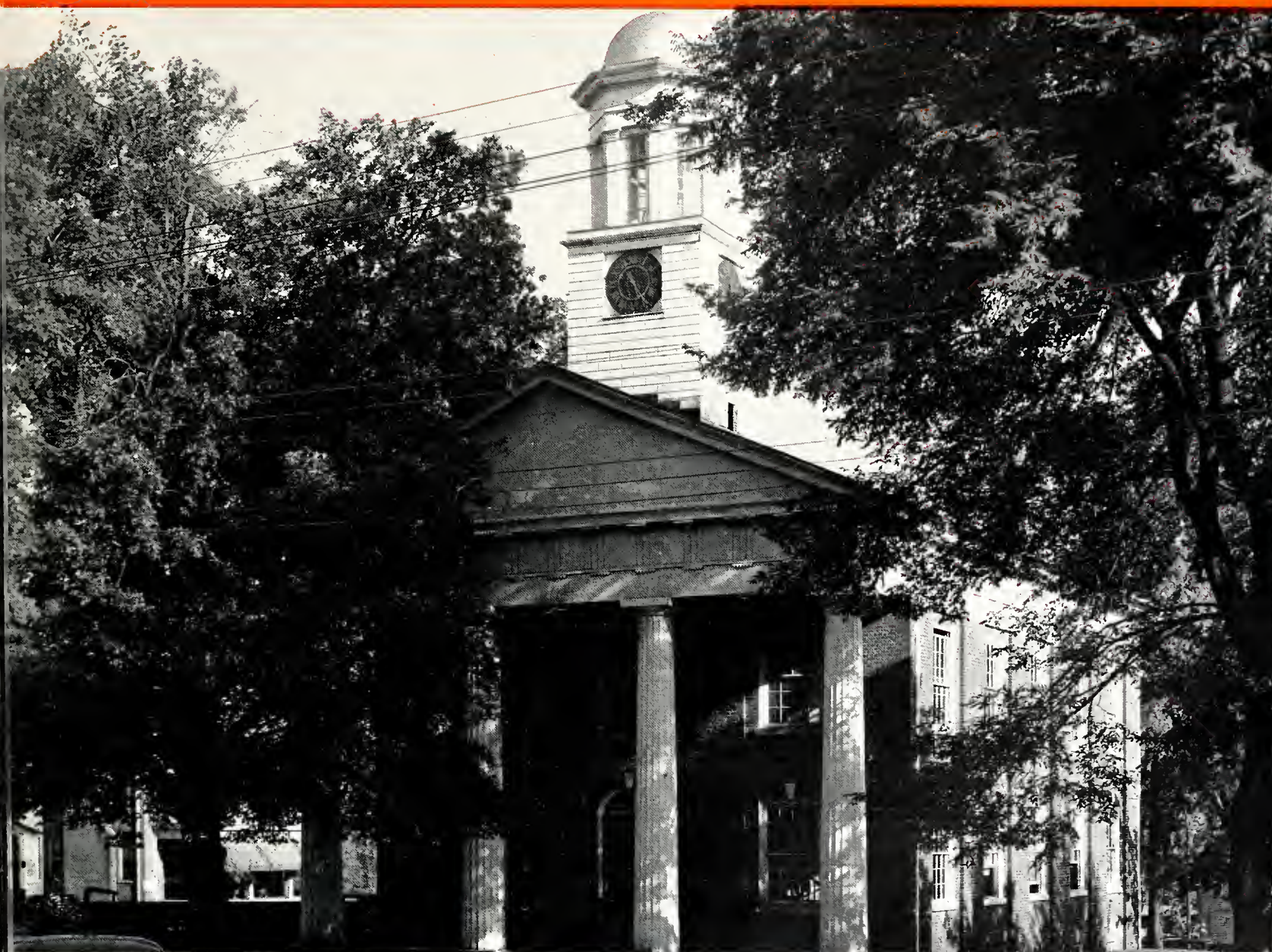


# Popular Government

*October 1953*

*Storage  
Copy*



*Orange County Courthouse*

**PUBLISHED BY THE INSTITUTE OF GOVERNMENT**

**UNIVERSITY OF NORTH CAROLINA**

**Chapel Hill**



**TABLE OF CONTENTS**

THE CLEARINGHOUSE	1
Notes from North Carolina Cities	3
New Ordinances	4
Notes from North Carolina Counties	5
Notes on North Carolina Personnel	6
THE ZONING OF AREAS OUTSIDE CITY LIMITS	7
STREET IMPROVEMENTS IN NORTH CAROLINA CITIES AND TOWNS	9
BOOKS OF CURRENT INTEREST	10
THE ATTORNEY GENERAL RULES	12

**COVER**

*As part of Orange County's 200th anniversary celebration October 7-12, the cornerstone for the county's fifth courthouse—a \$250,000 colonial-style structure—will be laid on October 7. Shown on the cover is Orange's 109-year-old present courthouse, built in 1844 of hand-pressed brick, which will continue to be used along with the new one.*

*The Orange Bicentennial celebration will include presentation of a historical pageant, "The Road to Orange," in Hillsboro and Chapel Hill, and publication of a history of the county, "Orange County—1752-1952." (Photograph by Wooten-Moulton; courtesy Orange Bicentennial Committee, L. J. Phipps, Chairman.)*

# THE CLEARINGHOUSE

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

## The Water Emergency

Weeks without rain caused water supplies all over North Carolina to shrink in the late summer, and over 20 cities had to go on an emergency basis to assure water for basic needs during the stretch of sunny, rainless weather. While Raleigh and Burlington were the largest cities faced with dwindling supplies and thus faced the greatest problem in terms of persons affected, smaller communities such as Mebane and Weaverville were hardest hit and literally saw their reservoirs dry up.

Among the cities which suffered this summer were the following: Asheville, Burlington, Cary, Claremont, Graham (which for a time furnished water to Burlington), Lenoir, Madison, Marshall, Marion, Mebane, Newton, Oxford, Roxboro, Sanford, Siler City, Smithfield, Waynesville (which services Hazelwood and Lake Junaluska), and Weaverville.

In most instances the situation was aggravated by a rapid increase in consumption during the past several years as well as the fact that reservoirs were not accumulating raw water as fast as average daily consumption.

Two methods in general must be used to meet a water shortage and they were well exploited by all of the cities concerned. Some city councils met almost daily during the crisis and let no suggestion go without careful consideration. There are (1) measures taken to reduce consumption and make the available supply last for a longer period of time and (2) measures taken to secure additional temporary sources of water.

### Regulation of Consumption

Once a shortage is foreseen, the first regulatory step taken in almost every city is to enlist the cooperation of all consumers in reducing daily consumption, particularly for such purposes as washing cars, watering lawns, and use of air conditioning units which circulate water. Voluntary reduction works well when the people are aware of the emergency but it tends to break down over an extended period of time. Gradually consumption increases, just when a

further decrease is necessary, and governing boards are forced to restrict unnecessary uses by ordinance. Some cities went several weeks without permitting the use of water for sprinkling lawns and shrubbery, and when Raleigh relaxed its restrictions one weekend, the increase in consumption was so rapid that water pressure was reduced all over the city.

A more drastic form of regulation had to be used by Mebane and Weaverville among others. Mebane, for example, simply cut off its water supply between 8 p.m. and 5 a.m. daily for a period of three weeks and turned it on over the weekend only during mealtimes. At length its supply was so low that water could be turned on for only three hours daily, a complete shutdown of the town's industries was threatened, and one industry and the school system voluntarily went on a half day basis to reduce consumption.

### Supplemental Supplies

Most cities not only attempted to reduce consumption. They also looked for nearby sources of raw water which could be piped into the municipal system—water from lakes, ponds, and streams. Private pond owners have been particularly cooperative in making their water available to cities where the cities could find the pipe and pumps to reach from the pond to the purification plant. Other communities have dug additional wells to get supplemental water supplies.

Where supplies from a pond or stream have been made available, the principal difficulty has been securing the pipe and pumps to bring the water into the city. Raleigh and Burlington faced this problem and received dramatic proof of the value of the federal civil defense organization in this region. Through the assistance of Governor Umstead the Atlanta civil defense office was contacted for assistance and, within 24 hours after receiving the request, had trucks loaded with pipe and pumps on their way to North Carolina on a loan basis. Raleigh laid its pipe to a lake, Burlington to the Haw River.

### Need for Additional Supplies

Nothing succeeds so much as an emergency in waking people up to the need for addition protection in public

services. Many of the cities affected by the drought this summer had forseen the shortage of water and were in the process of expanding their water systems. While Mebane fought to extend its meager supplies, for example, a new reservoir was just being completed. Other cities immediately began to plan expansions of their systems even as they sought to meet this summer's shortage. With the coming of rain in the latter part of September, the emergency seemed to be over but the threat of next summer still hangs over many city halls.

## Revised Fire Prevention Code

The National Board of Fire Underwriters has published a new fire prevention code which supersedes their suggested fire prevention ordinance issued in 1947.

As set forth in an explanatory statement, the code is a set of regulations which "governs conditions hazardous to life and property from the standpoint of fire and explosion — conditions that arise as a result of the storage and handling of hazardous materials and devices, as well as conditions that result from the use or occupancy of buildings or premises. It provides the safeguards necessary for the protection of life and property from such hazards — safeguards necessary to protect you against those hazardous conditions brought about by the use of flammable liquids and gases, hazardous chemicals and explosives, and by the occupancy of buildings or premises, such as garages, junk yards, places of assembly, and others."

