

# POPULAR GOVERNMENT

December 1964

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## *In This Issue:*

**Is 100% Enough?**

**Homicide Cases:  
the  
Preliminary Hearing**

**\$18 Million  
for  
Higher Education**



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*The cover picture shows Chairman William Joslin of the State Board of Elections receiving a Distinguished Citizen Award from Governor Terry Sanford. (See back cover.)*

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\* On leave



# Is 100% Enough?

By Henry W. Lewis, Assistant Director, Institute of Government

No one is more suspicious of a tax collector's "collection percentage" than another tax collector.

A few years ago it was not uncommon to see news reports of how some small town tax collector had collected 100% year after year. But 100% of what? Quiet inquiry disclosed that, after being credited with tax liens purchased by the town and "insolvent" personal property taxes, he had indeed collected 100% of the remainder of the levy. In terms of the total levy, however, he had been collecting about 80%.

Today few county or city governing boards and fewer collectors are so fiscally naive. But there is no quieting the disturbing question: What is a "good" collection record?

Suppose we attack the issue by making an assumption: Every county and town collector should collect at least 90% of his unit's 1964-65 property tax levy by June 30, 1965. Can that assertion be defended? Is the figure too high? Is it too low? Why select June 30 as the measurement date? These questions suggest how we may pursue the inquiry.

In preparation for the 1964 Conference of the North Carolina Tax Collectors Association, the Institute of Government, with encouragement from the Association's Program Committee, attempted to find out how well (or how poorly) North Carolina cities and counties collect property taxes. Almost 250 collectors cooperated in the effort, and without their frank answers to what, in some instances, must have been embarrassing questions, the study would have been useless.

## A Beginning Point

For our study to maintain a reasonable degree of unity, it was necessary to make decisions on three points:

First, a definite date had to be selected as the time as of which all collection measurements were to be taken. (Lack of uniformity in this respect has always been a major reason for collectors' wariness in accepting fellow collectors' collection reports.) Realizing that a tax imposed at the opening of a given fiscal year—in July 1963, for example—is levied to provide revenue for operating local government for that fiscal year (1963-64), we decided that the measurement date should be the last date of the fiscal year, June 30. Since collections made after June 30, 1964, would, in our hypothetical situation, be applied to the succeeding year's budget (1964-65), such collections would be of little value in financing 1963-64 expenditures. If needed at all, they are needed before the end of the fiscal year for which levied.

Second, we had to select a particular fiscal year as the basis for our study so as to obtain dollar answers to our questions rather than percentages; otherwise we would be

trapped in the very evil the study was designed to correct. This choice was simple; we wanted to make our examination as current as possible, so we chose the fiscal year that had closed on June 30, 1963, the last before the time we began our examination.

Third, we had to make provision for developing comparisons of collection records according to types and sizes of local units. It was obvious that we should keep separate figures for counties and municipalities; we also decided to establish broad population brackets to which we might assign the local units studied. Thus, not wanting to be over-elaborate, we set up seven population groups for the cities and towns and six for the counties as follows:

Group Number	County Population Range	Municipal Population Range
I	100,000 and above	50,000 and above
II	75,000 to 100,000	25,000 to 50,000
III	50,000 to 75,000	10,000 to 25,000
IV	25,000 to 50,000	5,000 to 10,000
V	15,000 to 25,000	2,500 to 5,000
VI	Less than 15,000	1,000 to 2,500
VII	Not used	Less than 1,000

By mid-January 1964 we had received usable replies to our collection questionnaire from sixty-four counties and 173 cities and towns. (It should be kept in mind that the cooperating collectors were told that the data they supplied would not be identified, and this may have contributed to the gratifying response the Institute received.) We felt we had a very good sample; it seemed especially good when we saw that units in all areas of the state and units of all sizes were represented in substantial numbers. This is demonstrated by the number of units from each of the population groups defined above:

Group	No. of Counties	No. of Municipalities
I	7	5
II	6	5
III	13	13
IV	21	14
V	12	20
VI	5	54
VII	Not Used	62
	64	173

From the data supplied by the collectors we developed four basic tabulations. (Although it would be inappropriate to print them here, officials should feel free to write to the author for copies.) The results of the survey can be summarized and brought into convenient focus under the four headings used below.

## Percent of 1962-63 Levy Collected by June 30, 1963

This was the heart of our inquiry, and it was to this point that most of our questions were directed. In addition to data on end-of-fiscal-year collection percentages, we hoped to get an indication of whether there was any marked correlation between these figures and the dates chosen by taxing units for their annual advertisement and sale of tax liens against real property. With regard to collection achievement, here is what we discovered:

By June 30, 1963, the "all county" *average* collection percentage for the 1962-63 levy was 88.91%; the *median* collection percentage was 90.09%. By the same date, the "all city" *average* collection percentage was 85.75%, and the *median* collection percentage was 89.28%. Apparently the counties were doing a slightly better job of collecting "on time" than were the cities and towns, but, as someone remarked, "Remember all those very small towns that must be taken into account in the 'all city' figures, while that is not the case with the counties." Perhaps so. Thus, we computed average and median collection percentage figures for the counties and towns in each of the population groups we had erected; this, we felt, might be more revealing. We listed the figures obtained and inserted the "all county" and "all city" figures in appropriate places, with the results tabulated in Figure A. There seemed to be substance in the suggestion that taxing unit size has a bearing on collection efficiency. Aware that *averages* must take into account all figures—some extremely high and others extremely low—we felt that the *median* figures (representing the mid-point in each population grouping) gave a more reliable indication of what most units were actually collecting. Thus, we thought the following tabulation was revealing.

Median (all groupings; county and city; highest to lowest)	Population Grouping (indicated as to whether county or city)
94.66%	County I
	City I
	County III
93.88%	City II
93.35%	City III
92.97%	City IV
91.85%	City V
91.25%	County II
91.12%	County IV
90.09%	All County
89.28%	All City
86.96%	County V
86.31%	City VI
84.40%	City VII
80.02%	County VI

The first notable fact emphasized by this arrangement is that the "all county" and "all city" medians are less than one percentage point apart. The second fact it shows is that, despite our earlier acknowledgment of the large number of municipalities in Groups VI and VII, the median for the lowest of the county population groups (Group VI) fell more than four percentage points below the lowest median for a municipal population grouping. And, finally, county population Groups III and IV do not fall into the pattern that would have been expected. Are these mere eccentricities, or do they suggest that county

collection effort (measured in terms of collection staff, vigor in use of collection remedies, and similar standard indicia) does not inevitably rise and decline with population size and density? These are points on which both counties and cities might practice self-examination. (It is interesting to learn that several taxing units have already begun this process as a result of this inquiry. Several have launched careful studies of their own practices, procedures, budgets, and staff capabilities.)

## Choice of Lien Sale Dates

Under state-wide property tax law, each year each county is supposed to sell its unpaid tax liens against real property on the first Monday in May or one of the succeeding four months, and each city and town is supposed to hold its lien sale on the second Monday of one of the same five months. Although the unit governing body is left free to pick its month, once chosen, the liens must be advertised in a local newspaper for four weeks preceding the sale date. This advertisement is regarded as a strong stimulus to tax collection. Thus, in looking at tax collection percentages as of June 30, we felt it wise to determine if the unit's choice of lien sale date has any noticeable effect on its June 30 collection record. With this in mind, we asked the collectors to report their sale dates. Figure B shows the number of units (and percent of the sample) which held their lien sales in various months in 1963 and 1964. The largest percentage of the counties (almost 29%) favor a lien sale in June with September as the second favorite (almost 28%). Among municipalities, September is the favorite (31%), but *no sale at all* is the preference of the second largest portion of the city and town sample! Almost 22% of the municipalities overlook the collections that might be spurred by advertising and selling tax liens, not to mention the legal requirement that the sale be held. Almost 8% of the counties follow the same course. Yet, so far as our research indicates, there is only one county and only one city with legislative authority to eliminate the lien sale.

Having inquired when their units customarily hold their annual lien sales, we asked each collector to express his personal preference as to a sale date: Should it be held prior to July? Or should it be held in July or later? Here are the answers:

	% favoring sale before July	% favoring sale in July or later	% giving no opinion
County	40.62%	46.88%	12.50%
City	27.93%	48.05%	24.02%
All Units	31.27%	47.74%	20.99%

We observed that the collectors' preferences follow rather faithfully the existing practices within their units. But we also noted that while 30.25% of the county sample held the lien sale prior to July, 40.62% of the county collectors favor a sale before July. Similarly, while only 22.35% of the city sample held the sale before July, 27.93% of the city collectors favor the earlier sale date. This expression of desire to advance the lien sale date suggests that some collectors have heard rumors of the collection benefits reaped from the practice in other units. It may also be relevant to note that only three collectors whose units hold their sale prior to July believe the sale should be held later; all others are satisfied that the early date produces better collection results. What were those results? The

Figure A

## END-OF-FISCAL-YEAR COLLECTION PERCENTAGES

<i>Counties</i>	<i>Average</i>	<i>Median</i>	<i>Cities</i>	<i>Average</i>	<i>Median</i>
Group I	92.78%	94.66%	Group I	94.30%	94.66%
Group II	90.19%	91.25%	Group II	94.46%	93.88%
Group III	92.00%	94.66%	Group III	92.21%	93.35%
Group IV	89.35%	91.12%	Group IV	92.01%	92.97%
All County	88.91%	90.09%	Group V	91.27%	91.85%
Group V	85.99%	86.96%	Group VI	85.87%	86.31%
Group VI	79.67%	80.02%	All City	85.75%	89.28%
Group VII	Not Used	Not Used	Group VII	79.71%	84.40%

Figure B

## TAX LIEN SALE DATES—1962-63 TAX LEVY

(Showing number of units, and percentage of total sample, holding lien sale in each of ten months, as well as number of units, and percentage of total sample, holding no lien sale for 1962-63 taxes.)

<i>Date</i>	<i>County</i>		<i>City</i>		<i>All Units</i>	
	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>
April 1963	0	0	2	1.12%	2	0.82%
May 1963	1	1.56%	2	1.12%	3	1.23%
June 1963	19	28.69%	36	20.11%	55	22.63%
July 1963	10	15.63%	20	11.17%	30	12.34%
August 1963	6	9.37%	11	6.14%	17	7.00%
September 1963	14	21.87%	56	31.28%	70	28.80%
October 1963	6	9.37%	5	2.79%	11	4.53%
November 1963	1	1.56%	4	2.23%	5	2.06%
December 1963	1	1.56%	4	2.23%	5	2.06%
January 1964	1	1.56%	0	0	1	0.41%
No Sale Held	5	7.81%	39	21.79%	44	18.11%

Figure C

## END-OF-FISCAL-YEAR COLLECTION PERCENTAGES ACCORDING TO LIEN SALE DATE

*Lien Sale Date**Percent of 1962 Levy Collected by June 30, 1963*

	<i>County</i>		<i>City</i>		<i>All Units</i>	
	<i>Average</i>	<i>Median</i>	<i>Average</i>	<i>Median</i>	<i>Average</i>	<i>Median</i>
April 1963			88.93%	88.93%	88.93%	88.93%
May 1963	92.46%	92.46%	91.80%	91.80%	92.02%	92.46%
June 1963	93.88%	94.14%	92.95%	94.48%	93.24%	94.17%
July 1963	94.82%	95.17%	90.51%	91.12%	91.95%	93.14%
August 1963	89.49%	89.51%	88.48%	91.09%	88.80%	90.26%
September 1963	84.90%	85.01%	84.54%	86.90%	84.61%	85.62%
Later	81.73%	81.10%	79.17%	75.91%	80.22%	80.47%
No Sale Held	86.08%	82.51%	77.84%	69.60%	78.27%	80.61%

percentages tabulated in Figure C will help answer the question. Do they support the growing impression that a lien sale in June produces the best June 30 collection record? We felt that Figure C demonstrated several facts relevant to this question:

First, it will be observed that holding the lien sale earlier than June does not seem to produce collection results as desirable as a sale in June or July. (We realize this conclusion is subject to attack on the basis of too little evidence.) Second, city records and county and city records combined ("all units") suggest that a June sale produces the best June 30 collection record. But, county records viewed separately indicate that a July sale produces a better June 30 collection percentage than does a June sale. In

fact, the June 30 collection figures for the counties holding lien sales in July were higher than any other group of units (average: 94.82%; median: 95.17%). Keeping in mind the requirement that the four weeks of advertisement for county sales on the first Monday in July will have run most of their course by June 30, these figures merely confirm the common assumption that newspaper publication of names rather than the formality of the lien sale is what brings in the delinquent dollars. The municipal figures for July fall behind those for the counties, in all probability because municipal advertisements for July sales begin a week later than those for county lien sales. The argument as to whether it is better to sell tax liens in June or July will probably continue, but there is little in these



figures to support postponement later than July. When the lien sale is delayed until September, still a popular month, the downward trend of June 30 collection percentages is marked. Taxing units desiring to keep fiscally current, and governing bodies feeling that each year's expenditures should be paid for by that year's revenues, can profit from the experience these figures reveal.

