

Attorney General's Opinion On Secret Ballot

ABC Appointments Said Not Voidable

The elections of two people to the Hoke County ABC Board by secret ballot was "irregular under the Open Meetings Law" but is not a basis for declaring the election void, removing the two, and appointing new members, the state attorney general has advised Hoke County Attorney Duncan McFadyen.

The opinion also says in effect that the State Supreme Court has held in another case the only remedy for such irregularity is a court injunction prohibiting the use of the practice in the future.

The opinion, written Thursday, was given in response to questions asked by McFadyen about the elections by secret ballot of Alfred K. Leach and Ivery McNair to the ABC Board on December 4, 1979. Leach is chairman of the ABC Board.

The letter containing the opinion bore the name of Attorney General Rufus Edmisten and was signed by David S. Crump, special deputy attorney general and special assistant to the attorney general.

McFadyen asked the attorney general January 20 for the opinion in compliance with a request made to him formally the night before by the county boards of commissioners, health, and education. The members of the three county boards constitute a composite board which fills positions on the ABC Board by election. The composite board had met to elect a member to a term that expired January 15. James Conoly was reappointed to a new three-year term by a 9-8 vote over J.W. Turlington, a retired school principal who had been nominated by Jordan. The one-vote margin was registered on the second ballot which was necessary because Conoly didn't have enough votes to have a clear majority, with Turlington and Paul Johnson, nominated by Mabel Riley, county commissioner's representative on the board of health. Those voting for Conoly were County Commissioners Danny DeVane, John Balfour and James Hunt, Mina Townsend and Ruth McNair of the school board, and Sarah Leach, Jessie Neeley, Simon Adams, and Anthony Oxendine, all of the board of health. Dr. Dennis Russell, a member of the board of health, did not attend the meeting.

The votes for Turlington were cast by Jordan, Walter Coley and Bill Cameron, all of the school board, Mrs. Riley, J.D. McAllister, Mike Wood, and Dr. Ramnik Zota, all of the board of health, and County Commissioner Neil McPhatter.

The voting was done by a show of hands. It was not recorded in the minutes of the meeting by individual names but the names were obtained by *The News-Journal* from a reliable source.

Dr. Riley Jordan, chairman of the school board, raised the question of the legality of the 1979 appointments. He told the composite board that the attorney general's office had informed him all voting on appointments to the ABC Board had to be public. Jordan moved to declare the appointments null and void but the motion was tabled by board vote pending receipt of clarification from the attorney general's office.

The written opinion received by McFadyen answers the county attorney's questions regarding use of a secret ballot, what effect, if any, the impropriety of using secret ballots have on the appointment of the members of the ABC board, and whether such illegality or irregularity is a sufficient basis to declare the previous election void.

The complete text of the letter containing the opinion follows. Dear Mr. McFadyen: This is in response to your letter of January 21, 1981, in which you pose certain questions concerning the appointment of members of a local board of alcoholic control by a composite board.

Your first question is as to whether a secret ballot process may be used by a composite board in selecting members of a local board of alcoholic control. This question must be answered in the negative. G.S. §143-318.13(b) provides: "Written ballots. Except as provided in this subsection or by joint resolution of the General Assembly, a public body may not vote by secret or written ballot. If a public

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Around Town

BY SAM C. MORRIS

The golf courses and tennis courts were filled to capacity over the weekend with the mercury getting into the high 50s and low 60s, it was perfect weather. This was my first trip to the links this year, as I can't stand the cold weather like some preachers and mill executives.

The forecast is for some rain before long and the farmers can certainly use the rain.

...

The hostages are home, and from their pictures on the tube, seem to be in good shape. Of course it will be hard to say for awhile what condition they are in because it must have been exciting for them the past few days. It seems that the entire nation is being brought together because of this tragic event. Most of the time in life, it takes a shock to bring us to our senses.

Also we have a new president in the White House and he seems to have settled down to the job at hand. He has already signed some executive orders and it wouldn't surprise me for him to sign a few more in the immediate future.