Many North Carolina cities have adopted parts or all of the former recommended ordinances and will want to check the new provisions to see if changes are desired. It is to be noted that municipalities adopting the code will receive enough free copies for their official needs (a copy for each interested municipal employee plus 25 copies). Additional copies can be secured for a nominal price. There is also an abbreviated edition of the code which may meet the needs of smaller towns. Write the

National Board of Fire Underwriters, 85 John Street, New York 38, N. Y.

Any municipality desiring to adopt the code should investigate the legality of adoption of the printed volume by reference. While there is no express statutory authority for adoption by reference of standard national codes in technical fields in North Carolina, neither are there statutes or court decisions prohibiting such adoption by reference.

## Bond Sales

During September, 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):

Anson County, \$500,000 school building bonds, 2.91%; Cabarrus County, \$96,000 refunding bonds, 2.39%; Duplin County, \$35,000 refunding bonds, 3.45%; Iredell County, \$250,000 hospital bonds, 2.74%; and Wake County, \$2,130,000 school building bonds, 2.85%.

Burlington, \$200,000 recreation facilities bonds, 3.24%; Draper, \$620,000 water and sewer bonds, 4.54%; Hot Springs, \$36,000 street improvement bonds, 4.00%; Kinston, \$1,095,000 electric light, \$505,000 water and sewer, and \$150,000 recreation facilities bonds, 3.47%; and Shelby, \$75,000 recreation facilities bonds, 2.49%.

Asheboro School District, \$375,000 school building bonds, 3.44%.

## Civil Defense

Seven North Carolina cities were among the 193 American cities recently named by federal civil defense officials as potential target areas in the case of atomic attack.

Charlotte, Asheville, Durham, High Point, Greensboro, Raleigh and Winston-Salem were the Tar Heel cities named. The State Civil Defense Office, in commenting on the announcement, pointed out that Winston-Salem and Greensboro have civil defense preparation which is outstanding in the nation. Other cities in the state have not progressed so far.

Just recently, however, Mecklenburg County and the city of Charlotte have set up a joint full-scale civil defense program, the county paying 40% and the city 60%. It is anticipated that a full-time civil defense director will be employed at around \$7,000, and he

will have the job of correlating such groups as lifesaving units, police departments, fire departments, and the Red Cross. When the program is in operation, it is anticipated that Mecklenburg and Charlotte will have one of the best civil defense programs in the state.

## Jail Officers' School

*County and city jailers from all parts of the state will gather at the Institute of Government November 17-19 for their annual jail officers' school.*

*The three-day course will open with registration at the Institute of Government building in Chapel Hill at noon on Tuesday, November 17, and close with presentation of certificates at noon on Thursday, November 19.*

*The course will include instruction on the law and practice of jail operation in North Carolina. It will be the fifth annual jail officers' course conducted by the Institute of Government in cooperation with the State Board of Public Welfare. All county and city jailers, and members of sheriffs' and police departments concerned with jail operation, are invited to attend.*

## Employment Security Institute

"The Employment Security Commission and the North Carolina Economy" was the theme of an institute held in Chapel Hill on August 27, 28, and 29. Approximately 130 persons attended the institute jointly sponsored by the state chapter of the International Association of Personnel in Employment Security, the North Carolina Employment Security Commission, and the Institute of Government.

The state's economy was the subject of the first session at which Mr. Ralph Miller, president of the state chapter of I.A.P.E.S., presided. At this session Dr. Lowell Ashby of the U.N.C. School of Business Administration analyzed North Carolina in the nation's economy and Dr. Samuel H. Hobbs, Jr., professor of rural sociology, described North Carolina's physical resources. At the evening session on Thursday, Dr. Rupert Vance, Kenan professor of sociology at U. N. C., evaluated North Carolina's human resources. Follow-

ing Dr. Vance's lecture, the new film, "The Tar Heel State," was shown.

Employment and income, agriculture, textiles, tobacco manufacturing, and the furniture industry were discussed on Friday. At the morning session Dr. Harry Wolf, a member of the Employment Security Commission and a professor of economics at U.N.-C., described North Carolina's labor force. Dr. Lowell Ashby discussed employment and unemployment in North Carolina, and Dr. Frank Hanna, professor of economics at Duke University, indicated the level and trend of North Carolina per capita income.

Harry B. Caldwell, master of the North Carolina Grange, and Dr. Dean Colvard, dean of N. C. State College School of Agriculture, discussed agriculture today and the future of agriculture in North Carolina. Also appearing on the Friday afternoon program were Mr. R. Dave Hall, a member of the N. C. Employment Security Commission, who discussed the development of textiles in North Carolina, and Dr. M. E. Campbell, Dean of the School of Textiles, N. C. State College, who viewed the future of textiles in North Carolina.

Following a barbecue supper, Mr. Charles E. Gage, agricultural specialist with the American Tobacco Company, discussed tobacco and the tobacco manufacturing industry. To conclude the program for the second day, Mr. H. C. Philpott, president of the United Furniture Corporation of Lexington, and a member of the N. C. General Assembly, described the present condition of, and future prospects for the furniture industry.

"Why Industry Has Moved South," was the title of a paper read by Dr. Stefan H. Robock, chief of the Industrial Economics Branch of the Tennessee Valley Authority. In concluding the opening session Saturday, Dr. Clarence Heer, former Kenan professor of economics at U. N. C., discussed the effects of taxation on industry location.

The future of North Carolina's economy was considered in the final session. Mr. Brandon P. Hodges, former state treasurer and now a consultant for the Champion Paper and Fibre Company of Canton, indicated the unbalance in North Carolina's industrial structure. Mr. Hodges was followed by Dr. Frank T. deVyver, professor of economics at Duke University, who described the role of the Employment Security Commission in maintaining a balanced economy in

(Continued on page 6)

# NOTES

## From North Carolina Cities

### City Managers

Arthur R. England, former assistant to the **Durham** city manager, has been appointed as **Graham's** first town manager. **Graham** adopted the manager form of government earlier in the summer by adoption of an ordinance providing for appointment of manager rather than by amending its charter.

### Municipal Buildings

**Highlands** has begun construction on a new city hall, estimated to cost about \$12,000. The two-story block building will house the fire department, police department, town office, and jail. . . . **Elon College** town commissioners have appointed a committee to investigate doubling the size of the town hall to provide adequate facilities for recorder's court sessions and for civic meetings. . . . **High Point** and **Guilford County** have had to postpone consideration of the proposed \$300,000 joint city and county office building for at least two years as a result of the court case which threw out the plan whereby **High Point** would put up the initial cost and the county would pay its 50% share in annual installments.

### Annual Reports and Public Relations

**Durham** has published its annual report for 1953. Entitled "The First Century," the report is dedicated to Governor William B. Umstead. . . . Mayor E. B. Tindal, Jr. of **Apex** writes a column in the local newspaper reporting to the citizens on what the town government is doing.

### Fire

**Harrellsville** now has its new fire truck to go along with the \$3,500 fire hall built by the volunteer fire department. . . . With the arrival of its first new fire truck, the newly organized **Highlands** fire department is undergoing intensive training. North Carolina's highest incorporated town formerly had only a hand-drawn fire-cart.

**Winston-Salem** firemen have completed a 23-day school during which every fireman attended a two-hour class session daily. Captain J. W. Wooten, drillmaster, attended five fire training schools during the past year in preparing for the course. Two sessions were held each day to permit each shift to receive the daily training.

### Fluoridation

Some sort of municipal history has been made in controversies over the fluoridation of municipal water supplies in **Statesville** and **Dunn**. **Statesville** has ordered a referendum held on October 27 to determine whether the city shall begin fluoridation of water. **Dunn**, which has been adding fluoride to its water, is planning to call an election to determine whether the practice should be continued.

### Water and Sewer Improvements

Voters in newly incorporated **Kill Devil Hills** have defeated a bond issue which would have provided for a town water system and fire protection. . . . **Henderson's** city council has decided to use \$110,000 in bond proceeds, originally issued for sewer line extensions, for expansion of the city's filter plant instead. The change was made necessary by an increased water consumption this summer that almost equalled, on occasion, the daily capacity of the filter plant. . . . **Burlington**, be-devilled by the drought, has plans to submit a \$1,750,000 water expansion program to the voters in a bond election in late November.

### Annexation

**Fuquay Springs** has extended its town limits for the first time since the town was incorporated in 1909 by annexing a 4.85 acre development. . . . **Durham** has employed an engineer to survey the proposed boundaries of the suburban areas which the city council is proposing to annex. . . . The City-County Planning Board has recommended that **Winston-Salem** annex 72 acres of a proposed new residential development. . . . The **Chapel**

**Hill** board of aldermen has received a detailed report on the proposed annexation of four residential areas east of the town. The board has fixed a date for considering whether to offer to annex these areas.

