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Cover

Shown on the cover are the municipal officers and employees who attended the Basic Course in Municipal Accounting held at the Institute of Government February 22-25:

Front row, left to right: Mrs. James N. Smith, Jr., Assistant to City Clerk and Treasurer, New Bern, and Mrs. Opal C. King, Clerk and Treasurer, Breard.

Rear, left to right: Alton T. Durham, Assistant Tax Collector and Treasurer, Burlington; A. R. Phelps, Town Clerk, Roper; Willie H. Stell, Jr., Assistant Clerk and Accountant, Tarboro; William E. Flynn, Jr., General Bookkeeper, Winston-Salem; W. F. Carmichael, Assistant Treasurer and Accountant, Wake Forest; Roy Kanf, Administrative Assistant to City Manager, Winston-Salem; R. Harold Burke, Account Clerk, Winston-Salem; Wallace J. Kirkman, Town Clerk, Claremont; E. H. McGregor, City Accountant, Laurinburg; Louis Scheipers, Jr., Clerk and Tax Collector, Southern Pines; N. R. Baker, Jr., City Clerk and Bookkeeper, Reidsville; E. Marvin Wooters, Accountant's Office, Greensboro; and Kenneth M. Crow, Assistant Internal Auditor, Winston-Salem. (See story on page 11.)

THE CLEARINGHOUSE

NOTES

From North Carolina Cities

Planning And Zoning

The **Charlotte** Planning Board has laid the groundwork for a broad-scale planning program by collecting reports of building needs from the heads of all city departments. It expects the results to illustrate the need for a comprehensive capital improvements budget. The Board is also preparing perimeter zoning and subdivision-control legislation to be submitted to the 1955 General Assembly. Efforts to secure such legislation in 1953 were stymied when members of the county's legislative delegation disagreed as to the necessity for these controls.

Red Springs has created a new Planning Board, with the duty of assigning priorities to various projects for improving the city. . . . **Edenton** has been considering a planning program for the city. . . . City Manager A. B. Uzzle has presented the **Dunn** Planning Board with a land use map of the city, on the basis of which zoning recommendations may be considered. He has also charted factors relating to the city's finances, including tax rates, property valuations, income from property taxes, the consumer price index, and the town's budget figures.

Following award of the 1953 **Finer Carolina** contest prizes to **Asheboro** and **Grifton**, other towns are making plans for the 1954 contest. **Zebulon** has already announced a six-point program, including erection of a factory building for lease to a new industry, landscaping of the new **National Guard** armory, construction of white and Negro community centers, general beautification of the town, and construction of a covered bicycle rack for the school.

Statesville has adopted a minimum housing standards ordinance based upon the **Charlotte** ordinance. . . . **Kinston** has directed the drafting of an ordinance authorizing the building inspector to have condemned buildings torn down. . . . **Sanford** is studying the building codes of other

cities to determine which would be applicable to its situation. . . . **Durham** has amended its ordinances to provide specifically for the office of building inspector.

Elkin has been holding public hearings on its new zoning ordinance, which divides the city into two classes of residential districts, neighborhood business, business, and industrial districts. . . . **Bladenboro** has appointed a committee to consider the advisability of zoning the town. . . . **Kinston** and **Shelby** have been making studies of needed revisions of their zoning ordinances in light of changing conditions. . . . **Wilmington** has been preparing new subdivision regulations. . . . **Charlotte** has changed its zoning procedures to provide for posting public notice on property where rezoning is proposed, so that neighbors may attend the appropriate public hearing. . . . **Raleigh** has extensively revised regulations for its residential districts.

Winston-Salem has amended its zoning ordinance to permit hotels, professional office buildings, and retail trades and services located inside such buildings for the convenience of their occupants in any apartment district within 1,000 feet of the central business district. The change is designed to permit orderly expansion of the business district without destroying the value of residential property. To preserve the residential character of the area, buildings would be limited to 100 feet in any dimension, they would have to observe yard and off-street parking requirements, and advertising would be restricted to small professional name plates.

Annexation

Dunn, **Greensboro**, and **Jacksonville** have recently added new developments to their jurisdiction by action of the City Council under the state-wide annexation law. . . . By the close vote of 672-631, **Gastonia** voters have rejected a plan to annex eight areas on the western fringe of

the city. The annexation would have added more than 6,000 to the city's population. . . . Boundaries of the proposed area to be annexed to **Durham** have been fixed, and an election is expected to be held this spring.

Airports

Charlotte officials are working hard to reinforce the **Queen City's** position as one of the major air traffic centers in the South. With its new \$1,329,000 air terminal building scheduled to open around April 1, the city is now preparing a zoning ordinance to regulate heights of structures in the vicinity of the field. During the past year runways have been lengthened 2,500 feet and an instrument landing system installed. Next efforts will be made to improve schedules into the field, a move suggested by a recent survey which showed that service to 30 key cities (chiefly in the South-west and Northeast) is "much below average."

Recreation

The **Dunn City Council** has set March 2 for an election as to whether the town shall levy a 10-cent recreation tax. . . . **Durham** voters will be asked this spring to pass upon a \$250,000 bond issue and a 15-cent tax levy for recreation. . . . Bids are to be received this month on a \$500,000 privately-financed community building for **Burlington**. Work is nearing completion on the city's new swimming pools, which will open this summer.

The **Reidsville Recreation Commission** has announced a long-range plan for the improvement of recreation facilities. The chief feature is a proposal for a new community center. . . . Plans for the first section of the new Negro park in **Winston-Salem** have been approved by the Recreation Commission. Financed by a combination of city appropriations and private contributions, the \$125,000 project will include picnic centers and a nine-hole golf course. Meanwhile, the city's Arts Council is making a survey of parents to determine what children's activities they would prefer during the first summer's program of the new **Reynolds Memorial Park**.

The **Clinton Recreation Commis-**

sion has begun a campaign to secure the cooperation of all the city's civic clubs in finishing the city park started by the local Junior Chamber of Commerce. The project will be part of the city's program for the Finer Carolina contest. . . . The **Wilson** commissioners have approved a contract under which the local Kiwanis club will operate a miniature train in the city park.

Streets and Traffic

Wilson has received the results of a comprehensive traffic survey conducted by a traffic consultant. The report recommended synchronization of traffic lights, special treatment for each of the "10 worst" intersections in the city, and provision of three public parking lots. . . . State Highway Department engineers who made an origin-destination survey of **Raleigh** motorists last summer have recommended a master traffic plan for the city to follow the next 15 years. The plan stresses internal expressways, the survey indicating that external "belt-lines" or by-passes would be of little benefit at present.

Wilmington has synchronized its traffic lights and changed markings on its major streets to provide for three, rather than two, moving lanes of traffic. If these measures do not prove adequate during a six-months trial period, the city will consider installation of the one-way street system recommended by a traffic consultant. . . . **Warsaw** is trying a short length of one-way streets. . . . **Reidsville** has approved plans for a by-pass of U.S. 29.

Forest City has decided to accept no streets in the future which are less than 40 feet wide. . . . The State Highway Department has reaffirmed its policy of accepting no street outside town for maintenance where the right-of-way width is less than 60 feet. . . . **Wallace** has decided that residential streets under its assessment program shall have a 20-foot pavement width and two-inch bituminous concrete surfacing. The cost to landowners will be approximately \$1.00 per running foot.

Warrenton, **Raeford**, and **Wilkesboro** have contracted for the installation of new "white ways" in their business sections, replacing incandescent lamps with mercury-vapor lamps. . . . **Winston-Salem** is considering a similar project. After a

lighting study, the Board of Aldermen decided as a first measure to keep all lights in its business district burning all night long.

