

September, 1947

POPULAR GOVERNMENT



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

Announcing

THE FIRST

Basic Police Procedure School

Designed Especially for

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OF CITIES AND COUNTIES

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November 2-29, 1947

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Arrest, Search, Seizure
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The operating costs of the school (including firearms and ammunition) are covered by the Institute of Government, as a part of the services rendered cities and counties which are members of the Institute of Government. Food may be obtained at the University of North Carolina Dining Hall Cafeteria for approximately \$2.00 per day. A charge of \$15.00 for the month is made to cover the cost of the room, linen, and janitor services. There are no other costs. It is recommended that only officers already on the department payroll be sent, and that they receive an expense allowance at least sufficient to cover the cost of food and room.

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The Rise of Governmental Centralization In North Carolina

(POPULAR GOVERNMENT acknowledges this contribution by Daniel K. Edwards, member of the Durham Bar and of Durham County's delegation in the House of Representatives of the 1947 General Assembly. Mr. Edwards presents in this article his thoughts on one of the great controversial issues of our generation, arising out of his experience and observation while serving in the Legislature. POPULAR GOVERNMENT will continue to present, from time to time, opposing viewpoints on such vital controversial issues.)

INTRODUCTION

For two or three months every odd year when the legislature gathers in Raleigh the people of North Carolina experience a mild spasm of emotion and thought concerning their state government; during the intervening time they are only vaguely aware of it except when irritated by demands for taxes or the enforcement of some restriction. By and large, Tar Heels accept Capitol Square and its work much as they do the dogwood and laurel—and poison ivy—that grace their forests and hills. Able articles do appear in such periodicals as *We The People* and the University's *Popular Government* published by the Institute of Government, but these morsels are consumed by a select group of individuals including a few lawyers, a very few business men, and, of course, the professional students of government. These publications are frequently excellent in compilation of facts—where the tax money comes from and how it is spent and in their analysis of legislation. But these writings for the most part follow a pattern of thought that seems to be characteristic of the legislators themselves—a propensity to particularism, treating each bill as a tub which should stand on its own bottom, and without much effort at an articulate political philosophy.

This does not mean that no good can come from such a state of affairs.

By DANIEL K. EDWARDS
Durham County Representative
1947 General Assembly

COVER PICTURE

Being congratulated by retiring president J. R. Thomas (center), Rocky Mount's Chief of Police, are the new officers of the North Carolina Police Executives' Association. Left to right: Chief Eric R. Hall, Asheville, 3rd vice-president; Capt. David T. Lambert of the State Highway Patrol, secretary-treasurer; Chief Thomas; Chief L. L. Jarvis, Greensboro, president; Chief James R. Tanner, Greenville, 2nd vice-president. Not present for the picture: Chief Frank N. Littlejohn, Charlotte, 1st vice-president.

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Rather, it would seem to be the expected attitude of an established government, a government which has "arrived" and feels no urge to go anywhere or to hew out a program to justify its survival. Like a pioneer who has cleared his land, built his house and barn, such a government can sit back and meet problems as they arise. Jefferson, in theory at least, would probably approve with "the least government is the best government." Most state governments in the United States have probably achieved this status.

It is not, then, particularly surprising that the 1947-48 General Assembly has to date defied adequate characterization. As was pointed out in a recent issue of *Popular Government*¹ it was neither conservative nor liberal but a little of both; it was generous and miserly; it was timid and bold. It apparently took as its motto the Emersonian dictum that consistency is the hobgoblin of little minds; and no doubt turned out a job of appropriating and law making in substantial conformity with contemporary public opinion.

Obviously under such conditions anything like a "trend" or "general direction" in legislation would not be the result of a conscious plan but would be the consequence of a subconscious inclination. A "new departure" in governmental activity would most likely slip in by the side door. A notable exception was, of course, the Good Health Program which in 1947 marched in through the front portals with flags flying and drums rolling. Although mindful of a few such well advertised programs, I am doubtful indeed whether the people of North Carolina are fully aware of the direction in which their state government has been travelling for a good many years, and certainly they are not cognizant of the reasons for and the consequences of traveling

¹ "Legislative Review and Appraisal" by Peyton B. Abbott, *Popular Government*, June, 1947.

in that direction. In saying this I do not wish to imply that I am "viewing with alarm" or "pointing with concern." The reasons may be cogent and the consequences wholesome.

Perhaps more than any other state in the union, North Carolina has been and is concentrating the functions of government at the state capitol. With the possible exception of one other state, it has achieved the greatest such centralization in the administration and support of public schools, and there was a strong move in the last General Assembly to go yet another step.² That move is far from dead. The primary and secondary roads of the state have long been the special prerogative of the Highway Commission, and certain discontented squirmings by counties and municipalities resulted only in legislative spankings.³ The same trend is apparent in the fields of public welfare, support of public libraries, conservation and development of national resources, and, most recently, public health, including the venereal disease and hospitalization programs. About the only exception, and one that may prove the rule, is the established system of regulation and control of the sale of alcoholic beverages; here local option on a county unit basis is the rule, although there is considerable regulation by the State.

In a different category is the centralization caused by the ancient constitutional and statutory relationship existing between the state and local governmental units (counties, cities and towns), which results in the greatest mass of "local" bills that plague the General Assembly session after session. The problem is neither new nor unique; North Carolina shares this problem with many other states. In 1930 Dean Van Hecke listed it as something that should be solved to improve the functioning of the legislature.⁴ Nevertheless during the 1947 session over eight hundred "local" bills were introduced out of an over-all total of sixteen hundred and ten bills of all types.

² An amendment to the Appropriation Act was offered in Committee to provide State funds for the repair and construction of public school buildings, a burden now resting upon the counties. Further, H.B. No. 548 set up a commission to make a state-wide study of educational problems.

³ H.B. No. 917 was designed to authorize the Boards of County Commissioners to designate the secondary roads to be constructed, improved, or repaired by the State in order of priority. The Bill did not pass.

⁴ M. T. Van Hecke, *North Carolina Law Review*, Vol. 9, Dec. 1930, pp. 1-12.

As the state has gathered unto itself functions that in other times, and now in other places, have been performed by local governmental units, it has also expanded its regulatory and promotional functions to include matters and things unused to the authoritative hand of government. For a number of years the state has established regulatory boards to issue licenses and establish standards of conduct and performance in many fields of endeavor including barbering, plumbing, embalming, "cosmetic art," and a host of others. It has for a long time assumed the power to restrict the right to contract, a restriction that is inherent in Child Labor Statutes and like laws. During the last session of the Legislature, it moved further into the field of regulating the right of individuals to enter into contracts by adopting the so-called Anti-Closed Shop Act. Strangely enough it was the traditionally individualistic field of agriculture that produced most regulatory bills in 1947, including the licensing of scale mechanics, the regulation of the sale of potatoes, the authorization of a tax referendum to be conducted by Tobacco Associates Incorporated, a stiffening of the fertilizer law, and an enabling act to permit closer unity of action by producers of agricultural products.⁵ Also included in the category of 1947 statutes extending governmental control over individuals are the measures known as the Anti-Subversive Act which makes it a felony to preach the desirability of forcefully overthrowing the government of the United States or of North Carolina, the Anti-Pyrotechnics Act which forbids the use and manufacture of fireworks in the state, and the Alms Solicitation Act which requires a state license for organizations seeking donations.

CENTRALIZATION OF GOVERNMENTAL FUNCTIONS CAUSED BY THE DIFFERENCE IN FISCAL POWER OF STATE AND LOCAL UNITS

That the State of North Carolina is in a vastly better position to raise money and to administer governmental functions than are a majority of the subordinate governmental units within its borders is generally recognized. There are various causes for this, some of which are:

(1) The state has a broader base for its tax plan and can, therefore, tap many kinds of wealth producing enterprises. County lines exist without regard to economic unity or fiscal self-sufficiency, so that while many counties contain great taxable wealth, many more have very small resources. It is interesting to note that not more than about half the counties yield to the state in total tax revenue an amount even equal to the sum expended in such counties by the state for support of their schools.

