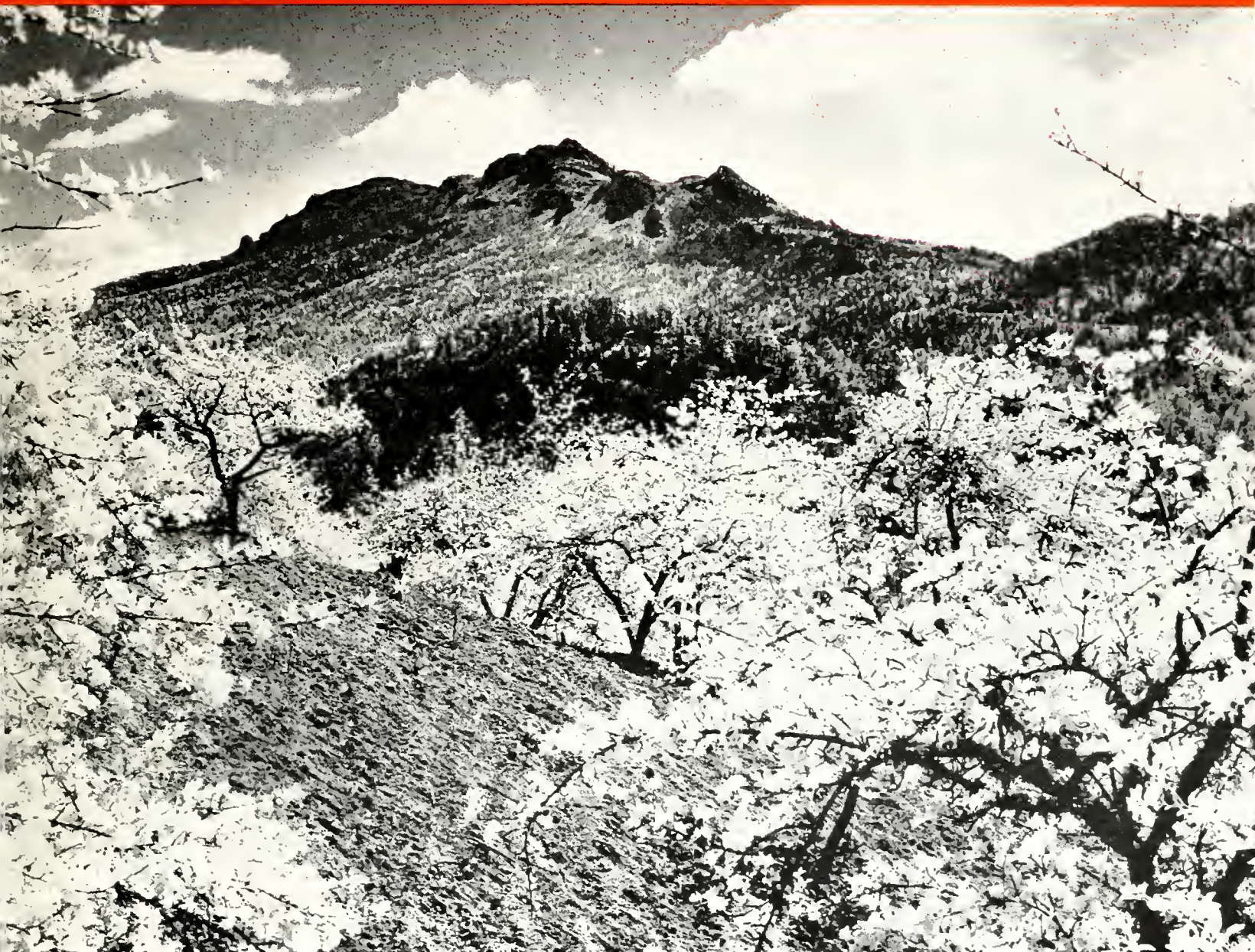


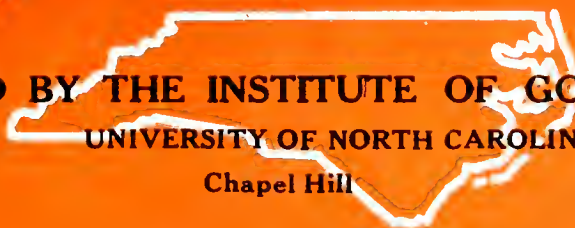
Popular Government

May 1952



It's Spring in Carolina

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





CONTENTS

THE CLEARINGHOUSE	1
Notes from North Carolina Cities	4
Notes from North Carolina Counties	4
Tax Listing Program Surveyed	5
Supreme Court Rules on Issues Affecting Local Government	6
Tax Revenues Top \$100,000,000	9
THE ATTORNEY GENERAL RULES	11

The Cover: Mountain Springtime—Rugged Grandfather Mountain towers nearly 6,000 feet to form a backdrop for spring flowers along the Blue Ridge Parkway near Blowing Rock, North Carolina. Courtesy of the North Carolina News Bureau.

POPULAR GOVERNMENT is published monthly except July and August by the Institute of Government, The University of North Carolina, Chapel Hill. Editor: Albert Coates. Assistant Editors: Vernon Lee Bounds, J. Shepard Bryan, Jr., Willis C. Bumgarner, William M. Cochrane, Max O. Cogburn, William Thomas Devine, Jr., George H. Esser, Jr., Philip P. Green, Jr., Donald B. Hayman, Henry W. Lewis, Roddey M. Ligon, Jr., John Alexander McMahon, Ernest W. Machen, Jr., John Donald Scarlett, Basil L. Sherrill, Clifford Bruce Thomas. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscription: Per Year \$2.00; single copy, 25 cents. Advertising rates furnished on request. Entered as second class matter at the Post Office in Chapel Hill, N. C. Copyright 1952 by the Institute of Government. All rights reserved.

THE CLEARINGHOUSE

A summary of events of particular interest
to city, county and state officials

Trustee-Librarian Institute

Almost 100 city and county librarians and members of library boards of trustees met in Chapel Hill on March 22 at the first Trustee-Librarian Institute sponsored by the Institute of Government at the request of the North Carolina Library Association and the North Carolina Library Commission.

Morning and afternoon sessions were held in the ballroom of the Carolina Inn following registration at the Inn. W. Clary Holt, Chairman of the Trustee Section, North Carolina Library Association, presided over both sessions after the meeting was begun with a short address of welcome by Albert Coates, Director of the Institute of Government.

The program started with an address on "North Carolina Public Libraries Today and Tomorrow," by Elaine von Oesen, Assistant Professor, School of Library Science, University of North Carolina. Because of Miss von Oessen's illness, her speech was read by Miss Jane King, president of the North Carolina Library Association.

The remainder of the morning session was devoted to a discussion of "The Legal Status of North Carolina Public Libraries," under the direction of three speakers. George Esser, Jr., Assistant Director of the Institute of Government, spoke on "Local Government and the Public Library;" Alex McMahon, Assistant Director of the Institute of Government, spoke on "Public Library Finance;" and W. Clary Holt, who is a member of the Board of Trustees of the May Memorial Library in Burlington, spoke on "Trustee Appointments and Responsibilities."

The afternoon session was built around the problem of "Putting the Library before the Public." Don L. Pierce, Program Director of Station WRRF in Washington, N. C., spoke on "The Radio and the Library;" Howard White, City Editor of the Burlington Daily Times-News, spoke on "The Newspaper and the Library;" and Evelyn Day Mullen, Field Li-

brarian for the N. C. Library Commission, spoke on "Community Groups and the Library."

A record of the proceedings of both sessions is being published by the Institute of Government and will be distributed to all librarians and members of boards of library trustees in the state.

State Senatorial Rotation

North Carolina's fifty state senators are chosen from thirty-three districts. Sixteen districts elect one senator each; each of the remaining seventeen elects two senators. Seven of the districts which elect a single senator apiece are made up of one county each. Mutual agreements entered into by the political party executive committees of the counties within the other twenty-six districts govern the method of nomination of party candidates for this office. Generally the various county executive committees have adopted rotation schemes designed to allot the right of nomination on the basis of voting strength. Almost every election year these rotation agreements come up for debate. For example, the Fourteenth State Senatorial District is composed of Durham, Granville, and Person counties. The district has been allotted two senators. By agreement, the Democrats of Durham County are entitled to nominate one senator in every election year. Also by agreement, Democrats in Granville and Person counties alternate in nominating the other senatorial candidate from that district. 1952 is the year for Person County Democrats to nominate the second senatorial candidate from the Fourteenth District. A recent editorial from that county, assuming that the Person nominee will be elected in November, injects some practical politics into a discussion of the rotation system: "As soon as the Person County man gets established and learns who's who in Raleigh—as soon as he makes 'contacts' with the new administration and as soon as he begins to receive some seniority rights in the Senate—he will have to come home and a Granville County man will take the Person County man's place. This Granville County man will be 'in the dark' with the administration in Raleigh which has already been in office for two years. The Granville County Senator will have no rights of seniority, and about the time he begins to learn who's who in the government it will be time for

EMPLOYMENT SECURITY EMPLOYEES INSTITUTE

An Institute for employees of the North Carolina State Employment Security Commission will be conducted in Chapel Hill from 1:00 p.m., Thursday, June 26, through 1:00 p.m., Saturday, June 28. The Institute is sponsored by the North Carolina Chapter of the International Association of Public Employment Services, the North Carolina State Employment Security Commission, and the Institute of Government.

The program which will consist of six panel discussions, two addresses, and several recreational projects has been planned around the theme: "The Employment Security Commission and the Public." Some of the topics to be discussed are as follows: Techniques used to acquaint the public with the Employment Security program; factors which determine attitudes toward the Employment Service and the Unemployment Compensation Divisions; field visits and the public; office operations and the public—applicant relations; office operations and the public—employer relations; our relations with other governmental agencies and institutions.

A copy of the final program with a list of participants will be printed in next month's issue. Persons desiring to attend may make their reservation by writing Mr. Ralph E. Miller, Chairman of the IAPES Professionalization Committee, P. O. Box 1446, High Point, N. C.

a Person County man to take his place. This is . . . a situation which should, and could be changed for the better. Person County should have a senator for every four years, and then Granville should have a senator every four years . . . This way a senator could get established, could be in office during one entire administration, could enjoy seniority rights, and could get something for his county . . ."

The editorial continues by pointing out the way these party rotation agreements can be changed. While the Republican Party Plan is silent on the point, the Democratic Plan treats the matter in some detail. It states that a rotation agreement may be entered into by the majority vote of each of the county Democratic executive committees in the district. "The agreement in any senatorial district composed of only two counties may be terminated by a majority vote of the county executive committee of any one of the counties, and in districts composed of more than two counties, by a majority vote of each of the executive committees of at least two counties, provided that notice of the termination of such agreement must be filed with the chairman of the State Executive Committee at least 120 days in advance of the date of the primary election at which the candidates for the General Assembly are to be nominated."

