

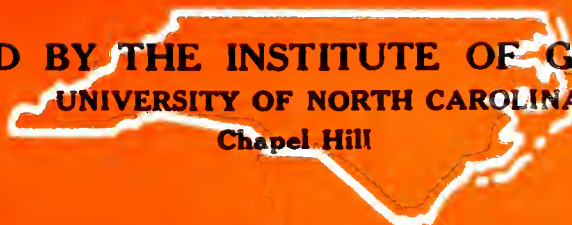
Popular Government

April 1955



SPRING BEFORE THE FROST

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





CONTENTS

THE CLEARINGHOUSE	1
Notes from North Carolina Counties	1
Bond Sales	2
Purchasing Agents Meet	2
City Managers Meeting	2
Notes from North Carolina Cities	3
PUBLIC PERSONNEL	4
LAW ENFORCEMENT	5
IS "DOUBLE TAXATION" OF CITY RESIDENTS BY THE CITY AND THE COUNTY CONSTITUTIONAL?	7
THE LEGAL STATUS OF SUBDIVISION REGULATION	9
BOOKS OF CURRENT INTEREST	12

COVER

North Carolinians accustomed to the extravagant beauty of their springtimes (as reflected in this picture of Wilmington's Greenfield Lake) were dismayed this year by the dead hand of one of the state's worst late-season freezes on March 17. To keep their memory green, we offer this scene, courtesy of News Bureau, N. C. Department of Conservation and Development.

THE CLEARINGHOUSE

NOTES

From North Carolina Counties

Schools

The early months of 1955 were normal insofar as activity in the school bond area was concerned. Voters of **Guilford County** approved the issuance of \$6,000,000 school building bonds by a vote of ten to one. The bond proceeds will be combined with approximately \$10,000,000 in current capital outlay taxes to provide a \$16,000,000 program in the next five years. . . . Voters in **Columbus County** approved the issuance of \$740,000 in school building bonds, with the vote running seven to one in favor of the bonds. . . . And voters of **Martin County** likewise overwhelmingly approved the issuance of \$300,000 in bonds for reconstruction and enlargement of six high schools in the county.

Voters of **Mecklenburg County** will have a chance to vote this spring on the issuance of \$5,000,000 in school building bonds. If the bonds are approved and issued, they will bring to a total of \$22,500,000 the amount of school building bonds issued by the county since 1946. . . . Voters of **Harnett County** will vote in May on the question of issuance of \$2,000,000 in school building bonds. . . . **Cabarrus County** officials are discussing the possibility of submitting to the people the question of the issuance of between \$2,000,000 and \$3,000,000 of school building bonds.

Residents of the Benson School District in **Johnston County** have recently voted in favor of a special school supplement tax not to exceed 20 cents per \$100 valuation to finance improvements. The district becomes the fourth in the county to impose a special school district tax.

Voters of the **Forsyth County** administrative unit recently defeated a proposed increase in the county school supplement tax. The present maximum is 20 cents on the \$100 valuation, and an increase of 15 cents had been proposed. . . . There has been discussion in **Durham County** of a vote on a 20-cent school supplement tax in the county administrative unit. A proposal for a 30-cent school supplement tax was defeated by the people a year ago.

Recently there has been discussion in **Onslow** and **Moore Counties** concerning the creation of separate city school administrative units for Jacksonville and Aberdeen, respectively. Simultaneously, there has been discussion in **Beaufort County** of the possibilities of consolidating the county unit and the Washington city administrative unit.

The **Caswell County** Board of Education has consolidated its policies into a small booklet, permanently bound, and equipped for additions and removals. The booklets have been put in the hands of all principals and district committees, as well as members of the board of education and the county superintendent.

Hospitals

Newspaper stories in the past several months indicate that the operation and maintenance of hospitals is taking its place as one of the more important county functions throughout North Carolina.

Yadkin County commissioners have given final approval to the construction of a ten-bed addition to the memorial hospital in Yadkinville. The addition will cost around \$50,000, with the county putting up \$8,400 of the total, the state putting up \$16,000, and the federal government \$25,000. Besides the ten beds, the addition will have office space for doctors and nurses. . . . Officials of **Wayne County** are discussing the possibility of adding forty beds to the Wayne Memorial Hospital. The addition would be financed by \$100,000 in county bonds which were not needed and not issued when the hospital was originally constructed in 1950, and state and federal funds would make up the balance of the proposed \$250,000 cost. . . . There has also been discussion in **Pasquotank County** and Elizabeth City concerning a fifty-bed addition to the Albemarle Hospital. The present 100 beds are in full use most of the time, with beds set up in corridors and on porches at emergency intervals.

There is plenty of evidence that hospital operation is costly and that taxpayers must often be called upon

for assistance. As an example, over 25 counties levied ad valorem taxes for hospital support in 1953-54. Citizens of **Stokes County** recently voted on the question of the levy of a 10-cent tax to meet hospital operating expenses of the Stokes-Reynolds Memorial Hospital. The hospital was opened last September, and it is anticipated that it will be another two years before the hospital can be placed on a self-supporting basis. . . . After discussion of the deficit of Our Community hospital in Scotland Neck, serving four townships in the southern part of **Halifax County**, it has been decided to seek \$12,000 in contributions from private persons to keep the hospital open. . . . In **Rockingham** and **Wake Counties**, hospital trustees have asked county commissioners for financial support. In Rockingham County, the commissioners have been asked for a contribution from county funds on the basis of \$125 per bed per year. The Wake commissioners, on the other hand, have been asked to appropriate sufficient funds to pay the hospitals for charity cases on a reimbursable cost basis. At the present time, according to hospital trustees, the county is not reimbursing the hospitals for the full cost of care given charity patients.

The future of hospital construction in North Carolina is in part in the hands of the General Assembly. The Medical Care Commission has \$1,700,000 on hand from previous appropriations, and it has asked the General Assembly to appropriate approximately \$2,300,000 more for the coming biennium. This appropriation, plus funds on hand, plus federal and local matching funds, would make a total of around \$20,000,000 available for hospital construction in the state in the next two years. The Advisory Budget Commission did not recommend any appropriation from current funds for construction for the next biennium, taking the position that the Medical Care Commission could carry on with the \$1,700,000 of funds on hand. According to the executive secretary of the commission, if the state appropriation is not made, the local governments which wish to build hospitals will still be able to get federal assistance but will not be able to receive state funds. This, he also pointed out, would hurt the smaller and poorer counties of the state which have not completed their hospital programs and which will need state help in order to do so.

Miscellaneous

Cabarrus County's old county home west of Concord is on its way to becoming a full-fledged annex to the courthouse, although separated from the courthouse by approximately three miles. The county health department will probably move to the old home some time this summer, after the completion of the renovation of the structure. . . . Officials of **Vance County** are considering the discontinuation of the county tuberculosis sanatorium, transferring the patients to the state sanatorium system, and transforming the building into a county health center. . . . After a grand jury had recommended rebuilding the **Warren County** jail, the clerk of court told the presiding superior court judge that the county had no funds with which to do the work. Since the county had no funds, the judge noted, there was no way to carry out the recommendation of the grand jury. . . . In January, **Halifax County** commissioners increased the jail fee charged all prisoners from \$.75 to \$1.00 per 24 hours.

Edgecombe County commissioners have approved the purchase of twenty automatic voting machines, and the machines will be available prior to the spring municipal elections. The machines will cost around \$30,000, and Tarboro and Rocky Mount will pay 1/3 of the cost for the privilege of using the machines in municipal elections. It is estimated that the new machines will save the county approximately \$300 per year in election expense, by cutting down the need for persons to count ballots and by reducing the number of ballots to be printed. . . . **Buncombe County** is considering the purchase of voting machines, probably on a ten-year rental-purchase plan, with annual rental payments applied against the purchase price when the final payment is made. It is estimated that 125 machines will be needed.

Plans are being made in **Harnett County** for the erection of a new building to house the county library. It is estimated that the cost of the building and necessary land will total around \$15,000. . . . **Wilson County** has recently obtained a new bookmobile. The new vehicle will house around 1,500 books on the inside of the vehicle and will travel more than 1,000 miles per month throughout the county, serving all county schools and more than 450 rural homes. . . . A new bookmobile purchased by the

Washington County public library has now been in operation for several months. Purchased at a cost of \$3,600, it carries books to every school in the county and makes regularly scheduled runs on three days each week.

Purchasing Agents Meet

The Carolinas Chapter of the National Institute of Governmental Purchasing, composed of city and county purchasing officials in North and South Carolina, met at the Hotel Charlotte in Charlotte on March 18, 1955. Around 25 purchasing agents, other officials interested in purchasing, and guests attended the meeting.

Among the topics discussed were the kind and weight of materials used in police uniforms, sources of specifications information, performance of steel cord tires, anti-freeze prices, gasoline additives, the cost of renting construction equipment as compared with outright purchase, purchasing practices used in connection with gate valves, water meters, and fire hydrants, the use of genuine replacement parts for automotive equipment as opposed to the use of parts from part dealers, and other topics related to governmental purchasing.

