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CONTENTS

COVER

To most inland North Carolinians the scene on our cover spells just one thing: vacation time is near again. The activity of a small craft harbor, such as that at Hatteras, has a picturesque quality eternally alluring to tourists. Photo courtesy of News Bureau, N. C. Department of Conservation and Development.

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THE CLEARINGHOUSE

NOTES

From North Carolina Cities

Airports

Further development of North Carolina's primary airports proceeded rapidly this spring.

In approving a better than $233,000 project for the construction of a new aircraft parking ramp and 1,000 foot extension of the main runway, the **Raleigh-Durham** Airport Authority has launched "one of the most important advances for Raleigh-Durham Airport since World War II," according to James R. Patton, chairman of the Authority. Fifty per cent of the costs of construction will be paid by the federal government and the remainder by local governmental authorities. In another action, the Authority signed a 10-year contract with the Airport Parking Company of Cleveland, Ohio, under which the company will expend a minimum of $15,000 on paving, fencing, and lighting of expanded parking facilities, and will furnish liability and property damage insurance covering the enterprise. In addition, the company will pay the Authority $250 per month plus a percentage of all gross receipts above $20,000 a year. The contract will become effective with the opening of the new $435,000 terminal building, probably in June.

Close on the heels of approval of a $100,000 plan for terminal ramp extension and construction of a new taxiway, the **Charlotte** city council formally ordered a long-range master plan for the development of the municipal airport. Under the order, city manager Henry A. Yancey will hire an airport consulting engineer of Wilmington, who will do the job for $1,500. The final plan is expected to be delivered to the council some time in June. In another action, the council granted a lease to Cannon Aircraft Sales and Service, Inc., under which the company agrees to erect aviation service buildings at a cost of approximately $90,000. The improvement will ultimately become the property of the city, and in addition the company will pay a monthly rental for the site, plus the usual fees on the sale of petroleum products. Cost to the city will be about $20,000 for preparing the site for the proposed buildings.

In **Winston-Salem** construction of the new $500,000 Piedmont Airlines hangar and office building is ready to proceed (*Popular Government*, April 1955, p. 3). The **Greensboro-High Point** Airport Authority has received a federal grant of $27,000 for a 1,000 foot runway extension and has completed an agreement with Burlington Industries, Inc., under which the latter will make $25,000 in improvements, which will become the property of the Authority. In addition, the corporation will pay the city $35,000 for a 10-year lease extension.

Annexation

Annexation movements throughout the state seem to have slowed considerably since the extensive increases noted earlier this year. Perhaps the largest recent annexation occurred in **Newton** when the board of aldermen voted to annex slightly more than 19 acres on which a $600,000 subdivision will be developed.

Thomasville has followed up its first expansion in 50 years, which was completed earlier this year, with a decision to annex Sunrise Hills, a 12 acre tract. Seventy-six acres will be added to **Washington** if the citizenry approve a city council proposal to extend the city limits in the northwest area. The board of aldermen of **Rocky Mount** has approved the request of Englewood residents seeking annexation, but no date as yet has been set for public hearings on the move.

On the other side of the ledger, **Henderson** failed to gain about 4,000 persons and a property value increase of about $4 million when the voters of North and South Henderson recently defeated an annexation proposal. **Whiteville** failed to gain new territory when, in the face of almost unanimous opposition by interested property owners, state Senator Arthur Williamson and state Representative W. F. Floyd declined to grant a petition of the city council to present a bill to the General Assembly allowing extension of the city limits. The **Siler City** board of commissioners turned down a proposal to extend

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Municipal Administration Course Graduation

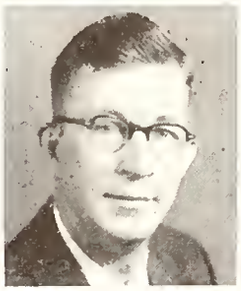
Graduation exercises for the first annual Municipal Administration Course offered by the Institute of Government were held in Chapel Hill on May 13. Eighteen city officials completed the 150-hour course, which was offered on alternate weekends throughout the year.

State Treasurer Edwin Gill delivered the feature address at the graduation exercises, speaking on "The Role of Cities in the Development of North Carolina." City Manager H. L. Burdette of Hickory, President of the North Carolina League of Municipalities, and Albert Coates, Director of the Institute of Government, also spoke briefly. Chancellor Robert B. House of the University at Chapel Hill awarded certificates to those completing the course.

The course consisted of ten hours of introductory material, ten hours on administrative principles, thirty hours on municipal finance, twenty hours on public personnel administration, twenty hours on city planning, thirty hours on municipal line functions, and a thirty-hour seminar devoted to solution of particular problems.

Officials completing the course were as follows: Col. L. L. Bingham, administrative assistant to city manager, Greensboro; J. S. Carter, city manager, Gastonia; Henry B. Clodfelter, supervisor, accounting division of Public Works Department, Winston-Salem; Bernard A. Corbett, Jr., traffic engineer, Burlington; Lewis Cutright, property control officer, Department of Finance, Winston-Salem; H. J. Elam, III, assistant city attorney, Greensboro; A. R. England, city manager, Graham; W. D. Hines, town clerk, Red Springs; J. D. Mackintosh, Jr., city manager, Burlington.

Also Clifton G. Moore, Local Government Commission, Raleigh; George S. Moore, superintendent of utilities, Albemarle; John T. Morrisey, general counsel for League of Municipalities, Raleigh; Carroll Scoggins, assistant clerk, Tryon; Quay T. Smith, tax collector, Spencer; S. N. Thomas, Chamber of Commerce secretary, Forest City; Bruce Turney, assistant to city manager, Gastonia; Edgar E. Welch, assistant city manager, Asheboro; John F. Yeattes, assistant city attorney, Greensboro.



PUBLIC SCHOOLS

By Joseph P. Hennessee
Assistant Director, Institute of Government

We think that the following article, by Peter H. Binzen of *The Evening and Sunday Bulletin* staff of Philadelphia, will be of interest to North Carolina school officials. It is reprinted from the *Philadelphia Evening Bulletin* of October 16, 1954.

Why Do New Schools Cost So Much ?

Public schools are being built on a mass production scale in Pennsylvania—and throughout the U. S.—but without mass production methods.

There has been no standardization of building plans, of whole schools or of the parts that make up the state's 7,000 public school buildings.

As a result, the Commonwealth—and the individual school districts—have lost cash savings which normally accrue to the mass producer.

Savings Possible

Such savings are available. They are being made in England, which has been prefabricating school parts for some time.

And some such economies are being effected, on a very small scale, in this state through the use of duplicate school plans and mass buying.

The whole question of "integrated school construction" is under study by a Texas foundation, the Southwest Research Institute, which has offices in Princeton, N. J.

Its conclusion, based on many months of study, is that the development of standardized building parts for public schools in this country is not only long overdue but inevitable.

Plan in Future

This opinion is shared by a leading architect, Walter A. Taylor, director of the educational research department of the American Institute of Architects, in Washington.

Taylor says such a system is "definitely coming" to American public schools. He points to seven hospitals, built or being built with standard windows, doors and wall units by the United Mine Workers Union in Kentucky and West Virginia as a prime example of how the system can succeed.

He thinks that the use of standard parts for all schools built by big cities, which need a lot of them, would make possible enormous savings.

Philadelphia, for example, has put up some $60,000,000 worth of schools in the last decade. Taylor thinks this figure could have been cut considerably through mass purchasing of standard parts.

Not Prefabricated

Both he and Southwest Research Institute officials emphasize that the use of prefabricated school parts does not mean that the schools, or even the classrooms, would be prefabricated.

"Mass production techniques would be applied only to the component parts rather than to buildings as a whole," said Wayne Koppes, chief research architect for Southwest Institute. "The choice and use of such parts would be governed by the architects' designs."

Thus, the individual school boards and the architects they hire would be able to shape the classrooms and schools to their will.

Program in England

England got the jump on prefabricated school parts right after World War II when labor was short and classrooms badly needed.

In announcing the program in 1949, the British Ministry of Education declared:

"Standardization will be necessary not of plans but of structural components such as beams, wall units, windows. And these components will have to be so designed that they can be assembled quickly on the site by a small labor force."

There was a threefold goal: 1, to reduce site labor to a minimum; 2, to provide permanent buildings of good quality; 3, to provide a system flexible enough to allow architects to design each school individually.

