

JUNE 1961

# POPULAR GOVERNMENT



*Raleigh's new Municipal Building by night*

Published by the Institute of Government  
UNIVERSITY OF NORTH CAROLINA • CHAPEL HILL



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Vol. 27	No. 9
June, 1961	



*The story which illuminates further this brightly lighted building on our cover appears on page eight of this issue of Popular Government. The shot catches the new Raleigh Municipal Building after hours.*

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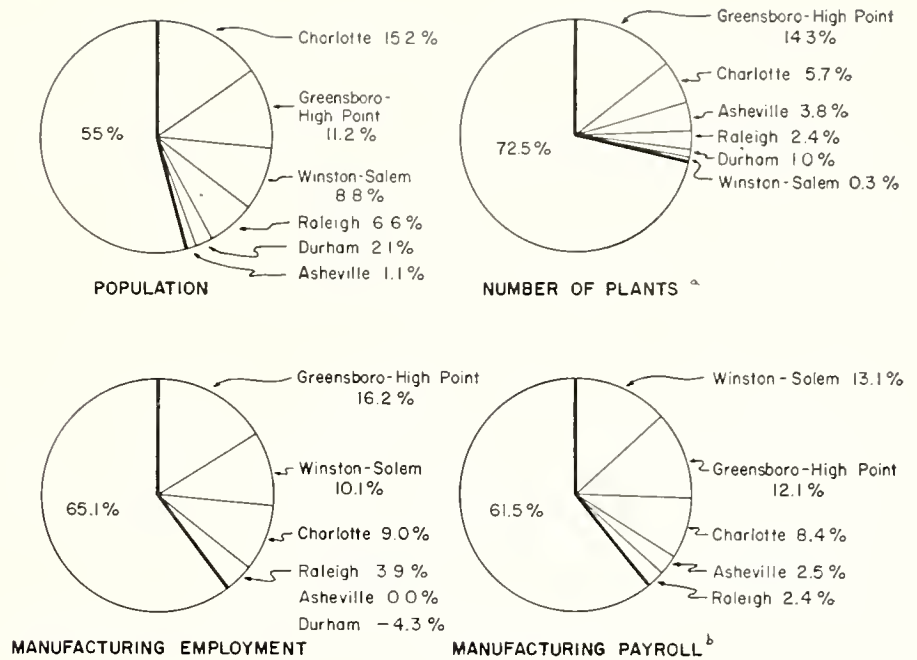
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POPULAR GOVERNMENT is published monthly except January, July and August by the Institute of Government, the University of North Carolina, Chapel Hill. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscription: per year, \$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 material printed herein may be quoted provided proper credit is given to POPULAR GOVERNMENT.

Figure 1 NORTH CAROLINA'S MAJOR URBAN AREAS\*: Population (1950-1960) and Manufacturing Characteristics (1947-1958).—*See Area Gain as Per cent of State Gain.*



# MAJOR URBAN AREAS: HOW DID THEY GROW IN THE 'FIFTIES?

by RUTH MACE

*Research Associate, Institute of Government*

That "the rich stay rich and get somewhat richer" is proven once again for North Carolina's major urban areas—Asheville, Charlotte, Durham, Greensboro-High Point, Raleigh, and Winston-Salem—by data now in from the 1960 United States Census of Population and the 1958 Census of Manufacturers. Summarized in tables and graphs here is this information as it relates to the six urban counties which contain these cities.

These data tell us, among many other things, that these six counties captured almost one-half of the state's population gain from 1950 to 1960, more than one-third of its gains in manufacturing employment and payrolls, and more than one-fourth of its gains in numbers of manufacturing establishments\* during the 1947-1958 period (see Figure 1). During the 'fifties these urban areas, as a group, increased slightly their already substantial share of the state's population, manufacturing establishments, and manufacturing employment. Even more significant were gains in manufacturing payroll—

from one-fourth of the state's total in 1947 to more than one-third of this total in 1958 (see Figure 2). The relatively greater increase in manufacturing payroll than in employment and numbers of establishments points to a greater concentration of higher wage industries in these areas than in the remainder of the state.

That these areas (with only a few exceptions) are maintaining their relative standing with respect to each other is shown in Table 2 (and in Figure 3) which ranks them in terms of population, numbers of plants (with 20 or more employees), numbers of manufacturing employees, and manufacturing payroll at the opening and close of the survey periods. Closer examination reveals, however, marked disparity in the growth rates of the various localities (see Figure 4) and in the way that population and manufacturing gains were distributed among the areas (see Figures 1 and 3). For the most part, the sharing of gains is consistent with the rankings set forth in Table 2—i.e., those that had gained most. Described in detail on these pages are the growth patterns of each of the six areas in relation to the state as a whole and to the other five areas in the group.

\* Throughout this analysis "numbers of manufacturing establishments or plants" refers to plants employing 20 or more people.

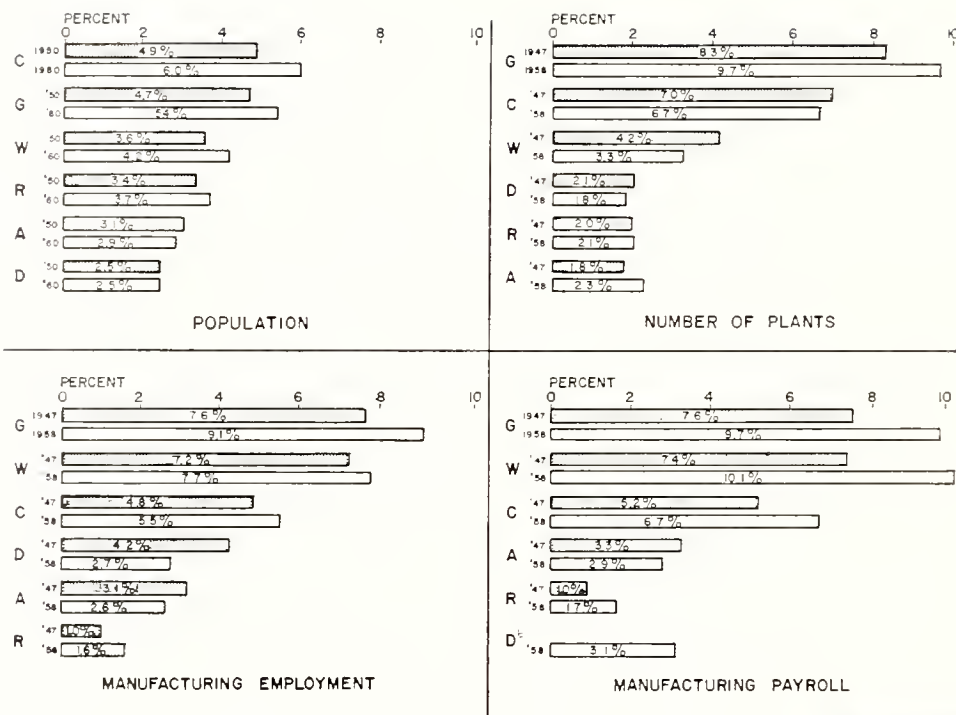


Figure 3 NORTH CAROLINA'S MAJOR URBAN AREAS\*: Population (1950-1960) and Manufacturing Characteristics (1947-1958).—*Individual Locality Statistics as Per cent of State Total.*

Asheville in 1950 and 1960 ranked fifth in population among the six areas. The area did not, however, keep pace with the state's gain. In 1950 it contained 3.1 per cent of the state's total population, but by 1960 this percentage had dropped back to 2.9. Ranking fourth in manufacturing employees in both 1947 and 1958, Asheville actually lost out in relation to the state—the manufacturing employee total dropping from 3.1 per cent in 1947 to 2.7 per cent in 1958. Asheville ranked fourth, among five areas (Durham excluded) in manufacturing payroll in 1947 and fifth among the six areas in 1958. It lost again in relation to the state's total, dropping from 3.3 per cent in 1947 to 2.9 per cent in 1958. On the positive side, Asheville rose from sixth to fourth rank (replacing Durham) in numbers of manufacturing establishments during the 1947-1958 period. A net gain of 24 plants was registered, reflecting a 66 2-3 per cent increase over the locality's 1947 total.

Charlotte maintained and strengthened its position as the state's leading urban area in terms of population during the 'fifties. It increased its share of the state's total population from 4.9 per cent in 1950 to 6.0 per cent in 1960, showing the fastest rate of gain among the SMSAs (38.1 per cent over its 1950 total). The area captured 15.2 per cent of the state's total population gain during the decade, more than one-third of the share of the six urban counties combined.

Manufacturing gains were also substantial, but not as significant (relatively speaking) as population gains, indicating that while manufacturing is important to Charlotte's economy, it is not the area's dominant economic function. Charlotte maintained its second place ranking among the six areas in number of plants and its third place ranking in number of manufacturing employees and manufacturing payroll. Relative to the state, however, it lost out in its share of numbers of plants, dropping from 7.0 per cent of the state's total in 1947 to 6.7

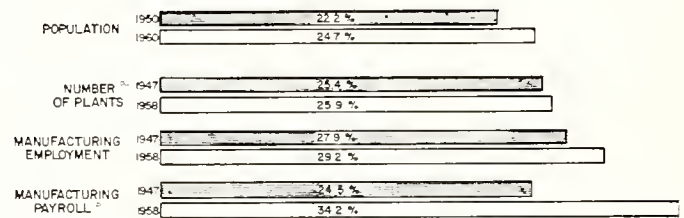


Figure 2 NORTH CAROLINA'S MAJOR URBAN AREAS\*: Population (1950-1960) and Manufacturing Characteristics (1947-1958)—*Six Area Total as a Percent of State Total.*

Table 2  
NORTH CAROLINA'S MAJOR URBAN AREAS\*: Population (1950-1960) and Manufacturing Characteristics (1947-1958)  
—*Ranking*—

Rank	Population		Number Plants <sup>a</sup>		Number Manufacturing Employees		Manufacturing Payroll	
	1950	1960	1947	1958	1947	1958	1947 <sup>b</sup>	1958
1	C	C	G	G	G	G	G	W
2	G	G	C	C	W	W	W	G
3	W	W	W	W	C	C	C	C
4	R	R	D	A	D	D	A	D
5	A	A	R	R	A	A	R	A
6	D	D	A	D	R	R		R

Sources: U. S. Census of Population, 1960; and the 1947 and 1958 Censuses of Manufacturers.

\*North Carolina's SMSAs (Standard Metropolitan Statistical Areas). As defined by the U. S. Bureau of the Census, these comprise the counties containing the cities enumerated above.

