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Dogwood in the Mountains

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COVER

To most North Carolinians, springtime means "dogwood time." We are anticipating the season just a bit with our cover picture, which was taken near Hendersonville. Photo courtesy of News Bureau, Dept. of C. & D.

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THE CLEARINGHOUSE

Garbage Collection By Private Contract

In Columbia, S. C., all garbage has been collected by a private contractor since 1951. The Columbia garbage collectors went on strike in that year, and the city turned to a private contractor when it was unable to settle the strike rapidly and in the manner that was desired. Columbia was pleased with the private collection arrangement and a new five-year contract was negotiated in 1955.

Bids are now received at the end of each contract period and the award is made on a fixed-price basis. Full details on the quality and quantity of the service to be provided are contained in the contract. Garbage and trash are collected from the back yards of homes and trash is removed from the streets. The contractor is also responsible for operation of the sanitary landfill.

While the contract is for a fixed price, the contractor submits a bid on a monthly basis for the five-year period. He thus anticipates in the original bid the growth in the city's population. In addition, there are two provisions by which the fixed-price may be changed.

First, the contract provides that the city and the contractor will negotiate a price to be paid for service to any areas which are annexed during the term of the contract. Provision for compulsory arbitration is made in case the two parties cannot reach an agreement by negotiation. The arbitration board is composed of three persons, one selected by the contractor, one selected by the city, and a third selected by the first two.

In the second place, the fixed-price contract contains an escalator clause tying the contract price to the Bureau of Labor Statistics Consumer Price Index. A two percentage points increase in the price index will result in a one per cent increase in the collection price. Similarly, a drop of two points in the price index will mean a drop of one per cent in the monthly payment to the contractor.

All the city's garbage collection equipment is sold to the contractor at the beginning of the contract period. The contractor cannot mortgage, lease, or sell any of the equipment, or purchase new equipment, without the consent of the city. And at the end of the contract period, the city has the right to repurchase the equipment at a price which allows for depreciation.

CHARLOTTE CONFERENCE ON URBAN DEVELOPMENT

An urban development conference on downtown, suburban, and area problems was held in Charlotte on March 12 under the joint sponsorship of the Chamber of Commerce of the United States and the Charlotte Chamber of Commerce.

Four outstanding speakers participated in the program. Comprising the national Chamber's "urban development team," they are Philip M. Talbott, senior vice-president of the Woodward and Lothrop department store in Washington, D. C.; Frederick J. Bashaw, real estate consultant and lawyer; Howard Evans, director of the Urban Renewal Service Branch of the Urban Renewal Administration within the federal Housing and Home Finance Agency; and James F. Steiner, assistant manager of the Construction and Civic Development Department of the national Chamber.

This was one of a series of conferences which the national Chamber has held in key cities throughout the country for business and civic leaders and local governmental officials.

The rate of the depreciation is set forth in the contract. Except for this provision, there would probably be only one contractor able to provide collection service at the end of the contract period, and the city would be at his mercy.

Basic Tax Collection Course Offered

From March 5 through March 9 the Institute of Government held a course of instruction in the basic law and practice of collecting county, city, and town property and privilege license taxes. This was the third school of this kind to be presented in response to requests from local officials in North Carolina. Designed primarily for tax collectors who have taken office within the last two or three years, the school sought to acquaint those who attended with the fundamentals of collection work and with the best practices for carrying out the work. Henry W. Lewis of the Institute staff was in charge.

Local Government Notes

Fire Protection

Raeford has established a policy with respect to the use of city fire equipment and personnel in fighting fires outside the city limits. One fire truck will be sent to any fire outside the city limits which is also within 1,000 feet of a fire hydrant within the city limits.

Sanford needs another pumper and will ask the county commissioners to assist in its purchase. At present, the Sanford fire department will answer calls in the county when equipment is available.

Wally G. Dunham, Forsyth County fire commissioner, believes fire insurance rates for suburban and rural areas with approved fire protection are too high and has appealed to State Insurance Commissioner Charles Gold to review the matter.

Action to better its fire insurance rating from Class 5 to Class 4 is being considered by **Gastonia**. The estimated annual cost of the improvements required to obtain the better rating is \$50,000. Additional firemen, another pumper, and improvements in the water distribution system will be necessary.

Miscellaneous

Charlotte already needs more space in its new airport terminal building and has retained an architect to study the problem and draw plans for the necessary expansion.

The citizens of **Durham** will vote in March on a \$5,400,000 bond issue to finance improvements in the water and sewerage systems, a new police station, and a central fire station.

The **Raleigh-Durham** airport is doing well according to a recent report. Net profit from the operation for the period from April to November of last year was almost \$17,000. And during 1955 over 100,000 passengers boarded planes at the airport.

Raleigh's City Council has doubled its automobile liability insurance coverage. Coverage for bodily injury to any one person has been increased from \$25,000 to \$50,000 and total coverage in any one accident has been increased from \$50,000 to \$100,000.



COUNTY GOVERNMENT

By JOHN ALEXANDER MCMAHON

Assistant Director, Institute of Government

District Meetings

The annual district meetings for county commissioners, county accountants, and county attorneys will be held during the last three weeks in March. The dates and places of the meetings are as follows:

March 13, Nash County Courthouse, Nashville; March 14, Pasquotank County Agricultural Building, Elizabeth City; March 15, Masonic Lodge Building, Kenansville; March 20, Moore County Courthouse, Carthage; March 21, Cabarrus County Courthouse, Concord; March 22, Buncombe County Courthouse, Asheville; March 27, Guilford County Courthouse, Greensboro; March 28, Caldwell County Agricultural Building, Lenoir.

The meetings will begin at 10:00 a.m., will recess for lunch, and will adjourn no later than 4:00 p.m.

The main topic on the agenda will be the role of county commissioners in the preparation of school budgets. The Institute of Government has recently published a new guidebook on this subject, entitled *Public School Budget Law in North Carolina*. The guidebook is devoted to an examination of the powers and duties of both boards of education and boards of county commissioners in determining appropriations for the public schools, as well as the responsibilities of various officials in the collection, custody, and expenditure of school funds.

Every county commissioner, county accountant, and county attorney is urged to attend the meeting closest to his home. Experience in the past has indicated that discussions of this kind have helped county officials to a better understanding of their responsibilities in governing their respective counties.

Installment Contract for Voting Machines

A way has been found in one county to buy voting machines on the installment plan.

For many years, it has been thought that counties and municipalities in North Carolina had no authority to buy necessary equipment in installments. One obstacle lay in the fact that it was generally believed that an installment contract incurred a debt for the entire amount of the contract when the contract was entered into. The Constitution of North Carolina contains restrictions on incurring debt, and the General Assembly has never authorized counties and municipalities to incur debt through the device of an installment contract. In an article by William Henry Hoyt and Jefferson B. Fordham, entitled "Constitutional Restriction upon Public Debt in North Carolina," 16 North Carolina Law Review 329 (1938), the authors pointed out that the provisions for deferred payments in an installment contract put that contract on the same basis as serial bonds issued for the same purpose and that in each case "debt for the full amount is contracted at the outset" (page 346). In other words, the purchase of voting machines with payment being made in ten annual equal installments is no different in effect from the issuance of bonds for the voting machines, with one-tenth of the amount of the bonds issued maturing each year for ten years.

A second obstacle lies in the provisions of the County Fiscal Control Act. G.S. 153-130 prohibits counties from entering into a contract "unless provision for the payment thereof has been made by (a) an appropriation . . . or (b) through the means of bonds or notes duly authorized." (G.S. 160-411 contains a similar provision applicable to municipalities.) An installment contract by its nature provides for payments in future years, and these future payments have not been provided for by a current appropriation. Therefore, a true installment contract violates the quoted provision.

Buncombe County has devised a way to purchase voting machines on the installment plan, without either

incurring a debt or violating the provisions of the County Fiscal Control Act. The following provision was contained in the specifications inviting bids on the voting machines: "Each bidder will specify terms of payments. The county proposes to purchase these voting machines on a contract providing for payment in ten (10) equal installments, one-tenth (1/10th) of the purchase price to be paid upon delivery of the machines in good operating condition, and one-tenth (1/10th) of the purchase price to be paid each twelve (12) months thereafter until the entire amount has been paid, giving to the seller a conditional sales contract on the voting machines but no right to a deficiency judgment against Buncombe County. Bidders are requested to state the interest rate, if any, charged on deferred payments. . . ."