### Reliance upon Payments

A tax is said to be "prepaid" when it is paid before the date on which it becomes legally due and enforceable. In North Carolina, property taxes for a given fiscal year's operations fall due on the first Monday in October, slightly more than three months after the fiscal year opens. The general law provides a schedule of discounts to be applied in the taxpayer's favor when he pays taxes before the due date, discounts which grow progressively smaller as the due date approaches. (It is not the purpose of this article to justify the use of such discounts, nor is there need to do more than note the fact that an extraordinarily large number of local units have obtained special legislation setting or allowing their governing boards to set discount schedules at variance from the schedule established by statewide law.)

It is common knowledge among tax collectors that those taxpayers who owe large tax bills are the most likely to prepay. For them the discount can be substantial, and the money thus rescued from the governmental till they can use with profit in their own affairs. Small taxpayers are inclined to take advantage of the discounts with much less regularity. For the county or city, prepayments produce welcome revenue in what might otherwise be lean months of the fiscal year; and for the collector prepayments provide a welcome boost toward his objective of a substantial collection percentage by the end of the fiscal year.

While some clerical and record-keeping efforts are required in computing, receiving, receipting, and accounting for prepayments, collectors realize that prepayments give them more collection percentage points with less "collection effort" than any other accounts they collect. To know there is a thick prepayment cushion in the till on the first Monday in October is comforting to the collector as he contemplates the more difficult accounts left on the books.

But how uniform is the prepayment experience of the counties and cities? Is a collector with a year-end collection percentage of 88% (of which 5% came in prepayments) to be compared unfavorably with a collector who shows a year-end collection percentage of 93% (of which 30% came in prepayments)? Asked from the governing body's point of view, if 30% of one collector's "percent-

age" came in the form of prepayment "free-will offerings," why was he able to obtain only 63% of the levy on his own by June 30 when another collector in the same period of time was able to collect 83%? The question ignores so many relevant factors that it can easily be dismissed as unfair and improper, but, nevertheless, it should not be ignored. There may be units in which it is relevant.

The questionnaire replies received from the cooperating collectors made plain that there is no uniformity among local taxing units in reliance on prepayments. This can be seen in the following tabulation:

#### Percent of Levy

##### Collected in Prepayments: Range

	High	Low	Average	Median
Counties	71.30%	1.06%	32.84%	35.10%
Cities	85.91%	0.00%	30.44%	32.13%
All Units	85.91%	0.00%	30.91%	32.44%

Considering all reporting units as a group—counties and municipalities—it appears that prepayments account for slightly less than one-third of current collections. But, as the range figures show, prepayment averages and medians have little substantive meaning in analyzing any one taxing unit's total collection record. Nevertheless, we felt it might be helpful to group the local units according to degree of reliance on prepayments. This we did in Figure D. We found that not only do prepayments account for roughly one-third of current property tax collections, but examination of Figure D indicates that this seems to be the pattern in roughly one-third of the local units. The cases analyzed in Figure E may shed light on how to deal with prepayments in measuring year-end collection performance. Here are nine units (five cities and four counties) whose prepayment records were roughly equivalent, and roughly typical of the state. Their June 30 total collection records, with three exceptions, exceeded or hovered near the median collection percentage for the state (90% to 91%). But observing only the percentage of the 1962-63 levy collected between the due date and the end of the fiscal year [Col. (3)], each of the unit governing bodies gains a clearer picture of what its collector has been able to collect in the period when all legal enforcement methods were available to him. Columns (5) and (6) are particularly useful in making this analysis.

The collectors in Counties 17 and 21 and in Cities 15 and 52 stand on the safe side of the cleavage that splits the list. The collector in City 15 may have been lucky this year, but if, year-after-year, his record keeps this pace, the city he serves will be fortunate. His record cannot be maintained without effort.

Figure D

### RELIANCE ON PREPAYMENTS: COUNTIES AND CITIES CLASSIFIED

Prepayment Percentage Groupings	Number of Counties and % of Sample	Number of Cities and % of Sample	Total Units and % of Sample
75% to 100%	0 ( 0.00%)	1 ( 0.64%)	1 ( 0.45%)
50% to 75%	6 (10.17%)	16 ( 9.81%)	22 ( 9.91%)
40% to 50%	12 (20.34%)	29 (17.79%)	41 (18.47%)
30% to 40%	18 (30.51%)	47 (28.83%)	65 (29.28%)
20% to 30%	11 (18.64%)	30 (18.40%)	41 (18.47%)
10% to 20%	7 (11.86%)	24 (14.72%)	31 (13.96%)
Below 10%	5 ( 8.47%)	16 ( 9.81%)	21 ( 9.46%)

Figure E

## TAX COLLECTION EFFICIENCY MEASURED WITHOUT REGARD TO PREPAYMENTS

(1) Unit Identifi- cation	(2) % of 1962-63 Levy Prepaid	(3) % of Levy Paid between Oct. 1 and June 30	(4) % of Levy Un- collected as of June 30	(5) % of Adjusted Levy Paid be- tween Oct. 1 and June 30	(6) % of Adjusted Levy Uncollect- ed as of June 30
City 15	31.42%	65.10%	3.48%	94.93%	5.07%
County 17	31.53%	62.68%	5.79%	91.54%	8.46%
City 52	30.50%	62.62%	6.88%	90.10%	9.90%
County 21	33.48%	60.38%	6.14%	90.77%	9.23%
City 90	33.44%	55.24%	11.32%	82.99%	17.01%
County 36	35.09%	53.88%	11.03%	83.01%	16.99%
County 45	32.44%	52.76%	14.80%	78.09%	21.91%
City 138	33.78%	46.46%	19.76%	70.16%	29.84%
City 168	32.21%	21.71%	46.08%	32.03%	67.97%

Notes: Column (3) was derived by subtracting Column (2) from the percent of the unit's total levy collected by June 30, 1963.

Column (4) was derived by subtracting the unit's June 30 collection percentage from 100%.

Column (5) reflects the unit's collection percentage on June 30 when the total levy *minus* prepayments is treated as the base, i.e. 100%.

Column (6) was derived by subtracting Column (5) from 100%.

A governing body should not place too much reliance on this kind of analysis; it ignores too many valid reasons, excuses, and explanations. Nevertheless, it would be unwise not to take advantage of it as a starting point for measuring collection efficiency. Certainly this kind of analysis should be used by collectors seeking to measure their own progress.

#### Percent of 1962-63 Levy Collected a Year after Due

As already indicated, the chief aim of the Institute's inquiry was directed toward obtaining accurate June 30 collection percentages on the 1962-63 levies. And perhaps that should have been the extent of the inquiry. But, having decided to send out a questionnaire, it was easy to yield to the final temptation and ask the collectors to tell us how much of their 1962-63 levy had been collected by October 1, 1963. We thought such figures might give some insight into what a unit with a late lien sale date could accomplish in the brief period before the next year's levy had to be collected. And we also thought such figures would be useful in estimating what percentages of levies commonly find their way into the hands of delinquent collectors. For various reasons (most of which had to do with inherent defects in our questionnaire) the answers to this question proved to be the least reliable of all; in fact, they are the only answers for which we are not willing to vouch. Nevertheless, with this warning, and with the understanding that many of them had to be "estimated," they are presented in summary form for whatever help they may be.

Counties			Cities		
Average	Median		Average	Median	
Group I	96.46	98.15	Group I	97.62	98.15
Group II	93.95	93.95	Group II	96.19	96.98
Group III	96.12	96.58	Group III	94.97	95.25
Group IV	94.76	95.22	Group IV	94.83	94.84
All County	94.38	95.42	Group V	94.24	94.92
Group V	91.44	92.90	All City	93.05	94.87
Group VI	94.25	95.35	Group VI	92.73	93.73
			Group VII	91.11	94.52

Examination of this tabulation shows, first, that the city and county medians in the highest population groupings are identical. It also shows that the medians in the lowest population groups are both slightly higher than the medians in the population groups next to lowest. The "all county" median is approximately one-half of one percentage point higher than the "all city" median, a rather narrow difference.

Looked at in terms of the percentage of the original levy uncollected by October 1, 1963, the differences are more dramatic.

#### Percentage of 1962 Levy Uncollected on October 1, 1963: By Population Groupings

County	City	All Units
1.85% I	1.85% I	1.85% County I
	3.02% II	3.02% City II
3.42% III		3.42% County III
4.58% All County		4.58% All County
4.65% VI		4.65% County VI
	4.75% III	4.75% City III
4.78% IV		4.78% County IV
	5.08% V	5.08% City V
	5.13% All City	5.13% All City
	5.16% IV	5.16% City IV
	5.48% VII	5.48% City VII
6.05% II		6.05% County II
	6.27% VI	6.27% City VI
7.10% V		7.10% County V

If it is assumed that the median figures (4.58% to 5.13%) represent attainable norms for counties and cities in general, then collection percentages substantially lower than those figures should be considered as warnings. By population size, this standard would suggest that County Groups II and V have fallen below the level of collection performance that would be reasonably expected. Similarly, City Group VI fails to measure up. Thus, individual units

(Continued inside back cover)



# THE NORTH CAROLINA FUND:

## *Community Service Consultants*

By Carroll Leggett

*Editor's note: Carroll Leggett is a Community Action Technician serving a year's internship with The North Carolina Fund. He is applying his training in community organization and development by working in the Fund's Office of Public Information as assistant to Director Billy Barnes. Leggett is a graduate of Campbell College and last summer served with the Fund-sponsored North Carolina Volunteers, a group of one hundred college students who did volunteer work in community development in several areas of the state.*

Asa Blount felt the crispness of a dry October morning as he walked past unfamiliar shop windows and office buildings in Reidsville. Blount, once a Baptist minister, and later a welfare case worker, was a new man on the job. Perhaps more important, he was a man on a new kind of job.

His appointment notes for the day read:

- 9:00 Conference with Hubert Safriet, President, Bank of Reidsville, and Russell Newman, Vice-President
- 11:00 Stop by Rockingham County Board of Public Welfare and meet Mrs. Ethel Creek, Director
- 12:00 Attend meeting of Reidsville Rotary Club; program topic — Area Economic Conditions
- 2:00 Meet Archie Daniels, Rockingham County Manager and tour county on a "windshield survey."

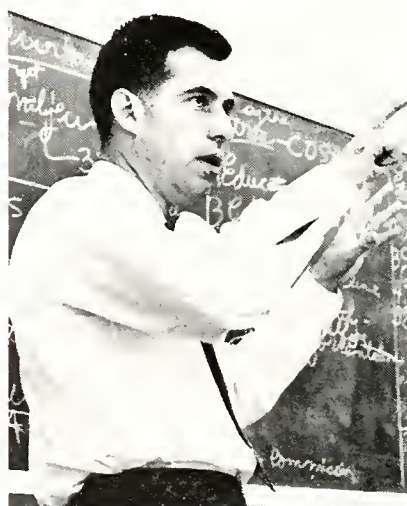
Blount's schedule of conferences with community leaders and his travel in Rockingham County were just an indication of what is to come as he works with the people of that area as a Community Services Consultant.

Blount is one of eight persons participating in a program sponsored jointly by the North Carolina Department of Public Welfare and the United States Department of Health, Education, and Welfare. This program eventually will train and place in North Carolina com-

munities twenty-five Community Services Consultants who will stimulate and coordinate the efforts of public and private agencies as they attempt to meet the needs of the poor and reduce their economic dependency. R. Eugene Brown, Director of the State Board of Public Welfare describes the program as an attempt by his department to do something "new and creative" in the field.

