Popular Government

October 1955

"The Captains and the Kings depart . . ."

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

VOL. 22 OCTOBER, 1955 NUMBER 2

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COVER

To most North Carolinians Kenan Stadium is associated with festive and tumultuous throngs at this time of year. But for every roaring Saturday there is a long, serene week. Here we have the week-day stadium, backed by a busy campus and town.—Photo courtesy U.N.C. Photo Laboratory.

POPULAR GOVERNMENT is published monthly except January, July, and August by the Institute of Government, The University of North Carolina, Chapel Hill. Editor: Albert Coates. Assistant Editors: Zebulon D. Alley, Vernon Lee Bounds, George H. Esser, Jr., Philip P. Green, Jr., Donald B. Hayman, Joseph P. Hennessee, Edward Lane-Reticker, Henry W. Lewis, Roddey M. Ligon, Jr., John Alexander McMahon, Richard A. Myren, Royal G. Shannonhouse, David Sharpe, Basil L. Sherrill, Warren J. Wicker. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscription: Per Year, $3.00; single copy, 35 cents. Advertising rates furnished on request. Entered as second class matter at the Post Office in Chapel Hill, N. C.

THE NEW MEDICAL EXAMINER LAW

By RICHARD A. MYREN, *Assistant Director, Institute of Government*

After unsuccessful attempts in the 1951 and 1953 Legislatures,[1] advocates of a medical examiner system for North Carolina have finally succeeded in getting legislation on the books.[2] With surprising ease, House Bill 147, establishing the new system, passed both houses of the General Assembly by wide margins. There is little doubt that the provision making the act applicable in a county only after an enacting resolution is adopted by the board of county commissioners paved the way for this easy passage.

Some time before January 1, 1956, the county commissioners in each county must make an active decision as to whether or not they will bring their county within the coverage of this new act. The bill provides that the new law shall not become effective in any county until after its adoption by a resolution of the board of county commissioners. Once such a resolution is passed, however, the matter may not be reconsidered in that county until the close of that county's current fiscal year. At that time, another simple resolution will take the county out of the purview of the act, if the commissioners so desire. It is the purpose of this article to review briefly the position of the office of coroner in the county government, to point out the effects of the new legislation on the office of coroner and on county government generally in those counties which choose to come under the coverage of the act, and to discuss in some detail the provisions of the act which will bring about these effects.

Role of the Coroner in County Government

In recent years, the office of coroner has become an increasingly unimportant part of county government. Many county officials no longer understand the role which the office of coroner should play in county government, nor the problems connected with the present operation of that office. Since every function which the coroner performs is also performed by other agencies in county government, with few exceptions, the question naturally arises as to why we have an office of coroner. The historic reason for establishment of the office as a control on the revenue collecting operation of the office of sheriff some thousand years ago has long since ceased to be important. Is there, then, any reason for continuation of the office of coroner in present-day county government except the inertia which naturally exists toward change in governmental structure?

There appear to be at least three reasons for current existence of the separate office of coroner to deal with the investigation of suspicious deaths. The first of these is that the independent investigation of the coroner serves as a backstop for other law enforcement agencies in the investigation of criminal homicide, catching cases which might otherwise escape the usual "police" agencies either through inadvertence or design. This would appear to be the only one of the three reasons which is basic under present law.

A second purpose which the coroner's investigation seems to serve is that of a relief valve for public sentiment in cases in which the homicide is committed under circumstances arousing a great deal of indignation. In such cases, a coroner's hearing, promptly held and open to the public, demonstrates to the community that the wheels of justice are grinding, even if perhaps somewhat slowly, and tempers the demand for immediate trial of the accused—a trial which, in the heat of public indignation, might very well substitute community emotional upheaval for logical consideration of the evidence. This desirous effect is a by-product of any preliminary hearing, whether held by the coroner or some other magistrate.

The coroner has also traditionally been the one law enforcement agent with authority to bind the county for expenses connected with medical assistance in determining cause of death. One of the big handicaps of law enforcement generally in North Carolina is that most agencies do not have the specialists which they need and have no funds available with which to procure them. Establishment of the services of the Federal and State Bureaus of Investigation has mitigated this shortcoming somewhat, but the sheriff and police chief are still embarrassed when they find it necessary to have an automobile inspected by an expert mechanic, for example, in cases of suspected attempted fraud on an insurance company or of manslaughter arising out of an automobile accident. There is generally no money available for such service. The law enforcement officer must either call on civic consciousness for free service or make some sub rosa deal under which the garageman who sees fit to render this service will be the one whose wrecker is called to accident scenes, or who will receive some other favored treatment. Some agencies have succeeded in obtaining appropriations in their budgets for this type of expense incidental to criminal investigation, but such departments are few and far between. Almost none have sufficient funds to finance pathological studies as an aid in determining cause of death. This has been the unique contribution of the investigation by the coroner. But he, too, has all too often been hamstrung in this respect by limited appropriations. A simple statutory change could put this power to obtain the services of medical specialists in any law enforcement agency.

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[1] See House Bill 561: A BILL TO BE ENTITLED AN ACT TO REVISE THE LAWS OF NORTH CAROLINA WITH RESPECT TO POSTMORTEM MEDICO-LEGAL EXAMINATIONS, etc., introduced on March 8, 1951, by Representatives Page and Wiggs of Johnston County and referred to Committee on Judiciary No. 2. House Journal 1951, p. 358. This committee reported the bill unfavorably on April 5, 1951. House Journal 1951, pp. 729, 730. See also House Bill 676: A BILL TO BE ENTITLED AN ACT TO REVISE THE LAWS OF NORTH CAROLINA WITH RESPECT TO POSTMORTEM MEDICOLEGAL EXAMINATION, introduced on March 6, 1953, by Representatives Sanders and Barker of Durham County, Coates and Thomas of Johnston County, and Young of Buncombe County and referred to Committee on Judiciary 1. House Journal 1953, p. 350. On April 30, 1953, this committee reported the bill unfavorably, but gave a favorable report to a committee substitute which rewrote the bill, transforming it into one creating a commission to study the coroner system and need for a medical examiner system. The commission was to report its finding to the 1955 General Assembly. House Journal 1953, p. 1083. This committee substitute passed its second but failed its third reading in the House. 189, N.C. Session Laws 1955, c. 155.

[2] It is of some interest to note that this act must joust for its place in the statutes even after passage. Through inadvertence, another act was given the same general statute article designation. See House Bill 189, N.C. Session Laws 1955, c. . It will be some time before it is known whether the codification in this act will be accepted. In this article, those section numbers will be used, however. The act has an effective date of January 1, 1956.

Effect of Adopting a Medical Examiner System on the Office of Coroner

Under present law, the coroner has both judicial and investigative responsibility. His judicial responsibilities are the issuance of warrants, the subpoenaing of witnesses and examining them under oath, and the holding of preliminary hearings to determine whether a subject accused of criminal homicide shall be bound over for trial. These judicial responsibilities are not carried out with any uniformity in North Carolina by coroners. Some coroners ignore these duties altogether. This is possible because parallel county officials are available to carry them out if the coroner does neglect them. Other coroners attempt to perform these statutory duties to the letter, to the best of their ability. These judicial responsibilities of the coroner are not significantly touched by the new medical examiner law. The only effect on inquest proceedings that the new law has is to require the coroner in whose county the system is adopted to hear the evidence of the medical examiner. All of the problems in this area of the coroner's activities are still with us in all counties, whether the new law is adopted or not.

It is the investigative responsibility of the coroner which will be affected by adoption of the medical examiner's system by his county. There are five principal objectives in the investigation of any case of suspected criminal homicide. The first of these is determination of the identity of the deceased. The second is determination of the cause of the death of the deceased. Third and fourth are determination of time and manner of death, and fifth is determination of the identity of the killer. In each of these phases, proper investigation by skilled medico-legal practitioners can be of great assistance. It cannot, however, replace all other investigative effort. It is not envisaged that the medical examiner will become a fingerprint expert, learn to make casts of footprints and other marks, check out alibis, or make neighborhood canvasses, all of which are common features of the investigation of serious cases by law enforcement officers. All of this the coroner should be doing if he is to perform his function of being an independent investigator of suspicious death. The coroner will, of course, be cooperating with other law enforcement agencies, but will not be relying on them completely, nor allowing them to shape the course of his investigation.