Officers were elected for the next two years. A. C. Shepherd, Winston-Salem purchasing agent, was re-elected president. C. E. Beatty, Charlotte purchasing agent, was elected vice-president. And Wade H. Hannah, Columbia (S. C.) purchasing agent, was re-elected secretary-treasurer.

The next meeting of the chapter is planned for early summer at a date and place to be announced.

City Managers Meeting

Reece Snyder, city manager of Marion, was elected president of the North Carolina City Managers' Association at their annual conference held at Sedgefield on March 12-13. Mr. Snyder succeeds Gilbert Ray of Fayetteville. W. J. Heard of Kinston succeeds H. E. Dickerson of Statesville as secretary.

Saturday afternoon's opening session featured an address on fringe area problems by Horace H. Edwards, city manager of Richmond, Virginia, and a follow-up talk analyzing fringe area problems in North Carolina by Leigh Wilson, assistant director of the N. C. League of Municipalities. The need for more detailed analysis of fringe area development as a basis for more realistic municipal policies was emphasized. Deane Seeger, of the American Municipal Association, and Dan K. Edwards, legislative counsel for the League, also appeared on the afternoon program.

Sunday's final session was highlighted by a speech by state senator O. Arthur Kirkman. Short progress reports on developments in three important functional areas followed. Raleigh's city manager, W. H. Carper, reported on his city's new fire district plan for extending fire protection to outlying suburban areas. City manager T. E. Hinson of High Point described the efforts of seven Piedmont cities in working together on the Piedmont Water Authority plan. Finally Professor W. F. Babcock of N. C. State College and traffic consultant to the League of Municipalities discussed recent developments in traffic control.

Bond Sales

During March, the Local Government Commission sold bonds of the following governments. The government, the amount of bonds, the purpose for which the bonds are being issued, and the effective interest rate are indicated.

<i>Unit</i>	<i>Amount</i>	<i>Purpose</i>	<i>Rate</i>
Caswell County	\$ 615,000	School building	2.51%
Cleveland County	1,245,000	School building	2.17%
Edgecombe County	45,000	Refunding	1.48%
Forsyth County	925,000	Airport (revenue bonds)	4.54%
Clinton	800,000	Water and sewer (revenue bonds)	3.43%
Gastonia	1,500,000	Water	2.61%
Lenoir	29,000	Water	1.74%
Northern Hospital District of Surry County	500,000	Hospital	2.43%
Stanly County School Administrative Unit	500,000	School building	2.49%

NOTES

From North Carolina Cities

Bond Elections

Citizens of **Taylorsville** have approved bond issues of \$52,000 to improve the water system and \$168,000 to reconstruct the sanitary sewer system and to build a new sewage disposal plant. In **Randleman** the water filtering system will be doubled with funds approved in a bond election recently held in that city. **Pembroke** voters supported a bond issue including \$84,000 for a sewage disposal plant, \$29,000 for water system extension, and \$16,000 for sewage line extension. Dam improvements and enlargement of the filter plant and sewer system of **Monroe** were made possible when a \$625,000 water and sewer bond issue was approved by the voters. **Jacksonville** citizens approved both a \$125,000 bond issue for the construction of a new city hall and a \$100,000 issue for street improvements. Voters in **Smithfield** have approved a \$150,000 bond issue for water and sewer improvements.

Bond Elections Scheduled

On May 3, **Charlotte** citizens will vote on the following bond issues: enlargement survey of Charlotte Memorial Hospital—\$250,000; water works improvements—\$6 million; sanitary sewer system improvements—\$500,000; street improvements—\$750,000; new fire station—\$200,000; new auditoriums—\$698,000; new public health center—\$500,000; improvement of the spastics hospital—\$190,000. **Fairmont** has tentatively set May 3 as the date for an election on the issuance of \$69,500 in bonds to increase fire protection and water service. The proposed \$2,719,000 **Wilson** bond issue will be reduced by more than \$500,000 by the time the election is held in May. Also planned for May is a **Chapel Hill** election on a \$190,000 bond issue to finance street improvements, new storm sewers, and additions to the sanitary sewer system.

Airports

On May 10 the voters of **Asheville** and **Buncombe County** will decide whether or not a \$1.5 million bond issue shall be made to finance the

construction of a new all-weather airport [*Popular Government*, Nov., 1954, p. 13]. If the voters approve, all further steps will be taken before the June 30 deadline for matching the 1954-55 \$107,000 federal allocation to **Buncombe County** for airport construction.

Income to **Forsyth County** under a 20-year lease agreement with Piedmont Aviation, Inc. will be used to pay off \$925,000 in bonds sold by the Local Government Commission early in March to finance new airport facilities in **Winston-Salem**. The bond issue and lease agreement culminate a plan first tentatively adopted by the Board of County Commissioners in 1953.

The **Greensboro-High Point** Airport Authority expects to construct a new terminal building soon, financing the project in part with adjusted rents and landing fees to be agreed upon with the airlines using the port.

In **Charlotte**, the aviation committee of the Chamber of Commerce is urging the adoption of a "Master Plan" of development to assure the airport's continued flexibility and capacity to expand.

Annexation

Roanoke Rapids city and sanitary district limits coincide for the first time as the result of an election approving annexation of some two and a half square miles. The addition brought into the city about 6,000 persons and approximately doubled the area of the town. **Gastonia** continued its expansion program when Cleveland Heights and All-American Park, each with about 500 persons, voted their way into the city. Four out of five of the recent annexation elections in this city [*Popular Government*, March, 1955] have resulted in increases, bringing the unofficial population to 34,000. In **Henderson** an estimated 4,000 persons and property value increase of about \$4 million were lost when the voters recently defeated an annexation proposal. The city councils of **Salisbury** and **Graham** have recently annexed subdivisions under the state annexation law. It was the third such move in the last three months for **Graham**.

In **Hickory**, Mayor Donald S. Men-

zies, with the full support of the Board of Aldermen, has announced a new statement of policy with regard to annexation. Under the new policy, the city government will initiate no move to incorporate any new territory into the city, leaving all such action to residents who desire annexation. If, after four weeks' published notice and a public hearing, as many as 15% of the qualified voters file written objections to annexation, an election must be called. The city council reserves the right to defer annexation in any case, at its discretion, until the question has been submitted to the voters.

Water Systems

North Carolina cities and towns continue to exercise foresight and ingenuity in taking steps to avoid another disastrous water shortage. **Lincolnton** has completed and tested new lines to the South Fork River which will permit a pumping rate of 500 gallons per minute to be used in emergencies. An emergency source of 65 million gallons will be available to **Mocksville** as soon as the new lake-reservoir on Bear Creek is completed. A new reservoir nearing completion in **Hendersonville** will approximately double the amount of water previously held in storage reservoirs. A new line will equalize the flow of water throughout the system, and a projected pumping station will increase delivery of water to the reservoirs by about one million gallons daily.

Burlington's \$1,800,000 water facilities expansion program is progressing rapidly at a cost less than the original estimates. Contracts have been awarded for a raw water supply works, a dam site survey on Stoney Creek, a pumping station and pump on Haw River, and an emergency raw water line from Haw River to the Buttermilk Creek tributary of Stoney Creek. Half of the raw water line has been laid. **Mt. Pleasant** continues to ration water, but a new well is being bored to increase the available supply. **Rockwell** is drilling a new well at a cost of about \$6500 which is expected to produce 80 gallons per minute.

King's Mountain has added a four foot dam to the old lake, raising the water level to 50 million gallons, and has built a new dam on a nearby creek, thereby impounding another 140 million gallons. The filter plant was also increased to 2 million gallon daily capacity. **Gastonia** has spent

(Continued on page 6)



PUBLIC PERSONNEL

By DONALD B. HAYMAN

Assistant Director, Institute of Government

Personnel Rules

Two governmental units, the City of Greensboro and New Hanover County, issued their personnel rules in printed form last month. Cities and counties considering a revision of their personnel rules in the future will find these recent publications extremely helpful.

The New Hanover County publication contains the personnel rules as to holidays, leave, and dismissal adopted two years ago plus a recent amendment establishing a position classification and pay plan. The amendment establishes 75 different classes of positions which are allocated to eight different pay levels.

The pay plan provides for a minimum and maximum salary for each class of positions with five intervening steps. All employees hired at the minimum whose services merit retention receive automatic salary increments at the end of six and twelve months of service. Salary increments above the second step in the pay plan are granted only in recognition of superior or improved performance. When funds are available for earned salary increments, the increments are to be granted proportionately among the departments. This pay provision is similar to the pay provisions adopted by Guilford County in 1953 and reportedly working satisfactorily in Guilford County at the present time.

The new Greensboro personnel rules will be described in a later issue of *Popular Government*.

Personnel Conference

Next month North Carolinians interested in the improvement of state and local personnel administration will have a splendid opportunity to learn something of the personnel problems and methods of state, county, and municipal officials in the other southern states. The occasion will be the seventh southern regional conference on public personnel administration of the Civil Service As-

sembly to be held in Chapel Hill on May 5th and 6th.

