

Popular Government

February 1950



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

Volunteer Fire Department

The cover picture shows Chairman S. Y. McAden of the Mecklenburg County Board of Commissioners in the act of getting some first-hand information concerning one approach to the rural fire protection problem. The equipment he is testing was built this summer by members of the Pinoca Volunteer Fire Department of Paw Creek Township. Proud on-lookers are Lt. F. A. Swearngan of the County Rural Police, president and prime mover in the group's organization; Assistant Chief Craig Lawing, Chief Garman McCall, and Assistant Chief Grady Tadlock.

The Pinoca Department is one of a network of rural volunteer companies whose organization is being encouraged by the County Commissioners. Working on a voluntary basis, it constructed its own station with an outlay of \$1,500 for materials, and at a cost of \$4,000 more, converted a surplus army 6x6 truck into the efficient piece of fire apparatus shown here. Specially designed for rural operation, the truck carries a supply of 1250 gallons of water and pumps 60 gallons a minute at 600 pounds pressure, using both fog and stream nozzles.

Financing has been on a "membership" basis. In the first six months of fund-raising over 80 per cent of the initial expenses were paid off. Home owners in Pinoca and surrounding communities were asked to contribute \$10 for membership fees and their first year's dues, and home renters to pay \$5. After the first year annual dues will be \$3. No fees were set for business establishments, which were asked to contribute what they could.

Although it serves primarily the Paw Creek township, the department will go anywhere in the county when called. All calls are cleared through the County Rural Police headquarters, which dispatches two patrolmen to each fire at the same time it notifies the department.

Other volunteer companies operating on a similar basis in Mecklenburg County are the Wilkinson Boulevard Volunteer Fire Department, which was the first to be organized, and the Woodlawn Volunteer Fire Department. A new department to serve the Mint Hill community is in the process of organization.

THE CLEARINGHOUSE

Recent Developments of Interest to Counties, Cities and Towns of
North Carolina

Return of the Klan

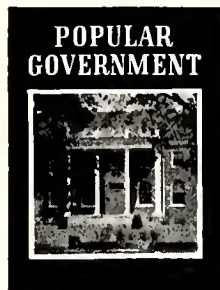
Accompanied by much fanfare, various multi-titled officers of the Ku Klux Klan announced perhaps too optimistically last December that North Carolina would become a stronghold of that organization during the coming months. With somewhat less fanfare the governing boards of the larger cities in the state quickly and quietly prepared for the possible return of Klan activity, dusted off old ordinances and passed new ones designed to force Klan members into the open.

In Charlotte, where the Klan officially opened its organizing drive, and drew immediate denunciation from Police Chief Frank Littlejohn and Mayor Victor Shaw, the city council voted unanimously to outlaw the wearing of masks. The preamble to the ordinance stated: "Public appearances, whether in motor vehicles or otherwise, of persons who are masked or hooded, are against the public interest and cannot be permitted in Charlotte." Exempted from its provisions are children under 17, workers who must wear masks for protection, persons engaging in theatrical enterprises or attending masquerades, and persons wearing gas masks.

An almost identical ordinance was passed in Raleigh, shortly after the Grand Dragon announced that organizing operations were scheduled to begin there.

In Durham, an informal poll of the city council revealed that eight members would be in favor of passing an anti-mask ordinance if a Klavern is organized in the vicinity, two members were as yet undecided, and none of the councilmen indicated opposition to such an ordinance.

Existing laws dating back to the original codes of Winston and Salem will be strictly enforced in Winston-Salem should the Klan establish a Klavern there, city officials announced. These laws: make it unlawful for two or more persons to assemble to do any unlawful act in concert against the person or property of others; require persons who wish to congregate or march in the street to obtain permission from the Chief of Police; and give the police power to disperse

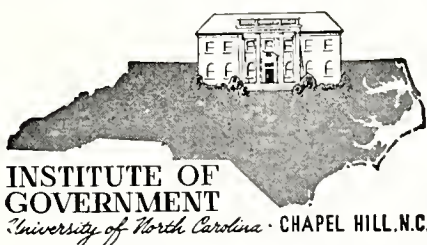


February, 1950 Vol. 16, No. 5

Contents

THE CLEARINGHOUSE	1
Return of the Klan	1
New Year's Resolutions	1
Education for Citizens	2
Working Hours	2
School for Firemen	2
Parental Delinquency	2
Tax Listing Notes	3
Beer Permits	3
One-Ton Fire Truck	3
Parking Authority	3
Rural Telephone System	
Planned	3
The Minutes Tell the Story	4
TAX SUPERVISORS' COMMITTEES	5
THE PROBLEM OF RURAL FIRE PROTECTION	6
THE COUNTIES' SOLUTIONS	9
THE DEPARTMENTS' SOLUTIONS	11
THE ATTORNEY GENERAL RULES	14

POPULAR GOVERNMENT is published monthly, except July, August, and September, by the Institute of Government, the University of North Carolina, Chapel Hill. Editor: Albert Coates; Associate Editors, W. M. Cochrane, Claude R. Edwards, George Esser, Philip P. Green, Jr., Donald B. Hayman, Henry W. Lewis, Ernest W. Machen, Jr., J. A. McMahon, Clifford Pace. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscription: Per year, \$2.00, single copy, 25 cents. Advertising rates furnished on request. Entered as second class matter at the Post Office in Chapel Hill, N. C. Copyright, 1949 by the Institute of Government. All rights reserved.



any suspicious gathering of three or more persons after nightfall.

Backing up these ordinances is an old state law dating back to 1870, which carries fines ranging from \$10 to \$200 for violations of its provisions prohibiting "any oath-bound secret political or military organization, society or association," "any disguise of the person or voice or any disguise whatsoever," "any certain signs or grips or passwords," or "any extrajudicial oath or secret solemn pledge."

New Year's Resolutions

With a new year beginning, mayors of several North Carolina towns yielded to temptation recently and outlined their "programs of action for the coming year"—an official form of New Year's resolutions. Typical of these programs were those proposed by Mayors J. Ray Shute of Monroe and Victor Shaw of Charlotte, who seemed to speak not only for their respective administrations but for North Carolina municipalities in general as they listed many of their cities' goals for the next twelve months.

First on Mayor Shute's list was "immediate county-wide revaluation of real and personal property which will double, if not triple, the present values and give us a tax rate more clearly reflecting the true tax situation in Monroe and Union County." Also envisioned for Monroe were construction of a new hospital, nursing home, library, and museum, to be financed by bond issues, extension of the sewer system throughout the city, establishment of a public housing authority, the widening and paving of a greater number of streets, an improved school system, and a more adequate recreation program.

Mayor Shaw's plans for Charlotte also called for the further development of low-cost housing, financed by both private and public funds, as well as continuance of the city's slum clearance program. His list included the construction of a new auditorium and airport administration building,

improvement of the traffic situation, elimination of industrial waste discharges in Charlotte's streams, and further extension of water and sewer lines. In concluding the announcement of his administration's program, Mayor Shaw continued to speak for the majority of North Carolina mayors when he said: "As I see it, we've got a real opportunity this year to move ahead toward constructive goals—to begin an era of real progress for the half-century ahead."

Education For Citizens

Once again the city government of Toledo, Ohio, is helping to educate prospective voters in the fundamentals of how their local government operates. Last year students from the city's high schools attended 12 seminar sessions conducted in the Municipal Courtroom to hear Toledo's administrative officials outline the nature of their duties. A new approach will be taken in presenting this year's course, with emphasis placed upon the general functions of local government rather than on individual offices. In place of numerous office holders, the faculty will consist of a smaller group of men with long experience in the public service. Over a period of seven months, with one session each month, they will cover: the legislative function, elections, general administration, special services, welfare, law enforcement and the judiciary. The speakers will discuss each of these functions in the light of every background in which it is found in local government—in the city government and its offices, bureaus and boards; in the school government, and in county, town and village government. All of the students will receive copies of the material prepared for the seminars and will use them as a basis for the classroom discussions which are scheduled to follow each session. The plan so far has met with such an enthusiastic reception that organization of adult classes, to be known as a "Civic College", will be begun in Toledo early this year.

City officials of St. Paul, Minnesota, also undertook to explain municipal government to its citizens recently—but all in one day. On the occasion of the 100th anniversary of the city's incorporation the entire floor of St. Paul's auditorium was devoted to exhibitions set up by each city depart-

ment, illustrating their work, equipment, budget and staff. Visual displays rather than literature was used, the health department going so far as to present a specially prepared movie cartoon on care of the teeth. Highlight of the program was a mock city council meeting held on the stage, complete with problem, arguments pro and con, and a vote, all designed to show the audience exactly how business is conducted at the meetings. It was reported later by the mayor, however, that by far the busiest spot on the floor during the day's ceremonies was at the booth containing a box for "If I Were Mayor" suggestions.

Working Hours

While experiments by the State and the cities of Charlotte and Winston-Salem with the five day week hardly constitute a trend in North Carolina, nevertheless their example has caused another major city, Durham, to consider the shorter work week for its employees. At the suggestion of the city council, City Manager R. W. Flack has asked city department heads to survey the work of their departments to determine whether the plan would be feasible. "Let it be a foregone conclusion that we would like a five day week with the same take-home pay," the city manager stated. "The question is whether or not we can render the same service at about the same cost." At present the city's employees work 41 hours per week, including 3½ hours on Saturday morning. Department heads are being asked to consider a plan under which offices would open half an hour earlier on weekdays, with employees working a total of 40 hours during the five days.

Durham county commissioners voted unanimously this month to accept county manager Ed Swindell's recommendation that a uniform policy regarding working hours be adopted "for all county organizations under the direct jurisdiction of the county commissioners, and that a similar policy be recommended for all other county organizations." Lunch hours, which formerly ranged from 1 to 1½ hours for county employees, were reduced to one hour by the commissioners' action, and the daily schedule for all county offices was set at from 8:30 to 5 p.m. While county offices will continue to remain open until noon on Saturdays, each employee will be given an entire Saturday off once a month.

School For Firemen

Winston-Salem's firemen have been spending their time between spurts of activity doing "homework." A continuous training program was inaugurated for the 104 members of the department some months ago and since then the men have spent approximately 350 hours in street and tower drills and 1100 hours in classroom work. The courses include the study of tools and equipment, chemistry of fire, operation of pumps, hydraulics, and rescue work. The firemen use textbooks compiled by the Department of Trade and Industrial Education at Oklahoma A & M college, and training bulletins of the National Board of Fire Underwriters. The men study in shifts, with a drillmaster going to each station to conduct the classes. This month representatives of the vocational division of the U. S. Office of Education are expected to be in Winston-Salem to give additional courses.

Parental Delinquency

Three Oregon cities are now pinning not only the blame but also the punishment, for juvenile delinquency, on the parents rather than their children. City councilmen of Baker, Lakeview and Eugene have recently adopted "parental delinquency" ordinances providing for fines up to \$200 and jail sentences up to 100 days for parents whose children commit those misdemeanors, such as petty theft, and disorderly conduct, with which delinquent careers are usually begun.