But not very many coroners are making complete investigations of their own. Most of them limit their activity to determination of cause of death and the holding of preliminary hearing inquests. With such a coroner, the new medical examiner system would replace all but his preliminary hearing function, which is probably the least valuable attribute of the office.

So the extent to which appointment of a medical examiner would affect the operations of the coroner of any particular county will depend on how that coroner is doing his job. In theory, the judicial duties of the coroner will be affected only incidentally; and of the investigative procedures, only the acquisition of medical evidence would be changed.

Perhaps the greatest effect of adoption of the medical examiner system would be to make available to the law enforcement agencies of the county the pathological and toxicological services to be established. At present, counties are forced to contract with individual pathologists or with the pathology departments of the three medical schools of the state for these services. The prices vary from approximately $100 up, mostly up. In many areas, it is almost impossible to obtain the service at all. Because the pathologists will be working with a system in which they believe, because the requests for their services will be coordinated into a statewide system, and because they are being urged by their professional organizations to serve for less than normal private fees as a public service, the medical examiner system hopes to make the service of pathologists readily available to the counties at reasonable rates.

There is one change made in the coroner law even of those counties which do not adopt the act. The following duty of the coroner as expressed in the present law is repealed as of January 1, 1956:

> "To summon a physician or surgeon and to cause him to make such examination as may be necessary whenever it appears to such coroner as proper to have such examination made, or, upon request of his jury, or upon request of the solicitor of his district or counsel for any accused or any member of the family of the deceased: Provided, however, that when the coroner shall himself be a physician or surgeon, he may make such examination himself."

This limits even further the already feeble provisions for medical assistance to the traditional coroner system.

Provisions of the New Law

Despite the fact that the permissive nature of the act was probably responsible for its passage, there are also other major differences between it and the bills introduced previously. The greatest change made was elimination of the provisions setting up a new state agency with a centralized staff for administration of the act. The present law provides that the State Health Officer shall be the chief administrator of the system as an added duty of his present position. Record-keeping functions are also centered in the existing Board of Health. These activities were added without any increase in the appropriation for that department.

Committee on Postmortem Medicolegal Examinations

Central direction for the new system lies in the Committee on Postmortem Medicolegal Examinations, consisting of the State Health Officer, the Attorney General or his staff representative, the Director of the State Bureau of Investigation or his staff representative, the heads of the pathology departments of Bowman Gray, Duke, and UNC medical schools or their staff representatives, and one layman appointed by the Governor. The powers and duties exercised by this Committee, which will be chaired by the State Health Officer, are subject to the approval of the State Board of Health.

This Committee is empowered to promulgate the necessary rules and regulations for its own government and for the performance of its duties, "including the power to allocate the expenses of performing autopsies and to impose and allocate the expenses of performing toxicological studies." Since fees for the performance of autopsies for the counties are set in another section of the bill, this apparently only pertains to fees for toxicological examinations as far as the counties are concerned. The avowed purpose of this provision was to enable the autopsy service to be extended to such other governmental organizations as the State Industrial Commission at fees set by the Committee.[3]

A specific provision is also made

[3] Statement of Dr. Wiley D. Forbus, chairman of the Citizens' Committee on the Coroner System, at a drafting subcommittee meeting in the office of the Attorney General.

allowing the committee to accept moneys from any source in addition to appropriation. This was done in the hope of attracting money from private sources to carry out the humanitarian aspects of the work of the system.[4] Cooperation with all educational institutions and law enforcement agencies in the state is authorized for the purpose of furthering medico-legal education and training as one such humanitarian end. At least in the current biennium when no operating budget has been provided, this provision for acceptance of outside funds will also probably have to be relied on for implementation of the power of the Committee to establish and maintain a toxicological laboratory or service. This service has been provided to the coroners and other local law enforcement officers through the State Bureau of Investigation in recent years, at a cost to the Bureau of $3600 per year. It was discontinued by the Bureau at the end of the last fiscal year, with the money previously spent for this purpose now going toward the addition of a full time chemist to the technical staff of the Bureau.

Another important duty of the Committee is the division of the state into districts and appointment of a pathologist to serve each district. Implementation of this provision is complicated by the permissive nature of the act. Election of only isolated counties to adopt the act would make it somewhat difficult to set up workable districts. However, a glance at a map showing the locations of the twenty-three counties in North Carolina having medical coroners as of this date,[5] those counties most apt to elect to come under the medical examiner act, will show that they are not too scattered and not too far removed from population centers served by resident pathologists, with the exception of Pasquotank and Perquimans Counties in the eastern part of the state. The situation might be somewhat eased and local investigation of unexplained deaths further improved by an informal administrative arrangement under which the pathological facilities of the new system were made available on a contract basis to those counties which did not elect to come under the system.

[4] Ibid.

[5] Alamance, Buncombe, Cherokee, Clay, Davidson, Davie, Durham, Edgecombe, Forsyth, Guilford, Haywood, Henderson, Mecklenburg, New Hanover, Pasquotank, Perquimans, Person, Randolph, Rockingham, Rowan, Stokes, Union, and Wilkes Counties.

Committee Chairman

By virtue of his position under the State Board of Health, the State Health Officer will be the Chairman of the Committee on Postmortem Medicolegal Examinations and chief administrator for the medical examiner system. As such, he will appoint medical examiners for those counties which elect to come under the act, these appointments being subject to the approval of the board of commissioners of the county in question and of the Committee. Each medical examiner will serve at the pleasure of his board of county commissioners. These powers given to the commissioners are another example of the important changes in this legislation over that offered in previous years which make this act more palatable to the counties. The provision putting the term of the medical examiner at the pleasure of the commissioners was inserted by amendment in the Senate.

Subject to the approval of the Committee, the chairman may appoint needed professional, technical, and clerical assistants to serve at his pleasure. In addition to attending committee meetings and keeping records, the chairman must cause the necessary postmortem examinations to be performed under his general supervision, exercising primary control over the remains in all medical examiner cases, require reports from all medical examiners and district pathologists, and make the required reports to the Committee.

Coverage of the Act

"Upon the death of any person on or after the effective date of this Act apparently by the criminal act or default of another, or apparently by suicide, or suddenly when apparently in good health, or while an inmate of any penal or correctional institution, or under any suspicious, unusual or unnatural circumstances, the Medical Examiner of the county in which the body is found shall be notified. . . ." These words set out the jurisdiction of the county medical examiners. That jurisdiction goes far beyond the area of concern of the present coroner system, which is limited to death apparently by the criminal act or default of another. There are two expressed reasons for this enlarged jurisdiction of the new system.[6] The first is the fact that death by criminal homicide is frequently not *apparently* by the criminal act or default of another. It is the natural desire of the criminal to cover up his act if at all possible. Consequently, there is a belief that routine investigation of all deaths for which there is no apparent medical explanation is required for full protection of the public from criminal homicide.

Another reason for this expanded jurisdiction is a belief that a service such as this should be aimed not only at enforcement of the criminal laws but also at the detection of contagious disease and industrial hazard. Even if criminal homicide has been rather definitely eliminated, a case in which the exact cause of death remains unknown makes medical experts uneasy because of the possibility that contagious disease or industrial hazard may have caused the death, and may continue to kill because unrecognized as a danger.

[6] Ford, *Medico-Legal Investigation of Sudden Death*, 4 Annals of Western Medicine and Surgery 466 (1950).

County Medical Examiners

In each county which elects to come under the act, a "qualified and practicing physician" will be appointed as the medical examiner. This designation raises the interesting question of whether the one osteopathic physician now serving as a coroner in North Carolina would be considered a "qualified and practicing physician" eligible for appointment as a medical examiner. Some state courts have held that osteopaths are "physicians."[7] However, North Carolina is one of eight states forbidding osteopaths to use either drugs or operative surgery in their practices.[8] It also has separate licensing provisions for medical and osteopathic physicians. In addition, a recent North Carolina case recognizes a distinct difference between "osteopaths" and "physicians."[9] In the light of these precedents, the courts would probably construe the term physician to mean a medical doctor.

There is no provision in the act authorizing coroners who are medical doctors to also serve as medical examiners in their counties. This means that the problem of double office holding would arise if a coroner was appointed as medical examiner. There is a specific provision authorizing the appointment of coroners as

[7] See Stribling v. Jolley, 362 Mo. 995, 253 S.W. 2d 519 (1952).