The Community Services Consultant program was conceived primarily to keep alive and capitalize on the effort expended by forty-five communities who last spring submitted proposals for community action programs to the North Carolina Fund but were not chosen as one of eleven project areas for the Fund's experimental anti-poverty efforts. So, these communities already have surveyed critically their problems and resources and proposed ways to develop new resources, streamline those already existing, and coordinate services in a conscientious effort to help "break the cycle of poverty."

The people Blount talked with are leaders and supporters of the Rockingham Community Fund Board



*Dave Austin, Professor of Social Work at Western Reserve University, explains the complexities of Community Action Programs during his week's stay as guest lecturer.*



*Now a new man on the job in Rockingham County, Asa Blount, right, leads a class discussion of a hypothetical community organization situation during his training at the Institute. Listening, left to right, are Bob Phelps and Vernon Porter.*

which is spearheading the effort in its area. The Board represents a cross-section of the county's leadership who, according to interim chairman Archie Daniels, have dedicated themselves to working together to find and solve the problems of their area. Organizations like the one in Rockingham also have been organized in the other seven areas to which Community Services Consultants have been assigned.

Can the Consultants bring together the multitude of public and private agencies and organizations within their areas and focus their combined, coordinated efforts on poverty problems? The entire Consultant program is a demonstration to see if this can be done.

In one sense, the project is experimental. One major objective will be to evaluate the type of experience and training (including both professional and in-service training) that best qualifies a person to do this kind of community service work. Officials of the State Department of Public Welfare are anxious to learn whether per-



*Ted Linford, retired Army officer with a business administration degree, explains a situation he encountered in a field survey undertaken as part of the training course. Listening is Mrs. Virginia Sherrill.*



sons without formal training in social service, but with experience in administrative and consultative capacities, can gain the necessary understanding to effectively direct the planning of a comprehensive program of services including health, education, and economic and social assistance.

Consequently, of the eight Consultants who recently completed three weeks of resident training at the Institute of Government, only two had professional experience in what one usually thinks of as "social service." These two were Asa Blount and Mrs. Virginia Sherrill, a day care consultant with the State Board of Public Welfare.

Benjamin Cromer is a former research analyst with the Defense Department; Tag Guiton, a district Boy Scout executive; Ted Linford and Paul Seibel, retired Army officers with degrees in Business Administration; Robert Phelps, a private school official and TV newsmen; Vernon Porter, a Civil Defense Director.

In selecting Consultant trainees, the Board of Public Welfare required graduation from a four-year college or university, plus three years of administrative or supervisory experience in a social agency, business, or government program; or an equivalent combination of training and experience. Non-college graduates were not accepted.

The training of the eight Consultants was directed by The North Carolina Fund's Training Director, Morris Cohen. Cohen came to the Fund from Western Reserve University where he recently completed an assignment as director of a community development project. He was assisted in the training by Mrs. Anne Morgan, who holds a masters degree in Public Health from the University of North Carolina.

The Community Services Consultants will assist in cooperative public-voluntary planning for a comprehensive program of services in the area of health, education, and economic and social assistance to more effectively meet the overall needs of the community and to reduce dependency and other social problems.

This will require the Consultants to:

- a. Cooperate in and provide staff services for the development of community action committees for assessing the needs of the community; evaluate resources available to meet those needs; and plan for the development of needed new resources.
- b. Plan and participate in informational and educational programs to bring the needs of low income families to community attention.
- c. Organize and supervise programs for volunteers in the effort to eradicate poverty.

The Consultants initial resident training program held October 12-30 at the Institute of Government, was designed to give them:

- a. Knowledge of community organization.
- b. Working knowledge of the structure, functions, relationships, and support of official and voluntary organizations and agencies in the fields of health, education, social service, recrea-

tion, and employment.

- c. Some knowledge of the principles of supervision and administration.
- d. Ability to interpret and apply a variety of State and Federal Legislations which establish and define the limits of various programs which are potential resources to the community.
- e. Ability to plan, guide, and provide leadership in the development of community social resources for children and families.
- f. Ability to plan and conduct social and economic surveys and administrative studies.
- g. Ability to establish and maintain effective working relationships.
- h. Ability to express themselves clearly and effectively in oral and written form.

A variety of instruction methods were used in the intensive three-week program, and the Fund's training department relied heavily on guest lecturers and teachers with experience in a number of related fields. Dr. Juanita L. Cogan of the United States Department of Health, Education, and Welfare, and Dave Austin, of the Sociology Department of Western Reserve University, each led the training for one week. Other consultants were staff members of the Institute of Government and the North Carolina Fund, plus representatives from several private and state agencies and organizations. In January, the Consultants will return to The Institute for three more weeks of training.

Louis Christian, Chief of the State Welfare Department's Agency of Community Service Consultants, is general director of the program. Field supervisor for the group is Miss Georgie Hughes, former Welfare Department Director in Carteret County, North Carolina. She will assist the Consultants as they undertake their multi-duty positions in eight North Carolina areas: Rockingham, Caswell, Montgomery, Duplin-Wayne-Greene, Pitt, Harnett, Orange, and Wake Counties.

Christian is now accepting applications for another training program to begin in January. Requirements for trainees have been altered so that people who meet other standards but lack administrative or supervisory experience can be accepted.

# Homicide Cases:

## the Preliminary Hearing

By James C. Harper

*The author, a research assistant at the Institute of Government for the past three years, is now engaged in private practice as an attorney-at-law in Chapel Hill.*

Were it not for one provision in the General Statutes of North Carolina,<sup>1</sup> authorizing and directing county coroners to conduct preliminary hearings in cases of criminal homicide investigated by them, preliminary proceedings in murder and manslaughter cases would be no different from similar proceedings in other cases. However, the preliminary hearing on a charge of homicide is sometimes entirely different from a hearing held on a charge of robbery or other felony not involving a death. And while any magistrate or judge of a court inferior to the superior court may hold a preliminary hearing in any case, coroners may not hold hearings except on charges of homicide.<sup>2</sup> As a result of this distinction between charges of homicide and other crimes, confusing procedures often follow the arrest of some person who is charged with the unlawful killing of another.

A preliminary examination before a magistrate is a right given by statute to all persons charged with a crime, but a right which may be waived in

any case by the person charged.<sup>3</sup> If a person accused of a crime does not waive preliminary hearing, he must be given an opportunity to be present with counsel at a hearing before an official authorized to conduct preliminary hearings, for the purpose of having a determination made with respect to whether or not there is *probable cause* to bind him over for trial.<sup>4</sup> Thus, in all cases involving a charge of a felony other than homicide, preliminary hearings, unless waived by the accused, are conducted according to standard procedures set out in two articles in the General

Statutes of North Carolina.<sup>5</sup> But in cases involving charges of homicide, preliminary procedures are not nearly so standard.

In the counties of North Carolina where no medical examiner has been appointed, whether the coroner or a magistrate conducts the preliminary hearing (if one is required) on a charge of homicide depends largely upon the manner in which the case is brought before the appropriate investigative authority. For example, in a more or less "clear-cut" case of homicide, such as an unlawful killing witnessed by one or more persons readily available to relate the incident to police officers, the arrest of some person may be made immediately or within a short time, thus eliminating any need for further investigation with respect to why the deceased died and who may have been guilty of a criminal act or default in connection with the death. In such case, there is no requirement that the county coroner be notified, and hence no reason for him to become involved in the case.<sup>6</sup> If investigating officers (either municipi-

1. N.C. Gen. Stat. § 152-7(7) (1964).

2. N.C. Gen. Stat. §§ 15-85, 15-86 (1953). Offenses other than criminal homicide are outside the coroners' jurisdiction. N.C. Gen. Stat. § 152-7(1) (1964). Thus, even if evidence of another crime is brought out at a coroner's hearing, the accused would not have the time to which he is entitled for preparation of his defense. See N.C. Gen. Stat. § 15-87 (1953); HARPER, *Manual for Coroners and Medical Examiners* 95-98, (Institute of Government, 1963).

3. N.C. Gen. Stat. §§ 15-85, 15-93 (1953). See also N.C. Gen. Stat. §§ 7-190 through 7-193 (1953) conferring preliminary hearing jurisdiction upon recorders' courts, and §§ 7-278, 7-304, 7-393 (1953) vesting like powers in judges of county courts. Whether a justice of the peace or a judge of a court inferior to the superior court holds a preliminary hearing on a felony charge, when probable cause is found, the accused person must be bound over for trial in superior court. See N.C. Gen. Stat. § 15-86 (1953) and *State v. Lucas*, 139 N.C. 567, 51 S.E. 1021 (1905).

4. N.C. Gen. Stat. § 15-95 (1953). N.C. Gen. Stat. § 15-93 (1953) provides that examination of the person accused of a misdemeanor is not required unless such person shall demand that he be examined, or unless the magistrate shall deem it "material to do so." In practice, *preliminary hearings* are seldom held on misdemeanor charges; however, since all unlawful killings are felonies, no further mention will be made of misdemeanors or of preliminary hearings on misdemeanor charges.

5. See generally Article 9, entitled *Preliminary Examination*, and Article 10 on *Bail*.

6. N.C. Gen. Stat. § 152-7(1) (1964) begins with "Whenever it appears that the deceased probably came to his death by the criminal act or default of some person . . .," the coroner must make official inquiry. But there is no provision in the laws of North Carolina which makes it either mandatory or directory that the coroner ever be told of a death occurring in his county under such circumstances as would invoke his jurisdiction, except as provided by local act in one county (New Hanover; Pub. Laws 1921, c. 229).



pal police officers or members of the sheriff's department) do not choose to refer the case to the coroner, they may proceed as if any other crime were involved.<sup>7</sup> But presumably, if the investigating officers choose to notify the coroner of the death—though they are able to conclude the initial investigation forthwith by arresting the person or persons probably guilty—the coroner would be required to at least make an official inquiry and conduct any preliminary hearing that might subsequently be required.<sup>8</sup> Therefore, if the coroner is called into the case, the preliminary hearing should be held before him and his jury; if he is not called, such hearing could be conducted by any magistrate having jurisdiction.

Still in a county where no medical examiner has been appointed, suppose further that the body of a deceased person is found under such circumstances as would arouse suspicion in a reasonable man as to whether or not the death may have been a result of a criminal act on the part of another. But do not assume that the law enforcement officers first called would be able to readily "solve" the mystery. In a classic sense, this is a "coroner's case." Nevertheless, since there is no duty upon anyone to call the coroner (except in New Hanover County),<sup>9</sup> assume that the local law enforcement officers choose to request assistance from the State Bureau of

Investigation.<sup>10</sup> Irrespective of how enduring any subsequent investigation might be, when the person or persons probably guilty have been apprehended, any preliminary hearing could be conducted by any magistrate or judge with jurisdiction. Hence, even though a classic coroner's case from the outset, in such event there would never arise a real need for participation by that official and thus no necessity that the coroner ever become involved. But again, if the coroner is called as soon as the death under suspicious circumstances becomes known, he should convene a jury and proceed with an inquest.<sup>11</sup>

Up to this point we have been discussing procedures in a county where no medical examiner has been appointed. On the other hand, in a North Carolina county where there is a medical examiner in office, the procedures by which persons accused of homicide are brought to trial become even more complicated and susceptible to duplication of effort and expense. For in a county where there is a medical examiner, it is expressly required that he be notified of every unusual, unnatural, suspicious, or unexpected death occurring within the county,<sup>12</sup> as well as of the discovery

of a human body or any part of a human body within the county.<sup>13</sup> Moreover, if and when the medical examiner determines that a death was probably the result of a criminal act or default on the part of another (a classic coroner's case), he *must* notify the coroner.<sup>14</sup> Since there is no such requirement in counties where no medical examiner has been appointed, that a medical examiner is required to refer all cases involving a probability of homicide to the coroner seems to defeat to a certain extent the purpose for a medical examiner.<sup>15</sup>

However, at the time of the enactment of Article 21, Chapter 130 (Medical Examiner Act),<sup>16</sup> the statute containing the duties of the county coroner was amended. The significance of that amendment has not been readily apparent—perhaps due to the fact that for the first eight years of its existence there were no more than two medical examiners in office in the State. But the language of the 1955 amendments to G.S. 152-7 appears to assume the existence of a medical examiner in each county, and to directly relate the duties of that official to those of the coroner in any case of

13. *Ibid.*

10. See N.C. Gen. Stat. §§ 114-14, 114-16, 114-17 (1960). It is quite proper, and an increasingly popular practice, for sheriffs and municipal police officials to call upon special agents of the State Bureau of Investigation for technical and expert assistance in criminal investigation—particularly in cases of homicide. Moreover, laboratory facilities of the State Bureau of Investigation provide invaluable aids to investigating officers in complicated homicide cases.

