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Moravian Putz: Christmas in Old Salem

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TABLE OF CONTENTS

The Clearinghouse 1

Notes from Counties 2

Notes from Cities 3

The Supreme Court Decides 3

How Can We Speed Elections? 4

Rural Zoning and Conservation in Wisconsin 5

County Tax Supervisors Meet 7

1952 Elections Raise Many Questions 8

Farm Information Can Help Your County 9

Books of Current Interest 10

The Attorney General Rules 13

THE COVER

It is a tradition among the Moravians to construct a Putz, or scale replica, to be displayed during the holiday season in the basement of the Brothers' House in Old Salem. This scene depicts Salem Square in the 1800's and the buildings pictured in it are still standing today. (Photo by Frank Jones, Winston-Salem Journal-Sentinel.)

THE CLEARINGHOUSE

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

Chief Justice Devin and Superior Court Judge Bobbitt Plead for More Superior Courts

Lawyers who attended the 19th meeting of the North Carolina State Bar in Raleigh on October 24th, heard Chief Justice W. A. Devin of the State Supreme Court and Superior Court Judge W. H. Bobbitt of Charlotte urge that the special judge appointed by the Governor to aid the twenty-one regular Superior Court judges be abolished and that more regular Superior Court judges be created through an increase in the number of districts or an increase in the number of judges serving the districts with the greatest amount of court business. Chief Justice Devin indicated that he had no personal criticism of any of the special judges appointed by the governor. He merely feels that the system is too "make-shift" to satisfy the court needs of the state.

Institute Publishes Planning Guidebooks

The Institute of Government inaugurated a large-scale training program for planning and zoning officials this month, with the publication of two guidebooks and the conduct of the first of a series of local schools. The guidebooks issued were *Zoning in North Carolina* (Volume V of the Law and Administration series) and *A Guidebook for City Planning Boards*. Both were written by Phillip P. Green, Jr., assistant director of the Institute.

The two books attempt to bring together a complete picture of the powers, duties, and procedures of various planning and zoning officials: city planning boards, zoning commissions, zoning boards of adjustment, city attorneys, municipal governing bodies, and building inspectors. They are designed to serve both as texts for use in local training schools and as reference works to which officials may resort.

Zoning in North Carolina is divided

into five parts: (1) The Legal Background of Zoning, (2) Preparation and Adoption of the Zoning Ordinance, (3) The Contents of the Zoning Ordinance, (4) Enforcement of the Zoning Ordinance, and (5) Amendments to the Zoning Ordinance. Of special interest are chapters on the duties of the building inspector and of the board of adjustment.

For convenience, *A Guidebook for City Planning Boards* has been divided into three small volumes. The first discusses the organization, powers and duties, and general procedures of the planning board; its basic studies of the city; and the preparation of its basic plans for the city. The second volume is devoted to a large number of special studies and plans which might be carried out by the board. The third describes administrative and legal devices available for carrying plans into effect and also includes appendices outlining sources of information, sample ordinances of various types, etc.

The new books are being distributed at local schools being held at a number of key points throughout the state. Each school in the current series consists of sessions for zoning enforcement officials (boards of adjustment, city attorneys, building inspectors) and for planning officials (planning boards, zoning commissions, city planning directors). During the coming months a continuing program of schools devoted to problems of interest to planning and zoning officials will be carried out.

Gastonia Takes Steps to Establish Juvenile-Domestic Relations Court

On October 8th the Gastonia City Council approved a proposal whereby a juvenile-domestic court would be created to handle any juvenile or domestic relations case arising in Gaston County. The county commissioners had approved the proposed court earlier in the week.

The City of Gastonia is to contribute one-third of the funds necessary to support the court and the county will contribute the remaining two-

thirds. A commission will be created to supervise the continuing operations of the court. Before the court can be put into operation, however, it will be necessary for the next legislature to grant to the proposed court, domestic relations jurisdiction presently possessed by Recorder's Courts in Belmont, Mt. Holly, Cherryville, Bessemer City, Dallas, and Gastonia.

Personnel Manual

A "Personnel Manual" has been published recently by the Public Libraries Section of the North Carolina Library Association. This attractive 32-page manual was prepared for librarians and library boards in North Carolina. It is designed as a guide for personnel organization and practice in public libraries.

The manual contains general job descriptions for representative library positions with statements of minimum qualifications. Suggested staff requirement of libraries in cities of varying populations, proposed salary schedules, and conditions of employment are also included. Copies of the manual may be obtained by writing Miss Elizabeth House, Secretary and Director, N. C. Library Commission, Raleigh, N. C.

Merit System Council Reports

The tenth annual report of the North Carolina Merit System Council is now available for distribution. The report describes the activities of the Merit System Council in detail. Eleven tables present a complete statistical analysis of all phases of the agencies work. The report is informative, very well written, and attractively printed. Copies may be obtained by writing the North Carolina Merit System Council, Raleigh, N. C.

A Six-Day Week

Prison supervisory personnel who have been on a five-day week since October 1 were put back on a six-day work week December 1. In reversing recent action placing State Prison Department Employees along with Highway Department personnel on a

five-day week, the State Highway Commission declared that the shorter work week would require the hiring of 181 additional prison guards and would cost an additional \$500,000.

A plan has been worked out to allow a guard to work seven days in one week, and five days the next, in order to provide two consecutive days off every two weeks. Since December 1, prison guards have worked 77 hours per week rather than the 50-hour maximum set by the State Personnel Council. Under the work schedule in effect prior to October 1, prison guards worked 85 hours per week.

This reversal in policy will not affect plans for using Saturdays for prisoner rehabilitation purposes.

Salary Increase

Forsyth County's 11 deputy sheriffs received \$25 a month salary increases effective last November. The pay increase raised their salary range from \$290 to \$330 per month.

City Managers Revise Code of Ethics

A revised code of ethics for city managers was approved recently by vote of the members of the International City Managers' Association.

The new code strengthens the professional aspects of the manager's job. The code also emphasizes the role of a city manager as a community leader in submitting policy proposals to the city council.

Among objectives for the city manager stressed in the code are:

1. defense of municipal policies before the public only after adoption of such policies by the city council;
2. crediting the city council with establishment of municipal policies;
3. avoiding public conflict with the city council on controversial issues;
4. dealing frankly with the council as a unit rather than with its members, and
5. handling all matters of personnel on the basis of merit.

The new code also stresses the city manager's duty to improve his ability and his usefulness and to develop the competence of his associates in the use of management techniques.

More emphasis than in previous codes was placed on public relations. The code stresses "friendly and courteous service to the public" and states that "the chief function of the local government at all times is to serve the best interests of all the people on a nonpartisan basis."

(Continued on inside back cover)

Notes

From North Carolina Counties

Help for the General Fund

The Constitutional Amendment increasing the tax rate which may be levied to support the General Fund was approved by the voters in the November general election. Beginning next July, counties may now levy 20 cents for the General Fund instead of the 15 cents previously authorized. While some counties are not likely to need any of the additional five cents in the immediate future, many counties will probably add the full five cents to their General Fund levy next year.

New County Commissioners

Early in December when this issue of *Popular Government* went to press, the Institute of Government had available the list of new county commissioners in 81 of the 100 counties of the State. There are 368 county commissioners holding office in these 81 counties. Of the total number, 274 are hold-over members, having been re-elected in the November election or, in the case of counties with four-year staggered terms, serving the second half of a four-year term. The other 94 members are newly-elected and took their seat on the board on the first Monday in December. Thus, about one commissioner in four is a new member of his board. Most of the 94 are serving for the first time, while a few are returning to the board after a lapse of several years.

Turn-over in the office of chairman of the board of county commissioners is not quite so great. Only about one board in five will have a new chairman, since 16 boards out of 80 according to Institute figures have named a new chairman.

City-County Cooperation

A joint meeting was held in November of the local governing bodies in Guilford County. Present were members of the board of county commissioners of **Guilford County**, members of the city councils of **Greensboro**, **High Point**, **Jamestown**, and **Hamilton Lakes**, members of the board of aldermen of **Gibsonville**, other officials of those governments, and the Guilford County delegation

to the 1953 General Assembly. The meeting was the fifth one since 1949, when the various governments began the series of periodic joint meetings for the discussion of problems of mutual interest. Following the practice of rotating the chairmanship of the meeting, the mayor of Greensboro was unanimously elected as the presiding officer.

A report on the progress of the county property revaluation program was made by the county tax supervisor, and other matters of joint interest were discussed. The group unanimously requested the members of the General Assembly to support legislation which would "provide that the parking of an automobile beside a parking meter would be considered prima facie evidence that the owner parked said automobile."

The meeting provided an excellent forum for acquainting the legislators present with some of the problems confronting the local governments. In turn, the legislators suggested that the local officials could help the General Assembly by preparing and submitting their local legislation as soon as possible after the convening of the General Assembly.

Catawba County and the city of **Newton** are in the process of establishing a joint fingerprinting and photography laboratory at the county jail. A member of the city police department with training in fingerprinting will be the officer in charge. Persons charged with felonies will be photographed and fingerprinted and permanent records will be kept. In addition, copies of photographs and fingerprints will be sent to the State and Federal Bureaus of Investigation.

Four counties and four cities in the eastern part of the state are discussing the possibilities of establishing a regional airport to serve them all. Under the plan, **Edgecombe**, **Nash**, **Pitt**, and **Wilson** Counties, and **Greenville**, **Rocky Mount**, **Tarboro**, and **Wilson** will all be served by the airport, located somewhere near the geographical center of the area. These governments will raise half of the money needed to defray the costs of investigating the possibilities and the federal government will bear the cost of the other half.

Miscellany

The **New Hanover** board of county commissioners has recently let a contract for cleaning the exterior of the courthouse. The contract calls for doing the work by the steam cleaning method. . . . **Forsyth County** has employed an assistant county attorney. The new assistant will devote his full time to handling tax delinquencies and old age assistance liens. . . . **Durham County** voters approved a

\$4,000,000 school bond issue at the November election. Around 70% of the voters favored the issue. . . . **Macon County's** latest move in bringing the sheriff's office up to date was the purchase of a short wave receiver set. With it, the sheriff will be better able to coordinate his activities with the state highway patrol and the prison department. The county hopes some day to add a transmitter to complete the communications tie-up with those agencies.

powers through the same area. The third bill would prevent the Register of Deeds from recording a plat of an unapproved subdivision in this area. And the last bill would authorize the County Commissioners to zone all unincorporated areas of the county. If the bills are approved, the Mecklenburg County legislators will be asked to submit them to the 1953 General Assembly as special acts.

High Point's Board of Adjustment is studying a recommendation that "buffer" districts which could be used only for automobile parking be inserted between business districts and residence districts. . . . **Chapel Hill's** proposed perimeter zoning ordinance is still encountering rural opposition at public hearings. . . . The **Kinston City** Planning Commission has received a proposed zoning plan for the one-mile area beyond the city limits. Zoning of this area was authorized by Chapter 876 of the 1951 Session Laws. . . . Public hearings have been held on proposed amendments to the **Wrightsville Beach** zoning ordinance.