Public Buildings

A committee of the **Franklin** Board of Aldermen has been investigating the feasibility of constructing a new city hall. . . . **Garner** officials are seeking to relocate their town hall in a building large enough to accommodate the local Recorder's Court. . . . The **Farmville** public library will officially open its new building on March 1, after occupying a portion of the municipal building for many years. The new structure was donated to the town. . . . After struggling with the question of where to locate their new city hall for several weeks, **Raleigh** councilmen have turned the matter over to the Planning Board for recommendation. . . . New National Guard armories have been approved for **Fayetteville**, **Goldsboro**, **Hickory**, and **North Wilkesboro**, while **Charlotte** is to receive a \$300,000 Army Reserve armory.

Industrial Development

The **Ahoskie** Industrial Development Company has received plans for a needle trade factory to be leased to a new industry employing over 100 women. It is presently selling stock to finance erection of the plant on a site which has already been purchased. . . . A campaign is under way in **North Wilkesboro** to raise \$75,000 to help finance a new plant which will employ from 400 to 600 people. The total cost of the plant will be approximately \$300,000.

Water and Sewer Improvements

Echoes of the serious drought last summer and fall were heard in a number of the hard-hit cities last month. **Roxboro** finally lifted restrictions against use of water for lawns and gardens; **Burlington** began at last to furnish water to the Haw River Sanitary District; and **Raleigh** returned pipes and pumping equipment to the Civil Defense Administration. **Roxboro**, **Raleigh**, and **Sanford** were engaged in studies as to the best means of preventing recurrence of the emergency situation.

Even in cities not directly affected by the drought, serious consideration

was being given to future water needs. A **Greensboro** study indicated the city may encounter serious shortages as early as the summer of 1955 and suggested steps which would handle its needs at least until 1976. Detailed plans are to be prepared this spring for construction of a new dam as the first stage in the long-range program. . . . Consulting engineers told **Winston-Salem** that with minor alterations, the capacity of its filter plant could be increased by 50 per cent. Unless changes are made, the city is expected to reach the plant's capacity within a few years.

After consideration of a study which indicated that the town was consuming the maximum amount of water which could be carried by its four-inch line from a private filter plant, **Madison** has secured a contract authorizing it to construct an additional eight-inch line and more than double its consumption. . . . **Wilson** has placed new filters in operation at its water plant. . . . **Carolina Beach** expects to complete its biggest water and sewer improvement program in history by June. The program includes sinking a new well and constructing a 1,100,000 gallon reservoir, which is called the largest for any coastal resort town between **Virginia Beach** and **Daytona Beach**.

Enfield has awarded contracts for installation of a \$17,000 water softening plant to treat water from its deep well. . . . **Elkin** has cleaned its water mains for the first time since their installation 40 years ago, in order to increase the flow. . . . **Raeford** commissioners have voted to make improvements in the town's water distribution system. . . . **Hendersonville** reached an all-time high in the number of water meters served last summer. . . . **Warsaw** has completed drilling a new well tripling the town's water supply.

Conover voters have overwhelmingly approved a \$50,000 bond issue for a water system and \$75,000 for a sewer system. . . . **Warrenton** voters backed a \$30,000 issue for a new filter plant and for sewer extensions. . . . **Selma** will vote on a \$100,000 water improvements bond issue late this month. Proceeds would go for two deep wells, a 100,000 gallon water tank, a new filter system, and extension of water lines. . . . **Cary** has employed bond attorneys to handle details of a proposed \$142,000 water and sewer bond issue.

Consulting engineers have recommended that **Winston-Salem** construct a new \$4,500,000 sewage treatment plant and replace overloaded and leaking mains at a cost of \$850,000. . . . **Durham** has issued \$2,225,000 of bonds for improvements to its three sewage treatment plants and construction of new mains. . . . Work has begun on **Elon College's** new \$102,000 sanitary sewerage system. Final completion has been set for September.

After extensive controversy, **Durham** has adopted an ordinance doubling sewer rates and increasing water rates by one-third for users outside the city limits. Following the advice of the executive committee of the North Carolina League of Municipalities, the City Council refused to submit the rates to the State Utilities Commission for arbitration, as requested by some outside residents. The Council pointed out that this would amount to an unconstitutional delegation of its legislative power. . . . **Thomasville** has voted to permit no more outside-the-city sewer taps.

Taylorsville has adopted a comprehensive water and sewer department ordinance, covering rates, administrative matters, and requirements as to connection. . . . **Durham** has modified its water bills to show the date on which the meter was read and the final date for payment. . . . **Ahoskie** has changed to new water meter books, account numbers, and meter routes. . . . **High Point** has amended a health ordinance to require that all used water must be discharged through the sanitary sewerage system. . . . **Wilmington** has appointed a third study group to consider fluoridation of the city's water.

Parking

Raleigh has decided to hold a special session of its City Court each week just to deal with parking violators. . . . **Statesville** has enacted ordinances (a) changing from angle to parallel parking in the business district and (b) forbidding parking in public or private alleys where less than a 12-foot clearance is left or within 25 feet of any alley intersection or entrance; exceptions are made for vehicles loading or unloading, when the driver is in attendance. . . . **New Bern** has prohibited parking of trucks exceeding 20 feet in length in any metered space or loading zone between 9 A.M. and 6 P.M. on Saturday.

Greenville merchants have decided to continue their "courtesy nickel" parking fund, even though one-tenth of the nickels dispensed have not been returned. City Manager James Hughes told the group that the number of parking violations has sharply increased since the plan was begun, tickets having run as high as 185 in one day.

Fire Protection

Durham has decided to build three new fire stations, two of which would be relocations of existing stations. The projects, costing approximately \$215,000, would bring the city's facilities to a total of five stations housing ten companies. . . . **Greensboro, Winston-Salem, and Mount Airy** led North Carolina cities in the 1953 Fire Prevention Week competition sponsored by the National Fire Protection Association.

Sanford and **Winston-Salem** have been studying the 1953 Fire Prevention Code recommended by the National Board of Fire Underwriters to determine what local modifications might be made prior to adopting it. . . . The North Carolina Fire Insurance Rating Bureau will review **Raleigh's** progress in fire protection, to determine what changes in insurance rates might be justified. . . . **Maiden** has a new fire truck.

Southern Pines and **Winston-Salem** are reconsidering their policies with reference to extension of fire protection beyond their limits. A tentative solution offered by Southern Pines would make such service available to outsiders at a cost set at five cents more per \$100 valuation than is paid by in-town citizens for maintenance of the fire department. . . . **Chapel Hill** has decided to offer no outside fire protection for the time being. . . . After successful elections establishing special-tax fire protection districts in two other Guilford County communities, an election has been called for the **Pinecroft-Sedgefield** community.

Miscellaneous

The State Utilities Commission has granted **Shelby** and **Kings Mountain** certificates of convenience and necessity for the construction of their own natural gas systems. . . . **Durham** officials have been considering the request of the Durham Telephone Company for a 29-year renewal of its franchise. . . . **Chapel Hill** has hired

a specialist to make detailed plans for the layout of its new cemetery.

Taylorsville has installed a radio communications system including both town policemen and members of the sheriff's department. The frequency used is the same as in **Statesville, Mooresville, and Lincolnton**. . . . **Waynesville** has added a fire truck and the town electrical department truck to its two-way police radio network. . . . **Marion** police, the town manager, two fire trucks, and the sheriff's department have been tied into a radio system on the same frequency as **Morganton, Lenoir, Valdese, and Granite Falls** police.

Durham has amended its auto-license ordinance to provide specifically that city tags must be displayed on the automobile. . . . A safety program among **Raleigh** employees has increased the mileage driven between accidents chargeable to city drivers by 10,000 miles in a single year. . . . **Charlotte** has adopted an ordinance requiring registration of bicycles. In return for a 25-cent fee, a small metal tag will be fixed to each bicycle, as a means of cutting down on the number of thefts.

Mount Airy is renumbering all business and residential addresses. . . . **Lillington** is at work on a plan for numbering houses. . . . City mail delivery service has been approved for **Kernersville**. . . . **Wilmington** has established television antenna installation regulations, based upon the National Fire Underwriters Code.