The idea was originated two years ago in Baker by Police Chief Guy V. Church when he decided that little was being gained by sending young delinquents to jail. After the ordinance was adopted Baker's delinquency went into a rapid decline, some estimating that a 90% cut in the juvenile crime rate was achieved. Actually, the ordinance has had to be invoked only six times since then. A few parents have had to pay \$25 and \$50 fines, and twice fines of \$200 were levied but later suspended. No parents have been jailed.

The town of Lakeview this summer, and the city of Eugene last month, adopted ordinances almost identical to the one originally drawn up in Baker. Several other cities in Oregon are reported to be considering it.

Tax-Listing Notes

Reports received from North Carolina counties this month indicated that more than at any time in the past, county tax supervisors have been placing considerable emphasis on the Machinery Act requirement that supervisors "shall . . . convene the list takers and assessors for general consideration of methods of securing a complete list of all property in the county and of assessing, in accordance with law, all property which is to be assessed during the approaching listing period." Brief schools have been conducted for tax listers in county courthouses all over the state and requests for a total of 933 copies of the Guidebook for List Takers and Assessors have been received from 55 counties by the Institute of Government.

* * * *

Of some concern to tax officials this year is the fact that the cash value of automobiles has reached the lowest point since before the war, meaning losses of up to 30% in revenue from this source. Most counties use the "Redbook of the National Used Car Market Report" as a guide for the listing of values of motor vehicles. According to the Redbook, some models of trucks have decreased by over 100% in tax value since 1949. One model automobile listed in 1948 for \$460 and in 1949 for \$420, is current-

ly being listed for \$280. Another car, which sold in November 1949, for \$1600, is listed in the guide as having a cash value of only \$940. Tax supervisors are counting on the listing of more late model cars than in previous years, to offset in part the decrease in value of the earlier models.

* * * *

Several counties, including Lincoln, Lenoir, and Caldwell, are using new abstract forms for listing taxes this year. These counties, following the example of several others, have replaced old forms which allowed for numerous "lump listing" items with abstracts providing more detailed break-downs showing itemized varieties of property and values. In abandoning "lump listings" tax supervisors expect to achieve more complete listing of property, an objective calculated to bring about both the equalization of the tax burden and an increase in total assessed valuation.

* * * *

After long discussion the commissioners of Mecklenburg County have decided to initiate action for the first revaluation in that county since 1938. Their plans envision a scientific appraisal of all real property plus tax maps for the entire county based on aerial photographs. The Charlotte City Council has voted to pay 30% of the total cost of this work.

Parking Authority

A new agency of the San Francisco municipal government, the Parking Authority, began operations last month with powers granted by an act of the 1949 legislature. Its members appointed by the mayor, the Authority will act as an independent agency in working to alleviate the local traffic problem by providing off-street parking facilities. It is empowered to issue revenue bonds (bond proposals must be submitted to the voters), acquire property by the power of eminent domain, fix rates for parking, and to lease space on parking properties to commercial enterprises. The initial program of the new agency calls for a study of off-street parking needs and existing facilities within the city.

Rural Telephone System Planned

Plans were laid last month for the establishment of North Carolina's third rural telephone system, to provide service to approximately 1600 families in the western part of the state. The potential membership of the proposed corporation includes residents of rural Mecklenburg, Iredell, Gaston and Lincoln counties who are at present members of the Cornelius Electric Membership Corporation. The Cornelius organization, of which the telephone corporation would be an affiliate, plans to apply for an REA loan to pay for the telephone lines, which could be paid off at 2% interest over a period of 25 years. The cost of constructing these lines will be materially decreased since the telephone wires will be strung on the same poles that are currently carrying electric power to homes throughout the region.

The state's first telephone cooperative was formed in Randolph County over a year ago and has since doubled its membership. The second such cooperative, with headquarters in Guilford, received its charter from the State Utilities Commission last September. Only a few weeks later Congress authorized the Rural Electrification Administration to make loans totaling \$25,000,000 this year to finance the extension of telephone service to rural communities.

Beer Permits

Cities and counties may have added control over applications for beer permits merely for the asking, according to an announcement last month by C. A. Upchurch, Jr., chairman of the Malt Beverage Division of the State A.B.C. Board. At the request of members of the Greensboro City Council the division chief instructed the Guilford County beer inspectors to send him no applications for beer permits unless the applications were first approved by the city council. A similar agreement was made with Bertie, at the county commissioners' request, and will be made with any other counties or cities desiring such an arrangement. Greater cooperation with local governing boards would be welcomed by the Malt Beverage Division, Upchurch said. "We realize that in some cases local authorities know more about the background of the applicant and his establishment than our own officers."

One-ton Fire Truck

Mammoth fire trucks with sirens screaming no longer hurtle through the streets of Mt. Lebanon, Pennsylvania, on their way to a rubbish fire. Instead, wear and tear on the larger equipment, the waste of gasoline and of firemen's time, are being avoided by the use of a one-ton panel truck in minor emergencies. The fire department was recently authorized to purchase the small truck for use in building and hydrant inspections and other routine operations. The firemen, however, saw its greater potentialities, and equipped the truck with a 105-gallon water tank, booster pump, carbon dioxide extinguishers, axes, crow bars, hydrant wrenches and other portable equipment. They also added a resuscitator for victims of drowning or monoxide gas, a stretcher, and a complete first-aid kit. Since it was put into use, the panel truck has answered and taken care of the majority of the fire and emergency calls received.

The Minutes Tell The Story

City councilmen returned from brief holiday celebrations this month to take action on municipal business which seemed to be of a more varied nature than it has been at any time during the past few months. Minutes received by the Institute of Government indicated that comparatively little time was spent on routine matters. Only three cities considered street paving petitions, two granted beer licenses, one city approved a taxicab permit, two cities amended their zoning ordinances, and only one amended its traffic code. Few purchases were made this month—two motorcycles, a fire truck, fuel oil, and a pick-up truck—while bids were opened on installation of a heating system, a truck and dump body, a diesel engine, and a sanitary sewer project. Discussion of the parking problem still retained high priority on the agendas of at least four city councils, however, and in Wilmington an ordinance was adopted regulating the hours of operation of parking meters at certain locations.

Several city councils took decisive action on matters which they have been considering for the past few months.

After hearing complaints from the representatives of three local cab companies that their business was suffering due to the rates recently set by the council and to the requirement that meters be installed, the Charlotte city council directed an auditing firm to make a cost survey of the cab companies' operations as a basis for further consideration by the council. The audit, completed this month, showed that the taxicab firms were actually losing money under the current rates, and the council promptly voted to increase cab fares in Charlotte from 35 cents for the first mile and a half to 35 cents for the first mile.

Concerned with another means of transportation, the city council passed a resolution to request the State Utilities Commission to send an engineer and investigators to inspect and survey the physical equipment, services and schedules of Duke Power Company buses in Charlotte. In reply, commission chairman Stanley Winborne stated that under the Bus Act of 1949 the Utilities Commission had no authority to make such a survey, that "these things are under the control and supervision of the city authorities and can only come before this commission when a controversy arises between the city authorities

and the utility, and the particular matter or matters in controversy are presented to this commission to hear and determine."

A report by the city manager to the Charlotte city council showed that during the past month inspections were made of 309 substandard houses, and notices sent ordering repairs to be made on them. 500 houses previously inspected were checked to see that repairs were being made. 45 houses were condemned as beyond repair. Since the program was begun in August, 1948, the report said, 2790 substandard houses were brought up to standard, 160 were demolished, and no family was "put out into the street."

A brief ordinance adopted in Fayetteville, made it a misdemeanor, carrying a maximum fine of \$50, for any person other than the employees of the city's Public Works Commission, to excavate the streets to tap or connect with any water or sewer line or to make repairs thereto. The council also directed the city manager to draw up a schedule of fees to be charged to persons living or conducting businesses outside the city limits who wish to use the city dump for refuse disposal.

No meat may be sold in Brevard without a stamp showing that it has been inspected, according to an ordinance adopted this month. Under authority granted by G.S. 106-161, the city council provided for the appointment of a qualified veterinarian who must approve all locally raised meat before it goes to market. Farmers who submit their animals for inspection will be charged \$1 for beef and 50 cents for each sheep or hog.

At a special meeting called this month, the Wallace town board voted to replace that community's faltering fire alarm system with \$4,500 worth of brand new equipment, including 12 alarm boxes and an air horn.

The Lenoir board of city commissioners revised its procedures in an effort to insure that no action is taken by the board in the future without sufficient consideration. The commissioners voted a resolution providing that all new ordinances, revisions of existing ordinances, and matters involving appropriations of \$500 or more shall be subject to readings and approval at two consecutive meetings of the board.

In the light of the policy of the State A.B.C. board toward city and county control over the issuance of

beer permits (see page 3) the Greensboro city council directed the city attorney to draw up a new ordinance covering in detail the operation of all establishments which sell beer on premises.

The Hamlet town board voted to discontinue construction of driveways for the public. In the future citizens will have to have the work done themselves, but only with the permission and under the supervision of the town superintendent of streets.

In Lexington, the city council discussed the possibility of having a highway built which would bypass the city, with District Highway Commissioner George Coble. The commissioner told the council that if such a highway is built the cost of purchasing right of ways within the city limits would be shared equally between the federal, state and city governments. The Lexington council also let the contract this month for the asphalt surfacing of 18 blocks within the city.

The Wilmington city council agreed to cooperate with representatives of the census bureau in seeking office space for census bureau employees. The Wilmington office will serve as the district center for eleven eastern counties.

* * * *

Preparation for tax listing time was a major portion of the business taken up by county commissioners during their meetings last month, according to the minutes received by the Institute of Government. The commissioners in Pitt and Harnett voted to direct tax listers to use the values shown in the Redbook of the National Used Car Market when listing automobiles this year. The Harnett board stipulated, however, that trucks were to be listed at their cash value plus 10%. Rockingham commissioners authorized the county auditor and tax collector, A. T. Powell, to employ an additional assistant who would devote full time to the valuation of new property and to listing property that had not previously been on the tax books. At Mr. Powell's request, the board directed the assistant tax collectors to make daily reports on their tax collection activities, the reports to be made on forms supplied by Mr. Powell. Revaluation of property was considered by the commissioners of Halifax during their December meeting, but it was agreed to postpone action on the matter until next year.

Two counties named local banks as official depositories for county funds, five counties exempted a total of 17 persons from license, dog, and

poll taxes, and two counties voted to employ firms to conduct audits for the year 1949-1950. With few exceptions all boards of commissioners elected a new chairman, or re-elected the incumbent chairman, in observance of G.S. 153-8, which requires that: . . . "at each regular December meeting the board shall choose one of its own members as chairman for the ensuing year."

Buncombe commissioners resolved last month to petition the State Medi-

cal Care Commission to create a hospital district embracing Buncombe, Madison, Yancey, and Mitchell, the district hospital to be located in Buncombe. The commissioners also directed their chairman to execute a Group Agreement with a hospital insurance association, to provide for hospital, surgical and medical care for all county employees.