Raeford's Town Commissioners have reactivated the town's Planning and Zoning Commission. New members took office on November 1. . . . The **Newton** Planning Board has approved a major street plan. It is currently working on a new subdivision-control ordinance.

Notes

From North Carolina Cities

Housing and Redevelopment

Redevelopment officials from **Charlotte, Fayetteville, Greensboro,** and **Winston-Salem** have begun a series of meetings at which common problems may be discussed. One of the group's first projects is to secure revision of the state's urban redevelopment law (Sess. Laws, 1951, c. 1095; G. S. 160-454 to 160-474), so as to eliminate several stumbling blocks which have hampered redevelopment operations.

Malcolm Little, former **High Point** Planning Director, has assumed his duties as executive director for the **Greensboro** Redevelopment Commission. . . . **Winston-Salem's** Sanitary Improvement Committee has been meeting with various groups in an effort to determine the best approach in enforcing the city's minimum housing standards ordinance. The weight of opinion has seemed to be that enforcement officials should proceed block-by-block, beginning on the perimeter of the run-down area and gradually working towards the center. In this way sufficient housing may be rehabilitated in time to handle persons displaced when the worst housing is condemned, it has been claimed. . . . A committee named by the **Elizabeth City** City Council has travelled to Norfolk in order to observe at first hand the operation of a redevelopment and a public housing program.

The first units of a new 240-unit housing project in **Durham** are opening for occupancy, while a 247-unit project for Negroes is under construction. . . . Stratton Coyner, Chairman, and Jack Atkins, member of the **Winston-Salem** Housing Authority

Board, were given service awards by the National Association of Housing

Planning and Zoning

The **Charlotte** and **Mecklenburg County** Planning Boards have been studying four proposed bills which would control development beyond the city limits. One bill would extend the city's zoning authority through a designated area whose outer limits would be from one to four miles beyond the city limits. A second would extend the city's subdivision-control

The Supreme Court Decides

Attorney Fees Recoverable In Taxpayer's Action

In *Horner v. Chamber of Commerce*, 236 N. C. 96 (filed 22 August 1952), the Supreme Court handed down a decision which is very likely to have far-reaching effects upon local government.

The background facts of the case are important. The city of Burlington had made a donation to the Chamber of Commerce in that city. Mr. Horner sued both the Chamber of Commerce and the city to force the Chamber of Commerce to return the donation to the city, arguing that the donation had not been made in accordance with statutory provisions. The final outcome was a decree that the Chamber of Commerce repay the city the amount of the donation, since the donation amounted to an illegal use of tax money. (See the decisions reported in

231 N. C. 440, 57 S. E. 2d 789, and 235 N. C. 77, 68 S.E. 2d 660; see also *Popular Government*, May, 1952, page 7, where the second decision was discussed.)

At the conclusion of the litigation in the Supreme Court, the case went back to the Superior Court, where Mr. Horner moved that he be awarded from the proceeds of the funds recovered for the city from the Chamber of Commerce "a sum equal to the reasonable value of his attorney's services, to be used in defraying the fees of said attorney." The Superior Court judge ruled that the plaintiff was not entitled to an allowance as a matter of law, entered judgment to that effect, and Mr. Horner appealed to the Supreme Court.

The Supreme Court reversed the

decision of the Superior Court, stating that the plaintiff in a taxpayers' action, who has recovered for the benefit of a municipality public moneys unlawfully disbursed and otherwise lost, may be awarded from the amount recovered and restored to the municipality a reasonable sum to be used in paying the fees of his attorney, even though no statute expressly provides for such an award. The court noted that the power to make an award of counsel fees may be subject to abuse, and it was therefore explicit about the factors that must be present before an award of counsel fees is proper: (1) The municipal authorities must have refused to act, thus leaving the taxpayers no recourse but to take matters into their own hands. (2) The taxpayer suing for recovery must successfully prosecute his action and actually recover and collect the funds of the municipality which had been expended wrongfully or misapplied. (3) The award is limited to items of reasonable attorney fees and expenses, excluding compensation or allowance of any kind for the time and effort of the suing taxpayer thus eliminating any possibility that the taxpayer may capitalize on the suit. (4) An award of attorney fees and expenses is not mandatory, but it is left in the sound discretion of the court to make reasonable allowance from the funds actually recovered.

The court quoted with approval as follows from a case decided in Kentucky: "It is very commendable that public-spirited citizens should endeavor to protect the taxpayers of a [municipality] from the efforts of [a municipal governing body] to make unauthorized and unlawful appropriations of the public funds and to seek to recover the money so illegally disbursed from the persons to whom it was wrongfully paid. And when, as in this case, the public authorities whose duty it is to bring a suit to recover public funds wrongfully paid out, refuse to do so, and the duty is thus imposed on the citizen in his private capacity, he should be allowed his attorney fees if successful. Citizens should be encouraged to bring suits like this, and when they have succeeded in covering into the [municipal] treasury money for the benefit of the people of the [municipality] that would otherwise be lost, it is no more than right and just that they should have these fees. If attorney's fees could not be allowed in cases like this, and a citizen were required to pay out of his

own means attorneys' fees expended in collecting, for the benefit of the public, a public fund, there are not many citizens who would care to voluntarily incur this expense. They would rather bear the probably trifling personal loss sustained by the illegal appropriation than subject themselves to the much larger loss that would be incurred in attorney fees."

The clear result of the case is to encourage taxpayers, in a proper case, to bring suit to recover money illegally expended by counties, cities,

and towns. If successful, they will not have to stand personally the expense of attorney fees. If unsuccessful in their suit for recovery, however, no attorney fees will be awarded, so it behooves the taxpayer to be sure of his ground before initiating the suit. Nevertheless, the case contains a clear warning to members of county, city, and town governing bodies: Be more careful than ever before about the expenditure of public funds, making certain that there is statutory authority for every expenditure.

Editors and Officials Voice Suggestions

How Can We Speed Elections?

It is time to take stock of the flood of suggestions for solving two problems posed by the unprecedented number of persons who appeared at the polls last November 4: How can the voting process be made so simple that individuals will not need to stand long in the cold or rain waiting their turns in the booths? How can the process of counting the votes be made quick and easy, avoiding the necessity of having poll workers labor through the night, and permitting the results of the election to be known with accuracy before bedtime on election day?

There is surprising unanimity in the suggestions made by citizens, election officials, and newspapers in the more populous areas. Some of those suggestions will be of little use in smaller precincts; some of them will involve considerable expense. An inventory of the most commonly voiced ideas may be helpful:

With respect to the registration process: (1) Keep the registration books open for registration and inspection at designated places throughout the county every day in the year except for a ten-day to two-week period immediately before the election. (2) The chairman of the Guilford County Board of Elections suggests eliminating challenge day as "foolish and expensive." "So far as I can learn, no challenges have been made in this county in 20 years, including this last hotly-contested election." Instead, he would allow inspection of the books and challenges at any time. (3) Without exception comments on the recent election called attention to the troubles that arise from the necessity of having every voter's qualifications checked from one bound book before he is allowed to

vote. To alleviate this "number one bottleneck," the principal suggestion has been to install a card index system so arranged as to make it impossible to tamper with the records. The principal value of such a system is that it can be divided, permitting precinct officials to channel prospective voters into alphabetical lines at the polls. Slightly different solutions, for example, using several books for each precinct instead of only one, all seek the same objective. (4) From many sources has come the suggestion that existing precinct lines be changed, largely by the division of precincts having excessively large registrations. Both the *Charlotte News* and the *Charlotte Observer* take a lukewarm attitude on this point; they feel that it is not a real cure to the problem. Both have pointed to the obvious fact that the number of election officials would have to be increased under this procedure and that the costs of elections would rise even higher than they are now. The *News* makes the telling point that the expense item would remain constant no matter whether it were a relatively small and uncontested election or a major contest. One point worth serious thought in the counties having sizeable towns is this: Where possible, arrange county voting precinct lines so that the territory inside the corporate limits of cities and towns is never placed in precincts which include unincorporated territory. Having done this, path is paved for legislation permitting single registration for both county and municipal election purposes. (5) Several election officials from large voting areas recommend that the registration books be closed at least ten days.

(Continued on page 8)

Rural Zoning and Conservation In Wisconsin

ARTHUR R. PORTER, JR.

Local communities frequently consider conservation as a problem for federal or state governments. However, a local governmental program for conservation and better land utilization has been in operation in Wisconsin since the 1920's. Many areas in other sections of the United States might benefit from a knowledge of the Wisconsin experience.

Rural zoning is an important technique used in Wisconsin to improve land utilization and as a means of conserving one of the major natural resources of the area, the soil. Zoning is defined as ". . . the creation by law of districts within which regulations prohibit establishment of certain specified uses which are considered harmful to public interests."¹ Improper use of soil is detrimental to the public welfare and, the community has the right to regulate the actions of its citizens to advance the well being of the group.

There are two major restrictions on the use of the zoning power. The first provides that present established uses of the land may be continued; second, all land within a given district must be treated alike. The first restriction means that the zoning applies to future use rather than to uses that have been established for some time. The community is able, however, to modify the effects of this restriction through such actions as buying from the owner land that does not "conform" and reselling it to a person who agrees to keep the land in the restricted use. The second qualification simply prevents possible discrimination among different owners of the same type of land. For example, if the community restricts a certain area to use as forest land it could not permit one or two individual owners to farm within that area unless their land had been used for that purpose prior to the passage of the zoning law.

The Procedure Followed in Rural Zoning in Wisconsin

It is desirable that the first step in a rural zoning plan should be a soil map of the area to be zoned.²

A map of this type should be drawn from studies made by a soil technologist who is familiar not only with soil classifications but also the agri-

cultural uses of the various soils. For example, an area of land presently a swamp might be very valuable crop land if properly drained; such land might be put in the agricultural land category even though it currently was a deserted, swampy wilderness. Other areas now under cultivation should be zoned for forests. A soil expert might point out that it would not be possible to raise crops successfully on some types of soil.

The next step in rural zoning in Wisconsin is for the county governmental body to prepare a tentative zoning ordinance which would regulate the uses of the land in the community. This tentative draft is then submitted to various official boards and to meetings of the local citizens for their comments and discussion. A final ordinance is then prepared and passed by the county board of commissioners after any modifications as result of town meetings. There are given below selections from a typical ordinance:

"An ordinance regulating, restricting and determining the areas within the county in which agriculture, forestry and recreation may be conducted, the location of roads, schools, trades and industries and the location of buildings. . ."

SECTION I

(Establishes a map of the county dividing the county into forestry, recreation, and unrestricted districts.)

SECTION II

"In the forestry district no building, land or premises will be used except for one or more of the following specified uses:

1. Production of forest products.
2. Forest industries.
3. (Mostly various recreational uses) . . . Any of the above uses are permitted in the Forestry District, and all other uses, *including family dwellings*, shall be prohibited.