(2) The state has available to it forms of taxation, such as income, inheritance, sales, gasoline and license taxes, that seem to be better sources of revenue and more responsive to economic conditions than the property tax to which the counties must resort. The tax on alcoholic beverage is, of course, an important source of income not only for the state but the "wet" counties also.

(3) The small size of many of the local governmental units in North Carolina not only limits their tax resources but renders the local administration of governmental functions inefficient and wasteful. In an excellent and authoritative study recently made it is stated: "It may be concluded that the per capita cost of administration in providing a given level of service is relatively high in areas of small population; and that this per capita cost of service at a given standard decreases as units of government increase in size until a population of approximately 50,000 is reached."⁶ Even then if it were financially possible, it would not be economical to localize many of the functions the state has assumed during recent years so long as the present pattern of county boundaries is retained in North Carolina.⁷

(4) Every state seems to have some state-imposed limitation upon the power of local units to borrow funds. North Carolina is no exception. An effort to abolish the constitutional restrictions culminated in the passage of a bill by the 1947 General Assembly to place before the people a constitutional amendment raising the debt limit.⁸

The foregoing factors have been

⁶ Report on State-Local Relations by the Council of State Governments (1946) page 201. In support of this statement numerous citations and examples are given.

⁷ Number of counties with population under 10,000—10; under 25,000 over 10,000—37; under 50,000 over 25,000—30; over 50,000—23.

⁸ S.B. No. 196.

⁵ H.B. No. 198, 436, 690, 760, and 802.

coloring the political complexion of North Carolina for many years, and, since there doubtless exists a strong sentimentality in many quarters concerning the territorial limitations of our present counties, these factors will probably continue their influential role. Most North Carolinians express a violent antipathy for the growing bureaucracy around Capitol Square, but when this aversion comes into direct conflict with "local pride" the latter can be counted on to win. If consolidation and re-alignment of counties is the price that must be paid for local initiative and a measure of local autonomy, the ante may be too high for most Tarheels.

The effect of these centralizing forces are clear. In 1931 the state "took over" the roads, assuming control and responsibility for construction and maintenance of highways outside the cities and the some 45,000 road miles previously under the jurisdiction of townships and counties. There seem to be only three other states with as much centralized control.⁹ In the administration of its public welfare program North Carolina appears to be slightly less centralized than most states although we have both a degree of state supervision and a large measure of state financial aid. In 1933 North Carolina undertook a far reaching revision of its system of control and support of its public schools. Now the state allocates teachers and fixes the requirements for their professional proficiency; it furnishes textbooks; it supervises county school budgets and transportation of students. Only Delaware and West Virginia equal this state in the degree of centralization existing in the school field. Only two other states (Indiana and New Jersey) have as much state supervision over local fiscal affairs. Centralization in the public health field was increased, insofar at least as financial support is concerned, by the adoption of the Good Health Program¹⁰ by the 1947 General Assembly.

As for the future, we may expect a continuation of this trend; for no matter how much the wealthier counties may struggle for local initiative and responsibility, the inability of the

smaller units to perform these governmental functions without substantial help will prove too great a millstone. Those who would preserve the identity of our present one hundred counties for sentimental reasons, yet long for an increased measure of local self-government, seem to be on the horns of a dilemma.

LOCAL LEGISLATION

That the members of North Carolina's 1947 General Assembly were themselves concerned about the large mass of "local" bills that stuffed the legislative hopper was evidenced by the establishment of a special commission to study the problem and to make recommendations as to how it can be remedied. The immediate concern of the legislature were the aspects stressed by Dean Van Hecke.¹¹ The volume of such bills clogs the legislative machinery, makes the legislators "locally minded," promotes log-rolling, and consumes mental energy which should be devoted to state-wide issues. A more insidious result is the tendency of county voters to evaluate their representatives on the basis of local laws applying only to that county rather than on the ability of those representatives in making laws and appropriations for the whole state. This means that a man of highly developed provincial inclinations who devotes his entire attention to the internal political problems of his county may be sent to Raleigh for many terms, while statesmen of broader vision and interests might be allowed to continue to bask in the comforts of private life.

The immediate cause behind "local" legislation in North Carolina is the existing legal relationship between the state and local governmental units. We have already examined the politic-economic factors which are primary reasons why functions of government are being more and more centralized and taken away from counties, and the reasons behind the inability of local units to perform such functions. That process of centralization, however, does not tend to generate local bills except insofar as it discourages purely legal reform that would place more responsibility on local units of government. Since these units have ceased to have broad functional roles, it seems difficult to inspire the citizenry with much in-

terest in how efficiently they perform the duties they now have.

The constitutional and statutory relationship between state and localities is productive of "local" bills not only because of the the actual requirements for such measures inherent in such relationship, but also because of the kind of thinking it inspires in legislators. When confronted with a local need the first impulse of our law maker is to meet it with a local law; he is not inclined to take the next intellectual step to determine whether the need is state-wide and the true remedy a general statute. An exception to prove the rule is my friend Mr. Vanderlinden of Hickory, who, in the last General Assembly introduced H. B. 592 which provided a procedure "through which the corporate limits of municipalities may be enlarged without resorting to the enactment of Private or Public-Local Acts." Even so, a hasty review of the titles of local bills passed in 1947 indicates at least thirty-six were for the sole purpose of altering the limits of municipalities.

There seem to be two approaches to a solution of the problem of local legislation: one, the development on the part of legislators themselves, both individually and collectively, the habit of thinking in terms of state rather than county, so that one general statute may be fashioned to forestall a multitude of local bills; two, an increasing autonomy in the local units of government so that they may legislate for themselves on many questions now handled bi-annually in Raleigh. Both of these approaches are positive, and are predicated on the proposition that no rigid restriction or prohibition against the enactment of local legislation would be satisfactory. As has been well said: "Local acts in large part fulfill legitimate needs. The trouble is not that too many laws are made, but that too many laws are necessary."¹²

The role of local autonomy in reducing the obesity of the body of Local Bills evidently applies to both counties and municipalities. At a rough estimate I would say that about two hundred bills relating to compensation for county officials, jurors, and other local officers were passed by the last General Assembly. There were also approximately sixty local acts amending city charters.

(Continued on page 9)

⁹ Virginia, West Virginia and Delaware.

¹⁰ The appropriation of funds to build a four year medical school at the University and to construct hospitals and health centers in various parts of the State, all in conjunction with the Federal program under the Hill-Burton Act.

¹¹ M. T. Van Hecke, North Carolina Law Review, Vol. 9, Dec. 1930, pp. 1 & 2.

¹² State-Local Relations, by the Council of State Governments, 1946, page 146.

North Carolina Driver Examinations

(As North Carolina moves into its new driver re-examination program, which calls for the re-examination of every driver in the state, drivers are showing considerable interest in the tests they must pass before they can get new licenses. Principal test, of course, is the road test, by which the examiner judges whether the applicant can actually drive. But before the applicant can take the driving test, he must meet the minimum vision requirements and demonstrate a satisfactory knowledge of road signs and road laws. In response to the universal popular interest in these tests, POPULAR GOVERNMENT presents here the three series of questions on the road laws, with the answer to each question being given on page 13. Each applicant is given one or the other of these three tests. They are published with the permission of the Highway Safety Division of the Department of Motor Vehicles, which is the agency charged with administering the driver's license law.)

SERIES "A"

I

QUESTIONS

1. What is the speed limit in:
 - a. Business district?
 - b. Residential district?
 - c. Open highway?
2. In cities, who are more likely to be killed: drivers or pedestrians?
3. If your car and a car coming from your right reach an intersection at the same time, who has the right-of-way?
4. If you are approaching an intersection and a car coming from your left has just entered the intersection, who has the right-of-way?
5. If you hear an ambulance, Police car or Fire truck coming, what are you required to do?

II

QUESTIONS WITH MULTIPLE-CHOICE ANSWERS

1. What must you do when you approach a school bus that has stopped to take on or let off children? (Check the correct answer.)
 - () Blow your horn.
 - () Slow your speed to 10 miles an hour.
 - () Move to left side of the highway and pass slowly.
 - () Stop.
2. When should you drive in the middle lane of a three-lane highway? (Check the correct answer.)
 - () When passing other vehicles.
 - () When driving faster than other traffic.
 - () At night or other times when you cannot see very far ahead.
 - () When it has been raining and the outside lane is slick.
3. What should you do when you meet a vehicle with a burning red light on the front? (Check the correct answer.)
 - () Go ahead at regular speed.
 - () Pull over to the right and stop.