Regional Meetings for Municipal Officials

As this issue of *Popular Government* goes to press, the League of Municipalities is planning a series of regional meetings for municipal officials throughout the State. The purpose of the meetings is to bring municipal officials in various sections of the State together for a discussion of current problems, the discussion being led by staff members of the League and one of the members of the staff of the Institute of Government.

On the agenda is a discussion of the Powell Bill by Mr. George Franklin, General Counsel of the League, who will discuss the steps to be taken during the coming months to insure receipt of Powell Bill funds for street work during fiscal 1952-53. Mr. Leigh Wilson, Field Consultant of the League, will discuss the problems of a growing municipality, emphasizing the need for establishing policies in connection with certain activities such as the operation of water and sewer systems. And Mr. Alex McMa-

Fluoridation

The question whether or not to commence flouridation of city water continues to be a lively one in North Carolina municipalities. By the middle of March, according to the *Raleigh News and Observer*, the State Board of Health had received requests from 16 cities and towns for approval of their plans to build flouridation plants: Charlotte and Winston-Salem, where plants are already in operation; Concord, Dunn, Durham, Fayetteville, Greensboro, High Point, Lexington, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, Salisbury, Southern Pines, and Wilson.

Meanwhile, in Burlington, an expected authorization of flouridation was "pushed into an indefinite future by city council action," as reported by the Greensboro *Daily News*. Considerable opposition had developed subsequent to a hearing held in March, when a number of townspeople, including physicians and dentists, had appeared to urge the step. The council decided to table the proposal pending further study.

Flouridation of city water supplies was seven years old in January of this year—Grand Rapids, Michigan, having commenced the first such program in early 1945, in cooperation with federal and state health services. The United States Conference of Mayors, in a Research Report issued

in November of last year, noted that at that time 124 communities in 31 states were adding flouride to their public water supplies, adding that "The sharp increase in recent years is attributed largely to the growing weight of evidence that a flouride deficiency in the diet is closely related to the incidence rate of tooth decay."

Deeper Graves for Forsyth

The gruesome spectacle of grave-robbing hogs and dogs, found "scratching into graves" in Forsyth cemeteries by Winston-Salem newspapermen a month or so ago, caused the Forsyth County Board of Health to adopt in March a regulation governing the minimum depth for burial of human bodies.

According to the *Winston-Salem Journal*, Dr. D. C. Speas, chairman of the board of health, reported that in his investigation he had found a plot of some twenty-five graves of infants, "none of which had been buried more than three inches below the level of the earth." He added that "An animal had dug up one body and torn the remains."

The obvious dangers to the public, inherent in such conditions, are recognized in the preamble to the new regulation, which notes that "some human bodies have been disposed of in such a manner as to endanger the public health and general welfare of the people of Forsyth County."

The regulation provides that all human bodies must be placed in a container and buried at least two feet below the normal level of the earth. This provision applies to all human bodies buried within the county, but does not apply to those interred in air-tight vaults, or to those cremated. The regulation also applies to the burial of stillborn infants, "but the body of any child that is not advanced to the fifth month of uterogestation, if not buried in the earth, may be disposed of by cremation or by other approved methods."

Responsibility for complying with the regulation is placed upon the person "in charge of the actual burial of the body."

Penalty for violation of the regulation is provided by the state law, under G.S. 130-20, which makes it a misdemeanor to violate a regulation of a county board of health, punishable by fine not exceeding \$50 or by imprisonment for not more than 30 days.

hon, Assistant Director of the Institute of Government, will discuss budget preparation and the statutory provisions requiring a municipality to live within appropriations once they have been made.

Following the meeting there will be a supper at which those attending will be guests of the officials of the host town.

The tentative schedule of the meetings is as follows:

Chapel Hill: Tuesday, April 22
 Reidsville: Thursday, April 24
 Elizabeth City: Monday, April 28
 Whiteville: Wednesday, April 30
 Kinston: Thursday, May 1
 Laurinburg: Wednesday, May 7
 Rocky Mount: Wednesday, May 21
 Waynesville: Monday, May 26
 Black Mountain: Tuesday, May 27
 Lenior: Wednesday, May 28
 Shelby: Thursday, May 29
 Salisbury: Friday, May 30

The League of Municipalities is writing to all municipal officials, announcing the dates of the meetings.

Photographing Records Addendum

Information has been obtained on another type of equipment which can be used to photocopy records. This equipment, the Rectigraph Daylight Duplex Photorecording Equipment made by the Haloid Company of Rochester, New York, is being used by Beaufort, Craven, Edgecombe, Henderson, McDowell, Pasquotank, and Wayne Counties.

It will be recalled that an article appearing in the February issue of this magazine, entitled "Photographing and Disposing of County Records," discussed the use of photographic equipment to replace manual copying in the recording of county records.

Under the manual method, each document presented for recording in the register of deeds' or clerk of court's office must be copied on a typewriter and proofread before the copy can be filed. Under the photographic method, a picture is taken of the document presented and the picture is filed. The man hours required for the recording process is thus greatly reduced by the latter method.

The Rectigraph equipment is similar to the photocopying machines sold by Photostat Corporation and Remington-Rand, which were discussed on page 7 of the February issue. It reproduces directly on sensitized paper an image of the document being photocopied, and, as pointed out in the February article, the photographic reproduction is a quicker process than is obtainable on equipment using film or film plate in the exposure process. It can not be used, however, as microfilm equipment can be, to preserve photographic images of documents in a small space.

The Rectigraph equipment made by the Haloid Company will photocopy documents up to 28 by 36 inches, making photocopies of any size up to 14 by 18 inches. The cost of the equipment, including processing apparatus and accessories, ranges from \$3,000 to \$6,000, the latter figure including equipment which automatically washes and dries prints.

The cost of the sensitized paper is around 12c to 14c a sheet (6c to 7c a page) for the usual deed book size. Processing materials will not cost more than a dollar or so a week.

(Turn to page 16 for a section on
Public Personnel Administration)



Above are some of the County Officials who attended a district school held at the Cumberland County Courthouse. All the counties in the Third District were represented, and in addition some Robeson County officials attended from the Sixth District. Photograph through the courtesy of Rell Clements, Fayetteville.

District Schools Held for County Commissioners

During the second and third weeks in March, the Institute of Government, with the cooperation of the State Association of County Commissioners, conducted a series of ten one-day district schools for county commissioners, county accountants, and county attorneys throughout the State. The district director of the Association resident in each of the ten districts made arrangements for the meeting. The Association was represented at each meeting by Mr. J. Henry Vaughan, Executive Secretary of the Association, and the school was conducted by Alex McMahan, Assistant Director of the Institute of Government.

Over 275 county officials, representing 70 counties, attended the ten meetings. Around 175 county commissioners attended, almost half of those currently in office. In addition, over half of the 100 county accountants, more than 25 county attorneys, and a number of other county officials were present at the meetings.

A new guidebook published by the Institute, entitled *Sources of County Revenue*, formed the basis of the school. Among the topics discussed

were the limitations on the taxing power of counties under the Constitution; special purpose taxes and the types of expenditures they can finance; non-tax revenues and the purposes for which they can be spent; and State and Federal funds available to counties and the purposes for which they can be spent.

In addition, some attention was given to the problems found in budget administration. The procedure involved in adopting the budget, the statutory provisions requiring that expenditures be in accordance with appropriations made in the budget, and the various ways to amend the budget were discussed. These topics have been dealt with in a guidebook published last year by the Institute, entitled *County Commissioner Responsibility in Budget Making and Administration*.

The school was the first in a new series of district meetings for county officials. Schools will be conducted periodically in the future, to bring to county commissioners and other county officials who can not attend the State-wide schools in Chapel Hill, discussions of topics of current interest and questions of current concern.

Notes . . .

From North Carolina Cities

Local Improvements

Thomasville voters have approved a \$450,000 bond issue to finance improvements to the city water plant and the city sewerage system . . . **Kernersville** voters have approved a \$200,000 bond issue to finance the construction of a new raw water reservoir, the connection of the new supply to the present filtering system, and the extension of the distributing system in the town . . . An \$850,000 bond issue has been approved by voters in **Leaksville** for improving and enlarging the water system and for extending sewer lines.

Law Enforcement

The "whammy," the much-discussed radar device for detecting speeders on the highways, is getting results in North Carolina cities. What is important is not the number of speeding convictions piled up on "whammy" evidence in **Greensboro** and **Raleigh** courts as much as the drop in speeding violations noticed by law enforcement officers on city streets after the machine was put into use. In both cities the machine was used for warning purposes for several days before violators it detected were brought into court. **Durham** has now introduced the device and is presently using it on a warning basis.

Planning and Zoning

Governor Scott has appointed a three-man committee from the State Board of Public Buildings and Grounds to work with the **Raleigh** Planning Commission on details of a proposal for rezoning the area around the State Capitol. Under plans prepared by the city Planning Department, a number of blocks would be rezoned for office and institutional purposes, to be used either for new state office buildings or for private offices. No uses prohibited in neighborhood business districts, show rooms or display windows visible from the street, retail stores or shops for public customers, or gasoline filling stations would be permitted in the area. The department also recommended the appointment of a state

commission to plan for future sites of state buildings, which would provide space for off-street parking, landscaping, and a dignified setting.

The **Greenville** Planning Board has approved a comprehensive amendment of the city's zoning ordinance. The ordinance was last revised in 1946. This type of periodic revision is recommended by most planning and zoning authorities, who point out that a city's nature changes in unforeseen ways over a five or ten-year period.

Southport's Board of Aldermen has begun procedures for the enactment of a new zoning ordinance.

Parking

Parking

The **Charlotte** Parking Authority has received a report of a month-long parking survey conducted by the city traffic engineer. According to the survey, 45.4 per cent of the on-street parkers in the downtown area stayed

only 15 minutes, while an additional 21.7 per cent stayed less than 30 minutes. On the basis of this finding, the Authority decided to recommend that a greater number of spaces be added to the 36-minute zone. The Authority also recommended that additional spaces be provided for loading and unloading between 7 A.M. and 10 A.M.

Miscellany

Charlotte has been rushing plans for the extension of the main runway of its municipal airport, under a National Guard appropriation . . . With the help of an Insurance Advisory Commission appointed by the city council, **Kinston** has adopted a master fire insurance plan covering 24 city buildings. Thirteen local insurance agencies participated in writing the policy . . . **Winston-Salem** and **Forsyth County** have agreed to allocate \$25,000 from ABC profits for alcoholic rehabilitation program.

Notes . . .

From North Carolina Counties

County History

The Board of County Commissioners of **Warren County** is taking steps to obtain a history of the county. The Board has received frequent requests for a history of the county from persons residing in other counties and states, has been unable to comply with those requests, and hopes to obtain a history suitable for publication and dissemination to interested citizens and to persons requesting historical information.

At its March meeting, the Board decided to hold a contest among the students of the Warren County schools. Each student may submit a history of the county not to exceed 10,000 words in length, to be completed and presented to the county before September 1, 1952. Judges for the contest will be appointed by the Board. A first prize of a \$50.00 war bond and a second prize of a \$25.00 war bond will be awarded, the bonds being purchased from surplus money in the General Fund of the county.