SECTION III

"In the Recreation District all buildings, lands or premises may be used for any purposes permitted in District No. 1, the Forestry District, and in addition, family dwellings are permitted.

"Any of the above uses are permitted in the Recreation District, and all other uses, including farms, shall be prohibited, because of the fire hazard involved in cleaning operations and spoliation of forest conditions adjacent to highly developed recreation property.

SECTION IV

"In the unrestricted district any land may be used for any purpose whatsoever. . ."³

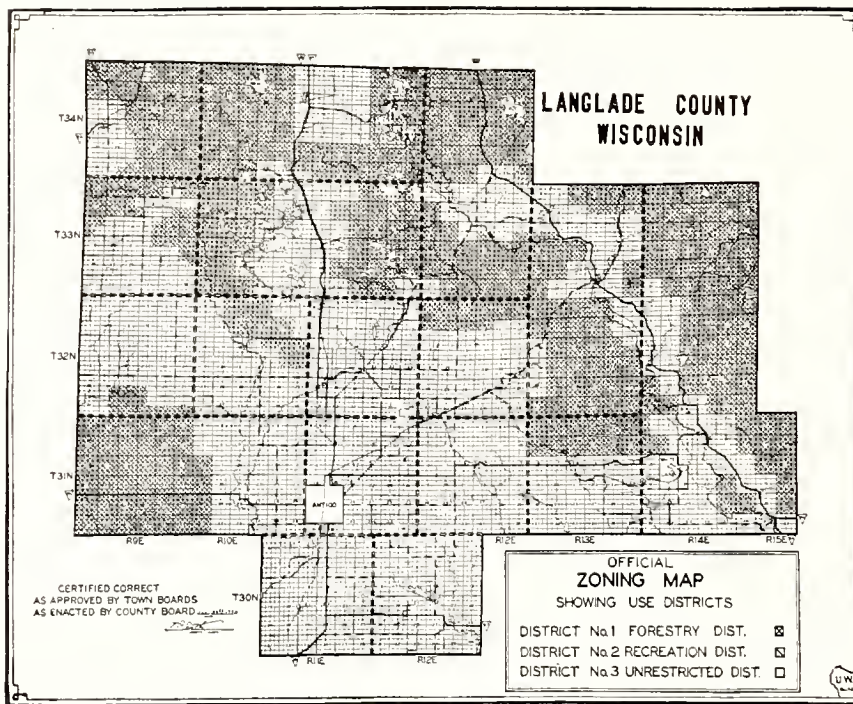
The map⁴ and the ordinance are the principal legal tools for the regulation of land use. Langlade County, Wisconsin has divided its land areas into three classification. a. Forest, b. Recreation, c. Unclassified.

Land which is not adaptable to agriculture must be kept in forests, while "good" land may be converted to normal agricultural uses such as corn, wheat, pasture, etc. . . When the classification of forest land is based on a scientific soil study it follows automatically that at least certain minimum conservation practices are being followed.

It should be noted that the Wisconsin zoning law is the responsibility of the local governmental unit. The state only passed enabling legislation which permits the local area to zone its land for proper use. Rural zoning is not compulsory. The local government hires the expert consultants, local governmental boards approve the boundary lines for the different districts, and the local community through its boards or commissions enforces the zoning law after it is enacted.

One of the strengths of the program lies in this local emphasis. Proper land use becomes a local respon-

Mr. Porter, the author of this article, is a Professor of Economics at Hanover College in Indiana. He reports on a planning method which has been adopted in Wisconsin as a conservation measure to aid in better land utilization.



Sample map showing the use districts.

sibility. Many times conservation plans meet with difficulty because of the feeling of the people affected that the plan is not "theirs". It is frequently regarded as something from a central government bureau.

The problem of non-conforming uses must be solved by the local community. There may be a relatively large number of owners of land who are not using it "properly". If these land owners began their non-conforming use prior to the passage of the zoning law they may continue their past practices. Communities have solved the problem in various ways:

1. Purchase the lands
2. Some communities then resell the land to a person who agrees to keep the land in the proper use.
3. Purchasing the land but giving the owner a life lease. After the death of the owner the land then reverts to the community.
4. Occasionally the local government must take land for non-payment of taxes. This is frequently land that is "non-conforming". Experience has shown that land in a non-conforming use is frequently "poor" and, therefore, becomes tax delinquent.

Some counties in Wisconsin have classified land in greater detail than simply forest, recreational (in some cases), and unrestricted. Dane and Marathon Counties have divided the unrestricted district into agricultural and commercial. The only activities permitted in the agricultural areas are "residences, farming, and certain industries associated with agriculture,

such as creameries, pea viners and condenseries."⁵ The commercial district then includes all those excluded from forest, recreation and agricultural areas.

Results of Rural Zoning

Land utilization plans have important human consequences. When land is not used properly the people on the land are frequently poor. There is a high degree of positive correlation between proper land use and the level of incomes. Land which is classified as marginal for normal agricultural purposes may become wealth producing if it is permitted to revert to forest or grass land. The people in the area will also find their per capita and total incomes rising.

The communities of Wisconsin have found that land zoning plans have provided a substantial source of saving of monies spent on education and road maintenance. These savings only result if the zoning plan prohibits people from living in the forest areas. The Langlade County zoning ordinance provides for such exclusion. If people are attempting to live in areas unsuitable for cultivation they are frequently somewhat isolated. The land is frequently not rich enough to support farm in close proximity to each other. The community without rural zoning finds it necessary to provide for rural schools which only serve a few children. The cost per student for teachers' salaries and maintenance in such schools is frequently very high.⁶

Expenditures on roads are much higher per capita in thinly populated

areas. As the land is returned to forests the expenditures for roads by local and central governments will be reduced considerably. This reduction also occurs only if person are prohibited from establishing permanent homes in the forest area.

The importance of these and other savings is shown by the contrasting situation in two counties in Indiana. In 1935-1937 the state purchased in one county 20,000 acres of land which was converted into forests. The reduction of governmental costs over the subsequent 12 year period equaled the cost of the land. In another county since 1905 the state of Indiana has distributed "one million dollars. . . for school-relief purposes. Yet that county's Land Use Planning Committee has classified some 100,000 acres as unsuited to agriculture. So the situation there is no nearer solution in 1951 than it was in 1905. A program of land acquisition would gradually reduce the need for state school relief there."⁷

One of the benefits of rural zoning has been the increase in communal life. Participation in community affairs is difficult for persons living in isolated rural dwellings. If the zoning law prohibits persons from living in certain isolated areas that are thought better adapted to forests or grasslands there is an increase in participation in community affairs through village living. A further stimulus to community living arises from the gradual development of wood working industries which provide employment for former marginal farmers.

Summary and Conclusions

Rural zoning is an important step in the development of conservation measures since it is premised on the concept of proper land utilization. Soil experts determine the best utilization for the various types of land. The reports of these experts are then used as a basis for the rural zoning plan.

The plan, however, is finally drawn up and enforced by local citizens. It is not imposed by a central governmental body. Even the reports of the experts may be modified by local governmental bodies. The strength of the rural zoning plan is its reliance on local governmental units. The local community seeks to solve its own problems rather than waiting for a federal or state bureau to act.

FOOTNOTES

1. Rowlands, W., Trenk, F., Penn, R.; "Rural Zoning in Wisconsin", published by University of Wisconsin, (Continued on inside back cover)

During their annual session at the Institute of Government on November 13, 14, and 15, the members of the Tax Supervisors Association of North Carolina devoted seventeen hours to concentrated study and discussion of property tax assessment, listing, exemption, and jurisdiction problems. Working from fifty questions presenting basic factual problems, the supervisors literally went to school for three days. Since the close of the meeting, the Institute of Government has distributed copies of the basic questions and the answers agreed to during the meeting to all county tax supervisors unable to be present as well as to those who attended.

The attendance at the 1952 conference was excellent, although the Association can never be satisfied until it has regular representation from every county in North Carolina. There are still about thirty counties which have never been represented at these annual gatherings.

For the year 1952, Mr. R. P. Spell, tax supervisor of Sampson County, served as president of the Association. He participated actively in planning the November meeting, but at the last minute illness prevented his attendance. In Mr. Spell's place the first vice president, Mr. Rufus A. Grier, tax supervisor of Mecklenburg County, presided at the conference. At the opening session Mr. Grier appointed a nominating committee composed of Mr. C. F. Shuford of Gaston County, Mr. A. E. Garner of Randolph County, and Mr. T. M. Condon of Hert-

1952 Conference Held

County Tax Supervisors Meet In Chapel Hill

ford County. He appointed Mr. C. Bryan Aycock of Wayne County, Mr. Rupert J. Crowell of Buncombe County, and Mr. Tazewell D. Eure of Gates County to serve as a committee on resolutions. Later in the session Mr. Grier announced that the members of the Association's legislative committee would be asked to serve for another year: Mr. W. F. Hester of Guilford County, Mr. J. Curtis Ellis of Nash County, and Mr. W. D. Reynolds of Robeson County.

The Association devoted two evening sessions to local tax matters handled by state agencies. On the evening of November 13, Mr. J. C. Bethune, Secretary of the State Board of Assessment, described in detail the way in which the State Board values the property of utilities, railroads, banks, etc., before certifying to each local unit the portion of each such company's total valuation it may list and tax. Questions from the floor were numerous, and Mr. Bethune devoted more than an hour to giving detailed answers.

On the evening of November 14, Mr. James S. Currie, Director of the State Department of Tax Research, described the local tax functions of his department, the objectives of the department, and the ways in which the department can be of service to

local units of government. The supervisors were especially interested in Mr. Currie's analysis of assessment ratios and the role they play in the selection of locations for new businesses.

During the business meeting at the final session of the Association's conference, taking notice of the increased number of new tax supervisors coming into office in December, 1952, the Institute of Government announced that it would hold a week's basic school of instruction for these new supervisors at a time convenient for them. Members of the Association present suggested that the school be held in the latter part of April, 1953, and the Institute is proceeding with plans for that time.

At the same session the supervisors voted to ask the Department of Motor Vehicles to continue furnishing photocopies of local motor vehicle registrations in line with the practice initiated in 1952, with the understanding that future copies will be slightly larger in size.

A copy of the resolutions adopted by the Association appears at the end of this article. One resolution requested the new president of the Association to appoint a committee to work and consult with the Institute of Government in preparing legislation for revision of the Machinery Act. This committee is to present its recommendations to the Association at its 1953 meeting for general discussion before an effort is made to have appropriate legislation introduced in the 1955 General Assembly. The Association's new president has appointed the following persons to serve on this important committee: Mr. W. F. Hester of Guilford County, chairman, Mr. J. Curtis Ellis of Nash County, Mr. W. D. Reynolds of Robeson County, Mr. C. E. Gwin of Catawba County, and Mr. Faison W. McGowen of Duplin County.

In its final action the Association elected the following tax supervisors to serve as officers for 1953.

