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# POPULAR GOVERNMENT

**For the Coming Fiscal Year 1942-1943, the Institute  
of Government Offers to County,  
City and Town Officials:**

1. **CALENDAR OF DUTIES** required by law to be performed on definite dates by county, city and town officials,
2. **TAX COLLECTOR'S CALENDAR** outlining Schedule B Privilege License Taxes for ready reference,
3. **GUIDES** to Civilian Protection, for local officials, local defense councils, and local instructors in civilian defense training programs,
4. **GUIDEBOOK** for City and County Tax Collectors, outlining the accounting, bookkeeping and procedural steps in tax collection,
5. **DAILY LEGISLATIVE SERVICE**, giving substance of each local and statewide bill as it is introduced in the General Assembly of 1943, affecting every county, city and town,
6. **LEGISLATIVE SUMMARY** of State-wide and Local Laws within thirty days after the adjournment of the 1943 General Assembly,
7. **MONTHLY MAGAZINE** Popular Government keeping local officials in touch with Attorney General's rulings and Supreme Court decisions construing these statutes and local laws and defining the powers and duties of city and county officials as new emergencies arise under the sudden shifts of total war,
8. **GUIDEBOOKS** on civilian protection, mobilization and defense as they affect the work of officials in city halls, county courthouses and state departments,
9. **CLEARING HOUSE** of Information on governmental problems arising in the offices of officials in city halls and county courthouses throughout the state.

***Put The Institute of Government in Your Budget  
for the Fiscal Year 1942-1943***

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University of North Carolina  
Chapel Hill, N. C.

# POPULAR GOVERNMENT

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## Public Purchasing, Today and Tomorrow

### A Comprehensive Outline of Present Procedures and a Look at the Future, as Revealed by the Reorganization of the War Production Board

By G. MAURICE HILL, Associate Director, Institute of Government

Six short months after Pearl Harbor the American war machine is already rolling into high gear, pouring out a stream of planes, guns, tanks and ships greater than our mass production experts ever hoped for in their fondest dreams. We are well ahead of schedules that even four months ago seemed fantastic.

In January, 1942 it was predicted that we would soon spend \$2,000,000,000 a month for war materials. Last month the total was \$3,853,000,000. In January, 1942 Congress had appropriated 75 billion dollars for war and defense needs. Now the total is approximately 200 billion dollars, almost two-thirds of our national wealth.

The price of winning the war must be measured not only in dollars but in goods and services which civilians, individually and as citizens of towns and counties, must do without. The production machine is chewing up raw materials at such a rate that on many critical items and in practically all metals any margin for civilian needs has already been wiped out. There are still stocks of most items in the hands of retailers and wholesalers, but the flow from factories has stopped or is being stopped this month. Within the next four to six months large numbers of items which had been considered essential and taken for granted will disappear for the duration.

#### Present Priority Regulations Not Adequate for Vital Needs

In January we predicted that the present priority system would soon begin to break down as the situation grew more acute. That prediction has now become a reality. A recent survey by the Institute of Government reveals that two thirds of all local governmental units in North Carolina are already having difficulty in securing materials for the operation of vital public services.

Blanket Preference Ratings (P-100 and P-46) available for their use are not sufficient to secure many critical materials which are needed and special requests (PD-1A and PD-200) are being approved only under the most urgent circumstances.

#### Reorganization of Bureau of Governmental Requirements in War Production Board

To meet this situation, Maury Maverick, Chief of the Bureau of Governmental Requirements, has just completed a reorganization of his staff and is now engaged in the development of new plans and procedures to care for the needs of local government. The Bureau has been divided into three branches as follows:

##### (1) PROJECTS AND ITEMS BRANCH

This branch, which comprises most of the original organization, will continue to care for all special

requests not covered by blanket ratings and all construction projects.

##### (2) PLANNING BRANCH

It is the responsibility of this branch (a) to develop estimates of the amount of critical materials which should be allocated to non-military governmental units for the preservation of minimum essential services, and (b) to gather data on which to



MAURY MAVERICK, Chief  
Bureau of Governmental  
Requirements  
War Production Board

A former Congressman from Texas and Mayor of San Antonio, Maury Maverick has spent the greater part of his life in public service and has a keen appreciation of the problems of local officials. Recognizing the increasing seriousness of the problem of maintaining vital public services, he has recently reorganized and expanded the staff of his bureau to meet the situation and cope with continued developments which may be expected for the duration of the war.

base decisions on priorities and allocations made to such units.

It will attempt to secure information about:

(1) The relative importance to the war effort of priority applications filed by governmental units.

(2) The relative necessity of various governmental services to the public.

(3) The relative importance of uses to which materials are to be put (capital improvements versus repairs and replacements).

(4) Minimum standards of service which need to be preserved by government for the health, safety and welfare of citizens.

### (3) GOVERNMENTAL REQUIREMENTS BRANCH

This branch has been set up to administer a new Governmental Requirements Plan which will probably replace most of the regulations now in effect as the situation grows more acute.

The plan has already been placed in operation for all federal agencies and may be applied to the needs of state and local governments within the next two to three months, depending on the speed with which adequate information can be secured to adapt the plan to this purpose.

#### Guide to Existing Regulations

For the time being, however, present regulations will continue in force, and public officials must rely on them in securing priority assistance. It has become increasingly evident that many public officials do not have adequate and complete information as to the use of these regulations, and that even those who do have complete data need a guide or index to their use.

To meet both these needs, we present the following guide and summary.

#### Preference Order P-100—General Maintenance, Repair and Operation

This order, which provides a blanket A-10 rating for governmental needs, is the most important single regulation with which public officials are concerned. Here are the principal features with which you should be familiar:

(1) The order covers the purchase and use of material or equipment necessary for the maintenance, repair and operation of all existing governmental facilities, with the ex-

### G. MAURICE HILL

Associate  
Director

Institute of  
Government

Consultant  
War Production  
Board



ception of utilities, which are covered by Preference Order P-46.

(2) The A-10 rating can be applied without making application for its use by simply endorsing on the face of your order the following statement: "Material for Maintenance Repair or Operating Supplies—rating A-10 under Preference Rating Order P-100, with the terms of which

Some weeks ago, Robert A. Martino, representing Maury Maverick, Chief of the Governmental Requirements Bureau of the War Production Board, joined with the Institute of Government in five district meetings of local officials discussing priorities, allocations and rationings of materials and supplies needed by the cities, the counties and the state of North Carolina.

At the end of these meetings Mr. Martino issued the following statement to city and county officials in North Carolina: "I know of no state in the country that can boast of an organization that stands ready to administer to the needs of county and local governments as does the Institute of Government. As industry makes use of the facilities of the State War Production Board Offices, so should you governmental officials utilize the excellent services being offered by the Institute of Government. This organization is keeping in close touch with the work of the Governmental Requirements Bureau and other defense agencies in Washington, and can be of real service to you."

At the request of Maury Maverick, the Director of the Institute of Government designated G. Maurice Hill of the Institute staff to represent the Institute as consultant to the Governmental Requirements Bureau, thus enabling the Institute of Government to act in a liaison capacity between city and county officials and the War Production Board.

Mr. Hill has already issued three separate bulletins, and this is the fourth of his articles for Popular Government. He is continuously conferring with city, county and state officials on their purchasing problems.

Albert Coates, Director  
Institute of Government

*I am familiar.*" Note the italics and read the order carefully.

(3) The order can be used for the purchase of almost any type of supplies needed for maintenance, repair and operation except those covered by special priority orders, as are many metals and chemicals, and a special list of items listed below. It includes but is not limited to small tools, such as, files, hacksaw blades and grinding wheels, all types of repair parts, building maintenance materials, office supplies, etc.

(4) The order cannot be applied to paper for office use, fuel, uniforms for employees, fire hose and durable office equipment.

(5) It cannot be used for the purchase of critical metals, rubber or burlap to be used for street or highway repairs and maintenance.

(6) It cannot be used for new equipment or for additions to or expansions of property or equipment.

(7) The rating cannot be applied if the material needed can be secured without such rating.

(8) If your total annual purchases of materials for operation, maintenance and repair exceed \$5000 you must not use the order until

(a) your inventory has been reduced to not more than 110% of the maximum dollar volume on hand during the corresponding calendar quarter of 1940.

(b) Your withdrawals from inventory for use must not exceed 110% of the dollar volume for the corresponding calendar quarter in 1940.

(9) Orders to which the rating is applied may not include other items to which such rating does not apply. Keep a separate file of orders and invoices to which the rating is applied for at least two years. You may be called on to produce these for inspection.

#### Preference Order P-46—Maintenance, Repair & Operation of Utilities

For the benefit of local governments operating public utilities (electric plants, water plants, sewage and disposal plants) the above Preference Order is available for the maintenance, repair and operation of these facilities.

The original order made available an A-10 rating. It was revised on March 26, 1942 and now provides:

(1) An A-2 rating for maintenance, repair and operation of production and pumping plant facilities.

(2) An A-5 rating for maintenance, repair and operation of all other facilities of the utility, primarily, of course, the distribution systems.

(3) An A-5 rating for new construction to serve new projects bearing a rating of A-5 or better.

(4) An A-5 rating for materials required for protection against sabotage when such protection is directed by an authorized federal or state agency.

In general, except for the higher ratings provided for classified use, the use of this order is similar to that of P-100. The following additional or separate features should be noted:

(1) The order may be applied by endorsing on all copies of your purchase order the following: "Rating A- . . . . Material to be delivered pursuant to paragraph (b) of Order P-46, Utilities Maintenance, Repair and Supplies, *with the terms of which I am familiar.*"

(2) The inventory restriction allows the purchase and use of not more than 25% of the total dollar volume for 1940 in any one quarter.

(3) Line extensions to serve new customers are limited to 250 feet, and no separate job or project for such extensions may exceed \$1500 for underground services and \$500 for other services.