### Housing

With action stymied under the state's urban redevelopment law, North Carolina cities are concentrating their slum clearance efforts on enforcement of minimum housing standards ordinances, enacted under the authority of Article 15 of G. S. Chapter 160. **Gastonia** has adopted a new ordinance of this type, and **Winston-Salem** and **Wilmington** have appointed advisory citizens' committees to assist in enforcement of their existing ordinances. . . . **Charlotte's** enforcement staff reports that its ordinance has caused creation of some \$15,000,000 of new property values in the city during the past five years.

### Traffic and Parking

**Raleigh** merchants are raising money for the construction of a 500-unit parking building costing approximately \$600,000. Financing is through the sale of \$100 shares of stock in a newly-formed corporation. . . . **Mount Airy** and **Franklin** have installed new automatic parking meters. The **Mount Airy** meters will accept dimes from motorists who do not wish to go to the trouble of securing change. . . . **Durham** has changed its street marking for parking so as to provide pairs of spaces, each pair separated from the next by a space marked with an "X". This furnishes maneuver room for motorists, which facilitates parking and thereby interrupts traffic less.

**Jacksonville** has placed two-hour parking limits on its principal downtown streets, following a request from local merchants. . . . **Durham**, **Goldboro**, and **Mount Olive** are considering installation of parking meters.

Several cities, including **High Point**, **Wilson**, **Oxford**, **Raleigh**, and **Greensboro**, have moved to comply with the Supreme Court ruling in *State v. Scoggin*, 236 N.C. 1 (1952), which forbade variable-time meters. The court pointed out in that decision that cities have no right to "rent" space on the streets. The constitutionality of parking meters depends upon the concept that they are merely a mechanism (activated by coins) for enforcing uniform time regulations. . . . **Mount Airy** has des-

ignated a single police officer to devote his full time to supervision of meter operation . . . **Newton's** police have stepped up enforcement of traffic and parking regulations.

**Burlington** has hired Bernard Corbett as a traffic and planning engineer . . . A general thoroughfare plan designed to meet **Durham's** traffic needs for the next 30 years is close to completion. The plan is being prepared by traffic consultant W. F. Babcock and the city planning department . . . Preliminary analysis of the origin-destination data collected in **Raleigh** this spring indicates that 75 per cent of all passenger cars crossing the city limits on trips with one terminus in the city were traveling to or from points within 15 miles of the city.

### Planning and Zoning

**Raleigh** has simplified procedures for amending its zoning ordinance by providing for a joint public hearing by the city council and the planning commission on each proposal. At the conclusion of the hearing, the city council refers the matter to the planning commission for its recommendation. On receiving the recommendation, the Council takes action with no further hearings.

Formerly, the two boards held separate hearings. Because of a special charter provision, it was necessary to secure special legislative authorization for the procedure (Sess. Laws, 1953, c. 194). In other cities the procedure could be established within the terms of the existing zoning statute.

As a means of expediting required procedures the **Winston-Salem-Forsyth County** Planning Board has decided to authorize any three of its seven members to grant preliminary approval for subdivision plats, where their decision is unanimous. In addition, it has decided to abandon the requirement of a topographic map of the area as a basis for the preliminary plat, except in unusual cases. Under Chapter 777 of the 1953 Session Laws the Planning Board has sole jurisdiction over subdivisions in the city and the county.

**High Point** has announced the appointment of Paul Brooks, formerly of **Fayetteville**, as its new planning director. The position had remained vacant for almost a year . . . A committee on planning for **Raleigh's** future, composed of 30 leading citizens of the community, has been estab-

lished by the local Chamber of Commerce.

Within six days after a large area was annexed, **Clinton** held public hearings on proposed zoning regulations for the new part of town . . . **Elkin** is preparing a new zoning ordinance . . . Plans for two multi-million dollar shopping centers outside of **Winston-Salem** have been announced together with plans for extensive residential subdivision in the areas near the new Wake Forest campus. **Greensboro** and **Durham** are also to have new shopping centers in the near future.

## NEW ORDINANCES

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

**Greensboro.** Amending the fire prevention ordinance. Absolutely prohibits the burning of trash, leaves, and other material outside any house or on any public way within the fire limits or restricted fire district. Requires a permit from the fire department to maintain an open fire for burning trash, leaves, and other material on other private lots in the city, the permit to prescribe procedures to be followed in controlling such fires. Does not prohibit the burning of trash on private lots without a permit when done in conformity with other provisions in the ordinance.

— Sets speed limits on streets in the vicinity of designated schools at 20 miles per hour, effective upon the erection of appropriate signs. (This ordinance was adopted under the authority of Ch. 1075, 1953 Session Laws, which authorized **Greensboro** to fix speed limits in the vicinity of schools where the city council determined that the applicable speed limit under G.S. 20-141 was greater than was reasonable or safe. It is the same authority granted the State Highway Commission to fix speed zones near rural public schools under G.S. 20-141.1.)

**Hickory.** Makes it unlawful for any person, firm, or corporation to leave outside of a building or in any place accessible to children an unattended or discarded ice box, refrigerator, or other container having an air-tight door which cannot be released or opened from the inside when closed. Requires those left outside or accessible to children to have the snap

### Miscellaneous

**Charlotte** has added another inspector in the building inspection department whose duties will be to inspect natural gas installations and make smoke abatement inspections.

**Leaksville** and **Spray** have agreed to connect their water systems with a 10-inch or 12-inch water main to enable either town to help the other in the case of an emergency . . . **Chapel Hill** voters have approved a \$60,000 bond issue for curb and gutter installation on local streets.

locks or doors removed. (This ordinance is directed at making impossible the recent well-publicized deaths of children in other parts of the country from suffocation in discarded ice boxes. Refrigeration servicemen in many communities are voluntarily removing doors from such iceboxes to prevent recurrence of such deaths. Other North Carolina cities are considering such ordinances.)

**Maiden.** Prohibits minors under 18 years of age from entering pool rooms and billiard halls, placing absolute blame on the minor breaking the law rather than on the proprietor of the pool room.

**Raleigh.** Amends the city ordinance relating to bankruptcy and insolvency. Requires any person, firm or corporation who purchases a stock of merchandise at a sale under an assignment for the benefit of creditors or at a sale made by a trustee in bankruptcy and thereafter offers the merchandise for sale as bankrupt stock to file under oath an inventory of such merchandise with the city clerk. Makes it unlawful for such person, firm or corporation to add to such stock of merchandise from any source and advertise such added stock as bankrupt stock.

**Winston-Salem.** Declares as an official nuisance (1) dogs which habitually and regularly bark, howl, or whine so as to result in serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises occupied by such neighboring residents and (2) flocks of fowl which habitually crow or cackle during the night or before or after daybreak so as to cause similar annoyance.

## NOTES

### From North Carolina Counties

#### County Buildings

**Rowan County** has recently completed its new Health and Farm Center. The Center, erected at a cost of \$185,000 from federal, state, and county sources, will house all county, state, and federal public services in the health and agricultural categories. It also contains a large auditorium for public meetings. . . . **Mitchell County** has recently completed a two-story office building at a cost of more than \$100,000. It is located across the road from the courthouse. . . . Second and third floor offices in the **Northampton County** courthouse have recently been painted as part of a redecoration program provided for in this year's budget. The county commissioners hope to repaint the courtroom in the near future. . . . **Alamance County** has recently let a contract for painting and redecorating the interior of the courthouse. . . . **Dare County** is selling some land given to the county ten years ago. The land, near the Bodie Island Coast Guard Station, will be sold to the National Park Service for \$50,000, and the federal government will include the land in the Cape Hatteras National Seashore. The proceeds may be used to defray a portion of the cost of a new courthouse.

#### Forsyth County Program For Alcoholics

**Forsyth County** has inaugurated a program on alcoholism. Financed with \$25,000 in profits from the Winston-Salem ABC stores and with offices in the county health department, its purpose is to offer help to any resident of Forsyth County who needs it, including drinkers themselves, members of their families, and the entire community, through education toward the prevention of alcoholism. Treatment consists either of admission to the Forsyth County Hospital or treatment at the Alcoholic Rehabilitation Center at Butner. In addition, counseling and psychiatric treatment is made available to the individual concerned, and social work is carried on, where advisable, with members of the individual's family and friends. Those who are financially

able to do so are expected to pay for their treatment, which at the Forsyth County Hospital costs \$10 for laboratory fees and drugs plus \$5 per day for hospital care. The ABC appropriation finances the care of those unable to pay.

#### County Home Lease

**Nash County** has recently decided to lease its county home. In preparation for leasing, the county is converting its present home into a duplex type building at a cost of \$6,000 in order to afford complete separation of white and Negro residents. The converted home will have a capacity of 30 white and 30 Negro residents, and the county desires that there be one operator for the white section and one for the Negro section.

As the county's part of the arrangement, it will furnish, in addition to the building itself, maintenance, heat, light, and water. In addition, living quarters will be furnished the operators, and five acres of land will also be available for the use of each operator for the planting of gardens. In return, the operators will furnish board, nursing care, and laundry. Medical and hospital bills of residents, however, will be met by the county.

It is anticipated that the rental to be paid by each operator will probably be \$5 per resident per month, a rate similar to that set by other counties which have converted county homes to leased institutions. Applications are now being sought from persons interested in operating the two sections of the home.

