance under them at public expense.

society. The additional and over-weighting reason for the change in terminology is that many more of us than those on the public "charity" find ourselves unable to pay, and therefore "medically indigent," in the face of sudden and unexpected hospital bills.⁸ Hence the new terms, which along with others that have sprung up in the process, such as "certification of indigency," are somewhat more definitive.

Measuring Ability to Pay

Given: (1) patients who need hospitalization, (2) who say they cannot pay for it themselves, (3) a hospital where they can receive the needed care, (4) the willingness of organized society (through government) to assume the responsibility, and (5) the means, from local, state, and federal funds, with which to assume the responsibility—given all these things, how is the decision to be made, in a particular applicant's case, whether the applicant is in fact able or not able to pay?

In the old community of Beverley, this question may have presented no serious problem. In all probability, Margaret Taylor's poverty was a fact well known to all the Twelve Keepers of that Guild-controlled merchant town. Moreover, the majority of the citizens were poor enough to qualify as destitute members entitled to what rude care could be given them, the moment the misfortune of illness cut them off from the work which for most barely sustained them from one day to the next, with no reserve for emergencies.

In other days in North Carolina, when the governing bodies of our lightly settled communities knew most of their constituents by their names and by their circumstances; when scant funds existed for any sort of organized relief for the poor, not to mention the sick poor; and when most settlements had no hospital facilities anyway, for patients either paying or charity, this question of eligibility did not present a very serious problem. There was little need for the complex system we have today, with standards and procedures to govern the use of

8. In his feature article in the *Greensboro Daily News* for July 19, 1952, reporting on the findings to date of the North Carolina Hospital Study Committee staff, Burke Davis writes: "These bills [hospital bills], of course, are by no means chicken feed. At least a third, and perhaps a half, of North Carolinians are what the experts lugubriously call "medically indigent"—which means helpless in the face of high hospital bills over a long period."

taxpayers' money for the purposes of insuring (1) that only needy applicants are aided, and (2) that such applicants are aided uniformly, and thus equitably and fairly.

New Methods of Measuring Ability to Pay

In the 1930's, as everyone knows, the depression-increased volume of demand upon poor-relief dispensing agencies—traditionally the boards of county commissioners, in this state—and the influx of federal and state funds to help carry the load, brought into being the modern county department of public welfare, staffed with specialists who were given the full-time job of administering the relief programs. One of their basic functions, then as now, was the determination of eligibility of applicants for governmental assistance. The sheer volume of the problem—the very numbers of the people needing aid—forced the development of a system, with standards and procedures, just as was later the case with respect to the program for hospitalization of indigents. It was—as it is now, in the hospitalization program—a difficult task indeed to ascertain with precision the economic worth of any individual, to assay his resources, to measure his needs, and then to determine whether in fact he could or could not support himself, or pay for needed hospitalization. And it was—as it is now—difficult to decide a particular case fairly and equitably with relative uniformity of decision in all similar cases.

In the early aid programs, the necessity of having some standard system for measuring resources and needs was quickly recognized, to insure that assistance should be rendered uniformly to needy applicants.

The desired uniformity was achieved through reliance on a standard budgeting procedure (still followed by county welfare departments throughout the state), which involves balancing the applicant's minimum monthly requirements against his monthly resources. The case worker, having interviewed the applicant, members of his family (and others, if further investigation is indicated) works up a budget for him, on the State Board of Public Welfare's standard assistance budget form. In one column she lists the applicant's monthly requirements—for food, shelter, clothing, fuel, water, lights, medical care, etc. In another column she lists the applicant's resources—wages, net income from lodgers, contributions from relatives, Social Security payments—any

income which the applicant might have. And she also takes into account as part of the applicant's resources any items of real or personal property owned by the applicant which might be used to help meet his needs.

These facts learned through interview and investigation by the case worker are the basis for the final determination whether the applicant is entitled to assistance under one or another of the several aid programs administered by the county department of public welfare, which include:

(1) Aid to Dependent Children (referred to as "ADC" for convenience), for needy children under 18 years of age;

(2) Old Age Assistance (OAA), for needy persons 65 years of age or older;

(3) Aid to the Permanently and Totally Disabled (APTD), for needy and disabled persons 18 years of age or older, but less than 65 years of age; and

(4) General Assistance, for needy persons who for one reason or another are not eligible under the first three programs mentioned above (as, for example, a person 18 years of age or older, but less than 65 years of age, who is needy but not permanently or totally disabled.⁹

Over the past two decades, as these programs have been developing, the staffs of the public welfare agencies have had the difficult task of determining eligibility for assistance in the case of every single individual who has applied for it—and this process of measuring ability to pay has been from the beginning, and is now, one of the most important aspects of their work.

The Beginning of State Aid for Hospitalization of the Indigent

By 1945, when the legislature authorized the State Medical Care Commission to participate in the financing of hospitalization for the indigent,¹⁰ using state funds for the first time, the process followed by

9. The first three programs mentioned above (ADC, OAA, APTD) are financed as follows: approximately one-sixth of the funds come from county appropriations, one-sixth from the state, and two-thirds from the federal government. General Assistance funds are provided wholly by the county.

10. Session laws of 1945, c. 1096 (now part of G. S. 131-119). the county welfare departments in determining eligibility of applicants for assistance under the several aid programs was already well estab-

lished. The statute¹¹ directed the Medical Care Commission to insure that the state's funds be used only for "indigent patients," and the Commission requested the public welfare agencies to take over the job of determining eligibility of applicants for free hospitalization under the program of state aid made possible by the new law.

The statute¹² as it now stands authorizes the Commission to contribute not exceeding \$1.50 per day:

"for each indigent patient hospitalized in any hospital approved by it, excluding patients eligible for payments for medical care in behalf of needy aged individuals, in behalf of a dependent child or dependent children and in behalf of the permanently and totally disabled. The balance of the costs remaining after the contribution made by the North Carolina Medical Care Commission may be provided by the county or city having responsibility for the care of such indigent patient, or from other sources. The Commission shall promulgate rules and regulations for determining the indigency of the persons hospitalized and the basis upon which hospitals and health centers shall qualify to receive the benefits of this section."

Sharing the Cost

It will be noted that this statute takes care to authorize contributions by "the county or city having responsibility for the care of such indigent person."