Citing the fact that a gas company is currently constructing a pipe line through Rockingham to transmit

natural gas from Louisiana to North Carolina, the board of commissioners resolved "that the North Carolina Gas Corporation be and it is hereby respectfully requested and urged to make prompt and diligent effort to obtain from the pipe line above mentioned, natural gas to be distributed to its customers in Reidsville, Leaksville and Draper where there is an urgent demand for natural gas both for domestic and industrial*consumption."

Tax Supervisors Association Committees For 1950

Miss Maida Jenkins, chairman of the North Carolina Tax Supervisors Association, has announced the appointment of the following committees who will report to the 1950 meeting of the association.

To study Machinery Act with particular emphasis on desirability of repealing or revising obsolete provisions concerning indictments and penalties for willful failure to list property for taxes: F. W. McGowen, Duplin County Tax Supervisor, Kenansville, chairman; J. Curtis Ellis, Nash County Tax Supervisor, Nashville; R. B. Gates, Lincoln County Tax Supervisor, Lincolnton; Thomas J. Gill, Scotland County Auditor, Laurinburg.

To study and report on possible changes in dog licensing statutes: Tazewell D. Eure, Gates County Tax Supervisor, Gatesville, chairman; M. L. Peel, Martin County Tax Supervisor, Williamston; J. Pate Fulk, Surry County Tax Supervisor, Dobson; George M. Justus, Transylvania County Tax Supervisor, Brevard.

To study and make recommendations concerning the taking of the farm census: A. P. McGimpsey, Burke County Commissioner & Tax Supervisor, Morganton, chairman; Porter G. Cain, Bladen County Tax Supervisor, Elizabethtown; J. A. McGoogan, Hoke County Tax Supervisor, Raeford; Eugene Irvin, Rockingham County Tax Supervisor, Wentworth.

To study and make recommendations concerning the exemption of property (other than the \$300 exemption) and the statutes requiring reports of such property: James H. Sher-

rill, Caldwell County Tax Supervisor, Lenoir, chairman; Ervie T. Glover, City of Raleigh List Taker and Assessor, Raleigh; Mrs. Leila E. Ivey, Robeson County Tax Supervisor, Lumberton; W. J. Webb, Granville County Tax Supervisor, Oxford; Mrs. Mary T. Burgin, McDowell County Tax Supervisor, Marion.

Listing and assessing of stocks of merchandise, fixtures, and machinery: William F. Hester, Guilford County Tax Supervisor, Greensboro, chairman; Hubert T. Warren, Durham County Tax Supervisor, Durham; Berles C. Johnson, Harnett County Tax Supervisor, Lillington; C. F. Shuford, Gaston County Tax Supervisor, Gastonia; Mrs. Julia C. Read, Vance County Tax Supervisor, Henderson.

Listing and assessing electrical equipment of all kinds: R. F. Spell, Sampson County Tax Supervisor, Clinton, chairman; T. M. Condon, Hertford County Tax Supervisor, Winton; R. B. Gates, Lincoln County Tax Supervisor, Lincolnton; R. J. Moore, Union County Tax Supervisor, Monroe.

Listing and assessing farm machinery: J. Curtis Ellis, Nash County Tax Supervisor, Nashville, chairman; M. L. Laughlin, Edgecombe County Tax Supervisor, Tarboro; A. E. Garner, Randolph County Tax Supervisor, Asheboro; J. C. Grayson, Wilkes County Tax Supervisor, Wilkesboro.

Listing and assessing loan or rental equipment: J. C. Haynes, Rowan County Accountant, Salisbury, chairman; William F. Hester, Guilford County Tax Supervisor, Greensboro;

C. Bryan Aycock, Wayne County Tax Supervisor, Goldsboro.

Listing and assessing airplanes and airline property: Rupert J. Crowell, Buncombe County Tax Supervisor, Asheville, chairman; U. Vaughan Hawkins, Ass't Mecklenburg County Tax Supervisor, Charlotte; J. S. Saunders, Pasquotank County Tax Supervisor, Elizabeth City; C. F. Smith, New Hanover County Accountant, Wilmington.

Listing and assessing buses and trucks: C. E. Gwin, Catawba County Tax Supervisor, Newton, chairman; J. S. Braswell, Jr., Cabarrus County Tax Supervisor, Concord; U. W. Daugherty, Ass't Craven County Tax Supervisor, New Bern.

Developing an improved system for getting motor vehicle list: Rufus Grier, Mecklenburg County Tax Supervisor, Charlotte, chairman; Milton G. Williams, Lenoir County Tax Supervisor, Kinston; Ira J. Ward, Orange County Tax Supervisor, Hillsboro; Melvin C. Holmes, Franklin County Tax Supervisor, Louisburg.

Assessment of parking lots: Hubert T. Warren, Durham County Tax Supervisor, Durham, chairman; A. T. Powell, Jr., Pitt County Tax Supervisor, Greenville; A. C. Michael, Jr., Davidson County Tax Supervisor, Lexington; H. P. McArver, Assistant Gaston County Tax Supervisor, Gastonia.

Changing the name of the poll tax: Ira Ward, Orange County Tax Supervisor, Hillsboro, chairman; James H. Sherrill, Caldwell County Tax Supervisor, Lenoir; Miss Mary T. Covington, Richmond County Tax Supervisor, Rockingham.

The Problem of Rural Fire Protection

By PHILIP P. GREEN, JR.

Assistant Director
Institute of Government

The annual winter convention of the State Fire Chiefs Association in Raleigh this month placed a spotlight on what firemen consider the most pressing problem in North Carolina's fire protection picture today: how to provide adequate protection for the rural areas of the state. County commissioners, farm agents, and city officials from all over the state were present for the discussions, and the ripples from the convention are expected to spread from Manteo to Murphy in the months to come.

The problem is not a new one, nor is it confined to North Carolina. The report of President Truman's national Conference on Fire Prevention in 1947 pointed out that mechanization and electrification of farms have added to old factors so as to make rural fire waste significant enough to require action at every level of government, and stated:

"The continued prosperity of farmers and other rural property owners and the safety of their families is dependent to an important extent upon dependable organized fire service . . . [Whereas cities have long had protection,] Fire - protection - minded organizations and individuals have now realized that improved roads, modern automobile fire apparatus, and rural telephone service can make available comparable facilities for fire control throughout our farm and rural communities."

Both City and Farm Seek Action

The pressures for an answer to the problem at this time come from two directions. *Cities*, hard-pressed financially, do not see how they can afford to continue sending their equipment out into the country to fight fires for people who do not contribute to the upkeep of their departments (and who, in some instances, have deliberately chosen to live outside the city limits in order to avoid municipal taxes). *Rural residents*, meanwhile, have come to expect more in the way of protection; they are not so ready as their fathers to accept fire losses stoically. And at the center of these pressures, striving to bring about a solution, are the firemen, who feel that they cannot square the present situation with their professional consciences.

Solutions which have been proposed in various parts of the country range from the alpha of letting city departments send their trucks to rural fires

with no formal arrangement at all to the omega of setting up complete rural fire departments. In between lie a multiplicity of schemes, usually involving contractual relationships between the city on one hand and either other governmental units or individual property-owners on the other. In weighing their applicability to the North Carolina scene, first let us examine the statutory setting in this state, and then with that background we shall consider the various proposals in turn.

The General Assembly has been open-handed to the nth degree in delegating power to lower-level governmental units to deal with the situation. Counties have been empowered to set up their own departments or to contract with municipal departments for protection; sanitary districts have been given the same alternative; fire protection districts have been authorized in a number of counties, with the same powers; and cities have been granted power to send their equipment outside their limits and to contract to furnish protection to outsiders. With the exception of state-wide fire protection district enabling legislation, further steps would seem to be up to the units involved rather than a problem for the legislature.

Counties

Since 1945 counties have had power, under G.S. 153-9 (39) "to provide for the organization, equipment, maintenance and government of fire companies and fire department"; in their discretion to "provide for a paid fire department, fix the compensation of the officers and employees thereof, and make rules and regulations for its government"; and to "make the necessary appropriations for the expenses thereof and levy annually taxes for the payment of same as a special purpose, in addition to any allowed by the constitution". The first-named power would seem to include the right to assist rural volunteer departments operating throughout the county.

The State Volunteer Fire Department Act (G.S. 69-14 to 69-25), enacted in 1939, permits a county to contract for fire protection with any

municipality accepting the provisions of the act. The act specifies that the county may pay "an annual fee as a consideration for the municipality providing equipment and carrying compensation insurance which will enable it to respond to calls from within the county so contracting" plus a *mileage fee* for distances actually travelled and a *use-of-equipment fee* for the use of pumping equipment. If the two units so desire, they may set up an entirely different schedule of fees. The county may make the necessary appropriations and levy annually taxes for the payment of the same as a special purpose "in addition to any tax allowed by any special statute for the purposes enumerated in §153-9, and in addition to the rate allowed by the constitution."

This act is the most comprehensive to be found on the North Carolina statute books. To guard against recurrence of situations in which farmers have in the past refused to let the fire department draw water from their wells to fight their neighbors' fires, it gives firemen "the same authority, rights, privileges and immunities which are afforded them while responding to calls within their home municipality." It protects *cities* against lawsuits by providing that "In permitting its fire department or equipment to attend an emergency or answer a call beyond its municipal limits, whether under the terms of this article or otherwise, a municipality shall be deemed in exercise of a governmental function, and shall hold the privileges and immunities attendant upon exercise of such functions within its corporate limits." It protects *firemen* by providing that they shall be covered by workmen's compensation when they are outside the municipality on a call, just as though they were on a call inside the city. It protects *city residents* by providing that "At no time shall the entire personnel or equipment of any municipal fire department be absent from the municipality in response to a call to another municipality, or other place lying at a distance exceeding two miles from the corporate limits, but there shall remain within the municipal limits such personnel and equipment as in the judgement of the local fire chief might provide sufficient protection during the absence of the remainder."

Special acts authorize the commissioners of Guilford County to expend up to \$15,000 from their general funds between July 1, 1945 and July 1, 1952 for the purchase and operation of fire fighting equipment to protect rural communities within the county (Sess. Laws, 1945, c. 405 as amended by Sess. Laws, 1947, c. 46); and the commissioners of Transylvania County to levy a special tax for the special purpose of paying the expenses of forest fire protection in the county (Sess. Laws, 1947, c. 159).

Sanitary Districts

Since 1941 the sanitary district boards of districts adjoining and contiguous to cities having a population of 50,000 or more have been authorized "To establish a fire department for the protection of property within the district, or to contract with cities, counties or other governmental units to furnish fire fighting apparatus and personnel for use in the district" and "To use the income of the district, and if necessary, to cause taxes to be levied and collected upon all taxable property within the district . . . to provide fire protection in said district . . ." [G.S. 130-39 (13) and (15)]. Since 1947 this power has been extended to *all* sanitary district boards (Sess. Laws, 1947, c. 476).

A *special act* in 1943 empowered the Board of Commissioners of the Rural Hall Sanitary District in Forsyth County "to purchase, equip, install and maintain a sufficient amount of fire fighting equipment to protect the property in said district from destruction or damage by fire" and to pay for this equipment out of revenues from the sale of water (Sess. Laws, 1943, c. 37). Such a special act is non-essential since the 1947 amendment to the general law.