The primary purpose of the lease is to make residents of the home eligible for old age assistance, residents of county homes not being eligible under present federal and state legislation. Monthly checks will be mailed to the residents who in turn will pay the operators for room and board. It is estimated that room and board rates will range from \$50 to \$80 per month, depending upon the amount of care needed by the individual; ambulatory patients will pay the lower rate and bed patients the higher rate. In cases where the rate per month exceeds the \$55 old age assistance payment maximum, the

difference will be paid by the county if the resident has no relatives who can help.

#### Fire Protection

What are believed to be the first two elections under the state's new fire protection district law (G.S. 69-25.1 to 69-25.10) have been called for the first part of December. Voters in the Guil-Rand Fire District straddling the **Guilford County-Randolph County** line at Archdale and in the Battleground Fire District north of Greensboro will be asked to approve a tax not exceeding 10 cents on the \$100 valuation for fire protection.

The **Lee County** commissioners have voted to establish a network of community fire departments similar to that now operating in **Forsyth County**. . . . **Lenoir County** has paid \$5,000 apiece to Pink Hill and La-Grange and \$1,000 to Grifton for rural fire protection. The action was taken under Chapter 71 of the 1953 Session Laws. . . . **Wake County** has appropriated \$20,000 for the purchase of water trailers to be stationed at Apex, Cary, Zebulon, Fuquay Springs, Wendell, Wake Forest, and Garner. The trailers, each carrying 3,000 to 4,000 gallons, would be used to assist rural fire-fighting efforts of trucks stationed in those towns. The towns would agree to furnish tractors and to maintain the trailers.

The Princeton and Pine Level Fire Departments have inaugurated membership plans for rural fire protection in their respective townships of **Johnston County**. Initial fees of \$5 per farm and \$2 annual dues will be charged. . . . **Catawba County** has purchased Maiden's old fire truck for rural fire protection, enabling the town to supplement its equipment with a new truck. Both trucks will be manned by the town's volunteer fire department. . . . Ten of **Forsyth County's** 11 volunteer departments have been equipped with two-way radios. Fifty per cent of the cost will be borne by the federal civil defense program, with the department and the county sharing the remainder equally.

#### Miscellaneous

The cut-back in federal funds available for the construction of airports has had an adverse effect on the East Carolina Airport Authority. The chairman of the authority, a joint effort of **Edgecombe, Nash, Pitt,** and

Wilson counties, and Greenville, Rocky Mount, Tarboro, and Wilson, has received word that there will be no federal funds available for the construction of airports during the current year. Since the governments that had formed the authority hoped that federal funds would pay a substantial part of the cost of airport construction, the possibilities of going forward immediately are not bright. . . . All 38 patients at the **Durham County Tuberculosis Sanatorium** will be transferred on November 1 to Gravelly Sanatorium in Chapel Hill, a part of North Carolina Memorial Hospital. The Durham County Commissioners are now giving considera-

tion to what will be done with the sanatorium building after it is vacated on November 1. Among the possibilities being considered are use as a nursing or convalescent home, use for county school administration and maintenance headquarters, and outright sale. . . . **Anson County's** commissioners have approved a contract which will provide two-way radios for county law enforcement cars and for the cars of the Wadesboro police. Broadcasting stations will be maintained both at the county courthouse and in the city hall. Total cost of the radio system will be \$5,031.77, with the town of Wadesboro bearing its pro rata share.

head of the department and the County Manager, for a period of ninety working days or less, his or her regular compensation less such sum as may be paid by workmen's compensation. This workmen's compensation leave is in addition to regular sick leave.

In August, the town of **Jacksonville** approved rules governing the employment of personnel, appointment of various employees, termination of employment, training, holidays with pay, length of work day and week, overtime pay, vacation, sick leave, and other benefits. Under the new rules, salaried employees and full-time weekly or hourly employees will earn one working day of vacation per month. Vacation leave will not be permitted to accumulate.

## NOTES

### On North Carolina Personnel

#### Hours of Work

Three North Carolina counties have recently changed the office hours of certain courthouse employees. In June, **Durham County** provided that county employees would work five days one week and five and a half days the next week during the summer months. This permitted employees to have at least two free Saturdays a month.

In August, the Board of County Commissioners of **Mecklenburg County** decided to close most county offices in the courthouse on Saturday for a 60-day trial period. The office of the Clerk of Court and the Tax Collector continued to remain open on Saturday with a "skeleton staff." Although the Sheriff's office was closed, the Sheriff and his deputies continued to serve civil papers on Saturdays as necessary. The office of the County Police remained open at all times with county policemen continuing to work 44 hours a week. Office hours for most county employees during the trial period were from 8:15 A.M. to 5:15 P.M. As of September 28, the Mecklenburg County Commissioners were unable to decide whether the new working hours should be continued.

During September, the Board of County Commissioners of **Caldwell County** voted to open county offices at 8:00 A.M. and close them at 5:00 P.M. on Monday, Tuesday, Thursday, and Friday. On Wednesday, offices will open at 8:00 A.M. and close at 12:00 noon. On Saturday, county offices will open at 8:00 A.M. and close

at 1:00 P.M. The new hours do not affect the office of the Clerk of Court which are regulated by State statute. Previously, all county offices did not open until 8:30 A.M., the county tax office closed from 12:00 noon to 1:00 P.M. every week day, and all offices had remained open Wednesday afternoon. The new hours will give most **Caldwell County** employees a 41-hour work week instead of the former 42-hour work week.

#### County Employee Picnic

Chicken southern style—both fried and barbecued—was served to **Forsyth County** employees and their families on August 25th at the first social gathering of Forsyth County employees in more than ten years. The picnic supper started with swimming in Lake Woussicket and ended with dancing under a full moon.

#### Personnel Rules

A number of towns and counties have revised their personnel rules in recent months. Several months ago **Robeson County** revised its vacation and sick leave requirements. The new rules provide that all Robeson County employees will be given two weeks' paid vacation and ten days of sick leave. Vacation leave may not be taken during the first year and may not be carried more than a year after being earned. Sick leave is accumulative up to thirty days. Employees absent from duty because of sickness or bodily injury covered by workmen's compensation may receive from the County, with the approval of the

#### Position Classification

**Mecklenburg County** Commissioners met with the heads of 20 different administrative departments of the county on August 31, to discuss the possibility and advisability of establishing a job classification program for all county employees. Department heads were asked whether they favored or opposed a job classification program. All of the officials were reported to believe a position classification plan to be feasible and perhaps advisable. Several department heads proposed that a large committee of department heads and one or two commissioners be appointed to study the duties of each job and the salary and qualifications required of new employees. Other department heads stated that such a committee would be required to make themselves "experts" or the county would have to engage an expert to study the duties and responsibilities of existing positions and prepare a classification and pay plan.

City Manager Henry Yancey of **Charlotte** has announced that the position classification survey of Charlotte city government will be completed in time for consideration and adoption by December 1.

#### Employment Security Institute

(Continued from page 2)

North Carolina and indicated several changes to be considered in present employment security legislation.

A verbatim transcript of the proceedings of the institute will be available within the next few weeks.



# The Zoning of Areas Outside City Limits

By

PHILIP P. GREEN, JR.

Assistant Director

Institute of Government

One of the central problems confronting local governmental authorities throughout the country today is what to do about the so-called "urban fringe areas." In these areas beyond the city limits much of the property development of today is taking place, in relatively chaotic fashion.

With the new freedom of automobile transportation, people are fleeing to the countryside to escape the crowded environs, high land prices, and in some cases the taxes of the cities in which they work. Yet, in the absence of legal controls over the use (or misuse) of their neighbors' property, they frequently find that they have jumped into the midst of worse conditions. And the city, when it is successful in extending its limits to include fringe areas, finds them unplanned jumbles which add a multitude of problems to those already confronting it.

A basic reorganization of the whole local governmental structure may be necessary in order to solve the fringe area problems. Among the questions which must be answered are: (a) what unit of government should provide each of the various governmental services to residents of these areas? (b) what unit of government should have the responsibility for regulating these areas? (c) how may the cost of government in these areas be equitably assessed against the people benefited?

This article will not attempt to answer these broad questions. Instead it will be confined to a discussion of the problems involved in providing zoning regulations for fringe areas within the existing governmental framework. Zoning in itself cannot solve the major underlying problems, but it may hold conditions in a relatively orderly state pending an overall solution.

### Three Approaches

The zoning of areas outside incorporated cities and towns might be done by several different units of government. In the first place, cities might be given authority to zone for a given distance beyond their boundaries. Secondly, counties might be given authority to zone their unincorporated areas. Third, special districts might be authorized to zone. Let us discuss

the problems involved in each of these approaches.

#### Extra-territorial Zoning by Cities

The most popular approach to date in North Carolina has been the granting of extra-territorial zoning powers to cities. This movement began in 1949, when the General Assembly granted Raleigh (c. 540),\* Chapel Hill (c. 629), Gastonia (c. 700), and Tarboro (c. 1192) power to zone for one mile beyond their limits. The 1951 General Assembly added Statesville (c. 238), Mooresville (c. 336), Farmville (c. 441), and Kinston (c. 876) to this list, and increased Chapel Hill's authority to four miles (c. 273). In 1953, Winston-Salem was given such power for three miles (c. 777), and Chapel Hill's authority was revamped to cover a defined area, shaped roughly like a parallelogram, whose boundaries were from two to four miles beyond the city limits (c. 527)

The constitutionality of extra-territorial zoning by cities and towns has been upheld in the few cases to reach the courts, except in special circumstances.<sup>1</sup> This is in accord with the usual legal principle that the legislature may extend any of a city's police powers for a given distance beyond its limits, so long as the extension is reasonable.<sup>2</sup> It would not seem unduly difficult to make a showing of reasonableness in the case of territory adjacent to the city in which urban-style development is taking place, al-

though such a showing might be more difficult at a greater distance from the city.

