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This month's cover notes the closing of the 1965 General Assembly. At left Principal Clerk of the House Mrs. Annie Cooper drops the handkerchief which sets in motion the final gavel action for House Speaker H. P. Taylor, Jr. (center) and Lt. Governor Robert Scott (right).

By Milton S. Heath, Jr.

the NORTH CAROLINA GENERAL ASSEMBLY of 1965

Chapter numbers given refer to the 1965 *Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.*

The 1965 General Assembly convened at noon on Wednesday, February 3 and adjourned *sine die* at noon on June 17. The length of this legislative session — nineteen weeks and two days by the calendar, or 116 "legislative days" — was about average for recent North Carolina legislative annals.

The 1965 Senate consisted of 49 Democrats and one Republican; the House, of 106 Democrats and 14 Republicans. These figures reflected Republican losses from the preceding session of one member in the Senate and seven members in the House. The upper chamber was graced by one lady Senator (a Democrat) and the lower chamber by five lady Representatives (four Democrats and one Republican).

This General Assembly considered 1804 bills and resolutions, a typical production for recent legislatures, though more than 300 bills short of the record of the prolific 1963 session. Of the 1965 introductions, 1209 bills and 93 resolutions were ratified. Of those introduced, 779 were local bills and resolutions and 1025 were public bills, while 614 of the ratified laws and resolutions were public and 688 were local.

Not only the volume of introductions but the percentage of bills failing to pass was unusually high in 1965. The 1965 session saw a return toward normalcy in both respects. Thus, approximately two-thirds of the public bills and almost nine-tenths of the local bills introduced were enacted in 1965.

Legislative Machinery

Rules

Neither house of the 1965 Assembly found it necessary to materially alter its rules. Such changes as were made were largely in the direction of streamlining committee structure in the House and minimizing interruptions of orderly business in the Senate.

The House reduced its list of standing committees from 50 to 47 in two steps: by combining the former Committees on Military Affairs and on Veteran's Legislation into a single Committee on Military and Veteran's Affairs; and by combining the former Committees on Engrossed bills, on Expenditures of the House, and on Enrolled Bills into a single Committee on Enrolled Bills and Expenditures of the House. One innovation of the new Committee on Enrolled Bills and Expenditures was to present to the General Assembly on the final day of the session an analysis of trends in expenditures by state government in North Carolina during the past several decades.

The House this year strengthened the hand of its Rules Committee chairman by naming him speaker pro tem, in place of the former provision for an election of a speaker pro tem. In a related action, the House Rules Committee this year functioned as a "committee on committees", exercising a little-used power to name the time and place of other committee meetings.

The Senate also authorized its Rules Committee chairman, with the approval of his committee, to make committee room assignments from session to session and to assign offices to individual Senators. Another Senate rules change provided that the process of "engrossing" bills — this is, of revising the text of bills which have passed one house to reflect amendments — should be conducted by the Principal Clerk rather than through committee action.

In a move to reduce time consuming ceremonial interruptions of its business the Senate tightened its rules on extension of courtesies and on designation of honorary pages. The Senate this year considered but did not adopt one further innovation in its rules: a requirement that a "fiscal note" (an estimate of State expenditures required) be attached to each bill introduced which may require an additional appropriation or which appears to necessitate an increase or decrease in appropriations.

The presiding officers of both houses jointly promulgated regulations governing conduct in the legislative chambers of news media representatives. The general tenor

Two articles which traditionally appear in the Legislative Issue of Popular Government—*CRIMINAL LAW AND PROCEDURE and GAME, FISH AND BOAT LAW ENFORCEMENT—will appear instead in the October issue of the magazine. Also of interest to readers of the Legislative Issue will be the October* Popular Government *articles on agricultural legislation and 1965 changes in North Carolina fire laws.*

of these regulations was to confine newsmen to areas designated for their use on the floor and to forbid their distracting members during sessions. The Senate this year (in contrast with 1963) allowed newsmen to be present on the floor of the Senate during Senate sessions.

Local Bill Deadline

Every session the leadership of the General Assembly encourages the members to introduce their local bills early, in order to permit the disposition of these bills in advance of the frantic late stages of the session. In addition Senate Rule 40, usually more honored in the breach than in the observance, literally requires that all local bills be introduced by April 1st.

A new departure was made by the 1965 Assembly in an effort to devise a more workable cut-off date for introduction of local bills. This took the form of a joint resolution prohibiting local bill introductions after May 1st in either house, unless the Rules Committee certifies that there is good cause for a later introduction, Resolution 47 (HR 349). By way of emphasis it instructs the presiding officers to have the resolution read to the House and Senate at the first session of each week until May 1st.

The cut-off resolution was introduced early in the session and enacted on April 22. Its most immediate effect was to stimulate a flood of introductions in the last week of April. During that week 201 local bills were introduced — one-half of the previous output of the entire session, and by all odds the heaviest weekly volume of recent memory.

In the 6 1-2 week period between May 1st and adjournment, 184 local bills were introduced with the approval of the Rules Committees, 53 in the Senate and 131 in the House. Obviously the cut-off resolution was not strictly observed. However, it may be doubted that the resolution was or should be designed to completely dry up the flow of new local bills. Moreover comparisons with previous years indicate that the new local bill deadline did materially reduce the load of new introductions. Almost twice as many local bills (344) were introduced in the final 6 1-2 weeks of the 1963 session as in 1965; and over twice as many (464) in 1961.

In summary it seems a fair observation that the adoption of the new local bill deadline, by perceptibly reducing local bill introductions after May 1st, made a genuine if modest contribution toward lightening the end-of-session workload of the General Assembly. If ensuing legislatures follow suit, the 1965 General Assembly will have established a precedent for which its successors may be duly grateful.

Time and Frequency of Legislative Sessions

This General Assembly like its predecessors rejected a perennial proposal to require annual in lieu of biennial legislative sessions. A bill calling for a popular vote on a constitutional amendment to this effect, and authorizing the members to be paid for not more than 80 days in session during odd-numbered years and 60 days in even-numbered years, died in House committee. (HB 245.) Likewise failing to win House committee approval was a bill to change the biennial convening date of the General Assembly from the first Wednesday after the first Monday in February to the third Wednesday in January. (HB 1000) The Assembly did adopt a resolution, however, directing the Legislative Research Commission to conduct a study of these two issues and other matters affecting legislative service. (Resolution 92 [HR 1151]).

Reapportionment and Redistricting

No action was taken by the 1965 General Assembly to reapportion or redistrict its own membership, nor to change the congressional districts of North Carolina in any way. The only measure introduced on the subject this session was a resolution memorializing Congress to call a constitutional convention to consider a federal constitutional amendment that would dilute the U. S. Supreme Court's "one-man, one-vote" decision by allowing a state to reflect factors other than population in apportioning one house of its legislature. This measure was enacted as Resolution 60 (HR 68). The approval of 34 states would be required for the calling of such a convention. As of September 1, 1965, at least 18 states were reported to have requested such a convention. Some observors reportedly believe that as many as nine more states may have filed qualifying requests.

Legislative Research and Studies

When the 1967 General Assembly convenes it should encounter an imposing array of interim study reports and recommendations. One of the landmarks of this past session was a notable resurgence of the use of the ad hoc interim study commission as a means of analyzing governmental problems and preparing recommendations for legislative consideration. Altogether a total of 11 study commissions were created by the 1965 Assembly. In addition, 11 subjects were assigned for study to the new Legislative Research Commission, and several other matters were assigned to existing state departments for study. The subjects to be examined during the legislative interim include such substantial and potentially controversial matters as the revenue structure of the state, election laws, motor vehicle financial responsibility and compulsory insurance laws, morals law offenses, water use legislation, the Board of Trustees of the University of North Carolina, the speaker ban law, and annual legislative sessions and other matters affecting legislative service. (For detailed coverage, see STATE GOVERNMENT.)

One of the innovations of this General Assembly was an experimental legislative internship program sponsored by the North Carolina Center for Education in Politics and supervised by Professor Preston Edsall, head of the Department of Politics at North Carolina State University. Under the plan ten picked undergraduates from six of the state's colleges served rotating assignments as aides to standing committees and legislative leaders. During their tenure, the spring semester, they were campused at North Carolina State University.

Pay and Allowances

Along with the pay increases granted this session to other state employees and officials, the General Assembly passed several measures improving the lot of its own members and employees.

The legislators were given an $8 increase in their daily subsistence allowance, from $12 to $20, in a two step process. First, GS 120-3.1(c) was amended by Chapter 86 (HB 150) to peg the legislative subsistence allow-

(Continued on page 79)

By John L. Sanders

STATE GOVERNMENT

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

The General Assembly of 1965 processed about the usual quota of bills establishing, disestablishing, renaming, reorganizing, and otherwise modifying the structure and functions of state agencies. Seven new state agencies were created in the executive branch, one was abolished without replacement, and at least a dozen underwent some organizational change ranging from a mere increase or reduction in governing board size to a complete replacement of board membership. Implementation of the court amendment began, and three new Superior Court judgeships were created. Numerous studies and study commissions were authorized. This article undertakes to summarize these and other actions, some of which are discussed in more detail in other articles in this issue.

New Agencies

By comparison with the 13 new executive agencies created by statute in 1963, this year's additions were few and were offset by the expiration or abolition of other agencies.

To implement one portion of Governor Dan K. Moore's highway safety program, the General Assembly created the North Carolina Traffic Safety Authority. (Chapter 541 [SB 320]). It is the successor to the Governor's Coordinating Committee on Traffic Safety, a temporary agency created in 1963. (Session Laws 1963, Resolution 64). The Authority consists of one member from the Senate and one from the House of Representatives, appointed by the presiding officers of those bodies, and the following *ex officio* members: the Governor (Chairman of the Authority), Commissioner of Agriculture, Commissioner of Insurance, Commissioner of Labor, Commissioner of Motor Vehicles, Chairman of the State Highway Commission, Superintendent of Public Instruction, State Health Director, Attorney General, Chairman of the Industrial Commission, Chairman of the Utilities Commission, and the President of the North Carolina Traffic Safety Council.

The functions of the Authority are to analyze the traffic problem of the State; survey existing state programs, resources, and facilities in the field of traffic safety; and determine what program additions or improvements are needed. A statement of needs, with priorities assigned, must be prepared and updated at least annually by the Authority.

Another traffic safety measure sponsored by the Governor, Chapter 901 (SB 390), established within the University of North Carolina a Highway Safety Research Center and appropriated $50,000 a year for its operation. The ultimate location of the Center within the Consolidated University structure was left to the discretion of the President of the University. While no duties were assigned to the Center by statute, the Governor stated that its function would be to make available to appropriate state operating agencies in the traffic safety field the results of pertinent research carried on by the Center and elsewhere within and without the University.

The State Education Assistance Authority, created by Chapter 1180 (SB 551), is authorized to guarantee up to 80 per cent of any loan made by a bank or other lending institution to a North Carolina resident to finance his college education. The Authority will be governed by a Board of Directors of seven members appointed by the Governor for four-year, overlapping terms. (For details see EDUCATION.)

The General Assembly of 1961 created the State Capital Planning Commission (GS Ch. 129, Article 4) to do a four-year job of planning for the physical development of the state governmental area in downtown Raleigh. (This Commission expired by the terms of its creating statute on July 1, 1965.) The 1961 session also created the Heritage Square Commission (GS Ch. 129, Article 5) to oversee the design and construction of a group of buildings to house the Department of Archives and History, the State Library, and ultimately the Museum of Natural History and the Museum of Art, within the same area. The membership of the two groups was identical.

The State Capital Planning Commission filed with the 1965 session a comprehensive report and set of recommendations, calling for (1) the establishment of the State Capital Center, comprising the downtown Raleigh area which is or can reasonably be expected to be occupied in the future by state buildings and facilities, and (2) the establishment of a new State Capital Planning Commission as the superintending authority for the development of the Center. The bill (SB 585) to carry out these proposals was reported unfavorably in the Senate.

An alternative proposal, enacted as Chapter 1002 (SB 523), established the North Carolina Capital Planning Commission. This agency consists of the Governor (Chairman, *ex officio*), a Senator appointed by the Lieutenant-Governor, a Representative appointed by the Speaker, the seven members of the Council of State, the Attorney General, and a member designated by the Raleigh City Coun-

cil to represent the city. The Director of Administration is secretary to the group. The Commission is directed to prepare and keep up to date a long-range capital improvement program of state governmental building needs in and near Raleigh, keep aware of state building requirements, recommend land acquisitions, and select building sites. The Department of Administration is to provide or engage professional services for the Commission. The same act abolished the Heritage Square Commission, which had not completed its assigned task.

The North Carolina Governor's Coordinating Council on Aging was created by Chapter 977 (HB 1074). It is a unit of the Department of Administration for administrative purposes. The Council consists of seven citizen members, appointed by the Governor for four-year, overlapping terms; one member appointed by the President of the North Carolina Medical Society; and 13 *ex officio* members: the Director of Administration, Commissioner of Public Welfare, State Health Director, Commissioner of Mental Health, State Librarian, Executive Director of the Recreation Commission, Chairman of the Employment Security Commission, Executive Secretary of the Teachers' and State Employees' Retirement System, Commissioner of Labor, Superintendent of Public Instruction, Supervisor of Services to the Aging of the State Board of Public Welfare, Dean of the School of Public Health of the University of North Carolina at Chapel Hill, and Director of the Cooperative Agricultural Extension Service of North Carolina State University at Raleigh.

The task of the Council is to serve, with respect to the aging and their problems, as a collector and disseminator of information, surveyor and coordinator of public and private aid programs, promoter of research and educational efforts, and stimulator of work and leisure opportunities. It is also the state agency for managing federal programs for the aging which are not assigned to other state agencies.

Chapter 1097 (HB 970) established the Brunswick-New Hanover Maritime Commission, which consists of two members appointed by the Governor, two appointed by the Board of County Commissioners of Brunswick County, and two appointed by the Board of County Commissioners of New Hanover County. All members serve overlapping, six-year terms. While the act declares the Commission to be "an instrumentality of the State of North Carolina, . . . [performing] an essential governmental function of the State . . .", it is expressly denied state financial support. It is authorized to acquire, construct, and operate a wide variety of port, transportation, storage, production, and processing facilities on or near Eagle Island, which lies in Brunswick and New Hanover Counties. (For further details, see WATER RESOURCES.)

Incident to the complete revision of the Nurse Practice Act, the former Board of Nurse Registration and Nursing Education and the Board of Nurse Registration and Nursing Education Enlarged were replaced by the North Carolina Board of Nursing, appointed by the Governor for four-year, overlapping terms, (Chapter 578 [SB 228]). The new 12-member board has the same makeup as the former Board Enlarged, and incumbent members will serve out their terms. It will license and regulate registered nurses, licensed practical nurses, and schools and instructional programs for both professions. (See HEALTH for further discussion.)

At least three proposals to initiate new executive agencies were rejected, in addition to those already mentioned. They would have established a State Board of Examiners of Warm Air Heating and Air Conditioning Contractors (HB 547), the North Carolina Board of Landscape Architects (HB 991), and the Boating and Water Safety Control Advisory Committee (HB 1135). All died in the House.

After a short and rather hectic life of two years, the Legislative Council, an agency of the General Assembly, was abolished (Chapter 1142 [HB 848]) and replaced by the Legislative Research Commission (Chapter 1045 [HB 1030]). The new Commission consists of the Speaker of the House of Representatives and the President *Pro Tempore* of the Senate (or the President of the Senate, when elected from the Senate membership), who are co-chairmen *ex officio*, five Senators appointed by the President *Pro Tempore* (or President, when elected from the Senate), and five representatives appointed by the Speaker. Appointments are to be made within 15 days of the close of each regular legislative session, and members serve until the convening of the next regular session. (Except as to the *ex officio* co-chairmen, the make-up of the Commission is the same as that of the Council.)

The duties of the Commission are essentially the same as those of the Council, except that the Council was authorized to provide legislative research facilities and personnel for legislative committees and members, while the new agency is not so authorized.

In the judicial branch, the 1965 General Assembly carried out the mandate of the 1962 constitutional amendment on the courts by establishing the Administrative Office of the Courts, headed by a Director, and the first stage of the new system of District Courts. The Administrative Office is already functioning; the new District Courts will begin sitting in December of 1966. (Chapter 310 [HB 202]). A constitutional amendment was submitted to the voters which, if approved, will authorize the General Assembly to create a Court of Appeals as a part of the Appellate Division of the General Court of Justice. (Chapter 877 (SB 537])

A second resident Superior Court Judge was added in the 10th, 21st, and 27th judicial districts (Chapter 654 [SB 329]), while bills to make similar additions in the 18th, 26th, and 28th judicial districts were defeated at the committee level (SB 399 - HB 829). Bills to increase the number of Special Superior Court Judges from eight to eleven were killed by committees (SB 560 - HB 1028), and a proposal (HB 972) to require that regular Superior Court Judges be elected by the voters of their respective districts received an unfavorable report. (For details, see COURTS, CLERKS, AND RELATED MATTERS.)

Agencies Abolished

Agencies terminated by 1965 legislative actions without direct replacement were the Heritage Square Commission, Chapter 1002 (SB 523); and the non-statutory Department of Curriculum Study and Research of the State Board of Education, the North Carolina Film Board and the Wright School which were abolished by cutting off their appropriations. (Chapter 914 [HB 12]). The Merit System Council was merged with the State Personnel Council to form the new State Personnel Board. (Chapter 640 [HB 623]).

Agency Reorganizations

Perhaps the most publicized of the state government measures considered by the 1965 General Assembly were bills reconstituting entirely or in part the membership of the governing boards of several major state agencies — a species of legislation which is normal in the first session of a Governor's term, as he seeks to man the governmental apparatus with people attuned to his own philosophy and policies. In addition, there were several less noted bills which made changes in the name, form, or duties of state agencies.

The Highway Commission underwent its quadrennial "removal from politics." (Chapter 55[HB 59]; Chapter 1054 [HB 1075]). The terms of the incumbent Chairman and commissioners were ended and a new Chairman and members were required to be appointed for four-year terms, all beginning July 1, 1965. (Similar action was taken in 1953, 1957, and 1961.) In the process, the number of commissioners was cut from 18 to 14, and the requirement was added that one be appointed by the Governor from each of the existing 14 highway engineering divisions.

The Chairman continues to be the full-time chief executive officer of the Commission. His authority was strengthened by transferring from the Commission to the Chairman the authority to appoint (subject to the approval of the Commission) the State Highway Administrator, the Controller, and the Secondary Roads Officer, all of whom had previously been appointed by the Commission itself. Citizens' petitions and county commissioners' requests for road changes will henceforth go to the Chairman, rather than the State Highway Administrator.

The State Highway Administrator (formerly titled the Director of Highways) continues as "the administrative officer of the State Highway Commission . . .", but he now serves at the pleasure of the Chairman and Commission, rather than for a fixed term of four years.

The section (GS 136-13) prohibiting the exertion of or submission to improper influence on the actions of Highway Commission members, officials, or employees was greatly broadened; its violation continues to be a felony and the penalty attached was made more severe. The prohibition against self-dealing also was strengthened. A provision was added prohibiting Commission members, officials, and employees from using their positions "to influence elections or the political action of any person."

The terms of all sitting members of the Board of Conservation and Development were cut off (as had been done in 1953 and 1961), and the size of the Board was cut from 28 to 24 members, who will serve four-year, overlapping terms by appointment of the Governor. (Chapter 826 [HB 978]).

The former State Personnel Council and Merit System Council were abolished by Chapter 640 (HB 623) and replaced by a new State Personnel Board as the governing body of the State Personnel Department. The new Board consists of seven members appointed by the Governor for overlapping, six-year terms. Two members must be state employees subject to the State Personnel Act, two must be chosen from a list of nominees submitted by the North Carolina Association of County Commissioners, two must be individuals engaged in private business management, and one must be a member of the general public. The State Personnel Director continues to be appointed by the Board, serves at its pleasure, and administers the affairs of the Department.

The State Personnel Board has the combined functions of its predecessor boards with respect to recruitment, selection, and working conditions of state employees subject to the Personnel Act. It also may make the professional services of the Department available to local governments upon reasonable charge.

The Governor, acting with the approval of the Council of State, is authorized to extend the merit system to additional groups of employees who are subject to the State Personnel Act. (For details, see PUBLIC PERSONNEL.)

One of the liveliest controversies of the session centered on the Board of Higher Education. An initial proposal to abolish the Board (SB 389 - HB 846) was rejected and Chapter 1096 (HB 965) was enacted instead on the Governor's request. That act reconstituted the membership of the Board, which formerly consisted of nine citizens (none of whom could be trustees or employees of regulated state institutions), appointed by the Governor for eight-year terms. The new Board comprises 15 members. The Governor appoints one member from the State Board of Education and eight public members to serve six-year, overlapping terms. The boards of trustees of the public senior colleges (in an order of rotation fixed by the Governor) appoint four trustee members for two-year terms and the Board of Trustees of the University of North Carolina appoints two trustee members for unspecified terms. "[N]o trustee member shall be a member of the General Assembly." All future regular appointments (apparently including those by boards of trustees) are subject to confirmation by the General Assembly in joint session.

While the statutory statement of the functions of the Board was rewritten by Chapter 1096, it is not clear that any important substantive change was made in those functions. (For details, see EDUCATION.)

From its establishment in 1937, the State Board of Alcoholic Control has been organized according to the unusual pattern of a full-time Chairman-administrator and two part-time board members. (The Employment Security Commission, State Department of Agriculture, and Rural Electrification Authority are similarly organized.) Chapter 1102 (HB 1079) brings the Board of Alcoholic Control into line with the nearly universal pattern in North Carolina state government, which calls for a part-time chairman and governing board and a full-time administrator of the agency.

The new Board consists of five members appointed by the Governor for four-year and six-year terms. The Governor chooses the Chairman from among the six-year members. To administer the affairs of the Board, subject to its approval, there is established the office of the Director of the State Board of Alcoholic Control. The Director must be "a career official" and is appointed by the Governor with Board approval for a four-year term beginning July 1 of the first year of each Governor's term.

As introduced, HB 559 would have cut off the terms of all 11 sitting members of the Wildlife Resources Commission and required the appointment of an entirely new slate of 12 members. As enacted, however, that bill simply eliminated the two at - large seats which had been added in 1961, leaving the nine district members undisturbed. (Chapter 859) The Governor continues to appoint the commissioners from the nine wildlife districts for six-year, overlapping terms.

As a part of the general revision of the statutes relating to the conservation of marine and estuarine wildlife resources, the former Commercial Fisheries Division, Commissioner, Committee, and Advisory Board of the Department and Board of Conservation and Development were retitled by changing the prefix to "Commercial and Sports" in lieu of "Commercial". (Chapter 957 [HB 560]). The Commercial and Sports Fisheries Advisory Board was enlarged from seven to 11 members, including three sports fishermen, three commercial fishermen, two professional scientists with relevant backgrounds, and three members of the General Assembly. All members are appointed by the Governor and serve at his pleasure. The Board will continue to advise the Commissioner of Commercial and Sports Fisheries and other appropriate agencies on fishlife conservation matters. (For details, see GAME, FISH, AND BOAT LAW ENFORCEMENT in the next issue of *Popular Government.*)

The Historic Bath Commission, originally established in 1959, was reconstituted and enlarged by Chapter 353 (HB 341). Twenty - five members (formerly a minimum of 15 members) are appointed by the Governor for overlapping, five-year terms, and three members serve *ex officio* (the Mayor of Bath, the Chairman of the Beaufort County Board of Commissioners, and the Director of the State Department of Archives and History, or their deputies). The Commission will continue to work closely with the State Department of Archives and History in the development and promotion of the historic Town of Bath.

The North Carolina Commission on Interstate Cooperation was enlarged to 11 members by the addition of the President of the Senate as an *ex officio* member. (Chapter 866 [HB 904]).

The State Board of Registration for Professional Engineers and Land Surveyors was enlarged by the addition of a second land surveyor member to the present four engineers and one surveyor. All members continue to be appointed by the Governor for five-year, overlapping terms. (Chapter 940 [SB 241]).

Chapter 630 (SB 235) altered the procedure for electing the members of the North Carolina State Board of Embalmers and Funeral Directors, following closely the procedure adopted in 1961 for the election of members of the North Carolina State Board of Dental Examiners (GS 90-22 et seq.). Formerly the North Carolina Funeral Directors and Burial Association, Incorporated, elected the seven members of the Board, which licenses and regulates embalmers and funeral directors. Now members will be chosen by annual elections in which all licensed practitioners may vote. The object appears to have been to eliminate any implication that the Association is a public agency. For the same apparent purpose, the role of the North Carolina Dental Society in selecting the dentist members of the Mental Health Council and the Medical Care Commission was eliminated. (Chapter 15 [SB 17], Chapter 16 [SB 18]).

The membership of the Board of Law Examiners was enlarged from seven to nine by Chapter 65 (SB 49).

On July 1, Charlotte College ceased to be an independent, four - year, public college and became the fourth campus of the University under the title, "the University of North Carolina at Charlotte". (Chapter 31 (SB 10). The Raleigh Campus of the University was renamed "North Carolina State University at Raleigh". (Chapter 213 [HB 24]).

Among the changes rejected were two to revise the makeup of the Board of Trustees of the University of North Carolina (SB 246, SB 502), both of which died in committee (See EDUCATION), and a bill to make the Governor-elect a member of the Advisory Budget Commission between his election and inauguration (SB 50).

Constitutional Amendments

Four amendments to the Constitution of North Carolina were proposed in the 1965 General Assembly; only one was submitted to the voters.

Chapter 877 (SB 537) proposed an amendment to the Constitution, authorizing the General Assembly to create within the Appellate Division of the General Court of Justice an intermediate Court of Appeals. The new Court would consist of at least five members and could be authorized to sit in divisions. Judges of that Court would be popularly elected state-wide for eight-year terms, as are Supreme Court Justices. Other matters, such as the numer of judges and divisions, the jurisdiction of the Court of Appeals, and the places where it would sit, would be left for legislative determination. The purpose of the Court of Appeals would be to share some of the burden of appellate business which threatens in time to overwhelm the State Supreme Court.

This amendment will be voted on at the time of the highway bond election in November, 1965. It is anticipated that, if the amendment is then approved, legislation to activate the Court of Appeals will be prepared in time for consideration by the 1967 General Assembly.

The Senate rejected on second reading a proposed amendment (HB 69) to give the funds of the Law Enforcement Officers' Benefit and Retirement Fund the same constitutional protection against use for non-retirement system purposes that Article II, Sec. 31 now gives the funds of the Teachers' and State Employees' Retirement System.

In 1962, the people of the State amended the Constitution to permit the General Assembly to reduce the residence period for voting in presidential elections to less than the one year required for voting in other elections. The 1965 session exercised that authority. (Chapter 871 [SB 48]). SB 129 would have amended the Constitution to empower the General Assembly to reduce the residence period for voting in all elections. It was not reported out of committee in the Senate.

Annual legislative sessions are being proposed with increasing frequency in North Carolina. HB 245 (which never emerged from committee in the House) proposed a constitutional amendment calling for annual sessions, with the pay period limited to 80 days in odd years and 60 days in even years. (The Constitution currently limits legislators' pay to 120 days of each regular, biennial session.)

Interstate Compacts

The General Assembly of 1965 approved the Southern Interstate Nuclear Compact (Chapter 858 [HB 544]) and the Interstate Agreement on Detainers (Chapter 295 [HB 214]). It revised the Interstate Compact on Juveniles, originally adopted in 1963, to conform it to the text of the Compact as adopted by other states. (Chapter 925 [HB 794]). It rejected the Interstate Driver License Compact (HB 835).

Miscellaneous

The upper limit of state liability under the tort claims act was raised from $10,000 to $12,000 as to claims arising on or after July 1, 1965. (Chapter 256 [HB 16].

Chapter 14 (SB 41) makes it a crime, punishable by five to ten years in prison, willfully and maliciously to burn any building owned by the State or its agencies, institutions, or subdivisions. The State Bureau of Investigation is now authorized to investigate, without request, the arson or attempted arson, injury, misuse, or theft from or of any real or personal property of the State. (Chapter 772 [SB 461]). Sitting, lying, etc., in or near a public building in such manner as to obstruct the normal business use of the building, after being forbidden to do so by the person in charge of the building, constitutes a misdemeanor, punishable in the discretion of the court by fine or imprisonment. (Chapter 1183 [SB 563]).

The state tree, flower, and bird have now been joined by a state shell, the Scotch Bonnet (Chapter 681 [HB 602]). A proposal to add a state bug to the growing list of state fetishes died in committee. (SR 480)

Members of state boards and commissions serving on a per diem basis (generally at $7 per day) will benefit from a boost in their subsistence allowance from $12 a day in-state and $14 a day out-of-state to a straight $20 a day. (Chapter 169 [HB 94]). Incidental beneficiaries of this change will be members of the General Assembly, who previously had changed their daily subsistence rate from $12 to the same rate as that of members of state boards and commissions generally. (Chapter 86 [HB 150]). The subsistence allowance for state officers and employees was increased by $2 to $12 a day in-state and $14 a day out-of-state. (Chapter 1089 [HB 487]).

A proposal to make the State's minimum wage applicable to state and local governmental employees as well as to private employees passed the Senate but died in a House committee. (SB 229).

The Governor's salary, now $25,000 a year, was raised to $35,000 a year effective January 1, 1969. (Chapter 1091 [HB 756]). In recognition of the fact that the responsibilities of office do not await the inauguration of a new Governor or Lieutenant-Governor, Chapter 407 (SB 51) directs the Department of Administration to provide suitable office space for those officers between their election and inauguration, and makes a modest allowance for their office expenses during that period.

Five resort towns obtained amendments to their charters, providing that their town governing boards henceforth will be elected by their resident voters. The members of those boards formerly were nominated in recommendatory elections in which both resident and non-resident freeholders participated, and appointed by the Governor. (Chapter 259 [HB 306], Chapter 362 [HB 522], Chapter 519 [HB 645], Chapter 736 [HB 606], Chapter 756 [HB 649]).

Studies and Study Commissions

Over many years, North Carolina has made extensive and productive use of the interim or temporary study commission. Created sometimes by legislative action, sometimes by executive action, such agencies are assigned particular problems requiring intensive and often prolonged study and fact-finding and the development of recommendations for legislation (or less often, for administrative action).

Study commissions supplement the legislature's own committee process by providing for more leisurely study than the hectic pace of legislative business permits legislative committees. Such commissions have often been created at the instance of the Governor, who has kept in close touch with their proceedings and has championed their recommendations which fitted in with his own program.

Topics dealt with by study commissions in recent years include constitutional and court revision, administrative reorganization, revision of the revenue laws, municipal government, and several aspects of education.

The General Assembly of 1965 authorized 11 temporary study commissions — a record number — and 11 special studies to be conducted by the Legislative Research Commission. Commissions will inquire into subjects ranging from aviation to women's employment and report their findings to the Governor and the next legislative session.

These commissions are authorized to engage staff help, and their expenses are to be paid from the Contingency and Emergency Fund. One noteworthy characteristic of seven of these 11 commissions is the sharing of the power to appoint members among the Governor and the presiding officers of the two houses of the legislature. For the last dozen years at least, the nearly uniform practice has been for legislative resolutions establishing such temporary bodies to authorize the Governor to appoint the entire membership.

Here is a summary of the makeup of each commission and its assignment:

Commission for the Study of the Revenue Structure of the State. Nine members (three appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House) constitute this Commission, which is to review the state and local tax laws and recommend changes in tax rates (with alternative revenue sources),

> to the end that the revenue system may be as stable and equitable as possible, and yet so fair when compared with the tax structure of other states, that business enterprises and persons will be encouraged to locate and expand business in North Carolina.

The Director of Tax Research is secretary to (but not a member of) the Commission. The expenses of the Commission are limited to $30,000. (Resolution 79 [SR 501]).

Election Laws Revision Commission. This seven-member group consists of two Senators appointed by the Lieutenant-Governor, two Representatives appointed by the Speaker, and three members appointed by the Governor (one of them from a list of three submitted by the State Chairman of the Democratic Party and one from a similar list submitted by his Republican counterpart). The Commission is

> to conduct a thorough study of the election laws of this State and to prepare and draft the legislation necessary to recodify the election laws and make them as clear and concise as possible . . . .

(Resolution 71 [SR 426]).

Commission on the Study of the Statutes Relating to Visiting Speakers at State Supported Educational Institutions. The Governor appointed five members of this Commission, the Lieutenant-Governor appointed two from the Senate, and the Speaker appointed two from the House. The Commission has already begun the study indicated by its title. (Resolution 85 [HR 1068].

Commission on the Study of the Board of Trustees of the University of North Carolina. Five appointees of the Governor, two Senators chosen by the Lieutenant-Governor, and two Representatives chosen by the Speaker constitute this group. It will

> make a detailed and exhaustive study of the manner in which the trustees of the University of North Carolina are selected, the number which should constitute the Board of Trustees, the terms of office of the trustees, the relationship between the Board of Trustees and the General Assembly, and the relalationship between the Board . . . and other interrelated agencies of the State.

(Resolution 73 [SR 476])

Commission to Study and Recommend Legislation on Certain Criminal Laws Relating to Public Morality. The nine members of this body include two persons appointed by the Governor, one Senator appointed by the President of the Senate, one Representative appointed by the Speaker, the Director of Prisons, the Commissioner of Mental Health, a physician named by the Dean of the School of Medicine of the University of North Carolina, a physician named by the Medical Society of the State of North Carolina, and an attorney named by the North Carolina State Bar, Incorporated. The task of the Commission will be to make a comparative study of the laws of other states relating to crimes against nature and taking indecent liberties with children, and to make recommendations for more adequate laws on those subjects covering the detection, examination, detention, treatment, and rehabilitation of violators. (Resolution 75 (HR 1098))

North Carolina Commission on the Education and Employment of Women. The membership of this group comprises three persons appointed by the Governor, two appointed by the President of the Senate, and two appointed by the Speaker, all "from a wide representation of interests." Their duties will be to study and advise the Governor, General Assembly, and state agencies on the education and employment of women in this State. (Chapter 1034 [HB 993]). A similar group, created by action of the Governor, was active during the last biennium.

Commission on Aviation. Five appointees of the Governor make up this agency. Its task is to study "the feasibility of establishing a permanent agency to act on matters pertaining to aviation." (Resolution 88 [HR 1146]).

Motor Vehicle Financial Responsibility and Compulsory Insurance Commission. The Governor appoints all seven members of this group, one of whom must be a Representative and one of whom must be a Senator. The Commission must study the financial responsibility acts of 1953 and 1957 and offer recommendations on laws and regulations with respect to motor vehicle financial responsibility and compulsory insurance. (Resolution 90 [HR 1150]).

Committee on Printing and Binding. Two Senators appointed by the President, two Representatives appointed by the Speaker, and one appointee of the Governor make up this committee. It has the formidable assignment of reviewing all printing done by the State in 1963-65, its cost, source, distribution, necessity, etc., and making recommendations for more economical procedures for the procurement of printing and binding by the State. (Resolution 89 [HR 1144]).

Commission to Study the Cause and Control of Cancer in North Carolina. This is a continuation of a commission first established in 1957. It comprises ten persons from within and ten from without the medical profession, all appointed by the Governor. It will continue to make studies and recommendations on more effective means of detecting and treating cancer. (Resolution 29 [SR 27]).

Commission on ostepathic education. The Governor appoints all five members of this commission, which is given no particular name in its creating resolution. It will study the medical training given osteopaths and determine whether they are qualified to take the required examinations and be licensed to practice medicine in North Carolina. (Resolution 76 [HB 918]).

A final study group should be mentioned here — a five-member commission to be appointed by the Governor to select the locations for the eastern and western alcoholic rehabilitation centers authorized by the recent session. (Chapter 1063 [SB 108]).

The General Assembly declined to create a Pharmaceutical Study Commission (SR 566), a Commission on Reorganization of State Government (SR 395), and a Smith Island Commission (SR 587). It also refused to enlarge and continue the life of the Medical Center Study Commission which had been initiated in 1963. (SR 405).

The Senate failed to give its approval to HR 365, which would have created a study commission to confer with South Carolina officials on the preservation of the birthplace of President Andrew Jackson. Neither did the Senate give its approval to a joint resolution (HR 1171) requesting the Commission on Interstate Cooperation to cooperate with South Carolina in seeking erection by the federal government of a memorial to President Jackson at an agreed location; in the final days of the session, acting alone, the House of Representatives adopted an identical unnumbered resolution.

Legislative Research Commission

The new Legislative Research Commission began life with a busy infancy in prospect. It was asked or directed to study and report to the 1967 session on:

- The need for establishing a new unit of the Department of Motor Vehicles to serve civil process and notices, relieving the State Highway Patrol of such nonenforcement duties.
- Annual legislative sessions, legislative remuneration, the legislative convening date, "and other matters affect-

(Continued on page 79)

By George A. Coltrane

the COUNTIES and the 1965 GENERAL ASSEMBLY

Chapter numbers given refer to the 1965 Sessions Laws of North Carolina. HB and SB numbers are the bill numbers of bills introduced in the House and in the Senate.

[Note: Only legislation affecting the general structure, powers, and financing of county government is discussed in this article. Legislation concerning specific county activities is discussed in greater depth in other articles. Local acts are discussed only when they are indicative of trends or are significant developments. The 1965 Supplement to the Institute of Government's *County Legislation Index* will list all local acts affecting each county. The supplement will be mailed to county officials and will be available to other persons on order from the Institute in the late fall.]

1965 was not a year of major legislative developments affecting county government. Rather, it was a year of strengthening the existing county government structure—coordinating its functions with those of other levels of government, adjusting its activities to cover changes in social and economic patterns, plugging gaps in its financing powers, and seeking broader financial support for its operations.

The legislation of greatest significance for county government was that replacing all county and city courts with units of the state district court system in 22 counties in 1966 and in all other counties during the four following years. Its impact on counties is discussed below.

Although the failure of counties to obtain an additional revenue source to relieve the pressure on the property tax base might appear significant, its effects will be partially offset by the $100 million state bond issue to supplement county school construction funds, the General Assembly's protection of the property tax base from exemption demands, and the possible benefits from the authorized study of the state's revenue structure.

County Organization

The Board of County Commissioners

Chapter 418 (HB 422) removed county commissioners from the list of persons disqualified to practice law. This amendment to G. S. 84-2 will probably result in the election of some attorneys to county boards and might well have a noticeable effect on county government. (The act does not apply to Carteret, Columbus, Davidson, Davie, Duplin, and Iredell counties.)

Three counties obtained local legislation authorizing their boards of commissioners to meet at places other than the county courthouse: Alamance, Chapter 290 (HB 463); Forsyth, Chapter 379 (HB 470); and Guilford, Chapter 445 (HB 575). These acts modify G.S. 153-8 (or a local act, in the case of Forsyth County), which designates the courthouse as the meeting place.

As usual, a substantial number of counties obtained legislation changing the terms of office, number, and method of election of county commissioners. In the table (p. 10), only *changes* in the structure of boards of commissioners are shown, in order to emphasize trends. (Note that some of the changes are subject to county voter approval.) The strongest trends this year were to the staggering of commissioners' terms and to the increase of terms to four years. (All changes to four-year terms were made from previous terms of two years.) Counting the nine which adopted the sytem this year, 53 counties now have some system for overlapping the terms of their commissioners. Nineteen others elect commissioners for straight four-year terms. Although the staggering of commissioners' terms assures that there will normally be some experienced commissioners on the board, there has been some criticism that the system does not permit the electorate to change a majority of the board at every general election. This year Chowan County joined a small group of counties which eliminate that objection by having a majority of the board stand at every general election, with one candidate receiving a shorter term than the others.

Courts

The only major change in the structure of county government was made by Chapter 310 (HB 202), the Judicial Department Act of 1965, which implemented the revised (1961) Judicial Department article of the state constitution and started shifting from local governments to the state the burden of administering and financing the court system in 22 counties effective December 1, 1966. By judicial districts the counties are—District 1: Camden, Chowan, Currituck, Dare, Gates, Pasquotank, and Perquimans; District 12: Cumberland and Hoke; District 14: Durham; District 16: Scotland and Robeson; District 25: Burke, Caldwell, and Catawba; and District 30: Cherokee, Clay, Graham, Jackson, Macon, Swain, and Haywood. Other counties are scheduled for incorporation into the system in 1968 and 1970. Clerks of Superior Court (who will also perform the clerical functions of the district courts) will continue to be elected at the county level; and district judges will be elected from the judicial districts

which they are to serve, beginning with the 1966 general election. The salaries of both, however, will be paid by the state, as will those of other judicial officers and employees in the clerks' offices. Justices of the peace will be replaced by magisrrates nominated by the Clerk of Superior Court and appointed by the senior regular resident Superior Court judge.

The most immediately apparent effect of this court reorganization on county government will be financial. Counties will be relieved of the financial burden of operating the courts. For nearly all counties this will be a financial blessing. The only remaining county financial obligation will be to furnish physical facilities for the courts, and part of the court costs will be distributed to the counties to assist in the discharge of that obligation.

A less apparent but probably more significant effect of the new system will result from central direction of the system through a state agency, the Administrative Office of the Courts. Uniform excellence in the administration of justice and economies made possible by large-scale operations are the anticipated results of this arrangement. Control over governmental functions tends to gravitate to the level of government which is best equipped to finance the function; the state-wide interest in uniform excellence of certain services has accelerated that shift of control to the state government.

Details of the District Court system are set out in the March, 1965, issue of *Popular Government* (and see COURTS, CLERKS, AND RELATED MATTERS in this issue).

Personnel Plans

Under the provisions of newly revised Chapter 126 of the General Statutes, 1965 Session Laws Chapter 640 (HB

Changes in Structure of Boards of County Commissioners

Session Laws Chapter	County	New Term (Years)	Staggered Terms	Districting[1]	Number Old	Number New	Bill Number
723	Carteret	4*					SB 344
173	Caswell	4**	X[2]				HB 293
558	Chatham	4	X[2]	N, R			HB 710
908	Cherokee			N, E, R	3	6	SB 513
459	Chowan	2-4***	X[3]				HB 656
562	Dare			D	5	5†	HB 738
339	Graham	4					HB 492
880	Greene			R**			HB 709
689	Halifax	4**	X[2,**]				HB 784
667	Jones	4					HB 857
668	Lenoir	4	X[2]				HB 859
291	McDowell	6†††					HB 464
239	Mecklenburg[4]						HB 335
153	Moore	4	X[2]				HB 185
664	Pasquotank	4	X[5]		7	5	HB 725
327	Pender			R**††			HB 442
382	Perquimans[4]						HB 490
369 / 952	Randolph	4					SB 124 / SB 528
964	Stokes				3	5	HB 951
476	Wayne	4	X[2]				SB 303
380	Wilson			R	5	7	HB 472

* Terms which began in December, 1964, are continued until December 1968.

** This change is subject to approval of county voters.

*** Two candidates receiving highest number of votes receive four-year terms, one receives two-year term.

† A sixth commissioner will be elected for a two-year term in 1966 only.

†† Effective with 1968 general election.

††† All commissioners will stand for election in 1966, terms of six, four, and two years being awarded in order of number of votes received. Thereafter one commissioner will stand for a six-year term at each general election.

1. D — Candidates are elected to represent districts, but are voted on by all county voters in primary and general elections; and there is no *express* residence requirement.
   N — Nominated by vote or party action within districts.
   E — Elected by vote within districts.
   R — Commissioner must reside within district he represents.

2. In 1966 election, three candidates receiving highest number of votes receive four-year terms; others receive two-year terms. Thereafter all terms will be four years.

3. Five commissioners to be elected in 1966. Thereafter three of the five commissioners will be elected at each general election.

4. Added to counties whose commissioners are authorized by G.S. 153-6 to fill vacancies on the board.

5. Two commissioners receive four-year terms in 1966; three, in 1968. Thereafter all terms are four years.

623), county commissioners may now elect to have all county employees covered by the state personnel system, or they may elect to bring employees now covered by the state system under a county personnel plan approved by the State Personnel Board. See PUBLIC PERSONNEL in this issue for details of the new Chapter 126 and for information about other legislation affecting the salaries and working conditions of county officers and employees.

Medical Examiners and Coroners

Fifteen counties (Alamance, Catawba, Durham, Forsyth, Granville, Guilford, Iredell, Lee, Mecklenburg, Nash, New Hanover, Polk, Rockingham, Vance, and Watauga) obtained legislation permitting them to abolish the office of coroner and appoint a physician as medical examiner. (See HEALTH.) This alternative medical examiner system is provided for by Chapter 639 (HB 590); Guilford and Lee counties were made eligible by a later act, Chapter 1113 (HB 1131). The office of coroner is not abolished in counties which adopt the provisions of the general medical examiner act, G. S. Ch. 130, Art. 21. The general act will cease to apply in counties adopting the provisions of Chapter 639, which not only abolishes the office of coroner but also gives to medical examiners broader powers than those granted by the general act. In any county which adopts the Chapter 639 system, those duties of the sheriff which would have devolved upon the coroner under certain circumstances will be performed instead by the chief deputy sheriff; and if it should become necessary to serve process on the sheriff, it will be served by the sheriff of an adjoining county.

County Powers

Regulation of Business

Four counties (Catawba, Halifax, Pitt, and Wilson) were added to those endowed with broad regulatory powers by G. S. 153-9 (55).[6] The day after the General Assembly adjourned, however, the North Carolina Supreme Court held, in the case of *Surplus Company v. Pleasants*,[7] that subdivision 55 is void under the constitutional prohibition against regulation of trade by local act.[8] The statute was held to be a local act even though it applied to more than half the counties, for there was no legal justification for excluding the remaining counties from its coverage. The constitutional provision was violated by the mere granting of discretionary authority for county regulation of trade. The case before the court involved a Sunday closing ordinance ("blue law"), but the parts of subdivision 55 which relate to health, sanitation, and the abatement of nuisances would also be void under the Court's reasoning. Applicability of the decision to those parts of the subdivision which were not involved in the *Surplus Company* case and which do not fall within this constitutional prohibition is less clear.

Eminent Domain

Chapter 934 (HB 1022) adds to G. S. 153-9 a subdivision authorizing county commissioners to condemn land (and interests therein) for construction, expansion, enlargement, improvement, maintenance, and operation of courthouses and jails if a voluntary sale agreement cannot be reached with the owner. The condemnation provisions of G. S. Ch. 40, Art. 2 are to be used.