<sup>a</sup> Twenty or more employees

<sup>b</sup> Figures for Durham (1947) not given by the Census Bureau

Key to abbreviations:

- A—Asheville
- C—Charlotte
- D—Durham
- G—Greensboro-High Point
- R—Raleigh
- W—Winston-Salem

per cent in 1958. On the other hand, the area made moderate gains in its share of the state's total number of manufacturing employees (from 4.8 per cent in 1947 to 5.5 per cent in 1958) and manufacturing payroll (from 5.2 per cent in 1947 to 6.7 per cent in 1958). On the basis of its own status in 1947, the Charlotte area registered a gain of 25.7 per cent in numbers of plants, 40.4 per cent in numbers of manufacturing employees and 145.6 per cent in manufacturing payroll.

**Durham** remained the least populous of the six urban areas over the 1950-1960 decade, maintaining its share of the state total population (2.5 per cent both in 1950 and 1960). The area gained over its own 1950 population by 10.2 per cent, netting 2.1 per cent of the state's total gain. While the Durham area held its fourth place status with respect to the six-area group in terms of manufacturing employment it dropped from fourth to sixth (replaced by Asheville) in number of plants. Durham's manufacturing payroll figures for 1947 were not provided by the Census Bureau, so it is not possible to say what happened during the eleven year period on this score. In 1958, however, Durham ranked fourth among the areas in manufacturing payroll and accounted for 3.1 per cent of the state's total. In relation to the state, Durham lost out both in numbers of plants and numbers of manufacturing employees. In 1947 Durham contained 2.1 per cent of the state's manufacturing establishments and 4.2 per cent of its manufacturing employees. By 1958 these percentages had dropped to 1.8 and 2.7 per cent respectively. With respect to its own 1947 position, the Durham area increased its plant numbers by 14.3 per cent and lost manufacturing employment at the rate of 21.8 per cent. (Manufacturing employment in Durham dropped back from 16,109 in 1947 to 12,603 in 1958.)

The **Greensboro-High Point** area ranked second among the six in population in both 1950 and 1960. It gained by 29.0 per cent over its 1950 total, and increased its share of the state's total population from 4.7 per cent in 1950 to 5.4 per cent in 1960, capturing 11.2 per cent of the state's total gain. The area maintained its leadership from 1947 to 1958, among the six urban counties, in numbers of plants and manufacturing employment. However, it yielded its top position in manufacturing payroll to Winston-Salem. In relation to the state, the Greensboro-High Point area substantially increased its share of plants (from 8.3 per cent in 1947 to 9.7 per cent in 1958), employees (from 7.6 per cent to 9.1 per cent) and payroll (from 7.6 per cent to 9.7 per cent) during the eleven year period. Gains in numbers of plants and manufacturing employment were outstanding. The area accounted for 16.2 per cent of the state's gain in manufacturing employment and

(Continued on page 12)

Figure 4 NORTH CAROLINA'S MAJOR URBAN AREAS\*: Population (1950-1960) and Manufacturing Characteristics (1947-1958)—Rate of Gain.

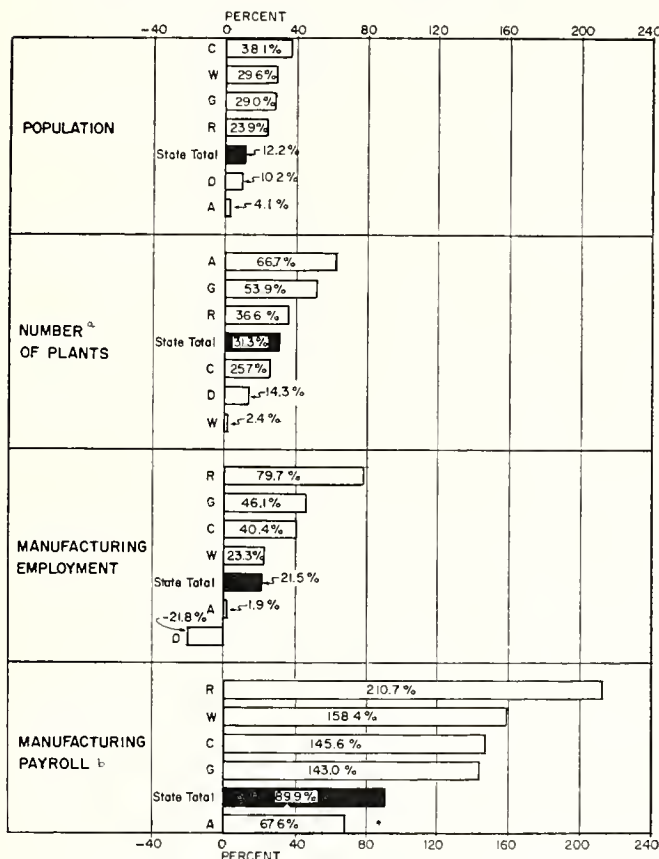
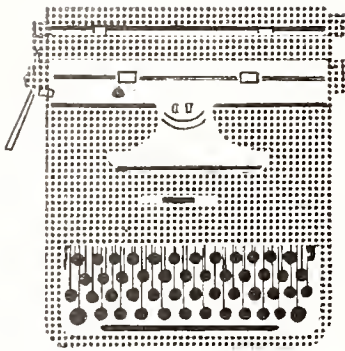


Table 1

NORTH CAROLINA'S MAJOR URBAN AREAS\*  
Population (1950-1960) and Manufacturing Characteristics (1947-1958)

	Population		Number of Plants <sup>a</sup>		Number of Manufacturing Employees		Manufacturing Payroll (Thousands of Dollars)	
	1950	1960	1950	1960	1947	1958	1947	1958
North Carolina	4,061,929	4,556,155	2011	2641	381,480	463,681	785,895	1,492,773
Asheville	124,403	130,074	36	60	11,942	12,174	26,127	43,797
Charlotte	197,052	272,111	140	176	18,200	25,570	40,963	100,622
Durham	101,639	111,995	42	48	16,169	12,603	— <sup>b</sup>	46,421
Greensboro-High Point	191,057	246,520	167	257	28,885	42,212	59,631	144,882
Raleigh	136,450	169,082	41	56	4,002	7,191	7,984	24,308
Winston-Salem	146,135	189,428	85	87	27,368	35,663	58,427	150,965
Six area total	896,736	1,119,210	511	684	106,506	135,413	193,132	511,495



## ● NOTES FROM . . .

## CITIES AND COUNTIES

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● **Charlotte** has made a move to crack down on small contractors, do-it-yourself homeowners, and moving and demolition firms who work without permits.

The Queen City's Building Inspection Department, operating now under a new regulation adopted by the Building Standards Board and the City Council, plans an intensive campaign against violators. "We're going to go out looking for violations," Department Superintendent Leslie McMillan was quoted as saying.

McMillan's department has jurisdiction over the city plus a 60-square-mile perimeter area, and with the adoption of a new zoning ordinance the perimeter coverage will be extended to a total of 180 square miles. Under the new regulation, no-permit builders and wreckers will be charged double the normal fee if found out.

● Police Chief Ralph Freeman has been permanently appointed at a special meeting of the Town Board of **Chadbourn**. Freeman had been serving as acting chief since the resignation of former chief D. C. Taylor in mid-April.

● Tenants displaced by **Raleigh's** Smoky Hollow slum clearance project will have a chance at 100 new low-cost housing units made with funds provided recently by the Housing and Home Finance Agency in Washington. H. Palmer Edwards, director of the Raleigh Redevelopment Commission, pointed out that 380 such units have already been constructed in the Capital City.

● Former Asst. Police Chief John Hord of **Charlotte** has been named by the City Council to succeed Chief Jesse James, who is resigning to enter private business after serving some two years as head of the Queen City force. Hord, a native of Kings Mountain, has been with the department since 1934.

● **Raleigh** voters gave their approval to the issuance of \$850,000 in library building bonds, but the city was left with the problem of operating expenses for the new facilities, as

a seven-cent tax levy was defeated by a little less than a 4-3 vote ratio.

● Lon Haskett, a 23-year veteran with the **Gastonia** Police Department, has been promoted to captain of detectives. He formerly served as a police lieutenant, and was one of the two plainclothes officers to form the detective division of the Gastonia force in 1947.

● **Greensboro** residents have approved a million-dollar bond election which will allow for the establishment of two huge new park areas in the Gate City, in addition to the purchase of additional lands for use as neighborhood playgrounds. About a fifth of the sum will be used for development of the new play and recreation areas.

● **Statesville** will remain dry. A proposal to establish ABC stores within the municipality was defeated in a June referendum by more than 400 votes. A similar defeat was registered in 1949 by a three-to-one vote ratio.

● **Madison** has its first city manager: William F. Pierce of Fayetteville. City manager at Fayetteville for the past six years. He will assume his duties at Madison about July 1.

● **Royal Oaks** Sanitary District passed its \$270,000 sewer bond issue by a vote of 301 to 8. Almost half of the area's registered voters turned out at the polls.

● The City of **Greensboro** has purchased a large brick building located between the City Hall and the Municipal Building for \$282,600. The space will be used for expansion of city departments.

● **Carolina Beach** last month installed parking meters on its downtown streets for the first time.

● **Kinston's** City Council has approved the expenditure of \$277,000 from the city's general fund to supplement bond proceeds for construction of the new city hall. Earlier, voters approved a \$250,000 bond issue.

● The City of **Durham** will be considered for the 1961 Ward Melville Gold Medal for Community Improv-

ment, a nationwide award which recognizes "outstanding accomplishments" over the period from 1955-60. Application for the award, at the invitation of Ward Melville, was initiated by Mayor E. J. Evans and is being carried through by City Manager George Aull and the Committee of 100, a local industry-hunting group.

● The first installment on **Durham's** urban renewal project will get under way soon. Approval on the \$3 million first leg of the project was given in June by regional federal housing officials in Atlanta. Part of a proposed 600-unit plan, the initial 220 low-cost homes will be constructed on some 22.4 acres in the blighted Hayti-Elizabeth Street area.

● **Granite Quarry** voters have given their approval to the issuance of \$325,000 in municipal water bonds.

● The Town of **Elon College** is now operating under a new charter from the General Assembly. Passage of the new charter recently ends the dispute over jurisdiction of the town's police force. A clause in the document authorizes town police to make arrests within one mile outside the city limits instead of the two miles provided for in an earlier charter.

● William Lee Percise, a veteran of 10 years service with the **Goldsboro** Police Department, has been promoted to lieutenant, succeeding James Sasser, now a deputy with the Wayne County Sheriff's Department.

● The **Durham** City Council this month voted to increase water and sewer rates by up to 33 per cent, depending upon the volume of consumption by the individual user. Those using under 500 cubic feet per month will not be affected.