Mrs. Mary Susan Johnson has become the first woman ever named to the **Wallace** Town Board. . . . **Valdese** has called a beer-wine election for March 29. . . . **Hickory** has adopted a comprehensive new plumbing code. . . . **High Point** has adopted an ice-box storage ordinance. . . . **Rocky Mount** has decided to re-publish its criminal code in loose-leaf form.

SUBDIVISION REQUIREMENTS

The Institute of Government will mail to interested officials this month copies of a tabular comparison of the requirements contained in subdivision ordinances of a number of cities. The comparison was made by Richard M. Hobbs, Administrative Assistant to the City Manager of Wilmington.

NEW ORDINANCES

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

Greensboro. Removing the license tax on the sale of cap pistols or toy pistols which do not shoot blank cartridges or real cartridges.

Hendersonville. Requiring persons, firms, and corporations possessing chickens within the city limits to keep them within an enclosure (barn, outhouse, or fenced compound) which must be at least 50 feet removed from the home of any person except the owner or possessor of the chickens.

Madison. Prohibiting the erection of outdoor billboards inside the city limits without permission of the board of aldermen.

Raleigh. Regulating parades in the interest of public convenience and necessity. A parade is defined as an assemblage of more than five vehicles or 25 pedestrians in public procession, not including funeral

processions, sight-seeing groups, bands, or marching groups marching to assemble for a parade. Henceforth no more than 75 vehicles can participate in any parade, no more than one parade can be conducted on any one calendar day, and then no parade can be conducted between 11:00 A.M. and 1:00 P.M. and between 4:00 P.M. and 6:00 P.M. Parade routes must be approved by the police chief and application for the permit must be made at least five days before the parade. No person riding in the parade may distribute candy, cigarettes, prizes or favors.

Warrenton. Regulating the sale of bankrupt stock in the city. Applies to the purchase of the stock of a bankrupt firm in the town and its subsequent sale as "bankrupt stock." Prohibits adding merchandise to the inventory of a bankrupt firm and selling it as "bankrupt stock."

Waynesville. Makes smoking in a theatre unlawful prior to, during, or after any show.

necessary to meet urgent needs. Like the Person situation, county officials at the present time do not anticipate that the state bond money would provide one-third of this total.

While some counties are making studies to determine their needs, other counties are in the financial planning stage—planning ways of obtaining money to meet school building needs already established. **Cleveland County** commissioners have recently called a \$2,500,000 school bond election. . . . **Forsyth County** commissioners have been presented with a request from school authorities for a \$5,000,000 bond issue plus \$1,000,000 a year for the next ten years from current school capital outlay funds. . . . **Burke County** commissioners are considering a \$4,000,000 bond issue for schools. . . . And citizens in the **Stanley County** administrative unit are circulating petitions asking for an election for a school bond issue in the county unit. Building needs of the county unit have been said to be around \$1,300,000. A 1953 act of the General Assembly would allow an election in the **Stanley County** administrative unit excluding territory in the Albemarle city unit, and—if the voters approve—bonds would be issued solely for the county unit and principal and interest on the bonds would be paid by a tax levied on the county unit.

Meanwhile, there were other developments in the school area. Voters in the Laurinburg city administrative unit have recently approved the levy of a special school supplement tax of up to 30 cents per hundred dollar valuation, and school officials in the **Forsyth County** administrative unit are thinking of asking the county commissioners to call an election to approve an increase in the county unit school supplement tax of 15 cents, raising the maximum tax that can be levied from 20 cents to 35 cents. . . . The **Wake County** Board of Education has asked the board of county commissioners for additional office space for the board and its supervisory personnel. . . . **Henderson County** will build a school bus garage from the proceeds of surplus school lands sold recently, while the **Durham County** Board of Education is selecting a site for a new school bus garage to replace the one sold recently. . . . A school census will be conducted in the Bartlett Yancey school district of **Caswell County**. The efforts of approximately 50 people

NOTES

From North Carolina Counties

Schools

During the last several months, school building needs have been the main topics of discussion in counties throughout the state. Part of the reason is due to the fact that the \$50,000,000 school bond issue approved by the voters last fall is to be allocated among the counties on the basis of need, and school people are determining their needs in order to make a case for a substantial allocation to their county when the proper time comes; but just as important, perhaps, is the fact that building schools has been for many years and will continue to be the cause of one of the biggest outlays in county government.

Examples of typical discussions are as follows: In **Johnston County**, the board of education has prepared a two-year building program totaling \$1,710,000 and involving 18 schools. Of the total, \$750,000 will be raised from the county's own bond issue,

\$700,000 is the hoped-for amount from the state bond issue, and the remainder would be obtained from annual budgets. . . . In **Nash County** plans are being made for the completion of a \$2,000,000 Negro school construction program. Half of the program has been completed, plans are being made for the completion of the second half, and when the entire program is finished, white and Negro schools will be fully equalized according to county school officials. . . . A survey in **Person County** by personnel from the State Board of Education has indicated that the county's "pressing" school needs total \$1,475,000 and that additional desired improvements would total another \$800,000. According to estimates of the county superintendent of schools, Person can expect to receive a little less than a third the amount to meet "pressing" needs from the state bond issue. . . . In **Harnett County**, the county superintendent estimates that \$2,000,000 is

working in their own communities will be involved. The census figures will furnish basic information for school planning in that accurate records will be obtained of children below school age; that will indicate the school building needs for the next few years to take care of anticipated increases in school population. In addition, the census will uncover children who are not attending school, thus aiding in the attendance enforcement problem. . . . And **Forsyth County** school officials, armed with blank contracts and persuasion, have undertaken a two-week tour of the state's college campuses to sign up new teachers for the fall term. The county school system is faced with a necessity of obtaining sixty applications for teaching positions, and the officials believe that going to the sources of supply provides the best means available of obtaining those applications.

County Buildings

Dare County has recently dedicated a new health center at Manteo. The center, together with its equipment, cost in excess of \$35,000. . . . A new nurses' home at the **Robeson County** Memorial Hospital is about ready for occupation. The home cost \$300,000, and will augment facilities at the new hospital which was occupied last August. . . . **Columbus County** has recently dedicated a new \$400,000 wing to its county hospital.

Cleveland County commissioners have called an election on the question of issuing around \$250,000 in bonds for health facilities. The bond proceeds would provide the county's share of a health center, a 50-bed addition at Shelby Hospital, and a 14-bed addition to Kings Mountain Hospital. The total cost of the three projects would equal \$750,000, so the county's share of the three will equal about one-third of the total.

Mecklenburg County commissioners have called an election on the issuance of \$500,000 in bonds to build and equip a new county home. The new home will be located in front of the present structure, which will be used during the construction of the new building. The new building will be one-story and fire proof, and in addition to caring for residents of the present home, will care for a majority of the other old people now in private or nursing homes at the expense of the county.

Davidson County commissioners are looking for a site in Thomasville on which to erect a branch county office building. . . . The **Columbus County** courthouse will soon have a new roof, the roof being the first step in a long range renovation program for the courthouse which will be carried out as financial conditions permit. . . . **Wake County** board of commissioners has approved plans for the construction of a detention home for juvenile offenders. The home will include four rooms for girls, including two single rooms and two double rooms; four double rooms for boys; one isolation room; two recreation and dining rooms; reception and office space; and a caretaker's quarters. Each room will contain a shower and toilet facilities. The home will be operated by personnel of the county home, and meals will be prepared in the kitchen at the county home. Construction of the home will eliminate the necessity of housing juvenile offenders in the county and city jails pending disposition of their cases.