The most difficult problem involved is political, rather than legal: how to give the people in the area which is controlled a voice in the adoption, enforcement, and amendment of the ordinance. The solution to this problem in North Carolina has been to give these people representation on the town Zoning Commission and the town's Zoning Board of Adjustment.

The 1953 act pertaining to Chapel Hill (c. 527) goes perhaps the furthest in this respect. It requires that a ten-man Planning Board be named, with five members from inside the town appointed by the Board of Aldermen and five members from the perimeter area appointed by the County Commissioners. This board would have authority to draft a proposed zoning ordinance and to pass upon amendments. A Zoning Board of Adjustment would be similarly constituted when the zoning ordinance was adopted. Both boards would exercise power over the entire area zoned, both inside and outside the city. The other North Carolina acts have generally limited the jurisdiction of extra-territorial members to cases arising outside the city limits.

This granting of representation has not in all cases satisfied the perimeter residents, who point out that the City Council (for whom they may not vote) still has the ultimate power to adopt or reject the ordinance. A possible solution to this problem would be to authorize the City Council and the County Commissioners, by contract or joint resolution, to agree as to territorial coverage of any zoning ordinance, membership of boards enforcing the ordinance, financial provisions for enforcing the ordinance, etc. If this agreement were made subject to renewal every two years, the perimeter residents would be able to speak periodically through the County Commissioners, their elected representatives.

Another matter which sometimes creates difficulties is the description of the boundaries of the zoned area. Most of the North Carolina acts merely grant a city power to zone for a given number of miles beyond its

\* References are to chapter numbers in the Session Laws of the year named.

1. *Omaha v. Glissman*, 151 Neb. 895, 39 N.W. 2d 828 (1949). *Smelzer v. Messer*, 311 Ky. 692, 225 S.W. 2d 96 (1949) held that Fourth Class Kentucky cities could not be granted power to zone across a county line, since they were forbidden from ever annexing such territory.
2. See 37 Am. Jur. sec. 122, p. 736; 37 Am. Jur. sec. 284, p. 918; 62 C.J.S. sec. 141, p. 283, and cases cited therein. See also such North Carolina statutes as G.S. 160-226 and 160-203, extending particular police powers for a mile.

limits. This results in the inclusion of areas which will probably never be developed and also creates problems as to whether or not a given piece of property is included in the zoning area. To avoid these problems, it is generally considered best to delimit the area to be zoned in terms of specific geographic features (such as streams, roads, etc.).

#### County Zoning

County zoning was first authorized in Wisconsin in 1923.<sup>3</sup> Since that time more than one-third of the states have granted zoning authority to all of their counties, while a number of others have granted authority to one or more counties. In Wisconsin zoning was expected to aid in forestry, conservation, and agricultural practices, but in most of the states it has been regarded in much the same terms as municipal zoning.

This approach has been followed in only a few instances in North Carolina, and apparently no county has as yet exercised such authority. Forsyth County has zoning authority under its broad planning act of 1947 (c. 677). Durham County (Sess. Laws, 1949, c. 1043) and Dare County (Sess. Laws, 1951, c. 1193) are the only other counties in the state possessing such power at present.

County zoning has the advantage of covering all of the area in which development may take place, and it solves the political question of representation for the people living in the area zoned. But it runs into two problems, one legal and one practical.

The legal question arises out of the historical dispute as to whether a county, under the North Carolina Constitution may validly be granted any part of the state's police powers.<sup>4</sup> This question was alluded to, but not decided, by the state Supreme Court in the recent case of *Harrington v. Renner*, 236 N.C. 321 (1952), where it said,

"Conceding, without deciding, that the General Assembly has the power under the Constitution to empower a County Board of Commissioners to enact ordinances providing for zoning districts in the rural areas of the county, here the Act of 1949 has not done this.\*\*\*

"While the General Assembly may

delegate power to a municipal corporation to enact zoning ordinances in the exercise of police power of the State, . . . it must be remembered that though counties are bodies politic and corporate, created by the State for certain public purposes, they are not in strict legal sense municipal corporations as are cities and towns, but are rather instrumentalities of the State by means of which the State performs governmental functions within its territorial limits."

The practical problem results from the fact that the conditions causing people to ask for zoning protection rarely extend throughout the county. It is more difficult to demonstrate the practical value of a zoning ordinance to a farmer living in relative isolation than it is to make such a demonstration to a fringe-area resident. Without the requisite popular backing from throughout the county, County Commissioners are reluctant to adopt such an ordinance.

When an attempt is made to solve this practical problem by authorizing the county to zone only a portion of its area, then a further legal problem arises. This is that the constitutionality of most zoning regulations rests upon their comprehensiveness. Where a governmental unit singles out a portion of its area for zoning, while leaving the remainder untouched, there is a question as to whether the zoning is purely arbitrary, rather than being based upon a comprehensive plan.

The problem is raised most acutely when a city attempts to zone only a portion of its area, for there it is difficult to rebut the appearance of arbitrariness. The North Carolina Supreme Court overturned an ordinance partially on this ground in the case of *Shuford v. Waynesville*, 214 N.C. 135, 198 S.E. 585 (1938).

In the case of a county, however, the reasons for zoning only limited areas are much more apparent, and the courts may well decide the other way. The Maryland Supreme Court has upheld a zoning ordinance adopted under an act which it interpreted as granting specific authority to zone limited areas, in the case of *Anne Arundel County v. Ward*, 186 Md. 330, 46 A. 2d 684 (1946). In *Acker v. Baldwin*, 18 Cal. 2d 341, 115 P. 2d 455 (1941), the California court upheld county authorities who zoned only an area four miles square bordering the city of Los Angeles, under the usual type of enabling act. Other cases involving this question are *Vanderburgh County v. Sanders*, 218 Ind. 43, 30 N.E. 2d

713 (1940), and *Frederick v. Jackson County*, 197 Miss. 293, 20 S. 2d 92 (1945).

Assuming that the zoning of a portion of a county would be upheld in North Carolina, if properly authorized by statute, the question arises as to how the area to be zoned should be determined. The Dare County act (Sess. Laws, 1951, c. 1193) leaves this determination to the property owners of the area, 15 per cent of whom must present a petition outlining its boundaries. In thus leaving the area to be zoned indeterminate, this type of act runs grave danger of being found arbitrary.

Perhaps a safer approach would be to authorize the County Commissioners to zone any township (or other recognized geographical subdivision of the county), either on making certain statutory findings or on receiving a petition from a certain percentage of the property owners therein. To be sure of securing the maximum public support, the enabling act might require that the County Commissioners appoint a Zoning Commission and a Zoning Board of Adjustment from each of the townships thus zoned. The Commissioners themselves should, however, be given the actual power of adopting the regulations for the area.

The method of requiring a petition from property owners in the area as a first step toward zoning, which was used by the Dare County act, has the advantage of assuring somewhat greater support for the ordinance when it is adopted. Any such provision, however, should avoid making the County Commissioners' actions mandatory on receiving a petition, for this would run the risk of being held an unconstitutional delegation of legislative powers to private citizens. *Eubank v. Richmond*, 226 U.S. 137, 33 S. Ct. 76, 57 L. Ed. 156 (1912).

#### Zoning by Special Districts

The third course which might be followed is to grant zoning power to special districts. Under Section 130-39 (18) of the General Statutes, sanitary districts adjacent to cities of 50,000 or more are authorized to zone areas within their limits, on receiving a petition from the residents of the area. Sanitary districts have been held to be municipal corporations, and there seems to be little doubt but that their exercise of zoning authority would be upheld by the courts. On the other hand, it does not seem likely that very many of the areas in need

(Continued on next page)

3. For a description of county zoning in Wisconsin, see "Rural Zoning and Conservation in Wisconsin," by Arthur R. Porter, Jr., at page 5 of the December, 1952, copy of *Popular Government*.

4. See the extended discussion in *Durham Provision Co. v. Daves*, 190 N.C. 7, 128 S.E. 593 (1925).

# Street Improvements In North Carolina Cities and Towns

By  
**JAMES S. BURCH**

**Engineer of Statistics and Planning  
State Highway and Public Works  
Commission**

The extensive hard-surfacing of North Carolina's secondary rural roads within the last few years is a fairly well known fact. Not so well known is the extent of recent improvement in paved mileage of streets within its many cities and towns.

A summary just made by the State Highway Commission's Division of Statistics And Planning shows that, within the past two years, the total mileage of all paved streets has increased from 4,349 to 4,983 miles, an increase of 15%.

The length of paved State Highway System streets increased from 1910 to 2068 or 8%, the vast majority of such streets having been paved for several years.

At present 60% of all 8,375 miles of streets in the State are paved, as compared to 54% two years ago. Percentage wise, this 60% of paved streets is somewhat better than the 44% of all rural roads and highways paved by last Januray 1st.

