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COVER

The hardest problem confronting North Carolina's General Assembly thus far has been whether to secure needed revenues through a tax on tobacco, as recommended by the Advisory Budget Commission, or through other tax measures. The scene here is in a Wilson warehouse during tobacco marketing time. —Photo courtesy of News Bureau, N. C. Department of Conservation and Development.

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THE CLEARINGHOUSE

NOTES

From North Carolina Cities

Joint Action by Cities To Meet Water Crisis

At least seven North Carolina cities have not let Hurricane Hazel's floods and winter rains wash away their memories of last summer's near-disastrous water shortages. **Greensboro, Winston-Salem, High Point, Burlington, Kernersville, Thomasville,** and **Lexington**—inspired by the "Hundley Plan"—have been making serious plans for joint action to avert future water difficulties.

As the plan was first conceived by former state senator George Hundley of Thomasville last November, the cities would solve their problems through construction of a 28-mile pipe line (costing approximately $9 million) to carry the waters of High Rock Lake from a spot near Lexington to the vicinity of Kernersville. Thomasville and Lexington would take some 40 million gallons of water daily from taps in the line. The remainder would be emptied into the Kernersville, Greensboro, Winston-Salem, High Point, and Burlington watersheds, and the water would then flow by gravity to the cities' normal intakes. Maintenance costs on the line and pumping station were estimated at about $3,300 monthly.

Early in January of this year, Mr. Hundley was named chairman of a committee to promote the establishment of a Central Carolina Water Authority, which was to have power to sell bonds, have the water line constructed, and handle the business of selling water to cooperating cities and towns. City Manager T. E. Hinson of High Point was named secretary. Other members included the mayor and the city manager of each of the seven cities.

In the latter part of January Mr. Hundley named a committee composed of the city attorneys of the seven cities to work with Attorney General McMullan in drafting enabling legislation to be presented to the 1955 General Assembly by Forsyth, Guilford, Davidson, and Alamance County legislators. Irving Carlyle of Winston-Salem and Grover Jones of High Point were named co-chairmen of this committee.

Meanwhile the cities laid plans for an engineering survey to determine the feasibility of the project. It was at this point that the first differences of opinion arose. Several of the cities took the position that the survey should consider only the specific project outlined by Mr. Hundley, while others thought that other Yadkin River sources, such as Styers Ferry, should be considered in order to determine the best and cheapest water source. As a compromise, the seven cities agreed to postpone the survey until legislation establishing the Authority had been passed and until further negotiations could be had with Aluminum Company of America, the owner of High Rock Lake.

Mayor Frazier Honored

Greensboro's Mayor Robert H. Frazier has accepted an appointment to serve as representative of the United States Conference of Mayors at a meeting of the International Union of Cities in Rome, Italy, on September 26, 1955. Mayor Frazier is believed to be the first North Carolina mayor to receive this honor. Appointed by the president of the U. S. Conference of Mayors, Elmer Robinson, of San Francisco, Mayor Frazier has received an official invitation to the meeting of the International Union of Cities from Signor Salvatore Rebecchini, Mayor of the City of Rome.

Other problems remain. There is a question of how costs should be allocated among the participating cities (Winston-Salem, for instance, the largest city in the project, already has adequate water supplies from the Yadkin River, and would probably oppose a cost-distribution plan based on population). Some cities in the area appear to assume that participation in the plan will be on a voluntary basis, but this would permit some cities to profit (without participation) from use of the waters discharged into their watersheds.

If an alternative source on the Yadkin River is picked, a dam would probably have to be constructed, which might raise opposition from power companies and river bottom property owners—such as deterred a similar project of Greensboro, Winston-Salem, and High Point two years ago.

Perhaps the most serious problem of all is that of the diversion of waters from one watershed (the Yadkin) to another (the Haw-Cape Fear), which raises knotty legal questions. Possibly this problem would be solved under the bill drafted by the Governor's Advisory Committee on Water Resources, which was introduced into the General Assembly on February 18.

Late in February the project received a psychological blow, when the Aluminum Company of America announced that it was opposed to the project insofar as it involved taking water from High Rock Lake, although the company said that it was still open to negotiation. Representatives of the seven cities continued to press for a solution along other lines.

The major importance of the "Hundley plan," however it might turn out, is that it represents joint effort on the part of a number of cities to meet a common problem. Thomasville and Lexington secured legislative authority in 1953 (Ch. 1056, 1953 Sess. Laws) to jointly construct, own, and maintain a water works reservoir, but Greensboro, High Point, Winston-Salem, and Guilford County were defeated in their efforts to arrive at a joint solution. Now the problem has worsened, and more backs have been set to the task.

Annexation

More and more North Carolina cities, concerned about extensive suburban and fringe development beyond their borders, are pushing annexation programs successfully. **Gastonia** moved into tenth place in population among the state's municipalities with a triple annexation vote in January which brought over 5,000 people into the city. With a population of just over 23,000 in 1950, the city now

estimates that it exceeds 30,000. The elections culminated more than four months of controversy over the issues, including at least one unsuccessful legal action by two citizens to restrain the city council. West Gastonia and Sunrise Park approved incorporation in the city, while Flint Grove and Pecan Grove residents and businesses organized to defeat annexation by a wide margin.

Lumberton gained East Lumberton, North Lumberton, and a large adjoining residential area by annexation in the middle of January. The successful election followed some 20 months of effort by the city council and citizens, and some areas where opposition was strong were not included in the final successful extension.

Durham, having had its hands burned in an unsuccessful attempt at a large-scale annexation, has decided to continue with "piecemeal" annexation until it can resolve some legal difficulties of annexation election procedure, possibly through a bill which may be presented to the General Assembly.

Ramseur, Henderson, and **Thomasville** have extended their town lines by ordinance, there being unanimous consent petitions requesting such action. In the first referendum of its kind since 1941, **Raleigh** gained Belvidere Park and about 220 families, but failed to win approval of annexation from the Lake Boone area. **High Point** gained some 40 acres, which is to be zoned for industrial uses. In **Jacksonville** all but about 44 acres of the 156 acre Northwoods development, estimated to be worth about $2 million, was annexed in January. The Woodcrest area of **Lexington** has officially been taken into town, and **Rockingham's** population has been increased by about 750 persons through annexation of the Skyline Terrace section.

For the first time in more than 50 years, **Graham's** town limits were extended the latter part of January by unanimous vote of the town commissioners. **Black Mountain**, by action of its Board of Aldermen, has annexed property including a golf course and club house. The population of **Roanoke Rapids** was increased to about 13,000 by the first extension of the city limits in 24 years.

These extensions, important to the communities and requiring organized effort, do not reflect the many cases every week where one or several small parcels of land are quietly annexed to cities in the state.

Local Transit

In December, the **Charlotte** City Council approved transfer of the bus franchise from Duke Power Co. to Charlotte City Coach Lines, Inc., a local subsidiary of City Coach Lines, Inc., of Detroit. With this action, one of the first steps was taken toward culmination of a $750,000 sale of Duke Power Company's public transportation property to the Detroit corporation. The North Carolina Utilities Commission has yet to approve the transfer. The sale will also affect **Greensboro, Durham, Winston-Salem,** and Spartanburg and Greenville, S. C., all of which have yet to approve the transfer of franchises in their areas. One factor leading to Charlotte's approval of the transfer was the assumption by Charlotte City Coach Lines, Inc. of the present labor contract with Charlotte operators, and trust fund reservation of pension funds for bus line employees in order to preserve all employees' benefits provided in the past by Duke Power Co.

In **Wilmington** and **High Point**, bus fare increases from 10 to 15 cents have been approved by the State Utilities Commission, with comparable increases in the cost of tokens, zone and children's fares. The **Elkin** Board of Commissioners has approved a 5 cent increase to 15 cents, which has yet to be approved by the Utilities Commission. If the Commission approves, a similar increase in fares will go into effect in **Concord** about March 7.

Fluoridation

In **Greensboro** a movement begun last summer by a Citizen's Committee Opposing Fluoridation culminated in November with a straw vote of the people defeating the fluoridation plan in operation since October, 1952.

Wilmington, on the other hand, appropriated about $14,000 in October, in compliance with a straw vote mandate of its people, to establish a fluoridation plan now scheduled to begin operation by mid-March. **Raleigh** was awaiting more evidence on the issue, pro and con, before taking affirmative action.