An indication of a problem soon to confront several counties was noted recently in **Durham** and **New Hanover**. **Durham County** has recently transferred all of its county sanatorium patients to the state sanatorium system, and is now looking for a way to utilize the old sanatorium facilities. County officials have been investigating the possibility of interesting industry in the vacated sanatorium facilities. . . . On the other hand, **New Hanover County** commissioners, faced with the possibility of soon being able to transfer patients to the state sanatoria, have decided instead to continue operating the county sanatorium. Patients at the sanatorium and citizens of the county joined together in asking the retention of the facilities, in order that patients could be treated close to home.

Traffic Problems

Mecklenburg County commissioners have recently become alarmed at the number of dangerous highway intersections in the county. Under state law, it is the duty of the State Highway and Public Works Commission to erect stop lights and signs at such points, and the county has no authority to do so. These dangerous intersections, recently pointed out to the board of commissioners in a study by county Police Chief Stanhope

Lineberry, are all intersections or highways outside the city limits of Charlotte at which numerous accidents have occurred during the past year. The study has been forwarded to the highway commission with a request for immediate action.

Boundary Disputes

Northampton and Halifax Counties have recently appointed a commission to establish the dividing line between the two counties. Long a matter of controversy between the two counties, the matter has recently become serious because of the construction by the Virginia Electric and Power Company of the Roanoke Rapids Dam. The company wants the line determined so that it will know how much of its property does rest and will rest in each of the two counties for the purpose of listing taxes. The first move to settle the controversy came from the Northampton County board of commissioners, which requested the Halifax board to appoint one or more commissioners to work with an equal number from the Northampton board in determining the line. The procedure to be followed in determining a boundary dispute is set out in section 153-11 of the General Statutes. Under this section, the representatives from each county meet together and settle and fix the line in dispute, and their report, when ratified by a majority of the commissioners of each county, is conclusive of the location of the true line.

Back Issues of Popular Government Wanted

The Institute of Government library needs copies of issues of *Popular Government* for the months of November and December, 1951, for the purpose of binding a number of permanent library volumes of the magazine.

It will be appreciated if readers who have copies of these issues and do not need them for their own files will send them to the Institute of Government, Box 990, Chapel Hill, N. C.

The Local Government's Role In Industrial Development

Some Legal Considerations

By

PHILIP P. GREEN, JR.

Assistant Director
Institute of Government

The South is in the midst of its greatest industrial "boom" in history. Governor Umstead has made industrial development a key segment of his program for a better state. And competition for new industries between regions of the country, between states within the region, and between different areas within the state has reached a new peak of intensity. Because they are bound to feel the pressures resulting from these facts, it is well for local governmental officials to review the legal rules which govern their activities in connection with industrial development.

State Activities

During recent years the states have devoted steadily increasing attention to the problem of securing a strong industrial base for their economies. North Carolina has not been backward in this respect. The Division of Commerce and Industry of the Department of Conservation and Development and other state agencies have been active on a broad front, and their efforts have paid off. Analysis of census of manufacturing figures indicates that the state has year-by-year ranked first, second, or third among the 16 southern states in terms of increases in the *number* of industrial workers and the *size* of payrolls (although other states, starting from far behind and with a greater undeveloped labor force, have in some cases shown larger *percentage* increases).

The typical state industrial development program has many facets: the compilation of basic data about the state and its resources; production of advertising matter; contacts with and assistance to industrial firms, consulting engineers, and others interested in locating specific sites; encouragement of local groups to provide better facilities for industry; assistance to existing industries or to local persons starting new indus-

tries, by locating sources of capital, giving managerial advice, assisting in marketing their products, and dealing on their behalf with federal agencies, prime contractors, etc.

All of the above measures would be accepted generally as legitimate tactics in "marketing" the state's industrial resources. Some states, however, have introduced a tactic which has not received the same acceptance. This consists of direct financial inducements, offered either by the state directly or through its local units of government, to industrial firms which will locate in the area. Such inducements have taken a variety of forms, ranging from (a) tax exemptions or preferential taxation for a number of years to (b) interest-free loans or special low rentals on municipally-owned industrial plants and finally to (c) direct gifts of land or buildings for industrial sites.

Because of the occasional spectacular success of such inducements, local governmental officials throughout the South have been under some pressure to compete in the same manner. It is not the purpose of this article to discuss the wisdom of such measures (although it might be noted that Governor Umstead has repeatedly stated that North Carolina will not, as a state, resort to such measures). Rather, we shall try to point out the limitations imposed upon such tactics by the state constitution and to point out some alternative measures which might constitutionally be taken by local governments to attract industries (without discussing the question of whether or not given measures are wise from a policy standpoint).

Measures Raising Constitutional Questions

At the outset, it is well to note that the North Carolina constitution is not identical with those of other states. Certain governmental actions which it prohibits are expressly permitted by the constitutions of some other states; in many cases, this is because of specific constitutional amendments which were made in the other states to authorize measures of the type which we are considering. If the people of North Carolina wish to do so, they may, of course, adopt the same types of amendments.

Tax Exemptions or Preferential Treatment

Probably the most popular type of financial inducement has been to grant new industries some type of preferential treatment with respect to their taxes. This is because it involves no direct cash outlay by the government and consequently is not so apparent to taxpayers generally. On the other hand, so long as the firm receives governmental services without having to pay its fair share of taxes, it is "free riding" on the backs of all the other taxpayers of the community.

Preferential treatment takes a number of forms. In some cases, industrial real property is exempted from taxation for a given number of years. In some cases the personalty of manufacturers is exempted, in whole or in part. In some cases local tax officials merely place low assessments on industrial property. It is impossible to secure accurate information concerning the latter arrangement, but a study made by the Ohio Chamber of Commerce in October, 1952, indicated that a total of 16 states granted or authorized some form of statutory tax exemption for manufacturers.

In North Carolina, such treatment would seem to clash directly with the provisions of Article I, Section 7;

Article V, Section 3; and Article V, Section 5 of the state constitution. The former prohibits the granting of "exclusive or separate emoluments or privileges" to persons in the community except in consideration of public services. Article V, Section 3 provides, in pertinent part, as follows:

"The power of taxation shall be exercised in a just and equitable manner, and shall never be surrendered, suspended or contracted away. Taxes on property shall be uniform as to each class of property taxed. . . ." [Emphasis supplied.]

Article V, Section 5 deals generally with the subject of exemption from taxation. It provides as follows:

"Property belonging to the State or to municipal corporations, shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, charitable or religious purposes; also wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers, libraries, and scientific instruments, or any personal property to a value not exceeding three hundred dollars. The General Assembly may exempt from taxation not exceeding one thousand dollars (\$1,000.00) in value of property held and used as the place of residence of the owner."

The State Supreme Court has held that the General Assembly is barred from granting any exemptions other than those specifically authorized by this section. *Rockingham County v. Elon College*, 219 N.C. 342, 13 S.E. 2d 618 (1941). Under the court's holdings even property owned by a municipal corporation is not entitled to exemption when it is used for commercial purposes. *Board of Financial Control v. Henderson County*, 208 N.C. 569, 181 S.E. 636 (1935); *Warrenton v. Warren County*, 215 N.C. 342, 2 S.E. 2d 463 (1939).

Free Loans or Low Rentals

The second type of inducement amounts to granting the industrial firm the use of the town's money or property. It involves either (a) furnishing interest-free capital to the company as a loan or (b) allowing the company to use a municipally-owned plant free or at a very low rental. In the latter event the company receives an additional benefit in not having to pay taxes on the realty. According to the Ohio Cham-

ber of Commerce study, 13 states authorize such inducements.

Either of these inducements would appear to conflict with the provisions of Article 1, Section 7 of the Constitution:

"No person or set of persons are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services."

On the other hand, it might be difficult to prove that a low rental amounted to a grant of public property, unless there was evidence of some demand for such properties sufficient to justify a higher rental.