By far, the greater relative recent progress has been shown in the smaller towns. In fact, it may be said that generally, the smaller the town, the greater has been the percentage in-

crease in paved streets. The larger cities are naturally most concerned with upkeep of older pavements.

The financing of street work is too complex for brief expression, involving funds derived from realty developments, abutting property owners, and municipal taxpayers, aided in varying degrees by the State Highway Commission, the State-Aid Powell Bill Fund, and by Federal-Aid Funds. Perhaps the most important recent developments in this field have been the latter two. This year, Powell Bill Aid amounts to \$5,244,203, Federal Urban Aid \$1,724,427, and State Highway maintenance of System streets \$2,500,000.

It is noted that the State Highway Commission has 2387 miles of the grand total of 8375 miles of streets as its responsibility, or 28% of all streets in the entire State; and that 2068 miles, or 87% of this length is

hard-surfaced. The State Highway And Public Works Commission has responsibility for more street miles than do the 20 largest cities combined.

The total mileage in each of these 20 cities for which the city is responsible and for which it receives Powell Bill Aid follows:

Charlotte has	327
Asheville	212
Durham	167
Greensboro	215
Raleigh	143
Winston-Salem	241
Fayetteville	97
High Point	122
Rocky Mount	89
Wilmington	94
Burlington	87
Gastonia	85
Wilson	74
Goldsboro	73
Salisbury	69
Kinston	58
Statesville	67
Greenville	61
Concord	55
New Bern	42
	2381

## Outside Zoning

(Continued from page 8)

of zoning regulations will be incorporated as sanitary districts.

It has also been suggested that special zoning districts might be formed, which would have no other purpose than to enact zoning regulations. An example of this approach was the formation of a special Cherry Point Marine Corps Air Station Zoning Commission in 1949 with authority to zone portions of Carteret and Craven Counties adjacent to the air base

5. The 1951 General Assembly first removed Newport Township in Carteret County from the commission's jurisdiction (c. 227) and placed it under a newly-created Newport Township Zoning Commission (c. 1001). Then a new Havelock Zoning Commission was created to replace the Cherry Point Commission, with jurisdiction over all its former territory in Craven County (c. 757).

(c. 455). After a number of legislative modifications of its territorial jurisdiction in 1951,<sup>5</sup> this commission's efforts were finally nullified by the state Supreme Court in the case of *Harrington v. Renner*, 236 N.C. 321 (1952).

The Supreme Court furnished few indicia in its opinion as to whether or not a variation of this approach would be upheld. Under the particular act involved, a zoning commission was appointed by the County Commissioners, with authority to adopt zoning regulations for an area designated in the statute. The County Commissioners retained power to modify these regulations and to act as a Zoning Board of Adjustment to consider hardship cases arising under them.

### Conclusion

There is as yet no clear-cut answer to the question of what is the best approach for providing zoning controls over areas outside incorporated cities and towns. All of the methods enumerated herein present legal prob-

lems, and most present practical problems as well. Pending further court decisions, it would seem wise for those interested in zoning a particular area to consider first which approach is most practical from the standpoint of political considerations. If the people of the area will not accept controls of a particular type, the legality of those controls will be of no assistance.

Once this choice has been made, a special act to effectuate it will be necessary in most cases. This act should be drawn with great care, for it will undoubtedly be subjected to judicial scrutiny. It seems probable that maximum judicial support will be given to such an act only if it clearly indicates an effort to avoid arbitrariness in the selection of areas to be zoned and an effort to give representation at some stage to the people living in the area. In the course of this article an effort has been made to point out further legal considerations which should be kept in mind with regard to the particular approaches described.

## Books of Current Interest

### Municipal Law

THE LAW OF MUNICIPAL CONTRACTS WITH ANNOTATED MODEL FORMS. *By Charles S. Rhyne. Washington: National Institute of Municipal Law Officers, 730 Jackson Place, N. W. \$7.50. Pages 192.*

This excellent volume on municipal contracts will be of great value to attorneys, purchasing agents, and others responsible for the making of governmental contracts, particularly those connected with contracts for construction and repair work.

Of particular interest to lawyers is the brief introductory discussion of the contract powers of municipal corporations, including the power to make contracts, *ultra vires* contracts, and problems arising out of personal interest of a municipal officer in the contract. The book carries its discussion of municipal contracts from the power to create contracts, through competitive bidding procedures, to the contract document itself, with many model provisions set forth and discussed.

The discussion of model forms will probably provide the book's greatest use to county and municipal officials involved in the drafting of municipal contracts. A model construction contract is set forth in full, containing 54 articles and a wide variety of contract provisions. The annotations explaining the various provisions are quite helpful in indicating the use to which the provisions may be put. In addition, other model contract provisions are set forth including provisions suitable for general use and provisions applicable to paving of streets, highways, or sidewalks.

Additional model forms are presented for the advertisement for bids, instructions to bidders, a bid form, performance and payment bond, maintenance bond, and other model forms suitable for other purposes.

The book is designed for and will be of greatest use to those municipal officers intimately concerned with competitive bid procedures and the drafting of contracts. In addition, the attorney will find the compilation of court decisions helpful not only in the drafting but also in the interpretation of contracts.—J. A. M.

NIMLO MUNICIPAL LAW REVIEW (successor to MUNICIPALITIES AND THE LAW IN ACTION). *Washington: National Institute of Municipal Law Officers, 726 Jackson Place, N. W. 1953. \$10.00. Pages 462.*

A change in the title of this annual publication is accompanied by the announcement that henceforth the volume will contain not only the full text of committee reports and addresses made at NIMLO's annual conference but also special articles in the field of municipal law submitted to the organization's Washington office during the year. For example, the 1953 edition contains articles on municipal tort liability in street and sidewalk cases; fundamental considerations in financing water and sewage services; the legality of the use of public funds by municipal officials for attendance at State and National conferences; codification of municipal ordinances; and microfilming of public records. Because these articles deal with problems frequently encountered by city attorneys, they form a helpful supplement to the regular reports issued by NIMLO each year.

Special attention, both in a committee report and in a special article, is given to the refusal of the U. S. Supreme Court to set aside decisions by the state courts upholding the power of municipalities to prescribe minimum floor and minimum lot areas for dwellings. Still another article discusses the legality of permitting joint use of private off-street facilities required by zoning ordinances, sign and billboard regulations or prohibition, density in apartment zones, prohibiting residential uses in industrial zones, and other current developments in the field of planning and zoning.

Of current interest to all city officials should be the full transcript of the panel discussion of off-street parking and the mass transportation problems of cities.—G. H. E., Jr.

UNIFORM TRAFFIC ORDINANCES FOR MICHIGAN MUNICIPALITIES. *Ann Arbor: Michigan Municipal League, 205 South State Street. 1953. \$3.00. Pages 32.*

### Cities

BUSINESS ACTION FOR BETTER CITIES. *Washington: Chamber of Commerce of the United States. 1953 \$1.00. Pages 188.*

This is a report of the Businessmen's Conference on Urban Problems, held in Portland, Oregon, June 23-24, 1952. It includes informative discussions of a variety of topics under the following headings: Urban Planning Problems, Basic Factors in City Growth, Streamlining Urban Traffic, Off-Street Parking, Redevelopment with Modern Highways, and Urban Redevelopment.—P. P. G., Jr.

COMMUNITY POWER STRUCTURE. *By Floyd Hunter. Chapel Hill: University of North Carolina Press. 1953. \$5.00. Pages 271.*

This significant book explores the questions of who makes the basic policy decisions in a fairly typical city (in this instance, a small group of leading businessmen and industrialists) and of how these decisions are carried into effect. Practicing politicians and older governmental officials in many instances will merely find confirmation of their own experience here, but younger officials will find much that is new and of value to them. Without some understanding of the basic community power structure and of how it may be utilized to achieve specific ends, the official will find himself continually frustrated without ever quite knowing why. The author does little preaching, but he raises issues which must be considered by every thoughtful student of the democratic process.—P. P. G., Jr.

### Fire Protection

FIRE PREVENTION AND PROTECTION FUNDAMENTALS (COMBUROLOGY). *By Gilbert E. Stecher. Philadelphia: The Spectator. March, 1953. Pages 744.*

Filling the great need that it does, this book should rapidly become a basic reference source for all persons interested in the prevention, control, fighting, or investigation of fires. It gathers together between its covers a great store of scientific data concerning fire, its origin and its nature. This material is presented in such a fashion as to be usable by both the technically trained fire protection engineer and the practical fire inspector, fighter, or investigator. It presents all of the chemistry, physics, and engineering information relating

to fire that the latter groups need. In addition to the scientific data, the author has included a great many practical observations on the source, progress, and effect of flames.

The following listing of the chapter headings of the book will indicate its scope: the nature of a visual inspection; inspectors—their qualifications and equipment; comburology; chemistry and physics of combustion; electrical methods of temperature measurements; phenomena producing fire; flammable liquids; flammable gases; flammable dusts; hazardous chemicals; building construction; exposure; occupancy; possible causes of fire; water supplies; public fire departments; private fire brigades—stock flow methods; special extinguishing systems; first aid equipment; automatic sprinkler systems; alarm systems; and analysis of an industrial establishment. The book closes with a twenty-third chapter containing hydraulic data, a bibliography, miscellaneous tables and charts, aids for those who will teach the material, references, and an excellent and detailed topical index. The North Carolina fire inspector, fighter, or investigator who acquires this excellent book and becomes familiar with its contents will be a better man at his job because of it.—R.A.M.