#### PD-1A Form—Special Requests for Priority Assistance

Every public official already knows that the A-10 Rating under P-100 and even the higher ratings under P-46 are not now sufficient to secure many items, such as copper repair parts, wire and aluminum. There is also a considerable list of items whose purchase is specifically forbidden under these blanket or general orders, such as fire hose and fire fighting equipment, firearms and ammunition and many of the more critical metals and chemicals.

In all such cases it is necessary to file a special request on Form PD-1A which is provided for this purpose. These forms may be secured from the INSTITUTE OF GOVERNMENT in Chapel Hill, any field office of the War Production Board, or from the Bureau of Governmental Requirements in Washington.

If you want to get results be care-

ful to give full details and follow instructions closely in preparing this form. Otherwise it will bounce—right back in your lap.

Here are a few suggestions as you set about preparing your request:

(1) Read the instruction sheet carefully before you begin to fill out the form.

(2) Answer all questions in the order prescribed on the instruction sheet. If a particular one does not apply, list it by number and say "none" or "does not apply."

(3) Set an exact date as to when delivery will be required. Statements of "immediately," "at once" or "soon" will make disapproval certain or bring it back to you for revision.

(4) Send a covering or explanatory letter if you wish, but do not rely on this to supply detail that should be included on the request form.

(5) Do not expect to get action in less than two to three weeks. Your application must undergo a review by at least four different branches and boards before approval can be final.

(6) Do not ask for anything that is not absolutely essential; you are wasting your time. But if you feel your case has merit, give all of the facts and present them clearly. No one else is going to argue the case for you.

#### Emergency Requests for Priority Assistance

Emergency breakdowns of plant

#### ALLOCATION SYMBOLS REQUIRED ON PURCHASE ORDERS

To reveal the amount and use of critical materials for all purposes, a recent order of the War Production Board provides that all purchase orders issued after July 1, 1942 shall bear a symbol or code indicating the use to which the material is to be applied. The code and instructions for its use are too long and detailed to be included here. As soon as complete information and interpretations are available, a special bulletin will be mailed to all public officials in North Carolina concerned with this problem.

or equipment will in many cases require higher priority ratings than are available under P-100 or P-46. Obviously a fire truck out of commission, a breakdown in the pumping plant of your water supply, or in the generating plant for your local power plant, cannot wait two or three weeks while you prepare and receive approval on a special request.

The War Production Board recognizes these facts and has made the following provisions to handle such situations. In case of an actual or imminent breakdown of any essential public facilities you should:

(1) Wire the War Production Board, Maintenance and Repair Branch, Washington, D. C., and give them a concise statement of the emergency situation.

(2) Description and quantity of material needed and its relationship to the war program, or public health and safety.

(3) The name and address of your supplier, the rating which he will require, the date promised for delivery if rating is granted, your purchase order number and the value of the order.

(4) The priority order under which you are operating (P-100 or P-46) and a statement that this is not sufficient to secure the material.

(5) The name and address of the local governmental agency making the request.

If the information you furnish is sufficiently complete, and shows justification for action, the War Production Board will wire both you and your supplier that a rating is being issued and will authorize the delivery of the needed repair part or material pending the actual receipt of the rating.

#### PD-200 and 200A—Construction and Special Projects Requiring Priority Assistance

All requests for priority assistance on construction or special projects which generally (but not necessarily) involve the use of a variety of materials should be made on Forms PD-200 and 200 A which have been prepared for this purpose, and which may be secured from the INSTITUTE OF GOVERNMENT or from the Bureau of Governmental Requirements of the War Production Board in Washington.

(Continued on page 12)



By  
**WILLIAM C.  
BARFIELD**  
Staff Member  
Institute of  
Government

Chairman Doughton of the House Ways and Means Committee recently issued this challenge to local government: "The national government helped the states and municipalities with their relief, roads, and a lot of other projects at a time of depression when they needed it. Now they should turn around and assist the federal government by helping to clear the decks for its financial program."

How each unit will answer this challenge is its own individual problem. In each instance, sufficient taxes must be levied and collected to provide revenues with which to meet the annual debt load of bond interest, principal maturities, and expenses of the necessary functions of government. Municipal and county debts must be paid, for reduction of the principal carries a corresponding reduction in the interest charge, and the cost of government is cut down to that extent.

On June 5th State Treasurer Charles M. Johnson, as Chairman of the Local Government Commission and Director of Local Government, called on all tax collectors and governing boards to get busy and collect the taxes that are past due while the collecting is good. With the counties in North Carolina reporting \$11,683,170 of uncollected taxes due from 1939 and prior years on June 30, 1941, and the cities and towns reporting \$5,365,787, he said in part: "Now is the best opportunity that we have had in several years to collect these delinquent taxes. Therefore, I urge that boards of County Commissioners and the governing bodies of cities and towns take positive action toward their collection, and without delay. The income of the average taxpayer is higher now, due directly or indirectly to war expenditures, than it is during ordin-

# Business Methods in Government Pay Dividends

ary times. Federal government taxes are mounting and will continue to mount in order to wage a war that we must win. Although local governments cannot absorb this increase in federal taxes with a proportionate reduction of their taxes and continue to function on a sound financial basis, they can provide some relief to the most of their taxpayers by enforcing payment of accumulated delinquent taxes and preventing further such accumulations in the future."

## Local Improvements in Tax Collecting Machinery

As a move toward improved tax collection and greater efficiency and economy in the administration of the offices, the City of Winston-Salem and Forsyth County are merging their tax collecting offices. Under this plan partial payments are prorated between the city and the county according to the two tax rates and the amount of payments made. In no case will the city get any of the county's money nor will the county get any of the city's money.

The City of Wilmington is pressing collections of delinquent taxes energetically. The campaign is organized in each city block. A letter is sent to the delinquent taxpayer setting forth the amount due, by years. If there is no response to this appeal, a second letter follows at the end of thirty days. Unless the taxpayer makes arrangement to pay the tax or tender partial payments in fifteen more days, a suit is instituted. At present, more than 250 persons owning property in the first 85 blocks to be canvassed are now making regular payments on their delinquent taxes.

## Decrease in Tax Rates

There have always been general appeals for lowering taxes. Appeals from specific groups requesting relief from certain taxes are already being made, and there will be more. The Carolina Motor Club has recently recommended that cities and towns abandon the automobile license tax for the duration. Already, because of the effect of rationing a

## • Two articles dealing in general and in particular with methods of improving financial administration.

number of counties—Wake, Wayne, Iredell, Buncombe, Mecklenburg, Duplin, Burke, Johnson, Wilson among them—and as many cities have reduced the Schedule "B" privilege licenses on gasoline, automobile, and tire dealers to a nominal amount or eliminated them entirely. These reductions are temporary and will probably be restored when the war is over, but based on collections of privilege licenses by the State we may expect a reduction in the number of privilege licenses issued in the coming year.

## Tax Savings Possible

Since we have definite assurance that Federal taxes are going to be much higher, and since it will be impossible to discover the saturation point beyond which the people and business firms can pay no more before the war and the peace have been won, it is up to every American to include taxes — Federal, State, County, and City—in his personal budget. Since it appears that practically everybody will have to pay income taxes in the future, local tax collectors should advise their citizens that local taxes paid can be deducted in determining taxable net income. As a patriotic measure, it might be urged that taxpayers prepay their taxes, earn the discount, avoid penalties on past due payments, and buy war stamps and bonds with the amount saved.

## Business Methods in Government

Every county and city governing board can introduce such economical management into the administration of its financial affairs as will inspire the concerted approval of the taxpayers. In Catawba County, for instance, local editorial comment on the dividends paid by business methods in government claims that the taxpayers are pleased at what they are getting for their tax dollar,

# Collecting Delinquent Taxes

## Cleveland County Collects 104% of Total Levy

For the year ending June 30, 1940 Cleveland County collected four per cent more tax than its total levy for the year. Incredible as it seems this was accomplished with surprising ease and with a resulting goodwill that will have a permanent effect on future tax work. No magic was used and none was necessary. It was simply a matter of carrying out the functions of tax collecting in a manner calculated to make full and scientific use of the powers bestowed upon county authorities to obtain revenues with which to finance the costs of government.

As County Auditor and Tax Supervisor and with the full backing of the County Commissioners, I set about clearing all delinquent taxes from the tax books. The first step was to coordinate the tax listing with the collecting work. It is axiomatic that good tax listing makes for good tax collecting. A space was added to our tax listing forms asking for the taxpayer's employer and the employer's address. The listers were instructed to take particular pains to get the taxpayer's complete address. Too many of our tax notices had been returned by the postoffice.

Cards were prepared for each delinquent taxpayer showing all taxes due by years. The addresses were brought up to date and the taxpayer's employer was shown on the card. Duplications and other accumulated errors in listing were shown up by the cards. After these were weeded out we were ready for action.

### Collecting Personal and Poll Taxes

For personal and poll taxes we employed the following methods:

1. Full publicity was given to the work both as to intentions and results. This was done through two avenues—talks to the various civic clubs and through the newspapers. Not only were the newspapers given periodic reports as to the amounts collected but an attempt was made to keep the program before the public by releasing human interest



By

**RAY E. BROWN**

Former Tax Supervisor of Cleveland County

*In recognition of "conspicuous service in tax work," Ray E. Brown was awarded the 1939 Citizenship Cup given annually by the civic clubs of Shelby to the person adjudged to have been the most valuable to Cleveland County during the year. In the accompanying article Mr. Brown describes the work which won him this recognition.*

*A Phi Beta Kappa graduate of the University of North Carolina School of Commerce, Mr. Brown was County Auditor and Tax Supervisor of Cleveland County from 1937, the year of his graduation, to 1940. Since that time he has made a brilliant record as administrator of the Shelby Hospital. During his moments of relaxation, he finds time to serve as President of the Shelby Junior Chamber of Commerce, member of the Cleveland County Board of Elections, Director of the Shelby Lion's Club, and Secretary-Treasurer of the Cleveland County Chapter of the University of North Carolina Alumni Association.*

stories, of which there were plenty—such as the man who walked eleven miles to pay his tax and of the man who paid ten years' taxes at one time.