- () Turn around and follow it.
 - () Slow your speed.
4. How far from a corner at which you are going to turn should you start giving a signal? (Check the correct answer.)
 - () 25 feet. () 75 feet.
 - () 50 feet. () 100 feet.
 5. What should you do before entering an intersection at which there is a flashing red traffic signal? (Check the correct answer.)
 - () Come to a complete stop.
 - () Slow your speed and drive carefully.
 - () Sound your horn and change to second gear.
 - () Stop if there is other traffic near.

III

EXAMINATION QUESTIONS—RIGHT-WRONG

- | | Right | Wrong | |
|-----|-------|-------|--|
| 1. | () | () | If you have an accident while pulling out of a parking place at the curb, it will probably be your fault. |
| 2. | () | () | You must never attempt to pass a car on hills, or at intersections. |
| 3. | () | () | You must bring your car to a full stop whenever necessary for the safety of anyone walking across the street. |
| 4. | () | () | When the driver behind you sounds his horn to pass you should speed up so you will not block other traffic. |
| 5. | () | () | It is safe to make a left turn from any lane of traffic if you give a left-hand signal. |
| 6. | () | () | At night you must always keep your speed slow enough so that you can stop in the distance you can see ahead. |
| 7. | () | () | When a vehicle approaches an intersection within a business or residential district where people are crossing, the vehicle has the right-of-way. |
| 8. | () | () | You can pass a vehicle when the left side of the highway is clearly visible and free of oncoming traffic. |
| 9. | () | () | You are violating the law and making an accident possible if you cut corners on left turns. |
| 10. | () | () | You are not violating the law if you overtake and pass a vehicle at an intersection provided there is no "stop sign." |
| 11. | () | () | A yellow or amber traffic light that blinks on and off means slow down or caution. |
| 12. | () | () | An officer has no right to give you a ticket for driving with poor brakes. |
| 13. | () | () | The most important things on your |

automobile to keep in good mechanical condition for your safety are the ignition system, carburetor, generator and speedometer.

- 14. () () You are driving a car which is involved in an accident. No one is hurt but the damage to both cars together amounts to \$50.00. In a case of this nature, no report is necessary.
- 15. () () It is not necessary to report an accident unless a person or persons are seriously injured.

SERIES "B"

I

QUESTIONS

1. Where is it not permissible to pass cars?
2. What is the use of the middle lane on a three-lane highway?
3. How far before making a turn should you give a hand signal?
4. What accidents must be reported? To whom?
5. If you come to a school bus stopped for passengers, what must be done?

II

QUESTIONS WITH MULTIPLE-CHOICE ANSWERS

1. What should you do when you back your car? (Check the correct answer.)
 - () Watch your rear view mirror.
 - () Blow your horn.
 - () Ask someone to watch for you.
 - () Back slowly and look to the rear.
2. You are entering an intersection on a green signal light and want to make a right turn. A pedestrian is crossing the street you want to turn into. You should: (Check the correct answer.)
 - () Blow horn and make the turn.
 - () Speed up, give an arm signal and turn ahead of the pedestrian.
 - () Motion cars behind to go on by.
 - () "Bawl out" the pedestrian.
 - () Pull as close to the right curb as possible, signal cars in rear and stop until pedestrian is safe.
3. You are driving down a long, steep hill, you should: (Check the correct answer.)
 - () Use the brake steadily to slow up but keep your gears in high.
 - () Put gears in neutral, press the brake on hard, and take off your foot repeatedly, as you go along.
 - () Use first the foot brake and then the hand brake, to keep either one from overheating.
 - () Leave gears in high and use only the hand brake.
 - () Put gears in second or low, depending on grade and let engine act as brake.
4. When you park your car headed down hill, you should: (Check the correct answer.)
 - () Lock the car.
 - () Leave the car in low gear.

- () Leave the car in reverse gear.
 - () Turn the front wheels toward the curb or side of road and set the hand brake.
 - () Leave gears in neutral and set the hand brake.
5. While driving at night, you meet a car with blinding headlights—the best thing to do is: (Check the correct answer.)
 - () Keep on at the same speed but do not look at the oncoming lights.
 - () Use lower beam and speed up to get by quickly.
 - () Slow down, use lower headlight beam and go ahead without looking directly at the oncoming lights.
 - () Drive with two wheels off the right shoulder of the pavement to give yourself more space while meeting the car.
 - () Turn your lights off and on quickly as a signal for the other driver to lower his lights.

III

EXAMINATION QUESTIONS—RIGHT—WRONG

- | | Right | Wrong | |
|-----|-------|-------|--|
| 1. | () | () | The arm signal for the left turn is the arm held straight out. |
| 2. | () | () | If the traffic light changes while a pedestrian is crossing at a corner, drivers must wait for the pedestrian to get across the street safely. |
| 3. | () | () | You may park your car in front of a public or private driveway if you remain at the wheel. |
| 4. | () | () | Your driver's license must be revoked if you are convicted of driving while drunk. |
| 5. | () | () | When approaching a school bus from the rear that has stopped to load or unload school children, you need not stop, but slow down to 10 miles per hour and pass very carefully. |
| 6. | () | () | When driving at night, you must dim or lower your headlights when meeting an oncoming vehicle. |
| 7. | () | () | You may permit a friend to drive your automobile without a driver's license or learner's permit provided you are with him. |
| 8. | () | () | Slower speeds would prevent most cars from skidding. |
| 9. | () | () | If you are found guilty of reckless driving twice within a period of twelve months, your driver's license must be revoked. |
| 10. | () | () | At night you must always keep your speed slow enough so that you can stop in the distance you can see ahead. |
| 11. | () | () | When driving into a main street on a highway from a side road or alley it is not necessary to stop unless a "Stop Sign" has been put up. |
| 12. | () | () | If you have to stop on a highway, all four wheels should be off the highway if possible. |

- 13. () () The arm signal for a right turn is arm held up.
- 14. () () If you are going to make a left turn you should move over close to the center line after first making sure it is safe to do so.
- 15. () () If you drive off the pavement you should attempt to cut back onto the pavement quickly to avoid running further on the uneven shoulder.

- () Stop and stay behind until it starts again.
- () Cross center line and pass slowly on left side of road if there are no oncoming cars.
- () Speed up and pass on left before children are off.
- () Stop behind bus and blow your horn to let driver and children know that you are about to pass.

SERIES "C"

I

QUESTIONS

1. May you take your car out of gear and coast downhill?
2. You must have at least how many head-lights lighted on the front of your car at night?
3. List Safety devices that must be in good working order on your car:
4. Before entering a Highway from a side road or driveway, what must always be done?
5. When meeting another vehicle at night what change must be made in your lights?

II

QUESTIONS WITH MULTIPLE-CHOICE ANSWERS

1. When should you drive in the middle lane of a three-lane Highway? (Check the correct answer.)
 - () When passing other vehicles.
 - () When driving faster than other traffic.
 - () At night or other times when you cannot see very far ahead.
 - () When it has been raining and the outside lane is slick.
2. What should you do when you back your car? (Check the correct answer.)
 - () Watch your rear view mirror.
 - () Blow your horn.
 - () Ask someone to watch for you.
 - () Back slowly and look to the rear.
3. What must you do as you approach a corner at which you intend to turn left? (Check the correct answer.)
 - () Pull over to the curb and stop until the street is clear.
 - () Signal and get into the lane nearest the right curb.
 - () Signal and get into the lane nearest center line.
 - () Blow your horn before turning.
4. When are drivers required by State Law to make a written report to the Highway Safety Division of an accident in which no one was killed or injured? (Check the correct answer.)
 - () When property damage is more than \$10.00.
 - () When property damage is more than \$25.00.
 - () When property damage is more than \$40.00.
 - () When property damage is more than \$50.00.
5. You are driving and about to overtake and pass a school bus ahead of you when it stops to let off some children. You should: (Check the correct answer.)
 - () Blow your horn and pass slowly on the left.