President, Mr. Rufus A. Grier, Mecklenburg County.

First Vice President, Mr. Porter G. Cain, Bladen County.

Second Vice President, Mr. R. B. Gates, Lincoln County.

(See next page for copy of resolutions passed)



Most counties were represented at the recently held conference of tax supervisors. The above classroom scene was taken during the three day session which was packed with study and discussion of property tax assessment, listing, exemption, and jurisdiction problems.

Resolutions Adopted November 15, 1952

Be it resolved by the Tax Supervisors Association of North Carolina that:

1. The Association extends to Dr. Albert Coates, Director of the Institute of Government, and his associates, particularly Mr. Henry Lewis, its sincere expression of appreciation for the arrangement and the conduct of this annual conference so beneficial to the Tax Supervisors of the state.

2. The Association extends to Dr. Henry Brandis, Dean of the Law School, its expression of gratitude for the use of the Courtroom in Manning Hall as a most desirable and comfortable meeting place for this conference.

3. The incoming president of this Association shall appoint a committee composed of at least five members to work and consult with the Institute of Government in preparing legislation for the revision of the Machinery Act to bring such Act up to date and more applicable to present conditions, and said committee shall make a full report of its findings and recommendations at the 1953 conference of this Association.

4. All bus companies, airlines, and motor transportation companies be assessed by the State Board of Assessment on similar basis as railroads, railway express companies, and other public utilities.

5. Each of the Congressmen and Senators from this state shall be notified that this Association endorses without reservation the resolution adopted by the National Association of Assessing Officers on September 24, 1952, pertaining to defense contracts in opposition to legislation encroaching upon the rights of local units to tax inventories and materials in the process of manufacture under war contracts.

6. The Association recommends to the Institute of Government consideration of the idea of beginning morning sessions at 10:00 a.m. instead of 9:00 a.m. and no night sessions be arranged except for banquets or other forms of entertainment, for the sole purpose of promoting attendance and interest.

7. The Association takes notice that this conference had the largest registration in its history and every effort is to be made to promote the attendance at the next conference of those counties not represented at this conference to the end that we have 100% representation.

8. The Association expresses its appreciation to its officers for their efforts in planning this conference, particularly President R. P. Spell of Sampson County, who was unavoidably detained from attending this session and recognition be given to Mr. Rufus Grier, the Vice President, for assuming the responsibility as presiding officer.

/s/ C. BRYAN AYCOCK

/s/ TAZEWELL D. EURE

/s/ RUPERT J. CROWELL

November 15, 1952

How to Speed Elections

(Continued from page 4)

preferably two weeks, before the election day to allow the officials ample time in which to check and perfect the records. (6) The Guilford elections board chairman states that "there should be the simple provision that the registration shall be permanent and shall be transferred by the county board of elections from precinct to precinct within the county upon an affidavit filed by the affected citizen" when he moves.

With respect to the voting process:

(1) Assuming that ballot boxes are used, make each one of sufficient size

to hold the very large number of long ballots often used. (2) In some places, provide more voting booths. (3) Where several ballots are to be handed each voter, sort them out before the polls are opened so that each voter may be handed a complete set of ballots without delay. (4) Choose the polling places with more care, being sure that they are large enough to accommodate the required officials, and arrange them so that there is a separate entry and exit so that those who have voted may leave without threading their way through the congestion at the place of entry. (5) Install voting machines. This is a controversial suggestion in some counties. Most of the debate centers around this question: Assuming that there

is no actual saving in money to be gained by using the machines, is the volume of votes in a given place sufficient to warrant the added expense if the machines will speed the voting process and eliminate the long hard hours of counting required if machines are not used? North Carolina counties and cities have legal authority to acquire voting machines, but their use in this state has been spotty. The attitude of most election officials has been that they might be worth a trial. One elections board chairman has suggested that they would cost his county \$7,500 a year for ten years and that by that time, having paid for the machines, he feared the county would find itself the owner of obsolete machines. On the other hand, admitting the cost factor, it is undeniable that the machines eliminate almost all the time, labor, and possibility of error involved in manual tabulation.

1952 Election Raises Many Questions

If the 1952 general election did nothing else it served to raise a number of practical questions about the creaking machinery for voting in this state. The time has come for cool and nonpartisan consideration of those questions. Some of them will need legislative handling; others can be dealt with administratively. Without citing specific cases, it is fair to say that the following questions have been presented with varying emphasis in a large number of North Carolina counties in the last few weeks.

With respect to registration—

Should precinct registrars be required to keep the registration books open at the precinct polling place every day during the registration period? At the present time they are required to be present at the polls on Saturdays only; at other times, persons desiring to register must go to the registrar's home or place of business.

Should registration books be arranged in completely alphabetical order? At the present time, in most places the books are alphabetical by the initial letter of surname only. In heavily-populated precincts, when the books must be checked at the polls on election day, the searching process can become very time-consuming.

Should more precincts adopt a card index registration system instead of a book registration system? Such a system would materially reduce the searching time required by the book system, but would it offer an easy basis for unscrupulous handling of the registration process? Can a corrective be worked out?

Should individuals who have been registered be given identification cards and numbers so that they would be identified quickly at the polls on election day? How could these cards be handled so as to prevent use by persons other than the registrant?

Has the time come to re-examine the statute placing in the precinct registrar complete discretion in determining the qualifications of the individual seeking to register? In other words, should a person who has been refused the right to register be allowed an automatic appeal to the county board of elections and, ultimately, to the State Board of Elections?

With respect to voting precincts—

Should the number of precincts and the existing precinct boundaries be subjected to more frequent scrutiny? In other words, should county boards of elections be required to re-examine the precinct divisions before every election and, on the basis of their examination, be required to find as a fact that the existing precinct boundaries and number of precincts is satisfactory?

In view of the fact that the number of municipal and county special elections has shown considerable increase in the last few years, and in view of the fact that town dwellers are often confused about where and how often they must register, should all county election boards take steps to arrange county precincts so that municipal corporate limits and county precinct lines are identical?

With respect to the voting process itself—

What can be done to facilitate the voting process?

Would an identification card system be of assistance to the process of checking registration?

Do voting machines furnish a financially practicable solution to the need for increased speed in the voting process? Will the admittedly high cost of the machines be offset by ease of operation, reduction in the number of officials needed at the polls, simplification and speed of the tabulation process, and reduction in tabulation errors? Are voting ma-

Farm Information Can Help Your County

L. Y. BALLENTINE
Commissioner of Agriculture

Public acceptance comes slowly for many worthwhile inventions and ideas. For instance, it has taken nearly a generation to popularize farm tractors. Likewise, many farmers continue to plant the same crops on the same land year after year, long after the advantages of crop rotations were discovered.

These examples parallel to some extent the difficulties which have confronted the annual farm census since it was initiated in North Carolina in 1918 to help farmers and farm leaders to obtain dependable yearly

figures practicable in heavily-populated precincts only?

Having eliminated the use of absentee ballots for civilians in primary elections, has the time arrived when it would be wise for North Carolina to abolish the use of absentee ballots by civilians in general elections? One interesting development in this field in the recent election appeared in Henderson County.

A local newspaper secured from the chairman of the county board of elections a list of all persons (arranged by precinct) who made requests for absentee ballots. This list was published in the newspaper before election day.

With respect to counting the ballots and canvassing the results—

What can be done to increase both the speed and accuracy of precinct tabulations on the night of the election? This is a particularly acute problem if voting machines are not used. The use of volunteer assistants is common and has much to commend it, but when there are a large number of ballots for different offices to be counted, the use of a large number of counters increases the possibility of error. Mecklenburg County has developed a simple tally sheet that other counties might well adopt in future elections.

Newspapers and radio stations are eager for immediate information about precinct counts, yet the official county canvass does not come for two days after the election. A number of informal arrangements have

(Continued on inside back cover)

information about basic farm facts.

Farmers generally and almost all of those individuals and groups charged with the responsibility of planning agricultural programs have become convinced of the value of such data as crop acreages, livestock numbers, mechanization and other vital farm practices. Many say that this information is indispensable.

Acceptance has come more slowly, however, among another important group — county officials who have a hand in collecting this information. Some, of course, are just as enthusiastic about the county farm census as are farmers and their leaders; but we must admit that in a few instances the cooperation of county officials is given reluctantly.

It is true that the General Statutes require county commissioners to obtain reports by townships for the annual farm census; but compulsion seldom offers a satisfactory solution where common sense indicates that cooperation is the key to success. The real solution, therefore, lies in full voluntary compliance in all of the State's 100 counties — compliance based on a better understanding of the value of this annual agricultural enumeration, not only to farmers, but to the entire community.

The importance of such a report far outweighs the time and effort required to gather the information. Furthermore, the State has provided assistance through incentive or reward pay to "encourage maximum cooperation and efficiency" in this endeavor. The money is available for compensating the counties for acceptable reports turned in by enumerators appointed by the county commissioners.

Even if the farm census had no other virtues to recommend it, the survey has paid tenfold dividends in making farmers conscious of their resources. Automatically, the farmer living in a county where the survey is conducted takes a mental inventory annually of his crops and livestock. With these facts in the back of his mind, he is bound to do a better job of planning for increased yields and better land utilization, whether he consciously tries or not.

Representatives of the U. S. Department of Agriculture visiting in the field have expressed amazement at how much better acquainted our farmers are with their lands than the farmers of neighboring states where no survey is conducted.

While it is true that the survey has been conducted heretofore without 100 per cent cooperation, innumerable benefits have been derived from it both by the participating counties and the State as a whole. However, any survey that does not encompass all the counties of the State cannot tell the whole story.

The counties that do not participate are, of course, the ones that have the most to lose. They have no concrete basis for planning future crops except the hit-or-miss methods of 50 years ago. Also, when crops are placed under acreage allotments, such allotments are based on the farm census reports; if there are no reports from some counties, a great deal of guesswork is involved with no assurance that allotments will be granted on a sound basis.

The State Department of Agriculture has tried for a long time to simplify the procedure of taking the farm census. It has discontinued the county's summarization of township books, eliminated the necessity of indicating double and succession crops, and has permitted tenants and others who know the land to list in behalf of the owner.

County commissioners now are authorized to appoint anyone of their choice as enumerators and supervisor of the farm census, as the law no longer limits their selection to the tax supervisor and tax listers. The commissioners are also assured of the cooperation of county farm agents, home demonstration agents and vocational agriculture teachers by way of assistance with an educational program for better understanding of the farm census among farmers and enumerators.

It is willing to go even further, where necessary and practical, to insure accurate reporting. Suggestions by county commissioners and others will be welcomed.

We have found that our real need in connection with the farm census is a better understanding of its value and uses. But this kind of understanding has been slow in coming. We shall continue to do all we can to improve the accuracy of this annual survey, but our success will depend largely on the response we receive at the county level.