Joint City-County Buildings

Authority for cities and counties to act jointly in the construction or acquisition of public buildings is provided by Chapter 682 (HB 619). (Lenoir County is exempt.) The act applies to land and buildings for *city* and *county* offices, courts, libraries, auditoriums, coliseums, and *similar* facilities. Units jointly constructing buildings must provide by agreement for specifications, share of original cost, use, and all other necessary details. Both cities and counties are authorized to issue *general obligation* bonds and notes in the normal fashion to meet their share of costs. Property acquired under these statutory provisions may not be disposed of or encumbered except by joint action.

Water and Sewerage

Article 24A of Chapter 153 of the General Statutes, which authorizes counties to impose special assessments to meet part or all of the cost of making water and sewer extensions, was amended to make it applicable to four more counties: Lee, Mecklenburg, McDowell, and Onslow. The latter three were brought fully under the existing provisions. Lee came under the article without authority to require connections of property served and with a majority petition requirement for proposed extensions which would lead to assessments against lands in agricultural uses. Citations are: Lee, Chapter 969 (HB 1015); Mecklenburg, Chapter 261 (HB 339); McDowell, Chapter 149 (HB 226); and Onslow, Chapter 109 (HB 188).

Water Conservation and Small Watersheds

Two counties were granted authority to levy county-wide taxes for watershed purposes without a referendum. Tax levying power of up to two cents per hundred dollars valuation was authorized for Cabarrus by Chapter 615 (HB 207), and an upper limit of one half cent was authorized for Union by Chapter 19 (HB 5). Union and Tyrrell were empowered to use eminent domain in the futherance of small watershed activity by Chapter 19 (HB 5) and Chapter 703 (HB 737), respectively.

An amendment to G. S. 139-5 permits the inclusion of governmentally owned or controlled lands and town or village lots within the boundaries of soil and water conservation districts.

G. S. 153-9 (35½) was amended by Chapter 531 (HB 290) and Chapter 702 (HB 361) to make the section apply to Scotland and Rockingham counties, bringing to 79 the number of counties authorized to spend non-tax revenues to promote soil and water conservation.

Chapter 701 (HB 342) consolidated two acts of the 1963 General Assembly (Session Laws of 1963, Chapters 933 and 1230) which authorized counties to expend tax funds for soil and water conservation work. This act, to be codified as G. S. 153-9 (35¾), now covers 62 counties, an increase of 47 over the combined coverage of the two 1963 acts.

For further details on legislation affecting small watersheds and water conservation, see the article in this issue on WATER RESOURCES.

Purchasing and Contracting

No major changes in the laws controlling public pur-

6. See *Popular Government*, September-October 1964.
7. 264 N. C. 650 (1965).
8. N. C. Const. Art. II, § 29.

chasing were made by the 1965 General Assembly, although there were a number of minor acts of interest.

Federal surplus property. Chapter 1105 (HB 1101) made minor technical amendments to Article 3A of Chapter 143 of the General Statutes, relating to the State Agency for Federal Surplus Property. The amendments parallel changes in federal law which extended the list of eligible donees, primarily civil defense organizations, public libraries, and educational radio and television stations.

Negotiating contracts. Chapter 841 (SB 422) modifies the provisions of G. S. 143-129 with respect to the negotiations with a low bidder on a construction contract when funds are insufficient. The law previously provided that in such cases the governing body could negotiate with the low bidder and award him the contract if he were willing to perform within the limits of funds available without substantial changes in the plans or specifications. The revision (which was apparently intended by its initiators to apply only to state contracts, but which as adopted applies to local governing bodies as well) eliminates the restriction imposed by the word "substantial" and permits negotiation and award within the limits of funds without reference to the degree of change in the plans or specifications. In lieu of this restriction, however, another has been established: no contract negotiated in the manner indicated above can be awarded except upon the recommendation of the Department of Administration. The need for approval from the Department of Administration would seem to apply to contracts of this type entered into by cities, counties, and other local units as well as those by state agencies and institutions. Because the coverage of local contracts was apparently inadvertent, indications are that securing approval of such contracts from the Department of Administration will not cause any serious trouble for local officials.

Sale of property. Of the 37 local acts concerning city and county purchasing and contracting, 29 involved particular properties, and most of those authorized the private sale or conveyance of described property. In some cases a price was set by the act, but often the price was left to negotiation. A few of these acts provided for the conveyance of property without cost to named parties. Of the 29 acts authorizing disposal of particular properties, seven applied to counties and ten applied to city or county boards of education; the remainder applied to cities.

Fire Prevention and Protection

Chapter 626 (HB 842), which added G. S. 153-9(39b), empowers county commissioners to adopt fire prevention codes for safeguarding life and property from fire and explosion. Fire prevention inspectors appointed to enforce such codes may serve more than one county. Chapter 625 (HB 841) amended G. S. 69-25.11(1) to permit the enlargement of rural fire protection districts upon the application of two-thirds of the owners of the territory to be annexed, rather than the unanimous application previously required. There are provisions for notice to property owners and a hearing before the county commissioners prior to annexation.

Chapter 1101 (HB 1076) adds G. S. 69-25.11(4) to permit county commissioners to transfer territory from one fire district to an adjoining fire district having a different tax rate upon petition of two-thirds of the owners of the territory involved and favorable recommendation of the fire protection commissioners and fire protection corporations.

To facilitate the extension of fire protection to rapidly expanding suburban areas, Orange County obtained local legislation, Chapter 447 (HB 588), permitting the inclusion of nonadjoining territory in existing fire protection districts.

Zoning

Chapter 864 (HB 872) amended G. S. Ch. 160, Art. 14 to make several changes affecting county zoning jurisdiction. County zoning ordinances will remain effective for 60 days in areas annexed by cities, and cities may now decline to exercise their extraterritorial zoning power outside their own county.

Chapter 431 (SB 180) repealed G. S. 104B-2, the old and unused flood zoning law.

Ninety counties may now exercise powers under the county subdivision-regulation enabling act, G. S. Ch. 153, Art. 20A, and 89 may exercise powers under the county zoning enabling act, G. S. Ch. 153, Art. 20B, as the result of local acts adding Lenoir and Moore counties to the coverage of both acts and Harnett to the coverage of the latter act.

Chapter 494 (HB 587) confirms the power of county plumbing inspectors to enforce both state and local plumbing laws.

See PLANNING for further information about zoning and regulatory legislation.

Alcoholic Beverage Control

Chapter 506 (SB 326) amends G. S. 18-124(f) to give the county board of elections the discretion to place the questions pertaining to the sale of beer or beer and wine and the establishment of alcoholic beverage control stores on the same ballot or on separate ballots, unless the petition for election specifies the method and manner of balloting. Another provision of this statute purports to authorize combination of the ABC store and beer-wine questions. The provision's requirements are not readily understandable, however, and it should not be used without prior consultation with legal counsel. (See CITIES for further analysis.)

Roads

G. S. 136-57, which prohibited the State Highway Commission's closing of a state highway system road without the consent of the county commissioners, was repealed by Chapter 538 (SB 271). County commissioners' power to close roads, contained in G. S. 153-9(17), was abridged by Chapter 665 (HB 843) to make it inapplicable to roads which are under the supervision of the State Highway Commission.

Counties were relieved of the obligation to provide and maintain draw bridges by Chapter 492 (HB 583), which repealed G. S. 136-76. G. S. 136-79, which authorizes Superior Court solicitors to bring suit for damage to county owned bridges was repealed by Chapter 491 (HB 582).

Economic Development

Extensive land acquisition and rural development powers were granted six counties (Cherokee, Clay, Graham, Jackson, Macon, and Swain) by Chapter 988 (SB 369), which authorizes the counties to establish rural develop-

ment authorities having the powers (among others) to provide low-cost housing, develop recreational facilities, develop agricultural and forestry processing and marketing facilities, and carry on a broad range of related resource and economic development and conservation activities. (See WATER RESOURCES.) The development authorities are empowered to accept grants and loans from private and governmental sources and to sell bonds (which will not constitute state, county, or municipal debts). Their sphere of power does not include municipalities having a population of 2,500 or more.

Chapter 645 (HB 772) establishes the mechanism for resource development associations to supervise and finance land improvements in Tyrrell County.

Brunswick and New Hanover counties were authorized to advance not more than $50,000 to the Brunswick-New Hanover Maritime Commission, established by Chapter 1097 (HB 970) to construct and operate port, dock, storage, transportation, industrial, agricultural processing, and manufacturing facilities at or near Eagle Island.

(For notes on other economic development legislation see PLANNING.)

Regulation of Ambulance Service

HB 1117 was introduced as general legislation and sets forth a comprehensive system for county regulation of ambulance service; as enacted, Chapter 1152, it applies only to Cumberland County. Buncombe, Haywood and Madison Counties obtained similar legislation. Other counties may find the new subdivision for G. S. 153-9 appealing — if it does not run afoul of the recent Supreme Court decision in *Surplus Company v. Pleasants*, 264 N.C. 650 (1965). (See Regulation of Business, above.)

Financial Administration

Courts

Twenty-two counties must adjust for the impact of the new court financing arrangements, set out in Chapter 310 (HB 202), when preparing budgets for the fiscal year beginning July, 1966. The State will collect the court costs and assume the burden of all operating expenses of the courts, including jurors' fees and the salaries of all judicial and administration personnel. Counties and cities will retain the responsibility for providing physical facilities for the courts and will receive a facilities fee out of the court costs to help support those facilities. Under certain circumstances, the facilities fee may be used to retire debt which was incurred in constructing existing facilities and to supplement the operating budget of the courts. A fee of $2 for each arrest or personal service of process (criminal or civil) will be paid to the county or city whose officer performed the service.

Most counties will receive substantial financial benefit from the court reorganization. Their primary concern under the new system will be adjusting their capital budgeting program to take advantage of the facilities fee.

Details of the administrative and financial provisions of the Judicial Department Act of 1965 are set out in the *Popular Government* issues of March and June, 1965.

Intangibles Taxes

Prior to the North Carolina Supreme Court's decision in *Yokley v. Clark*, 262 N. C. 218 (1964), many cities and counties had sought means of making their shares of the state collected and distributed intangibles tax available to pay so-called "nonnecessary" expenses such as the capital and operating costs of libraries, hospitals, and recreation facilities. In the *Yokley* case the Court held that intangibles taxes are subject to the constitutional prohibition against the use of locally levied taxes for nonnecessary expenses without voter approval. Despite that decision, three counties, Anson, Lincoln, and Polk, obtained local legislation authorizing their commissioners to use intangibles taxes for purposes which the Court has not classified as necessary expenses. The court makes the final decision on whether such acts are constitutional.

The Court's decision in *Yokley* seemed to rest on the fact that a *statutory* provision, G. S. 105-198, states that intangibles taxes are levied "for and on behalf of" local governments "to the same extent and manner as if said levies were made by the governing authorities" of the local governments, thus bringing them within the constitutional prohibition. No attempt was made in this session of the General Assembly to reclassify the intangibles tax as a *state*-levied tax, thus making the proceeds of the tax eligible for payment of nonnecessary expenses when distributed to local governments. Such an approach would not be without difficulties, due to the intangible tax's theoretical nature as a property tax, but it seems to be the only means of making this source of revenue available for unrestricted use — short of a constitutional amendment. The amount of the intangibles tax distribution is substantial ($14.2 million in 1965), as is the demand for unrestricted funds to finance essential governmental activities which still bear the "nonnecessary" label. Voter approval for such uses is expensive to obtain and not always forthcoming, difficulty often being encountered because of extraneous local political issues.

Delinquent Taxes

Under the general law, G.S. 153-9(42), taxes which are two years delinquent at the time of their collection *may* be paid into the general fund, regardless of the fund for which they were levied. Many counties have obtained local legislation modifying the general statute provisions, and two such acts were added to the list this year. Chapter 244 (HB 394) *requires* that Chatham County taxes for certain specified years (1963 and prior) be allocated to the general fund when collected. Chapter 484 (HB 381) provides that a stated *amount* (the first $18,000 collected each year) of delinquent Macon County taxes that are as much as one year *past due* when collected *shall* be allocated to the general fund, with the remainder going to the "school fund."

The constitutionality of allocating to the general fund taxes which were levied for special purposes has been questioned. (See 31 N.C. Law Review 442 and *Popular Government*, June 1959, p. 13.) Does the allocation of delinquent taxes to the general fund result in a county tax on property (for other than special purposes and school maintenance) in excess of 20 cents—the limit set by Article V, Section 6 of the Constitution of North Carolina?

Capital Reserve Funds for Health Centers

Chapter 963 (HB 860) authorizes counties to establish capital reserve funds for the accumulation of future health

and mental health capital outlay needs. Previously only public school capital outlay funds could be accumulated in such capital reserve funds.

Gasoline and Sales Tax Refunds

Counties may obtain state gasoline tax refunds by filing quarterly applications with the Commissioner of Revenue by the last days of January, April, July, and October and may obtain state sales and use tax refunds by filing application no later than December 31 annually. The General Assembly has consistently rejected special legislation granting refunds to local governments which failed to file timely applications. This year two counties (as well as several cities and other applicants) were turned away.

Community College and Public School Fiscal Control

Chapter 488 (HB 539) permits county commissioners to designate an officer or employee of a community college, technical institute, or industrial education center to countersign warrants of those institutions in lieu of the county accountant (with the consent of the institution's trustees) and to designate an employee or officer of the county or county board of education to countersign county school administrative unit warrants in lieu of the county accountant (with the consent of the county board of education). The North Carolina Association of County Accountants adopted a resolution setting forth the dangers inherent in this alternative countersignature system, and the North Carolina Association of County Commissioners has announced its intentions of issuing a special bulletin describing the safeguards that should be employed if the system is adopted by the commissioners. Duplin County was exempted from this legislation by a local act.

The procedure for disposition of uncashed vouchers or payments due for services of deceased school employees is set out in Chapter 395 (SB 181). The Chapter rewrites G. S. 115-159, directing the clerk of Superior Court to disburse as though paying a debt owed an intestate.

Sources of Funds

Quest for Additional Revenues

A municipal appeal for a larger share of the state's utility franchise tax — with counties being a co-beneficiary — was once again rejected by the General Assembly. HB 915, which would have given counties a share of the tax equivalent to 1½ per cent of the gross receipts derived from public utility business within their boundaries, was passed by the House of Representatives but was laid to rest by the Senate Finance Committee.

An attempt to allocate part of the state sales and use tax to counties for financing school construction and maintenance was defeated as HB 317, which would have distributed 15 per cent of the tax to counties (on an average daily school attendance basis) was reported unfavorably by the House Finance Committee.

Because the state government faces great budgetary pressures and might weaken its competitive position among the industry-seeking southeastern states if it increased taxes, local governments will have a difficult time obtaining additional revenues at the direct expense of the state treasury.

The purse strings were also drawn tighter on existing state commitments to programs whose financing is shared by the counties. The establishment of new community colleges, technical institutes, and industrial education centers (and the conversion of existing institutions into different types) are made subject to the approval of the Governor and the Advisory Budget Commission by Chapter 1028 (HB 930). The same act subjects the expenditure of state funds at such institutions to the provisions of the Executive Budget Act, G. S. Ch. 143, Art. 1. Chapter 796 (SB 446) bars the use of allotments from the State Contingency and Emergency Fund to finance the establishment of local mental health clinics; and bills (HB 360 and SB 152) to provide one million dollars of state aid for the construction, renovation, and equipping of community hospitals and health centers were reported unfavorably by the appropriations committees of their respective houses. One exception to the tightening of purse strings will yield a very localized benefit: Chapter 708 (HB 847) directs the State Board of Public Welfare to reserve from state welfare appropriations funds to cover welfare payments to Indians on Federal reservations (and related administrative expenses).

Increases in state agency funds for use in local programs were generally considerably less than those originally requested by the agencies. Most notable were $450,000 to help defray county welfare administration expenses over the coming biennium and $475,000 for increased aid to libraries. Appropriations for state agencies are set out in Chapter 914 (HB 12).

A resolution (HR 1183) which would have authorized a study of the feasibility of extending state financial aid to local governments by grants-in-aid, sharing of state revenues, or other methods was reported unfavorably by a Senate calendar committee. However, a study of the state's revenue structure was authorized by Joint Resolution 79 (SR 501), and since the scope of the study extends to property taxes it is possible that findings in that area might result in legislation to ease the financial plight of local governments — if the $30,000 appropriated for the study does not prove too meager to finance a full inquiry.

Chapter 1185 (SB 580) authorizes local boards of education to accept, receive, and administer funds available through federal acts and from foundations or private sources. (For further discussion see EDUCATION.)

Chapter 1128 (HB 1106) provides that the property tax exemption granted hospital, medical, and dental service corporations by G. S. 57-14 shall not prevent them from paying for services rendered by cities and counties.

A bill to make airport authorities eligible for state sales tax refunds (SB 467) died in the Senate Finance Committee.

Property Taxes

Counties will reap financial benefit from the electric service jurisdiction settlement between private power companies and electric membership corporations, which is embodied in Chapter 287 (HB 255). In 1965 and 1966 membership corporations will make payments to counties in lieu of property taxes on tangible property located within incorporated municipalities. The payments will equal 50% of the amount the taxes would be in 1965 and 100% of what the taxes would be in 1966. After 1966 all property of the membership corporations becomes subject to the county property tax. Telephone membership corpora-

tions, the Ocracoke Electric Membership Corporation, and the Cape Hatteras Electric Membership Corporation are exempt from Chapter 287 under the provisions of Chapter 345 (SB 96), 346 (SB 97), and 347 (SB 98), respectively.

The General Assembly resisted a movement that could have developed into a major erosion of the property tax base. SB 317 would have exempted from local property taxes personal property stored in a public warehouse pending sale but was reported unfavorably by the Senate Finance Committee. With the demise of that bill, efforts to meet the competition of tax free ports in neighboring states by adjusting the tangible property tax structure slacked off for the remainder of the session.

An act making clear the property tax exemption of property owned by religious educational assemblies, retreats, and other similar organizations, Chapter 741 (HB 822), should have no significant effect on county finances.

(See LOCAL PROPERTY TAXATION for further discussion of these bills and information about other legislation affecting property tax administration.)

Privilege License Taxes

The junk dealers tax, G. S. 105-102, was amended by Chapter 1035 (HB 995) to exempt any business buying scrap metals for the purpose of processing them into raw materials for remelting only, and whose principal product is scrap for shipment to steel mills, foundries, smelters, and refineries. Such businesses are taxable under new G. S. 105-102.2, which permits counties to tax them at a rate, depending on the population of their area of location, not in excess of the following: (businesses located within two miles of corporate limits are taxed as though they were located in the city):

Unincorporated or less than 2,500 population	$12.50
2,500- 4,999	15.00
5,000- 9,999	25.00
10,000-19,999	37.50
20,000-29,999	50.00
30,000 and over	62.50

Section 105-102.2 became effective June 30, 1965.

(For further discussion of this bill see THE CITIES AND THE 1965 GENERAL ASSEMBLY.)

Appropriation Authorizations and Related Powers

Airports

Chapter 832 (SB 284) authorizes counties to levy a special purpose tangible property tax for construction and maintenance of airports and related facilities. There is no limit on the amount of the tax, but voter approval must be obtained for the levy. Previous airport tax elections are ratified by the chapter, and cities and counties now levying such taxes may increase or decrease them with voter approval.

Technical Institutes

Counties which were operating industrial education centers prior to the adoption of G. S. Ch. 115A are authorized by G. S. 115A-21(a)(2) to continue levying the tax to support the center. Chapter 842 (SB 435) authorizes the industrial education center tax to be continued to support technical institutes as well and ratifies previous expenditures of such tax funds to support technical institutes which had been converted from industrial education centers.

Mental Health Facilities

Chapter 863 (HB 699) adds mental health clinics and nursing or convalescent facilities to the facilities which may be financed under the provisions of G. S. Ch. 131, Art. 13B (which authorizes the sale of bonds and levy of a special purpose tax, with voter approval, to cover construction, acquisition, and operating costs). This financing authorization is in addition to, and not a limitation on, that contained in G. S. Ch. 122 and other laws. (See HEALTH.)

Armories

The armory financing authority of G. S. 127-116 was expanded by Chapter 1020 (HB 853) to authorize special purpose taxes (with voter approval) for improving, equipping, maintaining, and operating National Guard armories in addition to constructing them (which was formerly authorized). The act provides that the amount of the tax is to be determined by the governing body "of the municipality"; apparently this refers to the county commissioners in the case of a county tax. The results of previous tax elections for the newly authorized purposes are ratified. The authority to issue bonds and notes for construction was not expanded.

Art Galleries, Museums, and Art Centers

Chapter 1019 (HB 852) amends G. S. 160-200(40) to permit counties (with voter approval) to issue bonds to finance the acquiring, erecting, improving and remodeling or enlarging of buildings and facilities, and the acquiring of necessary land and equipment for public museums of all kinds, public art galleries, and art centers owned or operated by the county.

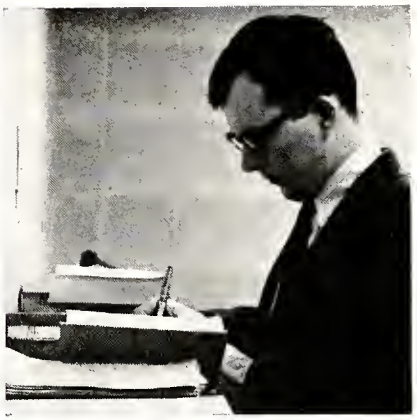
Beach Protection

Chapter 307 (SB 57) authorizes counties bounded by the Atlantic Ocean to appropriate funds to finance works and improvements to control beach erosion, protect against floods and hurricanes, and control or restore facilities and natural features which protect the beaches and other land areas of the county and the life and property thereon. Such appropriations are declared by the act to be for necessary expenses. The levy of a special purpose tax not exceeding ten cents per $100 valuation, use of nontax funds, and issuance of general obligation bonds are authorized without voter approval.

Chapter 714 (SB 127) authorizes the counties bounded by the Atlantic Ocean to assess all or part of the cost of any beach erosion or flood and hurricane protection works against the property to be benefited. Property within incorporated municipalities may not be assessed unless the municipality's governing body has approved the undertaking of the works. The assessment may not exceed the sum which would be due under an ad valorem property tax of ten cents per $100 valuation on the property *if it were unimproved* and if the tax were levied for ten years, the number of years over which the assessment may be spread by installment payments. Assessments may be

(Continued on page 77)

the CITIES and the 1965 GENERAL ASSEMBLY



By Joseph S. Ferrell
and
Warren Jake Wicker

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the bill numbers of bills introduced in the House and in the Senate.

Introduction

Municipal legislation affecting cities enacted by the 1965 General Assembly consisted largely of relatively minor modifications of existing statutes to meet special needs and changing conditions. New directions and innovations in municipal policy are often tried first on a local basis. The review of local legislation below reveals some new approaches being tested in a few places.

To meet the needs of a society which is becoming increasingly urban requires action at all levels of government, city, county, State, and federal, and a complex structure involving all these levels. Thus, only a portion of legislation which provides for "urban" needs—the needs of people in urban areas—is usually classified as "municipal."

The governmental and financial structure developed by North Carolina over the past generation has been heavily influenced by the need to provide for urban growth, even though its most fundamental features—the division of responsibility between the State and local governments for schools and highways—were fashioned largely in the early 1930's out of poverty and from necessity rather than in anticipation of urbanization. In the twenty years since the end of World War II significant changes in State policy and structure have been made—most of them in immediate recognition of the changing nature of the State's economy. During this recent period has been enacted most of the legislation relating to planning, subdivision control, housing, and urban renewal, including extra-territorial jurisdiction in many cases. A model annexation procedure has been adopted. A procedure for joint adoption of major thoroughfare plans by the State and cities, and the financing of these street systems, has been approved. The Powell Bill was passed, returning a portion of the State gasoline tax to the cities for street construction and maintenance. Counties have secured extensive authority to undertake planning, zoning, and subdivision regulation and to provide services such as inspections, water and sewerage systems, refuse collection and disposal, and a number of other activities. The State community college system has been developed, and the federal inter-state highway system, including highways into and through cities, is under construction. State expenditures for public education have been greatly increased, and a three hundred million dollar highway bond issue, one-fourth of which will be expended on highways within city limits, will be submitted to the voters later this year. Authority for joint action by cities, counties, the State and the federal government in the areas of services to both land development and people (primarily in health, education, welfare, and anti-poverty programs) has been expanded.

In this sense the past two decades have been periods of quite extensive State and local activity, much of which has been primarily concerned with urban needs. While it is true that most of the legislation adopted by the 1965 General Assembly was of minor importance, these acts represented a willingness to meet most of the needs of North Carolina's urban population as seen by State and local officials. Furthermore, except for the proposal to increase franchise tax allocations to cities, no major bills were sponsored by municipal officials or agencies, suggesting that a period of consolidation and modification to meet changing conditions is all that the times demand.

Despite this comparatively optimistic view of the cities and the 1965 General Assembly, the change in the utility franchise powers of cities and its significance should not be easily glossed over. The 1965 electric service bill clearly restricted traditional city franchise powers as one element of a compromise seeking to end the battle between public and private power interests in the State.

Under G.S. 160-2(6), cities have previously had power to "grant upon reasonable terms franchises for public utilities" within the city. Chapter 287 (HB 255) modifies this broad power by stipulating the rights to areas of service of all electric suppliers in the State, both within municipal boundaries and in areas which may later be annexed by a city, thus eliminating the blanket franchise authority of the cities to insure that a single supplier will

provide electric service throughout its territorial limits.* The State, acting through the legislature, has thus modified a dynamic system, which once allowed cities to invade territory served by another supplier through annexation, into a static system freezing supply territories as of April 20, 1965, the date of the ratification of Chapter 287. The municipal franchise authority is supplanted to that extent. Of course, a municipality providing its own electric service may extend its service to newly annexed areas by purchasing the lines of the existing supplier (if it is willing to sell), or to unserved territory, but the right to serve all areas within municipal boundaries is gone.

Any city which provides electric service to its own citizens and which fails to become the supplier of service to annexed areas may face an important revenue problem. Most cities with electric systems find them profitable operations and use electric revenues, to some extent, in substitution for other revenue sources, principally the property tax. A city following this practice and supplying only a portion of its citizens is, in effect and to that extent, "taxing" only a portion of its citizens. The development of such a situation would certainly call for a careful review of the city's entire financial structure. Without question, Chapter 287 could lead to difficult financial decisions for such cities.

HB 915 would have greatly increased the share of the State-levied utilities franchise tax now being distributed to cities from ¾ of 1% to 3% of the gross receipts of the utility from within municipal limits. Since the total State tax is 6%, this would have provided for distribution of half of the tax to cities. The bill also proposed to distribute one-fourth of the State tax collected outside municipal limits to the county from which the tax originated. Despite the pleas of municipal and county officials the legislature failed to enact the bill although it was passed by the House.

Action was taken, however, which may lead to further study of the needs of cities for additional sources of revenue. Resolution 79 (SR 501) creates the Commission for the Study of the Revenue Structure of the State. The resolution as introduced called for a study of the State's revenue system with special attention to corporate taxes and their effect on industry hunting. A committee substitute, enacted as R 79, is much broader and directs the Commission "to study and review the tax laws of the State, both State and local laws, and to recommend such changes as it may deem advisable in the rates of taxation, together with the predicted revenue effects thereof, together with proposed alternate sources of revenue, to the end that the revenue system may be as stable and equitable as possible, and yet so fair when compared with the tax structure of other States, that business enterprises and persons will be encouraged to locate and expand business in North Carolina." The Commission is further discussed in the article on PROPERTY TAXATION in this issue. In addition, a House Resolution requested the Legislative Research Commission to re-examine the findings of the 1963 Commission which studied the impact on local government finance of the presence of tax exempt State-owned property and which recommended that the State make in-lieu payments to local governments in proportion to the amount of State property in the unit. The reports of these Commissions may thus initiate moves for significant modification of local revenue systems, although at this time there is no clear indication as to directions such modifications might take.

Aside from electric service and franchise taxes, which occupied the center of attention of municipal observers of the 1965 General Assembly for most of its duration, what other legislation of interest to cities came out of the 1965 Session? At least 38 State-wide acts directly affect municipal interests, and many more are of tangential concern. Table 1 lists those general laws which seem to be of particular interest to municipal officials and notes other articles in this issue of *Popular Government* in which they are discussed or analyzed. Other laws of interest may be found by referring to specific articles covering subject matter fields.

Table 2 carries forward the analysis of local legislation begun by George Esser in 1957 and continued by him through the 1963 Session. Particularly in the area of municipal government, the volume and content of local legislation is often the most significant portion of the General Assembly's work. See page 19.

Organization and Structure of Municipal Government

There were no changes by the 1965 General Assembly in the general law relating to the organization and structure of municipal government. Although the existing law is often inadequate and confusing, there is little pressure for change since very few, if any, North Carolina cities operate without their own charters modifying and supplementing the general law to suit local demands or preferences. The general law acts simply to supplement gaps in city charters. Rather than attempt to secure general legislation should a particular city find change expedient, the almost universal solution is local legislation. As in prior Sessions, the bulk of the 1965 local legislation relating to the governmental structure of North Carolina cities deals with the size, terms, compensation and other organizational aspects of governing boards, the form of city government, adjustments in municipal election procedures, and extension of city limits. Comments on local legislation in this article are generally confined to a discussion of discernible trends.

Incorporation

Although cities may be administratively incorporated through the Municipal Board of Control, almost invariably incorporation is by special act. Three new towns were incorporated by the 1965 General Assembly and four inactive ones were dissolved. The new arrivals are the towns of King (Stokes), Alliance (Pamlico), and Centerville (Franklin). The charters of Barnardsville (Buncombe), Manly Station (Moore), Lynn (Polk), and Mineral Springs (Union) were repealed. Manly Station's charter was repealed twice when identical bills were both passed and ratified. In addition, the deadline of a 1963 act providing special criteria for administrative incorporation of new towns in Lincoln County was extended to January 1, 1967.

Form of Government

Basically there are only two forms of city government in North Carolina: the mayor-commissioner form with

* Note: A detailed review of the rights of each supplier in all cases as set forth in the act is beyond the scope of this article. As a practical matter, cities which do not operate their own electric distribution systems and which have no anticipation of doing so, face no particular operational problems even though their franchise power has also been restricted. Cities operating electric utilities will need to become thoroughly versed in the terms of the act.

TABLE No. 1

LEGISLATION AFFECTING CITIES AND TOWNS

This table lists all general legislation specifically affecting the powers and responsibilities of cities and towns in North Carolina. The right-hand column refers to articles in this issue of *Popular Government* in which the named act is discussed. Comments on other legislation indirectly affecting municipalities will be found throughout this issue.

Finance: Levy of Taxes.		
Ch. 832 (SB 284).	Airports.	This Article
Ch. 863 (HB 699).	Hospitals.	This Article
Ch. 1019 (HB 852).	Museums.	This Article
Ch. 1029 (HB 853).	Armory maintenance.	This Article
Ch. 769 (SB 383).	Financing parking facilities.	This Article
Finance:Privilege Licenses.		
Ch. 697 (SB 63).	Handicapped worker products.	This Article
Ch. 1012 (HB 604).	Hotels and motels.	This Article
Ch. 1035 (HB 995).	Scrap processors.	This Article
Ch. 1036 (HB 997).	Prepared sandwiches.	This Article
Finance: Special Assessments.		
Ch. 839 (SB 417).	Special assessments against railroads.	This Article
Finance: Tax Collection.		
Ch. 741 (HB 822).	Exemption religious educational assemblies.	Property Taxation
Ch. 592 (HB 669).	Trailer park tax reports.	Property Taxation
Local Courts		
Ch. 310 (HB 202).	Judicial Department Act of 1965.	Courts, Clerks and Related Matters
Miscellaneous.		
Ch. 46 (SB 15).	1965 Highway Bonds.	This Article
Ch. 1095 (HB 945).	Repealing municipal school bus transportation.	Education
Ch. 1186 (SB 594).	Marking publicly owned vehicles.	Criminal Law (October issue)
Other Municipal Functions.		
Ch. 287 (HB 255).	Electric service annexed areas.	This Article
Ch. 624 (HB 840).	State Firemen's Association delegates.	This Article
Ch. 648 (HB 839).	Firemen authority at fire.	Criminal Law (October issue)
Ch. 682 (HB 619).	Joint construction city-county buildings.	The Counties and the 1965 General Assembly
Ch. 707 (HB 838).	Firemen authority and immunities.	This Article
Ch. 1055 (HB 1077).	Unfit dwelling demolition notice.	This Article
Planning, Zoning, Urban Redevelopment.		
Ch. 431 (SB 180).	Repealing flood zoning.	Planning
Ch. 679 (HB 483).	Redevelopment sales and condemnation.	Planning
Ch. 680 (HB 484).	Redevelopment validation.	Planning
Ch. 808 (HB 963).	Advance acquisition redevelopment property.	Planning
Ch. 864 (HB 872).	Zoning law amendments.	Planning
Regulation Alcoholic Beverages.		
Ch. 506 (SB 326).	Balloting in special ABC elections.	This Article
Regulatory Powers.		
Ch. 860 (HB 610).	Water heater safety features.	This Article
Ch. 1156 (HB 1139).	Removal of abandoned motor vehicles.	This Article
Retirement; Civil Service		
Ch. 781 (HB 692).	Local Governmental Retirement System revision.	Public Personnel
Ch. 931 (HB 934).	Personnel ordinances.	Public Personnel
Ch. 937 (SB 161).	Local law enforcement officers' benefits.	Public Personnel
Streets, Traffic and Parking		
Ch. 665 (HB 843).	Closing roads and streets.	This Article
Ch. 867 (HB 906).	Acquisition street right-of-way.	This Article
Ch. 945 (SB 482).	Parking meter proceeds.	This Article
Ch. 997 (SB 483).	Parking facilities.	This Article
Ch. 998 (SB 484).	Parking authorities.	This Article

TABLE No. 2

LOCAL LEGISLATION AFFECTING CITIES AND TOWNS

Subject	Number of New Laws					
	1957	1959	1961	1963	1965 Passed	1965 Killed
Structure and Organization						
Incorporation and Dissolution	11	13	10	9	9	0
Form of City Government	25	28	30	27	34	1
Election Procedures	41	44	34	35	34	4
Compensation of Officers	29	15	11	12	17	1
Qualification; Appointment	8	6	4	11	7	0
Retirement; Civil Service	10	17	11	22	31	1
Charter Revisions	16	13	28	17	10	3
Sale of Property	40	18	19	23	17	1
	180	154	147	156	159	11
Finance						
Taxation & Revenue	21	14	14	9	2	8
Expenditures	9	6	9	15	4	0
Tax Collection	10	12	8	13	2	0
Assessments	15	7	6	12	8	1
	55	39	37	49	16	9
Planning, Zoning & Extension of Limits						
Planning and Zoning	22	19	21	24	32	5
Annexation	28	35	15	14	21	1
	50	54	36	38	53	6
Miscellaneous						
Streets, Traffic and Parking	4	4	1	4	3	0
Regulatory Powers, Other	20	8	5	3	7	0
Police Jurisdiction	15	9	14	6	12	2
Local Courts	27	25	12	25	14	1
Beer, Wine and Liquor	7	6	14	19	36	0
Other Functions	17	13	18	14	15	7
Purchasing	---	---	---	---	2	1
Schools	---	---	---	---	16	3
Miscellaneous	3	2	1	3	10	4
	93	67	65	74	113	18
Grand Total	378	314	287	317	341	44

variations, and the council-manager form. Of 62 cities with a population of over 5,000, only 11 have the mayor-council form. All North Carolina cities over 25,000 population, and all but one of populations between 10,000 and 25,000 have managers. The long-term trend toward adoption of the council-manager form continued in 1965 with four cities, Ayden, Henderson, Plymouth and Smithfield, securing legislation authorizing referenda on whether they should change to the council-manager form. The Henderson referendum has already approved the council-manager form, leaving only Roanoke Rapids in the 10,000-25,000 population class with the mayor-council form. Edenton and Cherryville gained discretionary authority to employ managers, and Tarboro will hold a referendum on a restructuring of the city council, including selection of the mayor by and from the council.

The most notable change in governmental form of the Session was the repeal of charter provisions providing for appointment of town governing boards by the Governor. In 1937 Atlantic Beach secured a charter providing for appointment of its governing board by the Governor after a nominating referendum conducted among all registered property owners in the town, whether legal residents or not. A similar plan was adopted by Wrightsville Beach in 1951, allowing both legal residents and non-resident property owners to vote. Subsequent charter amendments, based on the Wrightsville Beach model, set up appointed governing boards for Long Beach in 1955, Yaupon Beach in 1957, Ocean Isle Beach in 1959, and Sunset Beach, Boiling Spring Lakes, and White Lake in 1963.

Although the advisory referendum plan extended the right to vote in municipal elections to all persons potentially affected by city policy, it raised rather serious constitutional questions since the North Carolina Constitution assumes in Article VI that a voter must reside in the precinct or ward in which he votes. Further, Article I, section 22, provides that "no property qualification ought to affect the right to vote or hold office." The plan, which originally required the Governor to appoint the nominees with the highest vote, was subsequently modified to make it purely advisory in the hope that, if contested, the Supreme Court would not consider the process an election at all. A suit was instituted against the Town of Long Beach in 1964, seeking to invalidate the advisory referendum plan as unconstitutional, and was pending when the legislature convened. Rather than risk an adverse decision by the Supreme Court after the legislature adjourned, which would have paralyzed city government in the affected towns until new legislation could have been obtained from the 1967 General Assembly, Long Beach obtained passage of a charter revision which abolished the advisory referendum plan and provided for election of its governing board by its legal residents only. This lead was promptly followed by Wrightsville Beach, Yaupon Beach, Ocean Isle Beach, and Sunset Beach.

Composition of the Governing Board

In 1965 20 cities obtained some change in the number, terms or manner of electing the members of their governing boards. The only significant trend is a continued shift toward election of the board for staggered four-year terms. This year 13 cities, including the beach towns discussed above, made such a change.

Municipal Elections

Usually the most prolific area of local legislation affecting cities deals with election procedures. The move toward eliminating single-shot voting continued in 1965 with five cities securing such legislation.

Although no changes were made in the general municipal election laws, Resolution 71 (SR 426) created a Commission to Study the Election Laws. The primary duty of the Commission will be to study and recommend changes in the general election laws, but its mandate is broad enough to cover municipal election laws if it chooses to venture into this area. The Commission's recommendations will be of interest to those cities whose election procedures must be completed by reference to the general law. For a full discussion of other general legislation on

election laws, see the article on ELECTION LAWS in this issue.

Compensation

The number of cities obtaining adjustments in the compensation of their governing boards and other officers showed no substantial change from previous Sessions.

Qualification of Officers; Retirement and Civil Service

General and local legislation relating to municipal personnel is discussed in the article on PUBLIC PERSONNEL in this issue. The slight increase in the volume of local legislation dealing with retirement and civil service is primarily due to the repeal or amendment of a number of local law enforcement officers' benefit and retirement funds in the wake of the Judicial Department Act of 1965.

Charter Revisions

No major city other than Charlotte obtained a general charter revision in 1965. Smaller towns with newly revised and consolidated charters include Farmville, Ayden, Whitakers, Long Beach, Pineville, Winfall, Hertford and Denton. Revisions proposed for Bessemer City, St. Pauls and Newton did not pass.

Sale of Property

The great majority of local legislation relating to sale of property authorizes the conveyance of specific tracts of land to named grantees at private sale under circumstances which could not be readily covered by general law. This Session twelve such bills were passed.

Five cities, Chapel Hill, Farmville, Gibsonville, Greensboro, and Washington, obtained revisions of their charters with respect to sale of surplus property, including in three cases authority to dispose of limited amounts of personal property at private sale. No changes were made in the general law.

See the article COUNTIES AND THE 1965 GENERAL ASSEMBLY for a discussion of acts relating to federal surplus property, the joint construction of buildings by cities and counties, and changes in the procedure to be followed in negotiating with the low bidder on construction contracts when funds available are insufficient.

Finance and Fiscal Control

Taxation and Revenue: Privilege Licenses

The General Statutes relating to privilege licenses for junk dealers, places selling prepared sandwiches, chain stores, hotels, and tourist lodging facilities were amended this Session. Only the new hotel-motel act is likely to have substantial revenue implications.

Under the old law, hotels paid privilege license taxes at a rate per room graduated according to the charge for a night's accommodation, with separate schedules applying to hotels on the American plan and those on the European plan. Tourist homes, tourist camps, and "similar places" paid a tax on the basis of the number of rooms without regard to charge for the room. The evolution of the tourist camp to the motor hotel was not reflected in the old law which had not been revised since 1939. As a result, a motel, if taxed as a "tourist camp," paid a tax which might be less than one-fourth the tax for a hotel having substantially similar accommodations in the same price range. Further, the statutes were not at all clear on whether a motel was a "hotel" or a "tourist camp" for the purpose of privilege licensing.

Chapter 1012 (HB 604) clarifies the situation by repealing the present section relating to hotels, G.S. 105-60, and rewriting G.S. 105-61 to cover hotels, motels, tourist homes, semi-detached apartments, resort lodgings and other structures advertised as available for lodging transient patrons. The old graduated tax schedule is discarded and the system formerly applicable only to tourist homes and the like is adopted: $2 per room with a minimum tax of $10. Cities may not tax more than one-half this amount. Private residences in resort areas rented during part of the season are exempted. The act is effective July 1, 1965, except that where seasonal rates are applicable under G.S. 105-33(k) it takes effect June 1, 1965.

Revenue loss under the revised statute will be significant for cities with large concentrations of hotels, or cities which have been successful at taxing motels at the hotel rate. Given the prevailing hotel rates, revenue from hotel privilege licenses in the coming fiscal year is likely to be about one-third of the 1964-65 total.

Chapter 1035 (HB 995) adds new G.S. 105-102.2 to require a privilege license of firms "buying scrap iron and metals, for the specific purpose of processing into raw materials for remelting purposes only, and whose principal product is ferrous and non-ferrous scrap for shipment to steel mills, foundries, smelters and refineries," and to exempt such businesses from the junk dealer section, G.S. 105-102. The new section is virtually identical to the junk dealer section, including an identical tax schedule, with one important exception. The junk dealer section, which is broad enough to cover scrap processors, applies to any company buying or selling junk anywhere in North Carolina without regard to whether the company maintains a place of business in this State. When translated to the municipal level, this means a city can require a privilege license of any junk dealer who solicits business or collects junk in the city limits even though the junk yard may be outside the city. These provisions, however, are eliminated from the new scrap processors section.

Under G.S. 105-62(b), cities may levy a license tax not to exceed $2.50 on places where "prepared food is sold" or "prepared sandwiches only are served." Some cities have used this section to levy a food seller's license tax on places whose only connection with food selling is a vending machine dispensing various kinds of foods. Chapter 1036 (HB 997) amends the section to provide that "sandwiches" do not include "crackers or cookies in combination with any food filling." The amendment apparently is intended to apply to the omnipresent "Nab." Whether such products can be brought under the "prepared food" branch of the section must be regarded as still an open question. If not, the business of selling such products would be completely excluded from the coverage of Section 105-62 *and would thus become subject to the unlimited taxing power granted cities by G.S. 160-56.*

Chapter 607 (SB 63) exempts from the chain store license tax levied by G.S. 105-98 retail stores of nonprofit organizations engaged exclusively in the sale of merchandise processed by handicapped persons employed by any nonprofit organization in the State.

Taxation and Revenue: Levy of Taxes

Authority for cities to call special elections to approve the levy of taxes for specific special purposes was again broadened this Session by new acts relating to hospital facilities, museums, armories and airports.

Under Article 13B of G.S. Chapter 131 any city may call an election on the levy of taxes for hospital facilities as defined by G.S. 131-126.18(2). Chapter 863 (HB 699) broadens the definition of hospital facility to include mental health clinics and nursing or convalescent facilities. In addition, Chapter 863 makes it clear that a hospital need not be within the limits of a city desiring to lend tax or bond support to it under G.S. 131-126.26, and that the authority conferred on cities by Article 13B is supplementary to any other authority conferred on the city by general or local law.

Chapter 1019 (HB 852) adds a new paragraph to G.S. 160-200(40) to authorize any city or other political subdivision to call a special election on the issuance of bonds and levy of taxes for capital improvements to "public museums of all kinds, public art galleries or art centers" owned or operated by the city or other subdivision. The bill originally followed the existing language of G.S. 160-200(40), which authorizes tax elections for maintenance of "art galleries, museums or art centers." A floor amendment added "public museums of all kinds." The result is authority to provide capital improvement support to any kind of public museum but authority to maintain only art museums, galleries, or art centers.

Chapter 1020 (HB 853) extends existing authority to call tax elections for armory construction to authority to call such elections for armory operating and maintenance expenses.

In 1929 cities and counties were authorized by statute to appropriate from their general funds for the support of airports. At least four Supreme Court cases held such an appropriation would be unconstitutional without a vote of the people since airports are not a necessary expense. Chapter 832 (SB 284) adds new G.S. 63-8.1 to authorize airport tax elections. Funds raised by such special taxes may be used for either capital improvements or operating expenses.

Taxation and Revenue: Local Legislation

There was a marked decline in the volume of local legislation in the entire finance area. Nearly all bills introduced, other than legislation on special assessments, sought gasoline or sales tax refunds or authority to appropriate funds to specific local projects not covered by general law or city charter. Although gasoline tax refunds were regularly validated in 1959 and 1961, the 1963 legislature refused to validate any late applications for tax refunds and this policy was continued in 1965.

Special Assessments

Prior to 1931, railroad property was treated the same as any other property for the purpose of assessment procedures for street and sidewalk improvements. The railroad property was taken into account in determining the sufficiency of the petition for improvements financed by assessments, which required the signatures of a majority of landowners who represented at least a majority of the front footage of land abutting on the proposed improvement. It was also taken into account in determining the share of cost to be assessed per front foot, and railroad property was assessed its proportionate share of one-half of the total cost of the improvement. Since railroads were rarely benefited in any substantial way by such improvements, the companies refused to sign improvement petitions with the result that it was often impossible to obtain a valid petition, especially where the street proposed to be improved paralleled railroad right of way. G.S. 160-104 was enacted in 1931 as a solution to the problem. It provided that municipalities might proceed to improve streets or sidewalks on railroad rights of way and that for the purposes of such improvements, railroad property would not be taken into account in determining the validity of the petition or in figuring the assessments. Chapter 839 (SB 417) amends G.S. 160-104 and adds new G.S. 160-520 and 160-521 to provide for assessments against railroad property in limited circumstances. The new provisions are applicable where the proposed improvement abuts railroad right of way (1) through which runs a "main line or through track" and (2) on which is located a building owned, leased or controlled by the railroad company. So much front footage of such railroad property as is occupied by the building with 25 feet on each side thereof, will be treated as any other privately owned property both for the purposes of ascertaining the validity of improvement petitions and for preparing the assessment roll. The remainder of railroad property abutting the proposed improvement will continue to be excluded as before.