III

EXAMINATION QUESTIONS—RIGHT—WRONG

- | | Right | Wrong | |
|---------|-------|-------|---|
| 1. () | () | () | When you stop headed down hill, turn your front wheels away from the curb or edge of road. |
| 2. () | () | () | Your speed on the open highway should be regulated by weather, road and traffic conditions in addition to the mechanical condition of your car. |
| 3. () | () | () | It is advisable to stay in your lane of traffic even though the streets or highways are not marked by painted lines into lanes. |
| 4. () | () | () | If another car gets into the intersection before you do, that car has the right-of-way. |
| 5. () | () | () | You should burn your dim lights at any time of day when you cannot see at least 500 feet ahead. |
| 6. () | () | () | When you have a flat tire or blow-out, you should make immediate application of the brakes so the car will not swerve. |
| 7. () | () | () | It is unlawful to operate a motor vehicle without a rear view mirror. |
| 8. () | () | () | In driving a car for the first time, it is very important to check the brakes and steering mechanism. |
| 9. () | () | () | If a driver seriously injures a pedestrian who is legally at fault when struck, the driver does not have to make a report of the accident. |
| 10. () | () | () | New non-skid tires have eliminated the danger of skidding on wet pavement or any hard-driving surface. |
| 11. () | () | () | When driving in a fog at night you can obtain the best visibility by using the parking lights. |
| 12. () | () | () | A driver should be more attentive and cautious at night than in the daytime because visibility is poor. |
| 13. () | () | () | The best way to keep your attention on driving is to always try to make driving a full-time job. |
| 14. () | () | () | To be a good driver and avoid traffic accidents, it is imperative that you constantly practice good driving habits. |
| 15. () | () | () | The good driver carefully and regularly follows certain rules in making left and right turns. |

Police Executives' Annual Convention

Police Training, Police Standards, Police Salaries

On the keynote of police training, the North Carolina Police Executives' Association held its annual convention in Winston-Salem July 27, 28 and 29. The adoption of a recommended schedule of police salaries and standards, and the ratification of a new constitution were the most significant accomplishments of the convention. Speakers included Superior Court Judge H. Hoyle Sink, Institute of Government Director Albert Coates, F.B.I. Special Agent in Charge J. E. Thornton, S.B.I. Director Walter Anderson, Highway Patrol Commander H. J. Hatcher, State Auditor Henry Bridges, and Robert Lee Humber of Greenville. J. R. Thomas, Chief of Police of Rocky Mount, outgoing president of the Association, turned the reins over to Police Chief L. L. Jarvis of Greensboro. Elected as vice-presidents were Chief Frank N. Littlejohn of Charlotte, Chief James R. Tanner of Greenville, and Chief Eric R. Hall of Asheville. Captain David T. Lambert of the State Highway Patrol was unanimously re-elected secretary-treasurer.

By **TERRY SANFORD**
Assistant Director
Institute of Government

Writing their first constitution, the members present set their association on an even keel by declaring that they should remain "non-political and non-profit," and that their purpose should be to "improve administrative and technical practices," to "foster police cooperation," and "to bring about the enlistment and training in the police profession of qualified persons." Membership in the association, the new constitution provides, shall consist of municipal police officers and officers of separate county police departments who hold the rank of sergeant or higher, the director and executive officers of the S.B.I., members of the Highway Patrol of the rank of sergeant and higher, chief enforcement officers of the Alcohol Control Boards, executive officers of federal law enforcement agencies in

North Carolina, and executive officers of railroad police agencies.

Police Salaries

The executives in attendance adopted a resolution covering minimum police standards and salaries, which will be recommended to all North Carolina city governing boards. This, the Association feels, is necessary if the cities are to continue to "obtain the best possible applicants for positions in the law enforcing profession." These recommendations are obviously not binding on anyone, but they represent the collective thoughts and considered study of the men charged with law enforcement. Significantly, the report covers only entrance requirements and patrolmen salaries, and does not touch the salaries of the police executive officers who comprise this Association.

The resolution was not based on snap judgment, but on a study and report made by a special committee headed by Police Chief Lewis E. Wil-

POLICE CHIEFS RECOMMENDED THE FOLLOWING SCHEDULE OF MINIMUM SALARIES FOR POLICE PATROLMEN:

1. Probationer—\$175 per month for first six months.
2. Fourth class patrolman—after six months satisfactory performance: \$187.50 per month.
3. Third class patrolman—after 12 months satisfactory performance: \$200 per month.
4. Second class patrolman—after 18 months satisfactory performance: \$212.50 per month.
5. First class patrolman—after 24 months satisfactory performance: \$225 per month.
6. After becoming a first class patrolman, an increase of \$5.00 per month at the beginning of each fiscal year (providing performance has been satisfactory) until a salary of \$250.00 per month has been reached.



Speakers at the Police Executives' Convention included (shown above, left to right) Walter Anderson, S.B.I. Director, J. E. Thornton, Special Agent in Charge of the Federal Bureau of Investigation, Captain David T. Lambert of the State Highway Patrol and secretary-treasurer of the Association, Albert Coates of the Institute of Government, and J. R. Thomas, Chief of Police of Rocky Mount and immediate past president of the Association.

liams of Mount Airy and the association executive committee headed by Police Chief James R. Tanner of Greenville. As an introduction to the report, the committee said: "These recommendations were made after the thorough study of data and information gathered by the Institute of Government from every police department in North Carolina, of nationwide data supplied by the United States Department of Labor, and of 'Police Administration,' as reported in *The Municipal Yearbook of 1946*, published by the International City Managers' Association."

The average beginning salary for police officers in North Carolina is now \$157 per month, and the average maximum is \$179; the average number of hours worked per day is 9, and the average number of hours per week is 58. This, felt the association of executives, is too many hours and too little pay for officers charged with the constant protection of life and property. This, felt the executives, is not sufficient inducement for alert young men which the profession requires.

Seeking to reach hours and salaries adequate, but not unreasonable, the executives set \$175 as the recommended entrance salary, to be raised gradually to \$250 over a period of seven years of satisfactory performance of duty.

The executives recommended also that the maximum hours worked per day should be eight. They took into consideration that in addition to these eight hours the police officer would be called on to spend many additional hours at his profession, on duty during emergencies and abnormal conditions, testifying in court, and at other special assignments. They recommended also that the officer be given every sixth day off, making the work week an average of 46½ hours, or about five days off duty each month.

Requirements for entrance, suggested by the report, were: high school education or its equivalent; successfully passing a standard adaptability test; a thorough and complete investigation of character and reputation; minimum age, 21; minimum height, five feet, eight inches, minimum weight, 150 pounds, weight and height in proportion thereafter; sound physical condition. It was further recommended that the officer be placed on probation for six

months after acceptance, subject to dismissal at any time during this period.

These standards recommended, the executives pointed out, are the *minimum* needed for the improvement of the police profession; some cities have already exceeded them.

Police Education

The executives in recommending standards for entrance requirements and salaries were fully cognizant of their duty to help make these patrolmen worth the salaries paid them. The need for more training was pointed out by the reporting committee, and the keynote of the entire convention was certainly police training.

Superior Court Judge H. Hoyle Sink opened the meeting by calling for greater law enforcement efficiency, and more complete police cooperation. With this suggestion, there is a remedy, said Judge Sink. "That remedy must come about through education and public demand. I have a feeling that the public demand is on the mend. The education has a foundation and a recognized leader that has set an example not only for our State, but for others as well—I would be derelict in my duty if I should



Welcomed to North Carolina by the Police Executives' Association meeting in Winston-Salem, was Joseph E. Thornton, above, new Special Agent in Charge of the Charlotte office of the Federal Bureau of Investigation. Mr. Thornton, a native of Omaha, and a veteran agent of the F.B.I., came to Charlotte from Miami where he was in charge of the F.B.I. activities in Florida. Prior to this Mr. Thornton has served as Special Agent in Charge of the Portland, Pittsburgh, Honolulu and Springfield offices of the F.B.I.

fail to give recognition to Albert Coates, Director of the Institute of Government at the University of North Carolina. His career and mine have been largely parallel, and his has been a source of inspiration in my endeavor to perform my duties as a judge of the Superior Court.