Fire Protection Districts

Special acts have authorized the citizens of Guilford County (Pub.-Loc. Laws, 1941, c. 304), Mecklenburg County (Sess. Laws, 1947, c. 958), Rowan County (Sess. Laws, 1947, c. 1089), and that part of the Albemarle special school tax district lying outside the corporate limits of the town of Albemarle in Stanly County (Pub.-Loc. Laws, 1941, c. 294) to form fire protection districts, along lines similar to sanitary districts. The Guilford and Mecklenburg provisions are identical, and the Rowan County provisions are closely similar; briefly, they require a petition by a majority of the landowners or the owners of more than half the taxable value of the land proposed to be included in the district, a report

GOVERNOR'S COMMITTEE TO STUDY PROBLEM

A nine-member Governor's Committee on Rural Fire Protection was appointed by Governor W. Kerr Scott on January 10. The committee is expected to go into the problem of what rural fire protection measures are feasible under present legislation and to decide what new legislation should be suggested to the 1951 General Assembly.

Members of the committee are Sherwood Broekwell, of Raleigh, state fire marshal and deputy commissioner of insurance; Colin Spencer, of Carthage, lumberman and farmer; Stephen White, of Mebane, officer of the White Furniture Company; Roy Lohr, of Lexington, farmer and past president of the Farmers' Convention; J. I. Wagoner, of Greensboro, county agent for Guilford County; S. Linton Smith, of Raleigh, insurance agent and president of the National Association of Managing General Agents; Frank M. Kilpatrick, of Ayden, farmer, realtor, and representative from Pitt County; H. B. Kelly, of Hendersonville, hotel proprietor; and Mrs. Robert E. McDowell, of Charlotte, Route 3, past president of the N. C. Federation of Home Demonstration Clubs.

to the Clerk of Superior Court as to the means and cost of such protection, and an election by the voters of the district as to whether or not it should be created. If it is set up, the commissioners will have power *either* to enter a contract with a city in the county for it to furnish fire protection to the district *or* to issue bonds and set up and equip a fire department for the district. In either case, the commissioners may levy taxes to cover the costs of the project.

The Stanly County provisions call for a petition by 100 resident freeholders of the district and an election for or against a tax for fire protection in the district. If a majority of the voters approves, the county commissioners are authorized to contract with the city of Albemarle for its fire department to furnish protection for the district, and they may levy a tax of up to ten cents per \$100 to cover the costs thereof.

Municipalities

In 1919 municipal governing bodies were given power "to provide, in-

stall, and maintain water mains, pipes, hydrants, and buildings and equipment, either inside or outside of the city limits, for protection against fire of property outside of the city limits, and within such area as the governing body may determine, not exceeding two miles from the city limits, under such terms and conditions as the governing body may prescribe." In 1941 they were empowered "to agree to furnish and to furnish protection against fire of property within an area of not more than twelve miles from the city limits upon such terms as such governing body may determine" (G.S. 160-238). These provisions did not answer questions as to whether the sending of equipment beyond the 12-mile limit was an *ultra vires*, non-governmental act so that the city might be held liable for damage if it permitted its equipment to go farther, and as to whether firemen would lose the protection of their workmen's compensation while they were on runs outside the city. Consequently, provisions were added in 1947 and amended in 1949 (Sess. Laws, 1949, c. 89) making it clear that both the city and its firemen would be protected in these instances.

We have already seen that cities have been authorized by the State Volunteer Firemen's Act to contract to furnish protection to counties, and each of the fire protection district enabling acts grants them similar authority with respect to those districts. The Stanly County act also empowers the Town of Albemarle to contract to furnish protection to "any individual, firm, partnership, corporation, church, or school, or association of people" within seven miles of the courthouse square.

Methods of Dealing with the Problem

Of the solutions which have been advanced over the country, the earliest and probably still the most common plan is what might be classified as no plan at all: simply for the town officials to dispatch their equipment to rural fires if they feel they can spare it. North Carolina's laws furnish no obstacle to this plan, and it has the advantage of simplicity. However, it has been found generally unsatisfactory for a number of reasons. The rural people suffer because of the fact that they are not assured of help when they need it; furthermore, the negotiations necessary in order to secure town equipment frequently take up vital time, so that the house burns down before the apparatus arrives. Townspeople dislike it, because it means stripping their town

of part of its protection in order to help someone who has not contributed to the purchase or maintenance of their equipment. Another sore spot is the financing; there being no prior arrangement, either the property owner or the town is apt to feel it has been dealt with unfairly. If the house burns down, the owner is reluctant to pay, and the town officials are angered; if payment is made, the owner is likely to feel that the town has taken advantage of his emergency to make the fee higher than it should be.

Town May Contract to Protect Individuals

A more popular plan among many small towns over the country is for the town to contract with property owners in surrounding areas that it will furnish protection to them in return for a flat fee per year. Probably the fairest way to handle these fees is to scale them on the basis of property valuations; in that way the man with the most to lose from lack of protection pays the most, just as he would in taxes in the city. This plan usually includes provision for charging non-subscribers a large trip fee when they receive aid. North Carolina cities are expressly authorized to make such contracts, so long as they do not exceed the 12-mile limit. And they may supplement them by supplying at a given fee, fire hydrants to areas within two miles of the city. This plan has a disadvantage of creating some confusion as to just who is not protected; there will usually be some delay after the call comes in while firemen check to see that the property owner has paid his fee. And the annual billing and collecting entails some time and effort on the part of town officials. For these reasons, some cities contract with only a few major industrial and commercial concerns outside their limits, rather than dealing with a multiplicity of individual owners.

A common modification of the above plan is for insurance companies to agree to pay the town a certain trip fee per fire in return for premiums collected from the farmers in the area. Towns are not usually satisfied with this plan unless it includes some sort of stand-by fee; in the absence of such a fee, unless there is a fire they receive nothing, even though they are furnishing and maintaining equipment and the rural residents are receiving the security of being protected.

Farmers May Buy Equipment to Be Manned by City

A third plan which has been followed is for the farmers of an area to form an association, raise money, buy equipment, and turn it over to an established town department to be manned and housed. The advantages of this plan are several. The ordinary town equipment is not altogether suited for rural fire-fighting; it does not carry a sufficient supply of water with it, its hose and pumping facilities are based upon the presumption of availability of a city-type water system, and it is not built to negotiate rural roads readily. The farm association can purchase equipment especially designed for use in rural areas. The farmers also benefit through having members of a trained department operate the equipment and through being relieved of the necessity of housing and maintaining it. The town benefits in having an additional piece of equipment available for its own protection except while it is out fighting rural fires; for a small volunteer-type department, the capital outlay for equipment is the major expense, and here that is taken care of by the farmers. The fact that this additional equipment is available is also apt to cut the town's fire insurance rates.

A modification of this plan is for residents of both town and country to combine in raising funds to buy equipment for their common protection. This is feasible particularly where the town is small and semi-rural, so that everyone concerned shares in the benefits. If the department is supported by taxation in the town, then rural residents may be requested to pay annual fees to equalize the burden of maintenance. Otherwise the annual expenses may be covered through contributions from both urban and rural property owners.

Rural Volunteer Fire Departments

A plan which has proved successful particularly in heavily populated areas which can afford it is the formation of rural volunteer fire departments by members of the community. Funds for equipment are normally raised by such functions as barbecue suppers, dances, etc., and volunteers man the apparatus. Advantages of such an organization are that its formation requires no action by governmental authorities and needs to follow no fixed procedures, and that it is located where it can best serve the area. However, the method

of financing is not generally such that those protected contribute according to their interests, and there is frequently a problem in raising funds for operating expenses as time goes by. Furthermore, there is a possibility that the members of such a department may be held liable for damage which they cause in the course of fighting a fire.

Contracts between Governmental Units

As we have seen, North Carolina laws permit contracts by sanitary districts, fire protection districts, or counties for fire prevention by a town department. This plan has many advantages. It distributes the costs fairly, by taxation and/or fees for particular fires. It operates with express statutory approval. Both governmental units involved and the firemen handling the actual fire-fighting are protected. The unit contracting for protection is not obliged to make large new capital outlays, because the equipment is already owned by the town. The town, if it receives a standby fee or large enough trip fees, is recompensed for its expenses directly connected with rural fire-fighting and to some extent for those of maintaining equipment; whatever it receives is apt to be more than it has received while operating under no arrangement at all. Furthermore, once such a plan is put into operation, answers to rural calls become a matter of routine, no longer dependent upon time-consuming negotiations. Possible disadvantages of this plan are the facts that the town equipment may not be suited to fight rural fires, that the town may be situated too far from the protected area to get its equipment there in time to do much good, and that the town, if it has only a limited amount of equipment, may not want to dispatch it too far outside its limits.

Some of these objections may be met by the county or the fire protection district's buying special equipment, turning it over to the town for housing and manning, and sharing with the town the expense of providing personnel for the equipment. When it is not in use in rural areas, such apparatus will provide additional protection for town residents.

District or County Fire Departments

North Carolina sanitary districts, fire protection districts, and counties may also set up their own fire departments, as has been noted pre-

viously. This plan too has many good features. Departments set up by such units can be *located* and *equipped* with no other consideration than the most effective fire-fighting arrangement. Financing is generally fair, according to the amount of property protected. In counties where residents of one or two large cities pay the great bulk of the county taxes, it is probably somewhat more equitable to create a fire protection district encompassing the remainder of the county than to burden the city taxpayers with the costs of their own department plus those of a county department which serves only rural areas. The major consideration in favor of a contractual arrangement rather than a district or county department is financial: it will cost more to buy new equipment and hire and train personnel than to hire the use of that already operating in a town.

Conclusion

In determining which of the above solutions would be best for their

particular situation, citizens and governmental officials should consider such questions as the following:

1. How big an area is there to be covered?
2. What equipment is currently available within this area, and where is it located?
3. Is this equipment properly designed to be of much use in rural firefighting, where there are no fire hydrants?
4. What would be the cost of additional, specially designed apparatus?
5. How many people are there to be served, and how much can they afford to spend?
6. How far will existing equipment have to travel in order to reach the area to be protected? (Some authorities say that no effective protection can be rendered at a distance more than three miles from the station; others say that, depending upon conditions, assistance can be given for a distance up to ten miles.)
7. How much is the cost of addi-

tional insurance for the town, covering trips by its department outside the city limits?

8. How much is the average cost per run of a city truck?

On the answers to these and similar questions will turn the decision as to which of the above solutions, or modifications of them, will be best for a particular area. The solutions currently being tried in North Carolina's cities and counties are discussed in the two articles which follow.

Before we close, here is one tip for the farmer from State Fire Marshal Sherwood Brockwell: the prime necessity for fighting *all* rural fires is an adequate water supply; if every North Carolina farmer would construct himself a 10,000 gallon cistern, filled either from a nearby stream or from rainwater off his roof, he would make it possible for almost any fire department to operate with maximum effectiveness on his property, and he would at a minimum cost thereby provide maximum protection for his property and himself.