Traditionally, local government in this state has had the responsibility of financing hospitalization for those on the "poor rolls," and both in law and in practice today the primary financial burden still rests on county government. The first outside help in this costly field came from the Duke Endowment, which in 1924 commenced contributing \$1 per day per indigent patient to nearly all the hospitals ministering to indigent cases.¹³ The 1945 legislation¹⁴ brought an additional \$1 per day per indigent patient, from the state,

per day.¹⁵ The 1950 amendments to the Federal Social Security Act made federal funds available for matching with state and county funds to assist in the hospitalization of recipients of Old Age Assistance, Aid to Dependent Children, and Aid to the Permanently and Totally Disabled. The availability of these new federal funds resulted in legislation by the General Assembly of 1951: (1) appropriating matching funds to be administered by the State Board of Public Welfare for assisting in financing hospitalization of such recipients;¹⁶ and (2) amending the Medical Care Commission statute so as to exclude such recipients from eligibility for the \$1.50 per day from the fund administered by the Commission, if they are eligible for hospitalization under the program for such recipients administered by the State Board of Public Welfare.¹⁷ (Requirements for eligibility under the two programs will be discussed later herein.)

The per day payment for hospitalization of OAA, ADC, and APTD recipients is set by the State Board of Public Welfare, within limits fixed by: (1) the size of the legislative appropriation to match the available federal funds, and (2) the number of cases to be assisted. When the program was launched on July 1, 1951, the rate was set at \$4 per day—with participating counties being required to provide \$1 to match \$1 from the state and \$2 from the federal government. Beginning on December 1, 1951, the rate was raised to \$6 per day—with the county's share rising to \$1.50, the state's to \$1.50, and the federal government's to \$3.

Thus, today, whenever it is necessary to hospitalize a person who is eligible for hospitalization under the State Board of Public Welfare hospitalization plan, the cost per day is divided as follows:

Three dollars from federal funds administered by the State Board of Public Welfare; \$1.50 from state funds administered by the State Board of Public Welfare; \$1.50 from county funds to match the federal and state contributions; \$1 from the Duke Endowment; and somewhat less than \$1 from the Kate Bittings

per day cost—and there usually is a remainder, for few hospitals in this state today are able to charge as little as \$7 to \$8 per patient per day—is the responsibility of the county, under whatever contract it may be able to negotiate with the hospital or hospitals in its area. For example, if the hospital's charge is \$12 per day, the cost would be met by \$3 of federal funds, \$1.50 of state funds, \$1 of Duke Endowment funds, perhaps \$.75 from the Kate Bittings Reynolds fund, and \$5.75 of county funds.

And whenever it is necessary to hospitalize an indigent person who is not eligible under the State Board of Welfare plan, the cost per day under the Medical Care Commission plan is divided as follows: \$1.50 per day from state funds administered by the Medical Care Commission; \$1 from the Duke Endowment; the Kate Bittings Reynolds payment; with the remainder of the cost being the county's responsibility, under its contract negotiated with the hospital or hospitals in its area.

The Medical Care Commission Plan

Pursuant to the directions given by the 1945 legislature, the Medical Care Commission in 1946 adopted rules and regulations governing determination of the eligibility of applicants for free hospitalization, and the program of state aid was launched, with the public welfare agencies doing the job of investigation and certification of indigency. All administrative costs of certification were absorbed by the state and county welfare agencies. The plan adopted at that time is in force today, with only minor revisions, and is the guide by which determinations of eligibility of applicants are made.

It has already been indicated that not all indigent patients are eligible under the Medical Care Commission plan. The categories of indigent patients who are, under the law or under regulations of the Commission, excluded from hospitalization under the Commission's plan, include persons who are eligible for hospitalization under the State Board of Public Welfare plan for hospitalization of recipients of OAA, ADC, and APTD, and others who are eligible for hospitalization under such federal or state programs as the Crippled Children's Service, the School Health Program, the Cancer Program, the State Orthopedic Hospital, and the State Hospital for Children with Cerebral Palsy.

11. *Ibid.*

12. G. S. 131-119.

13. During calendar year 1951, according to a news story in the Raleigh News and Observer for March 26, 1952, the Duke Endowment contributed \$273,673 to 79 North Carolina hospitals engaged in hospitalization of the indigent.

14. Session Laws of 1945, c. 1096, which was increased in 1951 to \$1.50

15. Session Laws of 1951, c. 1098, s. 1 (now part of G. S. 131-119).

16. Session Laws of 1951, c. 642, s. 1 (the appropriation was \$112,500 for each year of the current biennium); G. S. 108-3(16).

17. Session Laws of 1951, c. 1098, s. 1 (now part of G. S. 131-119).

Reynolds fund. The remainder of the

In other words, the Medical Care Commission plan provides that its \$1.50 per day contribution may be made only for needy patients who are not eligible for hospitalization under some other program financed in whole or in part from state and/or federal funds.

The plan provides that the Commission will make payments of \$1.50 per patient per day to approved hospitals participating in the plan for the care of indigent persons, when eligibility for free hospital care has been established and certified by a county department of public welfare. Eligibility is established by the process already discussed, including investigation by the case worker to determine the monthly resources and requirements of the applicant, using the standard assistance budget.

Participating hospitals must have received this certification of eligibility from the county welfare department before admission of the patient (except in emergency cases), in order to be eligible for the Medical Care Commission's contribution reimbursing the hospital for part of the cost of caring for the patient. In emergency cases the hospital may notify the welfare department immediately after the patient has been admitted, so that an investigation may be made to determine whether the patient may be certified as eligible by reason of indigency.

The Medical Care Commission plan applies to the following categories of persons who are found to be unable to pay for their hospitalization; (1) those persons who are indigent only to the extent that they cannot pay for their hospitalization, and who are not eligible for hospitalization under some other plan; (2) those who are already on the rolls of the county welfare department as recipients of the maximum Old Age Assistance, Aid to Dependent Children, or Aid to the Permanently and Totally Disabled grants, and hence are not eligible for hospitalization under the State Board of Welfare Plan; and (3) those who have already been accepted by the county welfare department as recipients of General Assistance payments.

If an applicant is in the first category, namely, one who is not receiving any type of financial assistance, it is, of course, necessary for the welfare department case worker to make a full investigation to determine whether in fact he can or cannot pay for his hospitalization,

before the county superintendent of public welfare may certify to the hospital that the applicant is an indigent patient.

If an applicant is in the second category, namely, one who is a recipient of OAA, ADC, or APTD but who is not eligible under the State Board of Public Welfare hospitalization plan, the Medical Care Commission plan does not require that a new investigation be made, for such person would not be legally entitled to assistance payments under these programs unless he is indigent. The same is true with respect to applicants in the third category, namely, persons who are receiving aid under the county's General Assistance program. In all such cases, the welfare department requires its workers to make detailed periodic reviews to determine a recipient's continuing eligibility for such assistance. The welfare department is therefore authorized to certify as indigent, and as eligible for hospitalization, without additional investigations, all recipients of OAA, ADC, APTD, or General Assistance payments.