Bids were received from two companies. The corporation submitting the lowest bid per machine also submitted the lowest interest rate to be charged on deferred payment—2½ per cent. The contract was awarded to the lowest bidder.

Under the terms of the contract, if the county fails to meet the payments when due the seller may reclaim the machines, but it cannot recover any additional money from the county. The plan, therefore, is very much like the rental of the voting machines on a year-to-year basis, with the county becoming the outright owner of the machines after ten annual payments. Under the reasoning behind the contract, no debt is incurred since the county is not required to make a payment in any future year. Moreover, the provision of G.S. 153-130, quoted above, has not been violated, since the county can not be forced to make any payment in a future fiscal year. The Attorney General has approved this reasoning.

The possibilities of this kind of installment contract are of course not limited to voting machines. Similar
(Continued on inside back cover)

"CONFLICT OF INTEREST" LAWS AND GOVERNMENTAL CONTRACTS

The fact that no man can serve two masters is a principle of human conduct affirmed by St. Matthew¹ and recognized in the English common law for centuries. It was the recognition of this basic fact about the loyalties of men which led to the statutory prohibitions against a public official having a private interest in any contract with the government which he serves in an official capacity.

The North Carolina legislature of 1825 first enacted a prohibition of this type.² The present statute, G.S. 14-234 (essentially the same as the original statute), provides that if any person in a position of public trust makes a contract in which he has a private interest, he shall be guilty of a misdemeanor.

The need for such a prohibition cannot be denied. But it is also recognized that the operation of this restriction imposes hardships at times, both on individuals and on governments.

The most serious problem arises in the small units of government. In these the prohibition often means either that certain individuals are barred from public service, or that the local government must go to extra trouble and expense to secure certain materials and supplies. For example, in a town where there is only one coal dealer, the owner cannot serve on the town council and sell coal to the town at the same time. Or again, if the town has some Ford trucks in operation and the owner of the local Ford agency is elected to the town council, the town must then buy all of its parts and secure all of its garage service at an out-of-town agency (or some garage other than the Ford one, if there is another in the town).

In larger cities and counties, or at the state level, no serious difficulty arises. There are usually many businesses of the same type which would be free to contract with the governmental unit should the owner of one be elected to public office. Nor is the unavailability of certain persons for public office such a loss in the larger units of government. While a small town may desperately need the public service of the only local auto dealer, because of his general ability and the absence of other qualified persons, a large city usually finds any number



By
WARREN J.
WICKER,
Assistant Director
of the
Institute of
Government

of qualified persons who can serve and who also have no possible conflict of interest.

Some officials and municipal authorities believe that certain exceptions to the usual prohibition may be made, if adequate safeguards are provided. The National Institute of Municipal Law Officers has anticipated the trouble small cities have with limited sources of supply and has provided in its model purchasing ordinance that:³

Any purchase order or contract within the purview of this Ordinance in which the Agent, or any officer or employee of the City is financially interested, directly or indirectly, shall be void, except that before the execution of a purchase order or contract the Council shall have the authority to waive compliance with this Section when it finds such action to be in the best interests of the City.

Nevertheless, there have been very few statutes adopted which permit a departure from the usual common law and statutory prohibitions. The general feeling has been and continues to be that expressed by the North Carolina Supreme Court in a case in which only \$3.80 was involved, namely that:⁴

... upon the general principles of law and morality a member of an official board cannot contract with the body of which he is a member. To permit it would open the door wide to fraud and corruption. The other members of the board in allowing compensation thus to one of their members would be aware that each of them in turn might receive contracts and good compensation, and thus public office instead of being a public trust, would become, in the language of the day, "a private snap."

The Restrictions in North Carolina

To just what extent are public officials in North Carolina prohibited from making public contracts with themselves as private persons? G.S. 14-234 provides in part:

If any person, appointed or elected a commissioner or director to discharge any trust wherein the State or any county, city or town may be in any manner interested, shall become an undertaker, or make any contract for his own benefit, under such authority, or be in any manner concerned or interested in making such contracts, or in the profits thereof, either privately or openly, singly or jointly with another, he shall be guilty of a misdemeanor. Provided, that this section shall not apply to public officials transacting business with banks or banking institutions in the regular course of business: Provided further, that such undertaking or contracting shall be authorized by said governing board.

Employees and board members of educational, charitable, and penal institutions are given special coverage in G.S. 14-236 in addition to the general provision above. If any such employee or board member

shall have any pecuniary interest, either directly or indirectly, proximately or remotely in supplying any goods, wares or merchandise of any nature or kind whatsoever for any of said institutions or schools; or if any of such officers, agents, managers, teachers or employees of such institution or school or State or county officer shall act as agent for any manufacturer, merchant, dealer, publisher or author for any article of merchandise to be used by any of said institutions or schools; or shall receive, directly or indirectly, any gift, emolument, reward or promise of reward for his influence in recommending or procuring the use of any manufactured article, goods, wares or merchandise of any nature or kind whatsoever by any of such institutions or schools, he shall be forthwith removed from his position in the public service, and shall upon conviction be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than five hundred dollars and be imprisoned, in the discretion of the court.

In the case of a school board member, his associates on the board are also liable for his actions in this area. G.S. 14-237 states:

If any county board of education or school committee shall buy school supplies in which any member has a pecuniary interest, the members of such board shall be removed from their positions in the public service and shall, upon conviction, be deemed guilty of a misdemeanor.⁵

Cases arising under these statutes have been few in number and of two types: first, contracts for furnishing materials, supplies and construction; and second, contracts for personal services in addition to the regular duties of the official in his elected capacity.

Purchase Cases

In the first group of cases will be found *State v. Williams*⁶ (the first case to reach the Supreme Court under the statute), *State v. Weddell*,⁷ *State v. Debnam*,⁸ and *Lexington Insulation Co. v. Davidson County*.⁹

Williams was a member of the board of aldermen of New Bern and a major stockholder and president of a firm from which the city made a purchase. The firm was the only one in New Bern from which the purchase could be made. The decision to make the purchase (involving \$75.63) was made by the utilities committee without *Williams*' knowledge. When the bill was presented to the board for approval, *Williams* left the room and took no part in the approval. Both the lower court and the Supreme Court found him guilty of violating the statute prohibiting a board member from making contracts where he has an interest. The Supreme Court noted that he was in violation even if he did not know about the contract in the beginning and even if no moral turpitude was demonstrated. (The lower court, incidentally, fined *Williams* one dollar and costs.)

State v. Weddell involved a board member who was also an employee of a firm doing business with the city. *Weddell* was employed as timekeeper and office man for a firm having a street construction contract. While employed with the firm, he was elected to the board of aldermen. He continued his private employment and later voted with other members of the board to award another contract to his employer, the firm which had submitted the low sealed bid.

The jury rendered a special verdict, and both the lower court and the Supreme Court found that *Weddell* had not violated the "contracting for benefit of self" statute. However, Chief Justice Clark noted that his conduct was "not altogether seemly" and was not "to be commended." The chief justice apparently felt that he should have resigned from the board or from his position with the company. For as was noted in the *Williams* case, declining to participate in voting on the matter would not have relieved him of interest had it been present otherwise.

Nineteen years later in *State v. Debnam* the court had no trouble at all in overlooking possible conflicting interests under circumstances involving personal ties much closer than those presented in *State v. Weddell*.

The *Debnam* case involved the chairman of a county board of education who was also the manager of a local automobile company. His wife was the sole owner of the company which he managed. As chairman of the board of education, he voted to purchase some trucks from the company. Two commission salesmen served as agents for the company in negotiating the sale of the trucks to the board. The question was: had the chairman been in violation of the conflict of interest statute?