The Counties' Solutions

Approximately one-fourth of North Carolina's 100 counties have already faced up to the problem of rural fire protection and are taking active measures to answer it, according to a survey made this month by the Institute of Government. Of the 88 counties for which data was made available, 24 reported some form of activity, ranging from outright furnishing of county-owned fire-fighting equipment to cash contributions to various fire departments.

These figures are entirely apart from the forest fire protection program of the state Department of Conservation and Development, in which about two-thirds of the counties participate, on a dollar-for-dollar basis. Nor do they include the 32 counties which reported that they have county electrical inspectors to aid in the fire-prevention campaign. Both of these programs, of course, play important roles in protecting the farmer against the danger of fire.

Of the counties which have taken large-scale steps to provide protection for their rural residents, Iredell County was probably the first to act, and it is still one of the leaders in the state. Durham County has developed a comprehensive program in the past

two years, however, and it currently holds the top-ranking position from the standpoint of annual expenditures.

Iredell Furnishes Four Trucks

Chief L. M. Gaither of the Statesville Fire Department reported that Iredell County and the City of Statesville jointly purchased a truck for rural fire protection in 1934. Since that time three more trucks have been added and stationed at Mooresville, Troutmans, and Harmony, so as to give county-wide coverage. All of these trucks are housed and manned by the city departments involved, and they are available for use within the cities as well as outside. The county pays each fireman answering rural calls \$1.00 per fire, most of these men having a volunteer status.

Durham County purchased a specially-equipped truck for \$16,000 in August, 1948, and turned it over to the fire department of the city of Durham. Under the city-county agreement, the city houses the truck and the county pays its operating expenses, which amount to approximately \$300 per year. Ten extra men were added to the city department to man the truck on a 24-hour basis, and the county pays the city 50 per cent of their salaries. This means an annual

outlay by the county of some \$14,000.

Both Fire Chief Cosmo Cox and County Manager Ed Swindell have pronounced themselves highly pleased with the operation of this truck. In its first year and a half of operation it has answered some 120 calls, which were split almost evenly between the city and the county area outside the city limits. The truck is radio-equipped, so that it may be called to rural fires from city fires which it is engaged in fighting; ordinarily it accompanies other pieces of equipment to minor city fires, and the department is trained so that its withdrawal will not disrupt proceedings. Carrying a 600-gallon tank, the truck can function beyond the city water system. Where water is available at the scene of the fire, the city department will dispatch an additional piece of equipment with 1400 to 1700 feet of hose to assist it.

Durham Pays for Fire Hydrants

A further activity by Durham County is the encouraging of property-owners in the areas close to the city limits to install fire hydrants connected with the city water system. Where the owners will pay for installation, the county agrees to pay the annual rental thereafter. \$2,000 was

appropriated by the county commissioners for this purpose during the current fiscal year.

Avery and Cumberland Counties are others which have furnished trucks to city fire departments for use in rural areas. Avery County and the town of Newland split the costs of a \$9,200 fire truck this year. This truck is stationed in the town, which houses and cares for it and furnishes a volunteer crew to man it. It is available for service anywhere in the county.

Cumberland County bought a new fire truck for the Fayetteville Fire Department at a cost of \$8,000, and the city and county are currently operating under an agreement by which the county pays a \$1,500 yearly fee in return for operation of the truck by the city department in rural areas. Fayetteville has reported its dissatisfaction with this agreement, on the grounds that the fee is not large enough to cover the costs of the personnel required.

Caldwell Aids Two Departments

A number of other counties have made large outlays for the purpose of assisting city departments to buy special equipment. Caldwell County donated \$5,000 to the city of Lenoir during the 1947-48 fiscal year for the purchase of rural fire-fighting apparatus. It now has an agreement to pay Lenoir \$3,500 a year for each of the next three years, to cover the cost of operating and manning the apparatus. In addition, Caldwell County has agreed to pay the town of Granite Falls a total of \$7,500 over the next seven-year period for furnishing rural protection in its end of the county.

Nash County has been liberal in its contributions. Chief N. S. Gully of the Nashville Fire Department reported that the county donated \$10,000 of the \$14,500 required for the purchase of a new truck last year. Nash and Edgecombe Counties this year contributed a total of \$2,250 to the Sharpsburg Fire Department's drive to raise funds for a new \$6,000 truck. Both departments reported contracts with Nash County to furnish aid to its rural areas.

Nine counties have been making yearly contributions to various departments to help cover their operating expenses. Probably the largest outlays are made by Halifax County, which has agreed to make an annual donation of \$400 to each volunteer company in the county maintaining a truck for rural fire-fighting. At present four companies, at Enfield, Halifax, Scotland Neck, and Weldon, are taking advantage of this offer.

Edgecombe Makes Five-Year Appropriations

Edgecombe County has made a flat appropriation of \$1,500 to each town in the county, to cover a five-year period. Appropriations made in this manner enable the town to take the entire sum at once for the purchase of additional equipment or to spread it over the extended period for operating expenses.

Pasquotank County contributes \$750 each year to the Elizabeth City Fire Department, for payment of its volunteer firemen. Craven County makes annual contributions of \$350 apiece to the New Bern Fire Engine Co., No. 1, and to the Atlantic Steam Fire Engine Co., No. 1, of New Bern, which funds are used to help defray expenses of annual trips taken by the volunteer firemen. Neither county lays down any requirements for protection at the time of making these contributions.

Franklin County is another assisting several departments. It adds \$150 per year to the budget of each of the fire departments in Louisburg, Franklinton, and Youngsville. The Valdese Fire Department reported receiving a \$500 contribution from Burke County last year, while Granville County annually donates \$500 to the Oxford Fire Department. Tyrrell County occasionally contributes to the Columbia Fire Department for the purchase of equipment.

The Yanceyville Sanitary District Fire Department has been extremely fortunate from the standpoint of contributions. The city of Danville, Va., gave the district the first of its two trucks in 1940, and each year since then Caswell County has made further donations. In reporting that last year the county had made a grant of \$300, Chief Johnny F. Harwood estimated that altogether it had paid for well over half of the department's equipment, exclusive of trucks.

Seven Counties Contract for Aid

Seven counties, in addition to those already mentioned, have contracts with city departments for the furnishing of fire protection to their rural areas. Probably the most elaborate of these is to be found in Mecklenburg County, which has contracts with both the Charlotte and the Davidson Fire Departments.

Under its agreement with the Charlotte Department, Mecklenburg County is currently paying the city a \$2,400 annual stand-by fee for the use of city equipment, plus a trip

fee of \$50 for each rural call which is answered. The latter fee is in turn collected by the county from the property-owner involved, the rate of collections running close to 70 per cent. Charlotte received \$6,200 under this agreement during the 1947-48 fiscal year and \$4,650 in fiscal 1948-49, most of the calls being to fires in the heavily built-up "fringe" areas immediately adjacent to the city limits. The Davidson contract has no provision for a stand-by fee, the county merely guaranteeing payment of the \$50 trip fee.

In order to minimize the number of false alarms and to fix responsibility for payment of the trip fee, the county requires all calls to be cleared through the County Rural Police headquarters. On receipt of a call, the Rural Police dispatch two patrolmen to the scene of the fire, in addition to notifying the proper department; this furnishes traffic control as well as a means of radio communication through which more equipment can be called if needed.

Encourage Volunteer Departments

Realizing that these measures do not provide a complete answer, the County Commissioners have cooperated with the Charlotte Junior Chamber of Commerce and the Charlotte Fire Department in their efforts to encourage formation of volunteer fire departments in various rural communities. The county is currently exploring means of supporting these companies and weaving them into a mutual assistance network covering all of its rural areas. Three companies, the Wilkinson Boulevard Volunteer Fire Department, the Woodlawn Volunteer Fire Department, and the Pinoca Volunteer Fire Department, have already gone into operation, while a new department at Mint Hill is beginning activity.

Rowan County has an agreement with the Salisbury Fire Department for the protection of its school buildings, under which the county pays an annual stand-by fee of \$875 plus a trip fee of \$50 for each call which is answered. This is apparently the only county contracting for such limited service.

Vance County has contracted to pay the Henderson Fire Department \$50 for each fire attended, plus a \$1.00 fee for each volunteer fireman making the run. Last year this agreement cost the county \$5,368. Because a bill presented for calls in November amounted to more than \$1,400, the

County Commissioners announced that in the future they would make no payment for grass or forest fires, or for fires in automobiles or trucks. Grass and forest fires, they decided, should be handled by the county fire warden.

The Hickory, Newton, and Conover Fire Departments received a total of \$2,825 from Catawba County last year under agreements calling for payment of \$75 for each rural fire attended. Watauga County was not required to pay a cent under a similar contract which it had, there being no rural fires for which a charge was made.

Lincoln County turned over \$560 to the Lincolnton Fire Department under a contract to pay \$35 a fire, but the Lincolnton Department felt this was inadequate, and this year the agreement has been modified to provide for payment of \$50 per fire. Under the modified agreement property-owners will be required to reimburse the county.

Lenoir County and the city of Kinston have been operating since 1940 under an agreement calling for payment of \$15 for each fire answered, plus \$15 for each hour of service after the first on any particular call. A total of \$382.50 was paid over by the county last year. Because of rising costs, the Kinston Department has expressed dissatisfaction with this arrangement and is asking the coun-

ty to adopt a plan similar to that of Durham County.

Guilford Has Loan Fund

A novel plan is in operation in Guilford County. Having first secured enactment of fire protection district enabling legislation for the county in 1941, the County Commissioners next secured permission from the 1945 General Assembly to set up a \$15,000 revolving loan fund from which to advance funds to rural communities for the purchase of fire-fighting equipment. Under this plan it is contemplated that rural communities may secure immediately the large amount of cash necessary for purchase of a truck, without waiting for the fund-raising drive to build up this amount. As the loan is repaid, the funds are then made available to other groups. The Guilford College community was the first to take advantage of this, securing two successive loans totalling \$5,000 with which to acquire trucks from the War Assets Administration. Later the Oak Grove community borrowed \$500, and this year it secured an additional loan of \$5,000 for the purchase of a second truck.

Forsyth County is another with an unusual program. Having decided that the cost of setting up county fire departments would be excessive, the County Commissioners instead purchased 50-gallon mobile chemical units

and stationed them at each of the 17 county schools and at the county farm. These units cost approximately \$10,000 at the time of their purchase in 1947. Although designed primarily for the protection of the county buildings, they are made available for use by any resident of the county. Each refilling job costs the county \$78. Last year's expenses, which included \$500 for replacement of a unit which was wrecked while being pulled behind a car to a fire, amounted to almost \$2,000.

A vital protective program which is being overlooked by many counties is the establishment of county electrical inspectors, to prevent rural fires before they start. These officers cost the county nothing, in almost all cases operating on a "fee-retained" basis. Durham County, having discovered that such fees amounted to \$6,000 for a single inspector last year, decided to put him on a \$3,300 yearly salary and turn the remainder into its general fund, and other counties have had similar experiences.