First tried in Hertfordshire County, the system later spread to other parts of England. And the basic idea proved so popular that private industry in England—notably the Bristol Aeroplane Co.—started turning out complete fabricated schools for domestic use and export.

Schools Attractive

Taylor, who saw some of the schools during a trip abroad some years ago terms the experiment successful and the schools attractive.

In this country, pre-fabricated parts are commonly used in construction of office buildings and factories. (The New York skyscraper whose exterior walls went into place in a day is a recent well-publicized example.)

There also have been some prefabricated all-steel schoolhouses. These were only used in emergencies, however. Most were originally designed as office buildings or for other use, and only later converted into schools.

Southwest Research Institute fears that these schools, many of which are rated as "temporaries," may seriously jeopardize the "integrated school idea" by prejudicing people against it in advance.

Expect Opposition

They also expect public opposition to any form of school pre-fabrication, and hence are emphasizing that the schools themselves will be neither standardized nor prebuilt.

Southwest submitted its proposed program to Pennsylvania school officials and representatives of 41 big industrial firms in Pittsburgh last February.

It got, according to the institute, "a good reception."

By getting the backing, moral and financial, of many big industries, Southwest hopes to avoid piecemeal

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PLANNING & ZONING

By PHILIP P. GREEN, JR.
Assistant Director, Institute of Government

Zoning and Restrictive Covenants

Several cities have recently encountered confusion in the minds of their citizens as to the distinction between zoning regulations and those contained in restrictive covenants. Zoning regulations are, of course, to be found in a municipal ordinance adopted under the authority of Article 14 of Chapter 160 of the General Statutes. Restrictive covenants are agreements between private property owners that they will restrict the use or occupancy of their property in some manner; they are customarily found as provisions in the deeds by which property is transferred or on the plats of subdivisions.

The zoning ordinance, as an exercise of the governmental police power, is limited in what it can do. It cannot, for instance, fix the minimum cost of a residence built in a given area. *Brookdale Homes, Inc., v. Johnson*, 126 N.J.L. 516, 19 A. 2d 868. It cannot, under prevailing doctrine, regulate architectural styles or other matters of a purely aesthetic nature (although this doctrine may have been shaken by the dicta in the recent U. S. Supreme Court case of *Berman v. Parker*, 348 U.S. 26). The yard sizes, minimum lot areas, minimum floor space, or other requirements it prescribes must be shown to have a substantial connection with the public health, safety, morals, or general welfare, and consequently they cannot be fixed too high.

Restrictive covenants, on the other hand, are agreements between private parties. As such, they are not limited in the same way as governmental regulations. It is quite customary for them to regulate the matters which we have outlined above, and they may impose quite strict requirements to preserve a "high-class" neighborhood. So long as they do not conflict with strong public policy, they will ordinarily be upheld. About the only constitutional limitation imposed is that racial restrictive covenants may not be enforced by the courts. *Shelley v. Kraemer*, 334 U.S. 1; *Hurd v. Hodge*, 334 U.S. 24; *Barrows v. Jackson*, 346 U.S. 249.

Which Prevails?

Because in some cases the restrictive covenant and the zoning ordinance overlap in their coverage, there is a legal problem of which is to control in a given situation. The rule established by the courts generally, and by some zoning ordinances, is that the more strict restriction in a given situation will prevail. A property owner cannot escape compliance with the zoning ordinance, for instance, by arguing that his deed restrictions permit him greater latitude in the use which he can make of his property. Conversely, a property owner cannot escape compliance with the agreements he has made merely because of a "softer" ordinance that the city council has adopted. Indeed, the courts of all but one state (Kentucky) which have considered the matter have held that the zoning ordinance could not even be considered as *evidence* of changed conditions, which might render enforcement of the restrictive covenant inequitable. (For a collection of these cases, see the Institute's *Zoning in North Carolina* at page 33.)

Proposed Act

A bill recently introduced into the General Assembly (House Bill 422) would modify this rule by declaring that ". . . zoning regulations take precedence over restrictive covenants contained in deeds or other instruments." The practical effect of this bill would be to deny a developer the right to set higher standards for his subdivision than those required by the zoning ordinance, and there would be at least some question as to whether he could fix standards of the types which (as we have indicated above) the zoning ordinance could not.

The Attorney General was quoted, at the time of the bill's introduction, as expressing doubts as to the bill's constitutionality. Although some question exists among the various states as to whether a restrictive covenant creates contractual or property rights, the courts which have considered the question agree with the Attorney General that such an act would violate either Article I, Section 10 ("No state shall . . . pass any . . . law impairing the obligations of contracts . . . .") or the Fourteenth Amendment (". . . nor shall any state deprive any person of . . . property, without due process of law.") of the federal Constitution. Incidentally, in North Carolina a restrictive covenant is regarded as creating a property right. *Raleigh v. Edwards*, 235 N.C. 671, 71 S.E. 2d 396.

Capital Improvements Budget

The Raleigh department of planning has published a study as the basis for adoption of a capital improvements program for the next six years. The study, which consists of an analysis of the city's probable financial situation during the period and a listing of projects which should be undertaken, highlights the problems to be faced by the city council. Projections of the city's revenues and operating expenditures indicate that there will be annual operating deficits amounting to as much as $200,000 per year, unless a change is made in the tax rate, valuations, or the level of services. Proposed capital improvements would require an additional $3,100,000 during the period.

The study will be especially interesting to other municipal officials because of its methodology in making projections of revenues and expenditures of various types. Projects listed were taken from the land development and public facilities plans for the city (which have recently been adopted by the city council) and from questionnaires sent to department

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PUBLIC PERSONNEL

By Donald B. Hayman
Assistant Director, Institute of Government

Greensboro Adopts New Personnel Ordinance

The city of Greensboro on April 1 concluded a complete reconsideration and rewriting of all ordinances and rules governing municipal employees. The first step in the process was the rewriting of those portions of the city code which pertained to personnel. Prior to the adoption of the new ordinance, Greensboro enjoyed the distinction of having the longest and most detailed municipal personnel ordinance in North Carolina.

The new ordinance is both briefer and less detailed than the ordinances which it replaced. Two principles were followed in its preparation: (1) the city manager shall be the city's personnel officer, and (2) the details of the city's personnel program shall be set forth in rules established by the city manager and subject to the review of the city council.

Cities having the city manager form of government may find the first six articles of the new Greensboro ordinance, reproduced below, of assistance when they revise their personnel ordinances in the future.

Greensboro City Code

PERSONNEL

Article 1.—Purpose

§ 3.1. It is the purpose of this chapter to establish a centralized personnel system under the City Manager by which all matters relating to personnel shall be administered. It is the intent of the City Council to establish an equitable and uniform system of personnel administration, to place municipal employment on a merit basis to the end that the best qualified persons available shall constitute the city service.

Article 2.—Organization

§ 3.2. Personnel office; appointing authority. The City Manager shall be the chief personnel officer and, except as otherwise provided by law, is designated as the appointing authority.

§ 3.3. Duties of Personnel Officer. The personnel officer shall be responsible for all phases of personnel administration not specifically reserved for the City Council, and shall perform all duties essential to effective personnel administration. The personnel officer shall administer all personnel programs which may be activated, such as classification and compensation plans, retirement systems, testing and training programs, grievance procedures, and service rating systems; and he shall establish and make available for review by City Council and inspection by City employees and the public, such personnel rules, plans, and procedures necessary or desirable to implement the provisions of this chapter and carry out the intent of City Council.

§ 3.4. Classified service.—The classified service shall include all regular full-time employees of the City of Greensboro except officers elected by the Council or by the people, or appointed by the Governor of the State of North Carolina, and such other employees as may be designated by the appointing authority; provided, however, that all employees of the City other than those elected by the people shall be subject to the provisions of this chapter and any rules which may be established under its authority.

Article 3.—Appointments and Conditions of Employment

§ 3.5. Qualifications for appointment. Appointments to positions within the City service shall be made on the basis of merit and fitness, and in accordance with the provisions of this chapter and any rules which may be established under its authority. All persons considered for appointment must be citizens of the United States of America and must meet the minimum entrance qualifications established for the class of positions for which they apply. The personnel officer may prescribe general qualifications for all positions within the City service, or specific qualifications for any class of positions, which will promote the effectiveness of the service, to include but not be limited to requirements of education, residence, age, sex, relationship to other municipal employees by blood or marriage, physical standards, criminal record, and ability to furnish surety bond, and may use any of these requirements as the basis for rejecting or refusing to examine an applicant. The personnel officer shall prescribe the form of application and the information to be contained thereon, and may utilize such tests, examinations, and investigations as he deems necessary to determine the fitness of an applicant for a particular position.