Other interested organizations and persons in the county are being invited to contribute additional prizes, as a greater incentive to the students participating.

The Board has provided that all entries in the contest shall become the property of the county, and that the county shall retain the right to rewrite or combine any entries submitted. From the entries, the Board hopes to obtain a satisfactory history of the county, or to obtain information from which a satisfactory history could be compiled.

In the resolution creating the contest, the board noted that not only would the welfare of the county be promoted by having a satisfactory history, but also the interest of the county's school children in the historical development of their county would be stimulated.

Liquor Elections

Three eastern counties held liquor elections during the month of March.

Citizens of **Hyde County** voted against the establishment of ABC stores, and citizens of **Brunswick County** voted against the sale of beer and wine. Citizens of **Pamlico County**, on the other hand, approved the establishment of ABC stores.

Miscellaneous

Caswell County has taken steps to insure the listing for tax purposes of motor vehicles. The tax collector obtained a list of all motor vehicles registered in the county from the Department of Motor Vehicles in Raleigh and checked that list against the motor vehicles listed for taxes in the county. He found that approximately 400 cars, trucks, and trailers had not been listed, and he reported that fact to the Board of County Commissioners. The Board voted, at its March meeting, to submit the names of owners of non-listed vehicles to the grand jury at the March term of superior court. The tax collector estimated that the property value of the non-listed vehicles might run as high as \$40,000, which would mean that taxes amounting to about \$700 would be due on the vehicles. The reason for the low valuation stems from the fact that most of the cars are old models and a number of trailers are represented which would go on the books at low values.

The **Cleveland County** Board of Commissioners is considering the employment of a landscape engineer to prepare plans for the development of the courthouse grounds. A bid of \$380 has been received from one landscape engineer. The bid would cover services in connection with consultation on courthouse grounds development with the Board or a committee appointed by it, preparation of preliminary plans for grading, altering sidewalks, and planting trees and shrubs, preparation of estimates of the cost of the work entailed, drafting of final plans, and supervising the carrying out of the plans.

Yadkin County citizens will vote May 31 on the question of the issuance of \$80,000 in bonds to finance the construction of a new county home for the aged and infirmed. If erected, the home will be of brick and fire-proof construction and will house up to 25 inmates. A home for the keeper of the institution will also be built nearby.

The **Wake County** commissioners have adopted a resolution regulating electrical installation and have appointed an electrical inspector.

Tax Program Surveyed

Sixty-five Supervisors Comment on the 1952 Tax Listing Program

It is too early to talk in dollars and cents, but if reports reaching the Institute of Government are correct property tax valuations should show marked improvement in equalization this year, and both county and municipal governments can anticipate a substantially increased tax base.

Tax supervisors will recall a recent Institute request for their opinions about the effect of the listing program urged last fall by the State Association of Tax Supervisors and the Institute of Government. Under that program each list taker was to be provided with a concise guidebook telling him how to go about his important work, each county tax supervisor was asked to hold a full day of instruction for his list takers, and, in addition, each county tax office was furnished copies of an article explaining the property tax to the citizen that might be used in local newspapers if desired.

With replies from some sixty-five tax supervisors on hand, the Institute believes that officials in general as well as tax officials will be interested in what the supervisors think about this program. Here are the questions and summaries of the answers.

1. If you held instruction for your list takers as suggested this year, do you think the results have been profitable?

Sixty-two counties answered this question. Sixty-one answered it "Yes" and one answered it "No."

We then asked this question: **In what ways can you see the effects, if any?**

Seven counties failed to answer this question. Five felt that it was too early to answer definitely. All the rest answered in detail. We can summarize those answers in this way:

(a) "Unity and general agreement as to policy and methods. Discussion

has brought out answers to fit local situations."

"I notice the list takers ask the property owners more questions. Our records were much better in regard to name and address."

"Ours are old list takers, and I think it renewed their interest."

"The very fact that most of the other counties of the state were having their meetings on the same day seemed to add new life to our meeting."

"We have stressed these meetings; we could not get along without them."

(b) About thirty counties stated that they had observed marked improvement both in the size of personal property listings and in the equalization and uniformity of values placed on personal property.

(c) Ten counties saw a general improvement in the whole listing process. Several stated that this was the result of better understanding by list takers.

(d) At least two supervisors saw an increased uniformity in values among the various townships of their counties.

2. Do your list takers like the guidebook for list takers?

To this question sixty counties replied, and all sixty answered "Yes."

We then asked a more practical question: **Do they actually use it?**

Forty-nine supervisors answered this question "Yes," eleven said "some of them do" or "partly" or some such expression; five answered "No." Of the five who answered in the negative, however, three had developed their own guidebooks and naturally used them.

3. If you used the newspaper release about taxes we sent you, do

Henry W. Lewis, Assistant Director of the Institute of Government, has organized the comments made by various tax supervisors and in this article he presents their views on the problem of tax listing.

you think it helped educate the public about tax matters?

Much to our surprise, thirty-four counties answered this question "Yes." This indicates a much wider use of this article than we had anticipated. A few counties condensed the article; one reported that it was helpful in preparing advertisements for the newspapers. Of those who reported using the article, all felt it had some value, although three thought it was only "probable" that it helped educate the public. One county omitted the part on real estate as being too technical for general use. Several tried to have the material published but were unable to get their paper to use it.

We then asked the supervisors who used the article to state why they thought it was helpful in educating the public on tax matters. The following answers are typical:

(a) "95% of the taxpayers are in doubt as to their tax liabilities and many of them commented on the story."

(b) "We had a considerable number of visits from taxpayers to discuss matter in newspapers, especially about exemptions."

(c) "It gave the taxpayer information that he knew nothing about before."

(d) "It taught the public something about the proper method of listing."

(e) "Doubtless this article had much to do with the fact that the taxpayers commenced to crowd us on January 2, and in the case of the township in which more than half our taxpayers reside, there was never an idle moment throughout the month—and at times, a line several people deep stood waiting to take their turn."

(f) "I have heard folks discussing it."

(g) "Several citizens complimented us on running it."

(h) "Fewer people failed to list."

(i) "Your newspaper release was a life-saver. Our newspaper reporter each year wants a 'story' on tax listing. This year I was ready for him."

To these comments we should add the following that we believe significant:

"I do not believe the news article helped as much as the 'Spots' we had on the local radio station."

"I still think shorter sketches (similar to those running on the Federal Income Tax) would be more profitable."

"Our local radio news commenta-

Supreme Court Rules

An Assistant Director of the Institute of Government reports on three court decisions of general interest to city and county officials in North Carolina

by

GEORGE H. ESSER, JR.

I

Despite provisions of the town charter permitting nonresident landowners in the town to participate in municipal elections, the Supreme Court has upheld an issuance of bonds by the town of Kure Beach because only voters possessing the qualifications prescribed by the Constitution actually voted in the bond election. *Wrenn v. Kure Beach*, 235 N.C. 292.

The town charter (Chapter 906, Session Laws 1947 and Chapter 587, Session Laws 1949) gives the right to vote in any town election to bona fide residents of the town and to owners of lots within the town. The mayor and board of commissioners are appointed by the governor in accordance with the nominations of the voters of the town in an election.

tor used the article as a basis for some free advertising for us. Let's have another one for 1953."

4. Do you have any suggestions for improving listings next year? If so, what are they?

We did not receive a great many answers to this question, but the ones received are summarized here. Supervisors should be thinking them over between now and the annual meeting in the fall.

(a) Six suggestions dealt with list taking personnel.

"Give the tax supervisor a free hand in appointing the list takers."

"Get better list takers."

"The tax listers should not be changed every year . . . They should have at least two days instruction before the listing period and should be held strictly liable for errors in listing of property."

Two suggestions were exactly opposed to each other. One wrote as

(Continued on page 15)

In September 1951 the board of commissioners prepared for the issuance of water and sewer bonds in the amount of \$260,000 and ordered an election in October for approval of the bonds. At the election only those persons qualified to vote under Article VI of the N. C. Constitution were permitted to vote, and a majority of the voters approved the proposed bond issue.

Plaintiff, a resident and taxpayer of the town, brought this action to restrain the town from issuing the bonds on the grounds that the bonds would not be valid obligations of the town. He based his argument for invalidity on (1) the provision of the charter permitting non-residents to vote, and (2) the fact that the mayor and commissioners who adopted the bond resolution and ordered the election were chosen with the participating votes of nonresident voters, even though only qualified voters participated in the bond election. Thus, he argued, the bond resolutions and election were not legally authorized. He appealed from judgment for the defendant town.

The Court held that while the provision of the charter permitting nonresident freeholders to vote was void because it conflicted with Article VI of the N. C. Constitution, nevertheless the bond election was valid because only qualified voters voted in the election and the illegal provision of the charter did not influence the election in any way. Furthermore, said the Court, even though the mayor and commissioners were recommended to the governor under the provisions of an illegal vote because of the participation of nonresident freeholders, the official acts of the mayor and commissioners acting under the appointment of the governor should be upheld on the ground that they were *de facto*, if not *de jure*, officers of the town. The offices of mayor and com-

Affecting Local Government

missioner were validly established; the incumbents of those offices were acting under the color of a valid appointment and were generally recognized as acting validly. Therefore their acts in approving the bond resolutions and ordering the bond election should be upheld.

II

The Burlington Chamber of Commerce has been ordered to return an appropriation of \$2,000 made to it by the Burlington City Council in the fiscal year 1947-48, as the result of a taxpayer's suit which challenged the legality of the appropriation. *Horner v. Chamber of Commerce*, 235 N. C. 77.

Chapter 158 of the General Statutes provides a procedure whereby a city, upon the approval of a majority of the qualified voters, may set aside and appropriate from its general tax funds an amount not less than one-fortieth of one per cent nor more than one-tenth of one percent of the assessed valuation of all real and personal property in the city for the purpose of "aiding and encouraging the location of manufacturing enterprises . . . and for such other purposes as will, in the discretion of the mayor and board of aldermen . . . increase the population, taxable property, agricultural industries and business prospects of any city . . ." It is specified that the funds must be used and expended "under the direction and control of the mayor and board of aldermen . . . under such rules and regulations or through such agencies as they shall prescribe."

The provisions of this chapter were approved by the voters of Burlington in an election in 1925. In 1947 the city council appropriated \$2,000 to the chamber of commerce for "publicity," and this amount was set apart from tax collections for the year for this purpose. The amount was paid over to the chamber of commerce in two installments and the evidence showed that this tax money was indistinguishably commingled with other revenues of the chamber and used in carrying out its normal corporate functions. The plaintiff then brought an action to compel restoration of these funds to the city, charging (1) that the city council laid no restrictions on and exercised

no control over the expenditure of the money by the chamber of commerce, (2) that the chamber of commerce spent the money for its ordinary expenses, (3) that this expenditure was not authorized under G.S. Ch. 158 or any other statute, (4) that this expenditure was not for a public purpose within the meaning of Article V, Section 3 of the Constitution.