«Assistant to Citizens»

A new municipal post—"Assistant to the Citizens"—has been created in **Durham**, staffed by George Robert House, Jr., an assistant in the Planning Department since July, 1954. In a meeting attended by all department heads and other city officers, City Manager R. W. Flack said that the "Assistant to the Citizens" will "act as the agent for the citizens in contacting departments, making research, and formulating the answers [to their questions]. He will advise as to procedure, etc." The new position is intended to save the people of Durham repeated time-consuming trips to the city hall, particularly since city officials and department heads must often be out of their offices. Initially, Mr. House will be in his office adjacent to the Planning Department from 9 a.m. to 11 a.m., and will spend the balance of his time in the Planning Department. The new position was not created to avoid personal contact between citizens and department heads or the City Manager, whose offices are always open to the people, but merely to provide an additional service for the citizens of Durham.

Personnel Changes

Oliver K. Cornwell is the new mayor of **Chapel Hill**, succeeding Edwin S. Lanier, who resigned to become a member of the Orange County board of commissioners. Mr. Lanier had been mayor of Chapel Hill since 1949. Rogers C. Wade was appointed to fill Mr. Cornwell's seat as alderman.

In **Princeton**, Dr. Donnie H. Jones was elected mayor from the town board to succeed A. C. Brittain, who resigned. Leon Peedin was named to fill the vacancy on the town board. The new **St. Pauls** mayor is Dr. Marion B. Pate, Jr., succeeding Fred Keith, who resigned. Dr. Pate was a member of the town board from 1953 until his appointment as mayor. The General Assembly deprived **Bryson City** of its mayor, Kelly E. Bennett, who is now representative from Swain County. Mr. Bennett was succeeded by John L. Orr as mayor. **Elizabeth City** also lost its mayor to the General Assembly, with the election of N. Elton Aydlett as senator from the first senatorial district. In **Black Mountain**, Dempsey V. Whitaker is filling the unexpired term of the late mayor G. L. Kirkpatrick.

Bond Sales

During the first weeks of February, the Local Government Commission sold bonds of the following governments (the government, the amount of bonds, the purpose for which the bonds were issued, and the effective rate are indicated):

Unit	*Amount*	*Purpose*	*Interest Rate*
Cabarrus County	$ 85,000	Refunding	1.72
Columbus County	40,000	Health Center & School Building	1.96
Biltmore Forest	200,000	Refunding	2.55
Biscoe	160,000	Water & Sewer	3.35
Cary	82,000	Sanitary Sewer	3.32
Durham	450,000	Fire Station & Recreational Facilities	1.83
Eureka	35,000	Water	3.80
Ramseur	87,000	Water & Sewer	3.29
Winston-Salem	3,000,000	Sewage Disposal	2.06

W. F. Brinkley, Sr. has resigned as mayor of **Granite Quarry** to become a Rowan County Commissioner.

A series of city manager changes followed the resignation of Roy Williamson, of **Rocky Mount,** for reasons of health. He was succeeded by Col. S. C. MacIntire, of **Salisbury.** Charles L. Lineback moved from **Statesville** to Salisbury, and his former position was taken by H. E. Dickerson, of **Laurinburg.**

Richard M. Hobbs has become the new manager of **Whiteville,** succeeding Ralph H. Woodard, who resigned on the advice of his physician.

William E. McIntyre has been appointed the first planning director for the **Charlotte-Mecklenburg County** Planning Commission. After serving three years with the Tennessee State Planning Commission, he has served for the past six years on the staff of the Cleveland Planning Commission. James A. Hancock, former director of the city inspections department, has been named chairman of the **Winston-Salem** Zoning Board of Adjustment. He succeeds Archie Gray Allen, who resigned.

Law Enforcement

With the turn of the new year have come the announcements of top level changes in the administration of several police departments in North Carolina. Police Chief Wayne B. Cole of **Albemarle** has submitted his resignation and Lt. Craven C. Tarleton, who has been with the department since 1945, has been appointed acting chief. Acting Chief Tarleton was promoted to sergeant in 1947 and to lieutenant in 1953.

Another announced resignation is that of Chief of Police Grady H. Morton at **Morven.** No replacement has been reported to date. After serving **Littleton** as police chief for 12 years, Howard M. Salmon has submitted his resignation and has been replaced with J. M. Buchanan, formerly of the **Jacksonville** force. **Beaufort's** Chief M. E. Guy has been replaced by the town board, which appointed Mayor Clifford Lewis as acting head of the department.

In the lower echelons, Captain Jim Cofer has taken over the traffic division of the **Winston-Salem** department, filling a vacancy created by the retirement of Captain C. M. Stutt in September. Captain Cofer has been with the Winston-Salem department since 1939.

In **Charlotte** Chief Frank M. Littlejohn obtained unanimous council approval for the addition of 18 patrolmen, who will begin duty as of April 1, 1955.

Water and Sewer Rates

As the result of an analysis of the operating cost structure of its water system, **Winston-Salem** has passed an ordinance increasing water rates an average of 29 per cent and raising the sewer charge from 25 per cent to 50 per cent of the water bill (making an average net increase in water and sewer charges of about 68 per cent). All rates outside the city were fixed at twice the in-town rates.

Local industrial users proposed several alternative plans providing smaller increases for volume users. The city council rejected these plans, but may grant some relief to certain bulk users which discharge non-polluted water (such as bottlers) and firms using large quantities of water to operate air conditioning equipment. An ordinance has been prepared, based upon an engineering survey of necessary sewerage system improvements, which would relieve such firms of part of their sewer bills. Such users would be required to connect with the sanitary sewer system, but they would discharge non-polluted water into streams or storm sewers. Discharge meters would be installed upon "clear-water" outlets in order for the city to determine the amount of water involved, and rebates or deductions from sewer charges would be based in part upon these meter readings.

In the meanwhile, negotiations are going forward with regard to the city's 22,000-foot sewer right-of-way down Salem Creek to a new treatment plant to be located near the Waughtown-Clemmons Road. It is possible that the proposed new ordinance giving relief from sewer charges will not be finally adopted until completion of the new sewer installations and study of its effect upon overall sewer revenues.

Further actions by the twin-city to keep its water-sewer systems on a self-supporting basis by closing loopholes in rate provisions include a proposed ordinance to provide an annual sewer charge for the few residents who still use well water, with an extra charge for summer water consumption. The ordinance is designed to prevent the loss in revenue which occurs when well-users disconnect their meters during winter months, using their wells for water and continuing to use the sewers without charge. Another proposed change would provide higher minimum rates for unusually large meters which allow a great amount of water to "slip through" without registering. As a result of the city's announcement that it will change oversize meters when residents request it, the water department has been flooded with requests from family consumers for smaller meters. Another move, proposed by the City-County Planning Board, would allow payment by the city to the developer of any new development for its water and sewer lines at the time it is annexed to the city. This privilege would not be available to developers not adjacent to the city limits at the time of installation of water-sewer lines.

(Continued on page 10)

NOTES
From North Carolina Counties

District Meetings

The 1955 district meetings for county commissioners, accountants, and attorneys were held at seven locations throughout the state in late February and ending on March 1. Meetings were held at Asheville, Raleigh, Winston-Salem, Fayetteville, Charlotte, Jackson, and New Bern, in that order. Over 200 county officials from more than 60 counties were represented at the meetings, including almost 150 county commissioners, 40 accountants, and 25 attorneys.

Three main topics were discussed at the meetings, along with a number of others that were raised by the various officials at the different meetings. The main discussion centered around (1) the powers and duties of county commissioners in connection with farm and home demonstration (a guidebook on this subject will be sent out in the near future to all commissioners, accountants, and attorneys who were not able to attend); (2) the authority of county commissioners to reduce tax claims, and the circumstances in which and the methods by which it can be done; and (3) the methods by which public officials may be protected from liability for loss.

In connection with the liability of public officials, discussion centered around the possible purchase of dishonesty, destruction, and disappearance insurance covering money in the hands of various public officials. In addition, the various kinds of bonds available to cover assistants, deputies, and other subordinates in the principal offices of the county were discussed, and it was pointed out that bonds on these subordinates will protect the principal officers from loss due to dishonesty or negligence of the subordinates. In this connection, a good deal of interest was evidenced in the use of blanket bonds to cover all employees of the county, except those principal officers who are required by law to furnish bond in order to qualify for office. Such bonds are available at a relatively small cost per person covered, when compared with the cost of individual bonds on subordinate employees.

County Buildings

Durham County has joined the ranks of those counties now considering ways of finding additional office space for county departments. The commissioners are considering the purchase of the YMCA building, next door to the courthouse, when the new Y is built . . . Persons visiting the **Forsyth County** courthouse will find it easier to reach the second and third floors of the building, when the new three-story elevator is installed. Total cost of the installation will approximate $28,500, around $15,000 for the elevator and around $11,000 for installation and architect fees.