The jury in a special verdict found that the chairman ". . . had no pecuniary or financial interest . . ." in the contract, and on this basis both the lower court and the Supreme Court found that he had not violated the statute. It is difficult to understand how it might be said that the full time paid manager of a firm (even if he were not married to the sole owner) has no pecuniary interest in the sales of the firm. It could well be, of course, that a similar situation might receive quite a different reception from the present court or from any future one.¹⁰

The fourth and most recent of the cases in this group, *Lexington Insulation Company v. Davidson County*, reached the Supreme Court in the fall of 1955. The chairman of the Davidson Board of County Commissioners was a part owner and officer in the insulation company. In 1951 the county manager (who was also county accountant) executed a contract with the insulation company (with the chairman serving as agent) for insulation work at a cost of \$2,777.32. The chairman then signed a voucher to pay himself, and the county accountant certified that the money for the payment had been duly appropriated. This was not the fact, and, moreover, the other members of the board had no knowledge of the contract at all.

Soon after the work started, one of the other board members learned of the arrangement and immediately called a meeting of the board. The board then demanded that the work stop and that the payment be returned. The chairman returned the money for the firm and brought suit to recover for the actual value of the work which had been performed.

In superior court, the jury award-

ed the firm \$1,000. From this decision the county then appealed.

The Supreme Court, speaking through Chief Justice Barnhill, noted that the contract clearly violated the provisions of G.S. 14-234 which prohibit an officer in public trust from making contracts for his own benefit. As a result, said the court, the contract was void and unenforceable. And as to the right of the firm to recover for the actual value of the work done, the court stated:¹¹

No man ought to be heard in any court of justice who seeks to reap the benefits of a transaction which is founded on or arises out of a criminal misconduct and which is in direct contravention of the public policy of the State.

Public office is a public trust, and this Court will not countenance the subversion thereof for private gain. Not only will it declare void and unenforceable any contract between a public official, or a board of which he is a member, and himself, or a company in which he is financially interested, whereby he stands to gain by the transaction, but it will also deny recovery on a *quantum meruit* basis.

The point at which a conflict of interest develops is not entirely clear. An official who is a stockholder and an officer in a firm would be in a position for his public and private interests to conflict. An official who is also an employee of a firm (and in one case, even a manager) has been found not to have private interests great enough to unduly influence his public judgment. Would the private interest of a board member who is only a minor stockholder in a firm be sufficient to prohibit contracts by the municipality with the firm? The court declined to answer this in the *Williams* case, but the Attorney General has ruled such holdings by a board member would not violate G.S. 14-234.¹²

A recurring problem with municipal boards and school boards is the purchase of land for public use which is owned by a member of the board. One interesting situation of this type arose recently in a North Carolina city. The city had been considering the purchase of a particular piece of property adjoining present municipal land which was needed for expansion of certain municipal facilities. The mayor learned one day that the land was about to be sold and that the sale would be completed before the council could take action. He immediately purchased the property in his own name (at quite a reasonable price) and then offered to sell it to the city for the same amount. Could he do so?

Obviously, he could not without violating the statutes. But what could the city do in a situation such as this? The Attorney General has recommended condemnation where applicable and, in one case, the deeding of the property to a third party by the board member.¹³ Condemnation would seem to be the advisable course when suitable, and it might even be desirable to do as the Greensboro City School Board did in 1951 and secure special legislation providing for condemnation in such circumstances and specifically exempting the interested board member from criminal liability under G.S. 14-234.¹⁴

Additional Compensation Cases

The second group of decisions involves situations in which members of governing boards were awarded special compensation for extra services which they were to perform. The courts have uniformly held such contracts to be void and to violate the conflict of interest statute.

The first of these, *Snipes v. Winston*,¹⁵ arose in 1900. Snipes was a member of the board of aldermen of Winston. While a member, he and the other members agreed that he should serve as "street boss" to supervise work on Winston's streets and sewers for a period of six months. He was to receive \$50 a month in addition to his compensation as an alderman. Two months after he started working a new board was elected and refused to continue his pay. He then brought suit to collect for the remaining four months. Both the lower court and the Supreme Court found the arrangement to be a violation of the statute. Said the Supreme Court

It is against public policy to permit such contracts to be enforced. It would be unsafe to permit the plaintiff, acting as employer, to become himself by the same bargain, employee.

The danger, of course, is that if the board is allowed to employ and provide for extra compensation for one of its members, it might well in turn do so for others. It was just this possibility which the court outlined in *Davidson v. Guilford*.¹⁶ Davidson, a member of the Guilford County Board of Commissioners, had been directed by the board to inspect a certain bridge. He did so and submitted a bill of \$3.00 for the day's work plus mileage of \$.80. Payment was denied by the board and the court upheld the board's action, first on the grounds that the statutes provided that the regular pay for commissioners should constitute "full compensation of said board for all services whatsoever,"

and second, that even in the absence of such a statute, the prohibition against a public official contracting with himself would prohibit payment.¹⁷

The most recent case of this type is found in *Carolina Beach v. Mintz*,¹⁸ which reached the court in 1937. Mintz had been the finance commissioner for the town of Carolina Beach, and shortly before his term ended he was selected by the board of commissioners to serve also as town clerk. For his services as clerk he received additional payment. The town later brought action to recover the extra salary paid for his services as town clerk while he was also town commissioner. Referring to the decision in *Snipes v. Winston*, the court again held that the statutes prohibited a board from making a contract with one of its members to pay that member a larger salary, even for extra service.¹⁹

Summary

Contracts between public officers in their official capacity and themselves as private individuals are against public policy. They are void and unenforceable, both under the common law and the statutes. Moreover, the individual concerned in such contracts cannot recover for the real and reasonable value of any goods or services which he may have rendered. These rules apply both to contracts calling for personal service and to those requiring the delivery of materials or supplies or the construction of facilities.

The courts will find that any contract between a public official, or a board of which he is a member, and a firm in which he is a major owner or officer raises the problem of a conflict of interest. In the past, officials who were employees of firms (even managers) have been declared to be without sufficient private interest to affect their public actions. And in one North Carolina case, a board member was held to have no interest in the transactions of a firm wholly owned by his wife.

While affording protection to the public, the conflict of interest statutes also impose some problems and create some inconvenience. Condemnation proceedings may be used to overcome the problems arising when a board member owns land needed for public purposes. Other inconveniences may only be overcome by changing the statutes, a move which runs the risk of making fraud and self-dealing easier. The fact that the North Carolina statutes on this point have been

so long unchanged indicates that the public is generally satisfied with the present rules.

Footnotes

1. Matthew 6:24.
2. C. 1269 P.R.
3. *NIMLO Model Purchasing Ordinance—Annotated*, National Institute of Municipal Law Officers, 726 Jackson Place, N. W., Washington 6, D. C., p. 9.
4. *Davidson v. Guilford County*, 152 N.C. 436, 67 S.E. 918 (1910).
5. G.S. 157-7 contains a similar prohibition of interest provision with respect to employees or commissioners of public housing authorities. Its scope is no greater than that of G.S. 14-234.
6. 153 N.C. 595, 68 S.E. 900 (1910).
7. 153 N.C. 587, 68 S.E. 897 (1910).
8. 196 N.C. 740, 146 S.E. 857 (1929).
9. 243 N.C. 252 (1955).
10. Courts in some other states have frequently held that circumstances such as those in the *Debnam* case are grounds for holding the contract void. For example, a contract between a council and the wife of a councilman to purchase land was declared void in *Woodward v. Wakefield*, 236 Mich. 417, 210 N.W. 322. And in *Miller v. City of Martinez*, 23 Cal. App. 2d 364, 82 Pac. 2d 519, a contract was held void because a councilman was manager of the firm concerned.
11. 243 N.C. 255. Cases arising under the conflict of interest statutes must be distinguished from those which are void and unenforceable for other reasons. When the contract is between a board and a private party and is void because of failure to advertise properly, or because a proper appropriation was not made, then the contractor may recover from the governmental unit for the just and reasonable value of the goods and services rendered. See: *Realty Company v. Charlotte*, 198 N.C. 564, 152 S.E. 686 (1930); *Hawkins v. Dallas*, 229 N.C. 561, 50 S.E. 2d 561 (1948); *Manufacturing Company v. Charlotte*, 242 N.C. 189, 87 S.E. 2d 204 (1955).
12. Letter of May 26, 1953, to H. H. Taylor, Attorney for Town of Tarboro, N. C.
13. Letter of March 19, 1954, to Dees and Dees, Attorneys, Goldsboro City School Board, Goldsboro, N. C.
14. S.L., 1951, c. 707, s. 3.
15. 126 N.C. 374, 35 S.E. 610 (1900).
16. 152 N.C. 436, 67 S.E. 918 (1910).
17. The same problem arose in *King v. Guilford County*, 152 N.C. 438, 67 S.E. 919 (1910). In this case the chairman of the county board of highway commissioners was the person involved.
18. 212 N.C. 578, 194 S.E. 309 (1937).
19. In situations such as these, it appears that there would be no conflict of interest if no additional compensation is received. However, the problem of double office holding arises when a board member undertakes the duties of an administrative official.