Counties which have such inspectors at present are Alleghany, Anson, Avery, Beaufort, Cabarrus, Caldwell, Carteret, Craven, Cumberland, Duplin, Durham, Forsyth, Gates, Greene, Guilford, Hoke, Lenoir, Mecklenburg, Montgomery, Onslow, Orange, Pamlico, Robeson, Rockingham, Scotland, Stokes, Surry, Transylvania, Union, Vance, Wake, and Wilkes.

The Departments' Solutions

North Carolina's fire departments, the group most intimately concerned with fire protection, have worked out a variety of tentative solutions to the rural protection problem, according to returns from the Institute of Government's survey this month. That they have not reached the final solution was obvious, however, from the widespread dissatisfaction with existing conditions which was voiced by the 159 fire chiefs from 74 counties who replied to the questionnaire.

The firemen's tradition of service is reflected in the fact that all but 14 of the departments in the state engage in some form of rural fire-fighting. Even these 14 base their policies against leaving the city limits not upon unwillingness to serve, but rather upon the fact that their equipment is usable only where there are fire hydrants or that their department

has only one truck and doesn't wish to leave the town unprotected.

By far the largest number among those queried, however, render their rural service with no formal arrangement beforehand and with no set scale of charges to finance such rural assistance. A total of 92 departments operate on this basis. Many have never collected a cent for answering calls beyond their city limits, while others ask the property-owner to contribute whatever he sees fit or merely receive such contributions as are tendered.

Fees Charged without Advance Arrangements

Twenty-one fire departments charge the property-owner for their services, but do not have advance arrangements with individuals for their protection. Fees charged vary widely

among the different departments, ranging up to \$100 per call.

The Hamlet and Tryon Fire Departments both assess the owner \$100 for each fire answered. They report that most of their collections are from insurance companies to whom the property-owners pay a small additional premium in return for a rider attached to the policy providing for such payment. The Cherryville Fire Department charges \$50, and Chief Roy Carpenter reports that the department actively encourages rural residents to take out such insurance.

The Erwin Fire Department makes a charge of from \$50 to \$100, depending upon the distance travelled and the time the trucks are in operation. The Oak Grove Fire District Fire Department near Greensboro charges property owners \$50 for calls outside its district. Because of the difficulty

of securing payment for grass fires and forest fires, the department holds the person reporting such fires responsible for payment. It received \$300 for outside services last year.

Rockingham's Fire Department assesses the property-owner and/or the tenant \$50 for the first hour or fraction that the truck is used and \$20 per hour for additional time. In addition, it charges \$1.50 per hour during the daytime and \$2.00 per hour at night for each of the firemen attending the fire. These charges netted a total of \$898.50 for the department last year.

A sliding scale based solely upon the distance travelled is in use by the Kernersville Fire Department, which charges \$25 for the first two miles from the station and \$25 more for each additional two miles. Lexington's charges, on the other hand, are based solely on time out of quarters; \$25 is assessed for the first hour and \$25 for each additional hour or fraction thereof.

Mount Airy's Fire Department collects from \$25 to \$50 for each call it answers, depending upon the circumstances. The Gibson Fire Department will not send a truck until the owner guarantees payment of \$40, but for fires within the first mile it makes the owner responsible only for the firemen's pay, at \$2.00 per man; outside that limit it makes the full charge. Wadesboro has a flat rate of \$25 per trip for calls near its city limits.

The cities of Spencer and East Spencer both make a charge of \$25 per fire, plus \$1.00 for each fireman attending it. Colerain tries to collect from \$10 to \$25, depending upon the distance travelled. Landis has a flat rate of \$10 per fire. The Laurinburg Fire Department follows a complicated schedule, charging \$.50 per mile, \$5 for service, \$5 per hour of pumping operation, and fees for each fireman of \$1.50 if only the booster tank is used, \$3.50 if the 2½" hose is laid in the daytime, and \$4.50 if it is laid at night. Smithfield charges from \$10 to \$25, while China Grove charges \$10 plus \$.10 per mile.

The Spruce Pine Department's Fire Chief and the property-owner seeking aid agree upon a price at the time the owner makes a call. The Morehead City Fire Department attempts to fix responsibility for payment at the time of the call, the price being set later by a committee of the two full-time drivers. This is based upon the amount of good the department is able to do, the time spent in fighting the fire, the equipment used, etc.,

and rarely exceeds \$25. In 1949 the department attended 10 outside fires, but because it did not feel that it had been of much assistance, it sent out no bills.

The Mt. Gilead, Norwood, Reidsville, and Stanley Fire Departments assess the owner of the property according to their estimated expenses in answering his call.

Advance Guarantees of Payment

A slightly more formalized arrangement is made by five departments which require advance guarantees of payment, deposits, or insurance coverage before they will answer a rural call. The Gastonia and Kings Mountain Fire Departments make a charge of \$100 per call, which is paid by insurance companies under special riders attached to the policies of rural residents in the area. The Dunn Fire Department requires property-owners to guarantee payment of \$100, the actual payment occasionally being made by an insurance company.

The Shelby and Thomasville Fire Departments require property-owners to deposit in advance either a check or a bond for the amount of the fees or to have adequate fire insurance. The Shelby Department charges \$100 a fire and Thomasville \$50. Because it has had to make major repairs on two pieces of equipment during the past five years as the result of rural fire-fighting service, Shelby's city council has decreed that no calls will be answered beyond a radius of two miles from the city limits after March 1 of this year.

Annual Dues

Ten departments spread the cost of fire protection over those who are protected without loss as well as those who require actual assistance, by assessing property-owners annual dues each year and making no additional assessment against the man whose home catches on fire. This has the effect of lowering the fee paid by each property-owner served and at the same time pays the department for furnishing protection even when there are no fires. These plans may be grouped under three sub-headings: a) rural volunteer departments whose very existence is dependent upon support from the community which they serve; b) city departments protecting individual property owners in the regions adjacent to their limits; and c) city departments protecting certain large industrial properties.

In the first category are the rural departments at Woodlawn and Pinoca in Mecklenburg County. The Woodlawn Department has a flat membership fee of \$.50 per month or \$6 yearly. The Pinoca Department charges homeowners a membership fee of \$10 and \$3 a year thereafter. Renters are charged \$5 membership fees, and \$3 a year thereafter. Business establishments are asked to contribute what they can afford.

Assessment of Rural Homeowners

In the second grouping, North Wilkesboro and Black Mountain have had great success. North Wilkesboro's volunteer firemen annually canvass all homeowners on the main highways leading out from the town and sell them fire protection for \$3 per year. About 650 homeowners ordinarily come into the program. The city furnishes the equipment and the volunteer firemen serve without compensation, all funds received being used for personal equipment such as boots, coats, helmets, and other small items. Twelve calls were answered in the first year of operation. Under the contracts the owners agree that the Fire Department shall be under no obligation to send a truck if it is already busy or there is a fire inside the city limits; that the truck may be returned to the city in the event of a call there; and that the city, department, and firemen shall not be liable for any damage caused by their fire-fighting.

Black Mountain each July mails out postcards to all property-owners within five miles, assessing them \$3 for each building, to be paid on a voluntary basis. To encourage 100 per cent participation, the town charges \$100 for answering a call to the property of a non-member. This has produced as much as \$1,200 a year and permitted the town to buy a specially-built truck for rural service.

Other towns which contract under similar plans are Faison, which charges non-members of the association \$50 for answering a call; Albemarle; and Brevard, which collects \$.50 a month from each of approximately 300 water users on its outskirts.

The Greensboro, High Point, and Salisbury Fire Departments all restrict their outside coverage to schools and industrial plants. Greensboro serves only plants which have available water supplies and furnish security bonds covering any and all

liability. It charges each plant a fee set at one-and-one-half times the taxes paid for fire protection by plants of the same value within the city limits. Salisbury requires payment of stand-by charges of \$50 to \$150 annually plus a trip fee of \$100 for each call.

Rural Groups Buy Equipment

An increasingly popular plan has been put into effect in the towns of Kenly, Newport, and Robersonville. This plan calls for the raising of funds by rural groups for the purchase of equipment to be turned over to town departments. The town houses and mans the equipment in return for being able to use it in the town when it is not busy at a rural fire.

The Robersonville volunteer firemen were the first to adopt this plan, apparently. They raised a total of \$10,000 toward the purchase price of a new truck by soliciting the property owners within an eight-mile radius of the town; the town then added the remaining \$6,000 of the cost and agreed to pay all operating expenses and to maintain the truck for a period of 20 years. The Kenly Fire Department secured the cooperation of the local farm bureau in its campaign to raise \$6,500 for a specially-equipped truck this year, and the necessary contributions poured in.

Newport's Fire Department has just organized the Newport 5-Mile Radius Fire Protection Association with similar success. All farmers within this area were asked to pay membership fees of \$10 per dwelling or business place and \$5 for other buildings. With the funds thus raised, the town department bought a military surplus fire truck for \$2,000, and at present it is converting it into a rural truck by adding a 500-gallon water tank and equipping it to use "wet water." The town agreed to house and maintain the truck for a minimum period of ten years, after which there will be a new assessment to place the equipment in first-class shape once more.

As a means of encouraging full participation in this program, the minimum charge for answering a call to the property of a non-member will be \$100. Where a member does not bring all of his buildings under the plan, he will be charged twice the usual fee for that building if there is a fire in one of his uninsured buildings. Protection also extends to grass and forest fires.

Contracts with Counties or Districts

Twenty-one fire departments are operating under contracts to furnish fire protection to the rural areas of their counties, as mentioned in the article dealing with county activity in this field. These departments are the Charlotte, Conover, Davidson, Durham, Enfield, Fayetteville, Granite Falls, Halifax, Henderson, Hickory, Kinston, Lenoir, Lincolnton, Nashville, Newton, Salisbury, Scotland Neck, Sharpsburg, Statesville, Valdese, and Weldon Fire Departments. In addition, the Albemarle Fire Department has a contract to furnish service to the Albemarle Fire Protection District, which is located just outside the city limits.

Of the departments which replied to the questionnaire, four represented organized rural districts: the Bessemer, Rural Hall, North Ashboro, and Yanceyville Sanitary Districts. Others, including the Oak Grove Fire District Fire Department and the Wilkinson Boulevard, Woodlawn, and Pinoca Volunteer Fire Departments of Mecklenburg County, were created especially to serve unincorporated rural communities. During the month of January a number of such communities took steps to form new departments of this type, including the Trinity, Allen Jay, and Archdale communities near High Point, the town of Welcome near Lexington, and the town of Clyde. Because of differences in equipment and pay for volunteers, costs of such departments vary widely. The Institute of Government will be glad to furnish such data as it has to any group requesting it.

Two departments sponsored by industrial plants furnish rural fire protection without charge. The Badin Fire Department, whose expenses are paid by the Carolina Aluminum Co. serves the areas which it can reach; while the Enka Fire Department, maintained by the American Enka Corporation, protects all residences between the city limits of Asheville and Canton.