"The officer personnel in North Carolina, when I came to the bar, was woefully deficient in the manner of its approach to its duty. The change has been pronounced throughout the State.

"There is today a definite trend away from the 'brute with the club' toward the intelligent, considerate, and understanding officer material.

"This change—if it did not come about through the intelligent teachings of the Institute of Government, certainly has its leadership to thank for its rearing, nurturing, and stabilizing."

Coming next on the program, Albert Coates, Director of the Institute of Government, outlined a plan of training schools for 1947-48 designed to reach every law enforcement officer in North Carolina. First on the schedule is a school in basic police methods (announced in this issue of POPULAR GOVERNMENT) which is designed to give new city and county police officers the fundamentals of police science. Next is a statewide school to be held in Chapel Hill covering criminal law and criminal investigative techniques, which will prepare instructors for a series of local schools to be held in every city and county department in North Carolina which desires to cooperate in this program of training. In addition to these schools, two-week schools in traffic law enforcement, fingerprint identification, and scientific methods of investigation, are scheduled to be conducted in Chapel Hill during the winter and spring.

Mr. Coates listed the transition points in the development of police schools at the Institute of Government since their beginning in 1929, stating that they had been made possible only by the constant cooperation and assistance of North Carolina officers and the Federal Bureau of Investigation.

Postwar Crime Trend

The Special Agent in Charge of the Charlotte office of the Federal Bureau of Investigation, J. E. Thornton, speaking to the convention, cited

statistics to show that the trend in crime throughout the nation has been generally upward since the end of the war. The increases in North Carolina, Mr. Thornton said, kept pace with those in other parts of the nation. Murders increased during the year from 101 to 135, rape from 84 to 103, aggravated assault cases from 3748 to 4019, larcenies from 6936 to 8070, and auto thefts from 1599 to 1973.

Racial Problems

Walter F. Anderson, director of the State Bureau of Investigation, discussing racial problems in law enforcement, praised John Gold, chief of police of Winston-Salem, for the manner in which he and his department had handled the recent strikes in that city. This, said Mr. Anderson, was an example of handling racial problems with understanding and strict impartiality which is necessary if police work is to be elevated to professional standing. "An understanding heart is a prerequisite for a law enforcement officer," said Mr. Anderson, "and especially is this true when the officer must handle racial problems."

Mr. Anderson outlined at length methods for holding down strife, misunderstanding, and riots, pointing out that "the real hope of the police lies in prevention." He continued: "All citizens are equal before the law. Race, color, politics or religion makes

no difference. We should rigorously enforce the law against all transgressors. An impartial, professional attitude does not come naturally; it has to be acquired and developed by actual specialized training and experience. Tolerance and understanding are keys to the locks on the doors of successful law enforcement in the racial field; and prejudice is the basis of disorders, riots and wholesale trouble."

Other Speakers

Colonel H. J. Hatcher of the State Highway Patrol discussed the new highway safety act; Henry Bridges, State Auditor, led a discussion of the Law Enforcement Officers Retirement Fund; Robert Lee Humber addressed the convention at its closing banquet.

Pistol Match

The Police Executives' Association inaugurated its first annual pistol match with teams from the State Highway Patrol Training School and the Winston-Salem, High Point, Asheville, Durham, and Charlotte police departments competing. About sixty officers competed for individual prizes. The team trophy was won by the Patrol Training School team, and the individual high score prize, a target pistol, went to Patrolman Guy C. Langston of the State Highway Patrol.



Pistol match contestants, firing in the first annual Police Executives' match at Winston-Salem, shown here with Fred Molt (second from left), Southeastern representative of the American Rifle Association, are: (left to right) H. W. Cox of the Winston-Salem police department, Sergeant S. L. Willard and Corporal John Laws, firearms instructors at the State Highway Patrol school.

Rise of Centralization

(Continued from page 3)

The Council of State Governments has proposed some well thought-out general remedies;¹³ some of these are applicable to North Carolina and some are not. In any event the report of that body should be of considerable value to the Commission established by the Legislature to study the problem in this State. It would seem that a general statute reorganizing the internal governmental structure of counties on a statewide basis is indicated. It also seems probable that there will have to be constitutional revisions in order to harmonize that instrument, which contains several provisions relating to county officers, with any reform undertaken by way of a general statute.

STATE SUPERVISION OF THE INDIVIDUAL

More subtle and difficult of analysis than any other phase of the trend toward governmental centralization in this State is the expanding control and regulation of the state government over the affairs and lives of citizens. This propensity is probably no different from that of governments of other states, and in fact, of the government of the United States in recent years. It doubtless grows out of deep-flowing economic and social factors developing in our civilization which seem to require more and more supervision on the part of government. As the configuration of our business and social life becomes more complex it is perhaps inevitable that this sort of expansion should take place, and that the citizenry should turn to governmental agencies as a means to regulate and control the varied and complicated aspects of their modern lives.

The danger, of course, is that as government progressively assumes greater regulatory responsibility, it might infringe in a damaging degree upon the rights and liberties of the individuals living under its supervision. On the other hand, paradoxically, it often becomes necessary in these times to take away certain prerogatives and forbid certain kinds of activity in order to preserve other liberties and rights for the individual.

(Continued on page 11)

¹³ Report on State-Local Relations, by the Council of State Governments, 1946, pp. 141-181.

THE CLEARINGHOUSE

News of Developments in Local Government

City Manager Plan

The city manager form of municipal government (Plan "D" under Article 22 of G.S.Ch.160, with mayor, city council and city manager) is currently under consideration in a number of cities and towns in this state.

In *Winston-Salem* the executive board of the local "Committee of One Hundred" has undertaken a complete and unbiased study of the advantages and disadvantages of the plan in relationship to the government of the city. The board is asking for the views and comments of the citizens, and expects to make a report of its findings to the full Committee in October.

The city council of *Kinston*, after receiving a petition bearing the names of 300 qualified voters asking for an election on the question, called the election for September 16. Citizens of *Clayton*, after much local interest culminating in a petition to the governing board for such an election, postponed further action for the time being after the call for an election July 29 was cancelled by the board of elections because of technical defects in the petition. The law requires that the petition be signed by 25% of the qualified voters at the last election, and between the time of the filing of the petition in April and the calling of an election by the board, the 1947 municipal elections had intervened. The petition contained what was thought to be the necessary 25% of the voters at the 1945 elections, but it was felt that perhaps the number of signers was not enough to equal 25% of the qualified voters who voted at the 1947 municipal elections.

New Ordinances

According to *Public Management*, the city of *Cleveland*, Ohio, has adopted an ordinance which provides that "no person within the city of *Cleveland* shall smoke or carry a lighted cigar, cigarette, pipe, or match or

By W. M. COCHRANE

Assistant Director
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use any sparks or flame producing device in any retail stores designed and arranged to accommodate 300 or more persons or in which 25 or more persons are employed, nor in any theatre or assembly hall."

In early August, *Winston-Salem's* board of aldermen were considering an ordinance regulating trailer camps, which would include a requirement that operators of such camps obtain a permit from the city building inspector before opening a trailer parking lot, and would set minimum standards for space, sewerage, plumbing, lighting and water supply. An additional provision would forbid parking of any trailer in the city outside of an approved camp for more than 24 hours. Each trailer lot would be required to have 900 square feet, with no lot to be closer than 40 feet to a street or sidewalk, and each camp would have to supply toilets and at least one water tap to every four trailer lots.

The town board of *Graham* recently adopted an ordinance prohibiting ambulances from sounding their sirens within the town's corporate limits, leaving only fire trucks and police cars with authority to use sirens.

Wilmington's city council adopted an ordinance in July requiring all operators of motor driven vehicles to carry display identification tags costing one dollar each. The ordinance was reported by the *Morning Star* as being aimed at motor scooters, many of which are being operated in all sections of the state by persons under sixteen years of age, contrary to the Motor Vehicle Law.