Davie County has recently completed a $110,000 office building, housing the county library, the welfare department, and the various agricultural agencies. Also under construction is a health center, costing around $30,000, and a 30-bed hospital.

Vance County has advertised for bids for the new county jail . . . And **Robeson County** commissioners have approved architect sketches for a new county jail.

Rural Fire Protection

Forsyth County volunteer firemen have completed the first countywide inspection for fire hazards ever to be conducted in the state. Members of the South Fork, Lewisville, Clemmons, Griffith, Triangle, City View, Mineral Springs, Forest Hills, Mount Tabor, Vienna and Walkertown volunteer departments inspected approximately 20,000 dwellings and business buildings during the period from October through February. Numerous fire hazardous conditions were called to the attention of property owners as a result of the check. In only three instances did owners refuse permission to make an inspection.

Mecklenburg County now has 16 volunteer fire departments, with a total of almost 700 members. During 1954 the departments answered approximately 670 calls and saved property valued in excess of $5,000,000. Each department is a member of the Mecklenburg Volunteer Firemen's Association and receives $100 a month from the county in addition to funds raised by property owners protected . . . Three **Lee County** rural fire districts—Cape Fear, Tramway, and Deep River—have received fire insurance rate reductions following inspections of their volunteer departments.

Miscellany

Durham County has agreed to take advantage of the offer of the State Employment Security Commission to work out a personnel position classification and pay plan for county employees. The Commission has agreed to do the work at no cost to the county, and it is anticipated that the plan will, in the words of the county manager, "rectify emolument inequities and provide some systematic and orderly way of granting increments to deserving employees."

Sampson County has recently taken out a blanket bond for all employees in the courthouse, except those employees required to furnish an individual bond in order to qualify for office. The bond will cost approximately $171.50 per year . . . Consideration is being given in **Forsyth County** to having the county board of elections run city elections as well as county elections. Under the plan, which is similar to the one being used in **Guilford County**, a full-time registration office would be maintained at the courthouse, but only one set of registration books would be maintained; and this one set could be used in both city and county elections . . .

A **Moore County** Law Enforcement Officers Association has recently been organized. The organization includes members of the sheriff's office, municipal police departments in the county, highway patrolmen, ABC officers, and court as well as other public officials.

Iredell County has made agreements with **Statesville** and **Mooresville** establishing joint city-county electrical inspectors. Expenses are shared equally . . . **Durham County** has asked its Zoning Commission to prepare new plans for zoning the county, particularly the heavily built-up suburban areas. A proposed zoning ordinance was abandoned two years ago when opposition arose. The county would act under authority of Chapter 1043 of the 1949 Session Laws.

U.S. SUPREME COURT HOLDS REDEVELOPMENT CONSTITUTIONAL

By PHILIP P. GREEN, JR., *Assistant Director, Institute of Government*

In decisions rivalling in importance the famous 1927 case of *Euclid v. Ambler Realty Co.* (which upheld the constitutionality of zoning), the United States Supreme Court early this winter held that urban redevelopment legislation is constitutional.

The major decision rendered was in the case of *Berman v. Parker*, 348 U.S. 26, 99 L.Ed. 63 (1954), which raised the question of whether a redevelopment project in the District of Columbia was a violation of the Fifth Amendment provisions (applicable to the federal government) that (a) "no person shall . . . be deprived of . . . property, without due process of law" and (b) "nor shall private property be taken for public use without just compensation." The Court held that redevelopment does not violate either provision.

While the *Berman* case did not involve action under a state act, the Court's language indicated strongly that it felt that such action would not violate provisions of the Fourteenth Amendment. This implication was strengthened by the Court's subsequent refusal to grant certiorari for review of a California high court ruling that redevelopment under that state's act was constitutional. *Van Hoff v. Redevelopment Agency of San Francisco*, 348 U.S. 897, 99 L.Ed. 166 (1954) [state decision reported in 122 Cal.App. 2d 777, 266 P.2d 105].

What Is Redevelopment?

So new is urban redevelopment that many people are uncertain as to the meaning of the phrase. Simply stated, urban redevelopment is a process by which a public agency (or a private agency with public assistance) (a) acquires, through condemnation if necessary, "blighted" or slum areas; (b) clears away existing structures; (c) replats the land, laying out new streets as necessary and providing other facilities such as utility systems, recreation areas, etc.; and (d) sells or leases the land to private developers for re-use in a manner more consistent with the public good.

Redevelopment is perhaps the strongest of an array of legal tools which have been brought to play upon slum conditions. Earlier there had been sporadic attacks in the form of nuisance regulations, health and fire safety ordinances, the provision of public housing for lower income groups living in slum areas, etc. There had also been regulations designed to prevent the creation of new slums: building codes, zoning ordinances, subdivision regulations, and the like. But something more was needed.

Due to inadequate funds (or in some cases, to apathy of responsible officials or to political pressures) the enforcement of sanitation and fire safety ordinances has frequently been "spotty." Regulations such as the zoning ordinance and subdivision controls have little effect upon most slums, because they are not designed to control existing structures; and usually they have been adopted too late to prevent the creation of bad conditions in older areas. Ordinary redevelopment by private developers (exemplified by transitions from single-family residences to apartments to business in many old neighborhoods) is apt to be slowed by the high land values of slum areas—high densities and low upkeep costs yield big profits. Diversity of ownership hinders large-scale acquisition by private developers. And most important, because no one is willing to invest in a fancy new structure surrounded by slums, it is necessary to proceed on an area-wide basis. Furthermore, it is frequently necessary to change street and lot lines and install public facilities of various types, if the conditions which caused the area to deteriorate in the first place are to be corrected.

Redevelopment Corporations

To meet such problems as these, New York in 1941 and a number of other states soon thereafter adopted urban redevelopment legislation. At first this took the form of statutes (adopted by 13 states) authorizing private limited-dividend redevelopment corporations. So that they could acquire large areas with diverse ownership, the corporations themselves were granted the power of eminent domain or local governments were authorized to exercise such power (condemnation) in their behalf. Usually the corporations were granted some form of tax exemption, and possibly other grants were made (e.g., title to the old street beds no longer used after redevelopment). Customarily, such corporations were authorized to redevelop for dwelling purposes only, and municipal approval of plans was required.

This approach did not prove satisfactory in most instances, because it was difficult to find projects which were financially feasible. It was difficult to make up the gap between the high cost of the slum property and its lowered value when redeveloped at lower density levels. Even tax exemption and other grants by the city were not enough to close this gap in the usual case. Stuyvesant Town in New York City, the major project developed under such authority, was made possible only by *increasing* the population density (by use of taller buildings).

Governmental Agencies

In light of this problem, the various states next turned to the idea of clearing the slums and preparing the land for resale as a governmental project, although the actual redevelopment for new uses would be done by private purchasers. Such states contemplated that in most cases there would be a loss to the governmental unit, but this loss was considered to be less than the cost of continuing slum conditions. A number of statutes were adopted in the mid-'40s which provided for the creation of local redevelopment agencies. Several states, notably Pennsylvania and Illinois, established funds to assist localities in paying for such projects.

A big step forward came with the passage of the Taft-Ellender-Wagner bill as the Housing Act of 1949. This for the first time placed the federal government in an active supporting role. The federal government, through the Housing and Home Finance Agency, agreed to make (a) temporary loans for surveys and other ex-

penses in planning redevelopment projects, (b) loans to cover the cost of assembling and clearing the land and preparing it for resale, and (c) grants of two-thirds of the difference between such costs and the sums received on resale of the land.

With this promise of financial backing, states throughout the country adopted redevelopment legislation. By 1951 a total of 34 states, four territories, and the District of Columbia had such legislation. These acts fell into five patterns: (a) 13 states granted redevelopment authority to existing Housing Authorities, (b) six states granted such authority to Redevelopment Commissions created by local governments, (c) eight states granted such authority to municipal governments, which could effectuate it through regular municipal departments, (d) four states granted such authority to any of the above three agencies, on an optional basis, and (e) three states granted such authority to either a Housing Authority or a Redevelopment Commission, on an optional basis.

North Carolina Act

North Carolina cities and towns of over 25,000 population were first authorized to enter this program in 1951 (see G.S. 160-454 to 160-474). Under the terms of the act adopted at that time, they are authorized to create Redevelopment Commissions, on findings by the local governing body that blighted areas exist in the municipality and that redevelopment of such areas is necessary in the interest of the public health, safety, morals, or welfare. The Commission is chartered by the Secretary of State and thereafter exists on a basis somewhat similar to that of local housing authorities.

The first step in the operations of such a Commission is to secure from the Planning Board the designation of areas in need of redevelopment and recommendations as to the most suitable form of development, which must be in conformance with the Planning Board's general plan for the area.