Of the departments which serve outside their city limits, 33 said that they would go any distance within reason, while six more leave it up to the discretion of their chief. Twelve reported that they will go anywhere in the county. One will go 30 miles, two 18 miles, one 16 miles, five 15 miles, ten 12 miles, eight 10 miles, two 8 miles, five 6 miles, thirteen 5 miles, three 3 miles, eight 2 miles, six 1 mile, and two one-half mile.

Estimates as to the cost of such trips varied widely, although they seemed to center around the figures of \$50 and \$25 (possibly because those are usual charges). Twenty-five fire chiefs estimated that it costs their department \$50 for each trip beyond the city limits, while 17 others put the figure at \$25. The figures reported ranged from \$3 to \$200, there being 52 chiefs in the \$0-\$25 bracket, 33 chiefs in the \$26-50 range, eight chiefs between \$51 and \$75, nine who estimated between \$76 and \$100, and one each who set the figure at \$150 and \$200.

Sixty-nine departments place sole responsibility for deciding whether or not to answer a specific rural call in the hands of the fire chief, while 17 give this responsibility to the chief officers of the department. Eight cities require the mayor's approval and ten the city council's, while either the chief or mayor may give the go-ahead signal in 12 towns. Others delegate this responsibility to the fire commission, the county rural police, or the drivers of the truck.

Sixty-seven departments designate a particular truck to answer all rural calls, but only 35 reported that this truck was specially designed for rural conditions. Thirty-three departments have only one truck.

Novel Ideas for Equipment

Considerable ingenuity in adapting equipment for rural fire-fighting has been shown by a number of de-

IN LINE OF DUTY

The hazardous nature of the fireman's life was underlined once more last month by the death of Fire Chief Stacy H. Britt, Jr., of the Warsaw Fire Department. Britt was killed on New Year's Eve when the fire truck he was driving to a residence fire in Rosehill collided with a private automobile near Magnolia. Injured in the wreck were volunteer firemen John A. Johnson, son of State Senator Rives D. Johnson of Duplin County, who received a brain concussion and internal injuries; Willis E. Bartlett, Jr., who suffered a fractured shoulder; and James N. West, who was less seriously hurt.

Britt, who had served eight years as town commissioner for Warsaw, had attended a number of firemen's conventions and was well-known among North Carolina fire chiefs.

partments. One of the major problems encountered in rural areas is the lack of a suitable water supply. To meet this lack, two rural volunteer departments, the Oak Grove Fire District Department and the Pinoea Fire Department built their own trucks, carrying 500 and 1250 gallons, respectively. The Oak Grove truck cost \$2500 and the Pinoea truck \$4000. Others, such as the Dunn, Kenly, and Sharpsburg Departments purchased trucks with large water-carrying capacity.

The Enka, Troy, and Woodlawn Volunteer Departments advanced a step further, when they purchased tank trucks carrying 1000-1200 gallons to accompany their pumpers on their rural calls. Then the Roseboro Volunteer Fire Department conceived the idea of purchasing a 550-gallon tank mounted on two wheels, which could be towed to a fire and then used to keep the pumper's booster tank filled while it was fighting the blaze.

It remained for the Siler City, China Grove, and Sylva Departments to have the best money-saving idea, however. All of those departments make use of their cities' 1000-gallon street flushers as a mobile water supply for fires in rural areas. With a little cooperation among branches of the city government, this idea would

be applicable almost everywhere in the state.

A different approach to the problem is made by the Farmville Fire Department and the Wilkinson Boulevard Volunteer Fire Department. The former utilizes a trailer pump to seek out water supplies, while the latter has a pump mounted upon a surplus army jeep. At the scene of the fire, while the pumper is making use of its booster tank water supply, the jeep cruises in search of a stream from which a line can be laid to the pumper to replenish its supply. Apparently no department utilizes an idea commonly applied in the state of Maine, of carrying a light pump which can be carried by two men on foot to the nearest water supply.

The Newland Fire Department has supplemented these devices by appeals to farmers in its area to install cisterns, reservoirs, or wells adapted to furnishing water for the pump engine. The Crossnore community responded to such an appeal by building a water reservoir in the center of town and installing a stationary pump.

Protect Town While on Rural Calls

Another problem which has troubled some fire departments is that where only one truck is available, a rural call might take away the town's only protection just before a major fire broke out within the town. The Coler-

ain Fire Department has solved this problem to its satisfaction by purchasing a hose cart in addition to its truck. Whenever the truck goes out of town, six men are left behind to man the hose cart, which can be towed by an ordinary car and which is operated from hydrant pressure. Chief J. H. McCallum reports that on two occasions this arrangement has been sufficient to extinguish town fires while the truck was outside the city limits.

Mecklenburg County has produced a partial solution to this problem by dispatching a radio-equipped patrol car of the County Rural Police to the scene of each rural fire. Then if there is need for the truck back in the town which it serves, it can be called by means of the police network.

A slightly different answer is given by the formation of mutual-aid plans, whereby the departments of neighboring towns assist each other and furnish stand-by protection when one of their number is engaged in fighting a fire. Such plans are in effect in a number of parts of the state, including Duplin, Rutherford, and Scotland Counties. The Roanoke Firemen's Association, composed of the departments from Enfield, Halifax, Rich Square, Roanoke Rapids, Weldon, and Whitakers is one of the larger groups reporting such an organization.

The Attorney General Rules

Digest of recent opinions and rulings by the Attorney General of particular interest to city and county officials.

Property Tax

Levy of Execution. The problem of what property is the proper subject for levy of execution in satisfaction of property taxes was discussed in two rulings of the Attorney General in December.

In the first situation, A listed 22 acres for taxes in 1936 and almost immediately sold the land to B. The 1936 taxes were not paid, the lien was properly sold, and the taxing unit became the purchaser. B now demands that the tax collector levy on A's subsequently-acquired personal property, listed in 1949, to satisfy the certificate against the 22 acres. Must the tax collector do this?

To E. O. Moore.

(A.G.) No. Under Section 1713 (b) of the Machinery Act [G.S. 105-385

Prepared by

PHILIP P. GREEN, JR.

Assistant Director

Institute of Government

(b)] only the governing body of the taxing unit, the listing taxpayer, or a mortgagee or other lienholder of the land against which the tax was assessed has the right to demand that personal property first be exhausted before resorting to the lien against real estate for collection of the tax.

Does the constitutional exemption of personal property and homestead from sale under execution or the \$300 personal property exemption of G.S. 105-297 (8) protect any property of the taxpayer against levy of execution in satisfaction of property taxes?

To C. G. Dunn.

(A.G.) No. The constitutional exemption of personal property and homestead from sale under execution does not apply to taxes. *Wilmington v. Sprunt*, 114 N.C. 310; N.C. Constitution, Art. X, Sec. 2. The \$300 exemption of G.S. 105-297 (8) is an exemption from *taxation* of the articles enumerated up to the value provided, but this subsection does not provide an exemption from *levy and sale under execution* of those articles. Sections 1713 (b) and (c) of the Machinery Act [G.S. 105-385 (b) and (c)] make no such exception.

If in such a case the taxing unit holds a tax sale certificate, the unit may levy on any personal property belonging to the taxpayer, in satisfaction thereof, provided levy is made sometime after the taxes are due

(first Monday in October of the tax year) and before the filing of a tax foreclosure complaint involving the certificate or the docketing of a judgment for taxes under Section 1720 of the Machinery Act [G.S. 105-392]. See Section 1713 of the Machinery Act in regard to this subject.

Notice. May a tax collector serve a notice of garnishment and attachment for local property taxes by registered mail sent to the last known addresses of the taxpayer and his debtor?

To I. T. Valentine.

(A.G.) No. G.S. 105-385 (d) requires the collector to serve notice or cause it to be served upon the taxpayer and the person owing or having in his possession wages, rents, etc., sought to be attached. No provision is made for service of this notice by registered mail, as, for example, is provided in G.S. 1-589 for service of subpoenas for witnesses and summons for jurors. See *Smith v. Smith*, 119 N.C. 314; *Fort v. Boone*, 114 N.C. 176; and *State v. Johnson*, 109 N.C. 852.

Publication of Names of Delinquent Tax Payers. Is it libelous for a city to advertise the names of delinquent tax payers who own no real estate?

To W. N. Rose.

(A.G.) The Supreme Court of North Carolina has never passed upon this particular question. I do not think, however, that it would be libelous to make such an advertisement. In the first place, the fact that such a tax payer is delinquent is always a matter of public record, and members of the general public have a right to go to these records and see for themselves the names of delinquent tax payers. Furthermore, I do not understand that the publication of any matter that is truthful can be considered libelous.

Taxable Situs of Personal Property. A bus company operating within a city stores its buses in car barns located outside the city limits. May the city list them for municipal taxation?

To C. N. Alston.

(A.G.) The taxable situs of personal property is governed by Section 800 of the Machinery Act [G.S. 105-302]. I am of the opinion that if the bus company maintains its office within the corporate limits of the city, the buses operated by the company over the streets of the city would be subject to municipal ad valorem taxation under the general rule that "all

tangible personal property and polls shall be listed at the residence of the owner . . . The residence of a corporation . . . shall be the place of its principal office in this State", which is set out in Subsection (1) of this Section. I do not believe that under the facts stated the property of the company has such an independent business situs as to come under the provisions of Subsection (1) of this Section and be taken out of the general rule.

Release of Taxes and Tax Liens. Three questions concerning the release of taxes or tax liens by taxing officials were presented during the month.

In the first situation, A and B both listed for taxes the same piece of property, and both paid taxes on the land for 1947 and 1948. Discovering the duplication, A and B went before the county commissioners and obtained a release of 1949 taxes for B. Is the town in which the property is situated bound by the action of the county commissioners?

To C. O. Smith.

(A.G.) Section 1201 of the Machinery Act [G.S. 105-333] provides that all cities and towns not situated in more than one county shall accept the valuation fixed by the county authorities as modified by the State Board of Assessment. If the county authorities discover a double listing, they would, in my opinion, have authority to release either the lot listed in the name of B or the same lot which was listed in the name of A. I am further of the opinion that the action of the county authorities in releasing a lot which had been twice listed would be binding upon the municipality.

This does not necessarily mean, however, that the town is obliged to refund to B the tax paid to the town for the years 1947 and 1948, inasmuch as it does not appear that the tax was paid under protest, as required by G.S. 105-405. G.S. 105-405.1 authorizes governing boards of counties and municipalities to refund taxes illegally levied and assessed or required to be paid through a clerical error, providing demand for such refund is made within two years from the date the tax was due to be paid; but in my opinion, such a refund lies within the discretion of the Town Board, and the taxpayer himself may not enforce a refund unless the tax was paid under protest.

In the second situation, a city is attempting to collect back taxes, for which it claims notices were sent out

in 1943 and 1944 and again in December, 1949. The taxpayer claims that he did not receive the earlier notices and asks that he be permitted to pay only the principal due. Is the city permitted to waive the interest?

To U. Ray Miller.