2. Personal letters were mailed to every delinquent taxpayer showing the taxes due by years. Each one was asked to come in before a certain date and pay up or make arrangements to pay in installments. Schedules of payment were worked out for those wishing to pay by installments and the amount of each payment set in accordance with the person's weekly income and financial condition. Care was taken to treat everyone in the same manner as the bank would have treated him in order to give a sense of dignity and responsibility to the transaction. This was of great importance in creating goodwill for the program.

3. Garnishment and attachment were employed as the big stick on those failing to appear after being advised by personal letter and for

**"We Simply Carried Out the Laws Enacted for Just Such Results."**

those falling down on their scheduled installments. We were just as careful to use a firm policy as we were to use a polite one, feeling respect for the program was of prime importance. To facilitate the garnishments every corporation in the county was requested to submit a list of all male employees and the employee's age. Garnishments were made by mills—all delinquent employees of an establishment being garnished simultaneously. This showed the employees that the program was being administered fairly and that there was no escape. No stone was left unturned throughout the program to prove the impartiality used. Our success was due in large part to that fact. Once it was proved that everyone was going to pay up there was little resentment to the program. This led also to the discovery of many people who had never been on the tax books, since those having to pay were unwilling to see others go without paying.

4. No person or firm owing the county was paid for bills owed by the county. This included witness and jury fees.

The effect of this delinquent work on the current taxes was gratifying. When the taxpayer cleared his delinquent taxes he almost invariably paid his current levy. He had come to believe that taxes were an obligation that must be met.

### Collecting Real Property Taxes

For delinquent real taxes we turned to the County Attorney who took the very simple step of entering suit against the property holder. Few of these ever got further than the suit stage as the tax was promptly paid without very much ado.

The results of the program brought considerable acclaim to the tax office, but, as I have stated, we simply carried out the laws enacted for just such results, and, as I read them, they say that they must be used rather than that they may be used.



# The Inland Waterway

## Can It Be Used for Coastal Shipping?

By F. C. ERICKSON  
and J. C. McCAMPBELL

Department of Geology  
University of North Carolina

Since the beginning of hostilities between the United States and the Axis powers, a great toll of life, property, and valuable and useful merchandise has been taken along the Atlantic Coast by both surface and under sea raiders. At first, the number of sinkings was few, but as the war stepped up in tempo, the number of sinkings increased at an alarming rate. Sugar and gasoline rationing is one result of this intensified warfare. The continuation of sinkings will force upon the people of the United Nations further rationing of other commodities the supply of which seems at the present time to be adequate for all domestic and military uses.

Supposing, for the moment, that the loss of the cargoes carried by the boats was immaterial, the loss of the merchant ships themselves represents a tonnage equal to or more than the production tonnage of this nation's shipyards. It has been suggested by Governor Broughton that the use of the Inland Waterway would greatly reduce the tonnage lost due to attack by our adversaries. A short survey of possible shipping conditions in the Inland Waterway will test out this theory.

### Course of the Inland Waterway

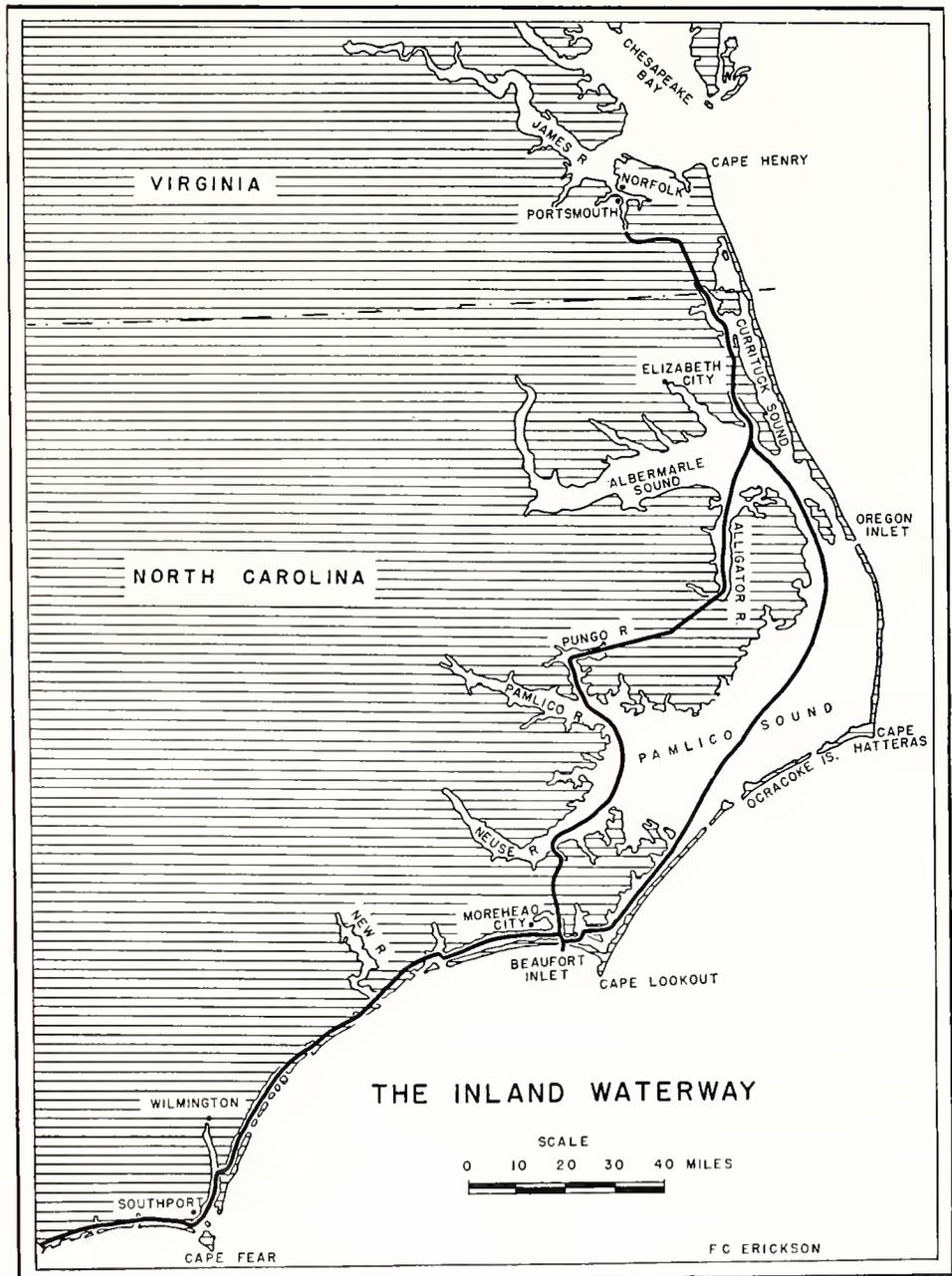
The Inland Waterway, extending from Boston, Massachusetts to Key West, Florida, consists of a series of artificial canals which connect naturally occurring water bodies. These water bodies are protected by islands or, in some cases, exposed only by narrow openings to the open ocean. Such a trip from Boston to Key West would carry one through the Cape Cod Canal, into the well sheltered Long Island Sound, thence through the Raritan Canal to the Delaware River and the eastern end

of the Chesapeake and Delaware Canal. The Chesapeake and Delaware Canal would bring the voyager into the Chesapeake Bay. Continuing southward down the bay, the traveler would begin another series of canal-sound stages at Norfolk. At this point the Inland Waterway takes a course away from the dangers of the open ocean. This condition continues from Norfolk to Key West.

### The Inland Waterway in North Carolina

Of special interest to the people of North Carolina is the exact course taken by the Inland Waterway, its length, width, and depth within our state.

The northern entrance of the waterway into North Carolina is by way of Virginia up the south branch (Continued on page 10)



## High Point Will Get Its Hydroelectric Dam After All

After two years the High Point hydroelectric dam on the Yadkin River is again in the news. On May 20 President Roosevelt under the war powers act ordered the FWA to complete the project, and set aside \$8,000,000 for the job. The announcement that action was taken "in order to relieve a power shortage for war work in the area" probably brought a chuckle to City Manager E. M. Knox of High Point, who has been kept in Washington for weeks at a time trying to get war contracts for High Point industries.

The project will employ 1000 people, and is scheduled for completion in from 12 to 14 months. Administrative and clerical offices have been set up in Winston-Salem, and the contract for redesigning the project for minimum use of critical materials has been awarded to a Tulsa, Oklahoma firm of consulting engineers. The shifting of the engineering contract from the original company, Murray and Flood of New York City, has raised the question of whether the Maxton Construction Company, which has kept construction equipment in working condition on the site during the last two years, will also be left holding the bag.

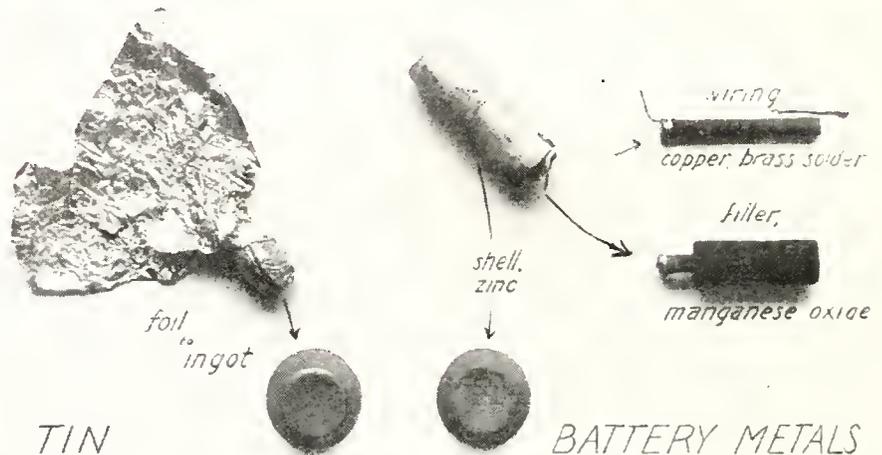
The Styers Ferry dam was originally a PWA project sponsored by the City of High Point. Work was halted in July, 1940 after long-drawn-out litigation hinging on certain contract rights which the Duke Power Company had with the City of High Point.