Only a "blighted area" may be designated for redevelopment. This is defined as

> "an area in which there is a preponderance of buildings or improvements (or which is predominantly residential in character), and which, by reason of [1] dilapidation, [2] deterioration, [3] age or obsolescense, [4] inadequate provision for ventilation, light, air, sanitation, or open spaces, [5] high density of population and overcrowding, [6] unsanitary or unsafe conditions, or [7] the existence of conditions which endanger life or property by fire and other causes, or [8] any combination of such factors, [a] substantially impairs the sound growth of the community, [b] is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and [c] is detrimental to the public health, safety, morals, or welfare; *Provided* no individual tract, building, or improvement shall be considered a part of any blighted area nor subject to the power of eminent domain herein granted unless it is of the character herein described and substantially contributes to the conditions rendering such area blighted."

On receipt of the Planning Board's recommendations, the Redevelopment Commission must proceed to prepare a detailed plan for the designated redevelopment area. Then it must prepare redevelopment "proposals," seeking out contractors or purchasers who would be willing to undertake particular parts of the job or to purchase the cleared property. These proposals must be submitted first to the Planning Board for review and recommendations, which must be made within 45 days. The proposals, together with the Planning Board's recommendations, must then be submitted to the local governing body for approval.

Once this approval is secured, the Redevelopment Commission may go ahead and close its contracts in accordance with designated procedures and begin the actual work of clearing the land and redeveloping it. In the ordinary case, once the property has been cleared it will be sold to a private redeveloper (with the exception of such land as is reserved for streets, parks, schools, etc.), under suitable deed restrictions to preserve the city's interest. In exercising this actual redevelopment function, the Commission has a wide range of powers, foremost of which are the power of eminent domain and the power to issue bonds.

Proposed 1953 Amendments

Redevelopment Commissions were established under this act in the cities of Charlotte, Fayetteville, Greensboro, and Winston-Salem, and work was begun on planning specific projects. As this work progressed, it was found that the 1951 act was unduly hampering in two respects: (a) the proviso to the definition of "blighted area," which meant that standard properties existing in such an area could not be acquired, even though a project's feasibility turned on area-wide redevelopment rather than piecemeal clearance; (b) requirements for competitive bidding made it difficult to secure definite offers in advance from developers that the land would be taken after clearance.

To meet these problems, a bill was offered in the 1953 General Assembly which would have (a) replaced the proviso to the "blighted area" definition with one authorizing redevelopment of an area where the Planning Board found two-thirds of the buildings of the area to be substandard, and (b) permitted private sales, subject to approval of the governing body and in accordance with standards in the act. A committee substitute for this bill deleted the competitive bidding changes and raised the percentage of required substandard buildings in an area to 75 per cent. This was approved on second reading by the House but failed to pass on third reading.

Following defeat of these amendments, the federal Housing and Home Finance Agency announced that it would reserve judgment on the workability of the unamended North Carolina act until it had seen some actual proposals. Later in the year, it declared that the North Carolina act was unworkable, and it refused to make any further loans or grants to North Carolina agencies. Subsequently, all but the Greensboro Redevelopment Commission dissolved, and the latter went into a state of inactivity.

«Urban Renewal»

Meanwhile, urban redevelopment projects were going forward throughout the country. By the summer of 1954, for instance, the Housing and Home Finance Agency could report that such programs were under way in 173 localities, and that 175 projects had reached the stage of final planning or development. However, before that time it had become apparent that something more was still needed. While urban redevelopment projects were accomplishing a great deal of good, surveys indicated that new slums were being created faster than they could be cured.

Various groups of real estate developers and others pointed out that a possible solution lay in the rehabi-

litation and bringing up to standard of existing structures, in areas where the run-down condition of individual buildings rather than problems of street and lot lay-out, etc., was a basic cause of the slum. Also, by more vigorous enforcement of existing health, sanitation, fire, zoning, and housing codes, much could be done to prevent such areas from spreading. Baltimore and Charlotte were pointed to as cities where major results had been achieved by such measures.

The President's Advisory Committee on Government Housing Policies and Programs agreed that such measures were necessary, and recommended in December, 1953, that the federal Housing Act be amended to provide for a broader-scale program. Accordingly, by adoption of the Capehart bill as the Housing Act of 1954, Congress required localities receiving federal assistance for urban redevelopment projects to broaden their programs to include measures of this type. At the same time new funds were appropriated for a stepped-up campaign against slums. The new, broad-scale programs under this act have been entitled "urban renewal."

Since 1939 North Carolina municipalities over 25,000 (and since 1941, cities over 5,000) have been authorized to carry out a major part of the new "urban renewal" program, under the provisions of Sections 160-182 to 160-191 of the General Statutes. This statute authorizes the adoption of ordinances specifying minimum housing standards with which structures must comply or be demolished. Under this authority, Charlotte has caused curative measures to be taken with respect to more than one-third of all dwelling units in the city. It is possible, however, that new legislation will be needed to qualify under this program, in addition to correction of the existing deficiencies in the urban redevelopment statute.

State Court Decisions

In light of all this slum-control activity over the country, it was inevitable that there should be many court tests. Up to the present, the constitutionality of urban redevelopment legislation has been upheld by the highest courts of 20 states. Two state supreme courts, those of Florida and Georgia, have held it to be unconstitutional; the voters of Georgia subsequently overruled the latter decision by voting in favor of a state constitutional amendment specifically authorizing such legislation. In addition, acts applying only to Birmingham and Kansas City have been set aside on the basis that they were not adopted in accordance with the procedures required for special acts by their state constitutions. The Texas Supreme Court has ruled that an ordinary Housing Authority does not have power to carry out redevelopment projects, in the absence of specific statutory authority.

The attacks made on the constitutionality of such acts have followed a consistent pattern. Opponents argue (a) that urban redevelopment constitutes taking property from one private person to be transferred to another, and hence there is no "public use" justifying the exercise of eminent domain; (b) that urban redevelopment projects are not a "public purpose" for which public funds can be spent; (c) that to the extent that purchasers of the redeveloped land pay less than the cost of acquiring it as slum property, they have received a special, unconstitutional benefit from the state; (d) that the act permits violation of constitutional debt limitations on local governments; and (e) that the act makes an improper delegation of legislative authority to the redevelopment agency.

The courts which have upheld such legislation have answered arguments (a) through (c) by stating that the "public use" or "public purpose" which supports urban redevelopment lies in the clearance of slums and the correction of existing conditions; the subsequent disposal of the property to private developers is merely incidental to this purpose and is essentially the same as any other disposal of governmental property which has become surplus to the government's needs. They have said, in answer to argument (d), that the debt limitations apply only to the direct obligations of the municipality, which do not include those of the semi-independent redevelopment agency. And they have replied to argument (e) with the statement that the redevelopment agency is merely an administrative body applying statutory standards to existing conditions.

Berman v. Parker

Much the same arguments were presented in the United States Supreme Court case of *Berman v. Parker*. The plaintiff owned a department store located in an area designated for redevelopment. The store was not substandard, and there was no contention that it contributed to the conditions rendering the area blighted. The plaintiff sought to enjoin the condemnation of his property, on the basis that the proposed redevelopment would merely amount to condemning his property for the benefit of another private person.

The Supreme Court held first that the objective of removing slums was a public purpose, and it used language indicating that police-power regulations and the power of eminent domain might even be used for purposes extending beyond those involved here: "It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. . . . If those who govern the District of Columbia decide that the Nation's capitol should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way."

"[The] means of executing the project are for Congress and Congress alone to determine, once the public purpose has been established," the Court next declared, in holding that there could be no valid attack on the disposal of the property to private developers after its acquisition for slum clearance.

Then the Court held that the fact that the particular piece of property involved was not substandard did not exempt it from condemnation. "In the present case, Congress and its authorized agencies attack the problem of the blighted parts of the community on an area rather than on a structure-by-structure basis. . . . The experts concluded that if the community were to be healthy, if it were not to revert again to a blighted or slum area, as though possessed by a congenital disease, the area must be planned as a whole. It was not enough . . . to remove existing buildings that were insanitary or unsightly. It was important to redesign the whole area so as to eliminate the conditions that cause slums. . . . The entire area needed redesigning so that a balanced, integrated plan could be developed for the region, including not only new homes but also schools, churches, parks, streets, shopping centers. . . . Such diversification in future use is plainly relevant to the maintenance of the desired housing standards and therefore within congressional power." The court said that any other decision would "substitute the landowner's standard

(Continued on inside back cover)

RECENT N. C. SUPREME COURT DECISIONS AFFECTING LOCAL GOVERNMENTS

By J. ALEXANDER MCMAHON, *Assistant Director, Institute of Government*

In the last several years, the Supreme Court of North Carolina has handed down a number of decisions affecting local government. Six of these decisions are discussed in this article, under three headings: (1) Taxpayers' suits; (2) relationships between boards of county commissioners and boards of education; and (3) the right to supplement bond proceeds and special tax funds.