EFFECTS OF THE SECONDARY ROAD PROGRAM ON THE STATE

[ED. NOTE: This is selected from a report prepared in co-operation with the U. S. Bureau of Public Roads.]

In many ways, North Carolina is outstanding and unique among the states in the field of local or secondary state roads. The state's Secondary Road System comprises some 55,000 miles of local public rural roads, in addition to the 11,000 miles of U.S. and N.C. numbered routes. Being one of the leading agricultural states in the nation, North Carolina has long put great emphasis on its secondary or "farm-to-market" roads. Only two or three states in the nation produce a higher annual crop value than does North Carolina. About a third of the state population is on farms, while another third is rural non-farm (mainly suburban). Only two states have more rural population than North Carolina: Pennsylvania and Texas. The following points with respect to secondary roads in North Carolina are significant:

First, for over 24 years, the state has had complete responsibility for the maintenance and improvement of *all* the public roads in the state. North Carolina was the first state in the nation to take such action, completely relieving the counties and townships of all local roads in 1931. Since that date, the motor vehicle, and not real property, has furnished all the tax revenues for the building, improvement and upkeep of all local roads, as well as state highways.

Second, the state has financed a more expensive program of secondary road improvements than has any other state in recent years. During the five years ending June 30, 1954, the state spent \$350 million on this system; and, since 1931, the state has expended over \$600 million on this system. Both figures include Federal Aid.

Third, the mileage of this system (56,293 at January 1, 1954) was far greater than the secondary system for which any other state was wholly responsible. Similarly the [21,530 miles of] hardsurfacing on this system exceeded the state responsibility in any other state.

Fourth, there are very few states, even those large states where the state and counties share the local road cost burden, where the secondary paved mileage exceeds that in North



By
JAMES S. BURCH
*Engineer of
Statistics and
Planning,
State Highway
and Public Works
Commission*

Carolina, either on a basis of total miles per square mile, or on miles per thousand rural population.

Fifth, on the basis of comparable area and population, North Carolina has more miles of hard-surfaced highways and roads than any other state, ranking first in the nation in this respect.

Thus, in the fields of research in roads, development, social advancement and political economy, North Carolina should be able to provide factual answers to many questions concerning the relationships between local road service and factors of growth and advancement in areas covered by the social sciences.

For a great number of years, the Division of Statistics and Planning of the State Highway Commission has regularly compiled data as to the mileage on this system by type, width, location and, by means of extensive traffic count coverage, the volumes of traffic using each short segment of the system. We have, for the whole system, "before and after" data in terms of some 50,000 separate segments analyzed by punch card methods into various groupings for comparisons, relations and trends. Results of these analyses follow. (It should be stressed that the whole report is limited to the state's Secondary Rural Road System; no highways or streets are included.)

Growth of Secondary System

In 1947 the total mileage on the secondary system stood at 50,448. By 1953, the total mileage stood at 54,800. The increase in the total mileage was a modest nine per cent, but daily vehicle miles (that is, the number of miles traveled on the system

each day by all vehicles using it) rose from 4,386,366 to 7,360,288, an increase of almost 68 per cent.

Most of the great increase in traffic took place between 1949 and 1953 and was parallel in time with the great increase in hard surfacing under the special \$200 million bond issue, all proceeds of which were used exclusively for improvements on the secondary system. From January 1, 1949, to December 31, 1952, the mileage of pavement on the system had increased from 5,105 to 18,182 miles.

In 1949 the average mile of road on the secondary system was used by 89 vehicles a day; by 1953, the average mile was being used by 134 vehicles. While this increase of more than 50 per cent in average traffic usage was being recorded on the secondary system, the increase in the use of the primary system was only 33 per cent. The state-wide increase in taxed gallons of gasoline was 39 per cent, and this figure reflects the increase in the use of all road facilities, including city streets.

If we assume that general growth factors accounted for 39 per cent, it would appear that the difference between 50 per cent and 39 per cent, or 11 per cent in growth, was peculiar to the secondary rural system.

This 11 per cent net growth was the result of many contributions and influences:

First—There was an important traffic shift within the system from those roads remaining unpaved to those which had been recently paved. We note the average daily use of the unpaved roads was reduced from 51 vehicles per mile in 1949 to 42 in 1953. The shift, however, being within the system, did not account for any part of the 11 per cent growth.

Second—There was some net traffic transfer from the primary system to the secondary system. This was undoubtedly due to primary highway travelers using secondary "short-cuts" to avoid congestion, truck delays, etc. This effect was undoubtedly most pronounced near sizable municipalities.

Third—The remainder of the growth must be divided between suburban growth and rural growth. Traffic growth is always associated with population growth, and it is logical to assume the suburban

growth to be the greater. The data seem to bear out such an assumption.

Fourth—The residue of perhaps four to six per cent may be indicative of the rural farm-connected traffic growth generated by and attributable to the road improvement program.

It thus appears that the farm traffic generation, due to the extensive secondary road improvement program, was not as great as may have been generally expected or believed. The major traffic effect of the program was qualitative rather than quantitative.

Other States

Comparison with other states is another method of observing traffic growth. The years 1950 through 1953 mark the great secondary system paving program in North Carolina. No program of comparable magnitude was undertaken in Virginia and South Carolina, the two states which are most similar to North Carolina in agriculture, economy, terrain, and social customs.

Figures from the United States Bureau of Public Roads show that during the period 1949-1953, North Carolina increased its secondary system hard-surfaced mileage 302 per cent; Virginia, 37 per cent; and South Carolina, 161 per cent. The use of the entire secondary system in North Carolina increased 51 per cent; in Virginia, 31 per cent; and in South Carolina, 38 per cent. These relative growth factors show that North Carolina secondary system travel increased at a considerably higher rate than in the two adjacent states. The indications are that the vast paving program in North Carolina was primarily responsible for the difference in rural and suburban traffic growth on secondary roads. While there may have been other minor causes, no other major influence would appear to account for the wide difference in growth rates.

Hard-Surfacing

Considering only *hard-surfaced secondary* roads, we have the statewide figures shown in Table 1.

The great growth in mileage and in travel is obvious from these figures. The reversing trend in "average vehicles per day per mile" may, at first, appear to be questionable. Actually,

it is quite logical. The early 5,531 miles of hard-surfacing were the miles which had been chosen as the most important and most heavily traveled. Generally, they were the major feeders from farm areas to market areas. Their "house per mile" index was high. Rural traffic tended to favor their usage, even though extra travel distance to reach them was involved. Hence, the traffic average was high.

Within three years, the hard-surfaced mileage had been more than tripled. Formerly unpaved roads were now paved—some 12,651 miles of them. Traffic became more dispersed, in that it did not have to "seek out" the former limited paved sections. Paved mileage grew faster than did system travel. This dispersion materially cut down the average traffic usage of pavement (although total system usage was greatly increased). Then, of course, the mileage selections for paving in the late years of the program were in less populated areas than in the early years, and served less traffic.

The four per cent net growth in the average 1952-1953 is simply indicative of the general growth in motor vehicles and travel, having been reduced by the same trend of geographic dispersion of traffic.

Extent of Service

Eighty per cent of the total secondary system traffic was using hard-surfaced roads in 1953, as compared to 75 per cent in 1952, and only 41 per cent in 1949.

This 80 per cent of total travel on paved roads appears to be a rather remarkable index of service for a state's "local" road system. No other state provides such extensive local paved road service from state funds. In very few states is such service provided from any or all funds; and this is especially true for a state which is primarily agricultural.