A staff writer of the *Twin City Sentinel* who recently visited the site reported: "Marsh grass grew thick and green over the twisted rails of the machinery tracks, and the steel cofferdam, its sides dark red with rust, separated the waters of the river from the enclosed lake.

"The cofferdam once held back the river, but rain and floods poured over its sides and a hole was cut in the lower end to keep the whole thing from washing away.

"Only the two great cranes towering against the sky gave any hint that the idea of building a dam on the site had not been completely given up."

## Precious Metals from the Scrap Heap



By W. A. RICE, Department of Geology  
University of North Carolina

Any rubbish today? Here's mine!

That slug marked T is tin, melted down from the foil that one smoker accumulated from his cigarettes in three months. Silver wouldn't buy that ingot ounce for ounce, and gold isn't as useful. It isn't much, and it probably has a lot of lead in it too, but that slug would solder more than one radio for a big bomber.

*Life Magazine* says the Government doesn't want tinfoil yet, but I know of one boy who is using it to cast toy soldiers now that he can't get any more of the lead that came with the set. Any gang of boys has at least one member who could cast a slug like this, using foil, his mother's kitchen stove, and an old iron pot or tin can. The foils that won't melt are made of aluminum, and can't be salvaged.

The other slug marked Z is part of the metal mine I threw into the wastebasket last month. It was a battery from a portable radio set. Broken open, it showed sixty small cells like that one in this load of junk, and six larger cells. The zinc ingot is from ten of the small cells. There is the zinc for a lot of cartridge brass, or a small bomb detonator. But that isn't all. That black stuff between the zinc case and the carbon core of each cell is high grade manganese ore, that ought to be hardening some piece of steel. Each of those carbon cores has a brass tip, and is connected to the next cell with copper wire soldered down at both ends. There is even a stray drop of solder spilled into the battery in the days when we could afford to sling it around. That battery contains the makings for a lot of handy destructive gadgets. A trainload of batteries would make a good mine.

Yes, that's good rubbish. Right here in Chapel Hill we've thrown away a lot of it in the past year. Perhaps a thousand smokers, not to mention the candy bar eaters, and now they have stopped using it and there is no more to waste. There went a quarter of a ton of tin, and think of the electrical connections that would have soldered, or the bearing bronze it would have made. A pickup truck full of old batteries would have enough manganese to harden a small tank, enough zinc to make a good many shells, a little copper, lead, and tin in each battery—anyhow, enough to be salvaged. Better send that lead poisoning abroad instead of wasting it on the rats in our city dump.

These things aren't called for now, but they may be soon. Don't we have an old barn or a vacant lot where they can be stored, just in case? And couldn't a Scout troop support itself with the sale of the junk when the market opens?

# Civilian Defense Moves Forward

## VICTORY DAY

### A Proclamation by the Governor of North Carolina

"Whereas, war is no longer confined to battle fronts but reaches into the home of every citizen, jeopardizing, through the danger of air raids or sabotage, civilians far removed from the scene of conflict of armed forces; and

"Whereas, conscious of this danger to life and liberty, our citizens are organized for civilian defense in the greatest volunteer movement in history, and that this Civilian Defense organization is now being trained in proved methods of combatting war upon the home front and is ready for action in any emergency; and

"Whereas, the day of the celebration of the 167th year of our national independence, July 4, 1942, falls this year upon Saturday, a day of customary gathering in our towns and county seats, it presents an opportunity for concerted demonstration to the public of the scope and effectiveness of this force organized for its protection, and of recognition for the volunteers therein,

"Now, therefore, I, J. Melville Broughton, Governor of North Carolina, do hereby designate the day of July 4th as Victory Day and urge upon all the people in all the 100 counties of North Carolina, in full cooperation to this occasion in manner most fitting and effective."

In response to this proclamation, local defense councils, working with the State Council of Defense, will stage parades, programs and demonstrations in county seats and all the larger cities for July 4th. Those which were already making their plans for Sunday celebrations before the proclamation will go ahead as scheduled.

Coupled with the traditional Fourth of July celebration, the Victory Day programs will put civilian defense volunteers before the citizens of the state as the minute men of 1942.

By  
**SAMRAY  
SMITH**  
Staff Member  
Institute of  
Government



### CIVILIAN PROTECTION TRAINING SCHOOLS

Three-day statewide schools were held March 24-27, March 29-31, and April 6-8 sponsored by the State Defense Council and attended by an average of fifty-five officials from all the cities and larger towns in the State, all of whom received certificates on completion of the course. Instructors for these schools were drawn from the State Defense Council staff, outstanding local civilian defense leaders, the University of North Carolina faculty and Institute of Government staff members. At the last of these schools Theodore S. Johnson, then State Director of Civilian Defense, said to the graduates, "Two months ago I thought we were sunk. Today we are making real progress, and these schools more than anything else are responsible for it."

Between May 8 and May 22 one-day district schools were held at eleven cities throughout the state from Bryson City to Edenton and Wilmington. The attendance varied widely in different sections, averaging about one hundred, and the response was equally enthusiastic to that given the statewide schools. Instructors included Albert Coates and Samray Smith, Staff members of the Institute of Government, William F. Nufer, Major Dewey Herren and June Rose of the State Defense Council staff, and outstanding local leaders in each district, all of whom had previously attended the three-day statewide schools.

### WHAT WILL HAPPEN WHEN THE SIRENS SOUND?

At 6:32 P.M. on June 4, an unscheduled, unrehearsed air raid alarm sounded over the towns and cities of the Raleigh filter center area of central North Carolina. Coming as it did in that slack period between afternoon and evening when even the wildest alarmist had forgotten about enemy bombs for a few minutes, the alarm was the toughest test of discipline an organization could have, and produced a good proportion of red faces as well as a respectable number of smug expressions.

In some towns traffic went on as usual in the quiet, late afternoon sunshine while the alarm was sounding; in others the sirens proved unsatisfactory—or, as in Raleigh, were not sounded;—in some few which had laid their plans and made their preparations carefully, volunteers and executives were at their posts and streets were cleared in a few minutes.

The alarm ranged from complete ineffectiveness, as in Mount Airy, where according to Police Chief J. W. Jessup people "continued to go about unconcerned throughout the alarm" to complete preparedness as in Burlington, where the streets were cleared immediately and volunteers, fire trucks, and other equipment took up their assigned stations.

In Greensboro, for instance, C. G. Yates, recently appointed coordinator, was mowing his lawn when the alert came through, was at the control center as quickly as he could cover the distance. The control center staff began arriving within eight minutes; at 6:42 the general alarm was sounded; and within a very few minutes the control center was fully manned. The home guard was mobilized; hospitals and first aid stations were quickly ready for any emergency; air raid wardens and fire watchers took their posts. In some districts traffic was stopped, in others it went on unhindered.

Since control centers, newspapers and radio stations knew nothing about the alarm, rumors immediately sprang up, most prominently one that enemy bombers had appeared over Wilmington. Telephone lines were jammed with requests for in-

formation, against all regulations and all common sense.

The alarm itself was an accident, but its results were significant in that they showed cities and towns over a wide area what their citizens and volunteers would do during an unexpected alarm.

### REIDSVILLE IS READY

The Citizens Defense Corps of Reidsville has no reason to fear an unexpected alarm, for Reidsville is one of those smaller cities which refuses to take its relative inconspicuousness from the air as an excuse for not preparing against an air raid. Under the energetic command of Coordinator J. C. McDiarmid, a graduate of the Second Statewide Civilian Protection School, Reidsville has set up a fully equipped control center, the equal of any in the state according to members of the State Defense Council staff, and has worked out a number of new twists in putting its program across.

One of these is the adoption of a motto for pushing some separate phase of the civilian protection program every week. If "Clean Your Attic" were the motto of the week, for instance, it would be put on a placard on the Confederate monument in the town square, run in the paper, and used by air raid wardens and other volunteers as they called at homes in their districts.

Another of McDiarmid's new twists is his Hand-Shaking Sunday campaign. The essence of this campaign is to put your friends on the spot, whether they like it or not. You meet a member of your Sunday School class in church, for instance, and ask him two questions: "What are you doing for civilian defense?" and, if the answer is "Nothing," "What are you *going to do*?" It is obvious that a scheme like this could only be used in a town small enough that its people are well acquainted with each other, and in initiating it Mr. McDiarmid has applied the first principle in civilian defense organization, the adaptation of the program as laid down in the books to your own town.

An early issue of POPULAR GOVERNMENT will carry a full report on the progress of civilian defense in Reidsville, and news from other towns throughout the State will be published monthly.

### DEFENSE TRAINING—A PERMANENT INVESTMENT

One of the facts about civilian defense training that will become more important and more obvious as time goes on is that, although it is aimed at minimizing air raid damage, it is indispensable in other emergencies as well. The most notable proof of this so far has been the excellent work of the Johnston County Civilian Defense Corps in the disastrous explosion outside Smithfield. More recently the Civil Air Patrol has been cited by the Governor for its excellent work in spotting forest fires and guiding firefighters to the scene. In the east, smoke from the fires was blowing out to sea and cutting down the visibility to such an extent that it was hindering the work of anti-submarine patrols.