Taxpayers' Suits

In *Horner v. Chamber of Commerce and the City of Burlington*, 236 N.C. 96 (1952), the Supreme Court held that where a taxpayer successfully prosecutes an action to recover, and does actually recover and collect, funds of the municipality which have been wrongfully expended or misapplied, the court has implied power in the exercise of a sound discretion to make a reasonable allowance, from the funds recovered, to be used as compensation for the plaintiff taxpayer's attorneys' fees. However, it could not include compensation or allowance for the time and effort of the taxpayer himself.

In *Rider v. Lenoir County*, 238 N.C. 632 (1953), the court had an opportunity to review its decision in the *Horner* case. In the *Rider* case, a taxpayer had successfully prevented an improper expenditure of funds. The court refused the taxpayer's request for attorneys' fees, limiting the allowance of attorneys' fees to the case where a fund is actually recovered as it was in the *Horner* case. The court stated the rule for allowing such fees as follows:

"When, in an action instituted by a taxpayer to recover a fund which has been unlawfully or wrongfully expended by a municipality, it is made to appear that (1) the fund was in fact wrongfully expended, (2) the governing board of the municipality refused, on demand, to institute an action to recover the same, (3) as a result of which the taxpayer instituted the [illegible] benefit of the municipality, and (4) obtained judgment (5) which had been paid, in whole or in part, and the fund is thus restored to the public treasury, the court may allow plaintiff expense money to the extent of reasonable attorney fees, to be paid out of the fund so recovered."

Since in the *Rider* case no fund was recovered, the court said that there was no fund from which to allow attorney fees.

Though one case concerned a city and the second case concerned a county, it is clear that the principles enunciated in both cases apply to both cities and counties.

Relationships between Boards of County Commissioners and Boards of Education

In *Parker v. Anson County*, 237 N.C. 78 (1952), a taxpayer brought suit to invalidate a school bond election and to enjoin the sale of bonds for school construction of $1,250,000.

There are three school administrative units in Anson County, and the three boards had agreed on the necessity for building nine school projects. They jointly petitioned the board of county commissioners to provide the money necessary to construct these facilities, and the board then passed a bond order declaring the nine projects to be necessary, authorizing the issuance of bonds in the amount of $1,250,000 to finance the projects, and calling an election on the question of the issuance of the bonds.

At the election called on the question of the issuance of the bonds, the voters were given an opportunity to vote on the issuance of $1,250,000 in bonds for the construction of nine projects, one of which was a new high school in the northwest section of the county. But in addition, the board of county commissioners submitted an additional question to the electorate. This additional question asked in effect if the voters would approve the erection of a new high school in the northwest section of the county at a cost of between $300,000 and $400,000, if the existing high school in Wadesboro could be made adequate for all the white children in the county. The voters approved the issuance of the bonds, but disapproved the construction of the new high school in the northwest section. The board of county commissioners then decided to issue $950,000 in bonds to provide funds for the projects other than the new high school.

Suit was brought against the county commissioners to invalidate the election and enjoin the issuance of any bonds, or in the alternative to restrain the abandonment of the northwest high school.

Several questions were considered by the court, but the most important was the right of the board of county commissioners to decide to abandon the northwest high school project. The board of county commissioners argued, on the basis of G.S. 115-83, that it was the right of the board to determine what expenditures may be made for erection, repair, and equipment of school buildings in the county. The court rejected this contention, quoting *Atkins v. McAden*, 229 N.C. 752 (1948), as follows: "This control [in G.S. 115-83] over the expenditure of funds for the erection, repair and equipment of school buildings by the board of county commissioners will not be construed so as to interfere with the exclusive control of the schools vested in the county board of education or the trustees of an administrative unit."

The court then said that the authority to operate the public schools was vested in the board of education, that it determined what buildings needed enlargement or remodeling or what new buildings were needed, and that it decided the location for schools and selected the sites. The board of education must survey annually the needs of the county school system in respect to school plant facilities and then present its plan to the board of commissioners. Then and only then it becomes the duty of the board of commissioners to determine what expenditures, if any, proposed for such purposes by the board of education are necessary.

The court went on to state that when a board of county commissioners decides that specific projects are necessary, it must provide the funds. The authority to execute the plan after the funds have been provided reverts to the board of education, which selects sites, approves plans, lets contracts, and expends the funds. If it becomes necessary to make any changes in the proposed projects, the board of education must initiate the change. It recommends the change to the board of commissioners, and then the board of commissioners may determine whether the change is or is not necessary and may approve or

disapprove the expenditure of the funds theretofore furnished by it for the execution of the amended plan.

In the *Parker* case, the board of education had requested specific projects, the county commissioners had found them necessary, and the people had approved the issuance of bonds. The court held that the county commissioners must therefore issue the bonds to raise the money for the purposes for which the bonds were authorized. The commissioners, said the court, had no right to submit the alternative proposition to the voters, and the vote thereon was of no effect; neither action gave the commissioners any right to change the projects which it had previously found to be necessary. The court noted that the proposed action of the board of county commissioners was a clear invasion of the prerogatives of the board of education, it being the duty of the latter to decide whether there should be one central high school or two or more high schools in different sections of the county.

In *Board of Edueation of Onslow County v. Board of County Commissioners of Onslow County*, 240 N.C. 118 (1954), the court was called on to interpret portions of the School Machinery Act which seem to leave with the county commissioners final authority to determine amount of school budgets and G.S. 115-160, which provides an arbitration procedure for disputes as to appropriations between boards of county commissioners and boards of education. The court noted that G.S. 115-356 (a section in the School Machinery Act) authorizes the county commissioners to levy taxes for certain specified purposes, including vocational and trade subjects, attendance enforcement, supervision of instruction, health and physical education, clerical assistance, and accident insurance; but these taxes are not required to be levied. The court noted further that county commissioners are required to raise sufficient funds to maintain the school plant and to provide for fixed charges, to provide for capital outlay, and to provide for debt service.

The court found that the School Machinery Act and G.S. 115-160 concerning arbitration could be interpreted together, and it made this distinction: When a *positive duty* rests on the board of county commissioners to levy necessary taxes to provide funds for operation of schools, such as for maintenance of plant, fixed charges, capital outlay, and debt service, the arbitration procedure is applicable to resolve disputes as to amounts of appropriations for these purposes between the board of education and the board of county commissioners. The arbitration procedure, however, is not applicable when county commissioners have *permissive* authority to levy taxes, as they do under G.S. 115-356 for certain purposes enumerated above; nor is arbitration applicable in the case of school supplement taxes levied with the approval of the voters. In these cases the decision of the board of county commissioners as to the amount of appropriations and taxes to be levied is final.*

It is to be noted that the arbitration procedure does not cover disputes between a board of trustees of a city unit and the board of county commissioners (even as to the amount to be provided for maintenance of plant, fixed charges, capital outlay, and debt service), since G.S. 115-160 applies only to disputes between boards of county commissioners and county boards of education.

As this issue of *Popular Government* went to press, the General Assembly had before it bills which would completely rewrite the school law in North Carolina. These bills would rewrite the provisions interpreted by the court in the *Onslow* case, and would if enacted into law change the law of that case.

Right to Supplement Bond Proceeds and Special Tax Funds

In *Rider v. Lenoir County*, 236 N.C. 620 (1952), suit was brought by plaintiffs as taxpayers against the county to enjoin the issuance of hospital bonds and to restrain the disbursement of county funds to enlarge a public hospital. The hospital, previously operated by a corporation as a non-profit hospital, was to be deeded to the county provided the county would maintain and operate the hospital as a public hospital. The board of county commissioners adopted a resolution accepting the offer of the hospital corporation, subject to the approval by a majority of the voters in a special election of (1) the issuance of bonds to provide for expansion, (2) the levy of a tax for debt service on such bonds, and (3) the levy of a tax for operation and maintenance of the hospital.

In the bond order adopted by the board of county commissioners, the board stated that it was necessary to expand and enlarge the hospital facilities in order to provide adequate hospital facilities for the inhabitants of the county. It further stated "that it will be necessary to expend for such purpose not to exceed $465,000 in addition to any funds which may be contributed by the federal government or any of its agencies or by other persons or associations."

