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UNIVERSITY OF NORTH CAROLINA
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First Training School

For

Game And Fish Protectors

Shown on the cover of this issue of POPULAR GOVERNMENT *are the forty Game and Fish Protectors who attended the first formal training school ever conducted for this group of law enforcement officials in North Carolina. The Wildlife Resources Commission sent a third of the personnel of its Law Enforcement Division to the first of three two-weeks schools at the Institute of Government on March 13. The remaining members of the Division will attend successive schools beginning March 27 and April 10.*

Curriculum of the school included instruction in the Game and Fish Law, the Law of Arrests and Searches, Investigative Techniques, Care and Use of Firearms, First Aid, Self-Defense Tactics and Mechanics of Arrest, and departmental functions and practices.

Shown with the group are Clifford Pace, Assistant Director of the Institute of Government, who is in charge of the schools for the Institute, and G. A. Jones, Jr., Chief of the Law Enforcement Division of the Wildlife Resources Commission.

THE CLEARINGHOUSE

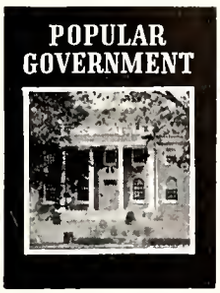
Recent Developments of Interest to Counties, Cities and Towns of North Carolina

Traffic Code

Equal rights for pedestrians will be observed in Winston-Salem if a new traffic code currently under consideration is adopted by the city council. The proposed regulations, which police, city officials and traffic experts have been working on for two years would require drivers to yield the right-of-way at all crossings when pedestrians were crossing properly with the traffic signals. Pedestrians, in turn, could be fined for crossing against the signals or in the middle of the block, anywhere in the business district. The code also provides for the adoption of state speed limits within the city—35 miles an hour in the residential area and 25 miles in the business districts.

Major provisions of the new traffic code were designed to put a curb on the large number of parking violations which occur regularly and are a major contribution to the city's traffic bottlenecks. Because a dollar is a relatively painless price to pay for parking in a prohibited—but convenient—space, the proposed regulations provide for $3 fines for any one of 16 major violations, which include parking too close to a fire plug, on a sidewalk, in front of a driveway, in a "no parking" zone, and double parking. In every such case the legal presumption would be on the side of the city, the owner of the car being assumed to be the violator unless he could prove otherwise. Cars parked in violation of the traffic laws for long periods could be towed away by the police, at a charge to the owner of $5 for towing, plus storage fees.

A survey conducted recently by the San Francisco Bureau of Governmental Research showed that of the twenty largest cities, twelve use the system of towing away the cars of parking violators, while eight charge fines ranging up to ten dollars. Four of the twelve cities have arrangements with private towing companies, in San Francisco 31 private tow trucks being used to clear the streets. Chicago, which does not use the towaway, doubles its minimum $3 fine with the second offense, and for the fourth offense within a year requires appearance in court.



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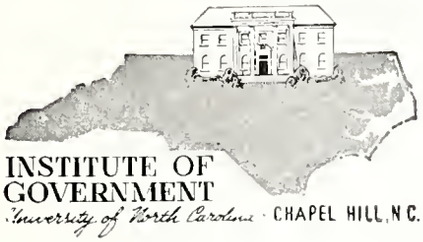

INSTITUTE OF GOVERNMENT
University of North Carolina · CHAPEL HILL, N.C.

Auxiliary Guards

The problem of adequate protection for children on their way to and from school has caused perhaps even more worry to police departments than to anxious mothers. In most cities regular policemen are stationed near schools at the opening and closing hours to escort the children across the street. Frequently this means either that extra policemen must be hired or that during those hours the rest of the community fails to receive adequate police protection. In any case, with police salaries rising in order to keep good men on the force, and training becoming so extensive as to represent a sizeable community investment, stationing policemen at school crossings is an expensive proposition.

A number of cities and towns are experimenting with a solution which calls for the establishment of a corps of auxiliary school crossing guards. Cleveland, Pittsburgh, Los Angles, Darien, Connecticut, and Evanston, Illinois are among the larger cities reporting success with the plan. In these cities the auxiliary guards (many of them women) work an average of 4 hours a day at wages ranging from $1 to $1.50 an hour. Most of the cities supply uniforms to the guards as an aid in commanding the respect and attention of drivers and pedestrians. The total cost, including training, of stationing an auxiliary at a school crossing during a school year, was estimated to be less than half the annual salary of a regular police officer.

Police Chief John M. Gold of Winston-Salem recently announced that he would welcome opinions and suggestions from school principals, teachers, parents, and even children, on a proposed plan to station women on the school traffic beat. The present use of trained law enforcement officers at school crossings is not only expensive but interferes with the work of the department in crime control, Chief Gold said. Women traffic guards, under the plan, would be carefully selected, given special training, and would work an average of four hours a day, depending on the varying needs of each school.

Blood, Sweat and Tears

Local officials who have been accustomed to shedding sweat and even tears while engaged in the business of governing, will cast a sympathetic eye at the commissioners of South Berwick, Maine, who were forced to give their blood, too. The story, as reported at a meeting of the Municipal Finance Officers Association, is that the commissioners granted financial aid to an impoverished citizen who needed hospital care. The man was forced to remain in the hospital longer than was originally expected, and as a result his relief allotment fell short by $300. Five town officials sold their blood in order to partially make up the deficit and the hospital cancelled the remainder of the bill. South Berwick finally ended the year with a budget that balanced to the penny.

Officials and citizens of Jones County, when faced with a pressing financial problem recently, found a temporary solution that was almost as unorthodox. Unable to officially grant a well-deserved salary increase to the County Farm and Home agents, and their assistants, without going into the red, the commissioners dug into their own pockets and contributed two days' pay toward meeting the request. On-the-spot contributions from other county officials raised a total of $150, and the president of the county Farm Bureau offered the services of his organization in collecting the remainder of the sum needed. By the middle of February Jones County citizens had responded with sufficient enthusiasm to assure increases of $40 a month to the farm and home agents, and $10 a month to their assistants.

Beer Permits

An ordinance designed to implement the city's control over the issuance of beer permits is currently being considered by the Greensboro city council. Aimed at stricter regulation of the local sale of beer and wine, the ordinance establishes a seven-man Alcoholic Beverage Commission which would investigate local beer establishments and submit reports to the city council. The Malt Beverage Division of the State A.B.C. Board recently instructed the beer inspectors in Guilford County to forward no applications for beer permits unless the applications were first approved by the Greensboro Council. (POPULAR GOVERNMENT Feb. 1950.)

The thorough-going ordinance places beer establishments in the same category as restaurants, drink stands, dance halls and pool rooms, and requires that a $1000 bond accompany every application for a beer permit. The bond would be forfeited under three conditions: if false statements were made in the license application, disorderly conduct were permitted on the premises, or if the owner were convicted for violating any state or city laws governing beer establishments. The ordinance also prohibits gambling or lottery operations on the premises, and makes the permit holder liable for the acts of his employees. One provision would rob the beer places of their traditional atmosphere and make them as light and open as any soda shop. They will be required, if the ordinance is adopted, to maintain an unobstructed opening or window on the street side of at least 16 square feet, and to be lighted with an intensity of at least five-foot candles—the average intensity of indoor light.

Garbage Grinders

City officials of Jasper, Indiana, are expecting that by August 1 several years of worry over the garbage collection problem will be brought to an end. For years the city has paid an average of $6,000 annually to neighboring farmers who collected the garbage and used it to feed their hogs. Housewives continually complained about the rats and flies which swarmed around the open collection wagons, and the farmers themselves were becoming reluctant to take on the job. Since the $18,000 a year necessary to pay for modern trucks and city-hired collectors was beyond the reaches of Jasper's budget, the mayor recently arranged for the installation of kitchen garbage grinders throughout the city—Jasper thus becoming one of the first cities in the country to sponsor such a project. An electric company offered to sell and install the grinders at a cost of $75, half the usual price, to each homeowner. The city will collect the money for the company. At present more than half the homeowners have turned in their orders, many financed by loans from the local bank. A new sewage plant and an enlarged sewer system, due to go into operation this month, are expected to handle the additional load on the disposal facilities.

Revaluation

The town of South Berwick, Maine, where officials sold their blood in order to balance the budget are on their way to accomplishing an even more startling financial feat by conducting a scientific property revaluation at a fraction of the usual cost. When the people of South Berwick voted in town meeting to have the first revaluation in 50 years made, they appropriated $1500 for a job which a firm of assessing engineers offered to do for $15,000.

After surveying existing assessment procedures and property valuations, the town manager found that the records were impossibly confused, with a large portion of them being "carried in the assessors' heads." He further found that most properties were listed at about one third of their true value.

The need for revaluation was obviously great, and consequently the town manager and board of selectmen —the latter unsalaried and with no experience in assessment—decided to carry out the project themselves, with the cooperation of the town's 928 property owners. The budget did allow for the hiring of a graduate student to serve a six-month internship with the town manager, and additional help came from the Maine State Bureau of Taxation, which sent an appraisal engineer to confer with the selectmen in the preparation of basic procedures. Technical advisor on the project, serving on a voluntary basis, was George Deming, Director of the Bureau of Government Research at the University of New Hampshire. (Mr. Deming worked with the Institute of Government staff in the preparation of the Institute's guidebook, *The Assessment of Real Property for Taxation in North Carolina.*)

The basic tool used in the project was a Property Assessment Record Card, for which much of the information was gathered by sending questionnaires to the individual property owners. This procedure was almost identical to that used by Scotland County last year and described by Thomas C. Gill, Scotland County Tax Supervisor, in the January issue of POPULAR GOVERNMENT. Classification of buildings into five major categories according to quality of construction, a method used by professional assessors and recommended in the Institute guidebook, was also used in Scotland County and in South Berwick. On every piece of property in South Berwick grades of A, B. C. D, or E, are being given to each of the five main

construction factors: foundation and cellar, frame and roof, interior finish and floors, heating, and plumbing. The average grade of these factors determines the grade given to the building as a whole.

A table of replacement costs for the South Berwick area based on the non-inflationary years 1938-1940 was fortunately available, and was provided by the Maine State Bureau of Taxation for use in setting the base value of each property. Adjustments are made to individual base values depending on special factors such as the presence or absence in the neighborhood of municipal services. From the adjusted base value further deductions, computed from tables, are made for depreciation. The final figure represents the fair market value of the property, determined according to uniform standards used throughout the town.