[8] Letter from Milton McKay, General Counsel for the American Osteopathic Association to Richard A. Myren, March 19, 1953, on file at the Institute of Government, University of North Carolina.

[9] State v. Baker, 229 N.C. 73, 48 S.E. 2d 61 (1948).

district pathologists and as members of the committee.

Notification of the medical examiner of any case coming under coverage of the act must be given by "the physician in attendance, by any law enforcement officer having knowledge of such death, by the undertaker, by a member of the family of the deceased, by any person present, or by any person having knowledge of such deaths." The law also states that no person shall disturb the body at the scene of death until authorized by the county medical examiner. Upon receipt of this notification, the examiner is required to make a physical and medical examination of the body, supplemented by inquiries as to the cause and manner of death.

In connection with determination of cause of death, the medical examiner is authorized to order an autopsy or other pathological study whenever he deems it advisable and in the public interest. This power is also given to the Superior Court solicitor and to any Superior Court judge having authority in the judicial district in which the county is located.

Upon completion of his investigation, the medical examiner is required to reduce his findings to writing and make a prompt report of them to the county coroner, to the solicitor of the Superior Court for the district, and to the chairman of the Committee. He is also authorized to forward copies of the report to the heads of any law enforcement bodies charged with responsibility in the investigation of the death upon request and to any other interested person upon order of a court of record after a showing of need. Similar procedures are outlined for cases involving parts of bodies. As a part of winding up the investigation of cases coming within the coverage of the act, the medical examiner is required to make out the death certificate for the deceased, stating the disease causing death, or, if from external causes, the means of death and whether probably accidental, suicidal or homicidal. He is also required to relay any other information needed by the State Registrar in order properly to classify the death.

Any medical examiner is authorized to appoint one or more assistants to serve at his pleasure, these appointments being subject to the approval of the chairman of the Committee.

Penal Provisions

As an aid to the medical examiner in carrying out his duties in cases coming within the coverage of the law, the following acts are made misdemeanors punishable by fines of from $100 to $500:

1. The embalming or burying of a body or the issuance of a burial permit without a written permit from the county medical examiner.
2. The issuance of a cremation permit without a written permit from the county medical examiner certifying that he has investigated the case and deems no additional investigation necessary.

Wording in the latter provision makes it appear that the drafters of the act may have desired to make the obtaining of a cremation permit from the county medical examiner in addition to the local registrar mandatory in all cases, as is provided in the medical examiner laws of some other states. Construction of the section within which this provision is included, however, makes it clear that this is only necessary in cases coming under the investigatory power of the medical examiner as set out in the act. But the wide coverage of the act means that this is not a serious handicap.

Enforcement of this section is made the primary responsibility of the county medical examiner, who must report all infringements to the district solicitor, who, in turn, passes the word on to the Superior Court judge. The latter may order exhumation and autopsy of the body if he deems it necessary.

District Pathologists

Another important aid to the county medical examiner will be the availability of the services of the pathologist for his district. The Committee is empowered to divide the state into districts, which may be altered from time to time, and to approve the appointment of a pathologist to perform the postmortem medicolegal examinations required by the county medical examiners of the district. The availability of this service on an organized basis to the many rural counties now without the services of a pathologist under reasonable circumstances is one of the important aspects of the act. Upon completion of any such postmortem examination, the pathologist shall send copies of his report to the referring person, to the solicitor of the Superior Court of the district, to the coroner of the county in which the remains were found, and, upon order of a court of record to be granted upon a showing of need, to any interested person.

Cost

One of the primary concerns about any new governmental service is the cost. The counties which adopt the act may be subjected to expense under three of its provisions. After consultation with the Committee, the board of county commissioners will set the fee that the medical examiner shall receive from the county for each investigation. This fee shall be total compensation. A similar procedure will be followed in determining the fee to be paid the district pathologist in the event that he is requested by the county medical examiner to perform an autopsy. There is some uncertainty as to whether this fee will be inclusive or whether the county may also be assessed for toxicological service.

Uncertainty is also created as to which county shall bear the cost of pathological service in the event that the county of legal residence of the deceased is other than the county in which the remains are found. The act states that the county of legal residence bears the cost unless that county is unascertainable or the deceased is the resident of another state. In that case, the burden is to fall on the county where the remains are found. This means that the medical examiner of one county may authorize an autopsy which another county will have to pay for. If the other county is also under the act, it may have agreed to be thus bound, but what about the case in which the other county has not adopted the act? Will the medical examiner of another county be able to bind it for pathological expense? If not, who will bear the expense? These are probably questions which can be answered by administrative interpretation of the act, but they are inherent in its provisions as worded. These should be the only expenses to which counties coming under the act will be subjected.

Administrative expense of the system will be a charge on state government. Committee members who are already state employees will incur travel expense which must be paid by the department regularly employing them. The State Board of Health as the state agency responsible for administration will pay a per diem of $10 and travel expense to those members of the Committee who are not state employees. The Board will also pay the salaries and travel expense

(Continued on page 11)

REDUCING PROPERTY TAX BILLS

[*Note:* This is the second and final portion of this article, containing Parts 3 and 4 together with the final "note." The first portion (containing Parts 1 and 2) appeared in the September issue of POPULAR GOVERNMENT.]

By
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Part 3

The Right to Reduce, Release, and Refund Tax Bills

Refunds, releases, and reductions of tax claims[1] are matters to be decided by the county or city governing body; they should not be left in the discretion of the county or city tax collector. Furthermore, each claim should be dealt with on its own facts. Once a tax bill has been computed, it can be reduced, released, or refunded only upon the specific authorization of the unit's governing body. At this point it may be well to emphasize that a "tax claim" or "tax bill," as these expressions are used in this article, covers not only the principal amount of the tax but also all penalties, costs, and interest due on the unpaid tax. G.S. 105-272(32), G.S. 105-331(3), and G.S. 105-345.

There is a strong public policy supporting the stability of sources of governmental revenue, and property taxes constitute the major source of local governmental revenue in North Carolina. For this reason the statutes dealing with forgiveness of property tax claims are very strict. G.S. 105-403 opens with the following statement of general policy:

> No board of county commissioners, or council, or board of aldermen or commissioners of any city, or town shall have power to release, discharge, remit, or commute any portion of the taxes assessed and levied against any person whatever. . . .

This is a rigid prohibition, and failure to abide by it carries personal liability for each member of the board of county commissioners or city council:

> Any tax so discharged, released, remitted, or commuted may be recovered by civil action from the members of any such board at the suit of any citizen of the county, city, or town, as the case may be, and when collected shall be paid to the proper treasurer.

If the statute said no more, city and county commissioners would have no problem. They would never allow any reductions, releases, or refunds of tax claims. But the statute goes further and allows certain exceptions, and it is with those exceptions that members of local governing bodies are concerned.[2] Holding the problem of compromises of tax claims for discussion in Part 4 of this article, the exceptional grounds on which a tax bill may be reduced or released can be summarized under two general headings as follows:

1. If the tax or any part of it was levied or assessed for an illegal or unauthorized purpose, or was for any reason invalid or excessive. Specifically—
   a. If the assessed valuation of the property taxed has been reduced under the proper exercise of the authority outlined in Part 2 of this article, a reduction in the tax bill would follow as a matter of course.
   b. If the property concerned is not taxable by the unit, that is, if it is exempt by statute, or if it does not fall within the unit's jurisdiction, a release of the claim would be justified.
   c. If the property has been listed and taxed twice—i.e., a "double listing"—one of the duplicate claims could be released.
   d. If the rate of tax or any part of it has been illegally levied (as in the following examples) a release is warranted.
      (1) If levied for something other than a public purpose.
      (2) If levied without a vote of the people in a situation in which such a vote is required.
      (3) If levied at an amount higher than that authorized by the Constitution, statutes, or vote of the people.
      (4) If levied as an unauthorized "special purpose" tax when it should have been included in the unit's General Fund levy.
2. If the amount of the tax has been erroneously computed, either by a clerical or mathematical error, at a figure higher than is proper, a release or reduction is allowable.

Members of governing bodies should familiarize themselves with these grounds.[3] In each of the situations in which the grounds are envisioned, if the decision to make the reduction or release takes place before the taxpayer has made any payment on his tax bill, the problem is considerably simplified. The governing body and its tax officials simply make the proper reductions and adjustments in the taxpayer's bill, and when he pays, he pays at the reduced amount.