● **Charlotte** hornets will buzz about happier since the announcement by the City Council that next year's city auto license tag will contain the traditional hornet's nest along with the inscription "Birthplace of Independence." Several alternate proposals, including a crown design suggested by the Cham-  
*(continued on Inside Back Cover)*

by Robert G. Byrd  
Assistant Director,  
Institute of Government



## EXTRATERRITORIAL SPENDING POWERS OF NORTH CAROLINA CITIES

Frequently, a city finds it necessary or desirable to go outside its borders in order to provide efficient services to its inhabitants: seldom can a city find adequate water supply, sewerage outlets and land within its geographical limits to meet the needs of its inhabitants. Thus, a city may have to acquire land, establish and operate an airport outside the city limits. It may be necessary for a city to go outside its territorial limits to acquire a water supply or sewerage outlets and to construct and operate facilities outside of the city in connection with their use. A city may acquire sites beyond its boundaries in order to provide adequate parks and playgrounds for its inhabitants. In many of these cases either necessity or prudence dictates that the city go beyond the municipal boundary; otherwise the particular services could not be provided or would have to be provided less efficiently or effectively.

Increasingly in recent years residential, commercial, and industrial development has taken place outside of cities in the territory surrounding them. As development becomes dense in these areas, needs arise for municipal type services—water, sewer, police and sanitary regulation, zoning, etc.—and often residents of these areas look to the city to provide these services. Usually, these needs cannot be met by private interests and often the city is the only governmental unit capable of meeting them. It may be to the interest of the city as well as to that of the residents of the periphery that these needs be met. If the services are not provided, health hazards and other conditions detrimental to the city and its inhabitants may arise. Also this territory may become a part of the

city at a later time if the city expands its limits by annexation.

In North Carolina there are fairly strict legal limitations upon expenditure of public funds by cities. (1) A city cannot spend public funds in carrying out any activity unless the legislature has either expressly or impliedly authorized the city to engage in that activity.<sup>1</sup> (2) A city cannot, even with legislative authority, spend public funds to carry out an activity which is not a public purpose.<sup>2</sup> (3) A city cannot levy taxes or incur debt, except upon approval of the voters, to carry out any activity which is not a necessary expense.<sup>3</sup> Because extraterritorial activities of cities have increased rapidly in recent years, an inquiry as to the effect of these limitations upon the expenditure of public funds by cities in connection with such activities seems timely.

### Statutory Authority

The general rule is that municipalities possess no extraterritorial power in the absence of an express grant of such power by the legislature.<sup>4</sup> However, it is well established in North Carolina, as in other jurisdictions, that

1. *Horner v. Burlington Chamber of Commerce*, 231 N. C. 440 (1950); *Green v. Kitchin*, 229 N. C. 450 (1948); *Madry v. Scotland Neck*, 214 N. C. 461 (1938).

2. N. C. Const., Art. V, § 3. "Taxes shall be levied only for public purposes. . . ." Although the above provision relates only to taxes, the public purpose limitation by judicial rule applies to all public funds. *Airport Authority v. Johnson*, 226 N. C. 1 (1945).

3. N. C. Const., Art. VII, § 7.

4. *Kennerly v. Dallas*, 215 N. C. 532 (1939); *Holmes v. Fayetteville*, 197 N. C. 740 (1929).

the legislature may confer extraterritorial powers upon cities.<sup>5</sup> Normally, extraterritorial authority will not be implied from a general grant of power to carry out a particular function, and the grant of extraterritorial powers must be expressed.<sup>6</sup>

In North Carolina the legislature has been generous in its grants of extraterritorial powers to cities. The legislature has authorized cities to go beyond their boundaries in providing services not only to their inhabitants but also, in many instances, to non-residents. In providing services both to residents and nonresidents, cities are authorized to acquire property and to construct and operate facilities outside of their territorial limits. Such extraterritorial powers have been given to cities in relation to utilities,<sup>7</sup> fire protection,<sup>8</sup> streets,<sup>9</sup> cemeteries,<sup>10</sup>

5. *Charlotte v. Heath*, 226 N. C. 750 (1946); *Holmes v. Fayetteville*, 197 N. C. 740 (1929).

6. 38 Am. Jur. *Municipal Corporations* § 122 (1941).

7. Acquisition of land, easements, water rights and other property for light, gas, water and sewer utilities (G. S. 160-255 and G. S. 160-204); use of eminent domain for such acquisitions (G. S. 160-205); acquisition and operation of joint water supply by two or more cities (G. S. 160-191.6); acquisition and operation of utility system through revenue bond financing (G. S. 160-415(a)); provision of light, gas, water and sewer utility service to nonresidents (G. S. 160-255); acquisition and operation of sewerage disposal system (G. S. 160-424.2); acquisition of sewerage outlets by condemnation (G. S. 160-239).

8. Provision and maintenance of water mains, hydrants, pipes, buildings and equipment and furnishing protection within two mile limit in governing body's discretion and within twelve

parks,<sup>11</sup> hospitals,<sup>12</sup> airports<sup>13</sup> and other functions.<sup>14</sup> Cities have also been given extraterritorial powers in subdivision regulation,<sup>15</sup> zoning,<sup>16</sup> abatement of health hazards,<sup>17</sup> sanitation,<sup>18</sup> and law enforcement.<sup>19</sup>

In granting extraterritorial powers to cities, the legislature is bound by the constitution, but the extent to which the constitution limits the legislature in granting such powers to cities is not clear. No case can be found in which the Court has held delegation of such powers unconstitutional or the exercise of the powers granted invalid on constitutional grounds. However, the Court has recognized that the constitution does impose some limitation in this respect.<sup>20</sup> An examination of North Carolina cases in this area will help to identify the extraterritorial activities cities have been permitted to spend public funds to carry out and, perhaps, to give a better idea of those which may be prohibited.<sup>20a</sup>

### Expenditures for Benefit of City's Inhabitants

*Property and Services.* Perhaps the simplest setting in which the question arises as to authority of a city to spend public funds outside its terri-

torial limit by agreement (G. S. 160-238).

9. Acquisition of land and rights of way (G. S. 160-204); use of eminent domain for such acquisitions (G. S. 160-205).

10. Acquisition of land (G. S. 160-204 and G. S. 160-2(3)); use of eminent domain for such acquisitions (G. S. 160-205); regulation (G. S. 160-203.1).

11. Acquisition of land (G. S. 160-204 and G. S. 160-200(12)); establishment and regulation (G. S. 160-200(12)).

12. Acquisition and maintenance (G. S. 160-230).

13. Acquisition, maintenance, control and regulation of airports (G. S. 63-2).

14. Acquisition and maintenance of incinerators, pesthouses, slaughterhouses, rendering plants, and crematories (G. S. 160-230).

15. Municipalities except those located in exempted counties have been given such power in territory within one mile of corporate limits (G. S. 160-226 and G. S. 160-227.1).

16. Cities except those located in exempted counties, with 1250 population or more are authorized to zone territory within one mile of corporate limits (G. S. 160-181.2). HB 1243(1961) changed minimum population from 2500 to 1250.

17. In territory within one mile of corporate limits (G. S. 160-224).

18. In territory within one mile of corporate limits (G. S. 160-203).

19. Such authority is given many cities in charters and local acts.

20. Public Service Company v. Shelby, 252 N. C. 816 (1960); Holmes v. Fayetteville 197 N. C. 740 (1929).

torial limits, is where the city goes outside its boundaries to provide services for the benefit of its citizens. A city frequently goes outside in providing airports, water and sewer facilities, parks, playgrounds, and cemeteries. As the purpose of going outside is to provide services to the inhabitants inside the city, logically there seems to be no reason why such expenditures should not be treated the same as expenditures within the city for the same purposes. And it seems fairly clear that this is the position that the North Carolina Supreme Court has taken.

In *Morgan v. Spindale*,<sup>21</sup> a taxpayer brought an action to enjoin the city of Spindale from issuing bonds, the proceeds of which were to be used with federal and state funds to construct an armory outside the city. The issue of whether location of the armory outside the city limits affected the legality of the expenditure of municipal funds was squarely raised. The taxpayer contended that "conceding the construction of armories in general may serve a public purpose, the fact that the armory here proposed is to be constructed outside the corporate limits of Spindale . . . negatives a public purpose as to Spindale." The Court held:

The mere fact that it is to be located half a mile beyond the corporate limits of Spindale does not affect the purpose for which the construction is to be made. The [trial court's] finding that the armory will be available for use by civic organizations for public functions, and the rifle range and armory will be available for instruction and use by law enforcement officers of Spindale is not challenged. All of these are public purposes. *The right to enjoy and not the place where the right may be exercised is the test.* [Emphasis

20a. Issues other than that of expenditure of public funds arise in connection with delegation of extraterritorial powers. For example, in *Taylor v. Racing Association*, 241 N. C. 85 (1954), legislation authorized the establishment and operation of pari-mutuel betting facilities on "property owned or leased by the Town of Morehead City outside the corporate limits thereof but within the limits of Carteret County." The act was to be effective only upon approval of the voters of Morehead City. The Court held that this was an unconstitutional delegation of legislative power. "While an act, otherwise valid, may be enacted so as to take effect upon approval by a majority of the qualified voters of the affected locality . . . the General Assembly cannot constitutionally provide that the qualified voters in one governmental unit, e.g., a town, shall decide whether a statute shall be in force and effect elsewhere than in the territory comprising that particular governmental unit." *Id.* at 95.

21. 254 N. C. 304 (1961).

added.] Municipalities frequently establish their sewerage disposal plants, their water supply systems beyond the corporate limits, but we do not suppose that anyone would suggest that the fact that these are not located within the corporate limits would destroy the purpose for which they are constructed. By no stretch of the imagination can it be said that the location of the armory outside of the corporate limits makes it a private purpose.<sup>22</sup>

The Court has also upheld expenditures by cities in territory outside of the city for the construction and operation of an airport,<sup>23</sup> for the acquisition of parks and playgrounds and improvements of streets connecting them with the city,<sup>24</sup> for a contribution to aid in the establishment and operation of a state fair,<sup>25</sup> and for cemeteries.<sup>26</sup> In sustaining these expenditures the Court has always looked at the benefits derived by the inhabitants of the city rather than to the location at which the expenditure was made.

A slightly different situation in which the Court upheld expenditures by a city outside its corporate limits arose in *Austin v. Shaw*.<sup>27</sup> In this case a taxpayer sought to restrain the city from entering into a contract with a railroad company under which the city was to acquire land outside its limits for donation to the railroad company as a right of way in return for the railroad's removing a track within the city. The objective was elimination of a number of grade crossings in the city. Although the Court found no express statutory authority for this type of expenditure, it permitted the city to carry out the transaction. "[W]e think that in order to carry out the comprehensive plans . . . for the purpose of eliminating grade crossings in the public interest, the expenditure of city funds for the purpose of this extraterritorial construction would be justified under the principle of compensation by way of substitution."<sup>28</sup> The Court pointed out that much larger expenditures would be required to eliminate the grade crossings by construction of underpasses and overpasses in the city.