The conference will open at 10:00 A.M. on Thursday with an address by Dr. Gordon Gray, president of the University of North Carolina. Thursday afternoon from 1:00 to 3:00 P.M. five concurrent roundtable discussions are planned. From 3:30 to 5:00 P.M. problem clinics will be held for state merit system supervisors, executives of small governmental units and agencies, departmental personnel officers, examination technicians, and classification and pay technicians. A banquet and program are being arranged for Thursday evening.

Concurrent panels on several areas of personnel administration have also been planned for both Friday morning and afternoon. The formal sessions of the conference will close with a business meeting at 4:00 P.M., Friday afternoon.

The chairman of the conference is Dr. Katherine Taylor of Dallas, Texas, regional personnel representative of the federal Department of Health, Education, and Welfare. Program chairman is W. Sherrill Milliken of Chattanooga, Tennessee, personnel officer of the Tennessee Valley Authority. Chairman of the host committee is John McDevitt, North Carolina state personnel director.

Official headquarters of the conference will be the Carolina Inn. Persons desiring additional information concerning the conference may write Russell Grumman, Extension Division of the University of North Carolina, or the Institute of Government.

Training in Winston-Salem

John M. Gold, Winston-Salem's city manager, recently submitted a report to the board of aldermen summarizing the city's efforts at employee training during 1953 and 1954. The report indicates that during 1953, the first year of the city's recent emphasis on employee training, city employees participated in 23 different

training programs. Enrollment in these training programs totaled 346 and total hours of classroom instruction, demonstrations, and seminars were 1,163. Employees spent 11,654 hours in these training courses during 1953.

Last year, city employees participated in the same number of training programs as in 1953. Enrollment during 1954 totaled 338. Hours of instruction totaled 901, and 7,125 employee hours were spent in class. This total does not include conferences and association meetings that are held at intervals throughout the year which various employees attend in order to keep abreast with modern methods in their specialized work. Neither does it include the training that is done day to day on the job.

During the two years, Winston-Salem employees spent 18,779 hours in formal training classes. Most of these hours were on the city's time; however, employees undoubtedly spent many more hours of their own time preparing for their classes.

The 46 training programs participated in by Winston-Salem city employees during the past two years cover a wide range of subject matter. Some of the training programs were conducted at the city hall with the help of materials furnished by the International City Managers' Association. Other training programs were instituted solely within the various departments, and still others were in other cities sponsored by professional groups, the Institute of Government, or other training agencies.

In a recent letter to Mr. Gold, D. G. Welford, supervisor of training for the International City Managers' Association, wrote, "I have been amazed at the scope and diversity of the training program which you have instituted in Winston-Salem. Your work is attracting much attention here. Indeed, the program in Winston-Salem is among the best in the entire United States. You certainly deserve congratulations for an outstanding job."

(Continued on page 6)



LAW ENFORCEMENT

By RICHARD A. MYREN

Assistant Director, Institute of Government

This column will be made a regular feature of *Popular Government*. It is dedicated to matters of general interest to everyone concerned with the administration of the criminal law in North Carolina. Personnel changes, other changes in law enforcement agencies, comment on current cases, attorney general rulings, new books, and discussion of problems of interest to those connected in any way with law enforcement will be grist for this mill. Most of the news items will come from the Institute's clipping service at first, and the problems will be those encountered in field work, in the teaching of Institute schools, and in teaching the law school classes in criminal law at Carolina. However, readers are urged to send news items, questions and problems which plague them in their work, and notes of general interest to this column so that the material included can be more up to date.

The law enforcement training program of the Institute will benefit greatly from materials now in the hands of the law enforcement agencies of the state, such as training materials worked up locally and copies of annual reports. How about putting us on your lists for such materials if we are not already there? Some departments are now sending these materials to us—and to them, Thank You.

Police Executive Officers

A note from Chief J. J. Padrick of Wilmington makes it possible to print the following information on the current organization of the North Carolina Police Executives Association. Officers for 1954-55 are: President, Chief J. J. Padrick, Wilmington; Vice-President, James W. Powell, SBI Director; Vice-President, Chief Jeter L. Williamson, Greensboro; Vice President, Chief J. I. Waller, Winston-Salem; Secretary-Treasurer, Major David T. Lambert, SHP; Chairman of the Executive Committee, Lew Williams, SBI. Mem-

bers of the executive committee are: One year, Chief H. E. King, Durham, Chief Otley Leary, Tarboro, Capt. C. M. Stutts, Winston-Salem; Two years, George Canady, SBI, Chief Tom Davis, Raleigh, Lt. Bill McCall, Charlotte; Three years, Chief C. C. Stoker, High Point, Chief D. W. Smith, Marion, Chief Marion Haskins, Kinston; Four years, Capt. R. R. Hargrove, Raleigh, Chief J. I. Nichols, Rocky Mount, Lew Williams, SBI.

Members of the Crime Prevention Committee are: (Chairman) Chief Tom Davis, Raleigh; Sgt. H. C. Carter, Winston-Salem; Chief W. T. Ivey, Monroe; P. R. Kitchen, SBI; Chief J. I. Nichols, Rocky Mount; Chief M. W. Boone, Mt. Airy; Chief Floyd Whitman, Jr., Whiteville. Those appointed to the Civil Defense Committee are: (Chairman) Major W. B. Lentz, SHP; AIC R. J. Abbaticchio, Jr., FBI; Chief A. M. Butler, Burlington. On the Membership Committee are: (Chairman) Chief Henry Barnes, Kannapolis; Capt. R. A. Barlow, Winston-Salem; Chief Yates Duncan, Spindale; Chief Paul Shore, Thomasville; Capt. J. R. Harris, New Bern. Appointed to the Street and Highway Committee are: (Chairman) Capt. L. W. Henkel, Charlotte; Capt. J. R. Teague, High Point; Lt. H. C. Johnson, SHP; Capt. Herbert Hayes, Raleigh; Capt. T. B. Seagroves, Durham. Members of the Uniform Crime Reporting Committee are: (Chairman) Justice Tucker, Winston-Salem; Chief W. C. Owens, Elizabeth City; James Bradshaw, SBI Assistant Director.

To the presently very important Legislative Committee are appointed: (Chairman) James W. Powell, SBI Director; Chief A. A. Privette, Wilson; Asst. Chief W. W. Pleasants, Durham; Major C. A. Speed, SHP; Chief Jeter L. Williamson, Greensboro; Capt. H. E. Williamson, Wilmington; Chief Otley Leary, Tarboro; Chief J. I. Waller, Winston-Salem. On the Firearms Committee for this year are: (Chairman) Lt.

S. L. Willard, SHP; Lt. W. H. Jackson, Greensboro; Capt. J. A. Pavlovsky, Raleigh; Capt. J. R. Teague, High Point; Capt. W. B. Julian, Durham; Lt. C. E. Bowman, Winston-Salem; Sgt. Fred Boyd, Kinston.

New Association

Newest among the law enforcement organizations in North Carolina is the recently organized Moore County Law Enforcement Officers Association. Officers elected at the organizational meeting were: President, Sheriff C. J. McDonald; Vice-President, Chief C. E. Newton, Southern Pines; Secretary, Coroner Ralph G. Steed; Treasurer, Asst. Chief Bob Yates, Robbins. One of the interesting facets of this organization is that it includes the coroner and court officials as well as "line" law enforcement officers. It also makes us wonder just how many law enforcement associations there are in North Carolina and whether an exchange of ideas might not be possible through this column.

In the Departments

Among the new developments is a recently initiated police auxiliary reserve at Whiteville. Use of such a reserve is a growing factor in law enforcement in this state, as is evidenced by reports of commendations for excellent service paid to their reserves recently by Chiefs Maury Loftis of Reidsville and J. I. Nichols of Rocky Mount.

The Charlotte PD has established a Big Brother Camp on the grounds of its club at Morris Field. The camp will offer summertime and weekend programs of recreation and rehabilitation to underprivileged children. Another addition of note is the new switchboard at the Raleigh PD. Under the new setup, callers getting busy signals will be cut from 34% to less than 2%. Also to be classed as new are the 24 rookies recently joining the Winston-Salem force.

They may be new but are not green, thanks to a new and comprehensive training program instituted by Chief Jim Waller. On the administrative side, Chief John R. Roebuck has announced the adoption of Rules and Regulations for the Williamston PD.

Personnel Changes

There are two newcomers to the ranks of Chief since the last issue of *Popular Government*. They are L. H. Carver, who replaces Charles F. Lanning as Chief for the Town of Clyde, and Lloyd Shumake, who succeeds Clayton Dyson at Mooresville. Chief Shumake is a graduate of the 1954 Institute of Government Police School. At this writing, Carolina Beach has not yet announced a replacement for Chief Paul Wolfe, who resigned effective March 11. From Asheville comes word that a three-way shift in assignment of captains went into effect on March 1. Capt. Harold F. Brownley moved from the uniform to the detective division. He was replaced in the uniform division by Capt. Robert H. Reese, formerly in the records division. The records post has been taken over by Capt. A. J. Creasman who had headed the detective division. In the Durham PD Ralph T. Cannada has taken over new duties in the record division, replacing L. G. Ford, who has resigned.