Anyway, I don't see what anyone would want with the job in these troubled days, but then we are not all built alike nor do we all think alike. Yes we can be thankful for that.

...

Now you football fans can start looking at the soap operas, because there is only one more game on the tube - the Pro-Bowl.

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The following letter was received this week:

Dear Sam:
I am afraid that something is soon going to happen that I've been dreading for a long time and that is the closing of the Hoke County Chapter of the American National Red Cross. This will be so because the limited funds we receive from the United Fund will soon be exhausted. The abnormal amount of home fires in our county this winter, the failure of 3 servicemen to re-pay emergency loans, the cost of refreshments at the Bloodmobile operations, telephone and telegraph bills that continue to rise, all together have drained our reserve resources. We maintain our office in Mrs. Barrington's home and salary and rent amount to \$1.97 cents per day. If it isn't worth that to the citizens of Hoke County to have a Red Cross Chapter, then I suggest we do away with it completely. This means there will be no Red Cross First Aid Classes, no water safety classes, no blood program, no aid to servicemen and their families, no emergency loans to servicemen, no emergency grants to burned out families, no disaster relief in event of tornadoes, etc.

I have served as Chapter Chairman since 1952 and have kept the records of our Chapter. They are available at all times for review by anyone and are audited annually. I hate to recommend that the Chapter be closed down but if funds are not forthcoming soon, then it will have to be phased out. I hate to see it happen but that's the way things stand now. I know of your dedication to United Fund and expect you to feel the same as I do.

Sincerely,
C.E. Upchurch, Jr.
Chapter Chairman
Hoke County Chapter,
American National Red Cross
The Red Cross chapter in Hoke County for many years has been supported by the United Fund. In the past few years the United Fund has not met the goal and participating agencies have been cut accordingly.

Clyde is right about me and the United Fund after being treasurer for over 15 years. I guess it kinda grew on me to be dedicated to the cause. The Red Cross will not be

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By Ambulance Service Owner

Woman Stopped From Jumping From Building

A woman was pulled to safety as she started to jump from a third-story window of Raeford Apartments late Thursday afternoon.

Police Chief Leonard Wiggins said Jim Henley, owner and operator of the Hoke County Ambulance Service, grabbed her by a leg after she had gotten part way out of the window of her apartment.

Wiggins praised Henley for his action. He said Henley "possibly saved her life" or from very serious injury.

The woman was taken to Dorthea Dix State Hospital in Raleigh for mental observation and if found needed, treatment. Wiggins said he signed the involuntary commitment papers after the woman was examined at the Hoke County Mental Health Center by a physician and the physician recommended she be taken to the mental hospital.

Wiggins declined to identify the woman, to save her from embarrassing publicity.

He said the ambulance service, Hoke County Rescue Squad and police went to the apartment building in response to a call from a neighbor of the woman. The neighbor reported the woman appeared ill, and that she had been to a doctor earlier in the day.

Wiggins said that Henley went to the apartment and, when he entered, the woman opened the



The window the woman tried to jump from is third from the left at the top. The window was closed again shortly before this picture was taken. [Staff photo by Pam Frederick].

window and started to climb out. She had gotten one leg outside the window when Henley grabbed her other and drew her back into the apartment, the officer said.

"Raeford and Hoke County people are lucky we have a person of this (Henley's) caliber working with the ambulance service... We're lucky to have someone like him in

the county."

Wiggins said he praised Henley personally in Wiggins's office Friday for his action.

To Be In May 6 Network Telecast

Dan Norton To Do 'Real People' Spot

Dan Norton's job is no laughing matter. But his spare time is.

In fact, his spare-time recreation will have him on television May 6, on NBC's "Real People."

Norton, 23, of Blue Springs, spends every working day as a corrections officer at the State Department of Corrections unit at McCain. Furthermore, he plans to make a career in corrections.

