

Popular Government

September 1953



Annual Conference — Assistant and Deputy Clerks of Superior Court

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



TABLE OF CONTENTS

THE CLEARINGHOUSE	1
Noter from North Carolina Counties	5
Notes from North Carolina Cities	7
PUBLIC SCHOOLS AND MENTAL CARE	9
INTERSECTION ZONING	10
THE ATTORNEY GENERAL RULES	12

COVER

The cover picture shows the Assistant and Deputy Clerks of Superior Court at their second annual conference held in Chapel Hill at the Institute of Government on August 7 and 8. This Association was formed for the purpose of permitting the Assistants and Deputies to go to school and to meet together to discuss common problems. In many counties it is not possible for the Clerk and his Assistant or Deputy to be away at the same time, when the schools for Clerks are held.

THE CLEARINGHOUSE

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

City-County Cooperation

Every year at budget-making time, a number of boards of county commissioners and the governing bodies of cities within their boundaries meet together to work out the financing of jointly operated activities. Some of these joint activities are described below, but the list does not represent all of the arrangements currently in existence, nor all of the governments carrying on joint activities.

Durham County and the city of Durham jointly finance two libraries, a juvenile court, and a health department. The city pays two-thirds of the cost of the libraries and the county one-third; the county pays 60% of the cost of the juvenile court; and the health department is financed on a 50-50 basis. In addition, joint appropriations are made for the veteran's service office, the Raleigh-Durham Airport, the Salvation Army, the National Guard, and a children's home. In recent years, the county tuberculosis sanatorium, the county fire department, and the department of hospitalization were financed jointly but the county has now taken over sole financial responsibility for these activities.

Mecklenburg County and the city of Charlotte finance the domestic relations court, the weights and measures office and the full-time office of the elections board on a 50-50 basis. The city pays 35% of the cost of the tax supervisor's office, and in turn the county does all the tax listing and prepares tax bills for the city. In addition, the county pays around \$22,000 per year to the city for services rendered to rural residents by the city health department. Several years ago, the city shared with the county the cost of charity hospitalization and charity maternal care, but the county has now taken over full financial responsibility for those services to all residents of the county. Up until this year, the county and the city jointly shared costs of the industrial home for women prisoners, but this activity has ceased and the industrial home property has been leased to Alcoholics Anonymous for use as a "drying-out center" for alcoholics.

Forsyth county and Winston-Salem have a joint city-county tax collection office and a city planning department. In addition, they share the costs of two detention homes, they make joint contributions for civil defense and alcoholic rehabilitation, the county makes a contribution to the city library, and the county feeds city jail prisoners. Cooperation has recently been begun in connection with the county and city hospitals. Winston-Salem operates both a white hospital and a negro hospital, while the county operates a small 35-bed hospital in conjunction with the county home. A recent arrangement between city and county provides that

the staff of the white city hospital will take over responsibility for all medical work at the county hospital, leaving administrative responsibility in the hands of the county health department. The county will pay the city an amount equal to the salaries paid the two full-time city hospital doctors who will work at the county institution. Moreover, when major surgery is required for patients at the county hospital, they will be transferred to the city hospital, the county paying \$5.00 per day plus the cost of drugs.

Guilford County makes appropriations to the two Greensboro city libraries. It also finances a joint tax



James Spencer Love was awarded the honorary degree of Doctor of Laws by the University of North Carolina at Chapel Hill, on 8 June, 1953.

CITATION:

JAMES SPENCER LOVE, North Carolinian in ancestry and the Woman's College. Forward-looking, energetic, and capable, he born in Cambridge, Massachusetts, manifests enlightened leadership in business, intelligent devotion to humanitarian causes, and a deep and abiding interest in the welfare of this University. It is altogether fitting that the faculty to which Charles Phillips, long a professor his father and his great-grandfather and Chairman of the Faculty when the University re-opened its doors loyal son of Carolina.

in 1875. Obtaining his A.B. degree from Harvard, he immediately entered the first World War, where as a major in the infantry he was cited by General Pershing "for exceptionally meritorious and conspicuous services." Beginning in 1919 as a textile manufacturer, he, by his vision and acumen, has built up into one of the leaders in the field of textiles the great Burlington Mills chain, and now serves as Chairman of the Board. Honored by positions of responsibility in many national organizations in the field of business, both public and private, he has yet found time to devote to educational, civic, and religious affairs. As Trustee of the University of North Carolina, and one of the founders and always an active director of the Business Foundation of North Carolina, he is a moving spirit in the councils of this and of our sister institutions,

collecting office with the city of High Point, the county tax office for the three south-western townships being responsible for collecting High Point taxes as well as the county taxes in the three townships. The city pays 45% of the cost of the office. Moreover, the county and High Point have under consideration a joint county-city office building in the latter city.

New Hanover County and the city of Wilmington jointly finance two hospitals, two libraries, the county health department and the veteran's service office, and they both make a contribution to the National Guard. The county pays two-thirds of the cost of the hospitals and the health department, and the other activities are financed on a 50-50 basis.

Wilson County and the city of Wilson jointly finance two libraries and the health department, the city paying about 55% of the costs.

Wake County takes care of city prisoners, housing them in the county jail and charging the city for their care. The cost of this service to the city is something over \$10,000 per year. Wake County is taking over full financial responsibility for the domestic relations court and the health department activities that in recent years had been supported by joint city-county appropriations. Along this same line, New Bern has given notice to Craven County that 1953-54 will be the last fiscal year in which the city will join in support of the Craven County health department. In the past, county and city have financed the health department on a 50-50 basis.

Budgets for 1953-54

Municipal budgets for 1953-54 have been adopted, and a brief survey shows that municipal officials are in substantial agreement on financing principles for the next fiscal year.

Preservation of the status quo is the prevailing attitude toward tax rates. No city shows a substantial increase in its tax rate, and in most cities where decreases have been voted, the decrease has been made possible by a revaluation of property and a consequent increase in property values. For example, High Point reduced its total tax rate from \$1.50 to \$1.10, Greensboro from \$1.57 to \$1.15, and Winston-Salem from \$2.30 to \$2.00, all following increases in property values.

Most budgets, however, call for slightly greater expenditures than

during 1952-53, principally because some sources of revenue (such as Powell Bill funds) are higher than in the last fiscal year and because there is a general small increase in property values.

In keeping with no new tax increase, there were no significant trends toward higher salaries for municipal employees, although there were many instances of salary adjustments to make salary plans more equitable. Greensboro, for example, increased its appropriations for salaries by \$115,000 for the year to incorporate recommendations made by Public Administration Service in its personnel study of city government last fall. Dunn cut back some new services in order to grant a 2½% pay increase for its employees.

Many of the larger cities are continuing the policy of appropriating current revenues for less expensive and recurrent capital improvements, and some of the smaller towns are picking up the policy. Such a policy if based on a plan for meeting capital improvements needs tends to eliminate some of the need for periodic bond issues.

Local Units Receive Largest Gasoline and Intangibles Tax In History

North Carolina cities and counties have received their largest checks in history from state agencies handling distribution of state-collected revenues. The State Highway Commission is distributing \$5,244,143 to 39½ cities and towns from the proceeds of one-half cent of the state's gasoline tax. This distribution compares with allocations of \$4,948,842 in 1952 and \$4,543,096 in 1951.

Actual collections in 1952-53 were \$5,246,987.56 of which 1% was withheld temporarily to cover possible mistakes in allocations, but at the same time the 1% withheld in 1952 was added to the 1953 distribution. One-half the amount was allocated on the basis of population, \$1.72 for each of the 1,521,495 people resident in cities eligible for the funds. The other half was allocated on a street mile basis—\$468.50 for each of the 5,596.72 miles of non-highway system streets within municipal borders.

Largest share, \$384,061, again went to Charlotte, North Carolina's largest city and the city with the most mileage of city-maintained streets. Winston-Salem, Greensboro and Durham

all received in excess of \$200,000. Smallest share, \$394, went to Folkland, in Pitt County, although 300 of the checks were for less than \$10,000.