## Water

**FLUORIDATION OF MUNICIPAL WATER SUPPLY—A REVIEW OF THE SCIENTIFIC AND LEGAL ASPECTS.** *By Charles S. Rhyne and Eugene F. Mullin, Jr. Washington: National Institute of Municipal Law Officers, 730 Jackson Place, N. W. 1952. \$3.00. Pages 62.*

This booklet presents the case for fluoridation of municipal water supplies in a clear, concise and lawyer-like manner, summarizing and documenting the arguments pro and con in readily understandable, non-technical language. It examines the historical background of municipal water supply fluoridation, comments on recent studies, collects available materials on possible harmful effects, appraises the attitudes of municipalities, discusses briefly the technical problems involved and analyzes the legal problems inherent in fluoridation in the light of judicial and administrative rulings which have appeared to date.

A selected bibliography of related materials has been included, making

of the booklet a handy reference guide for municipal officials, attorneys, and private individuals interested in fluoridation.—J. D. S.

## Elections

**PRIMARY ELECTIONS IN THE SOUTH, A STUDY IN UNIPARTY POLITICS.** *By Cortez A. M. Ewing. Norman, Oklahoma: University of Oklahoma Press. 1953. \$2.75. Pages 112.*

Mr. Ewing announces at the outset that his "intention in this investigation is to examine the primary systems of the South and to determine, if possible, whether the intra-party struggle produces results that are not at variance with the demands of democratic procedure." The book is based on statistics concerning 3,843 primary-election nominations in Southern states.

Selecting eleven states from other sections of the country for purposes of comparison, Mr. Ewing found that in the six elections from 1928 to 1948 these other states had a primary participation ratio of 201.1 voters per 1000 inhabitants as contrasted to the 144.3 voters per 1000 of ten Southern states. These figures, Mr. Ewing believes, "refute better than rhetoric the Southern apologists who maintain that the South is as democratic as other sections and that its democratic participation comes in the primaries rather than in the general election."

The text proper consists almost wholly of explanations of the statistical tabulations and the author's interpretation of the statistics as they relate to candidacy, unopposed nominations, and the effect of incumbency. In a separate chapter Mr. Ewing examines the size of winners' margins and the popularity of specific offices. The run-off primary is accorded special treatment. These are important problems and the book deserves study, but it is only fair to say that the dust jacket's promises about the questions the book will answer are exaggerated. Read in conjunction with the recent works of V. O. Key, Jr., Alexander Heard, and D. S. Strong, this book makes a substantial contribution to the field of Southern political analysis.—H.W.I.

## Criminal Investigation

**CRIME INVESTIGATION — PHYSICAL EVIDENCE AND THE**

**POLICE LABORATORY.** *By Paul L. Kirk. New York: Interscience Publishers, Inc. 1953. \$10.00. Pages 784.*

Law enforcement departments in North Carolina which add this book to their departmental libraries will actually be getting two excellent books. This treatise by Professor Kirk is written in two sections, each one of which could well be published as a separate volume.

The first section deals with the various types of physical evidence that are encountered by most departments each year, explaining in detail just what help the laboratory can be to investigating officers in evaluating each item of physical evidence. The second section is actually a laboratory manual which gives detailed instruction to the laboratory technician on how to conduct the various tests which he will be required to perform.

Perhaps the most notable feature of the first section is the discussion of the relation of probability to physical evidence and the value of some fundamental principles of statistics to law enforcement officers. This chapter will bring a new insight into their work to many investigative officers. Other interesting features of the first portion of the book are the chapter on samples and standards and that on equipment for investigation. Practical limitations in space and budget of different size departments are not ignored in these chapters, a refreshing attitude to discover in this type of publication.

Part II of this book, the laboratory manual half, is complete and well illustrated. It is an excellent handbook for the laboratory man and also contains references to the more detailed scientific literature on each subject treated.

This book is well worth the \$10 price to any department. That price will, however, place the book out of the reach of many individual officers. As a part of the departmental library, it could be used as text in training schools and for loan to interested officers. Used in such a fashion, the book would be a valuable asset to any department.—R. A. M.

## Legal Aid

**OFFICE MANAGEMENT MANUAL FOR LEGAL AID SOCIETIES.** *By Junius L. Allison. Chicago: Public Administration Service. 1953. \$2.00. Pages 109.*

# The Attorney General Rules...

## Counties

**Five-Day Week.** Can a board of county commissioners place the offices of register of deeds, clerk of the court, sheriff, and the tax department on a five-day week basis?

To: H. C. Dockery

(A.G.) Nothing in the statutes prohibits the county commissioners placing the offices of the register of deeds, sheriff, and the tax department on a five-day week basis. G.S. 161-8 specifically provides that the commissioners may fix the days of the week and the hours of each day that the register of deeds shall attend his office in person or by deputy.

With reference to the clerk of the court, the situation is different. G.S. 2-24 provides that the clerk shall give due attendance, in person or by deputy, at his office daily, Sundays and holidays excepted, from 9:00 a.m. to 3:00 p.m., and longer when necessary for the dispatch of business, with the proviso that the clerk's office may observe such office hours or holidays as authorized by the board of county commissioners for all county offices. I do not think that this proviso, rewritten in 1949, could have the effect of authorizing the board of county commissioners to put the office of the Clerk of the Court on a five-day week basis.

**Limitation on Authority of County Commissioners to Change Fees.** A local act, relating to the power of the county commissioners to set salaries and fees of certain employees, was ratified during the 1953 session of the General Assembly. It empowered the county commissioners "to fix the compensation to be paid to each of said deputies, clerks, and assistants." Chapter 1227 of the 1953 Session Laws, relative to the same matter generally and applicable to the same county among others, was later ratified, providing in Section 3(d) that the compensation of any employee not specifically fixed by acts of the General Assembly was not to be reduced or increased by the county commissioners more than 20% in any fiscal year. Has the local act been repealed by Chapter 1227?

To: Garland S. Garriss

(A.G.) Maximum effect should be given both chapters to avoid legislative repeal by implication. Thus the limitations of Section 3(d) of Chapter 1227 should be imposed upon the local act granting the county commissioners power to set salaries and compensation for the deputies, clerks, and assistants. This reasoning is supported by Section 5 of Chapter 1227, providing "all laws and clauses of laws, whether general, local or private, passed prior to the ratification of this Act and in conflict with the provisions of this Act are hereby repealed to the extent of such conflict."

## Municipalities

**Purchasing Property Outside Limits to Widen a Street.** The city limits line of a municipality splits a very narrow street. Can the city purchase land lying outside the corporate limits for the purpose of widening the street?

To: George C. Franklin

(A.G.) In my opinion a city has no authority to purchase property for this purpose. In the absence of special legislation law enforcement officers of the city would have no jurisdiction over such property even though the city owned the property and attempted to incorporate it as a part of one of its streets.

**Library and Recreational Facilities.**

A corporation plans to erect a building for library and recreational purposes on its land and lease it to a subsidiary corporation to be used for such purposes. Can the town supply funds for the operation of the library and recreational facilities?

To: T. A. Clark

(A.G.) From an examination of Article 8, G.S. Chapter 160, as rewritten in 1953, it would seem that the subsidiary corporation could establish a library which would meet the approval of the State Library Commission, and that the town would be authorized to enter into such a contract with the library as is contemplated by G.S. 160-74, and make appropriations to such library of nontax revenues. Tax revenues could not be appropriated for such purpose unless the library is established under the provisions of G.S. 160-65 and a special tax is voted by the people under the provisions of G.S. 160-66.

Nontax revenues may be used for recreational purposes without a vote of the people. See in this connection *Purser v. Ledbetter*, 227 N. C. 1.

**Extension of Street Over Railroad Track.** Considering G.S. 160-54 and G.S. 160-200, subsection 11 (both dealing with powers in connection with streets), does a town have the authority to extend a street, once open but now closed, over the tracks of a railroad company?

To: G. S. Garriss

(A.G.) After examining the sections referred to, I am of the opinion that the town has authority to open such a street and extend it over the tracks of the railroad company. This power is also strongly implied in G.S. 160-200, subsection 18 (corporate powers in connection with railroads). While the town's position is much stronger because it is re-opening a street, the same authority would exist if it were extending or creating a new street.

**Issuing Less Than Total Amount of Bonds Authorized.** Approximately \$700,000 in bonds of a \$1,000,000 bond issue for water and sewerage improvements has been sold and improvements made in this amount. The

remaining \$300,000 is insufficient to make all the improvements specified in the election. Must the town issue the remaining bonds and complete the sewerage and water works improvements in accordance with the bond election or may the town commissioners refuse to issue the bonds and complete the work?

To: J. H. Whicker, Jr.

(A.G.) These bonds were authorized and submitted to a vote under the terms of the Municipal Finance Act. Under the terms of this act, when an election is held authorizing the issuance of bonds for municipal purposes, and the voters of the municipality approve the issuance of such bonds, this approval is merely an authorization to the governing board of the town to issue bonds not in excess of the amount approved by the voters. There is no mandatory requirement that the governing board of a municipality issue the full amount or any portion of the amount of the bonds authorized by the vote.