At an election, the voters approved the bonds, the debt service tax, and the maintenance tax. Available funds for the project, including state and federal funds, totaled around $1,050,000. When bids were received on the project, they totaled around $1,200,000. Thus an additional $138,713.80 was required. The hospital building committee asked the board of county commissioners to appropriate the amount needed to meet the bids, and that board then appropriated the necessary funds from "funds of Lenoir County on hand and available" which were theretofore unallocated and unappropriated. The court found that these funds were derived from profits from the operation of Alcoholic Beverage Control Stores within Lenoir County.

Plaintiffs argued that the proposed expenditures were illegal on the grounds that they were "materially in excess of the amount approved and limited by vote of the people." Conceding that the enlargement of a hospital was a public purpose for which nontax funds could be spent without a vote, and conceding that public funds might be used to supplement bond money, the court said that the bond order published prior to the election was the crucial foundation document which supported and explained the proposal to be submitted. It added that material representations set out in the bond order ordinarily become essential elements of the proposition submitted to the voters. The court then noted that the bond order contained a stipulation definitely fixing the maximum amount of county funds to be expended on a proposed project, and therefore that stipulation became a limitation on subsequent official acts based on a favorable vote. The court added that such stipulations may not be materially varied.

Since the bond order stipulated that the proposed hospital project "will require 'not to exceed $465,000' of county funds," the court stated that a supplemental appropriation of $138,000 works a material variance on the proposition submitted to and

* For a more detailed discussion of this case, see "Supreme Court Rules on School Budget Procedure" (County Finance Bulletin No. 3), Institute of Government, June, 1954.

approved by the vote of the people and it is therefore invalid. The court concluded that the county was without authority to disburse the additional funds or proceed further with the hospital project pending further proceedings. The court said that the county could consider the feasibility of conforming the proposed project to the limits authorized by the voters or submitting another proposition to the voters. It reversed the court below and issued a temporary restraining order that plaintiffs sought.

It is to be noted that the court said, "And it may be conceded that where such public funds are to supplement bond moneys, it is not required that the bond order specify, or the voters be advised, that the proceeds of the proposed bond issue are to be used with, or in addition to, a sum of money on hand or otherwise available for the proposed improvement."

One of the points at issue in *Greensboro v. Smith*, 239 N.C. 138 (1953), sheds further light on the *Rider* case. An election had been held in Greensboro at which the voters approved the levy of a tax of not exceeding 10 cents for the establishment and maintenance of a supervised recreation system for the city. The city had regularly levied and collected a tax of 7 cents for recreational purposes. In fiscal 1952-53, and again in 1953-54, the city appropriated $80,000, or a total of $160,000, from the profits of Alcoholic Beverage Control stores for the construction of a swimming pool. The defendant, relying on *Rider v Lenoir County*, challenged the appropriation for the swimming pool, contending that the voters had authorized the levy and collection of a tax for such a purpose, and hence the city had no right to supplement these special tax funds with more moneys derived from the operation of ABC stores. The court noted that the case was distinguished from and not controlled by the *Rider* case, because in the *Rider* case the bond order contained a stipulation that the amount of county funds "would not exceed $465,000." The court noted that that stipulation had been treated as a compact with the voters, and hence there was no authority to supplement that amount from nontax sources; in its view, the voters, in adopting a plan at the polls that limited the amount of county funds to be spent, had by clear implication voted down the right of the county to supplement the project with county funds of any kind. The court noted further that nothing of the sort appeared in the *Greensboro* case, since the special tax election contained no stipulation, express or implied, that the amount to be spent for recreation purposes should be limited to funds raised by the special tax.

Thus the court continued the ever expanding power of municipalities and counties to use nontax funds for non-necessary expenses. And the *Greensboro* case makes clear that unless the voters limit the financing of a non-necessary expense to the taxes levied, nontax revenues may be used just as they could be used to finance a program for a non-necessary expense where the voters had not approved any tax at all.

City Notes

(Continued from page 3)

After the **Gastonia** City Council doubled water rates for outside users late last year local drilling companies literally had a "field day." A great many fringe area citizens were convinced that they could pay off the cost of a well and pump with money saved by avoiding the higher rates. The **Lowell** town council promptly increased its rates 50 per cent, since it purchases water from Gastonia for resale to its own citizens, and notified its citizens that the increase was necessitated by the Gastonia increase. **Dallas**, which for some time also has purchased its water from Gastonia, made plans to build its own water filter plant and obtained approval to hold an election on a $170,000 bond issue to finance the project. The result of these moves and counter-moves was a cutback order by Gastonia which will reduce the wholesale rate by 50 per cent to Dallas and Lowell, allowing those towns to pass on the reduction to their own customers. Dallas is also asking for a 20-year contract which will assure it of no increase in rates under subsequent Gastonia city councils.

* * *

For the first time in its history, **Morehead City** has levied a sewer service charge. The fee, established at a minimum of 50 cents and a maximum of $5, will be billed by the water company. The minimal water-use months of October, November, and December were used to calculate each customer's sewage bill; i.e., 25 cents if the water bill average for these months was $1-$2, 50 cents if $2-$3, etc., to the maximum charge of $5. The sewerage fee will remain constant once established by this method. The new fee or charge is expected to bring in about $6,000 annually in new revenue to the city.

* * *

As the result of a 314-signature petition protesting the increase, **Statesville** has repealed an ordinance doubling water charges to customers outside the city, but raised minimum suburban monthly rates from 50 cents to $2 for up to 750 gallons. The outside rate was re-established at the city rate plus 30 per cent, for water used in excess of the minimum.

Graham has raised water rates to out of town customers 25 per cent, and **Clinton** will finance expansion of water and sewage disposal systems by an increase in water-sewer rates by 50 per cent. A 20 per cent increase in city water rates has been approved by the **Charlotte** city council, with a readjustment of out-of-city rates to twice the city rate.

Cornelius and **Norlina** have progressed in a campaign to install water meters in all homes within the towns, thereby abolishing the previous flat-rate system and increasing the overall income to each town. Norlina will require meters on all future connections.

Zebulon town officials have increased the water line connection fee from $15 to $25 on the three-quarter inch line, and established a new sewer line connection fee at $25. A new sewer line use fee was established at 50 cents per month, to be billed by the water company.

Forest City has doubled the penalty charges for special collection of delinquent water bills and for restoration of service once discontinued for cause. The new charges are 50 cents penalty charge, and $1 restoration of service charge.

FIRE TRUCK FOR SALE

The town of Canton will sell a fire truck at public auction on March 28 at 12 noon at its fire department. The truck is a 1921 model American La-France 750 gallon pumper, with all standard equipment except nozzles and hose. The sale will be for cash, and the town reserves the right to reject all bids.

Commission on Higher Education Reports

A report of great potential significance to the state has been presented by the Commission on Higher Education, created by the 1953 General Assembly to study the state-supported colleges and university, determine the relationships between them, and make recommendations to the 1955 General Assembly as to desirable revision of the laws regulating them.

The Commission's major recommendation was the establishment of a State Board of Higher Education, with the duty of coordinating the state's system of higher education and preparing long range plans to meet enrollments which are expected to increase by as much as 100 per cent by 1970. Such coordination would be effected primarily by budgetary controls, although the Commission would also have authority to determine the types of degrees to be awarded by each institution.

In its report the Commission declared that "North Carolina is not getting the results in higher education which might be expected in view of the amount of money being spent." It attributed this, at least in part, to "unjustified duplication of programs;" to differing accounting systems, which make it difficult for budget authorities to compare institutions; to "divergent and, in some instances, conflicting educational policies;" and to the lack of any agency authorized to make comprehensive plans for the whole system. The Commission detailed these charges at some length, and then considered the systems in effect in other states.

On the basis of these findings, the Commission made the following recommendations:

"1. That there be created a State Board of Higher Education for North Carolina.

"2. That the Board consist of nine citizens of the State who shall be appointed by the Governor and confirmed by the General Assembly for overlapping terms of six years, the terms of three members to expire every two years, the members of the Board to serve without compensation except for allowances for per diem and travel expenses.

"3. That the Board serve as a coordinating agency for State-supported institutions of higher education.

"4. That the Board determine the general functions and activities of such institutions and the types of degrees to be granted to the end that uneconomical practices may be eliminated.

"5. That the Board make at least one inspection of the facilities of each institution each biennium.

"6. That the Board, after holding hearings on the budget requests of such institutions, make such recommendations to the Director of the Budget and the Advisory Budget Commission as it deems necessary for the most efficient operation of each institution.

"7. That the institutions be represented and heard, if they so desire, at the budget hearings before the Advisory Budget Commission.

"8. That the General Assembly make appropriations to such institutions.

"9. That the Board have the power to grant approval of the quarterly requisitions of allotments from appropriations, or such modifications of them as it may deem necessary to make, subject to the approval of the Director of the Budget who is to be notified of any such action.