When the case first came to trial, the defendant's demurrer to the complaint was sustained, but on appeal the Supreme Court reversed. *Horner v. Chamber of Commerce*, 231 N. C. 440, 57 S. E. 2d 789 (1950). After evidence was heard, the trial judge found that the money was not spent under the control of the city council for the purposes specified in G. S. 158-1 and ordered that the chamber of commerce restore the appropriations. On appeal the judgment was affirmed.

On appeal the chief question was whether the testimony supported the findings of fact of the trial judge, and the Court found that there was sufficient evidentiary support. In considering the evidence in a light favorable to the successful party and in considering all reasonable inferences which could be drawn from the facts in favor of such a party, the court found that the evidence indicated (1) an absolute gift of tax money to the chamber of commerce without specifying how the money was to be spent and without reserving the right to control the expenditure, (2) no effort on the part of the city council to control the expenditure, and (3) expenditure of the funds for the normal corporate purposes of the chamber of commerce. This was sufficient, in the opinion of the court, to support the findings of the trial judge that the money was not spent by the council through the agency of the chamber of commerce for the purposes set forth in G. S. 158-1. There was therefore no occasion to determine whether the objects enumerated in G. S. 158-1 constitute public purposes within the meaning of Article V, Section 3 of the N. C. Constitution.

III

The power of eminent domain given municipalities for street purposes under the provisions of G. S. 160-205 is not limited by the provision of G. S.

40-10 which forbids the condemnation, without the consent of the owner, of a dwelling house, yard, kitchen, garden or burial ground, the Supreme Court of North Carolina has held in the case of *Mount Olive v. Cowan*, 235 N. C. 259.

Mount Olive wished to condemn land for street purposes and brought a proceeding under the provisions of G. S. 160-204 and 205 to condemn part of a yard and garden of the respondents Cowan. In answer the provision of G. S. 40-10 was pleaded in bar of the town's right. The clerk of superior court appointed commissioners to appraise the property and confirmed the report over exceptions filed by the respondents. On appeal to the superior court, the trial judge held that the limitation in G. S. 40-10 did not affect the town's right and directed that trial proceed on the issue of damages. On appeal from the judge's order, the Supreme Court affirmed the order.

The Court pointed out that while the power of eminent domain is a necessary incident to the sovereign power of the state, it can be exercised by municipal corporations, as creatures of the Legislature, only when they are specifically authorized to do so by a charter or by the general law. Cities and towns are permitted to exercise this power for street purposes and other purposes under G. S. 160-204 and 205 with condemnation to be made under the same procedure as followed in Article 2 of Chapter 40. G. S. 40-10 is part of Article 1 of Chapter 40 which grants the power of eminent domain to certain private corporations for specific purposes and to municipalities for the acquisition of land necessary for water and sewer systems. Since this article does not give municipalities the right to condemn land for street purposes, and since G. S. 160-205, which does give that right, does not contain the limitation of G. S. 40-10, the Court concluded that "it would be illogical to assume that the General Assembly intended to place a limitation upon the power of a municipality to condemn land for street purposes when such municipality was not given the power to condemn land for such purposes in the original act of which the limitation was a part, or by any amendment thereto."

Table 1
Revenues of North Carolina Local Governments from Taxes and State Aid for Designated Fiscal Years
 (Prepared by the N. C. Department of Tax Research)

	1950-51	1949-50	1947-48	1945-46
TOTAL LOCAL TAXES.....	\$ 85,379,033	\$ 81,537,615	\$ 63,940,838	\$ 48,949,622
Counties (100).....	27,012,429	25,674,264	21,698,214	19,086,335
Property Taxes ¹	24,949,851	23,524,440	19,788,663	17,664,461
Poll Taxes.....	1,222,620	1,180,717	1,111,798	847,416
License and Occupational.....	459,531	622,704	481,700	295,562
Dog Tax.....	380,627	346,403	316,053	278,896
Cities and Towns (382).....	31,580,141	30,816,098	23,738,143	17,509,673
Property Taxes ¹	29,432,793	28,793,147	22,146,700	16,341,358
License and Occupational.....	1,921,229	1,804,720	1,387,673	1,019,052
Poll Tax.....	226,119	218,231	203,770	149,263
School Units (Property Taxes)².....	26,379,205	24,623,114	18,091,556	11,972,039
County Administrative Units (100).....	19,270,644	17,639,769	13,129,097	8,794,852
City and Special Charter Units (72).....	5,918,613	4,851,360	3,832,716	2,576,677
Special Tax Districts (Within County Units) (76).....	1,189,948	2,131,985	1,129,743	600,510
Township and Special Districts (71) (Property Taxes).....	407,258	424,139	412,925	381,575
LOCAL SHARES OF STATE TAXES.....	8,391,331	7,892,663	5,139,850	3,080,856
County Shares.....	3,033,575	2,904,580	2,525,855	1,206,592
Intangibles Tax ³	1,818,814	1,578,981	1,359,691	1,206,592
Beverage Tax (Beer and Light Wines) ⁴	1,214,761	1,325,599	1,166,164
City and Town Shares.....	5,357,756	4,988,083	2,613,995	1,874,264
Intangibles Tax ³	1,377,583	1,154,780	1,005,375	874,264
Beverage Tax (Beer and Light Wines) ⁴	859,401	797,698	608,620
Gross Receipts Tax on Utilities.....	620,772	535,605
Gasoline Tax ⁵	2,500,000	2,500,000	1,000,000	1,000,000
STATE GRANTS-IN-AID.....	9,048,353	8,115,385	5,207,697	3,658,483
Vocational Education (School Units) ⁶	2,522,584	2,147,813	1,415,711	986,730
Health (Counties) ⁷	1,129,593	1,129,300	350,000	175,000
Public Welfare (Counties) ⁷	4,470,952	3,978,241	2,787,508	2,163,807
Indigent Medical Care (Cities and Counties).....	226,172	239,989	163,533
Blind Aid (Counties).....	349,000	270,624	216,536	157,849
Public Libraries (County-Wide Services).....	350,052	349,418	274,409	175,097
GRAND TOTAL.....	\$ 102,818,717	\$ 97,545,663	\$ 74,288,385	\$ 55,688,961

Tax Revenues Top \$100,000,000

Local governmental revenues increased over previous year. Contributions from state increased over 4%, while property tax as a source of revenue has decreased in importance. George H. Esser, Jr., Assistant Director of the Institute of Government, analyzes local tax revenue figures.

¹ The amounts given are the levies apart from the property taxes levied for school purposes.

² The local school units only levy taxes for the following purposes: capital outlay, bonded indebtedness, and a part of expenses for vocational education. Some of the units or districts also make small levies to supplement the current operating funds for additional teachers, additional courses, and/or to pay higher salaries. For the standard curriculum and the standard salary schedule the operating funds are provided direct from the State. All salaries (administrative, instructional, and operational), books (both text and library), supplies (both instructional and operational), fuel, lights, water, telephone, and bus transportation (including gas, oil, maintenance and replacement) are paid by the State, from the state general fund.

³ Eighty per cent of the net collections from the tax on intangibles is now distributed to the counties and municipalities.

⁴ Approximately fifty per cent of the excise tax on beer and light wines is now distributed to the counties and municipalities.

⁵ Prior to June 30, 1951 the State appropriated annual sums from the gasoline tax collections for the maintenance of the highway streets through cities and towns. Beginning July 1, 1951, the State Highway Department assumed full responsibility for the construction and maintenance of all streets which form links in the highway system. In addition beginning with the same date, a sum is annually appropriated to the municipalities, amounting to a half-cent per gallon of the gasoline tax collected in preceding fiscal year, for the construction and maintenance of non-highway streets. The cities and towns will receive \$4,543,096 as street aid in the current fiscal year.

⁶ As noted in footnote 2 the State has assumed the operating expenses of the public schools for the standard curriculum, and the State Board of Education has administrative supervision over all public schools. But the funds for vocational education are still handled like a state aid since the funds are provided jointly by the localities, the State and the Federal Government.

⁷ The health and welfare administration, including the pensions for the aged, is a county function, with State and Federal supervision.

Local governmental revenues from taxation sources passed the \$100,000,000 mark in the fiscal year 1950-51 and almost 20% of that total came from the state in the form of shared taxes and grants-in-aid, a study made available to the Institute of Government by the State Department of Tax Research discloses.

Despite an increase in the yield from property taxes from over \$45 million in 1945-46 to over \$80 million in 1950-51, the relative importance of the property tax as a source of local tax revenues declined by 4% in the five-year period while the contribution of the state increased by more than 4%. There was a slight decrease in the proportionate yield of poll and license taxes during the same period.

The total annual revenues of local governments in the fiscal year 1950-51 considerably exceeded \$100,000,000 of course, but revenues received from such nontax sources as profits of municipal utility systems, profits of ABC stores, and special assessments were not included in the state agency's study.

The state-wide totals for taxes collected within cities and counties, for taxes collected by the state and shared with cities and counties, and for grants-in-aid made by the state to cities and counties for the support of particular functions during each of four fiscal years between 1945 and 1951 are shown in Table 1 which was prepared by the Department of Tax Research.

State-Wide Trends

The property tax is still far and away the principal source of revenue for North Carolina local governmental units. In a five-year period when total tax revenues for local sources increased from \$55,688,961 to \$102,818,717, an increase made necessary by inflation and by additional demands for governmental services in the post-war period, prop-

erty tax collections increased from \$45,977,858 a year to \$80,761,849 a year. Even so the demand for revenues was greater than the property tax could produce, and in 1950-51 property tax revenues provided only 78.95% of all local tax revenues in contrast with 82.56% in 1945-46.

About 17% of total tax revenues in 1950-51 came from the state in the form of shared taxes (8.16%) and state grants-in-aid (8.8%). By contrast the state contributed only 12.3% in 1945-46. These figures can be misleading, however. They do not take into account primary state responsibility for operation of the public school system. They do not take into account state responsibility for the construction and maintenance of secondary highways in the counties. Both of these functions are supported by city and county governments in most of the 48 states. If these functions were included for comparative purposes, the state would contribute well over 60% of all revenues used for local governmental functions.

The increase in state contributions for local governmental purposes is important not only in terms of increased appropriations for specific functions such as health, welfare and libraries. It is also important because of the additional sources of revenue made available to local units of government since 1945, such as shares in the excise tax on beer and light wines, the gross receipts tax on utilities, and the definite allocation of gasoline tax revenues to cities and towns for street purposes.

But it is also interesting to note that in the five-year period no new sources of taxation were made available to cities and counties generally. Based on the experience of local governments in other states, it is remarkable that North Carolina cities and towns met so much of the demand of higher costs and more serv-

ices through the traditional sources of the property and license taxes. Locally-levied and collected taxes in 1950-51 amounted to 83.04% of all tax revenues, and poll, license, and dog taxes represented but 4.09% of this total. There is, of course, a grave question as to whether the property tax, by itself, can continue to finance an adequate level of governmental services. Municipalities with profitable utility enterprises have a cushion, but county governments which depend almost wholly on the property tax are already in trouble in some parts of the state.