Welfare State

There has been considerable feeling in some quarters that the long arms of government have been reaching too far into the lives of its citizens. With social services expanding at a rapid pace in the fields of housing, medical care and social security, the function of government is being given an increasingly elastic definition, to the horror of many. The trend now appears not to be confined to the federal government alone, however. In recent months at least two North Carolina cities have entered a new field of social service—baby sitting. Last December the Fayetteville Fire Department initiated a training program for baby sitters (see POPULAR GOVERNMENT January, 1950). Last month the city council of Wilmington heard tentative plans, outlined by the head of the recreation department, for a baby sitting service at the city's community center. The proposals were put forth during discussion by the city council of the possible establishment of a municipal parking lot near the building. At present the city and New Hanover County own the land adjoining the community center. The city is considering leasing additional space for a parking lot, with meters timed to accomodate shoppers, and turning the city-county owned land into a recreation area. Plans for the baby-sitting service call for providing both indoor and outdoor play facilities for small children, as well as adequate supervision, while the mothers are doing their shopping.

Public Works Departments

Termed by the Mayor of Providence Rhode Island, "the most progressive step ever taken in the administration of public works here," the two-year task of reorganizing the city's public works department is almost completed. When city officials began the study, the department consisted of thirteen separate divisions, all under the supervision of a single director. Accounting and clerical operations were largely decentralized and unstandardized, causing duplication of effort and consequently higher costs. Under the new plan of organization all units of the department have been combined into three operating divisions and two "staff" offices. The three operating divisions are (1) construction and maintenance, which handles services relating to roads and bridges, snow removal, sidewalks, sewers, public buildings, and trees and shrubs; (2) the sanitation division; and (3) the public service division, which deals with street lighting, electrical inspection, smoke abatement, docks and draw bridges, and regulation of vessels within the city's harbor. The office of business management is a staff unit in which all clerical operations are centralized. The second staff agency, the engineering office, handles all the engineering, planning and designing operations for the entire department.

Since the public works department is the city's second largest spending agency, with a budget of more than $3,000,000, substantial savings over a period of time are expected to result from the reorganization.

Anti-Intimidation Ordinance

The Raleigh City Council, which last December passed an anti-mask ordinance, aimed a further blow at Klan activity last month by adopting an ordinance which prohibits: the burning of crosses in public places, cross-burning on private property without permission of the owner or occupier, any exhibit intended to intimidate any person, and the display of a burning cross in any parade within the city. In an overall statement of public policy the anti-intimidation ordinance declares: "Persons in this city are and shall continue to be answerable only to the established law as enforced by the legally appointed officers."

Rural Fire Protection

The Wilmington city council early last month voted to instruct the city fire department to cease answering rural calls except in cases where life was in danger. At the same time the council agreed to lend a fire truck to New Hanover county until July 1, when provision for purchasing fire fighting equipment can be included in the county's new budget. The county commissioners, a few days after the council's action, formulated plans for stop-gap fire protection measures. The commissioners voted to hire a full-time driver-mechanic for the borrowed truck and discussed a proposal to encourage the formation of volunteer fire departments throughout the county, the members to be trained under the supervision of the Wilmington fire chief. The commissioners also discussed a proposal that portable fire equipment units be built by the county and stationed in each community for emergency use.

A county-wide fire protection program recently outlined by the Robeson County Municipal Association calls for the purchase of a fire truck by each of the seven largest towns in Robeson. The trucks would be manned by the communities' volunteer fire departments, which answer rural as well as city calls. If the program is adopted, changes will be sought in state laws to permit the volunteers to be covered by firemen's insurance outside of town limits.

In Hamlet last month the mayor recommended a five-point policy to the board of aldermen governing outside fire and police protection. The recommendations included: (1) that the police and fire departments cease answering calls outside the city limits unless a rural organization of at least 200 members is formed, with members paying annual fees to the city; (2) that fire and police calls be answered only if equipment can be spared and if firemen and policemen are not engaged in their duties in town; (3) that no property owner who resides more than seven miles from Hamlet be permitted to join the rural organization; (4) that in no instance will the town enter into an agreement with a resident of a municipality that already has fire and police protection; and (5) that a minimum of $200 be charged for a call to any non-member of the organization residing outside the city limits.

Advance Planning Of Public Works

Raleigh recently became one of the first cities in North Carolina to take advantage of the Federal Advance Planning Program, authorized by the 81st Congress last October. The city council voted this month to file an application with the General Services Administration for a loan to cover the cost of planning the erection of water, sewerage and drainage facilities, construction of which would cost the city an estimated $5,000,000. If the loan is granted, it will be up to the voters of Raleigh to decide in special bond elections whether or not the construction will actually be undertaken.

Under the terms of the Act the GSA is authorized to make loans to states, cities, counties, special districts and other public agencies to finance the planning of such public works as schools, sewage plants, airports, health centers, and other public facilities. If construction is not undertaken within three years after the loan is made—if, for instance, Raleigh citizens refuse to approve the necessary bond issues—the loan would not have to be repaid. However, if it was determined that the city was not acting in good faith in requesting the loan, it would become ineligible for any further loan under the Act. North Carolina's share in the $18,657,471 to be made available for loans, is $484,697.

According to Jess Larson, Administrator of General Services, the program was designed to provide for long-time public works needs and geared toward building up an adequate reserve of plans and blueprints so that future construction will be the result of careful determination of community needs rather than of hurried improvisation to meet an emergency. One of the major requirements to be met before a loan is granted, is that the proposed project fit into a whole pattern of community development, conforming to any existing city, state or regional plans.

A suggested form of resolution has been drawn up by the GSA for use by governing bodies in authorizing the filing of an application for an advance planning loan. Copies of the resolution may be obtained by writing to the Institute of Government.

Municipal Dairy

The morning's milk will be left on the doorstep by civil servants in Jamestown, N. Y. (pop. 50,000), if the results of an impending election indicate that the citizens favor turning the dairy business into a public utility. If the voters approve, the city will process and deliver fluid milk, ice cream, cottage cheese and other dairy products to the people of Jamestown. At present twenty-six private distributors conduct the dairy business locally, and options to purchase the property and good will of fifteen of these dealers have already been secured by the city. A million-dollar bond issue would be necessary to finance the program, the bonds to be retired from the income of the proposed municipal dairy. The mayor of Jamestown has announced that he will not attempt to influence the voters, but maintained that a city-owned dairy would not be any more "socialistic" than the municipal power plant and hospital.

«Be-Kind-to-Council» Week

The Mayor of Palm Springs, California issued a unique, but entirely legal, Proclamation last December, which said in part:

"Whereas, in Palm Springs there are two sides to every question and sometimes three, often four or five, and . . .

Whereas, when two or more factions get into an argument they do not blame each other but always place the blame on city council members . . .

Therefore, I Charles Farrell, mayor of Palm Springs, do hereby set my seal thereunto and proclaim the week between Christmas and New Year's as Be Kind to Council Week."

Civics Down to Earth

Communities across the country have become increasingly concerned by the fact that their students frequently emerge from full-fledged high school civics courses with a knowledge of government in the abstract, but with no better idea than they had before of how their local government actually operates. Teachers of civics and sociology in the Johnston County schools recently agreed to undertake a project to remedy this situation. The group decided to supplement the general textbooks now in use, with a manual describing the structure and functions of the town and county governments in Johnston. Each school will prepare an outline of the towns within their school district and a description of at least one county office. These outlines will be combined into a home-made textbook which will bring the study of local government down to earth for Johnston students.

Non-Combustible Roofing

Wilmington property owners will have little opportunity to complain of insufficient warning when an ordinance requiring that all roofs be covered with non-combustible materials goes into effect this June. The ordinance was passed in 1935 and local citizens were granted fifteen years in which to comply with it. In addition to outlawing wooden shingles the ordinance also required that when buildings within the fire district were in need of repairs at any time during the 15 years, the entire roof was to be replaced with fire resistant roofing material.

The Minutes Tell the Story

A recent announcement by an official of the State A.B.C. Board that cities may request veto power over the granting of state licenses to local beer establishments, spurred at least two more city councils last month to take advantage of the opportunity. In High Point and Chapel Hill the boards instructed their mayors to make such an arrangement with the Malt Beverage Division. Minutes received by the Institute of Government showed that only four beer permits were granted by city councils this month.

At least two cities and a county discussed the problem of rural fire protection. The Statesville councilmen instructed the Mayor to sign a contract with Iredell County governing the maintenance and operation of the

county fire truck stationed within the city. In Wilmington a committee appointed by the Mayor was authorized to confer with New Hanover County commissioners on the subject of outside fire protection and to give advance notice to the commissioners that the city is contemplating discontinuance of the practice of answering rural calls unless the county agrees to contribute financial assistance to the Wilmington department. Pitt county commissioners discussed, but took no action on, a plan whereby the county would purchase fire fighting equipment for use in rural areas, the equipment to be housed in the City of Greenville and operated by the city fire department.

Several ordinances were discussed, amended or adopted by the cities whose minutes were received last month. Three cities amended their zoning ordinances while three revised their traffic and parking regulations. Both Hickory and Raleigh amended their comprehensive taxicab ordinances. Members of cab drivers' families will no longer be permitted to ride in the front seat of cabs in Raleigh, but crippled and infirm persons may do so, according to the amendment. Hickory's amendments make it unlawful for a cab driver to transport liquor in his cab unless it is in the possession of a bona fide passenger, and provide that decisions of the taxicab inspector may be appealed to the city council within ten days. If the appeal is decided unfavorably to the appellant he may submit the matter to the inspector for consideration after nine months following the date of appeal. Hickory, as well as New Bern, also passed anti-mask ordinances similar to those adopted recently in Raleigh and Charlotte. (POPULAR GOVERNMENT, Feb. 1950.)

A Statesville ordinance adopted last month prohibits the construction of buildings, within the fire limits, using any but non-combustible materials, and states that "no permit shall be issued by the City of Statesville unless such building shall meet the full requirements of the North Carolina Building Code. . ."

The Newton city council voted down, by a narrow margin, an ordinance permitting the Sunday operation of theatres, bowling alleys and skating rinks. The council did approve the sale of newspapers and the operation of drugstores, restaurants and service stations on Sundays. Drugstores and service stations must remain closed during church hours, however.

Two ordinances were passed in Hendersonville last month. One regulates the erection and sale of tombstones and monuments, and sets a $25 license fee for such work. The second requires property owners to clear their street corners of heavy shrubbery which constitutes a traffic hazard by cutting off the view of motorists.

Fayetteville councilmen voted to hold a public hearings on a proposed ordinance which would establish a municipal Recorder's Court in the city. Such a court could be created by ordinance and without an election, under the power granted by G.S. 7-257 as amended by ch. 840 of the 1947 Session Laws. The council also adopted an ordinance making it a misdemeanor, subject to a $5 fine, to throw trash of any kind (including paper cups) on the streets and sidewalks.

Miscellaneous activities of the cities included giving motorists a chance to park so that others might walk. The city councils of Edenton and Hickory voted to donate two weeks' revenue from parking meters to the March of Dimes. Carolina Beach put the finishing touches to plans for a $100,000 yacht basin, following approval of a bond sale by the Local Government Commission. The project will include building bulkheads, dredging an 8-foot channel, building city docks, and beautifying the basin site. In Winston-Salem the board of aldermen voted to reduce the number of board committees from eight to five: Finance, Public Safety, Public Works, Education and the General committee. Committees whose functions were taken over by the remaining five were Health and Welfare, Parks and Recreation, and the Library Committee.