Although the new act makes no specific reference to G.S. 160-241 concerning assessments for water and sewerage improvements, the act modifies this section by defining "local improvement" as including construction or repair of water and sewerage systems. Under G.S. 160-241 a city may proceed, without petition, to construct water and sewerage improvements and assess the entire cost against abutting property. No exception is made for railroad property. Chapter 839 defines the local improvements to which it applies as including the laying, installing, improving, enlarging, altering or repairing of any sewer or water line or system, in addition to street and sidewalk improvements. It then provides that a city may not assess railroad property for *any* local improvement, as defined in the act, unless the conditions discussed above are met. Thus, apparently only such railroad property as is occupied by a building, plus 25 feet on each side, where located on a main line, may be assessed for water and sewerage improvements.

Finally, Chapter 839 provides that if a building is placed on railroad property meeting the requirements of the act subsequent to the time a local improvement is made, the property may be assessed, without interest, as if the building had been there when the improvement was made. The act does not specify how far back in time the city may reach to attach assessments to property on which a building is subsequently constructed. However, the entire act is effective only as to assessment procedures which have not become final on June 8, 1965, the date of its ratification.

Special Assessments—Local Acts

As in recent legislatures, the 1965 General Assembly enacted a number of local bills relating to the authority of cities to levy special assessments for street improvements and water and sewer extensions. Most of the acts are designed to permit greater flexibility of approach in

order to achieve greater equity, and a few enlarge powers to levy assessments without a petition.

Raleigh, which has pioneered in the development of new approaches to special assessments in the past, secured five separate acts. One act, Chapter 612 (SB 318) permits special assessment for sidewalks against property on both sides of a street when the sidewalk is built only on one side. This is in contrast with the general law which provides for assessment only against the side where the walk is located. A second act, Chapter 434 (SB 264), permits the city council to order improvement of streets classified as thoroughfares and to specially assess the cost thereof without a petition. With respect to other streets, Chapter 221 (HB 356) reduces the requirement of G.S. 160-82 from a "majority" of the owners who own a "majority" of the frontage to a simple "50 per cent" requirement with respect to either the number of owners *or* the frontage owned for Raleigh. Chapter 1056 (HB 1078) authorizes Raleigh to make special assessments for water and sewer extensions on an average cost basis as computed for single family lots, to assess and provide for the installment payment of tapping charges and special connection fees, and (in effect) to hold assessments in abeyance until connections are actually made. Finally, Chapter 277 (HB 401) amended G.S. 105-392(f) to make clear when judgments shall be filed in the case of foreclosure for special assessments.

Washington, Chapter 280 (HB 432), became one of a growing list of cities which have secured special authority to grant corner lot exemptions for water and sewer extensions. Winston-Salem, Chapter 144 (HB 243), and Durham, Chapter 603 (HB 781), were authorized to levy special assessments for water and sewer lines at a flat rate based on prior average costs for these improvements. They were also authorized to assess for the full frontage of a lot, rather than just the frontage on the water and sewer line, thus resolving a problem of equity often found in providing service to the last lot on a street.

Authority to order street improvements and make special assessments therefor was granted to Denton in the revision of its Charter, Chapter 497 (HB 626), with respect to prescribed conditions similar to those which apply to Durham, Winston-Salem and a number of other cities.

Charlotte's charter, revised by Chapter 713 (HB 917), provides authority under certain circumstances for the council to order local street, sidewalk, and utility improvements and to assess the cost without a petition. Charlotte also becomes the first city to adopt the procedures of G.S. Ch. 153, Art. 24A for making special assessments for water and sewer extensions by counties, thus giving increased flexibility in the approaches available to the city.

Planning, Zoning, and Extension of Limits

Both general and local legislation relating to planning, zoning, and related matters are discussed under the article on PLANNING in this issue. The majority of local bills relating to planning added cities or counties to the general law.

Annexation

The general annexation procedures enacted by the 1959 General Assembly are viewed nationally as model approaches to urban growth, in that they provide for the extension of municipal boundaries to include areas which have become urban in the character of their development. Furthermore, the 1959 procedures appear to be meeting most of the needs for governmental expansion in urban areas. North Carolina cities are regularly annexing adjacent territory as it develops and needs municipal services.

The 1959 annexation laws provide two procedures: one for towns under 5,000 in population and one for those larger than 5,000 in population. Twelve counties are exempted from the "under 5,000" procedure and eight counties from the "over 5,000" law. There was no change in county coverage during the 1965 Session, but seven towns in two counties were brought under the laws by Chapters 1075 (SB 478) and 782 (HB 796). The newly incorporated town of King will be exempted from the "under 5,000" law by Chapter 875 (SB 506). Chapter 1109 (HB 1118) may be described as an "anti-annexation" act in that it prohibits any city in Gaston County from annexing certain territory owned by Gaston College and the State of North Carolina.

While the general law procedure appears to be meeting most needs, nine towns secured special annexations by legislative act during the 1965 Session. In addition, eleven other cities secured charter amendments or other acts which redefined their boundaries, and in so doing some of them may have effected some annexations of adjacent territory.

Miscellaneous Legislation

Streets, Traffic and Parking

A major item of Governor Moore's legislative program was the three hundred million dollar bond issue for street and highway construction. Should the bond issue be approved at the polls, the proceeds will be divided as follows: one-half will be spent on rural primary highways outside city limits, one-fourth will be spent on rural secondary roads outside city limits, and the remaining one-fourth will be spent on city streets comprising part of the State highway system. The act designates the precise amount to be allocated for each of 419 municipalities receiving Powell Bill funds in 1964, which can be computed on the basis of $39.2153 per inhabitant as shown by the 1960 census.

The most difficult aspect of the downtown parking problem in many cities has been the means of financing expanded or improved public parking facilities. Four general acts and one local act dealt with this specific problem. Three of the general acts make inter-related technical changes designed to improve the marketability of parking facility revenue bonds. Chapter 945 (SB 482) amends G.S. 160-200(31) to change "off-street parking facilities" to read simply "parking facilities" as defined in G.S. 160-414(4), as one of the purposes for which parking meter proceeds may be spent. G.S. 160-414(4) is then amended by Chapter 997 (SB 483) to redefine "parking facilities" as "any area or place operated or to be operated by a municipality for the parking or storing of motor or other vehicles, open to public use for a fee." This eliminates the distinction in the Revenue Bond Act of 1938 between on-street and off-street parking facilities, and allows the municipal parking system to be treated as a whole. It would not seem, however, to overcome the ruling of the Supreme Court in *Britt v. Wilmington*, 236 N.C. 446 (1952), that municipal off-street parking facilities may be deemed by the Court *in particular cases* to be proprietary and commercial activities, and therefore distinct from on-street parking for regulatory and financial purposes.

Similarly, Chapter 998 (SB 484) eliminates the distinction between on-street and off-street parking facilities as used in the Parking Authority Law (G.S. Ch. 160, Art. 38). It also adds to the definition of "parking project" that it be an area or place open to public use for a fee, and that on-street parking meters may be considered part of the total project.

A new method of providing security for revenue bonds is authorized by Chapter 769 (SB 383). Heretofore, only the revenue derived from the operation of the parking facility or facilities and from on-street parking meters was authorized to be pledged to the payment of revenue bonds. Now, in addition, the proceeds of special assessments upon benefited property may also be pledged to revenue bonds or may be applied to bond anticipation notes. The special assessments are to be levied in accordance with the procedures of G.S. 160-504.

The local act, Chapter 527 (HB 782), empowers Durham to provide for various uses, including storerooms, offices, restaurants, observation decks, heliports and other facilities, in connection with off-street parking structures and water storage facilities, and to lease them for revenue purposes.

In other street-related legislation, the 1965 Session made minor changes in street closing procedures and authorized cities to regulate abandonment of motor vehicles on public or private property.

Under G.S. 153-9(17) all persons owning property on a street proposed to be closed, who do not join in the request for closing, must be notified by registered mail of the time and place of the meeting of the governing board at which the closing is to be acted upon. SB 358 would have limited this required notice to persons owning property "in the block or portion of the street to be closed." It did not pass as a general law, but was amended to make it applicable only to the City of Durham (Chapter 614).

Chapter 665 (HB 843) amended G.S. 153-9(17) to make it clear that cities and counties have no power to close roads or streets under control and supervision of the State Highway Commission.

Chapter 867 (HB 906) rewrites G.S. 136-66.3(c) to spell out specifically that in the acquisition of street rights of way by a municipality for State construction of portions of the State highway system comprising city streets, the city may use the procedures of G.S. Ch. 136, Art. 9. As rewritten, this section also provides that the authority to proceed under G.S. Ch. 136, Art. 9, shall be supplementary to powers granted by any other local act or general statute, and that where a conflict exists between Art. 9 and such other legislation, the governing board may proceed under either alternative method.

In another local bill of interest, Greensboro obtained authority to grant easements or allow encroachments in street rights of way where such intrusions do not interfere with the use of the street or constitute a public nuisance.

Other Regulatory Powers

By exercise of the ordinance-making power conferred by Ch. 1156 (HB 1139), cities may now act when unwanted motor vehicles are abandoned on city streets or vacant lots. New G.S. 160-200(43) empowers any city to adopt an ordinance providing that whenever a motor vehicle is abandoned on a street, public grounds, or private property, it may be towed away and subsequently sold if unclaimed. The act provides a vehicle shall be deemed abandoned if left unattended (1) for 24 hours on a street in violation of a parking law or ordinance, (2) for at least 48 hours on property owned by the city, or (3) for at least seven days on any street or highway or on private property. Rather elaborate procedural requirements are built into the act to protect the interests of the owner and lien holders of such an abandoned vehicle.

The rash of water heater explosions in 1964 prompted enactment of Ch. 860 (HB 610) which makes it unlawful to market water heaters failing to conform to specifications for critical parts prescribed by the act. The act is not to be construed as relieving any person of complying with additional regulations relating to safety features of water heaters prescribed by city ordinance, however, such an ordinance may not fix temperature or pressure settings of a pressure-temperature relief valve set in compliance with the North Carolina Building Code. The act is effective January 1, 1966.

Local legislation of interest authorized Durham to remove graves from certain specific property, empowered Rocky Mount to regulate the use of dynamite or other explosives within the city limits or within one mile thereof (including a requirement that permit holders obtain liability insurance of stated amounts), and added Sanford to the growing list of cities and counties authorized to regulate ambulance services.

Police Jurisdiction

Twelve cities secured bills granting them extraterritorial police jurisdiction within one or two miles of the city limits, and in some cases over city property located outside the limits.

Local Courts

The effect of the court reform bill on the financial structure of any particular city will depend on the degree of support the city gives a court below the Superior Court and the extent to which the city relies on court costs in its budgeting. Whether existing municipal courts will be abolished when the District Court system is activated in their counties will depend on whether the legislature authorizes an additional seat of court for that city. Due to the wide variety of court arrangements now existing in North Carolina cities, no valid generalizations can be made about the effect of court reform on city finances beyond an explanation of the arrangements for State-wide financing of all courts under the new system. Such an explanation can be found in articles on court reform in the March and June 1965 issues of *Popular Government*.

Local legislation affecting municipal courts in the 1965 Session showed no substantial departures from past Sessions. After activation of the District Court system throughout the State most local court legislation will become unconstitutional. This process must be completed by January 1, 1971, through constitutional mandate. After passage of the court reform bill this Session, local bills were systematically amended to insure that they would not affect the general law, and in at least one instance to provide that they would not remain effective beyond the date for activation of the District Court system in that particular county.

Regulation of Intoxicating Liquors

In 1963 G.S. 18-124(f) was amended to allow the proper city or county authorities to hold beer-wine elections and ABC elections on the same day with separate ballots provided, if the petition initiating the beer-wine election made such a request. As the law then stood it was clear that the statute contemplated an ABC election already properly initiated and scheduled to be held on a specific date. In order to save the time and expense of another election, the initiators of a beer-wine election could request the election holding authority to schedule the beer-wine election on the same day as the ABC election. The requirement that separate ballots be used maintained the separate identity of the two propositions, a separateness apparent from the entirely distinct statutory procedures provided for initiation of the elections. Chapter 506 (SB 326) has, perhaps inadvertently, substantially confused the relationship between beer-wine elections and ABC elections authorized or called by special acts. The first branch of Chapter 506 re-writes the 1963 amendment relating to holding beer-wine and ABC elections on the same day to provide that the election-holding authority may place the beer-wine and ABC questions on the same ballot, unless the petition specifies the manner of balloting. So far no violence is done to the integrity of the beer-wine initiating procedures; it is still fairly clear that a beer-wine petition properly initiated *subsequent* to a properly initiated and scheduled ABC election is contemplated. However, Chapter 506 adds the following proviso, quoted below in its entirety, to G.S. 18-124(f):

> Provided further, that when the calling of an election is provided by special act to determine whether alcoholic beverage control stores shall be operated in any city or county, the city or county board of elections or the governing body of any municipality may place the questions pertaining to the sale of beer and/or beer and wine and the establishment of alcoholic beverage control stores on the same ballot and in the same question whenever such special act does not require a petition or does not provide sufficient time for compliance with G.S. 18-124 or G.S. 18-127.

This proviso authorizes the election-holding authority to place the usual beer-wine questions on the same ballot *and in the same question* as the question on establishment of ABC stores when (1) an ABC election is authorized by special act rather than by the initiation procedures of G.S. 18-61 and (2) either the local ABC act does not require a petition, or it does not provide sufficient time for compliance with G.S. 18-124 or G.S. 18-127 (which contain the procedures for initiating beer-wine elections).

Apparently the proviso is intended to remedy the uncertainties of the present ABC laws as to how to initiate a beer-wine election to be held on the same day as an ABC election called by authority of a special act. Although this is by no means clear, the proviso appears to write into every special ABC election act, which authorizes the local governing board to call such an election on its own motion without a petition, authority for the governing board to call, on its own motion and without a petition, a "beer and/or beer and wine" election on the same day, and further authorizes the board to combine all propositions in the same question. For special ABC acts which do require a petition for the calling of the ABC election, the proviso seems to authorize placing beer-wine questions on the ballot if there is not time to comply with the normal petition procedures for calling beer-wine elections after the date for the special ABC election has been announced.

The reader will no doubt note that much of the foregoing analysis is conjecture. The new proviso leaves unanswered nearly as many questions as it attempts to solve. For example, does the governing board have authority to call elections for all the alternatives listed in G.S. 18-127 (on-premises, off-premises, etc.)? May the board intentionally set a special ABC election on a date which will make compliance with G.S. 18-127 impossible? May the board call a beer-wine election to be held on the same date as a special ABC election even though the county has not previously rejected legal beer or wine? May a municipality securing a special ABC act call a beer-wine election within its limits even though the county allows beer and wine? If so, and the beer-wine question fails, will sale of beer and wine be illegal within the municipality but legal in the county? No doubt many other problems could be raised, since the new proviso is silent on the relationship of any such election to existing general law, and does not provide that the substance of the special act procedures relating to ABC elections will apply to a beer-wine election called at the same time. It is believed that exercise of the power purportedly vested in county or municipal governing bodies (or boards of elections) by the new proviso added to G.S. 18-124 by Chapter 506 would be unwise. Sufficient doubt exists as to its intent in the first place, and as to its relationship with other general law in the second, to call into serious question the validity of any election held under it. If the board exercised the power to combine beer-wine and ABC questions in the same question and the new proviso was later held by the courts to be invalid, or to have been invalidly invoked in the facts of the particular case, not only the beer-wine question but the ABC question also would necessarily be invalidated.

Authorization of ABC referenda in cities in dry counties has become increasingly common since 1959. In 1959 five cities acquired special acts authorizing ABC referenda, eight cities acquired such acts in 1961, and 16 in 1963. The 1965 General Assembly passed 22 city ABC bills affecting 20 specific cities and all municipalities in Duplin County. No such bills introduced were killed. Again, a bill was introduced to provide a general law for city ABC referenda and again it was killed, as in 1963. The number of counties completely dry with no city or county systems will be reduced by ten if all the 1965 referenda result in votes for legal liquor.

The remaining ABC bills of this Session affecting cities dealt with the distribution of ABC profits. A trend toward distribution of some percentage of county ABC profits to cities continued with cities in Johnston, Dare, Person, Washington and Granville obtaining shares in county profits for the first time, or increases in their present shares. Bills for Rockingham and Hertford counties authorize distribution of profits to cities if county ABC referenda to be held this year result in votes for legal liquor. The Rockingham, Hertford and Johnston bills provide for distribution of a stated percentage of county profits to cities within the county on the basis of population.

(Continued on page 75)

By C. E. Hinsdale

COURTS, CLERKS and RELATED MATTERS

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

This article is concerned with new legislation of interest primarily to court officials and lawyers. In the interest of completeness, it lists all the general law amendments and additions to the following chapters of the General Statutes: 1, 2, 7, 7A, 28, 28A, 29, 30, 31, 31A, and 33. Miscellaneous new laws of particular interest to clerks of Superior Court and lawyers are collected at the end of the article. Many other articles in this issue will be of interest to lawyers, of course. Of particular interest to judges, solicitors and clerks of court are the following articles: MOTOR VEHICLES AND HIGHWAY SAFETY in this issue and CRIMINAL LAW AND PROCEDURE, in the October, 1965, *Popular Government*.

Chapter 1. Civil Procedure

GS 1-42. *Possession follows legal title, etc.* (HB 911, Ch. 1094) The proviso to the first paragraph is amended to specify that the record chain of title for 30 years preceding the action "together with the identification of the lands described therein" (quotation added) shall be prima facie evidence of possession thereof within the time required by law in actions for recovery of possession of real property or for trespass to possession.

GS 1-42.1. (New) *Title to mineral interests.* (SB 372, Ch. 1072) This new section extinguishes ancient oil, gas, or mineral interests which have been severed from the surface title unless the subsurface interest (1) has been listed for taxes for 10 years prior to January 1, 1965, or (2) is in adverse possession of another, or (3) is being exploited. The owner of the surface title (who has unbroken chain of title under instrument executed 50 years or more prior to September 1, 1965) is deemed to own the subsurface interest unless the owner of the latter records his interest within two years from September 1, 1965. Formalities of recording are prescribed.

GS 1-54. *Limitations; one year.* (HB 57, Ch. 9) Formerly this section specified that an action for a *widow's* year's allowance must be initiated within one year. As amended, this provision is expanded to include proceedings for allowances for a *surviving spouse and children.*

GS 1-131. *Procedure after return of judgment.* (SB 376, Ch. 747) To the end of the second sentence is added a proviso that "if there has been no appeal from the judgment sustaining the demurrer the plaintiff may, one time, commence a new action in the same manner as if the plaintiff had been nonsuited." This change is made applicable to pending litigation, as well as prospectively.

GS 1-181.1. (New) *Condemnation; jury review.* (HB 223, Ch. 138) This new section provides that the presiding judge in a condemnation proceeding may permit the jury to view the property subject to condemnation. A similar change is made in Chapter 40.

GS 1-206. *Objections and exceptions.* (SB 394, Ch. 748) Subparagraph 3 is rewritten to add a proviso that no exception is necessary to any ruling sustaining an objection to admission of evidence, the objection being implied.

GS 1-287.1. *Dismissal of appeals to Supreme Court, etc.* (HB 190, Ch. 136) As amended, motions for dismissal of appeals to the Supreme Court, when a statement of the case has not been served on the appellee within the time allowed, may now be heard by the resident judge, the presiding judge, a special judge residing within the district, or the judge assigned to hold the courts of the district, in or out of term, in any county of the district. Formerly this power could be exercised by the presiding judge only.

GS 1-339.8. *Public sale of separate tracts in different counties.* (HB 940, Ch. 805) Subsection (d) is amended to provide that the clerk of Superior Court need not probate a certified copy of an order of confirmation (formerly, order of sale) required to be filed by the register of deeds in the county where the land is located (in cases where the land is sold in the county where the public sale proceeding is not pending).

GS 1-339.17. *Public sale; posting and publishing notice, etc.* (HB 78, Ch. 41) This section formerly specified that if the requirements for newspaper notice of a judicial sale of real estate could not be met due to lack of a qualified newspaper in the county of sale, then notice of sale should be posted at three other public places, in addition to the courthouse door, in the county. As amended, alternative notice of sale shall now be published once a week for at least four successive weeks in a newspaper having general circulation in the county. A similar change is made in GS 45-21.17 (sales under mortgages and deeds of trust).

GS 1-339.72. *Validation of certain sales.* (HB 935, Ch. 786) This section is re-enacted to validate certain judicial

foreclosures and other sales, as to publication of notice, occurring since the last re-enactment in 1955.

GS 1-496. *Undertaking.* (HB 124, Ch. 104) This section requires the judge, as a condition precedent to granting a restraining order or injunction, to take an undertaking to the effect that the plaintiff will pay the enjoined party such damages as he may sustain, if the court finally decides that the plaintiff was not entitled to the injunction. The 1965 amendment excepts from the blanket coverage of the section suits between spouses involving support, alimony, custody of children, separation, or divorce, in which the plaintiff seeks to enjoin defendant from interfering with or molesting the plaintiff during the pendency of the suit.

GS 1-543.1. (New) *Article 44A "Tender"* (HB 116, Ch. 699) This Article provides a new procedure for making a legal tender. Upon request of the tendering party, the statute provides that the clerk of Superior Court shall direct the sheriff to serve an order of tender upon the designated party. Property to be tendered shall be tendered with the offer, if possible; if not possible, the order shall so state. The sheriff must make return of the papers within 5 days, indicating service or nonservice, etc., and whether or not tender was accepted. This new section does not prevent other forms of tender by parties to an action in open court.

GS 1-568.7. *Powers of commissioner.* (HB 216, Ch. 184) A commissioner conducting an examination before trial is now required to order the examining party, or his counsel, to furnish the examined party a copy of the deposition or transcript of the examination, without cost.

Chapter 2. Clerk of Superior Court

GS 2-10. (HB 385, Ch. 264) This section is amended to authorize 10 (formerly 6) assistant clerks of Superior Court in counties having a population of over 80,000.

GS 2-42. *To keep books; enumeration.* (HB 553, Ch. 489) To the opening paragraph the following proviso is added: "provided, however, where the board of county commissioners has consented to the microfilming of records, it shall not be necessary to keep books of the records that are so microfilmed, but the microfilm of the records shall be kept and shall be open to inspection of the public during regular office hours:"

Chapter 7. Courts

GS 7-3, 7-42. *Salaries of justices and judges.* (HB 501, Ch. 921) These sections are amended to increase the salaries of Supreme Court justices and Superior Court judges by $1500.

GS 7-29.1. *Administrative Assistant to Chief Justice.* (HB 202, Ch. 310) Repealed, effective 1 July 1965. This office has been absorbed and superseded by the Administrative Office of the Courts, and Mr. Bert Montague, former administrative assistant to the Chief Justice, has been appointed Assistant Director of the Administrative Office. He will continue to perform the duties formerly assigned to him as administrative assistant.

GS 7-43.1, -43.2, -43.3. *Solicitors.* (HB 202, Ch. 310) These sections are repealed effective 1 December 1966, inasmuch as on that date assistant solicitors are authorized and paid by the State. See sections bearing the same numbers in Chapter 7A.

GS 7-44, 7-45. *Salary and travel allowance of solicitor.* (HB 526, Ch. 1009). These sections are amended to increase the salary of a Superior Court solicitor $500, and his expense allowance $1000. The Senate voted an amendment to the solicitor's pay increase, requiring that solicitors give up the private practice of law, but this was rescinded later on the representation of Senator Warren, Chairman of the Courts Commission, that the Commission would study the overall problem of solicitorial compensation and solicitorial districts, and make appropriate recommendations to the 1967 legislature. The solicitors are clearly on notice, however, that the office is likely to be made a full-time one in the near future. This is especially true since *prosecutors* in the new *district* court system are full-time officials.

GS 7-108.1. (New) *Judgments of domestic relations courts.* (SB 381, Ch. 989) This new section provides that the transcript of any judgment of a domestic relations court rendering absolute a bond forfeiture may be docketed in the office of the clerk of Superior Court of the county in which the judgment was rendered, and when so docketed has the full force and effect of "all judgments" docketed in Superior Court.

GS 7-296. *Enforcement of judgments, etc.* (HB 1161, Ch. 1198) A proviso is added to this section that the general county court shall retain jurisdiction to hear and determine all motions with respect to divorce, separation, alimony, child custody and support in all cases wherein the court rendered the initial order or judgment.

Additional resident Superior Court judges. (SB 329, Ch. 654) (uncodified) A second resident Superior Court judge is authorized for the 10th (Wake), 21st (Forsyth), and 27th (Gaston, Lincoln, Cleveland) judicial districts. The governor is authorized to appoint the additional judges, to take office July 1, 1965, and to serve until the next general election. Judges James H. Pou Bailey (10th), Harvey Lupton (21st), and B. T. Falls (27th) have been appointed by Governor Moore. Efforts to appoint additional resident judges and special judges failed in committee.

Appointment of interpreters for deaf persons. (HB 909, Ch. 868) (uncodified) This new section provides for the appointment of an interpreter in legal proceedings (including all commitment proceedings) involving deaf persons as parties or as witnesses. The fee of the interpreter is to be paid by the county in criminal cases and in commitment proceedings, and is to be taxed as costs of court in civil cases. (There is no provision for such a fee as this in the uniform costs and fees bill of the "Judicial Department Act of 1965." It should be perhaps added, as a state expense, by the 1967 legislature.)

Chapter 7A. Judicial Department

The "Judicial Department Act of 1965," generally conceded to be the most important single piece of legislation enacted by the General Assembly this year, has been the subject of two articles in recent issues of this magazine. The March, 1965, issue carried a summary of the major

provisions of the bill as introduced, and, as pointed out in the June issue, that summary is still accurate, except for two minor points (district bars will not be required to endorse candidates for judgeships, and appeals from civil cases originating in the district court are without limit). The June article also gave a schedule of implementation of the Act by districts and counties, and pointed out certain ways in which the new law will be effective in the next biennium, both on the state and local levels. The major details of the Act will not be repeated in this issue, but specific features will receive detailed treatment in subsequent issues.

Pursuant to Article IV, section 13 of the Constitution, and Section 7A-341 of the "Judicial Department Act of 1965," the Chief Justice of the Supreme Court appointed J. Frank Huskins, resident Superior Court judge of the 24th judicial district, as Director of the Administrative Office of the Courts, effective July 1, 1965.

The new Chapter 7A has been designed to accommodate — eventually — all those provisions of the General Statutes which deal with jurisdiction, organization, and administration of the General Court of Justice. This means that by 1971 those few sections in Chapters 2, 6, and 7 which retain validity will be transferred to Chapter 7A. The title "Judicial Department" is used rather than "General Court of Justice" because the Administrative Office of the Courts, while clearly a part of the former, is technically not a part of the latter.

Chapter 28. Administration

(Note: Chapter 28A, "Estates of Missing Persons" (HB 621, Ch. 815) repealed, effective immediately, the following sections of Chapter 28: -2.1, -2.2, -167, and -193 through -201, and revised sections 28-25 and 28-166.)

GS 28-53. *Trustees in wills to qualify and file inventories and accounts.* (SB 486, Ch. 1176) As amended, this section is inapplicable to the extent that the will makes any different provision. The requirement that trustees qualify under laws applicable to executors shall not apply to those appointed by will executed prior to July 1, 1961, unless the will is admitted to probate prior to effective date of Act (July 1, 1965). (July 1, 1961 is the date of the amendment which required trustees in wills to first qualify under the laws applicable to executors.)

GS 28-68.2. *Disbursement by clerk.* (SB 184, Ch. 576) This section is rewritten: (1) to permit disbursement of surviving *spouse's* year's allowance, (formerly widow's and child's year's allowance); (2) to limit preferred claims for funeral expenses to $600; (3) to add a third priority claim for hospital, medical and doctor's bills incurred in the last illness (not to exceed 12 months) of the deceased; and (4) to amend subsection (b) to provide that after disbursements as listed, the clerk shall pay the remainder, if any, to the surviving spouse.

GS 28-68.4. *Section* 115-368 *not affected.* (SB 184, Ch. 576) Repealed. The substance of former GS 115-368, concerning uncashed pay vouchers of school personnel, is now contained in GS 115-159, and was itself revised this session by SB 181, Ch. 395.

GS 28-105.1 (New). *Satisfaction of debt other than by payment.* (HB 1103, Ch. 1149) This new section provides for satisfaction, other than by payment, of certain debts of decedent, when a third party agrees in writing with the creditor/obligee, to assume the indebtedness, and a release discharging the personal representative and the estate is executed. Papers are to be filed with the clerk of Superior Court having jurisdiction over the estate and the personal representative.

GS 28-175. *Actions which do not survive.* (SB 281, Ch. 631) This section is amended to remove assault and battery from the list of torts causes of action for which do not survive. The change is applicable only to causes of action arising after ratification.

Chapter 28A. Estates of Missing Persons (New)

This chapter was prepared by a drafting committee composed of Professors Bolich, McCall, and Wiggins (of the Duke, UNC and Wake Forest Law Schools, respectively) for the General Statutes Commission. As explained by the Committee:

> . . . this Act provides for the management, preservation and disposition of the property of a person who has disappeared from his place of residence and has remained unheard of for a period of thirty (30) days or more. The basic legal remedy utilized is an equity receivership administered by the Judge of the Superior Court. The opening procedure calls for a temporary receiver to take custody and control of the absentee's property upon the filing of a complaint by an interested party. By directing the temporary receiver to act immediately, the property is preserved and managed before it has time to suffer loss.
>
> Thereafter, if good cause is shown and the absentee has not returned after being given adequate legal notice, the property is put into the hands of a permanent receiver. This receiver manages and preserves the property, provides for the support and maintenance of the absentee's dependents and generally administers the equity receivership under the supervision of the Superior Court, pending final disposition of the property.
>
> If the absentee returns before the running of the period of limitation created by this Act, his property is returned to him, less certain costs. If the absentee is proved dead, to the satisfaction of a jury, the receivership is terminated and his property is administered and distributed by the Clerk of Superior Court as in the case of any other decedent. If there is not sufficient proof to establish death and yet the absentee cannot be found and does not, in fact, return within the period of limitation created by this Act, the Judge of the Superior Court may by decree, order that the absentee's property be distributed. Pursuant to such an order, the permanent receiver makes a distribution to those entitled and the equity receivership is terminated.

G.S. 28-25 and 28-166 are revised; G.S. 28-2.1, 28-2.2, 28-167, 28-193 through 28-201, and 33-56 through 33-66 are repealed.

The new chapter was enacted as recommended by the General Statutes Commission, except for three changes: 1) the limitation of coverage to persons domiciled in

North Carolina was deleted; 2) a provision was added that when an absentee's property is held with a spouse as tenants by the entirety, the property may be partitioned only if the spouse consents in writing, and in such case, one-half of the property or proceeds belongs to the spouse, and one-half goes to the receiver of the absentee's property; and 3) the provisions for deficits, if any, in the Absentee Insurance Fund to be made up by any state funds not otherwise appropriated, was deleted. The Act excepts pending litigation.

Chapter 29. Intestate Succession

GS 29-30. *Election of surviving spouse to take life interest in lieu of intestate share provided.* (HB 318, Ch. 848). Subsection (a) is rewritten to specify four exceptions to the surviving spouse's right to take a life estate in one-third in value of the real estate of which the decedent was seized during coverture. These exceptions all include real property as to which the surviving spouse: (1) has waived the right by joining in a conveyance thereof; (2) has released or quitclaimed the interest therein in accordance with G. S. 52-10; (3) was not required by law to join the conveyance thereof in order to bar the elective life estate; or (4) is otherwise not legally entitled to the election provision of this section. Formerly only category (1) was set out in the statute.

Chapter 30. Surviving Spouses

GS 30-1, 30-2, 30-3. *Spouse's dissent from will.* (HB 320, Ch. 849). These sections, which deal with dissents from wills, are reenacted without change, thus returning the law — it is hoped — to what it was immediately prior to the decision in *Dudley v. Staton*, 257 N. C. 572 (1962). The rather complicated factual background is set out briefly in a preamble in the bill. The law with respect to dissents was rewritten in 1959 and amended in 1961. In the *Dudley* case, the Supreme Court held that, insofar as the new law gave the husband the right to dissent from his wife's will, it conflicted with Article V, Section 6 of the State Constitution which gave a married woman the right to devise and bequeath her property "as if she were unmarried." The 1963 General Assembly proposed an amendment to Section 6 which, among other things, deleted the language which rendered G. S. 30-1, 30-2, and 30-3 unconstitutional, and the amendment was approved by the people and became law on February 6, 1964. The preamble further states that it is the declared intent of the General Assembly that a husband and wife should be treated alike and that either should be authorized to dissent from the will of the other under certain circumstances.

Section 2 of this reenacting legislation further states that the reenactment of these sections "shall not be construed as a legislative determination that, with respect to the right of a husband to dissent from his wife's will, these sections were invalid between the date of certification of the amendments to Article X, Section 6 and the date of ratification of this Act." See Wiggins, *Wills and Administration of Estates in North Carolina* (1964), Volume I, Chapter XIV, for a detailed discussion of recent developments in the law of dissents.

The amendment to Article X, sec. 6 of the Constitution, which put spouses on an equal footing with respect to the law of dissents, also eliminated, as a *constitutional* requirement, that the husband join in conveyances by the wife of her property. These changes necessitated revision of many sections of the statutes, primarily in Chapters 52 (which was entirely rewritten) and 39. These changes, highly technical in nature, are beyond the scope of this article.

GS 30-9. *Conveyance without joinder of insane wife, etc.* (HB 324, Ch. 853) This section, which permits conveyancing of real estate by a husband without joinder of his insane wife, is repealed. Insofar as a spouse's separate estate is concerned, this situation is now covered by G. S. 39-7, as rewritten this session by H. B. 326 (Chapter 855).

Chapter 31. Wills

GS 31-1. *Who may make will.* (SB 182, Ch. 303) The amendment to this section expanded the group of persons authorized to make wills to include married persons of sound mind under 21 and over 18 years of age.

GS 31-27. *Certified copy of will of nonresident recorded.* (SB 454, Ch. 995) The last sentence of this section is rewritten to provide that a certified copy of the will, executed according to North Carolina law, and proved to the satisfaction of the clerk of Superior Court where probated, is valid to pass title to North Carolina realty even though the will is not probated in accordance with North Carolina law. Present provisions concerning proof of execution are carried forward. Copies of nonresident wills previously recorded in North Carolina in compliance with this section as amended are declared to be valid to pass title to real estate in North Carolina.

GS 31-42, -42.1, -42.2. *Devolution of legacies and devises, etc.* (SB 183, Ch. 938) Sections -42.1 and -42.2 are repealed, and section -42 is rewritten, effective July 1, 1965. The revision, drafted by the General Statutes Commission, eliminates certain ambiguities in the old law, and is coordinated with equivalent provisions of the Intestate Succession Act.

Chapter 31A. Acts Barring Property Rights

GS 31A-1. *Acts barring rights of spouse.* (HB 321, Ch. 850) Subsection (d) is amended by striking from the second line thereof the words "as if such person were unmarried," and inserting in lieu thereof the words "without the joinder of the other spouse," to take into account the recent amendment to Article X, Sec. 6 of the Constitution. See discussion under Chapter 30, above.

Chapter 33. Guardian and Ward

GS 33-39. *Annual accounts.* (HB 932, Ch. 802) The amendment to this section provides that the guardian must file the first annual inventory and account within 30 days after expiration of 1 year from his appointment, rather than within 12 months after appointment.

GS 33-41. *Final account.* (SB 254, Ch. 411) This section is amended to provide that the guardian may be required

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By Allan W. Markham

EDUCATION

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

One respect in which the 1965 legislature differed from recent sessions of the General Assembly is that this year brought no major education-related bills, such as the higher education and school bond bills of 1963 or the sales-tax extension and teacher-salary proposals of 1961. At the same time a much larger number of public and local bills directly affecting public education at all levels — from the public elementary and secondary schools to the community college system and the University and senior colleges — were considered this year than in any previous session. Opinions may differ as to exactly how well public education fared at the hands of the 1965 General Assembly, but there is no doubt that the session was a significant one.

Public Schools

Budget

State expenditures for the public schools for the 1963-65 biennium were $508,300,000 as compared with appropriations (both "A" and "B" budgets) for 1965-67 of $602,700,000. The 1965-67 appropriations include $531,400,000 in the "A" budget (compared with $532,500,000 requested) and $71,200,000 in the "B" budget ($77,300,000 requested). The sources of the over-all increase are spelled out under various headings below. Major casualties in the "A" budget deletions were (1) elimination of ten assistant superintendent positions (amounting to $185,400 for the biennium); (2) reduction in reimbursement rate for diversified and comprehensive vocational education ($427,266); (3) and entire deletion of funds requested ($203,012) for continuation of the State Board of Education's Department of Curriculum Study and Research.

Personnel

The 1965-67 school budget includes salary increases amounting to five per cent for each year of the biennium for classroom teachers, principals, and supervisors and a flat $15 per month in 1966-67 for superintendents and assistant superintendents. This compares with the State Board's request for a salary increase of $15 per month for each year of the biennium for all professional personnel. (HB 1123, which was not approved, also sought appropriations to increase superintendents' salaries by $15 a month.)

Also included in the budget were appropriations to increase by 200 the first year and an additional 200 in the second year of the biennium the number of State-provided teachers for the educable mentally retarded and to increase State assistance for educable and trainable mentally retarded children from $360 to $630 per pupil.

The General Assembly approved, through appropriations and Resolution 65 (SR 425), an increased allocation of teachers by the State for reduction of class sizes in the first three primary grades. The reduction will be by three pupils per class. This small decrease alone will require 1,472 additional teachers during the biennium, with an accompanying expenditure of $14,500,000 of State funds.

Efforts to obtain funds to extend the annual employment term of principals (SB 568-HB 1141, HB 1123), which now varies from ten to eleven months, failed to win legislative approval, and an attempt (SB 8) to return to a limited form of continuing contract for teachers and principals (requiring a board of education to notify a teacher or principal by registered mail of an intention to terminate his contract) also did not pass. Three county school boards, however, obtained authority through local acts to elect superintendents for four-year terms rather than the two-year terms provided by the general laws (G.S. §115-39).

Federal Aid

Two acts were passed during the session which dealt with the receipt and use of federal funds by local boards of education. The first, Chapter 584 (HB 435), is primarily intended to make it easier for county school boards to effect the compliance with the Civil Rights Act of 1964 and the regulations of the U. S. Office of Education which is necessary in order to receive federal education funds administered by the U. S. Office. This is accomplished by giving all county boards authority to eliminate entirely, or to merge one or more local tax, nontax, or bond districts within a school administrative unit into a single district called an "administrative district." It is permissible under Chapter 584 that a unit consist of only one system-wide "administrative district." Should a county school board elect to merge all of the districts of the unit into a single administrative district, the board is not required to appoint a school district committee but may, itself, assume the duties otherwise assigned by law to school committees. Under the single-district arrangement the board has the further option of appointing one or more advisory councils for the schools in the unit to advise the board and assume such duties as the board may lawfully delegate. The organization, the terms and number of members, and the authority of these councils is left to the appointing board of education as a corollary of the authorization to county school boards to merge districts into a single unit. The act also eliminates from G. S. § 115-50 the requirement that the chairman of

district committees and local principals sign the monthly teacher payrolls and that committee chairmen of tax districts sign orders for all expenditures of district school tax funds. Similar amendments are made to G.S. § 115-80, -90, and -124 relating to the levying, collecting, and spending of district tax funds. Also, where district committees have been eliminated, the county superintendent is to recommend and the county board to elect the principals and school personnel. Normally, district committees elect the principals upon the recommendation of the county superintendent, and each principal nominates teachers and other school employees to his committee for election, although all of these elections are subject to final approval by the county superintendent and the board of education.

The other major item of legislation which relates to federal aid to schools is Chapter 1185 (SB 580), which may have far-reaching implications. Briefly stated, the act adds to the enumeration of general powers and duties of local school boards set out in G.S. § 115-35 the specific authorization of these boards to "accept, receive and administer any funds or financial assistance given, granted or provided under the provisions of the Elementary and Secondary Education act of 1965 . . . and under the provisions of the Economic Opportunity Act of 1964" as well as the authority to accept funds under any other federal acts or from private or foundation sources. In addition, the local boards are authorized "to comply with all conditions and requirements necessary for the receipt, acceptance, and use of said funds." The act also authorizes the local boards to contract with and cooperate with each other as well as "non-public elementary and secondary schools," community groups, and nonprofit corporations in the administration of funds for these institutions and organizations. The State Board of Education, or any other State agency the Governor may designate, is likewise empowered to provide library resources, textbooks, and other instructional material purchased with funds provided by the Elementary and Secondary Education Act or other federal school-aid acts for the use of pupils and teachers in "private elementary and secondary schools as may be required by such Federal acts."

The net result of the new state law and the terms of present and, possibly, future federal acts is that the local school boards may find themselves dealing directly with the federal government more frequently in the administration of federal financial assistance, whereas heretofore most federal aid has been channeled through State agencies. Another significant implication is the possibility that both the State Board and local school boards will work more closely with non-public elementary and secondary schools in making the benefits of federal aid available to all children in the State.

School Lunch Program

Although the federal government, through the National School Lunch Act, makes considerable assistance available to those school systems which choose to receive it, the State has given little or no aid or direction in the matter of school lunches, other than by administering the federal program at the State level. Section 115-51 of the General Statutes heretofore has authorized local boards of education to operate lunchrooms, simultaneously stipulating that local school officials shall incur no liability resulting from such operation; that lunchrooms shall be nonprofit (surplus to be used to improve food service or reduce cost to pupils); and that no State funds shall be used to operate school cafeterias or lunchrooms. Early in the 1965 session, Governor Moore requested the General Assembly to provide State funds for needy children if increased federal assistance was not provided to furnish free or reduced-cost lunches. Later, SB 504 was also introduced providing for an appropriation of about $2,700,000 for the 1965-67 biennium to be used for this purpose. The General Assembly did not enact this bill, but ultimately appropriated $808,732 for the biennium to be placed in a special reserve fund for State assistance in the school lunch program. Guidelines for withdrawals have not yet been established. It is possible that this money will not be spent on this particular program, at least not to reduce lunch costs for needy children, since recent federal legislation has provided additional aid to this end.

The greatest departure from the previous system of financing and operation of school lunchrooms, however, is contained in Chapter 912 (SB-530), which rewrote G.S. § 15-51. First, the act provides that *all* school food services shall be provided in accordance with standards and regulations recommended by the State Superintendent and approved by the State Board of Education. As noted, the State's only participation in school food service has been in the administration of federal lunchroom aid. Second, the act spells out what shall constitute "cost of operation" in providing food service in the school systems. All receipts from the lunch program which exceed the aggravate of these specified costs may be used only to reduce the cost or improve the quality of food or to provide lunches, either free or at lower price, to needy children. The statute provides that the cost of operation shall include the "actual costs incurred in the purchase and preparation of food, the salaries of personnel *directly* engaged in the purchase and preparation of food, the salaries of personnel *directly* engaged in preparing and serving food, and the cost of such inexpensive and expendable non-food supplies as outlined under standards adopted by the State Board of Education. Any costs incurred in the provision and the maintenance of school food services over and above the 'cost of operation' as defined in this Section shall be included in the budget request filed annually by county and city boards of education with boards of county commissioners." (Emphasis added.) If the act is to be strictly construed, apparently the salaries of such personnel as lunchroom supervisors and the cost of virtually all food preparation equipment may not be funded by lunchroom receipts but instead must be financed through local general taxation. The full significance of this legislation may not be readily apparent to some, but its impact will probably be felt in many quarters before the end of the 1965-66 school year.

School Transportation

Perhaps the hottest public school issue in the 1965 General Assembly centered around a provision which was actually enacted in the 1963 session, to be implemented by appropriations during the 1965 session. The so-called "Humber Act" of 1963 was intended to eliminate the traditional if not legally required distinction which through the years has supported the General Assembly's refusal to provide funds for the transportation of pupils residing within the corporate limits of a municipality to schools

located within the same municipality, irrespective of the distance between the two; while at the same time providing transportation for all other children who reside a mile and a half or more from their respective schools. The act was to be effective July 1, 1965, in order to permit the 1965 General Assembly to appropriate the necessary funds to meet the State's biennial costs for the expanded service.

The legislation ran into trouble early when, shortly after its introduction in 1963, the franchised municipal carriers sought an amendment which would have forced city school boards to contract for such services with local city bus companies where available, whether or not such an arrangement would be in the best interest of the school system and the general public. The attempted amendment failed, but the act was modified to authorize local boards to so contract with local carriers — authority already existing in another section of the school transportation laws. The issue came up again before the Legislative Council several months before the opening of the 1965 session when the carriers requested a hearing on the issue. Although the Legislative Council made no official recommendation on the matter to the General Assembly, the Advisory Budget Commission did not approve the $1,400,000 item in the State Board of Education's budget designed to fund the expanded transportation service.

Bills were subsequently introduced to: (1) appropriate the necessary funds by separate act (SB 409); and (2) to put municipal pupil transportation under the jurisdiction of the State Utilities Commission, requiring that local school boards contract with local intracity carriers for such services unless the commission should find the appropriate carrier "either financially unable, or otherwise unqualified, or . . . unwilling to render, on a continuing basis" the transportation of pupils to and from school (SB 368). The Joint Subcommittee on Appropriations settled the issue (at least for the time), however, by failing to include the approximately $1,500,000 required for the biennium in its final appropriations bill, and the *coup de grace* was administered by Chapter 1095 (HB 945), which returned the pupil transportation laws substantially to their pre-1963 form. The next amendment to the pupil transportation laws may well be written in the State Supreme Court.

Another development in the field of school transportation, Chapter 370 (SB 171) was aimed at an apparent abuse by some bus drivers of the extendable stop signs mounted on the left-hand side of school buses. This act amended by G. S. § 20-217 to prohibit specifically the use of such signs on school or church buses except "for the purpose of indicating that such bus has stopped or is about to stop for the purpose of receiving or discharging passengers."

Yet another school bus bill, intended to promote the safety of bus drivers, failed to win legislative approval. Senate Bill 237 would have required seat belts to be installed on the driver's seat of all school buses and would have appropriated some $25,000 to finance the installation.