In all cases under the Medical Care Commission plan, the hospital becomes entitled to receive the Commission's \$1.50 per day contribution when the welfare department has made its certification to the hospital.

The State Board of Public Welfare Plan

As we have noted, the law provides that whenever an indigent person is eligible for free hospitalization under the OAA, ADC, or APTD programs, the Medical Care Commission is not authorized to contribute its \$1.50 per day toward the cost of such patient's hospitalization. Most recipients of assistance under these programs are eligible for hospitalization under the State Board of Public Welfare plan, and are therefore excluded from the Medical Care Commission plan. It will be observed that it is to the county's financial advantage when a patient is eligible under the latter plan, for under this plan the state and federal contributions total \$4.50, as against the unmatched state contribution of \$1.50 under the Medical Care Commission plan.

Recipients of OAA, ADC, and APTD who are receiving monthly a money payment which is at least \$4 less than the maximum monthly grant allowed under these programs are eligible for hospitalization under the State Board of Welfare plan.

Under this plan, the recipient is certified to the hospital by the wel-

fare department as being eligible, and the federal-state contributions totaling \$4.50 per day may be made to the hospital, matched by the \$1.50 contribution by the county. Federal-state contributions under this plan may be made for each day of needed hospitalization.

Proposals for the 1953 Legislature

Both the Medical Care Commission and the State Board of Public Welfare have asked the Advisory Budget Commission to recommend to the 1953 General Assembly increased appropriations for their respective parts of the state's program of assistance to persons unable to pay for hospitalization.

The Medical Care Commission asked that the \$1.50 per indigent patient per day payment to hospitals be increased to \$3. To make this increase possible, the Commission asked that the state's annual appropriation for this purpose be increased from the current \$337,500 to \$675,000 for each year of the coming biennium.

"The increased payment is needed," said Dr. John A. Ferrell, executive secretary of the Commission, in a statement at the budget hearing, "Because the average cost per day per hospital patient has now risen to \$12.59 in North Carolina and \$18.01 in the United States as a whole."¹⁸

The State Board of Public Welfare asked that the annual appropriation for the program of hospitalization for public assistance recipients be raised from the current \$112,500 to \$400,000 for each year of the coming biennium, which amount, when matched with \$400,000 from county funds (the counties' share is already being more than provided, since they are currently spending at the rate of more than \$1,200,000 per year for medical care and hospitalization), would entitle the state to receive \$800,000 in federal funds for the program.

The Board's legislative proposals include a new approach to the administration of payments to eligible hospitals for hospitalized public assistance recipients, with payments to come from a new "State Pooled Fund" to be maintained by the State Treasurer. The new plan of making such payments is expected to be administratively much simpler than the present one. The Board's budget request to the Advisory Budget Com-

18. Raleigh *News and Observer*, September 25, 1952.

Political Realism and Political Idealism, John A. Herz, University of Chicago Press, 275 pp, \$3.75.

Professor Herz develops his ideas on the essential difference between the political realist and the political idealist in this recent book. His method of approach and the lucidity of his expression make this bit of philosophical writing a delight. His ideas are not new, but his presentation is well balanced and forthright. They lend a sparkle which freshens the ideas.

The ideas are sound. He compares two types of thinkers, the idealist and the realist, and decides that the idealist will forever be frustrated while the realist is apt to become stagnant. He shows the effects of both types of thinking in political history. The conflict is even present in the individual who fluctuates between egoism and altruism. On the one hand man wants security and power while on the other he pities those who are suffering and wants to aid them. In this instance the idealist will see that the world could or should be better and the suffering of unfortunates eliminated while the realist will say "that's life" and accept the fact.

The author, who feels he is a realist, produces his solution between the

Hospitalization (continued)

mission included the following statement:¹⁹ "The proposed fund [with the increased state appropriation] would permit payment in full of 80 per cent of actual cost of hospitalization per day up to a maximum of \$12.00 (80 per cent of a \$15.00 rate) for a 15 day period, with extensions of time when urgent, at the time hospital bills are rendered. In addition hospitals will continue to receive the Duke dollar and the Kate Bittings Reynolds contribution (about 75 cents per day) . . . The problem of hospitalization costs would be solved for the 125,000 to 150,000 persons who are public assistance recipients, our lowest income group . . . Needy people will benefit by earlier, and hence shorter, periods of hospitalization. Hospitals will benefit by receiving prompt payment throughout the entire year for care of indigent patients. The paying patients will benefit by any sound plan which helps meet the drain upon hospitals for free or partly free care."

19. BUDGET REQUESTS OF STATE BOARD OF PUBLIC WELFARE FOR 1953-55 FOR COUNTY WELFARE PROGRAMS (Mimeographed).

Books of Current Interest

undesirable choices, and calls it realist liberalism. This is the constructive part of the book, and the term which he uses roughly means that the realist should not ignore the suffering around him, but rather try to choose the available solution which will diminish suffering to some extent.

The book is highly recommended for all persons who enjoy reading a well thought out discussion of these problems. Teachers, lawyers, and men in government should be particularly interested.—W. T. D.

The Organizational Weapon, Philip Selznick, McGraw-Hill Book Company, 350 pp, \$5.00.

The author, an assistant professor of sociology at U. C. L. A. sets forth a very complete analysis of the organizational development of Communism, and apparently decides that this is Communism's distinguishing factor. This conclusion has some plausible validity, and this book lends even more weight to the plausibility.

One source of strength of the Communist movement has been in its ability to transplant itself into alien environment and yet flourish. The reason why this phenomena occurs is because the organization of the party translated the ideology of the party into the language and sphere of reference of the community under attack.

Professor Selznick in this book lays bare the structural basis of organization, and establishes this structure with reference to the written and spoken "party line" regarding organization. He shows that the organization is of a subversive nature, and not constructed to operate within democratic constitutional limitations. The development of the professional hard core, the propagandists, the vanguard or fighting body, and the infiltrators who usurp power in various minority organizations are all traced by the author.

Everything considered this is a fine book for those who want to better understand the many difficulties facing the world today in its battle against Communist organization.—W. T. D.

Sectional Biases in Congress on Foreign Policy, George L. Grassmuck, The Johns Hopkins Press, 181 pp., \$2.00.

This book is practically a compan-

ion piece for *Party and Constituency Pressure on Congress* which was printed at Johns Hopkins and was briefly reviewed in the September issue of *Popular Government*. Together these interesting studies make a sound basis for analyzing the legislative motivations and tendencies of Congress.