Books of Current Interest

Understanding Politics by Robert E. Merriam and John W. Bethea, Science Research Associates, Chicago, 48 pp, 40c (quantity prices on request)

Politics for Boys and Girls by Robert E. Merriam, Science Research Associates, Chicago, 40 pp, 40c, (quantity prices on request).

These booklets are written to interest and inform young people but the "average man on the street" will also find them valuable and well worth reading. Written by a young man who is Alderman of the Fifth Ward in Chicago, they explain how politics — government in action — operates. John W. Bethea who is co-author of the first book is editorial associate of Public Administration Clearing House. Both books are illustrated with splendid pictures, sketches and diagrams.

Throughout the explanation of the workings of government, all the way from Washington to the corner traffic light, there is the theme that government is good or bad depending on the character and information of the citizens who take part in it. There is an especially good explanation of political parties, how they are organized, how they operate, the services they perform, and the need for each citizen to participate in party politics.

With television carrying an increasing amount of political material and children being used in large numbers in political campaigns, as well as a growth of student government in all schools, it is of first importance that material such as this should be put into the hands of young people for their use now as well as in the future — and their elders should not miss it either. R. L. R.

Mexico: Land of Great Experiments by Henry Alfred Holmes and Lula Thomas Holmes, Foreign Policy Association, New York, 62 pp, 35c.

Written by authorities on Mexico, this booklet contributes greatly to an understanding of the far-reaching political, economic and social readjustments that are taking place in the fascinating land on our southern border. The style and illustrations make the book unusually good reading. We need to know more about our neighbor and here is a little gold mine of information. R. L. R.

Laws: The Science of Inefficiency by William Seagle, The Macmillan Company, New York, 1952, 177 pp, \$3.50

This examination of the role of law in society is written for the average citizen as well as the most learned lawyer. The author has had varied experiences as a lawyer, was law editor of the *Encyclopaedia of the Social Sciences*, and has written several other books, among them are *The Quest for Law and Men of Law: From Hammurabi to Holmes*.

With most interesting style the author argues that law is deliberately made and deliberately kept complicated, contradictory and indefinite in order to safeguard property and liberty. This reviewer feels the title is unfortunate because here is convincing evidence that law is anything but inefficient — rather it is the science of indefiniteness for a very sound purpose which it serves very efficiently.

This is a book to own and reread many times because the arguments and the *obiter dicta* are most stimulating and enjoyable. In spite of (maybe because of) a light touch, this book makes a valuable contribution to an understanding of "a government of laws." R. L. R.

Uncle Sam in the Pacific Northwest, Charles McKinley, University of California Press, pp.xx, 659, \$7.50.

Everyone agrees that the basin of the Columbia River in the Pacific Northwest needs to be developed. Here, the author presents the past and present activities of the various Federal, State, and Local agencies which are active in managing and developing natural resources in that area. The book stands as a fine work on the interrelation between all resource agencies, and presents many suggestions for the improvement of administration.—W. T. D.

Forest Policy, Law, and Administration, T. Francois, F.A.O. Publications, pp. iv, 211, \$2.00.

This study was undertaken by the Food and Agriculture Organization of the United Nations, in an attempt to establish certain principles of forest legislation and administration. Various countries have, up to the present, faced their problems of forest conservation in a diversity of ways. In this booklet is set forth those instances of fundamental uniformity

which are patterned in forest law and administration throughout the world.—W. T. D.

Handbook of Practical Politics, Paul P. Van Riper, Henry Holt and Company, pp. x, 214, \$.

The aim of this book, as stated, is "to bring out more into the open some of the problems of organizing for effective citizen political action . . . at the grass roots, local level." The author then proceeds to lay out step by step the procedure to be followed, and methods to be used in any political campaign within a ward or precinct.—W. T. D.

Fundamentals of Political Science, edited by Ossip K. Flechtheim, The Ronald Press Company, pp. vii, 587, \$5.50.

This is a text which was written to introduce college students to the fundamental principles governing human political relationships. It is an extremely interesting book, in that it stresses the relationship of political science to other social studies such as: philosophy, psychology, history, and sociology.—W. T. D.

Effective Appellate Advocacy, Frederick Bernays Weiner, Prentice-Hall, Inc., pp. xv, 591, \$??.

Here is one of those good books which make the practice of law easier to get started in. This volume presents in a readable fashion the business of handling appeals. The author gives valuable advice and instruction on how to meet specific situations. In addition there is included sample briefs which illustrate the way the experts prepare their appeals.—W. T. D.

British Planning and Nationalization, by Ben W. Lewis. New York: The Twentieth Century Fund, 1952. 285 pp. \$3.00. A brief, but scholarly and relatively impartial, survey of the development in Britain since 1945 of governmental controls of various types over the economic system. Includes chapters on Economic Planning; The Issue of Nationalization; Nationalization of Coal, Electric Power, Transport, and Iron and Steel; Town and Country Planning; The Distribution of Industry; The National Health Service; Housing; and Agriculture.—P. P. G.

The States and Subversion, edited by Walter Gellhorn. Ithaca, N. Y.; Cornell Univ. Press, 1952. 440 pp. Price? One of the Cornell Studies in Civil Liberty, this is a collection of articles describing the activities of six different states in the field of internal security against subversion, together with an assessment of the

efficacy of state measures and the dangers they risk. The authors provide abundant evidence of the dangers to individual liberty created by irresponsible or unintelligent attempts to regulate loyalty at the state or local level of government.—P. P. G.

Federal Administrative Law, Rinehart John Swenson, The Ronald Press Company, 379 pp., \$6.00.

Professor Swenson's book places the administrative process as we know it today in proper context by tracing the development of American technology and thought which required this process to grow. While he analyzes the various forms of administrative action and the techniques available for their enforcement, constitutional, judicial, and Congressional limitations upon these forms of action are not neglected. Furthermore, the author reaches beyond materials applicable to administrative agencies in the Federal Government to dip into administrative law and practice at the state level for the purpose of clarifying his exposition of Federal Administrative Law.

The underlying theme of the book is that there is a need for formalizing administrative action into a body of law supervised by special courts of limited jurisdiction. Although this reviewer disagrees with the author on the desirability of such an alteration, Professor Swenson's argument and the useful materials which he advances in support of it should be of interest not only to lawyers, judges, and public administrators but to all persons who are concerned with the operations of government in these difficult times.—M. O. C.

Modern Criminal Investigation by Harry Soderman, D. Sc. and John J. O'Connell. Funk and Wagnalls (New York, 1951). 557 pages, \$4.75.

When the first edition of this book appeared in 1935, it was hailed by men interested in law enforcement throughout the nation as the definitive reference work in their field. It remained so in the sixteen years that followed. Since this is true, the fact that six complete new chapters have been added by Dr. Soderman in the new fourth edition is merely added reason why this book should be the first book to be acquired for the police library in departments throughout North Carolina.

For those who are not familiar with the earlier editions, the book was written by the late Chief Inspector John J. O'Connell of the New York City Police Department and Harry Soderman, D. Sc., internationally

famous criminologist. The combined experience of these two men made it possible for them to gather between the two covers of a single book the best police techniques and acquired experience of the greatest law enforcement agencies in the world. The present revision was carried out by Dr. Soderman who is now the Chief Director of the National Institute of Technical Police in Sweden and Reporter General to the International Criminal Police Commission.

The book as it originally appeared covered almost every phase of police work in twenty four exhaustive chapters. The six new chapters deal with "Problems With Missing Persons", "Police Organizations Here and Aboard", "Elements of Toxicology", "Drug Addiction", "Some Problems of the Uniformed Police", and "Plant Protection". The questions previously scattered throughout the book have been gathered together in a new chapter at the end. In addition, the twenty three chapters retained from the earlier editions have been thoroughly reworked and brought up to date, greatly increasing the readability of the excellent material that they contain and adding the very latest developments to every subject.

Another change which has made the book easier to work with than the old was is the change in style of the print and in the quality of the paper used. The new page is easier on the eyes as well as much handsomer as an addition to a library. This book can not be too highly recommended to anyone interested in law enforcement.—R. A. M.

Plainclothesman, A Handbook Of Vice and Gambling Investigation, by Captain Frederick W. Egen, N. Y.-C.P.O. (Ret.) Grennberg: Publisher, New York, 1952, 223 pp., \$3.50.

In *Plainclothesman*, Captain Egen has succeeded in presenting in an interesting and readable fashion the problems faced by those law enforcement officers in the big cities who specialize in coping with illegal gambling and crimes against the public morals. The fact that this book deals with organized crime of the type generally considered only in connection with the nation's great centers of population does not make the book of less interest to people dealing with law enforcement in smaller cities and rural areas. F.B.I. reports show that organized criminal activity is on the upswing everywhere. The modern *modus operandi* of the gangs operating in this field often includes a headquarters maintained in some smaller

town some distance from the actual principal scene of operations.

In addition to excellent discussions of the involved and technical operations of the modern vice or gambling mob which acquaint the reader with the language of the underworld and practical methods of obtaining evidence against the criminals, this handbook contains material on the helps and hindrances which present day public attitudes regarding gambling and crimes against public morals create for the law enforcement officers working in the field. It is pointed out that the job of the officers is to enforce the law as it is, whether that law be popular or unpopular at the moment. Any other course leads to a general breaking down of respect for law enforcement.

This book would make valuable reading for North Carolina law enforcement officers. However, when considering the substantive law involved, the reader should remember that Captain Egen is a New York City policeman and that the law which he is discussing is New York law. But, when kept in mind, this fact should not detract from the value of the book to North Carolina officers since our problems are quite similar and not too much substantive law is actually discussed.—R. A. M.

The Fireman's Responsibility in Arson Detection by National Fire Protection Association International. Boston, 28 pp., 50 cents.

This paper bound pamphlet goes a long way toward filling a definite need in an area of law enforcement long neglected in the literature. In setting up the recently initiated Institute of Government training courses for firemen and law enforcement officers in the investigation of arson and other unlawful burnings, the scarcity of textual materials to which the men involved in the work could refer became painfully obvious. This book stresses the role of the fireman in the cooperative campaign which fire and police officials must organize against these crimes. It is simply and effectively written although so brief that only general rules can be set out. But it is a step in the right direction and valuable reading for all firemen and any law enforcement officer who might be assigned to an arson case.—R. A. M.

The Police Yearbook: 1952 by International Association of Chiefs of Police. Washington, 267 pp.

This volume contains the proceedings of the Fifty-Eighth Annual Conference of The International As-

sociation of Chiefs of Police held in Miami, Florida, from October 28 to November 1, 1951. The book is essentially reportorial in character, setting out the papers and reports presented in sections on arson, civil defense, cooperation, crime prevention and juvenile delinquency, education and training, legislation, public relations, traffic law enforcement and supervision, and state and provincial problems. Although giving an excellent birdseye view of problems currently of concern to the police profession, the summary nature of the articles presented makes them of limited use for research and training purposes. The articles might serve as problem raising discussions of aid to a person interested in one of the above areas in planning his further research.—R. A. M.