Counties and municipalities receive 80% of the state-collected taxes on intangibles such as bank accounts and stock holdings. Of the total amount collected—\$4,750,629—\$3,800,503 was returned to cities and counties. Largest share in this fund also went to Charlotte (\$258,994), while Guilford County received the largest county share (\$183,732).

Bond Sales

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

Craven County, \$400,000 school bonds, 4.39%; Haywood County, \$500,000 school bonds, 3.21%; Lenoir County, \$410,000 hospital bonds, 2.39%; McDowell County, \$500,000 school bonds, 2.95%; New Hanover County, \$1,000,000 school bonds, 3.28%; Polk County, \$28,000 refunding bonds, 3.75%; Vance County, \$535,000 school bonds, 2.87%; and Watauga County, \$23,000 refunding bonds, 2.75%.

Dallas, \$100,000 water and sewer bonds and \$50,000 street improvement bonds, 4.30%; Grifton, \$60,000 water and sewer bonds, 4.65%; North Wilkesboro, \$808,000 water bonds, 4.20%; Oxford, \$175,000 water bonds, 2.97%; Robbins, \$59,000 water and sewer bonds, 3.95%; Spray, \$850,000 water and sewer bonds, 4.66%; Wallace, \$220,000 water and sewer bonds \$18,000 fire truck bonds and \$60,000 municipal building and improvement bonds, 4.69%; Washington, \$1,125,000 water and sewer bonds, 3.97%; and Winston-Salem, \$440,000 water and sewer bonds, 2.70%.

Winston-Salem Pioneers Newspaper Report

Winston-Salem has become the first North Carolina city to use a newspaper supplement for its annual report. In the Sunday edition of the Winston-Salem Journal Sentinel on August 30, a sixteen-page supplement paid for by the city contained an annual report to the people of Winston-Salem for the year ending June 30,

1953. Photographs, charts, and tables supplemented the text of the attractive report.

Water and Sewer Extension Policies

North Carolina cities and towns are looking long and hard at their policies for extending water and sewer services to persons outside the city limits. There is concern over whether the city is breaking even on the cost of these services and whether extension of services is not discouraging possibilities of annexation of fringe areas.

Durham is engaged in a very careful study of outside rates and the city has proposed new rates based on the cost of supplying water and sewer services. Because the proposed rates are more than 50% in excess of existing outside rates, and because they will apply to areas which the city wants to annex in the next few months, the city council has held off approving the policy at the request of the outside users. Consultation between representatives of the outside users and city officials is taking place.

Down in Rockingham the city's proposal to issue \$175,000 in water bonds has been restrained in a court action by a taxpayer on the grounds that the additional facilities are designed to take care of non-resident customers of the city water department. The outcome of the case will be of interest to all municipalities.

Meanwhile Salisbury's council has increased water rates for both city dwellers and outside residents. The increases follow a study of water department operations and vary, according to types of service, from 21 to 55% for city residents and up to 100% for outside residents. Forest City, also following a study of its water system, has upped its minimum rate for users outside the city from \$1.25 for the first 3000 gallons to \$2 for the same amount. A new sliding scale for additional amounts has also been introduced. On July, Dunn increased its rates for non-resident users from a minimum of \$2 to \$3, and for consumption in excess of the minimum from 70c per 1000 gallons to \$1 per 1000 gallons.

Winston-Salem city officials have recommended to the council that all out of town users pay an additional fee of \$150 for a water connection, to compensate for city taxpayers who are financing water main construc-

tion. This fee will be in addition to the usual cost of a water connection. High Point has also increased the fee for outside water connections from \$110 to \$150.

Three cities have recently taken action to close loopholes in water and sewer charges by fixing fees for sewer service where the user does not also get city water. Winston-Salem has fixed its charge at \$12 a year, Raleigh at \$15 a year, and Durham has under consideration a charge of \$5 per month.

A Formal Inauguration

Induction of a new city council into office is the occasion for a ceremony in Raleigh. At the first meeting of the newly-elected council on July 1, 1953, a formal inauguration was held. Following the invocation by Dr. E. McNeill Poteat of the Pullen Memorial Baptist Church, the Honorable Emery B. Denny, Associate Justice of the Supreme Court of North Carolina, administered the oaths of office to the councilmen and the council convened to elect Fred B. Wheeler as mayor for the next two years. The Honorable W. C. Harris, resident judge of the 7th judicial district then administered the oath of office to City Judge Albert Doub. Dean Carroll W. Weathers of the Wake Forest Law School was recognized for an inaugural address in which he charged councilmen and the judge on the importance of their duties. Dr. Poteat closed the meeting with the benediction. Formal programs were prepared for the ceremony and the council chamber was decorated with flowers. All arrangements were under the direction of City Clerk and Treasurer Palmer Edwards.

Redevelopment

Urban redevelopment programs in North Carolina cities are dead, for another two years at least. The Federal Housing and Home Administration notified the active redevelopment commissions in the state this summer that no more federal funds would be spent in North Carolina because of limitations in the state's redevelopment law. Efforts made by the commissions to have the restrictions removed in the last General Assembly were unsuccessful. All the commissions have now resigned.

Traffic Safety

Motor Vehicles Commissioner Ed Scheidt's request to the citizens of

North Carolina to assist in enforcement of the motor vehicle laws by reporting the license number of violators observed, along with a description of the vehicle and the date and place of occurrence, has drawn widespread comment from editorial writers over the State. The comment was generally favorable to giving the plan a try.

Other new highway safety policies reported in the newspapers involved a compulsory school for traffic violators in Wake County; additional purchases of radar and electrical timing devices by the State Highway Patrol; contemplated use of some highway patrol cars with ordinary, non-distinguishable colors; and a call by Commissioner Scheidt for compulsory driver training in high schools.

Anti-Noise Law Enforcement

Early in the summer Wilmington's police department began strict enforcement of its anti-noise ordinance with particular emphasis on trucks using the city's streets. When the first violators were brought into court, one driver was found not guilty on the basis that the truck was equipped with factory-approved mufflers and the solicitor nol prossed the remaining cases on the docket. Apparently stymied in their campaign, the police department investigated further and discovered that actually many of the mufflers had been so altered after installation that their capacity to reduce noise was impaired. Again violators were brought into court, this time the evidence was sufficient, and seven of the first nine defendants pleaded guilty. Information from the port city is that the city's streets are quieter as the truck owners are repairing their mufflers.

Lists of Building Permits

North Carolina officials interested in comparing the rate at which housing is being provided locally with construction activity elsewhere can find this information in "New Dwelling Units Authorized by Local Building Permits," issued monthly by the Bureau of Labor Statistics of the U. S. Labor Department.

The Bureau is particularly interested in securing reports of per-

mits from cities and towns not now included in its publication. Building inspectors may secure copies of report forms from the Bureau, together with copies of its reports for 1950-1953.

Pump Operators' School

Firemen of the state have been invited to attend a new Pump School for fire department pump operators in Charlotte, 28-30 September. Sponsored by the Executive Committee of the North Carolina State Firemen's Association, the school will replace a similar course which has been held in conjunction with the annual North Carolina Fire College and Drill School.

The program of the new school will consist of a three-day course of instruction given once each year for three years. A credit card will be issued at the end of the first and the second year. Upon satisfactory completion of the third year a diploma will be awarded by the Association.

County Commissioners' And Accountants' Convention

The State Association of County Commissioners and the State Association of County Accountants held their annual convention in Asheville from June 22 to June 24. Around 200 people registered and heard the following speakers:

W. E. Easterling, Secretary of the Local Government Commission, discussing local debt in North Carolina; Nathan H. Yelton, Secretary of the Teachers' and State Employees' Retirement System, Secretary of the Local Governmental Employees' Retirement System, and Director of the Public Employees' Social Security Agency, discussing retirement plans for public employees; Henry W. Lewis and John Alexander McMahan, Assistant Directors of the Institute of Government, discussing 1953 legislation of interest to county officials; David S. Weaver, Director of Extension at North Carolina State College, discussing farm demonstration work; and Dr. Ellen Winston, Commissioner of Public Welfare, discussing some of the aspects of the public assistance programs.