With foreign policy being hotly debated in the present election this book is timely and lends a sound foundation for viewing the relative standings of our two American parties on matters pertaining to foreign policy. The author has studied the voting records of the parties relative to foreign policy legislation in two periods. The first period is from 1921-1932 when a Republican administration was in office and the second period is from 1932-1948 when the Democrats were in control.

The foreign policy of the United States is broken down into military appropriations, loans to foreign countries, membership in a world organization, and legislation concerning neutrality. The voting records of the members of Congress are then studied to determine the party stand on the particular issue, and to indicate any sectional deviation from the party norm.

It would be impossible to summarize the findings or results of this study, but for the sake of interest it was surprising to note the relative positions of the two parties in their support of foreign policy legislation. For example, the South prior to 1932 opposed foreign affairs legislation with a fervor matched only by the attitude of the North Central Plain states, while in the period from 1932 to 1941 the South led all sections in their international outlook, the distinguishing factor being, of course, that prior to 1932 there was a Republican administration.

If politics plays a part in international outlook, it is also fair to say that sectional differences also enter into the picture. The North Central Plain states are consistently low in their support of foreign policy legislation. Their main opposition is to military appropriations (especially navy). Their opposition is strongest during a Democratic administration, but it doesn't vary too greatly. Surprisingly enough, the Plain States

have supported international organization and foreign loans to some extent.

The Northeastern states form a bloc which is consistently in favor of international commitments, and the northeastern Republican congressmen have in both Republican and Democratic administrations supported foreign policy with an amazing uniformity.

This analysis of voting records could go on at length, but with space being limited let me encourage those interested to obtain the book.—W. T. D.

Urban Land Use and Property Taxation, by Max S. Wehrly and J. Ross McKeever. Urban Land Institute, Technical Bulletin No. 18. 27 pp. \$2.50.

A badly-needed study of comparative revenues from various types of districts and of the cost of rendering services to those districts. Hampered by a shortage of reliable statistics. Also includes an up-to-date analysis of the amount of space devoted to various types of uses in American cities, which furnishes a useful comparison with Harland Bartholomew's pioneering work, *Urban Land Uses*, published in 1932.—P. P. G.

Ohio Police Officers' Manual by Gordon J. Wedig, LL.B., member of the Cincinnati Bar and Police Force.

This book is designed to introduce Ohio law enforcement officers to their work. It contains chapters on fundamentals of criminal law, elements of criminal offenses, the law of arrest, rules of evidence for criminal cases, and training school materials. The author has doubtless provided Ohio officers with an excellent point of departure from which to begin their education for their chosen profession, although the presentation has much of the dogmatism that results from oversimplification. Perhaps there is room for reflection on whether this type of book doesn't give an officer enough to get by on, yet discouraging him from searching out genuinely adequate materials to prepare for an excellent job in law enforcement rather than a passable one. If this is a valid criticism, it pertains to the type of book, rather than to the specific content of the publication.—R. A. M.

George Gallup, *The Political Almanac*. New York: B. C. Forbes & Sons, 1952. Pp. xv, 317.

Arabs using the expression *al manakh* to mean weather or climate

will be surprised to learn that Americans are now speaking of political almanacs. American farmers, long accustomed to using almanacs to learn about the weather, when to plant crops, and when to go fishing, may also be surprised to hear of an almanac telling how the shockingly small numbers of voters in this country have been voting since 1900. In fairness to Mr. Gallup and the staff of his presumptuously titled American Institute of Public Opinion, compilers of this statistical record, it must be admitted that their almanac makes no attempt to forecast and certainly makes no suggestions about how to vote or whether to go fishing on November 4. In the publisher's foreword, Mr. Malcolm S. Forbes, a New Jersey state senator, calls this book "fascinating fodder for forecasters," but with a humility not usually associated with the compilers of almanacs, he warns the reader that the book "merely proves the difficulty of taking any previous election in a given area to prove exactly what it will do the next time up." In this autumn's political weather an almanac can be a comfort in conversation and debate even if not necessarily a reliable guide to a seat on the bandwagon.

Less than a third of this book touches lightly on the popular and electoral college presidential votes since 1789, the percentage of Republican, Democratic, and third party votes in each presidential election since 1900, the contrast in popular voting in southern primaries and general elections, and the alarming statistics on how few Americans register and vote. With justified pride Mr. Gallup points to the inclusion of a number of statistics not hitherto available in general publications. The use of percentages to express comparative party voting strength will prove very useful. Sandwiched between the statistics is much current or topical information calculated to give the book an undeservedly dated look within a very few years. Using his Institute surveys, Dr. Gallup has included brief tabulations designed to demonstrate the percentage of Republican and Democratic voters in various age groups, occupational classifications, and in the ranks of both organized and non-union labor. In the publisher's eyes, the statistics show one fact more significant than all the rest: "the vast, steady growth of those people who call themselves 'independents'."

The teacher and student of politics

on the regional or state level will find that two-thirds of the book has been directed toward furnishing statistics peculiarly useful in determining, state by state and county by county, the number of people who in recent elections voted Democratic, Republican, and otherwise. The use of percentage figures to express the relative voting strengths of the parties in each election reported at each level is an extremely helpful contribution.—H. W. L.

Crime and Correction, Sheldon Gleuck, Addison-Wesley Press, Inc., 273 pp, \$3.50.

Sheldon Gleuck has spent the greater part of the past two and a half decades in an attempt to decipher and interpret the handwriting on the wall, and to point out to an apathetic public the inanity of continuing to employ a penal philosophy and a system of criminal "justice" dating back to the dark ages in spite of the great strides made in recent years towards a better understanding of the behavior patterns of man and of the causes and motives of criminal deviation from those patterns. This book presents a collection of Professor Gleuck's writings which span the past twenty-five years in a remarkably consistent and persistent manner, and which, because of the surprising lack of fundamental progress along the lines advocated by the author, retain a large measure of their vitality and relevance.

The physical makeup of this collection follows the conventional pattern of criminology texts, with divisional headings dealing with crime causation, administration of criminal justice, psychiatry and criminology, peno-correctional treatment, and crime prevention; but the overall impression created is not that of a textbook, rather it is the statement and advocacy of a philosophy of criminal justice based upon the firm conviction that it is much simpler, much more effective, and infinitely more reasonable to attack the problem at its source, i.e., to fix a leak in the roof, than it is to hire one man to hold a pan under the resulting drip, another to carry away the water each time the pan is filled, and a third to make a careful study of the shape and design of the pan and of the most efficient route from drip to drain. Professor Gleuck, himself, sets forth in his introduction three basic premises drawn from this philosophy which form the common denominator of the articles collected in this book.