* * * *

Durham County commissioners relieved the crowded condition of the county's record-keeping arrangements last month by using the authority granted them by a special act of the 1949 legislature to pass a resolution providing for "the disposition of old records of the Recorder's Court other than those showing the receipt and disbursement of money, provided such records are in excess of ten years of age."

In Halifax, Dr. David Young, General Superintendent of the State Hospitals Board of Control told the board of commissioners that a new health center in the area would cost the county $15,000, the remainder to be paid by state and federal funds. Halifax is one of eleven counties recently approved by the State Medical Care Commission as sites for health centers, the expansion of the program having been made possible by an increase in federal appropriations. Each center will cost an estimated $52,000, of which, the federal share will be 44% or $22,880. The state's contribution will vary in every case, from one percent in Alamance to 28.6% in Martin.

The Halifax commissioners also voted to request representatives to the next General Assembly to seek repeal of the Farm Census Law enacted by the 1949 legislature.

In order to reduce costs, Dare County commissioners voted to supervise 1950 tax listing operations themselves and designated the chairman of the board "Acting Tax Supervisor." He will serve without additional salary other than expenses. Camden commissioners instructed the county tax listers as to the prices of corn, peas, goats and sheep for tax purposes. Three counties refunded taxes paid in error.

A total of 56 road petitions were approved last month by counties whose minutes were received.

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METER REPAIR SCHOOL

The North Carolina section of the American Water Works Association will sponsor a Meter Repair and Allied Activities School for water works superintendents to be held in Winston-Salem on April 21 and 22. Registration will begin at 10 a.m. on Friday, April 21 at the city hall and will be followed in the afternoon by talks on the following topics: "Metered Water vs. No Metered Water," "Characteristics of the Various Types and Sizes of Water Meters," and "Reading, Billing, Collecting and Handling of Complaints." Immediately preceding a Dutch supper, a movie will be shown illustrating the hazards that lurk in many homes due to improper installation of hot water units. Topics to be discussed on Saturday, April 22 include: "Planned Meter Repair for Large and Small Meters," and "The Cost of a Planned Meter Repair Program." In addition, there will be an actual demonstration of the procedure followed in making repairs to water meters.

Assessment of Property for Taxation By Municipalities

By HENRY W. LEWIS
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The following article is a discussion of the North Carolina Supreme Court's decision in *Bowie v. West Jefferson*, 231 N.C. 408 (1950)—the facts behind it, the decision itself, and the implications of the decision for North Carolina cities and towns.

In 1947 the General Assembly passed a special act in the following language:

> "The governing boards of the Towns of West Jefferson and Morehead City may, in their discretion, list, value and revalue all property for the purposes of town taxation separately and independently from and without regard to any listing, valuation or revaluation of such property for purposes of State and County Taxation."

To this brief provision was added a general repealing clause and a clause making the act effective upon its ratification, April 1, 1947.[1]

Proceeding under this act the governing body of the town of West Jefferson listed and assessed all of the property within its limits without reference to the list and assessments of that property as prepared by Ashe County. While the exact procedure used by the town in making the assessment is of no particular significance for the purposes of this discussion, it is apparent that the governing body exerted considerable effort to insure a careful appraisal of the property both with regard to its value and with regard to uniformity of assessment within the town.[2]

Acting on the basis of the assessment totals obtained in its own assessment process, the governing body of the town of West Jefferson adopted a tax rate of $1.00 on the $100.00 valuation for the year 1947, and a rate of $.90 on the $100.00 valuation for 1948. In both years proper ordinances were passed, tax receipts made up and collection carried out.

Prior to the 1947 municipal reassessment the real and personal property within the town of West Jefferson was carried on Ashe County's books at a total of $467,083. As a result of its own assessment program West Jefferson set its total valuation at $1,890,230. (It is interesting to note that this was the assessment, or value for tax purposes, not necessarily the appraisal figure or actual market value). As a matter of fact in May 1947 the board of aldermen had reduced the appraisal figure by an over-all percentage of 40% in determining the assessment figure quoted.[3]

It is not surprising that a municipal assessment figure four times as large as the county's assessment figure should result in some complaints. The bulk of these complaints were handled under the appeal procedure set up by the board of aldermen. A few of the citizens, however, made no protest to the town's appraisal board, nor did they appeal to the board of aldermen. Instead, they paid both their 1947 and 1948 taxes under protest, and following the procedure set out in G.S. 105-406, within 30 days after paying, wrote to the town treasurer demanding that their taxes be refunded. The town failed to make the refunds demanded.

Action in the Superior Court

The particular property involved in the subsequent suit had been assessed by Ashe County in 1947 and 1948 for county taxes at $9,674.00. The same property was assessed by West Jefferson in the same years at $72,379.99.[4] The property owner brought suit against the town and its tax collector to recover the difference between (1) the amount of taxes paid under protest and (2) the amount the tax would have been had the town's tax rate been applied to the county's assessment figure, plus interest on the difference from the date the payment was made under protest. In his complaint the taxpayer took the position that the town's assessment was illegal because the special act of the General Assembly under which the town had proceeded was unconstitutional for two reasons: (1) It violated the due process requirements of both the Federal and State Constitutions;[5] (2) It violated the provisions of Article V, Section 3 of the North Carolina Constitution: "Taxes on property shall be uniform as to each class of property taxed." In support of the first reason, the plaintiff asserted that he received no legal notice as to when or where the question of the revaluation of his land would be considered and decided, "nor was any opportunity provided or given him to be heard in connection therewith, or to appeal therefrom."[6]

Summons in this action were served early in May 1949. In answering the complaint the town of West Jefferson relied upon the constitutionality of the special act, and asserted that the reassessment carried out under the authority of that act had been fair, impartial and equitable "not only with reference to the property of the plaintiffs in this case, but with reference to the property of all other citizens and taxpayers of said town."[7] The town categorically denied the plaintiff's allegation that he had had no notice or opportunity to be heard, and alleged that adequate notice had been furnished.

At the conclusion of the evidence at the trial in July 1949, the presiding judge held the special act of 1947 unconstitutional as violating the provisions cited by the plaintiff taxpayer, gave the plaintiff judgment against the town as prayed, and assessed the cost of the action against the town.[8] The town of West Jefferson appealed this decision to the Supreme Court of North Carolina.

Administrative Difficulties

A very serious administrative problem faced the town of West Jefferson at this point. The board of aldermen had made a tax levy and were proceeding to collect taxes for the year 1949 based upon the assessed valuations placed on real property in 1947 under the special act. Shortly after the town board had set its tax rate (a rate arrived at on the theory that the town assessments could be used), the Superior Court handed down its ruling that the statute authorizing that assessment was unconstitutional. The North Carolina Supreme Court was to hear the case on appeal in early December. Taxes were to become due on

[1] Chapter 627, Session Laws of 1947.
[2] *Bowie v. West Jefferson*, 231 N.C. 408 (1950). Record, pages 9-12, pages 22-44. All subsequent references to Record and Briefs in this article will be to those filed in connection with this case.
[3] Record, page 34.
[4] Record, page 50.
[5] Record, page 5, citing Article I, Section 17, North Carolina Constitution, and Article XIV, Section 1, United States Constitution.
[6] Record, pages 5 and 6.
[7] Record, page 7.
[8] Record, pages 49-52.

the first Monday in October, and persons seeking to take advantage of discounts were privileged to prepay before that time. Pending the decision of the Supreme Court, what position should the town take with regard to the collection of taxes? They feared that the citizens would refuse to pay their 1949 taxes until the case was decided by the Supreme Court. Some people suggested that the town board rescind its earlier action setting a rate for 1949 and, following its pre-1947 custom, take the county's assessment for town property and set a new town tax rate.

The town was in a difficult spot. The board seemed to have two alternatives. They could assume that their contention in the case was correct, that the special act was constitutional, and that the Supreme Court would uphold them. There was some authority for taking this view. Ordinarily executive and administrative officials are not required or supposed to question the constitutionality of an act of the General Assembly.[9] But the reason usually given for this position is that the officials might thwart the will of the legislature by questioning the validity of the act, a matter within the province of the courts, and any such questioning by the executive would constitute usurpation of the judicial function. This line of reasoning was of small help in the face of a judicial determination of unconstitutionality. But, at the time, the board could have reasoned that following this course was the rational procedure. Then if the Supreme Court should sustain the statute and overrule the trial court, there would be no questions raised. On the other hand, the town officials were well aware that to follow this course involved a serious risk. Should the Supreme Court uphold the trial judge and hold the special act unconstitutional, the matter of refunds and adjustment would put a staggering administrative load on the collector plus possible damage to the town's whole financial structure.

The second alternative presented was for the town board to rescind its tax rate ordinance completely. Then, using the county's assessment figures, pass a new ordinance setting a new tax rate and levy on the basis of county assessments as in the pre-1947 period. This would have been permissive under the terms of the special act itself which was not mandatory, and, of course, normal procedure under the Machinery Act. The trouble with this solution or alternative was clear: If the town board should rescind its ordinance completely and pass a new one levying taxes on the basis of the county valuations, the Supreme Court might take the position that the problem had become moot.[10] Thus, perhaps the safest course for the town, instead of rescinding its original tax ordinance, was to pass a conditional ordinance setting the tax rate on the basis of the county's assessments provided the Supreme Court's decision should go against the constitutionality of the special act and the ordinance passed pursuant thereto. While this procedure did not offer much to help the local collector speed collections, it did insure the town a valid tax ordinance regardless of the action of the Supreme Court.

It is interesting to know that the general public backed the position taken by the town officials, and a considerable number of taxpayers came in to pay their town taxes by the 12th of August in 1949, long before they were actually due in October, and the general feeling was that they were willing to pay on the town's assessment figures.

In view of this action, and taking into consideration the fact that a conditional ordinance setting a tax rate based on county assessments would have meant making the tax rate considerably higher, the town board felt inclined to continue without further action until the Supreme Court had made its decision.