11. N.C. Gen. Stat. §§ 152-7, 152-10 (1964). See also HARPER, *Manual for Coroners and Medical Examiners* 71-96 (Institute of Government, 1963).

12. N.C. Gen. Stat. § 130-197 (1964): "Upon the death of any person . . . apparently by the criminal act or default of another, or apparently by suicide, or suddenly when apparently in good health . . . , or under any suspicious, unusual or unnatural circumstances, the medical examiner in the county in which the body of the deceased is found shall be notified by the physician in attendance, by any law enforcement officer having knowledge of such death, by the undertaker, by a member of the family of the deceased, by any person present, or by any person having knowledge of such deaths, and no person shall disturb the body at the scene of death until authorized by the county medical examiner . . . ."

14. *Ibid.* Once he has been notified of a death under such circumstances as will require him to investigate, the coroner is officially in the case and apparently cannot relinquish jurisdiction unless he determines that the death was not a result of a criminal act or default on the part of another. See N.C. Gen. Stat. § 152-7 (1964) and note 8, *supra*. See also Gillikin v. Guaranty Co., 254 N.C. 247, 118 S.E.2d 606 (1961); Gurganious v. Simpson, 213 N.C. 613, 197 S.E. 163 (1938).

15. It appears that the primary purpose for which a medical examiner is appointed to serve within a county is to lend expert aid and assistance, under powers of public office, to the law enforcement agencies responsible for investigating questionable deaths. Thus, since in a county where there is no medical examiner the law enforcement agencies may proceed in any homicide case without ever calling the coroner, it seems to be far less important that the medical examiner call the coroner, unless the intent of the legislature, when enacting the Medical Examiner Act, was to have *all* preliminary hearings in homicide cases conducted by the coroner and his jury.

16. N.C. Gen. Stat. §§ 130-192 through 130-202 (1964). The correct title of this article, though popularly called the "Medical Examiner Act," is *Post-Mortem Medicolegal Examinations*.

7. See N.C. Gen. Stat. § 15-46 (1953); § 15-47 (Supp. 1963).

8. N.C. Gen. Stat. § 152-7(1) (1964) (*supra*, note 6.) And although § 152-7(2) (1964) seems to require that the coroner "summon forthwith a jury of six good and lawful men . . . , for the purpose of holding an inquest, irrespective of whether or not the investigating officers had already made an arrest, unless the coroner is dissatisfied with the conclusions reached by the officers there seems to be no logical reason why he should convene an inquest. But it does appear that the coroner must, under a strict interpretation of N.C. Gen. Stat. § 152-7 (1964), take cognizance of the case and proceed to a conclusion as prescribed by that section. Thus, in the case supposed, the coroner would conduct the preliminary hearing after convening a jury, unless hearing were waived by the person or persons charged with the crime. N.C. Gen. Stat. § 152-10 (1964) further provides that a preliminary hearing before the coroner and his jury shall be in lieu of all other such hearings. See HARPER, *Manual for Coroners and Medical Examiners* 59-61 (Institute of Government, 1963).

9. Pub. Laws 1921, c. 229.

probable criminal homicide.<sup>17</sup> Reading the provisions of G.S. 152-7, as amended in 1955, together with the provisions of G.S. 130-197 relating to the duties of the medical examiner, it appears that even though the medical examiner is required to notify the county coroner in any case involving a suspicion of homicide, no inquest or preliminary hearing should be conducted by the coroner unless the district solicitor orders an inquest or preliminary hearing to be held.<sup>18</sup>

If the foregoing conclusion is in fact the intended result sought to be achieved through the simultaneous enactment of Article 21, Chapter 130 and the amendment of G.S. 152-7, then it seems that all preliminary hearings on charges of homicide evolving from cases investigated by the county medical examiner should be conducted in the ordinary fashion (before a magistrate or judge), unless by order of the district solicitor the coroner is required to conduct such hearings. As a practical matter, considering not only that a county medical examiner

is vested with broad discretionary authority to secure scientific evidence of cause and manner of death through post-mortem examinations of deceased persons,<sup>19</sup> but also that assistance of the personnel and facilities of the State Bureau of Investigation may ordinarily be promptly obtained by investigating officers,<sup>20</sup> it appears that in perhaps a vast majority of homicide cases which arise in counties where there is a medical examiner there is never any real need for the county coroner to make an investigation or conduct any proceeding.<sup>21</sup>

Irrespective of whether or not there is a county medical examiner, our initial question still remains concerning what is the more efficient and expedient manner by which to dis-

pose of the requirement for a preliminary hearing in a case of homicide. In view of the amendment of G.S. 152-7 at the time of enactment of the Medical Examiner Act,<sup>22</sup> we may proceed on the theory that in counties where there is a medical examiner any official action on the part of the coroner occurs only after an order from the district solicitor.<sup>23</sup> On the other hand, in view of the age-old requirement that the coroner (once he has learned of the death) inquire into the cause and manner of every "questionable" death that occurs in his county by forthwith convening a jury and holding an inquest,<sup>24</sup> we might also conclude that in any case the coroner has jurisdiction, if he chooses to exercise it.<sup>25</sup> But whatever the law requires to be done in cases of homicide, the classic coroner's inquest seems to be outmoded to a large extent by modern police techniques, equipment, and trained personnel, including the services available through the State Bureau of Investigation, and to an even larger extent by the functions of the county medical examiner and the facilities available to him.

With respect to the mechanics of a preliminary hearing, again from the standpoint of efficiency and expediency, it seems that if in any case an accused person does not waive preliminary examination, the hearing could be better handled by a magistrate or judge—officials before whom hearings are normally and regularly conducted. In this respect, the question is: "Should there be any difference in procedure between a preliminary hearing on a charge of murder and a similar hearing on a charge of larceny?" There should be no difference; for in any case a *corpus delicti* must be established.

In homicide cases, the *corpus delicti*:

22. Note 17, *supra*.

23. It is important to note that in addition to the references made to the district solicitor in N.C. Gen. Stat. § 152-7 (1964) (*supra*, note 17), N.C. Gen. Stat. § 15-7 (1953) provides that the district solicitor may order an autopsy at any time in connection with a prosecution for homicide.

24. Except for his initial investigation for the purpose of determining whether a death is in fact a "coroner's case," a coroner is powerless without his jury. He must have a jury both at inquest and at any preliminary hearing on a charge of homicide. See N.C. Gen. Stat. § 152-7 (2), (9), (10) (1964).

25. N.C. Gen. Stat. § 152-7(1) (1964).

17. As amended in 1955 (Sess. Laws 1955, c. 972), N.C. Gen. Stat. § 152-7 (6) (1964) provides: "Immediately upon information of the death of a person within his county under such circumstances as, in his opinion, call for investigation, the coroner shall notify the solicitor of the superior court and the county medical examiner, who in turn shall notify the chairman of the committee, and thereafter, the coroner shall make such additional investigation as the solicitor may direct." [Emphasis supplied.] Prior to the 1955 amendment, § 152-7(6) provided that the coroner was to "summon a physician or surgeon and cause him to make such examination as may be necessary whenever it appears to such coroner as proper . . . or, upon request of his jury, or upon the request of the solicitor of his district or counsel for any accused or any member of the family of the deceased: . . ." Similarly, as amended in 1955, § 152-7(7) (1964) provides: "If an inquest or preliminary hearing be ordered, to arrange for the examination thereof of any and all witnesses including those who may be offered by the chairman of the committee on post-mortem medicolegal examinations or the county medical examiner." [Emphasis supplied.] Prior to the 1955 amendment, this section provided only that "Immediately upon information of the death of a person within his county under such circumstances as, in the opinion of the coroner, may make it necessary for him to investigate the same, to notify the solicitor of his district, and to make such additional investigation as he may be directed to do by such solicitor." N.C. Gen. Stat. § 152-7(7) (1964).

18. See portions of note 17, *supra*, in *italics*.

19. N.C. Gen. Stat. § 130-199 (1964) provides that "If, in the opinion of the medical examiner of the county wherein the body or anatomical material is first found . . . it is advisable and in the public interest that an autopsy or other pathologic study be made . . . such autopsy or pathological study shall be made by the district pathologist or by a competent pathologist designated by the chairman of the committee . . ." [Emphasis supplied.] On the other hand, a coroner may not, without subjecting himself to civil liability, order an autopsy in any case where he has not already determined that the death was probably due to the criminal act or default of some other person. See *Gurganius v. Simpson*, 213 N.C. 613, 197 S.E. 163 (1938). Thus, a medical examiner may order an autopsy for the purpose of determining whether the death may have been the result of some criminal act or default on the part of another, while the coroner must first make that determination before he can cause an autopsy to be performed.

20. See note 10, *supra*.

21. Although a matter of great practical significance, we have not attempted to discuss separately questionable deaths occurring within the limits of a municipality, where there usually exists a bureau of detectives, trained and equipped to investigate criminal homicide, and similar deaths occurring in rural communities where only the county sheriff's department is available. It seems that there may be far less need for a coroner in the cities, while his services might be necessary if not indispensable in cases arising in remote areas. Nevertheless, special agents of the State Bureau of Investigation and the facilities of the bureau's laboratory are equally available to both county and municipal departments. Moreover, under the Medical Examiner Act, even in the more remote rural areas of the State or any county, adequate provision is made for sheriffs or constables to obtain expert advice and assistance in determining cause and manner of questionable deaths.



consists, in part, of a dead human being. In cases of other felony, the *corpus delicti* consists, in part, of the robbery of some person, the rape of some female, or the larceny of some property, etc. The other part of the *corpus delicti* in any felony is the criminal agency by which the offense was committed. Thus, in determining if there is probable cause to hold some person for the commission of a crime, whether it be murder or larceny, there should be no substantial difference in preliminary procedure. Hence, there seems to be no significant reason for the requirement that a preliminary examination on a charge of murder be held by one official when a hearing on a charge of larceny must be held by another.

Aside from the powers of magistrates and coroners to fix and take bail and commit persons to jail<sup>26</sup> (in which there are no substantial differences so long as the coroners confine the exercise of such powers to proceedings in cases of homicide), there is still another argument in favor of all preliminary examinations being conducted by magistrates and judges. That argument relates to the very nature of preliminary criminal proceedings and the fact that an accused person's constitutional rights come to the forefront at the moment he is arrested and deprived of his liberty. This is not to say that such accused person is in jeopardy from the moment of his arrest, but only that he is entitled to have his rights protected and accorded him from that moment on. And though the preliminary hearing is not a constitutional right in this State, nor one granted by the Federal Constitution, it nevertheless becomes a forum before which questions of due process of law and equal protection of the laws can arise.<sup>27</sup> One point is this:

26. See N.C. Gen. Stat. §§ 152-7(4), (5) (1964); 15-102, 15-103 (Supp. 1963); 15-125 through 15-127 (1953).

27. Though in North Carolina it is true that a preliminary hearing on a criminal charge does not necessarily prejudice the accused with respect to his constitutional rights, i.e., if no probable cause is found, the grand jury may still indict, or if a finding of probable cause results, the grand jury may still fail to indict, there is still some serious question as to whether an accused may be prejudiced by the denial of a right at preliminary hearing. If the preliminary hearing is found to have been a *critical stage* in the criminal proceedings against an accused person, then there is no doubt that the denial of any right at the hearing would be held to be prejudicial. See *Hamilton v.*

Magistrates and judges of inferior courts, before whom any preliminary hearing on a charge of crime may be held, are judicial officers who are accustomed to conducting judicial proceedings. Their service on the benches of their courts may not be full-time, but at least it is usually regular. They become more experienced, more familiar with judicial procedure, and perhaps more acutely aware of the significance of constitutional rights in criminal proceedings than do these officials who rarely sit for the hearing of a case. On the other hand, although in a limited capacity coroners are judicial officers, they do not regularly conduct judicial proceedings. Which then, if there is a choice, is the better practice—to cause preliminary hearings in cases of criminal homicide to be held before a coroner when all such hearings in other cases are held before magistrates and judges, or to cause *all* preliminary hearings to be held before magistrates and judges? The next point concerns the matter of counsel, both for the accused person and for the State.