First, "there is a very real need of a deep-probing re-examination of the criminal law—its underlying philosophy, its aims, its basic definitions of types of wrongdoing, and the instrumentalities for its administration." Such an appraisal should be designed to greatly simplify the legal concepts involved in the definition of conduct prohibited by law as socially harmful, and to "transform the simplistic and largely unsound theory and inefficient mechanism of guilt-punishment into a sociolegal apparatus for reducing crime through understanding its causes and directing social action toward those causes."

Secondly, "in the field of criminal justice, traditional book-learning alone is not likely to bring about truly significant discoveries or reforms. Research into the biologic and socio-cultural forces involved in stimulating, directing, and channeling human behavior is indispensable to any penetrating reorientation of the criminal law and its administration."

And, thirdly, "there is no use setting up new agencies if they are to be staffed and managed by political hacks and untrained personnel. On the contrary, agencies of reform tend to be debased and discredited unless directed by competent and socially minded officials."

Condensed into these three propositions is the theme expounded by this book and by the man who wrote it. The book, itself, goes farther. It avoids the label of "impracticable philosophizing" by suggesting concrete methods through which these ideals might eventually be realized, and by demonstrating the sound economy involved in their implementation. Although it is aimed primarily at the lawyer and the criminologist, it is for the most part clearly written in non-technical language and readily comprehensible to penologist and layman alike. The views expressed remain highly controversial, but they are views which should be known to and understood by every thoughtful member of our modern society.—J. D. S.

Municipal Regulation of Milk and Milk Products—Model Ordinance Annotated. By Charles S. Rhyne. Washington: National Institute of Municipal Law Officers. 1952. \$3.00. 38 pp.

Nearly all of the milk ordinances in effect in this country are based on the U. S. Public Health Service milk ordinance first recommended in 1924, and revised many times since then. In late 1950 the Public Health Serv-

ice reported that the basic requirements of its ordinance were in effect as local regulations in 1,468 municipalities and 367 counties and districts located in 38 states and one territory, and as state law or state regulation in 32 states and two territories—being effective in areas with a total population of over 58,000,000.

The model ordinance prepared by Mr. Rhyne for the National Institute of Municipal Law Officers (the association of city attorneys), "while taken from the present milk codes and ordinances of many NIMLO member cities, is based primarily, as were the ordinances studied, upon the Public Health Service model milk ordinance."

The special contribution of the NIMLO publication, particularly for municipal and county attorneys, lies in the collection and analysis of the leading court decisions affecting milk regulation, and in the section-by-section annotations containing explanatory comments which should be useful to counsel engaged in interpreting and defending the validity of milk regulations.

The Public Health Service publication since 1927 has contained both a model ordinance and a code for guidance in the interpretation of each section of the ordinance. The 1939 edition of the PHS publication, on which the NIMLO publication is based, contains three parts: Part I, Short form ordinance for use where adoption by reference is legal; Part II, the milk ordinance itself; and Part III, the code of interpretation applying to Part II. (It is understood that during 1952 a new edition of all three parts will be issued by the PHS). NIMLO model ordinance is based on Part II of the PHS publication, omitting both the short form adoption-by-reference ordinance and the code of interpretation. However, the NIMLO ordinance contains the customary provision to the effect that its ordinance "shall be enforced by the health officer in accordance with the applicable interpretations thereof contained in the 1939 edition" of the PHS milk code, with the usual requirement that a certified copy of the latter be kept on file in the city clerk's office.—W. M. C.

Memo to America: The DP Story, The Final Report of the United States Displaced Persons Commission, U. S. Gov't. Printing Office, 376 pp, \$1.00.

This report successfully combines an exposition of the administration and sociological results of the DP

program with selected recommendations and statistics designed to serve as a guide for new and enlightened immigration laws.

The discussion of the administration of the DP program will provide interesting and unique material for any student of public administration. Provided with only a handful of persons subject to its direct authority, the Commission was charged with integrating and directing the work, both in the U. S. and abroad, of some twenty non-governmental agencies and eight independent governmental agencies. The satisfactory results, as well as the unsatisfactory results, (all amply documented in the report), deserve considerable study in their relation back to their administrative origin.

The discussion of the sociological results of the program are of particular interest to the South. The report notes that approximately 50% of the DP's whose first residence was in the south, have since moved elsewhere. This was a loss of relatively high caliber labor force to the North Central and North East high wage area. The committee report, while not entirely satisfactory in setting out the characteristics of the various DP elements, provides some food for thought for those interested in the industrial development of the South.—J. P.

Coroners' School

Plans are now being completed for a two-day school for coroners to be conducted by the Institute of Government at Chapel Hill on Wednesday, December 3 and Thursday, December 4. The school will begin at 11 A.M. on Wednesday and run through 4 P.M. on Thursday. Quarters will be available in the institute barracks at \$1 per night or reservations will be made at local inns.

MUNICIPAL CORPORATIONS

Garbage Collection Outside City. May a city collect garbage outside the city limits and make a charge for this service?

To: J. H. Stockton (A.G.) Under the provisions of G.S. 160-233, 160-234, and 160-203, I am of the opinion that a city may by ordinance provide for the collection of garbage within one mile of the corporate limits of the city. In addition, the last sentence of G.S. 160-233 provides that the city may make a charge to cover the actual expense of the collection of the garbage.

The Attorney General Rules

MUNICIPAL LICENSE TAXES

"Jewel" Business of Drug, Clothing, and Hardware Stores. Drug-stores, clothing stores, and hardware companies within a municipality sell as by-lines such items as cuff-links, watches, and clocks. Can a jewel license tax be imposed upon these concerns which are already subject to state and other local privilege license taxation?

To: Mr. Winford W. Norman

(A.G.) Since the Revenue Act does not prohibit towns from levying license taxes on the sale of these items, I am of the opinion that the town, acting under a proper ordinance enacted under the authority of G.S. 160-56, could levy a privilege license tax for the sale of these items in addition to other authorized privilege license taxes it may levy on the other activities in which these stores are engaged.

Business without Office or Property within Municipality. Can a city levy a license tax on the solicitation of laundry or dry cleaning where there is no established plant or office inside the city?

To: Edwin C. Ipock

(A.G.) I am of the opinion that such a license tax may be levied by an appropriate ordinance under G.S. 160-56. The tax should probably not exceed the amounts set as a maximum in G.S. 105-74 and G.S. 105-85; however, it may be that within the limitation of reasonableness a larger tax may be levied under G.S. 160-56.