Land Problems and Policies. Edited by John F. Timmons and William G. Murray. The Iowa State College Press, Ames, Iowa, 1950 291 pp. This is a symposium by 16 recognized authorities in fields which must be considered in the formation of any national land policy. The core of the book is made up of lectures presented at the Land Economics Institute at Iowa State College in the summer of 1949. These materials have been rounded out by the inclusion of three lectures from the Land Problems Lecture Series of the United States Department of Agriculture Graduate School in 1949. The papers included bear chiefly upon rural land utilization. They are of interest, however, to any student of economics, conservation, and planning, and they should be of assistance to officials working in the fields of agriculture and conservation, as well as those responsible for the formation of policies.—P.P.G.

Municipal Regulation of Signs, Billboards, Marquees, Canopies, Awnings and Street Clocks—Model Ordinance Annotated. National Institute of Municipal Law Officers, 730 Jackson Place, N. W., Washington 6, D. C. 43 pp. \$3.00.

This report is of current and timely interest to all municipal attorneys and city officials interested in more effective regulations in this field, because the problems relating to these advertising structures are appearing with increasing frequency in municipalities throughout the Nation.

The study provides a compilation of all the court decisions concerning the scope and validity of sign regulations. The discussion of the court decisions is broken down into the following subheads: municipal power to regu-

late signs; permit and inspection fees; location and setback from streets, parks or exits; height and area limitations; immoral or indecent words; elimination of weeds and other obnoxious substances surrounding; classification; regulation or prohibition of existing signs; residential area restrictions; esthetic considerations; and liability of city for injuries due to fall of signs.

The model ordinance is based on a study of more than 180 current municipal ordinances. It is designed as a model in substance and general provisions, and has thirty-six (36) separate sections. At the end of the ordinance there is an annotation which discusses the reasons for and legal support for each section of the model. Additional suggestions beyond those proposed in the ordinance itself are also set forth in these annotations. The ordinance has specific individual sections covering each classification; i.e., ground signs, wall signs, roof signs, projecting signs, temporary signs, marquees, canopies, awnings, and street clocks.—P. P. G.

Survey of Marine Fisheries of North Carolina, Harden F. Taylor and Staff, University of North Carolina Press, 555 pp., \$10.00.

This volume is broken down into three categories of analysis. The first is the study of the hydrography of North Carolina's marine waters, where the chemical and physical conditions of the coastal waters are analyzed, and an attempt is made to determine the productivity of the waters. The second part of the book discusses the various known species of fish and shellfish found in North Carolina. All known facts about oysters, menhaden, shrimp, etc., are set forth; their history, habits, and economic values are discussed and their distribution in North Carolina is shown. The third part of the book constitutes almost one-half of the total volume and is concerned with the economics of the fisheries. Dr. Taylor has written this section and he stresses the need for more economic thinking in regard to the problems of fisheries. He first analyzes the living conditions in the coastal region of North Carolina, then the economics of fisheries in the United States from the standpoint of marketing and manufacturing problems, and then proceeds to deal with marketing and production problems of fisheries in the state. This is followed by a series of statistical tables which compile the economic information which is known about the fisheries.

The Attorney General Rules . . .

CLERK OF COURT

A child's mother is in the hospital and hopelessly insane. She, being mentally incapable to give consent to adoption, may the court after determining such to be the case, appoint some suitable person or the county welfare superintendent to act in an adoption proceeding as next friend to give or withhold consent?

To: Mrs. E. Cornwell

(A.G.) Insanity is not provided for in the adoption law. The consent by next friend that you mention can

The purpose of this survey was to give a starting point for further research by the Institute of Fisheries Research, as well as to provide a model summary of existing known conditions in the fisheries. It is well prepared and well presented. Any reader who is interested in fish or fishing will find this book of value. It is also highly recommended for persons living in the coastal counties of North Carolina because of the information given not only on the fishing industry, but also because of the valuable economic information given about these eastern counties.—W.T.D.

Jerome R. Hellerstein, *State and Local Taxation Cases and Materials*, New York: Prentice-Hall, Inc., 1952. Pp. xxiii, 871. \$

Those rare teachers of Municipal Corporations or Municipal Law who have expanded their courses in recognition of the growing significance of local taxation to practicing attorneys will welcome this casebook. So will teachers of general taxation who take time from their treatment of Federal Income, Gift, and Estate Taxes to give more than a few sentences in recognition of the fact that the lawyer needs to learn something about state taxation. A casebook on "state and local taxation" is in a sense, a daring innovation; local peculiarities have usually sufficed as the excuse for using only native materials in teaching state, county and city taxation. This book faces the problem of diversity squarely and demonstrates that fundamental tax questions are far less diverse than has generally been assumed. The cases and the numerous notes and problems with which they are interspersed furnish students and attorneys an extremely helpful collection of the modern decisions and recent articles in the field.—H. W. L.

only be given where the child is abandoned or where there is "no person qualified to give consent." 48-9(2). The adoption statute provides that certain persons in certain situations are authorized to give consent. 48-9 (2) refers to the situation where there are no such persons to give consent. The mother is living, she is a parent, and she qualifies within the meaning of 48-9 (2). That she cannot give or withhold consent because of her mental condition does not disqualify her, it thus is not true that there is no person qualified, and, therefore, a next friend cannot be appointed to give or withhold the consent.

CLERKS OF COURT

Fees for Reporting Convictions to the Department of Motor Vehicles. May a clerk of a municipal county court collect as a cost a 50 cent fee for reporting convictions of the motor vehicle laws to the Department of Motor Vehicles? If he does collect it, may he retain it or must it go to the general costs as do the fees of salaried officers?

To: Hon. Albert W. Cowper

(A.G.) The duty of reporting convictions to the Department of Motor Vehicles is imposed by law, and no fee is provided. Therefore no charge for performing this duty may be included in the costs. For the same reason it would not be proper for a clerk to retain a fee that had been collected for reporting a motor vehicle conviction to the Department if such a fee were collected due to a misunderstanding of the state of the law.

CLERK OF SUPERIOR COURT

Change of name. A mother wishes to change her daughter's name. The mother divorced from the father, remarried, and the second husband was killed in Korea. The father has not been seen since 1947, and has provided no support. Can the mother proceed alone under Chapter 101 of the General Statutes to have the daughter's name changed?

To: Charles A. Hostetler

(A.G.) G.S. 101-2 seems to prohibit a change of name in the situation here. The regular time which creates a presumption of death on the part of the father has not yet expired, and neither the abandonment by the father nor the divorce of the mother is a basis for the mother alone to have the child's name changed.

CLERK OF SUPERIOR COURT

Dissent by incompetent widow. If a man's will makes no mention of his wife, and at the time of his death she is a patient at the State Hospital for

the insane, whose duty is it to protect the widow's interest, and what is the duty?

To: J. E. Mewborn

(A.G.) I am of the opinion that it is the duty of members of the widow's family, or some other person interested in her welfare, to apply to the Clerk for the appointment of a guardian for the incompetent widow and that it will be the duty of the guardian to dissent from the husband's will in conformity with the provisions of G.S. 30-1.

Appointment of nonresident trustee. Where there are nonresident beneficiaries under a testamentary trust, may the Clerk of Superior Court appoint a nonresident trustee as provided in the will setting up the trust?

To: Charles C. Lamm

(A.G.) There does not appear to be any statute or case law specifically on the point. G.S. 45-9 leaves a strong implication that nonresidents are not proper parties to qualify as testamentary trustees. Although cumbersome and circuitous it appears to be advisable to proceed as in the case of a nonresident trustee under G.S. 45-9 and to have a resident appointed trustee. Then, having appointed such trustee under that section, it would be competent to employ 36-6 to have the trusteeship and the trust transferred to the appropriate nonresident trustee.

Special proceeding for custody of children. Should a proceeding for custody of children brought under the second paragraph of G.S. 50-13 be considered a special proceeding and placed in the special proceeding docket, or issued as a straight thirty-day summons and placed on the summons docket?

To: W. B. Flanner

(A.G.) The statute fixes this proceeding as a special proceeding to be heard by the judge of Superior Court. It seems that you would issue the regular summons for a special proceeding, and the law and procedure for special proceedings would apply.

Incarceration of mentally disordered persons. Do law enforcement officers have authority to incarcerate persons appearing to be suffering from some mental disorder?

To: J. Lester Wolfe

(A.G.) From reading G.S. 122-44 and 122-65, it appears that no person alleged to be a mental defective can be incarcerated unless:

(1) The affidavit described in G.S. 122-42 states that the person's condition is such as to endanger either himself or others; or

(2) The Sheriff, or person serving the warrant, believes that the alleged mentally defective is dangerous, either to himself or to others; or

(3) Immediate admission to a proper hospital is impossible after a

finding revealing a mental disorder, and the person to be admitted manifests violent and dangerous propensities.

Substitute Trustee. Where the Court accepts the resignation of a trustee in a private irrevocable trust agreement and the successor gives bond as provided in G.S. 36-17, is the successor required to file an inventory and annual and final accounts in the office of Clerk of Superior Court?

To: J. P. Shore

(A.G.) The duties of the substituted trustee are not spelled out in G.S. 36-9 through 36-18, but this office is of the opinion that the various statutes, including G.S. 28-53, are broad enough to require the successor trustee to file an inventory and annual and final accounts in the Clerk's office to the same extent as required of an original trustee.

CRIMINAL LAW, EVIDENCE

Admissibility of blood samples taken from defendant without his consent. A person is arrested by an officer of the law for operating a motor vehicle on the public highways while under the influence of some intoxicating beverage or narcotic drug. May the officer have a blood sample taken to determine its alcoholic content if the arrested person objects to such blood test being taken?

To: J. Shepard Bryan

(A.G.) I assume you refer to the admissibility of evidence obtained in the manner stated. Our cases seem to indicate that evidence of physical facts obtained from the defendant without his consent are admissible in evidence, since the constitutional immunity against self-incrimination applies only to compelling written or oral utterances from the defendant. *State v. Cash*, 219 N.C. 818; *State v. Rogers*, 233 N.C. 390. On the other hand, the use of force or violence to overcome the resistance of the defendant may be held to violate the due process clause of the Fourteenth Amendment to the U. S. Constitution. *Rochin v. California*, 72 S. Ct. 205. As a matter of policy, I would advise against compulsory action on the part of law enforcement officers.

EVIDENCE—WITNESSES

Admissibility of evidence; compulsion of non-resident witnesses. In a criminal trial which ended in a mistrial, the testimony of a non-resident of the State was material to the State's case. He now refuses to return to North Carolina to testify at the new trial, but his testimony is a matter of record, having been taken down by the stenographer during the former trial. Is this testimony given at the prior trial admissible in the second trial, and if not, can he be made to return to North Carolina?

To Solicitor James C. Farthing

(A.G.) Since this witness is a non-resident, is out of the State and is not likely to return, I think that you can use his testimony which was

taken down by the court reporter at the former trial. See Stansbury: *North Carolina Evidence*, § 145, p. 290. See also *Settee v. Railroad*, 171 N.C. 440 and *State v. Maynard*, 184 N.C. 653.