On the other hand, if the taxpayer has already paid some or all of the bill before the right to reduction or release is determined, a number of problems arise. In fact, *under some circumstances*, despite the existence of a right to a reduction or release, there are sound legal reasons why a refund cannot and should not be allowed. The reason is simple: The

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[1] Certain words concerning forgiveness of tax claims are used repeatedly; it may be helpful to define the ones most commonly used in terms of taxes:
"Refund" means to return a tax already paid.
"Release" means to give up a claim for taxes.
"Discharge" also means to give up a claim for taxes.
"Reduce" means to lower the amount of a tax claim.
"Remit" means to refrain from enforcing a tax claim.
"Commute" means to substitute a smaller tax claim for a larger one.
"Compromise" means to settle a tax claim by mutual concessions, both taxpayer and governing body giving up some of their assertions.

[2] Special local acts allowing reductions and refunds are not discussed here. See Part 4 of this article.

[3] One other ground for reduction, release, or refund in a special set of circumstances is discussed in the Note at the end of this article.

statutes set out certain very specific procedural requirements that a dissatisfied taxpayer must follow before he can establish an enforcible right to have the taxes already paid refunded to him. If those procedures are not followed, the refund should not be allowed. In fact, as already mentioned, members of governing bodies voting to make refunds where the procedures have not been followed strictly lay themselves open to possible suit and personal liability for the tax refunded.

What then are these essential procedures the dissatisfied taxpayer must follow? G.S. 105-406 establishes the only procedure under which a taxpayer may place himself in a firm position to assert his legal right to a tax refund:

> . . . Whenever any person shall claim to have a valid defense to the enforcement of a tax . . . such person shall pay such tax [to the tax collector]; but if, at the time of such payment, he shall notify [the tax collector] in writing that he pays the same under protest, such payment shall be without prejudice to any defenses or rights he may have in the premises, and he may, at any time within thirty days after such payment, demand the same in writing from the treasurer of the . . . county, city, or town . . . and if the same shall not be refunded within ninety days thereafter, may sue such county, city, or town for the amount so demanded . . . and if upon the trial it shall be determined that such tax or any part thereof was levied or assessed for an illegal or unauthorized purpose, or was for any reason invalid or excessive, judgment shall be rendered therefor, with interest. . . .

Observe the steps the taxpayer must follow:

1. He must pay the tax.
2. At the time of payment, he must inform the tax collector *in writing* that he is paying the tax under protest.
3. Within 30 days of the time he pays the tax, he must file with the treasurer of the county or city a *written* demand for a refund.

At that point, assuming the taxpayer has complied with the procedural requirements, the statute implies that the governing body of the county or city concerned may order a refund, but it will be observed that the statute does not state specifically the reasons for which such a refund can be made. The grounds permitting the refund must be deduced from the latter part of the statute. There it is stated that if the point reaches the courts, the taxpayer is entitled to judgment if "it shall be determined that such tax or any part thereof was levied or assessed for an illegal or unauthorized purpose, or was for any reason invalid or excessive . . ." If these reasons constitute grounds for judgment in court, presumably they constitute grounds on which a governing body may make its decision to grant a refund. On examination it will appear that these grounds for refund are identical with the two grounds already stated as proper grounds for release or reduction in a tax bill prior to its payment.

Thus far in the discussion, it has been explained that for certain reasons tax bills may be released or reduced before they are paid. It has also been explained that even after taxes have been paid, under certain strict regulations, if those same grounds exist tax bills may be released or reduced and the taxes refunded. Those regulations, however, make it imperative that the tax be paid under protest and that demand for refund be made promptly thereafter. The resulting implication is that no unit governing board may ever make a refund for taxes already paid under any other circumstances without possibility of personal liability. But there is still one situation that seems to offer problems: Assume that the taxpayer has paid the tax and made no protest at the time of payment. Assume also that, subsequent to the payment, it comes to the governing body's attention that the tax is illegal or that some clerical error was made in its computation. If that is the case, is there no way in which the board can do justice and make a refund?

G.S. 105-405.1 addresses itself to this factual situation. This statute must be understood, however, in the light of the strict legislative policy against laxness in the collection and handling of tax funds. It gives governing boards authority to remedy the situation now under discussion (1) if the tax is wholly or partially illegal or incorrectly computed or entered, and (2) if certain strict procedures are followed, and (3) if the board decides that it feels the refund is proper. This last qualification is significant. Even if the first qualification is found to exist, and even if the second is complied with, the county commissioners or city councilmen are not forced to make the refund. It is a permissive right; they may refuse to exercise it. Assuming, however, that the board wants to grant the refund under the facts involved, it should be observed that the usual legal reasons for any release, reduction, or refund must exist. Furthermore, before the governing body can exercise its permissive power, a new set of procedural steps must be taken:

1. The taxpayer must make a demand for refund for one of the two reasons mentioned in writing within two years from the date the tax was due to be paid, that is, within two years from the first Monday in October of the year in which it was levied.
2. Furthermore, the governing body, upon receiving the written demand, must pass a resolution finding as a fact that one of the two grounds for refund applies to the particular claim, and this resolution must be recorded in the minutes of the governing body. Such resolutions should spell out the exact facts in each case.

Thus, if the tax is illegal or incorrectly computed, even if it has been paid without protest, the governing body has this possible legal basis for making a refund. But even then it can make the refund only if the taxpayer follows the procedural course strictly. A governing body has no legal right, even where it finds the tax to be illegal, to make voluntary refunds without a proper request from each taxpayer concerned.

Part 4

The Right to Compromise Claims for Taxes, Penalties, and Interest

Is there any authority for compromising a tax claim over and beyond the power to reduce or release such a claim? Or must a compromise be considered on the same grounds as a release or reduction? In other words, may a governing body ever feel free to bargain with a taxpayer about the amount of taxes, penalties, and interest legally due and collectible?

In one sense the county commissioners and taxpayer always bargain or compromise when they meet for the purpose of adjusting the assessment on a piece of property. That is inherent in the process, but it is not a compromise of the kind being considered here. That is a matter of

judgment in the application of standards of value.

In much the same way a compromise might be spelled out in all refund discussions. The governing board is presented with the necessity of deciding a legal question: Is the tax illegal? Has the taxpayer complied with the statutory requirements for refund? Deciding that question might be called a compromise in some situations. In the main, however, when the legal answer is ultimately decided, there is no tax due or else the entire tax is due, the taxpayer has complied or he has not complied. The board should rely on competent legal advice in all such problems and, in accordance with that advice, either make the refund or let the claimant take the matter to court.

Beyond these points, however, there are two situations in which the desire to compromise a tax claim frequently arises. These must be discussed separately because the governing body's powers differ in handling each.

I. Discovered Property and Late Listing Penalties: County and city commissioners and tax officials always have a duty to be on the lookout for unlisted property. When such property is discovered, the county tax supervisor or some person designated by him or, in case the discovery is made by a municipal official, some designated municipal tax official, must *list* the discovered property for taxation. If the owner will not agree to the assessment suggested by the listing official, assessment of the property must be handled by the governing board. If discovered by a city official it is often simpler to refer the matter to the county rather than have the city council assess the property, but, until the county does assess it, the city council may do so if desired. At any rate, the owner must be given notice and a chance to be heard before the governing board on the matter of assessment. If the property has not been listed for some years previously, under normal circumstances the tax officials are permitted to list it to the current owner for as many as five years in addition to the current year. G.S. 105-331(2) and (5). Once the assessment has been determined, the taxes due for the years in which the property has escaped taxation are computed and appropriate penalties for failure to list and the applicable interest are added. Not infrequently at this point an effort is made to get the governing body to agree to compromise its claim for taxes, penalties, and interest on the discovered property at a figure lower than might be legally asserted. Occasionally the governing body will see advantages in such a compromise. The North Carolina statutes recognize this and, in this one situation, allow the board to compromise. The pertinent language of G.S. 105-331(4) reads as follows:

> The board of county commissioners or the governing body of any municipal corporation is hereby authorized and empowered to settle or adjust all claims for taxation arising under this section or any other section authorizing them to place on the tax list any property omitted therefrom.

It is important to notice that this power to settle or adjust the claim can be exercised only before the taxpayer pays the bill. Once it has been paid, the power to compromise lapses, and the governing body must follow the usual procedures for making refunds as outlined in Part 3 of this article.