Chapter 256 (HB 16) amends G. S. § 143-219 by raising the maximum liability of the State under the State Tort Claims Act from $10,000 to $12,000 per claim for all such claims arising after July 1, 1965. The Tort Claims Act covers damages or injuries caused by employees of State agencies, such as the State Board of Education and the Department of Public Instruction, and local school bus drivers (while driving the buses). Claims arising from school bus accidents, although technically made against the particular school administrative unit, are actually paid from the State Nine Months School Fund, which is appropriated by the General Assembly and administered by the State Board. No other torts of local school employees are covered in the State Tort Claims Act.

Driver Training

As part of the total legislative effort to improve highway safety in North Carolina, driver training received attention this session in two companion acts, Chapter 410 (SB 243) and Chapter 397 (SB 244). The acts amend Chapter 20 (Motor Vehicles) and 115 (Elementary and Secondary Education) of the General Statutes, respectively, by providing for an expanded program of driver training in the public schools and by relieving the Department of Motor Vehicles of this responsibility altogether.

Formerly, the State Board of Education and local school boards were authorized but not required to offer driver training programs as part of the public school curriculum, and there was no requirement that these programs be made available to non-students. The Department of Motor Vehicles, on the other hand, was required to provide such a training program free of charge in each county where not otherwise available. As amended, the law (G.S. § 115-202) now requires that all school boards in the State "provide as a part of the program of the public high school . . . a course of training and instruction in the operation of motor vehicles," such course to be made "available for all persons of provisional license age, including public school students, non-public school students, and out of school altogether (persons under 18 years of age whose physical and mental qualifications meet license requirements) . . ." "Provisional license age" specifically means persons who are 16 or 17 years old. The program *may* be available to anyone aged 14½ years or older, but presumably the law does not *require* that it be open to those under 16 or over 17. Approval by the principal of the school offering the course is required for all driver-training applicants, but the statute does not specify the criteria for approval or disapproval.

Not only is the Department of Motor Vehicles no longer required to provide driver training, but the new acts also eliminate all exceptions to the requirement that drivers' licenses shall not be issued to persons between 16 and 18 years who do not produce evidence of having satisfactorily completed a public high school training program. The acts left unchanged the provision of G. S. § 20-88.1 which levies an additional charge of $1 on all motor vehicle registrations for which the registration tax is $10 or more annually intended to help finance the public school program, but it eliminates the allocation formula previously specified in the statute, leaving the allocation now to the discretion of the State Board of Education or to specific subsequent legislative appropriations for the purpose.

Selection of School Board Members

No fewer than 30 local bills were introduced during the 1965 session of the General Assembly affecting the method of selecting boards of education, plus an unsuccessful attempt to provide for a uniform state-wide method

of electing local boards. This count does not include several local bills naming specific persons to specific school boards nor does it include the so-called school board "Omnibus" act, Chapter 175 (HB 295), through which, this year, the General Assembly appointed members to 78 county boards of education.

Although the number of locally elected county school boards is gradually increasing (all city boards are selected locally but only about 20 county boards are so chosen), two counties — Davie and Randolph — reverted from the local, nonpartisan election method to political appointment by the General Assembly. There seems as yet no substantial local acceptance of nonpartisan elections of county board members, although many city boards have been elected in this fashion for years.

A recurrent effort to effect some uniformity in size, terms of office, and method of selecting members of city and county school boards was made again this session. Although legislators from both political parties introduced bills providing for some state-wide uniformity in 1963 (none, of course, were enacted), only the Republicans made the try this year (HB 1159), with predictable results. Nonetheless, a significant number of legislators, along with most educators, agree that eventually some relatively standard method of local selection must replace the wide variety of board sizes, terms, and selection methods which exist across the State today.

School Unit Mergers

The mounting interest in merger of city and county school administrative units (which many education leaders feel will be necessary ultimately) to provide a broader tax base and more efficient administration was evident again this session with the introduction and passage of three local enabling acts. Chapter 705 (HB 793) authorizes a referendum and establishes procedures for the merger of the school administrative units of Rockingham, Hamlet, and Richmond County, Chapter 1051 (HB 1065) provides for referendum approval of a merger of the Southern Pines, Pinehurst, and Moore County units, and Chapter 1151 (HB 1113) established procedures for a merger of the Asheville and Buncombe County schools, a proposal which has been under consideration for several years.

A local act, Chapter 922 (HB 578), presented unique provisions to the effect that should the voters of Yadkin County fail to approve a $2,000,000 school bond issue this year, the residents of the Jonesville District of the Yadkin County administrative unit might vote on the issue of merging their district unit with the Elkin city administrative unit in Surry County. The aforementioned bond issue was submitted to the Yadkin County voters on June 19, 1965, and approved, thus rendering the merger provisions moot.

One attempt (HB 869) was made during the 1965 General Assembly to increase rather than decrease the number of school administrative units in the state. This bill would have created, without submitting the issue to a vote of the local electorate, a new Scotland Neck administrative unit in Halifax County. The bill was not passed, and it is possible that Article II, § 29 of the North Carolina Constitution would be construed as to render this type of local legislation unconstitutional.

Miscellaneous Legislation

Following the rash of fires on the North Carolina State University campus during the winter, the General Assembly passed companion acts, Chapters 14 (SB 41) and 870 (HB 1043). The former amends G. S. § 14-59 to add to the list of public buildings which it is illegal to burn (the existing statute refers to the "Statehouse," but does not specify which one) any building owned by the State or any of its agencies, institutions, or subdivisions. This would presumably cover all public college and school buildings, but just to make certain, the second act amends G. S. § 14-60 (which makes the burning of a schoolhouse a felony) to make the burning or attempted burning of any building owned by, leased to, or used by any public or private educational institute a felony.

Section 115-52 of the General Statutes has required local boards of education to purchase all supplies, equipment, and materials through contracts made by or approved by the State Division of Purchase and Contract. This provision, however, has been honored at least as often in the breach as in the observance. Chapter 840 (SB 421) deletes the requirement and substitutes therefor the provision that all such purchases shall be made through contracts made or approved by the Department of Administration.

Chapter 488 (HB 539) amends G. S. § 115-90(2) to permit the board of county commissioners to designate an officer or employee of the county or the county board of education, with the school board's approval, to countersign warrants drawn on school funds belonging to the county school board. Heretofore, this task was assigned to the county accountant or treasurer.

Chapter 1174 (SB 457) gives specific authority to the "various agencies and institutions of the State of North Carolina" to enter into contracts or agreements with the Learning Institute of North Carolina, all State funds involved to be subject to audit by the State Auditor. The act also specifically authorizes the State Board of Education to contract with the University of North Carolina for the operation of the Advancement School in Winston-Salem.

In the waning days of the 1965 session a bill (SB 570) was introduced in the Senate which would have made a misdemeanor the attempt by a school board member, superintendent, principal, or other school employee to require or influence in any manner a teacher "to become or remain a member of any national or state professional organization, as a condition of employment or continuation of employment." In fact, the bill would have made simply asking a prospective teacher whether he or she intended to join any national or state professional organization a crime. With substantial mitigating amendment, the bill cleared the Senate, but after further dilution in the House it was there tabled. Depending upon how "state professional organization" might be defined, the bill conceivably could have covered everything from the NEA to the PTA.

Finally, the defeat of SB 287 undoubtedly brought sighs of relief to all school personnel from teachers to superintendents. This bill would have required superintendents, principals, and teachers to assist all children in their respective schools in the ninth grade and above to obtain social security cards.

Community College System

Aside from budget requests, the two-year-old community college system (including technical institutes and industrial education centers) received little official legislative attention this year. Briefly, the General Assembly appropriated for the community college program a total of $28,700,000 for the 1965-67 biennium; it approved all but some $67,740 in the "A" budget, but pared the "B" budget from a requested $18,000,000 to $10,000,000. Nonetheless, the 1965-67 budget exceeds total expenditures for the last biennium (the system's first) by more than 100 per cent ($28,700,00 compared with $12,800,000). None of the figures, incidentally, reflect State matching funds (up to $500,000 per institution) for major capital improvements.

The General Assembly did apply one stricture to the process of future establishment or upgrading of institutions in the community college system. Chapter 1028 (HB 930) amends G. S. § 115A-4 to require the approval of the Governor and the Advisory Budget Commission before any new institutions may be established or existing ones converted to the next more comprehensive type (*i.e.*, conversion from industrial education center to technical institute or technical institute to community college).

Section 115A-21(a)(2) of the Community College Act of 1963 was amended by Chapter 842 (SB 435) to permit an institution which operated as an industrial education center prior to the passage of the Act in 1963 to be supported by local (county-wide) tax levies without the necessity of a voted tax rate, even after such institution has been converted to a technical institute. A voted tax is still a prerequisite for the conversion of any other institution to a community college.

To bring the laws relating to the community college system into parity with certain statutes pertaining to public schools and institutions of higher education, Chapter 366 (SB 111) adds a new § 115A-17.1, which authorizes officers and employees of the system's institutions to enter into one-year contracts with their respective institutions for the purchase of nonforfeitable annuities with a portion of their salaries.

In the Higher Education section of this article a new law is discussed which establishes a loan fund for students who are prospective teachers "in a college or other educational institution beyond the high school level in North Carolina . . ." This act may have considerable significance for community colleges as well as the State's senior colleges.

Higher Education

What had been an almost solid front with respect to higher education during the 1963 legislative session was considerably more fragmented this year. The long-range consequences of this fact are difficult to ascertain and are debatable. It seems apparent, however, that certain trends and concepts in the State's over-all higher education scheme, as it has evolved in the last 10 to 15 years, have undergone some change or realignment. The legislature's qualified authorization of a two-year medical school at East Carolina College, Chapter 986 (SB 176), the renaming of the Raleigh campus of the University as North Carolina State University at Raleigh, Chapter 213 (HB 24), the attempted abolition (SB 389 - HB 846) and ultimate revision of the North Carolina Board of Higher Education, Chapter 1096 (HB 965), the creation of a fourth campus of the University, the University of North Carolina at Charlotte, Chapter 31 (SB 10), and the creation of a commission to study the composition and functions of the Board of Trustees of the University, Resolution 73 (SR 476), are all to some degree indicative of present or potential major shifts in higher education policy.

The operating budgets of State higher educational institutions were substantially increased, and authorization was given for moderate capital improvements expenditures at those institutions. The primary unfulfilled budget request, made with particular urgency by the larger institutions, was for appropriations to finance major capital expansion. The total provided for this purpose was considerably less than was requested. The General Assembly did not recommend a higher education capital improvements bond issue. Limited current revenue availability, the recent school bond issue, the pending highway bond issue, and differences of opinion as to future enrollment growth in North Carolina's senior colleges and the University all contributed to this result.

Board of Higher Education

As mentioned above, SB 389 and HB 846 would have provided for the out-right abolition of the North Carolina Board of Higher Education and the return to the State Board of Education of the limited authority in areas of higher education that it held prior to the higher board's creation in 1955. This bill was quickly followed by HB 965, which, after extensive amendment in both houses, was ratified as Chapter 1096. Briefly, the act increases the board membership from nine to 15 members, eight to be chosen by the Governor from the general public, four from the trustees of the senior colleges (the Governor must rotate the trustee seats among the college boards, but the boards must make the selection from their respective memberships), and two to be chosen by the Board of Trustees of the University from its membership. The State Board of Education will continue to be represented by one of its members (to be designated by the Governor) on the higher board. Except for initial appointments to the reorganized Board of Higher Education under the act, all appointments are subject to confirmation by the General Assembly. The Governor's appointees serve overlapping six-year terms; trustee members serve two-year terms. No trustee member may be a member of the General Assembly.

The primary change in the Board's functions as provided in the act is with respect to institutional budgets. Deleted were the prior provisions which authorized the Board to make a detailed review of institutional budget requests and to make recommendations to the Director of the Budget and the Advisory Budget Commission with respect to these budgets. The law was amended to direct that "the Board shall concentrate on broad fiscal policy and avoid a line-by-line detailed review of budget requests." In general, it appears that the Board under the 1965 amendments has retained its general co-ordinating authority but may have less specific authority than before with respect to the internal operation of the institutions under its aegis.

Chapter 1096 also amended G. S. § 116-45(1) to specify that Western Carolina College, East Carolina College, and Appalachian State Teachers College may offer the master's degree in the liberal arts and sciences.

University Trustees

Growing dissatisfaction in some quarters, particularly among the legislators themselves, with the size, composition, and method of selecting the Board of Trustees of the University of North Carolina produced two separate legislative proposals (SB 246 and SB 502).

One bill (SB 246) would have retained a Board of 100 legislatively-elected members and added the Speaker of the House, the President of the Senate, and the Chairman of the Senate and House Committees on Finance and Appropriations as *ex officio* members during the term of their legislative offices. The 100 elected Board members would have been nominated by senatorial district on the basis of two Trustees per Senator, such nominations to be made jointly by the Senators and Representatives from the respective districts. These nominees would then have been elected by the General Assembly. This bill was not reported out of Senate committee. The other proposal (SB 502) would have gradually reduced the membership on the Board of Trustees from 100 to 50, cut Trustees' terms from eight years to four years, and provided that no member (or spouse of a member) of the General Assembly, during the legislative term for which elected, would be eligible for election as a Trustee. When the selection plan provided by the bill became fully effective, 20 Trustees would be elected by the General Assembly and five would be appointed by the Governor each biennium. The Senate committee did not report this bill.

While neither of these bills was successful, the General Assembly did pass a joint resolution, Resolution 73 (SR 476), establishing a nine-member Commission on the Study of the Board of Trustees of the University of North Carolina. This Commission is charged with the duty of making "a detailed and exhaustive study of the manner in which the trustees . . . are selected, the number which should constitute the Board of Trustees, the terms of office . . . , the relationship between the Board . . . and the General Assembly, and the relationship between the Board . . . and other interrelated agencies of the State." The Commission is directed to report its findings and recommendations to the 1967 General Assembly within one week after it convenes.

Visiting Speakers Law

It cannot be doubted that the higher educational issue which has attracted the most attention — and the most controversy — over the last 25 months centers on G. S. §§ 116-199 and -200, passed within the last two full days of the 1963 General Assembly known variously as the "Speaker Ban Law" and the "Gag Law" but more or less officially designated as the Visiting Speakers Law.

Although it appeared that an effort might be made during the 1965 session to modify the law, no bill for this purpose was introduced. At the request of Governor Moore, however, a nine - member Commission on the Study of the Statutes Relating to Visiting Speakers at State Supported Educational Institutions was created by Resolution 85 (HR 1068). It is the assignment of this commission

> to make a careful, full and detailed study of G. S. § 116-199 and G. S. § 116-200, relating to visiting speakers at State supported educational institutions of higher learning, with respect particularly to the enforcement of the statutes; the relationship, if any, between these statutes and the accreditation of State supported institutions by accreditation organizations and associations; the effect on the relationship of these institutions with other institutions of higher learning; and the impact of the statutes as to the status, administration, reputation, functioning and future development of State supported institutions.

The Commission is directed to report its findings and recommendations to the Governor.

Education Assistance

The 1965 session witnessed the passage of two acts which may eventually prove to be of substantial assistance to those seeking education beyond the high school.

Chapter 1148 (HB 1072) established a "Loan Fund for Prospective College Teachers". The express purpose of the Fund is "to increase the number of teaching faculty (at public and private post-high school educational institutions) as distinguished from research specialists . . ." through the granting of loans to finance post-graduate study leading to master's or doctor's degrees. The Fund is to be administered by the State Board of Education and the North Carolina Board of Higher Education through a joint "College Scholarship Loan Committee".

The Committee may make loans of up to $2,000 per academic year to single students and up to $3,000 to married students for as many as three years of post-graduate study. There are in the act summer school loan provisions for students who do not plan to study full-time. The top limits are $500 per student for a maximum of four summers. The loans are to bear four per cent interest annually, beginning on September 1 following the awarding of the graduate degree. Payments are to become a part of the Fund principal. A loan recipient may discharge his obligation "by teaching in a college or other educational institution beyond the high school level in North Carolina" at the rate of $100 for each month of such teaching. While the act contains a section which states in part that the Loan Fund shall continue in effect until terminated by the General Assembly, neither in the act nor elsewhere did the General Assembly appropriate any funds to activate the Fund. The Act does, however, authorize the solicitation of private sources for contributions to the Fund.

Chapter 1180 (SB 551) establishes the State Education Assistance Authority, which is empowered to guarantee up to 80 per cent of individual loans made to college students resident in North Carolina by lending institutions. The purpose is to encourage this type of assistance to students. The Authority will regulate the terms of loans to be guaranteed. The Act authorizes a $50,000 appropriation to the Authority from the Contingency and Emergency Fund. The Authority will be governed by a seven-member Board of Directors appointed by the Governor.

Educational advancement by staff members of the University and the public senior colleges is promoted by Chapter 903 (SB 465). That measure authorizes the boards of trustees of those institutions to allow full-time staff members to enroll in courses in their respective institutions without charge for tuition, so long as such enrollment does not interfere with their normal employment obligations.

(Continued inside back cover)

By Henry W. Lewis

ELECTION LAWS

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

The framework of North Carolina's election laws was constructed in 1901. The statute governing primary elections dates from 1916. North Carolina's version of the Australian Ballot Law was enacted in 1929, and its Corrupt Practices Act was adopted in 1931. There was substantial revisal of the elections laws in 1933, but since that date no general review, revisal, or recodification has taken place.

Under the sponsorship of Senators Wood, Yates, and Hanes, the 1965 General Assembly enacted R. 71 (SR 426) creating an Election Laws Revision Commission charged with responsibility "to conduct a thorough study of the election laws of this State and to prepare and draft the legislation necessary to recodify the election laws to make them as clear and concise as possible and to remove any ambiguities, conflicts, and inaccuracies."

The seven members of the commission charged with this task will be appointed for terms beginning September 1, 1965, and ending June 30, 1967: Two are to be named by the Lieutenant Governor from the membership of the Senate; two are to be named by the Speaker of the House of Representatives from the membership of that body; and three are to be appointed by the Governor. One of the Governor's appointees is to be named from a list of three nominees submitted by the State Chairman of the Democratic Party, and another of the Governor's appointees is to be named from a list of three nominees submitted by the State Chairman of the Republican Party.

The commission will elect a chairman from its membership, and it is empowered to employ needed services and assistants. Members will receive the per diem, subsistence, and travel pay prescribed for state boards and commissions generally. Commission expenses will be paid from the Contingency and Emergency Fund.

Residence Requirement for Voting in Presidential Elections

At the general election in 1962 the voters approved an amendment to the North Carolina Constitution authorizing the General Assembly to shorten the one-year state residence requirement for otherwise qualified individuals desiring to vote for President and Vice President of the United States. In 1963 efforts to have the General Assembly exercise this authority failed; this year, however, similar efforts were successful.

Under Ch. 871 (SB 48) a person who meets all voting qualifications except the year's residence in North Carolina is permitted to register specially with the chairman of the county board of elections and vote a presidential ballot if, by the date of the presidential election, he will have resided in the state for sixty days.

One desiring to vote in this way must make personal application to the chairman of the county board of elections during a period opening twenty days prior to the election and closing at 5 p.m. on Friday before the election. The application takes the form of an affidavit to be sworn to before the chairman and contains a recital of the facts concerning the applicant's state and precinct residence, his qualifications to register, and his assertion that he will not vote elsewhere in the upcoming election. If found qualified, the chairman registers the voter (with an identifying number) in a special book and provides him with a presidential ballot. While in the presence of the board chairman, the voter marks his ballot, folds it so as to conceal his choice, and hands it to the chairman who is required to initial and place the voter's registration number on the top margin. This done, the chairman must seal the ballot in a special envelope bearing the voter's name and registration number and retain it until election day.

Before noon on election day the board chairman must prepare for each precinct a list of all special presidential voters (called "new resident voters" in the statute) who have registered and voted before him. At the same time he must have all such ballots, together with proper lists, delivered to the registrars of the appropriate precincts. When received at the precinct, the registrar is required to post the roster for public inspection and challenge.

If such a ballot remains unchallenged (or if a challenge is not sustained), the sealed envelope is opened by the precinct officials when the polls are closed and the ballot is deposited in the proper box to be counted with other presidential ballots. If a challenge to such a ballot is sustained, the sealed envelope must be delivered to the county board of elections with the precinct returns at the county canvass, at which time the voter is entitled to be heard and the county board of elections may make an independent decision on whether the ballot shall be counted. (It may be noted that challenges to the presidential ballots of "new resident voters," like challenges to absentee ballots, must be submitted in writing.)

Concealment and Destruction of Election Records

For many years the election laws have classified a number of offenses as felonies for conviction of which the penalty is not less than four months' imprisonment or a fine of not less than $1,000, or both, in the discretion of the court (G.S. 163-197). Experience in 1964 disclosed surprising gaps in the list of election offenses classified as felonies. One of the most serious was the failure to provide specifically for concealment or destruction of ballots, poll books, registration books, and other election records. It was this experience that led to introduction and passage of Ch. 899 (SB 269).

Prior to enactment of the 1965 amendment, G.S. 163-197 (9) made it a felony "to make any erasure or alteration in any registration or poll book with intention to commit a fraud." Under Ch. 899 this section is broadened to make it a felony "to make any erasure, alteration, or conceal or destroy any election ballot, book, record, return or process with intent to commit a fraud."

Although the intent of the 1965 amendment is apparent, unhappily it seems to have been drawn without that precision of expression so desirable in defining criminal offenses. Nevertheless, keeping in mind the text before amendment as well as the situation which made amendment desirable, it is probable that the amended statute will be interpreted as if it included the words inserted in brackets here: "to make any erasure [or] alteration [upon] or [to] conceal or destroy any election ballot, book, record, return or process with intent to commit a fraud."

Meetings of County Board of Elections on Absentee Ballot Applications

The county board of elections has sole responsibility for passing on the validity of applications for civilian absentee ballots. To discharge this responsibility, the board is required to meet (at its office or at the courthouse) at 10 a.m. each Monday and Friday during the period beginning 45 days before the election and ending Wednesday before the election. In addition, it must meet for this purpose at 10 a.m. on Monday immediately preceding the election. Notice of these meetings is not required. Such has been the law on this matter since enactment of the absentee ballot law amendments in 1963 (G.S. 163-56).

Some boards of elections have been dissatisfied with the 10 a.m. meeting hour. Ch. 1208 (HB 36) reflects legislative response to this dissatisfaction. It grants the county board of elections authority to hold the required Monday and Friday meetings at an hour other than 10 a.m., and it also empowers the board to hold more than one meeting on those days at hours of the board's choosing. Such decisions, however, must be made well in advance of the opening of the forty-five day period before the election. Having decided to set a different hour or additional meetings, at least one week before the first scheduled meeting, the board must give notice of the hour or hours of its Monday and Friday meetings by publication in a newspaper circulated in the county and by posting at the courthouse door. Once fixed, the board must adhere to those hours for the period prior to that election.

Assistance to Voters

The assistance a voter is entitled to receive in marking his ballot differs depending upon whether he is voting in a primary or a general election. A 1965 effort to make the law uniform (SB 40) was unsuccessful. An effort to make the law uniform insofar as blind voters are affected, Ch. 831 (SB 6), survived but only as a local bill. To see this act in proper perspective, it will be helpful to summarize the general law.

In a *primary* any voter — whether or not disabled — is allowed, upon request to the precinct officials, to obtain the assistance of a "near" relative in going in the booth and marking his ballot. (A "near" relative is defined as a husband, wife, brother, sister, parent, child, grandparent, or grandchild.) If the voter is physically disabled and no "near" relative is available, he may, after stating his disability to the registrar, call on any voter of the precinct for help so long as the voter chosen has not given help to anyone else. If neither a "near" relative nor another voter is available, the disabled voter may call on the precinct registrar or one of the judges for help (G.S. 163-174). In a *general* election, any voter is entitled to request help from a member of his family. (The "near" relative restriction is not applicable in the general election.) A physically disabled voter has the same privilege or, if he prefers, he may obtain assistance from an official "marker" of his choice. In those counties with full-time and permanent registration systems official markers are not available, thus the disabled voter must obtain assistance in the *general* election from a member of his family or else not at all (G.S. 163-172; 163-173). Blind voters are covered by the term "physically disabled."

As originally introduced, Ch. 831 (SB 6) was intended to make special state-wide provision for assistance to blind voters, but as finally enacted it was made applicable to *only two counties,* Mecklenburg and Guilford. Under its provisions, a blind voter in those counties in both primaries and general elections is entitled to assistance from a "near" relative (defined as husband, wife, parent, child, grandparent, or grandchild) or from "any other qualified voter selected" by the blind voter. This definition of "near" relative is more restrictive than that used in the state-wide primary law, and some argument may arise as to whether the qualified voter the blind voter may ask for help must be one registered in the precinct in which the blind voter seeks to cast his ballot.

Registration Procedures

Boards of elections in counties using the permanent and full-time registration system have heretofore been "authorized to remove from the registration books or permanent records of registration the names of all persons who have failed to vote, according to the poll or other record of voting . . . for a period of *six* years." (G.S. 163-31.2). Ch. 1116 (SB 323) reduces this period from six to *four* years. Sixteen counties, however, are exempted from the act, and in those counties the six-year provision remains the law: Alamance, Columbus, Forsyth, Franklin, Gaston, Harnett, Hertford, Johnston, Martin, Northampton, Randolph, Robeson, Rowan, Scotland, Wake, and Washington.

In Roanoke Rapids Township of Halifax County there are four overlapping local governmental units. Separate registration is required to vote in each. Ch. 770 (SB 411) establishes a special registration period (July 15-September 15, 1965) during which, under the supervision of a special board of elections, voters are to be permitted to check on their status and register in any unit in which they are entitled to vote if not already registered there. This special act is unique in North Carolina election law experience, and other areas may want to observe its practical operation.

Candidacy

North Carolina election laws are designed to permit rather than encourage write-in voting, but the 1965 General Assembly put itself on record in favor of retaining the voter's right to exercise this choice by rejecting efforts to abolish write-ins statewide (SB 162) and on a single county basis (SB 444).

To meet the practical problem that may arise when there are two or more Superior Court judgeships to be

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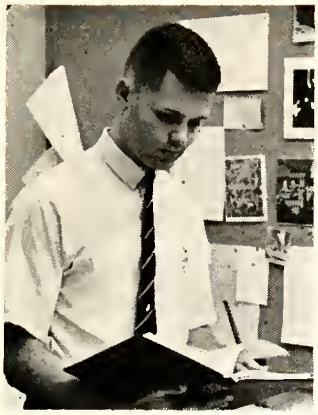


By David G. Warren

HEALTH

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB are the bill numbers of bills introduced in the House and in the Senate.

[*For other items of interest in the health area, see articles on THE COUNTIES AND THE 1965 GENERAL ASSEMBLY, PUBLIC PERSONNEL, PUBLIC WELFARE AND DOMESTIC RELATIONS, and WATER RESOURCES*]

Many aspects of health legislation were affected by the 1965 General Assembly. No broad new programs nor special new emphases are apparent in reviewing the new laws, although former legislatures have been noted for their activity in a particular area (such as in mental health last session). The 1965 Legislature dealt principally with bills clarifying and expanding the existing laws, continuing present programs, rearranging the responsibilities of some departments and agencies, and revising various procedures relating to health affairs.

Public Health Legislation

Health Regulations

The 1965 Legislature directed the State Board of Health to issue regulations in one new area and gave it new enforcement responsibility in another.

Chapter 634 (HB 278) requires vessels which operate on the inland waters of the state after January 1, 1966, and which are equipped with toilet facilities to have an approved sewage treatment device or holding tank. By resolution the Board has already approved several devices and tanks, but the act directs regulations and standards to be issued by the Board. No vessel equipped with non-approved facilities after the first of next year may be registered by the Wildlife Resources Commission, but a three-year grace period is provided for vessels presently equipped. The act also makes it a misdemeanor to dump any litter or waste into inland lake waters.

Chapter 783 (HB 862) gives the State Board of Health responsibility for regulation of the sanitary aspects of harvesting, processing and handling of shellfish and crustacea. It transfers certain property and employees, as well as the enforcement function, of the Department of Conservation and Development to the Board in order to consolidate a function which had previously been carried out by a co-operative arrangement.

The regulations governing the manufacture of bedding were slightly modified by Ch. 579 (SB 245). The act updates some of the statutory definitions to reflect current manufacturing practices and it raises the bedding stamp rate.

Local Health Affairs

The local health departments have been operating on funds contributed by the counties themselves (82%), the State (16%) and the federal government (2%), but these approximate percentages will probably shift during the next biennium. The State aid funds appropriated to the State Board for allotment to the local departments remains about the same. However, the new salary increases for local health personnel which were authorized last spring by the Merit System Council will largely be financed locally. Also the amount of federal funds distributed to local departments for general health needs (though not those funds for maternal and child health) will probably be slightly diminished. Altogether, this means that the counties' share of the total support will be increased.

This year's request (SB 548) for an *additional* appropriation of $1.3 million to be distributed by the State Board, thereby increasing the State's contribution to the local health units, was approved by the Senate as a biennium appropriation and then killed in the House. Another bill (SB 152-HB 360) which would have given $1 million to the Medical Care Commission for the construction of community hospitals and health clinics in certain localities also was not enacted. An appropriations bill with little net effect on local units directs the State Board to pay the cost of polio vaccine furnished by local boards of health to indigents from appropriations made to the State Board rather than from State Contingency and Emergency funds.

An act of potential importance to local units is Chapter 963 (HB 860) which allows local public health and mental health administrative units to budget for capital outlay reserve funds for future health center needs. This enables plans to be made for new health centers or for improvements to existing centers in connection with urban renewal or other local programs. Once established, these reserve funds may be withdrawn only when authorized by the county commissioners and in accordance with the procedures of the act.

Though enacted for a different purpose, Chapter 682 (HB 619) which authorizes the joint construction or acquisition of public buildings by municipalities and counties is probably broad enough to include health centers within the several purposes for which such a municipal-county building may be used.

Legislation for Particular Counties

Four separate acts were passed to make the provisions of G.S. 153-9(55) applicable to Catawba, Halifax, Pitt and Wilson Counties. This subdivision was added by the 1963 Legislature to authorize county commissioners to prevent and abate nuisances and to make other types of local police and sanitary regulations, including "Sunday closing laws." The constitutionality of the subdivision has been put in question by the recent North Carolina Supreme Court decision in *High Point Surplus Company v. Pleasants*, 264 N.C. 650 (1965), which voided a Wake County Sunday closing ordinance adopted pursuant to G.S. 153-9(55).

Three other local acts give certain counties more power to control trash and garbage dumping (Forsyth), to grant exclusive rights up to ten years to garbage collectors (Catawba), and to arrange for indigent medical treatment and hospitalization (Harnett). In the case of Forsyth and Harnett counties the acts merely make the provisions of the general law applicable to them.

Trash and Garbage

In addition to the local acts just mentioned and the inland waters dumping prohibition discussed under "Health Regulations" above, another act attacks the problem of waste. Chapter 300 (HB 419) creates a separate section in the criminal trespass statutes to broaden the basis of indictment for depositing waste on other people's property without their prior written consent, or in rivers and streams. The prescribed punishment is $50 fine or 30 days in jail.

Coroners and Medical Examiners

There has long been some controversy about the coroner system. One attempt to change it was made in 1955 when a medical examiner act was passed, but only a few counties have elected to come under those provisions. That act provided for the establishment of the offices of district pathologists and county medical examiners in addition to or combined with the office of coroner. The function of the medical examiner was clearly stated by that act and his jurisdiction was broader than that of the coroner, but possible conflict and overlap were not completely obviated. On the other hand problems may also arise in those counties not choosing to use medical examiners due to the fact that the coroner need not be a physician. This session the legislature again dealt with the subject. Fifteen counties banded together (Alamance, Catawba, Durham, Forsyth, Granville, Guilford, Iredell, Lee, Mecklenburg, Nash, New Hanover, Polk, Rockingham, Vance and Watauga) under a new medical examiner system established by Chapter 639 (HB 590). This act abolishes the office of coroner and gives expanded responsibilities to a medical examiner. The medical examiner is appointed by the board of county commissioners and must be a practicing physician. The act does not repeal the old medical examiner act but the State Medico-legal Examination Committee established by the first act has no duties with regard to the new medical examiner system. The act becomes effective in each county only after adoption of a resolution by the board of county commissioners and only after the term of the incumbent coroner has expired or is vacated.

An earlier enacted bill authorizes Iredell County to have assistant coroners but this act will be obsolete when the medical examiner system takes effect for that county.

Sanitary Districts

Minor modifications relating to sanitary districts were made regarding formation, sewer service charges, issuance of bond anticipation notes, and sales tax refunds.

Chapter 135 (HB 189) eliminates the requirement that petitioners for establishment of a district may only be freeholders who are actual residents of the proposed district. Now, therefore, the incorporation procedures in GS 130-124 may be initiated by a petition signed either by 51% of the resident freeholders or by 51% of all the freeholders within a proposed sanitary district. This petition shall be presented to the board of commissioners of the county where all or most of the land of the proposed district is located. Then after public hearings, the State Board of Health and county commissioners determine whether to establish the district.

Chapter 920 (HB 423) sets up procedures for collecting sewer charges in districts which operate no water distribution system; five counties were taken out of this act before its passage.

Chapter 496 (HB 601) authorizes sanitary districts to issue bond anticipation notes and limits the period during which bonds may be issued to five years after the bond resolution has taken effect.

Chapter 1006 (HB 418) allows sanitary districts to get annual refunds of the sales tax upon their direct purchases, just as cities and towns now can.

Mental Health Legislation

Mental Health Administration

Structural reorganization of the Department of Mental Health is effected by Chapter 378 (HB 410) which consolidates the present four divisions into three: Business Administration, Mental Retardation and Regional Health Services. Deputy directors will head the mental retardation division and each of the regions.

A related measure is Chapter 929 (HB 902) which clarifies the joint state-local operation of mental health clinics and eliminates racial distinctions in G.S. 122-83 relating to commitment of mentally ill persons charged with a crime.

Chapter 800 (HB 427) was an omnibus bill which gives the Department of Mental Health more discretion in designating and changing regions for State mental hospitals and institutions, facilitates the gathering of research and program data, and requires monthly reports from institution directors as well as superintendents. It provides for local financing and ownership of the properties of joint local mental health services and makes provision for payment of federal and State aid for those services. Further, it clarifies some of the patient admission and transfer procedures.

Another bill dealing with admissions is Chapter 642 (HB 723) which enables the county of residence to recover the expenses of judicial hospitalization of an alleged mentally ill person or inebriate under G.S. 122-41 out of his estate or property if sufficient.

Chapter 933 (HB 994) empowers the Department of Mental Health to adopt subdivision regulations for the land within the original Camp Butner reservation.

Formal participation of the North Carolina Dental Society in the appointment of the dentist member of the

Mental Health Council is eliminated by Chapter 15 (SB 17).

The position of Collections Officer of the Department of Mental Health is established by Chapter 1204 (HB 1186). Another bill dealing with collections was SB 498-HB 1038 which would have required voluntary patients under G. S. 122-56 to be pre-paying, but it was not reported out of committee.

The new position of Public Information Officer for the Council on Mental Retardation (formed by the 1963 Legislature) is created by Chapter 994 (SB 402), which also continues the two positions of community coordinators working with local poverty and mental retardation programs.

Mental Health Facilities

A $213,000 appropriation to the Medical Care Commission by Chapter 993 (SB 401) was made "on a matching funds basis with the Federal Government for planning and constructing day care or activity centers, small residential centers, workshops, and camps for the mentally retarded and other diagnostic and therapeutic facilities."

Funds for community mental health center construction on a matching basis are made possible by Chapter 1155 (HB 1138) which authorizes the budgetary transfer of up to $510,000 within the Department of Mental Health. A related bill which never got out of committee would have given the Department the funds directly. The 1963 Legislature authorized a similar transfer of $400,000 for this purpose but it was not accomplished.

Chapter 963 (HB 860) helps local mental health and public health administrative units to help themselves by allowing them to budget for capital outlay reserve funds for future health center needs. These reserve funds, once established, may be withdrawn only when authorized by the county commissioners.

G.S. 122-35.6 provides for any local mental health authority desiring to establish a clinic to make application for it to the Department of Mental Health. If it approves, the Department then may either include the State's share of the cost in its next budget request or request funds from the Contingency and Emergency Fund. Chapter 796 (SB 446) eliminates the second alternative.

Mental Health Services

Chapter 1190 (HB 874) makes funds available to the Department of Mental Health for monthly grants-in-aid to non-profit sheltered workshops for the mentally retarded and severely physically handicapped. As originally introduced, this bill would also have provided funds for day care facilities and licensed non-profit residential centers for retarded children.

Funds are provided by Chapter 1119 (SB 554) for matching local funds to support community mental health programs. This bill originally also provided funds for psychiatric residency training programs, but those provisions were stricken by amendment.

Alcoholic Rehabilitation

A bill reciting that alcoholism is a disease and that there is a shortage of proper facilities for treatment and rehabilitation was enacted as Chapter 1063 (SB 108) and provides for the establishment of three alcoholic rehabilitation centers. The centers are to be in the eastern and western parts of the state with the third at the Umstead Mental Health Center. They are to be financed by a 5¢ per bottle retail price increase on all alcoholic beverages sold in county and municipal liquor stores. A broader bill (SB 247) introduced with similar objectives was not acted upon.

Money was given to the Probation Commission by Chapter 1202 (HB 1180) to carry out a state-wide program of supervision and rehabilitation of alcoholic offenders under probation.

Professions, Commissions and Other Groups

Physicians

Several items of direct interest to physicians were treated by the legislature. The most important was Chapter 810 (HB 1010) which permits North Carolina physicians to render medical treatment to any minor without first obtaining parental or guardian consent when they cannot be timely contacted using reasonable diligence or when emergency treatment is necessary. The permitted treatment includes surgery when another physician concurs or when an emergency arises in a locale where another physician is not available. Physicians following these procedures are not liable in damages for having rendered the treatment without consent.

Another immunizing act is the Good Samaritan Law in Chapter 176 (SB 82). Introduced in the 1963 Legislature in various forms but not then passed, this act protects *all* persons (not only physicians) from civil liability for rendering first aid at the scene of a motor vehicle accident, unless their acts or omissions amount to wanton misconduct or intentional injury. Thirty-three other states have also enacted various forms of Good Samaritan legislation.

A House committee killed a bill (HB 10) to reverse the ruling in *Hoover v. Globe Indemnity Co.*, 202 N.C. 655 (1932), that no independent action for malpractice against a physician furnished by an employer or workmen's compensation insurance carrier may be maintained by an injured employee.

Chapter 675 (SB 334) eases the burden on out-of-county physicians to appear at trials by permitting the reading of their depositions.

The proposal for a two-year medical school at East Carolina College is embodied in Chapter 986 (SB 176).

Nurses

A sum of $328,510 was appropriated by Chapter 1103 (HB 1087) to the State Board of Education to assist in the training of nurses and dental technicians. However, a bill (SB 305-HB 891) giving $1 million to hospital-based nursing schools was not enacted.

A major rewrite of the statutes relating to the practice of nursing was accomplished by Chapter 578 (SB 228), the Nurse Practice Act. It consolidates the present two separate boards dealing with nursing into the North Carolina Board of Nursing and gives the Board expanded powers and responsibilities. The Act prescribes basic requirements for accreditation of schools of nursing and programs of practical nurse education and directs the Board to prescribe additional standards. The Act also tightens the regulation of RN and LPN licenses.

Dentists

Chapter 163 (SB 28) makes a few clarifying changes in the dentistry laws and raises license renewal fees from $8 to a maximum of $25 as fixed by the State Board of Dental Examiners. It adds as a ground for license suspension or revocation the wrongful misrepresentation as a specialist in any branch of dentistry. The annual renewal fee for dental hygienists is raised from $2 to $5 by this act.

Pharmacists, Opticians, Osteopaths, Podiatrists and Chiropractors

Chapter 676 (SB 367) raises the fees collectible by the Board of Pharmacy for pharmacist licenses and drugstore registration.

The salary of the Secretary of the State Board of Opticians is raised from $300 to $1,000 by Chapter 730 (SB 431).

A special commission was created by Joint Resolution 76 (HR 918) to study the question of whether or not graduates of some schools of osteopathy teaching medicine are or may be qualified to be permitted to take the examination now required for the practice of medicine in North Carolina.

A bill (HB 1137) was killed which would have stiffened reinstatement procedures for podiatry licenses.

Another defeated bill (HB 510) would have revised the laws relating to chiropractic.

Barbers

The fee schedule of barbers' certificates, shop permits and other fees was entirely revised by Chapter 513 (HB 454).

Embalmers and Funeral Directors

Reorganization of the State Board of Embalmers and Funeral Directors was accomplished in Chapter 630 (SB 235) which also prescribes new Board member qualification requirements and election procedures.

In addition to the present requirements of licenses for funeral directors and embalmers, Chapter 719 (SB 233) requires Board certification of funeral establishments and directs that they be under the personal supervision of a funeral director. Funeral establishments are also to register with the local boards of health. New conditions for revocation of the certificate are prescribed. The act becomes effective January 1, 1966.

Another act reduces the minimum apprenticeship period requirement for embalmer license applicants from 24 to 12 months. Chapter 720 (SB 234).

Medical Care Commission

The student loan and scholarship program of the North Carolina Medical Care Commission has been substantially revised by Chapter 485 (HB 478). By consolidating and simplifying the statutory authorization in G.S. 131-121, the Commission is given more discretion and flexibility to enlarge the number of specialty areas in the health professions for which student loans and scholarships may be issued. The act authorizes revision of the program for loan repayment (by means of service in the state in lieu of cash) by allowing the Commission to expand the qualifying geographic areas and facilities where service may be performed and to raise the interest rate from 4% up to 6% for cash repayment.

Chapter 16 (SB 18) makes a minor modification in the appointment of the dentist member of the Commission by eliminating the formal participation of the North Carolina Dental Society.

Acts giving the Commission funds for facilities construction are discussed above under Public Health and Mental Health.

Health Research

Three bills deal specifically with research projects. One continues the support through the State Board of Health for the laboratory for screening metabolic diseases of newborn infants — Chapter 1164 (SB 23). Another continues the Commission to Study the Cause and Control of Cancer in North Carolina — Joint Resolution 29 (SR 27). Finally, Chapter 902 (SB 432) appropriates $750,000 to the Department of Administration to be used to assist the Research Triangle Foundation in fulfilling the State's obligation to the federal government in connection with the Environmental Health Center.

Study Commissions, Medical Societies, Etc.

The osteopathy study commission created by Joint Resolution 76 (HR 918) and the East Carolina medical school study are mentioned above. Two other study commission bills were proposed but not passed — one to study the practice of pharmacy (SR 566) and another to enlarge and continue the Medical Center Study Commission for the purpose of making a final report (SR 405). This Commission had submitted a preliminary report to the General Assembly in April with the following recommendations:

1) that no action be taken to establish a new medical school at the present time,
2) that implementation be started on the recommendations contained in the July 1964 *Report of the Survey of Nursing Education in North Carolina* by Ray E. Brown,
3) that financial support be given to expand health education programs in existing and new technical institutions and community colleges as steps to increase the number of qualified students for professional training in the health technologies,
4) that a department (perhaps within the University system) be established to provide continuing investigation of the complex problems affecting the health field, and
5) that the Commission be expanded and continued.

The new Legislative Research Commission, to be composed of legislators, was directed to study among other topics two health related problems: (a) shortages in the medical professions, and (b) the feasibility of adopting a standard form for claiming reimbursement of hospital or medical insurance benefits by a policy holder and the feasibility of limiting the search of health and medical records to the specific illness for which the claim is filled. One other Commission study of interest to health officials relates to fringe benefits offered to State employees.

A joint resolution commended the work of the Multiple Sclerosis Society and another recognized the Wake County

Medical Society, the Wake Chapter of the North Carolina Academy of General Practice, and the North Carolina State Nurses Association for making first aid services available to the General Assembly and its visitors.

Other Health Legislation

Hospitals

Modifications to the Municipal Hospital Facilities Act were made by Chapter 863 (HB 699) in order to broaden and clarify its purpose. Changes were made to give authority for the construction and operation under the Act of mental health clinics and nursing or convalescent facilities, in addition to the present list (hospitals and public health centers and clinics). It clarifies the power of one hospital district, city or county to aid another in providing hospital facilities by levying taxes and issuing bonds for that purpose even though the facilities are not physically located within its own boundaries.

Chapter 260 (HB 330) permits members of a county hospital authority (except in Warren County) to be reappointed whereas previously the Municipal Hospital Facilities Act specifically prohibited this practice. A local act reorganizes the board of trustees of Haywood County Hospital.

A problem hospital administrators have been confronting is how to deal with stubborn overstaying patients who attempt to use the hospital as a boarding house. Chapter 258 (HB 235) authorizes the hospital superintendent or administrator to discharge a patient if in his opinion and that of two physicians the patient is cured. Inability to pay transportation costs home is no excuse as they may be paid by the hospital. Refusal or failure to leave after being directed to do so is a trespass and a misdemeanor.

Several acts relating to licensing of private hospitals and rest homes are discussed in the article on Public Welfare.

Ambulance Services

The final report of the North Carolina Ambulance Service Study Advisory Committee was released to the public midway through the 1965 legislative session. It contained a summary of the findings of the study which indicates that ambulance service is generally inadequate across the state. It also presented a set of basic standards and principles relating to ambulance service and made recommendations for their implementation, including needed legislation. Late in the session a bill providing for the regulation of ambulance services was introduced, but before passage it was made a local act applying only to Cumberland County — Chapter 1152 (HB 1117). The act enables county commissioners to adopt ordinances dealing with franchises, rates, number of ambulances, liability insurance coverage and other controls. Further, it directs the State Board of Health to adopt regulations regarding standards of sanitation, items of medical equipment and supplies, and certification of ambulance attendants. But before passage an appropriation to the State Board for the purpose of carrying out the provisions of the act was deleted. Other provisions in the act prohibit the making of false ambulance requests and the obtaining of service with the intent to defraud. Substantially all of the provisions of the Cumberland act, with the exception of the requirements directed to the State Board of Health, are embodied in two other local acts applying to Buncombe, Haywood and Madison Counties. Still another local act, relating only to the City of Sanford, carries most of these same provisions. The net result seems to be that at least part of the Study Committee's recommendations were implemented but that statewide regulation has not been achieved. Whether the State Board of Health can or will issue ambulance service regulations at this time under any of this legislation is another question.