§ 3.6. Probationary period. All original and promotional appointments shall be for a probationary period of 12 months. An employee serving the probationary period for an original appointment may be summarily dismissed by the appointing authority at any time. An employee serving the probationary period for a promotional appointment may be summarily demoted by the appointing authority to the class of position or similar class from which promoted.

§ 3.7. Suspensions, demotions, and dismissals. (a) The appointing authority, for disciplinary purposes, may suspend an employee without pay for not more than 30 calendar days during any fiscal year, or may assign additional work without additional compensation.

(b) During the investigation, hearing, or trial of an employee on any criminal charge, or during the course of any civil action involving an employee, when suspension would be in the best interests of the City, the appointing authority may suspend the employee without pay for the duration of the proceedings, as a non-disciplinary measure. Back pay shall not ordinarily be recoverable, but where the suspension is terminated by full reinstatement of the employee, the City Council may authorize full recovery of pay and benefits for the entire or for any lesser period of the suspension.

(c) The appointing authority may demote or dismiss any employee where the best interests of the City or the effectiveness of the City Government will be served. In the event that reductions in force become necessary, consideration shall be given to quality of service as well as to seniority in determining those employees to be retained.

§ 3.8. Political activity. No employee in the classified service, nor any other employee not subject to popular election, shall seek nomination, election, or appointment to political office, or as an officer of a political party, club, or organization; nor shall he serve as a member of a political party, club, or organization, or take an active part in, or make or solicit contributions or donations to, any political campaign, or distribute badges, pamphlets, or handbills of any kind favoring or opposing any candidate for nomination or election to public office; provided however, that nothing in this section shall be construed to prevent any employee from becoming or continuing to be a member of a political party, or from

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LAW ENFORCEMENT

By Richard A. Myren
Assistant Director, Institute of Government

Check Protection

Pioneering in a movement which has long been categorized as "a good but impractical idea," the Burlington Police Department has persuaded the Burlington Merchants Association to require thumb prints (on the checks) of all strangers seeking to cash checks in business establishments. The purpose of this plan is to minimize the passing of fraudulent checks.

Installation of this system has been sparked in the Burlington department by Captain of Detectives A. H. Garner. Capt. Garner reports that the plan has been in operation there since April 1 without complaint. The merchants now regard the new protection as a device which they should have been utilizing for years. Information from the Federal Bureau of Investigation indicates that Burlington is the first city in the United States to adopt this plan. At the request of the Lumberton Police Department, Capt. Garner has appeared before the merchants of that city to explain the plan, with a resulting request by those merchants that the plan be adopted. Other cities and towns in North Carolina have also made inquiries concerning operation of the system.

In selling this plan to the communities, three values are stressed. First is the value to the merchants. It provides them with protection to which they are entitled. Losses from fraudulent checks have reached tremendous proportions. The FBI reports that in the last year for which figures are available, its laboratory received 21,008 fraudulent checks for examination, an increase of 1,572 over the previous year. The face value of these checks was $3,345,937 against a face value in the previous year of $3,211,098. And this is not the whole picture, since many checks never reach FBI hands. Requiring a thumb print on any check cashed for a stranger is almost sure to decrease this loss.

And the loss is not only one to the merchant but one which he must pass on to the public purchasing his goods, in increased prices. It is a part of the overhead of doing business for which the public pays in the end. This is one of the big selling points of the plan to the public. Operation in Burlington has not yet resulted in a single known complaint from the public. All comments have been favorable. In the past, fear of public adverse reaction has led to lack of cooperation by the merchants. That this fear is illusory has been demonstrated in Burlington.

Third among the values of this plan to a community is the value to law enforcement. It is not argued that installation of a thumb print system for cashing the checks of strangers will result in the apprehension of any great number of bad check artists. The desired effect is deterrence rather than apprehension. The argument that a bad check passer will change his mind and move on when he discovers that he must leave his thumb print on any check he passes is a logical one. All of North Carolina and probably all of the nation will be watching the Burlington experiment closely in coming months.

Permanent Bicycle Tags

Chief Frank N. Littlejohn of Charlotte has suggested to the city council that several men could be freed for patrol work by installing a system of permanent bicycle licensing to replace the present annual renewal method. Chief Littlejohn reports that the present 25-cent fee for the annual tag does not pay administrative costs.

Personnel Changes

Personnel changes in North Carolina law enforcement circles continue with a frequency which doubtless has a detrimental effect on the law enforcement effort in the state. Continuity in office is one of the requisites for a sound law enforcement program. Some turnover is inevitable, but the number of officers leaving the service for private employment could be made smaller by making the service more attractive financially. Our cities would benefit not only by better law enforcement, but in the long run by more economical enforcement as well. Training new officers is expensive.

Among the new chiefs is Walter L. Johnson, who is serving as acting chief of the town of Boone. The vacancy was created by the resignation of Chief Glenn D. Richardson, who left the force to enter private business. To aid Chief Johnson, W. R. Cottrell has been added to the Boone force. Another acting chief is Charles E. Heye, who has been designated to serve in that capacity by the Chadbourn city council, filling a vacancy caused by the resignation of Chief Bill Rogers. An unconfirmed report has Chief Robert Goodwin leaving Lilesville and taking a similar post at Morven. Chief Alton Daly has taken over responsibility for the department of the town of Mt. Olive. Former Chief P. O. James resigned to take up farming. Chief Lloyd Shumake of Mooresville, whose appointment was announced in the last issue, has named Floyd Buff to the captaincy which Shumake left to assume the duties of chief.

Local Visits

Since the last writing, it has been the author's privilege to work with the Burlington and Lumberton police departments and the Robeson County Sheriff's Department. It is a pleasure to get out into the field and get a better first hand idea of the problems facing law enforcement in North Carolina. My personal thanks go to Chiefs W. M. Harris of Lumberton and A. M. Butler of Burlington, to Sheriff Malcolm McLeod of Robeson County, and to their helpful staffs.

Planning

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heads. No attempt was made to assign priorities among these projects. (For an account of the general techniques in making such a budget, see *Popular Government*, April, 1953, p. 5.)

Intersection Zoning

North Carolina officials have occasionally run into difficulties resulting from the proviso to G.S. 160-173, which requires that when two or more corners of an intersection are zoned in a particular way, the owners of the other corners are entitled to be zoned in the same way (see *Popular Government*, September, 1953, p. 10). The state Supreme Court was called upon to interpret this proviso again in the recent case of *Robbins v. Charlotte*, 241 N.C. 197. In that case, a "T" intersection was involved. The land at the top of the "T" and that on one side was zoned for business, while that on the other side was zoned for residence. The owner of the latter property, after attempting without success to have the property rezoned for business in the normal manner, claimed that the proviso made such rezoning mandatory. The court held that there were only two corners at such an intersection, and consequently the proviso did not apply.

Personnel

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attendance at a political meeting, or from enjoying entire freedom from all interference in casting his vote.

§ 3.9. Auxiliary Fire and Police Service. Pursuant to authority contained in Chapter 1074 of the 1953 Session Laws of the General Assembly of North Carolina, and in accordance with the provisions of that chapter, the City Manager is authorized to appoint, organize, recruit, train, and equip auxiliary policemen and auxiliary firemen for the City of Greensboro.

Article 4.—Classification Plan

§ 3.10. The personnel officer shall establish, administer, and maintain a current plan of classification of all positions in the classified service, and shall allocate and re-allocate positions to classes on the basis of kind and level of duties and responsibilities.

Article 5.—Compensation Plan

§ 3.11. (a) The personnel officer shall establish, administer, and maintain a current plan of compensation for all positions in the classified service, and shall assign and reassign positions and classes of positions to the pay grades and steps created by the compensation plan. The compensation of employees not included in the classified service shall be fixed by the City Council and shall remain as now fixed until changed by the City Council.

(b) Salaries or compensation of City officers and employees are hereby fixed in amounts with the positions, pay grades and steps established in the compensation plan or as the same may be amended. The annual budget adopted by City Council and amendments thereto, together with the appropriations shall constitute the approval and control by the Council of salaries or compensation.