Allied to the problems involving discoveries is another common situation. A property owner fails to list during the regular listing period, but comes in later and lists voluntarily. Sometimes he will present a reasonable excuse for not having listed on time; perhaps he was sick and unable to leave home or obtain an agent qualified to list for him. Here there has been no discovery in the true sense, yet G.S. 105-331(3) makes it clear that the "penalty for failure to list property or a poll before the close of the regular listing period shall be ten per cent (10%) of the tax levied for the current year on such property or poll." The penalty is automatic, yet in the kind of case described here commissioners may want to release the penalty or reduce it. May they do so? Under the terms of G.S. 105-331(4) they may treat this penalty exactly as they do claims for taxes on discovered property. In other words, they may compromise their claim for the penalty, but they should not compromise at less than $1.00. The governing body should not adopt a general policy and direct the tax officials to reduce all late listing penalties to $1.00 in advance of actual decision on each case. They should weigh the merits of each situation.

II. Delinquent Taxes, Penalties, and Interest: The power to compromise late listing penalties has already been discussed and will not be touched on further. But situations often arise in which the taxing unit sees a chance to collect some portion of a long delinquent tax account, but little chance to collect all of it. Often the principal amount of the claim is small, but penalties and interest may have swollen it to sizeable proportions. Collectors and governing bodies are human, and the facts in these cases often present appealing excuses for compromising the unit's claim at something less than the legally-enforcible total. The collector is always eager to be able to clear up and write off old accounts. Can a governing board authorize the collector to accept less than the total of principal, penalties, costs, and interest due in complete settlement of its entire claim? The answer has already been given. The tax is legally due; the penalties and interest constitute part of the tax claim and are due to be paid just as much as the principal. No question of discovered property is involved. The claim stands on the same footing as all others. To release any portion of the claim would constitute a violation of G.S. 105-403, and the board members would be personally liable if they did so.

This is the status of the general law on the subject of compromises and should be followed in most North Carolina counties and municipalities, but certain county and city governing bodies have occasionally been granted special powers of compromise by special acts of the General Assembly. Thus, when the situation is presented, it will be necessary for commissioners to have their attorneys determine whether they have been granted any such special authority and, if so, the limits of that authority. These compromise statutes are not always identical, and some of them are fairly limited in application. Without raising the question of whether such special acts are constitutional, the following samples will serve to illustrate the forms in which such acts can be found in the North Carolina statutes:

1. The broadest authority:
   Authorizes the governing body "to adjust, reduce, compromise, agree upon or otherwise settle any delinquent taxes now due . . . or any taxes which hereafter may become delinquent. This power . . . may be exercised regardless of whether any action at law or any proceeding whatsoever has been instituted to foreclose any tax sales certi-

ficates or for the collection of said delinquent taxes."

For examples, see Session Laws of 1945, chapters 209, 474, 612; Session Laws of 1947, chapter 47.

2. Authority limited to taxes for a certain year and those prior thereto:
Authorizes the unit governing body "to adjust, remit, compromise, or otherwise settle delinquent taxes for the year 1938 and all prior years, regardless of whether an action at law has been instituted to foreclose tax sale certificates."

For examples, see Session Laws of 1945, chapter 489; Session Laws of 1947, chapters 108, 334, and 855.

3. Authority limited to compromise on penalties and interest only:
Authorizes governing body "to release, discharge, remit, or commute the penalty, or any portion thereof, on delinquent taxes which have been due . . . ten years or more; *provided further*, that the failure to collect said tax shall have been caused in whole or in part by the error, negligence or lack of diligence on the part of the tax collecting agencies . . . and that this fact be made to appear to [the governing body] affected by a certificate of the . . . officers charged with the duties of collecting said tax. . . . When the [governing body] desires to release, discharge, remit, or commute the penalty on any tax, it shall adopt a resolution setting forth in each case the action taken and the reason therefor; which resolution must be spread upon the minutes of the . . . governing body.

For examples, see Session Laws of 1945, chapter 324, and Session Laws of 1947, chapter 96.

4. For additional examples in which reduction in assessment for earlier years is also permitted, see Session Laws of 1947, chapters 175 and 535.

Note

The Right to Reduce Assessments and Reduce and Refund Tax Bills on Account of Damage or Destruction to Property by Wind or Windstorm between Midnight, December 31, and Midnight, March 31

In Part 2 of this article it was pointed out that assessed valuations cannot be changed by reason of facts or circumstances that take place or mature after January 1, the tax listing date, that the assessment must always reflect the condition of the property on January 1. A footnote in connection with this general statement indicated that there is one exception to this rule. A similar footnote in Part 3 of the article mentioned a special ground for refund. This note deals with that exceptional assessment and refund situation.

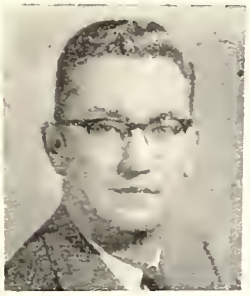
If a taxpayer's property is destroyed, partially destroyed, or damaged by a tornado, cyclone, hurricane, wind, or windstorm between midnight December 31 and midnight of the following March 31, both county and city governing bodies, under certain conditions, are permitted to make downward adjustments in the taxpayer's assessment and tax bill. The right to reduction, however, is conditional. If the property-owner has been reimbursed for the loss by insurance or otherwise, or if the damage has been repaired by some agency or organization without his having paid full value for the repairs or restoration, the statute makes it clear that he must still list and be taxed on a valuation equivalent to the reimbursement, restoration, or rehabilitation. Thus, it is possible that he may be entitled to no relief at all.

In this situation it is important to observe that the statute concerned, G.S. 105-405, envisions having the property-owner make application for relief. It does not envision unilateral action by the governing body of the county or municipality. In fact, it is incumbent on the property-owner that he make application for relief to the governing bodies involved *within one year* of the date of the destruction or damage. If the relief is available it can take the form of reduction in the assessed valuation of the property or reduction of the tax bill and, if the tax has already been paid, an appropriate refund, possibly the relief could take both forms in the same case. If the loss is reported to the county commissioners and city council prior to the time the tax bills are computed—a very likely case, the assessed valuation of the property can be reduced and, when computed, the county and city tax bills will reflect the reduction. If the claim is asserted after the bills are computed and before the taxpayer has paid his bill, both governing bodies have power to make a clerical reduction in the assessed value of the property and recompute the bill. If the taxpayer has paid his bill before he reports the damage and requests relief, both governing bodies have power to make a proper clerical reduction in the assessed valuation of the property, recompute the tax bill, and grant a refund of the excess. In this last situation, the fact that the tax was not paid under protest would have no bearing either on the taxpayer's right to a refund or on the governing body's right to grant it.

This kind of reduction in assessed valuation of the property presents a special case. It is not necessarily a reduction based on the actual loss in value to the total real estate item; instead, if the loss has been compensated, the assessment for the particular year will be an arbitrary figure arrived at in the following way:

> From the total assessment placed on the land and building at the last revaluation, deduct the amount allocable to the building. From the segregated building assessment, deduct an amount equal to the loss sustained thereon by wind damage. If the property owner has received or may receive reimbursement for the loss (a) from insurance or otherwise, or (b) if the property has been restored or rehabilitated by some welfare agency without the owner's having paid full value therefor, then the value of the reimbursement or rehabilitation is to be added to the remaining assessment against the damaged building (if any), and the sum of the two figures is to be added to the segregated land value making the total assessment against which the tax rate is to be applied.

All of this process produces an assessed valuation that should last only until the next tax-listing period. As pointed out in Part 2 of this article, regardless of reimbursement or restoration, if the damage or destruction to the property affects its value more than $100, the whole question of the assessment is subject to review and adjustment for purposes of taxation in the year following the year in which the loss was sustained.



COUNTY GOVERNMENT

By JOHN ALEXANDER McMAHON
Assistant Director, Institute of Government

Commissioners and Accountants Convention

The State Association of County Commissioners and the State Association of County Accountants held their annual convention in Asheville from August 21 to August 24. Over two hundred fifty people registered for the convention.