Dr. Winston in her address offered a number of suggestions to the coun-

ty commissioners for their consideration, including (1) appointing a county commissioner to the county welfare board in order to bring about a closer relationship between the board of commissioners and the welfare board, or if it is not feasible to appoint a commissioner to the welfare board, appointing one or two commissioners as a committee responsible for liaison between the two boards; (2) amending the law to provide that the term of office of members of the county welfare board expire on July 1 instead of April 1, thus allowing the old member to stay on the board until the budget is completed; (3) amending the law to provide that counties may, if the board of county commissioners so desires, have a five-member county welfare board instead of a three-man board; (4) amending both Federal and State laws so that persons in county homes would be eligible for old age assistance or aid to the permanently and totally disabled, thus lightening the financial burden on the counties for the support of these people; and (5) providing an advisory committee from the State Association of County Commissioners to work with the State Department of Public Welfare in areas of mutual concern.

At the final session, the State Association of County Commissioners asked the State Highway and Public Works Commission to provide additional beds in the prison department at North Carolina Sanatorium at McCain to take care of health law violators who will not voluntarily accept treatment for tuberculosis; resolved against the proposed expansion of Fort Bragg into a large additional area of Hoke County; and elected all past presidents to honorary membership in the Association.

Officers of the State Association of County Commissioners elected for the coming year are Lloyd C. Amos, Guilford County, president; A. D. Williams, Wilson County, first vice-president; P. K. Dry, Rowan County, second vice-president; and J. Henry Vaughan, Nash County, executive secretary-treasurer. Members of the new board of directors (one from each of 14 districts which are coterminous with the 14 new Highway Divisions) are: John E. Boone, Northampton County, 1st District; W. L. Dail, Craven County, 2nd District; Ralph Horton, New Hanover County, 3rd District; R. P. Holding, Johnston County, 4th District; A. W. A. Williams, Granville County, 5th

District; L. E. Ray, Cumberland County, 6th District; Robert Forrest, Orange County, 7th District; J. M. Pleasants, Moore County, 8th District; Wally Dunham, Forsyth County, 9th District; Kemp Armfield, Union County, 10th District; Stuart Lingle, Caldwell County, 11th District; B. C. Robertson, Iredell County, 12th District; W. Paul Carpenter, Rutherford County, 13th District; and Jennings A. Bryson, Jackson County, 14th District.

One of the first actions taken by the new president of the county commissioners was the appointment of a legislative research committee to examine into all matters affecting county government and to prepare a legislative program for consideration by the association at its next convention. Members of the committee are J. C. Ellis, Nash County, chairman; Frank Kenan, Durham County; Wally Dunham, Forsyth County; C. C. Francis, Haywood County; M. Brown Hodges, Pitt County; P. K. Dry, Rowan County; and L. E. Ray, Cumberland County.

Officers of the State Association of County Accountants elected for the coming year are Roy J. Moore, Union County, president; Charles H. Metcalfe, Rutherford County, first vice-president; Miss Flora Wyche, Lee County, second vice-president; and Mrs. J. C. Spencer, Caldwell County, secretary-treasurer.

Wrightsville Beach was selected as the site of next year's convention.

Assistant and Deputy Clerks of Court Meet

The second annual conference of the Association of Assistant and Deputy Clerks of Superior Court was held at the Institute of Government in Chapel Hill on August 7 and 8. A total of twenty-six Assistant and Deputy Clerks plus two Clerks registered for the conference. The President of the Association, Mrs. Quin D. Meyer of Franklin County, presided over a program consisting of: a round table discussion on problems in the Clerk's office, led by W. E. Church, Clerk of Superior Court in Forsyth County, Mrs. Carolyn Goodman, Assistant Clerk in Cabarrus County, and Mrs. Madge Parker, Deputy Clerk in Guilford County; a discussion of new legislation of interest to Clerks, led by Harry McGalliard, Assistant Attorney General of North Carolina; a second round table discussion on problems in the Clerk's office, led by

Basil Sherrill, Assistant Director of the Institute of Government; and a business meeting. On Friday night there was a banquet, at which William S. Babcock, President of the Association of Clerks of Superior Court of North Carolina, and Clerk of Superior Court in Edgecombe County, was toastmaster and speaker.

Newly elected officers for 1953-54 are:

Mrs. Quin D. Meyer, Franklin County, president; O. M. York, Rutherford County, first vice president; J. A. Walker, Guilford County, second vice president; Institute of Government, secretary; Miss Vernell DeVane, New Hanover County, treasurer; and Miss Martha Irvin, Vance County, historian

While no site was selected for the 1954 conference, this being left to a

committee, the first Friday and Saturday in August were chosen as a regular meeting time for future conferences.

Those attending the meeting were as follows: O. M. York, and Mary Willie Woody, Rutherford; Madge Parker, Johnny Walker, Clarence Lambeth, Evelyn Nance, Bobbie Shuping, and Betty Varner, Guilford; Carolyn Goodman and Dorothy Barbee, Cabarrus; Ruby Hudson and Miriam Greene, Richmond; Martha Irvin, Vance; Carolyn Stone and Rachel Comer, Moore; Kathleen Tyn-dall and Robena Williams, Craven; Vera Sealey and Dixie Adams, Robeson; W. E. Church, Forsyth; William S. Babcock, Edgecombe; Mary Poythress, Marcelle Duncan, Rachel Ingle, and Johnsie Crook, Mecklenburg; Lena Leary, Chowan; Martha Parker, Iredell; and Quin Meyer, Franklin.

outlay budgets or increasing debt service budgets to meet principal and interest on new school bonds.

Twenty-seven counties kept the same rate: **Alamance, Bertie, Brunswick, Buncombe, Catawba, Chowan, Duplin, Forsyth, Halifax, Harnett, Hoke, Lee, Macon, McDowell, Moore, Orange, Polk, Randolph, Rowan, Rutherford, Scotland, Stanly, Surry, Transylvania, Wake, Warren, and Washington.** Forsyth County managed to keep the same rate only because a revaluation will provide increased taxes with the same levy, and Surry and Catawba counties were able to keep the same rate by using surplus funds to finance larger budgets. Generally speaking, the other counties granted the various departments just about what they have had the previous year, although a few of the counties increased appropriations for one activity at the expense of some other.

A review of North Carolina county budgets indicates that as a general rule schools take the largest part, many counties spending over 50% of their budget for school current expense, capital outlay, and debt service. Increases in recent years are to be found either in larger school capital outlay budgets or in larger debt service budgets financing principal and interest payments on bonds issued for school building purposes.

NOTES

From North Carolina Counties

Tax Rates

When this issue of Popular Government went to press, tax rate information for 1953-54 and comparable figures for 1952-53 were available for exactly one-half of North Carolina's counties. The information, most of which was taken from newspaper stories, indicated that of the 50 counties, 5 had decreased the tax rate this year as a result of a revaluation of property, 7 had decreased the tax rate for other reasons, 11 had increased the tax rate, and 27 retained the same rate.

Guilford County's tax rate decreased from \$.98 in 1952-53 to \$.70 in 1953-54, as a result of a revaluation which increased property values from \$375,000,000 to \$533,000,000; the actual tax take remains about the same. **Lenoir County** dropped its rate from \$1.35 to \$.95 as a result of a revaluation which increased property values by 40%, and **Cleveland County's** rate dropped from \$1.10 to \$.86 as a result of a revaluation which increased property values by 30%. An increase in property valuations of \$5,000,000 allowed **Nash County** to cut its rate from \$1.25 to \$1.15, and an across-the-board increase of 20% in real property values in **Caldwell County** resulted in a tax rate drop from \$1.00 to \$.90. (A revaluation in

Richmond County is reported to have increased valuations by 35%, but the final tax rate for 1953-54 was not available when this article went to press.)