Books Received

Among the new and interesting books received for review this month is the *Daily Training Bulletin of the Los Angeles Police Department*, W. H. Parker, Chief of Police. Charles C. Thomas, Publisher. Springfield, Illinois. \$7.50. Pages 274. These training bulletins have received much publicity since first announced by the Los Angeles department. As published, they contain a wealth of practical information for police officers. Although much of the material is L. A. oriented, the book will be a very valuable addition to any law enforcement library. It should prove especially useful to training officers. It is very well illustrated, but one begins to wonder: Do all law enforcement cartoonists use the same models?

Personnel

(Continued from page 4)

Classification and Pay Plans

Position classification and pay plans have been considered recently by the governing officials of four cit-

ies and two counties. Analysts of the Industrial Services Section of the N. C. Employment Security Commission have reviewed the **Burlington** classification plan, which was adopted in 1951 following a classification survey by the Employment Security Commission.

In **Charlotte**, the city council has amended the classification plan and the pay plan adopted in July, 1954. Because of the shortage of funds when the classification plan was adopted, only half of the salary increases authorized were included in the budget for the current year. Upon being informed that funds were available to pay all of the increases authorized, the city council amended the pay plan to grant the salary increases and to make them retroactive to July 1, 1954.

The **Charlotte** city council also considered certain "inequities" which some employees had contended existed in the classification plan. In addition to granting most of the individual requests, the council approved a general increase in the allocation of 155 positions in the fire department. Fire department employees had protested the level of positions in the fire department, because fire department positions had been rated slightly lower than positions in the police department.

An analyst of the Public Administration Service in Chicago has recently spent two weeks in **Greensboro** reviewing certain jobs in the **Greensboro** classification plan and gathering data for an analysis of the city's plan.

Bill Reich, **Winston-Salem's** personnel director, has recently conducted a wage survey to be used by the city manager and the board of aldermen in deciding whether any changes should be made in **Winston-Salem's** pay plan for the next fiscal year.

As reported in *Popular Government* last month, the Employment Security Commission has agreed to conduct a job classification survey of **Durham County** employees. The actual classification survey will be done by a staff of both county and Employment Security Commission employees. Louis Berini, chief interviewer with the **Durham** Employment Security Commission office, will assist county officials in preparing a pay plan.

The classification of **Mecklenburg County** positions is reportedly nearing completion. Started last summer, the position classification survey is being conducted by R. E. Lee of **Charlotte**.

City Notes

(Continued from page 3)

just under \$1 million in contracts for water system improvements, which include a pipeline to the South Fork River, a pumping station at the river, and a pipeline from the reservoir to the filter plant. An additional half million dollars will be invested in a million gallon overhead tank to be located in East Gastonia and in larger feeder lines to improve pressure in other sections of the city.

Water and Sewer Rates

The **Nashville** town board has discontinued free water service to farmers of the surrounding area as a result of some abuses of the privilege. Outside water rates have been doubled in **Mt. Pleasant** and all discounts have been discontinued. The **Washington** city council has raised water and sewer tap charges to \$25 and \$40, respectively, regardless of whether they are located on dirt or paved streets. **Gastonia's** suburban water customers were given a 50 per cent reduction in rates to 90 cents per thousand gallons on the first ten thousand gallons. Outside rates henceforth will be twice the rate for city customers. **Rocky Mount** has doubled its water rates for outside consumers.

Southern Pines, meanwhile, has reduced its water rates for in-town consumers. Henceforth, the minimum quarterly bill of \$4.50 will purchase up to 10,000 gallons, thus giving in-town residents 5,000 additional gallons quarterly for three quarters at no extra cost. It is expected that the additional water will be used for lawn sprinkling.

Planning and Zoning

Chapel Hill has adopted a perimeter zoning ordinance covering an area extending from two to four miles beyond the city limits, after more than three years of preparation. The ordinance provides for three classes of districts in addition to those in town: an agricultural district, a low-density residential district, and a suburban commercial district. Most of the district regulations are presented in tabular form, which has the effect of greatly reducing the length of the ordinance. The ordinance was adopted under authority of Chapter 529 of the 1953 Session Laws, which provides for equal representation of in-

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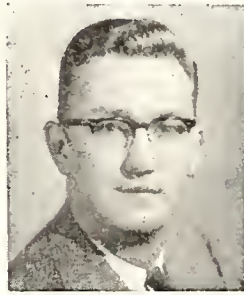
IS "DOUBLE TAXATION" OF CITY RESIDENTS BY THE CITY AND COUNTY CONSTITUTIONAL?

For a number of years, the question of the constitutionality of "double taxation" has been discussed among local officials in North Carolina and elsewhere. The problem arises in connection with activities that are jointly supported by a county and a city within the county's borders. For example, suppose that a county and city are jointly supporting an activity serving people throughout the county, such as a county-wide library, a county-wide health department, or some similar operation. Suppose further that the county pays 50 per cent of the cost of the activity and the city pays 50 per cent, and that 50 per cent of the total assessed valuation in the county lies within the city. The city taxpayers therefore pay 100 per cent of the city's 50 per cent share of the activity, plus 50 per cent of the county's 50 per cent share—or 75 per cent of the total cost of the activity. City taxpayers have questioned the constitutionality of such an arrangement on two bases: (1) That it violates the provision in Article V, section 3, of the North Carolina Constitution, requiring that taxes be uniform as to each class of property taxed; (2) That it violates the provisions of the Fourteenth Amendment to the United States Constitution, requiring the states to observe due process and to grant to all persons the equal protection of laws.

The Supreme Court of North Carolina in recent cases has turned its attention to this problem.

The High Point Case

In *Wilson v. High Point and the County of Guilford*, 238 N. C. 14 (1953), a taxpayer was suing to restrain the city and county from erecting a building for their joint use in High Point and to restrain the city from issuing bonds to pay for the entire initial cost of the building. The city and county, under a special act of the Legislature which authorized the proceedings, contracted to build a building for their joint use on land owned by the county. The county was to deed the land to the city, the city was to issue bonds and construct the building, and the county was then to pay the city one-half of the total cost over a period of years at the rate of \$50,000 per year without interest. The building was ex-



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pected to cost around \$300,000. The city and county were both to use half the building, or one would pay rent to the other if it used more than the other. And the county was required to purchase the city's one-half interest at the expiration of 25 years from the completion of the building, unless it chose to do so before that time. The bonds of the city were to be issued without a vote of the people, the amount of bonds to be issued being less than two-thirds of the previous year's net debt reduction. (Article V, section 4, of the North Carolina Constitution prohibits the issuance of bonds in an amount in excess of two-thirds of the previous year's net debt reduction without a vote of the people.)

The Issue

The Supreme Court in its opinion said that the question at issue was whether the issuance of bonds by the city to pay the total cost of the erection of a building in the city for the joint use of city and county was a necessary expense of the city, within the meaning of Article VII, section 7, of the North Carolina Constitution. (Article VII, section 7, prohibits the incurring of debt or the levy of taxes without a vote of the people except for necessary expenses.) The court answered this question in the negative. It said that the issuance of bonds by the city to erect a building to house the activities that it planned to house in its half of the joint building was undoubtedly a necessary expense. But the court pointed out that the city proposed to go further and issue its bonds, the interest and principal of which were to be paid by taxation on the property in the city, to erect a building for both city and county use. While the court did not specifically say so, the issue might be put this way: the city was to issue its bonds for a structure to house city activities, which is a necessary expense;

but the city was also to issue its bonds for a structure to house county activities, and this is not a necessary expense for a city. It is to be noted that the county was to buy half of the building from the city at the rate of \$50,000 per year without interest, a matter of two to three years. Since the county was to pay no interest, there would have been a contribution by the taxpayers of the city for interest on the half of the debt that the county was to pay. (It is interesting to observe in passing that the county would have incurred a debt, because the county was obligated to pay for its half, as well as for the city's half within twenty-five years. This would apparently have been a debt incurred in excess of two-thirds of the previous year's net debt reduction by the county. The court, however, did not discuss this point.)

The court said that the case did not present a situation where a city had surplus funds on hand and the proposed expenditure would impose no further liability on the city; and it said the facts did not present a situation where the city was to issue bonds with a vote of the people for the construction of a building to be jointly used by the city and county. With regard to the latter, the court cited *Briggs v. Raleigh*, 125 N.C. 223 (1928), a case in which the court upheld the right of the city of Raleigh to issue bonds in the amount of \$75,000, the proceeds of which were to be turned over to the State of North Carolina for the purpose of assisting in the establishment and maintenance of a State Fair in the vicinity of Raleigh. Thus, the court implied that if the project had been approved by the voters of High Point, it might have been valid, or if the project had been financed by non-tax revenues of the city it might have been valid.