County Revenues

County tax revenues for the fiscal years 1945-46 and 1950-51 are compared in Table 2.

Property tax revenues collected for county school purposes (county administrative units and special tax districts within county units) and for township and special district purposes have been included in this table.

This table demonstrates the effect of the grants-in-aid programs on county finances. With one minor exception (indigent medical care aid to cities), the grants-in-aid program helps support county functions. Thus, in addition to its responsibility for public schools in the counties, the state is now providing over 20% of county tax revenues.

City Revenues

Since cities have productive non-tax revenues not available to counties, city tax revenues do not reveal as much about the total city financial picture. Nevertheless a comparison of tax revenues for the fiscal years 1945-46 and 1950-51, shown in Table 3, is of interest.

Property tax revenues collected for the use of city school administrative units have been included in this table.

This table demonstrates the continuing importance of the property tax as the principal tax source of revenue for the cities. It shows perhaps a smaller relative yield from

Table 2
County Tax Revenues in North Carolina

Source	1945-46		1950-51	
	Amount	Percentage	Amount	Percentage
Property	\$27,441,398	81.36	\$45,817,701	76.41
Poll, License and Dog	1,421,874	4.22	2,062,578	3.43
Local Shares of State				
Taxes	1,206,592	3.58	3,033,575	5.07
State Grants-in-Aid	3,658,483	10.84	9,048,353	15.09
Totals	\$33,728,347	100.00	\$59,962,207	100.00

privilege license taxes than many city officials would imagine. And it shows an increasing dependence upon state assistance. With the additional revenues coming to cities from increased allocations from the Highway Fund for city street purposes, city revenues from state sources will jump to over \$7.5 million less the incalculable cost of State construction and maintenance on the State road systems.

It is also interesting to compare total property tax revenues for cities and counties generally as shown in Table 4.

Table 4
Property Tax Yields in North Carolina Cities and Counties

Unit	1945-46	1950-51	Percent Increase
County	\$27,441,398	\$45,817,701	167%
City ...	18,918,035	35,351,406	187%

School Revenues

It is obvious from an examination of Table 1 that the greater proportion of increased property tax revenues in the counties has been devoted to school purposes, principally for capital expenditures for new school facilities. Almost \$11 million of the \$18 million additional revenues collected in 1950-51 has been devoted to school purposes. On the other hand, while cities have more than doubled their contributions to city administrative units, the greater proportion of their property tax increases, \$13 million out of almost \$17 million, has been used for normal municipal expenditures.

only then can comparisons be drawn between counties. The city problem is further complicated by the dependence of many cities upon nontax revenues for a considerable part of their income. By working from the state-wide picture to a comparative examination of the financial structure of individual units of government, sounder conclusions on the financial structure of local government in North Carolina may be drawn.

There were 499 school buses involved in accidents in North Carolina last year.

* *

Defective brakes were the cause of 1,560 traffic accidents in North Carolina last year.

Table 3
City Tax Revenues in North Carolina

Source	1945-46		1950-51	
	Amount	Percentage	Amount	Percentage
Property	\$18,918,035	86.15	\$35,351,406	82.49
Poll and License	1,168,315	5.32	2,147,348	5.01
Local Shares of State				
Taxes	1,874,264	8.53	5,357,756	12.50
Totals	\$21,960,614	100.00	\$42,856,510	100.00

FOR SALE
One Simplex C810 Traffic
Signal in perfect condition,
\$60.00.
Town of Stovall

The Attorney General Rules . . .

LIQUOR LAW

Seizure of Auto for Past Transportation of Whiskey. A. B. C. agents ordered whiskey from bootleggers and watched it delivered. They did not seize the automobiles at that time but thereafter made one clean-up drive and seized all the cars and the owners. May officers seize an automobile for past transportation of whiskey?

To: J. V. Morgan

(A.G.) The Supreme Court of North Carolina has not ruled on this situation. However, the State of Virginia and the State of Maine have seizure statutes which are substantially similar to ours, and they have passed on this question. It is the holding of these courts that before the authority or power of seizure can be used, it must be exercised in the present transportation of illegal liquor and that an automobile cannot be seized and sold for past transactions when, at the time of its seizure, there is no liquor in the process of being transported illegally. *Commercial Credit Co. v. Commonwealth of Virginia*, 155 S.E. 689; *State v. Chorosky*, 119 A. 662 (Maine).

JUSTICES OF THE PEACE

Collection Agents. Is it legal for a justice of the peace to operate a collection agency in connection with his official duties as justice of the peace?

To: J. B. Turner

(A.G.) It is a misdemeanor under G.S. 14-245 for a justice of the peace to solicit business for his office. It would be difficult for a justice of the peace to conduct a collection business without violating this statute. A judge who has an interest in a case is disqualified from hearing the case. If a justice of the peace did conduct a collection agency, he could not institute the collection cases before himself because he would have an interest in the outcome. He would have to prosecute these claims before some other magistrate. G.S. 84-2 specifically prohibits a justice of the peace from practicing law. It would be difficult for a justice of the peace to conduct collection operations without violating some of the statutes prohibiting the unauthorized practice of law.

Holding Court on Sunday. Does a justice of the peace have authority to hold court on Sunday?

To: J.J. Cole

(A.G.) There are no clear-cut decisions of the Supreme Court on this specific subject. In *State v. Howard*, 82 N.C. 623 the Court stated that it was a long settled practice of the courts of this state not to hold any sessions on Sunday and that this practice had become the law of the Court. I doubt, therefore, the

legality of a trial on Sunday unless the justice of the peace can show some great and compelling necessity.

SHERIFFS

Collection of Bad Checks. Does a sheriff or bonded deputy have the legal right to collect a bad check plus the cost of the warrant when authorized to do so by a justice of the peace or a county court?

To: E. M. Logan

(A.G.) There is no statute or decision in North Carolina requiring the sheriff to collect the amounts due plus court costs in cases in which the defendant is charged with issuing worthless checks. Such practice has been followed in some North Carolina counties, but it seems to me that the justice of the peace is placed in an embarrassing situation as to the judgment he renders following a final disposition of the case. Whether such procedure is lawful or not, it is bad practice both from the standpoint of the sheriff and the justice of the peace.

PRISONS AND JAILS

Examination of Prisoners. G.S. 130-234 provides for a thorough physical examination within 48 hours after admission of every prisoner committed to the county or city jail or to the county or city chain gang or road force or any public or private works. Does this require the examination of all prisoners placed in the jail or only of those who were committed to the jail to serve a sentence?

To: Ralph H. Ramsey, Jr.

(A.G.) It is the opinion of this office that the statute contemplates only the examination of those prisoners who have been committed to a county or city jail, county or city chain gang, or to work the highways of this state under the supervision of the State Highway and Public Works Commission.

Confinement of Delinquent Children in Jail. How old must a person be before he can be confined or imprisoned in the county jail?

To: Paul Roten

(A.G.) I think we can say that no child under sixteen years of age charged with any offense which would ordinarily be considered a misdemeanor can be confined in the county jail; children fourteen years of age or over if charged with a felony, the punishment of which is less than ten years, can be put in the county jail if the juvenile judge orders the child held in custody and bound over to the next term of the superior court; children fourteen years of age and older, if charged with a felony, the punish-

ment for which is more than ten years, can be put in the county jail and are to be tried and treated as adults.

CORONERS

What authority has a county treasurer or county accountant for approving and paying fees for the service of a coroner in signing death certificates for persons who died without presumption of foul play and without evidence that such person came to his death by unlawful or criminal means if the coroner was only summoned by anxious relatives?

To: J. F. Carpenter, Sr.

(A.G.) The duties of a coroner are set forth in G.S. 152-7. A coroner has no right to perform the functions of his office or even begin to perform his duties unless it appears "that the deceased probably came to his death by the criminal act or default of some person." G.S. 130-80 provides with reference to death certificates, that if the local registrar has reason to believe that the death has been due to an unlawful act or negligence, he shall refer the case to the coroner for investigation and certification of the certificate of death. However, it can only be done in this case when the local registrar refers the case to the coroner and only then when the local registrar has reason to believe that the death is due to an unlawful act or negligence. I advise, therefore, that neither the county treasurer nor county accountant has the authority to approve or pay a fee for services of a coroner as described in your letter.

COUNTY COMMISSIONERS

Double Office Holding. Is the office of a Drainage Commissioner under G.S. 156-79 and 156-81 such an office that the holding thereof by one who is a member of the County Board of Education is a violation of double office holding?

To: L. Bruce Wayne

(A.G.) Under the language of Chapter 156 of the General Statutes it is thought that membership on a drainage commission is a public office or place of trust or profit within the meaning of Article 14, Section 7, of the State Constitution. This office has ruled on numerous occasions that a member of a county board of education is a public officer. Therefore, you are advised that it is the opinion of this office that one person may not serve at the same time as a drainage commissioner and as member of the county board of education.

Authority to Audit Books of All Magistrates. May the County Com-

A digest of recent opinions by the Attorney General which are of particular interest to city and county officials.

missioners authorize an audit of the books of all magistrates in the county?

To: Fred P. Parker, Jr.

(A.G.) G.S. 115-382 makes it the duty of the county superintendent of public instruction to examine the records of the several courts of the county, including courts of justices of the peace. Aside from this statutory requirement, the board of county commissioners has general supervision over the preservation of sources of revenue "for safeguarding the collection of all revenues, for guarding adequately all expenditures, for securing proper accounting for all funds and for preserving the physical properties of the county." I think an audit by the county auditor or a special auditor is within the authority of the Board.

Appropriation to Pay Salary of an Official Tourist Guide. May the board of county commissioners appropriate public funds to be used to pay the salary of an official tourist guide?

To: H. L. McKeever

(A.G.) In the absence of public-local legislation authorizing the same, a board of county commissioners has no authority to appropriate public funds for this purpose.

Rural Fire Departments. Chapter 820, Session Laws of 1951, provides that members of county, municipal, and special district fire departments are to be covered by workmen's compensation insurance when they are fighting fires in rural communities. Do these provisions apply to members of a non-profit corporation whose main function is to provide fire protection in rural areas?

To: Thomas C. Hoyle

(A.G.) Although the legislature may have intended that the immunities and privileges extended by Section 8 of the act should apply to non-profit incorporated volunteer departments, the language of the section does not include them. It is my further opinion that if such corporations employ five or more persons, they would be subject to the Workmen's Compensation Act.

PUBLIC SCHOOLS

Free Lunches in School Cafeterias.

A school board wishes to provide free lunches in school cafeterias for pupils in the public schools who are found by the board to be unable to pay for them from state funds, the proceeds of a local tax supplement, and from cafeteria receipts. May the board use revenues for this purpose?

To: Brock Barkley

(A.G.) G.S. 115-381 contains a specific proviso in the following language: "Provided that no part of the appropriation made by the state for the public schools shall be expended for the operation of said cafeterias or eating places." The same section contains the following provision: "All lunch rooms and cafeterias operated under the provision of this section shall be operated on a non-profit basis, and any earnings therefrom over and above the cost of the operation shall be used for the purpose of reducing the cost of meals, and for

no other purpose." My conclusion is that it would seem to be a rather dangerous procedure for your board to apply either state funds, the proceeds of your local supplement tax or cafeteria receipts for supplying a deficit in the school lunch program.