(c) The salary of each City employee is increased in the amount of $7.50 for the month of December of each year. The City Treasurer is hereby authorized to make payment thereof on the last working day before Christmas holidays. The City Treasurer is further authorized to make payment covering the last pay period in December on the last working day before Christmas holidays.

(d) The City Treasurer is authorized to pay the premium of the compulsory group life insurance, jointly carried and paid for by City of Greensboro and its employees, over and above the contribution toward the cost of such insurance which may be required of each eligible employee under the terms of the group life insurance contract. When an employee by reason of sickness or accident does not have sufficient compensation due him for the pay period in which the compulsory insurance premium is due, the City Treasurer is authorized to advance on behalf of that employee the portion of the life insurance premium normally paid by each eligible employee. Any sum so advanced shall be deducted from the next payment due such employee.

Article 6.—Leaves, Holidays, Hours of Work

§ 3.12 Annual leave. Annual leave with pay shall be granted by the personnel officer to each regular, full-time employee at the rate of one working day for each full calendar month of service until the employee has completed 20 years of continuous service, and at the rate of 1-1/4 working days for each full calendar month of service thereafter. Annual leave shall be calculated on a fiscal year basis, and may accrue to a total allowable leave which may be carried forward into any succeeding fiscal year of 24 days until the employee has completed 20 years of continuous service, and 30 days thereafter.

§ 3.13. Sick leave. Where circumstances warrant, sick leave with pay shall be granted by the personnel officer to each regular full-time employee at the rate of one working day for each full calendar month of service, to a total of 60 working days. Subject to the approval of City Council, additional sick or disability leave with full pay may be granted an employee who has five or more years continuous service, for a period not to exceed six calendar months provided that this shall not apply to employees who left the City service on a disability basis prior to the adoption of the North Carolina Local Governmental Employees' Retirement System; provided that in the case of employees receiving Workmen's Compensation leave may be extended for the period covered by Workmen's Compensation, and further provided that the amount of Workmen's Compensation payments shall be included in the computation of full pay. Upon application for retirement by any employee who has served the City for 20 years or more, the City Council may authorize paid terminal leave in the amount of the accrued sick leave credited to that employee.

§ 3.14. Rules governing leave; other leaves. The personnel officer shall establish such additional rules as are necessary to implement and regulate the administration of annual leave and sick leave. The personnel officer shall by appropriate rules establish and administer such other forms of leave with or without pay as he may deem to be in the best interest of the City, including but not limited to military leave, educational leave, and jury leave among others.

§3.15. Holidays. Legal holidays observed by the City shall be as follows: New Year's Day, Easter Monday, July Fourth, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day, provided that employees required to work on the holidays designated above may be given compensatory time off; provided further that when a designated holiday falls on a Sunday it will be observed on the following Monday.

§ 3.16. Hours of work. The City Manager shall prescribe the office hours for the City Government and the hours of work for all City employees. Where a monthly rate of pay has been established for a position, no additional compensation shall be paid for overtime; provided that the personnel officer may authorize additional leave with pay in lieu of overtime compensation.

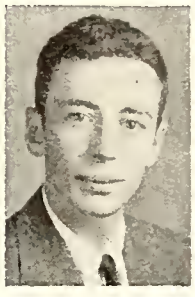
Speed Was Main Killer

Speeding was the principal violation in the state's 880 fatal motor accidents last year, according to a summary by the Motor Vehicles Department. There were 337 fatal smashes due to "exceeding the stated speed limit." Driving "under the influence of alcohol" brought on 328 fatal accidents, on "wrong side of the road" 80, "disregarded stop sign or signal" 32, "failed to grant right of way" 39, and a variety of other violations which produced 991 deaths by year's end.

Head-on collisions and sideswipes accounted for 96 accidents. Other fatal collisions were with railroad trains (23), bicycles (16), animal (1), and fixed objects (61).

MENTAL DISORDER AND CRIME

SOME NEW DEVELOPMENTS OF INTEREST TO LAW ENFORCEMENT OFFICIALS



By
JAMES C. N. PAUL,
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Recent months have produced a lot of interesting talk and some new developments in the field of "insanity and the criminal law" in this country. There has been a rash of provocative books and learned writing in periodicals of all sorts on this subject. There has also been rendered a striking and important decision by the Court of Appeals for the District of Columbia—certainly one of our most influential and competent federal tribunals. And here in North Carolina our legislature has received a number of proposals on how to deal specially with the problem of the so-called "sexual psychopath."

This article is not written with the view of adding any fresh ideas on the subject of mental disorder and the law. Bales of paper have been consumed in batting around, in a scholarly fashion, some relatively simple—if significant—proposals. The purpose here is just to review a few of the important ideas that are afoot. There are some theories which ought to be considered; there are some new vistas in criminal law administration. We may be a long time in reaching them, but we ought to take time, now and then, to put our eye on the road ahead and give consideration to ultimate objectives and long-term reforms.

Present Law

Let's start by taking a look at some present, controlling, legal principles. How does the criminal law deal with the "insane"—or "mentally disordered" (to use a word less offensive to modern medicine)—offender today? Our law hasn't changed much since the early 19th century. The basic ideas might be stated as follows: Some mentally disordered offenders ought never to be punished as criminals; it would be barbaric to punish a man who, through no fault of his own, can't control his actions; it would be useless, because you can't deter others suffering from a like condition, since by definition people who can't stop themselves from engaging in crime are not deterrable; it is senseless to jail a mentally sick man, because prison would only aggravate his condition.

So in early times the criminal law sought to identify and excuse *some* sorts of mentally disordered wrongdoers. And in 1843 the highest court in England sought to settle the issue by putting together some words which would comprise a single, uniform "test" to be applied in *all* cases where "insanity" was raised as a defense. This was the *McNaughten* case. Reading it today, no impartial observer can fail to note that the judges who promulgated the opinion were not too sure about the subject with which they were dealing. Even the grammar is atrocious, and some of the reasoning stumbles all over itself in a jumble of contradictions. But because the *McNaughten* case was one of those "big" or "celebrated" events in history, the law promulgated (out of very little precedent or medical knowledge) by the judges stuck. And the upshot was that a short, simple test came to be used in determining whether a mentally sick man was to go to jail or to go free.

The test had to do with the defendant's "knowledge" of "right and wrong." If he "knew" his harmful act—killing, stealing, raping or whatever it was — was "wrong," then he was to be found guilty. If he did not "know" his act was "wrong," then he should be acquitted.

Very simple. Very appealing at first blush. And perhaps because the "right and wrong" test was so simple, and because it had come out of the mouths of some of the most exalted judges in England in one of the most celebrated cases of the age, the test was quickly imported to this country. All state courts decided to use it. In North Carolina, as in a majority of other states, it is still the *sole* test. Right now, today, if we have a defendant who claims he is too mentally disordered to be treated as a criminal—if that's his defense —we call in the doctors; they examine the defendant; and then they must tell the jury whether this man "knew" that his act was "wrong."

Doctor's Criticisms

The doctors—most of them—cordially hate this procedure. Nearly all who have written on the subject damn *McNaughten's* case in no uncertain language. They also, often enough, say some unkind things reflecting on the intelligence of lawyers and judges —who seem to the doctors to be mule-like in their insistence upon following a "test" which modern medicine says is a meaningless jumble of words leading to barbaric, or at least unscientific, results.

Why are the doctors displeased? The most important criticism is this: if psychiatrists have come to agree on anything, they are agreed that it is impossible to say in many, many cases whether a sick law violator "knows" whether his conduct was "right" or "wrong." Consider this analogy: a very small child may have been told a thousand and one times *never* to play with matches. He is told very carefully: "Johnny, you may burn someone; that's wrong. It's a *bad* thing to do!" But Johnny finds a match one day, and he goes ahead and strikes it and touches the flame to his little sister for purposes of experimentation or anything else that goes on in the mind of a very small child. Sister howls with pain and rage; and the family "criminal law" is faced with the problem: what do we do about Johnny's misbehavior? Johnny will tell you he "knew" it was wrong to do what he did. But did Johnny really know what he was doing? Certainly we won't treat him as a morally culpable person guilty of an atrocious assault on a female. In many ways Johnny simply did *not* "know" that his act was wrong, even though he will tell you he did.