Probably the major constitutional hurdle to be passed in furnishing an industrial plant to a firm at a low rental would be the problem of financing the acquisition or construction of the plant in the first place. It seems clear that such a plant would not be a "necessary expense" within the meaning of Article VII, Section 7 of the constitution, so that an election would certainly be required if tax funds were involved. Even with statutory authority and the mandate of an election, it seems doubtful that such a plant would be held a "public purpose" (within the meaning of Article V, Section 3) for which public funds could be spent. *Nash v. Tarboro*, 227 N.C. 283, 42 S.E. 2d 209 (1947).

In the states where municipalities have been authorized to issue bonds (general purpose or revenue) for the purpose of constructing and making available industrial plants, a practical problem has arisen. The national Investment Bankers Association and the Municipal Finance Officers Association have adopted resolutions opposing such issues, chiefly on the basis that they endanger the tax-exempt status which municipal bonds enjoy under the federal tax laws. As a result of these actions, it has become almost impossible to market such bonds outside the immediate locality, and the bond purchasers are largely the same people who might advance money for a private development corporation.

Gifts of Land or Buildings

Perhaps the most direct inducement (although possibly not so costly as preferential tax treatment) is an outright gift of buildings or land to a manufacturing company. The Ohio study indicated that municipalities in 11 states have gone this far.

In some respects this is less of an inducement than rent-free use of a municipally-owned building would be, since the company would be liable for taxes on the property. Nevertheless, it would seem to conflict even more directly with the constitutional provisions which we have discussed in the preceding section. It is difficult to see how the court could avoid a holding that such action was a violation of Article I, Section 7.

Permissible Measures

These limitations on its ability to make special grants to particular industries do not mean that the city government may play no part in an industrial development program. On the contrary, as pointed out by a study recently made in seven southeastern states,¹ the well-planned and carefully managed extension of normal municipal services is one of the strongest inducements for locating an industry in a particular town. Many of the better industrial firms (as distinguished from the "fly-by-night" variety) tend to shy away from towns offering special inducements, on the basis that sooner or later such policies will show up in their own tax bills.

In the discussion of permissible measures which follows, it should be pointed out that we are concerned merely with what a local government may *legally* do. No attempt has been made to answer (or even to raise) the difficult policy questions which are involved, such as (a) whether further industrial development of a particular town is desirable, (b) how much financial priority should be accorded industrial developmental measures as compared with meeting the other needs of the community (this is especially pertinent when a town is asked to render special services to a plant which will locate outside its limits), (c) whether to grant a new industry inducements in the form of reduced utility rates or special services (possibly at the expense of existing industries), (d) how great a reduction in utilities rates for large consumers can be economically justified, etc.

¹ *Local Governmental Services and Industrial Development in the Southeast*, published jointly in 1952 by the Universities of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and Tennessee, and the Division of Regional Studies of the T.V.A.

Industrial Promotion

Even though inducements of the types we have outlined above are barred, there is no reason why North Carolina cities and counties should not engage in extensive industrial promotion activities of the sorts normally carried on by Chambers of Commerce. These would include advertising the area, contacting prospective industries, assisting in the location of sites, etc. It is, of course, wise to coordinate any such activities with the Division of Commerce and Industry of the State Department of Conservation and Development.

To finance such activities, Chapter 158 of the General Statutes authorizes cities or counties to levy, after an election, a tax of from one to ten cents per \$100 valuation.

"... for the purpose of aiding and encouraging the location of manufacturing enterprises, making industrial surveys and locating industrial and commercial plants in or near such city, or incorporated town or in such county; encouraging the building of railroads thereto, and for such other purposes as will, in the discretion of the mayor and board of aldermen, or other governing body of any city, or the governing body of any incorporated town, or the county commissioners of any county, increase the population, taxable property, agricultural industries and business prospects of any city, incorporated town, or any county."²

In addition, a number of counties and municipalities have been authorized by special acts to expend money for industrial promotion [e.g., Sess. Laws, 1953, c. 126 (Carolina Beach); c. 588 (Fayetteville); c. 733 (Clay County)]. Except where non-tax funds are involved, such statutes normally require an election, so as to comply with Article VII, Section 7 of the constitution.

One word of caution should be interjected as to the procedures in making such expenditures. They must be made under the express direction and control of the governmental board making the appropriation. They cannot take the form of an unsupervised appropriation to the Chamber of Commerce for expenditure as it sees fit. *Ketchie v. Hedrick*, 186 N.C. 392, 119 S.E. 767 (1923);

² Activities pursuant to this authority must, of course, not conflict with the constitutional limitations mentioned previously.

Horner v. Chamber of Commerce, 231 N.C. 440, 57 S.E. 2d 789 (1950), 235 N.C. 77, 68 S.E. 2d 660 (1952), 236 N.C. 96, 72 S.E. 2d 21 (1952).

Planning Board Surveys and Plans

As a basis for any industrial development program, it is necessary that basic facts concerning the area, its economy, and its resources be gathered and made available to industrial prospects. In cities with active planning boards, this information will normally have been collected by the board as a basis for preparation of plans for the city's future development. In other cities, planning boards should be encouraged to make such studies.

Any long-range plans for the city should, of course, make provision for industrial and commercial expansion. The planning board should also give consideration to the effects upon the community of a new industry. When it is learned that a given industry employing a certain number of workers is to locate in the area, the planning board should immediately begin studies (a) as to where housing may be provided for these workers, their families, and businessmen attracted to the area to serve them; (b) as to the effects upon the city's existing street pattern; (c) as to how much expansion of the city's school system, recreation program, utilities system, etc., will be required, and (d) as to how the existing zoning ordinance and subdivision regulations should be modified to meet the anticipated needs for land for various purposes. This will greatly smooth future town-industry relationships.

Industrial Zoning

A related measure is the reservation in the zoning ordinance of areas to be used for industrial purposes. In contrast with the usual practice of dumping all otherwise unusable land into the "Industrial Zone," land truly suitable for industrial purposes should be carefully identified. This land should then be protected against residential development. Otherwise it is apt to be subdivided into small lots which will be difficult for an industrial firm to assemble. In addition, if residences are actually built in the area, the industry is apt to be plagued with nuisance suits, the city may be forced to provide schools in an unsuitable area, and the residents of the area may be subjected to generally unsuitable living conditions. It

is just as important to protect industries from residences in their midst as it is to protect residential areas from invasion by industrial plants.

Provision of Adequate Site Facilities

If the local governing body wishes to attract new industry to the area, it must be prepared to provide adequate service to that industry. It will have to provide street, water, sewerage, power, and similar facilities to industrial sites if they are to be usable. As an incentive, it is frequently wise to extend these facilities in advance, because many firms are more ready to purchase a site where facilities have been installed than a site for which they are merely promised.

Legal problems may arise where the site to be serviced lies outside the city limits. Section 160-255 of the General Statutes provides that

"The city may own and maintain its own light and waterworks system to furnish water for fire and other purposes, and light . . . to any person, firm or corporation desiring the same outside the corporate limits, where the service is available. . . ." [Emphasis supplied.]

If the city is required to expand its pumping or filter plant facilities solely in order to serve the outside customers, it may be that this would be a violation of the above restriction.

Regardless of whether or not a plant expansion is required, further questions may arise concerning payment for extension of lines beyond the city limits. Even inside the city, local assessment policies must not be ignored where utilities are extended or streets paved.

The 1953 General Assembly, by special acts, authorized Wake (c. 154), Columbus (c. 814), and Durham (c. 1128) Counties to spend money for the extension of water and sewer lines outside municipal limits so as to aid industrial development. The Wake County act sets a limit of \$85,000 on appropriations for this purpose, while the other two restrict appropriations to non-tax revenues.

Provision of Police and Fire Protection

Many industries are interested in the level of police and fire protection which they may expect to receive for their plants, particularly insofar as this has an effect upon their insurance rates. Ordinarily the

town's regular forces will be adequate to provide what service is needed, but it may be necessary in particular cases to furnish additional facilities. In such a case, questions may arise as to payment for such facilities.