Open Sundays

The question of whether moving picture shows, baseball games and similar public amusements and sports should be permitted on Sundays comes up frequently in the municipalities

of this state. The local division of sentiment is usually sharply defined and sometimes bitterly so, as was the case in *Greensboro* in July, where the issue was finally settled in favor of open Sundays, as it was after a prolonged struggle in *Winston-Salem* last year.

During the war, when the Overseas Replacement Depot kept thousands of soldiers in the *Greensboro* area, an emergency ordinance easing the previously existing Sunday restrictions was in force, so that recreation facilities would be available to the soldiers on Sundays. The provisions of this ordinance were continued in the ordinance adopted in July. Under it such places as movies, bowling alleys and other similar commercial attractions may be operated between 1 p.m. and 7 p.m., and 8:30 p.m. and midnight on Sundays.

High Point's Driver Training Program

In April of this year the *High Point* police department instituted an unusual venture in the field of driver training, and its success during the tried period has caused the department to make it permanent, according to Chief C. C. Stoker.

The department assigned Sergeant J. F. Shields as instructor for a six-week course in the city high school, with classroom and on-the-road-driving training for the students. During the course the instructor had 426 pupils for classroom instruction, and 64 were given on-the-road-driving instruction in a dual control automobile, which was furnished by the Rotary Club. Forty of the 64 applied for and received driving licenses at the end of the period, and the driver's license examiner reported to Chief Stoker that they were far above the average drivers who had applied for examination for license in that area.

During the trial period the car was driven 1258 miles on 134 gallons of gas and five quarts of oil, which were furnished by the Parent-Teachers' Association.

Sergeant Shields was one of those attending the Institute in Driver Education and Training for High School Teachers, conducted at the Institute of Government in Chapel Hill August 11-15.

Inter-City Cooperation

City officials of *Rutherfordton*, *Forest City* and *Spindale* have inaugurated a policy of monthly joint meetings, to consider together problems which affect all three of the towns. The first joint session was held in Rutherfordton toward the end of July, and was attended by 19 members of the three town councils, together with the mayors, town clerks and town attorneys.

Such problems as whether to install parking meters, it was pointed out, could best be handled if all three of the towns took action uniformly, because of the opposition to the idea in each of the towns on the basis that the meters would drive trade from towns with meters to those without them.

During the discussion period, parking problems, financing of recreation activities, property revaluation, water supply and a number of other kindred subjects received the attention of the group. The common financial dilemma the three towns find themselves in, along with most others in the state, was described as follows by the principal speaker of the evening, Rutherfordton Town Attorney J. S. Dockery, as quoted in the *Forest City Courier*: "Municipalities have about reached the end of their row in sources left open to taxation. . . . We went out and developed recreational facilities a few years ago under encouragement of federal and state authorities. Now that we have the property, we are told that we cannot finance and maintain it with tax funds, but must find other sources of revenue to keep the program going. We get no revenue from gas tax and autos, although approximately fifty per cent of the state's automobiles are parked or operated on city streets in North Carolina each day. Likewise, we must accept property valuations adopted by the county commissioners, and we have had no increase in this for some time—consequently we are in a position now where we are in need of relief." He concluded that it was his opinion that the cities and towns must look to the General Assembly

for the relief he thought they needed.

The joint session voted to appoint an executive committee consisting of the mayors and town attorneys to work out a list of subjects for joint consideration and action by the three towns.

Women Jurors

The newspapers for the past several months have been full of items about the new practice of adding the names of women to the jury lists in this state. In almost every county, the commissioners have reported compliance with the 1947 law providing the machinery for obedience to the mandate of the people expressed in November, 1946, when the Constitution was amended to the end that women might serve as jurors.

The perplexities and difficulties attendant upon the change, which have been the subject of many a news story pointing to the additional courthouse facilities made necessary thereby, have not worried officials alone. The women themselves have not seemed entirely free from perturbation, judging from the numbers being excused from duty for various reasons.

The *Greensboro Daily News* carried a story in August which began as follows: "Not only did Judge H. Hoyle Sink, resident judge of Guilford Superior Court, help allay the doubts of county officials concerning facilities for women jurors yesterday, but he passed out some advice designed to quell the courtroom fears of the women themselves."

The judge told county officials that he saw no reason why the county should hire a full-time woman bailiff to care for women jurors, saying that since during a normal court year juries are required to remain overnight only about 10 times, a woman bailiff could be called in when women were on juries.

Judge Sink told the reporters that "of primary public concern is the need to convince women that they're not being thrown into jail when called for jury duty." He added that there is "nothing inherently disagreeable or embarrassing" about such service and assured the ladies that he and the other judges would take the lead in making jury duty as congenial as possible for them. In spite of their fears, he said, they would not be subjected to constant surveillance by officers.

Rise of Centralization

(Continued from page 9)

Government is certainly not the only menace to our ancient liberties; we have seen instances too numerous to list in which the tyranny of the majority has made itself felt far more immediately and clearly by extra-legal means than it could ever make itself felt through the media of statutes and laws. The same applies to individuals who through their overbearing economic or social power seek to limit and restrict the rights and liberties of other individuals. Recognizing, then, that government enters the list in the role of a White Knight, striking shackles from the downtrodden as often as in the role of a despot enslaving the populace, nevertheless, when the people do resort to governmental aid to solve their problems it is an admission of defeat, an admission that they can no longer work out their own destiny unaided by legislative action. So it is entirely in keeping with our much-vaunted free economy and our oft-proclaimed freedom of the individual that this rising tide of governmental regulation should be eyed with some distrust.

There was indeed a strong inclination on the part of the members of the 1947 General Assembly to look with distrust and, in fact, considerable alarm upon the various attempts made during their session in Raleigh to extend the influence of various governmental agencies such as the regulatory boards that have been mentioned before in this article. The effort of the funeral directors to create for themselves a state licensing and regulatory board met defeat both in committee and on the floor of the House. The defeat of this measure without question forestalled an effort on the part of real estate agents to have the same sort of board created for them by legislative enactment. In another field the refusal of the Senate to pass a wage and hour law must likewise be classified as a refusal to permit an extension of governmental supervision over business in that particular field.

In spite of these few eddies and cross currents, however, the strong flow of regulatory and restrictive legislation moved on and in total effect, governmental supervision was extended by the 1947 Legislature

rather than otherwise. Late in the session efforts to curtail some of the authority of the various state boards, particularly the Barber Board, were frustrated. Furthermore, when they passed the so-called Anti-Closed Shop Bill, the legislators proved that it was not governmental interference in business that they dreaded so much as a particular kind and complexion of interference.

Many of the new laws which may be classified as extending governmental jurisdiction over the activities which have heretofore been free from such regulation are, of course, wise and beneficial measures designed to promote the general welfare. This discussion is not intended to imply that all such measures are harmful for there can be nothing more insidious in its effect than a blind adherence to a principle which causes its application in situations it does not fit and thereby defeats a laudable purpose. We are not yet ready, however, to admit that freedom from governmental interference has become an empty phrase; our political heritage leads us to regard with considerable repugnance any rise of paternalism in government, whether state or federal. The danger lies in the possible failure on the part of the Legislature to wisely draw the line between measures designed to protect the lives and health of individuals such as the new Highway Safety Act, which, if properly ad-

ministered, will achieve beneficial results, and measures put through at the request and insistence of special groups which place on the statute books rules and regulations applicable to and for the benefit of only segments of the population.