Perhaps, in a rough way, it is this sort of lesson the doctors are trying to teach the lawyers. People don't —they can't—control all their actions just by acting on abstract intellectual knowledge. Our everyday decisions, our overt conduct, are the product of all sorts of stimuli—some emotional. Unless our "emotional knowledge"—along with our abstract intellectual knowledge—tells us that something is wrong, we don't really appreciate the "wrongness" of a given

act. A mental disease often impairs one's "emotional knowledge." The sick person becomes unable to let his abstract intellectual knowledge of right and wrong govern all of his conduct, but the law still treats him as a criminal.

That is just one pitfall in old *McNaughten's* case. There are a lot of others. You might think the law has intelligently answered these difficulties. But it hasn't. For the most part our courts just go ahead mouthing the *McNaughten* formula and insisting that those who "know" right from wrong are not "insane" and must be treated as criminals.

It seems backward to make criminal liability turn on a test that is a meaningless collection of words to the people who must administer it—the doctors. We spend much time in the law, figuring out very precise, scientific formulas for computing tax liability—by trying to make language of the law so realistic and meaningful that all people can apply rules of law to their own complicated financial affairs. Of course we don't fully succeed. But the law of taxation is based on realities. It recognizes existing complexities of tax situations and methodically tries to deal with them. Likewise the human personality is a complicated affair. And insofar as the criminal law is going to treat some killers or rapists differently because of their personalities, shouldn't we try to devise a test which will be framed in language which we can apply meaningfully to any given mentally disordered offender?

New Test in D. C.

As mentioned earlier the Court of Appeals in Washington, D. C., has attempted a new test. This experiment will bear watching in the next few years because Washington, being a major city with many slum areas and other problems of urbanization, has a crime problem as important in magnitude as that of many states. Very briefly, the court there has declared that in all criminal cases where significant mental disorder is apparent, the doctors will simply testify as to all they have observed about the defendant's mental condition. The jury will then be asked to decide: in the light of that testimony which you believe (remembering of course that psychiatrists like lawyers can seldom agree completely on anything) was the defendant's action—his allegedly criminal behavior—"caused" by his mental disorder? In other words, did his mental condition play a substantial part in producing his criminal conduct? If so, he is not to be punished as a criminal.

Now there are a lot of criticisms which one might level at this new approach—which some doctors have hailed as virtually the inauguration of the millenium in the jurisprudence of criminal law. One might ask first: what on earth do we mean by "cause"? How substantial a cause? And doesn't this test leave the jurors too much at large, dealing with matters beyond their competence? Perhaps. But it might be safer to see how the test is applied in concrete cases before we condemn it out of hand. Remember that its main function is to focus attention on the individual offender—to worry about him, his particular disease, and its relation to his conduct, not to try to see if he measures up to some non-medical, uniform but over-simplified, abstract test of "insanity."

Further Step Needed

So, passing that sort of criticism, let's consider something else about this new test which really goes to the heart of the problem.

If the "cause" test were applied literally and carefully and in good faith by jurors, it would probably result in a lot more acquittals than we get under the old *McNaughten* test. Some may say immediately, "That's just what is wrong with the test. How absurd to acquit a man who suffers from some condition which has 'caused' him to commit a criminal act." True. It is absurd to "acquit" such people, *if* by acquittal we mean that we will just release the defendant. Almost by definition, he is a potential repeater. He has a mental disease. Doctors have found that it "caused" him to commit a crime—maybe a serious one. The jurors have agreed. So it is safe to say that this mental condition will, in most instances, cause him to commit more harms upon his release.

But if it is absurd to acquit outright defendants whose criminal conduct was "caused" by a mental disease, it is also absurd to stick with the old *McNaughten* test which so often results, in practice, in the mentally disordered criminal going to the common jail with the common herd. By following that procedure we virtually guarantee that the sick offender's condition will be aggravated by his prison experience. Further, that prison sentence will draw to a close someday, the offender will be released by the mandatory operation of the sentence laws. He will be at large again with his aggravated mental disorder which causes him to commit crime; he will be free to prey upon society. And so he may be back again, soon, in the criminal court. This is the sad lesson which so many scientific studies teach—but which probably doesn't even need to be taught to experienced law enforcement people.

To repeat here what is so probably true—that many offenders are mentally disordered people—is *not* to indulge in sentimentalism. Far from it. It focuses right on the heart of the problem: what should we do with these people? In theory the answer seems obvious. The "cause" test is probably a good one. We should substitute it, or something like it, for *McNaughten's* test. And along with this change we should make another. We should *not* acquit, outright, people whose crime was "caused" by mental disorder. Instead we should automatically hospitalize them; we should put them where they will be treated and cured—and above all kept off the streets until, judged by our imperfect medical knowledge, they are no longer suffering from the condition which did "cause" them to commit crimes.

Follow-Up in D. C.

If that's the answer, why not do something about it?

It is interesting to note that the decision of the Court of Appeals in Washington, D. C., may have forced a lot of people interested in law enforcement to re-think the problem of mental disorder and the criminal law. After the "cause" test was promulgated by judicial fiat, law enforcement people in Washington, D. C., got together to talk over this new development; instead of criticizing the new test they praised it; and they pressed for further changes in the law. Thus Congress has been asked to enact legislation which would permit the courts to detain defendants whose crime was the product of a mental disorder. The courts will be empowered to commit these people to a hospital; and no defendant will be released until the court is satisfied, on the basis of medical testimony, that he has become a safe social risk. Thus the promulgation of the "cause" test in Washington, D. C., seems to have galvanized law enforcement officials into action, and this may—if Congress enacts the legislation requested—produce very dramatic reforms in the criminal law of the District of Columbia.

Difficulties to be Faced

If the courts of North Carolina were to review the law of "insanity" in the criminal law and reject the old *McNaughten* formula for a mod-

ern, realistic test, the result here might be to force some further reforms in the law. For this state, too, would probably have to enact legislation preventing the release of mentally disordered offenders upon their acquittal. Instead we should provide for their compulsory commitment under the court's supervision until they were cured. Of course it may be doubtful that our courts could be persuaded to jettison the old "knowledge of right and wrong" test. They have followed it religiously for years. The state Supreme Court might well feel that it is better for changes of so drastic a nature to be initiated by the legislature and not by the courts.

For implementation of these reforms raises a lot of tough policy questions. The most basic is: are we ready, today, to deal with insanity along the lines which have been suggested? In theory, as already noted, the reforms seem highly desirable. But consider some practical questions: (1) do we have enough facilities to house criminals suffering from a disorder which causes them to commit crime? (2) do we have enough doctors to treat these people so that they will not be left to languish in an institution, but instead will be rehabilitated and restored to the community as soon as the doctors can satisfy the courts that the defendant has been cured? (3) do doctors—as a group—have enough medical know-how today so that they can undertake the responsibility of predicting human behavior to the extent required of them under this method? (4) can the lawyers devise commitment procedures and—even more important—release procedures which will fully protect the civil rights of the mentally disordered offender?

When we propose to incapacitate mentally disordered wrongdoers for an indefinite period, we must be sure that we are not trifling with human liberty in a cavalier fashion. We must be sure that this hospitalization period of sick offenders, indeterminate in length, does not become a form of life sentence for these unfortunate people just because we lack facilities and manpower for their proper care and release. And the doctors—the group which has so long been berating the *McNaughten* system of dealing with the problem of mental disorder—must assure us that they are equipped to shoulder the heavy responsibility over an individual's freedom which true reform in the law would certainly impose on them. And perhaps lawyers as a group should become better schooled in at least the fundamentals of psychiatry so that they can properly represent their clients and so that they can draft sensible implementation legislation to execute these reforms. Law enforcement people, too, must become more alert to recognize the mentally disordered wrongdoer, so that his condition can be called to the attention of the courts to the end that he can be dealt with in a sensible fashion. And finally the people in general—the "common man"—must gain some appreciation of the new objectives of the law. Can we trust jurors today to administer the tests in an intelligent fashion? Perhaps we can if the law itself is made simple and clear. But the people as a whole must have some confidence in the desirability and workability of these reforms. It is the common man's tax dollar which will finance the added costs which such a program would probably thrust on the community.

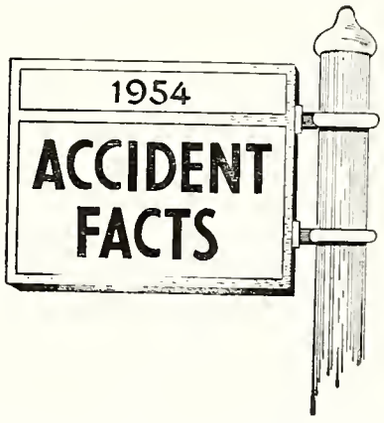
Sooner or later these changes may occur—just as they seem to be occurring in Washington, D. C.