Power of County Board to Pay for Sewer Line. A county board of education desires to contribute to a town a sum of money to run a sewer line along the streets of the town in order for the colored high school to be able to connect with the sewer line at the high school property. Does G.S. 115-83, which provides that the county board of education and board of trustees of the city administrative unit shall not make any contract for the erection or repair of any school building unless the site on which it is located is owned by the board, prohibit the board from contributing to the cost of constructing the sewer line?

To: Junius K. Powell

(A.G.) I do not believe that this statute would prohibit the county board of education from participating in the cost of the construction of the sewer line on the streets of the town to the colored high school if it is found that this is the only way in which such a sewer could be built.

MUNICIPAL TAXATION

License Tax on Peddlers. A merchant has a fixed permanent location in a municipality in a county from which he makes at least 90% of his sales. May he legally sell goods and wares from a truck in an adjoining town in the same county without paying a peddler's license tax to the adjoining town under the 1951 amendment to G.S. 105-53 (Ch. 643, Session Laws 1951)?

To: R. H. Pack

(A.G.) It is my opinion that a person who has a fixed permanent location at which at least 90% of his total sales are made and who pays all applicable taxes for the fixed permanent location is not a peddler within the county where his permanent establishment is located, regardless of the fact that the remaining 10% of his business is conducted from a vehicle. Once the merchant does 90% of his business from a fixed permanent location in a county, he may do what would ordinarily be peddling from a vehicle in that county but would not be liable for any peddler's tax.

LOCAL FINANCE

Form of Question Presented to Voters. A county proposes to submit to the voters at an election the proposition of issuing bonds to finance the construction and cost of improvements for two hospitals. The bond proceeds are to be apportioned two-thirds to one hospital and one-third to the other. May the proposition for a maintenance tax be submitted so as to provide that the collections of any tax so levied shall be apportioned on the same basis as the bond proceeds would be apportioned? Also may two propositions for a maintenance tax be submitted at the same election, one providing for the tax for only two years and the other containing no limitation as to how long in the future the annual tax may be levied?

To: W. E. Easterling

(A.G.) G.S. 131-126.23(c) provides in part as follows: "The rate or amount of such taxes for which a levy may be made hereunder shall be determined by the governing body of the municipality . . ." and after setting out the form of the ballot to be submitted states further: ". . . but any other form of ballot containing adequate information and properly stating the question to be voted upon shall be construed as being in compliance with this subsection." I see no reason, therefore, why the governing body may not make an initial determination that a maintenance tax, when levied and collected shall be apportioned as between hospitals according to a formula, and this determination submitted to the voters. Also the law referred to would permit submitting the two tax propo-

sitions therein involved in the same election, with the limitation that if both propositions are approved, the first proposition would be ineffective.

Application of Proceeds of Bond Sale. A city sold bonds of the face value of \$825,000 for the purpose of extending the present water system and for the erection of a water tank. The city received from the sale in addition to the face value of the bonds, \$3,900 in accrued interest and \$600 premium. Could the premium and accrued interest be used for any purpose other than paying the interest upon the bonds?

To: John H. Zollicoffer

(A.G.) G.S. 160-395 provides that the proceeds of the sale of bonds shall be used only for the purposes specified in the ordinance authorizing the bonds and any part not so applied shall be applied to the payment or interest of said bonds. G.S. 159-36 makes it a misdemeanor for any person to knowingly vote for any appropriation "to any purpose other than the payment of the interest or principal or sinking fund of any bonds or notes of the unit any money raised by taxation or otherwise for such purpose, until all of such principal and interest shall have been paid, . . ." From the foregoing statutes it seems clear that the amount received in accrued interest can be used for no purpose other than interest payments. It may be that the \$600 premium need not be used for this purpose but in view of the comparatively small amount realized as premium it seems safer to use the entire amount for the payment of principal or interest on the bonds.

REGISTER OF DEEDS

Registration of Illegible Instruments. A contract is presented to the register of deeds. The instrument is illegible. Does the register of deeds have authority to refuse to register the instrument for this reason?

To: Camille Aldridge

(A.G.) I cannot find anywhere in the law a grant of authority to the register of deeds to pass upon the distinctness of clarity of the writing presented for registration. If an instrument comes from the office of the clerk of court, and it contains a fiat or order of probate, then I do not think that you have any other alternative than to follow the order of the clerk and register the instrument.

MUNICIPALITIES

Appropriation of Non-Tax Funds for Support of Non-Profit Hospital. A city wishes to make a donation to a hospital which is being erected within the city. Can the city legally appropriate money for this cause from sources other than ad valorem taxes?

To: A. B. Sansbury

(A.G.) It is my opinion that G.S. 131-126.41 and G.S. 131-114 authorize a city to appropriate funds not derived from ad valorem taxes or from other taxes to a non-profit hospital operated in the city. If the funds appropriated are tax funds it would require a vote of the people.

Contracts for the Purchase of Machinery and Equipment. A city desires to trade an old road building and maintenance machine in on the purchase price of another machine of the same manufacturer. The company handling the machines has offered to exchange at a satisfactory price. Must the city advertise for competitive bids to buy a machine under these conditions?

To: Julian Godwin

(A.G.) If the difference which you would have to pay between the old and the new machine would be equal to or more than \$1,000.00, it would be necessary for you to advertise for bids under the provisions of G.S. 143-129. In advertising for bids under this section, you could specify that the old machine would be traded in as a part of the purchase price of the new machine.

Purchase or Lease of Property Subject to a Mortgage. May a town purchase a piece of property for municipal purposes, on which property a mortgage is already in effect, having specific provision against pre-payment except over a period of years? Could the town enter into a contract for the rental of said property, with an option to purchase at any time during the rental period, with full credit of the rental on the purchase price?

To: W. J. Sherrod

(A.G.) A town may not assume the mortgage indebtedness on a piece of property and pay the same as a part of the purchase price. *Jefferson Standard Life Ins. Co. v. Guilford County*, 225 N.C. 293, 226 N.C. 441. It is thought that the town may purchase the property, subject to the outstanding mortgage, but that the

PUBLIC WELFARE

Lump Sum Payment in Bastardy Action. May the judge of a county court make a final judgment in a lump sum payment in a bastardy case, for nonsupport of an illegitimate child?

To: Hugh Q. Alexander

(A.G.) G.S. 49-7 reads in part as follows: "After this matter shall have been determined in the affirmative, the court shall fix by order, *subject to modification or increase from time to time*, a specific sum of money necessary for the support and maintenance of the particular child who is the object of the proceedings . . . The order fixing the sum shall require the defendant to pay it either as a lump sum or in periodic payments as the circumstances of the case may appear to the court to require . . ." G.S. 49-8 reads in part as follows: ". . . The order or orders made in this regard may include any or all of the following alternatives: ". . . (c) Release the defendant from custody on probation conditioned upon the defendant's compliance with the terms of the probation and the payment of the sum fixed for the support and maintenance of the child. . ." It would

seem that under G.S. 49-8(c) when the amount fixed for the support of the child has been paid in a lump sum, the terms of the probation will have been fully met, and the court will then be without authority to change or modify its judgment in the case.

Assistance Benefits Received under False Representations. A person received old age assistance and aid to dependent children by means of false and fraudulent representations. Is there any civil law under which this money can be recovered where the parties getting the money are insolvent? Under what criminal law may such parties be prosecuted?

To: Henry A. McKinnon

(A.G.) We are of the opinion that a civil action for fraud, for receiving property by fraudulent representations and withholding material information, could be instituted against such persons together with the remedy of arrest and bail as outlined in G.S. 1-410. Each of the assistance programs contain a section making it a criminal offense to obtain benefits by fraudulent acts. See G.S. 108-42 as to old age assistance and G.S. 108-71 as to aid to dependent children.

municipality may not assume the mortgage indebtedness and agree to pay it as a part of the purchase price.

Subject to the same restrictions the town can enter into the contract proposed in your second question.

Authority to Provide for Surface Drainage. Section 1 of Chapter 260 of the Sessions Laws of 1951 provides in part as follows: "From and after July 1, 1951, all streets within municipalities which now or hereafter may form a part of the State Highway System shall be maintained, repaired, improved, widened, constructed and reconstructed by the State Highway and Public Works Commission, to the same extent and in the same manner as is done on roads and highways of like nature outside the corporate limits and the costs of such activities shall be paid from the State Highway and Public Works Fund." Would a municipality be authorized to construct curb and gutter and the necessary surface drainage on these streets with municipal funds?

To: George C. Franklin

(A.G.) This limitation contained in the act as to the responsibility of the State Highway and Public Works Commission for streets within municipalities which are a part of the State Highway System would, it seems to me, still leave it within the discretion of the municipality to provide for the cost of curb and gutter and surface drainage which ordinarily is not provided by the State Highway and Public Works Commission on highways outside of municipalities. I think such cost could be paid for from funds received under the Powell Bill or from many other sources available to a municipality.

Use of Powell Bill Funds to Determine Eligibility. Section 3 of the

Powell Bill (Chapters 260 and 948, Session Laws, 1951) provides that funds allocated to a municipality under the Bill may be expended ". . . only for the purpose of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality . . ." Section 2 provides that each eligible municipality may be required by the State Highway and Public Works Commission to submit a statement certified by a registered engineer or surveyor of the total number of miles of streets within the municipality to be used in distributing funds allocated under the Bill. May a town pay the expenses incurred in surveying and measuring streets for eligibility under the Powell Bill from funds received under the Bill?

To: Taylor, Kitchen & Taylor

(A.G.) It is my opinion that the necessary engineering work which a municipality does in connection with the purposes for which it is authorized to use funds received under the Powell Bill by Section 3 of the Bill would be considered as part of the cost of this work and could be paid for by funds allocated under the Bill. If the survey of the streets is made only for the purpose of determining eligibility under the Bill, however, and does not serve the purposes mentioned in the statute, funds received under the Bill could not properly be used to pay the expenses.

Parking Ordinances. May a town provide free parking spaces for the use of peace officers of the state and county?

To: Hugh M. Currin

(A.G.) It is my opinion that a town may by proper ordinance provide free

parking spaces on the streets of the town for the use of peace officers of the state and county.

Taxicab Liability Insurance. Chapter 406 of the Session Laws of 1951 (G.S. 20-197 to 20-211) provides that the owners of all taxicabs operating within a municipality must furnish proof of financial responsibility by carrying accident liability insurance with respect to each taxicab within the following limits: \$5,000 to \$10,000 in case of personal injury or death resulting from an accident and \$1,000 in case of property damage. If one owner operates 15 or more taxicabs, the limits of liability in case of personal injury are \$10,000 to \$20,000. A town has been requiring the operator of less than 15 taxicabs to carry liability and property damage insurance in the amounts of \$10,000 and \$20,000. Is this practice within the law?