Where the plant is located outside a town's corporate limits, many towns provide fire protection on a contract basis. This is expressly authorized by Section 160-238 of the General Statutes. Counties may also furnish protection, under provisions of G.S. 153-9(39) or of Articles 3 or 3A of Chapter 69 of the General Statutes. Police protection for such areas depends upon the extent of the town's statutory police jurisdiction.

Good Living Facilities

More and more industrial firms are beginning to place heavy emphasis, in choosing sites, upon the general living conditions within a town. Both for executives and for workers in the plant, they desire adequate housing accommodations, good schools, parks and recreation facilities, public health programs, and the many other things which make up a pleasant town within which to live and work. These objectives are no different from those of the other citizens of the town. If the local governing board is doing a good job, it will have no difficulty in satisfying this criterion.

Private Measures

What we have said with reference to special inducements does not, of course, apply to the actions of private citizens in the community. Among the measures which they may profitably take, in the interest of the community, are (a) advertising of the type commonly associated with Chambers of Commerce; (b) formation of industrial development corporations for the purpose of making capital and managerial assistance available to new industries; (c) preparation of industrial sites, including land assembly, clearance, installation of utilities and railroad spur lines, etc. (many present-day industrial sites are being planned as unified developments, in which a number of sites are grouped together and made subject to common deed restrictions as to architecture, provision of off-street parking facilities, and similar matters); (d) construction of industrial buildings for lease or sale; and (e) provision of adequate housing for employees of the

new industries. It will be seen that inducements of this type, offered by private citizens, can go far towards off-setting governmental inducements of the types permitted in some other states.

Conclusion

An industrial development program requires the joint efforts of a great many agencies: representatives of power companies and railroads, industrial site location engineers, banks, Chambers of Commerce, private industrial development corpora-

tions, local governmental authorities, and many state agencies under the overall guidance of the Division of Commerce and Industry of the Department of Conservation and Development. Local governments can play a very important role in such a program, but they should keep in mind the limitations thereon which are imposed by the state constitution and statutes. Within this framework, they will find that their most effective weapon is merely performing their basic duty: providing "good government" for their people.

Books of Current Interest

Health and Welfare

SOCIAL WORK YEARBOOK — 1954. (A Description of Organized Activities in Social Work and in Related Fields; Twelfth Issue). Edited by Russell H. Kurtz. New York: American Association of Social Workers, One Park Avenue. 1954. \$6.00. Pages 703.

This is the twelfth edition of this indispensable reference work in the social welfare area. It is divided into two parts. Part One contains 72 topical articles written by authorities on the subjects discussed. Part Two consists of four directories of national and international agencies, 520 in number. The topical articles cover a wide range of social work problems and practices, with each article presenting a cross-section view of the current situation in the field described, portrayed against a historical background and projected toward the future through a reporting of trends, followed by a bibliography which lists books, articles in periodicals, and reports and pamphlets bearing on the topics discussed. The agency listings in the directories comprising Part Two show for each agency its name, address, principal officer, purpose and activities, and periodical publications, if any.

ANALYZING AND PREDICTING JUVENILE DELINQUENCY WITH THE MMPI (Minnesota Multiphasic Personality Inventory). By Starke R. Hathaway and Elio D. Monachesi. Minneapolis: University of Minnesota Press. 1953. \$3.50. Pages viii, 153.

TRAINING AND RESEARCH IN STATE MENTAL HEALTH PROGRAMS (A Report to the Governors' Conference). Chicago: Council of State Governments, 1313 East 60th Street. 1953. \$5.00. Pages xxvi, 349.

The South

SOUTHERN ACCENT — FROM UNCLE REMUS TO OAK RIDGE. By William T. Polk. New York: William Morrow and Company, Inc., 425 Fourth Avenue. 1953. \$4.00. Pages 264.

NORTH CAROLINA—THE HISTORY OF A SOUTHERN STATE. By Hugh Talmadge Lefler and Albert Ray Newsome. Chapel Hill: The University of North Carolina Press. 1954. \$7.50. Pages xii, 676.

TEXAS PRESIDENTIAL POLITICS IN 1952. By O. Douglas Weeks. Austin: Institute of Public Affairs, University of Texas. 1953. \$1.25 (paper bound), \$2.00 (cloth bound). Pages x, 116.

Traffic

SELECTED PAPERS FROM THE ENGINEERING INSTITUTE ON TRAFFIC ENGINEERING. Madison, Wisconsin: University of Wisconsin College of Engineering and Extension Division, and Wisconsin State Highway Commission. 1953. \$2.00.

(Continued on page 11)

Basic Training Courses For Municipal Officials

Successful completion of the Basic Course in Municipal Accounting and the opening of the Second Basic Police Training Course featured the month of February in the Institute of Government's developing program to provide periodic basic training in all phases of city government. Courses in Property and Privilege License Tax Collection, Personnel Administration, and Basic City Planning will be offered in May and June as the next step toward a well-rounded curriculum.

Basic Police Training

Twenty-three policemen from twenty-one North Carolina cities and towns graduated from the First Basic Police Training Course on November 20 (See *Popular Government*, December, 1953). The eight-week course covers all phases of police work and is designed primarily for officers assigned to general patrol duties. The instructional staff consists of staff members of the Institute of Government, agents of the Federal Bureau of Investigation and the State Bureau of Investigation, police chiefs and training officers from city police departments, and members of the State Highway Patrol. In the second course which is now in session, there are policemen from cities ranging in population from below 1,000 to over 75,000, emphasizing the fact that the course is not intended for representatives of large city departments alone. Jack Elam, Assistant Director of the Institute of Government, is in charge of this training.

Basic Course in Municipal Accounting

Albert Coates, Director of the Institute of Government, awarded certificates to fifteen city and town accountants, treasurers and clerks who completed the Basic Course in Municipal Accounting held February 22-25 at the Institute. Eight of the fifteen were employees with accounting duties in large cities; one was the city accountant in a small city; three were assistant clerks and accountants in small cities; and three were town clerks. John Alexander McMahan, Assistant Director of the Institute of Government, was staff member in charge.

By

GEORGE H. ESSER, JR.

Assistant Director

Institute of Government

The curriculum at the school was divided into three parts. The first morning opened with a very brief discussion of the functions of accounting, followed by an explanation of the principles and mechanics of double entry bookkeeping and by a discussion of the various kinds of journals and ledgers used in keeping books of account.

The next day and a half was devoted to an examination of the principles of municipal accounting. Among the subjects discussed were fund accounting, budget preparation, accounting for cash receipts and disbursements, accounting for non-cash transactions, financial reports and budget control. Particular attention was given to the role of municipal officers and employees with accounting and budgeting duties. The Institute of Government's *Guidebook for Accounting in Small Towns* was used as the basis for discussion.

The final two days were devoted to working out a practice problem, applying the principles learned to an actual situation. This problem covered two months activity in a small town, and transactions were actually entered into journals and posted to the accounts. A monthly financial report was prepared, books were closed at the end of the year, and annual financial reports were made up. The problem ended with preparation of a budget for the following year.

Basic Course in Property and Privilege License Tax Collection

Like the accounting course, the basic tax collection course is designed for newly appointed municipal tax collectors, assistant tax collectors, and tax collectors who have not had formal training in property and license tax procedures. The four day course will be held either May 17-20 or May 24-27, and advance notice of the exact dates will be given all cities and towns. The course will cover the basic

procedures in the collection of property taxes and privilege license taxes, within the provisions of the state law. Each student will work practical problems in tax collection, including levy, garnishment and the sale of real estate tax liens. Henry Lewis, Assistant Director of the Institute of Government, will be staff member in charge.