These spectacular incidents, however, are by no means the only evidence of the permanent value of civilian defense training. Assistant Director June Rose of the State Defense

### Sniff Sets of Synthetic Gases

Civilian Defense Councils which have been unable to go ahead with basic gas training because of the lack of sniff sets to familiarize their volunteers with the odors of the gases they are studying will be glad to hear that a sniff set of simulated gases which the OCD has approved is on the market. The set contains harmless substitutes identical in odor to mustard, phosgene, chlorpicrin, lewisite and tear gas. They are good for four months of normal use and sell for \$5.00. The manufacturer is the Northam Warren Corporation, Barry Place, Stamford, Connecticut.

Council tells of an automobile collision where he, his wife, and a Boy Scout, all of whom had recently taken first aid, were credited by the first doctor who arrived with saving the lives of several people. Such stories could be multiplied into the scores in North Carolina alone, and, if an epidemic or any other widespread disaster were to occur, into the thousands.

### PLANT PROTECTION AND PLANT BLACKOUTS

Considerable friction has arisen in some quarters from orders of local defense councils for industrial plants to cooperate in blackouts. Permission from the Fighter Command to stage a blackout specifically requires that no war industry be hindered in its production. Coordinator C. G. Yates of Greensboro has made the sensible suggestion that other industrial plants be asked to black out once, and, if the results are satisfactory, be allowed to continue production during subsequent tests.

The OCD is now entrusted with organizing plant protection against air raids in all plants not owned by the government and not working on army or navy contracts. Just as civilian protection is a local responsibility, so is plant protection the responsibility of plant management. OCD recommends that joint employer-employee Air Raid Protection Committees be set up, and that plant protection corps be recruited by a campaign for volunteers, and organized as recommended in *Protection of Industrial Plants and Public Buildings*. Employees are urged to volunteer for plant duty in preference to Citizens Defense Corps.

By presidential executive order, the OCD has also been charged with the development of a Facility Security Program for the protection of municipal and private installations against sabotage "and other destructive acts or omissions." This program will be carried out in cooperation with the Internal Security Division of the War Department, and the FBI will continue to investigate acts of sabotage and suspicious persons.

### The Inland Waterway

(Continued from page 7)

of the Elizabeth River, thence by canal to Currituck Sound and again by canal to North River and Albemarle Sound. From this point on there are two choices. One choice is through Croatan Sound into Pamlico Sound and into Core Sound. The other choice leads through the Alligator River-Pungo River Canal into the Pamlico River, thence by Goose Creek Canal to Bay River and then to the Neuse River. After going up Adams Creek, the Canal opens into

Core Creek and Newport River at Beaufort and Morehead City.

From Morehead City southward, our voyage takes us through a canal cut into Bogue Sound and thence through a series of connected lagoons, New River Inlet, and to the southern end of Myrtle Sound. From there a canal carries the Waterway into the Lower Cape Fear River. The shipping channel of the Cape Fear is used for the Waterway from below Wilmington to Southport. From Southport southward the waterway consists of a series of canals and dredged lagoons. This continues in more or less the same fashion through South Carolina, Georgia, and Florida. In many places the canals and passageways are several miles inland. In others, they are within several hundred yards of the shore.

#### Width and Depth of the Canal

The width and depth of the canal varies throughout its length. The controlling factor in the use of the waterway is the depth of the canals and passageways. Available figures indicate a controlling depth of about 10 feet over most of the waterway, while the controlling depth of the alternate route through Core Sound is about 7 feet. These depths will determine the draft of the boats that can make use of this waterway. At present it is only suitable for shallow draft boats. Relatively sharp turns may be detrimental to long boats; narrow draw bridges may also limit the size of boats. Its value could be greatly enhanced by improvements such as dredging, widening, and straightening. Much of the route is limited to one way traffic.

In spite of these handicaps the general feeling is that the Inland Waterway should receive a great deal of consideration before the idea of its use as a route for commercial traffic is discarded.

It is not to be assumed that the Inland Waterway can replace the regular off-shore shipping lane. Rather it should be thought of as an arterial route whereby small yet indispensable amounts of vital commodities could be safely amassed in eastern markets. At least it can be utilized to "prevent the pail from running dry."

## Current News from Publishing Front of Interest to Public Officials

*Fire Defense*, edited by Horatio Bond. Boston, National Fire Protection Association, 1941. 220 pages. \$1.50.

This valuable book is described in its subtitle as "a compilation of available material on air-set fires, bombs and sabotage, civilian defense, fire fighting, and the safeguarding of industrial production for defense." Its appearance is significant proof that the missions of fire and police officials to Britain were not fruitless, that we have learned the grim lessons to be learned there and are mending our own fences in good time. Contributors are officials of the National Fire Protection Association, the Federal Bureau of Investigation, the American Water Works Association, and engineers in other public and private agencies.

*Fire Defense* is in substance a manual on a new subject, and the most striking thing about it is the amount of fresh and authentic information which it brings together. The section on "Organization for Civilian Defense," for instance, contains articles on the Ontario defense plan, the Maryland fire defense plan, and the Massachusetts fire department inventory. While all of these have appeared before in fire journals, their reappearance here between the same covers provides an opportunity for comparative study of measures taken in different territories to the same end.

Other sections discuss Fire from the Air, Sabotage, Fire Departments and Fire Fighting, Communications, and Defense Production. One chapter contains a suggested training program for auxiliary firemen, outlined in units and ready as it stands for the instructor's use. Other books easily available cover the technical aspects of firefighting, and it does not detract from the value of this one that it attempts to suggest ideas rather than to lay out a cut-and-dried program of fire defense.

A special word of commendation should go to the 125 illustrations, most of which are photographs.

#### Pamphlets on Plant Defense

Plant Defense Coordinators and Local Defense Coordinators asked to advise and work with them have often been at a loss to know where to turn for information on the organization of plant protection. The OCD leaflet, *Protection of Industrial Plants and Public Buildings*, contains a valuable skeleton plan, which, however, obviously needs filling in before it is of much use. Since the War Department instead of the Navy is now working with OCD in most of its plant protection activities, the restricted pamphlet *Plant Protection for Manufacturers*, available to qualified officials from the Office of the Under Secretary of War, is the last word on the subject. (Published in February, 1942—29 pages.) The FBI has published the most useful pamphlet of all, *Suggestions for Protection of Industrial Facilities*, December, 1941, 55 pages.

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The National Institute of Law Officers has published a number of monographs by its Executive Director, Charles S. Rhyne, on legal problems of cities in wartime. They are available from the Institute at 730 Jackson Place, Washington, D. C., at prices of from \$1.00 to \$2.00, and include:

*Charitable, Religious, Patriotic and Philanthropic Solicitations—City Ordinances and Court Decisions—Model Ordinance Annotated.* Report No. 84.

*Blackouts and Air Raids—Model Ordinance Annotated.* Report No. 80.

*Emergency Suspension of Building, Electrical and Plumbing Ordinances Because of Material Shortages Created by the War Program—Model Ordinance Annotated.* Report No. 83.

The Institute has also just published the 1942 edition of *Municipalities and the Law in Action*, that omnibus report on developments of the year, and this year more valuable than ever.

## Public Purchasing

(Continued from page 3)

Such requests should not be filed on Form PD-1A, and materials for construction must not be secured through the use of Preference Orders P-100 or P-46.

Applications on Form PD-200 require a complete description of the project, a detailed breakdown of the materials required and a satisfactory justification of the need for the project as related to the war effort.

While such applications for private construction are handled through the local offices of the Federal Housing Administration, or the County Farm Agent for farm construction applications, public construction projects go directly to the Bureau of Governmental Requirements, War Production Board, Washington, D. C.

### Limitation Order L-41—Construction Projects Which Do Not Require Priority Assistance

Construction on public projects which do not require priority assistance may be started without permission if the cost is less than \$5,000. All projects costing more than that figure must be authorized by the War Production Board before construction is begun. Applications for such approval are also made on forms PD-200 and 200 A and require the same detailed information referred to above.

### Rationing for Local Governments

Rationing for all local governmental agencies is handled by the same Local Rationing Boards that handle civilian needs. There are, of course, special regulations which apply to governmental needs for the guidance of these boards, but these are too lengthy and detailed to include in this summary.

Rationing applies at present to automobiles, tires and tubes, sugar and typewriters. Several other items will be added soon, but information is not now available as to what will be included.

### For Further Guidance

This summary could not be and is not intended to be all inclusive. It can at best serve as a guide to the general use of the many regulations now facing the public purchasing agent.

No one person or office can hope to

keep abreast of all these developments in complete detail, but all local governmental units are urged to write the INSTITUTE OF GOVERNMENT in connection with any of these problems as they arise.

### What About the Future?

No one can predict future developments in this field with more exactness than they can predict the future of the war. Present regulations are already inadequate and some adjustments must be made. Consultation with officials of the War Production Board and the best information available at present point toward the following possibilities.

#### Present Situation Will Become More Acute

The present list of materials for civilian use will become more and more acute in months to come. Only the most critical needs can be met. Many desirable and seemingly essential services will be curtailed or eliminated. Public officials must display initiative and resourcefulness if vital public services are not to fail.

#### Survey to Be Made

The Bureau of Governmental Requirements will make a survey of state and local governments to determine their needs and provide the basis for plans to meet those most essential. The survey will not cover all governmental units but will be a sampling process, covering only a few states and a few cities and towns in each state selected.

The information thus secured will then be applied to the entire situation by the best formulas which can be evolved. Such a process is surprisingly accurate in most cases.

North Carolina may be selected as one of the regions for such a survey, depending on the adequacy of purchasing records and other data available in this State.

#### Governmental Requirements Plan

A Governmental Requirements Plan, similar to the Production Requirements Plan for private industry, has already been developed by the Bureau of Governmental Requirements and placed in operation for federal agencies.

It will probably be adapted to the needs of state and local governments as soon as adequate information can be secured and necessary adjustments made.