To: Myrtle W. Smith

(A.G.) I am of the opinion that your town cannot legally require taxicab owners to carry insurance beyond the limits set out in the 1951 statute.

SCHOOLS

Power to Condemn Property for School Sites. A school wishes to obtain certain lots adjacent to the present school property in order to expand the school building. The lot the school wishes to obtain is used for a family vegetable garden. Will G.S. 40-10 prevent the school from securing these lots by condemnation processes?

To: Clyde A. Erwin

(A.G.) It is the opinion of this office that G.S. 40-10 has no application except to a case in which the purpose of the proceedings is to obtain a pure and adequate water supply, and has no application to a case in which the purpose of the condemnation proceeding is to acquire additional adjacent lands for a school site (See *Mount Olive v. Cowan*, 235 N.C. 259, discussed on page 7 of this issue).

Allocation of Funds from Special School Tax. A tax of 25c on the \$100 valuation, "in order to operate schools of a higher standard than that provided by the state support, or to employ additional vocational teachers, or both," is levied by a county pursuant to G.S. 115-361 and 115-362. Do these funds have to be expended wholly for current expense items or may the school districts expend these funds for capital outlay items such as buildings?

To: E. S. Simpson

(A.G.) G.S. 115-363 provides that funds to supplement school funds shall be budgeted by filing with the tax levying authorities on forms provided by the State Board of Education the plan for expenditure of these funds. If the plan is approved by the tax levying authorities, it shall be submitted to the State Board of Education, which shall have the authority to approve or disapprove the same as to its financial soundness. From this statute you will observe that the exact purposes for which the funds may be allocated must be in accordance with the approved budget in the

CLERK OF SUPERIOR COURT

Execution of Power of Attorney by Corporation. A corporation desires to execute a power of attorney appointing a person as attorney in fact to execute bonds of fiduciaries. The Attorney-General recently answered a number of questions raised as to this procedure by W. E. Church.

(1) Must the power of attorney be executed and acknowledged in the same manner as a deed conveying real property of a corporation?

(A.G.) G.S. 55-26(5) provides that in this state a corporation has the express power "to elect and appoint, *in such manner as it determines to be proper*, all necessary officers and agents." I think that under the language of G.S. 55-26(5) a power of attorney executed by a corporation to execute bonds of fiduciaries would not have to be executed and acknowledged in the same manner as is a deed conveying real property. G.S. 47-41 sets out the forms of acknowledgment by corporations. However, the first sentence of the section is in the following language: "The following forms of probate for deeds and other conveyances executed by a corporation shall be deemed sufficient, but shall not exclude other forms of probate which would be deemed sufficient in law." From the foregoing my conclusion is that the answer to your first question is "no."

(2) If the power of attorney need not be executed and acknowledged in the same manner as a deed, then how should it be executed, acknowledged, probated, and recorded?

(A.G.) It seems that the answer is found in the language of G.S. 55-26(5), which provides that a corporation may elect and appoint *in such manner as it determines to be proper* all necessary officers and agents.

(3) Is the corporate seal required to be affixed to a power of attorney?

(A.G.) G.S. 47-43.1 contains the following language in the last sentence: "For such instrument to be executed under seal, the power of attorney must have been executed under seal." Thus it will be seen that the answer to this question is "yes" provided the act to be performed by the agent is the execution of a contract under seal.

(4) Must the power of attorney be recorded in the office of the register of deeds of the county in which the attorney in fact is going to execute bonds of fiduciaries?

(A.G.) G.S. 47-28 uses the word "may" instead of "shall" in providing for the registration of powers of attorney. However, my suggestion to you as clerk of the court is that you do not accept bonds executed by corporate sureties unless the power of attorney under which the attorney in fact acts is recorded in the office of the register of deeds of your county, and until you have determined that the power of attorney is still in full force and effect.

(5) May a copy of the power of attorney, certified to by an officer of the corporation, be probated and recorded in lieu of the original?

(A.G.) I see no reason why a properly certified copy of the power of attorney may not be probated and recorded in lieu of the original instrument. I suggest that you satisfy yourself, however, that the power of attorney has not been revoked in such a case.

(6) If the power of attorney is not required to be recorded in the office of the register of deeds of the county in which the attorney in fact is going to execute bonds, then where should such a power of attorney be recorded, if at all?

(A.G.) See answer to question 4.

(7) Should the certificate of the notary public who takes the acknowledgment of the execution of a power of attorney by an officer of a corporation state the name or names of the officers who executed the power of attorney?

(A.G.) It seems to me that it is not necessary for the certificate of the notary public to use the names of the officers who executed the power of attorney, provided such officers are referred to in sufficient language.

(8) May a person who is appointed attorney in fact by a corporation issue a power of attorney in behalf of said corporation and appoint some other person as attorney in fact?

(A.G.) I am of the opinion that, under the circumstances outlined, the original attorney in fact may be given authority by the corporation to appoint another attorney in fact who becomes the agent of the corporation to execute a particular bond.

(9) May a valid power of attorney be executed which authorizes any employee of a corporation to act as attorney in fact without naming each individual who is to act as attorney in fact?

(A.G.) It would seem that each agent has been described as a class even though he has not been particularly named. This procedure would seem to be sufficient.

manner above stated. I am of the opinion that these funds may not be used for capital outlay. G.S. 115-356 sets out the objects of expenditures of state funds and all the objects listed are for the costs of operation and not for capital outlay. The local tax levy is for the purpose of sup-

plementing these objects, since there is a separate budget for capital outlay.

Sale of School Property. The board of trustees of a city administrative unit sold certain school property, which was no longer needed for school

(Continued on next page)

TAX LISTING—Continued from page 6

follows: "Adopt some workable plan whereby taxpayers *must* list with their township list taker except in rare circumstances," and the other wrote: "All listing for all townships should be conducted at some central point."

(b) Several suggestions concerned publicity.

"More publicity before January 1 to educate the taxpayer as to his duties."

"Where it is possible use radio advertising."

The next suggestion about publicity is worth a great deal of thought: "In years past here in our county, it has taken three to four months to get all taxpayers to list their property. In some cases the supervisor has had to run them down to get them to list, thereby costing the county lots of extra money. This year I ran ads in the local paper telling the public that if they did not list during January there would be a penalty of 10% for late listing. As a result, every taxpayer in the county listed his taxes on time. My abstracts are now complete, and ready for the board of equalization and review. I long to see the day when it is compulsory that each county in the state will have to enforce the 10% penalty for late listing."

SCHOOLS (Continued)

purposes, under the procedure outlined in G.S. 115-86. This statute provides that the proceeds shall be paid to the treasurer of county school funds. The principal contends that the money should go to the city school board.

To: Arthur B. Shepherd
(A.G.) G.S. 115-363(c) contains the following provision: "Provided that funds derived from payments on insurance losses shall be used in the replacement of buildings destroyed, or in the event the buildings are not replaced, said fund shall be used to reduce the indebtedness of the special bond taxing unit to which said payment has been made, or for other capital outlay purposes within said unit." Reasoning by analogy, the conclusion of this office is that the funds in question should be paid to the treasurer of the city school board to be held by him for the capital outlay fund of the city administrative unit.

Voucher Signature in Absence of Board Chairman. The chairman of the city board of education is temporarily disabled. May the vice-chair-

(c) Three counties mentioned the Farm Census. Two wrote that they could do a much better listing job if they did not have to handle the census. The third, in attempting to reduce the trouble at listing time, suggested sending each farm owner in advance of listing a sheet on which he can fill in the required census data and bring the completed sheet with him when he comes to list.

(d) Three supervisors made specific suggestions about schedules of value.

"We need state-wide uniform schedules for listing electrical appliances and farm implements. We also need the same kind of uniform schedule for listing household and kitchen furniture."

"In listing household and kitchen furniture, use a percentage against the value of the house rather than an itemized list."

"We need a better method of listing motor vehicles, or we should have the law changed to require collection of the ad valorem tax when license tags are sold."

(e) Two supervisors mentioned tax records specifically.

"Try to get all county tax forms alike."

"It would be helpful if a model abstract were drawn up."

man sign the vouchers for school funds?

To: Brandon P. Hodges
(A.G.) If there is no local statute authorizing the appointment of a vice-chairman, I suggest the desirability of granting the chairman a leave of absence under the provisions of G.S. 128-41 and naming some other member of the school board to act as chairman, as I find no provision under the general law for the appointment of a Vice Chairman.

Purchase of School Supplies. A school wishes to purchase certain supplies. May it purchase them from local retail dealers?

To: Edward D. Holbert
(A.G.) County boards of education are required by law to purchase all of their apparatus, furniture, equipment, and supplies through the Division of Purchase and Contract, regardless of the price of such apparatus, furniture, equipment, and supplies.

Sale of Abandoned School Equipment. A county board of education has on hand a considerable quantity of furniture, including desks, stoves,

tables, etc., which the board wishes to sell. Is there any statutory provision for the sale of this property other than G.S. 115-86?

To: Cyrus F. Lee
(A.G.) G.S. 115-86 sets out the procedure for the sale of school property "when in the opinion of the board, any school house, school house site or other public school property has become unnecessary for public school purposes."

G.S. 143-49(e) gives to the Division of Purchase and Contract the authority "to sell all supplies, materials and equipment which are surplus, obsolete or unused, when these supplies, materials and equipment belong to the State government or any of its departments, institutions or agencies."

Construing the foregoing sections together, I am of the opinion that the sale of the property in question must conform to the provisions of G.S. 115-86 and that the Division of Purchase and Contract has no duty or responsibility with respect to the sale of such property, since the property belongs to the county board of education and not to the State of North Carolina or one of its departments, institutions or agencies.

CRIMINAL LAW AND PROCEDURE

Service of Search Warrant upon a Child. Is service of a search warrant upon a child ten years of age sufficient service upon which to base a search and to seize contraband articles?

To: Claude C. Canaday
(A.G.) It would seem that service upon a young child is sufficient service upon which to base the subsequent search, because it would seem that under G.S. 15-25 no service at all is required unless an arrest is to be made. But if an arrest is to be made, the search warrant should be served upon the person arrested.

Power of Judge to Remit Fines and Forfeitures. In some instances fines and forfeitures have been imposed on defendants in criminal actions, and then a condition attached that if the defendant remained of good behavior for a certain period of time the fine would be refunded. Do the courts have this authority?

To: Robert W. Wall
(A.G.) G.S. 15-116 gives a trial court broad authority to lessen or absolutely remit the forfeiture in the case of a bail bond or recognizance, before as well as after final judgment entered and execution awarded. Under the foregoing section it often happens that a trial court will require a board of education to remit forfeitures that have already been paid over to the board of education. This would seem to be justifiable under the statute. G.S. 115-181 reads in part as follows: "Whenever any fine or penalty is imposed by any officer, . . . [it] shall not be remitted except for good and sufficient reasons which shall be stated on the docket." You will note that forfeitures may be refunded by virtue of a specific statute and in the sound discretion of

(Continued on next page)

CRIMINAL LAW (Continued)*(Continued on page 15)*

the trial court; but it would seem that a fine can be refunded after collection only by virtue of a specific condition set out in the original judgment, unless that part of G.S. 115-181 quoted above gives the authority. It is the opinion of this office that a superior court judge has the power to annex to a sentence the condition that if other conditions of the probation judgment are complied with, the fine will be refunded.