"10. That the Board have the power to adopt a revised budget for each institution, after consultation with the officers of that institution, so as to adjust such budgets to any reduction of appropriations by the Director of the Budget in order to prevent an overdraft or deficit as is now permitted by law.

"11. That the Board have the power to grant approval of requests from each institution for transfers and changes as between objects and items in the budget of the institution making the request, subject to the approval of the Director of the Budget who is to be notified of any such action.

"12. That the Board prescribe uniform practices and policies for the institutions.

"13. That the Board engage in study and planning directed toward the development of a unified program of State-supported higher education.

"14. That the Board have authority to appoint and fix the salary of a full-time Executive Secretary, subject to the approval of the Governor.

"15. That the boards of trustees of the respective institutions continue to control such institutions as at present, subject to the action of the State Board of Higher Education within the limits of its jurisdiction."

A bill embodying the recommendations of the Commission was introduced in the House by Representative Oscar G. Barker and others on February 9.

Mr. Victor S. Bryant of Durham served as chairman of the Commission on Higher Education. Other members were F. L. Atkins, Dudley Bagley, E. Y. Floyd, L. C. Gifford, Mrs. Grace T. Rodenbough, and Fred S. Royster. Its executive secretary was Professor Leonard S. Powers of the Wake Forest College Law School.

Final Reorganization Commission Report

Legislation to effectuate the recommendations of the Commission on Reorganization of State Government, described in the December, 1954, issue of *Popular Government*, has now been presented to the General Assembly. In addition to the seven reports summarized there, the Commission presented an eighth report, dealing with the office of the Governor.

In this report, the Commission made nine recommendations, falling into five major categories, designed to simplify the Governor's duties and to give him more efficient facilities for carrying them out. First, it recommended that the appointment of certain officials be turned over to other officers: certain state forest rangers, to the State Forester; justices of the peace (other than those named by the General Assembly or elected locally), to resident judges of superior court; notaries public, to the clerks of superior court. This would remove somewhat over 7,200 appointments annually from his duties. In addition, the Commission suggested that careful consideration be given by local governments affected to removing certain local governmental appointments (such as judges and solicitors of local courts, mayors, and aldermen) from his duties.

Second, the Commission recommended that the appointment of certain officials be simplified, by removing the requirement of Senate confirmation or Council of State approval.

(Continued on inside back cover)

Books of Current Interest

Legal Medicine

LEGAL MEDICINE, PATHOLOGY, AND TOXICOLOGY. *By Thomas A. Gonzales, M.D., Morgan Vance, M.D., Milton Helpern, M.D., and Charles J. Umberger. New York: Appleton-Century-Crofts, Inc. 1954. $22.50. Pages 1349.*

While this treatise admittedly "has not been written or intended for the untrained or inexperienced person," there is much within its covers which will profit the most recent addition to the law enforcement profession. An abundance of well chosen illustrations, many of them in color, make it easier to follow the textual presentation, which does become technical at places. Much of the vocabulary used, however, should be within the ken of law enforcement officers whose duties include the investigation of homicide. Coroners, prosecutors, and judges who preside over criminal terms of court will also find this book a valuable reference work. For the pathologist and toxicologist, the first edition of this book has become a true friend, and the second is an improvement. (RAM)

STATUTES OF THE OHIO REVISED CODE AFFECTING THE CORONER, FUNERAL DIRECTOR, AND PHYSICIAN. *By Dr. S. R. Gerber, Executive Secretary and Treasurer of the National Association of Coroners. Cleveland: Banks-Baldwin Law Publishing Co. 1954. $3.00. Pages 37.*

THE ROENTGENOLOGIST IN COURT. *By Samuel Wright Donaldson, M.D. Springfield, Ill.: Charles C. Thomas, Publisher. 1954. $7.75. Pages 348.*

For both medical men and lawyers, this book deals with a special area of a specialty. The fact that it is now in second edition is evidence of the fact that use of x-ray evidence in tort and criminal cases is becoming increasingly more frequent. Dr. Donaldson has here compiled a valuable guide for the presentation of such evidence. (RAM)

PHYSICIAN IN THE COURTROOM. *Edited by Oliver Schroeder, Jr. Cleveland: Western Reserve University Press. 1954. $2.00. Pages 99.*

This is actually a collection of four essays: Injury and Cancer, by Lester Adelson, M.D.; Medical Ethics and the Law: The Conflict Between Dual Allegiances, by Clinton De Witt; Expert Medical Testimony and the Medical Expert, by Samuel R. Gerber, M.D.; and Trauma and Heart Disease, by Alan R. Moritz. The compilation is the first in a series on law-medicine projected by Mr. Schroeder. As such, it is one of the more promising elements in an ever growing field. Lawyers and doctors alike should find this collection profitable reading. (RAM)

Law Enforcement

ARSON: A HANDBOOK OF INVESTIGATION AND DETECTION. *By Brendan P. Battle and Paul B. Weston. New York 22: Greenberg, Publisher, 201 East 57th Street, 1954. $3.75. Pages 287.*

As the latest addition to the Gold Shield Library, this book will be a valuable addition to law enforcement libraries. For interested law enforcement officers and firemen in North Carolina, the book suffers from two basic weaknesses. The first is that the book contains very little on the specific problems of investigating unlawful burnings in rural areas. The second is that treatment of the legal problems involved in these investigations is necessarily general and consequently not of great assistance. Despite these weaknesses, however, the book is a valuable work with many helpful hints for the less experienced in this particular phase of law enforcement from the long experience of Brendan P. Battle. (RAM)

PUBLIC RELATIONS AND THE POLICE. *By G. Douglas Gourley. Springfield, Ill.: Charles C. Thomas, Publisher. 1952. $5.75. Pages 123.*

This book is based on a survey made in Los Angeles about what the people thought about the police department. The results are not flattering, despite the fact that policemen did the questioning and that some of those questioned were in groups regulated by the department. Gourley finds in the statistics compiled an argument for a strong public relations program in L.A. How do you think your department would rate with the citizenry? Could you use tips on a public relations program? (RAM)

THE POLICE AND THE PUBLIC. *By Richard L. Holcomb. Iowa City: Institute of Public Affairs; State University of Iowa. $1.00. Pages 36.*

Law enforcement libraries should have this little book. It is well illustrated, well written, and deals with the practical aspects of public relations in law enforcement. Its size probably brings the cost within the reach of most. (RAM)

ENCYCLOPEDIA OF CRIMINOLOGY. *Vernon C. Branham and Samuel B. Kutash, editors. New York 16: The Philosophical Library, 15 E. 40th Street. 1949. $12.00. Pages xxxvii, 527.*

Planning

MR. PLANNING COMMISSIONER. *By Harold V. Miller. Chicago: Public Administration Service, 1313 East 60th Street. $1.00. Pages 81.*

Here at long last is a simply-stated description of what city planning is all about. Prepared primarily as an introduction to planning for the newly-appointed member of a planning board, it is equally useful as a school text or for study by civic groups. While the author steers clear of detailed descriptions of planning techniques, the reader is apt to find that he has learned more than he realized by the time he gets to the end of the book.

RULES AND REGULATIONS AND FORMS FOR ZONING BOARDS OF ADJUSTMENT. *Pittsburgh: Institute of Local Government, University of Pittsburgh. 1954. Price ? Pages 22 (mimeographed).*

The Zoning Board of Adjustment is very much like a court, and its decisions have judicial effect. To insure that it arrives at these decisions in a proper manner, it is essential that it adopt and adhere to adequate rules of procedure. The rules, regulations, and forms presented here are a good starting point for any such board setting up or revising its procedures.

SPACE FOR INDUSTRY: AN ANALYSIS OF SITE AND LOCATION REQUIREMENTS FOR MODERN MANUFACTURE (Technical Bulletin No. 23). *By Dorothy A. Muncy. Washington 6: Urban Land Institute, 1737 K Street, N.W. 1954. $5.00. Pages 40.*

This is another of the Urban Land Institute's able studies in the field of land use and development. Dr. Muncy has studied the spatial requirements for industrial plants of different types and locations over the country, in an effort to isolate factors which must be considered and to arrive at some

norms in the requirements of different plants. Her work will be useful to city planners and others interested in reserving adequate locations for industrial growth, as well as to industrial realtors and industrial district operators.

ORGANIZED INDUSTRIAL DISTRICTS. *By Theodore K. Pasma, Area Development Division, Department of Commerce. Washington: Government Printing Office. 65 cents. Pages vii, 101.*

With the planned industrial district (referred to by the author as "organized") growing ever more popular over the country, developers and city officials have become concerned with the "how" of establishing one. This is a handbook in the tradition of the Urban Land Institute's 1952 publication, *Planned Industrial Districts*. It describes in great detail the processes of planning a district, organizing and financing the district, controlling development within the district, preparing the site, and promoting the district among prospective industrial clients.