This otherwise clear picture is muddled somewhat by decisions of the Court relating to extraterritorial powers of cities concerning streets. In a

22. *Id.* at 306.

23. *Airport Authority v. Johnson*, 226 N. C. 1 (1945).

24. *Berry v. Durham*, 186 N. C. 421 (1923).

25. *Eriggs v. Raleigh*, 195 N. C. 223 (1928).

26. *Harrison v. New Bern*, 193 N. C. 555 (1927).

27. 235 N. C. 722 (1952).

28. *Id.* at 725.



case<sup>29</sup> decided in 1923, the City of Durham sought to avoid tort liability for property damages arising from street improvements made by the city outside its corporate limits. The streets concerned connected the city with a municipal park located outside the city. The city contended its acts in improving streets outside its boundaries were *ultra vires*. The Court rejected this plea: Ordinarily, and in the absence of legislative sanction, a city . . . is without power to enter on improvements of this character outside of the corporate limits. . . . [I]n our opinion there is ample legislative authority for the present improvement on the part of the city. . . . The city authorities, then, being well within their powers in the grading of the street, the city may be properly held liable. . . .<sup>30</sup>

Thirteen years later a paving assessment by the City of High Point against property lying beyond the city limits was upheld by the Court.<sup>31</sup> The street which had been paved lay partly within and partly outside the city and connected with other streets inside the city. Defendants' property abutted on the part of the street outside of the city. The Court, in sustaining the assessment, said: "In the present case the streets outside the city were dedicated to the city and there was no necessity to purchase same. . . . The statute . . . gave the city the right to acquire streets 'within or outside the city,' and to 'exercise the management and control of the streets,' etc. The language is broad enough for the streets so dedicated to the plaintiff city that the city had authority to pave same. . . ."<sup>32</sup> The significance of this language is reduced by other factors upon which the Court relied in reaching its decision. The Court found that the defendants were estopped<sup>33</sup> to deny the validity of the assessment and that the legislature had validated the whole proceeding.

29. *Berry v. Durham*, 186 N. C. 421 (1923).

30. *Id.* at 423, 424, 425.

31. *High Point v. Clark*, 211 N. C. 607 (1937).

32. *Id.* at 611, 612.

33. Defendants had filed a petition with the city requesting that the improvement be made and costs assessed against abutting property. In the petition, defendants stated their property was located in the city. Both the city and defendants thought the property was located in the city. As to this aspect of the case, the Court said: "We think, under the factual situation of this case, that defendants are estopped to repudiate their solemn petition, acted on by plaintiff, and which defendants are now receiving the benefits to enhance the value of their property by having the streets paved." *Id.* at 611.

It does seem clear, however, that the Court recognized, at least in dictum, that authority to acquire street rights of way outside of the city by dedication was included in a statutory grant authorizing cities to purchase such extraterritorial rights of way. Also, the Court recognized the right of the city to improve streets located beyond its corporate limits under proper statutory authority. On the first of these points, this case is no longer significant in view of the Court's decision in *Rowe v. Durham*,<sup>34</sup> decided in 1952. The Court expressly held that "a municipality is without power to accept an offer of dedication of a street which lies without its territorial limits. . . . [T]he city of Durham had no jurisdiction over the land . . . and therefore had no authority to accept the offer of dedication. . . ."<sup>35</sup> This case does not hold that cities cannot be given authority to accept dedication of land beyond their corporate boundaries. Nor does the holding seem broad enough to overrule the earlier decisions upholding the right of cities, with legislative authority, to acquire by purchase, improve and maintain streets beyond their corporate limits.<sup>36</sup>

*Regulation.* Normally, regulatory and police powers of cities are confined to the territory within their corporate limits.<sup>37</sup> The legislature may, however, extend these powers to cities for exercise in territory outside their boundaries. North Carolina cities are au-

34. 235 N. C. 158 (1952).

35. *Id.* at 161.

36. In a recent opinion the Attorney General ruled that a city having statutory authority could "acquire the land necessary to lay out and open a new street even though it be outside the city limits, so long as it is necessary and required for the public convenience." Letter of Attorney General to James B. Garland, 3 January 1961.

The Court has upheld expenditures by counties for construction of bridges spanning rivers which form the dividing line between two counties, even though such expenditures resulted in payment by one county of partial costs of construction of the part of the bridge lying in the territory of the other county. For example, in *Martin County v. Trust Company*, 178 N. C. 26 (1919), the entire bridge across a river dividing Martin and Bertie counties and a long approach to the bridge through a swamp were located in Bertie County, yet payment of three-fourths of the cost of construction of the bridge by Martin County was upheld. The Court pointed out that the greatest portion of the benefit from the bridge would accrue to Martin County. Other similar cases are: *Emery v. Mecklenburg County*, 181 N. C. 420 (1920); *Bridge Company v. Chatham County*, 151 N. C. 215 (1909).

37. *State v. Owens*, 242 N. C. 525 (1955) (city ordinance purporting to zone beyond city's corporate limits held

authorized to adopt subdivision<sup>38</sup> and zoning<sup>39</sup> regulations applying to territory for a distance of one mile beyond their corporate limits. Sanitary regulations and regulations for protection of city property adopted by cities are by statute made applicable to territory one mile beyond the city limits unless the governing body of the city shall otherwise provide.<sup>40</sup> G.S. 160-234 authorizes cities to abate nuisances which are dangerous to public health both within the city and within one mile of its limits. By local acts many cities have been given criminal law enforcement powers outside of the city limits.<sup>41</sup>

As early as 1894 the North Carolina Court indicated in dictum that "the Legislature unquestionably had the power to extend the jurisdiction of [a] town for police purposes" beyond the town's territorial limits.<sup>42</sup> In 1912 the Court ruled directly upon the validity of the grant and exercise of extraterritorial regulatory powers in *State v. Rice*.<sup>43</sup> In this case the defendant, who lived outside the corporate limits of Greensboro, was indicted for unlawfully and willfully "keeping and running hogs in a lot within one-fourth of a mile of the corporate limits of the city" in violation of a city ordinance. The trial court quashed the warrant. In reversing the decision of the trial court, the Supreme Court held:

The Legislature has unquestioned authority to confer upon the town authorities jurisdiction for sanitary or police purposes of territory beyond the city limits. . . . This is sometimes conferred for police protection but oftener for the preservation of public health. Power is often granted to the town authorities to police the watershed beyond corporate limits so that the city may have pure water. Also to insure cleanliness, to protect the sewerage, and for many like purposes to protect the health of those living within the city. . . .<sup>44</sup> There is nothing in our Constitution which restricts the Legislature in the exercise of its police power from conferring upon the

invalid where there was no statutory authority to do so); *State v. Eason*, 114 N. C. 787 (1894) (indictment charging defendant "did unlawfully and willfully throw dead fish into the Pamlico River . . . in violation of the town ordinance" quashed because conduct occurred outside the town limits.

38. G. S. 160-226.

39. G. S. 160-181.2.

40. G. S. 160-203.

41. *Sec. Wilson v. Mooresville*, 222 N. C. 283 (1942); *Sossamon v. Cruse*, 133 N. C. 470 (1903).

42. *State v. Eason*, 114 N. C. 787, 792 (1894).

43. 158 N. C. 635 (1912).

44. *Id.* at 636.

(Continued on page 14)

# NEW RALEIGH MUNICIPAL BUILDING

*Mayor W. G. Enloe (right) and members of the Raleigh City Council form happy group on steps of new Municipal Building.*



Raleigh's \$1.4 million Municipal Building—completed last fall after more than a decade of planning and attempts at financing—has been termed “a unique study in simplicity, flexible utility, modern design and economy.”

The four-story brick, glass and aluminum structure replaced an outmoded City Hall in use since the turn of the century. The new structure has received favorable attention from officials, press, and public alike since its dedication on October 16, 1960.

It has been pointed out (1) that every wall in the building—including the outside walls—can be rearranged or moved since they are not used for support; (2) the fourth floor, presently unfinished on the inside, stands ready for almost immediate use when department expansion is necessary; (3) the foundation was designed to support two additional floors if future needs dictate; and (4) the total cost was much less than anticipated.

City officials predict that it will meet Raleigh's needs until past the year 2000. Speaking at the dedication ceremonies, Mayor W. G. Enloe said: “This is the beginning of an era that points to the greatest growth in the history of Raleigh. We must recognize the downtown area as the hub of the whole business area; and we must rid our town of slums and blighted areas.”

Near the conclusion of his dedication speech, Enloe noted that the capital city's future growth was in doubt “only if future [city] councils become less concerned with bold action and more interested in avoiding risk.” The Mayor prefaced this comment to the crowd of several hundred by recount-

ing the 13-year struggle faced by city officials in their efforts to bring to reality the new municipal building.

Three times in recent years the voters of Raleigh rejected bond issue proposals which would have paid for the building. In 1954, before a site had been selected, the voters defeated a \$750,000 bond issue. Again in 1956 a \$1.6 million bond election showed negative results. The following year, with a new site selected and unanimously approved by the Council, its plea for \$988,500 in bond money was defeated at the polls.

Assisted by the Chamber of Commerce, which called a meeting of public-spirited citizens, a citizen's committee of some 25-30 persons was formed to study the problems. Within weeks the committee had recommended that the present site at McDowell and Hargett Streets be used, and that the City Council finance the project by issuance of bonds within the Council's legal limits and by the sale of surplus city property. The 1957-59 Council adopted the recommendations and voted to sell the old City Hall for \$350,000. It also voted to take advantage of an ordinance which permits issuance of bonds equal to two-thirds of the city's debt retirement of the previous year. This brought an additional \$385,000. Most of the remainder was met by the sale of other surplus property. Upon completion, the building was about two-thirds paid for.

Today, for the first time in Raleigh's history, this modern municipal structure houses all departments of the city under one roof.

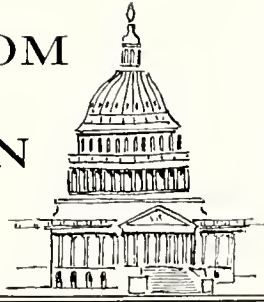
Entrance to the building is gained

from two levels on the front. The second level, which houses all municipal administrative offices, is reached by a pedestrian bridge running from McDowell Street. On the first level are located the police headquarters and municipal courtroom, while on the third floor are found the planning, engineering, inspections, recreation, public works, parks and personnel departments, along with the council chamber and office of City Manager W. H. Carper.

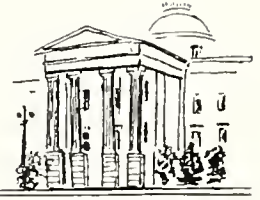
Behind the building is a concrete block motorcycle shed, which is heated in the winter for easy vehicle starting, constructed at a cost of \$6,000. Among the more popular features of the new municipal building is the snack bar, comfortable and brightly decorated, complete with high fidelity music piped in. An additional feature of the structure is a drive-in cashier's window for payment of bills, taxes or parking fines. Parking spaces for 47 official and 14 public vehicles are available outside.