As of January 1, 1954, there were only 769 unpaved miles which carried as many as 100 vehicles per day. Only 126 such miles carried over 200 vehicles per day. These scattered, high-traffic, unpaved segments were mainly in suburban areas. (Many of them have since been paved, during 1954.) Out of 34,405 unpaved miles, the above 769 represents only two per cent unpaved serving over 100 vehicles per

day. It is doubted that such a situation prevailed in more than a few states in the nation. Almost a third of these 769 unpaved miles are found in Divisions 4 (Wilson) and 5 (Durham), containing many extensive suburban sections. (There are 14 divisions in the state.)

While the average traffic value for hard-surfaced roads was 289 vehicles per day, the majority of the paved mileage was in the service bracket of 100 to 250 vehicles per day, with a median value of less than 200 vehicles per day.

Actually, 2,643 miles, or 13 per cent of the hard surfaced, carried less than 100 vehicles per day. Traffic growth factors will soon materially reduce that percentage, however, with little new pavement being built on light travelled sections.

From the data assembled, it is possible to make certain observations. These observations would indicate that, while the extensive paving of secondary roads serves and aids in economic growth and social advancement, such a program does not necessarily create such desirable ends within itself. Further research beyond the limits of this report may evaluate such an observation in terms of economic and cultural indices. These observations are also significant in the field of highway economics. Since road work in North Carolina must be self-supporting, in terms of motor vehicle and fuel tax revenues, it follows that traffic usage is a measure of the ability of a road to pay its way and, therefore, to justify the cost of paving and pavement maintenance. Unless adequate added traffic exists or develops, road improvement costs must be subsidized.

Unpaved Sections

It should also be noted that even the unpaved roads generally provide excellent travel service. Being largely stabilized with stone, gravel, sand-clay, and other weather-resistant earth types—and being well and regularly maintained—it is very rare that any driver, even in January or February, encounters mud to the extent that tire chains are necessary. There is much truth in the saying that "Muddy cars are never seen in North Carolina."

Widths

Being essentially a low traffic system, the secondary roads are almost exclusively of two-lane width. Table 2 is of special value with respect to the paved widths of the system in relation to their traffic service.

Only 524 miles were definitely "narrow" (i.e., 14 feet wide or less),

Table 1
Travel on Paved Portions of Secondary Road System

Year	Miles	Daily Vehicle Miles	Average 24-hour Daily Vehicles Per Mile
1949	5,531	1,880,498	340
1952	18,182	5,054,587	278
1953	20,395	5,898,707	289

Width	Paved Miles	Per Cent
14' and under	524	2.6
15'-17'	5,406	26.5
18'-19'	11,752	57.6
20'-21'	2,369	11.7
22'-23'	155	0.7
24'-26'	119	0.6
27' and over	70	0.3
	20,395	100.0

and half of these carried less than 110 vehicles per day. At the other end of the width scale, only 189 miles were paved as wide as 24 feet. Within these limits fall the great mileage.

The 15'-17' width bracket is known to be almost altogether of the 16 foot class, many miles being old state highway sections transferred to the secondary system. It is noted that about 26½ per cent of the paved system was of this width.

The preponderant width was 18'-19' (known to be almost altogether 18') with 57.6 per cent. The other major width was the 20'-21' (known to be usually 20') with 11.7 per cent.

Thus, it could be said that almost 96 per cent of the paved length of the system had from 16 to 20 feet of paved width.

As to paved travel, it may be noted that 95 per cent of all travel on the paved secondary system was on 16-20 foot widths as shown in Table 3.

The "typical" paved mile on the system was 18' wide, and carried from 100 to 300 vehicles per day. Some 38 per cent of the paved length of the system fell within these limits, this being the predominant bulk of the paved mileage, and carried 25 per cent of the total travel on system pavement.

Using reasonable values for prevailing widths for each bracket, we note the total paved area of the system was 211,850 square yards, or 43,771 "acres of paving" on this secondary rural system. The weighted average paved width was 17.7 feet. The vastness of these areas is a rough measure of the needs for periodic re-treatment and resurfacing which lie immediately ahead.

The paving on this system is almost double that on the Primary State Highway System, both in area and in miles. Most states operate only a Primary System, with the counties and townships caring for all local roads.

Unpaved

The unpaved mileage was very extensive, but had very low traffic vol-

ume. Some 63 per cent of the system length was unpaved, but the vast majority of this unpaved mileage had some form of surfacing. The average traffic volume on the unpaved was only 42 vehicles per day, and 76 per cent of it carried less than 50 vehicles per day.

Only 774 miles of roads carrying as much as 100 vehicles per day remained unpaved at January 1, 1954. While there have since been some traffic increases, some of this unpaved mileage has also since been paved. This 774 miles, then, is both a rough measure of the maximum additional paving needed (i.e., 8 miles per county), and an indication of the great paved road traffic service already available on the system. These 774 miles are more likely to be found in suburban than in strictly rural areas.

Federal Aid Secondary Portion

Up to this point in this report, we have been dealing with the entire 54,800 mile Rural State Secondary Road System. A substantial portion of this State System was also on the Federal Aid Secondary System: e.g., 13,771.7 miles or 25 per cent as of January 1, 1954. This "dual coverage" is often confusing to the lay reader, and has come about by selective designation of thousands of short segments of the State System for the Federal System. These 13,771.7 miles were on both systems. In the ensuing discussions, we shall refer to this dual coverage as the "FAS Portion."

It should be made clear that the federal government does not build, improve, nor maintain this system. Federal aid is available only to aid in major construction, to be matched by state funds, as limited by annual federal aid allocations, with no maintenance or betterment aid whatever. Much of the Federal Aid System has been built by the state without any federal aid.

The FAS Portion, being 25 per cent of the State Secondary System mileage, has been so selected that it carried 50 per cent of the state's secondary system traffic. The FAS Portion was 77 per cent paved, as compared to 37 per cent of the entire State Secondary System. This 77 per cent paved portion carried 94 per cent of the total FAS Portion traffic.

The typical paved mile on the FAS Portion was 18' wide, and carried from 150 to 500 vehicles per day. Some 42 per cent of the paved length of the system fell within this traffic bracket, this being the predominant bulk of the paved mileage, and carried 34 per cent of the total traffic. The average daily vehicles per mile was 329 on the paved FAS Portion. Only a few hundred miles carried more than 1,000 vehicles per 24-hour day in 1953.

The unpaved segments of the FAS Portion are consistently in the lower traffic volume brackets, and had a combined length of 3,221 miles. The majority of this unpaved length had some form of surfacing, such as stone, gravel or topsoil; and 90 per cent of it carried less than 100 vehicles per day. The grand average volume was only 68 vehicles per day.

Only 312 of the 3,221 unpaved miles carried over 100 vehicles per day.

Another feature of the FAS Portion lies in the fact that the thousands of short road segments of which it is constituted are connected to each other, or to other federal systems to provide continuity of travel service.

Expenditures

The purpose of this report does not include a full accounting of cost and expenditures involved. However, such a report would be incomplete without basic data of this type.

Expenditures are from the State Highway Fund, the only sources of which are state taxation of the motor vehicle and its fuel, plus federal aid. No local, county, township, or ad valorem taxes are used for roads in North Carolina.

During the nine post-war years (fiscal 1946 through 1954), the state, with federal aid, spent some \$237 million for maintenance and minor improvements and \$241 million in major improvements on the state's Secondary Road System, of which \$193 million was from the special State Secondary Road Bond Issue.

The total of about \$478 million in nine years for secondary roads alone is more than was spent by many states during that period for *all* highway and road purposes and is an index of the importance attached to secondary roads by the people of North Carolina.

Table 3
Travel on Various Pavement Widths

1,087,527 V/M or 18 per cent was on 16 foot pavement.
3,358,065 V/M or 57 per cent was on 18 foot pavement.
1,129,502 V/M or 19 per cent was on 20 foot pavement.
5,575,094 V/M or 95 per cent was on 16 to 20 foot widths.

It is noted that the maintenance-betterments item of expenditure increased to over \$31 million in fiscal 1954. With vast lengths of the 20,500 miles of paving each year attaining the 4-5 year age when retreatments will become necessary, it is obvious that further substantial increases in custodial costs are to be expected.

Rural Economic and Social Benefits

While the major service of primary highways is in terms of transportation, the role of improved secondary roads includes many economic, social and cultural values which are generally grouped into the phrase "a better way of life" for rural people.