In his spare time, Norton entertains as a stand-up comic and as an amateur actor. In his comedy work he does impressions. Asked for samples while he was being interviewed in *The News-Journal* office Monday morning, he promptly "did" Presidents Carter, Reagan and Nixon and film actor James

Stewart. He's performed before groups in Raeford and at clubs in Raleigh and Chapel Hill.

He's flying to Los Angeles in February for videotaping of his segment for "Real People" on February 11. He said he'd be there a week, and the network show's management is paying his travel and living expenses.

While there also, he'll perform at two clubs which give young comedians an opportunity to break in their material.

The movement to the network television performance started at the 1979 State Fair in Raleigh. WPTF-TV Channel 28 (NBC) taped the performances of contestants in an audition. The tapes were sent to "Real People." Later, Norton was notified he was the winner for North Carolina and was invited to come to Los Angeles for taping.

But he was acting in "Little Mary Sunshine" in Raeford last March at the time he was to have gone west, and he felt that he shouldn't handicap the show, even causing it to close, for that reason, so he notified the "Real People" people he couldn't make the trip. The show's management, however, said that he'd be invited again.

Monday he received his plane ticket to Los Angeles.

The musical comedy, "Little Mary Sunshine", was the Raeford Junior Woman's Club's production for last year, and Norton played one of the lead roles, Gen. Oscar Fairfax.



Dan Norton

Hostages' Service Set Here

There will be a brief Thanksgiving Worship Service at noon Thursday at Raeford Presbyterian Church.

Dr. John C. Ropp and the elders of that church announce the Service in response to President Reagan's call for the ringing of church bells and worship services all across the land on this day thanking God for the return of the 52 U.S. hostages from Iran.

Dr. Ropp said that other local churches may be planning similar services and that their members' may want to attend those. Anyone who wants to attend the Raeford Presbyterian Church service, however, is invited.

Members of Raeford Presbyterian Church are asked to help by letting others know of the service and by providing those who need it transportation to the service.

It was one of his other off-duty performances that brought him his invitation to perform at the Los Angeles clubs.

He did impressions at the Velvet Cloak Inn in Raleigh some time after he had performed at the State Fair. Bill Richardson, manager of the Comedy Store in Los Angeles, was in the club's audience. After the show, Richardson suggested he come by and see him if he came to Los Angeles. "He talked about a contract," Norton recalled.

Norton still has his mind set on a corrections career. But the engagements in Los Angeles he feels are once-in-a-lifetime shots, so he feels he should try them.

By Raeford Zoning Board

Board's House Request Denied

The Hoke County Board of Education's request for a Raeford city zoning ordinance variance, granting a conditional-use permit to use the board-owned house at 705 Harris Ave. for offices was denied Monday by the Raeford City Zoning Board of Adjustment on a 4-1 vote following a public hearing of the request.

The vote was taken on a motion made by Henry Maxwell to deny the request because it was felt this is a residential area, should remain that way and not be used for anything else. The motion was seconded by Ivery McNair, James Conoly and Tommie Teal voted in favor of the motion, and Preston Moore voted against it.

The house, till last summer was used as a residence of Hoke County High School principals.

Dr. Riley Jordan, chairman of the board of education, told the zoning board the board was making the request to use the house for offices for Mrs. Clara Pope, the county school system's food services director.

The school board's attorney, William Moses, pointed out to the board the variance makes modifi-

cation only for the present owner (the school board); that if the variance were approved, and if the property were sold, the new owners would have to come before the zoning board to have it approved if they wanted to carry on a business in it. He also pointed out the zoning board could revoke the permit if conditions on which it was issued were violated.

Jordan and Moses were the only people at the hearing who were not connected with the city administration. The only others at the hearing were William Sellars, as city zoning administrator; City Manager Ron Matthews; and Barbara Smith, the city manager's secretary who was there to take notes for the minutes of the meeting.

Though no private citizen appeared to object to the request, Matthews said members of the City Council and Mayor John K. McNeill, Jr., had expressed objection to changing the status of the house.

Officially, the request of the school board to the zoning board was an appeal from Sellars' refusal