Not the least of the advantages gained by construction of the new city quarters, according to City Manager Carper, is the increased efficiency and higher morale of city employees since leaving their often dark and cramped quarters in the old building. The reality of the new city hall already is bringing benefits to Raleigh in terms of utility, environment, and performance that make the battle for its existence worth the travail and the fruits of success sweeter to those officials and private citizens who fought through disheartening setbacks with renewed determination and dedication to ultimate realization of a community need.

# REPORT FROM WASHINGTON



# REPORT FROM RALEIGH



The House Appropriations Committee has recommended the expenditure of more than one million dollars for construction of two new federal buildings in North Carolina. Planned for Bryson City is a new post office and courthouse building at a cost of about \$750,000. Under the new recommendations, Thomasville would get a new post office costing some \$327,000.

\* \* \*

Over 37 per cent of North Carolina's housing units are classified as dilapidated or without important plumbing facilities, the U. S. Census Bureau reported recently. The figure resulted from door-to-door census questions last April. Nationally the percentage was set at 18.8.

\* \* \*

The squabble over whether there will be one air facility to serve the Greensboro, High Point, and Winston-Salem area, which erupted in full force before the Civil Aeronautics Board in Washington in early June, likely will end in court. Winston-Salem opposed the merging of its trunk line service with the Greensboro-High Point Airport. The major airlines serving the area, United, Eastern, and Piedmont, have not opposed the consolidation.

\* \* \*

Carson Bain of Greensboro, a member of the board of directors of the National Association of County Officials, has been appointed an advisor to the organization's Federal Real Property Committee. The committee will seek an agreement by the federal government to pay counties sums of money in lieu of taxes on federal property in counties. Presently the federal government pays no property taxes on such land.

\* \* \*

Sen. Sam J. Ervin has introduced a joint resolution in the Senate proposing a constitutional amendment governing the election of president and vice president. Under the proposal, similar to the Lodge-Gossett Plan introduced last January by Sen. Estes Kefauver, a proportional system of dividing each state's electoral votes would be instituted. Electoral votes would be apportioned to the candidates according to the percentage of popular vote received.

\* \* \*

Sen. Ervin, incidentally, has announced plans to run for re-election in 1962. The former North Carolina Supreme Court justice, and U. S. Senator since 1954, was quoted by newsmen as saying: "I've run both with and without opponents and I'm prepared to do it either way next time."

\* \* \*

Citizens of Freeport, Texas have been drinking sea water since May 31 without a protest. The water is from the first United States salt water conversion plant located on the Gulf of Mexico, similar to plants proposed for four other U.S. communities including Wrightsville Beach.

(Continued on Page 12)

The General Assembly solved one of its most ticklish problems near the close of the session by chopping off one of the state's 12 congressional districts and pitting Democrat Paul Kitehin against Republican Charles Jonas in a new Eighth District. Final action came after lengthy debate and after several proposed amendments were voted down decisively. The new district contains Anson, Lee, Lincoln, Mecklenburg, Montgomery, Richmond, and Union Counties—an area which in 1960 delivered 78,534 votes for Democrats and 71,657 for Republicans.

Congressional redistricting, a sore spot with the Assembly since it convened, became necessary because of the lower population increase by the state (as compared with certain others) according to the 1960 census. The drop automatically cuts the state's U.S. House of Representatives population from 12 to 11.

\* \* \*

North Carolina ranked second among southern and border states in 1960 output of manufactured products, the State Department of Conservation and Development has been informed. Value of the products was set at more than \$9 million, ranking behind only Texas. More than a half million Tar Heels were engaged in manufacturing last year, according to the report by the magazine *Industrial Development and Manufacturer's Record*, more than any of the states in the region.

\* \* \*

Federal income tax gained a vote of confidence in North Carolina recently as the General Assembly defeated a resolution urging repeal of the tax. The vote in the Senate was 34-16.

\* \* \*

Capital punishment will remain on the North Carolina statute books for at least two more years. The General Assembly late in the session killed by voice vote a bill which would have abolished the death penalty except where a person commits a capital offense twice.

\* \* \*

While the Senate on June 8 was voting overwhelming approval to Governor Terry Sanford's revenue bill (which placed a three per cent sale tax on food) and the House was whipping through approval of a \$1.5 billion biennial appropriations bill, the Governor himself was heaping praise on the General Assembly for its recent accomplishments. Speaking before the North Carolina Association of Broadcasters in Durham, the Governor expressed "absolute confidence" in obtaining majorities on both measures. His confidence proved well-founded. His remarks, beamed across the state via radio and television hook-up, included: "If I were not absolutely confident . . . I would not be addressing you today . . . I would be back over there [at the Capitol] working."

(Continued on Page 12)

# LEGISLATIVE TRAVELS

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The North Carolina General Assembly goes on the road three or four times a session. The 1961 General Assembly was no exception. In addition to the daily Monday through Saturday meetings at the State Capitol in Raleigh, the legislators held sessions in Greensboro and Winston-Salem, visited Durham and Cherry Point, and stopped by Smithfield for dinner in route back to Raleigh from the Cherry Point trip.

The Greensboro invitation included the opportunity to honor a native son, House Speaker Joe Hunt. The sessions in both Winston-Salem and Greensboro were attended by large numbers of the citizenry, notably several thousand school children. The visits to Greensboro, Winston-Salem, and Durham offered an opportunity for the legislators to inspect firsthand urban and industrial growth in the Piedmont Complex. The Durham journey presented a chance for a briefing on the Research Triangle. The jaunt to Cherry Point continued a tradition of a legislative look-see at one or more of the major establishments of the Armed Forces in the State. The brief stop at Smithfield brought into focus a historical tradition: the General Assembly last met in the Johnston County seat from May 3-15, 1779, when Governor Caldwell took note of a smallpox epidemic then raging in New Bern, the state capital at that time, and while the American Revolution raged throughout the newly declared United States of America. As the *Smithfield Herald* proclaimed: "The North Carolina Legislature is coming to Smithfield after an absence of 182 years."

Such legislative travels usually provide occasions for both serious work and fun. The 1961 trips brought about. Each broke the Raleigh routine and gave the legislators a fresh perspective on sections and segments of the state and its economy. Each had moments of instruction, inquiry, purpose, and humor. A closer look at one of these sessions away from Raleigh will illustrate the point.

The day was Tuesday, February 28th. The place was Greensboro. The occasion



*1961 North Carolina General Assembly is shown here in session away from Raleigh. Legislators and pages (standing left center) are shown in Greensboro meeting. Another session was held in Winston-Salem.*

was "Joe Hunt Day," honoring the Speaker of the House, a native son. The proceedings were in the form of a session of the North Carolina General Assembly. The audience was composed of more than 3,300 citizens, including some 2,000 school children, many times the number who could have been jammed into the House and Senate galleries and foyer for a single session in the State Capitol building in Raleigh. The spirit of the individual legislators was evident, their mood gay. Only one public bill of major consequence was introduced: a measure to abolish capital punishment except for second offenders already under sentence of life imprisonment. That bill, introduced by Representatives W. C. Harris, Jr., of Wake and H. P. Taylor of Anson [and later defeated] would provide life imprisonment for those convicted a first time of the capital crimes under present law—first degree murder, burglary, rape, and arson; but would permit the death penalty for those already serving a life term if the jury fails to recommend mercy. This serious piece of legislation later failed, was a lonesome counterpoint to the prevailing atmosphere of good fellowship and fun.

The fellowship was demonstrated in a series of oral tributes to Speaker Hunt, presiding over the House before an audience of homefolks. The fun was exemplified by the mock procedural road-

blocks thrown up by various legislators prior to passage of a local bill that normally would have been passed on second and third reading in a matter of seconds. The bill, which would prohibit the operation of loudspeakers in the town of Ether was confronted with hurdles usually reserved for controversial statewide legislation: a call for "he ayes and noes on second reading, a demand for a division (standing vote), an amendment to change the name of the town [from Ether to "Chloroform"], an objection to third reading, a motion to suspend the rules, and oratorical "debate" on the bill. The foreordained final passage of the local measure was an anti-climax to the zestful antics of a light-hearted moment. But the next day saw the General Assembly back in Raleigh in a serious mood and again busily engaged with knotty questions of State and local government in a crucial legislative year.

An inquiring citizen asks: Are such trips worthwhile? On the affirmative side of the ledger must be noted that a larger segment of people in diverse sections of the state have a chance to observe their chosen representatives at work and to better understand the legislative process. On the question side must be written questions as to suitability of the divergent atmosphere and travels to legislative accomplishment.

## INSTITUTE SCHOOLS, MEETINGS, AND CONFERENCES

### SCHOOL FOR NEW TAX COLLECTORS

New tax collectors and other tax office personnel from throughout North Carolina attended a course of instruction under the direction of Henry W. Lewis, assistant director of the Institute of Government, at the Institute's Knapp Building in Chapel Hill from April 24 through April 28, 1961. Instruction centered around the fundamentals of property and privilege license tax collection. Among the matters considered in the school were the office of tax collector, tax collection records, regular collection techniques, reports required of tax collectors, elements of tax collection, privilege license tax collection, the tax lien, collecting taxes from personal property, sales of tax liens against real property, how to compute discounts and interest, county and city personnel, and special privilege license tax problems among other matters.



*U. N. Moderator Frank P. Graham, former U. N. C. president and U. S. Senator, attended Law School graduation program held in auditorium of the Institute of Government's Knapp Building. Here Dr. Graham is shown chatting with Michigan's Governor Swainson, a Carolina law alumnus, who was chief speaker at the occasion.*

### SEVENTH ANNUAL COURSE IN MUNICIPAL ADMINISTRATION

Forty city and town officials charged with governing responsibilities graduated from the Institute of Government's seventh annual course in Municipal Administration on May 27. The officials had been attending the Municipal Administration courses at the Knapp Building throughout the year. Graduation was the culmination of intensive study in many areas of urban problems and official responsibilities. Subject matter included local governmental units and their functions, techniques for municipal administration, planning programs, function of municipal government and legislative authority, taxes and tax burdens, budget preparation, problems in municipal law, police and personnel administration, recreation administration, budget control on accounting, purchasing and contracting, street construction and maintenance, municipal debt, fire administration, and others. Instructors in the school included Jake Wicker, George Esser, Donald Hayman, Phil Green, Bob Stipe, Henry Lewis, Bob Byrd, and Neal Forney, all assistant directors of the Institute of Government; W. E. Easterling, secretary, North Carolina Local Government Commission; Leigh Wilson and John Morrissey, of the North Carolina League of Municipalities; Kenneth Scott, Chief Engineer of the North Carolina Fire

Insurance Rating Bureau; Chief Jack Keeter, Raleigh Fire Department; Assistant Fire Chief Lassiter C. Williams, Winston-Salem Fire Department, Bruce Furney, City Manager, Graham; City Manager George Aull of Durham and former city manager of Fayetteville, George Herndon; Professor John W. Horn, Department of Civil Engineering at North Carolina State College; and others. The final sessions prior to graduation exercises included a seminar of city and county relation-

ships and included a discussion of those relationships by Esser, presentation of the recent Durham City-County Unification Plan by Green, and the valuation of that plan by a panel consisting of Albert W. Kennon of the Durham City-County Charter Commission; Frank H. Kenan, Durham County Commissioner; Dr. Robert S. Rankin, Chairman, Political Science Department, Duke University; and Jake Wicker.