Davidson and **Perquimans** counties dropped their rates 10 cents in 1953-54 over the 1952-53 tax rate, Davidson using surplus funds from previous years. **New Hanover** and **Currituck** counties cut their rate by 5 cents, New Hanover as a result of an increase in property values from new tax listing procedures. The **Haywood County** rate was cut 6 cents, the **Chatham** rate 4 cents, and the **Hertford** rate 2 cents, the latter two because of a decreased debt service and decreased capital improvement expenditures, respectively.

Vance and **Madison** counties led the list of counties increasing their tax rate in 1953-54 over 1952-53, with increases of \$.25 and \$.23 respectively; the Vance increase is due largely to debt service requirements on recently issued school building bonds, and the Madison increase is largely due to increased expenditures for school capital outlay. **Iredell County** increased its rate by \$.16, **Person** by \$.15, **Bladen** by \$.12, **Franklin** and **Henderson** by \$.10, **Mecklenburg** by \$.07, **Wilkes** by \$.05, **Durham** by \$.02, and **Tyrrell** by \$.02. The increases were largely due to schools, either for increasing capital

County Buildings

With the opening of the new county agricultural building in **Forsyth County**, overcrowding in the courthouse has been alleviated. Farm and home demonstration offices, the Production Marketing Association, and the Soil Conservation Service offices have been moved into the new building, and the departments remaining in the courthouse have been given more space. And a new \$400,000 county jail is scheduled to be opened in September . . . There will be more space available in the **Haywood County** courthouse if a plan of the board of education goes through. Under the plan, the board of education would move to an old elementary school building late this fall when a new school building is completed. A stumbling block to the board's plan, however, lies in an act of the 1953 General Assembly, directing that the school property concerned be deeded to the town of Waynesville for recreational and other public purposes.

In **Davie County**, the board of commissioners has approved plans for construction of a new county office building . . . **Granville County** and **Oxford** are studying a city-county center to house county offices, town offices, and the county library. The plan comprises three buildings in the form of a "U," the main building at the base of the "U" would be the courthouse, the building to the right of the main building would house the library, and the building to the left of the main building would house the town government with a fire station attached . . . **Alamance County** is planning an addition to the county jail . . . **Mecklenburg County** is renovating the courthouse, cleaning the exterior and painting the inside . . . and **Haywood County** has purchased a tract of land for an agricultural building and home arts show.

Harnett County has instructed architects to go ahead with final plans for a health center at Lillington. A branch health center at Dunn has recently been completed and is now in operation . . . **Perquimans County** has purchased land and is moving ahead with plans for a health center. The total cost is expected to run around \$30,000, with the county's share to be around \$7,500 . . . **Guilford County** has obtained options on land in High Point looking toward the construction of a health center in that city. A similar health center is being constructed in Greensboro . . . And **Johnston County** has begun planning for a health center by setting aside in this year's budget \$15,000, the county's share of a \$66,000 building. Consideration was also given to an agricultural building, but it was decided that the health center should come first.

The **Ashe county** home was destroyed by fire in August. The four residents have been placed in boarding homes . . . Meanwhile, in spite of the trend to close county homes, **Catawba County** is considering what to do with the aged who are now being cared for outside of the county. One of the suggestions being considered is that a county home be constructed to care for such people in the county . . . **Wayne County** citizens have voted their overwhelming approval of a \$2,336,000 school bond issue, the vote being 1,867 to 410 . . . And the **Guilford County** Board of Commissioners has appropriated \$1,500,000 for school capital outlay in 1953-54, the sixth year in which the

board of commissioners has appropriated over a million dollars for this purpose.

Special Elections On October 3

Since the State-wide election on the \$50,000,000 state school bond issue and the \$22,000,000 mental institution bond issue has been called for October 3, a number of counties have authorized special county elections on various questions on the same day. **Caldwell County** citizens will vote on the question of a tax levy of up to 5 cents for the support of the county library . . . **Stanly County** citizens will vote on the question of the issuance of \$1,250,000 in bonds for the purpose of providing a new courthouse . . . **Wilkes County** citizens will vote on the issuance of \$1,200,000 of school building bonds . . . **Lenoir County** citizens will vote on the question of the issuance of \$1,000,000 in school building bonds . . . **Johnston County** citizens will vote on the question of the issuance of \$750,000 in school building bonds . . . And **Caswell County** citizens will vote on the question of the establishment of Alcoholic Beverage Control stores.

Voting Machines

Wayne County has recently made a contract for the installation of 18 voting machines. Under the terms of the contract, Wayne will pay \$150 per year rental on each machine, with the option of applying the rent to the purchase of the machines at a later date. The cost of each machine under the terms of the contract is \$1,436 . . . **Mecklenburg County** has had 12 machines on trial for a year, and the county board of elections has indicated that it will ask the city and county governments to purchase 100 machines at an estimated cost of \$140,000 . . . **Wake County** has recently signed a contract for 6 voting machines on a trial basis. The machines will be put into use at the October 3 election. Wake is to pay rent at the rate of \$148 per year with the option of applying the rent to the purchase price of the machine, the latter being \$1,480 . . . County commissioners in **Lenoir** and **Guilford** counties are considering the purchase of machines, and the board of county commissioners of **Alamance County**

has been asked to consider the question.

Sanitary Districts

Voters in the new **Walkertown** Sanitary District, east of Winston-Salem, have voted \$160,000 for construction of a 100,000 gallon storage tank, water lines, and two deep wells . . . Meanwhile, the **Rural Hall** district, also in Forsyth County, was able to grant the second tax reduction in three years as the water bonds, issued in 1939, are gradually being paid off. Revenue from the water system is now capable of meeting all district expenses except payment of the indebtedness. The tax rate is now 25 cents, one half of the original 1939 rate . . . **Yanceyville**, in Caswell County, is establishing a fire zone in the business district to secure lower insurance rates. A building inspector has been appointed.

Miscellaneous

July 30 marked the first time that lists of names and addresses of all public welfare recipients were open for public inspection. The lists were furnished by the State Department of Public Welfare for filing in the county accountants' offices, relieving the counties of the responsibility of making the lists . . . Acting under the 1953 law passed by the General Assembly authorizing certain counties to prepare their own schedule of fees for the register of deeds, **Rutherford County** adopted such a schedule effective August 1 . . . A three-man committee of the **Mecklenburg County** Board of Commissioners is studying the problem of garbage disposal in the area outside incorporated cities and towns. At the present time, independent collectors working in the area have no place to dump garbage collected from private homes. One of the solutions to be considered will be the establishment of a land-fill. **Durham County** has been operating a land-fill for just such a purpose for several years . . . The kind of budget problem that county commissioners long for fell into the laps of the **Guilford** commissioners during budget-making time. When time came to set the tax rate, which had been tentatively set at \$.71 for purpose of collecting tax prepayments, it was discovered that surpluses were larger than anticipated. The upshot was that the final rate was reduced 1 cent, the final rate being set at \$.70.

NOTES

From North Carolina Cities

New Municipal Buildings

Red Springs town officials are moving into a new building to house the police department, fire department and court room . . . **Burlington** has completed a new \$63,000 fire station . . . Plans are underway in **Arlington** to build a combination city hall and recreation center. The building will be financed by public donations . . . **Conover** is renovating an old church into quarters for municipal officials.

Personnel

On July 1 **Wilson** went on a 5-day work week for an indefinite period, on the recommendation of the city manager . . . **Charlotte**, which adopted a 5-day work week three years ago, has decided to close the water and tax departments on Saturday. Too few people were paying their bills on Saturday to justify keeping a skeleton force at work, particularly since the city has an outside depository.