Town's Argument on Appeal

In presenting its case on appeal to the Supreme Court the town took the position that if the legislature has the power to permit towns which lie in more than one county to assess their own property (G.S. 105-334), then certainly the legislature can extend this privilege to other towns regardless of their location. Furthermore, it contended that the General Assembly has the power to place the power of assessment in any agency it chooses, and argued that the General Assembly might do this by special act. Within this framework the town went further and argued that the court should refuse to act unless the taxpayer could demonstrate that he had been injured by the enforcement of the special act, pointing out that the trial court had found no injustice to the plaintiff as a result of the town's operations under the special act. They also argued that "When the Board of Aldermen of a town . . . provided for all the requirements of 'due process' by way of notice, hearings, and review . . ., then we respectfully contend that the constitutional requirement of 'due process' has been fully met. The essence of due process is not who prescribes the various rules of procedure, but rather whether these rules of procedure in the matter of making the assessment were such that the taxpayer was deprived of no substantial right."[11]

Taxpayer's Argument on Appeal

In answering the town's arguments on appeal the taxpayer again asserted his two principle arguments for the unconstitutionality of the special act under which West Jefferson had assessed its own property: (1) The specific terms of the special act did not actually make provision for any assessment procedure or notice, and any actual notice furnished could not supply the omission from the statute itself since the provision for notice and an opportunity to be heard must and can be made by the legislature only.[12] (2) "To allow towns to make a valuation different from that made by the county violates the constitutional requirement for uniformity."[13] In support of this position the plaintiff cited *Railroad v. Wilmington*, 72 N. C. 73 (1874) in which an act authorizing Wilmington to assess property within its limits for its own taxation was held to violate the constitutional requirement that property be taxed by a uniform rule.

What the Supreme Court Decided

The Supreme Court upheld the decision of the trial court in declaring the special act unconstitutional and in granting the taxpayer a refund with interest as originally claimed. The unanimous opinion was written by Mr. Justice Seawell.[14] The opinion is significant both for what it decides and what it does not decide. "In view of the conclusion we have reached it is not necessary to decide whether the uniformity clause of the State Constitution is applicable to the situation or vitiates the levy and collection of the tax. We direct our attention to the objection to the statute and levy thereunder as wanting in due process."

The opinion then recites the statute itself and quotes the two pertinent portions of the Federal and State constitutions, and proceeds: "An examination of the . . . statute shows that it

[9] See *Bickett v. Tax Commission*, 177 N.C. 433, (1919).

[10] Actually this was only a remote possibility in the particular case presented here for the taxes being sued on were for prior years, but, had 1949 taxes been involved, the problem might have become acute.

[11] Defendant Appellants' Brief, page 5.
[12] Plaintiff Appellees' Brief, page 10.
[13] Plaintiff Appellee's Brief, page 12.
[14] *Bowie v. West Jefferson*, 231 N.C. 408 (1950).

provides no machinery whatever for the listing, assessing or valuation of the property, or for any notice to the taxpayer or hearing, or of appeal. Nor does it by reference to any general statute incorporate any such provisions in the act. The statute seems to expect supplementation in this respect by those who administer it.

"Due process of law means notice and hearing, and in that order . . .

"Without raising any question as to the constitutionality of G.S. 105-334 [allowing municipalities lying in more than one county to assess their own property]—which statute was intended to produce uniformity within the city limits—where otherwise almost certain inequality would exist because of the several county appraisals—we may say that the constitutionality of a statute is not proved by its alleged similarity to another statute which itself has not passed the acid test [this in answer to the town's claim that if the Legislature could do one it could do the other] . . .

". . . The town of West Jefferson stepped completely out of the provisions of G.S. 105-333 [usual Machinery Act provision requiring towns to take county assessment figures] and substituted no proceeding containing the essentials we have mentioned [apparently a reference to "notice and hearing, and in that order"], and did not by reference seek aid from any other helpful statute [i.e., did not incorporate by reference any of the proceedings presently supplied by the Machinery Act]. The statute has achieved a completely insular position and must operate *ex propria vigore*. Its constitutionality must rest not only on what it contains, but on what it lacks . . .

"With reference to the want of notice, it is pointed out by the defendant [town] that notice similar to that required in the General Statutes relating to county taxes was given publication. Where the town board got authority to do this does not appear; in this respect the statute seems to have been supplemented *ex gratia;* and whether future Boards would be so kind is not certain. As expressed in *Stuart v. Palmer*, 74 N. Y. 183, 188; 'The constitutional validity of law is to be tested not by what has been done under it but by what may, by its authority, be done.'. . .

"Not all tax procedures, of course, are subject to the rule we have outlined . . . But where the tax is imposed or predicated on a property appraisal by a board of assessment or other board exercising *quasi*-judicial functions, the procedure for manifest reasons, amongst them the want of precise standards, is by virtually unanimous accord brought within the rule. . . "

What the Court Left Undecided

If municipal corporations thirsty for new revenues are tempted to insert due process provisions in the West Jefferson statute and have it adopted for themselves, they would be wise to examine with care the taxpayer's argument in the *Bowie* case concerning uniformity—even though the Supreme Court refused to take a position on the point. Certain cases cited in the two briefs on this appeal serve to open the examination.

The First Wilmington Case

In 1874 a portion of Wilmington's charter authorizing the mayor and aldermen to assess property inside Wilmington for Wilmington taxation was held to violate the North Carolina Constitution's requirement that property be taxed by "an uniform rule." Admitting that the language of the Constitution was specifically providing for State and county taxation, the Court felt that "the language is general enough to cover taxation by every municipal corporation having power to tax." The Court seemed indignant at the thought of different governments setting different values on the same piece of property for different tax purposes. This was the year 1874, and the property tax was supreme. Income, estate, gift and sales taxes were largely untapped sources; and the Federal government was a taxing agent felt by the general public to only a slight degree. Thus, to the mind of Mr. Justice Rodman and his collegues, "Valuations by distinct authorities are an unnecessary expense and annoyance to the citizen." "Article VII, entitled 'Municipal Corporations', after providing by Section 6 that the township trustees should assess the taxable property of their townships, proceeds, in Section 9, to enact that all taxes levied by any county, city, town or township shall be uniform and *ad valorem* upon all property, etc." The justices felt that the position of Section 9 with reference to Section 6 "clearly implies that the valuation upon which city taxes are to be uniformly levied is to be that assessed by the township trustees. . . Taxation cannot be 'by an uniform rule' if each municipal corporation can assess the property liable to it at a different value." In their zeal, the Court added, "There can be no reason why the valuation of the township trustees should not suffice for city taxation . . ."[15] If uttered today such a statement would border upon the naive, especially in the metropolitan areas of the State.

It should be observed that Article VII was amended by the Convention of 1875 to include the present Section 13 which empowers the Legislature to modify or abolish, among others, Section 6. Thus, while uniformity remained the rule, assessment procedures could be changed by act of the General Assembly. Had the Wilmington charter provision been enacted subsequent to the adoption of the Constitution of 1868, and had the amendment of 1875 been effective when the case was heard, an argument might well have been made for the city that the special act constituted legislative abrogation of Section 6 as contemplated by Section 13.

The Elizabeth City Case

The next year when Elizabeth City tried to exercise a charter provision of 1852 permitting the town to make its own assessments, the Supreme Court held such action invalid under Sections 6 and 11 of Article VII.[16] Here, as in the *Wilmington* case, the General Assembly had not acted to abrogate Section 6 by statute in the way authorized by Section 13 of Article VII.

The Railroad Case

That the Legislature was granted full power to rewrite any of the Sections of Article VII except Sections 7, 9, and 13 is perfectly clear, and where this was done, a few years later the Supreme Court stated "We think it quite clear that the General Assembly, on the abrogation of Section 6, Article VII, of the Constitution, could constitute other agencies to perform the duties therein imposed upon the Township Board of Trustees."[17] Apparently then an act is valid which (1) constitutes an abrogation of the constitutional requirement that assessment be performed by township trustees, and (2) places the general assessment of all property for taxation in a different agency.

The New Bern Case

In 1908 New Bern argued that a statute placing the power to assess all *railroad* property in a state agency was a violation of the uniformity provision of the Constitution. But in support of the position apparently the town failed to cite the earlier munici-

[15] *Railroad v. Wilmington*, 72 N.C. 73, 76 (1874).
[16] *Cobb v. Elizabeth City*, 75 N.C. 1 (1876).
[17] *Railroad Co. v. Commissioners*, 82 N.C. 260, 267 (1880).

pal cases from Wilmington and Elizabeth City. "In the absence of any authority cited in support of such contention we deem it only necessary to notice it briefly in passing . . . [The constitutional section] is in no sense a limitation upon the power of the General Assembly to provide the machinery by which the 'true value in money' of various kinds of property may best be ascertained . . . Nowhere in the act does it undertake to tax [railroad] property except upon an *ad valorem* basis and by a uniform rule . . ."[18] Therefore, in line with this decision, an act is valid which (1) segregates a *particular* type of property, (2) places its assessments in a *State* agency, (3) sets up a uniform *mode* of assessment to be followed and (4) provides for due process.

The Guano Company Case

In 1916 a slightly different case reached the Supreme Court.[19] The plaintiff, a fertilizer company, sued Wilmington to recover what it alleged to be excessive taxes; the town demurred; the demurrer was sustained, and the fertilizer company appealed. The taxpayer admitted that it had failed to list its property for taxation, but claimed that city officials listed it and assessed it at an excessive figure, "refusing to hear evidence as to its actual value." The taxpayer sought to recover the difference between (1) the tax levied and (2) what the tax would have amounted to had the property been assessed at what the taxpayer claimed it was then worth. The city took the position that the taxpayer was not entitled to recover anything unless it alleged and proved that the valuation placed on its property by the city exceeded that placed on the property by the county, or that the tax was greater than it would have been if properly computed.

In sustaining the decision of the lower court, upholding the city's demurrer, the Supreme Court stated that no matter whether taxes are levied by the state, by the counties, or by municipalities, they shall be laid by a uniform rule, "and this can only be done by providing for one valuation only upon property."[20] "This valuation is made by the county authorities, who have exclusive original jurisdiction to grant relief against excessive valuation. Their valuation is binding upon the cities and towns, and must be adopted by them. When the county authorities reduce such valuation the other municipal authorities must do likewise. . ." The court took the position that in order to set out a good cause of action, the plaintiff taxpayer must "allege that the tax it seeks to recover was levied upon a valuation greater than that fixed by the county authorities; that is to say, what the tax plaintiff has been forced to pay was greater than it would have been if correctly computed at the legal rate on the adjudged valuation. It is the difference the plaintiff would be entitled to recover."[21]

What is the significance of the *Guano Company* case? Before it reached the Supreme Court, the Court was apparently willing to countenance legislative abrogation of the Constitutional system of assessment by township trustees, (a) *at least* to the extent of legislative action placing the power to assess *all* property in the hands of one single assessment agency different from the township trustees, and (b) *at most* to the extent of legislative action placing the power to assess *a particular type of property* in the hands of a single *State* agency. In these instances the assessing agency was, of course, to assess by a uniform measurement, but there was no limitation on the application of different tax rates to the assessed valuations by different taxing units. Was the Court willing to countenance legislative action placing the power to assess *all* property of a taxing unit smaller than the county and inside the county in the hands of a single assesment agency, operating under a uniform mode of assessment for the smaller taxing unit? If the Court was willing to let each county's assessment authorities assess all property therein for *State* tax purposes, how could it do otherwise? In the *Guano Company* case, the court sustained a city's demurrer in an action to recover excessive taxes on the ground that the taxpayer-plaintiff had not alleged that the town had assessed the property at a rate higher than that set by the county. It should be observed that no municipal charter provision or special act was directly involved in this case; it simply stands for the proposition that the general statute setting up an assessment procedure by county authorities is valid, and that for a taxpayer to recover "excessive" taxes from a city he must prove that the city placed the property upon its books at a higher figure than that set by the county. It does not have anything to say about the General Assembly's possible power to make a different arrangement either by general or special act. Thus, the decision can hardly be interpreted as advancing or modifying the law prior to 1916.