Cemeteries and Corpses

Municipalities, counties, schools and colleges may remove graves located on their property if necessary to perform their governmental or educational function, by following the procedures in G. S. 65-13. This same authority was granted to the State and its agencies in 1961, rescinded in 1963, and now reinstated by Chapter 71 (HB 158).

Two local acts deal with grave-digging: one giving the City of Durham substantially the same power as it has under G. S. 65-13 with a minor modification as to selecting a relocation site; the other killing the Sanford Cemetary Commission.

A bill receiving much publicity but not enacted was HB 1085 which would have allowed a person who has lawful control over a decedent's body to allow the remains to be used for medical purposes unless given contrary instructions by the will or otherwise.

Drugs and Barbiturates

The Narcotics Drug Act was amended by Chapter 619 (HB 617) to further limit the possession of hypodermic syringes or needles by nurses to those certified registered nurses or licensed practical nurses specifically authorized by a physician or dentist to give subcutaneous injections under his supervision or direction. It adds a provision that any vehicle, vessel or aircraft seized for unlawful transport of narcotics may be transferred to the SBI for use in the enforcement of the Act.

The Barbiturate and Stimulant Drug Act was also amended. Chapter 620 (HB 618) makes several changes. It puts new restrictions on possession of subcutaneous injection instruments for administration of barbiturate or stimulant drugs by prohibiting possession by any person unless authorized by a current (not over one year old) certificate of a physician. In addition it prohibits all unauthorized possession of barbiturate or stimulant drugs for sale or other disposition and makes this offense a felony, with increased penalties for subsequent violations. The only authorized possessors are pharmacists, practitioners, hospitals, researchers, manufacturers and wholesalers, carriers and warehousemen. The present law requires authorized handlers of these drugs to retain invoices for two years. The new act provides that *all* records (including invoices, prescriptions and orders) relating to these drugs must be kept for two years and be open to inspection by authorized State and Federal officers. A new section similar to the one added to the Narcotic Drug Act is created to provide for the seizure of any vehicle unlawfully transporting these drugs.

A bill (SB 202) which would have prohibited driving a vehicle under the influence of *any* drug became entangled with the definition of "drug" and other problems; it was tabled in the House.

(Continued on page 76)

By Henry W. Lewis

LOCAL PROPERTY TAXATION

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

A dozen or more proposals affecting statewide property tax administration were presented to the 1965 Senate and House of Representatives, and almost all of them were enacted, some, however, only after substantial amendment. The most singular fact about these bills is that none dealt with real property revaluation, and none dealt directly with tax collection.

In addition to the acts of statewide application, the legislature considered a number of proposals for special legislation affecting property taxation in particular localities. This article is confined to comments on the acts which affect all counties and municipalities; *Property Tax Bulletin* No. 30 will deal with local as well as public property tax legislation.

New Tax Study Commission

Twice during the Hodges Administration special commissions were created to study and make recommendations with regard to tax systems and tax revenues, and their work had important results. The first of these commissions (created by Resolution 49, Session Laws of 1955) concentrated its efforts on income and franchise taxes, especially on the development of allocation formulas for application to business firms operating in more than one state. The second commission (created by Resolution 41, Session Laws of 1957) directed its main attention to the property tax, especially to the revaluation schedule and the need for uniformity in the tax base. Two significant constitutional amendments and much important property tax legislation came as a result of recommendations made by the second commission. Since that time, however, no major property tax legislation has been enacted, although several significant proposals have been rejected by the General Assembly. In 1963, for example, a strong effort was made to grant exemption to the inventories of manufacturers and processors, and in the 1965 legislative session SB 317 contained a proposal to grant exemption to inventories of property intended for sale or resale if stored in public warehouses operated for profit. Neither of these bills obtained legislative approval. Nevertheless, in the pattern set in 1955 and 1957, the 1965 General Assembly demonstrated its willingness to have the state's tax system reexamined to see if it offers proper economic incentives to greater productivity and if it is attractive to new industry. This was effected through adoption of Resolution 79 (SR 501) creating a nine-member Commission for the Study of the Revenue Structure of the State. Three of the members are to be appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House. From their own number the members elect a chairman and vice chairman. Although not a member of the commission, the Director of the Department of Tax Research will serve as its secretary. Both he and the Commissioner of Revenue are required "to make themselves and their staffs available" to the commission, and, in addition, with the Governor's approval, the commission may "employ such clerical and other assistants, professional advice and services as may be deemed necessary in the performance of its duties." The Commission is authorized a maximum of $30,000 from the Contingency and Emergency Fund. North Carolinians concerned with the property tax as a source of governmental revenue and those who are concerned with its administration in this state, will want to take note that the resolution establishing this commission specifically directs its members to study and review local as well as state "tax laws" and alternate sources of revenue. It will report its findings and recommendations to the Governor by September 1, 1966, for transmission to the Advisory Budget Commission and the General Assembly of 1967.

Listing and Assessing Property for Taxation

House Trailers or Mobile Homes

The use of house trailers and mobile homes is very extensive. When a trailer is located on land owned by the trailer-owner, tax authorities have adequate means for insuring that it is listed for county and municipal taxation. A more difficult listing problem arises when the trailer is situated in a commercial trailer lot or park. The mobility of both trailer and owner imposes serious burdens on local authorities seeking to obtain full property tax listings.

Ch. 592 (HB 669) is designed to see that mobile homes and trailers located on commercial lots or parks are treated in the same way the Machinery Act treats consigned property. The park operator is made responsible for reporting to the county tax supervisor all trailers in his lot, together with the names of the owners. If the park operator fails to make the required report, he becomes liable for the taxes on the trailers. Trailer parks renting space to fewer than three mobile homes on any Janurary 1 are exempted from this requirement for that year. Tax supervisors should see that trailer park operators are informed of the new law well in advance of the 1966 listing period.

Mineral, Gas, and Oil Rights

It is not uncommon for a landowner to sell the surface rights in his land and retain title to the mineral, gas, or oil rights through the use of a reservation or exception clause in the deed. For tax purposes, the land remains taxable as real property, and the separately owned rights also retain their status as real property. See G. S. 105-272(30). For listing purposes, the owners of the land and the separate rights "may list their interests separately or may, in accordance with contractual relations between them, have the entire property listed in the name of the owner of the land." See G. S. 105-301(h). Ch. 1072 (SB 372), an act designed to extinguish ancient and unused mineral claims, may pose problems for county tax supervisors. It applies in a situation in which one holds gas, oil, or mineral rights under

a reservation or exception contained in an instrument executed or recorded more than fifty years prior to September 1, 1965. If the record owner of mineral, gas, or oil rights under such a reservation has not listed those rights for county taxes for a ten-year period prior to January 1, 1965, the holder of the title to the surface rights (if he has an unbroken chain for fifty years) is deemed to have a marketable title to the surface rights and the reservation or exception of the mineral, gas, or oil rights is made null and void. Nevertheless, the mineral, gas, or oil reservation may be revived if, within two years after the effective date of Ch. 1072 (September 1, 1965), the owner of the rights has a proper document of ownership recorded as provided in the act.

It seems obvious that the 1965 act may conflict with the quoted portion of the Machinery Act permitting the listing of such rights in the name of the owner of the surface rights, but it may be that if such a listing can be proved the requirements of listing the rights will have been satisfied. For the present, however, tax supervisors will want to be alert to the possibility that owners of mineral, gas, and oil rights may want to check listings for the last ten years. If no separate listings are found, it may be that the owner of the surface rights listed the mineral rights in his own name. If the abstracts disclose no identifiable listing of the rights, the owner may want to see that they are listed to him for the requisite period. The usual penalty for failure to list would then be applicable. See G.S. 105-331(c).

Exemptions

Religious Assemblies and Conference Centers

The North Carolina Constitution authorizes the General Assembly to grant exemption to "property held for educational . . . or religious purposes . . . ." (Article V, §5). Although the legislature has long exercised this authority with broad grants of exemption for church and school property, the Machinery Act has never contained a specific grant of exemption for religious assembly or conference properties of the kind typified by Ridgecrest, Montreat, and Lake Junaluska. Local tax authorities in counties in which such properties are located have applied existing religious and educational property exemptions to the best of their ability, but other property owners as well as the assembly ground owners were often less than satisfied with the results. To this unrest may be attributed the 1965 General Assembly's enactment of Ch. 741 (HB 822). To understand the new law, however, it is necessary to examine the characteristics of a religious assembly or conference center and the tax law applicable to such properties prior to the 1965 amendment.

Typically, an assembly ground is owned and operated by a corporation or association under the control of a religious denomination. The conference or assembly grounds usually reflect at least three use characteristics: religious education, worship, and recreation. The physical facilities make plain this multiple use: assembly halls, classrooms, and libraries are educational in character; church and chapel buildings are presumably used for religious worship; and playgrounds, swimming pools, tennis courts, and similar areas and facilities are recreational in character. Such a center, however, often contains facilities not so easily characterized: dormitories, hotels, motels, restaurants, staff quarters, private residences on leased lands, water plants, sewage disposal systems, tracts of undeveloped woodland or beach, lakes, and sometimes real property for sale to persons interested in living in such a community. Such lands and facilities, or at least some of them, reflect commercial or business use characteristics more strongly than educational or religious uses.

When first chartered, some of these assembly corporations were called "municipal" and, as such, sought tax exemption for their properties under the opening sentence of Article V, §5, of the North Carolina Constitution, granting exemption to property belonging to municipal corporations. But the North Carolina Supreme Court was unwilling to accept this argument, and held that such corporations were not municipal in nature because they were not endowed with governmental powers for the public benefit, but were more in the nature of private business enterprises. [*Southern Assembly v. Palmer*, 166 N. C. 75, 82 S. E. 14 (1918).] Thus, whatever exemption the properties of an assembly were entitled to had to be grounded on educational and religious property exemption provisions of the Machinery Act [G.S. 105-296 (real property); G.S. 105-297 (personal property)].

Unfortunately, Ch. 741 (HB 822) is drafted in a confusing style and some of its language is imprecise. Set out below, however, is an outline of the act prepared to help make its provisions clear. Where possible, the wording of the statute has been used in the outline.

The 1965 act grants exemption from ad valorem taxation to

I. *Real property* which is
   - A. Owned by domestic or foreign religious educational assemblies, retreats, and similar organizations, associations, and corporations, *if it is*
   - B. Exclusively maintained and used* for the religious education, housing, feeding, and recreation of the officers, employees, instructors, students, conferees, and other participants in the religious educational schools, institutes, seminars, conferences, and activities sponsored or conducted by the owner for the purpose of providing religious education and development of the students, conferees, and other participants.

     [*An assembly "building or facility" is deemed to be exclusively maintained and used for exempt purposes regardless of whether it is operated (1) through employees of the exempt owner or (2) through a contractual arrangement with someone other than the exempt owner. Furthermore, the exempt status is not lost if the "building or facility" is "incidentally" available to and patronized by the general public, so long as there is no "material" amount of business or patronage with the general public.]

     1. Notwithstanding the requirement of *exclusive* maintenance and use set out in B, above, when any building and additional adjacent land necessary for the convenient use of said building belongs to a domestic or foreign religious educational assembly, retreat, or similar organization, and a *part* thereof is devoted to the purposes set out in B, above, then such property shall be exempt to the extent of that pro rata *part* so used.
     2. The following properties are listed in the statute as illustrative of the kinds of real property entitled to exemption; the list, however, is not to be considered exhaustive.

a. Assembly grounds
b. Assembly buildings used for
   (1) Meetings
   (2) Conferences
   (3) Religious book stores
   (4) Study
   (5) Worship
c. Assembly facilities used for
   (1) Lodging
   (2) Eating
d. Assembly recreational
   (1) Facilities
   (2) Areas
e. Lands adjacent to the properties listed in *b* through *d*, above, if reasonably necessary for the convenient use of such buildings and facilities.
f. Facilities adjacent to the properties listed in *b* through *e*, above, if reasonably necessary for the convenient use of such buildings and facilities

C. However, this exemption shall not apply to [the property of] any assembly or similar organization operated for "profit," nor shall it apply to the property of any such organization if any officer, shareholder, member, or employee of the owning organization, or any other individual shall be entitled to receive any "pecuniary profit" from the operations thereof, except reasonable compensation for services.

II. *Personal property* which is

A. Owned by domestic religious educational assemblies, retreats, and similar organizations, associations, and corporations, *if it is*

B. Exclusively maintained and used in connection with buildings, facilities, and areas granted exemption from ad valorem taxation under the provisions of Item I, above.

In working under the 1965 act, tax supervisors and attorneys will need to keep in mind certain expressions it employs. The word "facility" as distinguished from "building" or "improvement," is used throughout. A "facility" is defined as "a *thing* that promotes the ease of any action, operation, or course of conduct." Thus, as used in the statute, a "facility" is something other than a building.

The words "incidentally" and "material" will also need explanation. As used in Ch. 741 (HB 822), "incidentally" imports something that has only secondary importance, something that occurs only by chance. The word "material" means important, something of consequence, something of more than secondary importance.

The word "profit" means an excess of income over expenditures, and "pecuniary profit" means a profit in money.

Electric Membership Corporations

Heretofore, G. S. 117-19 has declared each electric membership corporation (REA) "to be a public agency," and (within the corporation's area) has accorded it "the same rights as any other political subdivision of the State." As a consequence, property owned by an electric membership corporation (EMC) and used exclusively for the purposes for which the corporation was formed was deemed to be "held in the same manner and subject to the same taxes and assessments as property owned by any county or municipality of the State . . . ." In effect, this has meant tax exemption for EMC property used for EMC purposes. Under Ch. 287 (HB 255), *beginning in 1967* each electric membership corporation will be taxed in the same way private electric light and power companies are taxed, that is, in 1967 each such corporation will list for county and municipal taxation all properties located within affected counties and municipalities, and each will file an annual report with the State Board of Assessment from which that agency will assess "corporate excess" — in the unlikely event there is such — for distribution among counties and cities for taxation. (See G.S. 105-300, -302, -306, -307, -355, -358, -359, -360.) This change in status is effected by rewriting G. S. 117-19 and, as of January 1, 1967, amending G.S.105-355. For the fiscal years 1965 and 1966 electric membership corporations will make payments in lieu of taxes as described at a later point in this article.

It should be noted that separate acts of the 1965 General Assembly dealing with the Ocracoke and Cape Hatteras Electric Membership Corporations, declare each of them "to be a public agency for the performance of its members of the services which the charter heretofore granted to such corporation authorizes and empowers it to perform." These declarations of status are based on recitals that each of these corporations is "presently engaged in supplying electric services to the inhabitants" of a sparsely settled island "isolated from the mainland . . . without available electric service from any other source," a circumstance "necessitating exceptionally costly, small-scale generation of electric energy" on the part of each such EMC. Then follows a declaration concerning the tax status of the properties of these two corporations identical with that which G. S. 117-19 accorded all electric membership corporations prior to the 1965 revision. [Ch. 346 (SB 97), Ocracoke EMC; Ch. 347 (SB 98), Cape Hatteras EMC.]

Tax authorities will also want to take note that *telephone* membership corporations are not affected by the changes applicable to electric membership corporations. Under Ch. 345 (SB 96) telephone membership corporations retain their status as public agencies and, as such, their properties remain tax exempt.

Board of Equalization and Review

Time of Meeting and Length of Term

For a long time G.S. 105-327(e) has carried a statement that each year the county board of equalization and review must "hold its first meeting on the eleventh Monday following the day on which tax listing began . . . but it shall complete its duties *not later than* the third Monday following its first meeting." [Italics added.]

This three-week period (from mid-March to mid-April) for equalizing valuations and hearing property owners' requests for review applied in revaluation as well as non-revaluation years. With the marked increase in real property appraisal programs under the 1959 Machinery Act amendments, more and more county boards of equalization found it impossible to comply with the letter of the law. Some of them relied on the Attorney General's opinion that the adjournment date set in the statute was directory rather than mandatory. (See, for example, letter of the Attorney General to J. Dickson Taylor, January 17, 1963.) Other counties felt it safer to obtain legislative approval of alterations

in the board's statutory schedule. Between 1953 and 1963 eighteen counties secured special acts permitting their equalization boards to meet for longer periods than that specified in the general law. One such act applied to Mecklenburg County (Ch. 916, Session Laws of 1961, as amended by Ch. 281, Session Laws of 1963). Speaking for the North Carolina Supreme Court in *Spiers v. Davenport*, 263 N. C. 56 (1964), a case arising from action by the Mecklenburg County board, Mr. Justice Rodman wrote:

> The duty imposed on the Board of Equalization and Review to complete its work within the time prescribed by G.S. 105-327(e), at least to the extent that authority is given the Board to act *ex mero motu*, is mandatory. As said by Clark, C. J. in construing a similar statute: "There are some circumstances under which a requirement that a certain act shall be done on a date named may be treated as directory, but that is not possible when the statute conferring a power provides that it shall be performed 'not later than' the time specified." [263 N. C. at 59.]

Furthermore, the Supreme Court indicated that local legislation attempting to extend the adjournment date for an individual county's board of equalization would conflict with the provision of Article II, §29, of the North Carolina Constitution, prohibiting local legislation "extending the time for the assessment or collection of taxes . . . ." [263 N. C. at 61]. Thus, all local acts dealing with this matter became the subject of grave constitutional question.

Ch. 191 (SB 89) is the direct legislative result of the *Spiers* decision's interpretation of the law. The 1965 act recognizes that few counties have their valuations ready for review and equalization by mid-March. It also takes into account how nearly impossible it is for the average board of equalization and review to do a proper job within a time schedule keyed to pre-1959 conditions. At the same time, the new legislation faces the fact that when the fiscal year opens on July 1 the governing body of the local unit "must know the value of the taxable property before it can fix [by July 28] a rate sufficient to meet governmental needs." [263 N. C. at 59].

Beginning in 1966, the county board of equalization and review will no longer hold its first meeting on the eleventh Monday after January 1. Instead, under Ch. 191 (SB 89) the board will have a choice: The earliest date on which it may hold its first meeting will be the first Monday in April; the latest date on which it may hold its first meeting will be the first Monday in May. If the board can complete its work within or during the traditional three-week term it will be able to adjourn at that time or earlier. But boards requiring more than three weeks in which to complete their duties will be allowed to extend their sittings as they deem necessary so long as they adjourn by July 1.

Notice of Meeting, Adjournment, and Extension of Term

The Machinery Act requires that each year, "Notice of the time, place and purpose of the first meeting of [the board of equalization and review] shall be given by publishing said notice at least three times in some newspaper published in the county, the first publication to be at least ten days prior to said [first] meeting." [G.S. 105-327 (f)]. Heretofore, the notice has been silent with regard to the length of time the board will remain in session. Ch. 191 (SB 89) contains provisions to correct this omission.

Included in the notice of the first meeting of the equalization board must be a statement of the date on which it expects to adjourn and also a statement that if the board should subsequently decide to adjourn either earlier or later than announced, "notice to that effect will be published in the same newspaper." Should the board decide to remain in session for the period stated in the original notice, no further notice is required. Should the board decide to remain in session *longer* than the period stated in the original notice, it must publish a notice to that effect at some time *before* the adjournment date named in the original notice. If the board should decide to adjourn earlier than stated in the original notice, it must publish a notice to that effect *at least seven days* before the adjournment date named in the original notice. The supplemental notices should, in every instance, specify the new adjournment date.

Notice of Valuation Change Made by Board

The county board of equalization and review has two fundamental duties: (1) It must, "*of its own motion* or on sufficient cause shown by any person, list and assess any real or personal property or polls subject to taxation in the county omitted from" the tax lists, and its members "shall increase or reduce the assessed value of any property which in their opinion shall have been returned below or above the valuation required by law" if such property is legally assessable in the particular year [G. S. 105-327 (g) (3), italics added]. This is commonly known as the board's "independent" assessment or equalization responsibility. (2) It must, "on request, hear any and all taxpayers who own or control taxable property assessed for taxation in the county in respect to the valuation of such property or the property of others." [G. S. 105-327(g) (2)]. This is commonly known as the board's "review" duty.

It is apparent that, in the course of carrying out both of its fundamental duties the board will have occasion, from time to time, to raise or lower the assessed value of items of personal property and parcels of real estate. Heretofore, the Machinery Act has not imposed on the board a specific duty to notify the owners of property which the board has revalued. If the valuation change arises from the owner's appeal or arises in a situation in which he has actual knowledge of the board's action, or if the board's action results in a reduction in value, the necessity of providing notice is satisfied or at least made immaterial. But, in cases in which, without the owner's knowledge, the board increases an assessment on its own motion, the owner is entitled to notice and an opportunity to be heard by the board while it still has power to make a reduction, that is, before it adjourns. Ch. 191 (SB 89) contains provisions designed to remedy this situation. It states that, "when the board . . . increases the assessment and valuation of any property, it shall give written notice thereof to the listing property owner at his last-known address." It will be observed that the tax officials are not required to determine whether the listing owner has transferred the property since it was listed. Transferees are presumed to know the tax status of the property they acquire.

Appeal Procedure

As indicated in the preceding section, one of the duties of the board of equalization and review is, "on

request," to hear "any and all taxpayers who own or control taxable property assessed for taxation in the county in respect to the valuation of such property or the property of others." [G.S. 105-327(g)(2)]. But heretofore no procedure has been prescribed for a property owner seeking to make such a request. Through the years this omission has led to the development of a number of local administrative procedures and the enactment of a few special acts on the subject. Ch. 191 (SB 89) has now filled the gap and applies in all counties. Under its terms, in the future one seeking to have the board of equalization review an assessment is required to follow one of two alternative procedures: (1) he may file with the board a written request for review, or (2) he may appear in person before the board while it is in session and make an oral request for review. Should the property owner make his request in person, there is no requirement in the statute that the board give immediate consideration to the request. After hearing the oral request or receiving the written request for review, the board is free to hold the review at any convenient time prior to its final adjournment.

Ordinarily, requests for review must be made prior to the time the board is scheduled to adjourn. This is reasonable when it is kept in mind that, under ordinary circumstances, the valuation will have been fixed prior to the time the board opens its annual sittings. Nevertheless, as pointed out earlier, it is within the scope of the board's authority to change valuations during its regular sessions, giving written notice of any such change to the last listing property owner. Such changes may be made by the board as late as the last date it is scheduled to sit. A notice mailed at that time could not reach the property owner in time for him to ask the board to review such a decision. To remedy this situation, the 1965 Act amended G. S. 105-327(g)(2) by adding the following:

> Any such request [for a hearing with regard to an assessment] must be made . . . prior to adjournment of the board, or within 15 days after notice is mailed by the board of a change in valuation made by said board *if the notice of change was mailed less than 15 days prior to adjournment of the board.*

Thus, if the board makes a change in an assessment and mails the required notice of the change less than 15 days prior to the board's adjournment date, the property owner is permitted to make his request at any time within 15 days after the notice of change was mailed.

Illustration

Using the year 1966 as a basis, it may be helpful to give an illustration of the effect of the new statute.

There are three key dates to remember: (1) the first Monday in April (April 4, 1966) — the earliest date on which the board of equalization and review may hold its first meeting; (2) the first Monday in May (May 2, 1966) — the latest date on which the board may hold its first meeting; (3) the first day of July — the latest date on which the board of equalization and review may adjourn, regardless of the date on which it held its first meeting.

Suppose, for example, the board of equalization publishes a notice to the effect that it will open its 1966 sittings on April 18 and adjourn three weeks thereafter on May 9, 1966. Assume also that on May 2 the board, on its own motion, makes a change in the assessment of property owned by Taxpayer X, and the clerk of the board, as required by law, mails to X written notice of the change on the following day, May 3.

At that point the board, under its original notice, expects to adjourn on May 9. But May 9 will come only six days after the notice of change in valuation is mailed to Taxpayers X, and X has until May 18 (15 days after May 3) to request a hearing on his valuation. The board is not required to extend its general sittings beyond May 9 in such a case, although it must sit specially and hear X's request for review if he files it by May 18. Of course, if the board desires to extend its general sessions later than May 9 it may do so by publishing a notice to that effect at any time prior to May 9.

If the board decides to extend its sessions until July 1, it will publish a notice to that effect prior to May 9. If, at the end of its extended sittings, on June 30 it mails a notice of valuation change to Taxpayer Y, that taxpayer will have 15 days in which to ask for a review. For the single purpose of reviewing Y's valuation, the board may sit after July 1.

Irregularities Deemed Immaterial

The fact that the Machinery Act contains many detailed provisions governing procedures, dates, and notices opens the issue of what defects, omissions, or irregularities will *not* serve to defeat the enforceability of a tax claim. Subsection (j) of G. S. 105-387 was designed to deal with this problem. It opens with the following broad statement:

> No irregularities [1] in making assessments or in making the returns thereof in the equalization of property as provided by law, or [2] in any other proceeding or requirement, shall [3] invalidate the sale of tax liens on real estate or [4] sale of real estate in tax foreclosure proceedings, nor [5] in any manner invalidate the tax levied on any property or charged against any person.

The "irregularities" referred to are those incident, as indicated by the bracketed numbers, to the three stages in the taxing process — assessment, collection, and enforcement by foreclosure, levy, and attachment and garnishment. The section proceeds to define what is meant by "irregularities" in a somewhat disorganized listing, prefaced as follows:

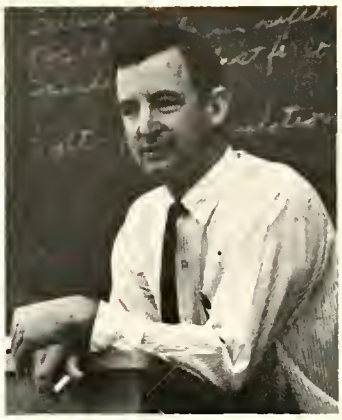
> The following defects, omissions, and circumstances occurring [1] in the assessment of any property for taxation, or [2] in the levy of taxes, or [3] elsewhere in the course of the proceedings, shall be deemed to be irregularities within the meaning of this subsection.

Again, as indicated by the bracketed numbers, the subsection is written to cover irregularities at all three stages in the taxing process, yet at least since 1939 the provision has been buried in the section of the Machinery Act dealing with tax lien sales.

Ch. 192 (SB 90) removes this subsection from G. S. 105-387, redesignates it as G. S. 105-397.1, and codifies it in the article of the Machinery Act which contains provisions generally applicable to all property tax procedures. In addition, Ch. 192 adds two items to that portion of the list of irregularities characterized as "immaterial" which deals with the assessment of property:

(Continued on page 77)

By Robert L. Gunn



MOTOR VEHICLES and HIGHWAY SAFETY

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

The 1965 General Assembly has been referred to as the most safety-minded legislature in many years. One hundred and twenty-three bills affecting motor vehicles and highway safety were introduced; 59 of these, or 48% gained approval of the Legislature and were enacted into law. Several of those items passed were in response to the Governor's Special Message on Highway Safety which was delivered at a Joint Session of the General Assembly on April 14th. Perhaps the most significant of those passed this year requires periodic inspection of all motor vehicles registered in the State. Other important items require that all persons between 16 and 18 years of age complete a high school driver education course as a prerequisite to obtaining a driver's license; require commercial driver education schools and instructors to be licensed; authorize the use of blue warning lights for police vehicles; and appropriate funds for a Highway Safety Research Center and the creation of a Traffic Safety Authority. Two major items of highway safety legislation—the Interstate Driver License Compact and Implied Consent—failed passage as they did in the 1963 General Assembly.

Driver Licensing Law

Learner's Permits

Chapter 410 (SB 243) amends G.S. 20-11 to provide that operators' licenses may not be issued to persons between 16 and 18 years of age unless they have satisfactorily completed a driver training and safety education course offered in the public high schools as provided in G.S. 20-88.1, effective July 1, 1965. Prior to this amendment, persons within this age group could satisfy the driver education requirement by completion of a high school driver education course, a course provided by the Department of Motor Vehicles, or a driver education course approved by the Governor's Coordinating Committee on Traffic Safety; if neither of these were readily available to the applicant without cost to him, the requirement was waived.

Chapter 1171 (SB 420) also amends G.S. 20-11 designating present provisions of that section as "(a)" and adding a new subsection "(b)" which provides that a temporary learner's permit may be issued to any person at least 15½ years of age, but not over 16, who meets all requirements for a driver's license except age, effective July 1, 1965. Permits so issued are valid for a period of 30 days or until the holder reaches his 16th birthday, whichever is the longer period. The permit authorizes the holder to drive a motor vehicle during daylight hours only, and he must be accompanied by his parent or guardian who holds a valid North Carolina driver's license. The parent or guardian must actually occupy the seat beside the driver; and the holder must have the permit in his immediate possession. Violation of any of these provisions requires cancellation of the permit. (This Act did not amend G.S. 20-7(1) which authorized issuance of a temporary learner's permit to any person who, except for lack of instruction in operating a motor vehicle, would be qualified for a driver's license.)

Driver Education Courses Offered by Department of Motor Vehicles

Chapter 410 (SB 243) repeals G.S. 20-11.1 which prior to its repeal required the Department of Motor Vehicles to maintain in each county, a course in driver education for persons between the ages of 16 and 18 which would allow them to meet the driver education requirement for an operator's license, effective July 1, 1965.

Provisional Licensees

Chapter 897 (SB 46) amends G.S. 20-13 by adding new subsection (g) to provide that provisional licensees (persons between the ages of 16 and 18) whose licenses are suspended pursuant to G.S. 20-13 shall not be required to maintain *proof* of financial responsibility upon reissuance of license. This does not exempt any person from the requirement of maintaining financial responsibility for the operation of a vehicle registered in North Carolina. This provision also requires that the liability insurance policy of the registered owner of the vehicle insure the provisional licensee whose license has been suspended if said licensee is a member of insured's household. The policy must also insure anyone in lawful possession of the automobile. Prior to this Act, any person whose driver's license was suspended pursuant to G.S. 20-13 was required to file and maintain proof of financial responsibility for the future for a period of two years as a prerequisite to reissuance of his license. Now, such proof is not required; however, this does not excuse such a person from maintaining financial responsibility if he owns an automobile.

Suspension and Revocation of Driver's Licenses

Chapter 130 (SB 78) rewrites G.S. 20-16(a)(6) to authorize suspension of a person's driver's license for mak-

ing or permitting any unlawful or fraudulent use of his license or a learner's permit, or for displaying or representing as his own a license or learner's permit not issued to him. Previously, this subsection provided only for the suspension of a person's driver's license if he made or permitted an unlawful or fraudulent use of it.

Chapter 133 (HB 166) amends G.S. 20-16.1 to require the Department of Motor Vehicles to suspend the driver's license of any person convicted of exceeding the speed limit by more than 15 miles per hour if such person was also driving in excess of 55 miles per hour. Periods of suspension were not changed. This section previously required suspension of the license of any person convicted of exceeding the open country speed limit (55, 60 or 65 mph) by more than fifteen miles per hour; if the offense was within the city limits, the license was required to be suspended for any conviction of speeding in excess of 55 miles per hour.

Chapter 38 (HB 62) amends G.S. 20-24(a) by adding a provision which designates clerks of court and their assistant and deputy clerks of court, wherein a person is convicted of an offense requiring mandatory suspension or revocation of the driver's license, as the agent of the Department of Motor Vehicles for the purpose of receiving the license and issuing a receipt for the license. The original of the receipt must be forwarded to the Department of Motor Vehicles along with the driver's license. When this procedure is followed, the Department is required to suspend or revoke the license effective on the date of the receipt. By requiring the license to be surrendered to the clerk, this provision should eliminate some of the delay in effecting a suspension or revocation, and much of the difficulty previously experienced in getting the licensee to send his suspended or revoked license to the Department. Previously, the *court* wherein a person was convicted of an offense requiring mandatory *revocation* was required to take up the driver's license and forward it to the Department. This provision was effective July 1, 1965.

Chapter 286 (HB 221) adds new G.S. 20-28.1 requiring the Department of Motor Vehicles to revoke the driver's license of any person convicted of any moving traffic violation committed while the offender's driver's license was revoked or suspended. Period of revocation for a first such offense in one year, for a second offense two years, and permanently for a third. Any person whose license is permanently revoked under this law may reapply for a license after three years, but must offer satisfactory proof of good behavior during that period. This law was in response to a recent decision of the Supreme Court to the effect that as the law then stood, a person's license could not be suspended or revoked for driving while suspended or revoked unless he was actually convicted of that offense. This law makes such a person's license subject to an additional period of revocation if convicted of any moving traffic violation committed while his license is suspended or revoked and should add materially to the effectiveness of the driver license program.

Implied Consent

Chapter 1165 (SB 133) amends G.S. 20-16.2 to require the court in the absence of the jury to inquire into the character and circumstances of an alleged refusal to undergo a chemical breath test upon an arrest for drunken driving. This inquiry is a prerequisite to admission of evidence of refusal to take the test, if a motion to that effect is "duly made in apt time by the defendant." At such inquiry, the defendant and the State may offer evidence on the question of refusal. Previously, evidence of refusal was admissible without any preliminary inquiry as to its character or the circumstances under which it occurred.

Motor Vehicle Act of 1937

Definitions

Chapter 83 (HB 95) amends G.S. 20-38(q)(2) to provide that motor vehicles leased to the United States or any of its agencies on a non-profit basis shall not be classified as for-hire passenger vehicles.

Chapter 1025 (HB 912) amends G.S. 20-38(r)(1)(A) to provide that vehicles used in the transportation of wood chips from the place where wood has been converted into chips to their first or primary market shall not by virtue of that use be classified as property hauling contract carrier vehicles.

Chapter 678 (HB 227) adds new subsection (y)1 to G.S. 20-38 defining roadway as that portion of a highway improved, designed or ordinarily used for vehicular travel, excluding the shoulder. This definition was a part of the act which rewrote G.S. 20-146 to require the slower traffic to use the right hand lane on highways of four or more lanes, which is discussed later in this article.

Registration of Vehicles

Chapter 1146 (HB 1050) amends G.S. 20-51(6) to exempt from registration requirements, trailers and semi-trailers used by a farmer, his tenant or agent in transporting irrigation pipes and equipment.

Chapter 734 (HB 536) repeals G.S. 20-53(c) and (d), effective February 16, 1966. The new periodic inspection law renders these provisions unnecessary. These subsections required vehicles brought in from out of state to be inspected prior to being registered in North Carolina and provided the machinery for such inspections.

Chapter 1088 (HB 345) amends G.S. 20-63(h) to allow the Department of Motor Vehicles to compensate commission contract agents at the rate of 22¢ per plate for handling and issuing motor vehicle registration plates. This act also appropriates to the Department from the Highway Fund $115,000 for fiscal year 1965-66 and $120,000 for fiscal year 1966-67 to be used for this purpose. It became effective July 1, 1965.

Notice of Sale or Transfer by Auto Dealers and Manufacturers

Chapter 106 (HB 143) amends G.S. 20-82 to delete the requirement that automobile manufacturers and dealers submit to the Department of Motor Vehicles a monthly report of all automobiles sold or transferred.

Motor Vehicle Registration and Licensing Fees

Chapter 659 (HB 488) amends G.S. 20-86 to provide that the $25 penalty on hauling for hire without a for-hire license shall apply to each vehicle in the combination except a trailer with a gross weight of not over 3,000 pounds. Previously the $25 penalty applied only to the towing vehicle where a combination was involved. This provision became effective July 1, 1965.

Chapter 927 (HB 864) amends G.S. 20-87(b) to reduce the annual tax for a U-Drive-It automobile from $60 to $20, effective July 1, 1965.

Driver Training and Safety Education

Chapter 410 (SB 243) rewrites G.S. 20-88.1 to require the State Superintendent of Public Instruction to organize and administer a program of driver education to be offered in the public high schools for all persons between the ages of 16 and 18 years, in accordance with criteria and standards approved by the State Board of Education. Courses so developed must be made available to all physically and mentally qualified persons of that age group including public school students, students in nonpublic schools, and persons within that age group who are not in school. The program is to be financed by the additional annual registration tax of $1.00 which was levied by the 1957 legislature, and other funds as may be appropriated by the General Assembly. Chapter 397 (SB 244) was a companion bill which made various changes in G.S. 115-202 relative to high school driver education. For a detailed discussion of these, see the article on Education in this issue.

Punishment for Violation of Certain Criminal Statutes

Chapter 193 (HB 119) amends G.S. 20-105 to fix the punishment for the unauthorized use of a motor vehicle as a fine, or imprisonment for a period not exceeding two years, or both. Previously G.S. 20-105 was silent on the question of punishment and its violation was punishable under the general penalty provisions of G.S. 20-176(b), which fixed the maximum punishment as a fine up to $100 or imprisonment up to 60 days or both.

Chapter 621 (HB 799) fixes the punishment for the violation of the following statutes as a fine or imprisonment, or both, in the discretion of the court:

G.S. 20-107 which makes it unlawful to tamper with or injure an automobile without the permission of the owner.

G.S. 20-108 which makes it unlawful to possess, buy, sell, trade, etc., a motor vehicle or an engine removed from a motor vehicle, if the motor, serial, or identification number has been removed for the purpose of concealing or misrepresenting the identity of the vehicle or engine.

G.S. 20-109 which makes it unlawful to alter or change engine, serial or identification numbers or other identification marks of a motor vehicle or motor vehicle engine, unless such change or alteration is authorized by the Department of Motor Vehicles.

Operation of Farm Equipment Upon the Highways

Chapter 471 (HB 726) amends G.S. 20-116(j) to authorize the State Highway Commission to issue seasonal permits to use certain highways for farm equipment not wider than 15½ feet. Vehicles so operated must display a red flag at front and rear at least three feet wide and four feet long on a staff at least four feet long, and flag must be visible for at least 300 feet to front and rear; and must be operated only upon roads as authorized by the permit. If operation is to be for a distance of more than four miles, the equipment must be preceded and followed by flagmen by a distance of at least 300 feet. Such operation is restricted to daylight conditions; if operation is on Saturday, Sunday or a holiday, the distance must not exceed four miles. Previously, operation on Saturdays, Sundays and holidays was prohibited and a flagman was required regardless of distance traveled upon the highway. Other provisions of the section such as the prohibition against traveling upon Interstate roads and the requirement that the vehicle be operated to the right of the center line when practical were not changed.

Chapter 966 (HB 967) amends G.S. 20-123(a) to "allow towing of farm trailers in single tandem" during daylight hours upon highways other than Interstate and Federal numbered highways, provided the combination does not exceed a total length of 40 feet and provided the last vehicle in the combination displays a red flag at least 12 inches square and clearly visible at all times. The apparent intent of this act was to exempt farm vehicles from the prohibition against having more than two vehicles in a combination.

Vehicle Weight Regulations

Chapter 483 (HB 287) amends G.S. 20-118(5) by adding a provision that when vehicles are discovered operating in violation of G.S. 20-118(3) and (4) (maximum axle weights) the owner shall without penalty be permitted to shift the weight so as to comply with the axle limits if the gross vehicle weight is within the legal limit and if a single axle load does not exceed 21,000 pounds, or 40,000 pounds for tandem axles at least 48 inches but not more than 96 inches apart, or 15,500 pounds on a road where the State Highway Commission has fixed the maximum axle load at 13,000 pounds.

Vehicular Equipment Requirements

Chapter 1044 (HB 1024) amends G.S. 20-118(9) and (10) to provide that the front axle of a vehicle may be counted for purposes of determining maximum allowable gross weight even though it does not have brakes, if the vehicle meets the requirements of G.S. 20-124(e). The latter section requires that a truck with trailer attached must be able to stop on a level highway, free from loose material, from a speed of 20 mph, within a distance of 30 feet after both hand and foot brake are applied, and within 50 feet if either brake is applied separately.

Chapter 435 (SB 272) amends G.S. 20-122(b) to permit the use of tires with studs which project beyond the tread of the traction surface not more than 1/16th of an inch when compressed. This act was passed for the purpose of allowing citizens to take advantage of recent advances in tire engineering. The law previously prohibited the use of tires with flanges, studs, spikes, etc., extending beyond the traction surface of the tire.

Chapter 1031 (HB 980) adds new subsection (ee) to G.S. 20-124 to require all trucks with attached semitrailers to be equipped with brakes acting on all wheels, except trucks with three or more axles. Trucks with three or more axles need not have brakes on the front wheels. If the truck has two or more steerable axles, the wheels of only one are exempt from brake requirements. This does not relieve the vehicle from the requirement of being able to stop within the distances set out in G.S. 20-124(e), mentioned above in the discussion of Chapter 1044. Previously, G.S. 20-124 only required a vehicle to be equipped with brakes sufficient to enable the driver to control and stop the vehicle; it did not specifically require brakes on all wheels.

Chapter 257 (HB 200) adds a new subsection (c) to G.S. 20-125, authorizing all publicly owned vehicles used primarily for law enforcement purposes and all other ve-

hicles used primarily by law enforcement officers in the performance of their official duties to be equipped with a special blue warning light. It is unlawful for any vehicle other than those in specified classes to be equipped with such lights, or for such lights to be activated by any person except a law enforcement officer actively engaged in performing lawful duties.

This law, effective July 1, 1965, was backed by the Police Executives Association who felt a change necessary since there are several classes of vehicles authorized to use the traditional red warning light. It should be noted that this is only permissive and not mandatory legislation.

Chapter 368 (SB 258) amends G.S. 20-126 making it unlawful to operate upon the highways of North Carolina, any vehicle manufactured, assembled, or first sold on or after January 1, 1966, and registered in this State unless it is equipped with at least one outside mirror on the driver's side. Required mirrors must be of a type approved by the Commissioner of Motor Vehicles. The amendment becomes effective January 1, 1966.

Chapter 372 (SB 238) adds new G.S. 20-135.3 requiring new passenger vehicles of not over 9-passenger capacity (except motorcycles) manufactured, assembled, or sold after July 1, 1966, and registered in North Carolina, to be equipped with sufficient anchorage units for attaching at least two sets of seat belts for the rear seat. Anchorage units must be able to support a loop load of at least 5,000 pounds. Previously, there were no requirements relating to seat belts or anchorage units except for the front seat.

Slower Vehicles Drive in Right-hand Lane

Chapter 678 (HB 227) rewrites G.S. 20-146 retaining all existing provisions and adding the requirement that vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for through traffic or as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing or preparing for a left turn. While this act rewrote G.S. 20-146 entirely, the net effect is as stated above, and became effective July 1, 1965.

Motorcycles, Two Abreast

Chapter 909 (SB 515) adds new G.S. 20-146.1 prohibiting the operation of motorcycles more than two abreast upon public highways except in public parades and other ceremonial occasions supervised by duly authorized law enforcement officers. Punishment for violation is a fine not to exceed $50 or imprisonment not to exceed 30 days. Previously the only limitation in this respect was that the vehicles were required to operate upon the right half of the highway.

Distance Requirements for Turn Signals

Chapter 768 (SB 371) amends G.S. 20-154 to require that in all areas where the speed limit is 45 mph or higher, a signal of intention to turn from a direct line of travel must be given continuously during the last 200 feet traveled before turning. The act, effective July 1, 1965, also provides that a violation of G.S. 20-154 shall not constitute negligence *per se*. Previously the turn signal was required for the last 100 feet traveled before turning; no distinction was made for areas with different speed limits.

Good Samaritan Law

Chapter 176 (SB 82) adds new G.S. 20-166(d) providing that persons rendering aid or emergency assistance at the scene of a motor vehicle accident on any street or highway to any person injured as a result of such accident shall not become liable in civil damages for any acts or omissions relating to such services rendered unless such acts amount to wanton conduct or intentional wrongdoing. This act applies to all persons rendering aid at the scene of an accident, including the drivers and passengers of the vehicles involved in the accident. It should be noted, however, that it applies only at the scene of the accident occurring upon a street or highway.

Department Authorized to Furnish Insurance Information

Chapter 577 (SB 192) amends G.S. 20-166.1(i) to allow the Department of Motor Vehicles to furnish the names of insurers and persons insured and policy numbers shown on accident reports filed by persons involved in accidents to interested parties. Previously such reports were for the use of the Department only.

Pedestrian Regulation

Chapter 137 (HB 222) adds new G.S. 20-174.1 making it unlawful to stand, sit, or lie upon a street or highway in such a manner as to impede the regular flow of traffic. Violation is punishable by fine or imprisonment or both in the discretion of the court. This law was precipitated by recent street blocking demonstrations in various areas of the State.

Chapter 673 (SB 88) amends G.S. 20-175 to prohibit any person from standing upon any portion of a highway, except upon the shoulders, for the purpose of soliciting a ride from the driver of any motor vehicle. It also prohibits standing, or loitering in "the main traveled portion, including shoulders and median of any State highway or street, excluding sidewalks," or stopping "any motor vehicle for the purpose of soliciting employment, business or contributions from the driver or occupant of a motor vehicle." Persons engaged in road maintenance or construction or conducting engineering and traffic surveys are exempt from this law. Punishment for violation is set at maximum fine of $50 or imprisonment for not more than 30 days. The apparent intent of this law was to curtail solicitation of contributions from motorists which impede the flow of traffic, but its effect is considerably broader. This section previously only prohibited standing in the traveled portion of a highway to solicit a ride from the driver of a *private* vehicle.

Warning Tickets

Chapter 537 (SB 225) and Chapter 999 (SB 493) amend G.S. 20-183 by authorizing law enforcement officers charged with enforcing the Motor Vehicle Laws to issue warning tickets to motorists for conduct constituting a potential hazard to the motoring public which does not amount to a definite, clearcut, substantial violation of the Motor Vehicle Laws. Tickets are required to be prenumbered, to contain information as necessary to identify the offender, and to be signed by the issuing officer. One copy of each warning ticket issued shall be delivered to the offender and one copy forwarded to the Driver License Division of the Department of Motor Vehicles, but the

latter copy shall not be filed with or in any manner become a part of the offender's driving record. Tickets issued and the fact of issuance shall be privileged information and available only to authorized personnel of the Department of Motor Vehicles for statistical and analytical purposes. This amendment is effective October 1, 1965.

Inspection of Motor Vehicles

Annual Inspection Required

For the first time since 1949, North Carolina has a periodic safety inspection law. HB 536 was introduced, and ratified as Chapter 734 requiring all vehicles registered in North Carolina to be inspected annually beginning in 1966. The first vehicles will be inspected under the new law on February 16, 1966. A major difference between the new law and the one repealed in 1949 is the system for inspecting the vehicles. Under the new law, vehicles will be inspected by privately owned garages licensed and supervised by the State for that purpose, whereas State employees conducted the inspections under the old law. These garages will be licensed upon application to the Department of Motor Vehicles provided they meet the requirements set out in regulations adopted by the Department and approved by the Governor for the implementation of this law.