New City Managers

New city managers in North Carolina include the following: T. Paul Watson, police chief in Sanford since 1937, in **Sanford**; Hugh B. Hines, until recently manager in Sanford, in **Jacksonville** (which has just adopted the council-manager form of government); Ralph H. Woodard, formerly a high school principal, in **Whiteville**; James D. Mackintosh, Jr., until recently city manager of Lancaster, S. C., in **Burlington**; Thomas E. Cunningham, until recently with the city of Richmond, in **Southern Pines**; James S. Hughes, former manager in Farmville and South Norfolk, Va., in **Greenville** (which has just adopted the council-manager plan); T. Lott Rogers, formerly a manager in South Carolina, in **Monroe**.

Management Procedures

Acting on authority granted by the General Assembly, **High Point**, **Greensboro** and **Guilford County** have started a program of investing surplus funds for short periods of time, until they are needed. Greensboro, for example, is investing in 90-day fed-

eral treasury bills and is realizing about 2% interest on the investment . . . **Wilson's** city manager Talmadge Green reported to his city council that the city's purchasing agent provided savings for the city which were three times his annual salary last year. **Wilson** has also begun paying city employees with checks instead of in cash.

Annexation

Following a favorable vote by the residents of the area concerned, **Forest City** formally annexed the West End section of the community on July 16. The area lies along highway 74 for about one and a half miles, is about one-half mile wide, and has a population of between 700 and 800. Garbage removal, police protection and fire protection have begun in the annexed area, and the city council has already taken steps to install water mains . . . Meanwhile **Clinton** has almost doubled its population through annexation of suburban areas. Municipal officials estimate that the city now has a population of about 8,000 . . . A new 100,000 gallon water tower is being built to help handle expansion of water services. Annexation of from 10 to 15 acres marks the first extension of **Hazelwood's** town limits in the memory of town officials.

Lumberton, **Chapel Hill**, and **Graham** are all studying proposed extensions of their corporate limits. **Durham** has had an extensive study underway for some months and is going to propose the annexation of its fringe areas sometime in the fall.

Fire Protection

Civic clubs have been the spark-plug behind a plan for joint ownership and operation of a fire department by the communities of **Stonewall**, **Alliance** and **Bayboro** in Pamlico County . . . **Roxboro's** volunteer firemen are campaigning to raise \$8,000 for the purchase of a truck to be used exclusively in answering calls from rural areas. The tragic death of a little girl in a fire that destroyed a farm home in May stimulated the drive . . . Suburban residents

north of **Greensboro** are trying to establish a volunteer fire department.

Parking

Wilson has culminated a long period of negotiation by leasing a large lot in the downtown area of the city for off-street parking purposes. Under the terms of the 10-year lease the city will pay no rent the first year and then pay \$250 a month until the cost of improving the property has been recovered, after which the rent will be \$250 per month or 50% of the parking meter revenue, whichever is larger. City manager Green estimates that it will cost about \$28,000 to improve the property for parking purposes, not including the cost of the meters to be placed on the lot. Improvements will consist of grading and filling the lot, construction of a retaining wall to the height of the fill, installation of drainage, and paving of the area to be used for parking.

Madison has graded and rocked a lot loaned to the town by a private citizen and has opened it as a free parking lot.

Airports

Charlotte's city council has appropriated \$5,000 to underwrite a comprehensive survey of air transportation facilities in the city. A Washington, D. C. firm has been hired to make the study, which was recommended to the council by the chamber of commerce. The survey would provide detailed information on the air services **Charlotte** now has and those that are needed, so that the city may have positive information to support its program for expansion and location of airline facilities in the future, particularly in hearings before the Civil Aeronautics Board . . . **Wilson** has made a contingent appropriation of \$6,000 as the city's share of the \$40,000 working fund requested by the Eastern Carolina Airport Authority for the construction of an airport.

Abattoirs

Statesville has leased its abattoir to a private contractor for 10 years at a rental of \$1 per year on condition that the operator make the necessary repairs required by the county health department . . . **High Point** has taken steps to sell its city abattoir.

Fluoridation of Water Supplies

The **Statesville** city council has voted to add fluoride to its public water supply as soon as approval is received from the State Board of Health. Since that action voters opposed to fluoridation have petitioned for an election on whether fluoride should be added, and action on the petition (25% of registered voters is sufficient to call an election) is expected in September . . . Meantime **Lexington** began fluoridation in July with no complaints after four weeks of operation . . . **Wilmington's** council has the question of fluoridation under consideration.

The Drought

Drought-plagued North Carolinians include not only farmers with destroyed crops but also residents of several central North Carolina cities where the water supply has fallen dangerously low, or, as in the case of **Mebane**, has practically disappeared. **Burlington** and **Raleigh**, the largest cities affected, exhausted every effort to obtain supplementary supplies and finally built temporary pipelines to new sources of water, with the cooperation of the federal civil defense authorities who loaned pipe and pumps . . . **Mebane** has had to restrict water use severely and transport water into the town from the Eno River . . . Among the other municipalities having to restrict the use of water are **Asheville**, **Pittsboro** and **Marshall**.

Water and Sewer Improvements

Several new bond issues for water and sewer projects have been approved this summer. **Goldsboro** voters approved a \$425,000 issue by a ratio of 12 to 1. \$330,000 will be used for a new water tank and new trunk lines in low pressure areas, \$50,000 will go for storm and sanitary sewers, and \$45,000 is earmarked for a new fire station . . . **Elm City** has voted \$15,000 to improve its water system . . . Only four dissenting votes were cast in a \$70,000 bond election in **Bakersville**. The funds will be used to build a 200,000 gallon reservoir, a deep well, and new supply lines . . . **Scotland Neck** has appropriated \$60,000 for a new sew-

age disposal plant . . . **Hendersonville's** city commissioners have approved a referendum on the issuance of \$300,000 in bonds to expand and improve its water system.

Other Improvements

Morganton voters recently approved the issuance of \$50,000 in bonds to enlarge and improve the town's electrical system . . . A favorable vote on a \$75,000 bond issue in **Shelby** assures construction of a new swimming pool . . . A \$70,000 bond election is being considered in **Elizabethtown**. The money would provide for construction of a new town hall and fire station and for purchase of a new fire truck.

New Ordinances

Among the new ordinances received from North Carolina cities and towns by the Institute of Government are the following:

Rocky Mount. Regulating the installation, repair and maintenance of television and radio receiving antennas. Makes it unlawful to install any outside television or radio receiving antenna, or to add to or substitute for an existing antenna, unless the city electrical inspector is notified within 48 hours after the installation. The electrical inspector must inspect every such installation to determine if it is in conformity with the detailed standards set forth in the ordinance and must require necessary corrections to be made within 48 hours or within such additional time as he deems necessary. A reinspection to see that changes found necessary have been made is specifically provided for.

. . . Amending the ordinance licensing and regulating tourist homes in the town so as to require that applications for licensing be accompanied by a certificate of the building inspector and the plumbing inspector stating that the tourist home has been inspected and that all applicable state statutes and city ordinances have been complied with.

Greensboro. Authorizing the city manager to organize, recruit, train, and equip auxiliary policemen and firemen. This ordinance was passed pursuant to authority granted by a special act of the General Assembly. **Raleigh.** Amending the ordinance regulating canopies and marquees to

provide that no overhanging canopy or marquee extending over the sidewalk shall come closer than two, instead of three, feet to a vertical line above the curb at the street line.

New Bern. Making it unlawful for any person having control of any lot in the city to permit weeds to grow on the lot to a height in excess of eight inches. Upon failure of the responsible party to cut weeds, the city is to give him notice to have the work done, and on his failure to heed the notice, the city is authorized to enter on the lot and cut the weeds. The cost to the city is to be paid by the person responsible for the lot and is to constitute a lien against the property (as authorized by G.S. 160-200(8)).