No one in North Carolina will deny that the extensive secondary road paving program has materially aided in the development of a better way of life for the rural people of the state. Yet, it is impossible exactly to measure the effect of the improved roads or, in fact, to develop an exact yardstick which would not involve opinion.

Thus, such evaluations are not attempted here; but certain contemporary rural improvements which have undoubtedly been served by, if not been made possible by, improved secondary roads are noted.

For example, using a four year span, usually 1949 to 1953, it is observed that:

Agriculture—Total crop value increased by \$160 million, in spite of drought reduced yields.

Flue cured tobacco yield was up 10 per cent per acre.

Livestock—Production of beef cattle and calves increased about 33 per cent.

Hog cash receipts were substantially higher.

Milk—The number of Grade "A" dairies increased by 68 per cent. Imports of fluid milk decreased from 53 to 19 million pounds.

Poultry—Egg production increased 16 per cent, while commercial broiler production nearly tripled. Despite lower prices per pound, income from broilers more than doubled.

Level-of-Living Index—This index for farm families, as compiled by the United States Department of Agriculture, shows that from 1950 to 1954, the North Carolina level of farm living increased by 20.4 per cent, while the national increase was only 10.2 per cent.

Motor Vehicles—From 1950 to 1954, North Carolina's motor vehicle registration per unit of popula-

tion grew 19 per cent, as compared to 11 per cent in the nation.

Telephones—The percentage of North Carolina farms with telephone service increased from 8 per cent to approximately 17 per cent.

Rural Electrification—North Carolina rural electrification increased at a more rapid rate than did rural electrification in the nation as a whole.

The number of miles of wire, the number of consumers, and the number of farms with electricity showed sizable increases.

Health—The percentage of rural births occurring in hospitals increased by about 20 per cent.

Employment—In 1949 approximately 852,200 persons were employed in nonagricultural work in North Carolina; and by 1953 over one million persons were so employed, an increase of 19 per cent.

During the same period of time, average weekly wages paid to these workers rose from \$40.45 to \$47.77, or an 18 per cent increase.

Education—Enrollment in rural schools increased by 10 per cent; but there was a 70 per cent decrease, due to consolidation, in the number of one and two-teacher rural schools: i.e., from 917 to 288 such small schools in the state.

74 of the 100 counties in North Carolina reported increased school attendance.

61 of 67 reporting counties noted an increase in percentage of miles travelled on hard-surfaced roads by school buses.

The percentage of total school bus travel on paved roads increased from 48 to 68.

19 counties reported increases of 20 per cent or more in hard-surfaced travel by school buses, many showing double such travel.

Voting—65 counties showed increases in number of voters participating in congressional elections in 1954, as compared with 1950 congressional elections. The statewide presidential vote was up 53 per cent.

Library Service—Rural library service increased in total book circulation, number of bookmobiles and number of counties served. Many new rural areas for bookmobile service have been opened as a result of road improvement.

Rural Communities—Many rural communities have been organized in

order to promote social contact among heretofore relatively isolated rural families and to facilitate social and cultural improvement projects in rural areas.

Birth Rate—North Carolina has had a decreasing birth rate, a good indicator of a rising standard of living and increased wealth.

Rural Industry—Each year, approximately 25 per cent of new industries locating in North Carolina have selected rural locations for plant sites.

These are some of the major growth factors on which reliable data are available from state agencies. Many other observations could be made in the fields of farm mechanization; use of automatic washers and electric refrigerators; attendance at rural and village movie theaters; laundry service; number and quality of rural cars owned per family; extension of rural athletics and recreation, church attendance, the growth of 4-H Clubs and Future Farmers, Grange, Boy Scout enrollment, and other organized rural activities, all indicative of a better life for rural people.

Ignoring the question of impact of taxation, perhaps the only observed adverse effect of the paving program was a relative increase in accident frequency on the secondary system, and especially in terms of fatal accidents. In 1953, and also in 1954, there were about 9 fatal accidents per 100 million vehicle-miles on paved secondary roads, as compared to 4½ to 8 on paved rural U.S. and N.C. routes. It is believed that the basic reason was that unfamiliar drivers were following "main highway" driving habits on paved county roads which were not designed for highway speeds. Some racing by local youths on these light-traffic paved roads may have contributed. To counteract this trend, special emphasis is being placed on the use of spot warning signs and widening of "one-way" bridges.

This report does not in any way claim that the greatly enlarged mileage of paved roads was wholly responsible for the creation of these elements of improvement in rural life in North Carolina. However, it is a fact that the improvements and the secondary paved road increases were coincidental in time. It is believed and stated by all state agencies involved that the extensive road paving program did materially contribute to these improvements; and it would be literally impossible to find any reasonable, observant North Carolinian who would deny this element of contribution.



PUBLIC PERSONNEL

By DONALD B. HAYMAN

Assistant Director, Institute of Government

Continuous Examinations for Merit System Applicants

Dr. Frank T. de Vyver, Merit System Supervisor, announced on January 20 that examinations for several classes of Merit System positions will be given on a continuous basis beginning in February, 1956.

Under the new plan, examinations will be given every other Friday morning in 22 local Employment Security Offices throughout the state and every Friday morning in the Merit System Office in Raleigh. Examinations for the following six classes of positions will be held in the 22 local Employment Security Offices and in the Merit System Office in Raleigh:

Registered Nurse in Public Health
Assistant Sanitarian
Case Work Assistant
Interviewer I
Interviewer-Stenographer
Intermittent Interviewer I

Examinations for Laboratory Technician II (Public Health) and Claims Examiner I will be held in the Merit System Office in Raleigh only. Plans are being made to add a number of clerical and stenographic classes to the continuous examination program around April 1, 1956. Other classes may be added as the need arises.

An applicant for one of the positions listed above need not submit an application in advance of the examination. He may (1) complete the application before the examination and take it with him to the examination, or (2) send it to the Merit System Office and be formally admitted to the examination, or (3) complete the application at the application center on the day of the examination.

The examinations will only be given on Friday morning at 9:30 a.m. The first examinations in the local Employment Security Offices will be held on February 10 and 24 and March 9 and 23. The local Employment Security Offices in the following cities will give the examinations: Asheville, Bryson City, Charlotte,

Durham, Elizabeth City, Fayetteville, Greensboro, Henderson, Hickory, Kinston, Morehead City, Morganton, Murphy, North Wilkesboro, Roanoke Rapids, Rockingham, Salisbury, Shelby, Washington, Wilmington, Wilson, and Winston-Salem.

No applicant will be permitted to take an examination for the same position more than once during a calendar quarter.

Attention as to the need for such a continuous examining program was first noted by the Commission on Reorganization of State Government. In its 1954 report on Personnel Management, the commission expressed the opinion that a continuous recruitment program would greatly increase the effectiveness of the Merit System and strengthen the idea of merit examinations in North Carolina.

In reaching this conclusion, the commission pointed out that the Merit System recruitment and examination procedure had remained virtually unchanged in 13 years. The commission further noted that the Merit System was largely a testing service for persons who had already entered on duty. Only 12 per cent of the appointments to permanent full-time positions in the Merit System agency from 1944 through 1953 were from Merit System registers.

Continuous recruiting and examining programs similar to the proposed plan have been in operation in several states for a number of years. California, New York, and Virginia have been using continuous recruiting programs for a number of years in order to eliminate long periods of delay between the date examinations are announced and the date successful applicants enter on duty. The proposed continuous examining program should serve to facilitate recruitment and also reduce the number of provisional appointments (persons who go to work before passing an examination). Under the proposed plan, greater responsibility for recruiting applicants will be placed upon the appointing officials.

Applicants should find the new procedure more convenient for at least three reasons. First, the weekly or bi-weekly examinations will eliminate the long waiting period to take a Merit System examination. Second, the examinations will be given at 23 different cities instead of the 12 examining centers used in the past. Third, grades will be available within four days following the examination. Under the schedule followed by the Merit System Office heretofore, one month usually elapsed between the time an applicant took an examination and the time that his paper was graded and the register established.

County Salary Study

The Institute of Government is preparing another salary study for the use of county governing boards and members of the General Assembly.