Sexual Psychopath Bills

In fact the North Carolina General Assembly had the opportunity to make a beginning during its current session—with the "sexual psychopath" proposals. It turned it down. It rejected these proposals, which in theory were designed to enable a community to put proven minor sex offenders who were also shown to be potential rapists or "sex killers" away for an indefinite period for rehabilitation until they could be cured enough to become safe social risks. So today, in this state, when an officer arrests a minor sex offender, say a man guilty only of an assault on a female, who suffers from a mental disorder "causing" his behavior—what do we do? We can give him a short jail sentence (even the maximum is short), but upon his release we, figuratively, are obliged to wait and see if he will become a rapist when next his condition begins to induce him to harmful activity.

But despite that, one who criticizes the rejection of the "sexual psychopath" bill might best do some hard thinking and careful research before he cuts loose with his epithets. The legislature might have recognized several dangers. In the first place any such laws must be carefully drafted; a loosely written, ambiguous statute leading to indefinite confinement is a real threat to civil liberty. We must be sure also that we are using terms that make medical sense. An even more basic problem is: are we now prepared to make these drastic changes in our methods of dealing with the mentally disordered offender? For one reason or another the legislature was persuaded that today we are not prepared, that facilities are now lacking, and this lack warranted killing the proposals. No attempt will be made here to review that decision.

For indeed we are not prepared for any reforms, we won't get very far, and we may make serious inroads on civil rights *until* we know that we can provide the resources, particularly medical and institutional resources, to deal with these people according to the manner prescribed. That means that medicine must put manpower and solid convictions behind any effort at reform. Law and law enforcement must better appreciate the goals and stop thinking in old-fashioned terms about "insanity" as a "defense" or that it is mere sentimentalism to worry about the mental condition of offenders. And the people—community leaders and community groups—must come to appreciate new objectives to the extent that they will rally behind sound proposals, see them through, and pay the bill for lasting reforms—which may pay back dividends in the form of a safer community and a more humanitarian system of administering our criminal law.



How old were the 215 Tar Heels whose lives were suddenly snuffed out in pedestrian traffic accidents last year? The Motor Vehicles Department reports as follows:

AGE GROUP	KILLED
0-4	35
5-9	36
10-14	12
15-19	10
20-24	6
25-34	15
35-44	25
45-54	13
55-64	19
65-74	25
over 75	16
not stated	3

Schools for N. C. Officials

N. C. Fire College

The 27th annual session of the North Carolina Fire College, sponsored by the North Carolina State Firemen's Association, will be held in Charlotte on May 23-26. The school, which is designed both for volunteer and full-time firemen, will be held at the Charlotte Fire Department's fire tower and training school at 2601 East Seventh Street. It will be directed by Charles L. Burkett, chief of the Salisbury Fire Department, with the assistance of Capt. E. M. Salley of the Charlotte Fire Department.

C. L. Cox, chief of the Durham Fire Department, is president of the State Firemen's Association this year.

The Fire College offers a four-year course, plus a post-graduate course. A credit card is issued to each fireman attending all classes and demonstrations for his respective class each year. Upon completion of the four-year course, a diploma is awarded.

In addition to the regular faculty, which is composed of fire chiefs and top-ranking officers from departments over the state, a number of guest lecturers will participate on the program. They will include Dan Merrill, chief of the Brevard Fire Department; Roland M. Smith, investigator for the National Board of Fire Underwriters; Neal M. Forney, Jr., director of the youth bureau of the Charlotte Police Department; J. F. Morris, director of the fire prevention bureau of the Charlotte Fire Department; Kenneth Scott, chief engineer of the North Carolina Fire Insurance Rating Bureau; Wally Dunham, chairman of the Forsyth County fire commission.

Also, Kern Church, deputy fire marshal of the state Department of Insurance; Harold Gibson, director of the fire prevention bureau of the Winston-Salem Fire Department; A. L. Bechtold, personnel and public relations director of Lance, Inc.; R. M. L. Russell, assistant chief engineer of the Factory Insurance Association; J. L. Croom, former chief of the Wilmington Fire Department; Clarence Fischer, chief of the Orangeburg, S. C., Fire Department; Jack Keeter, chief of the Raleigh Fire Department; C. S. Canady, chief of the High Point Fire Department; and Miller Warren, chief of the Plymouth Fire Department.

Institute Schools

Plans have been announced for Institute of Government meetings for six groups of officials to be held during May and early June. These schools and conferences will open a full program of summer activity by the Institute.

Six local arson schools, to supplement the statewide school held in Chapel Hill last fall, will be held in Raleigh (May 9), Elizabeth City (May 11), Wilmington (May 13), Asheville (May 17), Charlotte (May 18), and Winston-Salem (May 19). Richard A. Myren will be in charge.

The annual Tax Collectors Conference will be held on May 19-20, with Henry W. Lewis in charge. This will be followed by the Municipal Finance Officers School on May 20-21 and the County Accountants school on May 26-27, both of which will be under the supervision of J. Alexander McMahon.

The annual Water Works school, conducted jointly by the School of Public Health of the University of North Carolina and the Institute of Government, under the sponsorship of the North Carolina Water Works Operators Association and the North Carolina Section of the American Water Works Association, will be held in Chapel Hill on June 6-10. George H. Esser, Jr., will be the Institute staff member in charge of arrangements.

The Registers of Deeds Association will hold its annual convention in Chapel Hill on June 12-14. Basil L. Sherrill will be in charge of local arrangements.

Pedestrian Deaths

Of North Carolina's 215 pedestrians killed last year 109 were guilty of crossing between intersections, the Motor Vehicles Department reports. Seventeen were coming from behind parked cars, 15 were playing in the roadway, 10 were lying in the roadway, and 10 were walking in the roadway when struck down. There were 1,690 pedestrians injured in 1954, 500 of them children between five and nine.

Public Schools

(Continued from page 2)

development by individual manufacturers of something that it feels is definitely on the way.

The Proposal

Its proposal calls for a basic three-dimensional building unit, or module, of which all the various component school parts would be multiples.

Thus, if the module were three feet by four feet by three inches, each building part, while not being exactly that size, would contain multiples of those dimensions.

Ideally, the system would allow use of different materials—wood, aluminum, concrete, steel—for each building component, each with the same multiple modular length and width.

It is to accomplish this end that the institute is working for a pool of the big manufacturers of steel, aluminum and other materials.

The pool must work to make the program work. Koppes explains:

"Manufacturer X shouldn't have to re-detail his panels to fit manufacturer Y's frame, or A's partition panels shouldn't have to be cut because they don't fit B's ceiling system.

"If these developments are not co-ordinated, you will have spent a lot of money and will still have a lot of chaos on your hands. We won't have much economy to offer the taxpayers either. To be a truly worthwhile effort, the overall development must be a cooperative one."

Southwest now is trying to enlist support among industrialists, expects to call another meeting in a few months.

Schools in Pennsylvania

Actually, mass school planning and production are not entirely unknown in Pennsylvania. In a few instances they have been tried and worked remarkably well.

A case in point are three elmentary schools being built for the Elizabethtown area joint school district in Lancaster County.

The same architectural plans and specifications are being used for all three buildings. They are to be brick and cement block seven-classroom schools with asphalt tile floors and acoustical tile ceilings.

The cost of each is estimated at $210,000. The estimated total cost, $630,000 for 21 classrooms, is phe-

(Continued on inside back cover)

THE ATTORNEY GENERAL RULES . . .

COUNTIES

Legal Settlement. The problem of what constitutes "legal settlement" for the purpose of fixing county responsibility for sanatorium care has arisen in two recent rulings. In the first, an individual had legal settlement in a county on June 30, 1952. On that date he was admitted to a sanatorium, and the county agreed to sponsor sanatorium care for him since he had legal settlement in the county. He remained in the sanatorium for two years, and after discharge moved to another county. Shortly after his arrival in the second county, he applied for APTD, and his application was duly approved. Two months later, it became necessary to re-admit him to the sanatorium. In which county does the individual have legal settlement, and hence which county is responsible for his sanatorium care?