The new law requires that all motor vehicles registered or required to be registered in the State be inspected annually and display an approval certificate. *Motor Vehicle* includes self-propelled vehicles as well as trailers and semi-trailers; therefore towed vehicles must also be inspected. It is contemplated that regulations implementing the inspection law will exempt trailers with a gross weight of not over 2500 pounds from the inspection requirement. This is because trailers in that category are not required to have any of the items of equipment required by the new law to be inspected.

Items of equipment required to be inspected are brakes, lights, horn, steering mechanism, windshield wiper, and directional signals. In order for a vehicle to pass inspection, it must possess these items if they are required equipment for that particular vehicle. Standards for these items of equipment will be set out in the departmental regulations, but may not exceed the standards set out in the statutes.

All vehicles registered or required to be registered in the State must be inspected and approved during the period from February 16, 1966, to December 31, 1966, and annually thereafter. The actual month during which a vehicle is first required to be inspected will depend upon the last numerical digit on the 1966 license plate, according to the following schedule:

Last Digit	*Must be Inspected Prior to*
3	March 31, 1966
4	April 30, 1966
5	May 31, 1966
6	June 30, 1966
7	July 31, 1966
8	August 31, 1966
9	September 30, 1966
0	October 31, 1966
1	November 30, 1966
2	December 31, 1966

As of February 16, 1966, a motor vehicle dealer is prohibited from making a retail sale of a new or used vehicle in North Carolina without first having it inspected by an approved inspection station and having an approval certificate affixed. For vehicles brought in from out of state, the owner will have 10 days within which to have the vehicle inspected after bringing it into the State.

Persons, firms, and agencies desiring to be licensed to inspect vehicles must make application to the Department of Motor Vehicles. Upon receipt of the application, the Department will conduct an investigation and license the applicant if it determines that the applicant's employees who will be conducting inspections meet the following qualifications:
(1) possess good character and have a good reputation for honesty; (2) have adequate knowledge of the equipment requirements of the motor vehicle laws of North Carolina; (3) are able to satisfactorily conduct the mechanical inspection required by this law; (4) have adequate facilities as to space and equipment in order to check each of the items of safety equipment required to be inspected; and (5) have a general knowledge of motor vehicles sufficient to recognize a mechanical condition which is not safe. Once the applicant is found to be qualified, he will be issued a license without payment of any fee and the license is good until cancelled, suspended or revoked.

Persons, firms, or governmental agencies may upon application be designated as self inspectors in the discretion of the Commissioner of Motor Vehicles. However, they must meet the same qualifications as required for the licensed inspection stations, and may inspect only those vehicles owned or operated by them.

The Commissioner is required to adopt regulations for the implementation of the law, to license and supervise inspection stations, furnish inspection certificates, and perform other duties as necessary for the proper administration of the program. Regulations adopted by the Commissioner do not become effective until approved by the Governor.

Licensed stations must charge a fee of $1.50 for inspection of each vehicle. This includes the fee for the inspection as well as the charge for the approval certificate. If a vehicle is inspected and disapproved, the same inspection station must re-inspect the vehicle without charge if it is presented for re-inspection within 90 days.

Approval certificates must be purchased by licensed inspection stations and self inspectors from the Department of Motor Vehicles. The charge is fixed at 25¢ per certificate with the proceeds being placed in the "Motor Vehicle Safety Equipment Inspection Fund" and used to administer the inspection program.

Violation of the act is punishable by fine up to $50 or imprisonment up to 30 days, except that unauthorized reproduction of approval certificates is forgery which is punishable by imprisonment for four months to ten years, or by a fine, in the discretion of the court.

State Highway Patrol

Patrolmen Assigned to Governor's Office

Chapter 1159 (HB 1168) amends G.S. 20-189 to provide for the assignment of two patrolmen to the Governor's office. Previously, this section authorized the assignment of only one patrolman for that purpose.

Miscellaneous

Use of Mechanical Stop Signals

Chapter 370 (SB 171) amends G.S. 20-217 to prohibit the operator of a school, church, or Sunday school bus

from using the mechanical stop signal for any purpose except to indicate that the bus has stopped or is about to stop for the purpose of receiving or discharging passengers.

Safety and Financial Responsibility Act of 1953

Nonpayment of Judgment

Chapter 926 (HB 837) amends G.S. 20-279.13 to provide that the Commissioner shall not suspend the license of an owner, operator or chauffeur if the insurance carried by him was with a company authorized to do business in North Carolina and which after the accident involving the owner or operator and prior to settlement of the claim therefor went into liquidation, thereby making the owner, operator or chauffeur unable to satisfy the judgment. The act also directs the Commissioner to return, upon filing of proof of financial responsibility for the future, licenses of persons previously suspended who fall in this category. Previously, this section required the Commissioner of Motor Vehicles to suspend the license of any person against whom a judgment had been rendered and was unpaid after 60 days. The judgment contemplated in this section is one arising out of a motor vehicle accident.

Uninsured Motorist Coverage

There were several amendments to G.S. 20-279.21 (b) (3).

Chapter 674 (SB 280) adds the provision that an insured shall be entitled to procure uninsured motorist coverage from his liability insurance carrier in the amount of $10,000 because of bodily injury to or death of one person in any one accident, and $20,000 because of bodily injury to or death of two or more persons in any one accident, if the policy of the insured carries liability limits of equal or greater amounts for the protection of third persons. The new limits are available in all new and renewal automobile liability insurance policies issued on or after September 1, 1965. Previously, the insurance carrier was only required to write uninsured motorist coverage in the amounts of $5,000—$10,000—$5,000, the minimum limits required under the Financial Responsibility Act of 1957 (compulsory liability insurance law). The coverage for property damage required to be written remains at $5,000.

Chapter 898 (SB 193) will in some cases make it easier for a person with uninsured motorist coverage to prove that his tortfeasor was uninsured. By proving that the tortfeasor was not insured by the company whose name appears on his (tortfeasor's) certificate of insurance (which is necessary to register an automobile) the damaged party acquires a "prima facie presumption" that his tortfeasor was uninsured at the time of the accident for purposes of recovery under an uninsured motorist policy.

This act also defines "uninsured motor vehicle" for purposes of G.S. 20-279.21 as a motor vehicle as to which there is no bodily injury liability insurance and property damage liability insurance in at least the amounts specified in G.S. 20-279.5(c) ($5,000—$10,000—$5,000), or there is such insurance but the insurance company denies coverage thereunder, or has become bankrupt, or there is no bond or deposit of money or securities as provided in G.S. 20-279.24 or -279.25 in lieu of liability insurance, or the owner has not qualified under G.S. 20-279.33 as a self insurer or a vehicle not subject to the Motor Vehicle Safety and Financial Responsibility Act. Specifically excluded from this definition are the following: (1) a motor vehicle owned by the named insured; (2) a motor vehicle owned or operated by a self insurer as defined by the motor vehicle financial responsibility law, motor carrier law, or other similar law; (3) a motor vehicle owned by the United States, Canada, a state, or any agency of any of these [excluding, (sic) however, political subdivisions thereof]; (4) a land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle; and (5) a farm type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

Chapter 156 (HB 219) adds to the definition of "uninsured motor vehicle" an insured motor vehicle where the liability insurer is unable to make payment with respect to a legal liability within limits specified therein because of insolvency. Insolvency protection afforded by this act applies in case of accidents occurring during a policy period in which the insured's uninsured motorist coverage is effective and the liability insurer of the tortfeasor becomes insolvent within 3 years after such accident. Upon payment of a claim under the uninsured motorist coverage, the insurer becomes subrogated to the insured's claim against the tortfeasor to the extent of payments required by this section.

Chapter 358 (HB 475) amends G.S. 20-279.25 to provide that when a person required to maintain financial security for the operation of a motor vehicle posts money or securities in lieu of maintaining a liability insurance policy, the amount of money or value of such securities must be of a market value of at least $15,000. Previously, the amount was set at $11,000. This became effective July 1, 1965.

Chapter 350 (HB 126) amends G.S. 20-280 to increase liability insurance coverage for damage to property required to be certified for taxicab business from $1,000 to $5,000, effective July 1, 1965. This in effect brought the section into line with the Financial Responsibility Act of 1957 which requires all motor vehicles (including taxicabs) registered in this State to maintain financial responsibility in force in the minimum amounts of $5,000—$10,000—$5,000.

Chapter 349 (HB 125) amends G.S. 20-281 to increase mandatory liability insurance coverage for damage to property required for vehicles used by a person, firm, etc., engaged in the business of renting or leasing vehicles from $1,000 to $5,000. This also brings this section into line with the requirements of the 1957 act.

Financial Responsibility Act of 1957

Chapter 1136 (SB 441) amends G.S. 20-309(c), specifying that if a person who has certified that he has liability insurance in force for the operation of a motor vehicle but fails to produce records proving he has insurance, the Department shall revoke the registration plate of the vehicle concerned and suspend the owner's driver's license for 30 days. The vehicle may not be re-registered in the name of the owner, his spouse, or a child of the owner or his spouse within 30 days after the revoked registration plate and suspended operator's license is received by the Department. Upon re-registration of the vehicle, the owner will be required to pay the appropriate registration fee.

G.S. 20-309(e) was amended by two separate acts as follows:

Chapter 1136 (SB 441) adds a provision that upon receipt of a notice of cancellation or termination of an owner's financial responsibility, required for the operation of a vehicle, the Department shall notify the owner of such. The owner must within 15 days of such notification certify to the Department that he has financial responsibility effective on or prior to the date of such cancellation or termination, or return his registration plates to the Department. Failure to certify as outlined above requires revocation of the registration, and suspension of the driver's license unless the registration plate is surrendered within 15 days of receipt of the notice of cancellation or termination. Periods of suspension and conditions for reregistration of the vehicle are the same as discussed above under the amendment to G.S. 20-309(c). The provision became effective August 16, 1965.

Chapter 272 (SB 194) adds the requirement that when a motor vehicle liability insurance policy is terminated by the insured, the insurer must immediately notify the Department of that fact.

Chapter 1135 (SB 440) amends G.S. 20-310 by providing that no motor vehicle liability insurance contract which has been in effect for 60 days shall be terminated by insurer's failure to renew unless insurer gives insured notice in writing, accompanying notice of failure to renew required by G.S. 20-310(a), at least 15 days prior to proposed date of termination or failure to renew, that (1) it proposes to terminate or fail to renew the insurance contract upon such date; and (2) upon receipt of written request from insured, insurer will forthwith mail insured a written explanation of actual reason for terminating or failure to renew; and (3) that insured may within 5 days after receipt of notice make a request to the insurer for such written explanation. If the insured requests explanation within 5 days of receipt of notice of termination or failure to renew, the insurer is required to furnish forthwith to the insured and, in any event prior to the proposed termination date, a written explanation "giving the actual reason for its failure to renew." The written explanation is privileged and shall not constitute grounds for suit against insurer, its agents, etc., who in good faith furnish the insurer the information upon which the reason is based. The act, effective July 1, 1965, does not apply to policies issued under the assigned risk plan.

Chapter 205 (SB 47) amends G.S. 20-311 to provide when a driver's license has been suspended or registration of a vehicle revoked for false certification as to financial responsibility or for operation of a vehicle without financial responsibility, the license may not be reinstated nor the vehicle re-registered until 30 days after surrender of the revoked plates and suspended driver's license to the Department of Motor Vehicles.

Driver Training School Licensing Law

Chapter 873 (SB 65) adds new Article 14 to Chapter 20 which requires commercial driver education schools and instructors to be licensed for the first time in the State's history. Included in the definition of "school" are individuals, associations, partnerships and corporations which educate or train persons to drive motor vehicles or which furnish educational materials to prepare an applicant for a driver's license examination and charge a consideration for such service or materials. "Instructor" includes all persons who operate a commercial driver training school or who teach, conduct classes, give demonstrations, or supervise practical training of persons learning to drive an automobile in connection with the operation of a commercial driver training school.

Prior to being licensed as an instructor or to operate a school, the applicant must be examined by a representative of the Commissioner of Motor Vehicles and found to meet the minimum qualifications required. The license fee for schools is $25 per year and for instructors $5 per year. Instructors and schools are prohibited from operating after July 1, 1965, without a license.

The Commissioner of Motor Vehicles is given broad powers to adopt regulations to implement the law. Regulations have been adopted and filed with the Secretary of State and with the clerk of Superior Court in each county of the state.

Exempt from the law are persons giving driver training lessons without charge, employers maintaining driver training schools without charge for their employees only, and schools or classes conducted by colleges, universities and high schools.

Violation of the law, effective July 1, 1965, constitutes a misdemeanor, punishable by a fine of not over $100 or imprisonment for not more than 30 days, or both.

Miscellaneous Uncodified Provisions

North Carolina Traffic Safety Authority

Chapter 541 (SB 320) creates the North Carolina Traffic Safety Authority to be composed of the Governor, designated as chairman; the Commissioners of Agriculture, Insurance, Labor, and Motor Vehicles; the Chairman of the State Highway Commission, Superintendent of Public Instruction, State Health Director, Attorney General, chairmen of the Industrial and Utilities Commissions, President of the North Carolina Traffic Safety Council, Inc., and one member from each chamber of the legislature to be appointed by the presiding officers thereof.

Duties of the Authority include a thorough and objective analysis of the state's traffic problem, analysis of present programs and research, and the determination of need for additional programs as well as need for the improvement of existing programs. Based upon its findings the Authority is to develop a written statement of agreed upon needs and established priorities. The written statement must be periodically updated and submitted to the chairman as deemed advisable, but at least annually in January.

The Authority is to meet at the call of the chairman, but not less than quarterly.

Highway Safety Research Center

Chapter 901 (SB 390) appropriates $50,000 to the University of North Carolina for each year of the biennium for the purpose of establishing and operating the Highway Safety Research Center of the University of North Carolina.

100 Additional Patrolmen

Chapter 1090 (HB 615) authorizes and appropriates funds for an additional one hundred Highway Patrolmen, 50 to be added on July 1, 1965, and 50 more on July 1, 1966.

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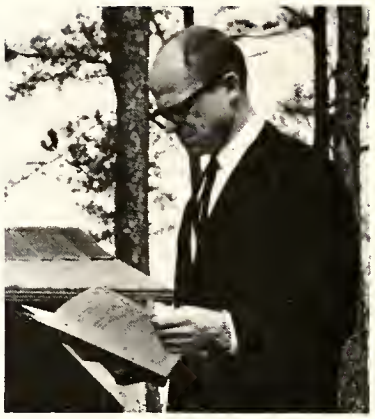
By V. L. Bounds



PENAL-CORRECTIONAL ADMINISTRATION

Chapter numbers refer to the 1965 Session Laws of North Carolina. HB and SB numbers refer to the bill numbers of bills introduced in the House and Senate.

Rehabilitation as an objective of penal-correctional administration received additional legislative support from the 1965 General Assembly. This support was manifested by special appropriations as well as by significant additions to the statutory structure for effective correctional treatment of offenders.

Probation

Among the bills ratified on the last day of the session was one appropriating funds to the Probation Commission for a program to promote rehabilitation of alcoholic probationers. [Ch. 1202 (HB 1180)] Funds provided by this bill and the General Appropriations Act [Ch. 914 (HB 12)] will permit employment of 25 additional probation officers and eight new clerks during the biennium covered.

Four years ago the Director of Probation had a field staff comprised of five supervisors and 59 officers, with supporting clerical help. Today authorized positions for the field staff include five supervisors, ten assistant supervisors, and 142 officers. This rapid expansion has resulted in a doubling of the use of probation as a disposition and has doubtless been a major factor in the reduction of the prison population.

Prison Furloughs

Consistent with this increased emphasis on rehabilitative treatment in the free community for selected offenders was enactment by the 1965 General Assembly of legislation authorizing the Director of Prisons to grant furloughs from prison to trustworthy inmates for specified purposes under prescribed conditions. Chapter 1042 (HB 1016) adds a paragraph to G. S. 148-4 to empower the Director of Prison to permit a prisoner to leave his place of confinement unaccompanied by a custodial agent for a prescribed period of time to (1) contact prospective employers; or (2) secure a suitable residence for use when released on parole or upon discharge; or (3) obtain medical services not otherwise available; or (4) participate in a training program in the community; or (5) visit or attend the funeral of a spouse, child, parent, brother, or sister.

This legislation complements the work release law (G.S. 148-33.1), and permits development of a pre-release program under which prisoners can gradually resume the rights and responsibilities of free people. The authorization is broad enough to allow home leaves involving the whole complex of married life and family relationships.

Interstate Agreement on Detainers

Also consistent with the corrective theory underlying probation, work release, and prison furloughs is legislation making North Carolina a party state to the Interstate Agreement on Detainers, effective 1 July 1965. We were the tenth state to ratify this Agreement.

A detainer is an instrument directing or requesting that a prisoner be held, when otherwise eligible for release, until he can be taken into custody by an agent of the wanting authority. The existence of an untried indictment, information or complaint on the basis of which a detainer has been lodged against a prisoner makes rehabilitation more difficult to achieve. The strain of having to serve a sentence with the uncertain prospect of being taken into custody at the conclusion militates against maximum advantage being taken by the prisoner of his institutional opportunities. His anxiety and depression may leave him with little inclination toward self-improvement.

In addition to reducing the incentive for the prisoner to improve himself, detainers also affect adversely institutional decisions respecting the classification of a prisoner for many constructive programs. The presence of a detainer in the inmate's jacket may result in a custodial classification precluding training and work assignments which would promote his rehabilitation. Unfortunately, experience shows that the lodging of a detainer can seriously aggravate the escape potentiality of a prisoner.

The General Assembly of 1957 enacted legislation which has helped to solve the problem of detainers lodged by authorities within this State. Under this legislation (G. S. 15-10.2 to 15-10.4), the prisoner can initiate disposition of in-State detainers. He must be brought to trial within eight months after he requests disposition of the charge against him.

The General Assembly of 1965 enacted companion legislation designed to meet the problem of detainers filed by out-of-state authorities. Chapter 295 (HB 214) enacts the Interstate Agreement on Detainers, which makes it possible to dispose of detainers lodged against inmates by jurisdictions in other states which are party to the Agreement.

Under the Agreement, a jurisdiction having an untried indictment, information or complaint on the basis

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By Philip P. Green, Jr.

PLANNING

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

1965 was a year of "consolidation" rather than "attack" in the field of planning legislation, with a great many improvements in existing laws but no bold new ventures. The legislative programs of city and county planning officials fared unusually well in the General Assembly, and no major battles were provoked.

Zoning

Municipal: General Law

Probably the single most significant law enacted was Chapter 864 (HB 872), amending the municipal zoning enabling act (G.S. Chapter 160, Article 14). This dealt primarily with two major problem areas illuminated by recent experience in administering municipal zoning ordinances: (a) the zoning of areas added to a municipality's jurisdiction by virtue of an annexation and (b) extraterritorial zoning by municipalities.

Until recently, it was generally believed by zoning authorities that the zoning of newly-annexed areas merely involved an amendment of the existing zoning ordinance. However, several court cases from other states raised a question as to whether such zoning should be regarded as adoption of a new ordinance or amendment of an existing one. The practical problem involved was whether a municipality should comply with the procedural provisions relating to initial adoption of a zoning ordinance or with those relating to amendments. In order to clarify this matter, Chapter 864 amends G.S. 160-176 to provide that the zoning of newly-annexed areas is to be regarded as an amendment.

A second problem relating to the zoning of newly-annexed areas has only recently begun to appear in those counties which have adopted a county zoning ordinance covering the areas beyond municipal jurisdiction. Under the law as it existed, if such an area were to be transferred to municipal jurisdiction, the county zoning would immediately become void in the area, but municipal regulations could not be adopted until after notice and a public hearing. Thus, there would be a time gap within which undesirable developments might take place.

To eliminate this problem, Chapter 864 provides that where there is a duly-enacted county zoning ordinance covering such an area, the area shall remain subject to that ordinance for a period of 60 days following the annexation, during which period the municipality may hold the necessary hearings and adopt the new regulations for the area.

The second major set of problems dealt with by Chapter 864 relates to extraterritorial zoning under G.S. 160-181.2.

First, there had been difficulty in some cases because a municipality's one-mile extraterritorial zoning jurisdiction extended into another county or across some major barrier to its growth beyond which it had no real interest. But under the holding in *Shuford v. Waynesville,* 214 N. C. 135 (1938), it was believed that the municipality must exercise all of its jurisdiction in order to exercise any of it. In a few instances special acts were adopted by the General Assembly to delete from a particular municipality's jurisdiction those areas lying in another county. Chapter 864 now authorizes a municipality simply to decline to exercise its jurisdiction in another county or beyond a "major natural physical barrier to urban growth," without thereby invalidating its regulations for the remainder of the one-mile area.

Second, the prior law provided that where the extraterritorial jurisdiction of two municipalities overlapped, it was to be divided by a line equidistant from their boundaries. In actual situations this line was difficult to locate precisely, tended to shift with the growth of one or both municipalities, and did not usually make much sense as a boundary line. Chapter 864 now allows the towns involved to agree in writing as to a different boundary line "based upon geographical features and existing or projected patterns of development within the area."

Third, under the previously existing law if a municipality wished to exercise its extraterritorial jurisdiction, it was required to enlarge its planning board and board of adjustment with additional members from the one-mile outside area. The "outside" members were permitted to vote only on matters arising within the one-mile area. Chapter 864 modifies these provisions to permit a municipality to grant these outside members a vote on all issues, regardless of where they arise.

Fourth, where a town's extraterritorial jurisdiction included parts of several counties, the law formerly required that a full complement of "outside" members be appointed from each county. Thus, if a city's extraterritorial jurisdiction extended into three counties, it had to appoint a 20-member board of adjustment (or planning board), with five members from inside the city and five members from each county. Chapter 864 permits the city, with the approval of the county commissioners concerned,

to apportion the outside members among the various counties; if this is done, all members must be allowed to vote on all matters, regardless of where they arise.

Fifth, in some instances the outside area proposed for regulation has lacked the necessary number of qualified residents to make up its representation on the planning board and the board of adjustment. In this case, Chapter 864 allows the county commissioners to appoint as many other residents of the county as may be necessary to make up the requisite number.

Finally, Chapter 864 authorizes those municipalities which wish to do so to provide for compensation of the members of their board of adjustment. Under existing law there was authority to provide for compensation of planning board members, but there was no specific mention of board of adjustment members. This gap is now supplied.

The only other statutory change affecting municipal zoning was Chapter 431 (SB 180), which repealed the old and unused flood zoning law (G.S. Chapter 104B, Article 2). SB 581, introduced late in the session, would have permitted the enlargement by 50 per cent of any nonconforming use in the state; it was first amended and then defeated on second reading in the Senate.

Municipal: Special Acts

Perhaps the most interesting of the special acts applying to municipalities is Chapter 504 (SB 289), which authorizes Winston-Salem, Edenton, Bath, and Halifax to establish historic districts, within which any construction or alteration must receive a "certificate of appropriateness" as to "exterior architectural features" from a Historic District Commission. Historic buildings in the district may be removed only after 90 days' notice (during which period efforts may be made to find another use for the threatened building).

Municipalities in Moore and Washington counties, Wilson, Belmont and Dallas, and towns under 1250 population in Mecklenburg County were granted extraterritorial zoning powers, while Wallace's powers were modified. Fuquay-Varina and Wendell were forbidden to cross county lines with their regulations. Durham received special authority to initiate zoning of areas immediately prior to their annexation. Municipalities in Gaston County finally came out from under the old "four-corner" proviso formerly found in G.S. 160-173.

County: General Law

Several minor changes were made in the county zoning enabling act (G.S. Chapter 153, Article 20B) by Chapter 194 (HB 229). The first two changes relate to the procedures for zoning only a portion of the county. The public hearing formerly required by G.S. 153-266.13 on the narrow issue of whether to zone less than the entire county will no longer be necessary (although there must still be a public hearing under G.S. 153-266.15 prior to adoption of the zoning ordinance itself). Secondly, the appointment of an advisory commission from any area (less than the county) being zoned has been made discretionary instead of mandatory.

The other change made by Chapter 194 authorizes the county commissioners, if they wish, to provide for compensation or expense reimbursement for board of adjustment members. As in the case of the municipal law, there had previously been provision for compensating county planning board members but not board of adjustment members.

County: Special Acts

The trend towards bringing particular counties under the coverage of the county zoning enabling act continued, as Harnett, Lenoir, and Moore counties joined the fold. There are now only 11 counties exempt from the act. Washington County came under the act early in the session, but then pulled out at a later stage. A special act made clear that Forsyth County's zoning jurisdiction would take precedence over any jurisdiction sought to be exercised by a city outside the county.

Subdivision Regulation

Municipal

No change was made in the provisions of the municipal subdivision-regulation enabling act (G.S. Chapter 160, Article 18, Part 3A), but Elizabethtown, Kings Mountain, Wallace (with some modifications), and municipalities in Alexander, Cabarrus, Caldwell, Greene, and Polk counties came under its coverage for the first time.

County

One significant change was made in the county subdivision-regulation enabling act (G.S. Chapter 153, Article 20A). Chapter 195 (HB 230) provides that where a county has elected to zone only a portion (rather than the whole) of its jurisdiction, it may elect also to regulate subdivisions in this area without affecting the remainder of the county. Formerly county subdivision regulations had to cover the entire county.

Lenoir and Moore counties came under the coverage of this act, while Washington County came under it and then backed out. Union county secured authority to require subdivision improvements as a condition to plat approval. There are now only ten counties exempt from this act.

Chapter 933 (HB 994) gave the State Department of Mental Health subdivision-regulation authority over the lands included in the original Camp Butner reservation.

Urban Redevelopment

The legislative efforts of the North Carolina redevelopment officials were highly successful, after the bleak results in 1963. Chapter 679 (HB 483) clarifies the provisions of G.S. 160-464 relating to procedures for contracts, purchases, and sales. In addition, it modifies the provisions of G.S. 160-465 relating to the exercise of eminent domain to specify that title to condemned property shall pass to the redevelopment commission upon payment into court of the amount specified by the court's commissioners; the owner of the property may then receive such payment without compromising any appeal which he may have taken. Due to a legislative inadvertence, Chapter 1132 (HB 1166) was required to reinsert an amendment omitted when the bill was enrolled.

Chapter 680 (HB 484) amends G.S. 160-474.1 so as to validate all proceedings of redevelopment commissions prior to January 1, 1965.

Chapter 808 (HB 963) amends G.S. 160-463 so as to permit a redevelopment commission, with the approval

of the local governing board, to acquire specific pieces of property in a redevelopment area prior to approval of the redevelopment plan. This is designed to enable the commission to take advantage of unforeseen opportunities to acquire property which might be more expensive or difficult to secure at a later date.

In addition to these general laws, special acts removed the exemption of Forsyth and Mecklenburg counties from the provisions of G.S. 160-464 authorizing disposition of property at private sale to charitable and eleemosynary institutions. Another act enables the redevelopment commissions of Charlotte and Durham to specify (in the advertisement for bids) that a particular piece of property may be developed for only one specified purpose; any property sold under this provision shall go to the highest bidder for cash at a price not less than the fair market value of the property fixed by the commission.

Planning Boards

Chapter 1002 (SB 523) creates a new North Carolina Capital Planning Commission to replace the State Capital Planning Commission and the Heritage Square Commission in planning for the development of state government facilities (other than North Carolina State University, Dorothea Dix Hospital, and the Governor Morehead School) in Raleigh. The new commission will be composed of members of the Council of State, the Governor, the Attorney General, and representatives of the Senate, the House of Representatives, and the city of Raleigh. Its staff will be furnished by the Department of Administration.

SB 585, embodying proposals of the State Capital Planning Commission for a continuing program, received an unfavorable Senate committee report.

Special acts brought Chatham, Lenoir, and Vance counties under the county planning board enabling act (G.S. 153-9[40]), in addition to making extensive provisions for planning in the Roanoke Rapids and Williamston areas.

County Regulations

Considerable attention was paid to the regulatory powers needed by rapidly urbanizing counties in the state. Chapter 626 (HB 842) authorizes the adoption of county fire prevention codes and the appointment of fire prevention inspectors. Chapter 494 (HB 587) makes clear that county plumbing inspectors are to enforce all state and local laws governing plumbing installations and materials, and not merely regulations adopted by the county boards of health. HB 549, which would have authorized appointment of warm air heating and air conditioning inspectors, died in a House committee.

Special acts brought Cabarrus, Cleveland, and Mecklenburg counties under the provisions of the county plumbing inspector enabling act (G.S. 153-9[47]). Scotland County came under the county building inspector law (G.S. 153-9[52]). Chowan County was empowered to require building permits for new construction.

Catawba, Halifax, Pitt, and Wilson counties all came under the terms of G.S. 153-9(55), which authorizes counties to adopt a variety of police-power regulations.

Aesthetic Measures

On the whole, bills designed to improve the appearance of our cities and countryside fared poorly in the General Assembly. SR 597, requesting the Governor to seek proposals for protecting and enhancing natural beauty in the state and to consider convening a North Carolina Conference on Natural Beauty to follow up the recent White House conference on that subject, received an unfavorable Senate committee report.

HB 757, which would have authorized the State Highway Commission to regulate outdoor advertising on the Interstate Highways, received an unfavorable committee report in the House. However, a special act granting much broader powers to the Polk County commissioners was enacted. In view of the President's recently-announced federal program, the Polk County law may become the forerunner of similar acts elsewhere in the state.

In addition to the measures for preservation of historic districts mentioned earlier, Chapel Hill received special authority to designate areas of particular importance to the character of the city and within such areas to require approval of all new structures by an Appearance Commission.

Forsyth County was brought under the open space law (G.S. Chapter 160, Article 14A), with some modifications. This authorizes cities and counties to acquire necessary property rights for the preservation of open spaces within their respective zoning jurisdictions.

Beach Preservation

Three acts give coastal counties a broad range of new powers in dealing with problems of beach preservation. Chapter 307 (SB 57) authorizes them to levy taxes, make appropriations, and issue bonds for the purpose of beach erosion-control, preservation, and restoration projects. Chapter 714 (SB 127) authorizes them to levy special assessments against benefited properties for financing such projects. And Chapter 237 (HB 174) as amended by Chapter 623 (HB 823) amplifies existing powers to regulate and prevent actions which damage sand dunes.

Streets and Roads

A number of bills were enacted which amended the state's laws relating to streets and highways. Several of these will be of interest to planning officials. Chapter 867 (HB 906) makes clear the fact that municipalities may use the "quick-take" provisions of Article 9 of G.S. Chapter 136 acquiring rights-of-way for State system streets. This act would also appear to enable municipalities to accept the dedication of such rights-of-way "in or around" a municipality, whereas formerly they were limited to accepting rights-of-way within their boundaries only.

Chapter 665 (HB 843) makes clear that G.S. 153-9 (17), which authorizes counties and municipalities to close streets, does not apply to any streets or highways under the control and supervison of the State Highway Commission. Chapter 614 (SB 358), which limited the number of property owners entitled to notice of such a street closing, was amended prior to passage so as to apply only to the city of Durham.

Chapter 475 (SB 275) authorizes the State Highway Commission to pay compensation for moving costs to the displaced occupants of buildings taken as a result of highway construction. Payments may not exceed $200 for a "household" or $3000 for a business, farming operation, or non-profit organization, and will be in accordance with rules promulgated by the Commission. SB 596, which

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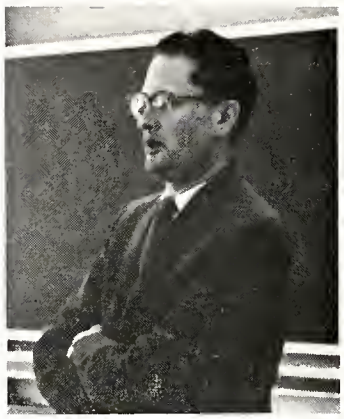
By Donald B. Hayman



PUBLIC PERSONNEL

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

Efforts to increase local control over salaries, fees, and other personnel matters during the past decade reduced the workload of the 1965 General Assembly. The 137 personnel bills enacted in 1965 represent the smallest number of personnel bills enacted by a General Assembly since 1943 and the smallest per cent of all ratified bills since 1941. Personnel bills accounted for 18 per cent of all ratified bills in 1945 and as recently as 1959, and declined to 11 per cent in 1965. Of the 137 personnel bills enacted this year, 15 were state-wide acts, 72 were county acts, and 50 pertained to the officials and employees of cities and towns. Bills setting the salaries of county commissioners and members of municipal governing bodies accounted for 46 or one-third of all personnel bills.

The importance of acts passed by a General Assembly may vary with the viewpoint of the person making the value judgment. Public employees in North Carolina will probably conclude that the following were the most significant public personnel acts adopted by the 1965 General Assembly: (1) salary increases for State, county, and municipal officers and employees, (2) the consolidation of the Merit System Council and the State Personnel Council, (3) larger minimum retirement benefits to be paid to some retired teachers and state employees, (4) enabling legislation authorizing municipalities to establish modern personnel programs, (5) improved benefits and simplified formulae for calculating benefits for members of the Local Governmental Employees' Retirement System, (6) a $5,000 death benefit for survivor's of law enforcement officers killed in line of duty, (7) the substitution of a state-wide benefit fund (which initially will pay $5,000 to the survivors of any law enforcement officer) for the local police officer relief funds left without funds by legislation implementing court reform.

Compensation

State Employees Compensation

Chapter 914 (HB 12) the general appropriation act provided funds for granting a ten per cent salary increase to each permanent, full-time employee subject to the State Personnel Act. The increase will be based on each employee's monthly salary in effect on June 30, 1965, rounded to the next highest even dollar. The salary ranges of all employees subject to the Personnel Act were also increased ten per cent.

The appropriation act increased salary funds for public school, college, and university teachers by five per cent in 1965 and an additional five per cent in 1966. Teacher salaries in four smaller state colleges were raised six per cent in 1965 and an additional six per cent in the following year.

The appropriation act provided funds to continue automatic and merit salary increases in accordance with the provisions of the State Personnel Act, but it did not provide extra funds for continuing the salary adjustments program for which funds had been appropriated since 1959. The salary adjustment funds appropriated will be required to pay the continuing cost of adjustments made during the 1964-65 fiscal year after the budget requests for the biennium were prepared.

State Subsistence Allowances

The maximum subsistence allowance paid members of State boards and members of the General Assembly was increased by Chapter 169 (HB 94) to $20 per day retroactive to February 1, 1965. The allowance had formerly been $12 within the state and $14 outside the state.

Chapter 1089 (HB 487) increased the normal subsistence allowance to be paid to State officials and employees to $12 a day within the state and to $16 outside the state.

County Commissioner Compensation

Many persons familiar with local government believe that the positions of county commissioner and city councilman provide the most headaches and the least pay of any positions in the governmental service.

The 1965 General Assembly did not alter this truism although it did provide increases in salary, or travel and expense allowances of the chairmen of the board of county commissioners in 16 counties and county commissioners in 26 counties. The increases varied from a $.01 a mile larger travel allowance in Nash and $5 a month more in Brunswick and Yancey to an $1,800 larger salary to the chairman in Cumberland and $2,000 more to the chairman in Buncombe.

The compensation or allowances of the chairman of the board of county commissioners was increased in the following counties: Alamance, Buncombe, Chatham, Dare, Hoke, Hyde, Lee, Onslow, Pasquotank, Perquimans, Rowan, Stokes, Swain, Vance, Wilkes, and Yadkin.

The compensation or allowance of members of the board of county commissioners was increased in the following counties: Alamance, Brunswick, Buncombe, Burke,

Chatham, Columbus, Cumberland, Dare, Granville, Harnett, Hoke, Lee, Lincoln, Macon, Nash, Onslow, Pasquotank, Pender, Perquimans, Rowan, Rutherford, Stokes, Vance, Wayne, Wilkes, and Yadkin.

The number of these local acts suggests the possible need for general state-wide legislation. For example, should boards of county commissioners be authorized to set their salaries and the salaries of their chairmen within realistic limits established by the General Assembly according to the population of the county? Such a development may be the next step in the trend to increase county home rule which is discussed below.

County Official Compensation

The compensation or allowances of an estimated 150 officials (clerks, registers of deeds, sheriffs, and their deputies) were increased by acts affecting the following 25 counties: Alamance, Beaufort, Brunswick, Caldwell, Camden, Clay, Forsyth, Franklin, Guilford, Granville, Halifax, Henderson, Iredell, Lenoir, Macon, McDowell, Mecklenburg, Mitchell, Stokes, Swain, Tyrrell, Vance, Wake, Wilson, and Yancey.

County Salary and Fee Home Rule

The trend toward greater county home rule which has developed steadily since 1953 advanced only slightly. Two counties, Harnett and Macon, secured legislation authorizing the board of county commissioners to set the compensation of all elective and appointive officials and employees. The boards of commissioners of Clay, New Hanover, and Northampton counties were authorized to set the fees charged by all county officers.

Three acts reduced the authority of boards of county commissioners. Chapter 310 (HB 202) established a state salary schedule for clerks of court and set a state-wide schedule of clerks of court fees, magistrate fees, and certain sheriff fees. The new salary and fee schedules are to be effective in December, 1966, in those counties within the six judicial districts changing to the new system of courts on that date. Chapter 816 (HB 684) withdrew the authority of the Swain board of county commissioners to set all fees charged by county officials. Chapter 1153 (HB 1128) increased and set the salary of the register of deeds of Caldwell County which had heretofore been determined by the board of county commissioners.

As suggested in the introduction to this article, the results of the home rule acts are impressive when one considers either the wide adoption of the provisions or the reduction in local salary and fee acts.

Boards of commissioners in 67 counties are authorized to set the salaries of all appointive officials. In 55 counties the board may set the salaries of all elected administrative officials. County commissioners may fix the fees of clerks of court in 56 counties, registers of deeds in 60 counties, sheriffs in 50 counties, and selected other appointive officials in 53 counties.

Compensation of Municipal Officials

Seventeen local acts and charter revisions set the salary of a mayor, governing body, or both. One act set the salary of the mayor of Winterville at $10 a month. Other acts fixed or authorized larger salaries for the mayor and board members of the following ten towns: Angiers, Asheville, Gastonia, Hamlet, Hobgood, Raleigh, Southport, Troy, Waynesville, and Woodland. Other acts authorized or provided salary increases for the governing body of Coats, Durham, Sanford, Spencer, Thomasville, and Warrenton. Most of the increases were small, and the principal rewards of these municipal officials will continue to be the recognition of their constituents and the personal satisfaction of having served their communities and the public interest loyally and unselfishly.

State Personnel

New State Personnel Act

Chapter 640 (HB 623) established a new State Personnel Board and gave the new board the responsibilities and powers formerly exercised by the State Personnel Council since 1949 and the Merit System Council since 1941.

The new State Personnel Board is responsible for establishing under the Governor a system of personnel administration based on accepted principles and applying the best personnel methods as evolved in government and industry. The jurisdiction of the new board combines the jurisdiction of both previous agencies and includes most non-teaching state employees and local civil defense, health and welfare employees paid from federal funds.

The new seven-member State Personnel Board is similar to the former personnel council in size, in six-year overlapping terms, and in the requirement that two members shall be actively engaged in the management of a private business or industry. The new act differs from previous legislation in that it requires, rather than authorizes, that two members shall be state employees subject to the act and doubles county representation from one to two members.

The State Personnel Board appoints the State Personnel Director who serves at the pleasure of the board. The State Personnel Board is authorized to establish policies and rules as to the following: (1) position classification, (2) compensation, (3) reasonable minimum qualifications for each class of positions, (4) recruitment and testing of applicants, (5) conditions of employment, (6) appointment, movement, and separation of employees, (7) pre-service and in-service training, (8) evaluation of employee performance and the granting of service awards including cash awards, (9) hearing of appeals of applicants and present and past employees, and (10) such other programs as will promote efficiency of administration.

The new act differs from the former acts in the following eight ways. First, a single policy board and a single executive replace two boards and two executives. Second, the Governor, with the approval of the Council of State, may determine the employees subject to competitive selection. Third, former state employees are authorized to appeal to the board and the board may issue advisory recommendations to state agencies in all appeal cases. Fourth, the new board is directed to cooperate in providing pre-service and in-service training. Fifth, the State Personnel Board is authorized to provide personnel consulting services for local governmental units. Sixth, a board of county commissioners may bring all county employees under the jurisdiction of the State Personnel Board. Seventh, subject to the approval of the State Personnel Board, county commissioners may adjust the salary ranges applicable to county civil defense, health, and welfare employees to conform to local financial ability and fiscal policy. Eighth, boards of county commissioners establishing equivalent local personnel systems for other county

employees may make the local system applicable to civil defense, health, and welfare employees.

Citizens, public officials and public employees will watch the new state personnel agency with interest and anticipation. Hopefully, the new personnel act will permit a consolidation of resources and facilitate a more unified, aggressive, and imaginative seeking of ways to improve state and local government by upgrading state and local personnel administration.

Personnel Studies Ordered

Three unnumbered House resolutions directed the Legislative Research Commission to study and make recommendations to the 1967 General Assembly (1) relating to the fringe benefits offered to state employees, (2) the terms and benefits offered by the Teachers' and State Employees' Retirement System, and (3) the benefits payable to law enforcement officers who may be permanently disabled in the performance of their duties.

Local Personnel Administration

The 1965 General Assembly repealed an unused 1917 statute authorizing municipal civil service systems and substituted a statute authorizing all cities to establish modern personnel programs.

Chapter 931 (HB 934) amended G.S. 160-200 (37) to provide that a governing body may adopt personnel ordinances (1) establishing an advisory personnel board with authority to administer tests and conduct hearings, (2) restricting political activity of municipal employees, (3) providing for a classification and pay plan, (4) setting hours, holidays, annual and sick leave, special leave with full pay or with partial pay supplementing Workmen's Compensation payments, (5) implementing a service award and incentive award program, and (6) providing for any other measures which promote the hiring and retaining of capable, diligent, and honest career employees.

Four local bills made minor changes in local civil service systems. Chapter 775 (HB 600) authorized the Statesville Civil Service Commission to test non-resident applicants for policeman and fireman. First priority in appointment must be given to residents of the city and second priority to residents of the county. Non-residents must move to the city within 90 days of employment.

Chapter 790 (HB 984) deleted the two-week notice requirement which had kept the Raleigh civil service commission from examining police and fire applicants as they applied on an open-continuous basis.

Chapter 946 (SB 505) abolished the High Point Civil Service Commission and established a new commission to be appointed for four-year overlapping terms. Members serving a full term can not be reappointed for a minimum of one year. Three of the seven members must represent each of the two major political parties.

The Charlotre city charter was rewritten by Chapter 713 (HB 917) to establish a system of personnel administration and to rewrite the provisions of the Charlotre civil service commission to increase the maximum age of applicants for policeman to 35 years of age.

Workmen's Compensation

Chapter 707 (HB 838) provides that firemen on calls beyond their jurisdiction aiding and assisting other fire departments shall have all rights, privileges and immunities, including workmen's compensation coverage, as when answering calls within their jurisdiction.

Group Insurance

Chapter 869 (HB 979) increased the maximum limitation on group life insurance from $40,000 to $50,000 on any employee. The City of Greensboro under a local act now provides the largest group life insurance benefits of any governmental unit in the state. Greensboro pays one-third of the cost of group life insurance on its employees up to a maximum of $25,000, or $50,000 in case of accidental death either on or off duty.

State Retirement Systems

Thirty-nine retirement or pensions acts were enacted by the 1965 General Assembly. Ten pertained to state-wide retirement funds; eight changed local funds; nine took steps to dissolve or liquidate police officers' relief funds; and 13 amended local retirement.

Teachers' and State Employees' Retirement System

Chapter 1187 (SB 607) facilitates the staffing of private schools which have been or may be established in North Carolina. This act provides immediate vesting of retirement credits at age 60 for teachers or employees employed by a non-profit, non-sectarian private school in North Carolina below the college level. Heretofore, a state employee's credits vested only if the employee (1) transferred to a city or county or other public agency belonging to the Local Governmental Employees' Retirement System, or (2) had completed 15 years of service, or (3) was over 55 years of age.

The teacher or employee must file written notice of his employment by a private school within five years with the board of trustees of Teachers' and State Employees' Retirement System.

Chapter 415 (HB 247) amended the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System to increase the maximum allowable investments of either fund in common stocks from 10 to 15 per cent. Chapter 415 also eliminated the restriction prohibiting more than 1.5 per cent of either fund to be invested in stocks during any year.

Chapter 1140 (HB 556) increased the minimum retirement benefit to be paid to certain retired members of the Teachers' and State Employees' Retirement System pursuant to G.S. 135-14 from $70 to $85 a month; it provides the same increase for retired members with 20 years of service who are not covered by Social Security.

Chapter 1199 (HB 1165) increased the minimum retirement benefits of retired members of the teachers' and srate employees' system with 15 years of service and not eligible for Social Security as the result of State employment to $4 per month for each year of creditable service.

Chapter 780 (HB 691) made a number of small amendments in the provisions of the retirement system including the exclusion of part-time and temporary employees, changing the deduction schedule from $4,800 to $5,600 to correspond to Social Security after January, 1966, and providing election of optional retirement at age 60 without establishing the retirement date.

Law Enforcement Officers' Death Benefit

Article IV of the Constitution of North Carolina authorizes and requires a uniform system of courts and court costs throughout the State. Chapter 310 (HB 202) provides that effective July 1, 1965, a Law Enforcement Officers' Benefit and Retirement Fund fee of $3 is to be assessed in criminal cases and remitted to the State Treasurer. This act cuts off the principal source of income of 44 local police officers' relief funds which pay small pensions or purchase life and hospital insurance for eligible officers from court costs of varying amounts collected locally.

The 1965 General Assembly ratified 12 acts providing for the repeal, liquidation, or expenditure of the remaining assets of the officers' relief funds in the following governmental units: Bertie, Burke, Cabarrus, Caldwell, Edgecombe, Hertford, Mecklenburg, Nash, Pasquotank, Pitt, and Rowan counties, and the City of Salisbury.

Chapter 351 (HB 203) provides that $1 of the LEOB and RF fee shall go to the Separate Benefit Fund to be used to provide benefits for every eligible law enforcement officer in North Carolina. Under regulations authorized by this act and already adopted by the Board of Commissioners, the beneficiary of every law enforcement officer who dies regardless of cause while in active service as an officer shall receive a lump sum payment of $5,000. This act also authorized the expenditure of court costs for the purchase of hospital, surgical, and medical benefits for eligible officers and their families as funds become available and provides for the return of some of the court costs collected during the 1965-66 fiscal year for local funds continuing to provide benefits to their members.