The Anderson Case

In 1927 another case of importance reached the Supreme Court. The Court treated the case as presenting simply the question of the validity of a statute[22] which sought to divide Asheville into three geographic zones, in each of which a different municipal tax rate was to apply. In holding the statute unconstitutional, the Supreme Court reasoned (1) that when a municipality exercises the power to tax, the constitution commands that all property in the municipality be taxed at its true value in money by a uniform rule; (2) that a uniform rule implies both (a) a uniform rate, and (b) a uniform mode of assessment—both "co-extensive with the territory to which [the tax] applies. If a State tax, it must be uniform over all the State; if a county, town, or city tax, it must be uniform throughout the extent of the territory to which it is applicable . . ."[23] Observe how this language seems to support West Jefferson's argument on uniformity. But observe that despite the broad language of the opinion the only point at issue was the validity of a statute permitting different tax *rates* within a single city. The idea of separate city assessment was not involved.

The Present Problem

In 1937 the uniformity section of the North Carolina Constitution was amended so that the pertinent provision now reads: "Taxes on property shall be uniform as to each class of property taxed." Furthermore, the Machinery Act of 1939, as amended, the present general statute covering tax assessment, is itself an abrogation of Section 6 of Article VII of

[18] *Railroad v. New Bern*, 147 N.C. 165 (1908).

[19] *Guano Company v. New Bern*, 172 N.C. 258 (1916).

[20] For this statement the court cited *Kyle v. Commissioners*, 75 N.C. 445 (1876). The *Kyle* case is not clear authority for this point. The only question before the Supreme Court in that case was whether shares of stock in a national bank are proper subjects of municipal taxation, and if so, where such shares owned by non-residents are to be taxed. As a matter of fact, the court stated "it is not alleged that the town tax is not uniform with the tax upon similar property, or that the assessment is in excess of that made by the township trustees. No point is made upon that." Only after that statement did the court add, by way of dictum, the statement relied upon in the fertilizer company case, "but it is proper to say that all assessments of property for taxation under the constitution, must be made by the Township Board of Trustees, Article VII, Section 6. We have heretofore decided that this Board must assess the value of property for state and county taxation, and we think, for the same reasons of convenience and uniformity, that city and town taxation should be based upon the same valuation as that for the state and county."

[21] *Guano Company v. New Bern*, 172 N.C. 258, 260 (1916).

[22] Chapter 138, Private Laws of 1927.

[23] *Anderson v. Asheville*, 194 N.C. 117, 119 (1927), relying on and quoting from *Exchange Bank of Columbus v. Hines*, 3 Ohio St. Reports 1, and *Knowlton v. Supervisors of Rock County*, 9 Wis. 410.

the kind plainly countenanced by the courts.

It seems clear that there is no direct constitutional prohibition against the enactment of legislation vesting the general power of assessment in any authority the General Assembly may deem fit. Furthermore, it will be observed that the Machinery Act itself sets up not a *single* assessing agency but, in some instances, as many as three: the county commissioners through the tax supervisors and list takers (G.S. 105-286, 105-290, and 105-327), the State Board of Assessment (G.S. 105-346, 105-347, 105-350, through 105-355, 105-358 and 105-362), and the governing bodies of cities and towns located in more than one county (G.S. 105-334). Thus, it may be asked, if there is no objection to enacting general statutes setting the power to assess different kinds of property in different agencies so long as uniform assessment procedures are required, (1) may the General Assembly abrogate the provisions of Article VII by special act, once it has done so by general act (as in the case of the Machinery Act of 1939), and (2) even if it may abrogate by special act, is the legislature prohibited from passing a special act with respect to tax assessment?

There seems to be no *direct* constitutional prohibition against the enactment of a special act permitting a municipality to assess property within its limits for purposes of its own taxation.[24] Nor is it required that the power to abrogate or change conferred by Section 13 of Article VII be general in its operation or that the amending legislation, in turn, formally abrogate the constitutional section concerned.[25] Taking into account the *Bowie* case, it should be added that these statements are true only so long as the special act (1) meets the requirements of due process, and, in the light of the present discussion, (2) meets the requirements of uniformity.

On the uniformity point, however, it is significant that the plaintiff appellee in *Bowie v. West Jefferson* relied on the *Wilmington* and *Guano* decisions, arguing on appeal "that while the constitution has been amended, the requirement of uniformity has not, but remains the same, and that the law of *Railroad v. Wilmington, supra*, and *Guano Company v. New Bern, supra*, is still the law. These cases declare that the constitutional requirement of uniformity can only be met by having one valuation for all tax purposes . . . To allow the municipal authorities to place upon it a higher tax valuation would violate the present requirement of uniformity. To allow each taxing unit to place upon the same piece of property a different valuation for taxation would bring about all manner of confusion, unfairness, clash of authority, and lack of uniform taxation."[26]

The arguments in this 1949 brief made use of language and ideas found in the Supreme Court decision of 1874 and ignored the *Anderson* case of 1927 —nor did the town make full use of that decision in its brief. It can hardly be argued today that to have different *rates* of taxation for county and for town would be fatally confusing, unfair, or without uniformity. But what of different *modes* of assessment?

If a county assesses a piece of property at $50.00 and sets a tax rate of $1 on the $100 valuation, it will be able to demand 50c from the property owner. If a city in that county, under full legislative authority preserving due process of law, assesses the same piece of property at $500 and applied a tax rate of 10c on the $100 valuation, it will be able to demand 50c from the property owner. The distinction is mechanical, not theoretical. Anyone familiar with the assessment systems in North Carolina today knows there is nothing especially curious about this illustration of differences in methods. It is common between counties. It can be argued that confusion of the kind envisioned should the same situation prevail between a county and a city therein would be largely on the surface. The Constitution does not guarantee freedom from confusion to the taxpayer. It simply prohibits taxation of property by something other than a uniform system. Does this dual assessment procedure violate uniformity as that term is usually defined?

The language in *Anderson v. Asheville* must be examined: "Taxing for a uniform rule requires uniformity, not only in the *rate* of taxation, but also uniformity in the *mode* of the assessment upon the taxable valuation . . . But this is not all. The uniformity must be co-extensive with the territory to which it applies."[27] Certainly this language means two things very plainly: (1) Once property has been assessed for tax purposes, the rate of tax must be applied uniformly to those assessments *within the territory to which the tax applies*. In the example above, the county applies a rate of 50c on the $100 assessed valuation to all property within the county; the city applies a rate of 10c on the $100 assessed valuation of all property within the city. (2) The system or technique of assessment—the yardstick—used in determining property values must be uniform *within the territory to which it applies*. In simple language, all property *within the taxing unit* must be assessed for tax purposes at the same dollar value.

Having assessed uniformly, the taxing unit may apply its rate uniformly and the Constitution would be satisfied. The practical afterthought— "the uniformity must be co-extensive with the territory to which it applies" —simply ties the rate and assessment requirements to the geographical area required for administering the tax. There is no hint in this statement, nor in any other part of the *Anderson* decision, that uniformity means anything more. Certainly all property in a county must be assessed at the same ratio of true value for county tax purposes, but when a city within that county seeks to set its own tax rate for its own purposes, is there any Constitutional limitation upon the Legislature's power to permit the city to assess the property within its limits for purposes of its taxes by a system uniform within the municipal limits? Certainly the earlier cases would lead to the conclusion that there is such a limit,[28] and the *Anderson* case language to the contrary cannot be considered completely authoritative. On the other hand, if the *Anderson* dictum, a more recent statement, does express the law in North Carolina, it seems clear that the validity of a statute meeting the due process requirements established by the *Bowie* case and requiring that the mode of assessment be employed uniformly throughout the taxing unit (the city), could be supported with considerable force. Such a decision would not, however, meet completely the conflicting policy arguments in such a situation. Essentially the earlier cases[29] were policy decisions rather than strict inter-

[24] Consult § 29 of Article III, N. C. Constitution.

[25] *Turrell County v. Holloway*, 182 N.C. 64 (1921), and *Smith v. School Trustees*, 141 N.C. 143 (1906). But it should be observed that these cases do not involve special acts passed *after* the General Assembly had acted to abrogate a section of Article VII by general act. Thus, while the principle does not seem to have been applied in a case of this kind, and while it may not be applicable, there is a line of reasoning which holds invalid local acts in conflict with a state-wide policy established by general law. See *State v. Dixon*, 215 N.C. 161, 166 (1939).

[26] Plaintiff Appellees' Brief, page 15.

[27] 194 N.C. 117 (1927) at page 119.

[28] Thereby throwing doubt on the constitutionality of G.S. 105-334, a point not decided in *Bowie v. West Jefferson*. See discussion herein, page 7.

[29] See discussion of *Railroad v. Wilmington, supra*, page 8.

pretations of Constitutional phraseology. The policy they found behind "uniformity" was a policy to protect property owners from the annoyance and conflicting claims of the three governmental units empowered to tax their property. The growing poverty of municipal corporations, an unfaced fact in 1874, has today brought forth strong advocates of another view of uniformity—a view arising primarily from the reality of low, inadequate, and inequitable county assessment procedures. This policy would adopt the *Anderson* dictum as a practical solution to an admittedly grave municipal finance problem without doing violence to judicial views of the Constitutional requirement of uniformity. Which policy the North Carolina courts will adopt has, of course, not been decided.

Local Property Taxes — The Latest Report

By HENRY W. LEWIS
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Biennially the State Department of Tax Research prepares a report on State and local taxation in North Carolina. Two thousand copies of this report ultimately are printed and made available to interested officials and citizens.[1] Unfortunately circumstances have plagued the Department almost from its inception in 1941, and delays in printing its reports have been the result. Nevertheless, the statistics to be found in these reports are collected nowhere else, and the general comments and recommendations written by the Director and his assistants merit much wider study than they have traditionally received.

The Department's report for the biennium 1946-1948 has just been released.[2] Four hundred seven of its pages are devoted to matters of State taxation and finance; one hundred nine pages deal with local tax matters. It is with the last one hundred nine pages that county and city officials are vitally concerned. The Institute of Government presents here an abbreviated version of the Department's comments on local tax matters together with some significant statistics derived from figures in this report.