Among the speakers were Attorney General William B. Rodman and Assistant Attorney General I. Beverley Lake, who discussed different aspects of the segregation problem, and Miss Ruth Current who discussed the home demonstration program. In addition, Nathan Yelton, secretary of the retirement systems, discussed the various retirement plans and the new plan for integrating retirement and social security; W. E. Easterling, secretary of the Local Government Commission, discussed the new County Fiscal Control Act; and Henry W. Lewis and Alex McMahon, assistant directors of the Institute of Government, discussed other legislation of interest to county officials.

The following resolutions were adopted by the convention: (1) Endorsing the recommendations of Governor Hodges for the maintenance of the public school system on a basis of voluntary segregation; (2) Requesting representation on governing and advisory boards of state agencies and on study commissions which affect county government and a closer working relationship between county commissioners of the state and the various state departments and agencies; (3) Recommending greater cooperation, understanding, and exchange of information between counties and cities and between the State Association of County Commissioners and the North Carolina League of Municipalities; (4) Recommending an increase in the facilities at the Hoffman Training School for Negro boys; (5) Recommending to the Congress of the United States the enactment of legislation authorizing the extension of Social Security to policemen, firemen, and other law enforcement officers of North Carolina; and (6) Recommending to the State Migrant Labor Board the development of a joint federal-state-county cooperative plan for welfare assistance to migrant laborers.

Officers of the State Association of County Commissioners elected for the coming year are Wally G. Dunham, Forsyth County, president; D. L. Alford, Jr., Nash County, first vice-president; J. M. Pleasants, Moore County, second vice-president; and J. Henry Vaughan, Nash County, executive secretary-treasurer. Members of the new board of directors are John E. Boone, Northampton County, first district; J. Vance Perkins, Pitt County, second district; Ralph Horton, New Hanover County, third district; R. P. Holding, Johnston County, fourth district; George Kirkland, Durham County, fifth district; L. E. Ray, Cumberland County, sixth district; C. J. Hunt, Guilford County, seventh district; J. M. Pleasants, Moore County, eighth district; E. M. Hunt, Davidson County, ninth district; J. Lee White, Cabarrus County, tenth district; Stewart Lingle, Caldwell County, eleventh district; Vance L. Wagner, Iredell County, twelfth district; J. Arthur Blanton, Rutherford County, thirteenth district; and A. J. Sutton, Swain County, fourteenth district.

Officers of the State Association of County Accountants elected for the coming year are Flora E. Wyche, Lee County, president; Hugh L. Ross, Guilford County, first vice-president; J. D. Potter, Carteret County, second vice-president; and Mrs. J. C. Spencer, Caldwell County, secretary-treasurer.

The site of next year's convention was left to the decision of the board of directors.

Tax Rates

In 1953 and 1954, POPULAR GOVERNMENT carried a comparison of tax rates in a number of North Carolina counties. In 1953, information was available comparing tax rates in 50 counties with the rates of the preceding year. In the 50 counties, 27 retained their 1952 rates, 12 decreased the rate from 1952, and 11 counties had an increase in the tax rate. In 1954, information was available for 68 counties. Of these, 38 retained their 1953 rate, 9 decreased their tax rate, and 21 counties increased their rate.

When this issue of POPULAR GOVERNMENT went to press, 1955 tax rate information was available for 98 counties. Again, a majority of the counties, 51 in all, retained the rate of the preceding year. Eight counties decreased their rates from 1954, while 39 counties had an increase in the rate. Percentage wise, more counties had an increase in the rate in 1955 than was true in the preceding two years, while a slightly smaller percentage retained the same rate, and a smaller percentage had a decrease in rate.

The eight counties decreasing the tax rate were Caswell, Gates, Green, Hyde, Martin, Mitchell, Onslow, and Polk. Green County, because of a revaluation, had the largest decrease, from $2.50 in 1954 to $1.25 in 1955. Polk County, because of lower debt service requirements and economies in operation, had a 20-cent decrease, and Hyde County had an 18-cent decrease. The Hyde decrease was attributed to increased valuations which resulted from improved methods of listing personal property. The other counties had reductions of between one and five cents.

Ashe County led the list of counties increasing tax rates with an 80-cent increase. Currituck was next with a 60-cent increase, followed by Clay with 50 cents, Madison with 34 cents, and Buncombe with 30 cents. Next were Dare, Edgecombe and McDowell with an additional 25 cents, Wake with 24 cents, and Cherokee with 22 cents. Six counties had an increase of between 15 and 19 cents: Alleghany, Bertie, Catawba, Cleveland, Davie, and Forsyth. Gaston County had a 12-cent increase, and Alamance, Alexander, Anson, Davidson, Harnett, Lenoir, Person, Ruther-

(Continued on inside back cover)

LAW ENFORCEMENT

By Richard A. Myren

Assistant Director, Institute of Government

An inquiry received at the Institute recently questioned the validity of a commitment form enclosed which was labeled "COMMITMENT TO JAIL—On Arrest." This was a printed form which apparently has widespread distribution and use in North Carolina. Since use of this form appears to be an invalid commitment procedure, portions of the inquiry answer are set out here for general information.

A commitment by a magistrate is a judgment of the magistrate that an arrested subject shall be committed to jail because:

1. At the time of the preliminary hearing, a finding of probable cause is made to bind the subject over for trial in the superior court or the subject waives preliminary hearing, on a charge of a capital offense which is bailable only in the discretion of a superior court judge;
2. At the time of the preliminary hearing, a finding of probable cause is made to bind the subject over for trial or the subject waives preliminary hearing, on a non-capital offense, and he is not able to make the bond which the magistrate sets;
3. At the time of the preliminary hearing on a non-capital offense, the subject requests a continuance in order better to prepare for the hearing, and is not able to meet the bond which the magistrate sets;
4. At the time of trial there has been a conviction and a sentence to jail which the subject decides not to appeal;
5. At the time of trial, there is a conviction and sentence to jail which the subject decides to appeal, and he cannot make the bond set by the magistrate; or because
6. The subject has not been able to meet a peace bond set by the magistrate.

These are the only situations in which a magistrate will make a commitment. In these cases, the commitment order, pursuant to G.S. 15-125, will contain the following information:

1. Name of the person charged;
2. Character of the offense with which he is charged;
3. Name and office of the magistrate committing him;
4. Manner in which he may be discharged; if upon giving recognizance or bail, the amount of the recognizance, the condition of the performance of which it shall be discharged, and the persons or magistrate before whom the bail may justify; and
5. The court before which the prisoner shall be sent for trial.

The only exception is the case of commitment after trial and sentence which is not being appealed, in which case items four and five will be replaced with information as to the length of the sentence.

The form which was forwarded apparently does not apply to any of these cases. It appears to be designed for the use of magistrates associated with law enforcement agencies who restrict their judicial acts to the issuance of warrants. Such officers may be JPs, deputy clerks of court, or officers simply given authority to issue warrants by special act and are commonly called "warrant officers" or "warrant clerks." The purpose of the form would appear to be to authorize a jailer to hold an arrested person for an indefinite period pending a preliminary hearing before another justice or magistrate. This is illegal. In cases of arrest without warrant, the arresting officer is required to procure a warrant as soon as is reasonably possible. This means as soon as a magistrate is available. As soon as the warrant is obtained or as soon as is reasonably possible after arrest with a warrant, the arresting officer is required to take the arrested person before a magistrate for a preliminary hearing. This is at once if a magistrate is sitting, unless the subject is so intoxicated that the hearing would be a farce, in which case as soon as is reasonably possible would mean as soon as the subject sobers up and a magistrate is available. In all cases except intoxication when arrest was without warrant, the preliminary hearing should be immediately after the warrant is obtained and before the same magistrate.

In cases where the magistrate issuing the warrant does not have power to hold the preliminary hearing, that is where he is a warrant officer only, that magistrate should not issue a "COMMITMENT TO JAIL —On Arrest," but should make the arrest warrant returnable on its face to the magistrate who will hold the hearing. Then the hearing should be held before that magistrate as soon as is reasonably possible. If jailing is necessary pending that hearing because of drunkeness or because the magistrate is not immediately available, no commitment order is necessary. This is the one case when the jailer is authorized to hold a prisoner without a written commitment order.

Personnel Changes

Since this column last appeared, what seems to be an unusual number of important law enforcement personnel changes have occurred. In the county police departments, Chief Stanhope Lineberry of the Mecklenburg Department has resigned to become chief security officer at the new Nike plant at Charlotte. He has been succeeded by Captain Joe D. Whitley. The captaincy vacated by Chief Whitley has been filled by the promotion of Sgt. G. A. Stephens. Patrolman Eugene Rushing was promoted to sergeant. One of the new county departments, that of Cumberland, will be headed by Glenn Buchanan, the big former chief of the Sanford department.