Local Governmental Employees' Retirement System

The Local Governmental Employees' Retirement System as amended by Chapter 781 (HB 692) becomes increasingly attractive for local employees and employers. The system now provides for vesting of employee benefits after 15 years of service and a change to an "average final salary" type of benefit formula.

The old formula for determining a retirement allowance, a money-purchase formula, was impossible for the average employee to use in estimating his future retirement allowance. It based the allowance on an employee's earnings throughout his career including his low-pay years.

Under the new formula the employee's retirement benefit will be based on an employee's five consecutive calendar years of highest pay during the last ten years of work for the governmental unit. As salaries tend to rise with the cost of living, the new formula will tend to raise the retirement allowance with increases in the cost of living. The new formula provides benefits based on a percentage of high-pay years multiplied by all the years an employee has worked for local governmental units belonging to the system.

Because of the increase in the maximum salary subject to Social Security next January, the retirement allowance must be calculated for service prior to January 1, 1966, and after that date. For example, if an employee's retirement occurs on or after his 65th birthday, his allowance will equal one per cent of the first $4,800 of his average final compensation plus 1.5 per cent of his average compensation over $4,800 multiplied by the number of years of creditable service prior to next January. To this must be added one per cent of average final compensation under $5,600 and 1.5 per cent of his compensation in excess of $5,600 multiplied by the number of years of creditable service after January 1, 1966.

A portion of the cost of the increased retirement benefits provided by the new formula will be financed by increasing each employee's contribution by one per cent.

A member retiring before 65 but after age 60 shall have his retirement allowances reduced 5/12 of one per cent for each month he is less than 65 at the time of his retirement. Policemen or firemen retiring after 55 or members retiring after 30 years of service before age 60 shall receive the actuarial equivalent of the allowance payable at age 60.

Law Enforcement Officers' Death Benefit

Following the murder of two highway patrolmen in 1958, the 1959 General Assembly adopted Article 12A of Chapter 143. This provision directed the Council of State to pay $10,000 from the Contingency and Emergency Fund to the dependents of any highway patrolman or agent of the State Bureau of Investigation violently killed in the discharge of his official duties.

Chapter 937 (SB 161) rewrote the 1959 provision to direct the Industrial Commission to award $5,000 to the dependents of every full-time law enforcement officer employed by the State, a county, or a municipality killed while in the discharge of his official duties. The benefits awarded by the commission will continue to be paid from the Contingency and Emergency Fund.

Local Retirement Plans

Seventeen local acts authorized or changed a provision of a local retirement plan. New local retirement plans were authorized for Ayden, Fayetteville public works commission, Lenoir, Lexington, Newton, Roxboro, and Wake Forest. Other acts liberalized the investment requirements applicable to the Charlotte Firemen's Retirement System, the Forsyth County retirement fund, and the Winston-Salem retirement fund, and made changes in the Morganton firemen's fund, the New Hanover county system, and the Wilson supplementary fund.

Residence

The State Constitution (Article VI) provides that every legally registered voter shall be eligible to hold office, and the Supreme Court has interpreted this to mean that only registered voters are eligible for office. To be a registered voter, a citizen must reside within the jurisdiction. However, in spite of the efforts of the Attorney General to inform municipalities of the law and cases, three local acts were enacted by the 1965 General Assembly authorizing officers to reside outside the jurisdiction in which they hold office. These acts were applicable to appointive officers and the judge of recorder's court in Liberty, the chief of police and officers in Richland, and the chief of police of Sharpsburg.

Other Acts

Other acts of possible interest to public officials and employees: Chapter 240 (HB 336) authorizes the board of county commissioners of Mecklenburg County to determine the mileage allowance paid to county employees; Chapter 309 (HB 71) authorizes High Point to establish

(Continued on page 80)

By Mason P. Thomas, Jr.

PUBLIC WELFARE and DOMESTIC RELATIONS

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB are the bill numbers of bills introduced in the House and in the Senate.

[*Other articles in this issue — e.g., those on THE COUNTIES AND THE 1965 GENERAL ASSEMBLY, HEALTH, and PUBLIC PERSONNEL—will be of interest to readers of this section.*]

PUBLIC WELFARE

Public Welfare Administration

Equalizing Funds

G. S. 108-73 authorizes the State Board of Allotments and Appeal to reserve equalizing funds from its appropriations for old age assistance, aid to dependent children, aid to the permanently and totally disabled and medical assistance for the aged. However, the statute authorizes disbursement of equalizing funds only for "needy aged persons and dependent children."

Chapter 409 (SB 226) amends G.S. 108-73 to correct this inconsistency. It authorizes the expenditure of equalizing funds for "needy persons coming within the eligibility provisions of this article," which would include expenditures for aid to the permanently and totally disabled and medical assistance to the aged.

Public Funds For Boarding Home Care

G.S. 108-9 (b) prohibits the payment of public welfare funds to nursing homes or homes for the aged or infirm which are owned or operated by designated officials connected with the public welfare program (and certain of their relatives) including the following: members of the State Board or a county board of public welfare; county commissioners; any official of the State Department or a county welfare department.

Chapter 48 (HB 55) re-writes G.S. 108-9 (b) to include "employees" of the State Department or any county department of public welfare, and to specify in greater detail which relatives of the designated officials may not receive public funds for providing nursing home care. The following relatives of the listed officials are within the prohibited class; a spouse, parent, child, grandparent, grandchild, brother, sister, spouse of parent, spouse of child, spouse of brother or spouse of sister.

Residence of Mental Patients

G.S. 122-40 authorizes the State Department of Mental Health to approve the return of patients from out-of-state mental hospitals to the appropriate North Carolina institution at the expense of the sending state if it is satisfied the patient is a North Carolina resident.

Chapter 800 (HB 427) re-writes 122-40 to authorize the State Department of Mental Health to return such patients to the appropriate North Carolina institution if it is satisfied that the patient is a North Carolina resident from a residence investigation made by the State Board of Public Welfare.

County Director

Chapter 356 (HB 468) amends two statutory sections (G.S. 14-320 and G.S. 115-175.1 (1)) to change obsolete references to the county superintendent of public welfare to read "county director of public welfare."

Public Assistance

Aid to Dependent Children

G. S. 108-49 defines a "dependent child" eligible for aid to dependent children as a child under 18 years of age living with specified relatives. This age limit has required that public assistance for a child be terminated on his 18th birthday, regardless of whether the child has completed high school or is educationally prepared to earn a living. Further, G. S. 108-50 (1) and 108-50 (3) impose certain limits on the eligibility of children 16 and older for aid to dependent children assistance. They must be attending school or establish that employment is not available through registration at an employment service; they are not eligible during the summer months unless employment is unavailable.

Chapter 939 (SB 209) amends G. S. 108-49 to expand the definition of "dependent children" to include children under 21 years of age. It also amends G. S. 108-50 (1) to impose specific limits on the eligibility of children over 18 for aid to dependent children. A child between 18 and 21 must be a student "regularly attending a high school and successfully pursuing a course of study leading to a high school diploma or its equivalent" or "regularly attending and successfully pursuing a course of vocational or technical training designed to fit him for gainful employment."

A question arises concerning the interpretation of G.S. 108-50 as amended. Are children between the ages of 18 and 21 eligible for assistance during the summer months if they are not "regularly attending" and "successfully pursuing" a summer program in high school or vocational

or technical school? The Attorney General (by letter to the Director, Division of Public Assistance, State Board of Public Welfare, July 30, 1965) has ruled that "subject to all other requirements of eligibility, a child who is over 18 years of age is eligible for assistance during the summer if no gainful employment is available." G.S. 108-50 as amended seems to exclude any child between 18 and 21 from eligibility who is attending college.

Indian Assistance

The Cherokee Indian Reservation lies in three western North Carolina counties — Graham, Jackson and Swain. Swain County has objected to supporting public assistance programs for needy eligible Indians who reside on the federal reservation on the grounds that they pay no county taxes. When the matter was contested in the courts, Swain County was required to match federal and state funds to support public assistance programs for eligible Cherokee Indians (N. C. State Board of Public Welfare vs. Commissioners of Swain, 262 N. C. 475).

Chapter 708 (HB 847) adds a new statutory section (G. S. 108-72.1) requiring the State Board of Public Welfare to reserve funds from its appropriations to re-imburse counties for their share of the cost of welfare payments (including incidental administrative costs) to Indian residents of any Federal reservation. The State Board of Allotments and Appeal is directed to determine what amount will be sufficient to re-imburse such a county for its share of the cost of Indian welfare payments for old age assistance, aid to dependent children, aid to the permanently and totally disabled, and medical assistance for the aged.

Sterilization

The 1963 General Assembly enacted legislation (G.S. 90-271 through 90-275) which authorizes voluntary sterilization if the person seeking sterilization and spouse request the operation in writing 30 days in advance. The written request of the spouse is not required in three situations: (1) if the spouse has been declared mentally incompetent; (2) if the couple are separated under a separation agreement; (3) if the couple are divorced (either absolutely or from bed and board).

Chapter 108 (HB 179) adds a fourth situation where a request for sterilization of a wife by the husband is unnecessary. It amends G. S. 90-271 to waive the husband's request where the husband has abandoned the wife and failed to support her for the preceding six months. The wife desiring voluntary sterilization under this provision must furnish an affidavit that she meets these two requirements.

Study of Public Assistance Programs

The House of Representatives adopted an un-numbered House Resolution on June 15, 1965 which directs the Legislative Research Commission to make a thorough study of "public assistance programs with a view to providing training programs for trainable recipients and requiring maximum efforts to obtain employment by employable personnel." The Commission is directed to report its findings and recommendations to the 1967 General Assembly. The resolution refers to Illinois legislation providing a program for education and employment of public assistance recipients.

Child Welfare

Day Care

North Carolina has been a leader in providing day care for children from low income families. This program has been financed entirely from federal funds.

County welfare departments certify which children are eligible for free day care under the program. To be eligible, a child must come from a low income home. There is also generally a requirement that one parent be absent from the home (as in the case of a deserting father). Day care often makes it possible for the remaining parent to be employed outside the home and remain self-supporting.

Federal child welfare funds are now being used to purchase day care for needy children in 58 licensed day care facilities located in 19 North Carolina counties. Other counties are asking for the program when funds become available.

Chapter 1175 (SB 458) amends G. S. 108-3 (specifying the powers and duties of the State Board of Public Welfare) to add new subsection (18) which authorizes the State Board to make payments from state and federal funds for the necessary cost of day care for minor children of needy families. It authorizes the State Board to adopt rules, regulations and standards "consistent with the principle of obtaining maximum federal participation in the costs of such day care."

Child Abuse

There has been considerable national interest in the "battered child syndrome" in recent years. This refers to physical abuse of children by parents whom society normally expects to protect their children. North Carolina joined 44 other states in adopting legislation on reporting of child abuse cases.

Chapter 472 (SB 44) adds two new sections (G. S. 14-318.2 and 14-318.3) to our criminal law dealing with protection of minors. It authorizes any physician, surgeon, nurse, school teacher, principal, school superintendent or employee of a county welfare department to report the case of any child under age 16 who suffers from an illness or injury inflicted by the abuse or neglect of his parent or other person in *loco parentis*. These reports (the bill does not specify whether oral or in writing) are to be made to the county director of public welfare in the county where the child resides. The report should include the names and addresses of the child and his parents or other in *loco parentis*, age of child, nature and extent of injury or illness (including evidence of previous injury or illness) and "any other information that the maker of the report shall believe might be helpful in establishing the cause of the injury or illness and the identity of the person" responsible.

A county director who receives a report of child abuse must "investigate" to determine who caused the abuse and "take such action in accordance with law necessary to prevent the child from being subjected to further abuse, neglect, injury or illness."

Any person making a report of child abuse or who testifies in a court proceeding resulting from a report is given immunity from civil or criminal liability "unless such person acted in bad faith or with malicious purpose." The bill provides that the physician-patient privilege (making communications from patient to physician confi-

dential) is not grounds for excluding evidence concerning child abuse in any court proceeding resulting from a report of child abuse. Therefore, the examining physician is a competent witness to testify concerning the facts of child abuse in court.

There was considerable public interest in this bill. It is a modified form of the U. S. Children's Bureau model act for state legislation on reporting of child abuse cases. Most state laws require mandatory reporting of child abuse cases by physicians; our new law authorizes voluntary reports of child abuse by physicians and other professional personnel. The model act eliminates the husband-wife privilege as a ground for excluding evidence of child abuse in court; our law does not eliminate the husband-wife privilege. Thus, neither husband nor wife can testify concerning the child abuse of the other in a criminal proceeding in North Carolina when the other spouse is the defendant.

How should a county welfare director handle a report of child abuse under this new law? In essence, he will handle the case as he has traditionally handled child neglect cases. He may use his professional staff to provide case work services to abusive parents to help them improve the child's treatment or care. He may refer the case to the law enforcement authorities or the juvenile court. In some serious cases, the Director may decide to sign a criminal warrant against the parents.

Admission to Centers for Retarded Children

G. S. 122-70 requires that an application for admission of a child under 21 to centers for mentally retarded must be made by the father if the parents are living together; if not, by the parent having custody or a duly appointed guardian.

Chapter 800 (HB 427) rewrites G. S. 122-70 to require that an application for admission of a "resident person" to a center for mentally retarded be signed by both parents if they are living together; if not, the application may be signed by the parent having custody, a duly appointed guardian of the person or other person standing in *loco parentis*.

Medical Care

Social Security Amendments

H. R. 6675 (the Social Security Amendments of 1965, usually called the Medicare bill) has passed Congress in compromise form. This bill will have a major effect on public welfare programs. Title XIX contemplates a new unified and expanded medical assistance program which would replace existing medical care programs for needy persons.

Chapter 1173 (SB 445) is enabling legislation which would authorize North Carolina to take advantage of Title XIX. This bill is effective only: (1) if the Social Security Act is amended by Congress to provide a program of grants to states for medical assistance; (2) when the State Board of Public Welfare adopts rules and regulations for its administration which are approved by the Governor and Advisory Budget Commission.

When effective, Chapter 1173 repeals three parts of Article 3, Chapter 108 of the General Statutes relating to hospital and medical care for needy persons as follows: Part 4 (Hospitalization and Other Care of Assistance Recipients); Part 4A (Hospitalization and Other Care for the Medically Indigent); Part 4B (Medical Assistance for the Aged). It substitutes new Part 4 (Medical Assistance, G. S. 108-73.13 through 108-73.15) authorizing the State Board of Public Welfare to establish a fund to be known as "State Fund for Medical Assistance" from available federal, state and county appropriations. The State Board is authorized to adopt rules and regulations for administration of payments from the fund for medical and "other remedial care" for eligible needy persons. The bill limits payments for hospitalization (both in-patient and out-patient services) to hospitals licensed by the North Carolina Medical Care Commission or approved under laws of another state.

Financing

If the bill becomes effective during the biennium beginning July 1, 1965, the 1965 appropriations for hospital and medical care of needy persons are to be transferred to a new appropriation to effectuate the new medical program with approval of the Governor and Advisory Budget Commission. The bill authorizes the Governor and Advisory Budget Commission "to do whatever is necessary to this end.'"

The non - federal share of financing may be divided between the State and counties according to the provisions of the Social Security Act, provided the counties' share may not exceed the State's share. The bill requires boards of county commissioners to levy and collect sufficient taxes to cover each county's share of the cost.

Social Security Amendments Adopted

The bill adopts and accepts the new amendments to the Social Security Act providing grants to the states for medical assistance. It specifies that its provisions shall be liberally construed to effectuate the intent to comply with the new federal law.

There is one specific limitation to acceptance of the new federal program — recipients of medical assistance under the program are to retain the right to choose their own physician or hospital. The bill specifies it shall not be construed "to deprive a recipient of assistance of the right to choose the licensed provider of the care or service" under the program.

Licensing

Facilities for Aged or Infirm

G. S. 108-3 (15) gives the State Board of Public Welfare authority to license boarding homes, rest homes or convalescent homes for persons who are aged or mentally or physically infirm if they care for two or more persons.

Chapter 391 (HB 633) amends G. S. 108-3 (15) to exempt boarding homes that care for four or less persons under supervision of the U. S. Veterans Administration from the licensing authority of the State Board of Public Welfare.

Medical or Non-Medical Facilities

G. S. 122-72 (a) makes it unlawful to operate a private hospital, home or school for the cure, treatment or rehabilitation of mentally ill, mentally retarded or inebriate persons without a license from the Department of Mental Health. G. S. 122-72 (e) gives the State Board of Public Welfare authority to license *non-medical* homes or institutions for mentally ill, mentally retarded or inebriate persons.

Chapter 1178 (SB 516) amends subsection (a) and rewrites subsection (e) of G. S. 122-72 to give the State Board of Public Welfare authority to administer its licensing power over non-medical facilities which is equivalent to the licensing authority of the Department of Mental Health over medical facilities. It is unlawful (a misdemeanor) to operate a home or facility for mentally ill, mentally retarded or inebriate persons without a license from either the Department of Mental Health or Board of Public Welfare. The State Board of Public Welfare is given equal authority to make rules and regulations, prescribe standards, make supervisory visits, require reports, etc.; either agency may take court action to vacate or annul a license for specified reasons. The act is inapplicable to homes or other non-medical facilities which care for four or less persons under the supervision of the U. S. Veterans Administration.

Solicitations

It is unlawful to solicit funds from the public for charitable purposes in North Carolina without a license from the State Board of Public Welfare (G.S. 108-80 through 108-86). G. S. 108-84 lists certain solicitations by certain groups which are exempt from the State Board's general licensing authority.

Chapter 990 (SB 385) amends G. S. 108-84 to exempt any solicitation by a non-public high school from the licensing authority of the State Board, providing it offers the minimum high school course prescribed by the State Board of Education and is accredited by the State Department of Public Instruction.

State Board of Public Welfare

Duties

G. S. 122-20 makes the State Board of Public Welfare (and members of the General Assembly) *ex officio* visitors "of all hospitals for the insane." It requires the State Board to visit the hospitals from time to time and make reports thereon to the General Assembly.

Chapter 800 (HB 427) repeals G. S. 112-20, relieving the State Board of Public Welfare of duties which seem more appropriate for mental health authorities.

Name

The General Assembly has tried for several sessions to designate our state welfare board as the State Board of Public Welfare.

Chapter 357 (HB 469) amends G. S. 153-9 (38) to delete an obsolete reference to the "State Board of Charities and Public Welfare."

Related Legislation

Council on Aging

Chapter 977 (HB 1074) creates the Governor's Coordinating Council on Aging within the Department of Administration to achieve the following purposes: review existing programs for aging within the State and make recommendations to the Governor and General Assembly for improvements or additions; study, collect and publish data relative to all aspects of aging; stimulate and educate concerning needs, resources and opportunities for the aging; serve as clearinghouse and co-ordinate programs for aging to avoid duplication; consult with State agencies desiring to begin programs for the aging; promote employment and recreation for older people; identify research needs and assist in obtaining financing for research and demonstration projects. The Council is to be the state agency for handling federal programs relating to the aging not specifically placed in another state agency.

The Council is composed of the following State officials, serving *ex officio*, called "government" members: Director of Administration; Commissioner of Public Welfare; Health Director; Commissioner of Mental Health; State Librarian; Executive Director of Recreation Commission; Chairman of Employment Security Commission; Executive Secretary of Teachers' and State Employees' Retirement System; Commissioner of Department of Labor; Superintendent of Public Instruction; Supervisor of Services to the Aging, State Board of Public Welfare; Director, School of Public Health, University of North Carolina; Director, Agricultural Extension Services, North Carolina State University at Raleigh.

One Council member is to represent the North Carolina Medical Society (to be appointed by its president); there are to be seven "citizen" members appointed by the Governor, who also appoints the Chairman.

The Council is to appoint an Executive Director who shall be "professionally qualified by experience and training" according to the State personnel plan. It will meet quarterly and on call of the chairman. A majority of the Council members constitute a quorum. If a "government" member is unable to attend a meeting, he is to send a deputy who shall have full Council status.

Appropriations

Financing public welfare programs is complex due to complicated matching formulas for state (approximately 14%) and county funds (approximately 14%) to match available federal funds (approximately 72%). The total sum available for public welfare programs in the State during the next biennium from these three sources will amount to $231,232,030.

The North Carolina Board of Public Welfare requested $37,723,996 in state funds for the biennium for the State's share in the cost of public welfare programs. The General Assembly appropriated $15,431,746 for 1965-66 and $16,126,952 for 1966-67 — a total of $31,558,698 for the biennium (Chapter 914, HB 12).

Hospital Care

A special provision (Sec. 9) of the appropriation bill increased the per diem rate for reimbursable hospital costs from $20 to $22, with two limitations: (1) depreciation on hospital buildings may not be included in computing hospital costs; (2) hospitals which receive foundation funds for indigent care must deduct such funds from the hospital's reimbursable costs rates.

Child Care Funds

The General Assembly appropriated $605,686 for the 1965-67 biennium in state funds for the support of child-caring institutions. The following amounts were appropriated to the specified institutions for each year of the biennium:

Oxford Orphanage	$ 62,250
Junior Order Children's Home	55,000
Oxford Colored Orphanage	86,000

Odd Fellows Home	11,000
Pythian Home	11,000
Alexander Schools, Inc.	40,000
Eliada Homes, Inc.	15,000
Boys Home of North Carolina, Inc.	10,000
Sipe's Orchard Home, Inc.	10,750
(Sipes also received an additional $1,843 as grant-in-aid under Chapter 1037 (HB 1001))	1,843
Total Child Care Funds For Each Year of Biennium	$302,843

North Carolina State Commission for the Blind

Meeting Place

G. S. 111-3 requires that all meetings of the State Commission for the Blind be held in Raleigh.

Chapter 236 (SB 70) amends G. S. 111-3 to authorize the Commission to meet in Raleigh or in other locations selected by its Chairman.

Amount of Assistance When Recipient Moves

When a recipient of aid to the blind moves from one county to another, the county from which he moves is required by G. S. 111-19 to continue assistance for three months "not in excess of the amount paid before removal . . ."

Chapter 905 (S. B. 490) amends G. S. 111-19 to delete this limitation on the amount of blind assistance which the county of prior residence must pay.

This change appears to mean that the county of prior residence could be required to increase its blind assistance during the three month period after the recipient leaves the county, providing the budgeted need in the new county establishes eligibility for an increased payment.

Gifts for Special Purposes

Federal law now allows the state agency administering the blind assistance program to accept private funds ear-marked for a specific project which may be considered as state funds for federal matching purposes in order to obtain federal funds which might be available on a matching basis for such special projects.

Chapter 906 (SB 491) is enabling legislation which allows the Commission for the Blind to take advantage of these recent federal changes. It authorizes the Commission to accept gifts from private sources, even though the contribution may be conditioned on establishing a particular non-profit workshop, rehabilitation center or other facility to provide training or employment for eligible blind persons. The Commission is authorized to treat such private funds as state funds in order to accept funds available under federal law on a matching basis for the establishment of such facilities. The Commission is authorized to make rules and regulations necesssary for receiving and spending such private funds, consistent with obtaining maximum federal participation and according to established budget procedures of the Department of Administration.

Appropriations

The program of the Commission for the Blind is financed on a matching basis by federal, state and local funds.

The General Assembly appropriated $2,945,277 for the biennium for the state's share of the cost of this program; $1,455,196 for 1965-66; $1,490,081 for 1966-67.

DOMESTIC RELATIONS AND JUVENILE COURTS

The North Carolina Courts Commission Bill

The most sweeping changes in our domestic relations and juvenile courts will result from the passage of Chapter 310 (HB 202) — the Judicial Department Act of 1965 — sometimes called the court improvement bill. It will abolish all courts inferior to the Superior Court between 1966 and 1971 on a specified schedule by superior court judicial districts.

The following domestic relations or juvenile courts will be abolished: 8 county-supported domestic relations and juvenile courts (Buncombe, Cabarrus, Forsyth, Gaston, Guilford, Johnston, Mecklenburg, Wake); 90 county juvenile courts where the clerk of superior court serves *ex-officio* as juvenile court judge; 2 county juvenile courts whose judge is not clerk of superior court (Durham and Rockingham); 6 city juvenile courts (Burlington, Hendersonville, Hickory, Mount Airy, Rocky Mount and Wilmington). The jurisdiction and authority of these courts is placed in the newly-created district court, along with other specified civil and criminal jurisdiction.

District Court Jurisdiction in Family Matters

The district court will have jurisdiction of all cases affecting the family unit (except adoptions) as follows: (1) the juvenile court jurisdiction over delinquent, dependent and neglected children under 16 years of age (Sec. 7A-277); (2) the present criminal jurisdiction of domestic relations courts over misdemeanors, including non-support of wife or children, non-support of aged parent, abandonment of children, assault between husband and wife, assault by adult upon a minor, contributing to delinquency or neglect of children, bastardy and school attendance (Sec. 7A-272); (3) civil jurisdiction over annulment, divorce, alimony, child support, child custody and support actions under the Uniform Reciprocal Enforcement of Support Act (Sec. 7A-244).

This bill embodies a basic change in family court philosophy. Up to this point, North Carolina has been moving toward specialized courts for juvenile and family cases in the gradual development of county-supported domestic relations and juvenile courts. After 1971, there will be no specialized courts; there will be a state-wide system of district courts with general civil and criminal jurisdiction, including cases affecting the family unit.

Specialization

While there will be no specialized family courts, the concept of specialization will continue through having district court judges in some districts who will specialize in certain types of cases. The bill specifically refers to judges who will specialize in domestic relations and juvenile cases.

The chief district judge is to arrange district court sessions for trial of specialized cases "including domestic relations", assigning district judges to preside so as to permit the "maximum practicable specialization by individual judges" (Sec. 7A-146 (g)). In districts having

three or more district judges, judgeships may be designated on the ballot as specialized judgeships by the Administrative Officer of the Courts, with approval of the chief district judge; persons can then be nominated and elected to these specialized judgeships (Sec. 7A-147).

Election to a specialized judgeship designated on the ballot will not be possible during the first four years — 1966 to 1970. There will be no chief district judge prior to the 1966 election to give approval to the ballot as required by 7A-147. After the chief district judges are appointed, there can be specialization by assignment of the chief district judge during the first four years under Sec. 7A-146 (g).

Thus, there will be district judges specializing in family and juvenile cases in the more populous districts. In some rural districts, there may be only two or three district court judges with larger geographical areas to cover; specialization by district court judges may not be possible in these districts.

Procedures in Juvenile Cases

Procedures and practices in juvenile courts are more informal and less adversary than in our adult criminal courts. The bill requires the district court to follow these special procedures (contained in Article 2, Chapter 110, N. C. Gen. Stats.) in cases involving juveniles, including appeal procedures (Sec. 7A-195). The juvenile court jurisdiction may be exercised only by the district court judge (Sec. 7A-277); this provision seems intended to prevent assignment of juvenile cases to any magistrate or clerk.

Related Court Services

Probation Staff

Juvenile probation services are provided in several ways in North Carolina. In 90% of the counties where the clerk of superior court serves *ex-officio* as juvenile court judge, the director of the county welfare department is the chief probation officer of the juvenile court (G.S. 110-31). Therefore, studies of juvenile cases and supervision of children on probation are furnished by the staffs of the county welfare departments. Most of the county-supported domestic relations and juvenile courts have their own probation staffs, responsible administratively to the judge.

The bill does not attempt to establish a uniform statewide program to provide probation services to district court judges handling family cases. Rather, it authorizes the establishment of state-supported "special counselor services" for the district court judge (or judges) "hearing domestic relations and juvenile cases" in any district containing a county with a population of 100,000 (Sec. 7A-134). The chief district judge of the district involved and the Administrative Officer of the Courts are given discretionary authority to establish this program of family counselors.

Appointment of Family Court Counselors

If the chief district judge and Administrative Officer of the Courts decide special counselor services are needed, the chief district judge is authorized to appoint a "chief counselor" and such "assistant counselors" as are authorized by the Administrative Officer of the Courts. These counselors are to provide "investigative, supervisory and other related services." Their salaries are to be determined by the Administrative Officer of the Courts "with due regard to the salary levels and the economic situation in the district." All counselors will be State employees who will "serve at the pleasure of the chief district judge."

Court Services in Rural Areas

The bill makes no provision for juvenile probation services in those districts which do not contain a county with a population of 100,000 or where the discretionary authority to appoint family court counselors is not exercised. In these districts, the directors of the county welfare departments in the district will continue to be the chief probation officer of the juvenile court; thus juvenile probation service will continue to be provided by case workers in the welfare departments. Since most districts include more than one county, a district court judge may be working with several county welfare departments within the district concerning investigation and supervision of juvenile cases.

Clerk's Functions

Most of our present county-supported domestic relations courts have their own clerks of court, who keep court records, type judgments, supervise disbursement of support funds paid through the court, etc.

The bill consolidates these functions in the office of the clerk of superior court in each county as the district court is established. Thus, the clerk of superior court will perform all clerical function for the district court, including establishing an office of consolidated records for the district court and the superior court in each county (Sec. 7A-180).

This change may create some practical problems concerning the adult records of the eight county-supported domestic relations courts. While these records are not set up uniformly, they often contain much information about the parties involved in addition to the court order. For example, the court staff may have provided counseling to a couple who were involved in a non-support or assault case. This couple's record would contain the court's criminal judgment. It might also contain sensitive information concerning family relationships and behavior which the court worker obtained in the process of counseling with the couple.

There is presently no legal authority (as exists in the case of juvenile records) providing for confidentiality of sensitive material which might be contained in these adult records. The court order is a public record. This type of sensitive information about families has been treated administratively as confidential by most domestic relations courts. It seems unwise to allow this portion of the court record to be open for indiscriminate public inspection after consolidation in the office of the clerk of superior court.

Juvenile court records are considered confidential (G.S. 110-24) and are often located in the office of the chief probation officer of the juvenile court — the county welfare department. They also contain information about children and their families which should not become public information. Juvenile court "practices and procedures" are made applicable to the district court in juvenile cases (Sec. 7A-195). This should include confidentiality of juvenile records after consolidation in the office of the clerk of superior court.

Detention Care

The lack of approved detention facilities for juvenile delinquents who require secure custody has been a problem in our State for years. Our law forbids detention of children in county jails (N.C. Gen. Stats. 110-30). There are only five counties which provide approved detention facilities (Buncombe, Guilford, Forsyth, Mecklenburg, Wake) which are supported entirely by county funds. Juvenile court judges and law enforcement personnel from the other 94 counties have no detention facility. When a child must be held in custody, they sometimes use the county jail in violation of the law. They have no other alternative.

The bill makes no change in the present law relating to detention homes. Thus, detention care will continue to be a county responsibility. The bill does provide for a "facilities fee" to be charged as part of court costs. This fee will be paid to the county or city providing court rooms and related judicial facilities, including "juvenile detention facilities . . ." (Sec. 7A-304 (2)).

Other Related Legislation

Docketing Judgments

Domestic relations court judges and clerks of superior court have been uncertain whether an order of a domestic relations court entering judgment absolute against a bondsman could be docketed in the office of the clerk of superior court. There has been no specific legal authority for docketing such judgments.

Chapter 989 (SB 381) solves this problem by adding new G. S. 7-108.1. It provides that a transcript of any judgment of a domestic relations court rendering absolute a bond forfeiture may be docketed in the office of the clerk of superior court of the county in which the judgment was rendered. Such judgments have the full force and effect of all judgments docketed in Superior Court.

Blood Test Evidence

Blood grouping tests are frequently used in contested paternity cases where the alleged father denies paternity. While such evidence can never establish paternity, a blood grouping test on the alleged father, mother and child may show that the alleged father could not have conceived the child involved.

G. S. 8-50.1 deals with the competency of blood grouping tests in criminal proceedings in which "the question of paternity arises." If the defendant moves for a blood test in such a case, the court must order the defendant, mother and child to submit to a blood grouping test.

Increasingly, our courts are hearing criminal non-support cases in which the husband-defendant denies paternity of a child born to his wife after separation. Our law presumes the husband is the father unless he can establish non-access, which is difficult to prove. Because of this legal presumption, a defendant-husband's motion for a blood grouping test would likely be denied.

Chapter 618 (HB 520) amends G. S. 8-50.1 to require the court to order blood grouping tests on motion of the defendant "regardless of any presumptions with respect to paternity." It provides that "such evidence shall be competent to rebut any presumptions of paternity."

This change is important to lawyers and judges interested in paternity proceedings. It seems to allow a married man to secure a blood grouping test when he raises the paternity issue regardless of the legal presumption of paternity. If the blood grouping test shows he could not have been the father, this becomes competent evidence to rebut the presumption of paternity.

Minor Medical Care

Juvenile court judges and directors of welfare departments have been troubled by the problems of securing parental consent for emergency medical and surgical treatment for children. Our present law authorizes a juvenile court judge to order medical or surgical care for children within his jurisdiction (G.S. 110-38). However, medical emergencies arise at night or on weekends involving children whose parents can't be located. Such children are often unknown to the juvenile court; thus they are not within its jurisdiction. Similar problems arise concerning children who have been placed in foster homes by a welfare department under a custody order from juvenile court. A court hearing to order emergency medical care seems completely impractical when there is a real emergency.

Chapter 810 (HB 1010) may provide a solution to some of these problems through enlarging the authority of physicians to provide medical or surgical care without parental consent. It authorizes any licensed North Carolina physician to render medical treatment without parental consent in the following situations: (1) where the parents (or persons in *loco parentis*) cannot be contacted with reasonable diligence during the time within which the minor needs to receive the treatment; (2) where the identity of the child is unknown; (3) where the necessity for immediate treatment is so apparent that delay to secure approval would endanger life; (4) where delay to secure parental approval would "seriously worsen the physical condition" of the minor. The "treatment" authorized is defined to include specified standard medical procedures, including "surgery" if the surgeon obtains the opinion of another licensed North Carolina physician that surgery is necessary. If an emergency arises in a rural area where it is impossible to secure another physician's opinion, such approval is not necessary. Any physician who performs medical treatment upon a minor as authorized by the bill is given immunity from liability for acting without parental consent.

Medical Care in Training Schools

The several training schools for juvenile delinquent children under the supervision of the State Board of Juvenile Correction have provided medical, surgical or dental care for their students as a part of their programs.

Chapter 1024 (HB 907) clarifies the authority and duty of the State Board of Juvenile Correction to provide medical care for students in our state training schools. It authorizes the medical staff of any of the training schools to provide medical treatment or surgical operations upon their students when necessary for physical health. If surgery is needed by a student, the training school must follow the procedure outlined in G. S. 130-191 (dealing with procedure when surgery is needed by inmates of state institutions). The training school is required to secure the consent of the child's family for surgery. If a medical emergency arises requiring surgery and the fam-

ily's consent can't be obtained within the time allowed by the emergency, the decision to operate may be made by the chief medical officer and the superintendent of the training school, with advice from the other medical staff.

Incest

A domestic relations court judge may conduct the preliminary hearing when an adult is charged with the felony offense known as incest (sexual intercourse between specified relatives and a child). G. S. 14-178 now defines incest to include intercourse between a parent and child, grandparent and grandchild, or brother and sister of the half or whole blood.

Chapter 132 (HB 162) rewrites G. S. 14-178 to expand the definition of incest to include intercourse between a parent and stepchild, or between a parent and legally adopted child.

Guns and Weapons

Juvenile delinquency cases sometimes involve children who have used guns, pistols, etc. G. S. 14-316 makes it unlawful for a parent to allow a child under age 12 to possess or use a gun, pistol or other dangerous firearm.

Chapter 813 (HB 152) rewrites G. S. 14-316 to make it unlawful to allow a child under 12 to possess or use any gun, pistol or other dangerous firearm except when the child is under the supervision of a parent, guardian or other person standing in *loco parentis*.

The act specifies that air rifles, air pistols and BB guns are not "dangerous firearms" within the meaning of the statute in most of North Carolina — in 82 of our 100 counties. Air rifles, air pistols and BB guns are "dangerous firearms" within the meaning of the statute in the following 18 counties: Anson, Caldwell, Caswell, Chowan, Cleveland, Durham, Forsyth, Gaston, Guilford, Harnett, Haywood, Mecklenburg, Onslow, Stanley, Stokes, Surry, Union, and Vance.

Interstate Compact on Juveniles

The 1963 General Assembly adopted the Interstate Compact on Juveniles (G.S. 110-58 through 110-63) which establishes procedures for the return of minor children who run away to other states and for other cooperative planning for children between states party to the compact. It contains fifteen articles concerning procedures for the following and other matters: return of non-delinquent runaways; return of delinquent children, juvenile probationers, juvenile parolees or escapees from institutions for delinquents; voluntary return of juveniles; cooperative supervision of probationers and parolees between states party to the compact; detention practices, etc.

Article IV (dealing with the return of non-delinquent runaways) as adopted by the 1963 Legislature is not identical in language with Article IV as adopted in other states party to the compact in the following respects: (1) it required the judge of a court to which an application is made for issuance of a requisition for the return of a non-delinquent runaway from another state to hold a hearing to determine whether the runaway should be returned; (2) it required the judge of a court before whom a non-delinquent runaway is brought on requisition for return to his state of residence to fix a reasonable time to test the legality of the proceeding if requested; (3) it limited to 30 days the time that a judge could detain a juvenile suspected of being a runaway "for his own protection and welfare" pending receipt of a requisition for his return; (4) it defined "juvenile" under Article IV as any male 16 years of age or under, any female 18 years of age or under.

Chapter 925 (HB 794) amends Article IV (all contained in G. S. 110-58) to make its language identical with Article IV as adopted by other states party to the compact. In addition, it adds a new section — G. S. 110-64 — which supplements the Compact and limits North Carolina judges in applying Article IV.

Chapter 925 (HB 794) makes the following changes in Article IV to make it compatible with the compact in other states: (1) the judge of the court to which an application is made for issuance of a requisition for the return of a non-delinquent runaway from another state has discretionary authority concerning a hearing; he may determine that the juvenile should be returned "either with or without a hearing;" (2) the judge before whom a non-delinquent runaway is brought on a requisition for return to his state of residence may fix a reasonable time to test the legality of the proceeding; he is not required to do so; (3) a judge may order that a juvenile suspected of being a runaway be detained for 90 days "for his own protection and welfare" pending receipt of a requisition for his return; (4) a non-delinquent juvenile under Article IV is defined as "any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor."

New G. S. 110-64 imposes specific restrictions on North Carolina judges in interpreting Article IV of the compact as follows: (1) the judge of a North Carolina court to which an application is made for issuance of a requisition for the return of a non-delinquent runaway must hold a hearing to determine whether the juvenile should be returned; (2) if a North Carolina judge finds a requisition for the return of a runaway to another state is in order, he must fix a reasonable time to test the legality of the proceeding if he is requested to do so; (3) a North Carolina judge can order that a juvenile suspected of being a runaway from another state be detained for only 30 days pending receipt of a requisition for his return; (4) when considering an application for a requisition for the return of a North Carolina runaway from another state, North Carolina judges must define a non-delinquent runaway under Article IV as any male 16 years of age or under or any female 18 years of age or under.

Property Rights of Married Persons

In the case of Dudley v. Staton (257 N. C. 572 [1962]), the North Carolina Supreme Court found the 1959 wills statute (G.S. 30-1 thru 30-3) unconstitutional in violation of Article X, section 6, of the North Carolina Constitution insofar as these statutes give a husband a right to dissent from his wife's will.

The 1963 General Assembly proposed and the voters approved by election in 1964 an amendment to the North Carolina Constitution rewriting Article X, section 6, to overrule Dudley v. Staton. This amendment eliminated the constitutional requirement that a husband give written assent to his wife's conveyances and authorized the General

Assembly to determine the manner in which a married woman might dispose of her property.

The 1965 General Assembly enacted eleven bills proposed by the General Statutes Commission dealing with the property of married persons. These bills were designed to equalize the rights of husband and wife in each other's separate property. They may be summarized briefly as follows: Chapter 848 (HB 318) rewrites G. S. 29-30 (a) to enumerate the classes of real property which are not subject to the elective life interest of a surviving spouse; Chapter 878 (HB 319) repeals all of Chapter 52 ("Married Women") and rewrites Chapter 52 as "Powers and Liabilities of Married Persons", new G. S. 52-1 thru 52-12, to equalize the rights of husband and wife to own separate property, to contract, to sue, to insure the life of a spouse, to consider earnings as separate property, to make a will, to sue each other, etc.; Chapter 849 (HB 320) reenacts the 1959 wills statute, G. S. 30-1 thru 30-3; Chapter 850 (HB 321) makes conforming amendment to G.S. 31A-1 (d) (dealing with acts barring property rights of spouses); Chapter 851 (HB 322) amends G. S. 39-13.2 dealing with the privileges of married persons under 21; Chapter 852 (HB 323) rewrites G. S. 39-13 to eliminate the necessity for joinder of the husband or wife in the purchase-money mortgage of the other; Chapter 853 (HB 324) repeals G. S. 30-9 (dealing with conveyances without the joinder of an insane wife) as obsolete; Chapter 854 (HB 325) repeals G. S. 35-12 (dealing with the sale of land by the wife of a lunatic) as obsolete; Chapter 855 (HB 326) rewrites G. S. 39-7 dealing with the waiver of elective life estates; Chapter 856 (HB 327) rewrites G. S. 39-12 to give husband and wife an equal right to execute a power of attorney; Chapter 857 (HB 328) validates instruments executed by a married woman affecting title to her realty from February 6, 1964 to June 8, 1965 which might be invalid due to lack of joinder of the husband.

This legislation seems to make each spouse a free agent in dealing with his or her separate property with two exceptions: (1) a private examination of the wife is required for most contracts between husband and wife affecting her property to insure that the transaction is not unreasonable or injurious to her interests; (2) the consent of both spouses is required for either to sell separate property during continuance of the marriage in order to bar the elective life estate should the surviving spouse dissent from the other's will.

Wills

G.S. 31-1 authorizes any person of sound mind and 21 years of age to make a will.

Chapter 303 (SB 182) amends G. S. 31-1 to authorize any married person 18 years of age or older to make a will, providing such person is of sound mind.

Separation Agreements by Couples under 21

When married couples under age 21 separate, they sometimes desire to enter into a separation agreement. The validity of such separation agreements is questionable, as the parties are minors.

Chapter 803 (HB 938) solves this problem by adding new G. S. 52-13.1 which authorizes a married couple to execute a valid separation agreement if both are 18 years of age or older. If either husband or wife are under 21, the separation agreement must be acknowledged by the husband before a clerk of superior court and executed by the wife before the clerk of superior court according to new G. S. 52-6 (requiring private examination of the wife and certification that the contract is not unreasonable or injurious to her).

Marriage Ceremony

G. S. 51-1 specifies the requisites of a valid marriage, usually including the consent of a couple to marry each other, expressed in the presence of an ordained minister. It provides that the rite of marriage among the Society of Friends according to their form and custom constitutes valid marriage.

Chapter 152 (SB 121) adds another religious group whose particular form of ceremony may constitute a valid marriage. It amends G. S. 51-1 to provide that marriages solemnized and witnessed by a Local Spiritual Assembly of the Baha'is, according to the usage of their religious community, shall be valid marriages.

Separation as Grounds for Divorce

North Carolina law provides for absolute divorce after a couple have been separated for two years under either G. S. 50-5 (4) or G. S. 50-6. More than 90% of the divorces secured in North Carolina in the last few years have been based on two years separation of the parties.

Chapter 636 (HB 480) and Chapter 751 (SB 471) amend G. S. 50-5 (4) and G. S. 50-6 to reduce the period of separation required as grounds for absolute divorce from two years to one year. Conforming amendments are also made to two related sections to reflect the reduction in the period of separation required to one year: (1) G. S. 50-8 (waiving the requirement that the divorce complaints allege that the grounds for divorce have existed for six months if separation of the parties is the basis of the divorce); (2) G. S. 50-10 (deeming jury trial waived in divorce cases based on separation of the parties if the defendant has been personally served with summons or if the defendant has accepted service of summons in or outside the State unless one of the parties requests a jury trial).

Chapter 105 (HB 135) expands the coverage of G.S. 50-10 to deem a jury trial waived in divorce cases based on separation of the parties for one year where the defendant has been personally served with summons *outside the State* (unless requested by one of the parties).

Commission on Education and Employment of Women

Chapter 1034 (HB 993) establishes the North Carolina Commission on the Education and Employment of Women composed of seven members — three appointed by the Governor, two by the President of the Senate and two by the Speaker of the House.

The Commission is to meet, study and advise with the Governor, state departments and the Legislature. It is to make recommendations concerning the education and employment of women. It is to report to the 1967 General Assembly. The Commission members will serve without compensation, but they will be paid the same subsistence and travel expenses received by other State boards. □

By Milton S. Heath, Jr., and Warren Jake Wicker

WATER RESOURCES

Chapter numbers given refer to the 1965 Session Laws of North Carolina. HB and SB numbers are the numbers of bills introduced in the House and in the Senate.

The principal legislative developments this year involving water resources came in the areas of water rights law and beach protection programs. Also of more than routine interest for water resource agencies were proposals submitted involving their jurisdiction (but largely rejected) as part of a revision of commercial fishing laws. In other respects — small watersheds, soil and water conservation, drainage and sanitary districts, and water and sewerage service — this was a legislative year of consolidation and limited change.

Water Rights Law

Two bills involving water rights — one which was enacted and one which failed to pass — have signalled a renewal of interest in a sensitive area of law and policy which has been relatively dormant for the past decade.

The bill that was introduced first, and did not pass, was HB 928. It would have added to GS 143-354(a)(8), which states the rulemaking powers of the North Carolina Board of Water Resources, the following provision:

> Within the riparian rights principle and reasonable use concept this authorization shall not be limited to, but shall include, the right to adopt rules and regulations establishing reasonable usage on the part of any individual, firm or corporation of the surface or ground waters of the State. In establishing such rules and regulations, the Board shall be governed by the right of an individual, firm or corporation to the use of surface or ground water resources under the riparian rights principle and reasonable use concept to the extent that the public interests and the rights of others are safeguarded, the surface and ground water resources of this State are conserved and utilized, and the usage is not detrimental to riparian and lower riparian owners.

The bill went on to state that such rules and regulations would be enforceable by injunctive relief, by review pursuant to Article 33 of GS Chapter 143, and by criminal sanctions.

The main purpose of the bill, as expressed by its principal sponsor the Department of Water Resources, was to protect against very large water users who might lower water tables or otherwise materially damage neighboring water users. In the course of committee hearings strenuous opposition to the bill was expressed by some large industrial water users, notably the phosphate mining interests in eastern North Carolina.