The plan as now conceived will require the preparation of a quarterly request showing the total anticipated needs of each governmental unit for the three month period with a comparison of actual needs for the previous year.

Approval of the request would more nearly insure the receipt of that portion of the requested needs considered essential.

This plan may only be used for larger units (cities or counties) above a certain population level.

#### Modification or Revision of Existing Regulations

In any event some form of regulations similar to those now in effect may be necessary to supplement the Governmental Requirements Plan and provide for the needs of smaller units whose needs cannot be accurately forecast. P-100 may be revised to provide higher ratings for certain types of needs as was recently done when Utilities Order P-46 was amended.

There will always be the need for handling some unusual or special requests and form PD-1A now in use will probably be retained.

#### Adequate Purchasing Records Essential

All such regulations, those proposed as well as those already in use, require that adequate records be kept for review or audit. In the near future, the completeness of your purchasing records may mean the difference between justification or disapproval of your request for future needs.

To meet this situation a purchase order system with adequate files should be established at once. The development of a centralized and systematic purchasing procedure has long been recognized as one of the most important functions of good governmental practice. Many of the local governmental units in North Carolina have delayed this step because of the slight additional expense involved, and also their unwillingness to discard old procedures which, like an old shoe, are comfortable and well worn. Even in normal times the advantages to be gained far outweigh the minor additional cost for forms and records. In the present emergency, such a step will pay rich additional dividends.

# Bulletin Service

Recent opinions and rulings of the Attorney General of  
special interest to local officials

★  
Prepared by

George Riddle, Jr. of the Staff of the Institute of Government

## I. AD VALOREM TAXES

### A. Matters Relating to Tax Listing and Assessing.

#### 5. Exemptions—city and county property.

To J. D. Potter. Inquiry: Is property owned by a city, but operated by an individual in manufacturing shirts, and for use of which the city receives no compensation, taxable for county ad valorem taxes?

(A.G.) I think this situation comes squarely within the opinion in the case of *Warrenton v. Warren County*, 215 N. C. 342, where it was held that the exemption of municipal property from taxation applies only to property used for governmental or public purposes, and municipal property used for business purposes is not exempt from county taxation.

#### 24. Board of Equalization and Review.

To W. L. Whitley. (A.G.) A taxpayer, after the Board of Equalization and Review has finished its work and adjourned, may not present a claim to have his property revalued because of a decrease in valuation due to forest fire, when he failed to make such claim earlier.

#### 28. Exemptions—Federal employees.

To Marsden Bellamy. (A.G.) The fact that a person is in the service of the United States does not exempt him from the duty of listing his personal property in the county and city of residence.

#### 33. Statute of Limitations.

To Herbert Leary. Inquiry: May foreclosure actions be instituted to collect taxes levied for the year 1926?

(A.G.) Ch. 181, Sec. 7, P. L. 1933 provides that all tax liens held by counties, municipalities and other governing agencies for the year 1926 and prior years upon which no foreclosure proceedings have been instituted, are declared to be barred and uncollectible. Certain counties were eliminated from the provisions of the act.

The Supreme Court, by a divided court, held in *City of Raleigh v. J. R. Jordan, et al.*, 218 N. C. 55, that an action by a municipality under C. S. 7990 to foreclose the lien for taxes for the years 1925 and 1926 is barred by the section referred to, since it was the legislative intent to bar enforcement of all liens for unpaid taxes for the year 1926 and prior years, under whatever guise attempted.

## B. Matters Affecting Tax Collection.

### 75. To what property lien attaches.

To Robert P. Holmes. Inquiry: Would the personal property tax attach to the real estate where an individual listed his real estate in his own name, and, on a separate abstract, listed his business, which he personally owns but operates under a business name?

(A.G.) It is my opinion that unless the business were incorporated, the taxes lev-

## B. Matters Affecting Tax Collection.

### 49. Tax collection—prepayments.

To D. G. Wilkie. Inquiry: Is it mandatory, under S. 1706 of the 1941 Machinery Act, that County Commissioners accept pre-payment of taxes?

(A.G.) It is my opinion that a taxpayer has the right to make a prepayment of his taxes at any time between July 1 and October 1, and that the proper county authorities would be required to receive such taxes and issue a receipt therefor as provided in S. 1706.

ied and assessed on the personal property of the business would be a lien against the real estate of the owner, under s. 802 (2), 1005, 1401 and 1704 of the 1939 Machinery Act.

## III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES.

### A. Levy of Such Taxes.

#### 14. Privilege license—beer and wine.

To Z. V. Rawls. Inquiry: Where a county fails to levy a license tax on wine and beer retailers, or to demand payment of license taxes, for several years, may the county still collect for such past years, or is the right to recover forfeited?

(A.G.) I think the sections of the Revenue Act which levy a tax on those persons who engage in the business of retailing beer is sufficient in itself to levy the tax, and I advise that, in my opinion, the county could go back and collect the tax for past years from those persons who are engaged in this business without securing a license at the time the same was due.

To J. M. Aldridge. Inquiry: May a municipality issue a retail wine license to a cafe rated below "B" by the State Department of Health?

(A.G.) Under the 1941 amendment to the Revenue Act, a license for the sale of fortified wines may be issued only to hotels, cafes, restaurants, drug stores and grocery stores which have a Grade A rating issued by the State Department of Health. It is mandatory that a municipality issue a license for the sale of unfortified wine, provided the applicant has met the conditions set forth in Section 511 of the Revenue Act.

#### 15. Privilege license on business, trades and professions.

To M. T. Britt. Inquiry: Where a town levies a merchant's license tax for the privilege of doing business, may it make an additional levy on the handling of certain items which are handled in the usual course of business.

(A.G.) The fact that a person pays a merchant's license tax for the privilege of engaging in the business of being a merchant would not prohibit a municipality from levying additional taxes for the



ATTORNEY GENERAL  
HARRY McMULLAN

various classifications of business in which he might engage even though in a broad sense it all together might be construed as merchandise.

#### 47. License tax on slot and vending machines.

To Hon. A. J. Maxwell. Inquiry: Does the provision of Section 130 of the Revenue Act, excepting food vending machines from the license tax levied by the section where the machine contains candy having 50% or more peanuts, apply where one section of the machine contains such peanut candy and another section contains plain candy?

(A.G.) I am of the opinion that the General Assembly intended by this section to exempt only those machines which vend bars or pieces of candy, each one of which contains more than 50% peanuts, and the exception does not apply if any piece of candy vended by the machine contains less than 50% peanuts.

To J. L. Womack. Inquiry: Is it optional with a city whether or not it licenses pin-ball machines.

(A.G.) The types of slot machines prohibited by the Flanagan Act—Ch. 196, P. L. 1937—are illegal in this state, and the terms of the statute include machines in which the player has a change to make varying scores upon which wagers may be made. The Flanagan Act was held constitutional in *Calcutt v. McGeachy*, 213 N. C. 1. It was contended that Section 130 of the 1939 Revenue Act repealed or modified the Flanagan Act, but the Legislature in 1941 eliminated from that section the provisions on which this contention was based.

#### 90. General powers to levy.

To S. L. Johnson. Inquiry: Is a municipality empowered to fix its own privilege license taxes?

(A.G.) C. S. 2677 provides, among other things, that municipalities may levy privilege taxes upon all trades and professions. The Revenue Act, however, in certain instances, under Schedule B, Sec. 100 and following, Ch. 158, Public Laws of 1939,

as amended, limits the amounts which municipalities may levy upon the trades and professions therein set out.

I advise, therefore, that, except as limited by the Revenue Act, municipalities may fix the amount of privilege license tax which they levy upon businesses, trades, or professions.

To Messrs. Little & Wilson. Inquiry: Where a town is incorporated after tax listing time, and, therefore levies no ad valorem tax, is it thereby precluded from levying privilege license taxes?

(A.G.) In my opinion, the validity of the levying of a privilege license tax would not depend on whether or not an ad valorem tax is levied, and so long as such taxes are within the limits fixed by the Revenue Act they are valid and collectible.

#### 99. Miscellaneous privilege license taxes.

To H. D. Taylor. (A.G.) Where a person operates a filling station and small general store in a remote section of a county, and also collects junk hauled to his premises or by sending a truck through the county, he is liable for the license tax imposed on the business of buying and/or selling junk "in incorporated communities."

### IV. PUBLIC SCHOOLS.

#### C. Powers and Duties of City Administrative Units.

##### 26. Tuition charges for non-residents.

To J. C. Sawyer. Inquiry: Can a city administrative unit charge a county other than the one in which the city is located tuition on pupils such county sends to the city unit, and if so, is the correct charge the same as that made to the county in which the city is located?

(A.G.) If the students have been transferred into the city administrative unit under the provisions of s. 5 of the School Machinery Act of 1939, as amended, in accordance with the proviso contained in that section, no tuition should be charged; if they are not transferred under the provisions of this section, the proviso for nonpayment will not apply, and tuition may be charged at a rate not exceeding the per capita cost to the city administrative unit.

#### F. School Officials.

##### 59. Place of voting.

To Trevant W. Anderson. (A.G.) There is no provision in the state law prohibiting teachers or other employees paid from state funds from participating in politics and elections.

### VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES.

#### B. County Agencies.

##### 10. County A.B.C. Boards and Stores.

To Charles P. Green. Inquiry: When ABC stores are discontinued in a county as the result of an election, what disposition should be made of the books and records?

(A.G.) Nothing appearing in the statute relating to what disposition should be made, it is my opinion that the County Commissioners have authority under C. S. 1297 (14) to make such disposition of such books and records as in their judgment would best preserve the interests of the county.

### VII MISCELLANEOUS MATTERS AFFECTING CITIES.

#### C. Police and Fire Protection.

##### 6. Unsafe buildings.

To C. W. Tillett. Inquiry: May the owner of a building condemned by a local fire inspector be prosecuted for failure to remove it?