*Round Table discussions feature Municipal Administration Seminar held at Institute of Government in May.*

## MAJOR URBAN AREAS

(Continued from page 3)

14.3 per cent of its plant gains. In relation to its own 1947 position, the area grew very rapidly both in plants (53.9 per cent) and manufacturing employment (46.1 per cent). Gains in payroll, in relation to the other areas, were less substantial, amounting to an increase of 143.0 per cent. The area ranked fourth among the five areas reported on (Durham figures were not available) in its rate of payroll gain.

**Raleigh** remained fourth in population size among the six areas in the 1950-1960 decade, slightly increasing its share of the state's total population, from 3.4 per cent to 3.7 per cent, and capturing 6.6 per cent of the state's total gain. The area did not climb from its low ranking industrial position in relation to the other urban counties from 1947 to 1958, remaining fifth in number of plants and sixth in manufacturing employment and payroll. Further, its share of the state's manufacturing total continued small. Its share of plants rose from 2.0 to 2.1 per cent of the state's total; employment from 1.0 to 1.6 per cent; and payroll from 1.0 to 1.7 per cent. Nevertheless, the Raleigh area actually made rapid strides industrially during the survey period. Its 1958 manufacturing employment was 80 per cent higher than in 1947; and its 1958 manufacturing payrolls were more than 200 per cent higher than in 1947. During this period then,

Raleigh moved from the position where industry was relatively insignificant to its economy to the situation where manufacturing has taken on considerable importance—although the area still does not compete strongly for manufacturing status with the other major urban areas.

**Winston-Salem** retained its third position among the major urban areas in terms of population from 1950 to 1960. It increased somewhat its share of the state's total population from 3.6 per cent in 1950 to 4.2 per cent in 1960, accounting for 8.8 per cent of the state's total gain. In relation to its own 1950 situation, the area grew at a relatively fast rate (29.6 per cent), second only to Charlotte in this indicator.

Winston also continued as an industrial leader among the major urban areas, sustaining its third position rank in terms of numbers of plants and second place in manufacturing employment. In manufacturing payroll, the area captured first place from the Greensboro-High Point area. It is of interest to note that Winston-Salem's payroll gain cannot be attributed to the introduction of many new plants into the locality. This area made a net gain of only two plants (less than one-third of one per cent of the state's total) during the 1947-1958 period. In relation to the state as a whole, Winston slightly increased its share of total manufacturing employment from 7.2 to 7.7 per cent, and materially increased its share of manufacturing payroll from 7.4 to 10.1 per cent.

## REPORT FROM WASHINGTON

(Continued from page 3)

President Kennedy has nominated Carteret County Sheriff Hugh Salter of Beaufort for a four-year term as U.S. Marshal for the Eastern District of North Carolina. Previous nominations for similar posts in the Middle and Western Districts went to Herman Burrows of High Point and Paul Sossamon of Asheville respectively. All three were recommended by Senators Sam Ervin and B. Everett Jordan.

\* \* \*

A battery of Middle District attorneys huddled with officials of the Justice Department late in May in an effort to block the appointment of Chapel Hill's Malcolm Seawell as federal judge for the district. The group, headed by Bill Sabiston of Carthage, was pushing Superior Court Judge L. Richardson Preyer of Greensboro for the job, contending that Seawell had never practiced law "to any extent" in the Middle District. The state's two U.S. Senators have recommended Seawell for the post.

\* \* \*

A \$17,000 grant to help finance studies of sewage disposal problems in North Carolina's Research Triangle has been awarded by the Federal Urban Renewal Administration. The funds will go to the Regional Planning Commission of the Triangle.

\* \* \*

Former Southern Pines Mayor Voit Gilmore has been named director of the new federal Office of International Travel, to be a part of the Commerce Department headed by former Governor Luther Hodges. A travel promotion leader for North Carolina during the Hodges administration, Gilmore was slated to be appointed to his new post by President Kennedy.

## REPORT FROM RALEIGH

(Continued from page 9)

Almost no one escaped the barbs thrown discriminately at the General Assembly's annual "love feast" on June 7. The gala occasion, traditionally signifying that the session is nearing its end, serves as an open season for political lampooning, and few left unscathed. Included among several "bills" introduced was one to take Scotland County out of the state and put it in the soil bank, along with the 15 counties that elected Republican representatives last fall.

Diminutive House Reading Clerk Billy Arthur reported, while Governor and Mrs. Sanford sat laughing nearby, that the Governor's tax program "would put North Carolina in the forefront of the states—Now we'll owe as much as Michigan." While chiding several members of the legislature for being "wired to the Governor's office," Arthur commented that it was the first time he had known marionettes could be worked from the floor below.

\* \* \*

North Carolina's Wildlife Commission has officially recommended that a waterfowl refuge and feeding areas be established near Lake Norman. The new 33,000 acre lake will touch on Mecklenburg, Lincoln, Catawba and Iredell Counties. Cooperating with the project will be the State, Duke Power Co. and the U. S. Fish and Wildlife Service.

\* \* \*

Smuggling weapons, liquor or drugs into State Prison inmates has been made a felony punishable by a prison sentence of up to 10 years. The General Assembly enacted the measure into law at the behest of the State Prison Department following the discovery of an escape plot involving smuggled weapons earlier this year.

## GOVERNORS IN HAWAII

"*Hauoli mau i na lu apau. Makemake au ia oe luncel!*"

That's the Hawaiian way of writing: "Having a wonderful time. Wish you were here." And it would be surprising if Governor and Mrs. Terry Sanford and Lieutenant Governor and Mrs. Cloyd Philpott and their colleagues from the other states did not have a wonderful time while attending the National Governors' Conference in Hawaii. The Governors held useful, busy morning meetings, including a mental health panel on which Governor Sanford participated and conferences on such serious subjects as juvenile delinquency and financing public schools (the Tar Heel Governor had plenty he could say about this one). And the Governor took a strong stand against the import of Red Chinese textiles through Hong Kong to the United States in competition with American goods. But, in free hours, Alohaland lends itself to recreation and appreciation.

The Governor presented an Asheville-made rocking chair to Hawaii's Governor Quinn and Mrs. Sanford a Mount Gilead-made *muu muu* (Hawaiian-type dress) to Mrs. Quinn. He also offered rockers to the other Governors. As a matter

of fact, Oahu is an ideal place to rock and contemplate recent legislative successes, or just to rock and relax, period.

Under palm and banyan by the sands of Waikiki, the pleasant trade winds remind visitors of the island's flowers—hibiscus, night-blooming cereus, poinciana, fragipani; its delightful climate—never under 58 degrees in winter or over 87 in summer—; its traditional gaily shredded-skirted *hula* troupes; its *luau*s (parties); its colorful beaches and beachwear; its two major crops—sugar and pineapple (with some coffee and bananas on the "Big Island" of Hawaii); its mellifluous 12-letter language (even directions are given as *maka*, *makai*, *waikiki*, and *eua* rather than north, south, etc.); its industrial control by the "Big Five" companies (founded by men who came to the Islands as missionaries and became big business men); its huge sprawling city of Honolulu with a polygot population of mixed ancestry—Hawaiian, Japanese, Filipino, Chinese, Korean, Portuguese, French, English, American—living in harmony under the United States flag; and, above all, an impression that the 50th State is a real *kuaiipo* (sweetheart), even to *malihini*s (newcomers), and that's no *hoomalimali* (blarney). *Aloha* (hello, goodbye, I love you)!

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## BOOK REVIEW

### EXCHANGE BIBLIOGRAPHIES.

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## DAVIE POPLAR

Historic Davie Poplar, a Chapel Hill and University of North Carolina landmark for at least 200 years, condemned to death last month by tree experts, has been given a new lease on life with the aid of major "brain" surgery. Several tons of the tree's superstructure were cut away recently, leaving the bulky trunk—some six feet in diameter—wearing a crew cut. Campus officials were advised last month that the ancient tulip poplar was a safety hazard. The victim of many lightning strokes over the years, its end has been prophesied numerous times—but, like Mark Twain's, has turned out to be "slightly exaggerated."

## EXTRATERRITORIAL SPENDING POWERS

(Continued from page 5)

municipal authorities of Greensboro such power.<sup>45</sup>

In 1957 the Court upheld a zoning ordinance of the City of Raleigh regulating land use outside of the city. "We hold that the ordinance under consideration, which prohibits the construction and maintenance of a trailer camp within areas zoned for residential purposes within the City of Raleigh and within one mile of its corporate limits, is a valid exercise of the police power. . . ."<sup>46</sup> In this case defendant's property was located outside the city but within one mile of its limits.

In these cases attack is usually made upon the power of the city to exercise jurisdiction in territory beyond the corporate limits rather than upon the validity of expenditures made in administering and enforcing the regulations outside of the city. The interests which justify sustaining the exercise of jurisdiction in these areas would also seem to justify classifying city expenditures incident to the exercise of the extraterritorial jurisdiction in the same way as expenditures made for the same purposes within the city. This argument meets with some difficulty, however, since the Court has held that expenditures by cities in providing water and sewer in these areas are not necessary expenses.<sup>47</sup> In many instances, provision of water and sewer facilities may be more effective to remove health hazards and similar conditions in areas outside of the city than regulation. Regardless of the comparative practical effects of the two types of expenditures, however, the position that expenditures in connection with a valid exercise of the police power outside of the city should be classed the same as expenditures within the city for similar purposes seems sound.