Hickory. Regulating the use and location of house trailers and providing sanitary provisions to protect the public health. All trailers used for living, sleeping or business purposes must be placed on a trailer court, except that one trailer may be placed on any lot in town so long as it is not used for living or business purposes. Trailer courts must observe the front and side yard requirements of the city's RA-5 Residential zone, the minimum trailer space must be 25 ft. by 45 ft. and no trailer shall be located within 10 ft. of any other trailer, and one off-street automobile parking space must be maintained for each trailer space provided in the court. Specific provisions are made for: (1) connection to any available public water supply and in any event a supply of at least 125 gallons per day per trailer space; (2) maintenance of separate and adequate toilet facilities at each court and regulations for connecting separate trailers to the sewer system; (3) disposal of refuse; (4) maintenance of laundry units by the trailer court; (5) connections for electric power to each trailer space and for necessary street and yard lights; (6) necessary access roads and walks, (7) fire protection; (8) recreational facilities.

Louisburg. Imposing a two-hour parking limit in the downtown business district.

Winston-Salem. Banning parking on city streets in most of the downtown business district from one o'clock until six o'clock in the morning. The ordinance was necessary to give street crews the opportunity to clean downtown streets.

Newton. Forbidding the sale of beer in the town on Sunday.

Public Schools and Mental Care Bond Election on October 3

The voters of North Carolina will make an important decision at the polls on October 3. On that date the people will cast their ballots "For" or "Against" two bond issues designed to provide badly needed improvements for public schools and mental hospitals in the State.

In his inaugural on January 8, the Governor outlined the pressing need for these school and mental hospital improvements; and he recommended to the General Assembly that it submit to the people bond issues sufficient to meet these needs.

With reference to public education, the Governor said: "We have constructed in North Carolina a great many school buildings during the past few years. The need has not been met. Our school population is rapidly increasing, and in order to protect and preserve our public school system we must supply the necessary facilities. Under our State Constitution we must provide equal school facilities for our children, without discrimination. This, in my judgment, can be done only by grants made to the counties which are unable to provide such facilities".

Speaking about the problem of mental illness, the Governor said: "There is not sufficient room in our institutions for the adults who need attention. The need is so urgent that it can be met adequately only by the proceeds from a bond issue. I recommend, therefore, that the General Assembly submit to the people of the State a bond issue in an amount sufficient to provide funds for not only training schools for the feeble-minded white and Negro children of our State, but also for the construction and equipment of sufficient facilities to meet the needs of adults now and for some years to come. We have worked at it in piecemeal fashion long enough. We must make every effort to cure both children and adults, where such is within the capacity of medical science, and sufficient trained personnel must be provided. These people have no spokesman except those whose hearts have been touched by the condition

By John Harden

Co-Chairman
Public Schools and Mental Care,
Incorporated

of those affected by this program".

Public Schools

When the public schools of North Carolina opened their doors for the 1953-54 term, parents, teachers, and pupils faced a new emergency. The State is tragically short in space and in facilities for educating her children of today.

This situation, found in every section of North Carolina, has been translated into a state-wide picture with the collection of figures, by counties, in the Department of Public Instruction at Raleigh. These figures show that we now have:

A 1953 FALL ENROLLMENT IN THE STATE, WHICH IS SHORT OF ITS NEEDS BY 7,783 CLASS-ROOMS

250,000 school children crowded into inadequate or sub-standard classrooms. Thousands of children attending schools that have no auditorium, no gymnasium, no lunchroom.

Libraries, shops, homemaking laboratories, and science rooms available only to a PORTION of our young people.

How did our State's school system get into this tragic position?

During the depression and war years there was, from necessity, a minimum of school constructing and maintenance. This came first from shrinking revenues and then from war shortages of materials and manpower.

However, during these same years we were experiencing a rapid increase in birthrate. In 1933 North Carolina recorded 75,000 births. In 1952 there were 112,480 births. During that 19-year period the total number of babies born in the State jumped up more than 49 per cent.

In addition to this, there has been a heavy migration into the State of families with children of school age.

And, more and more of our young people are taking advantage of the opportunity to continue at their education until they get a high school diploma. For example, in 1950 there were six times as many high school graduates in North Carolina as there were in 1924. So we have more young people staying in school for longer periods of time.

Coupled with this urgent need to house increased enrollments and relieve present over-crowding is the equally urgent need for additional facilities to replace the small wooden school buildings that are still in use in the State, and also to replace school buildings that have been condemned or are otherwise unfit for human occupancy—and modern-day North Carolina still has many schools in both of these groups.

Thus the unprecedented increase in school population, following closely on the heels of war and the impact of depression, has imposed an expanded duty on our State and on the counties and cities that are its subdivisions. The General Assembly of the State now puts this problem on the conscience of the citizens of the State—in the form of a bond election to provide necessary legal approval for a bond issue that will relieve a deplorable situation.

The law enacted by the 1953 Legislature, to provide for the bond election, also provides for the distribution of the funds to be derived from these bonds. The distribution by counties will be in three phases: Under the first two of these each county will automatically get a blanket sum of \$100,000 plus further funds on the basis of school population. This portion of the distribution will take 25 million dollars, or half of the bond revenue. The second 25 million dollars will be distributed according to need and ability to pay and will be handled under a formula to be adopted by the State Board of Education, with the approval of the Governor.

The children are with us now, the emergency exists today. The people of North Carolina have the opportunity and the obligation to guarantee

these children their right to grow to maturity in a State that recognized their need and met it.

Mental Hospitals

In spite of all that has been done in recent years for the mental hospitals of the State, North Carolina is today still sadly deficient in facilities to care for its mentally ill.

North Carolina was the 12th state in the original 13 states to establish hospital facilities for mentally disordered persons. From this slow start the State seems never to have been able to catch up. Today we lag in available beds for these unfortunates, and we are sadly behind in providing curative practices that look toward the restoration of some of these people to their families and to a normal way of life. Too much of what we have to offer is mere custodial care. Too little of it *trains* or *cures*.

War and depression also complicated the picture in the field of mental care and put us even further behind. Along with the overcrowding of buildings there has also been a shortage of personnel.

Here is what has happened to the

population of our mental hospitals, just in the past eight years. In 1945 we had 8,300 mental patients in State hospitals. We now have 11,300. Our total number of patients jumped up almost one-fourth even in that brief time.

In the meantime waiting lists of those urgently needing admission to these hospitals has grown. Today there is a backlog of 920 people whose families and physicians are clamoring for the care and protection of a mental hospital for these loved ones. Many of these people are being housed in jails as the only means of protecting them from harm to themselves or others. Throughout the past eight years more than 100 persons have been regularly held in jails, waiting in line for action on emergency application for admission to a State mental hospital. *What an indictment of us, as human beings, that respected citizens must suffer this fate because they are overtaken by mental illness in a State that does not have adequate means of meeting this problem!*

For several years now the total number of applications for admission to State mental hospitals has exceeded the number of actual admissions by about 3000 patients per year.

All of the hospitals have long waiting lists, and in recent years new waiting lists of the emergency cases have been superimposed on the regular waiting lists. Today a mentally ill person goes on the waiting lists, eventually progresses to the emergency list, and finally (if fortunate) gets admission to the hospital—if too many additional acute emergencies do not arise in his or her county.

North Carolina now has 230 persons in mental hospitals from each 100,000 of civilian population. This is less than the adjoining states of Virginia and South Carolina and also less than the average for the United States. New York state, for instance, has 580 mental patients per 100,000 population.

We cannot, in all decency and humanity, longer delay providing the means of adequately caring for this group of our citizens. The 22 million dollars proposed in the mental hospitals bond issue will be used to permanently improve and repair existing buildings, to provide new facilities more nearly in keeping with the need of the times, and to bring the physical plants of these hospitals to a point where they can operate with maximum efficiency.

Intersection Zoning

By Philip P. Green, Jr.

Assistant Director
Institute of Government

Section 160-173 of the General Statutes, a basic section of the state's zoning enabling act, authorizes cities to "divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this article; and within such districts [to] regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land."