Vehicle Licensed by State. A gasoline truck licensed by the state delivers gasoline at retail within the municipality. May a privilege license tax be imposed?

To: Kirby Harris

(A.G.) G.S. 20-97 provides in part as follows: ". . . no county or municipality shall levy any license or privilege tax upon the use of any motor vehicle licensed by the state of North Carolina, except that cities and towns may levy not more than one dollar (\$1.00) per year upon any such vehicle resident therein: [provision follows dealing with taxicabs only]. This statute was construed in *Cox v. Brown*, 218 N.C. 350, to mean that a municipality could not tax the vehicle nor tax the business use of that vehicle.

Contractors Engaged in Public Construction. One building contractor is currently working on property owned by a local housing authority. Another contractor on property owned by a state educational institution. May a municipality collect from either or both contractors (1) license taxes, and (2) inspection fees.

To: Robert H. Dye

(A.G.) (1) The license tax is a privilege tax on contractors for the right to pursue their occupation, and I believe that a tax imposed by a proper ordinance would be valid.

(2) It is my opinion that inspection

fees cannot be imposed and collected where the property concerned is that of a local housing authority established pursuant to Chapter 157 of the General Statutes. G.S. 157-26 exempts the authority from the payment of state and local taxes and declares the property of any authority to be exempt from such taxes.

As to the state-owned educational institution, G.S. 143-135.1 specifically prohibits any inspection by municipal authorities and any applicability of municipal building codes and requirements, subject to the limitations and exceptions contained in that section.

SCHOOLS

Authority of County to maintain schools. As a result of consolidation, a number of small high schools have been abandoned. May the County Commissioners appropriate funds for the continuation of these schools, in the absence of any support by the State Board of Education?

To: Clyde A. Erwin

(A.G.) It is my opinion that all public schools of North Carolina must be operated in accordance with the provisions of the School Machinery Act (G.S. ch. 115, art. 50), which provides for a uniform system of schools supported by the state. The only variations from the uniform system permitted by this act are the supplements which local authorities may provide under G.S. 115-356, 115-361, and 115-362. It is my opinion that no county has the right to levy taxes and provide for the operation of a high school except in accordance with the provisions of the School Machinery Act, unless there is some local act giving such authority to a particular county. I know of no such local act.

Salaries of Vocational Teachers in School Budget. Within a county there are two city units having together approximately the same school enrollment as the county. The two city units employ about one-third the number of vocational teachers that are employed in the county unit. May the salaries of the vocational teachers in the three units be taken as one unit and the two city units receive their share of the money that it would take to pay the vocational teachers employed?

To: Dr. C. A. Erwin

(A.G.) Considering the provisions of G.S. 115-247 and G.S. 115-363, as construed in the case of *School Trustees v. Benner*, 221 N.C. 566, it would seem that in making the budget, the Board of Education and the County Commissioners may not consider the salaries of the vocational teachers in the three units as one unit, even though following the statutory provisions may result in a surplus of funds for this particular item. Such surplus may be taken into consideration in making the budget for the next succeeding fiscal year and to

that extent may result in a reduction of the tax levy on other items of the school budget.

SEARCH AND SEIZURE

Warrants. Can an item mentioned in the affidavit and preamble of a search warrant but omitted from the section commanding the officer be validly seized?

To: Honorable C. B. Winberry, Judge

(A.G.) It is just as necessary for the search warrant to contain an adequate description as the complaint or affidavit. It is true that the words "lottery tickets" are in the preamble of the search warrant. Yet, the primary and essential portion of the warrant which commands the officer to search and seize articles does not give any description or reference to lottery tickets. The phrase in the mandatory part of the search warrant, "and if you shall find same you will forthwith seize the same and bring the same before me," refers to the description in the warrant itself which does not refer to lottery tickets. The fact remains that the description of the articles and things to be seized must be incorporated in the order of seizure in the search warrant as well as in the complaint or affidavit. If the order of seizure in the search warrant merely contained a phrase, such as "and other articles described and set forth in the above complaint or affidavit," then I would be able to say that this search warrant was good.

Of course, as you already know, since the act of 1951, evidence obtained by the use of an illegal search warrant cannot be used in evidence against a defendant as to anything found upon his premises which purport to be described or covered in the search warrant. I can only say that I have grave doubts as to the validity of this search warrant as to the item of lottery tickets, and I have grave doubts as to the competency of the evidence of the officers and of the lottery tickets themselves.

Search on premises not owned by defendant. The defendant, who lives on a farm in the country, was indicted for possessing non-tax-paid whiskey. The officers obtained a search warrant for his premises, made a search but did not find any whiskey on his premises. They did find about 9½ gallons of non-tax-paid whiskey on the premises adjacent to his, and paths leading from his home to where the whiskey was found. The person on whose premises the whiskey was found gave the officers permission to search her premises. Is the whiskey found and seized by the officers under these circumstances competent evidence against the defendant?

To: C. B. Winberry

(A.G.) It is our unqualified opinion that this evidence is competent. The constitutional immunities guaranteed this defendant against unlawful

searches and seizures apply only to him personally. Even if the search on the other person's premises had been illegal and the whiskey obtained by an illegal search, this defendant cannot avail himself of an illegal search made on the premises of another person. However, from your letter, the search made on this woman's premises was legal because she had the legal right to consent to the search.

STREETS AND HIGHWAYS

Streets on State Highway System—Responsibility for Maintenance. U. S. Highway 29 is the main street of the city. Holes and breakups are prevalent and frequently not repaired by the State Highway and Public Works Commission, despite the fact that the Commission has been notified of the street conditions. What are the rights and duties of the city?

To: P. V. Critcher

(A.G.) Session Laws 1951 Ch. 260 sec. 1 (Powell Bill) states that, from and after July 1951, all streets within municipalities which now or hereafter may form a part of the State Highway System must be maintained, repaired, improved, widened, constructed and reconstructed by the State Highway and Public Works Commission and the cost of such activities shall be paid from the State Highway and Public Works Commission fund, subject to the proviso in this section as to relocating such highways. It is my opinion that the city no longer has any responsibility for the maintenance of such streets and the State Highway and Public Works Commission has a direct and specific responsibility for such streets. I would think that the proper course would be for the municipality's authorities to notify the State Highway and Public Works Commission of any known defects, and call upon them to put the same in repair, but I do not believe that the municipality has any legal obligation to even do that.