Double Taxation Dicta

The question of double taxation, in the sense it was used in the first paragraph of this article, was not raised by the facts in the High Point case, nor was the issue apparently raised by the plaintiff taxpayer. The court, however, raised the question in its opinion. Citing *American Jurisprudence*, the court said, "It is clear that one taxing district, whether state, county, municipality, or district established for the particular

purpose, cannot be taxed for the benefit of another district. A municipal corporation cannot be compelled to turn over a portion of its funds to the county in which it is situated in order to pay the expense of a county function." Citing *Corpus Juris*, the court said, "The purpose to be accomplished by a tax must pertain to the district taxed, as the constitution requirement of uniformity in taxation forbids the imposition of a tax on one municipality or part of the state for purpose of benefiting or raising money for another." The court quoted the following portion of a Kentucky decision: "The attempts by the legislature to require a municipal corporation to turn over a portion of its taxes to the county in which it is situated to assist in the support of a juvenile court, for which the county has already levied a tax on all the property within its limits, including that within the municipality, is invalid as violating a principle that taxation and representation must go together, that one municipal subdivision cannot levy a tax upon property located in another municipal subdivision, and also the constitutional provision that taxes must be uniform."

The language thus quoted from the treatises and the Kentucky decision seemed to suggest that joint support of an activity by a county and city from *tax funds* was unconstitutional because it violated the uniformity rule. The court made it clear, however, that joint support from *non-tax funds* was not subject to the same challenge. It distinguished the case of *Airport Authority v. Johnson*, 226 N. C. 1 (1945), wherein High Point, Greensboro, and Guilford County had jointly supported the maintenance and operation of an airport from non-tax funds, and indicated that there was nothing improper in that joint support.

The court then proceeded to make this statement: "[The housing of the clerk's, sheriff's, and tax offices] are governmental functions of the county, not of the city, and the taxpayers of the city with all other taxpayers of the county are taxed for the performance by the county of such governmental functions of its own. To tax the citizens of High Point again to pay for the performance of governmental functions of the county would mean that taxation in the county would not be uniform. Taxation that is not uniform is necessarily unequal. It would mean taxing property in the city twice

for the same purpose. Lack of uniformity in taxation is unjust, and opposed to the principles of equality and fairness upon which a righteous scheme of taxation depends. It is not 'a necessary expense' for the city to provide such a building for the county."

Here again is language indicating that joint support of an activity from tax funds by a county and a city within the county's borders is double taxation and a violation of the uniformity requirement of the North Carolina Constitution. Taken literally, this would mean that any tax levied by a city for its share of support would be unconstitutional; but the court seems to suggest by its reference to "necessary expense" that such a tax would be entirely proper if levied with a vote of the people.

Thus there was confusion in the wake of the High Point case. The court based its decision on the fact that the issuance of bonds by the city without a vote violated the "necessary expense" limitation of the Constitution. But its language threw the whole question of joint tax support in doubt, by the reference to "uniformity". This doubt was resolved in part in the Charlotte case

The Charlotte Case

One of the points at issue in *Jamison v. Charlotte*, 239 N. C. 682 (1954), met head-on the double taxation question raised in the opinion in *Wilson v. High Point*. The Charlotte case was an action by a taxpayer to restrain the city of Charlotte and the county of Mecklenburg from issuing bonds to erect and equip public library buildings and to collect taxes to pay debt service on the bonds. Under a special act of the General Assembly, the county planned to issue \$800,000 in bonds and the city planned to issue an additional \$800,000 in bonds for the purpose of adding to the library facilities located in the city and elsewhere in the county. The proposed county bonds had been approved by the voters of the county, and the proposed city bonds had been approved by the voters of the city. The proceeds of the bonds were to be spent in accordance with the joint decision of the board of county commissioners and the city council. (Current library operations in the county have for years been supported by a county-wide tax levied with the approval of the voters, a percentage of the profits of the ABC stores, and a small contribution from the city of Charlotte.)

As one of the grounds of his suit, the plaintiff taxpayer stated that the issuance of \$800,000 in bonds by the county and a similar amount by the city would result in a lack of uniformity of taxation as between the taxpayers in the county and the taxpayers of the city, in violation of Article V, section 3, of the North Carolina Constitution. He pointed out that 75 per cent of the assessed valuation of the county lay inside the city limits of Charlotte, so that the citizens of the city would in effect pay 87 per cent of the debt service on the bonds; citizens of the city would pay 100 per cent of the debt service on the city bonds, and 75 per cent of the debt service on the county bonds.

Uniformity Requirement

The court noted that Article V, section 3, provides that "taxes on property shall be uniform as to each class of property taxed." The court stated that this required in express terms that all real and personal property be taxed by a uniform rule. "Uniformity in taxation on real and personal property is effected, when the tax is levied equally and uniformly on all property *in the same class*. . . . The General Assembly of North Carolina has classified intangible personal property for taxation at a lower rate than tangible personal property or realty. . . . To constitute double taxation both taxes must be imposed on the same property for the same purpose, by the same state, federal or taxing authority, within the same jurisdiction, or taxing district, during the same taxing period and there must be the same character of tax. . . ." The court cited a number of cases which held that there was no constitutional prohibition against double taxation, that the state and federal constitution afford no protection against double taxation by the state, that double taxation is not prohibited if the rule of uniformity is observed, and that the Fourteenth Amendment does not prohibit double taxation. "While it is very true that there must be equality and uniformity in imposing the burden of taxation upon property subject to it, so that each taxpayer shall pay the same proportionate tax on the same species of property that every other taxpayer pays," the court went on to say ". . . this rule of equality does not apply to the distribution of the revenue arising from taxation." And finally: "There is no double taxation [in the Char-

(Continued on page 11)

LEGAL STATUS OF SUBDIVISION REGULATION

With the submission of a proposed revision of the state's subdivision-regulation enabling act to the General Assembly (House Bill 579), there has been increased interest among municipal officials on the legal status of such regulations. This article will consider some of the problems which it raises.

Subdivision regulations first appeared in this country about the middle of the 19th century, when a number of enabling acts required that plats of proposed subdivisions be approved prior to recordation. These acts were primarily designed to insure that plats were properly surveyed and to determine if adequate engineering data were supplied, so that uncertainties as to land titles would be reduced.

With the spread of the city planning movement after World War I, the various states began to grant approval authority of some type to planning boards, which could use this authority to require (a) development in accordance with proper design standards and (b) provision by the developer of certain minimum facilities whose cost would otherwise have to be borne by the city.

The Standard City Planning Enabling Act, prepared by a special committee appointed by Secretary of Commerce Herbert Hoover in 1924 and published by the Department of Commerce in 1928, provided for rather extensive subdivision controls. It gave city planning commissions jurisdiction over all subdivisions within the city and for five miles beyond its boundaries. It required that the commission adopt (a) a major street plan and (b) subdivision regulations before exercising this authority. Once the regulations had been adopted, no subdivision plat could be filed or recorded until it had been



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approved by the commission. Approval would not be granted until utility and street improvements required by the ordinance had been made, unless a performance bond was posted. Sale of lots by reference to an unapproved plat was made a misdemeanor; public improvements were forbidden in any street not a part of an approved subdivision, unless the street had been accepted by the local legislative body; and building permits could not be issued for any structure not having access to an approved street.

Laws in Other States

Following publication of this act, enabling acts along these lines were adopted by states throughout the country. A 1953 study¹ found that acts regulating subdivisions in some manner had been adopted in every state except Vermont. An Institute of Government analysis of planning legislation in southern states, made the same year, disclosed the picture shown in Table A below.

Most of these enabling acts follow the lines of the Standard City Planning Enabling Act rather closely.

1. Melli, Marygold. "Subdivision Control in Wisconsin," 1953 Wis. L. Rev. 389.

Many of them were drafted by Alfred Bettman, one of the draftsmen of the Standard Act. H. B. 579 is based upon Bettman's model subdivision act, which is almost identical with the legislation in Tennessee, Virginia, and Alabama—to mention a few of the states closer to North Carolina geographically.

North Carolina Laws

In North Carolina, subdivision regulations are of several types. G. S. 160-226 and 160-227 give cities authority to approve street and sidewalk layouts within one mile of their limits; if approval is not secured and city limits are later extended to take in the area, the city may extend its own street system through the area without having to pay for any structures which are destroyed. As a practical matter, this enforcement device is ineffective, even if constitutional, and cities have largely regulated subdivisions through their powers to extend or deny water and sewerage service to new subdivisions. A heavy majority of the cities over 10,000 population in the state have subdivision-control ordinances at present, even though it is in some cases difficult to point to statutory authorization for their requirements.

G.S. 39-28 to 39-32 gives the Clerk of Superior Court power to require the posting of performance bonds guaranteeing installation of proposed improvements, for the benefit of lot purchasers. G.S. 39-32.1 to 39-32.4 requires the placing of certain monuments and markers in subdivisions. G.S. 47-30 establishes the requirements for plats to be recorded.