In exercising this authority, the governing body has a great deal of latitude within the normal range of its police powers. However, in most North Carolina cities and towns it is subject to one rather severe statutory limitation—the proviso to the above section which reads as follows:

"Provided, however, that when at any intersection of streets in the corporate limits of any city or town the said legislative body of the said city or town promulgates any certain regulations and/or restrictions for the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land on two or more of said corners at said intersection, it shall be the duty of such

legislative body upon written application from the owner of the other corners of said intersection to redistrict, restrict and regulate the remaining said corners of said intersecting streets in the same manner as is prescribed for the erection, construction, reconstruction, alteration, repair or use of buildings, structure or land of the other said corners for a distance not to exceed one hundred and fifty feet from the property line of said intersecting additional corners."

This means that unless a City Council intends that all four corners of an intersection be zoned in a particular way, it should not, either in the original zoning ordinance or by way of amendment, zone two corners in that way. Once two corners have been zoned for business, for instance, it becomes mandatory for the other two corners to be so zoned on application of their owners.

History of Proviso

This proviso is unique among state zoning enabling acts in the United States. It was not included in North Carolina's original act, adopted in 1923, but was added by way of an amendment in 1931 (Pub. Laws, 1931, c. 176). The 1931 amendment exempted from its operation municipalities in Cleveland, Durham, Guilford, Perquimans, Rockingham, Rowan, and Wayne Counties. Since that time Forsyth and Wake Counties and the cities of Asheboro and Laurinburg have also been exempted, in a series of further amendments. The most recent of these was Chapter 1256 of the 1953 Session Laws, which applies to Laurinburg.

Arguments for and against the Proviso

What are the reasons for this proviso, and why have cities asked to be exempted from its coverage? The answers to these questions provide a basis for extensive theoretical and legal controversy.

Proponents of the proviso argue

that it is a necessary safeguard against arbitrariness on the part of the local legislative body. By and large, they urge, all four corners of an intersection should be treated alike, because their conditions are similar. They believe that dissimilar zoning for these corners stems from prejudice rather than from logic.

Opponents argue that the measure places too rigid a hobble on the discretion of the City Council. They declare that the Council should be free to take varying conditions into account and zone as it sees fit, subject to having its action set aside by the courts if it acts arbitrarily. They point out that present-day city-planning theory favors development of compact neighborhood business districts in which shoppers are not required to cross more than one street as they go from store to store, rather than intersection-wide districts in which traffic is impeded and shoppers are endangered by the necessity of crossing a number of streets.

Legal Considerations

(1) Constitutionality

The constitutionality of the proviso was tested for the first time this spring, when the state Supreme Court upheld it against a variety of attacks in the case of *Marren v. Gamble*, 237 N.C. 680, an opinion filed May 6, 1953.

In that case, the city of Charlotte had zoned three corners of an intersection for business, leaving the fourth corner as a part of a residential district. The owners of the fourth corner applied for an amendment to rezone their lot for business purposes. Although a large number of neighboring property owners appeared in opposition to the change, the City Council took the position that the proviso made it mandatory for it to grant the application.

The immediate neighbors of the rezoned property applied for an injunction against enforcement of this amendment. After defendants' demurrer was sustained by Judge Susie Sharp, an appeal was taken. The Supreme Court upheld the lower court's decision, ruling the proviso and the City Council's action in accordance with it valid.

Plaintiffs' contentions took three lines: (a) that the proviso delegates the power to legislate to a private person (the owner applying for an amendment) in violation of Section I of Article II of the state Constitution; (b) that the proviso violates Section 17 of Article I of the state Constitu-

tion and the "due process" clause of the 14th Amendment to the federal Constitution in that it bears no substantial relation to the health, safety, morals, or general welfare of the community; and (c) that the proviso violates the procedural aspects of the same constitutional provisions, in that it affords neighboring property owners no real right to be heard on the question of rezoning, since it makes mandatory the City Council's action.

With respect to the first argument, the court declared that the proviso merely stated the conditions under which the municipality must zone, rather than delegating legislative authority to private persons. The legal right to rezoning possessed by the owner, said the court, "is created by the General Assembly itself to enforce its own notion as to how corners at street intersections should be zoned." The owner cannot force the local legislative body to rezone his corner until it creates the circumstances specified by the act.

With respect to the "substantive due process" argument (the second listed above), the court declared that "the proviso is well designed to promote the public welfare." To support this conclusion, it stated:

"The proviso is based on the sound concept that ordinarily all the property cornering on a given street intersection is subject to peculiar conditions of a kindred nature. It is calculated to prevent discrimination and promote uniformity in zoning property having substantially the same character. It has, moreover, a strong tendency to permit every owner of land cornering on a street intersection to put his land to the use to which it is best adapted."

The court's answer to the third argument, with reference to "procedural due process," was that it boiled down to a proposition that the local legislative body should be permitted to refuse to comply with the statutory requirement whenever it found such requirement unwise. "The constitutional provisions invoked by the plaintiffs do not subordinate the State to the agency of its own creation, and compel the State to permit its creature to disobey its laws simply because its creature deems its laws to be wanting in wisdom." Since the proviso is reasonably designed to promote the public good, it is a valid action of the General Assembly.

(2) Statutory Interpretation

While the constitutionality of the proviso has thus been upheld, there are still questions of statutory inter-

pretation confronting the City Council as it applies the proviso: (a) must the application for rezoning come from the owners of both corner lots, or may a single owner secure this relief? (b) must the City Council rezone the entire distance of 150 feet from the intersection on receiving an application, or may it rezone only the lots whose owners apply? (c) if only the corner lots are rezoned on an application, may other property owners within the 150-foot distance present a later application?

There have been no court decisions with reference to any of these questions. The Attorney General, in an opinion rendered to Mr. James W. Mason on March 5, 1953, ruled that the statute's terms ("upon written application from the owner of the other corners of said intersection") require that the application come from the owners of all corner lots not zoned in the manner requested. Thus, if two corners of a five-street intersection were zoned for business and the other three were zoned for residence, an application from the owners of all three residential corners would be required before the proviso would require the Council to rezone any of them for business.

Since the proviso makes no reference to the owners of other lots within 150 feet of the intersection, the procedure with regard to them is unclear. The following propositions might be raised for consideration:

(1) Since the proviso requires rezoning for a distance "not to exceed one hundred and fifty feet" from the corner, the General Assembly probably did not intend that the City Council automatically rezone for a distance of 150 feet whenever an application is received from the owners of the corner lots.

(2) In light of constitutional requirements of uniformity of treatment of like properties, it does not seem probable that the General Assembly meant that only the corner lots themselves should be rezoned, with such rezoning limited to 150 feet in the case of very large lots. If this were the intent, the size of the rezoned district would vary according to ownership of the property, rather than according to the conditions relating to the property which are more commonly required by the courts as a basis for zoning regulations.

(3) The statute makes no provision at all for an application for rezoning from owners of other lots within a 150-foot radius of the corner. Ap-

(Continued on page 12)

The Attorney General Rules . . .

Municipalities

Right to Provide Pipeline for Industry to Relieve Water Shortage. A town is suffering from an acute water shortage and eventually there will have to be a bond issue for a new water filtering plant. One industry uses approximately one-third of the water consumed by the entire town. The industry proposes to construct a dam and pumping station on land a mile from town to pump water into their plant in the corporate limits. This would free all the water from the town watershed for the use of the rest of the town. The industry will construct the dam and use the water from it if the town will lay a pipeline from the industry's plant to the pumping station. The pipeline would remain the property of the town and would be leased to the industry. The aldermen feel that if this were done a bond issue would not be necessary for at least five years. Can the town place the pipeline and lease it to the industry?

To: W. Harold Mitchell

(A.G.) *Austin v. Shaw*, 235 N.C. 722, seems to provide the solution. In this case the court held that Charlotte could expend public funds for improvements and construction outside its corporate limits for construction of railroads to relieve itself of the responsibility of construction of expensive underpasses within the city, upon the principle of "compensation by way of substitution."