In preliminary hearings before justices of the peace or coroners, the *prosecution* may or may not be represented by counsel, for there is no express provision for solicitors or prosecuting attorneys to appear before those officials. However, it is provided that a coroner may permit the solicitor of the district or anyone designated by him to appear at a preliminary hearing to examine and cross-examine witnesses.<sup>28</sup> There is no similar provision relating to proceedings before a justice of the peace.<sup>29</sup> But, at preliminary hearings conducted by judges of recorders' courts or county courts, it seems that in all cases the prosecution

would be represented by the solicitor or prosecuting attorney of the particular court.<sup>30</sup>

As to the right of an accused person to have assistance of counsel in preliminary hearings, express provision is made in every case. At preliminary hearings conducted by the county coroner, the accused person has a right to have counsel "to be present and participate in such hearing and examine and cross-examine witnesses and, whenever a warrant shall have been issued for any accused person, such accused person shall be entitled to counsel and to a full and complete hearing."<sup>31</sup> Moreover, the general provisions respecting preliminary hearings before magistrates require that the accused person "shall be allowed a reasonable time before the hearing begins in which to send for and advise with counsel."<sup>32</sup> It is then further provided that "If desired by the person arrested, his counsel shall be present during the examination of the complainant and the witnesses on the part of the prosecution, and during the examination of the prisoner; and the prisoner or his counsel shall be allowed to cross-examine the complainant and the witnesses for the prosecution."<sup>33</sup> But since these provisions all relate to counsel *obtained by the accused person*, there is left a serious question concerning whether or not a magistrate, coroner, or judge holding a preliminary hearing is required to provide counsel for an accused person who cannot afford to retain an attorney. However, since whether or not an accused person has a right to court-appointed counsel at a preliminary hearing is by no means peculiar to hearings in homicide cases, it is not the object of this paper to deal with that question at

(Continued inside back cover)

Alabama, 368 U.S. 52 (1961); *White v. Maryland*, 373 U.S. 59 (1963); *Gideon v. Wainwright*, 372 U.S. 335 (1963).

28. N.C. Gen. Stat. § 152-7(8) (1964).

29. As in the trial of a case by a justice of the peace, the justice examines and cross-examines witnesses in the same manner as a solicitor would were the hearing being held before a court of record. See N.C. Gen. Stat. § 15-87 (1953). However, since there is no prohibition against a prosecuting attorney appearing on behalf of the State in proceedings before a justice of the peace, should the justice himself or the prosecuting witness or witnesses wish to cause an attorney to appear for the prosecution, it seems that such would be quite proper, although the justice of the peace would not be authorized to provide for compensation of such attorney.

30. N.C. Gen. Stat. § 7-203 (1953) provides for a prosecuting attorney in municipal recorders' courts "who shall appear for the prosecution in all cases therein. . . ." For a similar provision relating to county recorders' courts, see N.C. Gen. Stat. § 7-235 (1953). N.C. Gen. Stat. § 7-273 (1953) provides for prosecuting attorneys for county courts; § 7-301 (1953) for prosecuting attorneys for general county courts, and § 7-389 (1953) for prosecuting attorneys for county criminal courts.

31. N.C. Gen. Stat. § 152-7(8) (1964).

32. N.C. Gen. Stat. § 15-87 (1953).

33. N.C. Gen. Stat. § 15-88 (1953).

# INSTITUTE SCHOOLS MEETINGS CONFERENCES



November 18-20 the Institute of Government was host to the Annual Conference of the North Carolina Association of Assessing Officers. Pictured above, from left to right, are conferees M. D. Williams, Lenoir County tax super-

visor (with back to camera); first row, William Newman, assistant Guilford County tax supervisor; and James Sherrill, Caldwell County tax supervisor; and second row, Kenneth Braswell, Franklin County tax supervisor.



Orange County tax supervisor Sam Gattis, above, leads a discussion during one of the sessions of the Assessing Officers Conference which included panel discussions, seminars and lectures.



Commercial and industrial inventories, county commissioners as assessors, and recent revaluations were among the topics considered during the Assessing Conference, shown above. Institute of Government Assistant Director Henry W. Lewis, pictured below, had charge of the conference.



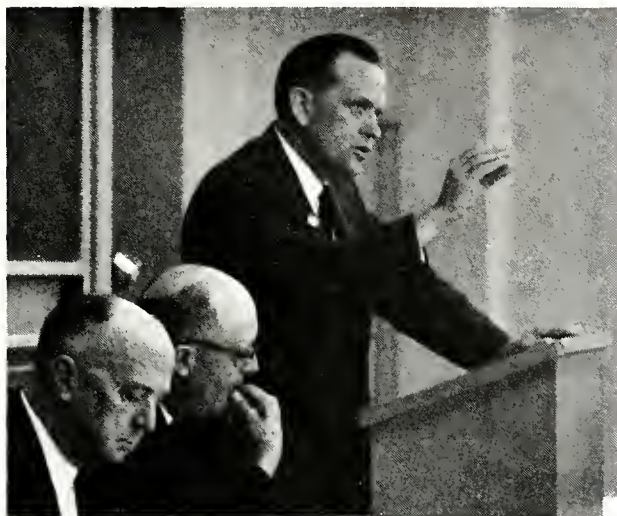
November 14 the North Carolina Association of County and Municipal Judges met at the Knapp Building. Shown at left, from left to right, are Judge Byron Haworth, High Point Municipal Court (with back to camera); C. E. Hinsdale, Assistant Director, Institute of Government; and Judge Harvey Boney, Onslow County Records Court. Haworth is president of the Association.





*New Towns in Great Britain were discussed at the October meeting of the North Carolina Section, American Institute of Planners, held in the Institute's Knapp Building. Above left is John Hitchcock, Department of City and Regional*

*Planning, University of North Carolina at Chapel Hill, and above center, Professor Brian Shawcroft, North Carolina State School of Design, who led the discussions. Above right are some of the delegates in attendance.*



*Pictured at left and above are scenes from the Annual October Conference of Superior Court Judges held at the Institute of Government. At left Representative David Britt, Robeson County, a member of the Courts Commission, speaks to the group on court reform. Beside him, left to right, are Superior Court Judges Eugene G. Shaw and Allen H. Gwyn. Shown above is a session of the conference in one of the Institute classrooms.*

*Procedures used in reviewing cases prior to possible driver license revocation or suspension were among the topics at the Driver License Hearing Officers School at the Institute. Shown at right from left to right are hearing officers Godfrey Stallings, Joe T. Price, discussing review procedures, Isaac L. Blalock and William Wooten. Officers attending also heard Superior Court Judge E. Maurice Braswell discuss the use of discretion in driver license cases. Recent developments in motor vehicle laws and proposed legislation were presented by Institute Assistant Director Robert L. Gunn.*



# *The 1963 Higher Education Facilities Act:*

## **\$18 MILLION for NORTH CAROLINA**

*By Howard R. Boozer.*

*Assistant Director, North Carolina Board of Higher Education*

North Carolina will receive under the Higher Education Facilities Act of 1963 a total of \$5,983,904 per annum for three years for the construction of undergraduate academic facilities (as defined). Of this amount \$1,631,375 is specifically earmarked for public community colleges, technical institutes and branch campuses. The remainder, \$4,352,529 will be for undergraduate academic facilities in all other higher education institutions, private and public. The appropriations bill, including the above amounts, passed the U. S. House of Representatives in April and the Senate in September, and was signed on September 19, 1964.

The Act, Public Law 88-204, authorizes grants for construction of undergraduate academic facilities (Title I), grants for construction of graduate academic facilities (Title II), and loans for construction of academic facilities (Title III). This Act was signed by President Johnson on December 16, 1963.

Title I of P.L. 88-204 reads as follows:

An institution of higher education shall be eligible for a grant for construction of an academic facility under this title (I) in the case of an institution of higher education other than a public community college or public technical institute, only if such construction is limited to structures, or portions thereof, especially designed for instruction or research in the natural or physical sciences, mathematics, modern

foreign languages, or engineering, or for use as a library, and (2) only if such construction will, either alone or together with other construction to be undertaken within a reasonable time, (A) result in an urgently needed substantial expansion of the institution's student enrollment capacity, or (B) in the case of a new institution of higher education, result in creating urgently needed enrollment capacity.

Title I also provides for the designation or creation in each State of a State Commission broadly representative of private and tax-supported higher education institutions to administer the provisions of the Title.

In January Governor Sanford appointed the North Carolina State Commission on Higher Education Facilities consisting of nine laymen: four who have had long interest in and involvement in the private colleges; three members of the State Board of Higher Education representing the tax-supported senior institutions; and two members of the State Board of Education representing the public community colleges and technical institutes. He also appointed an advisory committee to the State Commission consisting of twelve college and university presidents, six from private institutions and six from tax-supported institutions.

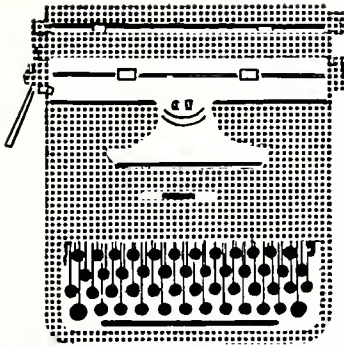
The law also requires that each State Commission develop a "State Plan" for the administration of the provisions of Title I. The North Caro-

lina State Plan was drafted during the summer months of 1964 and was discussed with the presidents of technical institutes, community and junior colleges, and senior colleges and universities at a meeting on August 24. The final draft was formally adopted by the State Commission on September 21 and approved by the United States Commissioner of Education on October 15.

The State Commission has two assignments, by law. Its duties are (1) to establish priorities of construction projects for which applications are received and (2) to recommend the Federal share. No institution will be eligible for a grant except through the recommendations of the State Commission as to priority and Federal share. Institutions will submit project applications to the State Commission, on forms provided by the U. S. Office of Education. The State Commission will make recommendations to the Commissioner of Education, and the Commissioner of Education will make grant offers directly to the institutions. The State Commission will not handle the grant funds. The only Federal funds the State Commission will have will be those provided to it for the administration of the program.

Copies of the State Plan as approved, of regulations, application forms and instructions for completing applications have been distributed to the institutions and applications for construction grants for undergraduate academic facilities are being received by the State Commission.





## ● NOTES FROM . . .

### CITIES AND COUNTIES

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#### *Central Business District*

*Fayetteville's* Hay Street has a new look, the first phase of the city's downtown canopy project. The canopies include special lighting fixtures and loudspeakers for piped-in music.

Plans to revitalize the central business district with federal Urban Renewal funds have been approved by the *Tarboro* Planning Board. The renewal will center around creation of a "courthouse square" by demolishing existing buildings which block the view of the attractive new courthouse. A mall will be set up for one block fronting the courthouse.

Establishment of a permanent downtown parking lot is being considered in *Kinston* where the city presently operates eight off-street lots on a 90-day cancellation lease.

Downtown development in *Greensboro* will be facilitated by a recent property swap which will see eventual street widening in the center of the city.

#### *City Government*

Six years in preparation, *Durham's* new city code has been adopted by local councilmen. The code, numbered after the pattern of the North Carolina General Statutes, comprises all currently valid city ordinances and drops those which have been superseded or otherwise made invalid or unnecessary.

#### *Community Progress*

*Charlotte* and *Winston-Salem* are among the 22 communities in the finals for the 1964 All-America City awards, co-sponsored by the National Municipal League and *Look* magazine. Eleven winners will be selected on the basis of "citizen action" which re-

sults in major civic achievements of benefit to the community as a whole. Previous Tar Heel winners include *Gastonia*, *High Point* and *Salisbury*.

*Siler City* may receive national publicity on its November clean-up drive. Representatives of the Civic Improvement program of Sears, Roebuck and Company have indicated their interest in the campaign which might be used as an example in their sponsorship of similar community improvement projects across the nation.