In addition to these general acts, special acts have granted particular

TABLE A

Type of Law	Ala	Ark	Fla	Ga	Ky	La	Md	Miss	NC	Okla	SC	Tenn	Tex	Va
<i>Enabling act for:</i>														
Cities	*	*		*	*	*	*	*	*	*	x	*	*	*
Counties	x	*				*	*		x	x	x		*	*
Regional agencies							x				x	*		
<i>State regulation</i>	*	*	*	*		*	*	*	*	*				

Legend

- * General law
- x One or more special acts

powers to individual cities and counties. Chapter 677 of the 1947 Session Laws, as modified by Chapter 777 of the 1953 Session Laws, gives Winston-Salem and Forsyth County powers essentially along the lines of the Standard Enabling Act. Chapter 369 of the Session Laws of 1949 gives Durham and Reidsville powers which are as broad; Lexington and Thomasville were brought under the coverage of this act by Chapters 504 and 939 of the 1953 Session Laws. Chapter 882 of the Session Laws of 1949 made illegal the recording of unapproved plats in Guilford County; Chapters 525 and 783 of the 1953 Session Laws extended coverage of this act to Newton and Conover. A recent act (S.B. 106) granted Charlotte and the Charlotte-Mecklenburg Planning Commission powers similar to those included in H.B. 579.

Court Decisions

All commentators who have examined the court decisions in the field of subdivision regulation have remarked upon the paucity of such decisions. Evidently most developers comply with the regulations adopted by particular cities, or else the cities are not enforcing their ordinances to the point of a court decision. There has been no Supreme Court case in North Carolina testing the validity of the state's subdivision-regulation acts.

In most of the cases which have been heard by the courts, the validity of subdivision regulations as an exercise of the police power has been upheld. There are some decisions, as we shall see, which have held that a specific requirement of a subdivision ordinance may be unconstitutional; however, the instances in which there has been such a holding are relatively few. There have been more cases which have set aside particular action by the planning board or city council (either approving or disapproving a subdivision) on the basis that it was not complying strictly with the terms of its statutory grant of power.

Regulating Street Widths and Alignment, and Requiring Dedication of Streets

Some of the earliest subdivision cases dealt with the question of whether a developer could be required to dedicate land for street purposes. In a related type of case, *Windsor v. Whitney*, 95 Conn. 357, 111 Atl. 354 (1920), the Connecticut

Supreme Court made a strong statement of the need for such requirements:

"Streets properly located and of suitable width help transportation, add to the safety of travel, furnish better protection against fire, and better light and air to those who live upon the street. They afford better opportunities for laying, maintaining, and inspecting water, sewer, gas and heating pipes and electric and telephone conduits in the streets. They give opportunity for sidewalks of reasonable width and for shade trees along the highway. Streets of reasonable width add to the value of the land along the street, and enhance the general value of land and buildings in the neighborhood, and greatly increase the beauty of the neighborhood."

The court then went on to say that regulations establishing minimum street widths, the locations of streets, and building setback lines along streets, were a proper exercise of the police power and did not represent a "taking" of property without compensation.

In *Ridgefield Land Co. v. Detroit*, 241 Mich. 468, 217 N.W. 58 (1928), the Michigan Supreme Court upheld the action of a planning commission which refused to approve a plat until streets were dedicated in accordance with a major street plan. The court said that the regulations did not compel the dedication of property except as a condition on the privilege of recording a plat. So long as the property owner did not avail himself of the state-granted privilege of recording a plat (i.e., if he wished, he might transfer his property by metes and bounds), he did not have to dedicate the streets; but any reasonable condition could be imposed by the state (and city) upon this privilege.

The Arkansas and California Supreme Courts subscribed to the same reasoning in the cases of *Newton v. American Securities Co.*, 201 Ark. 943, 148 S.W. 2d 311 (1941), and *Ayres v. Los Angeles*, 34 Cal. 2d 31, 207 P. 2d 1 (1949).

However, it is possible that a particular refusal of a planning board to approve a plat might be reversed by the courts. The Connecticut Supreme Court held, in the case of *Lordship Park Ass'n v. Stratford*, 137 Conn. 84, 75 A.2d 379 (1950), that a board could not disapprove a plat solely on the basis that it did not provide for a major street shown on a general plan. The court laid some stress upon the fact that the plan was merely a preliminary one, that no public hearing had ever been held

concerning it, and that little or nothing had been done to carry out the plan. See also *State ex rel Weber v. Vainer*, 92 Ohio App. 239, 108 N.E. 2d 569 (1952).

Requiring Improvements by the Developer

In an early Michigan case, *Allen v. Stockwell*, 210 Mich. 488, 178 N.W. 27 (1920), the state Supreme Court upheld ordinance requirements that a developer seeking plat approval must first grade and improve streets, install surface water drains and sanitary sewers, and construct cement sidewalks, or else give bond that he would do so within three years. A similar ruling was made in *Mefford v. Tulare*, Cal., 228 P. 2d 847 (1951).

In *Brous v. Smith*, 304 N.Y. 164, 106 N.E. 2d 503 (1952) the New York Court of Appeals upheld a provision under which a property owner was denied a building permit because the street on which his residence had access had not been improved in accordance with subdivision requirements. However, the Ohio court in *State ex rel Weber v. Vainer*, cited above, said that such a provision penalized the wrong person—the lot purchaser rather than the developer. (*Mitchell v. Morris*, Cal., 210 P. 2d 857 (1949), upheld use of this type of enforcement, but *People ex rel Schimpff v. Norvell*, Ill., 13 N.E. 2d 960 (1938) held it invalid.)

Where the enabling act and ordinance do not specifically call for such improvements, the courts have held that the planning board may not impose such a condition on its plat approval. In *re Lake Seear Development Co.*, 141 Misc. 913, 252 N.Y. Supp. 809, aff'd without opinion, 235 App. Div. 627, 25 N.Y. Supp. 853 (1932), *Magnolia Development Co. v. Coles*, N.J., 89 A. 2d 664 (1952), and *Shorb v. Barkley*, 108 Cal. App. 2d 873, 240 P. 2d 337 (1952), are holdings of this type.

Regulating the Size of Lots

It is quite common (and the practice has been upheld by a great many state courts) to regulate lot sizes in the zoning ordinance. In *Simon v. Needham*, 311 Mass. 560, 32 N.E. 2d 516 (1942), the Massachusetts Supreme Judicial Court held that a subdivision ordinance could validly require that lot sizes be in accord with those specified by the zoning ordinance. In *State ex rel La Voie v. Bldg. Commission of Trumbull*, 135 Conn. 415, 65 A. 2d 165 (1949), the court set aside the approval by the

planning commission of a plat which did not meet ordinance requirements for minimum lot sizes.

Requiring that the Owner Submit His Marketing Practices to Supervision

The California court, in *In Matter of Sidebotham*, 12 Cal. 2d 434, 85 P. 2d 453, (1938), cert. denied, 307 U.S. 634 (1939), held that the state could require that the developer submit to supervision of his marketing practices for the protection of purchasers, on the same reasoning as the "blue-sky laws" which regulate securities marketing. This reasoning is the basis for preventing the use of an unapproved plat in making a sale, even though a metes and bounds deed is given.

Requiring the Developer to Dedicate Sites for Public Facilities

H.B. 579 does not authorize a municipality to require the developer to dedicate park and school sites and space for other public facilities. Many enabling acts do. There is a split among the states as to whether such requirements are valid.

The New York courts in *In re Lake Secor Development Co.*, 141 Misc. 913, 252 N.Y. Supp. 809 (1931), aff'd without opinion, 235 App. Div. 627, 255 N.Y. Supp. 853 (1932), held that a planning board might refuse to approve a plat because of the developer's failure to dedicate park land. In *Fortson Investment Co. v. Oklahoma City*, 179 Okla. 473, 66 P. 2d 96 (1937), the developer deeded five per cent of his land for public purposes, in accordance with subdivision regulations, and subsequently brought an action to rescind the deed. The court refused to do so. In *Vincente Zayas Pizarrao v. Puerto Rico Planning, Urbanizing and Zoning Board*, 69 Puerto Rico 27 (1948), the court held that a developer could be required to reserve land for recreational purposes.

On the other hand, in *An Appeal from an Ordinance of Lower Morehead Township*, Pa. Court of Quarter Sessions, Montgomery County (1950) (unreported), the court held that such a requirement amounted to an unconstitutional taking of property. A similar decision, relating to reservation under an "official map" ordinance, was handed down in *Miller v. Beaver Falls*, 368 Pa. 189, 82 A. 2d 34 (1951).

Extraterritorial Control

The cases are numerous which hold that the General Assembly may authorize a municipality to exercise police power regulations for a reasonable distance beyond its limits (see

37 Am. Jur. 736, s.122; 37 Am. Jur. 918, s.284; 62 C.J.S. 283, s.141). The foremost subdivision case in which this question was raised is *Prudential Co-op Realty Co. v. Youngstown*, 118 Ohio St. 204, 160 N.E. 695 (1928), in which the court firmly upheld the exercise of subdivision control power for a distance of three miles beyond the municipal limits. In addition, it held that such regulatory authority implied the further power to levy reasonable fees upon the developer to cover the costs of enforcement.