Local Government Finance in North Carolina[3]

"The fiscal problems of local units of government become more acute with each passing year. This applies generally less to the counties than to the towns and cities. The respite from the pressure for additional revenue for the local units afforded by the transfer of prime responsibility for certain major functions of government in the 1930's [schools and roads, for example] has expended itself for several reasons. First, the growing population in many areas gives rise to imperative needs for expanded operations. Second, a rising social consciousness has brought tremendous demands for more governmental services. The expansion of health, welfare, and recreational activities during the middle 1930's has induced demand subsequently for further expansion of programs. Third, the impact of war inflation upon the economy at this stage of its consequences puts hardship upon the local units. . . .

"Supply, demand, and considerable inflation tend toward a period of rising prices in which local revenues may be insufficient to provide services at levels to which the public has become accustomed. Assessed valuations lag, or drag, behind rising true values, which reflect the capitalization of increasing profits and rentals. The rising price level causes costs of government to soar finally. As wages and salaries lag behind costs of living and wholesale prices, the local governmental units are not too hard pressed until wage and salary increases become imperative. At this time the improvements of old services or inauguration of new services can be undertaken by the local units only with the gravest danger of financial catastrophe. In time as the economic adjustments impelled by the forces of supply and demand and inflation interact, the financial strain on the local governments will ease off because the gap between assessed and true values will narrow and the base of taxation and the rate of levy will become correlated gradually to the new going cost-wage-price-profit-tax structure.

"During this period of adjustment, however, many counties and cities, particularly the latter, may find it impossible to maintain accustomed levels of service unless afforded some form of tax relief—new local sources of revenue or assumption of further fiscal responsibility, permanent or temporary, for services by the State. The new sources to the counties and cities may be obtained either by sharing in old taxes with the State, higher rates and sharing on an old base, or finding new bases or sources and the local units levying taxes thereon. At the present time the cities particularly, seem to be in a critical period of fiscal adjustment following inflation.

"*The County Units:* . . . The financial situation of the individual counties varies greatly. In some the higher costs of government, the debt load still remaining from earlier years, and the fact that the property tax constitutes almost the sole source of revenue results in pressing problems of finance. In such counties, which are in most instances predominantly rural, property is assessed at a comparatively high percentage of value and tax rates—relative to economic capacity—are high. There is no major fiscal problem, however, in many other counties. Fiscal needs are so low that tax rates are at a comparatively low level, and, in many, property is assessed at low percentages of true value.

"There is still, it seems, an appreciable leeway in the State as a whole between assessed value of property and true values. . . . The assessed valuation [of all counties] in 1947-48 [was] $1,252,825,233 or 60% above the low of 1933. 36½% of this increase or $457,722,216 has occurred in the last two years [1946-47 and 1947-48]. Assessed valuations have not kept pace with the new construction in the State since 1933, and assessed valuations have not risen in proportion to the appreciation in value since the

[1] Chapter 327, Public Laws of 1941.
[2] *Biennial Report of the Department of Tax Research*, Raleigh, 1948. W. O. Suiter, Director; L. Owens Rea, Assistant Director.
[3] The following is quoted from Part IV (pp. 409-413) of the 1948 *Report of the Department of Tax Research*. Occasional insertions needed for clarity appear in brackets. Italics have also been supplied.

year of the low point. The assessed value data for 1946-1947 and 1947-1948 and the general fiscal situation, however, indicate what may be a movement toward the closure of the gap between assessments and true values.

"*There is no major fiscal problem in most of the counties which could not be solved by more adequate and efficient assessment of property and/or effective collection of taxes.* Further, such procedures would distribute the tax burdens more equitably. The counties limited by population and resources and fiscal insufficiencies present the choice of levels of services continuously below average in the State, or more State aid.

"*The Municipal Units:* The municipal units of the State are almost without exception confronted at present with serious problems of balancing their budgets. The causes are those which have been described above: (1) growing population, (2) a rising social consciousness and (3) the impact of inflation at this stage of its consequences. The revenue sources now available to the municipal units do not have at this time the flexibility required to meet the rising expenditure level. The major source of revenue is the general property tax. The counties and the towns and cities are almost wholly and equally dependent on the property tax on real and tangible properties. Dependence is revealed by the percentage of general property taxes to total tax revenues. The range of dependence in the counties in the last five years has been from 91.6% to 88.1% with each year showing a decline. From the high to the low was a decrease of 3.83%. The range of the cities has been from 89.8% to 87.4%, and a decline has occurred each year. The decrease from the high to the low was 2.77%. While the towns and cities have been slightly less dependent than the counties on the general property tax, the data indicates that the counties in the last five years have succeeded a little better proportionately than the towns and cities in finding additional sources of revenue. . . .

"The flexibility of this major source of income to the towns and cities is limited by legal restrictions on their tax levy. Further, some of the municipalities with the greatest problems of growth are located in counties which have sufficient taxable property to obviate the necessity for a high assessment ratio. Since the municipalities must use the assessed values determined by the county officials, the tax base in many instances has not risen with reasonable proportionality to the actual growth and development in the town or city. . . .[1]

"Fiscal relief to the municipalities is imperative. Probably, the timely relief needed could be obtained more easily and satisfactorily by efforts toward broadening the base and improving efficiency of assessments.

"While the execution of such policies would provide, undoubtedly, reasonable respite from the impending fiscal crisis at the town and city level of government, the real problem for the long run is uniformly equitable assessments of real and tangible personal property throughout the entire State. The withdrawal of the State from the field of general property taxation has not circumvented the need for uniform equitable assessments related to income producing capacities and true values. The State,

[1] For a discussion of an attempted solution to this problem see the article in this magazine entitled ASSESSMENT OF PROPERTY FOR TAXATION BY MUNCIPALITIES, page 6.

Figure A

DIVISION OF PROPERTY TAX BURDEN AMONG RECOGNIZED CLASSES OF LOCALLY-ASSESSED PROPERTY

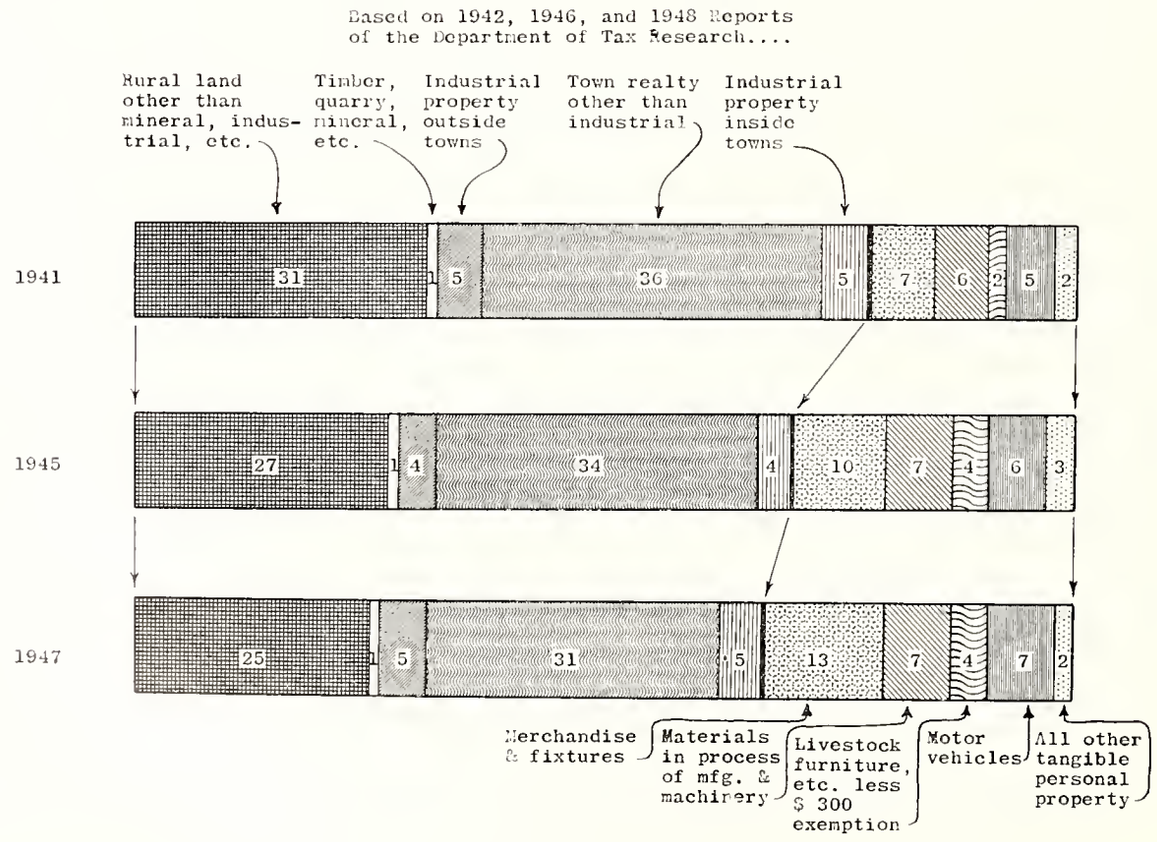
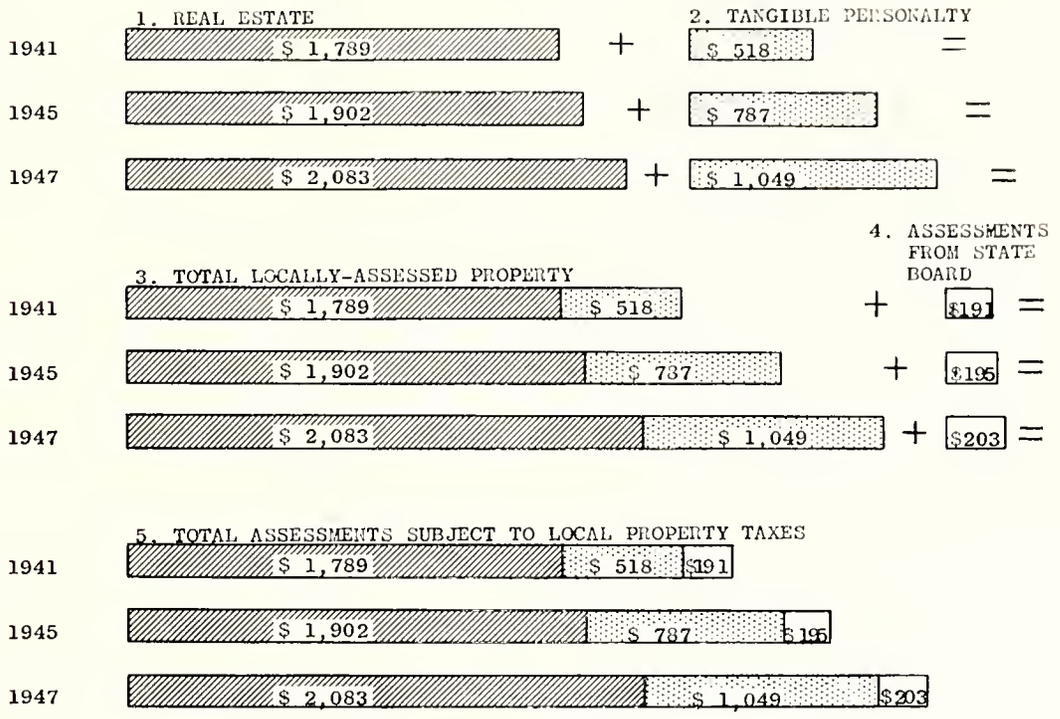


Figure B

PROPERTY TAX ASSESSMENTS --- 1941-1947

The division of assessed valuations among the principal categories of property subject to county and city property taxation: 1941, 1945, and 1947.