*Fayetteville's* special census has shown a population growth of 3,931 since the regular 1960 census. The 8 percent increase puts the population figure at 51,037—safely inside the "magic metropolitan" level.

#### *Conservation*

*Sampson*, *Cumberland*, *Cleveland* and *Rutherford* Counties have been designated test areas under the 1964-65 Cropland Conservation Program recently announced by the Department of Agriculture.

#### *Education*

The last bar to an adult education program at Wakelon School, *Zebulon*, was removed with the Wake County Board of Education voted unanimously to pay utility and janitorial costs for the classes which will be conducted by the W. W. Holding Industrial Education Institute.

If the present expansion timetable holds for *Lenoir* County Technical Institute, the county will have a community college in operation in the fall of 1966. Voters approved the college 10,370 to 2,313, and the State Board of Education has given its okay.

English, history, mathematics and science are being offered in a new program of high school education courses for adults in *Johnston* County. The program is co-sponsored by the Wayne Technical Institute and the County Board of Education and is open to adult school drop-outs.

*Fayetteville* Technical Institute benefitted when *Cumberland* County voters strongly endorsed a \$2.3 million bond election to expand the institute and build an auditorium-exhibit hall.

#### *Employment*

A *Sampson* County job survey is underway, sponsored by civic-minded county citizens and conducted for the Sampson County Industrial Committee and the State Employment Security Commission. Reason for the study is the interest shown by several manufacturers considering locating in the county if the labor supply is sufficient.

*Winston-Salem* aldermen have given final approval to the city's proposed work training program for underprivileged youths between the ages of 16 and 21. An outgrowth of the summer program begun in 1963 (see *Popular Government*, November-December, 1963, p. 15), the new program will be geared for 18 months. Some 321 youths would participate during the summer and an additional 180 would have part-time jobs during the school year.

*Columbus* County moved a step closer to gaining more jobs via diversified industry locating within the confines of her sprawling boundaries when county voters passed a referendum calling for a tax to be used for industrial development. The issue,

which passed with a 6,869 to 4,538 vote, calls for a tax of from one to 10 cents per \$100 assessed property valuation.

\* \* \*

## Housing

Contracts were awarded in October for construction of 22 units of low-rent housing for the *Spruce Pine* Housing Authority. At the same time reservations and preliminary loan contracts were approved by the Public Housing Administration for 50 units, including 16 for the elderly, for the *Fairmont* Housing Authority and 50 units, including 10 for the elderly, for the *Maxton* Housing Authority.

\* \* \*

Under consideration in *Scotland Neck* is a plan to eliminate sub-standard housing in the community. Town board members are visiting other North Carolina communities to investigate similar plans before proceeding with adoption of the program.

\* \* \*

Rural housing in *Person* County has undergone vast improvement in recent years, according to extension home economics agent Annie Mae Tuck. Extension agents have helped 52 families plan and build new houses in 1962 and 1963 which have become models for dozens of other poorly housed families. Hundreds of home improvement projects have helped raise the housing level in the county where 75 percent of the houses are 25 or more years old.

\* \* \*

The *Hendersonville* Housing Authority opened bids and sold \$336,000 of first series temporary notes as a preliminary to beginning construction on a 150-unit housing development. Construction is expected to begin about the first of the year.

\* \* \*

## Law Enforcement

Plans for a \$150,000 three-story, 30-bed addition to the *Forsyth* County jail are proceeding. It will make possible the consolidation in a single facility of *Winston-Salem* and county jail functions.

\* \* \*

*Greensboro's* Police Department will be using a candid camera technique in its questioning of drunk driving suspects. The camera will also record answers given by the suspect and put them on film with the picture sequence in a process which eliminates the pos-

sibility of tampering. The camera will be used along with a Breathalyzer.

\* \* \*

## Libraries

Plans for a new public library in *Mocksville* to serve all of *Davie* County have been announced. The building will house up to 40,000 books and will have a drive-in book return window and adjacent parking facilities.

## Guilford County Round-up

Every deputy has his day and Guilford County Deputy Sheriff Bill Delancey recently had one he'd just as soon forget.

He started out rounding up a herd of ponies on Interstate 85 east of Greensboro and in the midst of the round-up the accident he was trying to prevent happened. A bread truck and a tractor-trailer plowed into the rear of Deputy DeLancey's car, proceeded a few hundred feet and both struck another tractor-trailer truck. Two other near wrecks were narrowly averted before the round-up was completed and DeLancey moved on to a less challenging assignment.

## Municipal Buildings

*Edgecombe* County's Board of Commissioners celebrated the opening of their new courthouse with an open house and guided tours by county employees and department heads.

\* \* \*

*Lexington* has been playing a game of "musical chairs" with a trio of municipal buildings. The junior high will be torn down to make space for a new post office and the old post office will be enlarged and remodeled for a county library. Not to be left without a "chair," the junior high school will have an entirely new \$1 million plant. The library has been occupying rented quarters.

\* \* \*

## Planning and Zoning

*Henderson* County and *Hendersonville* have employed Dan Vismore of the Western North Carolina Regional Planning Commission staff as resident planning director. The decision to employ a director was made by the county and city commissioners and Mayor A. V. Edwards.

As one of 14 communities in the state participating in a \$108,428 federal planning program, *Chapel Hill* will receive \$10,310. The town will match with \$9,070 to finance work by the Research Triangle Planning Commission in mapping and surveying Chapel Hill.

\* \* \*

## Public Health

*Aboskie* town councilmen have approved a zoning change which will make possible a \$150,000 medical center on four acres adjoining *Roanoke-Chowan* Hospital.

\* \* \*

Trustees of *Cleveland* Memorial Hospital in *Shelby* have approved preliminary drawings and sketches for a \$3 million expansion program which should get underway in February and be completed within 24 months from the first date of construction. The new plant will serve as a "nerve center" for the present hospital, adding 80 beds and replacing a wing built in 1923.

\* \* \*

## Public Utilities

*Durham* City Council's Public Works Committee has moved to amend "frontage" and "assessment" rate policies on water and sewer extensions, hiking both rates to \$2.50 per foot for water-main extensions and \$2.25 per foot for sewer-main extensions.

\* \* \*

*Shelby* citizens approved 4-1 the issuing of bonds for a sewage collection system and treatment facilities with an 895-247 vote. At the same time 896 approved water bonds, with 242 against. The election authorized \$3,288,000 in sewer bonds and \$275,000 for water improvement facilities.

\* \* \*

Renovation and enlargement of the *Liberty* Sewage Disposal Plant has been completed.

\* \* \*

Low bid on construction of the raw water intake facility for *Shelby* came to \$11,162 less than the recent bond authorization of \$275,000.

\* \* \*

## Recreation

Plans and specifications for four new city swimming pools have been approved by the *Winston-Salem* Recreation Commission.

\* \* \*

In *Greensboro* a new 400-acre  
(Continued on page 20)





*Institute of Government Assistant Director Robert Stipe, left, talks with Municipal Administration Course members on recreation administration. Staff members and visiting lecturers comprise the faculty for both administration courses.*

## Municipal and County Administration Courses Cover Broad Range of Governmental Topics

This year the Institute of Government's Eleventh Annual Course in Municipal Administration has been joined by the First Annual Course in County Administration. The two courses run concurrently, meeting on a dozen selected weekends from October through May. Both are under the direction of Institute Assistant Director Jake Wicker.

Forty administrative officials and employees are enrolled in the two courses, 25 in the municipal division and 15 in the county section.

Topics covered during the opening session of the courses included "The City, the County and the People," Wicker; "Local Governmental Functions and Organizations," George Esser, Executive Director, the North Carolina Fund; "Fundamentals of Management" and "The Role of the Manager," Donald Hayman; "Public Welfare," Roddey Ligon, Forsyth County Attorney; and the first in a series of lectures on finance by George Coltrane. The November sessions continued the presentations of Coltrane and Hayman and introduced Philip Green's series on planning.

Areas being covered in the Municipal Course include an introduction to municipal government, techniques of municipal administration, municipal finance, public personnel administration, city planning, municipal line functions and policies, and a municipal management seminar. Areas in the



*Class is in session for students in the Municipal Administration Course. Assistant Director Jake Wicker has charge of the program, now in its eleventh year.*

County Course include the county as a governmental unit, techniques of administration, local government finance, city and county planning, personnel administration, functions and activities, and a final problem solving session.

Among the specific topics planned for future sessions are North Carolina's Courts system, C. E. Hinsdale; property tax assessment and collection, Henry W. Lewis; recreation administration, Robert Stipe; public administration, Olga Palotai; municipal law, Joseph Ferrell; public schools and records control, Allan W. Markham; law enforcement administration, Jesse James; and street construction and traffic engineering, John W. Horn, Professor of Civil Engineering, North Carolina State, Raleigh.

Other topics will include tax burdens and structure, purchasing and contracting, local improvement financing, fire administration, race relations and poverty programs, sanitation administration, policy formulation, motivation, delegation of authority and leadership, measuring performance, communications and public relations, ethics and personnel administration.

Participants who successfully complete the required work in either course will be awarded certificates at the end of the course. The Franklin Award, sponsored by the North Carolina League of Municipalities in honor of its former General Counsel George C. Franklin, will be presented to the outstanding graduate of the Municipal Course.

## New Legislature . . .

On February 3, 1965, the 170 North Carolinians whose names are listed on these pages will begin daily meetings in the Legislative Building in Raleigh. The particulars and the sum of their efforts will not be fully known until they adjourn, probably sometime in June. But what they decide to do or not do will affect vitally the more than four million people residing within the "Old North State." For they are the State's elected legislators, the fifty members of the state senate and the 120 members of the house who comprise the 1965 North Carolina General Assembly.

Many members are seasoned with years of legislative experience. Some 21 State Senators and 74 House members served in the 1963 General Assembly. Senate redistricting spurred by U. S. Supreme Court decisions, has resulted in the juxtaposition of familiar names with different districts.

The Democrats again will control both houses by overwhelming majority. The 1963 Republican gains, which that session sent 21 to the House and two to the Senate, were wiped out. This year the Democrats will hold all but 14 House seats and fill all chairs save one in the Senate.

The Senate, without distaff representation in 1963, has one woman member this year. The House will have five, up one.

By occupation, the most numerous representation goes traditionally to attorneys-at-law. This year is no exception. A substantial number of the other legislators are businessmen. Although, as of this moment, the swirl of the Legislative winds is but a small sound of the future, it won't be long before their swell can be heard echoing from Raleigh across the state. And the men and women listed on these pages will have begun four busy and hectic months of deliberations.

The Legislative Building, occupied for the first time by the 1961 General Assembly in regular and special sessions, has attracted widespread attention. The handsome Senate and House chambers have replaced the legislative chambers of the State Capitol. Yet, new surroundings or old, there is continuity to the legislative challenge and procedure, once more about to begin.