Constables Serving Process in Name of Sheriff. Does a constable have authority to serve process outside the limits of the township in which he was elected?

To: R. L. Parrish

(A.G.) I think it is undoubtedly true that a constable elected in a township has authority to serve such precepts or process, as he is authorized by law to serve, anywhere in the county. *State v. Copening*, 207 N.C. 805.

A constable has no authority to use the sheriff's name in serving his process nor does a constable have any lawful right or authority to represent, either in writing on process or by word of mouth, that he is acting in the name of the sheriff.

Appearances in Misdemeanor Cases Through Agent or Attorney. A person arrested for a misdemeanor is allowed to sign a "waiver" by the arresting officer whereby he does not appear in court but seemingly appoints an attorney in fact to enter a plea in his absence. As a result the bond deposited is diverted from a forfeiture for the benefit of the school fund to a taxing of costs for the benefit of the town and county. Is such a practice lawful?

To: George T. Deans

(A.G.) It would seem that a defendant charged with a misdemeanor not punishable by imprisonment may, with the permission of the court, waive personal appearance and appear in court *through his counsel but not through some other agent*. When the offense charged is a felony or even a misdemeanor, punishable by imprisonment, the courts hold that the defendant must appear personally. *State v. Dry*, 152 N.C. 813. The court has the power to require the defendant to be present at the trial. This power, or the waiver of it must be exercised by a court sitting as such. It cannot be waived by an individual who may become a part of the Court once that court is convened. Neither the clerk, the arresting officer nor any other officer of the court has the power to waive the defendant's presence at the trial. It would seem that the safe procedure is for your court to take recognizances or cash bonds for the appearance of defendants charged with misdemeanors and to forfeit these bonds under the procedure outlined in Article 99, Chapter 15, of the General Statutes, and to pay the clear proceeds of such forfeitures into the school fund of the county rather than proceeding with the trial and collecting the fine and costs out of the bond.

The Clearinghouse**PERSONNEL ADMINISTRATION****Retirement Plans Considered**

The revision or amendment of existing retirement systems has been mentioned frequently in North Carolina in recent weeks. State Treasurer Brandon Hodges, Chairman of the Teachers' and State Employees Retirement System, has asked the Institute of Government to study the advantages and disadvantages of integrating Federal Social Security and the state retirement systems as has been done recently in the State of Virginia.

In Durham, the City Council has been studying the possibility of asking the 1953 General Assembly to authorize the City to supplement the retirement pay of employees who have been with the City for 25 years or more and who have not retired because the retirement allowance they would receive is considered inadequate.

The Durham study followed the presentation of the cases of five employees who are incapacitated at present and who have been continued on the City's payroll in violation of existing sick leave regulations. The Council requested the City Manager to contact the actuary for the state retirement system and request a survey on the costs involved in the differences between actual retirement benefits under the state system and 50 per cent of the salaries at the time the member is retired.

Four North Carolina cities, Greenville, Kinston, New Bern, and Wilson, have already secured legislative authority to pay the differences between the employee's retirement allowance from either of the state-wide retirement systems and 50 per cent of the employee's final salary. The firemen's relief funds in several towns have been amended to allow them to supplement the allowances of retired firemen. The maximum pension under most of these supplementary plans is \$100 a month rather than 50 per cent of final salary as is the case in the local acts mentioned above.

The only other supplementary plan which has been authorized by the General Assembly permits the County and City of Durham to pay a supplemental retirement allowance to employees who remain in service after

their sixtieth birthday. The supplement is equal to the amount which the employee would have received if the governmental unit were able to continue to match the employee's contribution after his sixtieth birthday.

In Charlotte the Board of Trustees of the Charlotte Fireman's Retirement System approved a motion to hire an actuary to examine the Charlotte Firemen's Retirement Fund. The evaluation was requested because the financial soundness of the Fund has been questioned upon several occasions in the past.

The Charlotte fund is financed by a five per cent contribution by local firemen and a matching contribution by the city. Additional funds are secured from the Firemen's Relief Fund, the Firemen's Benefit Fund, and proceeds from the annual police-fireman baseball game. The Fund now permits firemen who are either 65 years of age, who have completed 25 years of service, or who are permanently disabled in line of duty to receive a retirement benefit equal to 50 per cent of their average pay during the last 3 years of their employment.

In Winston-Salem a Pension Committee has completed a study of the Winston-Salem Employees Retirement Fund. The City Council after several weeks of debate finally approved some of the Committee's recommendations. One of the principal changes was that the act was reworded to make it easier to understand. As amended, the Act now permits an employee to select a joint survivors annuity prior to his becoming 63 years of age (formerly 60 years), and employees over 65 may continue in city employment only if the City Manager annually requests such a continuation.

5-Day Week

A 5-day work week recently became a promise or an actuality to two groups of public employees. On March 13th, the State Personnel Council approved a 5-day, 50-hour work week effective October 1, 1952 for the State Highway Commission's thousands of maintenance employees. Two weeks later the Raleigh City Council

approved a 5-day week effective April 12th for employees in the City Hall and at the City's reservoirs.

Highway maintenance employees are presently working a 5½ day, 55-hour work week. Under the new schedule highway employees will work 10 hours a day, 5 days a week. Of course, during bad weather or emergencies highway employees are on call at any hour of the day or night. Workers at the State Highway Headquarters have been on a 5-day, 40-hour work week since January 2, 1950.

Raleigh city employees who have been going to work at 8:30 A.M. and going home at 4:30 P.M. will continue to arrive at the same time each morning but will remain on duty until 5:15 P.M. and work approximately a 39-hour work week under the new ordinance. Offices in the City Hall which collect public funds will continue to be open on Saturday mornings.

Service Rating Systems

The Greensboro Police Department in March adopted a service rating system of merits and demerits. The system will be used to measure the individual officer's value to the Department and will be considered in connection with promotional examinations.

A number of other North Carolina cities are still using a system of merits and demerits for rating their policemen, but the plan is not as widely used in North Carolina as it was ten years ago.

Greensboro Training Program

Greensboro continued their impressive training activities this spring by initiating two new phases of their training program. One of the training courses, Municipal Police Administration, was started April 3 with the eleven top officers of the Greensboro Police Department in attendance. The second course, a training program for firemen will include weekly drills for every member of the department and an 18 hour pumper school for the first and second drivers in each company.

The training program for police officers will consist of 14 three-hour sessions which will be held at weekly intervals. At each session one chapter in the book *Municipal Police Administration*, published by the Institute of Training in Municipal Administration of the International City Managers' Association will be discussed. Special topics within each

subject will be assigned to individual members of the group for presentation to the whole group. The conclusions of the group with respect to these special topics will be carefully prepared and forwarded to the Institute for Training in Municipal Administration for grading and comment.

At the conclusion of the course a final written examination from the Institute will be administered to the individuals taking the course. A certificate will be awarded by the City Managers' Association to all who successfully complete the course. The course was initiated with the hope that it will not only enhance the abilities of the key administrative personnel of the Police Department but will also provide an excellent opportunity for review and analysis of the organization and operating procedures of the Department. Present administrative methods and practices will be critically surveyed against a framework of what are purported to be the best administrative methods as applied to police activities. The cost of the course and all texts and materials used are being furnished by the City. W. H. Reeves, the Director of Public Safety, will serve as the conference leader.

According to the new training schedule for the Greensboro Fire Department, training classes or drills will be underway five hours a day, five days a week from March 17 through October 27. Actually each member of the Department will be in a class or working on a drill an average of three hours and forty-five minutes a week. Six evolutions will be the core of the training schedule. From April 28 through May 16, the basic training schedule will be interrupted for an 18 hour pumper school. The schedule for the school will consist of 8 hours of class work and ten hours of pumping.

State Employee Handbook

For the first time some 10,000 State employees in 58 departments have a convenient and attractively printed handbook containing regulations affecting their work. The new booklet, *Your Job*, a publication of the North Carolina State Personnel Department is now being distributed to State employees. The handbook contains the earning all state employees except those employed by educational, correctional, or charitable agencies.

Until now these employees have been dependent upon posted bulletins concerning particular policies or pro-

cedures, or upon staff meetings, or statements of rules affecting their own department only. Some may even have partially depended upon that unofficial 'grapevine' method of spreading information and misinformation which flourishes best where accurate information is not widely and fully known.

Now, no matter in what county the State employee may be stationed, he has at hand this uniform basis of understanding of his duties and privileges. A similar handbook for State institutional employees is planned in the near future.

State Personnel Director, John W. McDevitt, in announcing the publication, said, "Not only do we expect that this handbook will bring a better understanding of the regulations and thus make them more effective, but we believe there will be an increasing appreciation for the purposes of fair-play and incentive which underlie them. Ninety per cent of the regulations came about as a result of suggestions by employees and the handbook will give opportunity for all employees to contribute to improvements."

General approval of the material in the handbook was given by a cross-section of employee and administrative personnel by whom advance material in the booklet was reviewed in recent months. Among subjects included in the handbook are: salary scales, vacation leave, military leave, annual pay increases, grievance procedures, holidays, retirement plans, hours of duty and like matters.

Highway Safety Program in Richmond County

More than 5,000 safe driving pledge cards have been signed by motorists in Richmond County as a result of an intensive campaign to stop highway accidents in Richmond County conducted by the Lions Club and radio station WAYN of Rockingham. The 5,000 signatures represent more than 70% of the licensed drivers in Richmond County. The idea behind the campaign has been to bring home to motorists in the county that they have an individual responsibility to drive safely and hence to contribute in that way to highway safety generally.

Traffic accidents cost the lives of 1,071 persons on the highways of North Carolina in 1951.

Seventeen per cent of all traffic violations in North Carolina last year involved speeding.

Law and Administration

A Series Published by

INSTITUTE OF GOVERNMENT

The University of North Carolina
Chapel Hill

Volumes in the Series:

- | | |
|--|--------|
| I. THE LAW OF ARREST
By Ernest W. Machen, Jr. | \$1.50 |
| II. THE LAW OF SEARCH AND SEIZURE
By Ernest W. Machen, Jr. | \$1.50 |
| III. PROPERTY TAX COLLECTION IN NORTH CAROLINA
By Henry W. Lewis | \$2.50 |
| IV. MOTOR VEHICLE LAW IN NORTH CAROLINA
By John Fries Blair, William E. Poe, J. Shepard Bryan, Jr.,
Ernest W. Machen, Jr., Charles E. Knox | \$1.50 |
| V. ZONING IN NORTH CAROLINA (in preparation)
By Philip P. Green, Jr. | |
| VI. LEGISLATIVE COMMITTEES IN NORTH CAROLINA (in
preparation)
By Henry W. Lewis | |