In light of these objections and of the relatively late introduction of HB 928, the House Committee on Water Resources and Control gave the bill an unfavorable report. In place of HB 928 the committee recommended favorable action on a compromise measure directing the Department of Water Resources, with the advice of other interested agencies, to study the need for State regulation of water usage and to submit its recommendations to the next General Assembly through the Governor by February 18, 1967. A resolution embodying this compromise, HR 1149, was enacted without opposition by the General Assembly as Resolution 82. The Department has already set its study in motion and has established a timetable which includes a target of October 1966 for submission of a formal staff report to the Board of Water Resources.

Beach Protection

The need to protect North Carolina beaches and coastal property led to major legislative action in the 1965 General Assembly in the areas of local finance, regulation and research.

Increased attention has been given in recent years to the restoration of coastal beaches and the development of both protective works and natural features designed to prevent beach erosion and to protect coastal properties from hurricane damage. Financing of these projects, such as the construction of berms at Carolina and Wrightsville beaches, has been largely with federal funds, but with lesser sums from the state and still smaller sums from local governments. Two of the major beach protection acts were designed to provide a means to raise the local share of funds needed in the development of beach protection projects.

Chapter 307 (SB 57) amended G. S. 153-9 to authorize coastal counties to levy taxes, not to exceed 10 cents on the $100 valuation, and to appropriate funds for the acquisition, construction, extension or improvement of groins, jetties, dikes, moles, walls, sand dunes, vegetation, or other types of works or improvements designed for the control of beach erosion or for protection from floods and hurricanes. Expenditures for these purposes are declared to be for a special purpose and a necessary expense, thus permitting the levying of the taxes without a vote of the people.

The act also amended G. S. 153-77 to authorize counties to issue bonds to finance beach erosion control and flood and hurricane protection works, a necessary complement to the taxing and special assessment powers noted below.

Increased flexibility in the local approach to financing was provided by Chapter 714 (SB 127) which added a new article to Chapter 153 of the General Statutes of North Carolina granting coastal counties the authority to levy special assessments against benefited property to meet the cost of beach erosion control or flood and hurricane protection works.

The act provides that the county commissioners may levy all or part of the local share of the cost of such works and use as a basis:

1) frontage of land on any works,
2) frontage of lands on a beach or shoreline protected by works,
3) the acreage of land benefited,
4) the value of the land (without improvements) protected by the works, or
5) a combination of two or more of the above.

The different bases available should enable the commissioners to select the one which achieves the greatest equity, and is in recognition of the fact that conditions may vary from project to project. The maximum special assessment may not exceed the amount which would be raised by a 10 cents tax on the lands assessed if such a tax were levied annually for the period during which the assessment may be paid.

The act provides for mailed notices to all property owners and a public hearing before undertaking a project which leads to special assessments. Boards of county commissioners are also authorized to hold such special assessments in abeyance for as much as ten years and to provide for their payment in installments over a period of not less than two nor more than ten years.

With these two acts available, counties may now use any combination of tax funds, nontax revenues, and special assessments to meet the local share of the costs of beach protective works. And the authority to borrow permits spreading of the financing obligations over a period of years.

Beach erosion research was promoted by Chapter 1085 (SB 584) which provides that as much as $100,000 of the $250,000 appropriated by the 1963 General Assembly to purchase strips of land along the coastline which are threatened by erosion may be used for research into methods of retarding and eliminating beach erosion rather than for the purpose of buying strips of land.

To complete the picture on financing of beach erosion and shore protection works: the general appropriations bill, Chapter 914 (HB 12) included an allotment of $500,000 to the Department of Administration for "seashore conservation". The Board of Water Resources had originally requested $3,000,000 for this purpose — more specifically, to enable the state to participate with federal and local governments in financing beach erosion, shore protection and civil works projects. In recent experience similar appropriations have been disbursed upon resolutions by the Board of Water Resources, and it is not unlikely that this procedure will be followed in expending this year's $500,000 appropriation.

The third major piece of beach protection legislation was a regulatory measure which strengthened an existing but rarely enforced statute that prohibits the damaging of sand dunes or protective vegetation on the Outer Banks. (HB 174 — Chapter 237, amended to correct technical errors by HB 823 — Chapter 623). Like the new local financing laws, this measure was sponsored by the Seashore Commission and the Department of Water Resources, with substantial support from county commissioners and other local interests.

Prior to the enactment of Chapter 237, the provisions of Article 3 of G. S. Chapter 104B prohibited damaging or removing any part of a sand dune along the Outer Banks, or vegetation growing on the dunes, without a permit from municipal or county authorities. Taking these provisions as its point of departure, Chapter 237 made the following principal changes and innovations: first, it empowered county commissioners in the Outer Banks area to appoint or designate shoreline protection officers or to contract with other counties for a joint shoreline protection department. Thus, Chapter 237 established machinery for more active enforcement of the law. The shoreline protection officers would have the function of reviewing permit applications and issuing permits. They would also be given the powers of peace officers to enforce the dune protection law and any implementing regulations adopted by the county commissioners. Second, Chapter 237 sought to meet some objections that the old law covered too broad an area, by specifically authorizing any board of county commissioners to limit the territorial application of the law within its county to those dunes which in its judgment serve as protective barriers. Third, it authorized county commissioners to adopt and enforce regulations to implement the law. Fourth, it empowered the State Board of Water Resources to establish "project protection lines" for beach restoration and hurricane protection projects, and it prohibited construction activities and road building, among other things, on the ocean side of such lines. Finally, it revised the sanctions of the dune protection law by increasing maximum fines for violations, by eliminating the provision for imprisonment as an alternative to a fine, by making a separate violation of each ten days' continued failure (after notice) to repair damage to dunes or vegetation, and by adding injunctive relief to the remedies available to the counties for violations.

In addition to these three major coastal enactments, two other legislative actions merit mention. Chapter 798 (SB 470) regulates speed limits and the kinds of motor vehicles that may be operated on the Bogue Banks strand between Beaufort Inlet and Bogue Inlet. This year's general appropriations bill, Chapter 914 (HB 12), eliminated all funds for payment of the salary of the executive officer of the State Seashore Commission.

Fish, Game, and Boating Laws

While this subject is covered generally in the article on GAME, FISH AND BOAT LAW ENFORCEMENT which will appear in the October issue of *Popular Government*, three items of legislation should be mentioned here.

Chapter 634 (HB 278), which becomes effective January 1, 1966, represents a first step toward dealing with the growing problem of water pollution caused by untreated sewage and wastes from boats. This act provides that no vessel equipped with a marine toilet and operating on inland lake waters may be registered by the Wildlife Resources Commission under the Motorboat Act unless the vessel is provided with a sewage treatment device or holding tank approved by the State Board of Health. An exception is made for existing equipment not meeting Health Board standards. Under the act such substandard equipment may continue to be used until January 1, 1969.

It should be noted that this legislation does not require all boats to have toilets or waste treatment devices. It merely states that vessels operating on inland lake waters which do have toilets must treat their sewage in an approved manner (and adds a littering prohibition noted in the next paragraph.)

As originally introduced this legislation would have applied to all vessels operating "on the waters of the State". Prior to passage, however, it was amended to limit

its scope to vessels operating on "inland lake waters". Another amendment broadened the original bill by adding a prohibition against placing or discharging into inland lake waters any litter, raw sewage, or other materials which render the waters unsightly, noxious or unwholesome.

Chapter 1205 (HB 1187) authorizes the boards of county commissioners in the counties adjacent to Lake Norman (Catawba, Iredell, Lincoln and Mecklenburg) to adopt regulations concerning boating and other recreational uses of the lake.

Chapter 957 (HB 560) embodies a comprehensive revision of the State's commercial fishing laws, one aspect of which merits attention at this point.

When introduced, HB 560 contained a number of provisions that were later eliminated or modified before enactment, including several proposals involving the jurisdiction of water resource agencies. One such item that was eliminated before passage would have authorized the Wildlife Resources Commission and the Board of Conservation and Development to make regulations governing the discharge of pollution into fishing waters and the dredging or filling or destruction of marshlands and spawning or feeding grounds. Another provision that was later deleted by committee amendment would have modified the 1963 "fishkill law" in several respects, generally broadening the powers of the State Stream Sanitation Committee to provide greater protection for fish, shellfish and wildlife.

Finally, an item in the original bill concerning inspection and regulation of dams was substantially modified prior to passage of the bill. In its original form this provision would have directed the Wildlife Resources Commission and Department of Conservation and Development to inspect plans of all proposed dams that might adversely affect fish or wildlife, and would have prohibited the construction of a dam over the protest of either of these agencies without the concurrent approval of the Governor and Council of State. As enacted, this provision merely authorizes inspection and ensures the Department and Commission of a hearing by the agency charged with approval of the plans.

Thus, no substantial inroads were made by this legislation on the jurisdiction of the State's water resource agencies. However, a renewal of efforts in this direction is probably in the cards unless the water agencies soon seek remedies for the conditions that gave rise to the proposals embodied in HB 560.

Small Watersheds and Soil and Water Conservation

Watersheds.

There were no changes made in the general law relating to small watersheds by the 1965 General Assembly. All watershed legislation was local in effect.

Two counties were granted authority to levy county-wide taxes for watershed purposes without a referendum. Tax levying power of up to 2 cents on the $100 valuation was authorized for Cabarrus by Chapter 615 (HB 207) and an upper limit of ½ cent was authorized in the case of Union by Chapter 19 (HB 5). Union by Chapter 19 (HB 5), and Tyrrell by Chapter 703 (HB 737), were empowered to use eminent domain in the furtherance of small watershed activities.

Under the general appropriations bill (HB 12 — Ch. 914) the policy of State participation in watershed planning work was continued by an appropriation of $203,761 for the biennium, somewhat larger than the preceding biennial allowance. As in past years these funds are to be disbursed by the State Soil and Water Conservation Committee. The State Committee was also granted $4,344 for the biennium to continue its aid to local sponsors of small watershed districts for organizational expenses.

Soil and Water Conservation.

The Soil and Water Conservation statutes were amended by Chapter 582 (HB 343) to make minor changes reflecting recent changes in the names of North Carolina State University and the Board of Water Resources. In addition, this act also amended G. S. 139-5 to permit town or village lots or governmentally owned or controlled lands to be included within the boundaries of soil and water conservation districts (SWCD). The new provision will also apply to watershed improvement districts (WID), since they are established *within* soil and water conservation districts. Previously, such lots and lands were excluded from SWCD's and WID's.

The new boundary provision may be brought into play both with respect to new and existing districts. In the case of new districts its application will be as follows: a new SWCD may be created either to include or exclude town and village lots or governmentally owned or controlled lands, and a new WID established within the new SWCD may include (but does not have to include) any or all of such lots or lands. In the case of existing districts the new provision will allow both SWCD's and WID's to extend their boundaries to include such lots or lands — always remembering, though, that a WID may cover only such property as is within the boundaries of its parent SWCD. As a practical matter there is one important difference between the annexation procedures of WID's and SWCD's that will probably result in more extensive use of the new boundary provision by SWCD's than by WID's: a SWCD may annex territory simply upon petition by all of its supervisors and approval of the State Soil and Water Conservation Committee, while a WID must go through all of the procedures for creating a district (including hearings and advisory referenda) in order to annex territory.

G. S. 153-9 (35½) was amended by chapters 531 (HB 290) and 702 (HB 361) to make the section apply to Scotland and Rockingham counties. These acts bring to 79 the number of counties authorized to spend nontax revenue to promote soil and water conservation work.

Chapter 701 (HB 342) consolidated two acts of the 1963 Legislature authorizing counties to expend tax funds for soil and water conservation work. This act, to be codified as G. S. 153-9 (35¾), also brought 47 more counties under the statute and increased the total number of covered counties to 62.

Chapter 914's appropriation to the State Soil and Water Conservation Committee, in addition to the usual provisions for administration and for allotments to districts for supervisor travel and per diem, includes an item of $11,000 each year to add a field man to the Committee's staff. The appropriation for new personnel is conditioned on federal support of the program at the current level; if federal support is reduced, the Advisory Budget Commis-

sion is authorized to reduce the number of new employees. Resolution 53 (HB 569) puts the General Assembly on record in opposition to the proposed reduction of the federal government's technical assistance to SWCD's.

Chapter 932 (HB 944) made the administrative officer and other employees of the State Committee subject to the provisions of the State Personnel Act, by deleting from GS 139-4(b) a provision directing the State Committee to determine the qualifications, duties and compensation of its staff.

Sanitary Districts

Four changes were made in the law relating to sanitary districts by the 1965 General Assembly.

Chapter 135 (HB 189) modified the incorporation procedure to provide that non-resident freeholders, as well as resident freeholders, may join in the petition to a board of county commissioners to create a sanitary district.

Under the provisions of G. S. 105-164.14 counties and incorporated cities and towns have been eligible for refunds of state sales and use taxes paid. Chapter 1006 (HB 418) amended this section as of July 1, 1965, to make it applicable to sanitary districts also.

Sanitary districts which operate a sewerage system but not a water distribution system received aid in making service charge collections with the enactment of Chapter 920 (HB 423). This act provides that sewer service charges in such districts shall be a lien against the property served, and that enforcement to collect under the lien shall be in the same manner as in the case of taxes.

Finally, Chapter 496 (HB 601) amended several sections of Article 12 of Chapter 130 of the General Statutes of North Carolina to provide for the issuance of bond anticipation notes by sanitary districts. Unlike cities and counties, issuance of bond anticipation notes by sanitary districts was not previously authorized.

Drainage Districts

The 1965 amendments to the drainage district law were all contained in one bill, Chapter 1143 (HB 892). Continuing the trend of recent years toward expansion of drainage programs into related areas, this act wrote into the procedures of the board of viewers of a drainage district (under GS 156-69) requirements that the board consider the effect of drainage proposals on fish and wildlife habitat and consider the need for structures to provide areas for conservation and replacement of such habitat. It also amended GS 156-82.1 to authorize the use of drainage district impoundments for recreational purposes. Other amendments to this section authorized land acquisition by districts (though not by condemnation) for recreational development; issuance of revenue bonds and notes by districts for recreational facilities and lands; and contracting by districts for outside operation of district-owned recreational facilities.

The remaining provisions of Chapter 1143 made these changes —

Required the board of viewers to consider the effect of drainage proposals upon laws and regulations of the State Board of Health (perhaps intended as a reference to malaria control regulations in connection with impoundments.)

Authorized drainage districts as well as landowners, to take an appeal to the Superior Court from value determinations by the clerk of court in drainage easement condemnation cases.

Authorized drainage districts to contract with municipalities and other non-profit organizations for joint use of district impoundments.

Revised procedures under GS 156-93.3 and 156-93.7 for enlarging districts, to cover cases of mergers of two or more districts, and made minor procedural changes affecting the board of viewers under GS 156-69.

Two local bills were passed this session affecting drainage programs. One of these abolished Juniper Bay Drainage Districts Numbers 1, 2 and 3 in Hyde County (Chapter 883 - HB 790). The other local bill provided for appointment of a new and expanded board of drainage commissioners by the Pitt County Clerk of Superior Court after an anticipated enlargment of Pitt County District Number 1. (Chapter 746 - SB 373).

Water and Sewerage Services

For discussion of legislation in this area, see THE COUNTIES AND THE 1965 GENERAL ASSEMBLY and THE CITIES AND THE 1965 GENERAL ASSEMBLY.

Other

Miscellaneous water resource legislation enacted by the 1965 General Assembly included several bills concerning new types of authorities or special districts, and one bill exempting an additional county from the exemption-riddled water well contractors law.

Chapter 200 (HB 297) authorized Person and Caswell Counties to establish a bi-county lake authority for the purpose of securing lands and waters within the Hyco River Watershed and installing incidental facilities for public recreation. A subsequent bill appropriated $25,000 in State funds as a grant in aid to the Person-Caswell Lake Authority (Chapter 1099 - HB 1027).

Chapter 1097 (HB 970) created the Brunswick - New Hanover Maritime Commission to promote the "Eagle Island" area between the Cape Fear and Brunswick Rivers by constructing and operating port, dock and storage projects and related industrial, manufacturing and transportation facilities in the area. The commission is to consist of two gubernatorial appointees and two members each appointed by the Brunswick and New Hanover Boards of County Commissioners. The commission is authorized to collect tolls and charges for the use of its facilities, and the two counties are authorized to lend prescribed amounts to the commission toward the cost of the projects.

A somewhat comparable proposal involving the recreational potential of Smith Island, SR 587, was killed in Senate committee by an unfavorable report. This resolution would have created a study commission to consider the usefulness of Smith Island as a public or private operation and to report back to the 1967 Assembly.

Chapter 988 (SB 369) authorized the creation of rural development authorities in six western counties (Cherokee, Clay, Graham, Jackson, Macon, and Swain).

(Continued inside back cover)

Penal-Correctional . . .

(Continued from page 54)

of which a detainer has been lodged against an inmate may secure temporary custody of him in order to bring him to trial. Proceedings for this purpose may be initiated by an inmate or by the prosecutor. Once proceedings under the Agreement have been started, failure to hold trial within the periods specified in the Agreement will result in dismissal of the indictment, information or complaint unless a continuance has been granted by an appropriate court. Extensions of the time for beginning trial may be granted by the court for good cause, but the prisoner must be present or represented by counsel when a request for an extension is made.

When an inmate requests final disposition of any untried indictment, information or complaint on the basis of which a detainer has been lodged against him from a state party to the Agreement, he must be brought to trial within 180 days after his request is delivered to the prosecuting officer and the appropriate court, unless a continuance is granted by that court. Any request for final disposition made by a prisoner operates as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against him from the state to whose prosecuting official the request for final disposition is directed. If trial is not had on any indictment, information or complaint from that state prior to the return of the prisoner to the original place of imprisonment, such instrument is to have no further force or effect, and the court must enter an order dismissing the same with prejudice.

Any request for final disposition of a detainer made by a prisoner pursuant to the provisions of the Agreement is deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition also constitutes a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of the Agreement, and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of the agreement.

A prosecutor who has lodged a detainer based on an untried indictment, information or complaint against an inmate in another state which has ratified the Agreement on Detainers may initiate action to bring him to trial by addressing a request for temporary custody to the appropriate authorities of the state in which the prisoner is incarcerated. This request must be approved, recorded and transmitted by the court having jurisdiction of such indictment, information, or complaint.

Within 30 days after receipt of the request, the governor of the state where the prisoner is incarcerated may disapprove of it and refuse to make the prisoner available on public policy grounds, either on his own motion or upon motion of the prisoner. If the Governor approves the request for temporary custody, or if he takes no action on the request within 30 days, the appropriate authorities having the prisoner in custody will forward to the prosecutor information regarding the status of the prisoner and an offer to deliver temporary custody of him to the prosecutor for the purposes specified.

The Agreement gives the prisoner no greater opportunity to escape just conviction, but it does provide a way for him to test the substantiality of detainers placed against him and to secure final judgment on any indictments, informations or complaints outstanding against him in the other states which are parties to the Agreement. Thus, he can obtain a clearer view of his own future and make it possible for the prison authorities to provide better plans and programs for his treatment. The Agreement provides prosecuting authorities with a method whereby they may secure prisoners incarcerated in other jurisdictions for trial before the expiration of their sentences and while witnesses and other sources of evidence are still available. Thus, all interests seem to be served by this legislation. □

the Cities . . .

(Continued from page 24)

Other Functions

A wide range of municipal activities was represented in special legislation this Session. One noticeable trend is toward consolidation of city and county library systems. Durham and Winston-Salem both obtained special acts authorizing transfer of city libraries to a city-county library, the Mecklenburg-Charlotte system acquired a new charter, and a 1963 act enabling Wake County to establish a county-wide system with branches in any of its cities was extended to 1967.

Three bills, Ch. 707 (HB 838), Ch. 648 (HB 839), and Ch. 624 (HB 840), deal with municipal fire departments. Chapter 707 specifically authorizes any fire department, including city, county or special district departments, to send or decline to send their men and equipment on calls beyond the territory normally served. When answering extra-territorial calls, firemen are to enjoy the same privileges and immunities they enjoy within their normal territory. Chapter 624 relieves fire departments from the obligation of sending delegates to the State Firemen's Association annual meeting in order to receive State payments into the firemen's relief fund on their behalf. Chapter 648, defining the authority of firemen at the scene of a fire, is discussed in the article on CRIMINAL LAW in this issue.

Other bills created airport authorities in Asheboro and Henderson, a golf commission in Sanford, and authorized High Point to establish a police and fire reserve to be called into active duty in emergencies.

A bill which would have conferred tort immunity on the Greensboro-High Point Airport Authority—thus abrogating the rule of *Rhodes v. Asheville* which holds airports to be a proprietary function and therefore subject to suit in tort—died in a Senate committee.

Chapter 1055 (HB 1077) amends G.S. 160-186 to permit the service of papers in proceedings to repair, close or demolish unfit dwellings by certified mail.

The City of Sanford obtained authority to sell its cemetery properties to private interests. □

Health

(Continued from page 41)

Health Insurance

Hospital, medical and dental service corporations subject to the provisions of G.S. Chapter 57 are exempt from state and local taxes under G.S. 57-14. Chapter 1128 (HB 1106) clarifies these exemption provisions to permit these non-profit health insurance corporations to pay for services rendered by municipalities and counties.

There were two bills designed to allow patients freedom of choice when obtaining services under a medical service, dental service or other insurance plan issued under G. S. Chapter 57. Chapter 396 (SB 210) deals with eye care, giving the insured or beneficiary the right to choose between a physician and an optometrist, effective July 1, 1965. Chapter 1169 (SB 397) deals with oral surgical services, giving free choice between a physician and a dentist. This latter act was amended to apply only to policies issued after January 1, 1966.

G. S. 58-254.11 (governing joint action by insurers to insure the elderly) was amended by Chapter 677 (SB 408) to authorize writing of insurance for an employer's non-resident employees, and non-resident retired employees who are age 65 or over, so long as they are regularly employed in this state or were at the time of their retirement. The section previously allowed such insurance for North Carolina residents only.

Two acts amend the laws relating to making false or fraudulent statements in connection with health insurance policies. Chapter 911 (SB 524) broadens the offense in G. S. 58-49 of making false statements to include applications for hospital, medical and dental service plans, as well as the other forms of insurance presently covered. Chapter 950 (SB 525) contains similar provisions with regard to false or fraudulent claims for benefits under these plans. The penalty prescribed for both these offenses is a fine of $100 to $500 or imprisonment of 30 days to one year.

Medical Assistance for the Needy

The recent passage of the Medicare Bill in Congress means that a federal health insurance program for the aged will be initiated under the Social Security Act and that expanded medical assistance programs will be instituted in states which submit approved plans. Anticipating enactment of this bill, the 1965 Legislature passed Chapter 1173 (SB 445) which replaces the present medical assistance programs and enables the State to utilize the federal grants under the Medicare Bill. If North Carolina's plan is approved by the Secretary of Health, Education and Welfare, the federal funds received will be added to state and local funds in order to (in the words of the State act) "pay or cause to be paid all or part of the cost of medical and other remedial care for any eligible person when it is essential to the health and welfare of such person that such care be provided, and when the total resources of such person are not sufficient to provide the necessary care." These funds will be administered under rules and regulations adopted by the State Board of Public Welfare. For a further discussion of this act, see the article on PUBLIC WELFARE AND DOMESTIC RELATIONS. □

Motor Vehicles...

(Continued from page 53)

Reflectorized License Plates

Chapter 1127 (HB 616) appropriates funds to the Department of Motor Vehicles to defray expenses of reflectorizing license plates for 1967.

Motor Vehicle Laws Apply to Chowan College Campus

Chapter 688 (HB 742) specifies that the provisions of Chapter 20 of the General Statutes relating to use of the highways and operation of motor vehicles shall apply to the streets, alleys, and driveways on the campus of Chowan College. Violation of Chapter 20 while on the campus is punishable as provided therein. This act does not interfere with ownership or control of campus which is now vested in the trustees of the college or the town of Murfreesboro.

The board of trustees of the college is authorized to adopt any additional ordinances, rules and regulations for operation of vehicles and parking as it deems necessary. Copies of all such ordinances, rules and regulations must be filed with the Secretary of State, and violation of such ordinances, etc., shall be punishable by fine up to $50 or imprisonment for up to 30 days.

Immediate Coverage for Assigned Risks

Resolution 87 (SR 536) requests the Commissioner of Insurance to consult with the North Carolina Automobile Rate Administrative Office, representatives of the insurance industry and insurance agents producing motor vehicle liability insurance under the assigned risk plan, and if possible to promulgate a plan under which applicants for assigned risk motor vehicle liability insurance may obtain coverage on date of application when made on a normal working day.

Motor Vehicle Financial Responsibility Study Commission

Resolution 90 (HR 1150) creates the Motor Vehicle Financial Responsibility and Compulsory Insurance Commission to consist of seven members to be named by the Governor, one of whom shall be from the membership of the House of Representatives, and one from the membership of the Senate. The Governor is to appoint the chairman; the Commission is to meet at the call of the chairman or the Governor.

Duties of the Commission are to make a detailed, exhaustive and analytical study of the Motor Vehicle Safety and Financial Responsibility Act of 1953 (Article 9A of Chapter 20 of the General Statutes) and the Vehicle Financial Responsibility Act of 1957 (Article 13, of Chapter 20) and make such recommendations and appraisals as the Commission deems advisable concerning these laws.

The Commission is required to report its findings, conclusions and recommendations to the 1967 General Assembly.

Clerical Duties and Civil Process Serving by Highway Patrol

Resolution 91 (HR 1132) directs the Legislative Research Commission to make a thorough study of the duties

of the State Highway Patrol which divert their activities from regularly patrolling the highways and determine the advisability and feasibility of creating a new agency within the Department of Motor Vehicles, separate and apart from the Highway Patrol, to serve civil process and notices and perform other duties not related to patrolling the highways. The study is also to include the consideration of daily and periodic reports required and the advisability and feasibility of employing additional clerical personnel to perform this activity. □

. . . Property Taxation

(Continued from page 46)

1. "Failure of the board of equalization and review to meet or adjourn within the time prescribed by law. . . ."

2. "Failure of the board of equalization and review . . . to give notice of its first meeting as prescribed by law."

It will be observed that the addition of these "immaterial irregularities" constitutes part of the new pattern established by Ch. 191 (SB 89) in response to the decision of the North Carolina Supreme Court in *Spiers v. Davenport*, 263 N. C. 59 (1964).

Payments in Lieu of Taxes

Electric Membership Corporations

Earlier in this article some attention was paid to Ch. 287 (HB 255) which removes the tax exempt status of electric membership corporations as of January 1, 1967. In the meantime, however, for fiscal 1965 and fiscal 1966, in a technical sense, the properties of all electric membership corporations retain their exemption from county and municipal taxes. Nevertheless, all such corporations (except the Cape Hatteras and Ocracoke Electric Membership Corporations) are required by Ch. 287 to make payments in lieu of taxes as follows:

1. For the fiscal year 1965, each EMC will make

(a) To any municipality in which its properties are situated, a payment equal to 50% of the ad valorem taxes the EMC would owe that municipality if its properties therein were taxable.

(b) To any county in which its properties are situated, a payment equal to 50% of the ad valorem taxes the EMC would owe that county on its properties located *within municipalities* of that county if those properties were taxable.

2. For the fiscal year 1966, each EMC will make payments in lieu of taxes to counties and municipalities on the same basis as in 1965 except that the amounts will equal 100% rather than 50% of what the ad valorem taxes would be on the same properties.

Since payments in lieu of taxes for 1965 and 1966 will be measured by what the taxes on certain EMC properties would be if those properties were taxable, counties may find it advisable to appraise those properties in order to have a base against which to apply a tax rate to ascertain the proper amount of the in lieu payment.

Hospital Service Corporations

Any corporation chartered in this state to provide plans for financing hospital, medical, or dental services (typically Blue Cross and Blue Shield agencies), is declared by G. S. 57-14 "to be a charitable and benevolent corporation and all of its funds and property shall be exempt from every State, county, district, municipal and school tax or assessment, and all other taxes and license fees, from the payment of which charitable and/or benevolent institutions are now or shall be hereafrer exempt. . . ."

Counties and municipalities in which such companies own and maintain property have not been uniformly satisfied with their exempt status, and from time to time questions have been raised as to whether legislative declaration of the benevolent and charitable nature of these firms would constitute sufficient support for a property tax exemption which, under the North Carolina Constitution, must be based on the benevolent and charitable use to which that property is put. Nevertheless, no specific proposal for repealing the exemption has yet reached the floor of the General Assembly. Ch. 1128 (HB 1106), effective July 1, 1965, may, however, be a hint of what may come. Under its terms, affected corporations are *permitted* to pay "for services rendered by municipalities and counties." No indication of what is meant by "services" appears in the act, and no measurement of payment is provided. It is likely that affected counties and cities will appraise the property of such companies, apply their tax rates to the value obtained, and submit the resulting figures to the corporations as bills for "services rendered."

Beach Land Assessments

Ch. 714 (SB 127) authorizes counties bounded by the Atlantic Ocean to finance beach erosion control and flood and hurricane protection works with special assessments against benefitted lands. When imposed, the assessment becomes a lien against the land, and the county tax collector is required to handle assessment collection in substantially the way he collects taxes on property. □

the Counties . . .

(Continued from page 15)

based on the front footage of land abutting protective works (or abutting beaches or shorelines protected by the works), on the acreage of land benefited by the protective works, on the valuation (as unimproved land) of benefited land, or on a combination of these bases.

Chapter 237 (HB 174) makes it a misdemeanor ro damage or remove sand dunes or vegetation growing thereon in any county which includes a portion of the Outer Banks, unless a permit is first obtained. County commissioners may restrict the application of this prohibition to those dunes which serve as protective barriers against sand, wind, and water, and may appoint a shoreline protection officer to consider applications for dune and vegetation alteration permits and otherwise carry out the purposes of the act. The commissioners may perform such duties themselves or may appoint the shoreline protection officer of another county, an employee or official of a municipality within the county, or an employee or official of the county to perform them. Counties covered by the act are empowered to levy special purpose property taxes and exact fees to cover administrative costs and to adopt and enforce regulations necessary to carry out the provisions of the act.

(For a more detailed discussion of these three bills see WATER RESOURCES.) □

Courts, Clerks...

(Continued from page 28)

to file a final account at any time after 60 days (formerly 6 months) from the ward's coming of age or cessation of the guardianship.

GS 33-56 *through* 33-66. Repealed. See new Chapter 28A. *Estates of Missing Persons.*

GS 33-71. *Duties and powers of custodian.* (SB 393, Ch. 992) Subsection (e) is rewritten to authorize payment of premiums of life insurance policies *given* a minor pursuant to GS 33-69 (a) (4), and to delete the provision designating the beneficiary of such a policy. Subsection (j) is rewritten to prescribe the form of registration of life insurance policies held by a custodian, and to place limits on those who may be beneficiaries.

Miscellaneous

A listing of all the new laws of possible interest to clerks of Superior Court would embrace perhaps half the chapters in the General Statutes, and cannot be accomplished in this limited summary. In addition to the foregoing chapters, the changes to which have been listed *en toto*, the following miscellaneous items, from various chapters of the statutes, are listed:

GS 6-21. *Costs allowed either party or apportioned in discretion of court.* (HB 11, Ch. 633) Subsection (2) is amended to allow the trial judge in his discretion to disallow the attorney's fee for the caveator if he finds that a will caveat was without substantial merit.

GS 9-22. *Peremptory Challenges in Civil Cases.* (SB 561, Ch. 1182) The number of peremptory challenges in a civil case is raised from 6 to 8.

GS 36-17, -18.1. *Successor trustees.* (SB 492, Ch. 1177) These sections are amended to provide that when the terms of a will or trust do not require the trustee to give bond, and the instrument expresses intent of testator or settlor that substituted trustee serve without bond, the clerk of Superior Court, with the approval of the judge, may waive bonding of the substituted trustee.

GS 45-21.29. *Writs of Assistance.* (HB 417, Ch. 299) Subsection (k) is added, empowering clerks of Superior Court to issue writs of assistance and possession in matters involving the sale or resale of real property under a power of sale contained in a mortgage or deed of trust. The mortgagee, trustee or purchaser (if he has paid the purchase price) may apply for a writ, but applicant must give 10 days' notice to the party in possession of the realty.

GS 46-20. *Registration of partition proceedings.* (HB 939, Ch. 804) A provision has been added that records of partition proceedings required to be registered by the register of deeds need not be probated by the clerk of Superior Court.

GS 50-13. *Custody of children of divorce.* (HB 202, Ch. 310) Paragraph 2 of this section formerly prescribed that custody of children in certain cases should be determined by a "special proceeding". "Civil action" is inserted in lieu of "special proceeding". This change was brought about by section 2 of the court reform bill (see Chapter 7A), the purpose being to place *all* child custody proceedings in the new district court, when established in each county. Effective July 1, 1965.

GS 52-13.1. (New) *Separation agreements.* (HB 938, Ch. 803) This new section specifies that married couples, both being over 18, are authorized to execute valid separation agreements, provided that if either or both are under 21, the agreement must be acknowledged by the husband and executed by the wife before the clerk of Superior Court, in conformity with GS 52-6. The GS 52-6 referred to is apparently the *new* GS 52-6 concerning private examination of the wife, which was not ratified until later.

GS 143-166. *Law Enforcement Officers' Benefit and Relief Fund.* (HB 203, Ch. 351) An amendment to this section increased the former $2 tax in certain criminal cases to $3 effective 1 July 1965. The additional $1 is to be used to create a special benefit fund for all law enforcement officers in the State. Effective the same date, costs of court for the benefit of all local law enforcement officers' benefit funds are repealed. While this proposal was a companion bill to the court reform bill, it differs from the latter in that it is effective throughout the entire state on July 1, 1965. □

Planning

(Continued from page 57)

would have provided compensation to abutting landowners when existing highways were converted into limited access highways through the construction of local service roads to which abutters had access, received an unfavorable Senate committee report.

HB 905 (which would have prevented withdrawal of a dedicated street once a municipality had accepted it by resolution) and HB 743 (which would have made major changes in the laws requiring a jointly-adopted major street plan) both died in the House committee on Roads.

Economic Development

As usual, measures to assist local governments in their economic development efforts were prominent among the local acts enacted. Probably the most elaborate of these is Chapter 988 (SB 369), which empowers Cherokee, Clay, Graham, Jackson, Macon, and Swain counties to establish rural development authorities with extensive powers of land acquisition and development in rural areas. Other acts provide for the creation of resource development associations in Tyrrell County, a Beaufort County Rivers and Ports Commission, and a Windsor Township (Bertie County) Development Commission. More routine acts grant or modify economic development powers for Bertie, Brunswick, Carteret, Henderson, Hertford, Nash, Northampton, Pasquotank, Rockingham, and Stanly counties and the city of Hendersonville.

In a related approach, Lee, McDowell, Mecklenburg, and Onslow counties were brought under the coverage of the general law authorizing counties to levy assessments for construction of water and sewerage systems (G.S. Chapter 153, Article 24A). □

the...Assembly of 1965

(Continued from page 2)

ance at the maximum amount authorized for state boards and commissions generally, in lieu of the previous flat $12 rate. (Article II, Section 28 of the State Constitution provides that the legislative allowances shall not exceed those fixed for state boards and commissions.) Second, the subsistence of state boards and commissions was raised by Chapter 169 (HB 94) to $20 a day from the previous $12 in-state and $14 out-of-state figures.

Chapter 917 (HB 56) conformed the statutory provision on legislative pay (GS 120-3) to the Constitutional limitations of $2400 and $1800 for maximum pay, respectively, of presiding officers and members of the General Assembly. The statute had previously provided for limits of $1800 and $1350. One of the matters assigned to the Legislative Research Commission for interim study under Resolution 92, previously mentioned, is the topic of remunerative benefits of legislators.

The principal clerks, reading clerks, journal clerks and sergeants-at-arms of both houses were benefited by Chapter 1131 (HB 1164), which expressly permits these eight officers to claim actual expenses not exceeding $20 per day, in addition to their regular compensation. This bill and the legislators' subsistence increase were made retroactive to January 1, 1965, as has often been the practice with such measures in the past.

This Assembly rejected proposals for variable pay increases to legislative employees (SB 190) and for a flat $2 per day increase to certain stenographic and clerical employees (HB 1184). Both bills died in Senate committee.

Chapter 1141 (HB 831) made a minor change concerning mileage allowances of pages to the General Assembly other than the chief pages, restricting the pages who are entitled to claim mileage reimbursement to those serving more than 15 consecutive days during the session.

For the second consecutive session the General Assembly considered but did not enact a proposal concerning a retirement system for its own members. The 1963 bill would have requested a study by the Teachers' and State Employees' Retirement System concerning the feasibility of providing retirement benefits to legislators. This year's bill (HB 1013), which died in House committee, would have provided a monthly retirement allowance of $25 per full term of service for legislators, with prescribed credits for prior service. A companion resolution, HR 1017, which would have sought an advisory Supreme Court opinion on the constitutionality of the proposed retirement system, was defeated on second reading in the House.

Miscellaneous

This year for the first time in several sessions the General Assembly resisted all overtures to hold formal sessions outside of Raleigh. All of the daily sessions convened in the Legislative Building, with the exception of a one-day stand for auld lang syne in the old chambers at the State Capitol.

Chapter 1052 (HB 1097) authorized the repair and restoration of the original chairs in the Senate and House chambers of the State Capitol, to be financed from the Contingency and Emergency Fund. It also authorized the sale of the present chairs in the old chambers (which replaced the originals in 1951), with preference being given to the members and officers of the General Assembly from 1951 to 1961.

Chapter 1129 (HB 1108) amended GS 121-13.1 to authorize periodic use of the old legislative chambers in the Capitol for "governmental and educational purposes" with the consent of the Governor. The amendment also expressly provides that the General Assembly may hold such sessions in the old chambers as it deems proper.

Chapter 866 (HB 904) adds to the membership of the North Carolina Commission on Interstate Co-operation the President of the Senate. Other members of the Commission include the Speaker of the House, three Senators designated by the President of the Senate, three representatives designated by the Speaker, and three administrative officials designated by the Governor. □

State Government

(Continued from page 8)

ing legislative service . . . ."

- "[T]he terms and benefits offered by the Teachers' and State Employees' Retirement System . . ."
- "[F]ringe benefits offered to State Employees. . . ."
- "[T]he current shortages existing in technical or professional personnel in the field of medical services and the projected needs of the State in this field."
- "[P]ublic assistance programs with a view to providing training programs for trainable [public assistance] recipients and requiring maximum efforts to obtain employment by employable persons, to the end that recipients capable of regaining financial independence will be encouraged to do so."
- "[T]he Report of the [1961-63] Commission to Study the Impact of State Sovereignty upon Financing of Local Governmental Services and Functions, . . ." with its recommendations on the contents of that report.
- "The terms of employment, remunerative benefits, and other matters relating to public school superintendents, assistant superintendents, and principals."
- "[B]enefits payable to law enforcement officers . . . permanently disabled . . . in the performance of their duties."
- The extension of the head of household exemption of the State income tax law to all home-owning widows and widowers.
- "[T]he feasibility of adopting a statewide form for claiming reimbursement, payment, or settlement of hospital or medical insurance claims by the holder of a certificate or policy of such insurance."'

Study proposals with respect to the desirability and feasibility of a civil service system for state employees (SR 64 - HR 182) and the desirability of state financial aid to local governments (HR 1183) were killed by committee action.

Several state administrative agencies were directed to pursue inquiries into matters within their respective jurisdictions. Most of these studies are mentioned in appropriate articles elsewhere in this issue. □

Public Personnel

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police and fire reserves; Chapter 662 (HB 675) authorizes Gaston County to establish a volunteer auxiliary police force; and Chapter 753 (HB 379) modifies G.S. 128-16 as it affects Onslow County to provide that any member of the board of county commissioners may be subject to removal from office for neglect of duty if he fails to attend at least one meeting, either special or regular, during a period of two consecutive months unless the absence be due to sickness. □

Election Laws

(Continued from page 36)

filled within a single judicial district, Ch. 262 (HB 367) provides that each candidate filing with the State Board of Elections must designate the vacancy to which he seeks nomination. This provision is in line with a similar provision that applies to candidates for justice of the Supreme Court and United States Senator (G.S. 163-147).

Political Activity

It has for many years been a misdemeanor for anyone holding an office or position in state or local government "to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast . . . ." (G.S. 163-201). Similarly, it is a misdemeanor for a public official "to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever . . . upon the way in which such subordinate or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election." (G.S. 163-201).

The 1965 Highway Commission Reorganization Act, Ch. 55 (HB 59), contains a provision which, with respect to State Highway Commissioners and other members of that agency, goes a step further: "No member of the State Highway Commission, nor any official or employee of the State Highway Commission, shall be permitted to use his position to influence elections or the political action of any person."

In each election year North Carolinians have the opportunity of learning the names and faces of candidates from roadside billboards, posters, and signs of all types. The temporary and sometimes lasting effect produced by such advertisements is often the subject of criticism, and Ch. 248 (SB 35) is an attempt to curb the practice in Mecklenburg County. It does not apply elsewhere. Under its provisions posters and signs advertising candidates for *local* offices may not be posted to any object on a highway right-of-way, nor may they be posted on the lands of private individuals without permission. The criminal penalty carried by the bill when introduced was deleted before enactment.

Polk County obtained special legislation which may have an even more restrictive effect. Ch. 968 (HB 1005) empowers the commissioners of that county to develop and enforce regulations governing the erection and maintenance of roadside advertising devices. The regulations are to require anyone maintaining or using billboards or similar advertising signs or displays to obtain a permit from the commissioners and pay a fee; failure to do so is made a misdemeanor. So far as the language of the act is concerned, it appears to apply to candidates for political office who seek to use roadside signs, posters, or billboards.

Miscellaneous Unsuccessful Bills

The 1965 General Assembly saw the introduction of numerous proposals affecting a wide variety of election laws and procedures. Relatively few of them were enacted. Some of those which failed have already been noted, but several others which failed to pass deserve mention.

Two unsuccessful measures dealt with the date on which the primary election is held. SB 11 was designed to have the primary conducted on the last Tuesday rather than the last Saturday in May. SB 93 and HB 244 were companion bills designed to move the primary from the last Saturday in May to the Saturday following Labor Day.

As noted earlier, the Constitution was amended in 1962 to authorize the General Assembly to shorten the period of residence required for registration in this state for persons seeking to vote in presidential elections. This year, SB 129 proposed submitting to the voters an amendment which would have allowed the General Assembly to reduce the state residence requirement for all voters, but the bill failed to win committee approval.

The General Assembly also refused to go along with a provision in SB 269 which would have empowered the Chairman of the State Board of Elections to issue capias to force witnesses to honor his subpoenas in connection with the performance of State Board duties.

Before being used in North Carolina primaries and elections, voting machines must meet the approval of the State Board of Elections (G.S. 163-187.1; 163-187.2), and the State Board has approved only two types. With machines of different types coming on the market it is not surprising that efforts should be made to have them approved. At least one new machine would require that precinct results be counted and tabulated at some central location rather than at the polling place. To pave the way for approval of such a machine, SB 463 proposed granting the State Board of Elections authority to modify existing statutory requirements so as to legalize centralized counting. But the legislature was not willing to make this change.

HB 1129 would have permitted the appointment of poll watchers and challengers in counties using the permanent registration system and would have deleted the requirement that the watchers and challengers appointed for a particular precinct be registered there, substituting a requirement that they be registered in the county. But this, too, was unsuccessful. □

Education

(Continued from page 34)

Miscellaneous

To give substance to the provisions of G. S. § 116-15 of the General Statues, which designates the University of North Caorlina as the primary public agency for research in the liberal arts and sciences, Chapter 1189 (HB 854) provides a special appropriation of $150,000 over the next two years. These funds are to be used only for research in the arts and sciences and technical support of such research in the University of North Carolina. The President of the University will administer this fund.

Four public colleges are authorized by Chapter 632 (SB 374) to participate in the so-called "Sixth-Year Program for Public School Administrators." Because this is essentially a post-master's academic program, it heretofore had been authorized at Duke University and the University of North Carolina. Since the four colleges cannot offer post-master's programs, the Sixth - Year Program at these institutions will consist essentially of 60 semester hours of non-duplicating graduate work, which will entitle the participant to a second master's degree and also the same state certification as is now given for the program at the two universities.

Chapter 1181 (SB 552) reflects a legislative concern over the impact on the state budget of the growing use by state agencies and institutions of federal and foundation grant funds for research programs and other purposes. In many instances, such outside funds are granted and received in the hope or expectation that, upon the expiration of the grant, the activity so financed will be taken over as a part of the State's financial obligations. Chapter 1181 (which was much modified before its enactment) is designed to keep the budgetary authorities of the State informed about the grant-seeking activities of state agencies and institutions, where such grants would or might impose on the State any substantial financial obligation, present or future. Copies of all such grant requests must go to the Department of Administration and the Advisory Budget Commission. Approval of grant requests by the Department or Commission is not required by the bill as enacted, although SB 552 as originally introduced would have required Commission approval following Department review of grant proposals. □

Water Resources

(Continued from page 74)

It granted extensive land acquisition and rural development powers, including the authority to install, construct and maintain flood control and drainage facilities, ponds and reservoirs, irrigation equipment, and sewerage systems. For further details see THE COUNTIES AND THE 1965 GENERAL ASSEMBLY.

Two additional counties, Guilford and Stokes, were exempted from the water well contractors licensing act this year by Chapter 375 (SB 263) and Chapter 128 (SB 43). This brings to 70 the total of exempted counties under the act. A bill to make New Hanover County subject to the act, HB 541, died in Senate Committee. An effort was made to strengthen this statute by repealing the last paragraph of GS 87-82, which permits residents of counties exempted from the act to practice as water well contractors in counties covered by the act. A bill to this effect, SB 158, was reported to the Senate floor but then re-referred to committee after floor debates indicated overwhelming opposition. □

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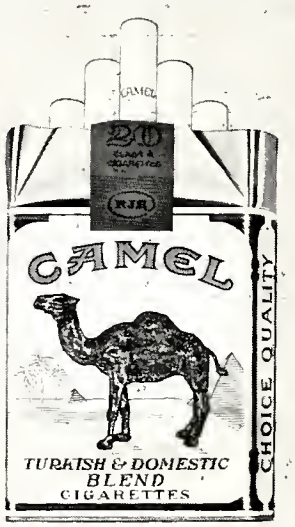
Dale Schoeneman

FISHERIES BIOLOGIST

Do you keep reaching for taste that's not really there?

Camel's real taste satisfies longer!



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