AD VALOREM PROPERTY TAXES

Exemptions—Private Hospitals. A private corporation owns a building and leases it to another corporation. The lessee corporation operates a hospital in the building. Is this building exempt from county property taxes?

To: Lester G. Carter, Jr.

(A.G.) No. G.S. 105-296(11) exempts from ad valorem taxation "real property actually used for hospital purposes . . . held for or owned by hospitals organized and operated as non-stock, non-profit, charitable institutions. . . [Italics added by the Attorney General]." It appears in this case that the building is neither held for nor owned by a hospital. In my opinion it would not be exempt from property taxes.

Jurisdiction to Tax—Property in Interstate Commerce. A North Carolina mill located in County X has a large number of its finished products stored in its warehouse in County X on January 1, 1952. When the tax authorities in that county insist that these products should be listed for county taxation, the mill states that the property has been sold to non-

residents of this state, and that while it is storing the products pending shipping instructions from their customers, and while the property is to be paid for only when shipped, those contracts of sale are irrevocable. Thus the mill takes the position that it does not own the products and should not be required to list them in its own name; it also asserts that it would be harmful to its business if it should list the property in the names of the purchasers. More importantly, the mill claims that the products are not taxable in North Carolina because they were in interstate commerce on January 1. What is your opinion in this situation?

To: Charles W. Mauze

(A.G.) Under G.S. 105-304 "in general, personal property must be listed in the name of the owner thereof on the day as of which property is assessed; and it shall be the duty of the owner to list the same." In the case under consideration the property concerned had never left the state; it was here on January 1. Although the property is described as having been sold, I note that it had neither been delivered nor paid for. Thus, it is entirely possible, even probable, that the sale had not been consummated on January 1st. In view of the plain language of the statute quoted above, I know of no reason why the property stored in County X on January 1 would not be subject to taxation by County X. The question of who owned the property on January 1 is a question of fact; whoever the owner was, it should have been listed for taxation in County X.

Tax Collection—Penalties and Interest when Taxpayer is in Receivership. A city files a claim in a state receivership proceeding for personal property taxes. Should interest and penalties on such taxes be allowed as a preferred claim along with the principal amount of the tax?

To: John D. Shaw

(A.G.) Under G.S. 105-340 the taxing unit's lien for taxes includes both principal and interest; the interest takes the same status as the principal for it becomes part of the tax. While penalties are usually disallowed in receivership and in Federal bankruptcy proceedings, interest accruing prior to the commencement of the proceedings is in a different category from penalties. It represents a lawful charge for the use of money withheld from the creditor or the taxing unit, as the case may be. G.S. 105-345 provides for interest rather than penalties with respect to delinquent taxes; moreover, G.S. 105-345.1 specifically states that the term "penalties" as used in the Machinery Act "shall be deemed to mean and be interest." In view of these facts, it is my opinion that interest accruing on ad valorem taxes prior to the appointment of a receiver is a valid claim of the taxing unit and that it is entitled to the same preferred status as the tax with respect to which the interest accrues.

COUNTIES

Turning Over School Funds. Should all money received from the school

current expense tax levy and from fines, forfeitures, penalties, dog taxes, and poll taxes be turned over to the school administrative units, even when collections from these sources exceed budget appropriations?

To: Charles W. Mauze

(A.G.) I am of the opinion that the county treasurer must pay to each of the school administrative units in your county monthly, on a per capita enrollment basis, its share of all funds collected for the current expense budget until the full amount of each budget has been paid. If there are additional collections after that, these additional funds will remain with the county treasurer and to the credit of the various administrative units on a per capita enrollment basis, and this surplus will be taken into consideration in making the budget for the next fiscal year.

Rewards. May a county offer a reward for the apprehension and conviction of a person guilty of a specific crime, if the reward money is to be paid from ABC funds?

To: Albert J. Ellis

(A.G.) It is my opinion that a county is without authority to offer rewards for the apprehension of criminals. I doubt that the availability of ABC funds would change the situation.

Continuance of a High School from Non-Tax Funds. May a county from ABC funds and other non-tax funds finance the operation of a high school whose attendance fell below the minimum attendance and whose operation was not provided for by the State Board of Education?

To: Clyde A. Erwin

(A.G.) I am of the opinion that the county, in the absence of a public-local act providing otherwise, may not provide for the continuance of high school instruction at the school in question from ABC funds or any other public funds under their control.

PERSONNEL

Coverage of Town Attorney under Social Security. Is a town attorney an employee who should be covered under Social Security?

To: Nathan H. Yelton

(A.G.) Whether a town attorney should be a member of Social Security depends on whether he is a regular employee and whether his complete compensation is paid on a monthly basis. If a town attorney is paid a stipulated salary each month, and this constitutes his complete compensation, then I see no reason why he is not performing services for a subdivision of government since employment is defined as: "Any service performed by an employee in the employ of any political subdivision."

If the town attorney is paid a fixed sum each month which is in the nature of a retainer fee only, and when he looks after a law suit or does any other specific legal work, he presents a bill in addition to the sum which is paid each month, then I would be inclined to say that his monthly payment is only a retainer

and he would not be covered under the Act.

PRIMARY AND GENERAL ELECTIONS

Compensation of Election Officials—Mileage. Is it permissible for a county board of elections to compensate precinct registrars on a mileage basis for expenses incurred in traveling to and from meetings called by the county board of elections and at which the attendance of the registrars is required?

To: Glenn W. Brown

(A.G.) The compensation of registrars is fixed by G.S. 163-20. A registrar can be paid per diem compensation for attending any meeting called by the chairman of the county board of elections relating to the registrars' duties in any primary or election. The cited statute also says "the board of commissioners of any county may provide for additional compensation for such precinct election officials." I think the board of county commissioners can allow registrars to be paid mileage if they desire to do so; it is entirely within their discretion.

Compensation of Election Officials—Chairman of County Board of Elections. G.S. 163-12 states that the chairman of the county board of elections "shall receive for his services, when actually engaged in the discharge of his duties, the sum of seven dollars (\$7.00) per day." Since the board chairman has many duties to perform, some requiring a whole day at the time, others requiring only brief periods of a day, what is the proper way to determine his compensation under this statute?

To: R. P. Reade

(A.G.) Generally the chairman and other members of county boards of elections claim compensation under the quoted statute during the period of time when actual duties are required of them in their official positions. Customarily they make their per diem charges so as to fairly compensate them for the total time they are required to devote to the duties of their offices and in such amounts as will be approved by the boards of county commissioners after discussion and consultation. Since some of these duties do not require their services for a whole day at one time, the statute is left indefinite so as to permit a reasonable settlement, on the stipulated rate, as agreed to between the elections board members and the county commissioners. My suggestion is that the chairmen and members keep a careful record of the time spent and confer with members of the board of county commissioners and submit bills in such amounts as will be approved by the commissioners.