Completed questionnaires have been received from most of the counties in the state. As the questionnaires have been returned, the data has been tabulated and prepared for publication. The new study will contain tables indicating the compensation of the following county officials: commissioners, managers, clerks of court, registers of deeds, sheriffs, accountants, tax supervisors, tax collectors, tax listers, county attorneys, treasurers, superintendents of public welfare, health officers, superintendents of schools, farm agents, home demonstration agents, deputy sheriffs, assistant and deputy clerks of court, assistant and deputy registers of deeds, coroners, and judges and solicitors of recorder's courts. Tables will also indicate the work week, vacation, and sick leave of courthouse employees.

Traffic accidents in North Carolina in 1954 killed 981 persons according to Motor Vehicles Department records. A ten year accounting of motor fatalities is shown for comparison: 1953—1,118; 1952—1,115; 1951—1,071; 1950—989; 1949—843; 1948—734; 1947—836; 1946—1,028; 1945—732.



PLANNING & ZONING

By PHILIP P. GREEN, JR.

Assistant Director, Institute of Government

Public Works Planning Assistance

An important source of funds to assist local governments in planning proposed public works was made available by the Housing Act of 1954. A continuation of the old programs of the Public Works Administration and the public works reserve of the Federal Works Agency, this source has not been widely used by North Carolina cities and towns. For this reason, it is felt that the following excerpts from the information sheet concerning the program prepared by the Community Facilities Administration of the Housing and Home Finance Agency will be of interest to our readers.

INFORMATION FOR PUBLIC AGENCIES REGARDING ASSISTANCE FOR ADVANCES UNDER PUBLIC LAW 560, 83rd CONGRESS, AS AMENDED

I. Introduction

The Administrator of the Housing and Home Finance Agency is authorized under Public Law 560, 83rd Congress, as amended, to make interest-free advances of Federal funds to States and local public agencies for the purpose of encouraging the maintenance at all times of a current and adequate reserve of planned public works by aiding in financing the cost of engineering and architectural surveys, designs, plans, working drawings, specifications, or other action preliminary to and in preparation for the construction of public works.

The Act specifically provides that (1) the making of advances will not in any way commit the Federal Government to appropriate funds to assist in financing the construction of any public work so planned; (2) advances shall be repaid without interest when construction is undertaken or started; (3) in the event the advance is not repaid promptly, interest at the rate of four per centum per annum shall be charged; (4) if a public agency starts construction of only a portion of a planned public work it shall repay such proportionate amount of the advance as the Administrator of the Housing and Home Finance Agency may determine to be equitable; (5) no advance shall be made unless construction is ex-

pected to begin within a reasonable period of time; (6) the proposed public work must conform to an over-all State, local, or regional plan approved by a competent State, local, or regional authority; and (7) the applicant shall establish a separate planning account into which all Federal and applicant's funds estimated to be required for plan preparation shall be placed.

II. General Information

Approval of an advance will be based on the need for the project, ability of the applicant to arrange construction financing and the proposed date of construction. No elaborate long-range multiple projects will be considered. Heavy emphasis will be placed on maximum construction at minimum planning cost and preparation of preliminary plans as opposed to detailed plans and specifications. This will eliminate to a maximum degree obsolescence of plans by changing conditions and technological improvements in the period between planning and construction.

Preliminary planning should include all investigations and surveys such as foundation exploration, test pits, core drilling, water source investigations, both surface and subsurface, topographic charts and other specific data necessary for determinations upon which a reliable estimate of construction cost can be based. The extent of the preliminary planning will be determined between the applicant and the representatives of HHFA during the final phase of application review.

Advances will be made for complete planning when the type of project or the condition under which it is being planned make it obviously impractical to limit the advance to the cost of preliminary planning.

Applicants will be required to submit evidence of approval of project plans by any State or local body whose approval is required by law and to show that the project is in conformity with any existing local civil defense programs. Applications for airport planning must be cleared by the applicant with the Civil Aeronautics Administration in Washington, and a letter of clearance attached. HHFA will consult with other Federal agencies regarding projects which require approval by such agencies or when the applicant expects to obtain construction funds from those agencies.

Advances cannot be made to reimburse the applicant for the cost of planning work previously performed,

nor to cover the cost of planning work for which the applicant previously entered into contracts, the costs of which are to be paid from other funds.

No payments will be made by the Federal Government under advance planning contracts for preliminary plans until the plans have been completed and approved in accordance with the local law and the Housing and Home Finance Agency agreement. Interim payments may be made when complete plans are to be prepared, if the Regional Administrator finds such interim payments are justified to insure prompt completion of plans.

III. Administration

The Program of Advances for Public Works Planning is administered by the Community Facilities Administration, Housing and Home Finance Agency, Washington 25, D. C., through the Regional or Area Offices listed under V.

IV. Applicants

Any non-Federal public agency may apply for an advance for plan preparation for any public work, other than a housing project, which it is authorized to plan, finance and construct and upon which it expects to begin construction within three years from the date of acceptance of the Offer covering the approved planning advance. Public agencies include State Governments and their agencies and political subdivisions, such as Cities, Towns, Townships, Counties, School Districts, Water and Sewer Districts, Levee Districts, Irrigation Districts, Special Taxing Districts, and other authorized public agencies.

No private or privately controlled non-profit organization may receive an advance under the Act. Federal agencies or their instrumentalities are not eligible to apply for an advance.

V. Information, Forms, and Filing of Applications

Information and forms may be obtained from the Regional Office, Housing and Home Finance Agency, serving the area in which the project is located. Completed documents, with supporting data, should be filed with the appropriate Regional Office.

* * *
Region III, 50 Seventh Street, N.E., Atlanta 5, Georgia: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

(Continued on inside back cover)

Books of Current Interest

Education

EDUCATION AND THE SEGREGATION ISSUE. *By Joseph W. Holley. New York 1: The William-Frederick Press, 313 West 35th Street. 1955. \$3.00. Pages 62.*

What are the attitudes of leading southern Negroes toward segregation? In this book Dr. Holley, a recognized leader in the field of higher education for Negroes in Georgia tells what he thinks about segregation and the system of higher education for Negroes as it exists in that state. He does not argue for or against segregation in the public schools. Persuasive as his thoughts may be they should be taken as his own rather than as an expression of any general consensus of Negro thought.

The lives and works of the author and the great Negro leader, Booker T. Washington are said to show striking parallels. Both are Negroes. Both are self made. Washington founded Tuskegee and served as its president. Dr. Holley founded Albany (Georgia) State College and served as its president. Both dedicated themselves to, and spent a lifetime in the cause of Negro education in the South. With this background Dr. Holley speaks with an authority derived from living with and working for the Negro and for his advancement for a total of over 50 years. His opinions merit careful consideration.

In overly simplified terms Dr. Holley's thesis is that the southern Negro must seek to merit equality through raising himself through his own efforts rather than to wait for equality to be handed him through legislative fiat or other such dispensation from above. The higher education system in Georgia is ill adapted to elevating the Negro through his own efforts, as pointed out by the author, since it is geared entirely to the production of teachers and preachers. As a result the Negro people stand without a foothold in a single basic industry in the country. To correct this he suggests a plan whereby emphasis in the education of the Negro would be shifted to the actual needs of the people. Specific goals of competence in agricultural and other vocational technologies should be given precedence over an emphasis on art, literature and philosophy.

Specifically as to integration Dr. Holley points out that an existing barrier of public opinion makes it unfeasible. Tolerance cannot be legislated, it must grow in the heart. This does not mean that the author favors continuing segregation indefinitely. In his words he favors segregation "just so long as the conditions exist which warrant it. I pledge myself to work to change these conditions." (JPH)

LEGAL RIGHTS AND LIABILITIES OF TEACHERS. *By Robert R. Hamilton. Laramie, Wyoming: Laramie Printers, Inc. 1956. \$2.95. Pages 95.*

Designed for use by persons without a formal legal education, this book has two primary purposes: (1) to acquaint teachers with some of their legal rights and responsibilities and (2) to serve as an aid in teacher training courses in the legal aspects of a teacher's job. In addition it should prove helpful to teachers and school administrators in an in-service training course.