Chart indicates assessments in millions of dollars.



in addition to responsibility for minimum levels for some services, is more and more confronted with the demand for cooperation with the counties, towns, and cities on a grant-in-aid or tax sharing basis for many other services. . . . Unless the counties and local governments are to lean more and more on the taxes levied by the State to meet their rising social needs, they must be encouraged to increase the efficiency and equity with which they cultivate their own local fiscal resources. *Probably no one thing will contribute more to an equitable distribution of grant-in-aid funds and, at the same time, encourage the development of local government fiscal resources than the scientific assessment of property.* The techniques of such assessment are known to fiscal science. They have been used profitably to promote greater justice in taxation in one of our more populous counties. In view of the present trend of sustaining a larger number of public services on a minimum uniform level by grants-in-aid or tax sharing, *the extensive use of scientific assessments from Manteo to Murphy may be the most logical means of maintaining a large volume and variety of public services . . .*"

Property Tax Statistics

The statistics supplied in the 1948 *Report of the Department of Tax Research*[5] are detailed and bulky. For that reason, the Institute of Government has assembled from those statistics and similar reports in 1942 and 1946 a few important facts about property assessment that will tend to indicate what has been happening in that field in recent years—1941 through 1947:

Real Estate: (See Figure A). Real estate as a single item remains the work horse of property taxation. In 1941 it accounted for 78% of all locally assessed values. Town real estate, other than town industrial property, carried the largest single part of the load (36%), followed closely by rural property other than rural industrial land (31%). Town industrial property and rural industrial property shared about equally (about 5% each). By 1945 real estate's burden had been decreased to 70% of the total local load: 34% was carried by town property, 28% by rural property, and about 4% each by town and rural industrial property. In 1947 the trend continued. Real estate carried 67% of the load, divided as follows: town property, 31%; rural property, 25%; town and rural industrial property about 5% each.

Personal Property: (See Figure A.) Between 1941 and 1947 personal property had to bear an increasing portion of the local property tax burden. This is part of a trend started in the middle of the Depression. In 1941 it accounted for 22% of all locally assessed property. Stocks of merchandise and fixtures carried 7% of the total, goods in process and machinery carried 6%, automobiles carried 5%, household and kitchen furniture and other such items carried 2%, and miscellaneous items carried about 2%. In 1945 personal property carried 30% of the total: merchandise and fixtures had advanced to 10%, goods in process and machinery to 7%, motor vehicles to 6%, property subject to the $300 exemption to 4%, and miscellaneous items still carried 2%. In 1947, personal property carried 33% of the burden, divided as follows: merchandise and fixtures, 13%; goods in process and machinery, 7%; automobiles, 7%; "exempt" articles, 4%; miscellaneous items, 2%.

State Board of Assessment: (See Figure B.) The properties assessed

[5] pp. 415-516.

(railroads, electric power and light companies, telephone and telegraph companies, and banks) took a steadily downward trend from 1941 to 1947. In 1941 these properties bore 8% of the property tax burden while locally assessed property carried 92% of the load; in 1945 the distribution was 7%-93%, and in 1947, 6%-94%.

Dollars and Cents: (See Figure B.) The total assessed value of real estate rose from $1,789,431,144 in 1941 to $1,901,866,352 in 1945 to $2,082,661,412 in 1947—an increase of about 16% for the six-year period, the larger part of it in the years 1946 and 1947. The total assessed value of tangible personal property rose from $517,978,887 in 1941 to $787,440,097 in 1945 to $1,048,570,506 in 1947—an increase of about 102% for the six-year period, the larger part of it between 1941 and 1945. Certain items of personal property—merchandise and fixtures, and property subject to the $300 exemption—increased more than 140% during the period.

The Total Picture: (See Figure B.) Property assessments rose from $2,497,924,777 in 1941 to $2,884,312,205 in 1945 to $3,334,079,947 in 1947—a rise of about 33% for the six-year period. For the first time since 1920 the total assessment figure hit the three billion dollar mark.

The Attorney General Rules

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

Property Taxes

Prepared by
GEORGE H. ESSER, JR.
Assistant Director
Institute of Government

Taxable Situs. The listing of property for 1950 taxes has caused the Attorney General to re-examine three different situations relative to the situs of personal property for listing purposes.

(1) Personal property in North Carolina owned by a foreign corporation. A Virginia corporation owns a N. C. warehouse in which goods are stored for distribution in North Carolina. The firm refuses to list the goods in North Carolina on the ground that they have been listed for tax purposes in Virginia. The North Carolina county claims that they should also be listed in this state. Is the Virginia corporation required to list its personal property in this state even through it has already listed it in Virginia?

To: J. C. Ellis

(A.G.) On these facts there would appear to be no doubt but that the property is subject to county ad valorem taxes for the year 1950 and should be listed in North Carolina. It is immaterial that the corporation may have misconceived the proper taxable situs of the property and listed it elsewhere. See G.S. 105-302. (Section 800 of Machinery Act). The right of this state through the county to tax the property in question is well recognized by the Supreme Court of the United States. See *Curry* v. *McCanless*, 307 U. S. 357, 83 L. Ed., 1339.

(2) Personal property of a municipal resident which has been listed at a former residence not located within a municipality. Here we have a situation where a man long resident in the country moves into a town, but in order to evade paying town taxes he continues to list his personal property such as a car and a boat at his former residence. The town in 1950 discovers that personal property located in the town since 1948 has not been listed in the town, and that that property has not been assessed for town taxes. What relief can the town obtain?

To: H. H. Smith

(A.G.) The Machinery Act provides that in general personal property shall be listed at the residence of the owner, leading exceptions being that farm products are listed where they are produced and property used in connection with a store, mill office, warehouse, etc. is listed at the place where such store, etc. is located. G.S. 105-302. (Section 809 of Machinery Act). Here it would appear that the personal property falls within the general rule. With regard to including this property on the taxpayer's 1949 list, see G.S. 105-331 (Section 1109 of Machinery Act) which provides for listing and assessing taxable property which has been left off the tax books for the current year and up to five preceding years if the property was subject to the unit's taxing power in those years. I am of the opinion that this section gives you authority to list in the name of the taxpayer any personal property which had a taxable situs in the town on January 1, 1949 and to assess such property for taxation. Notice of the listing and assessing should be given to the taxpayer by mailing notice to the last known address, and he should be advised that he can secure a hearing before the governing body of the town before the property is assessed. If this property has been assessed by the county and merely not listed for taxation by the town, the assessment by the county is binding on the town. G.S. 105-333 (Sec. 1201 of Machinery Act).

(3) Personal property of a municipal resident stored in a rented lot outside the corporate limits of the municipality. Here a resident of a town engaged in the general contracting business in the town and rented land outside the town on which to store his tools and motor vehicles. He claims that he is not subject to taxation by the town on the tools and vehicles. The town maintains that he is.

To: W. A. Gardner

(A.G.) Since the citizen involved is engaged in the general contracting business in the town and maintains his residence, office and place of business in the town, and since the personal property involved is used in connection with the business, I am of the opinion that the general rule applies and that the property does not come within the exception of Subsection 4

of G.S. 105-302 (Section 800 of Machinery Act).

Title for Listing as of January 1. A frequent problem arises when personal property is received in North Carolina from a seller on the last day of the old year or the first of the new. In whose name must the property be listed —the seller's or the buyer's? For example, a mill bought 100 bales of cotton from an out-of-state concern. It was shipped by rail and arrived at the mill's siding on December 31, 1949. The car was opened and the cotton removed on January 2, 1950, and the bill of lading was not turned over to the mill until January 3. Should the mill list the cotton as its property for 1950 taxes?

To: R. B. Gates

(A.G.) Since the cotton in question had come to a rest within the State on December 31, 1949, it had become a part of the general property of the State for ad valorem tax purposes and should be listed in the name of the owner as of January 1, 1950. Actual delivery of the bill of lading is not the important consideration. The type of bill of landing is. If the cotton was shipped on an open bill consigned to the mill, it would seem that title to the cotton passed to the mill on delivery to the carrier. If the bill of lading had a draft attached which had to be taken up by the mill before title to the cotton passed, then the mill would not become owner until the draft was taken up and the bill of lading released. I would suggest that the full facts be laid before the county attorney, and that he should advise in whose name title was vested on January 1, 1950. If title had not passed to the mill, then the cotton should be listed for taxation in the name of the out-of-state seller.

Redemption of Property Sold for Taxes. May a county permit a former owner to redeem his property after the county has taken the deed as the result of a tax foreclosure suit, upon payment of the amount paid by the county for the land, plus the taxes which would have been assessed against the property had the owner continued in possession, plus 6% interest? G.S. 105-391 (v) [Section 1719 (v) of Machinery Act] permits this policy for cities but does not mention counties.

To: T. C. Hoyle

(A.G.) I find no such specific authorization with respect to resales by counties to former owners. However, it appears to me that G.S. 105-391(v) is a clear legislative statement of public policy. It may be that municipalities only were mentioned in the subsection because in the absence of such specific authority a municipality only had power to dispose of its real estate by a sale at public auction to the highest bidder, in accordance with G.S. 160-59.

HUGHES J. RHODES

Assistant Attorney General

Privilege License Taxes

Marble Yards. G.S. 105-96 (Section 160 of the Revenue Act) sets out a schedule of state privilege license taxes on persons, firms or corporations engaged in the business of manufacturing, erecting, jobbing, selling or offering for sale monuments, marble tablets, or gravestones, etc. The last paragraph of the section prohibits counties from levying a tax on these businesses and provides that cities and towns in which the principal office or plant of any such business is located may levy a license tax not in excess of that levied by the state. A town enacts an ordinance under the authority of G.S. 160-56 levying a tax on marble yards doing business within the town which do not have their principal places of business within the town. Is this tax prohibited by the last paragraph of G.S. 105-96?

To: C. N. Alston

(A.G.) It may be that the legislature intended to permit cities and towns to levy a privilege license tax upon marble yards only when the principal office of such business was located within the city or town, and then to restrict such levy to the amount of tax levied by the state. However, this intention does not appear to have been expressed by appropriate language. As to cities and towns, the Revenue Act merely provides certain restrictions upon the general power of cities and towns to levy privilege license taxes under the authority of G.S. 160-56. That being so, G.S. 105-96 merely places a limitation upon the amount of privilege license tax which may be levied upon marble yards having their principal place of business within the particular municipality and does not restrict the taxes which may be levied upon marble yards doing business within the particular municipality but not having their principal place of business therein.