To: Graham Ponder

(A.G.) G.S. 153-159 provides that "Every legal settlement shall continue until it is lost or defeated by acquiring a new one, within or without the state; and upon acquiring such new settlement, all former settlements shall be defeated and lost." (The same section provides, generally, that a person acquires legal settlement after one year's continuous residence.) In my opinion, the individual's settlement is still in the first county, because he could acquire no new settlement while a patient in the sanatorium and since his release he has not resided continuously in the second county for a sufficient period of time (one year) to enable him to acquire a new settlement in that county. Thus, even though the second county is responsible for providing the individual with public assistance (OAA, ADC, APTD, and AB), the first county is still responsible for providing sanatorium care. (Apparently, the first county would be responsible for providing general assistance so long as the individual has a legal settlement in the first county, even though the second county would be responsible for providing public assistance.)

In the second situation, an individual with legal settlement in one county moves to a second county, and resides in the second county for eight months. He then enters a sanatorium, and since he still has legal settlement in the first county, that county assumes responsibility for his care. Upon discharge from the sanatorium, the individual returns to the second county, and resides there for five months. The individual has now resided in the second county for a total of thirteen months, eight months prior to his admittance to the sanatorium, and five months after discharge. Has the individual obtained legal settlement in the second county?

To: Mrs. John M. Doggett

(A.G.) I know of no legal decision in this state which would allow the tacking together of these two periods of residence, so as to satisfy the legal settlement requirement of one year as prescribed in G.S. 153-159. For that reason, I am of the opinion that the legal settlement of the individual remains in the first county until he has resided *continuously* in some other county for the period of one year. There has been no *continuous* residence in the second county for a full year, since the residence was interrupted by the period of time in the sanatorium.

Double Office Holding.

To: R. B. Josie

(A.G.) The office of a member of the board of trustees of a county library and that of a member of a housing authority are both considered public offices within the meaning of Article XIV, section 7, of the Constitution, which prohibits double office holding, and one person may not hold both these offices at the same time.

Residence Requirement for Deputy Sheriff.

To: F. D. B. Harding

(A.G.) A deputy sheriff is a public officer, and one of the requirements for holding public office is that the officer be a resident of the political subdivision which he is to serve. Therefore, a deputy sheriff must be a resident of the county before he can be appointed to that office.

MUNICIPALITIES

Condemnation of Property for Water Supply.

To: Jule McMichael

(A.G.) A municipality has authority to acquire property by purchase or condemnation for the purpose of maintaining its water supply, and such property may be either within or without the limits of the municipality. G.S. 160-204, 160-205, and 160-255. In addition, G.S. 130-111 specifically authorizes a municipality to condemn lands necessary for the successful operation of a water system.

Long-Term Contract to Provide Water. May a city enter a contract with an industry planning to locate nearby, by the terms of which the city would agree to provide water and sewerage facilities for thirty years and to construct additional facilities if found to be necessary in the future "when sufficient funds therefor are available to the city"?

To: John T. Morrisey

(A.G.) I have examined the existing powers of municipalities, and I have a serious question as to the authority of the city to enter into such a contract, because of the length of time involved and because of the commitment to construct additional facilities if necessary and if funds are available. I know of no reason, however, why the General Assembly might not pass an act authorizing a municipality to enter into such contract. In order to remove the matter from speculation and doubt, I would recommend that such legislation be secured, since the General Assembly is now in session. See Chapter 1292, Session Laws of 1953, containing similar authority. The obligation here involved is so extensive and covers so many factors that I believe it should be specifically authorized, although I could not say with assurance that the contract would not be valid without such authority.

Annexation

Under the provisions of G.S. 160-445, a part of the general law permitting annexation of unincorporated land by cities, a city may annex "any contiguous tract or tracts of land not embraced within the corporate limits of some other municipality." Citizens in an unincorporated area petition for annexation, and the city discovers that the property is separated from the city by a public road maintained by the N. C. State Highway and Public Works Commission. Is the land across the highway "contiguous" to the city in the meaning of the statute or must the Highway Commission in some way join in the annexation in order for the land to be annexed?

To: B. H. Finch

(A.G.) There is no case in this state deciding this precise question and the word "contiguous" is considered to mean "touching," although the dictionary definitions are not conclusive. The problem will be simpler if the Highway Commission owns merely a right-of-way easement over the lands, for then the ownership in the property touching the city would lie in the petitioning owners. Cases in other states involving similar situations are in conflict. I am inclined to the opinion that the Court would construe this statute to mean that land adjoining the highway on the side opposite the present municipal boundaries would be within the meaning of the statute, especially if the highway itself was included in the boundaries proposed to be included. The manifest objective of the statute was to permit only the annexation of territory in which there was no intervening area of substantial character used for residential, farm, business, or other purposes. I believe that the word "contiguous" was used in this sense.

PROPERTY TAX

Revaluing Realty in Non-Quadrennial Year. Since the last revaluation, in certain locations within a county streets have been paved, curbs and gutters have been installed, and the locations have secured city water, sewage disposal, lights, and police protection. May such real property be revalued in a year in which there is no general revaluation of realty?

To: Eugene Irvin and Kirby Harris

(A.G.) The right to revalue real property in other than a general revaluation year is set out in G.S. 105-279. I find only one ground which might be applicable in this situation:

Subsection (3)(b) permits such revaluation when the property in question "has increased in value to the extent of more than one hundred dollars ($100.00) by virtue of improvements or appurtenances added since the last assessment of such property." While it is true that the furnishing of additional "city services" tends to increase the value of the property, I do not think the furnishing of such services would constitute an "improvement" within the meaning of the statute. Nor do I think the paving of streets or the installation of curbs and gutters would constitute an improvement within the meaning of the statute, even though a property owner may be assessed with respect to these matters on the theory of an improvement or special benefit to his property.

Receipt to Be Given When Tax Sale Certificate Redeemed. When a taxpayer wishes to pay delinquent taxes for which a tax sale certificate has been issued, should the collector (a) issue him a copy of the tax sale certificate marked 'paid' or (b) issue him not only a copy of the tax sale certificate marked 'paid' but also the original receipt left in the tax book?

To: Kirby Harris

(A.G.) In my opinion it would be preferable to follow the second procedure and to furnish both to the taxpayer. The retention of the receipt might lead to some confusion as to whether the tax had, in fact, been paid.

MOTOR VEHICLES

Parking Meters in Front of Theatres and Churches. Is there any general law relating to the locating of parking meters in front of theatres and churches?

To: J. R. Davis

(A.G.) There is no general law relating to the location of parking meters in front of theatres and churches. The regulation of parking in municipalities is vested entirely in the governing bodies of municipalities.

Speed Laws in Private Development. Are the speed laws applicable in private housing developments on streets which are actually used by the public but which have not been dedicated by the owner to public use?

To: Hugh Salter

(A.G.) If the roads in question have not been dedicated to public use, the owner of the property has the right to set conditions upon the use of the roads, but the general speed laws contained in G.S. 20-141 are not applicable.

Speeding in Excess of 70 Miles per Hour in a 35 Mile per Hour Zone. Does G.S. 20-16.1 require the Department of Motor Vehicles to impose a 30-day suspension upon a conviction of speeding more than 70 miles per hour in a 35 mile-per-hour zone?

To: Edward Scheidt

(A.G.) G.S. 20-16.1 provides for a mandatory 30-day suspension when a driver violates the laws against speeding by exceeding by more than 15 miles per hour the speed limit set out in G.S. 20-141(b) (4). While the speed limit there set out is 55 miles per hour, I do not interpret G.S. 20-16.1 as being limited to cases in which the offense occurred on portions of the highway where the speed limit is 55 miles per hour.

City Notes

(Continued from page 1)

the city limits one-half mile in all directions when it was learned that the town would gain only about $24,000 in additional revenue from the new territory, and that cost of providing services to such area would be considerably more than this amount.

Bond Election Results

Bond issues to defray the expense of water and sewer system improvements continue to head the popularity list throughout the state. As a result of elections which were announced in the last issue of *Popular Government*, **Lowell**, **Calypso**, and **Lumberton** governing bodies have all been authorized to make $100,000 bond issues to pay for waterworks improvements. Lumberton voters also approved an additional $100,000 issue to finance the construction of a new city hall.

As a result of the approval of a $150,000 bond issue by the voters of **Smithfield**, the town commissoners have passed a resolution to borrow $75,000 on bond anticipation notes, the proceeds to be equally divided between water supply and sewer system improvements. **Pembroke** bonds will soon be issued to finance a $29,000 expansion of the water system, a $16,000 extension of sewer lines, and an $84,000 sewage disposal plant.