OCCUPATIONAL MOBILITY IN THE UNITED STATES, 1930 TO 1960. *By A. J. Jaffe and R. O. Carleton. New York: King's Crown Press, Columbia University. 1954. $2.75. Pages 113 (processed).*

This work grew out of a project designed to construct "models and procedures for estimating possible future manpower supply by occupation in the United States." As such, it is interesting for its methodology. However, city planners, educators, and others concerned with the question of how flexibly workers may turn from one occupation to another, will be interested in its results as well.

State Government

Four of the projected 52-volume American Commonwealths Series on the government and administration of the states and four territories, edited by W. Brooke Graves, have been released. Published by Thomas Y. Crowell Company of New York, the initial volumes are well-written and are published in a simple but attractive format.

THE GOVERNMENT AND ADMINISTRATION OF FLORIDA. *By Wilson K. Doyle, Angus M. Laird, and S. Sherman Weiss. 1954. $4.95. Pages 400.*

THE GOVERNMENT AND ADMINISTRATION OF MISSISSIPPI. *By Robert B. Highsaw and Charles N. Fortenberry. 1954. $4.95. Pages 414.*

THE GOVERNMENT AND ADMINISTRATION OF NEW YORK. *By Lynton K. Caldwell. $5.95. Pages 596.*

THE GOVERNMENT AND ADMINISTRATION OF WYOMING. *By Herman H. Trachsel and Ralph M. Wade. $4.95. Pages 381.*

Although each volume is organized according to the dictates of its authors, each follows a similar pattern in describing state and local government—legal structure, political setting, administrative system, and the functions and services performed by state and local agencies. These parallel studies of each of our states will be very helpful in high school and college instruction, good reference material for libraries and for public officials, and good background material for civic agencies and individual citizens. Eventually, the full series will give a source of comparative information on the "history, development, and present functioning of government" in all the states and territories, a source which has been sorely needed by students of state government. (GHE)

Miscellany

THE AMERICAN FAMILY IN THE TWENTIETH CENTURY. *By John Sirjamaki. Cambridge, Mass.: Harvard University Press, 38 Quincy St. 1953. $4.25. Pages viii, 227.*

The author, a Yale sociologist, here interprets for general readers, in nontechnical language, the findings of social scientists concerning the American family. He looks upon the family as the basic institution in our society and traces the changes in its structure and functions that have come with changing conditions. (RML)

BROADMOOR: A HISTORY OF CRIMINAL LUNACY AND ITS PROBLEMS. *By Ralph Partridge. New York 10: John de Graff, Inc., 64 West 23rd Street. 1953. $4.00. Pages 277.*

One does not expect to be made cheerful by a book about homicidal maniacs, but *Broadmoor* has very nearly that effect. It is a history of the treatment of such people in England. As such, it gives rise to hope that such a book will someday be possible about similar institutions in the United States. It tells about a hospital, adequately staffed and adequately equipped, in which the natural fear and abhorrence of the combination of murder and insanity have been overcome. Persons now confined at Broadmoor, individuals who have murdered in madness, are handled as ill people without either sentimentality or brutality. It has not always been so, and this story of progress which has been made in another country is encouraging.

In all, *Broadmoor* is a very interesting book as well as a very instructive one. It contains even touches of humor, for one becomes aware that the people with whom it deals are still humans, though mad. *Broadmoor* is a valuable book for any person to read, and more so for any individual concerned with the administration of criminal justice. (RAM)

Redevelopment Upheld

(Continued from page 7)

of the public need for the standard prescribed by Congress."

A final question was whether condemnation of full title to the property was necessary. "The District Court indicated grave doubts concerning the Agency's right to take full title to the land as distinguished from the objectionable buildings located on it," the Court declared. "We do not share these doubts. If the Agency considers it necessary in carrying out the redevelopment project to take full title to the real property involved, it may do so. . . . The rights of these property owners are satisfied when they receive that just compensation which the Fifth Amendment exacts as the price of the taking."

Reorganization

(Continued from page 11)

Third, it suggested a statutory provision authorizing the Governor, in carrying out his ex officio duties, to designate a personal representative to attend meetings and act in his behalf.

Fourth, it recommended that the Governor be given statutory authority to appoint such personal staff as he deems necessary to carry out his duties.

And fifth, it recommended that the Board of Public Buildings and Grounds give consideration to the furnishing of additional office space for the Governor and his immediate staff.

Publications for Sale

The following Institute of Government publications are currently available for sale to interested citizens, libraries, and others. Orders should be mailed to the Institute of Government, Box 990, Chapel Hill.

LAW AND ADMINISTRATION SERIES:

THE LAW OF ARREST by Ernest W. Machen, Jr., 1950, 151 pp prtd ($1.50)

THE LAW OF SEARCH AND SEIZURE by Ernest W. Machen, Jr., 1950, 158 pp prtd ($1.50)

PROPERTY TAX COLLECTION IN NORTH CAROLINA by Henry W. Lewis, 1951, 342 pp prtd ($2.50)

LEGISLATIVE COMMITTEES IN NORTH CAROLINA by Henry W. Lewis, 1952, 144 pp prtd ($1.50)

ZONING IN NORTH CAROLINA by Philip P. Green, Jr., 1952, 428 pp prtd ($3.50)

GENERAL ASSEMBLY OF NORTH CAROLINA: GUIDEBOOK OF ORGANIZATION AND PROCEDURE by Henry W. Lewis, 1952, 125 pp prtd ($1.50)

SOCIAL SECURITY AND STATE AND LOCAL RETIREMENT IN NORTH CAROLINA by Donald B. Hayman, 1953, 173 pp prtd ($2.00)

THE SCHOOL SEGREGATION DECISION by James C. N. Paul, 1954, 132 pp prtd ($2.00)

GUIDEBOOK SERIES:

GUIDEBOOK FOR ACCOUNTING IN CITIES by John Alexander McMahon, 1952, 219 pp mimeo ($2.00)

GUIDEBOOK FOR ACCOUNTING IN SMALL TOWNS by John Alexander McMahon, 1952, 139 pp mimeo ($1.50)

MUNICIPAL BUDGET MAKING AND ADMINISTRATION by John Alexander McMahon, 1952, 67 pp mimeo ($1.00)

SOURCES OF MUNICIPAL REVENUE by John Alexander McMahon, 1953, 61 pp mimeo ($1.00)

CORONERS IN NORTH CAROLINA by Richard A. Myren, 1953, 71 pp prtd ($1.50)

COUNTY SALARIES, WORKING HOURS, VACATION, SICK LEAVE by Donald B. Hayman, 1954, 37 pp mimeo ($1.00)

PUBLIC WELFARE PROGRAMS IN NORTH CAROLINA by John Alexander McMahon, 1954, 122 pp mimeo ($1.50)

ADMINISTRATIVE PROCEDURE BEFORE OCCUPATIONAL LICENSING BOARDS by Paul A. Johnston, 1953, 150 pp mimeo ($2.00)

GUIDEBOOK FOR COUNTY ACCOUNTANTS by John Alexander McMahon, 1951, 210 pp mimeo ($2.00)

CALENDAR OF DUTIES FOR CITY OFFICIALS, 1954-55, 12 pp prtd ($.50)

CALENDAR OF DUTIES FOR COUNTY OFFICIALS, 1954-55, 12 pp prtd ($.50)

PUBLIC LIBRARIES IN NORTH CAROLINA, PROCEEDINGS OF THE FIRST TRUSTEE-LIBRARIAN INSTITUTE (Ed. George H. Esser, Jr.), 1952, 47 pp prtd ($1.00)

SOURCES OF COUNTY REVENUE by John Alexander McMahon, rev. ed., 1954, 65 pp mimeo ($1.00)

FORECLOSURE OF CITY AND COUNTY PROPERTY TAXES AND SPECIAL ASSESSMENTS IN NORTH CAROLINA by Peyton B. Abbott, 1944, 86 pp mimeo ($2.50)

THE STORY OF THE INSTITUTE OF GOVERNMENT by Albert Coates, 1944, 76 pp prtd (Free)

INVESTIGATION OF ARSON AND OTHER UNLAWFUL BURNINGS by Richard A. Myren, 1954, 104 pp mimeo ($1.50)

COOPERATIVE AGRICULTURAL EXTENSION WORK IN NORTH CAROLINA by John Alexander McMahon, 1955, 24 pp mimeo ($.50)