Appointments of new chiefs by the governing bodies of 12 municipalities have come to our attention. These cities and towns and their new chiefs are as follows: Aberdeen, Chief Bob

Yates; Albemarle, Chief Craven C. Tarleton; Beaufort, Chief Guion Springle; Belhaven, Chief Paul Alcorn; Carolina Beach, Chief Paul P. Wolfe; Dallas, Chief I. L. "Mule" Gardner; East Spencer, Chief George W. Peeler; Graham, Chief Duke B. Faris; Hillsboro, Chief George Hunt; Littleton, Chief D. M. Winfree; Lowell, Chief Johnny Wallace; Mayodan, Chief J. L. "Lin" Shelton; Spindale, Chief Roland Mayse; and Washington, Chief Phillip L. Paul.

Radio News

Police communications have come into the news in North Carolina highlighted by an announcement from Greensboro that the system there will be completely revamped, making it the equal of any system in the country. Because of the great assistance that such a system would be in case of emergency, the federal civil defense authorities will pay half the cost of $23,804. A story from Winston-Salem also tells of a complete revamping of the communications center of the police department there. The new center will provide better utilization of space and will facilitate the work of the switchboard operator. Two sheriff's departments are making radio news too. Sheriff B. A. Henry of Johnston County and Sheriff John B. Allen of Bladen County both report the installation of two way radio systems in their departments. These modern communication systems may well make the difference in many a criminal case.

New Narcotic Regulation

In the legislative issue of POPULAR GOVERNMENT, mention was made of Chapter 278 of the 1955 Session Laws authorizing oral prescriptions for narcotics under regulations to be announced. These federal regulations, which are now law in this state as well by virtue of the above statute, have just been released. The text of this regulation as forwarded to the Institute by the North Carolina Pharmaceutical Association of Chapel Hill, which will be of interest to all law enforcement agencies, is set out below:

FINDING AND DESIGNATION OF NARCOTIC DRUGS AND COMPOUNDS OF NARCOTIC DRUGS SUBJECT TO ORAL PRESCRIPTION PROCEDURE

Pursuant to authority delegated by Treasury Department Order No. 180-2 (19 F.R. 6399), and under section 7 of the act of August 31, 1954 (68 Stat. 1001; 26 U.S.C. 4705), and article 172 of Narcotic Regulations 5 (26 CFR 151.172; 20 F.R. 1132), the following narcotic drugs and compounds of narcotic drugs are hereby found and designated to possess relatively little or no addiction liability:

151.172a NARCOTIC DRUGS AND COMPOUNDS FOR WHICH ORAL PRESCRIPTION IS AUTHORIZED.

(a) Any isoquinoline alkaloid of opium or any salt of any such isoquinoline alkaloid, alone or in combination with other active, non-narcotic medicinal ingredients.

(b) Apomorphine or any salt thereof, alone or in combination with other active, non-narcotic medicinal ingredients.

(c) N-allyl-normorphine (Nalorphine, Nalline) or any salt thereof, alone or in combination with other active non-narcotic medicinal ingredients.

(d) Any compound consisting of methylmorphine (codeine) or of any salt thereof with an equal or greater quantity of any isoquinoline opium alkaloid or salt thereof, where the content of methylmorphine or any salt thereof does not exceed eight grains per fluid ounce or one grain per dosage unit of the compound.

(e) Any compound consisting of methylmorphine (codeine) or of any salt thereof with one or more active, non-narcotic ingredients in recognized therapeutic amounts, where the content of methylmorphine or salt thereof does not exceed eight grains per fluid ounce or one grain per dosage unit of the compound.

(f) Any compound consisting of dihydrocodeinone (Hydrocodone, Dicodid, Hycodan) or of any salt thereof with a four-fold or greater quantity of any isoquinoline opium alkaloid or salt thereof, where the content of dihydrocodeinone or any salt thereof does not exceed one and one-third grains per fluid ounce or one-sixth grain per dosage unit of the compound.

(g) Any compound consisting of dihydrocodeinone (Hydrocodone, Dicodid, Hycodan) or any salt thereof with one or more active, non-narcotic ingredients in recognized therapeutic amounts, where the content of dihydrocodeinone or of any salt thereof does not exceed one and one-third grains per fluid ounce or one-sixth grain per dosage unit of the compound.

(h) Any compound consisting of dihydrohydroxycodeinone (Oxycodone, Eucodal) or any salt thereof with one or more active non-narcotic ingredients in recognized amounts, where the content of dihydrohydroxycodeinone or of any salt thereof does not exceed two-thirds grains per fluid ounce or one-twelfth grain per dosage unit of the compound.

(i) Any compound of ethylmorphine (Dionin) or of any salt thereof with one or more active, non-narcotic ingredients in recognized therapeutic amounts, where the content of ethylmorphine or any salt thereof does not exceed one and one-third grains per fluid ounce or one-sixth grain per dosage unit of the compound.

Because the finding and designation made by this Treasury decision relieves restrictions, it is found unnecessary to issue the decision with notice and public procedure thereon under sec. 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of sec. 4 (c) of that act.

This Treasury decision shall be effective upon its filing for publication in the FEDERAL REGISTER. (68 Stat. 1001; 26 U.S.C. 4705)

(SEAL) G. W. CUNNINGHAM
ACTING COMMISSIONER OF NARCOTICS

SEPTEMBER 1, 1955

(F.R. Doc. 55-7200; Filed, Sept. 2, 1955; 8:56 a.m.)

Medical Examiner

(Continued from page 4)

for any professional, technical or clerical assistants deemed necessary by the Health Officer to carry out the provisions of the act. As mentioned above, there is some doubt as to whether the cost of toxicological services furnished to the counties will be born by the state or allocated to the counties. The cost of any services rendered any individual or agency (such as insurance companies and the State Industrial Commission) will be allocated to such individuals and agencies. At present, the Board of Health has assumed administrative responsibility for the act without additional appropriation. It would seem that such appropriation would be needed in the future for effective operation unless the Committee is successful in obtaining private support. This appears unlikely on any long term basis.

In addition to the indirect cost of tax support for the governmental agencies involved, the public will be required to pay directly for some services under the act. New burial and cremation permits are required under the act which will be obtainable from the local medical examiner. He will be allowed a fee for giving these permits, which will be set by the Commissioners after consultation with the Committee.

THE CLEARINGHOUSE

Arson Investigators School Scheduled

The fourth annual Arson Investigator's School (Primary Course) will be held at the Institute of Government, in cooperation with the State Department of Insurance, during the week of November 14-19. Richard A. Myren, Assistant Director of the Institute, will be in charge of the school.

The 38-hour program of instruction will include lectures on the following phases of unlawful burnings and related crimes: the laws involved; causes and behavior of fires; detection of point of origin; the securing, preservation, and presentation of evidence; interrogation; arson motivation; use of the psychograph; medico-legal aspects of unlawful burnings; rural fires; city fires; automobile fires; structural fires; arson from the point of view of the solicitor; arson cases as viewed from the Bench; juvenile and mentally ill fire setters; firearms; and questioned documents.

This year's instruction will stress a practical approach to the problem. Automobile, rural, and city unlawful burnings will be presented by means of illustrated case histories. Structural fires and automobile fires will also be considered as practical investigation problems. Mimeographed lists of facts of a case will be submitted to "investigation teams" chosen from the officers attending the school. Each team will then explore the problem from all possible angles, after which the method and result of its examination will be critiqued.