(A.G.) C. S. 2774 provides that if the owner of any building which has been condemned as unsafe and dangerous to life by any local inspector, after being notified by the inspector in writing of the unsafe and dangerous character of such building, shall permit the same to stand or continue in that condition, he shall forfeit and pay a fine of not less than \$10 nor more than \$50 for each day such building continues after such notice.

This statute does not declare that the acts mentioned would constitute a crime, but I am of the opinion that because it provides for a fine, our courts would hold that its violation would constitute a breach of the criminal law. See *State v. Pierce*, 123 N. C. 745.

### COUNTYWIDE BLACKOUT ORDINANCE

To Theodore S. Johnson. Inquiry: What powers do local government officials outside of the cities have in the matter of enforcing compliance with blackout requirements and procedures, traffic movement on highways and other necessary procedures for the control of the population under attack conditions, or under defensive measures made necessary to avoid attack?

(A.G.) I advise that there is no legal authority for a board of commissioners to enact a blackout ordinance. Under decisions of the Supreme Court of this State, the power and authority of county commissioners is strictly construed to that prescribed by statute. Nothing appearing in the statutes which would permit county commissioners to pass such an ordinance, I advise that they have no authority to do so.

#### 8. Regulation of traffic.

To Henry L. Kiser. Inquiry: May a municipality prohibit the maintenance of taxi stands on certain crowded streets or on private property situated on such streets?

(A.G.) Municipalities may regulate vehicular traffic on public streets. N. C. Code Ann., Sec. 2787 (36). Reasonable ordinances designated to eliminate congested traffic on a street are valid. *State v. Carter*, 205 N. C. 761. There is some authority to the effect that exclusion of certain types of traffic from particular streets is a valid municipal traffic regulation.

In my opinion your town could validly enact an ordinance forbidding the location of taxi stands on the streets in certain congested areas, but permitting location of taxi stand on the streets in other areas.

An ordinance prohibiting the location of taxi stands on private property within a certain city block would be in the nature of a zoning ordinance, which municipalities may enact. N. C. Code, Ann., ss. 2776 (r)-2776 (aa). It is possible that by reason of peculiar local conditions a taxi stand in the business section might create a dangerous traffic hazard, and a prohibitory ordinance might be held valid. An analogy is found in ordinances prohibiting erection of filling stations near schools, which have been held valid. *Ahoskie v. Moye*, 200 N. C. 11.

#### F. Contractual Powers.

##### 30. Contracts with town officials and their corporations.

To D. Newton Farnell, Jr. Inquiry: (1)

May a member of the Greensboro-High Point Airport Authority, which was created pursuant to Ch. 98, Public-Local Laws of 1941, make a loan of money without interest to the Authority, which money is necessary for proper purposes of the Authority, and not violate the provisions of C. S. 4388?

(A.G.) I do not think such member would violate the provisions of C. S. 4388, which prohibits a commissioner of public trust contracting for his own benefit, in a case where such member loans the money to the Authority without making any interest or other charge therefor.

Inquiry: (2) May a member of such Authority purchase revenue bonds of such Authority sold by the Local Government Commission, for the issuance of which bonds said member had voted, and not violate the provisions of C. S. 4388?

(A.G.) I rather doubt that such member could purchase such bonds without violating the statute, because in such case the member would be actually contracting with his own board. I do not think that the prohibition of the statute would extend to a purchase of such bonds in the hands of a third party.

#### G. Principal Liability for Tort.

##### 10. Negligence of employees.

To W. T. Hickabee, Jr. Inquiry: Is a municipality liable for damages occurring from operation of Fire, Police, or Garbage vehicles beyond the city limits?

(A.G.) The decisions of the Supreme Court of this state uniformly hold that a municipal corporation while engaged in the discharge of a governmental function is not liable for the tortious acts of its officers or agents while engaged in the discharge of such function. *Clinard v. City of Winston-Salem*, 173 N. C. 356; *Parks-Belk Co. v. City of Concord*, 194 N. C. 134; *Hamilton v. City of Rocky Mount*; *Lewis v. Hunter*, 212 N. C. 504; *Hodges v. Charlotte*, 214 N. C. 737.

This office has held that a town engaged in the removal of garbage by trucks is engaged in a governmental function. This opinion is supported by *Snyder v. High Point*, 168 N. C. 729.

It is also well settled that the maintenance and acts of the police and fire departments are governmental functions and that municipalities are not liable for injuries arising from the exercise and performance of these municipal functions. *Harrington v. Town of Greenville*, 159 N. C. 632; *Peterson v. City of Wilmington*, 130 N. C. 76; *Moffitt v. Asheville*, 103 N. C. 237; *Mellhenney v. City of Wilmington*, 127 N. C. 146; *Hobbs v. City of Washington*, 168 N. C. 293; *Cathey v. City of Charlotte*, 197 N. C. 309.

I advise that the rule would hold good if your town is legally operating its motor vehicles outside the corporate limits of your town, as well as inside, the question being as is indicated by the above decisions whether or not a municipality is engaged in the discharge of a governmental function.

#### N. Police Powers.

##### 9. Outside city limits.

To Fred W. Loverman. Inquiry: Where a town is located within one mile of the county line, does a police officer's arresting power, extending one mile beyond the town limits, extend into an adjacent county?

(A.G.) I advise that, under C. S. 2790, a police officer would have the power of arrest for a violation of ordinances of his town which have been passed for the protection of the property belonging to the

town, and, for sanitary purposes, within one mile in all directions of the city limits, and for the protection of property of a public utility whether owned by the city or not. This would be true even though this one mile limitation would extend beyond the boundary lines of the county in which such municipality is situated.

#### 20. Regulation of trades and businesses.

To W. P. Stradley. Inquiry: Where a town has levied an annual license tax on photographers, and also, in the same ordinance, required transient photographers taking photographs to be copied or money in part or full payment for photographs to be delivered later to post a security bond to insure performance of their agreement, does the 1941 amendment to the Revenue Act repealing authority to tax photographers invalidate the portion of the ordinance providing for security bonds?

(A.G.) It is unnecessary to decide whether the security provision is so inextricably a part of the licensing ordinance as to fall with it, for the reason that I know of no authority under which the town would be empowered to enact the security provision.

I am of the opinion that C. S. 2677, authorizing municipalities to enact ordinances, rules and regulations for the better government of the town, does not grant the authority for the enactment of the requirement of security, and I know of no other authorization.

#### 21. Sale of wine and beer.

To A. J. Maxwell, Dallas, N. C. (A.G.) Municipalities have no authority, by a vote of the people of the town, to outlaw beer and wine within the town limits, unless there is some public-local act which would permit the same.

#### O. Municipal Charters and Powers.

To Tom Blow. Inquiry: May the Board of Aldermen employ a man and designate him city manager without adopting any of the present forms of city manager government?

(A.G.) In order for your city to change its form of government to the city manager form, it will be necessary that an election be had of the qualified voters of your city. See 2847, 2887, and following.

### VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS

#### B. Clerks of the Superior Court.

##### 1. Salaries and fees.

To N. Henry Moore. Inquiry: Should a Clerk of Superior Court, in calculating his

fees for auditing the accounts of administrators and others under the provisions of S. 3904 (g) of Michie's Code, charge 25c for each \$100 of receipts through \$1,000 and 25c for each \$100 of disbursements through \$1,000, or combine the receipts and disbursements and charge 25c for each \$100 through \$1,000 of the combined receipts and disbursements?

(A.G.) It is my opinion that in arriving at your fee you should combine the receipts and disbursements and charge 25c for each \$100 through \$1,000 of the combined receipts and disbursements.

#### 65. Books and records.

To B. D. McCubbins. Inquiry: May a Clerk of Superior Court use a loose leaf docket in which to record adoption proceedings?

(A.G.) Sec. 191 (9) of Michie's Code provides that all papers except the report on condition and antecedents of the child and consent of natural parents or guardian shall be recorded in the special proceedings book or books. Sec. 590 provides that the Clerk shall keep in bound volumes a complete and faithful record of all his official acts; Sec. 952 enumerates the books which shall be open to inspection, including the special proceedings docket. It is my opinion that a loose leaf docket would be in compliance with this section and would constitute a bound volume within the meaning of this statute.

#### 70. Entries on judgment docket.

To Hon. Edwin Gill. Inquiry: Where a criminal defendant is found guilty and sentence is suspended upon certain conditions, but no length of sentence is given in the entry of judgment, and the defendant is later committed to prison for eighteen months for breaching the conditions, may the defendant obtain a writ of *habeas corpus*?

(A.G.) The term of imprisonment must be fixed by the trial judge within certain limits. State v. Gaskis, 65 N. C. 320; State v. Vickers, 184 N. C. 676 (678). It is possible here that the clerk failed to insert the length of the sentence in copying the judgment; it is my thought that on a proper motion by the Solicitor and at a proper legal hearing at which the prisoner is present, the court would have the power to amend the minute docket so as to make it speak the truth. State v. Swepson, 84 N. C. 827; State v. King, 27 N. C. 203; State v. Craten, 28 N. C. 164; 16 C. J. 1322.

Our Supreme Court has held that on appeals where the sentence is void for indefiniteness the case will be remanded in order that a correct sentence may be imposed. State v. Satterwhite, 182 N. C. 892; State v. Shipman, 203 N. C. 325. It is entirely possible that if the defendant applied for a writ of *habeas corpus* and the true facts should be brought out, the judge hearing the application for a writ might remand the prisoner to the County for a proper sentence.

#### 76. Guardian's fees.

##### 78. Dower and widow's allowance.

To J. P. Shore. Inquiry: Is an administrator entitled to commissions on amounts paid out for a widow's year's allowance? Is a guardian entitled to commissions on funds paid out for the maintenance and support of his ward?

(A.G.) This office is of the opinion that amounts paid out for widow's year's allowance should be treated as a distribution and that an administrator would not be entitled to commissions thereon.