While philosophizing about the extension of governmental supervision over the citizenry we should not lose sight of the fact that law-making is a very pragmatic business; in politics a deductive thinker easily may be led into undesirable conclusions by too blind adherence to a formal logic. When the Senate of the last General Assembly was considering the bill providing for the establishment of a board of control and licensing for funeral directors there was considerable sentiment against establishing a new unit of bureaucracy, but the argument was advanced that the state had already accepted the principle of such boards by setting them up in other fields of endeavor, so there was no reason why an additional board should not be created. The Senate apparently thought well of this and other arguments and passed the bill, although it was later defeated in the House. The same reasoning in a slightly different form was used later in the House to thwart the effort there made to amend the established Board of Barber Examiners Statute. It was argued that since there were other boards in existence no better than the Barber Board that board should not be subjected to examination unless all of the established boards were examined at the same time. By extending this sort of logic, one could argue that because the state has assumed jurisdiction over many fields of human enterprise, it should invade every aspect of the life of its citizen with regulatory legislation. As Justice Holmes has said: ". . . The logical method and form flatter that longing for certainty and for repose which is in every human mind. But certainty generally is illusion, and repose is not the testing of men. Behind the logical form lies a judgment as to the relative worth and importance of competing legislative grounds. . . ."¹⁴

CONCLUSION

Most Americans have an immediate

¹⁴ Oliver Wendell Holmes, *Collected Legal Papers* (1920) p. 181.

negative reaction to any suggestion of increasing governmental control or centralization or the expansion of bureaucracy. This in part derives from past unpleasant experiences with government agencies and in part from a fear of injecting the irresistible restraining force of laws into the competitive field of life, liberty, and the pursuit of happiness.

In North Carolina we have a pleasant land occupied by a people endowed with energy and a generous measure of common sense. We have achieved a reputation as a progressive state and a leader among the states, particularly in the South. This could not be, had our governmental practices through the years been all wrong. Yet we have centralized the functions of government and extended the supervision of government more than all but two or three other states.

The answer may be this. Whenever this state has been confronted by a problem, it has plunged into vigorous action; the more urgent the problem the more immediate the action. It has seized upon solutions that seemed reasonably capable of easing the situation whether or not those solutions were the best of all possible remedies. State action in an emergency situation has proven reasonably successful. It may, of course, be true that the state is the smallest unit of government that should undertake the varied functions which have been allocated to the state government in North Carolina, but most political thinkers still believe that a larger measure of local responsibility and initiative is desirable. All this would seem to indicate that in the future we should devote much thought to long range planning which would tend to decentralize at least some of the governmental functions and at the same time maintain efficiency of performance.

GOVERNMENTAL PURCHASING CONFERENCE

Public purchasing agents from the United States and Canada are expected to attend the second annual conference and products exhibit of the National Institute of Governmental Purchasing, which will be held at the Hotel Pennsylvania, New York, September 7-11.

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Answers to Driver Examination Questions

SERIES "A"

I. ANSWERS TO QUESTIONS

1. a. 20
b. 35
c. 55
2. Pedestrians.
3. Car on the right.
4. Car on the left.
5. Pull over to the right and stop.

II. ANSWERS TO MULTIPLE CHOICE QUESTIONS

1. Stop.
2. When passing other vehicles.
3. Pull over to the right and stop.
4. 50 feet.
5. Come to a complete stop.

III. ANSWERS TO RIGHT-WRONG QUESTIONS

1. Right.
2. Right.
3. Right.
4. Wrong.

5. Wrong.
6. Right.
7. Wrong.
8. Right.
9. Right.
10. Wrong.
11. Right.
12. Wrong.
13. Wrong.
14. Wrong.
15. Wrong.

SERIES "B"

I. ANSWERS TO QUESTIONS

1. On hill, curves, at intersections.
2. For passing.
3. 50 feet.
4. When any person is injured and/or property damage exceeds \$25.00.
5. Stop and wait until bus starts.

II. QUESTIONS WITH MULTIPLE CHOICE ANSWERS

1. Back slowly and look to the rear.
2. Pull as close to the right curb as possible, signal cars in rear and stop until pedestrian is safe.
3. Put gears in second or low, depending on grade and let engine act as brake.
4. Turn the front wheels toward the curb or side of road and set the hand brake.
5. Slow down, use lower headlight beam and go ahead without looking directly at the oncoming lights.

III. ANSWERS TO RIGHT-WRONG QUESTIONS

1. Right.
2. Right.
3. Wrong.
4. Right.
5. Wrong.
6. Right.
7. Wrong.
8. Right.
9. Right.
10. Right.
11. Wrong.
12. Right.
13. Right.
14. Right.
15. Wrong.

SERIES "C"

I. ANSWERS TO QUESTIONS

1. No.
2. 2.


3. Brakes, Lights, Horn, Windshield wiper, Rear view mirror.
4. Stop and look both ways before proceeding.
5. From bright to dim.

II. QUESTIONS WITH MULTIPLE CHOICE ANSWERS

1. When passing other vehicles.
2. Back slowly and look to the rear.
3. Signal and get into the lane nearest center line.
4. When property damage is more than \$25.00.
5. Stop and stay behind until it starts again.


III. ANSWERS TO RIGHT-WRONG QUESTIONS

1. Wrong.
2. Right.
3. Right.
4. Right.
5. Right.
6. Wrong.
7. Right.
8. Right.
9. Wrong.
10. Wrong.
11. Wrong.
12. Right.
13. Right.
14. Right.
15. Right.

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The Attorney General Rules

Digest of recent opinions and rulings by the Attorney General of particular interest to city and county officials.



I. AD VALOREM TAXES

B. Matters Affecting Tax Collection

14. Delinquent taxes—requirement of advertising

To J. E. Butler.

Inquiry: Where there are three newspapers published and circulated in a county, is it necessary for a town therein to advertise for bids from them for the printing of delinquent tax lists?

(A.G.) G.S. Ch. 143, Art. 8, which requires governmental agencies to advertise for bids before letting contracts, does not include legal advertisements in newspapers. Sec. 143-129 says that no construction or repair work or purchase of apparatus, supplies, materials or equipment requiring an estimated expenditure of public money in an amount equal to or more than \$1,000 shall be performed, nor shall any contract be awarded therefor, except by following the procedure set out in Article 8. I do not think that any of the objects named in the pertinent section includes the advertisement by units of government of their delinquent tax lists.

G.S. 1-596, 597 and 598 prescribe what newspapers must do before



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North
Carolina

qualifying for municipal and county legal advertisements, and it will be noticed that the price to be paid shall not exceed the local commercial rate of the newspaper selected and that any public or municipal officer or board authorized to enter into contracts for the publication of legal advertisements is authorized to pay prices not exceeding the commercial rates.

II. POLL TAXES AND DOG TAXES

A. Levy

9. Soldiers & sailors

To Russell W. Whitener.

(A.G.) Under the provisions of G.S. 105-341 a veteran who is inducted in the armed forces of the United States is no longer liable for poll taxes accrued and unpaid for all the years prior to the date of his induction.

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES

A. Levy of Such Taxes

75. License tax on banks

To Womble, Carlyle, Martin & Sandridge.

Inquiry: May a city levy a privilege or license tax on a Morris Plan or Industrial Bank since the repeal of G.S. 105-94?

(A.G.) Yes. G.S. 195-94 levied a State license tax on Morris Plan or Industrial Banks, and authorized municipalities to levy a license tax on such banks, the municipal tax

To Clyde A. Erwin.

Inquiry: Should the penalty collected from those who violate the time limit at parking meters go into the public school fund in the same manner as other fines, forfeitures, penalties, etc., as required by the Constitution?

(A.G.) In the case of *Bd. of Education v. Henderson*, 126 N. C. 689, our Supreme Court held that the fines imposed in a criminal prosecution for violation of a city ordinance belonged, under the constitutional provision, to the school fund. In this connection the Court said: "This is not so with regard to 'penalties' which the defendant may have sued for and collected out of offenders violating its ordinances." Under this decision, therefore, it is my opinion that penalties imposed by town ordinances, and voluntarily paid by the persons charged with the violation of the parking and other motor vehicle ordinances, would not become a part of the school fund of the county, but may properly be retained by the municipality.

being limited to not more than one-half the State levy. G.S. 105-94 was repealed by the 1947 General Assembly, but this does not deprive the municipalities of their power, under G.S. 160-56, to tax all trades, franchise, and professions, which language certainly includes Morris Plan or Industrial Banks. The only effect of the repeal of G.S. 105-94 was to remove the statutory limitation on the amount of privilege tax. This tax must still be reasonable, however, and the tax as graduated under the authority of G.S. 105-94, prior to its repeal for other reasons, does not seem to be unreasonable.

95. Population basis of tax

To Griffin McClure.

Inquiry: May a town of 4,750 popu-

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lation by the 1940 federal census base its privilege tax on a population of 5,000 to 10,000?