RALPH MOODY

Assistant Attorney General

Motor Vehicles

City Automobile Tax. G.S. 20-97(a) provides that cities and towns may levy a tax of one dollar($1.00) upon any motor vehicle resident within the city or town. The Attorney-General has been asked for an interpretation of the phrase "upon any such vehicle resident therein" as an aid to determining who is liable for the tax.

To: J. L. Poston

(A.G.) I have not been able to find any decision of the Supreme Court which construes the meaning of this phrase. I am of the opinion that a reasonable interpretation of this provision would be to apply the rules provided by G.S. 105-302(Section 800 of the Machinery Act), which govern the taxable situs of personal property, plus the requirements that the motor vehicle must be used within the corporate limits of the municipality before the municipality may require it to have a municipal automobile license tag. I am of the opinion, therefore, that if a person lives outside of town but owns a truck or automobile which he uses within the town in connection with a business carried on and conducted within the town, such as a store or garage, he could be required to purchase a city license tag for such truck or automobile.

Persons who live outside the town but drive their automobiles in the town daily because they work or operate businesses in the town, but who do not

use their automobiles in connection with their work or business within the town except for going to and from work, could not, in my opinion, be required to purchase city tags. On the other hand, I am of the opinion that persons who live within the town and own automobiles which they drive daily to some point outside of town, such as to another town where they work, could be required to purchase city tags.

County Powers and Duties

Funeral Expenses of Insolvents. Do the county commissioners have authority to appropriate funds to pay the burial expenses of a legal resident of the county who died leaving no estate and a family unable to pay these expenses? The deceased person has already been buried.

To: L. W. Little

(A.G.) I have been unable to find any statute authorizing such an expenditure, and, in my opinion, there is none. G.S. 112-33 and G.S. 153-161 gives conditional authority to pay the burial expenses of Confederate veterans and veterans of World War I. G.S. 90-212 makes a reference to dead bodies "required to be buried at public expense, or at the expense of any institution supported by state, county, or town funds," but I find no statute authorizing counties to make provisions for the burial of deceased indigent persons generally.

Farm Census Reports. The 1949 General Assembly authorized the payment to the counties of ten cents for each farm reported on the farm census, provided that over 90% of the tracts in each township were reported (Chapter 1273). Many of the counties have found it difficult to secure accurate surveys for ten cents per farm, and a county has asked the Attorney-General if it has the right to pay the census taker 80.50 per farm, and if so, if the expenditure is a necessary county expense.

To: C. F. Shuford

(A.G.) I do not think there can be any doubt but that an expenditure made for the purpose of compiling farm census reports is for a public purpose. Therefore the county may certainly appropriate any surplus funds for the purpose, and the amount of the appropriation, in my opinion, would be within the sound discretion of the board of county commissioners. I am unable to give you a definite answer as to whether the expense of taking and reporting the farm census is a necessary expense of the county. I do not find that the Supreme Court of N. C. has passed upon the exact question presented. The nearest case in point appears to be *Nantahala Power Company v. Clay County*, 213 N.C. 698, 707, where it was decided that the county farm agent's salary is a necessary expense. Because of the general nature of some the language in the case, it may be regarded as some authority for the proposition that the taking of a farm census is a necessary expense.

Law Enforcement

Authority to Detain Women Suspected of Venereal Disease. Does a police department have the authority to hold a woman prisoner reasonably suspected of having venereal disease overnight in jail? Such a situation arises where a woman held on a charge of drunkenness may be able to make bond and secure her release before the health department is open for business and can make the requisite examination.

To: Ray Rankin

(A.G.) You do not state whether these women are actually confined in jail for any period of time. If they are actually confined in jail for any period of time, then I think G.S. 130-207 would apply, and there would not be any question but what you could detain them for such an examination. On the other hand, if a bondsman is actually present and ready to make bond when they appear at the police station, and before the prisoner is actually placed in any cell in the jail, then it seems to me that perhaps another situation arises. You then then have to inform the health officer and state the reasons for your suspicions, and it would then be up to the health officer to order that such person he detained or held for examination, under G.S. 130-206. Of course, if the women are held on the charge of being drunk, under the law of this state, an officer is allowed to hold an intoxicated person for a reasonable length of time before such person can avail themselves of the privilege of bond.

Register of Deeds

A register of deeds has raised the question of the extent to which he may go in making corrections on recorded instruments.

To: W. G. Massey

(A.G.) G.S. 47-46 provides that the registers of deeds shall, after each instrument has been transcribed on the record, verify the record with the original and enter on the record "Recorded and Verified." Therefore, if the instrument as recorded contained errors in the description or the names of the parties which did not appear in the original instrument offered for recording, it would be the duty of the register of deeds to so correct the recorded instrument as to make the record conform with the original. He should initial the book opposite to the place where the correction is made in order to indicate that the change was the official action of the register.

If the discrepancies or errors appeared in the original instrument and the recorded copy conforms to the original instrument, I am of the opinion that the register of deeds has no right to make corrections upon the face of the instrument as recorded which would correct errors appearing in the original instrument. To do so would be changing the meaning and effect of the original instrument. Where such corrections become necessary, they should be made by a separate instrument setting forth the proper description or making such corrections as may be necessary, and then by having the new instrument recorded.

City Powers and Duties

Regulation of Grave Stones. Does a town have the authority to pass ordinances regulating the placing of grave stones and curbs on cemetery lots, and specifically to prohibit any such stones which extend above the ground level?

To: L. L. Davenport

(A.G.) The general rule seems to be that the right to bury includes the right of erecting stones and monuments at the grave but the right to erect such monuments is subject to uniform and reasonable regulations on the part of cemetery proprietors. 10 *American Jurisprudence* 508, 509. A municipality may adopt reasonable regulations with respect to burial places under express legislation or under its general power to safeguard public health, welfare and safety so long as these rules are not arbitrary. 14 *Corpus Juris Secundum* 65. This question seems never to have arisen in North Carolina and it is impossible to predict the action that the N. C. Supreme Court might take. However, several cities throughout the state have adopted regulations containing such prohibitions.

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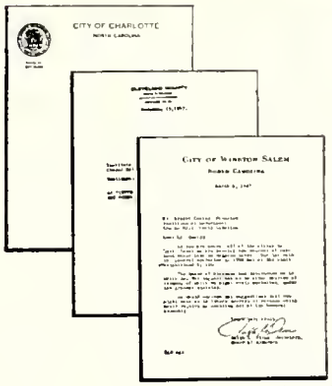

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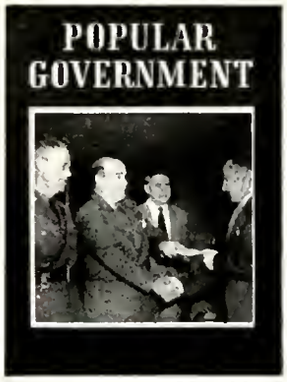

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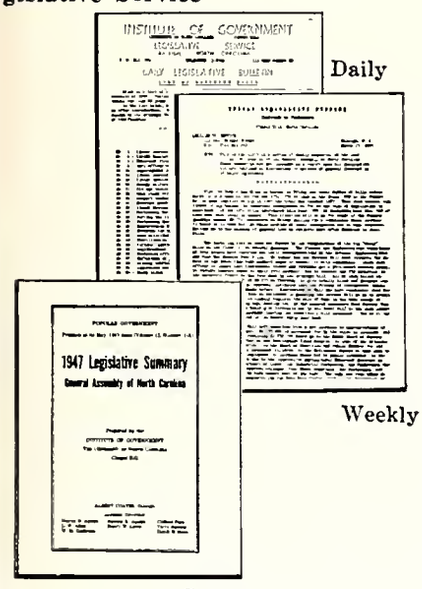

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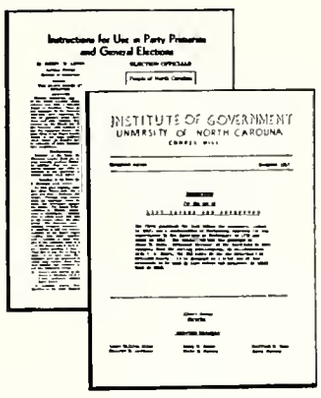
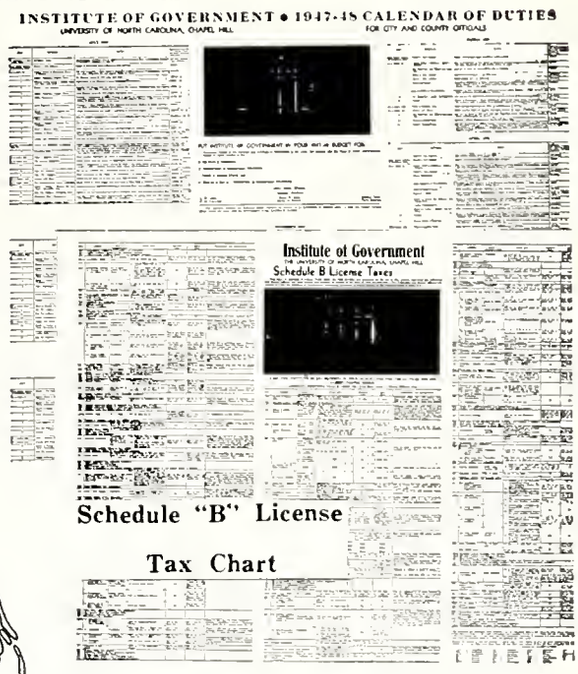
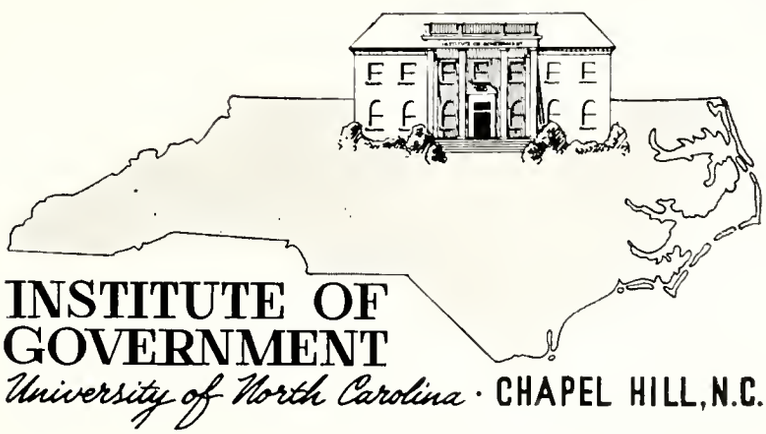


Calendar of Duties



Schedule "B" License Tax Chart



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