Conclusion

From the foregoing it can be seen that the legislatures and the courts have generally recognized the need for subdivision regulation by the municipalities, both as a control on design and to insure provision of certain minimum facilities for newly-developed areas. So long as municipal regulations are (a) reasonable and (b) based upon adequate enabling legislation, the courts have almost universally upheld them. H.B. 579 represents an effort to supply the latter essential.

Double Taxation

(Continued from page 8)

lotte case], for one tax will be imposed by the city of Charlotte and another by the county of Mecklenburg, and further double taxation is neither prohibited by the state nor federal constitutions, though the courts do not look upon it with favor."

It was noted that the general law authorizes two or more counties or municipalities, or a county or counties and a municipality or municipalities to join to establish a free public library. G. S. 160-75.

A further fact which the court pointed out was that the citizens of Charlotte, who were alleged to be doubly taxed, had voted for the issuance of the bonds. The court said: "Under our government ultimate sovereignty is vested in the people, and they alone can say how they shall be governed." Here the people of the city had voted, according to the court, to spread the means of education and promote good government in the city and county. The court said that this will benefit the city, whose citizens pay the greater part of the county taxes, and the

fact that some of the money from the city bonds' being issued for a outside of the city does not prevent the city bonds being issued for a public purpose of the city under the facts presented—citing *Briggs v. Raleigh*, cited above, and noting that *Wilson v. High Point* is distinguishable.

Thus the court found nothing improper in the proposed joint tax support of a public library. And it seemed to dispose of the uniformity question raised in the High Point case by saying that such joint support is not a violation of the uniformity provision in Article V, section 3.

What Is the Rule?

Does the holding of the Charlotte case and the language of the High Point case set out above mean that a city may jointly support an activity with its county from tax funds only if the voters approve? While the cases are susceptible of this interpretation, it is submitted here that this interpretation is not the proper rule to be drawn from the court's opinions.

First, library expenditures have long been held to be "non-necessary expenses" within the meaning of Article VII, section 7, and this, rather than the joint support aspect of the Charlotte case, is the reason for the vote of the people in that case. It will be recalled that the county voters had approved the issuance of bonds as well as the voters of the city.

Second, the language in the Charlotte case on the double taxation question is very broad and should settle the question once and for all. Joint support from tax sources, according to that case, is not double taxation, and even if it were there is nothing in the federal or state constitutions to prevent double taxation.

Third, the court has had a recent opportunity to touch on the joint support question in the "necessary expense" area. *Board of Managers of the James Walker Memorial Hospital v. Wilmington*, 237 N. C. 179 (1953), was a suit by the hospital to force the city of Wilmington and the county of New Hanover to contribute jointly to the support of the indigent sick and afflicted poor of the city and county cared for by the hospital. The city defended the suit on the ground that when a county levies a county-wide tax to provide funds for the hospital care of the indigent the obligation of the city

(Continued on inside back cover)

Books of Current Interest

Law Enforcement

NARCOTICS AND NARCOTIC ADDICTION. By David W. Maurer and Victor H. Vogel. Springfield, Illinois: Charles C. Thomas. 1954. \$7.50. Pages 303.

This book would undoubtedly be of great use not only to all law enforcement officers, but to social workers, physicians, psychiatrists, and clergy, as well. While it is professional and somewhat technical in its tone, it is easily understood by the average layman and carries enough information besides the technical to be extremely helpful in understanding different aspects of narcotic addiction.

NARCOTICS AND NARCOTIC ADDICTION deals with the subject from the point of view of European and Asiatic cultures as well as our own. It is particularly enlightening because of its consequently objective and frank viewpoint. The careful analysis given to the cultural factors producing addiction is helpful in understanding the authors' suggestions for possible solutions to these problems.

The book discusses every present known addicting narcotic and also the possibly addicting narcotics. Details are given on effects, argot names, how and where the drugs are obtained, and other interesting data. There are sections, also, on the relation between crime and narcotic addiction, treatment of addiction, other causes of addiction, and underworld association with, and terminology for, narcotics. (RLR)

BASIC PROBLEMS OF EVIDENCE. By Edmund M. Morgan. Philadelphia 4: American Law Institute, 133 South 36th Street. 1954. Two volumes, \$2.50 each. Pages 369.

Writings by Morgan on evidence are respected and relied on by the bar; publications of the American Law Institute are respected and relied on by the bar. This handy set of two slim volumes of writings by Morgan on the law of evidence published by the American Law Institute should be doubly welcome to all dealing with the law. (RAM)

DEAD AND GONE: CLASSIC CRIMES OF NORTH CAROLINA. By Manley Wade Wellman. Chapel Hill: The University of North Carolina Press. 1954. \$3.00. Pages 190.

These ten stories of violent death in North Carolina should prove interesting reading to most and valuable additions to the crime lore of any law enforcement officer. In addition, each one gives some insight into the everyday life in North Carolina at the time of its occurrence. Recommended for relaxation reading. (RAM)

Governmental Finance

THE LIMITS OF TAXABLE CAPACITY. Papers presented at a symposium conducted by the Tax Institute in November, 1952. Princeton: Tax Institute, Inc. 1953. \$5.00. Pages 184.

This small volume merits the close study of taxpayers and governmental officials alike. Arranged to explore the fear that excessive taxation will "weaken our basic economic and political institutions," the symposium considered the problem of defining and imposing limitations on gross taxation by all governmental units from every point of view. All of the thirteen papers recognize that no specific limit can be defined, but each paper presents facts concerning the financing of governmental services and the effect of that financing upon the individual taxpayer that should be carefully studied. A most valuable volume.

REPORT OF THE COMMITTEE ON PERSONAL PROPERTY TAXATION ON POSSIBLE SUBSTITUTES FOR AD VALOREM TAXATION OF TANGIBLE PERSONAL PROPERTY USED IN BUSINESS. Sacramento, California: National Tax Association, Box 1799. 1953. \$1.00. Pages 45.

NEEDED — NEW MUNICIPAL REVENUES. By Simon E. Leland. Washington, D. C.: The United States Conference of Mayors, 730 Jackson Place. 1953. \$1.00. Pages 24.

MORRIS ON TORTS. By Clarence Morris. Brooklyn: The Foundation Press, 268 Flatbush Avenue Ext. 1953. \$5.00. Pages xxviii, 384.

LOCAL GOVERNMENT'S SHARE OF STATE-COLLECTED HIGHWAY FUNDS AND REVENUES. By John R. Kerstetter. Washington 6, D. C.: American Municipal Association, 1625 H Street. 1955. \$2.00. Pages 56.

Public Relations

HANDBOOK OF GRAPHIC PRESENTATION. By Calvin F. Schmid. New York: The Ronald Press. 1954. \$6.00. Pages 316.

Every city official, at some time during his career, is apt to be called upon to prepare or help prepare a report. Most citizens would agree that the majority of such reports are dull reading. This valuable book presents the techniques, from start to finish, by means of which complicated statistics and other materials can be presented with force, clarity, and interest. It is a "must" for every municipal library.

Planning

HOW TO GET THE MOST OUT OF OUR STREETS. By Transportation and Communication Department, Chamber of Commerce of the U. S. Washington 6: U. S. Chamber of Commerce, 1615 H Street, N.W. 1954. \$1.00. Pages 51.

Dealing with problems familiar to every North Carolina city official, this handy manual brings together experience-tested "solutions" from a variety of cities. It covers intersection problems, individual street problems, traffic routing, over-all street patterns, public transit problems, traffic laws and ordinances, traffic administration, safety measures, and the development of public support for corrective programs. While it will add little to the knowledge of the experienced traffic engineer, this manual will be helpful in explaining traffic measures to citizens and officials lacking such training.

URBAN REAL ESTATE. By Ernest M. Fisher and Robert M. Fisher. New York: Henry Holt. \$6.50. Pages 502.

It is difficult to see how so much information as is contained in this book could have been packed within the pages of a single volume. The authors have put together a birds-eye picture of the whole of a very large field. They describe and analyze the nature of property, legal property rights, the manner of transferring such rights, the real estate market in all its manifestations, patterns of land use and how they change, real estate financing and appraisal, and the influence of governmental action upon real estate. Any city official dealing with property or its regulation will find this book handy as

a basic encyclopedia of matters pertaining to real estate.

Annexation

ANNEXATION? INCORPORATION? A GUIDE FOR COMMUNITY ACTION. *By Stanley Scott. Berkeley: Bureau of Public Administration, University of California. 1954. Price? Pages 163.*

This manual, designed for persons in unincorporated areas considering annexation to an existing city or incorporation as a new city, sets forth procedures to be followed by citizens in studying annexation and incorporation and includes, in an extensive appendix, the legal forms and documents to be used in annexation and incorporation in the state of California. The general material will be of interest to citizens of all states.