If, after examining these authorities, you have considerable doubt about the matter, I then call to your attention Article 9 of Chapter 8 of the General Statutes, beginning with § 8-65. This is the Uniform Attendance of Witness From Without State Act. Since South Carolina also has this act, you would be authorized to proceed to compel this witness to come to North Carolina under the statute.

I believe, however, that the evidence taken at the former trial is competent under the authorities cited.

GAME LAWS

Hunting License Requirements. Is a person required to buy a hunting license in order to hunt unprotected non-game animals or birds without a gun?

To: H. S. Dixon

(A.S.) G.S. 113-95 requires a hunting license in order to take any wild animals or birds. "Taking" is defined by G.S. 113-83 to include pursuing, hunting, capturing or killing animals or birds. The fact that the birds or animals are of a non-game species, or that no closed season is specified, thus rendering them "unprotected" under G.S. 113-102, or that they are hunted or pursued without a gun or other weapon would not affect the license requirements.

JUSTICE OF THE PEACE

May a Justice of the Peace elected or appointed for one township within a particular county move his business office to another township within the same county and carry on his regular judicial duties there?

To: Mr. John Flynn

(A.G.) Though G.S. 7-127 authorizes a justice of the peace to issue summons or other legal process anywhere in his county and specifically provides that he shall not be compelled to try a cause outside of the township for which he is elected or appointed, I am inclined to the view that the statutes do not contemplate a justice of the peace elected for one township establishing an office and performing a large portion of his duties in some other township. This opinion seems to be borne out by the case of *DAVIS v SANDERLIN*, 119 N.C. 84, in which the question was raised as to whether a justice of the peace, while outside his township and within the county, could issue a summons returnable before himself in his own township. The Court found that the record did not reveal that the summons was actually issued by the justice while outside his township, but Justice Montgomery, for the Court, said:

"If he issued it in the county, however, it would not have been objec-

tionable provided he heard the matter in his own township."

LIQUOR LAW

Transportation of whiskey and beer in a dry county. (1) Is it lawful for a person to transport one gallon of ABC whiskey and one case of beer into a dry county? (2) A person is arrested for public drunkenness and is found to have two or three sealed pints of ABC whiskey on his person. May the whiskey be confiscated, or must it be returned to such person upon his release from custody?

To: Terry Hall

(A.G.) (1) Possession of more than five gallons of beer is prima facie evidence of possession for the purpose of sale. But a person may lawfully bring one gallon of ABC whiskey into a dry county, provided the seals on the bottles have not been broken, and at the same time bring in a case of beer, if such beverages are brought in for his own use. (2) The provisions of G.S. 18-6 and G.S. 18-13 as to confiscation of intoxicating beverages apply only on conviction of unlawful possession or transportation. Therefore, I am of the opinion that sealed tax-paid whiskey taken from a person charged only with public drunkenness must be returned to him upon his release.

Jurisdiction of a court to try defendant arrested in another county. A person illegally transporting liquor is pursued by county officers into another county where he is apprehended. The officers take the defendant back into their own county to answer the charge. Does the recorder's court of that county have jurisdiction of the case and may it confiscate the automobile used in the offense?

To: W. B. Horton

(A.G.) G.S. 18-45 (o) authorizes any peace officer who is in hot pursuit of an offender against the prohibition laws to pursue the offender into any county of the state and there to arrest him, so long as the hot pursuit shall continue. In the case put, the person arrested has violated the prohibition laws in both counties, and the courts of either county have jurisdiction to try the case and to confiscate the defendant's automobile. Of course, there can be but one confiscation, and the proceeds go to the school fund of the county effecting such confiscation.

Authority to Prohibit Sunday Sales of Beer. A county passes a resolution under authority of G.S. 18-107, to prohibit the sale of beer on Sunday. A municipality within the county has not passed an ordinance to prohibit such Sunday sales. Is it unlawful to sell beer on Sunday within the municipality?

To: Charles H. Manning

(A.G.) No. The power of a municipality to prohibit the sale of beer on Sunday within the corporate limits under G. S. 18-107 is exclusive.

ABC BOARDS

Expenditure of Enforcement Funds for Education. Does a county ABC Board have authority, under the general ABC law, to expend a part of its reserve for law enforcement in an educational program as to the harmful results from abuses of alcohol?

To: R. H. Hefner

(A.G.) The Department of Education established by the Rowan County ABC Board for this purpose is authorized by a special legislative act. However, I am informed that the Guilford County ABC Board has been spending about \$1,000 a year in the distribution of circulars, folders and placards with the same educational objective. While the general law does not contain any express authority to use ABC profits for educating the public as to the harmful effects of alcoholic beverages, I believe that a modest program of the character which is now followed in Guilford County would be free from criticism and might possibly be sustained as implied from the nature of our general ABC law, the purpose of which is to control the sale of alcoholic beverages.

Expenditure of Enforcement Fund.

Does a county ABC Board have authority to purchase and install a police radio system in the Sheriff's office or to contribute to the cost of operation of such a system if it is to be used by ABC officers as well as the Sheriff's department?

To: Thomas A. Banks

(A.G.) G.S. 18-45 (o) would seem to authorize such expenditures within the 10% limit there defined so long as the equipment is used in connection with the enforcement of the prohibition laws. If such equipment is purchased by the ABC Board, the title should be retained by that Board in order to eliminate any future question.

MOTOR VEHICLE LAWS

Driver License Requirement for Mail Carriers. Does a mail carrier who uses a rented automobile for the purpose of delivering the United States mail and parcel post need a chauffeur or operator's license?

To: Wallace J. Harlow

(A.G.) The case of *Johnson v. Maryland*, 254 U.S. 51, in the Supreme Court of the United States, held that a state could not require a driver's license of a person employed to deliver the United States mail. Therefore, neither an operator nor chauffeur's license is required. However, as pointed out in that case, mail carriers are subject to the traffic laws of the state in which they operate. Also, a license is required for a mail carrier who operates a motor vehicle for a purpose other than his official duties.

Overloading Penalties. Does the Commissioner of Motor Vehicles have discretion to waive or reduce the overloading penalty if he is satisfied that the violation was unintentional?

To: W. B. Spry

(A.G.) The statute makes the penalty mandatory and leaves the

Commissioner no discretion in assessing the penalty. Therefore, he may not waive or reduce it despite the fact that the violation may have been unintentional.

Revocation for Two Convictions of Reckless Driving. A driver was convicted in September 1951 of reckless driving. Less than a year later he was again convicted of reckless driving, this time by a Justice of the Peace. May the Department of Motor Vehicles revoke his operator's license for two convictions of reckless driving within a year as provided by G.S. 20-17?

To: Hon. L. R. Fisher

(A.G.) A Justice of the Peace has jurisdiction over criminal offense where the punishment may not exceed a fine of fifty dollars or imprisonment of thirty days. Since the maximum punishment for reckless driving is a fine of \$100.00 or imprisonment of sixty days, reckless driving is not an offense within the jurisdiction of a Justice of the Peace. Consequently, the last conviction is void and the department may not revoke the license in this case.

MUNICIPAL CORPORATIONS

Depository for town funds. Does the mayor of a town have the power to select a depository for town funds or does this power rest solely with the town governing body?

To: Frank T. Grady

(A.G.) It is my opinion that the power to select a depository for town funds lies in the governing body of the town. See G.S. 160-409 making G.S. 153-135 applicable to cities and towns.

MUNICIPALITIES

Appointment of Police Officers. Does a Town Board have the authority to delegate to a Police Commissioner the power to appoint and discharge police officers?

To: Nelson B. Smith

(A.G.) (1) The General Statutes place upon the Town Commissioners the duty of appointing and discharging police officers. G.S. 160-9 and 160-20. If the provisions of the town charter also place this duty on the Town Commissioners, it cannot be delegated to a subordinate official, such as a police commissioner.

(2) It has been held that a municipality is not liable for the negligence of police officers in the performance of their duties. *Gentry v. Hot Springs*, 227 N.C. 665. However, if policemen appointed by a police commissioner without authority were guilty of negligence resulting in injury to a citizen or his property, there is reason to believe that the commissioner would be personally liable for their acts.

Street Assessments. May a city levy street assessments against property owned by a hospital authority?

To: John D. Shaw

(A.G.) Even though property belonging to a hospital authority is exempt from ad valorem taxation, it is my opinion that street assessments may be properly levied against property owned by a hospital authority.

This opinion is based upon the reasoning of the court in *Raleigh v. Public School System*, 223 N.C. 316, at page 319.

Closing City Streets. How may a city close a street?

To: Harvey Hamilton, Jr., and Mrs. Mary F. Howard

(A.G.) Under G.S. 160-200(11) specific authority is given to municipalities to close any street or alley that is now or may hereafter be open. I think the only procedure necessary to effectuate the closing of a street would be the adoption of an ordinance by the governing board of your Town to that effect.

This would not mean, however, that the town might not be liable in damages to any property owner abutting on the street who was injured by the closing of the street. The courts have held in such circumstances that the municipality would be liable for injury or damage.

Sentencing Female Felons Under 18 Years of Age. May female persons under 18 years of age convicted of a felony be sentenced to Central Prison at Raleigh?

To: R. Brookes Peters

(A.G.) G.S. 148-27 provides that no woman prisoner shall be assigned to work under the supervision of the State Highway and Public Works Commission whose term of imprisonment is less than six months or who is under 18 years of age. G.S. 148-27 also refers to women prisoners who are convicted for offenses, whether felonies or misdemeanors, who may be assigned to the women's division of the State's Prison. G.S. 148-28 gives the judges of our Superior Courts "express authority in passing sentence upon persons convicted of a felony . . . to sentence such person to the central prison at Raleigh." This would be applicable to all cases of felonies. It is, therefore, my opinion that the Courts would have a right to sentence a woman prisoner under 18 years of age who had been convicted of a felony to the State's Prison. If the State's Prison should see fit to transfer the prisoner to the women's division after having been so sentenced, I believe they would have a right to do so.

REGISTER OF DEEDS

Reports of separation from the armed services required to be recorded as discharges. G.S. 47-109 requires that Registers of Deeds record official discharges from the armed services. Many service personnel receive only reports of separation from the armed services; others receive official discharges which may be preceded by the receipt of a report of separation. Is the Register of Deeds required to record reports of separation in lieu of or in addition to official discharges?

To: Eunice Ayers

(A.G.) A report of separation is, in effect, the same thing as an official discharge. The Register of Deeds should record either or both of these two types of papers when offered for registration.

Time of filing for registration. A person leaves an unprobated deed of trust with the Register of Deeds to be recorded. The Register of Deeds delivers it to the Clerk of Superior Court for probate and the order for registration. The probated instrument is received by the Register of Deeds on the third day after it was left with him. When is the effective time of filing for registration?