Personnel Administration

A two-day course in personnel administration will be held in late May or June. Designed for assistant city managers, personnel officers or employees, members of civil service boards and commissions, and municipal employees responsible for training, position classification, testing or related personnel functions, the course will cover (1) methods, techniques and practical problems involved in conducting a position classification survey; (2) suitable tests now available for testing applicants for municipal clerical, law enforcement and service positions; and (3) the proper function of a personnel office. Donald Hayman, Assistant Director of the Institute of Government, will be staff member in charge.

Basic City Planning Course

A six-day course in basic city planning will be held in June or July. Designed for assistant city managers, assistant city planners, city engineers, building inspectors, or other municipal employees without formal training in city planning who now assist or may in the future assist planning commissions, city managers or city councils in the preparation and interpretation of basic planning information, the course will cover (1) methods and techniques of making basic studies and plans with emphasis on the land use survey and plan, street and traffic studies and plans, and studies of population and local economy; (2) legal devices such as zoning ordinances and subdivision regulations available for carrying out plans; and (3) administrative procedures for enforcing such regulations. Philip P. Green, Assistant Director of the Institute of Government, will be staff member in charge.

Schools For Accountants And Finance Officers

During the period from February 18 to February 27, three groups of officials met at the Institute of Government to study problems relating to local government finance. The annual school for county accountants was held on February 18 and 19, and the annual school for municipal finance officers, including accountants, treasurers, and clerks who have budgeting and accounting duties, was held on February 26 and 27. Between the two schools, and running from February 22 to 25, a basic course of instruction was offered in municipal accounting and bookkeeping for town clerks and personnel with accounting duties in larger cities (see story on page 10). These schools were under the direction of John Alexander McMahon, Assistant Director of the Institute of Government.

The school for county accountants was devoted to a detailed analysis of the provisions of the County Fiscal Control Act, the act governing budgeting and accounting in the counties of the State. Particular attention was given to the provisions concerning the preparation and adoption of

the budget and the steps to be employed to keep expenditures within the budgeted amounts. In addition, the agenda included a discussion of (1) Workmen's Compensation—who is covered and the kinds of insurance plans available; (2) Old Age and Survivors' Insurance amendments being considered by Congress; and (3) the bonding of public officials. The sessions on Workmen's Compensation and OASI were led by Donald

B. Hayman, Assistant Director of the Institute.

The school for municipal finance officers was devoted to a detailed analysis of the Municipal Fiscal Control Act governing budgeting and accounting in cities and towns. As at the county school, attention was given to budget preparation and control, and additional topics included Workmen's Compensation and Old Age and Survivors' Insurance amendments being considered by Congress.

BOOKS

(Continued from page 9)

Building Regulations

BUILDING CODE STANDARDS OF THE NATIONAL BOARD OF FIRE UNDERWRITERS (For Installation of Heat Producing Appliances, Heating, Ventilating, Air Conditioning, Blower and Exhaust Systems). *New York: National Board of Fire Underwriters, 85 John Street. 1949. Price? Pages 40.*

A PROPOSED BUILDING CODE FOR SMALL CITIES (Second Revision). *Eugene, Oregon: Bureau of Municipal Research and Service, University of Oregon, and League of Oregon Cities. 1953. \$1.00. Pages vii, 38.*

Miscellaneous

CLASS, STATUS AND POWER—A READER IN SOCIAL STRATIFICATION. *Edited by Reinhard Bendix and Seymour Martin Lipset. Glencoe, Illinois: The Free Press. 1953. \$7.50. Pages 723.*

(Continued Inside Back Cover)



County Accountants' (top) and Municipal Officers' Schools

The Attorney General Rules . . .

Municipalities

Housing Rural Fire Department. May a town permit a rural fire department to house its equipment in the municipal garage without charge?

To: J. Giles Hudson

(A.G.) Yes, in view of the possible advantage to the municipality from having the equipment available. To make the arrangement more clearly legal, the town might enter into a contract with the department under which the latter agrees to permit use of its equipment in town emergencies when it is not in use elsewhere.

Zoning at Intersections. Under the proviso to G.S. 160-173, whenever two or more corners of an intersection are zoned in a particular way, the City Council must (on application of the owners) zone the other two corners in the same way. [See "Intersection Zoning" on page 10 of September, 1953, *Popular Government* for discussion of this proviso.] Where one street runs into another but does not continue across it, does this proviso come into play?

To: H. M. Jackson

(A.G.) No. In such a situation there are only two corners at the intersection. However, if the intersecting street were extended across the other street by dedication and acceptance of a new right-of-way, there would then be four "corners" and the proviso would apply.

Expenditure of Powell Bill Funds. May a municipality spend Powell Bill funds on the construction of a warehouse to house street equipment?

To: Messrs. Johnson and Johnson

(A.G.) I am inclined to think that the proper protection of the equipment used in maintaining the streets is important and that by a liberal interpretation of the statutes (G.S. 136-41.3) the courts would probably hold that this would be a proper expenditure of Powell Bill funds.

Counties

Payment of Damage to Cars of Employees. May a county pay for the damage done to an automobile owned by a deputy sheriff when caused by a woman resisting arrest?

To: W. W. Speight

(A.G.) By private act applicable to your county, the board of county commissioners is authorized to pay up to \$125 per month to deputy sheriffs for travel expenses. It was contemplated that this travel allowance would take care of normal wear and tear. In addition, the board of county commissioners could in its discretion pay for the damages caused by the prisoner resisting arrest, since this is an abnormal or unanticipated damage. However, the board would

be under no compulsion to do so, and it would be entirely within their discretion as to whether or not to make such payment.

Counties And Municipalities

Appropriating Nontax Funds to North Carolina Symphony Society. May counties and municipalities make voluntary contributions to the North Carolina Symphony Society?

To: Benjamin F. Swalin

(A.G.) Chapter 1212 of the Session Laws of 1953 authorizes counties and municipalities to appropriate and make voluntary contributions to the Symphony Society out of nontax funds. The Society is created by Article 2, Chapter 140, of the General Statutes, its governing body is provided for by statute and includes certain public officials, and the State Auditor is to make an annual audit of the accounts of the Society and make a report thereof to the General Assembly. Moreover, the Society is declared by the Act of incorporation to be under the patronage and control of the State, and the General Assembly makes appropriations to it. In view of these provisions of law, it is my opinion that counties and municipalities may validly appropriate nontax funds to the Society.

Property Taxation

Conditional Sale Contracts; Effect on Tax Listing. Dealer B in North Carolina purchases tractors and machinery for resale from Manufacturer A outside North Carolina. The contract between B and A reads as follows: "The above described goods will remain and be the property of Manufacturer A, its assignee or endorsee, until this agreement is fully satisfied. Immediately after any sale of any item of goods, Dealer B shall deliver so much of the proceeds thereof as represents the unpaid purchase price for such item of goods to Manufacturer A, and until the proceeds are paid to Manufacturer A they shall be kept separate from all funds belonging to Dealer B." Until Dealer B actually makes a sale to some North Carolina purchaser, Manufacturer A, under the contract, has the right to possess the tractors and machinery at any time. On January 1 Dealer B has some of the tractors and other machinery located on his lot or in his warehouse in North Carolina. To whom should these items be listed for taxation?

To: Louis C. Allen

(A.G.) This transaction seems to be, in effect, a conditional sale which, for tax listing purposes, would fall within the provisions of G.S. 105-304(1): ". . . The vendee of personal property under a conditional bill of

sale, or under any other sale contract by virtue of which title to the property is retained in the vendor as security for the payment of the purchase price, shall be considered the owner of the property, *provided*, he has possession of such property or the right to use the same." Thus the property in question should be listed to Dealer B.

Ice Cream Cabinets; Place for Listing. A dairy company places open-top ice cream cabinets in grocery stores, super-markets, and other retail stores in County A and County B. These moveable cabinets remain the property of the dairy company, and no charge is made to the retailer for their use. When the retailer buys ice cream from the dairy, it is placed in these cabinets for display and ready access. The cabinets located in County A are serviced from the dairy's main plant in Township X in County A. The cabinets located in County B are serviced from a sub-station of the dairy in County B. Where should the ice cream cabinets be listed for ad valorem taxation?