State And Local Government

STATE AND LOCAL GOVERNMENT IN AMERICA. *By Jewel Cass Phillips. New York: American Book Company. 1954. \$6.00. Pages 728.*

This new text on state government is notable in that it (1) gives as much attention to local government as it does to state government and (2) gives a good overall picture of major state and local services, with discussion of the role played by local governments.

In view of the increasing importance of state-local governmental relations, this text is not only valuable for general reference purposes but will be most useful in a college course where time can be taken to explore the increasing complexities of inter-governmental relations. (GHE)

Books Received

MANUAL OF GOVERNMENT PUBLICATIONS. *By Everett S. Brown. New York 1: Appleton-Century-Crofts, Inc., 35 W. 32nd Street. 1950. \$2.00. Pages ix, 121.*

CASES AND MATERIALS ON ADMINISTRATIVE LAW. *By Carl McFarland and Arthur T. Vanderbilt. New York 16: Matthew Bender & Company, 443 Fourth Avenue. 2nd ed., 1952. \$9.00. Pages 873.*

THE STATESMAN'S YEAR-BOOK 1954. *Edited by S. H. Steinberg. New York 17: St. Martin's Press, Inc., 103 Park Avenue. 1954. \$8.50. Pages xxiv, 1608.*

MANUAL FOR VOLUNTEER FIRE DEPARTMENTS IN WISCONSIN. *Madison 3, Wisconsin: League of Wisconsin Municipalities, 30 E. Johnson Street. 1954 (Revised) \$1.00. Pages 41.*

SUPREME COURT AND SUPREME LAW. *Edmond Cahn, editor. Bloomington, Indiana: Indiana University Press. 1954. \$4.00. Pages ix, 250.*

MORRIS ON TORTS. *By Clarence Morris. Brooklyn: The Foundation Press, 268 Flatbush Avenue Ext. 1953. \$5.00. Pages xxviii, 384.*

LAW OFFICE MANAGEMENT. *By Dwight G. McCarty. New York 11: Prentice-Hall, Inc. 70 Fifth Avenue. 3rd ed., 1955. \$6.95. Pages 525.*

POLITICS IN THE UNITED STATES. *Henry A. Turner, editor. New York 36: McGraw-Hill Book Company, Inc., 330 W. 42nd Street. 1955. \$5.25. Pages 436.*

"Double Taxation"

(Continued from page 11)

is fully met. Along with other matters not germane here, the court held that nothing in existing law as it applied to Wilmington and New Hanover required either the city or the county to pay for such hospital care. And as to the city contention that a county-wide tax discharged the obligation of the city taxpayers, the court said, "We know of no law to support the contention of the defendant City."

The court went on to say that the city and the county, under appropriate legislation, might separately or jointly undertake the hospital care of the poor of the city and county. (By act of the 1953 General Assembly, codified as G.S. 153-176.1 to 153-176.4, the city and county now jointly support the hospital care of the poor on a one-third—two-thirds basis.) Nothing was said in the case about the necessity of a vote of the people before Wilmington could enter into such an arrangement, because it was noted in the opinion that care of the poor is a necessary expense.

In conclusion, it is suggested that

a proper reading of all these cases will reveal the following rule: The General Assembly may authorize a county and a city within the county's borders to support an activity jointly, and the county and city under such authority may make such arrangement as in their discretion they deem wise. If the activity is a necessary expense (as in the Wilmington case), no vote of the people of either county or city is required before tax funds may be used; if the activity is a non-necessary expense (as in the Charlotte case), a vote of the people of both county and city is required before tax funds may be used; in either event, no vote of the people of either county or city is required before non-tax funds may be used. And the Supreme Court is, as it has often pointed out, the final arbiter of what is and what is not a necessary expense within the meaning of Article VII, section 7.

Before the law of these situations becomes completely clear, however, further clarification on the part of the North Carolina Supreme Court seems necessary.

City Notes

(Continued from page 6)

town and outside residents on both the planning commission and the zoning board of adjustment.

The **Charlotte-Mecklenburg County** Planning Commission has begun studies of newly-annexed areas within the city as a first step towards extending the zoning ordinance to cover fringe areas, under authority of recently passed Senate Bill 105. . . . **Ramseur** has appointed a zoning commission to begin work on a new ordinance. . . . **Winston-Salem** has been informed that \$802,000 of federal funds which had been reserved for its urban redevelopment projects have been cancelled.

Mrs. Rascoe Hunt has been named chairman of the **Elizabeth City** planning commission. It is believed that she is the first woman to head such a board in the state. . . . Raymond V. Yokeley has been elected chairman of the **Thomasville** zoning board. . . . Harold Gavin has resigned as head of the **Sanford** planning commission. . . . W. M. Reese and Ralph J. Mangum have accepted appointments to the **Hickory** planning board.

Publications for Sale

The following Institute of Government publications are currently available for sale to interested citizens, libraries, and others. Orders should be mailed to the Institute of Government, Box 990, Chapel Hill.

LAW AND ADMINISTRATION SERIES:

- THE LAW OF ARREST by Ernest W. Machen, Jr., 1950, 151 pp prtd (\$1.50)
- THE LAW OF SEARCH AND SEIZURE by Ernest W. Machen, Jr., 1950, 158 pp prtd (\$1.50)
- PROPERTY TAX COLLECTION IN NORTH CAROLINA by Henry W. Lewis, 1951, 342 pp prtd (\$2.50)
- LEGISLATIVE COMMITTEES IN NORTH CAROLINA by Henry W. Lewis, 1952, 144 pp prtd (\$1.50)
- ZONING IN NORTH CAROLINA by Philip P. Green, Jr., 1952, 428 pp prtd (\$3.50)
- GENERAL ASSEMBLY OF NORTH CAROLINA: GUIDEBOOK OF ORGANIZATION AND PROCEDURE by Henry W. Lewis, 1952, 125 pp prtd (\$1.50)
- SOCIAL SECURITY AND STATE AND LOCAL RETIREMENT IN NORTH CAROLINA by Donald B. Hayman, 1953, 173 pp prtd (\$2.00)
- THE SCHOOL SEGREGATION DECISION by James C. N. Paul, 1954, 132 pp prtd (\$2.00)

GUIDEBOOK SERIES:

- GUIDEBOOK FOR ACCOUNTING IN CITIES by John Alexander McMahan, 1952, 219 pp mimeo (\$2.00)
- GUIDEBOOK FOR ACCOUNTING IN SMALL TOWNS by John Alexander McMahan, 1952, 139 pp mimeo (\$1.50)
- MUNICIPAL BUDGET MAKING AND ADMINISTRATION by John Alexander McMahan, 1952, 67 pp mimeo (\$1.00)
- SOURCES OF MUNICIPAL REVENUE by John Alexander McMahan, 1953, 61 pp mimeo (\$1.00)
- CORONERS IN NORTH CAROLINA by Richard A. Myren, 1953, 71 pp prtd (\$1.50)
- COUNTY SALARIES, WORKING HOURS, VACATION, SICK LEAVE by Donald B. Hayman, 1954, 37 pp mimeo (\$1.00)
- PUBLIC WELFARE PROGRAMS IN NORTH CAROLINA by John Alexander McMahan, 1954, 122 pp mimeo (\$1.50)
- ADMINISTRATIVE PROCEDURE BEFORE OCCUPATIONAL LICENSING BOARDS by Paul A. Johnston, 1953, 150 pp mimeo (\$2.00)
- GUIDEBOOK FOR COUNTY ACCOUNTANTS by John Alexander McMahan, 1951, 210 pp mimeo (\$2.00)
- CALENDAR OF DUTIES FOR CITY OFFICIALS, 1954-55, 12 pp prtd (\$.50)
- CALENDAR OF DUTIES FOR COUNTY OFFICIALS, 1954-55, 12 pp prtd (\$.50)
- PUBLIC LIBRARIES IN NORTH CAROLINA, PROCEEDINGS OF THE FIRST TRUSTEE-LIBRARIAN INSTITUTE (Ed. George H. Esser, Jr.), 1952, 47 pp prtd (\$1.00)
- SOURCES OF COUNTY REVENUE by John Alexander McMahan, rev. ed., 1954, 65 pp mimeo (\$1.00)
- FORECLOSURE OF CITY AND COUNTY PROPERTY TAXES AND SPECIAL ASSESSMENTS IN NORTH CAROLINA by Peyton B. Abbott, 1944, 86 pp mimeo (\$2.50)
- THE STORY OF THE INSTITUTE OF GOVERNMENT by Albert Coates, 1944, 76 pp prtd (Free)
- INVESTIGATION OF ARSON AND OTHER UNLAWFUL BURNINGS by Richard A. Myren, 1954, 104 pp mimeo (\$1.50)
- COOPERATIVE AGRICULTURAL EXTENSION WORK IN NORTH CAROLINA by John Alexander McMahan, 1955, 24 pp mimeo (\$.50)