## License Taxes

**Enforcement.** How can license tax ordinances of a town be enforced when merchants refuse to pay the tax?

To: Hobart L. McKeever

(A.G.) The ordinances require a person to secure the proper license. G.S. 14-4 makes the violation of a town ordinance a misdemeanor, within the jurisdiction of a justice of the peace, punishable by a fine not exceeding \$50 or imprisonment not exceeding 30 days. Criminal proceedings could therefore be instituted against merchants refusing to pay the tax.

**Two Places of Business.** An automobile dealer has been operating his business outside the city limits and is going to establish a lot for display purposes within the city. Such lot would function as a direct and integral part of the main plant. All records and transactions would be handled and completed at the general office in the main plant. What license taxes must the dealer pay?

To: W. R. Deans

(A.G.) The dealer would be operating two places of business. Under the provisions of G.S. 105-33 (a) (Section 100 of the Revenue Act) a separate state license for each place or location of a business is required when a business which is subject to a state privilege license tax is carried on at two or more separate places. The dealer would be subject to one state license tax at the rate provided for the city (size determines the rate); one state license tax at the rural rate; a county license tax at one-fourth the state rate for the city (with a minimum tax of \$20); a county license tax at one-fourth the state rural rate (with a minimum tax of \$20); and a city license tax at

one-fourth the state rate for the city (with a minimum tax of \$20). The statements as to county and city licenses are based on the assumption that the city and the county have levied the maximum license taxes authorized.

**Telephone Answering Service.** Can a city under G.S. 105-120(6) levy a license tax upon the operation of a telephone answering and recording service?

To: John D. Shaw

(A.G.) A city cannot levy a license tax in connection with this operation. The North Carolina Utilities Commission supervises the operation of telephones, and the automatic answering and recording service was covered on the Southern Bell Company's general exchange tariff for the State of North Carolina. A franchise tax under G.S. 105-120 is paid to the state.

## Public Welfare

**Liens on Estate by the Entirety.** A husband and wife own a piece of real estate as an estate by the entirety and are about to sell the property. Both are receiving old age assistance. Does the lien provided for under G.S. 108-30.1 attach to an estate by the entirety?

To: Lewis C. Allen

(A.G.) The sums of money received in the form of old age assistance upon which the lien arises are not joint obligations or debts of the husband and wife. These are individual obligations and for the reasons set forth in *Distributing Company v. Carraway*, 189 N. C. 420, and cases there cited, I am of the opinion that this property can be sold and that the liens do not attach thereto.

**Aid to the Blind.** Is the State Commission for the Blind required to file the names of recipients and amounts paid to them under the Blind Program with the county auditor as required by Chapter 882 of the Session Laws of 1953?

To: H. A. Wood

(A.G.) The provisions of Chapter 882 of the Session Laws of 1953 do not apply to the State Commission for the Blind nor to any functions administered by the Commission. The Act applies to the Assistance Program administered by the North Carolina Department of Public Welfare and its affiliated and subordinate county agencies.

## Intoxicating Liquor

**Revocation of Beer License.** Can the county commissioners revoke the beer license of a person upon whose premises illegal whiskey was found when the evidence was discovered under an unlawful search warrant?

To: John R. Jenkins, Jr.

(A.G.) G.S. 15-27 prohibits the use of evidence discovered by an illegal search warrant "in the trial of any action." "Action" is defined in G.S. 1-2 as an "ordinary proceeding in a court of justice." The hearings conducted for the revocation of beer

licenses are conducted by administrative bodies and are not strictly speaking ordinary proceedings in a court of justice. The prohibition against the use of evidence obtained by illegal search warrants applies to action in court and does not apply to hearings for the revocation of beer licenses before the county commissioners or any other administrative body exercising quasi-judicial powers.

## Motor Vehicle Law

**Plea of Nolo Contendere.** A man was convicted of speeding and within a year after this conviction, he was tried again for speeding and entered a plea of nolo contendere. Has he now had two convictions of speeding within one year, therefore entitling the Department of Motor Vehicles to suspend his license for six months?

To: Barney P. Jones

(A.G.) This office has advised the Department of Motor Vehicles that the law is in a state of uncertainty and until it is clarified by a further decision by the Supreme Court of North Carolina the Department should treat the acceptance by the court of a plea of nolo contendere as a conviction. Under these circumstances the Department is entitled to suspend the license six months for two convictions of speeding within one year.

**Service of Revocation Notice by City Policeman.** Can a city policeman serve a revocation or suspension notice issued by the Department of Motor Vehicles and pick up a suspended or revoked license, transmitting same to the Department?

To: Colonel W. B. Lentz

(A.G.) G.S. 20-29 provides that pick up notices may be served and executed "by patrolmen or other peace officers". In my opinion it is lawful for a city policeman to serve such notice and pick up the license.

**Suspension of License for Speeding.** A motorist was arrested for driving 55 miles per hour in a 35 mile zone. What is the effect of Chapter 1223 of the Session Laws of 1953 with reference to the suspension of his operator's license?

To: G. Glenn Nichols

(A.G.) The 1953 law is G.S. 20-16.1. It provides for mandatory suspension of the operator's or chauffeur's license for 30 days upon receipt by the Department of a record of such operator's or chauffeur's conviction of having violated the laws against speeding by exceeding by more than 15 miles per hour the speed limit set out in G.S. 20-218 (speed limit for school buses when loaded with children) or paragraph 3 or 4 of subsection (b) of G.S. 20-141 (speed limits for places other than a business or residential district). A second or subsequent conviction of a like offense occurring within one year from the prior offense makes a 60-day suspension mandatory.

The 1953 act does not apply to a person who exceeds the speed limit in a residential or business district by more than 15 miles per hour.

Suspension in such a case would be governed by the law as it read prior to the 1953 amendment. The conviction of this offense will not be a basis for suspension unless the driver has been guilty of other violations of the Motor Vehicle Law.

**Forfeiture of Bond.** At what time does a forfeiture of bond occur for purposes of reporting the forfeiture to the Department of Motor Vehicles?

To: J. L. Hall

(A.G.) For purposes of reporting a forfeiture of bond under the Driver's License Act, the bond is not forfeited until the judge signs the judgment absolute declaring the forfeiture. Only at that point has the bond been forfeited and would you report the forfeiture to the Department of Motor Vehicles.

## Schools

**Use of Fines and Forfeitures to Provide Additional Teachers.** In regulating the consolidation of schools, Chapter 1151, 1953 Session Laws, details the procedure for continuance of small schools with a provision that the county commissioners "are authorized to appropriate nontax funds, and the several county boards of education are authorized to accept and use privately donated funds" for the support of the small schools. Under the quoted provision can a county after a decision not to consolidate its small schools use moneys collected from fines, forfeitures, poll taxes, and dog taxes for the salary of an additional teacher?

To: Vance B. Gavin

(A.G.) G.S. 115-356 provides that the objects of expenditure designated as "maintenance of plant and fixed charges" shall be supplied from fines, forfeitures, etc. subject to the proviso that when necessity shall be shown, and upon the approval of the county board of education or the trustees of any city administrative unit, the State Board of Education may approve the use of such funds to supplement any object or item of the current expense budget. I doubt that the General Assembly intended to authorize the use of fines and forfeitures to carry out the purposes of Chapter 1151, Session Laws of 1953.

**Authority to Employ Janitors.** Does the local school committee or the county board of education employ janitors for a public school?

To: R. B. Deyton

(A.G.) G.S. 115-134 and G. S. 115-354 grant to a local school committee the authority to elect principals and teachers, subject to the approval of the county superintendent and the county board of education. G.S. 115-55 provides that all powers and duties respecting public schools not expressly conferred upon some official are conferred upon the county board of education. In *Wiggins v. Board of Education*, 198 N. C. 301, the court held that the county board of education and not the local school committee has the legal authority to employ janitors in the public schools.

# Law and Administration

A Series Published by

## INSTITUTE OF GOVERNMENT

The University of North Carolina  
Chapel Hill

Volumes in the Series:

- |   |        |
|---|--------|
| I. THE LAW OF ARREST<br>By Ernest W. Machen, Jr.  | \$1.50 |
| II. THE LAW OF SEARCH AND SEIZURE<br>By Ernest W. Machen, Jr.   | \$1.50 |
| III. PROPERTY TAX COLLECTION IN NORTH CAROLINA<br>By Henry W. Lewis   | \$2.50 |
| IV. MOTOR VEHICLE LAW IN NORTH CAROLINA<br>By James Fries Blair, William E. Poe, J. Shepard<br>Bryan, Jr., Ernest W. Machen, Jr., Charles E. Knox | \$1.50 |
| V. ZONING IN NORTH CAROLINA<br>By Philip P. Green, Jr.  | \$3.50 |
| VI. LEGISLATIVE COMMITTEES IN NORTH CAROLINA<br>By Henry W. Lewis   | \$1.50 |
| VII. THE GENERAL ASSEMBLY OF NORTH CAROLINA—<br>ORGANIZATION AND PROCEDURE<br>By Henry W. Lewis   | \$1.50 |
| VIII. SOCIAL SECURITY AND STATE AND LOCAL<br>RETIREMENT IN NORTH CAROLINA<br>By Donald B. Hayman  | \$2.00 |