On the other hand, I am of the opinion

that a guardian would be entitled to commissions on funds paid out for the maintenance and support of his ward.

#### D. Register of Deeds.

##### 1. Fees.

What fee should be charged by a Register of Deeds for the issuance of a certified copy of a birth certificate?

(A.G.) The general laws relating to the issuance of certified copies of instruments filed for registration in the office of the Register of Deeds is contained in C. S. 3906, which fixes the fee at \$1.00. Certain counties in the State have local statutes fixing the fee at 50c.

#### 15. Death certificates.

To R. T. Stimpson. Inquiry: Where a death certificate filed with a local registrar is incomplete, lacking the cause of death, and the coroner refuses to complete and sign the certificate, since the body was removed to another state and buried before he could see it, what is the procedure for having the certificate completed?

(A.G.) The statute, C. S. 7112, provides, among other things, that it shall be unlawful to inter or finally dispose of a dead body of a human being or remove such body from the primary registration district without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred, or in which the body was found. It seems to me that perhaps the local registrar could, under C. S. 7109, obtain information satisfactory to himself as to the cause of the death and fill in the missing parts.

This office is not passing upon the question as to the criminal liability of any person connected with the situation outlined.

#### 20. Cancellation of mortgages.

To Leo L. Fisher. Inquiry: What authority should a person purporting to act as agent, attorney, trustee, or mortgagee present in cancelling a mortgage or deed of trust on the Register of Deeds' records under the provisions of C. S. 2594?

(A.G.) It seems to me that the only absolutely safe method to follow in order to protect the rights of all parties, including the Register of Deeds, is to require a power of attorney from the trustee or mortgagee, which should be properly recorded.

#### 25. Index.

To William D. Kizziah. Inquiry: Where a deed of trust on real property includes, as part of the security, all heating, plumbing and lighting fixtures and equipment attached to or used in connection with such real estate, should the Register of Deeds, in registering the instrument, cross index it on the chattel mortgage index record?

(A.G.) Since this is in effect a deed of trust on the land offered as security and additional security in the form of personal property, in my opinion the Register of Deeds should cross index this instrument on the chattel mortgage index.

#### L. Local Law Enforcement Officers.

##### 6. Disposition of confiscated liquor.

To C. L. Williamson. Inquiry: What should be the disposition of fortified wines seized from persons convicted of selling such wines without permit?

(A.G.) Such fortified wines should be either turned over to the Board of Commissioners to be given to hospitals for medicinal purposes and/or sold to ABC stores within N. C., and the proceeds

### EMINENT DOMAIN

To Claude V. Jones. Inquiry: May a city condemn property on which the Federal Government may construct a recreation center for members of the armed forces?

(A.G.) The right of eminent domain which is extended to municipalities includes parks and play grounds, but does not extend so far, in my opinion, as to give them the right to condemn property for this purpose. It seems to me that the better solution of the problem would be for the Federal Government to condemn the property which it desires to be used for this purpose, and, if the city so desires, it might purchase the same with such surplus as it might have on hand not derived from tax levies.

placed in the school fund of the County where the seizure was made.

**97. Rewards.**

To Z. V. Morgan. Inquiry: Is a member of the State Highway Patrol allowed to receive a reward offered for the capture of a criminal?

(A.G.) There is nothing in the act creating the State Highway Patrol which would, in my opinion, prohibit a member of the State Highway Patrol receiving any such reward offered, should he be otherwise entitled thereto.

**T. Justices of the Peace.**

**2. Selection and qualifications.**

To O. R. Ferguson. Inquiry: May a justice of the peace serving under either gubernatorial or legislative appointment, and whose term has not yet expired, file for election as Justice of the Peace.

(A.G.) I see no objection to such procedure; however, should such candidates be elected, after qualifying, they would be serving the term of office for which they were elected in the election.

**IX. DOUBLE OFFICE HOLDING.**

**40. Militia and Reserve Corps.**

To J. W. Osborne. (A.G.) An officer in the State Guard might be termed an office, but this office is exempt under Article XIV, Sec. 7, of the Constitution which prohibits double office holding. You will note in the exemption that officers of the militia are included. I advise that the State Guard of this State are taken from the militia of the State.

**X. PRIMARIES.**

**A. Qualifications and Rights of Voters.**

**5. Registration.**

To G. H. Martin. Inquiry: Is a citizen allowed to vote in a primary election if his name is on the general election book and not on the primary book?

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(A.G.) An elector may not vote in primary election if his name is not on the primary book. He may vote in general election if his name is on the general election book.

**8. Party affiliation.**

To George DePriest. Inquiry: Does the fact that the Republican Party does not have any local candidates in the forthcoming primary election authorize Republicans to participate in the Democratic primary?

(A.G.) The only method by which a Republican can participate in a Democratic Primary Election would be for him to register and take the oath to support all the nominees of the Democratic Party during the time the registration books are open.

**C. Matters Affecting Candidates.**

**8. Filing fee.**

To Alton J. Knight. (A.G.) In those cases where candidates are nominated by a convention, no filing fees are required. The requirements that a candidate for the nomination to office pay the filing fee required by law, applies only to primary elections.

**XI. GENERAL AND SPECIAL ELECTIONS.**

**B. Ballots.**

**10. Absentee ballots.**

To J. R. Rousseau. Inquiry: Does Ch. 159, P. L. 1939, providing for the use of absentee ballots in general elections, repeal a prior local act prohibiting the voting of absentee ballots in a county?

(A.G.) The general rule is that a later general law will not repeal a prior special act, unless it is plainly the manifest intention of the law-making body to do so. U. S. ex rel. Gillett v. Dern. 74 Fed. (2nd) 485; Kornegay v. City of Goldsboro, 180 N. C. 441; Cox v. State, 144 N. Y. 386; 36 Cyc. 1090.

As a general rule, election laws are construed in favor of the right of a voter to vote. The repealing clause goes further than the ordinary repealing clause, providing specifically that all existing laws relating to voting by absentee ballot in this State are repealed. It is my opinion that the conclusion reached by the State Board of Elections, that the local acts relating to the use of absentee ballots were all repealed by the 1939 law, should be followed.

**XII. STATE TAXES.**

**A. Levy of Such Taxes.**

**3. Tax on trades.**

To Irving E. Carlisle. Inquiry: Where a

**IRREGULAR REGISTRATION**

To Irvin Gardner. Inquiry: May members of the U. S. armed forces who have resided in a town for the required time, but who did not register to vote during the registration period, go before the registrar on the day of election, register and vote?

(A.G.) Since these soldiers were qualified to register during the time the books were open, but for some reason did not do so, I do not think they could legally register and vote on election day. C. S. 5946 permitting registration on election day, applies only to those electors who become qualified to register after the books have closed and on or before election day.

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city owns and operates a municipal stadium, and, as part of such operation, sells beer, cigarettes, candy, peanuts, etc., is the city required to pay the state license taxes for the sale of beer and cigarettes and tobacco, and sales tax on sales of cigarettes, candy, peanuts, etc.?

(A.G.) Presumably, any exemption in favor of the city would be based upon the legal maxim that the sovereign is not bound by a statute without express provision. However, this office has taken the view that the maxim referred to has no application where the governmental activity is proprietary in nature. In this case, the activity of the city clearly goes beyond that which is governmental in nature. Further, where exemptions are intended in the Revenue Act, it is customary for them to be expressly set forth. As stated in Warrenton v. Warren County, 215 N. C. 342, "Taxation is a rule; exemption the exception, with strict construction applicable to the latter."

**S. Gasoline Tax.**

To Hon. A. J. Maxwell. (A.G.) Since it is the intent and purpose of Ch. 119, P. L. 1941 to exempt gasoline for school busses from the State six cents gas tax, although the Act provides for invoicing the gasoline sold to the county boards of education, gasoline purchased by the State School Commission to be used in new school busses only for delivering them from the plants is, in my opinion, exempt from the six cents gasoline tax.

**UNAUTHORIZED MILITIA**

To Allen E. Brown. Inquiry: Is there any law which would prohibit citizens who are otherwise disqualified for military service, during the present emergency to organize a military company, furnishing their own arms and equipment, with the object of placing themselves at the disposal of properly constituted civil or military authorities in such capacity as they might be used during the emergency?

(A.G.) I advise that this may not be done. C. S. 6894 provides: "If any person shall organize a military company, or drill or parade under arms as a military body, except under the military laws and regulations of the State, or shall exercise or attempt to exercise the power or authority of a military officer in this State, without holding a commission from the Governor, he shall be guilty of a misdemeanor."

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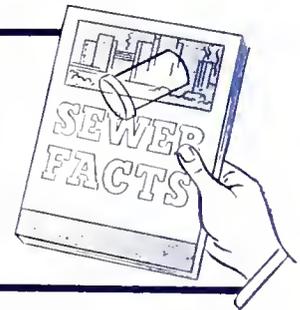
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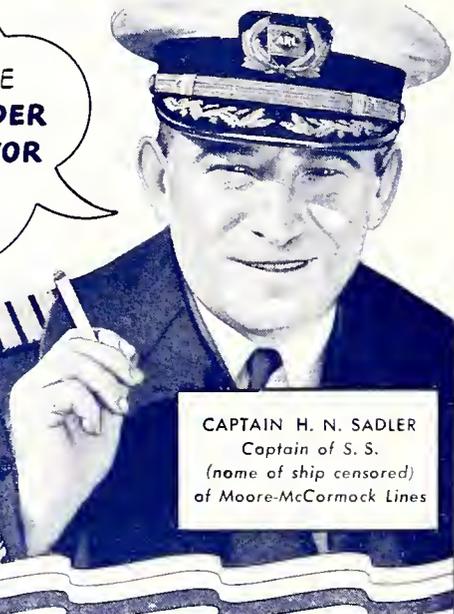
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