### Expenditures for Benefit of Inhabitants

*Utilities.* Perhaps it is in the utilities field that the question of the authority of cities to engage in extraterritorial activities assumes greatest importance. At any rate it has been in the establishment and operation of utilities that municipalities have ventured most frequently beyond their corporate limits. The general rule that municipalities possess no extraterritorial power in the absence of an ex-

press grant of such power is fully applicable in the utilities field. However, in North Carolina, this restriction should be cause for little concern, as the North Carolina legislature has given cities broad extraterritorial powers in this area. In connection with ownership and operation of utilities, North Carolina cities are authorized to acquire and hold land, rights of way, easements, water rights, and other property located outside their limits.<sup>48</sup> The power of eminent domain may be used to effect such acquisitions.<sup>49</sup> Cities are also given express authority to furnish services "to any person, firm or corporation desiring the same outside the corporate limits where the services can be made available by the municipality."<sup>50</sup>

Existing laws authorizing cities to extend utilities outside their corporate limits are merely enabling acts permitting cities to do so if they choose.<sup>51</sup> Residents in areas outside a city cannot compel the city to make utility services available to them. Nor can a city compel property owners outside to accept services the city may want or be willing to provide. When a city furnishes utility services to persons outside its limits, it does not assume the obligations of a public service corporation toward its nonresident consumers.<sup>52</sup> As long as it does not discriminate between nonresident consumers, a city may extend services upon such terms as it determines. Thus, a city may establish charges for the privilege of connecting to its utility system outside the city and may establish such fees and charges for the services as it deems reasonable and proper.<sup>53</sup> Charges to nonresidents may be higher than charges to residents.<sup>54</sup> The relationship between the city and the nonresident consumer is essentially a contractual one.

Where a city extends its utility system beyond its corporate limits primarily to provide efficient services to its inhabitants, the legal status of expenditures for this purpose would

seemingly be the same as for similar expenditures within the city. The cases already discussed would seem to govern this situation. However, often a city will extend its utility system into territory beyond the municipal boundary for the purpose of providing service to nonresidents. Such extensions may result in improvement of service within the city, but, probably more frequently, they will have no direct effect upon service rendered to the inhabitants of the city.

In this latter situation any benefit derived by the inhabitants of the city from the extraterritorial extension of the city's utility system is incidental. However, this does not mean that the benefit to the city's inhabitants may not be substantial. Not only does a city expand its limits from the increasingly populous territory surrounding it, but it cannot afford to be indifferent to the problems produced by the congestion on its borders, the solution of which is often a matter of common interest to those living within the city and those immediately without. . . . The town line means nothing to the breezes which blow across the city carrying malodorous exhalations, or to the minute wings laden with the germs of disease and death.<sup>55</sup> In addition, cities often earn handsome profits from operation of utilities, and their extension beyond the corporate limits brings more revenues into the city's coffers.

However, as cities exist neither to cater to the needs of nonresidents nor to carry on business for profit, it is in this area that possible transgression of constitutional limitations upon expenditure of public funds by cities seems most likely. It is not surprising, therefore, that the most extensive statement by the Court, defining the application of these constitutional limitations, has come in this area. This statement came in a dictum in *Public Service Company v. Shelby*:<sup>56</sup>

We deem it expedient to point out that the authority granted by G.S. 160-255 is not unlimited. It authorizes a municipality "to construct and operate (utilities) . . . for the benefit of the public beyond its corporate boundaries within reasonable limitation" . . . . *Grimesland v. Washington*, 234 N. C. 117, 66 S. E. 2d 794. If the authority was not thus limited the Act would contravene fundamental law. . . . *Williamson v. High Point*, 213 N. C. 96, 195 S. E. 90. . . . In considering the matter of public benefit, reference is not merely to the residents of the municipality. Consideration must be given to the users of gas from the City outside its boundaries the possible effect on

55. *Charlotte v. Heath*, 226 N. C. 750, 757 (1946).

56. 252 N. C. 816 (1960).

48. G. S. 160-255, G. S. 160-204, G. S. 160-191.6 (where two or more cities act jointly), G. S. 160-424.2 (sewage disposal system), and G. S. 160-415(a) (when financed by revenue bonds).

49. G. S. 160-265.

50. G. S. 160-255. See also G. S. 160-415(a).

51. *Fulghum v. Selma*, 238 N. C. 100 (1953); *Atlantic Construction Company v. Raleigh*, 230 N. C. 365 (1949).

52. *Atlantic Construction v. Raleigh*, 230 N. C. 365 (1949).

53. *Ibid.*

54. *Fulghum v. Selma*, 238 N. C. 100 (1953); G. S. 160-256; G. S. 160-252. The legislature could limit rates charged by cities to outside consumers. *Candler v. Asheville*, 247 N. C. 398 (1957).

45. *Id.* at 638.

46. *Raleigh v. Morand*, 247 N. C. 363, 368 (1957).

47. See p. and note 71 *infra*.



rural users of gas from plaintiff and like corporations, and the effect on the public generally. The term, 'within reasonable limitations,' does not refer solely to the territorial extent of the venture but embraces all facts and circumstances which affect the reasonableness of the venture.<sup>57</sup>

Yet, even though the Court has recognized the existence of these constitutional limitations and has set forth factors which it deems important in applying them, it has, for the most part, taken a hands-off position in the cases it has decided. In *Kennerly v. Dallas*,<sup>58</sup> the city attempted to avoid tort liability on the grounds that acts of the city in providing utility services beyond the city's limits were *ultra vires*. The city had statutory authority to provide services "to any person, firm or corporation desiring the same outside the corporate limits where the service is available." The issue presented by the case was stated as follows by the court: "May a municipality maintain and operate an electric light system for the distribution of electricity for lighting and power purposes for the use and benefit of said town, its citizens and customers," and, in so doing, acquire, maintain and operate additional light lines, poles, transformers and other necessary equipment located entirely outside of its corporate limits for the purpose of serving customers who are not residents [of the city]?"<sup>59</sup> The Court held: "The act . . . is a valid exercise of legislative authority. . . . The wisdom of a policy which permits municipalities to engage in enterprises which are private and competitive in nature is for the determination of the legislative branch of the Government. We only interpret the law as it is written."<sup>60</sup>

In *Charlotte v. Heath*,<sup>61</sup> the right of the City of Charlotte to condemn land outside of the city for the purpose of extending its sewerage system to serve nonresidents was contested. The Court upheld the condemnation. "The power of the Legislature to confer on a municipality the authority to extend to the public, beyond its own territorial limits, services similar to those enjoyed by its own inhabitants, such as light, water, sewerage, is well established. . . . Municipalities are almost altogether creatures of the Legislature rather than of the Constitution; and the Constitution imposes upon them no restriction in this respect. If there could be any question of policy involved it is determined by the fact

of numerous legislative grants of authority."<sup>62</sup>

In *Holmes v. Fayetteville*,<sup>63</sup> an unsuccessful attempt was made to restrain the City of Fayetteville from using public funds to erect and maintain electric lines outside of the city to serve nonresidents. The Court found that adequate legislative authority existed. "The controlling principle is that the exercise of powers for the private advantage of a city is subject to the same rules that govern individuals and private corporations, and that the courts will not interfere with the power to contract, especially when expressly conferred, unless it contravenes some fundamental principle or conflicts in some way with the organic law. . . ."<sup>64</sup>

Thus, the Court has sustained the extension of utilities by cities beyond their corporate limits "either because necessary to the effective operation of the improvement within the City or to provide services for a profit beyond the corporate limits."<sup>65</sup> However, the Court has indicated that the authority of cities to go beyond their corporate boundaries is not unlimited. Such extensions can be made only where they result in *benefit to the public* and, then, only *within reasonable limitation*.

The Court has made it clear that in determining benefit to the public, not only benefit to residents of the city must be considered, but also benefit to nonresident consumers and the public generally. Further, the public nature of the project does not depend upon the number of persons or the size of the area which is served. An extension to serve 65 or 70 persons has been upheld.<sup>66</sup> The reasonableness of the extension depends upon more than the distance beyond the city limit to which extension is made. All "facts and circumstances which affect the reasonableness of the venture" must be considered.

Although the absence of any other source of supply for the area should be considered, the fact that an outside area is already being served by one municipality will not prohibit another from extending service into that area.<sup>67</sup> Nor does the fact that a city obtains its electric current from a public service corporation for resale prevent the

city from reselling in territory outside of its corporate limits.<sup>68</sup> Health hazards and other adverse conditions created by congested development beyond the city limits would be circumstances that might weigh heavily.<sup>69</sup> The significance of distance from the city upon the validity of extraterritorial extension of utilities is not clear. In no case decided by the Court has this factor been stressed. The dictum in the *Shelby* case emphasized that this is only one of several factors which must be considered. For the most part the present law authorizing extraterritorial extension of utilities contains no distance limitation.<sup>70</sup>

Although expenditures by cities for provision of utilities to their inhabitants have been held to be necessary expenses, expenditures for extending these utilities beyond the corporate limits to serve nonresidents are not necessary expenses.<sup>71</sup> Before taxes could be levied or debt incurred for these purposes, approval of the voters would have to be obtained.

*Annexation.* Local governments' boundaries do not remain static. Extension of city boundaries through annexation is a part of normal municipal growth. An ultimate incident of annexation is extension of municipal services and facilities into the annexed area. A number of interesting problems relating to expenditure of public funds have grown out of such annexation and extensions of services. Although some of these problems do not involve extraterritorial questions, they are discussed here because they are closely related to the extraterritorial issue and because they provide background useful to consideration of extraterritorial activities relating to annexation.

The North Carolina Supreme Court has consistently held that property in territory annexed to cities is subject

68. *Holmes v. Fayetteville*, 197 N. C. 740 (1929).

69. See *Charlotte v. Heath*, 226 N. C. 750 (1946).

70. An interesting fact situation came before the Court in several cases when the City of High Point proposed to go about 25 miles from the city to construct a hydroelectric plant. The proposed dam for this plant would have impounded "231,000 acre feet of water covering approximately 14,750 acres of land and adversely affecting approximately a similar acreage" lying in Davie, Yadkin and Forsyth counties with a total shore line of about 290 miles. See *McGuinn v. High Point*, 219 N. C. 56 (1941); *Yadkin County v. High Point*, 217 N. C. 462 (1940); *McGuinn v. High Point*, 217 N. C. 449 (1940); *Williamson v. High Point*, 213 N. C. 96 (1937).

71. *Eakley v. Raleigh*, 252 N. C. 683 (1960); *Thomasson v. Smith*, 249 N. C. 84 (1958); *Holmes v. Fayetteville*, 197 N. C. 740 (1929).

62. *Id.* at 756-757.

63. 197 N. C. 740 (1929).

64. *Id.* at 747.

65. The Court used this language in *Eakley v. Raleigh*, 252 N. C. 683, 688-689 (1960), to describe the authority of cities to extend their utility systems beyond their corporate limits.

66. *Charlotte v. Heath*, 226 N. C. 750 (1946).

67. *Grimesland v. Washington*, 234 N. C. 117 (1951).

57. *Id.* at 823.

58. 215 N. C. 532 (1939).

59. *Id.* at 535.

60. *Id.* at 536.