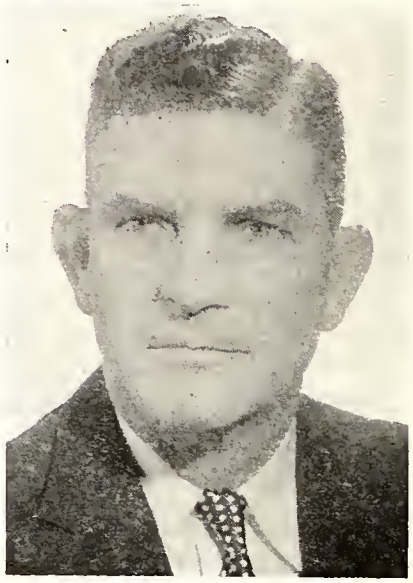
Included in the list of speakers are Albert Coates, director of the Institute; Charles F. Gold, Commissioner of Insurance; Roland Smith, special agent, arson division, National Board of Fire Underwriters; Tom Moore, Department of Insurance; Capt. Fred Truelove, fire prevention bureau, Greensboro Fire Department; A. E. Pearce, Department of Insurance; Cecil C. Duncan, Department of Insurance; Lewis E. Williams, special agent, S.B.I.; Robert L. Turnage, Department of Insurance; Henry N. Martin, special agent, arson division, National Board of Fire Underwriters; W .R. McNeill and Louis Reineri, National Automobile Theft Bureau; Haywood Starling, special agent, S.B.I.; G. D. Holding, branch manager, General Adjustment Bureau, Charlotte; James F. Bradshaw, Jr., assistant director, S.B.I.; J. L. Boyd and James Durham, special agents, S.B.I.; Dr. Rene Hardre; W. C. O'Neal, Department of Insurance; Neal Forney, youth bureau director, Charlotte Police Department. Additional speakers will be announced.

After a graduation ceremony, the school will end at noon on Saturday, November 19, in time to allow students to attend the Carolina-Virginia football game.

BOND SALES

During the past five months, the Local Government Commission has sold bonds for the following governmental units. The unit, the amount of bonds, the purpose for which the bonds are being issued, and the effective interest rate are indicated.

Unit	Amount	Purpose	Rate
Burke County	$1,235,000	School building	2.39
Carteret County	80,000	Courthouse and jail	3.02
Durham County	213,000	School building	1.69
Hertford County	145,000	Courthouse	1.89
McDowell County	1,000,000	School building	2.48
Mecklenburg County	800,000	Library	2.15
Northampton County	500,000	School building	2.30
Vance County	50,000	School refunding	1.69
Calypso	100,000	Water	3.65
Candor	142,000	Water	3.47
Charlotte	800,000	Library	2.22
China Grove	75,000	Sewer	2.34
Fairmont	69,500	Public improvements	2.24
Garland	110,000	Water	3.87
Hendersonville	300,000	Water	2.94
Hillsboro	50,000	Water	2.48
Jacksonville	125,000	City Hall	2.96
Leaksville	250,000	Water and sewer	2.99
Rocky Mount	2,600,000	Water, sewer, and electric light	2.44
Sanford	570,000	Water, street, and swimming pool	3.65
Woodland	86,000	Sewer	3.79
Franklinton School District	200,000	School building	2.93
Marshall School District	50,000	School building	3.08



Chatham Register Elected to National Office

Lemuel R. Johnson, Register of Deeds of Chatham County, has recently been elected Third Vice President of the National Association of County Recorders. The Association held its annual meeting in conjunction with the conference of the National Association of County Officials, on July 17 to 20 in Richmond, Virginia.

Mr. Johnson had a place on the 1955 convention program of the National Association of County Recorders, describing to the delegates the work of the Institute of Government and the services it renders to local officials in North Carolina.

Mr. Johnson has been Register of Deeds in Chatham County since his appointment to fill a vacancy in the office in 1949. He has been regularly re-elected since that time. He helped organize the North Carolina Register of Deeds Association, and served as its President in 1954-55.

Social Security Ruled Available to Sheriffs

Attorney General William B. Rodman, Jr., has ruled that the Federal Old Age and Survivor's Insurance Act excludes municipal policemen and firemen from OASI coverage but does not exclude other law enforcement officers who belong to or are eligible for membership in the Law Enforcement Officers' Benefit and Retirement Fund.

This ruling of August 25, 1955, will permit sheriffs, deputy sheriffs, state

highway patrolmen, and other county and state law enforcement officers who have hitherto been excluded from OASI coverage to be brought under OASI. To obtain coverage under OASI, officers now belonging to a public retirement system must vote in favor of such coverage in a referendum to be supervised by Nathan Yelton, Executive Secretary of the Teachers' and State Employees' Retirement System.

Senators Ervin and Scott introduced Senate Bill 2646 in Congress earlier this year to amend the Social Security Act to permit North Carolina policemen and law enforcement officers to become eligible for Old Age and Survivor's Insurance coverage. No action has been taken on this bill as yet, but hearings may be held on it early next year.

Municipal Administration Seminar to Begin

The Institute of Government announces that the second annual course in Municipal Administration for city managers, department heads and other city officials will begin in November, 1955, and run through until May, 1956. Designed as a comprehensive course for city officials desiring additional training in management, the 150-hour course is conducted on alternate weekends throughout the winter except for two three-day sessions at Chapel Hill at the beginning and at the end of the course.

First session of the class will be held November 16-18, following which the class will meet on ten weekends (beginning at 1:30 Friday afternoon and running until 12:30 on Saturday afternoon)—December 9-10, January 6-7, and every two weeks thereafter until the first week in May. The final three-day meeting of the class is scheduled for May 9-11.

Eighteen city managers and other city officials completed the first course last year and received certificates. Enrollment is open to any city official in North Carolina, but the Institute of Government reserves the right to limit the number of students to thirty. Application should be made as soon as possible to George H. Esser, Assistant Director of the Institute. Application blanks and other information on the course have been sent to all cities in the state.

The course includes twenty hours of background material on municipal government and general principles of administration, thirty hours in municipal finance, twenty hours in public personnel administration, ten hours in planning, and forty hours in municipal line functions and policy. The final thirty hours in the course are utilized in problems requiring the active participation of each student in the analysis of problems in municipal management. Throughout the course problems taken from actual situations in North Carolina city government are emphasized. From time to time guest speakers with experience in varied fields will supplement staff members of the Institute of Government on the faculty.

Local Government Law

The Local Government Commission met a long-felt need this summer when it published *North Carolina Local Government Law*, a compilation of the major constitutional and general statutory provisions governing the administration and financing of county and municipal governments and of sanitary districts.

In the words of the preface to the new publication, "It does not include those statutory provisions compiled by other State agencies in their area of interest, for there should be no need to duplicate existing compilations as are available on health laws, welfare laws, school laws, and property tax assessment and collection laws. Moreover, some sections of the county and municipal chapters (Chapters 153 and 160, respectively) of the General Statutes have been omitted, including those sections which are seldom if ever used and those sections which are generally covered by local law or municipal charter."

The volume includes applicable laws passed by the 1955 General Assembly. It has been published in looseleaf form so that it may be brought up to date after future sessions of the General Assembly. In addition to these future supplements, the Local Government Commission plans to publish in the future an index for insertion in the volume.

This publication will be of great value to local governmental officials throughout the state, for it brings together in one volume of 267 pages the major statutes with which they will be concerned. The Local Government Commission has written to each county accountant and each city or town clerk, offering their respective governments three copies for 50 cents apiece. This minimum charge has been set to cover the cost of packaging and mailing. Additional copies will be available to governmental officials and others at $3.00 per copy, postpaid. Orders may be sent to W. E. Easterling, Secretary, Local Government Commission, Education Building, Raleigh.

County Government

(Continued from page 9)

ford, Sampson, Tyrrell and Wilson had 10-cent increases. Cumberland and Warren had an increase of eight cents; Pitt and Richmond had an increase of six cents. And seven counties had an increase of five cents or less: Burke, Cabarrus, Graham, Hoke, Mecklenburg, Wayne, and Franklin.

As was true of the preceding years, increased expenditures for public schools led the list of reasons for the increase, with nine counties attributing their increase mainly to increased school expenditures, and three counties attributing part of their increase to the same reason. Next in line were increased expenditures for county hospitals, with seven counties attributing much or all of their increase either to debt service on bonds for the construction of hospitals or to taxes for hospital maintenance. Two counties attributed their increase to additional welfare expenditures. In the other counties, increases in appropriations for a number of departments were responsible.

In the 51 counties with the same rate, it was generally true that budgeted appropriations were higher than the preceding year, but increases in valuations or increases in surpluses or non-tax revenues were available to finance the increased appropriations.

(Tax rate information was not available for Craven and Pender Counties.)

Does it pay to be super cautious at intersections? The Motor Vehicles Department, in summarizing last year's fatal auto accidents, found that 99 death-dealing smashups occurred at intersections. In all there were 12,681 intersection accidents ranging from the 99 fatal to 2,403 injury accidents to 10,179 property damage mishaps.

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)