(A.G.) It is my opinion that if the taxpayer had requested a statement of the amount of taxes due under Section 1711 of the Machinery Act [G.S. 105-383] and the Tax Collector had erroneously advised the taxpayer that the taxes were paid for the prior years, the City might be justified in waiving the interest if the City was satisfied that had the correct information been given to the taxpayer upon request of the taxpayer, the tax would have been paid and interest stopped.

However, I call your attention to the fact that there is no requirement of the law, other than the provisions of Section 1711 of the Machinery Act, that tax notices be sent out to taxpayers. Section 1703 of the Machinery Act [G.S. 105-375] provides that the governing body may at any time require the Collector to send out tax bills or notices or to make personal calls upon delinquent taxpayers or to proceed to enforce payment by any lawful means, but there is no legal requirement that any notices be sent, except such requirements as may be imposed by the governing body of the taxing unit. In my opinion, the failure of a tax collector to send out notices of taxes due does not relieve the taxpayer of the obligation of ascertaining the amount of taxes assessed against him and paying same and, in my opinion, would not ordinarily authorize the governing body to waive any part of the tax due, which by definition, includes penalties and interest.

The third situation is that where a mortgagee wishes to pay off and discharge the 1949 taxes against a piece of property on which it has a mortgage, the taxpayer having other real property and personal property.

To Louis C. Allen.

(A.G.) Subsection (b) of Section 1704 of the Machinery Act [G.S. 105-376 (b)] permits a mortgagee to do this where he pays the taxes on the parcel sought to be released, plus a proportionate part of the personal property, poll and dog taxes owed by the listing taxpayer for the same year, with interest and penalties thereon, and a proportionate part of costs allowed by law. The "proportionate

part" is the percentage of the total assessed value of the taxpayer's real estate represented by the assessed value of the parcel to be released.

To illustrate, assume the taxpayer has listed one parcel with an assessed valuation of \$5,000 and another parcel with an assessed valuation of \$10,000, together with some personal property, his poll and a dog. The one holding the mortgage on the \$10,000 parcel may discharge the lien on that parcel by paying all the taxes, interest, and penalties upon that parcel, plus two-thirds of the taxes, penalties, and interest assessed against the personal property, poll and dog. The mortgagee has a right so to obtain a release of the parcel in which he is interested at any time prior to the beginning of the advertisement of a tax foreclosure sale involving the parcel sought to be released.

Privilege Taxes

Maximum Town Tax on Plumbers. Section 155 of the Revenue Act (Schedule B) [G.S. 105-91] imposes a State license tax upon plumbers, which varies according to the size of the municipality wherein the plumber does business. A proviso to this section states that where a plumber employs only one additional person, the State tax shall be one-half that set for the particular population classification. Towns are permitted to levy "not in excess of the base license tax levied by the State". Where a plumber has only one helper, does "base license tax" mean the regular schedule or one-half that schedule?

To James W. Mason.

(A.G.) The statute is ambiguous and capable of two reasonable interpretations. In such cases two principles should be followed: (1) ambiguities in a taxing statute should be resolved in favor of the taxpayer, and (2) a grant of power by the State to a municipal corporation to require licenses should be strictly construed, and all doubts should be construed in favor of the taxpayer. Here I am inclined to resolve this doubt in favor of the taxpayer.

Franchise Tax. Chapter 392 of the Session Laws of 1949, at Subsection (a) of Section 2, amended G.S. 105-116 to provide for distribution by the State, to the municipalities in which

the tax is collected, of a part of the State franchise tax upon certain public utilities. The section provides that so long as this distribution is made, no municipality shall impose any greater franchise taxes on the businesses taxed under this section than was imposed and collected on or before January 1, 1947.

A town granted a bus franchise in April, 1946, under the terms of which the bus company was to pay the town five per cent of all moneys collected for transportation. This agreement was in effect for thirteen months, during which time the town collected a total of \$2,538.66, or a monthly average of \$195.30. After that it was modified. How much is the town entitled to tax the bus company under the laws as amended?

To W. L. Snyder.

(A.G.) It appears from the facts set out above that on and before January 1, 1947, the town was collecting a franchise or privilege tax at the rate of \$2,343.60 per year. Under the limitation upon municipal taxation contained in the amended section, I am of the opinion that the town may now impose a tax not in excess of \$2,343.60 or equal to five per cent of the gross receipts, whichever is lesser.

County Powers And Duties

Duty to Carry Out Agricultural Census. Must county commissioners provide for the taking of the Agricultural Census?

To G. Andrew Warlick.

(A.G.) Under G.S. 106-24 the Department of Agriculture must collect, compile, systematize, tabulate, and publish agricultural statistics. G.S. 106-25 provides the means by which the Department can and must perform this duty. As rewritten in 1949, this section gives county commissioners alternative solutions in regard to the personnel to be assigned this work, but this power of choice does not affect the primary mandate upon them to exercise one of the two options provided them. The law provides no other way for the Department to get these data and perform this obligation. The fact that no penalty appears in these statutes does not relieve com-

missioners of their duty to provide for the survey, and failure to so provide might render them subject to G.S. 14-230, relating to failure of public officials to carry out duties imposed upon them by law. In addition to this criminal provision, the board would be subject to a civil action for mandamus.

Spending Power. Two rulings by the Attorney General extended further the line through the shadowland between purposes for which county funds might be spent and purposes for which they might not.

Through the efforts of a county agent, a breeders association has been formed for the purpose of improving the cattle of the county by means of artificial insemination. The association is non-profit, the fees charged not being sufficient to cover actual expenses, and its services are available to all citizens of the county who desire them. May the county commissioners appropriate funds to assist in this program, either from the general fund or from money which has come into their hands from the State Revenue Department, derived from the tax on beer?

To L. H. van Noppen.

(A.G.) After a diligent search, I have been unable to find any law authorizing a board of county commissioners to make an appropriation to a county agricultural breeders association. It may be that I have overlooked some law somewhere authorizing such an appropriation, but an index to the official opinions of this office fails to disclose any letter with reference to this subject.

A county is engaged in the construction of a county hospital, under the cooperative plan of the Federal Government and the State. It now appears that it needs a nurses' home in connection with the hospital, and that the county's share of the cost will amount to approximately \$60,000. May the county use A.B.C. funds to defray its share of the cost, there being no mention of a nurses' home in connection with the bond issue for the hospital?

To Sam B. Underwood, Jr.

(A.G.) A county has statutory authority to spend county funds for the construction of a nurses' home. Article 13B of Chapter 131 of the General Statutes authorizes counties to spend money for the acquisition of sites and construction of hospital facilities. The term "hospital facility" is defined in

subsection (c) of G.S. 131-126.18 to include a nurses' home. Since A.B.C. funds derived from a county store are not tax funds, I therefore advise you that, in my opinion, you have a legal right to expend the amount of funds derived from the source mentioned in your letter for the construction of a nurses' home. I assume that there is no complication about receiving these funds from the A.B.C. Board, for, as I see it, your letter does not raise the question as to the authority of the A.B.C. Board to make such allotments.

Municipal Corporations

Extension of City Limits. A city charter divides the city into four wards, two intersecting streets through the center of town forming the boundary lines. The city has recently extended its limits. May the city council set up new wards within the new city limits?

To Henry T. Powell.

(A.G.) In view of the fact that the wards in your city are set up by statute, it is my opinion that there would be no authority on the part of your governing board to set up any new wards within the city limits as amended.

In view of the language of your city charter, it is my opinion that the wards as they are now constituted would be enlarged by the extension of the dividing line between them to the new city limits.

Authorized Expenditures from Parking Meter Proceeds. G.S. 160-200 (31) authorizes cities to provide for a system of parking meters to promote traffic regulation, the proceeds from which "shall be used exclusively for the purpose of making such regulation effective and for the expenses incurred by the city or town in the regulation and limitation of vehicular parking, and traffic relating to such parking, on the streets and highways of said cities and towns." May proceeds be used for any other purposes than for traffic patrolmen and traffic lights?

To H. C. Wilson.

(A.G.) I would have some doubt that the use of the money would be restricted to that extent. For instance, to cite what would seem to me to be an obvious case, the city might, under authority of the Statute, pay the cost of marking off the parking areas on

the various streets and avenues. I am inclined to think that a more liberal construction would justify the use of money in other ways which would be reasonably related to the regulation and limitation of vehicular parking and traffic relating to such parking.

In the same Section of the General Statutes cities are authorized to own and establish, regulate, operate and control municipal parking lots for the parking of motor vehicles within the corporate limits of cities and towns. A liberal construction of this Section would, in my opinion, permit the use of revenues from parking meters to be used for the purpose of acquiring such parking lots and expenditure of funds necessary for the operation of same in excess of any revenues which the city is authorized to collect under the Statute from such operation. So far as I know, no Court case has arisen in which this question has been passed upon.

Schools

Investment of Capital Outlay Funds. Is it permissible for a School Board of Trustees to invest Capital Outlay Funds until needed?

To D. S. Johnson.

(A.G.) The only general law which deals with the investment of Capital Reserve Funds is the Municipal Capital Reserve Act of 1943 (G.S. 160, Art. 35). This is applicable only to municipalities and would not be applicable to School Boards of Trustees. I know of no general law authorizing the Board of Trustees of a City School Administrative Unit to invest Capital Outlay funds pending the time of expenditure for them.

Assumption of Indebtedness by County Board of Education. May a County Board of Education which has assumed the indebtedness of the several school districts in the county at some future time rescind this indebtedness and go back to the district basis for the levying of taxes for payment of the indebtedness of the respective district?

To Roy A. Taylor and Claude L. Love.

(A.G.) It is my understanding that recognized bond attorneys, in arriving at the amount in which bonds might be authorized without a vote

of the people, have given credit for sums paid by the county on the retirement of district school bonds which had been assumed by the county. I also understand that the Local Government Commission takes the same position. This would indicate that they feel that when a county has once assumed such indebtedness, it may not legally rescind the assumption. But I wish to emphasize that the bonds must first be legally assumed.

Fire Departments

Right of Way. Does a fireman driving his own personal car to the fire station when the alarm is sounded have the right of way over other traffic?

To C. F. Brasington.

(A.G.) G.S. 20-145, which regulates this matter, contains no provision giving a fireman such right of way. There are some ordinances in municipalities which provide for regulation of traffic in case a fire alarm is sounded, and occasionally these require traffic to stop until firemen and the fire fighting apparatus and vehicles have passed. Such an ordinance would seem to give a fireman the right of way in his own car.

Election Laws

A question has arisen as to whether, under Chapter 916 of the Session Laws of 1949, existing County Boards of Elections must decide which of the two new registration systems permitted will be adopted or whether they may leave such decision to the new boards to be appointed before the 1950 primary.

To Charles M. Britt.

(A.G.) Present boards need not make this decision. There is no time requirement in the statute other than that it must be determined prior to the opening of registration books for the 1950 primary. This office has already ruled, however, that a decision by a present board to adopt the alternative of transcribing names would preclude a later reversal by that board or its successor.

Justice J. Wallace Winborne
 Supreme Court of North Carolina
 Raleigh, N. C.

GOVERNMENTAL LABORATORY BUILDING INSTITUTE OF GOVERNMENT



INSTITUTE OF GOVERNMENT SERVICES