## 1965 North Carolina General Assembly

### Members of the Senate

[Democrats unless name is followed by (R) to denote Republican]

SENATORIAL		
DISTRICT	NAME AND COUNTY	RESIDENCE
1st	J. Emmett Winslow (Perquimans)	Hertford (308 N. Church St.)
2nd	Ashley B. Futrell (Beaufort)	Washington
3rd	J. J. (Monk) Harrington (Bertie)	Lewiston
4th	Carl V. Venters (Onslow)	Jacksonville (6 E. Bay Shore)
5th	Thomas J. White (Lenoir)	Kinston (1909 Greenbrier Rd.)
	Sam L. Whitehurst (Craven)	New Bern
6th	Walter B. Jones (Pitt)	Farmville
7th	Cameron S. Weeks (Edgecombe)	Tarboro (505 Saint Andrew St.)
8th	Julian R. Allsbrook (Halifax)	Roanoke Rapids
9th	Carl Meares (Columbus)	Fair Bluff
10th	Roy Rowe (Pender)	Burgaw
	Stewart B. Warren (Sampson)	Clinton (407 Powell St.)
11th	Lindsay C. Warren, Jr. (Wayne)	Goldsboro (1606 Laurel St.)
12th	Dallas L. Alford, Jr. (Nash)	Rocky Mount (100 Wildwood Ave.)
	J. Russell Kirby (Wilson)	Wilson (304 Mt. Vernon Dr.)
13th	Fred S. Royster (Vance)	Henderson
14th	Hector MacLean (Robeson)	Lumberton (2101 N. Elm St.)
15th	N. Hector McGeachy, Jr. (Cumberland)	Fayetteville (101½ Hay St.)
16th	Ruffin Bailey (Wake)	Raleigh (2502 Kenmore Dr.)
	Jyles J. (Jack) Coggins (Wake)	Raleigh (3601 Ridge Rd.)
17th	Claude Currie (Durham)	Durham (Box 1491)
	Don S. Matheson (Orange)	Hillsboro
18th	Voit Gilmore (Moore)	Southern Pines (700 E. Indiana Ave.)
	Robert Morgan (Harnett)	Lillington
19th	Ralph H. Scott (Alamance)	Haw River
20th	Sam M. Bason (Caswell)	Yanceyville
21st	Ed Kemp (Guilford)	High Point (809 Oakview Rd.)
	L. P. McLendon, Jr. (Guilford)	Greensboro (201 Kimberly Rd.)
22nd	Jennings G. King (Scotland)	Laurinburg (Vance St.)
	Joe S. Sink (Davidson)	Lexington (Duke Dr.)
23rd	Gordon Hanes (Forsyth)	Winston-Salem (Box 1413)
	William Z. (Bill) Wood (Forsyth)	Winston-Salem (318 N.C. Natl. Bank Bldg.)
24th	C. Frank Griffin (Union)	Monroe (1200 Lancaster Ave.)
	Fred M. Mills, Jr. (Anson)	Wadesboro (607 Camden Rd.)
25th	Irwin Belk (Mecklenburg)	Charlotte (400 Eastover Rd.)
	Martha W. Evans (Mecklenburg)	Charlotte (2441 Hassell Pl.)
	Herman A. Moore (Mecklenburg)	Charlotte (1919 Queens Rd.)
26th	Thomas W. Seay, Jr. (Rowan)	Spencer (400 Carolina Ave.)
27th	James V. (Jimmy) Johnson (Iredell)	Statesville (437 Walnut St.)
28th	J. Worth Gentry (Stokes)	King
29th	F. D. B. Harding (R) (Yadkin)	Yadkinville
30th	L. B. Hollowell (Gaston)	Gastonia (309 W. Sixth Ave.)
31st	Jack H. White (Cleveland)	Kings Mountain (218 Edgemont Dr.)
	Adrian Shuford, Jr. (Catawba)	Conover
32nd	Dennis S. Cook (Caldwell)	Lenoir (210 Norwood St.)
33rd	Clarence O. Ridings (Rutherford)	Forest City (424 Arlington St.)
34th	Clyde M. Norton (McDowell)	Old Fort
35th	Herbert L. Hyde (Buncombe)	Asheville (93 E. View Circle)
	O. L. Yates, Sr. (Haywood)	Waynesville (Hill'n'Dale Farm)
36th	W. Frank Forsyth (Cherokee)	Murphy

### Members of the House of Representatives

[Democrats unless name is followed by (R) to denote Republican]

COUNTY	NAME	RESIDENCE
Alamance	Jack M. Euliss	Burlington (Lake Drive East)
	M. Glenn Pickard	Burlington (P. O. Box 1386)
Alexander	Fred York	Taylorsville
Alleghany	A. V. Choate	Sparta
Anson	H. P. Taylor, Jr.	Wadesboro (P. O. Box 593)
Ashe	Basil D. Barr	West Jefferson
Avery	Mack S. Isaac (R)	Newland
Beaufort	Wayland J. Sermons	Washington (Honey Pod Farm)
Bertie	Emmett W. Burden	Aulander
Bladen	James C. Green	Clarkton
Brunswick	Odell Williamson	Shallotte
Buncombe	I. C. Crawford	Asheville (10 Hampshire Circle)
	Gordon H. Greenwood	Black Mountain (Box 8)
Burke	Sam J. Ervin, III	Morganton



Cabarrus  
 Caldwell  
 Camden  
 Carteret  
 Caswell  
 Catawba  
 Chatham  
 Cherokee  
 Chowan  
 Clay  
 Cleveland  
 Columbus  
 Craven  
 Cumberland  
  
 Currituck  
 Dare  
 Davidson  
 Davie  
 Duplin  
 Durham  
  
 Edgecombe  
 Forsyth  
  
 Franklin  
 Gaston  
  
 Gates  
 Graham  
 Granville  
 Greene  
 Guilford  
  
 Halifax  
 Harnett  
 Haywood  
 Henderson  
 Hertford  
 Hoke  
 Hyde  
 Iredell  
 Jackson  
 Johnston  
 Jones  
 Lee  
 Lenoir  
 Lincoln  
 Macon  
 Madison  
 Martin  
 McDowell  
 Mecklenburg  
  
 Mitchell  
 Montgomery  
 Moore  
 Nash  
 New Hanover  
 Northampton  
 Onslow  
  
 Orange  
 Pamlico  
 Pasquotank  
 Pender  
 Perquimans  
 Person  
 Pitt  
 Polk  
 Randolph  
 Richmond  
 Robeson

Dwight W. Quinn  
 Earl H. Tate  
 George M. Wood  
 Thomas S. Bennett (R)  
 Jno. O. Gunn  
 J. Henry Hill, Jr.  
 Jack Moody  
 Mrs. Mary Fay Brumby  
 B. Warner Evans  
 Wiley A. McGlamery  
 Robert Z. Falls  
 Arthur W. Williamson  
 R. C. Godwin  
 Joel W. Lambert  
 I. H. O'Hanlon  
 Joe B. Raynor, Jr.  
 Milburn E. Sawyer  
 M. L. Daniels, Jr.  
 J. Eugene Snyder (R)  
 Donald W. Bingham (R)  
 Hugh S. Johnson, Jr.  
 Nick Galifianakis  
 W. Hance Hoffer  
 Joe E. Eagles  
 Fred F. Bahnson, Jr.  
 E. M. (Ed) McKnight (R)  
 Claude M. Hamrick  
 James D. Speed  
 Steve Dolley  
 Hoyle T. Efrid  
 Philip P. Godwin  
 W. V. Cooper  
 Joe A. Watkins  
 I. Joseph Horton  
 Elton Edwards  
 C. W. (Charlie) Phillips  
 W. M. (Mark) Short  
 D. P. (Dan) Whitley, Jr.  
 Thorne Gregory  
 Carson Gregory  
 Ernest B. Messer  
 Don H. Garren (R)  
 Roberts H. Jernigan, Jr.  
 Neill L. McFadyen  
 W. J. Lupton  
 Robert A. Collier, Jr.  
 Lacy H. Thornburg  
 W. R. Britt  
 Mrs. Iona T. Hargett  
 J. Shelton Wicker  
 Guy Elliott  
 C. E. Leatherman  
 William G. (Bill) Zickgraf  
 Mrs. Frances C. Ramsey (R)  
 Paul D. Roberson  
 Paul J. Story  
 Elmer H. Garinger  
 Arthur Goodman, Jr.  
 Ernest L. Hicks  
 Marvin Lee Ritch  
 James B. Vogler  
 J. Dont Street (R)  
 J. Paul Wallace  
 T. Clyde Auman  
 Allen C. Barbee  
 George T. Clark, Jr. (R)  
 J. Raynor Woodard  
 W. D. (Billy) Mills  
 Hugh A. Ragsdale  
 Donald M. Stanford  
 Leland V. Brinson  
 C. Alden Baker  
 Ashley M. Murphy  
 Archie T. Lane, Sr.  
 James E. Ramsey  
 W. A. (Red) Forbes  
 J. Thurston Arledge  
 C. Roby Garner (R)  
 W. R. (Bill) Land, Jr.  
 David M. Britt  
 R. D. McMillan, Jr.

Kannapolis (213 S. Main St.)  
 Lenoir (229 Norwood St.)  
 Camden  
 Morehead City (100 Yaupon Terrace)  
 Yanceyville  
 Hickory  
 Siler City  
 Murphy  
 Edenton  
 Hayesville  
 Shelby (1308 Wesson Rd.)  
 Chadbourn  
 New Bern  
 Spring Lake  
 Fayetteville (3605 Morganton Rd.)  
 Fayetteville (5234 Raeford Rd.)  
 Powells Point  
 Manteo  
 Lexington (402 Park St.)  
 Advance (Rt. 1)  
 Rose Hill  
 Durham (2648 University Dr.)  
 Durham (1532 Hermitage Court)  
 Macclesfield (Crisp Rural Station)  
 Winston-Salem (2035 Georgia Ave.)  
 Clemmons (Rt. 2, Keithgale Dr.)  
 Winston-Salem (2841 Holyoak Place)  
 Louisburg (Rt. 3)  
 Gastonia (101 South Belvedere Ave.)  
 Gastonia (1215 Oakwood Ave.)  
 Gatesville  
 Robbinsville  
 Oxford  
 Snow Hill  
 Greensboro (531 Woodland Dr.)  
 Greensboro (210 S. Tremont Dr.)  
 Greensboro (2994 Kylemore Dr.)  
 High Point (1101 Clyde St.)  
 Scotland Neck  
 Angier (Rt. 2)  
 Canton (15 Forest View Circle)  
 Hendersonville (Box 1973)  
 Ahoskie  
 Raeford  
 Swan Quarter  
 Statesville (306 Valley Stream Rd.)  
 Sylva (28 W. Main)  
 Smithfield (Box 526)  
 Trenton (Rt. 2)  
 Sanford (Rt. 4, Burns Dr.)  
 Kinston (105 E. Vernon Ave.)  
 Lincolnton (E. Main St.)  
 Franklin (Hurst Circle Dr.)  
 Walnut  
 Robersonville  
 Marion (Monte Vista Ave.)  
 Charlotte (2625 Briarcliff Pl.)  
 Charlotte (6419 Morven Ln.)  
 Charlotte (500 Clement Ave.)  
 Charlotte (1427 E. 7th St.)  
 Charlotte (2011 Randolph Rd.)  
 Bakersville (Rt. 2)  
 Troy  
 West End (Rt. 1)  
 Spring Hope (Box 338)  
 Wilmington (Fairway Dr.)  
 Conway  
 Maysville (Box 717)  
 Richlands  
 Chapel Hill (420 Whitehead Circle)  
 Arapahoe  
 Elizabeth City (1013 Rivershore Rd.)  
 Atkinson  
 Hertford (Rt. 1)  
 Roxboro  
 Winterville  
 Tryon (Box 1199)  
 Asheboro (509 E. Salisbury)  
 Hamlet (111 Bauersfeld St.)  
 Fairmont  
 Red Springs

## New Administration

State-wide legislation, especially of a policy nature, tends to originate with the State administration. Bills may be born in administrative agencies, responsible for such matters as education, health, welfare, revenue, labor, and employment security. Some start with or are backed by the Governor's office as part of a program proposed by the State's Chief Executive. Accordingly, the work facing any General Assembly takes on significance as the Governor's program becomes known. And the relationship between legislature and Governor can become important in determining which bills find their way to the enrolling office.

Since no elected North Carolina Governor can succeed himself, every fourth year normally brings a new administration. 1965 is a year of change. Soon new Governor Dan K. Moore will make his inaugural address and present his program to the General Assembly. The precise nature of that program remains for the Governor to reveal. Governor Terry Sanford and Governor-Elect Moore have been meeting to insure a smooth transition from one administration to another. Procedurally, a successful change-over is assured. Substantively, questions of continuing or changing programs remain to be answered.

Many of these same legislators were called upon to vote on the Sanford program. Serving in the 1961 and/or 1963 General Assemblies, they deliberated and balloted on bills for educational advances, including the community college system, and measures designed to spur industrial development and economic and cultural growth. Governor Sanford has indicated that he feels that a new administration will continue the State's present directions but "at a different pace." Governor-elect Moore has begun to give some indices as to his interests and intentions. In his campaign he pledged a 10% salary increase for State employees.

Soon straws in the wind will give way to the reality of a legislative program. At that point, in winter and spring, North Carolina will witness anew the drama of a new legislature and a new administration engaged in the vital democratic process of making ideas and policies into living law.

*(Continued on page 20)*

## BOND SALES

From August 18, 1964 through November 17, 1964 the Local Government Commission sold bonds for the following governmental units. The unit, the amount of bonds, the purpose for which the bonds were issued, and the effective interest rates are given.