Fire Protection Contract with Private Corporation. Does a town have the right to contract for a private corporation to provide fire protection for the municipality and to levy taxes as necessary expenses to pay the cost of this protection?

To: J. B. Hudson

(A.G.) G.S. 160-235 and G.S. 160-238, dealing with the authority of municipalities to provide fire protection, do not authorize contracts of this kind. In the absence of a statute granting specific authority, I doubt the right of the town to levy taxes to pay the cost of entering into such a contract.

It would be best for the town to organize its own fire department rather than attempt to provide protection by a private corporation. Questions would arise as to the right of a privately organized company in respect to controlling fires and injuries and accidents which might arise out of same. If the company were acting as an agency of the town, a serious question of municipal liability might arise without the protection which is afforded by law to a municipality in performing this service itself.

Parked Cars; Court Costs Under Prima Facie Evidence Rule. Does the limitation contained in Sess. Laws 1953, c. 879, of a "penalty" of not

more than \$1.00 preclude the charging of court costs when it is necessary to issue a warrant charging a parking violation?

To: Marcellus Buchanan III

(A.G.) While our Supreme Court has yet to rule on the above statute, I am of the opinion that a conviction under the statute will justify the taxing of court costs in addition to the \$1.00.

Counties

Contracts with Public Officers. Can a member of the Board of Trustees of a county hospital, who is an insurance agent, write insurance on the building? The Board of Trustees is appointed by the county commissioners.

To: L. B. Prince

(A.G.) No. See *Carolina Beach v. Mintz*, 212 N.C. 578. In that case the court quoted from *Davidson v. Guilford*, 152 N.C. 436, saying: ". . . a member of an official board cannot contract with the body of which he is a member. To permit it would open the door wide to fraud and corruption." Agreements against public policy are illegal and void; agreements are against public policy when they tend clearly, among other things, to injure "the public confidence in the purity of the administration of the law." See *Cauble v. Trexler*, 227 N.C. 307.

Salaries of Music Teachers in School Budget. A county board of education will ask the county commissioners to include in the next school budget an item to pay music teachers in the county schools. It will amount to a tax levy of about five cents. Can this be included in current expense? If not, what procedure is necessary for the county to include it in the school budget?

To: J. P. Bunn

(A.G.) I find no authorization for including the item in the current expense budget unless a supplemental tax be voted by the people in conformity with the provisions of G.S. 115-361, or unless the item can be taken care of by non ad valorem tax funds. G.S. 18-81.1 provides that funds allocated to counties, under Sub-section (t) of G.S. 18-81 may be used as any other general or surplus funds of the unit may be used. If a tax levy is necessary, such tax must be authorized by an election called under the provisions of G.S. 115-361.

Property Taxation

Priority of Tax Lien with Respect to Federal Government. Does the claim of the Federal Government for taxes owed by an insolvent corporation have priority over the county's claim for taxes?

To: Roy Taylor

(A.G.) The case of *United States v. Gilbert Associates*, 97 L. ed. 593, covers this situation. It was held that in cases of insolvency, the Federal Government's claim would come ahead of a local tax claim unless a specific lien had been acquired. I take it the county had merely a statutory lien. However, the court pointed out that it had never actually held that the local tax claim would have priority even if the county had acquired a specific lien.

License Taxes

Waiver of License Tax. A non-profit organization sponsoring a carnival agreed with the carnival company to pay the county license tax on carnivals. They now ask the county commissioners to waive the tax due to their non-profit status. Can the tax be waived by the commissioners?

To: Clarence Kluttz

(A.G.) Once the tax has affixed it cannot be waived except for some illegality or improper levying. Section 105-39 of the General Statutes provides that use of carnival proceeds for charitable or benevolent purposes shall not authorize an exemption from payment of the tax. Since the county has no general authority to levy license taxes and must rely on the Revenue Act for this power, I have serious doubts that the county can classify and exempt non-profit organizations from the county carnival license tax.

Intersection Zoning

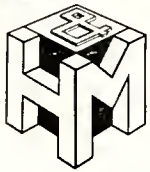
(Continued from page 11)

parently they must either join the owners of the corner lots or be excluded from the benefits of the proviso.

Conclusion

During recent months, City Councils in several cities have been placed in a position of having to rezone a whole intersection because they inadvertently granted an application to rezone a single lot, bringing the proviso to G.S. 160-173 into play. In those cities which have not been accorded statutory exemption from this proviso, the recent Supreme Court case affords compelling reasons for complying with its terms. However, there is still grave uncertainty as to what these terms require, and cities must "feel their way" until a clarifying amendment or court interpretation is given.

FAST SERVICE For North Carolina Recording Offices★



HALL & McCHESNEY'S

MICROFILM PROCESSING PLANT

at Greensboro, N. C.



Ready to give North Carolina recording offices fast, dependable service on this newest, revolutionary method of current recording.

Do You Know the FACTS about Microfilm Recording?

County recording officers throughout North Carolina and other states in the south are talking about microfilm recording . . . how microfilm recording is the greatest recording improvement of recent years . . . how it makes recording *easier and more accurate* . . . how it *greatly reduces recording time*, permitting more services and better services to constituents . . . how it *saves on recording costs*, helping to get more out of tight budgets . . . how *perfectly adapted it is to smaller counties* as well as large ones . . . how *simple and easy it is to install* microfilm recording, and *how quick*.

Ask for a Free Demonstration

Get all these facts, and a *free* demonstration of the H&M Microfilm Recording system in your own office by writing to the Greensboro office today. An H&M representative will bring the recording camera to your own office, show you exactly how it operates, tell you about the simple, inexpensive installation, without cost or obligation to you. This system is tested, proven and operating in many North Carolina and southern counties. You do not have to wait—find out today.

The H&M Recording Camera requires only table space; anyone can operate it. Completed prints fit your present books.



HALL & McCHESNEY INC
Greensboro, N. C. • Phone 4-8431

Chief Justice W. A. Devin
 Supreme Court of North Carolina
 Raleigh, N. C.

What does
MAUREEN O'HARA do

...when she's having her coffee?
 ...when she's finished a scene?
 ...when she studies a script?
 ...when she's entertaining?

*She lights up
 a Camel!*



R. J. Reynolds Tobacco Co.
 Winston-Salem, N. C.



"WHEN I CHANGED
 TO **CAMELS**, I FOUND
 I WAS ENJOYING
 SMOKING MORE
 THAN EVER!
 CAMELS HAVE A
 WONDERFUL **FLAVOR**
 ...AND JUST THE
 RIGHT **MILDNESS!**"

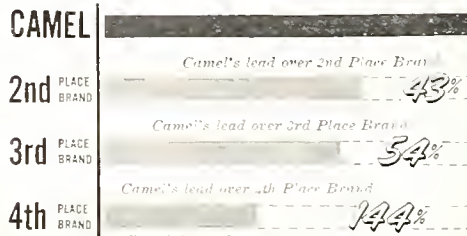
Lovely red-haired actress, Maureen O'Hara, is one of many Hollywood stars who smoke Camels! Others are John Wayne, Alan Ladd, Tyrone Power, Jane Greer, Marge and Gower Champion, Charlton Heston.

for Mildness and Flavor
Camels agree with more people
than any other cigarette!



Make your own
 30-day Camel
 test...and see
 what you've
 been missing!

LATEST PUBLISHED FIGURES* SHOW
 CAMELS FAR AHEAD OF EVERY OTHER BRAND!



* From Printers' Ink, 1953

What does this mean to you?

It means that if so many more people find Camels suit them best, the chances are that Camels will suit you best, too.

Find out for yourself how enjoyable Camels are, how well they agree with you. Make your own 30-day Camel test—smoke only Camels for 30 days.

For years we've been asking folks to make this famous test. And every year, more and more smokers prefer Camels' rich flavor and cool mildness.

Start the 30-day Camel test today!