The book begins with a discussion of the legal nature of the public school system, pointing out the liabilities of a school district in the areas of contract and tort (a legal wrong other than those arising out of contract). Against this background the book discusses in general terms the rights and liabilities arising out of teachers' employment contracts, discharge of teachers, tenure and retirement, and restrictions on a teacher's freedoms. (JPH)

Zoning

THE LAW OF ZONING. *By James Metzenbaum. New York 4: Baker, Voorhis & Co., 25 Broad Street. 1955. 2d ed. \$49.50. Pages 2531 (3 vols.).*

The first edition of this work, by one of the pioneers in the zoning field, was a standard text frequently cited by the courts after its appearance in 1930. This edition greatly expands and improves upon the earlier work, and deserves to stand among the few outstanding sourcebooks in this field.

The book cites a vast number of cases from all jurisdictions, and it contains liberal excerpts from the court opinions in many of those cases. It is well supplied with cross-references and (remarkably, for a legal

text) contains no footnotes—both measures being designed to aid the reader.

In addition to dealing with cases in a subject-matter fashion, the author has included almost 400 pages of state-by-state summaries of decisions. This will be invaluable to the researcher seeking interpretations of the law of a particular state, and it is not so readily available from any other source.

The appendix includes a liberal sampling of zoning statutes, ordinances, and forms to be used both in proceedings before administrative officials and in the courts.

Among other features are an extensive discussion of "practical questions affecting zoning" and interesting background material on the famous case of *Euclid v. Ambler Realty Co.*, in which the author played a leading role as counsel for the village of Euclid.

Traffic

TRAFFIC ENGINEERING. *By Theodore M. Matson, Wilbur S. Smith, and Frederick W. Hurd. New York: McGraw-Hill Book Co. 1955. \$12.50. Pages 647.*

Written by three men who have been pre-eminent in the field of traffic engineering, through the program of the Bureau of Highway Traffic at Yale University, this is probably the best general text available in this field. It covers the many phases of traffic engineering under five general headings: characteristics, regulations, control devices and aids, design, and administration and planning. It will be valuable not only to the traffic engineering student, but also to city officials generally concerned with the movement of traffic through their congested streets — particularly city managers, city planners, and police officers concerned with traffic. It is well-written and understandable to the layman.

Criminology

CRIMINOLOGY. *By Robert G. Caldwell. New York 10: The Ronald Press Company, 15 East 26th Street. 1956. \$6.50. Pages 749.*

Professor Caldwell divides his study of criminology into four parts: the problem, causation, crime and justice, and correction. Both historical and contemporary aspects of crime, law enforcement, punishment, and penal administration are discussed. The author states that although this book is an introduction to crime written primarily for college students, it should also prove useful to the social

scientist, the law-enforcement officer, the correctional administrator, and the citizen.

Miscellany

PSYCHIATRY AND THE LAW.
Edited by Paul H. Hoch and Joseph Zubin. New York: Grunc & Stratton, 381 Fourth Avenue, 1955. \$5.50. Pages 232.

This volume contains 14 essays, constituting the Proceedings of the 43d annual meeting of the American Psychopathological Association in 1953. The title, Psychiatry and the Law, was given to the symposium held at that meeting, and the participants were drawn from both medical and legal disciplines.

The chief role of psychiatry in contemporary criminal law is the determination of criminal responsibility, and the essays in this collection deal with the establishment of behavioral norms, legislative and judicial standards for deviation from such norms, post-conviction psychiatric investigation and counselling, and the evolution of cooperation between law and psychiatry in dealing with the mentally abnormal offender.

Planning and Zoning

(Continued from page 11)

VI. Scope of Application

Insofar as possible, each application should cover only a specific type of public work. In the event the applicant files more than one application, it shall indicate in its transmittal the order of preference.

VII. Type of Public Works

Public Law 560 excludes housing projects from the program. There is no other restriction on project eligibility with reference to type of public work. The applicant must show that it now has legal authority to plan, finance and construct within a reasonable period, a public work of the type to be planned. Examples of eligible projects are given below.

1. Sanitation and water facilities, such as sewage treatment and disposal plants, sanitary sewers and drainage systems, water supply and storage, water treatment plants, pumping stations, water distribution and irrigation systems, and garbage disposal facilities.
2. Public hospitals and health facilities, such as nurses' homes, clinics, health centers, and laboratories.
3. Public schools and other educational facilities, such as administration buildings, auditoriums, gymnasiums, college dormitories, and public libraries.
4. Other public buildings, such as city halls, courthouses, institutional and administrative buildings, police and fire stations,

armories, garages, storage buildings, and community buildings.

5. Highways, roads, and streets for which other Federal funds are not currently available, including drainage facilities, sidewalks, curbs, gutters, guard rails and walls, lighting, and traffic control facilities.
6. Miscellaneous public facilities, including airports, parks, recreational facilities, transportation facilities, storm sewers, electric power plants and distribution systems, gas storage and distribution systems, public docks, and non-Federal river and harbor improvements.
7. Bridges, viaducts, tunnels, grade separations, and similar work for which other Federal funds are not currently available.

Regardless of the type of project, an advance will not be approved for planning a public work for which other Federal funds are available when such funds can be used for planning costs. Specific instances are given below.

1. A public works project which is part of an Urban Renewal project for which an application has been approved or is pending under the Housing Act of 1949, as amended; or for which an application for an urban planning grant has been approved or is pending under Section 701 of the Housing Act of 1954 (P.L. 560, 83rd Congress).
2. A public works project for which an applicant has an approved or a pending application under the Public Facility Loans or College Housing Program.
3. Public housing projects of Federal, State, or local housing authorities.
4. Federal projects of Federal departments, agencies, and instrumentalities.
5. Federal-aid and State highway projects of the Bureau of Public Roads and the State Highway Departments.

VIII. Preparation of Application

The applicant's formal request for an advance shall be made on Form H-985, Application for Advance for Public Works Planning, substantiated by a Resolution of the governing body; and include all essential information concerning the planning to be done. * * *

X. Agreement and Payment of Advance

When an application has been approved, an agreement will be forwarded to the applicant for execution. The agreement must be signed and returned to the HHFA Regional Office within 60 days, otherwise it will become null and void and the Federal Government will be relieved of any and all responsibility. The applicant may, by written request, terminate the agreement at any time prior to payment of the advance. When the plan preparation has been completed, approved by the HHFA Regional Office, and final costs determined, payment will be made to the applicant.

Where final plans are to be prepared, interim payments may be authorized as follows: 50% of estimated plan cost when plans are 50% complete and the balance when plans are complete and approved by all necessary authorities.

XI. Applicant's Records

In order to determine the final cost of plan preparation, it will be necessary for the applicant to keep accurate accounting records of all costs involved in connection with each advance. The accounts and records of the applicant, together with all supporting documents, must be open at all times to inspection by authorized representatives of the HHFA, and copies furnished when requested. The applicant will be required to furnish a copy of any architectural or engineering or other contract entered into in connection with plan preparation immediately upon execution thereof.

The law specifically provides that the applicant shall establish a separate planning account into which all Federal and applicant's funds estimated to be required for plan preparation shall be placed.

Under this proviso an applicant will be required to so deposit its own funds to cover that portion of the cost of an architectural or engineering contract not covered by the Federal advance.

XII. Repayment of Advances

Each advance shall be repaid promptly upon the start of construction of the public work of the type set forth in the planning report. The construction shall be considered as undertaken or started when the first construction contract is awarded or the applicant begins construction with its own forces. If construction of only a portion of the planned work is undertaken, repayment is required of such proportionate amount of the advance related to the work as the Administrator determines to be equitable.

County Government

(Continued from page 2)

reasoning would be applicable to counties and municipalities for the time-purchase of any kind of necessary equipment or capital outlay. The key feature of the Buncombe contract, which distinguishes it from ordinary installment contracts and which removes it from the debt prohibition and County Fiscal Control Act requirement, is the provision that upon default in any payment by the county the seller may reclaim the machines but may not require any further payment from the county or obtain a deficiency judgment based on breach of contract. The extent to which this device can be used will probably depend upon the willingness of vendors to accept the provision limiting their rights, in case of refusal by the county to make a future payment, to the repossession of the subject matter of the contract.

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, 1955-56, 12 pp prtd (\$.50)
- CALENDAR OF DUTIES FOR COUNTY OFFICIALS, 1955-56, 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)