MOTOR VEHICLE LAW

Forfeiture of Bond Equivalent to Conviction. The Department of Motor vehicles ordered suspended the license of a man reported by the court to have been convicted of driving in excess of 75 m.p.h. On further investigation it appeared that the man had not been convicted but had failed

to appear when his case was called. The court had ordered the bond forfeited. The man now contends that the suspension was improper because there was no conviction.

To: L. R. Fisher

(A.G.) G.S. 20-24(c) expressly makes forfeiture of bond posted to insure appearance the equivalent of conviction for the purposes of the Driver's License Act. Therefore the department acted within its authority in suspending the license.

Registration of Vehicles used Out-of-State. A resident of North Carolina owns motor vehicles which are used exclusively in connection with the resident's lumber business in another state. The vehicles are garaged in the other state. Must the resident obtain North Carolina registration for these vehicles?

To: Roger G. Kiser

(A.G.) The registration requirements of the Motor Vehicle Laws apply to vehicles intended to be operated "on any highway of this State." G.S. 20-50. Therefore, in this situation, it would seem that it is not necessary to obtain registration for these vehicles in North Carolina.

Registration of Motor Vehicles by New Residents. How long may a former resident of Connecticut continue to use his Connecticut registration after assuming residence in this state? He has accepted a job in North Carolina, obtained a North Carolina driver's license, and purchased a home in North Carolina.

To: J. E. Paschal

(A.G.) There is no set time during which a new resident of this state may continue to operate his car with the registration from his former state of residence. It depends on the particular reciprocity agreement which North Carolina has negotiated with each of the other states. All State Highway Patrolmen have lists of the time allowances for new residents from each state. In the case of Connecticut, the new resident from that state may continue to operate his car here under Connecticut registration for a period of six months.

Financial Responsibility Law Not Applicable where Judgment Arises out of Operation of Farm Tractor. A judgment of \$8000 was obtained against a farmer for damages arising out of an accident which was caused by his negligent operation of the tractor on a highway. The judgment has remained unsatisfied for more than sixty days. Is the farmer's operator's license subject to suspension unless and until he satisfies the judgment?

To: L. R. Fisher

(A.G.) It would seem that the farmer's license is not subject to suspension. G.S. 20-235 defines a judgment for purposes of the Financial Responsibility Act as "one arising out of the ownership, use or operation of any motor vehicle." However, G.S. 20-226 excepts from the definition of "motor vehicle" those vehicles which are used in this State but not required to be registered. G.S. 20-51 exempts from registration "special mobile equipment, and farm tractors are included in the definition of "special mobile

equipment" found in G.S. 20-38(bb). Therefore this was not an accident arising out of the ownership, use or operation of a motor vehicle within the meaning of the Financial Responsibility Act.

Regulation of Speed by Municipalities. May a town fix a speed limit of 25 m.p.h. in a residential district?

To: R. D. Windley

(A.G.) The state speed limit in residential districts is 35 MPH. However the town may fix a lower limit, but not lower than 25 MPH, on those of its streets which are not part of the State Highway System. G.S. 20-141(f1). In order for a speed limit so fixed to be legal, three conditions must be met: (1) the speed limit so fixed must apply only to streets in the town which are not part of the State Highway System; (2) An ordinance establishing the speed limit must be passed by the governing body of the town; (3) signs must be conspicuously placed giving notice of the speed limit for each street affected.

Hand Signals When Passing. Does the present law require hand signals to be given only when turning at intersections?

To: V. G. Beckam

(A.G.) G.S. 20-154(a) when "starting, stopping, or turning from a direct line," whenever other vehicles may be affected by such movement. Therefore signals are required when passing as well as when turning at intersections.

Evaluation and Vital Statistics Discussed

The Institute was sponsored by the School of Public Health in cooperation with the Institute of Government and the State Board of Health. Later sessions of the Institute were devoted to panels and discussions concerning vital statistic and program evaluation. Friday afternoon, Dr. Roscoe Kandle, Field Director of the American Public Health Association and Dr. E. G. McGavran, Dean of the School of Public Health, discussed the "How and Why of Evaluation." Dr. B. G. Greenberg, Head of the Department of Biostatistics of the School of Public Health discussed "Measuring the Utilization of Local Health Facilities."

Saturday morning, Dr. C. P. Stevick, Director of the Division of Epidemiology of the N. C. State Board of Health and C. R. Council, Chief of the Public Health Statistics Section, State Board of Health, discussed current records available to health officers from local and state agencies. Dr. Antonio Ciocco, Head of the Department of Biostatistics of the University of Pittsburgh discussed the intelligent use of current records and service statistics for improving local health services.

CONSERVATION

CONGRESS

• Sponsored by the Department of Conservation and Development, George R. Ross, Director, this Congress is to present the current thinking of leading members of government, education, and industry on North Carolina's resource problems.

• The program is developed over three days, November 17, 18, and 19. On Monday, November 17, the Congress is opened by Miles J. Smith, Chairman of the Board of Conservation and Development. The Keynote Address is then given by George R. Ross, Director of the Department of Conservation and Development. This Address is followed by the program on State Parks and on Mineral Resources. Monday afternoon is devoted to problems of Forestry and Monday evening is spent on Water Resources.

• On Tuesday morning the Wildlife Resources Commission and Commercial Fisheries are discussed and both Tuesday afternoon and evening sessions are devoted to a program on Commerce and Industry.

• The Wednesday session is divided between a discussion of Agriculture and on the Human Resources of North Carolina. Morning sessions begin at 10:00, afternoon sessions begin at 2:30, and the evening sessions begin at 7:30. Chairman for the Congress: Dr. C. Sylvester Green.



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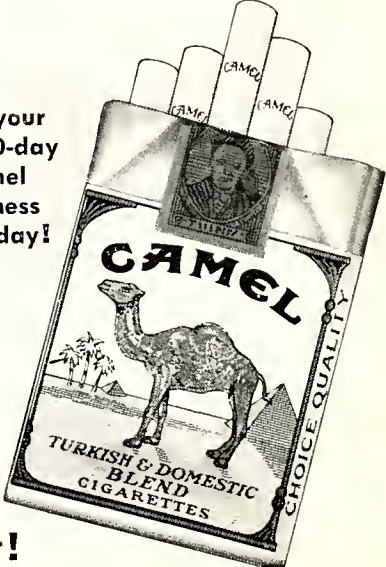
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