To: J. P. Bunn

(A.G.) It is the duty of the person desiring registration to have the instrument probated and to secure the order for registration. If the Register of Deeds does this for such person, he does it as a private person and not as a duty of his office. An instrument is not effectively delivered for registration until it is received in the office of the Register of Deeds in such form as to admit of registration.

Indexing Sheriff's Deed. Does a Register of Deeds have the right to index a Sheriff's deed conveying real property in a tax foreclosure proceeding in the name of the former owner?

To: J. D. Potter

(A.G.) While G.S. 161-221 expressly includes only execution deeds by the Sheriff, it seems that the intent of the statute is to authorize, if not actually require, the Register of Deeds to index and cross-index such instruments not only in the name of the Sheriff, but also in the name of the former owner.

Delayed Marriage Certificates. May a marriage certificate be issued when the minister or other person performing the marriage ceremonies has failed to return the marriage license to the issuing Register of Deeds as required by law?

To: M. Ballard Bunn

(A.G.) G.S. 51-21, enacted in 1951, authorizes the Register of Deeds in such a case to issue a delayed marriage certificate upon being furnished with one or more of the following:

(1) The affidavit of at least two witnesses to the marriage ceremony;

(2) The affidavit of one or both parties to the marriage, accompanied by the affidavit of at least one witness to the marriage ceremony;

(3) The affidavit of the minister or other person authorized by law who performed the marriage ceremony, accompanied by the affidavit of one or more witnesses to the ceremony or one of the parties thereto.

The delayed certificate must contain the date of the delayed filing and the date the marriage ceremony was actually performed.

Marriage Laws. Is a marriage performed by a minister in a county other than the county in which the license was issued valid?

To: Marshall Watterson

(A.G.) While the action on the part of a minister in marrying persons in a county other than that in which the license was issued appears to be a violation of G.S. 51-6, it would not invalidate the marriage.

Execution and Acknowledgement of Deeds. Is a deed signed with a lead pencil and acknowledged before a Notary Public valid?

To: George E. Sprinkle

(A.G.) There is no legal requirement that a deed be signed in ink. A valid deed may be executed by a competent grantor with a lead pencil. Under G.S. 10-4, a Notary Public may take the acknowledgment or proof of any instrument except those deeds or contracts between a husband and wife specified in G.S. 52-12, as amended by the 1951 General Assembly.

SHERIFFS

Claim and Delivery. Must an officer hold property seized under a claim and delivery for three days if the defendant is willing for the property to be turned over to the plaintiff?

To: George A. Gash

(A.G.) In view of G.S. 1-477 and G.S. 1-478 it is my opinion that the officer should comply with these statutes even though the defendant is willing for the property to be turned over to the plaintiff.

VITAL STATISTICS, BIRTH CERTIFICATE, LEGITIMACY

Husband presumed to be father of child born or conceived in wedlock. A child is born to a wife who has been separated from her husband. The physician refuses to enter the husband as father of the child on the birth certificate, but instead enters "unknown." In such a case, what steps should be taken by the registrar of vital statistics?

To: Charles R. Council

(A.G.) Under the law of this state, a child is presumed to be legitimate if it is either born or conceived in wedlock, until it is proved otherwise before a court of competent jurisdiction and a judgment declaring the child illegitimate is pronounced. Under such circumstances, neither the attending physician nor the State Board of Health is authorized to determine whether or not the child is legitimate or illegitimate. If the physician refuses to furnish the required information, I suggest that the local registrar obtain reliable information, to be signed, dated and witnessed, as to the exact status of the marriage. If it appears that the child was born in wedlock, the name of the husband should be entered as the father, and this should remain on the certificate until changed by a court judgment.

WELFARE

Father, mother and their children lived in Forsyth County. Mother deserted, and the children were made wards of the Forsyth County Juvenile Court and placed in a boarding home there. Father has moved to Wilkes County and become a resident there.

What is the legal settlement of the children?

To: Mrs. E. Winston

(A.G.) Assuming the children to be legitimate, if the father has acquired legal settlement in Wilkes County, the settlement of the children is Wilkes County under G.S. 153-159 (3), which states: "Legitimate children shall follow and have the settlement of their father, if he has any in the state, until they gain a settlement of their own; but if he has none, they shall in like manner follow and have the settlement of their mother, if she has any." The fact that the Forsyth County Juvenile Court assumed jurisdiction over the children, under G.S. 110-21, does not affect the problem of legal settlement at all.

What is the youngest age at which children can be employed at a Tubercular Sanatorium?

To: H. S. Willis

(A.G.) G.S. 110-1 provides ". . . that minors between fourteen and sixteen years of age may be employed outside school hours and during school vacations, but not in a factory or in any occupation otherwise prohibited by law; . . ." In addition G.S. 110-7 states in part: "Nor shall any minor under eighteen years of age be employed, permitted, or allowed to work in any place of employment, or at any occupation hazardous or injurious to the life, health, safety or welfare of such minor." Inasmuch as Commissioner Shuford of the State Department of Labor informs me that work at a tubercular hospital has not been classified as being hazardous or injurious to health, it is my view that under these sections the youngest age at which a child can be employed at such a hospital is fourteen years. However, as a matter of policy, I would not employ children younger than sixteen years.

Physicians are occasionally confronted with requests from individuals who, for economic or other reasons having nothing to do with the individual's mental state or with any physical threat to mothers and children of childbirth, desire sterilization. May a doctor legally perform such an operation?

To: W. H. Patton, Jr.

(A.G.) The only specific authorization for the operations of sterilization and asexualization under North Carolina law is contained in G.S. 35-36 through 35-57, which deals with those operations and their performance upon feeble-minded, mentally diseased, and epileptics. G.S. 35-52 provides: "Nothing in this article shall be construed so as to prevent the medical or surgical treatment for sound therapeutic reasons of any person of this State, by a physician or surgeon licensed in this State, which treatment may incidentally involve the nullifica-

The Attorney General's Rules

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tion or destruction of the reproductive functions." G.S. 14-29 makes it a felony for any person to maim without malice aforethought, when the act is unlawfully done. I find no cases in this jurisdiction or elsewhere involving civil or criminal liability for the performance of an operation under the circumstances stated in the question. It is my opinion, however, that the Court would rule, in the absence of sound therapeutic reasons, that there was some liability even in the case of consent by the party upon whom the operation is performed.

Rural Zoning

(Continued from page 6)

1. Agricultural Experiment Station, 1948, p. 4.
2. For a detailed soil map note examples such as the map for Eaton County, Michigan, found in *LAND CLASSIFICATION IN THE U.S.*, National Resources Planning Board, U.S. Gov't Printing Office, Washington, D. C., 1941 p. 58.
3. Extension Service of the College of Agriculture, University of Wisconsin; "Langlade County", April, 1934, p. 62. Underlining added.
4. *Ibid.*, p. 64.
5. Rowlands, W., etc., p. 8.
6. Langlade County, Wisconsin had a per pupil cost of 1½-2 times as high in the schools in the forest districts as those in the other areas of the county. Note the publication of the Extension Service of the College of Agriculture, University of Wisconsin entitled, "Langlade County", April, 1934, p. 57.
7. Indiana Economic Council, "A Suggested Forest Policy", Bult. No. 9, June 1947, p. 14. Although these statistics apply to a program of purchase of land the savings would ultimately be as great under rural zoning.

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Clearinghouse

(Continued from page 2)

Nine More Cities Adopt City Manager Form Of Government

Voters in nine cities approved the adoption of the city manager form of government in October and November elections, the International City Managers' Association reports.

This brings the total of cities and counties with city manager form of government in the United States and Canada to 1,124.

The nine cities adopting the city manager form of government are Santa Ana, Calif., pop. 45,000; Evanston, Ill., pop. 73,000; Oak Park, Ill., pop. 63,000; Westchester, Ill., pop. 4,000; Wood River, Ill., pop. 10,000; Hopkinsville, Ky., pop. 12,526; Arlington, Mass., pop. 44,000; Bemidji, Minn., pop. 10,000, and Tacoma, Wash., pop. 143,000.

Four cities where proposals to abandon the city manager form of government were defeated are Holton, Kan.; Brookfield and Nevada, Mo.; and Ashland, Wis. However, in eight other municipalities - San Bernardino, Calif.; New Haven, Conn.; Topeka, Kan.; Moline, Ill.; Prince Georges County, Md.; Boonton, N. J.; Circleville, Ohio, and King County (Seattle), Wash. - proposals to adopt the city manager form of government were defeated.

More than one-third of all cities in the United States over 25,000 population now have the city manager form of government, and almost one-third of all cities between 10,000 and 25,000 population have this form of government.

(Continued next column)

1952 Elections

(Continued from page 9)

been put into effect to solve this problem, but the problem of financing such arrangements has caused some difficulty. Should such reporting be a public expense?

This does not purport to be a complete catalogue of the election problems raised in the weeks before November 4, but it will serve to point out some of the principal puzzles. With two sessions of the legislature before the next presidential election, North Carolinians have a chance to think about these matters calmly and make needed changes before 1956.

There are more council-city manager than mayor-council or commission-governed cities in the 50,000 to 100,000 population group and in the 250,000 to 500,000 group.

Seventeen counties in the United States that have the county manager plan are Sacramento, San Mateo, and Santa Clara counties, Calif.; Fulton County, Ga.; Anne Arundel and Montgomery counties, Md.; Petroleum county, Mont.; Monroe County, N. Y.; Durham and Guilford counties, N. C.; McMinn county, Tenn., and Albemarle, Arlington, Elizabeth City, Fairfax, Henrico, and Warwick counties, Va.

Most Cities Carry Insurance Policies

Most cities have fire and extended coverage insurance policies, according to a survey of the insurance practices of 90 cities recently completed by the Municipal Finance Officers Association.

The survey showed that most cities are aware of the insurance practices that provide adequate coverage at lower rates - co-insurance, frequent appraisals, and extended term.

Fifty-eight of the cities surveyed have policies with a co-insurance clause, and only eight cities insure at full value without co-insurance. Most cities co-insure at a single percentage. Of the cities surveyed, 32 cities co-insure at 80 percent, 20 at 90 percent, and one city at 50 percent.

Nearly all of the cities surveyed have had appraisals made for insurance purposes within the past five years. Half of the cities have had such appraisals within the last two years. A wide variation was reported as to the frequency of reappraisals, but the majority have a definite policy of periodic reappraisal.

Most of the cities surveyed take advantage of rate reductions made possible by writing insurance for periods longer than one year. Half of the cities write insurance for a three-year period and the other half for a five-year period. Only five of the cities surveyed obtain insurance on an annual basis, and only one city obtains insurance every two years.

Total premiums paid for five years by 66 United States cities were \$3,303,000. Total losses recovered during the same period were \$1,778,000 or a loss ratio of 54 percent. Almost 60 percent of the total loss occurred in Phoenix, Ariz., Baltimore, Md., and Richmond, Va. Of the cities reporting, 34 had loss ratio of less than 10 percent, and 17 cities reported no losses.

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