To: W. L. Hemphill

(A.G.) All cabinets physically present in County B should be listed there. All others should be listed in County A. G.S. 105-302(4) states, among other things, that "when tangible personal property, which may be used by the public generally or which is used to sell or vend merchandise to the public, is placed at or on a location outside of the county of the owner or lessor, such tangible personal property shall be listed for taxation in the county where located." The same statute also provides that "tangible personal property shall be listed at the place where such property is situated . . . if the owner or person having control thereof hires or occupies a store, . . . place for the sale of property, . . . place for storage, . . . therein for use in connection with such property . . ." In my opinion, either provision of the above-quoted statute is sufficient to require listing of ice cream cabinets of the type described in the place where such cabinets are on location, that is, ice cream cabinets should be listed in the townships in which they are actually located.

Personal Property Listings of State Employees. Many employees of the State of North Carolina are required by the terms of their employment to live in Raleigh, yet these employees often maintain domiciles in other parts of North Carolina for the purpose of voting and probably with the intention of returning to these domiciles when their state employment is terminated. Should state employees who reside for most of the year in Raleigh list their tangible personal property for taxation in Raleigh and Wake County?

(Continued inside back cover)

To: Paul F. Smith
(A.G.) Under G.S. 105-302, with certain inapplicable exceptions, all tangible personal property and polls must be listed for taxation at the residence of the owner. In the election law chapter of the General Statutes [G.S. 163-25(h)] the following rule appears:

If a person remove to the District of Columbia . . . to engage in the government service, he shall not be considered to have lost his residence in this State during the period of such service, and the place where such person resided at the time of his removal shall be considered and held to be his place of residence. *This rule shall also apply to employees of the State government who remove from one county to another within the State, unless a contrary intention is shown by such employee. [Italics added.]*

In view of the election statute, State employees moving to Wake County may retain their former residences, and, in so doing, quite properly are subject to personal property tax liability in their home counties, not in Wake. I think the voluntary payment of personal property taxes in Wake County and Raleigh would be strong evidence of an intent to change residence, and that a person who voluntarily paid such taxes to Wake County and Raleigh would probably be regarded thereby as having indicated an intent to change his residence and thus lose his privilege of voting in his home county. In conclusion, it is my opinion that the liability of a State employee for Wake County or Raleigh taxes is dependent upon his legal residence to be determined by examining the facts in each case in the light of G.S. 163-25 (h).

Exemptions; Real Property of Church Subject to Life Estate. A private citizen makes a deed for a tract of land on which there is a building to a church, but he reserves for himself a life estate in the property. During his lifetime he rents the property to the church. Is this property taxable and, if so, to whom?

To: R. E. Richardson, Jr.
(A.G.) Nothing else appearing, a church building owned and held by a religious body, used wholly and exclusively for religious purposes, would be exempt under G.S. 105-296(3). But in the circumstances described here two other statutes are controlling: G.S. 105-301(9) provides that a life tenant "shall be considered the owner of real property for purposes of tax listing. . . . The taxes levied on property listed in the name of a life tenant shall be a lien on the entire fee: *Provided*, that this shall not prevent the life tenant from being liable for the taxes under Section 105-410 . . .," the first sentence of which provides that, "Every person shall be liable for the taxes assessed or charged upon the property or estate, real or personal, of which he is tenant for life." In view of these statutes, it is my opinion that the life tenant should list

and pay the ad valorem property taxes on the property in question.

Lien of Partnership Property Taxes on Real Property Owned by Individual Partners. Although in some respects a partnership is considered an entity analogous to a corporation, in many other respects it is like a tenancy in common with each partner owning an undivided interest in the partnership property. Is an ad valorem tax levied on partnership property a lien on the real property owned by individual partners?

To: Thomas C. Hoyle
(A.G.) G.S. 105-301(6) and G.S. 105-304 provide that partnership property shall be listed in the name of the partnership. G.S. 105-320 provides that each partner shall be liable for the entire partnership tax. G.S. 59-45 provides that all partners are jointly and severally liable for the obligations of the partnership. And G.S. 105-340 provides that the lien of the tax "shall attach to all real property of the taxpayer in the taxing unit. . . ." In view of this series of statutory provisions, it appears to me that the italicized word "taxpayer" in the last quoted sentence means the partners who are severally and jointly liable for partnership obligations. Therefore, the lien of ad valorem taxes on partnership real estate would also attach to all of the real property owned by the individual partners.

Motor Vehicle Laws

Delay of Trucks Carrying United States Mail. Does the Federal Statute (18 USCA 1701) make it a criminal offense for the representatives of the Motor Vehicle Department to stop and thus delay a truck carrying the United States mail? The statute reads as follows: "Whoever knowingly and willfully obstructs or retards the passage of mail, or of any carrier or conveyance carrying the mail, shall be fined not more than \$100 or imprisoned not more than six months, or both."

To: Honorable Edward Scheidt
(A.G.) This office, of course, has no authority to interpret a Federal Statute. However, it is my opinion that this statute does not apply to a state officer who delays the movement of such a truck for no longer than is reasonably necessary and incidental to his duties of enforcing traffic regulations and other requirements imposed by the motor vehicle laws of the State.

Adoptions

Acceleration of Final Order of Adoption. May the court waive the entry of an interlocutory decree and probation period when the grandmother of an illegitimate child seeks to adopt such child?

To: W. B. Flanner
(A.G.) Under G.S. 48-21(c), the court may waive the entry of an interlocutory decree and the probation period and grant a final order of adoption when the child is by blood

a grandchild, . . . of one of the petitioners. . . . It is my opinion, therefore, that the court could upon a proper finding, supported by competent evidence, further adjudicate that the petitioner is the grandparent of the child and dispense with the interlocutory order, even though the child be illegitimate.

Bond Sales

In December, January, and early February the Local Government Commission sold bonds of the following government (the government, the amount of the bond, the purpose for which the bonds were issued, and the effective interest rate are indicated):

Cleveland County, \$65,000 school building bonds, 1.92%; Columbus County, \$65,000 school building bonds, 2.09%; Craven County, \$775,000 school building bonds, 3.29%; Gaston County, \$2,250,000 school building bonds, 2.52%; Haywood County, \$500,000 school building bonds, 2.75%; Mecklenburg County, \$3,750,000 school building bonds, 2.42%; Orange County, \$80,000 courthouse bond anticipation notes, 1.44%; and Wilkes County, \$500,000 school building bonds, 3.19%.

Durham, \$2,225,000 sanitary sewer bonds, 2.21%; Elon College, \$63,000 sanitary sewer bonds, 3.65%; North Wilkesboro, \$83,000 sanitary sewer bonds, 2.49%; Raeford, \$50,000 street improvement bonds, 3.13%; Rockingham, \$175,000 water bonds, 2.71%; and Stanley, \$20,000 water bonds, 3.24%.

Clinton School District of Sampson County, \$200,000 school building bonds, 3.25%.

BOOKS

(Continued from page 11)

EFFECTIVE LEGAL RESEARCH. By Miles O. Price and Harry Bitner. New York: Prentice-Hall, Inc. 1953. \$10.00. Pages xii, 633.

FILING FACTS. By Coleman R. Chamberlin. New York: National Filing Aid Bureau, 342 Madison Avenue. 1953. \$2.50. Pages x, 67.

AMERICAN STATE GOVERNMENT (Fourth Edition). By W. Brooke Graves. Boston 16: D. C. Heath and Company, 285 Columbus Avenue. 1953. \$6.25. Pages xi, 946.

THE LEGISLATIVE STRUGGLE. By Bertram M. Gross. New York 36: McGraw-Hill Book Company, 330 West 42nd Street. 1953. \$6.50. Pages xvii, 472.

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