61. 226 N. C. 750 (1946).

to municipal taxes. In *Lutterloh v. Fayetteville*,<sup>72</sup> the Court said, "[T]he enlargement of the municipal boundaries by the annexation of new territory, and the consequent extension of their corporate jurisdiction, including that of levying taxes, are legitimate subjects of legislation."<sup>73</sup> Further, taxes may be levied on property in the annexed territory to obtain funds to pay principal and interest on bonded indebtedness incurred prior to the time such area became a part of the city.<sup>74</sup> This is true even though improvements and services which have been provided in the territory comprising the city before annexation have not been provided in the annexed territory.<sup>75</sup> In fact, any attempt by city officials or the legislature to tax property in the annexed area differently from other property located in the city solely on the basis of its location would be prohibited by the North Carolina Constitution.<sup>76</sup> Also, provision for taxation of property in the annexed area differently from other property located in the city on the basis of the different level of services provided would probably be invalid. Legislation exempting property in annexed territory from property taxation until municipal services and improvements were provided in such area has been held unconstitutional.<sup>77</sup>

On the other hand, proceeds of bonds issued prior to annexation may be expended to provide improvements and services in the annexed area after annexation is effective.<sup>78</sup> It is not necessary that the bond ordinance authorizing the issuance of such bonds nor the ballot on which the question of issuance of such bonds is submitted to the voters disclose an intent on the part of the municipality to use the proceeds in the annexed area.<sup>79</sup> Of course, the

legislature could by statute require that such disclosure be made. General law in North Carolina at present does not require this.<sup>80</sup> This rule is a logical corollary of the rule holding property in annexed areas subject to taxation for payment of principal and interest on bonds issued prior to the date of annexation.

With legislative authority, cities may expend public funds to extend municipal services into areas to be annexed to the city prior to the effective date of annexation. In *Thomasson v. Smith*,<sup>81</sup> annexation of an area to the city of Charlotte had been approved by the voters in the city and in the area to be annexed. Subsequent to the annexation vote and before annexation, the voters in the city approved issuance of bonds for enlargement and extension of municipal services both within and without the city limits, including the area to be annexed. The plaintiff, a taxpayer, contended that the levy of taxes upon property in the city for payment of principal and interest on bonds issued for this purpose constituted the taking of property without due process of law and was not for a public purpose. The Court had no trouble in disposing of these objections: "In light of the facts in this case, we are not impressed by the argument that the tax levy complained of constitutes a taking of the property of the citizens of the City of Charlotte without due process of law. . . . The expenditure of funds for the construction of water and sewerage facilities by a municipality, outside its corporate limits, if done pursuant to legislative authority, is for a public purpose. . . ."<sup>82</sup> It should be pointed out that the legislature had expressly authorized expenditures by the city in the area to be annexed and that disclosure of intent to make such expenditures was made by the municipal authorities in the bond ordinance and upon the ballot. General law in North Carolina authorizes expenditures by cities in areas to be annexed prior to the effective date of annexation if final passage of the annexation ordinance has occurred.<sup>83</sup>

Where expenditures for extension of improvements and services into newly annexed areas are not made until after the annexation is effective, such expenditures would seem to be for a

necessary expense, if the improvement or service for which the expenditures were made has been classed as necessary expenses for cities. This follows, since at the time the expenditures are made the annexed area is in fact a part of the city. However, where expenditures are made for extension of improvements and services into areas to be annexed prior to the date of annexation, dictum in the *Thomasson* case indicates that the Court might find such expenditures were not for necessary expenses. There, the Court, in response to an attack on expenditures for these purposes, relied upon the fact that the voters had actually approved such expenditures.

### Summary

In North Carolina the legislature and the Court have taken a fairly liberal attitude toward exercise of extraterritorial powers by cities. Extensive legislation has been enacted granting cities extraterritorial powers. Legislation extending the police power jurisdiction of cities beyond their corporate limits usually restricts the exercise of such powers to a few miles outside the city. On the other hand, legislation authorizing cities to go beyond their corporate limits in providing services to residents and nonresidents, for the most part, contains no distance limitation.<sup>84</sup>

In many of the cases in which the grant and exercise of extraterritorial powers were questioned, issues were not very definitively drawn. Clearly, however, the major issue involving expenditure of public funds by cities in carrying out extraterritorial activities is whether the activities are public purposes. The North Carolina Court has had no difficulty in holding extraterritorial expenditures to be for a public purpose as long as they were made primarily for the benefit of the inhabitants of the city. Since few, if any, cities contain within their boundaries sufficient land, water, and other resources to meet the needs of their citizens, any other position would be unrealistic and would tend to defeat the *raison d'être* of cities. However, the cases do not indicate that the Court will require necessity as a condition precedent to a holding that extraterritorial activities constitute valid public purposes.

Even where expenditures are made

72. 149 N. C. 65 (1938).

73. *Id.* at 69.

74. *Dunn v. Tew*, 219 N. C. 286 (1941).

75. *Ibid.*

76. N. C. Const., Art. V, § 5: "Taxes on property shall be uniform as to each class of property taxed."

77. *Banks v. Raleigh*, 220 N. C. 35 (1941). In so holding, the Court relied on *Anderson v. Asheville*, 194 N. C. 117 (1927), an earlier case, which held invalid a statute providing for taxation of property in Asheville at varying rate based upon the level of municipal services provided and the use made of the property. At the time the *Asheville* case was decided, the constitution did not permit classification of property for tax purposes. Although, when the *Raleigh* case was decided, the constitution had been amended to permit classification, no mention was made of this in the case.

78. *Upchurch v. Raleigh*, 252 N. C. 676 (1960).

79. *Ibid.*

80. G. S. 160-379(d) expressly provides that the bond ordinance "need not specify the location of improvement" to be made with the bond proceeds.

81. 249 N. C. 84 (1958).

82. *Id.* at 88.

83. G. S. 160-453.8 (cities of less than 5,000 population); G. S. 160-453.20 (cities of 5,000 or more population).

84. Although the Court has placed little emphasis on the distance from the city in considering extraterritorial utility extensions, it seems probable that in determining the validity of grants and exercise of extraterritorial police powers the distance issue may be more important.

beyond a city's boundary in extending services to nonresidents, the Court has had little trouble in finding them to be for a public purpose. Surprisingly, in so doing the Court does not seem to have been too concerned with the presence or absence of benefit to the city and its inhabitants from such expenditures. It has described these activities as "services for a profit" and as "business enterprises," and has held the relationship between the city and outside consumers to be solely a contractual one.

The Court has recognized that some limitation exists upon the power of cities, even with legislative authority, to extend their utility systems beyond their boundaries to serve nonresidents. As stated in the *Shelby* case this limitation seems to be the familiar rule of reasonableness. Thus, the particular facts and circumstances of each case become significant. The Court has made it clear that in the application of this rule, benefit to nonresident consumers and to the public generally, as well as benefit to the inhabitants of the city, must be considered.

The cases in which the Court has ruled upon the validity of extraterritorial extension of utility services to nonresidents leave uncertain the extent to which substantial benefit to the city

and its inhabitants is necessary. It was pointed out earlier that indirect benefit to the city and its inhabitants often results from such extensions by removal of conditions on the fringe of the city which may adversely affect them. Yet, in only one case<sup>85</sup> has the Court discussed such indirect benefits in sustaining extraterritorial extensions. Even the indirect benefits, except for profit from sale of services, become questionable when extensions are made for distances as great as ten miles, as in the *Grimesland* case. On the other hand, in *Williamson v. High Point*,<sup>86</sup> the Court said by way of dictum: "Conceding, therefore, that the city of High Point has express authority of the Legislature to purchase lands within and outside of the city for an electric power system, and to extend, construct, maintain, and operate such system in all directions beyond the corporate limits, and to sell and furnish electric current and lights to the users in such area, ordinarily such powers relate to and are limited by the proprietary capacity in which the city acts for the benefit of its citizens in a compact community."<sup>87</sup> In other

85. *Charlotte v. Heath*, 226 N. C. 750 (1946).

86. 213 N. C. 96 (1937).

87. *Id.* at 107.

cases, not involving extraterritorial extension of utility services, the Court has made similar statements recognizing benefit to the city and its inhabitants as an important element in determination of the public purpose question.<sup>88</sup>

Expenditures in connection with extraterritorial activities in providing services to the residents of the city probably are for necessary expenses. However, the Court has indicated that expenditures made in providing services to nonresidents are not for necessary expenses.

88. "And in case of a city or municipality the tax, to be valid, must be for a city of municipal purpose, in a legal sense, as well as for a public one." *Briggs v. Raleigh*, 195 N. C. 223, 224 (1928). " 'Public purpose' . . . when used in connection with the expenditure of municipal funds from the public treasury, refers to such public purpose within the frame of governmental and proprietary power given to the particular municipality, to be exercised for the benefit, welfare and protection of its inhabitants and others coming within the municipal care. It involves reasonable connection with the convenience and necessity of the particular municipality whose aid is extended in its promotion." *Airport Authority v. Johnson*, 226 N. C. 1, 8-9 (1945).

## NOTES FROM CITIES AND COUNTIES

(Continued from page 4)

ber of Commerce to advertise the "Queen City," were voted down.

- The **Red Oak** Volunteer Fire Department recently opened its new \$20,000 fire station.

- Acting Chief of Police Aaron Johnson has been named to succeed ailing Chief Johnny Medlin as head of **Benson's** police department. Medlin's resignation was effective June 1. The new chief, who has served for the past few years as Medlin's assistant chief, was formerly head of the department before leaving in 1951 for a tour with the Dunn Police Department.

- "People-operated" traffic lights are replacing **Raleigh's** school traffic policewomen. The City Traffic Department, faced with the ever-present problem of recruiting enough women for the jobs, has decided to place the sidewalk-controlled lights at intersections

vacated by its patrolwomen. Capt. J. H. Hayes reported that the department had found it impossible to hire the necessary number of women this year, and that the installation of the lights will take place only as the women leave their jobs voluntarily. When the new lights are activated, traffic is stopped in all directions, Hayes reported.

- Forsyth County's legislative delegation unanimously refused for the second time this session to introduce a bill to permit **Winston-Salem** residents to vote on what type school board they want. The bill has been requested by the city's board of aldermen. The legislators—Sen. Archie K. Davis, Rep. Dan L. Drummond, Rep. William Z. Wood, and Rep. Claude Hamrick—issued a joint statement in which they stated that the bill was "hastily conceived and inadequately considered" without public hearings.

- **Charlotte** and Mecklenburg County police officers may soon have safety belts installed in their official vehicles. According to the heads of both depart-

ments, budget requests to cover the expense of installation of the belts will be made.

- **Charlotte** and **Albemarle** are among the North Carolina communities which are currently supporting police reserve units composed of volunteers who work regular, although limited, shifts with the regular police. The reserves are also available for emergencies, parades and other special events.

- **Greenville** voters have given narrow approval in advisory referendums on urban renewal and public housing programs for that city.

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