Unit	Amount	Purpose	Rate
<i>Cities:</i>			
Fairmont	128,000	Sanitary Sewer	3.67
Hazelwood	225,000	Sewage Disposal Plant	3.92
High Point	4,000,000	Electric Light, Water, Sanitary Sewer, Street Improvement, Fire Station	2.98
Laurinburg	50,000	Sanitary Sewer	2.89
Mebane	95,000	Water	3.86
Pittsboro	200,000	Water	3.95
Wrightsville Beach	75,000	Sanitary Sewer, Fire Station, Fire Fighting Apparatus and Equipment	3.86
<i>Counties:</i>			
Haywood	2,500,000	School	3.37
Mecklenburg	7,800,000	School	2.84
Scotland	1,750,000	School	3.26
Union	250,000	Public Hospital	3.29
Warren	400,000	School	3.17

### 1965 North Carolina General Assembly

(Continued from page 19)

Rockingham	Earl W. Vaughn	Draper (Fieldcrest Rd.)
Rowan	Clyde H. Harris	Salisbury (Milford Hills)
	George R. Uzzell	Salisbury (416 Maupin Ave.)
Rutherford	Hollis M. Owens, Jr.	Rutherfordton
Sampson	C. Graham Tart	Clinton (709 Cutchin St.)
Scotland	Roger C. Kiser	Laurinburg (Vance St.)
Stanly	Clyde Hampton Whitley (R)	Albemarle (2310 Charlotte Rd.)
Stokes	Grace Taylor Rodenbough	Walnut Cove
Surry	Hugh L. Merritt	Mount Airy (Country Club Rd.)
Swain	C. R. Crawford	Whittier
Transylvania	B. W. Thomason	Brevard
Tyrrell	W. J. White	Columbia
Union	S. Glenn Hawfield	Monroe (604 W. Franklin St.)
Vance	A. A. Zollicoffer, Jr.	Henderson
Wake	Thomas D. Bunn	Raleigh (2507 Wake Dr.)
	Samuel H. Johnson	Raleigh (4816 Morehead Dr.)
	A. A. McMillan	Raleigh (406 Chesterfield Rd.)
Warren	Ilton R. Drake	Macon
Washington	Carl L. Bailey, Jr.	Plymouth
Watauga	J. E. Holshouser, Jr. (R)	Boone
Wayne	Mrs. John B. Chase	Eureka
Wilkes	Joe O. Brewer (R)	Wilkesboro (202 Woodland Blvd.)
Wilson	J. E. Paschall	Wilson (1716 Wilshire Blvd.)
Yadkin	Charles G. Reavis (R)	Yadkinville
Yancey	Mark W. Bennett	Burnsville

## ● Notes From Cities and Counties ●

(Continued from page 16)

recreation preserve near *Pleasant Gardens* has been named in honor of Mrs. Charles T. Hagan and Joseph J. Stone, both of whom have contributed heavily to the community and particularly to causes which will be served by the new park.

### Sanitation

*Fayetteville's* land-fill garbage dis-

posal system has received a best-of-type rating from the State Board of Health. The system operates with 20 large packer trucks which take 19,000 pounds of garbage daily to the land-fill dump.

But not content to rest on its laurels, *Fayetteville* has now moved to purchase four "garbage train" systems—the sort which have made news

## ETHICS RULING

*Conflicting Interest — Restrictions on the law practice of City or County Attorney; Their Partners.*

Opinion No. 453, Ethics Committee, Council of the North Carolina State Bar: There is no Canon that prohibits a lawyer to appear in a representative capacity before the Board of Aldermen of a town in which his partner serves as town attorney, regularly advising the Board of Aldermen upon legal matters. However, it is the opinion of the Council that it would be in bad taste for the lawyer to represent an interest before the Board of Aldermen where his partner appears as town attorney. If the interest represented by one partner was opposed by the town attorney-partner, then there would be room for criticism. The same would be true if the town attorney agreed with the attorney for the interest involved, and while in such a case, there might be no grounds for criticism, the partners might be charged with collusion.

in *Durham*, *Winston-Salem* and *Raleigh*.

\* \* \*

By a margin of better than six to one, *Thomasville* voters supported three bond issue proposals totaling \$1,700,000. Only 25 percent of the registered voters cast their ballots in the city's biggest bond issue vote. The largest amount, \$1,575,000 goes for sewer system expansion with \$100,000 allocated for street improvements and \$25,000 reserved for a new fire truck.

\* \* \*

### Streets and Highways

Approximately 6,000 *Winston-Salem* families are being interviewed about their automobile trips and driving patterns. In addition to the survey of citizens, 25 percent of all truckers and 50 percent of all taxi owners will be queried, along with these motorists questioned at 30 roadside stations.

The poll is part of a comprehensive highway use survey being conducted jointly by the city, the State Highway Commission and the U.S. Bureau



of Public Roads. It is required by federal law of all city areas above 50,000 population which wish to continue using federal road funds.

Of 128 street name change proposals in Raleigh, 14 were put through the test of a public hearing. In the process members of the Raleigh Planning Commission got a lesson in local history and were convinced that there is indeed something in a name.

Goldsboro aldermen have taken the first major step toward implementation of a Master Thoroughfare Plan adopted more than three years ago. They have accepted individual street responsibilities as outlined by the State Highway Commission after the state body agreed to certain concessions favorable to the city.

Green Street trees in Fayetteville have received a second governmental axe. An intensive struggle by a small band of citizens to save the trees was ended when City Council reaffirmed a State Highway Commission recommendation that the street be widened to 68 feet.

### Taxation

Dunn City Manager A. B. Uzzle has suggested that the city set up a trust fund to eliminate property taxes in 30 years. He proposed that the city contribute \$30,000 from its general fund, to be augmented by memorial gifts for what he called the "tax-elimination fund."

Uzzle estimates that in 30 years the fund would total \$2 million and would draw \$85,000 in interest annually—about half the present tax income of Dunn.

### Urban Renewal

According to the Federal Urban Renewal Administration, two North Carolina cities will receive renewal grants. *High Point* will use \$151,800 in expanding its "Metro Park" system and *Mount Airy* will use \$56,033 for survey and planning activities for its 37-acre "East-West Development No. 2" project.

### HOMICIDE CASES

(Continued from page 11)

any length.<sup>34</sup>

In conclusion, many people feel that criminal justice would be better served if uniformity were achieved in the matter of preliminary hearings, whether the crime be homicide or some other. Indeed, it appears that much duplication of effort and wasted time and expense might be avoided if law enforcement officers responsible for investigating crime could take recourse to the same tribunals to lodge a charge of murder as they do to lodge a charge of larceny. In any case involving a charge of a noncapital felony, unless the accused person waives indictment, before there can be a trial the evidence adduced through the efforts of the investigating agencies must be presented to the grand jury.<sup>35</sup> No person may be tried in North Carolina on a capital charge except

after indictment by the grand jury;<sup>36</sup> however, a finding of no probable cause at a preliminary hearing does not preclude the grand jury from returning an indictment against the person accused, nor the solicitor from presenting the evidence against such person to the grand jury. If a preliminary hearing is waived by the person accused, whether the crime be capital or non-capital, evidence against him may be presented to the grand jury and an indictment found and returned to superior court. Thus, although a preliminary hearing is a right given by statute to all persons accused of crime, and one which is subject to exercise or waiver in any case, such a proceeding is by no means final, whether probable cause is found and the case presented to the grand jury or a finding of no probable cause results in the accused person gaining his freedom.

Nevertheless, history tells us that findings of no probable cause at preliminary hearing more often than not represent the conclusion of the case with respect to the person accused at the hearing. On the other hand, findings of probable cause made at preliminary hearings usually precede the indictment and trial of the person accused. Yet, even though the preliminary hearing makes up a significant, and sometimes vital, part of a criminal proceeding, there still does not appear to be any substantial reason why a preliminary hearing should be any different in a homicide case, or that a hearing on a charge of murder or manslaughter should be held before an official other than those who hold similar hearings on other charges.

34. See N.C. Const. art. I, § 11; N.C. Gen. Stat. §§ 15-4, 15-87 (1953). § 15-4 provides: "Every person, accused of any crime whatsoever, shall be entitled to counsel in all matters which may be necessary for his defense." See also WATTS, *Right to Counsel: The Supreme Court Speaks*, *Popular Government*, Vol. 29, 1-4 (Institute of Government, 1963).

35. N.C. Gen. Stat. § 15-140.1 (1963).

36. N.C. Gen. Stat. § 15-137 (1953); N.C. Const. art. I, § 12.

### Is 100% Enough?

(Continued from page 5)

in these population groups should not be content with records equal to the medians for the groups in which they fall.

#### Comment

Median figures show that North Carolina counties are collecting 90.09% of their tax levies by the end of the fiscal year for which levied; North Carolina cities and towns collect 89.28% of their levies by the same date. Three months after the fiscal year has ended, counties show collections equal to 95.42% of their levies, and municipalities show collections equal to 94.87% of their levies. Individual units tend to cluster around these figures, but, of course, some units exceed or lag behind the medians.

If prepayments are excluded from the analysis, median figures show that North Carolina counties are collecting

84.73% of their adjusted tax levies by the end of the fiscal year for which levied, and cities and towns are collecting 84.21% of their adjusted levies by that date. Three months after the fiscal year has ended, on this basis, counties show collections of 92.73% and cities 92.40%. County and municipal figures are very close together, and those percentages mirror collection effort and efficiency. So long as they remain this low (over 7% still unpaid) there is little reason for a taxing unit or collector to take pride in the record.

The legal means for correcting this situation are available for use prior to the end of the fiscal year for which the tax is levied. If a collector will identify his chronic delinquents and quickly exert his full legal powers against them, he will find his collection percentages to be enviable on both June 30 and the following first of October. One hundred percent collection is enough, provided it is collected before taxes are delinquent.

# *Distinguished Citizen Award Presented to William Joslin*

(See front cover)

Governor Terry Sanford presented State Elections Board Chairman William Joslin with the Distinguished Citizen Award. The date was November 24, three weeks after the general election. The place was the Governor's office in Raleigh. Present were the members of the State Board of Elections. All had reason to smile.

The award cited Joslin for "services above and beyond the call of duty" in the "maintenance of the freedom and integrity of the North Carolina electoral system."

Joslin said that he considered the award was made by the Governor to the entire elections board because in "everything we undertook, the board stood as one man." He noted: "We could not have done what we did if the Governor had not been behind us one hundred per cent all the way." Governor Sanford recognized the work of the board. He told the assembled members they had "adhered to the principles of good government" and "cleaned up the election situation that plagued the State."

The *Raleigh News and Observer* reflected the prevailing view of press and public:

"Few people who have given time and talent to State government have earned higher respect than William Joslin, Chairman of the State Board of Elections. The award presented him for public service in North Carolina is only a token of the much greater recognition that is justified.

"His conduct of the recent investigation in Madison County and his even-handed fairness and leadership as the State's chief elections official for the past three years are models of selfless service. And, as he modestly said, his associates on the board shared his good work and should share the public appreciation. Such men of ability and honesty reflect credit on the democratic process itself."

Two weeks later nearing term's end Governor Sanford, author of a *Look* (December 13) article on "The Case for the New South," was himself honored for his "New Day" program at a dinner attended by 6,000.

## *1965 School for County Commissioners*

### **Institute of Government, Chapel Hill**

**February 3, 4, and 5**

The school is designed primarily to acquaint new County Commissioners with the organization and functions of county government and to explain the county's relationship with other governments which carry on activities within the county. Experienced Commissioners will also find the school both a valuable review and a means of keeping abreast of current developments.

#### **REGISTRATION**

Registration blanks and applications for lodging in the Institute's residence hall will be mailed to commissioners early in January.

#### **NEW TEXTBOOKS**

Commissioners who attend the school will receive a copy of the limited first edition of *County Government: A Textbook for County Commissioners*. This book, now being prepared by the Institute staff, is designed both for use as a textbook for the school and as a reference book for later use.

#### **TOPICS**

Some of the topics to be discussed at the school are purpose and functions of county government, organization of county government, powers and duties of the Board of County Commissioners, financing county government, property taxation, elections, personnel management, law enforcement, schools and community colleges, courts, health, welfare, jails, planning and zoning, records and purchasing.