(A.G.) No. The federal census controls, unless the town "has extended its limits since the last census period, and thereafter has taken a census of its population in these increased limits by an official enumeration, either through the aid of the United States Government or otherwise." In this case the population thus ascertained shall be that upon which the license tax is to be graduated. G.S. 105-264.

99. Miscellaneous privilege license taxes

To R. J. Drozda.

Inquiry: Is a corporation engaged in the business of selling and installing automatic sprinkler systems on the premises of others required to secure a privilege license for engaging in such business under Section 122½ of the Revenue Act as well as a contractor's license under Section 122?

(A.G.) There can be no doubt that taxpayer is liable for the license required of a corporation engaged in the business of installing automatic sprinkler systems by Section 122½. I do not believe, however, that the taxpayer is liable for the contractor's license levied by paragraph (b) of Section 122 when the taxpayer en-

To Wade H. Lefler.

Inquiry: May a town having parking meters use part of the proceeds thereof for recreational purposes, without special legislative authority?

(A.G.) In view of the language of G.S. 160-200(31), which restricts the use of funds derived from parking meters to the purposes there set out (for making regulation, diversion and limitation of pedestrians and vehicular traffic effective, for making regulation and limitation of vehicular parking effective, and for the expense of making such regulation and limitation effective, etc.), it is not thought that there exists any authority for the use of a part of such funds for recreational purposes.

gages only in the business of selling and installing such systems.

Attention is directed to paragraph (a) of Section 122, which levies a tax on persons offering or bidding to construct any improvement or structure or any part thereof, the cost of which exceeds \$10,000. If the taxpayer submits bids to a person or corporation which desires the taxpayer or some other person or corporation to install an elevator or

automatic sprinkler system, then it is my opinion that the \$100.00 license required by said paragraph (a) would be due in addition to the license required under Section 122½. The tax levied by paragraph (a) of Section 122 is levied upon the privilege of submitting bids or offers.

C. Refusal of License

1. Wine and beer sales

To J. Carl Allred.

Inquiry: Does a town have the right to prohibit the sale of beer within its corporate limits by a person who has failed to obtain a municipal license?

(A.G.) G.S. 18-75 requires every person making application to sell beer and wine to first make his application to the governing board of the municipality in which he proposes to sell such beverage. G.S. 18-77 requires the governing body of counties and towns to issue licenses for the sale of beer to all persons who qualify under the provisions of G.S. 18-75. However, G.S. 18-77, as amended by the 1945 session of the Legislature, authorizes the governing board of any county or city to hold a hearing on the question of issuance of licenses to any person who has, during the preceding license year, committed any act or permitted any condition for which his license was or might have been

Available

1947 Legislative Summary General Assembly of North Carolina

ANALYZING public laws directly affecting:
Trades, businesses, and professions
Commercial and agricultural interests of
North Carolina
Local governmental matters
Courts and judicial procedure

SUMMARIZING laws which affect the administration of city, county and state government.

EXPLAINING the purpose and effect of new laws of general interest to the people of the state and of significance to governmental officials.

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revoked under G.S. 18-78 or 18-78.1. If the board finds after such hearing that the applicant fails to meet all of the requirements, it may deny such person a license. You suggest in your inquiry that an applicant has been operating for some time without obtaining a municipal license, and if this has been done, it seems to me that the board might be justified in refusing to issue a beer license to such person.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES

B. Matters Affecting Municipal Utilities

7. Services outside corporate limits

To R. S. Bagley.

Inquiry: Can a municipality refuse to grant water, sewer, and electric service to a customer who lives outside the corporate limits?

(A.G.) Municipalities have the authority (G.S. 160-255) to own and operate a water works system for the purpose of furnishing water to its citizens, and to other users outside the city limits. The latter provision grants authority, but does not impose any legal obligation upon a municipality to furnish such service. The statute provides that the authority exists only when the service is available, and further that in no case

shall a municipality be liable in damages for failure to furnish a sufficient supply. The same applies to sewer service and electric service.

VIII. MATTERS AFFECTING CHIEFLY PARTICULAR LOCAL OFFICIALS

A. County Commissioners

3I. Appointive powers

To C. D. Taliaferro.

Inquiry: Where a county and city have established a Domestic Relations court under G.S. Ch. 7, Art. 13, may the governing bodies of county and city appoint and pay the salary of a solicitor for the court, to relieve the judge of the court from having to serve as both judge and prosecutor?

(A.G.) While it is true that under Art. I, Sec. 13, and Art. IV, Sec. 2 of the state Constitution there is nothing but bare statements that the General Assembly may provide inferior courts, and under these brief statements our inferior court system has been held to be constitutionally organized, nevertheless, I feel that the General Assembly is in a much better position than a board of county commissioners as the General Assembly would have the right to create such positions as it chooses, unless specifically limited. It seems to me that the powers of counties are much more

restricted, even more so, than municipal corporations, *Manuel v. Board*, 98 N. C. 9.

It further seems that the enumeration of the officials that the court will have, as set forth in G.S. 7-104, excludes any idea of the creation and appointment of any other positions or officials under the familiar rule of statutory construction that the express mention or enumeration of a position or positions impliedly excludes any other position or group of officials. I am informed that we have heretofore ruled that there is no authority to appoint an assistant solicitor in an inferior court, and our rulings have generally been against the establishment of any position in city and county affairs by implication. I might also add that it seems to me such position would be an office, and it is the general rule that an office is created by law only as a result of an act passed for that purpose. *Fergus v. Russell*, 110 N.E. (Ill.) 130; 42 A.J. (Public Offices) Section 31.

We are of the opinion that in the absence of a specific statute and considering also the form in which the Domestic Relations Act is written, the governing bodies of a county and city do not have authority to appoint and pay a solicitor of a Domestic Relations court.

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CALENDAR OF DUTIES

FOR CITY AND COUNTY OFFICIALS

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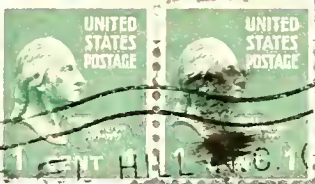
INSTITUTE OF GOVERNMENT

This Calendar outlines the principal duties required by statute to be performed on definite dates; it does not include certain duties where the exact time for performance is not specified by statute.

SEPTEMBER, 1947

DAY	OFFICIAL	DUTY	Reference to Law. (To General Statutes unless otherwise indicated.)
Each regular meeting of Governing Body	Sheriff or Tax Collector	Report to Governing Body concerning taxes collected.	105-375
On or before 1st	County Board of Education, Board of Trustees	File with Controller of State Board of Education certified statement of expenditures, salaries and other obligations due and payable during the month.	115-367
1*	Sheriff or Tax Collector, Governing Body, Accountant	Day for complete settlement of all taxes, if tax certificates sold in August.	105-390 a)(3), (b)
1*	Sheriff or County or District Tax Collector	Day for tax certificate sale if advertising done in August.	105-387(b)
5	Police Department	Forward to Department of Motor Vehicles all reports (on approved form) received during preceding calendar month of accidents involving property damage of \$25 or more or resulting in injuries or death to any person.	20-166(d)
5	Local Registrar of Vital Statistics	Transmit, to State Registrar of Vital Statistics and County Register of Deeds, all birth and death certificates registered during August.	130-99
8	City Tax Collector	Day for tax certificate sale, if advertising done in August.	105-387(b)
10	Coroner	Report to Department of Motor Vehicles the death of any person during preceding calendar month as result of accident involving motor vehicles and circumstances of such accident.	20-166(g)
On or before 10th	Clerk of Superior Court	Make monthly inheritance tax report to Commissioner of Revenue.	105-22
On or before 15th	County ABC Board	Report and pay State tax on wine and liquor sales for month of August.	105-170; 18-85
15	Sheriff or County or District Tax Collector, Governing Body	Report on sale and concerning insolvents to Governing Body if sale held in September.	105-390 a)(1), (2)
22	City Tax Collector, Governing Body	Report on sale and concerning insolvents to Governing Body if tax certificate sale held in September.	105-390 a)(1), (2)
30	Official Collecting Prepaid Taxes	1% discount period for 1947 prepaid taxes ends today.	105-345(6)

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