An election in **Dallas** resulted in approval of the $170,000 water bond program of that city. **Monroe** voters have approved the issuance of $500,000 in water supply improvement bonds and $125,000 in sewer enlargement bonds. **Taylorsville** commissioners have advertised for bids on water system improvements and a new sewage disposal plant, voters having approved a total bond issue of $220,000 to finance the two projects. **Jacksonville** voters have approved a $100,000 street improvement bond issue, in addition to a $125,000 issue to finance the new town hall. **Chapel Hill** voters approved $190,000 of bonds for fire, street cleaning, and garbage equipment; sanitary and drainage sewers, and street improvements.

City Planning

Herbert W. Stevens, the Raleigh city planner, has accepted a job as the city planning director for Cincinnati. He will head a department of 15, with an annual budget in excess of $90,000. . . . The four-man staff of the newly-created Charlotte-Mecklenburg Planning Commission has been completed with the addition of E. Burke Peterson as associate planner. . . . Edenton and Morganton have adopted new zoning ordinances, while Ahoskie has appointed a zoning commission to prepare an ordinance. . . . The Winston-Salem-Forsyth County Planning Board has asked for two additional men for its staff, one to specialize on subdivision plats and the other to serve as a junior planner.

Miscellany

Burlington has issued an attractive, illustrated annual report for 1954. The 28-page booklet, printed by the offset method, describes operations of each city department for the year. . . . **Dunn** has replaced a portion of its equipment storage building (blown off by Hurricane Hazel) with city labor at a cost of about $3,000. . . . **Marion's** new census in 1954 fixed the town's population at 3,214 in contrast to the 1950 census of 2,740.

New Bern is moving forward on several fronts. After a frustrating experience in trying to produce electric power, the city has definitely determined to buy power from Carolina Power and Light Company and has sold its diesel engines for power production to Stark, Florida, for $175,000. Proceeds from the sale are being used to build transmission lines to residents living between the city and Cherry Point. When completed, the new lines will permit the voltage to be increased from 7,700 to 22,000 volts.

Improvements in the fire department are also notable. A new fire station, New Bern's third, has been completed at a cost of about $20,000 and was opened on the last day in February. A new fire alarm system should be completed by July 1, and the city has also codified and republished its building code.

Durham has devised a novel plan to finance off-street parking facilities close to the business district of the city. The city will sell $475,000 in

revenue bonds with which to buy property suitable for railroad needs and to build a freight station building, and then the city will exchange the property for the present Seaboard Airline Railroad Co. freight station property. On the acquired railroad property, parking facilities to handle 325 automobiles will be erected. The city is presently accepting pledges from Durham business firms, financial institutions, and citizens to purchase bonds so that by the time the bonds are sold by the Local Government Commission the financial institution making the bid will be assured of reselling the bonds. Annual revenues from the facilities are expected to bring in nearly twice the amount required for payment of interest and principal on the bonds annually.

Public Schools

(Continued from page 10)

nomenally low in view of the fact that each school has its own heating, plumbing and ventilating systems.

These schools are being built by the Buchart Engineering Corp. of York, which also is putting up a pair of identical schools in Penn Township, York County. They are to be 12-classroom schools each with all-purpose room, kitchen, health room and offices. The estimated cost for both, $560,000, again is amazingly low by eastern Pennsylvania standards.

Higher labor costs in this area—bricklayers now are getting $3.75 an hour plus fringe benefits—in part explain the cost differential, which runs to hundreds of thousands of dollars in some cases.

But Buchart believes it has cut its costs by as much as 20 per cent by mass buying.

Only One Plan

This system also has the advantage—for the school districts—of cutting the architect's fee. Since one plan is being used for several schools, the architect gets less than the standard 6 per cent for each school.

One architect from the central part of the state thinks that none of these factors explain wholly why schools cost so much in the Philadelphia area.

His comment might well serve as epitaph to a study on school construction costs.

"The reason your schools cost so much," he said, "is that you want to doll everything up. It doesn't pay. Kids don't remember the school building; they remember what they're taught."

Books of Current Interest

Planning

URBAN REDEVELOPMENT: PROBLEMS AND PRACTICES. *Edited by Coleman Woodbury. Chicago: University of Chicago Press. 1953. $7.50. Pages 525.*

Product of the Urban Redevelopment Study sponsored by the Spelman Fund, this volume goes into the practical problems involved in an urban redevelopment program, whereas its companion volume, *The Future of Cities and Urban Redevelopment*, attempted to provide a philosophical basis for the redeveloper. This book contains first-rate sections on (a) measuring the quality of housing, (b) urban densities and their costs, (c) private covenants, (d) rehabilitation, reconditioning, conservation, and code enforcement, (e) relocation of persons displaced by redevelopment projects, and (f) the use of eminent domain in acquiring open land for redevelopment. It is a necessity for any official connected with such a program. (PPG)

TRANSPORTATION AND THE GROWTH OF CITIES. *By Harlan W. Gilmore. Glencoe, Ill.: The Free Press. 1953. $3.00. Pages 170.*

The author of this slim volume analyses socio-economic systems on the basis of the transportation systems on which they depend, his chief objective being to present a "different" analytical approach to the problem of classifying communities and examining their development. The book will be of interest to students of the community.

VALUATION UNDER THE LAW OF EMINENT DOMAIN (2nd ed.). *By Lewis Orgel. Charlottesville: The Michie Co. 1953. $30.00. 2 Vols. Pages 1576.*

Long the standard work in a highly technical field, this edition has been brought up to date after 17 years of usefulness to lawyers and the courts. Because, as the author points out, the principal issue in most eminent domain cases is that of "What is just compensation?" this work is a prime source for any public official charged with preparing or arguing condemnation proceedings. (PPG)

Lawyers

THE AMERICAN LAWYER: A SUMMARY OF THE LEGAL PROFESSION. *By Albert P. Blaustein and Charles O. Porter. Chicago: University of Chicago Press. 1954. $5.50. Pages 360.*

Government at all levels is blessed with many lawyers. Other persons in government are often curious about the manner of beast with which they are dealing. Based on a study by the American Bar Association, this book goes a long way toward making the legal profession an understandable entity to those who will read it.

A PRACTICAL MANUAL OF STANDARD LEGAL CITATIONS. *By Miles O. Price. New York: Oceana Publications. 1950. $2.00. Pages vii, 106.*

Twin musts in citing legal authorities are good form and accuracy. This book, the outgrowth of the author's twenty years' experience on both sides of a law library loan desk, fills a need for a workable sized citation form manual covering the fields of statutory law, case materials, foreign law, legal services, treatises, periodicals, quotations, indexes, capitalization, and typography. (JPH)

A PRACTICAL GUIDE TO LEGAL RESEARCH. *By Benjamin Feld and Joseph Crea. New York: Marshall Law Book Company. 1950. $2.50. Pages xii, 115.*

This book comprises a handy working tool for the practitioner as well as the student in the search and development of state and federal law and the relation of the law of a state to that of other jurisdictions. The section on how to begin should prove particularly valuable to beginning law students and to non-legal scholars. (JPH)

Books Received

BOTTOM-UP DEMOCRACY: THE AFFILIATION OF SMALL DEMOCRATIC UNITS FOR COMMON SERVICE. *Edited by Arthur E. Morgan. Yellow Springs, Ohio: Community Service, Inc. 1954. $1.00. Pages 64.*

NATIONAL FIRE CODES, VOL. V: NATIONAL ELECTRICAL CODE. *Boston 10: National Fire Protection Association, 60 Batterymarch Street. 1953. $3.00. Pages 576, A-40.*

TRIAL TACTICS AND EXPERIENCE. *By Simon N. Gazan. Atlanta: The Harrison Co. 1954. $15.00. Pages 613.*

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 McMahon, 1952, 219 pp mimeo ($2.00)

GUIDEBOOK FOR ACCOUNTING IN SMALL TOWNS by John Alexander McMahon, 1952, 139 pp mimeo ($1.50)

MUNICIPAL BUDGET MAKING AND ADMINISTRATION by John Alexander McMahon, 1952, 67 pp mimeo ($1.00)

SOURCES OF MUNICIPAL REVENUE by John Alexander McMahon, 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 McMahon, 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 McMahon, 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 McMahon, 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 McMahon, 1955, 24 pp mimeo ($.50)